CITY COUNCIL AGENDA
PORTERVILLE, CALIFORNIA
JUNE 15, 2010, 6:00 P.M.

Call to Order
Roll Call

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

JOINT CITY COUNCIL/PORTERVILLE REDEVELOPMENT AGENCY AGENDA

Roll Call: Redevelopment Agency Members

ORAL COMMUNICATIONS
This is the opportunity to address the City Council 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.

CITY COUNCIL/REDEVELOPMENT AGENCY JOINT CLOSED SESSION:
A. Closed Session Pursuant to:
   1- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – One Case.

Adjourn 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 – Two Cases.

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

Pledge of Allegiance Led by Mayor Pete V. McCracken
Invocation
PRESENTATIONS
Employee Service Awards
Southern California Edison – State of the Utility

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

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 May 18, 2010
2. Budget Adjustment for the 2009-10 Fiscal Year
   Re: Considering approval of a budget adjustment in the amount of $26,115.26 for City Attorney Professional Services.
3. Approval of Amendment No. 1 to Joint Powers Agreement Between the City of Porterville and Tulare County Health and Human Services Agency
   Re: Considering approval of an amendment to an agreement to establish a Household Hazardous Waste Collection Facility in Porterville, which would extend the term for one year.
4. Resolution of Intention to Construct the Beverly Street Water Project, to Form the Beverly Street Water Facility Assessment District, and to Levy Assessments
   Re: Considering approval of a resolution pursuant to California Streets and Highways Code Section 10000 et seq., which would memorialize the Council’s intent to form an assessment district for the purpose of recovering costs of the Beverly Street Water Facilities Project.
5. Beverly Street – Water Project and Facilities Improvement District – Resolution Accepting Engineer’s Report and Affirming the Setting of the Public Hearing and Assessment Ballot Proceeding on June 29, 2010
   Re: Considering approval of a resolution accepting the Engineer’s report, affirming the Council’s action on May 4, 2010 and setting a public hearing report as required pursuant to California Streets and Highways Code Section 10000 et seq. and Proposition 218.
6. This Item Has Been Removed.
7. City of Porterville Conflict of Interest Code – Biennial Report and Amendment

A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible
PUBLIC HEARINGS
8. Adoption of Fiscal Year 2010-2011 Budget  
   Re: Considering adoption of the proposed FY 2010-2011 Budget.

9. Budget Adjustment/Citizens’ Option for Public Safety (COPS) Program Funding  
   Re: Considering approval of a resolution accepting the 2009/2010 COPS funds, authorizing use of funds to offset costs for personnel, and approving an increase in the Police Department’s 2009/2010 budget in the amount of $100,000.

    Re: Considering approval of a Resolution of Necessity pertaining to the acquisition of approximately 16,000 square feet of property for the purpose of commencing construction of the Scranton Avenue and Indiana Street Widening Project.

SCHEDULED MATTERS
11. Community Development Block Grant Business Assistance Program – Porterville Ford Lincoln Mercury  
    Re: Considering approval of a Business Assistance Program loan to Porterville Ford Lincoln Mercury group for the acquisition of the Ford dealership on Main Street.

12. Consideration of Setting a Special City Council Meeting for the Riverwalk Marketplace Phase II Project  
    Re: Considering approval to schedule a special meeting regarding Phase II of the Riverwalk Marketplace Project on July 12, 2010, at 6:00 p.m.

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

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY AGENDA  
June 15, 2010

Roll Call: Agency Members

ORAL COMMUNICATIONS

WRITTEN COMMUNICATIONS

PUBLIC HEARINGS
PRA-01 Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1  
   Re: Considering adoption of the proposed 2010 Amendment to the Redevelopment Project No. 1. This item was continued from the meeting of June 1, 2010.

SCHEDULED MATTERS
PRA-02 Redevelopment Agency 2010/2011 Budget  
   Re: Considering adoption of the proposed 2010-2011 Redevelopment Agency Budget.
Adjourn to a Meeting of the Porterville City Council.

**ORAL COMMUNICATIONS**

**OTHER MATTERS**

**CLOSED SESSION**

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

**ADJOURNMENT** - to the meeting of June 29, 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.
Called to order at 6:00 p.m.
Roll Call: Council Member Hamilton, Council Member Irish, Council Member Martinez, Vice Mayor Ward, Mayor McCracken

**ORAL COMMUNICATIONS**

None

**CLOSED SESSION**

A. Closed Session Pursuant to:


8. Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Two Cases.

**7:00 P.M. RECONVENE OPEN SESSION**

**REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION**

Page 1 of 11
Pledge of Allegiance Led by Vice Mayor Brian Ward
Invocation—one individual participated.

PROCLAMATIONS
Water Awareness Month – May, 2010
Freedom Days
Monache High FFA Poultry Judging Team
Porterville High FFA Livestock Judging Team

PRESENTATIONS
Outstanding Business Award
Tulare County General Plan

The Tulare County General Plan presentation was given by Dave Bryant, Special Projects
Manager with the County of Tulare Resource Management Agency.

Following the presentation Council Member Hamilton shared his concerns and identified
issues where he disagreed with the County’s General Plan, which included the Rural Valley Lands
Plan and revenue sharing. Council Member Martinez then encouraged the County to work with
cities, and noted that the City’s General Plan had been adopted.

Mr. Bryant responded to the concerns and indicated that it was the County’s wish to discuss
and negotiate issues with cities and the Council of Cities, and thanked the Council for their time.
Council Member Hamilton suggested the changing of the word “may” to “shall”.

The Council then congratulated Donnette Silva Carter on the Porterville Chamber of
Commerce’s receipt of the President’s Circle of Excellence Award. She spoke briefly about the
honor and thanked the Council for their recognition.

The Council recessed for ten minutes.

City Attorney Julia Lew reported on action during Closed Session, as follows:

5- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: A
Portion of APN 259-020-003. Agency Negotiator: John Lollis and Brad Dunlap. Negotiating
Parties: City of Porterville and John and Bette L. Della. Under Negotiation: Terms and Price.

Ms. Lew reported that the City Council, on a motion of Vice Mayor Ward, and second by Council
Member Martinez, unanimously approved the acquisition of 6,624 sq. ft. of right-of-way, property
APN 259-020-003, from owner John and Bette L. Della, in an amount of $3,800 plus escrow fees;
and authorized staff to begin escrow.

Documentation: Resolution 53-2010
Disposition: Approved.
ORAL COMMUNICATIONS

- Mary McClure, voiced safety concerns with City staff measuring cracks in the road on North Main Street, commented on the unsafe condition of the street, and suggested that the City grade the roadway and shoulders.
- John Coffee, a Porterville resident, 1) spoke of the significant difference between “shall” and “may” in contracts in response to comments made by the Council during the Tulare County General Plan presentation; and 2) advised everyone of a Suicide Prevention conference to take place in Visalia that weekend.
- Daniel Luna, on behalf of the Mexican-American Political Association and People’s Legal Defense Committee, requested that the City Council stand in solidarity with the Mexican community and act to oppose the new Arizona law pertaining to immigrants.
- Wayne Childers, 1929 W. Cherry, commented on the new Arizona law, SB 1070, and requested that the City Council not condemn Arizona.
- Rebecca Gervaise, 1156 W. Main Street, requested that the City Council take no stand on Arizona’s SB 1070, suggesting that any action would serve to divide the community.
- Khris Saleh, 1206 W. Westfield Avenue, stated that more information should be presented on Items 2 and 8 before any action by the Council; and suggested that now was not the time to move forward on Items 16 and 17.
- Greg Shelton, 888 N. Williford Drive, spoke regarding Item 16, suggesting that now was not the time for “vote buying”; and regarding Arizona’s SB 1070 and previous commentary thereof, spoke of profiling and suggested that law abiding individuals had nothing to fear from the new law.
- (Name inaudible), spoke of the inaction of the federal government regarding immigration, and spoke in favor of Arizona’s SB 1070.
- Dennis Townsend, business address at 633 N. Westwood, commented that the organizations to which Mr. Luna and Mr. Villalobos belonged were linked to Socialism and Marxism; and spoke against the Council admonishing Arizona as had been requested.
- Ray Leon, Mexican–American Political Association, stated that the comments made by Mr. Townsend were false; opined that the new Arizona law was racist; and requested that the Council adopt a resolution admonishing the State of Arizona.
- Barry Caplan, Porterville resident, 1) spoke against the new Arizona law; 2) noted with the passage of SB54, Harvey Milk would be observed on Saturday, May 22nd; and 3) urged everyone to attend the Suicide Prevention Conference scheduled for Friday in Visalia.

CONSENT CALENDAR

Item No. 8 was removed for further discussion.

1. CITY COUNCIL MINUTES OF MARCH 2, 2010

Recommendation: That the City Council approve the Minutes of March 2, 2010.
2. AUTHORIZATION TO ADVERTISE FOR BIDS – 09/10 FISCAL YEAR MICRO-SURFACING PROJECT

Recommendation: That the City Council:

1. Approve Staff’s recommended Plans and Project Manual for the 09/10 Micro Surfacing Project;
2. Approve the advancement of 2010/2011 “Local” Measure ‘R’ Funds as approved by TCAG; and
3. Authorize staff to advertise for bids on the project.

4. REQUEST FOR APPROVAL TO PURCHASE SPECIALIZED EQUIPMENT PARTS

Recommendation: That the City Council approve the purchase of a new 30001-0018-DI grinder cartridge with the drive side scraper side rails, and two auger brush kits for the SWM from JWC Environmental for a not to exceed $18,000 price.

5. RESOLUTION SUSPENDING IMPLEMENTATION OF AUTOMATIC INFLATIONARY ADJUSTMENTS TO DEVELOPMENT IMPACT FEES FOR THE 2010-2011 FISCAL YEAR

Recommendation: That the Council adopt the proposed draft resolution.

6. ANNEXATION 473 (COTTAGE ESTATES) – RESCINDING PREVIOUSLY APPROVED RESOLUTIONS AND REAPPROVING DRAFT RESOLUTIONS PER CITY COUNCIL DIRECTION

Recommendation: That the City Council rescind the previously approved Resolution 41-2010, 42-2010, and 43-2010, and adopt the originally drafted resolutions approving Annexation 473.
7. IMPLEMENTATION OF PORTERVILLE DEVELOPMENT CODE

Recommendation: That the City Council adopt a draft resolution formalizing transitional implementation of the adopted Porterville Development Code.

Documentation: Resolution 59-2010
Disposition: Approved

9. FAMILY PLACE LIBRARY PROGRAM

Recommendation: That the City Council accept the informational report.

Documentation: M.O. 04-051810
Disposition: Approved

10. FIRE PREVENTION AND SAFETY GRANTS – FY 2009

Recommendation: That the City Council:
   1. Accept the 2009 Fire Prevention and Safety Grant; and
   2. Make the appropriate budget adjustment to the 025-Special Safety Grant Fund in the amount of $167,775 to cover the components of the Fire Prevention and Safety Grant.

Documentation: M.O. 05-051810
Disposition: Approved

11. VISALIA’S HAZ-MAT RESPONSE TEAM

Recommendation: None – information only.

Disposition: No action required.

COUNCIL ACTION: MOVED by Council Member Martinez, SECONDED by Council Member Hamilton that the City Council approve Items 1 through 7, and 9 through 11. The motion carried unanimously.

8. AWARD OF CONTRACT – “REAL ESTATE BROKER SERVICES” FOR PROPERTY DISPOSITION FOR NEIGHBORHOOD STABILIZATION PROGRAM

Recommendation: That the City Council:
   1. Authorize staff to negotiate a service agreement with the firm Melson Realty – Larry Harper, Broker;
2. Authorize staff to negotiate a service agreement with the second ranked firm Century 21 All Star Realty – Mike Allen, Broker if unable to negotiate an agreement with the first ranked firm; and
3. Authorize the Mayor to sign all documents.

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

Council Member Hamilton stated that he had pulled the item to note his opposition to the program.

COUNCIL ACTION: MOVED by Council Member Martinez, SECONDED by Council Member Irish that the City Council authorize staff to negotiate a service agreement with the firm Melson Realty – Larry Harper, Broker; authorize staff to negotiate a service agreement with the second ranked firm Century 21 All Star Realty – Mike Allen, Broker if unable to negotiate an agreement with the first ranked firm; and authorize the Mayor to sign all documents.

AYES: Irish, Martinez, Ward, McCracken
NOES: Hamilton
ABSTAIN: None
ABSENT: None

Disposition: Approved

PUBLIC HEARINGS
12. WATER CONSERVATION

Recommendation: That the City Council approve moving into Phase II of the Water Conservation Plan.

City Manager Lollis introduced the item, and Public Works Director Baldo Rodriguez presented the staff report.

The public hearing was opened at 8:44 p.m.

- Brock Neeley, Porterville resident, suggested developers be required to develop gray water systems for landscaping.

The hearing closed to the public at 8:45 p.m.

COUNCIL ACTION: MOVED by Vice Mayor Ward, SECONDED by Council Member Irish that M.O. 07-051810 the City Council approve moving into Phase II of the Water Conservation Plan. The motion carried unanimously.
13. REQUEST FOR A CONDITIONAL USE PERMIT 10-2008 TO ALLOW FOR AN EIGHTEEN (18) UNIT DUPLEX DEVELOPMENT ON THREE (3) ADJOINING PARCELS LOCATED AT 1492 AND 1482 WEST TOMAH AVENUE

Recommendation: That the City Council adopt the draft resolution approving Conditional Use Permit 10-2008, subject to conditions of approval.

City Manager Lollis introduced the item, and Assistant Planner Fernando Rios presented the staff report.

The public hearing opened at 8:50 p.m.

- Mark Hillman, on behalf of the applicant, spoke of issue with interpretation of Condition No. 39 of Resolution 08-2009; and requested that Condition No. 27 be stricken as he believed it to be redundant of Condition No. 26.

- Jessica Mahoney, Terra Bella resident, requested to view the satellite map and voiced concern with the width of the road, the need for sprinklers, and the vagueness of the language of Condition No. 39 of Resolution 08-2009.

The public hearing closed at 8:55 p.m.

A discussion ensued with regard to the ambiguity of the language regarding the expiration of the conditional use permit and the fees charged for modification of the conditional use permit.

City Attorney Lew requested that the public hearing be continued.

At the Mayor’s request, Fire Chief Mario Garcia spoke about the requirements for automatic sprinkler systems.

- Mark Hillman, indicated that state codes had to be applied; spoke again regarding the redundancy of Condition No. 37; and requested that the item not be continued.

City Planner Bill Nebeker stated that the language was ambiguous and suggested refunding the modification fee to the applicant. He added that it was not staff’s desire to delay the project, and that the modified conditional use permit provided clarification to some phasing issues.

City Attorney Lew advised that Condition 27 could be clarified to state that an automatic sprinkler system would be required if required per California Residential Code.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Council Member Martinez that the City Council adopt the draft resolution approving Conditional Use Permit 10-2008, subject to conditions of approval as amended, to revise Condition 27 to read: “Based on the occupancy
classification, any permit pulled after January 2011 will require an automatic sprinkler system if required per California Residential Code.”; and direct staff to refund $150 to the applicant. The motion carried unanimously.

Disposition: Approved

The Council recessed for ten minutes.

14. CITY OF PORTERVILLE 2009-2014 HOUSING ELEMENT AND NEGATIVE DECLARATION

Recommendation: That the City Council:
1. Adopt the draft resolution approving the Negative Declaration for the 2009-2014 Housing Element; and
2. Adopt the draft resolution adopting the 2009-2014 Housing Element.

City Manager Lollis introduced the item, and the staff report was presented by Associate Planner Jose Ortiz.

The public hearing was opened at 9:23 p.m. Seeing no one, the Mayor closed the public hearing at 9:24 p.m.

Council Member Hamilton made a motion to deny staff’s recommendation, which died for lack of a second.

COUNCIL ACTION: MOVED by Council Member Martinez, SECONDED by Vice Mayor Ward that the City Council adopt the draft resolution approving the Negative Declaration for the 2009-2014 Housing Resolution 62-2010 Element; and adopt the draft resolution adopting the 2009-2014 Housing Element.

AYES: Martinez, Ward, McCracken
NOES: Hamilton, Irish
ABSTAIN: None
ABSENT: None

Disposition: Approved

SCHEDULED MATTERS

15. STAFF INITIATED MODIFICATION TO DESIGN “D” OVERLAY SITE REVIEW 1-2010 (MEDICAL OFFICE BUILDINGS – DR. VEMURI)

Recommendation: That the City Council:
1. Adopt the draft resolution which adds conditions with respect to phasing of the project in relation to the new parcel; and
2. Maintain the previous conditions found in Resolution 26-2010 in full effect.

City Manager Lollis introduced the item, and Associate Planner Jose Ortiz presented the staff report.

At Council Member Hamilton’s request, the Mr. Ortiz provided a history of the subject parcel.

**COUNCIL ACTION:** MOVED by Vice Mayor Ward, SECONDED by Council Member Hamilton that the City Council adopt the draft resolution which adds conditions with respect to phasing of the project in relation to the new parcel; and maintain the previous conditions found in Resolution 26-2010 in full effect. The motion carried unanimously.

Disposition: Approved

16. CONSIDERATION OF ESTABLISHING CITY BENEVOLENCE (“GOOD WORKS”) FUND

Recommendation: That the City Council:
1. Consider the proposed funding distribution model; and
2. Provide direction as to the requirement and to the extensiveness of an application for funding.

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

Council Member Irish expressed concern with giving money away when the departments had been recently asked to conserve five percent of their budgets.

Council Member Hamilton spoke in favor of having a policy in place.

Council Member Felipe Martinez spoke in favor of donating surplus equipment such as computers to non-profit organizations.

**COUNCIL ACTION:** MOVED by Council Member Irish, SECONDED by Vice Mayor Ward that the City Council deny the establishment of a City Benevolence “Good Works” Fund.

AYES: Irish, Martinez, Ward, McCracken
NOES: Hamilton
ABSTAIN: None
ABSENT: None

Disposition: Denied
17. CONSIDERATION OF ESTABLISHING A PROGRAM FOR VOLUNTARY CONTRIBUTIONS TO NON-PROFIT ORGANIZATIONS BY CITY EMPLOYEES AND RESIDENTS

Recommendation: That the City Council:

1. Consider modifying the City employee payroll deduction policy to allow direct contributions to individual non-profit organizations; and
2. Provide direction on establishing a City resident non-profit contribution program through utility billing.

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

At the Council’s request the City Manager spoke briefly regarding staff time required to implement such a program.

Vice Mayor Ward inquired about the costs for software, and asked if the costs could be passed on to non-profits which would benefit from the contributions.

COUNCIL ACTION: MOVED by Vice Mayor Ward, SECONDED by Council Member Irish that the City Council continue the item to the City Council meeting of June 1, 2010, and direct staff to obtain cost estimates for “round up” software. The motion carried unanimously.

Disposition: Item continued to June 1, 2010.

Council Member Irish noted that Mayor Virginia Gurrola had the record for shortest City Council meeting at 18 minutes, and that it was something that the Council should consider in the future.

ORAL COMMUNICATIONS

- Mary McClure, 23149 Joseph Court, advised that she would like to pick up her building permit that has been delayed due to the City requiring a soils report.
- Grace Munoz Rios, 345 W. Bellevew, advised the Council of the lengthy process involved to become a recipient under The United Way.
- Jesse Carrillo, 1241 Ohio Place, requested that the Council restrict the travel of diesels on City streets.
- Greg Shelton, address on record, thanked the City Council for not pursuing a Benevolence Fund.
- Jessica Mahoney, a Terra Bella resident, spoke of the life of Harvey Milk in recognition of Harvey Milk Day.
- Dennis Townsend, address on record, reiterated his comments regarding Arizona’s SB 1070 and reasserted a connection between Mr. Villalobos and socialism. He then requested that the Council adopt a resolution in support of Arizona’s SB 1070; and spoke against Harvey Milk Day, urging parents to keep their children home from school in protest.
• Barry Caplan, Porterville resident, voiced disagreement with Mr. Townsend’s comments regarding SB 1070 and SB 54, and requested that the Council address the tone of Mr. Townsend’s comments.

During Mr. Caplan’s commentary, Council Member Hamilton excused himself from the meeting and exited the Council Chambers.

OTHER MATTERS
• Council Member Ward encouraged everyone to come downtown for the AMGEN Tour of California on Thursday, May 20th, and thanked staff for their effort on the event; and wished everyone a Happy Memorial Day.
• City Manager Lollis informed the Council of the recent passing of recently-retired City employee Kathy Poundstone.

ADJOURNMENT
The meeting adjourned at 10:01 p.m. to the meeting of June 1, 2010 at 6:00 p.m.

_______________________________
Luisa Herrera, Deputy City Clerk

SEAL

_______________________________
Pete V. McCracken, Mayor
SUBJECT: BUDGET ADJUSTMENT FOR THE 2009-10 FISCAL YEAR

SOURCE: Administration

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.

There is one (1) adjustment proposed for tonight's Council meeting.

No. 1: City Attorney Professional Services
In part due to legal services requiring special outside counsel and other litigation matters (Tule River Tribe Cooperation Agreement, Nuckols Litigation, and Council of Cities Litigation), the expenditures for the City Attorney is projected to exceed budget appropriation. Funds for this proposed budget adjustment would be allocated from General Fund reserves.

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

Date: June 15, 2010

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<th>NO.</th>
<th>DESCRIPTION</th>
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<td>General Fund Reserves</td>
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Modification No: 8-09/10
COUNCIL AGENDA: JUNE 15, 2010

SUBJECT: APPROVAL OF AMENDMENT NO. 1 TO JOINT POWERS AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND TULARE COUNTY HEALTH AND HUMAN SERVICES AGENCY

SOURCE: Public Works Department – Field Services Division

COMMENT: The City entered into an agreement with Tulare County Health and Human Services Agency (TCHHSA) on September 29, 2009, to establish a Household Hazardous Waste (HHW) Collection Facility in Porterville. This agreement is for a Recycle-Only HHW Collection Facility which only accepts latex paint; used oil; used oil filters; antifreeze; spent lead-acid batteries; nickel-cadmium, alkaline, or carbon-zinc batteries; intact spent fluorescent lamps; and intact spent high intensity discharge (HID) lamps. The current agreement is set to expire on June 30, 2010; and TCHHSA would like to renew the agreement for another year.

The City of Porterville will continue to be responsible for providing the site, facility, and staffing for collection and documentation of the Collection Facility. TCHHSA will continue to be responsible for obtaining any necessary permits and provide equipment and collection containers to operate, transportation and disposal of materials, and signage and flyers. The City's cost is four (4) man hours monthly and is funded from the Solid Waste Fund.

Staff recommends that City Council authorize the Mayor to sign Amendment No. 1 to the agreement with Tulare County Health and Human Services Agency extending the original agreement for one more year.

RECOMMENDATION: That the City Council approve and authorize the Mayor to sign Amendment No. 1 to the Agreement with Tulare County Health and Human Services Agency

ATTACHMENTS: 1. Amendment No. 1 to Agreement between the City of Porterville and Tulare County Health and Human Services Agency

2. Agreement between the City of Porterville and Tulare County Health and Human Services Agency
FIRST AMENDMENT TO AGREEMENT

Tulare County Agreement Number 24233 is amended on ____________, between the COUNTY OF TULARE, hereinafter referred to as “COUNTY” and CITY OF PORTERVILLE, hereinafter referred to as “CONTRACTOR” with reference to the following:

A. The COUNTY and CONTRACTOR entered into Agreement No. 24233, on September 9, 2009 to jointly establish and operate a recycle-only household hazardous waste collection facility (“Facility”) as defined in California Health and Safety Code Section 25218.1(n) within the City of Porterville.

B. The COUNTY and CONTRACTOR agree to amend Agreement No. 24233 to extend the date of termination to June 30, 2011.

C. This amendment shall become effective July 1, 2010.

ACCORDINGLY, IT IS AGREED:

I. Effective July 1, 2010 Paragraph 1 entitled Term in the original Agreement is hereby revised to identify the new termination date of June 30, 2011.

II. Except as provided above, all other terms and conditions of Agreement No. 24233 shall remain in full force and effect.
THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

By______________________________
Chairman, Board of Supervisors

ATTEST: JEAN M. ROUSSEAU
County Administrative Officer/Clerk of the Board
Of Supervisors of the County Of Tulare

By______________________________
Deputy Clerk

CITY OF PORTERVILLE

Date:______________________________
By______________________________
Title______________________________

Date:______________________________
By______________________________
Title______________________________

Corporations Code section 313 requires that contracts with a corporation shall be signed by the (1) chairman of the Board, the president or any vice-president and (2) the secretary, any assistant, the chief financial officer, or any assistant treasurer, unless the contract is also accompanied by a certified copy of the Board of Directors resolution authorizing the execution of the contract.

Approved as to Form
County Counsel
By______________________________ Dated______________________________
Deputy

H:\Paralegal\Contracts\2011 Agreements\Porterville,City of Joint Powers\1st Amendment.doc
JOINT POWERS AGREEMENT

THIS AGREEMENT, is entered into as of _9/29/09_, between the COUNTY OF TULARE, referred to as COUNTY, and the City of Porterville, referred to as CONTRACTOR, with reference to the following:

A. COUNTY wishes to jointly establish and operate a recycle-only household hazardous waste collection facility ("Facility") as defined in California Health and Safety Code Section 25218.1(n) within the City of Porterville; and

B. CONTRACTOR and COUNTY each have the power to establish, operate and maintain such a Facility as recognized by California Health and Safety Code Sections 25201(c) and 25218.8; and

C. CONTRACTOR is willing to enter into this Agreement with COUNTY upon the terms and conditions set forth herein and CONTRACTOR and COUNTY are authorized by Government Code Section 6500 et seq. to enter into this Joint Powers Agreement.

ACCORDINGLY, IT IS AGREED:
1. **TERM**: This Agreement shall become effective as of October 1, 2009 and shall expire at 11:59 PM on June 30, 2010 unless otherwise terminated as provided in this Agreement.

2. **SERVICES TO BE PERFORMED**: See attached EXHIBIT A

3. **RESPONSIBILITIES**: The CONTRACTOR and COUNTY enter into this Agreement for exchange of services. CONTRACTOR and COUNTY shall generally be responsible for:

   City: 1. Provide and make available an appropriate site ("Site"), including such buildings as are available, for the Facility at its Corporation Yard located at 555 N. Prospect, Porterville, CA;
   2. Provide staff to oversee the Facility and receive, segregate, containerize and label recyclable household hazardous waste materials from the public during operating hours as established by the City.
   3. CITY shall limit materials to be accepted at the Facility to those recyclable household hazardous waste materials listed in paragraph 1 of subsection (b), Section 25218.8, Article 10.8, Chapter 6.5, Division 20, Health and Safety Code (see subsection c of Exhibit A).
County: 1. Obtain any necessary permits and Hazardous Waste Generator ID Numbers for the Facility;
2. Evaluate the suitability of existing buildings made available by CITY at the Site;
3. Provide such equipment, containers, and labels as may be necessary to operate the Facility;
4. Provide expertise and advice necessary to operate the Facility;
5. Transport, or arrange for transport, of recyclable household hazardous waste materials collected at the Facility for proper recycling or disposal.

Responsibilities are more particularly described in Exhibit A.

4. **NO SEPARATE ENTITY:** There will be no separate and distinct public entity created pursuant to this Agreement.

5. **LEAD AGENCY:** COUNTY shall be the lead agency and will be primarily responsible for all activities and obligations set forth herein unless otherwise indicated.

6. **RULES AND REGULATIONS:** COUNTY will, with consultation and approval from CITY, develop all necessary and appropriate policies, rules, and regulations, for the use of, and public access to, the Facility.

7. **COMPLIANCE WITH LAW:** The parties agree to jointly operate and maintain the Facility in accordance with applicable Federal, State, and local laws, regulations and directives, including, without limitation, those provided in Division 20, Chapter 6.5, Article 10.8 of the Health and Safety Code (commencing with Section 25218). With respect to CONTRACTOR'S employees, CONTRACTOR 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.

8. **PAYMENT FOR SERVICES:** The annual funding provided by County under this Agreement is limited to a maximum of $75,000.

9. **INDEPENDENT CONTRACTOR STATUS:**
   (a) This Agreement is entered into by both parties with the express understanding that CONTRACTOR will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute the CONTRACTOR or any of its agents, employees or officers as an agent, employee or officer of COUNTY.
and 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 CONTRACTOR for this purpose, from making any decision on behalf of COUNTY in which such officer, employee or consultant/contractor has a direct or indirect financial interest. A violation can occur if the public officer, employee or consultant/contractor participates in or influences any COUNTY decision which has the potential to confer any pecuniary benefit on CONTRACTOR or any business firm in which CONTRACTOR has an interest, with certain narrow exceptions.

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

13. **INSURANCE**: Prior to approval of this Agreement by COUNTY, CONTRACTOR shall file with the Clerk of the Board of Supervisors evidence of the required insurance as set forth in EXHIBIT B attached.

14. **INDEMNIFICATION**: COUNTY and CONTRACTOR shall hold each other harmless, defend and indemnify their respective 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, arising out of the activities of COUNTY or CONTRACTOR or their agents, officers and employees under this Agreement. This indemnification shall be provided by each party to the other party regarding its own activities undertaken pursuant to this Agreement, or as a result of the relationship thereby created, including any claims that may be made against either party by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, or any claims made against either party alleging civil rights violations by such party under Government Code section 12920 et seq. (California Fair Employment and Housing Act). 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.

15. **AUTHORITY TO ACT**: Authority to act under this Agreement on behalf of each party is hereby vested with the City Manager of CITY and the Environmental Health Director of COUNTY, or their designees.
16. **TERMINATION:**

(a) **Without Cause:** County will have the right to terminate this Agreement without cause by giving thirty (30) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. County will pay to the CONTRACTOR the compensation earned for work performed and not previously paid for to the date of termination. County will not pay lost anticipated profits or other economic loss. 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 CONTRACTOR of any and all plans, specifications and estimates, and other documents prepared by CONTRACTOR in accordance with this Agreement. No sanctions will be imposed.

(b) **With Cause:** This Agreement may be terminated by either party should the other party:

1. be adjudged a bankrupt, or
2. become insolvent or have a receiver appointed, or
3. make a general assignment for the benefit of creditors, or
4. suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or
5. materially breach this Agreement, or
6. material misrepresentation, either by CONTRACTOR or anyone acting on CONTRACTOR’s behalf, as to any matter related in any way to COUNTY’s retention of CONTRACTOR, or
7. other misconduct or circumstances which, in the sole discretion of the COUNTY, either impair the ability of CONTRACTOR to competently provide the services under this Agreement, or expose the COUNTY to an unreasonable risk of liability.

County will pay to the CONTRACTOR the compensation earned for work performed and not previously paid for to the date of termination. 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 CONTRACTOR of any and all plans, specifications and estimates, and other documents prepared by CONTRACTOR by the date of termination in accordance with this Agreement. County will not pay lost anticipated profits or other economic loss, nor will the County pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination. If this Agreement is terminated and the expense of finishing the CONTRACTOR’s scope of work exceeds the unpaid balance of the agreement, the CONTRACTOR must pay the difference to the County. Sanctions taken will be possible rejection of future proposals based on specific causes of non performance.

(c) **Effects of Termination:** Expiration or termination of this Agreement shall
not terminate any obligations 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 CONTRACTOR’s services have been terminated by the County, said termination will not affect any rights of the County to recover damages against the CONTRACTOR.

(d) Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of COUNTY for which CONTRACTOR’s services are to be performed, may immediately suspend performance by CONTRACTOR, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by CONTRACTOR 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.

17. LOSS OF FUNDING: It is understood and agreed that if the funding is either discontinued or reduced for this project for the COUNTY, that the COUNTY shall have the right to terminate this Agreement. In such event, the affected party shall provide the other party with at least thirty (30) days prior written notice of such termination.

18. SOFTWARE WARRANTY: CONTRACTOR warrants that any software furnished hereunder, or any software used by it to perform the services to be provided under this Agreement, will continue processing accurately for the term of this Agreement and any extension thereof and that the use of said software will not cause incorrect scheduling or reporting or other improper operations or results.

19. FORM DE-542: CONTRACTOR acknowledges that this Agreement is subject to filing obligations pursuant to Unemployment Insurance Code Section 1088.8. Accordingly, COUNTY has an obligation to file a report with the Employment Development Department, which report will include the CONTRACTOR’s full name, social security number, address, the date this contract was executed, the total amount of the contract, the contract’s expiration date or whether it is ongoing. CONTRACTOR agrees to cooperate with COUNTY to make such information available and to complete Form DE-542. Failure to provide the required information may, at COUNTY’s option, prevent approval of this Agreement, or be grounds for termination by COUNTY.

20. 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:
(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 day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

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

22. 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 30 days, either party may pursue litigation to resolve the dispute.
23. **FURTHER ASSURANCES:** Each party will execute any additional documents and perform any further acts that may be reasonably required to effect the purposes of this Agreement.

24. **CONSTRUCTION:** This Agreement reflects the contributions of all undersigned parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any alleged uncertainty or ambiguity.

25. **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.

26. **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.

27. **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.

28. **EXHIBITS AND RECITALS:** The recitals and the exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

29. **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 matter, only 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.

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

31. **ASSURANCES OF NON-DISCRIMINATION:** CONTRACTOR 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.

(a) It is recognized that both the Contractor and the County have the responsibility to protect County employees and clients from unlawful activities, including discrimination and sexual harassment in the workplace. Accordingly, Contractor agrees to provide appropriate training to its employees regarding discrimination and sexual harassment issues, and to promptly and appropriately investigate any allegations that any of its employees may have engaged in improper discrimination or harassment activities. The County, in its sole discretion, has the right to require Contractor to replace any employee who provides services of any kind to County pursuant to this Agreement with other employees where County is concerned that its employees or clients may have been or may be the subjects of discrimination or harassment by such employees. The right to require replacement of employees as aforesaid shall not preclude County from terminating this Agreement with or without cause as provided for herein.

32. NON-DISCRIMINATION IN STATE AND FEDERALLY ASSISTED PROGRAMS:

(a) By signing this Agreement CONTRACTOR agrees to comply with Title VI and VII of the Civil Rights Act of 1964 as amended; section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975 as amended; the Food Stamp Act of 1977 as amended and the non-discrimination compliance regulations contained in 7 CFR 272.6; Title II of the Americans with Disabilities Act of 1990; The Unruh Act, California Civil Code section 51 et seq., as amended; California Government Code sections 11135-11139.5 as amended; California Government Code section 12940 (c), (h), (i), (j) and (l); California Government Code section 4450; Title 22, California Code of Regulations sections 98000-98413; the Dymally-Altorre Bilingual Services Act (California Government Code sections 7290-7299.8); section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable federal and state laws, as well as their implementing regulations [including 45 Code of Federal Regulations (CFR) Parts 80, 84 and 91, 7 CFR Part 15, and 29 CFR Part 42], by ensuring that employment practices and the administration of public assistance and social services programs are nondiscriminatory, to the effect that no person shall because of ethnic group identification, age, sex, color, disability, medical condition, national origin, race, ancestry, marital status, religion, religious creed or political belief be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving federal or state financial assistance; and will immediately take any measures necessary to effectuate this Agreement.

(b) This assurance is given in consideration of and for the purpose of obtaining any and all federal and state assistance; and the CONTRACTOR hereby gives assurance that administrative methods/procedures, which have the effect of subjecting individuals to discrimination, will be prohibited.
(c) CONTRACTOR agrees to compile data, maintain records and submit reports as required, to permit effective enforcement of the aforementioned laws, rules and regulations and permit authorized county, state and federal government personnel, during normal working hours, to review such books and accounts as needed to ascertain compliance. If there are any violations of this assurance, the state shall have the right to invoke fiscal sanctions or other legal remedies in accordance with Welfare and Institutions Code section 10605, or Government Code sections 11135-11139.5, or any other laws, or the issue may be referred to the appropriate federal agency for further compliance action and enforcement of this assurance. This assurance is binding on the CONTRACTOR directly or through contract, license, or other provider services, as long as it receives federal or state assistance.

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

COUNTY OF TULARE

Date: 9/29/09

BY
Chairman, Board of Supervisors

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

By
Deputy Clerk

CONTRACTOR
City of Porterville

Date: 9/1-09

By
TITLE Mayor

Date: 9/2-09

By
TITLE City Manager

Corporations Code section 313 requires that contracts with a corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice-president, and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer, unless the contract is accompanied by a certified copy of the corporation's Board of Directors' resolution authorizing the execution of the contract.
Approved as to Form
County Counsel

By [Signature]  
Deputy 2009 755

Date 9/10/2009
TITLE: RESOLUTION OF INTENTION TO CONSTRUCT THE BEVERLY STREET WATER PROJECT, TO FORM THE BEVERLY STREET WATER FACILITY ASSESSMENT DISTRICT, AND TO LEVY ASSESSMENTS

SOURCE: PUBLIC WORKS DEPARTMENT and CITY ATTORNEY

COMMENT: Per the May 4, 2010 City Council meeting, the City Council has, after input from property owners within the proposed assessment district, authorized the initiation of proceedings to form an assessment district for the purposes of recovering the costs of a water project to serve the area. A Resolution of Intent is necessary pursuant to California Streets and Highways Code Section 10000 et seq., memorializing the Council's intent to form the district, levy assessments, and authorize preparation of the Engineer's Report. Said assessments will not go into effect unless and until approved by the property owners via an assessment ballot proceeding (set for June 29th) in conformity with the requirements of Prop. 218.

RECOMMENDATION: That the Council adopt the proposed Resolution of Intention

Attachments: Draft resolution, A Resolution of Intention of the City Council of the City of Porterville to Construct the Beverly Street Water Project, to Form the Beverly Street Water Facilities Assessment District, and to Levy Assessments
RESOLUTION NO. _______

A RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE TO CONSTRUCT THE BEVERLY STREET WATER PROJECT, TO FORM THE BEVERLY STREET WATER FACILITY ASSESSMENT DISTRICT, AND TO LEVY ASSESSMENTS

WHEREAS, at the request of certain residents within the proposed district boundaries, the City Council authorized City staff to explore the construction of a water facilities project to serve 33 parcels/connections;

WHEREAS, it has been determined by the City Council of the City of Porterville that the public interest, convenience and necessity require this project, and this project and assessments are authorized pursuant to the Municipal Improvement Act of 1913 (California Streets and Highways Code Section 10000 et seq.);

WHEREAS, the cost for construction of the improvements is to be determined and considered for assessment to the benefitting properties; and

WHEREAS, California Streets and Highways Code Sections 10200 and 10204 requires that an Engineer's Report be prepared to establish the new district and outline the assessments to be levied against the properties within the district;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTERVILLE:

SECTION 1. The proposed improvements, known as the Beverly Street Water Facilities Project include the construction of water mains, services, and the installation of meters. The total length of 8 inch water main to be constructed is approximately 1,320 square feet, and the total number of services with meters to be constructed/installed is approximately 33.

SECTION 2. The exterior boundaries and map of the District are set forth in Exhibits “A” and “B.”

SECTION 3. The City Council hereby declares its intention to levy the assessment upon each parcel within the boundaries pursuant to the California Streets and Highways Code Sections 10000 et seq.

SECTION 4. The costs for the design, construction and installation of the improvements shall be covered up front by the City, with the assessments utilized to reimburse the City for these costs.
SECTION 5. Any surplus funds remaining in the improvement fund after completion of the improvements shall be disposed of in accord with Streets and Highways Code Section 10427.

SECTION 6. The proposed improvements have been or will be referred to the Public Works Department and the City Engineer, or its designees, for the preparation and filing of the Engineer's Report.

PASSED, APPROVED AND ADOPTED this 15th day of June, 2010.

______________________________
Pete V. McCracken,
Mayor of the City of Porterville

ATTEST:

John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
LEGAL DESCRIPTION

Exhibit “A”

That portion of the Southwest quarter of Section 15, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, according to the Official Plat thereof more particularly described as follows:

COMMENCING AT the intersection of the north right of way line of North Grand Avenue and the northerly prolongation of a line parallel with and 130 feet West of the east line of Lot 7 of Pioneer Land Company’s Second Subdivision as per map recorded in Book 3 of Maps at page 23 in the Office of the Tulare County Recorder, said point being the former angle point of the City Limit line as found on Annexation Map No. 455, Area A, recorded as Land Agency Formation Commission (LAFCO) Resolution No. 5-074 on April 3, 2006;

THENCE, South 01°45’32” East along said parallel line and the northerly prolongation thereof, 130 feet more or less to a point that is 60 feet south of the north line of said Lot 7 and the POINT OF BEGINNING;

THENCE, (1) South 89°19’30” East and parallel with the north line of said Lot 7, 130 feet more or less to a point in the east line of said Lot 7;

THENCE, (2) South 89°19’30” East and parallel to the north line of Lot 6 of said Pioneer Land Company’s Second Subdivision, 25 feet more or less to a point in the east right of way line of Beverly Street (40 foot wide);

THENCE, (3) South 01°45’32” East along said east right of way line, 45 feet to a point that is 105 feet south of the north line of said Lot 6;

THENCE, (4) South 89°19’30” East and parallel with the north line of said Lot 6, 130 feet;

THENCE, (5) South 01°45’32” East and parallel with the west line of said Lot 6, 30 feet more or less to the Southwest corner of the land conveyed to C.E. Redman and Pauline Redman, by Deed dated March 5, 1948, recorded May 6, 1948 in Book 1293, Page 480 of Official Records;

THENCE, (6) South 89°19’30” East and parallel with the north line of said Lot 6, 172.9 feet more or less to point in the east line of the west half of the north half of said Lot 6;
THENCE, (22) North 01°45'32" West and parallel with the east line of said Lot 7, 65 feet more or less to the POINT OF BEGINNING.

CONTAINING: 18.36 acres more or less.

END OF DESCRIPTION

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

Signature: Michael K. Reed

Michael K. Reed, Licensed Land Surveyor

Date: 6/9/2010

SOURCE: PUBLIC WORKS DEPARTMENT and CITY ATTORNEY

COMMENT: The City’s Public Works Department and City Engineer has prepared the Engineer’s report as directed by the City Council per the May 4, 2010 City Council Meeting. The attached Resolution, required pursuant to Streets and Highways Code Section 10000 et seq., approves the report and affirms the City Council’s prior action on May 4, 2010 setting the June 29, 2010 public hearing and assessment ballot proceeding as required by Prop. 218.

RECOMMENDATION: That the Council adopt the attached Resolution.

Attachments: Draft resolution, A Resolution of City Council of the City of Porterville Accepting the Engineer’s Report and Affirming the Setting of the Public Hearing and Assessment Ballot Proceeding for the Beverly Street Water Facilities Improvement District

Item No. 5
RESOLUTION NO. ______-2010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ACCEPTING THE ENGINEER'S REPORT AND AFFIRMING THE SETTING OF THE PUBLIC HEARING AND ASSESSMENT BALLOT PROCEEDING FOR THE BEVERLY STREET WATER FACILITY ASSESSMENT DISTRICT

WHEREAS, per the May 4, 2010, City Council meeting, the City Council authorized preparation of the Engineer's Report for the formation of the Beverly Street Water Facility Assessment District and the construction of the water facilities improvements for the District;

WHEREAS, the City Council, at the May 4th meeting, also authorized the setting of the public hearing and Proposition 218 assessment ballot proceeding for Tuesday, June 29th, at 6:00 p.m.; and

WHEREAS, per this authorization City Public Works staff has completed the Engineer's Report and provided notice to the property owners of the public hearing and assessment ballot proceeding as required by law;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTERVILLE:

SECTION 1. The City Council hereby accepts the Engineer's Report, attached hereto as Exhibit "A."

SECTION 2. The City Council hereby affirms its action on May 4, 2010, setting the public hearing and assessment ballot proceeding for Tuesday, June 29, 2010 at 6:00 p.m. in the City Council Chambers. This shall be the time and place for the hearing of any and all protests to the assessments proposed per the Report.

PASSED, APPROVED AND ADOPTED this 15th day of June, 2010.

________________________
Pete V. McCracken,  
Mayor of the City of Porterville

ATTEST:

John D. Lollis, City Clerk

________________________
Patrice Hildreth, Chief Deputy City Clerk
CITY OF PORTERVILLE
ENGINEER’S REPORT FOR BEVERLY STREET WATER FACILITY DISTRICT

SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville Resolution No._________. This assessment is authorized pursuant to the Municipal Improvement Act of 1913 (California Streets and Highways Code Section 10000 et seq.) and California Constitution Article XIIIID, Section 4. The report is in compliance with the requirements of California Streets and Highways Code Section 10204.

SECTION 2. General Description

The City Council has elected to finance the Beverly Street Water Facility District (hereinafter referred to as “District”) which includes the installation of approximately 1,320’ of 8” water main, 33 individual water services with meters and other water appurtenances.

The City Council has determined that the new water system will have an effect upon all parcels within the proposed boundaries of the “District”. Proposed water service will be provided on both sides of the streets to all parcels located within the district. The installed water system will be maintained and operated by the City of Porterville.

SECTION 3. Plans and Specifications

The plans and specifications for the “District were prepared by the City of Porterville’s Public works Department, Engineering Division and are in conformance with City Standards and Specifications. The water mains, services and meters are shown on the plans approved by the City Council on May 4, 2010. The total length of 8” water main to be maintained is 1,320 L.F. and the total number of services with meters to be maintained is 33. The plans and
specifications for the project are on file with the Public Works Department of the City and are hereby incorporated by reference.

SECTION 4. Improvements

Improvements to be constructed include:

1,320 LF of 8" water main, 33 individual water services, 33 individual water meters and other water related appurtenances.

SECTION 5. Estimated Costs

The initial construction cost will be borne by the City through a loan from the General Reserve Fund. Payment on the loan will be made by assessing the properties located within the “District” boundaries. A “District” map will be filed for record purposes upon voter approval of the “District” and installation of the improvements. The assessments are appropriate and will be used to pay the loan for construction and construction management of the Beverly Street Water Main Project. District assessments will begin in the 2010/-2011 Fiscal Year and will end in the 2040/2041 Fiscal Year. Estimated Assessments are based on the Engineer’s Estimate of Probable Cost. The Engineer’s Estimate of Probable Cost includes a 10% Construction Contingency and a Construction Management fee component. The Engineer’s Estimate is shown in Exhibit “A” attached herein. After the 2010-2011 fiscal year, the assessments shall remain for the duration of the loan.

SECTION 6. Assessment Boundary Map

A copy of the proposed assessment Boundary Map titled “Beverly Street Water Facility District” is on file in the City Manager’s office, 291 N. Main Street, Porterville, CA 93257 and is available for review upon request.
SECTION 7. **Assessment**

The initial cost of constructing improvements will be borne by the City of Porterville. The improvements are established for the benefit of all properties within the proposed Beverly Street Water Facility District. The maintenance of the improvements (water main, meters & services) shall be performed by the City in perpetuity. The City Council of Porterville has determined that in order to pay for the construction of an 8” water main and related appurtenances, the properties fronting Beverly Street between Castle Avenue and W. North Grand Avenue, more specifically, those properties identified in Exhibit ‘B’, should form a water facility district and that said district pay a monthly fee above and apart from the normal monthly water user charge to cover the cost of construction and construction management of the Beverly Street Water Project.

The determination of benefits takes into consideration the following facts:

1. The purpose of the improvements is to provide a reliable, consistent and safe source of potable water.
2. Safe, reliable drinking water benefits all properties within the “District”.
3. The parcels (lots) not adjacent to the newly installed 8” water main shall have the opportunity to connect to a water meter located at or near Public Right of Way and extend private water services to those parcels (lots) in question.

Exhibit “B”, attached herein provides the following information:

Column 1 - Identifies the number of parcels located within the “District”.

Column 2 - Assigns a water service size to each parcel.

Column 3 - Identifies each parcel within the “District” by Street Address and/or APN.

Column 4 – Shows future water impact (acreage) fees calculated for each parcel.
Column 5 – Identifies the cost to tie-in from water meter to house.

Column 6 – Identifies the total number of residences (homes) per lot.

**Column 7 – Shows the estimated assessment per parcel (lot) based on construction and construction management cost only. This cost is the amount to be assessed each parcel over the life of the Beverly Street Water Facility District loan.**

Column 8 – Shows the total cost per parcel (lot) that the property owner can expect to pay. This column includes the water acreage fee (Col. 4), water tie-in cost (Col. 5) and the construction/construction management assessment fee (Col. 7).

As stated above, Column 7 represents the Assessed Cost calculated for each parcel located within the “District”. This “Assessed Coat” per parcel is calculated as follows:

1. Total Construction Cost = $195,316
2. Total Number of Residential Units Located Within “District = 33*
3. Assessment Per Residential Unit: $195,316/33 = $5,918.67
4. Monthly Payment Calculated As Follows:

\[ A = P\frac{i}{12}\left[\frac{(1+\frac{i}{12})^n}{(1+\frac{i}{12})^n - 1}\right] \]

Where:

- \( A \) = Monthly assessment (payment) per Residential Unit
- \( P \) = Per Residential Unit cost for construction and construction management = $5,918.67
- \( i \) = Interest (3%) compounded monthly = .03/12 = .0025
- \( n \) = Number of monthly payments = 360 (30 years)

Per Residential Unit Assessment Calculated as follows:

\[ A = 5,918.67 \times .0025 \times \frac{(1.0025)^{360}}{(1.0025)^{360} - 1} = 24.95 \]
* There are 30 individual parcels located within the Beverly Street Water Facility District. Three of the parcels contain two residential units. The 33 residential units are calculated as follows:

27 parcels x 1 residential unit/parcel + 3 parcels x 2 residential units/parcel = 33 Residential Units

Baldomero Rodriguez, P.E.
Engineer of Record
THIS ITEM HAS BEEN REMOVED
CITY OF PORTERVILLE CONFLICT OF INTEREST CODE – BIOENNIAL REPORT AND AMENDMENT

ADMINISTRATIVE SERVICES DEPARTMENT

Government Code Section 87306.5 requires local agencies to submit to their code reviewing body by July 1st of each even numbered year a biennial report identifying changes in its code, or a statement that the agency’s code is not in need of amendment. If it is determined that an amendment of the code is necessary, the amendments or revisions are required to be submitted to the code reviewing body.

The City Council is the code reviewing body for the City of Porterville. The City Manager, as Administrative Supervisor of the Conflicts and Disclosure Monitor Agency, has reviewed the City’s Conflict of Interest Code and has proposed amendments.

Pursuant to the requirements of the statute, an amended Conflict of Interest Code will be submitted to the Council for its approval within 90 days.

That the City Council:
1. Accept the Conflicts and Disclosure Monitor Agency 2010 Biennial Report; and
2. Direct staff to amend said report for Council’s approval within ninety (90) days.

Conflict of Interest Code Report
Proposed Amendments

Item No. 7
This Agency has reviewed its Conflict of Interest Code and has determined that:

☑ The Agency’s Code needs to be amended and the following amendments are necessary:

☐ Include positions which must be designated.

☑ Revise the titles/departments to reflect reorganizations.

☐ Delete the titles of positions that have been abolished.

☐ Delete the positions that manage public investments.

☐ Revise disclosure categories.

☑ Other - Non-substantive revisions for clarification purposes.

☐ No amendments are necessary. Our Agency’s Code accurately designates all positions which make or participate in the making of governmental decisions; the disclosure assigned those positions accurately requires the disclosure of all investments, business positions, interests in real property and sources of income which may foreseeably be affected materially by the decisions made by those designated positions; and the Code includes all other provisions required by Government Code Section 87302.

Dated this 10th day of June, 2010.

CONFLICTS AND DISCLOSURE MONITOR AGENCY

John C. Lollis, Administrative Supervisor
CONFLICT OF INTEREST CODE OF THE
"CONFLICTS AND DISCLOSURE MONITOR AGENCY" OF THE
CITY OF PORTERVILLE

SECTION 1. Establishment. The City Council of the City of Porterville has heretofore established a Conflicts and Disclosure Monitor Agency (hereinafter "Agency") having jurisdiction as set forth herein over all officers, officials, and employees of the City. The City Manager shall be the Administrative Supervisor of such Agency with authority to act for and on behalf of such Agency. Such Agency shall not affect the duties, responsibilities, or chain of command of any Department, Board, or Commission except to administer and enforce the requirements, rules, and regulations set forth herein. The City Council shall be deemed the "Code Reviewing Body" of said Agency pursuant to the provisions of Section 87300 et seq. of the Government Code.

SECTION 2. Purpose. The Conflicts and Disclosure Monitor Agency of the City of Porterville hereby adopts this document as its "Conflict of Interest Code" in accordance with the requirements of the Political Reform Act of 1974.

SECTION 3. Designated Positions. The positions listed on Exhibit "A" attached hereto are designated positions. Officers and employees holding those positions are designated employees and are deemed, for the purposes of this Code, to make, or participate in the making of, decisions which may foreseeably have a material effect on any financial interest and for each such enumerated position, the specific types of investments, business positions, interests in real property, and sources of income which are reportable. An investment, business position, interest in real property, or source of income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment or business position is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employees by virtue of his or her position.

SECTION 4. Disclosure Statements. Each such designated employee shall file disclosure statements disclosing reportable investments, business positions, interests in real property, and income, to the extent required by the Act, and on forms prescribed by the Fair Political Practices Commission and supplied by the City Clerk.
SECTION 5. **Place and Time of Filing.**

A. All designated employees required to file disclosure statements shall file same with the City Clerk, as Secretary to the Code Reviewing Body.

B. A designated employee required to submit a disclosure statement shall file their initial statement within thirty (30) days after the effective date of this Code disclosing reportable investments, business positions, and interests in real property held on the effective date of the Conflict of Interest Code and income received during the 12-months before the effective date of the Conflict of Interest Code.

C. Individuals hereafter appointed to designated positions shall file his or her initial statement within thirty (30) days after assuming office disclosing reportable investments, business positions, and interests in real property held on, and income received during the twelve (12) months before, the date of assuming office.

D. After the initial filing, each person holding a designated position, shall, on or before the first day of March of each calendar year, file an annual disclosure statement disclosing reportable investments, business positions, interests in real property and income held or received at any time during the previous calendar year, or since the date the designated employee took office if during the calendar year. Such annual statements shall cover the period of the preceding calendar year.

E. Every designated employee who leaves office shall file, within thirty (30) days of leaving office, a statement disclosing reportable investments, business positions, interests in real property and income held or received at any time during the period between the closing date of the last statement required to be filed and the date of leaving office.

F. Any designated employee who resigns their position within twelve (12) months following initial appointment or within thirty (30) days of the date of a notice mailed by the filing officer of the individual's filing obligation, whichever is earlier, is not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual does not make, participate in making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by
virtue of being appointed to the position. Within thirty (30) days of the date of a notice mailed by the filing officer, the individual shall do both of the following:

1. File a written resignation with the appointing power.
2. File a written statement with the filing officer on a form prescribed by the Commission and signed under the penalty of perjury stating that the individual during the period between appointment and resignation, did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

G. A designated employee required to file a statement of economic interest with any other public agency whose disclosure requirements are comparable hereto, may comply with the provisions of this Code by filing a duplicate copy of the statement filed with such other agency, in lieu of an entirely separate statement.

SECTION 6. Contents of Disclosure Statements. Disclosure statements shall be submitted on forms supplied by the City Clerk, and shall contain the following information:

A. Disclosure of Investment or Interest in Real Property.
   1. When an investment or an interest in real property is required to be disclosed the statement shall contain:
      a. A statement of the nature of the investment or interest;
      b. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
      c. The address or other precise location of the real property;
      d. A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars ($2,000) but does not exceed ten thousand dollars ($10,000), whether it exceeds ten thousand dollars ($10,000) but does not exceed one hundred thousand dollars ($100,000), whether it exceeds one hundred thousand dollars ($100,000) but does not exceed one million dollars ($1,000,000), or whether it exceeds one million dollars ($1,000,000);
e. In the case of a statement filed under **Government Code** Sections 87203 or 87204, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.

f. For purposes of disclosure, interest in real property does not include the principal residence of the filer or any other property which the filer utilizes exclusively as a personal residence of the filer.

**B. Disclosure of Income.**

1. When **income** is required to be reported the statement shall contain, except as provided in **Government Code Section 87207(b): subdivision-(b):**
   a. The name and address of each source of income aggregating five hundred ($500) or more in value, or fifty dollars ($50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
   b. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least five hundred ($500) but did not exceed one thousand dollars ($1,000), whether it was in excess of one thousand dollars ($1,000) but not greater than ten thousand dollars ($10,000), whether it was in excess of ten thousand dollars ($10,000) but not greater than one hundred thousand dollars ($100,000), or whether it was greater than one hundred thousand dollars ($100,000);
   c. A description of the consideration, if any, for which the income was received;
   d. In the case of a gift, the amount and the date on which the gift was received;
   e. In the case of a loan, the annual interest rate and the security, if any, given for the loan, and the term of the loan.

2. When the filer's pro rata share of **income to a business entity**, including income to a sole proprietorship, is required to be reported, the statement shall contain:
   a. The name, address, and a general description of the business activity of the business entity;
b. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars ($10,000) during a calendar year.

3. When a payment, including an advance or reimbursement, for travel is required to be reported pursuant to this section, it may be reported on a separate travel reimbursement schedule which shall be included in the filer's statement of economic interest. A filer who chooses not to use the travel schedule shall disclose payments for travel as a gift, unless it is clear from all surrounding circumstances that the services provided were equal to or greater in value than the payments for the travel, in which case the travel may be reported as income.

4. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, or as to which he or she is a paid consultant, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity. If the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or has done business, or plans to do business in the jurisdiction at any time during the two years prior to the date of the statement, it is required to be filed.

5. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired to disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal;

SECTION 7. Prohibition on Receipt of Honoraria. No member of the City Council or candidate for the office of City Council shall accept any honorarium. No designated employee shall accept any honorarium from any source if the employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. Subdivisions (b) of Government Code Section 89502 shall apply to the prohibitions in this section. This section shall not limit or prohibit payments,
advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code Section 89506.

SECTION 8. Prohibition on Receipt of Gifts in Accordance with Government Code Section 89503. No member of the City Council, candidate for the office of City Council, or designated employee shall accept any gifts with a total value of more than two hundred fifty dollars ($250) in a calendar year from any single source, as adjusted annually pursuant to Section 89503(f).

SECTION 9. Disqualification. No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the employee or a member of his or her immediate family or on:

A. Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars ($2,000) or more;

B. Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars ($2,000) or more;

C. Any source of income, other than gifts or loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars ($500) or more in value provided to, received by or promised to the designated employee within twelve (12) months prior to the time when the decision is made;

D. Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

E. Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars ($250) or more in value (as adjusted annually by State law) provided to, received by, or promised to the designated employee within twelve (12) months prior to the time when the decision is made.
F. No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

G. For purposes of this Section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official designated employee, by an agent on behalf of a public official designated employee, or by a business entity or trust in which the official employee, the official's employee's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

1. Notwithstanding subdivision (c) of Government Code Section 87103, a retail customer of a business entity engaged in retail sales of goods or services to the public generally is not a source of income to an official a designated employee who owns a 10-percent or greater interest in the entity if the retail customers of the business entity constitute a significant segment of the public generally, and the amount of income received by the business entity from the customer is not distinguishable from the amount of income received from its other retail customers.

SECTION 10. Manner of Disqualification. When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. In the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor. This notice shall be forwarded to the Administrative Supervisor, who shall record the employee's disqualification. Upon receipt of such statement, the Administrative Supervisor shall immediately arrange for the matter to be reassigned to another employee.
SECTION 11. Interpretation. In the event of any ambiguity in these rules as to interpretation, construction, or applicability, the Administrative Supervisor shall, by written instrument, clarify such ambiguity. Any designated employee who is unsure of his or her duties under this Code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114, or from the City Attorney, provided that nothing in this section requires the attorney for the City to issue any formal or informal opinion.

SECTION 12. Violation. Violation of any provision of this Code, including: (1) willful failure to file, or timely file, any requisite Disclosure Statement, (2) willful failure to disclose any financial or other interest required to be disclosed in such Disclosure Statement, or (3) filer’s willful failure to disqualify himself or herself as required herein, shall be grounds for discipline or removal from office, pursuant to Government Code Section 91003.5. Upon ascertaining any such violation, the Administrative Supervisor shall report the same to the appointing official for appropriate proceedings. Such violation shall not, however, invalidate or otherwise affect any decision or action to which such violations might relate. Designated employees violating any provision of this Code are subject to the administrative, criminal and civil sanctions provided in the Act, Government Code Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this Code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

SECTION 13. Effective Date. The City of Porterville Conflict of Interest Code, and any amendments to said Code, shall become effective immediately upon passage and approval by the City Council.

Adopted this _____ day of ______________________, 2010.

CONFLICTS AND DISCLOSURE MONITOR AGENCY

By________________________________________
John D. Lollis, Administrative Supervisor
DESIGNATED EMPLOYEES*
EXHIBIT "A"

A. ADMINISTRATION:
   1. Deputy City Manager

B. DEPARTMENT DIRECTORS:
   1. Administrative Services Manager
   2. Community Development Director
   3. Fire Chief
   4. Parks and Leisure Services Director
   5. Police Chief
   6. Public Works Director

C. DEPARTMENTAL EMPLOYEES AS FOLLOWS:
   1. Community Development Department:
      a. City Planner
      b. Development Associate
      c. Project Manager

   2. Administrative Services Department
      a. Purchasing Agent
      b. Management Information Systems Manager

   3. Fire Department:
      a. Battalion Chief/Fire Marshall
      b. Battalion Chief of Operations
      c. Deputy Fire Marshall

   4. Public Works Department
      a. Chief Building Official
      b. Deputy Public Works Director/City Engineer
      c. Deputy Public Works Director/Field Services Manager
      d. Assistant City Engineer

D. CONSULTANTS: Consultants shall disclose pursuant to the broadest disclosure category in the Code subject to the following limitations:

The Administrative Supervisor may determine in writing that a particular consultant, although a "designated position", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Administrative Supervisor's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

* This designation does not include the following City officials or employees required to report their financial interests pursuant to Article 2 of Chapter 7 of the Act, Government Code Sections 87200, et seq.:

   a. City Council Members
   b. City Manager
   c. City Attorney
   d. Finance Director Administrative Services Manager (in lieu of Finance Director)
   f. Chief Financial Officer (in lieu of Treasurer)
PUBLIC HEARING

SUBJECT: ADOPTION OF FISCAL YEAR 2010-2011 BUDGET

SOURCE: City Manager

COMMENT: Consistent with the City Charter, the City Manager has submitted for Council consideration a draft Budget for the 2010-2011 Fiscal Year. Section 51 of the City Charter provides that the City Manager shall provide not later than thirty (30) days before the end of the City's fiscal year, an estimate of expenditures and revenues of the City departments for the ensuing year.

Budgetary Approach: Attached is the budgetary message presented with the draft document with its release. The budgetary approach consists of:

- A three (3) year strategic budget plan
- A one (1) year budget
- Periodic review of budget targets
- Revision of expenditures when necessary to accomplish budget targets

Financial Factors: The level of revenue, expenditure, and standing for City funds proposed in the 2010-2011 FY budget are as follows:
  * All Fund Revenues for 10-11 FY: $74,065,108
  * All Fund Expenditures for 10-11 FY: $91,763,931
  * General Fund Revenues/Transfers for 10-11 FY: $22,539,696
  * General Fund Expenditures/Transfers for 10-11 FY: $25,938,324
  * General Fund cash deficit for 10-11 FY: $3,398,628
  * General Fund structural deficit for 10-11 FY: $1,000,000

Generally, the overall reduction in Fund balances proposed will result from using monies accumulated for capital expenditure being used to implement projects.

Preliminary Budget Study Session: Several directions were given to staff in consideration of the proposed preliminary budget, including:

- Vice Mayor Ward would collaborate with the Library Board of Trustees in the development of proposed goals and objectives in the subject of “Literacy” that would be supported with Measure H “Literacy” funds, and be evaluated and measured for achievement.
- Council maintains unilateral discretion in the provision of salary and benefits for non-represented management personnel, which includes projected merit/step increases in the coming fiscal year in the amount of $37,000. Including all non-represented management personnel, the expense for one percent (1%) in salary is $25,000.

**Budget Adoption:** The City Charter also provides that “after duly considering the estimate and making such corrections or modifications thereto as shall seem advisable to it, the Council shall by resolution adopt a general budget and such resolution shall operate as an appropriation of funds to the amounts and for the purposes set forth in the budget so adopted.” All spending authority from the current 2009-2010 Fiscal Year budget expires after June 30, 2010. Therefore, it is essential that a budget be adopted which allows payroll to be paid and routine expenditures to be incurred. The Charter is not specific as to the duration of the adoption, thus accordingly, the Council may define and authorize a budget adoption period less than the full fiscal year.

**RECOMMENDATION:** The City Manager proposes that the Council consider adoption of the proposed 2010-2011 Fiscal Year Budget, including any modifications and for the time period designated by Council.

**ATTACHMENTS:**
- Budget Message
- Draft Resolution for General Fund Budget
- Draft Resolution for Special Revenue, Enterprise, Internal Service, and Capital Projects Fund Budgets
RESOLUTION NO. __________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE ADOPTING THE GENERAL FUND
BUDGET FOR FISCAL YEAR 2010-2011

WHEREAS, the City Manager, under provisions of the City Charter of the City of Porterville, has presented to the City Council for its consideration, a proposed General Fund Operating and Capital Improvement Budget for the period beginning July 1, 2010, and ending June 30, 2011; and

WHEREAS, the City Council after thorough review, has determined said budget, as modified and corrected, is in all respects suitable and adequate for the purposes of said budgets and cover the necessary expenses of the General Fund of the City of Porterville for the 2010-2011 Fiscal Year based on the cash reserves balance;

NOW, THEREFORE, BE IT RESOLVED

1. The City of Porterville General Fund Budget for the 2010-2011 fiscal year is adopted in the following amounts:

   Operating Budget $22,616,350
   Capital Projects 1,501,525
   Debt Service 1,820,449
   Total $25,938,324

2. Staff will update Council on the condition of the budget and ongoing validity of assumptions utilized to create it during the months of November, January and April of the fiscal year, or at any time information becomes available that would alter the viability of this budget.
3. The City Manager is authorized to transfer General Fund operating budget appropriations between functions as required.

4. Increased service levels that require additional appropriations shall not be implemented without prior City Council approval.

______________________________

Pete V. McCracken, Mayor

ATTEST:

______________________________

John Lollis, City Clerk
RESOLUTION NO. __________

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF PORTERVILLE ADOPTING THE SPECIAL REVENUE,
ENTERPRISE, INTERNAL SERVICE, AND CAPITAL PROJECTS FUNDS
BUDGETS FOR FISCAL YEAR 2010-2011

WHEREAS, the City Manager, under provisions of the City Charter of the City of Porterville,
has presented to the City Council for its consideration, a proposed Operating and Capital
Improvement Budget for the period beginning July 1, 2010, and ending June 30, 2011; and

WHEREAS, the City Council after thorough review, has determined said budgets, as
modified and corrected, are in all respects suitable and adequate for the purposes of said budgets and
cover the necessary expenses of the Special Revenue, Enterprise, Internal Service, and Capital
Projects Funds of the City of Porterville for the 2010-2011 Fiscal Year:

NOW, THEREFORE, BE IT RESOLVED:

1. The City of Porterville Special Revenue, Enterprise, Internal Service, and Capital
Projects Funds budgets for the 2010-2011 fiscal year, are adopted in the following
amounts:

<table>
<thead>
<tr>
<th>Budget Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operating Budget</td>
<td>$30,172,122</td>
</tr>
<tr>
<td>Capital Projects</td>
<td>33,754,296</td>
</tr>
<tr>
<td>Debt Service</td>
<td>3,406,570</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$67,332,988</strong></td>
</tr>
</tbody>
</table>

2. Pursuant to Ordinance No. 1684, the Porterville Police, Fire and Emergency
Response 9-1-1 Measure Expenditure Plan, is hereby recertified for the 2010-2011 fiscal
year and the document, attached as Exhibit “A”, reflects the financial consequences of
the receipt, expenditure and allocation of Measure H Sales Tax Revenues for the 2010-
2011 fiscal year.

3. Increased service levels that require additional appropriations shall not be implemented
without prior City Council approval.

ATTEST:

Pete V. McCracken, Mayor

John Lollis, City Clerk
MEASURE H EXPENDITURE PLAN

Proposed Expenditure Plan for the City of Porterville Public Safety Sales Tax Measure Based on 1/2 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:

<table>
<thead>
<tr>
<th>Fiscal Year 2010-11 Sales Tax Revenues</th>
<th>$2,400,000**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest</td>
<td>50,000**</td>
</tr>
<tr>
<td>Total Revenues</td>
<td>$2,450,000</td>
</tr>
</tbody>
</table>

Fiscal Year 2010-11 Expenditures

- Maintain expanded patrol operations and gang suppression and narcotics operation with 10 sworn and 2 non-sworn Police personnel: $1,281,157**
- Maintain 8 additional sworn Fire personnel: 892,939**
- Maintain Literacy Programs/hours and expanded Homework Assistance and Creative Expression Program with 3 full-time library assistants and 30% of a Parks Maintenance Worker: 363,838**

  Subtotal: $2,537,934

- Design and construction of Public Safety Station: $1,300,000**
- Development of Library Literacy Center: 100,000**

  Subtotal: $1,400,000

Total Expenditures: $3,937,934

* Assumptions consistent with original Ordinance 1684.
** Certification of new amount and revision of Measure H Expenditure Plan.

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John Lollis, City Manager/City Clerk
June 15, 2010
SUBJECT: BUDGET ADJUSTMENT/CITIZENS’ OPTION FOR PUBLIC SAFETY (COPS) PROGRAM FUNDING

SOURCE: Police Department

COMMENT: For the past several years the City of Porterville has annually received funding from the State of California through the Citizens’ Option for Public Safety (COPS) Grant Program. The amount we are approved to receive this year from this grant is approximately $100,000 and a public hearing on the intent of the expenditures is required. In the past, the Police Department has used these funds in support of personnel assigned to the department’s Patrol Division, including all necessary training, equipment, and overtime costs. The expenditure of these funds in this manner is in proper adherence with the requirements as specified in the Assembly Bill.

RECOMMENDATION: That the City Council:

1) Conduct the public hearing to receive public comment; and

2) Authorize use of these funds to offset costs for personnel assigned to the department’s Patrol Division, including necessary training, equipment, and overtime costs; and

3) Approve an increase to the Police Department’s 2009-2010 budget, in the amount of $100,000.

Attachment: Draft Resolution
RESOLUTION NO. ____-2010

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

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

1. That the City of Porterville accepts the 2009/2010 Citizens’ Option for Public Safety (COPS) Grant Funds; and

2. That the Police Department appropriation is increase by the amount of the grant from COPS funds received for Fiscal Year 2009/2010 to allow for the expenditure of those Grant Funds in support of personnel assigned to the Patrol Division and their operational costs.

APPROVED AND ADOPTED this 15th day of June, 2010.

________________________

Pete V. McCracken, Mayor

ATTEST:

John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
HEARING

SUBJECT: RESOLUTION OF NECESSITY PERTAINING TO THE ACQUISITION OF A PORTION OF PROPERTY LOCATED AT APN #268-120-004, OWNER DARYL C. NICHOLSON, TRUSTEE OF THE DARYL C. NICHOLSON AND VICTORIA M. NICHOLSON TRUST - FOR THE PROPOSED SCRANTON AVENUE AND INDIANA STREET WIDENING PROJECT

SOURCE: City Attorney's Office

COMMENT: Staff has been working with the owner of the subject property, Daryl Nicholson (trustee), to acquire the above-referenced portion of property (approximately 16,000 square ft. of property currently used as an olive grove). This portion of the property needs to be acquired in order to commence construction for the Scranton Avenue and Indiana Street Widening Project. While there have been ongoing discussions between the parties, the City and property owner have not yet been able to reach an agreement.

Staff is asking City Council to adopt a Resolution of Necessity, as the plans for the proposed project are complete and the City wishes to commence construction work. The City Attorney has prepared the attached Resolution of Necessity as authorized and for adoption by City Council. The statutory offer and summary of the basis for just compensation, pursuant to Government Code Sections 7267.1 and 7267.2(a) and prepared by City and/or its agent, have been sent to the owners. The City Attorney has also notified the above owners, in writing via certified mail, and more than 15 days prior to the Council meeting, that this matter would be scheduled for this meeting's agenda. As of today, no written request to be heard has been received by the City from the property owners. In adopting a Resolution of Necessity, the City Council must find that the public interest and necessity require the project, that the project is planned or located in the manner that will be most compatible with the greatest public good and least private injury, and that the property sought to be acquired is necessary for the project.

RECOMMENDATION: That City Council:
1. Hear testimony from the owners and/or their representative(s), if they appear at the hearing and request to be heard;
2. Adopt the attached Resolution of Necessity; and
3. Authorize the City Attorney to take all appropriate action necessary to acquire said property on behalf of the City of Porterville.

Attachment: Draft Resolution of Necessity and Attachments

ITEM NO. 10
CITY COUNCIL, CITY OF PORTERVILLE
COUNTY OF TULARE, STATE OF CALIFORNIA

RESOLUTION NO. __________ - 2010


WHEREAS, the City of Porterville intends to construct a street improvements project (entitled the “Orange Avenue Reconstruction Project”), which involves reconstruction of the travel way, the installation of concrete improvements, signalization, landscaping and irrigation, and related work concerning Orange Avenue; and

WHEREAS, after notice and opportunity have been given to the property owner(s) at issue, the City Council of the City of Porterville hereby finds and determines as follows:

1. The City of Porterville intends to construct the aforementioned Project, a public use, together with related improvements to carry out and make effective the principal purpose pursuant to Code of Civil Procedure Section 1240.120(a), and in connection therewith, acquire interest in certain real property. Said public use is a function of the City of Porterville.

2. The City of Porterville is authorized to acquire the portion of the parcel described in Appendix 1 herein and exercise the power of eminent domain for the public use set forth herein in accordance with the California Constitution and the California Eminent Domain Law, Code of Civil Procedure Section 1230.010 et seq. and pursuant to Government Code Section 37350.5, Streets and Highways Code Section 5100 et seq., and Sections 3 and 4 of the Charter of the City of Porterville.

3. The property to be acquired consists of a portion of one parcel and is generally located at the southwest corner of Scranton Avenue and Indiana Street. The
property to be acquired is more particularly described in Appendix 1, attached hereto and incorporated herein by reference together with a map thereof.

4. On May 21, 2010, there was mailed a Notice of City of Porterville’s Intent to Adopt a Resolution of Necessity for acquisition by eminent domain of the real property described in Appendix 1 herein, which Notice of Intent is attached hereto as Appendix 2 and is incorporated herein by this reference. Said Notice of Hearing was mailed to all persons whose names appear on the last equalized County Assessment Roll as having an interest in the property described in Appendix 1, and to the situs address appearing on said Roll. Said Notice advised said persons of their right to be heard on the matters referred to therein on the date and at the time and place stated therein. Said persons received the Notice of Intent.

5. The hearing set out in said Notice was held on June 15, 2010, at the time and place stated therein, and all interested parties were given an opportunity to be heard. The hearing was closed.

Based upon the evidence presented, this City Council by vote of two-thirds or more of its members, further finds, determines, declares, and resolves each of the following:

a. The public interest and necessity require the proposed project.

b. The proposed project serves a public purpose and is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

c. The property described herein in Appendix 1 is necessary for the proposed project.

d. The offer required by Section 7267.2(a) of the Government Code, and the summary of the basis for the amount established as just compensation, attached hereto as part of Appendix 2, was made to the owner or owners of record.
e. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the property described herein have been complied with by the City of Porterville.

f. A portion of the property described in Appendix 1 may be acquired for a more necessary public use pursuant to Code of Civil Procedure Section 1240.610. The City Council further finds and determines that insofar as and to the extent that said parcel has heretofore been dedicated to a public use for telephone and/or electric utility purposes, the acquisition and use of said parcel by the City of Porterville for the public use described above is for a more necessary public use than the use to which the property has already been appropriated.

6. The City Attorney is hereby AUTHORIZED and EMPOWERED:

a. To acquire in the name of the City of Porterville, by condemnation, the property described in Appendix 1, attached hereto and incorporated herein by this reference in accordance with the provisions of the California Eminent Domain Law and the Constitution of California;

b. To acquire the property in fee simple unless a lesser estate is described in Appendix 1, herein;

c. To prepare or have prepared and to prosecute or to retain counsel to prosecute in the name of the City of Porterville such proceedings in the proper court as are necessary for such acquisition;

d. To deposit the probable amount of compensation, based on an appraisal, and to apply to said court for an order permitting the City of Porterville to take immediate possession and use of said property for said public uses and purposes.
PASSED, APPROVED AND ADOPTED this ___________ day of June, 2010.

ATTEST:

John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk

Pete V. McCracken, Mayor
EXHIBIT “A”

That portion of the East half of the Northeast quarter of Section 10, Township 22 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the Official Plat thereof, more particularly described as follows:

BEGINNING at the Northeast corner of the Northeast quarter of said Section 10;

Thence, North 89° 49' 58" West along the north line of said Northeast quarter, a distance of 759.18 feet;

Thence, leaving said north line, South 00° 28' 27" West, a distance of 42.00 feet;

Thence, South 89° 49' 58" East, along a line parallel with the north line of said Northeast quarter, a distance of 682.97 feet to the beginning of a curve concave southwesterly, having a radius of 40.00 feet;

Thence, easterly, southeasterly, and southerly along said curve, through a central angle of 90° 18’ 25”, an arc length of 63.05 feet, to a point in a non-tangent line bearing South 00° 21’ 58” East, a radial line to said point bears South 89° 31’ 33” East;

Thence, South 00° 36’ 55” East, a distance of 578.49 feet;

Thence, South 89° 49’ 58” East, a distance of 25.00 feet to a point on the easterly line of said Northeast quarter;

Thence, North 00° 28’ 27” East, along the east line of said Northeast quarter, a distance of 660.66 feet to the POINT OF BEGINNING.

EXCEPTING that interest in the North 25.00 feet and the East 25.00 feet of the Northeast Quarter of Section 10, Township 22 South, Range 27 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, as granted to Tulare County for road purposes per Deed recorded in Book 894, page 359 and Book 896, page 32 of Tulare County Official Records.

The above described parcel contains 16,453 square feet or 0.378 Acres more or less.

BASIS OF BEARINGS being the north line of the Northeast quarter of Section 10, Township 22 South, Range 27 East, Mount Diablo Base and Meridian, taken as North 89° 49’ 58” West, as shown on Record of Survey filed in Book 21 of Licensed Surveys, at page 68 in the Office of the Tulare County Recorder.

End of Description

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

Signature: Michael K. Reed
Licensed Land Surveyor

Date: 5-9-2008
May 21, 2010
City of Porterville

Daryl C. Nicholson, Trustee of the
Daryl C. Nicholson and Victoria M. Nicholson Trust
26914 Avenue 140
Porterville, CA 93257

RE: Notice of City of Porterville’s Intent to Adopt a Resolution of
Necessity to Acquire Property by Eminent Domain [CA Code of Civil
Procedure 1245.235]
Site Address: Southwest Corner of Scranton Avenue and Indiana Street,
Porterville, California
Assessor’s Parcel Number: 268-120-004

Dear Property Owners:

1. Notice of Intent of City Council to Adopt a Resolution of Necessity. The City
Council intends to consider the adoption of a Resolution of Necessity on June 15,
2010 that, if adopted, will authorize the City of Porterville to acquire the property
described herein by eminent domain for the purpose of constructing
improvements to Indiana Street. A description of the property being considered
for acquisition is included in the attachment marked Appendix A.

2. Notice of Your Right to Appear and Be Heard. Please take notice that the City
Council of the City of Porterville, at a regular meeting to be held on Tuesday,
[date/year] at 7:00 p.m., or as soon thereafter as the matter may be heard, at
Porterville City Hall, 291 N. Main Street, Porterville, California, will hold a hearing
on whether such a Resolution of Necessity should be adopted, as required by
California Code of Civil Procedure section 1245.235 for the commencement of an
eminent domain proceeding to acquire real property.

You have a right to appear and be heard before the City Council at the above
scheduled hearing on the following matters and issues, and to have the City
Council give judicial consideration to your testimony prior to deciding whether
or not to adopt the proposed Resolution of Necessity:

a. Whether the public interest and necessity require the proposed project;
b. Whether the proposed project is planned or located in the manner that
will be most compatible with the greatest public good and the least
private injury;
c. Whether the property sought to be acquired by eminent domain and
described in the Resolution of Necessity is necessary for the proposed
project;
d. Whether the offer required by Government Code section 7267.2(a),
together with the accompanying statement and summary basis for the
amount established as just compensation, was actually made to you.

APPENDIX 2
and whether said offer and statement/summary were in a form and contained all of the factual information required by Government Code section 7267.2(a). Said offer and a copy of Government Code section 7267.2(a) is attached hereto as Appendix A.

e. Whether City Council has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the “right to take”) to acquire the property described herein, including relocation assistance, as well as any other matter regarding the right to take said property by eminent domain; and

f. Whether City Council has statutory authority to acquire the property by eminent domain.

A copy of the proposed Resolution of Necessity will be available, upon your request, for inspection at the office of the Clerk of City Council at Porterville City Hall, 291 N. Main Street, Porterville, California five (5) days after this Notice was mailed and prior to the hearing at the place of the hearing.

Your name appears on the last equalized Tulare County assessment roll and as Owner (in our preliminary title report) of the property required for the proposed project.

The statutes that authorize the City to acquire the property by eminent domain for this proposed project are Streets and Highways Code § 10102 (street right of way) and Streets and Highways Code §§5100 et seq. (Street Improvement Act acquisitions).

3. Failure to File a Written Request to Be Heard within Fifteen (15) Days After the Notice Was Mailed Will Result in Waiver of the Right to Appear and Be Heard. If you desire to be heard, please be advised that you must file a written request with the clerk of the governing board within fifteen (15) days after this Notice was mailed. You must file your request to be heard at: Porterville City Hall, 291 N. Main Street, Porterville, California.

Should you elect to mail your request to the clerk of the City Council, it must be actually received by the clerk for filing within fifteen (15) days after this Notice was mailed. The date of mailing appears on this Notice.

California Code of Civil Procedure section 1245.235(b)(3) provides that “failure to file a written request to appear and be heard within fifteen (15) days after the Notice was mailed will result in waiver of the right to appear and be heard” on the above matters and issues that are the subject of the hearing.

If you elect not to appear and be heard in regard to compensation, your nonappearance will not be a waiver of your right to claim greater compensation in a court of law. The amount to be paid for the property will not be considered by the board at this hearing.

If you elect not to appear and not to be heard, your failure will be a waiver of your right to later challenge the right of the City to take the property by eminent domain.
The amount of the compensation to be paid for the acquisition of the property is not a matter or issue being heard by City Council at this time. Your nonappearance at this noticed hearing will not prevent you from claiming greater compensation, in and as determined by a Court of Law in accordance with the laws of the State of California. This Notice is not intended to foreclose future negotiations between you and the representatives of the City on the amount of compensation to be paid for your property. If you elect not to appear and not to be heard, you will only be foreclosed from raising in a Court of law the issues that are the subject of this noticed hearing and that are concerned with the right to take the property by eminent domain.

If City Council elects to adopt the Resolution of Necessity, then within six months of the adoption of the Resolution, the City will commence eminent domain proceedings in Superior Court. In that proceeding, the Court will determine the amount of compensation to which you are entitled.

Dated and mailed on May 21, 2010.

McCormick Kabot Jenner & Lew

By:

Jennifer Knight
Deputy City Attorney
City of Porterville

CC: Baldo Rodriguez, Porterville Public Works Director
    John Lollis, Porterville City Manager

Enclosures: Appendix A
APPENDIX A
January 11, 2010

[VIA CERTIFIED MAIL WITH RETURN REQUESTED]

Daryl C. Nicholson, Trustee of the
Daryl C. Nicholson and Victoria M. Nicholson Trust
28914 Avenue 140
Porterville, California 93257

RE: Offer to Purchase Pursuant to Government Code §7267.1 and §7267.2(a)
Site Address: Southwest Corner or Scranton Avenue and Indiana Street,
Porterville, California
Assessor’s Parcel Number: 268-120-004

Dear Property Owners:

As you are aware, the City of Porterville (City) is proposing to construct improvements to Indiana Street. The proposed construction will require obtaining a fee interest in a portion of the above referenced parcel.

California law requires that, before making an offer for the acquisition of real property, the City must obtain an appraisal to determine the fair market value of the real property being acquired, must establish an amount which it believes to be just compensation for that property and must make an offer to the owner for an amount not less than the just compensation so determined. The City accordingly had your property appraised in 2008 to determine its fair market value, as defined by California Code of Civil Procedure section 1262.320. It was appraised in accordance with commonly accepted appraisal standards and included consideration of the highest and best use of the land, the land’s current use and any improvements located thereon.

Based on the 2008 appraisal, which we understand you have in your possession in its entirety, the City offered you the sum total of $22,500 for the acquisition of 100% of the interest(s) in the Property. The Property was appraised again in October, 2009, by the same company. The total just compensation amount in the 2009 appraisal was determined to be $12,500. For your reference, the “Estimate of Just Compensation for Partial Taking” is attached to this Offer. Despite the decline in the value of the Property, at this point the City is prepared to honor the original appraisal, particularly in light of the Right of Entry granted to the City in December, 2008.

The City hereby offers you the sum total of $22,500 for the acquisition of 100% of the interest(s) in the Property. The enclosed Appraisal Summary Statement, which you originally received on October 8, 2008, outlines the basis for this offer. Again, it is our understanding that you have in your possession a copy of the appraisal in its entirety.

In accordance with California Code of Civil Procedure § 1263.025(a), the City hereby offers to pay the reasonable costs, not to exceed $5,000, of an independent appraisal should you desire for such appraisal to be conducted. Any independent appraisal shall be conducted by an appraiser licensed by the Office of Real Estate Appraisers.

The amount of the offer is predicated on the assumption that there exists no hazardous substance, product, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 United States Code section 9601 et seq., on the Property.
Furthermore, please be advised that the amount offered is subject to an environmental site inspection, and the cost to remediate any identified problems may affect the valuation of the Property. This offer is also conditioned on the City Council's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity.

This is an offer to purchase all of the interest designated as the Property, free of all liens and other encumbrances, except as may be agreed to by the Agency. If more than one person has interest in the Property which the City is seeking to acquire, all parties with such interests must accept this offer.

If you sign the Purchase Contract and Grant Deed, the City will deposit the full consideration with an escrow holder with instructions to pay the same to you or any holder of any encumbrance on your property after the City Council approves the purchase. The City will pay all the escrow fees. When property is sold to the City of Porterville, there is the same obligation as in a private transaction for the owner to pay in escrow the amounts needed to remove liens and encumbrances. In the event that there are liens and encumbrances, the escrow agent on behalf of the owner shall either:

1. Pay to owners of liens and encumbrances, out of the approved compensation paid by the City of Porterville, the amount needed to terminate leases or cancel trust deeds, mortgages, or other liens affecting the property acquired, or

2. Arrange for holders of leases, trust deeds, mortgages, or other liens to quitclaim their interest, if any, to the Parcel being acquired. When an owner sells his/her property to the City, the owner's obligation to pay current and past due property taxes is the same as if the owner were selling to a private individual. However, you, as an owner, will not be required to pay recording fees, transfer taxes, or the pro rata portion of real property taxes which are allocable to any period after the passage of title or possession to the City of Porterville.

If you agree to the transaction as described, please sign the enclosed Purchase Agreement. The Grant Deed must be signed before a Notary Public; a Notary Public is available at Porterville's City Hall to witness your signature free of charge. Please also complete IRS Form W-9, Request for Taxpayer Identification, and return each of those three documents to this office in the enclosed envelope. The other materials are included for your files.

Due to the length of time that has elapsed since our original offer, and the City's need to get the Indiana Street Project underway, you have 14 days from the mailing of this offer to respond. The date of mailing appears on this offer.

If you and the City are unable to come to an agreement, it will be necessary for the City to proceed with an eminent domain proceeding.

Dated and mailed on January 11, 2010.

By: Baldo Rodriguez
Public Works Director
City of Porterville

CC: Julia Lew, City Attorney
    John Lollis, City Manager

Enclosures: Purchase Contract
            Grant Deed
            2008 Appraisal Summary Statement
            2009 Appraisal Estimate of Just Compensation
            Eminent Domain Informational Pamphlet
            IRS Form W-9
PURCHASE CONTRACT

This Purchase Contract (this "Agreement") is between the City of Porterville ("City") and Daryl C. Nicholson, Trustee.

It is mutually agreed as follows:

1. Grantor agrees to sell to City, and City agrees to purchase from Grantor, on the terms and conditions set forth in this Agreement, the real property interests as may be specified herein (together, the "Property"). Grantor hereby states that Grantor has full title except as hereinafter mentioned and has full authority to sign this Agreement and to convey the rights described herein.

2. The parties hereto have set forth the whole of their agreement. The performance of this Agreement constitute the entire consideration for the Property and shall relieve the City of all further obligation on this account, or on account of the location, grade, or construction of the proposed public improvement.

3. Upon approval by the City Council, the City shall:

   A. Pay the undersigned Grantor the sum of TWENTY TWO THOUSAND FIVE HUNDRED DOLLARS ($22,500.00) for the Property within thirty (30) days after date title to said Property vests in the City free and clear of all liens, encumbrances, assessments, easements, and leases (recorded and/or unrecorded).

   B. Pay all the escrow and recording fees incurred in this transaction and, if title insurance is desired by the City, then the City will pay the premium charged therefore. Said escrow and recording reconveyance of Deed(s) of Trust, all of which fees, where required, shall be paid by the Grantor. Grantor hereby authorizes the City to prepare and file escrow instructions with the escrow agent on behalf of Grantor in accordance with this Agreement.

   C. Have the authority to deduct and pay from the amount shown in Clause 3. A above any amount necessary to pay reconveyance fees and trustee's fees for any full reconveyance of Deed(s) of Trust, and to satisfy any bond demands and/or delinquent taxes due in any year except the year in which this escrow closes,
together with penalties and interest thereon, and/or delinquent and unpaid non-
delinquent assessments, which have become a lien at the close of escrow. Current
taxes shall be prorated as of the date of possession or the date of conveyance is
recorded, whichever occurs first. However, if an Order of Immediate Possession
has been obtained, then the date of proration of taxes shall be as of the effective
date of said Order.

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

A. Any actual damage or substantial interference with the possession or use of the
adjacent land caused by City, its permittees, contractors, agents or assigns shall be
cured by same. In addition, the City of Porterville agrees to indemnify the
Grantor and hold said Grantor harmless from any loss of, or damage to any
property or injury or death of any person whomsoever arising out of or connected
with their performance of any work authorized under this Agreement.

B. It is agreed and confirmed by the parties hereto that, notwithstanding other
provisions in this Agreement, the right of possession and use of the Property by
the City (including, but not limited to, the right to construct and install new
improvements and to replace, repair, restore, remove, and/or dispose of existing
improvements) shall commence upon execution of this Agreement and shall
terminate upon completion of construction of the project, and that the amount
shown in Clause 3.A. herein includes, but not limited to, full payment for such
possession and use, including damages, if any, from said commencement date.

5. The sum set forth in Clause 3.A. above included payment for the following: fee title
to 1,245 square feet of land and any and all landscaping and improvements thereon,
and all rights of possession and use provided for herein, together with any and all
other losses, whether separately mentioned in this Agreement or not.

6. It is understood that once this Agreement is executed it must be approved by the City
Council to complete the transaction. Delivery of this Agreement and the
accompanying Grant Deed is conditioned upon the City Council's approval of said
documents.

7. NO OTHER OBLIGATION OTHER THAN THOSE SPECIFICALLY SET FORTH
HEREIN WILL BE RECOGNIZED.
IN WITNESS WHEREOF, the parties have executed this Agreement the day and year shown.

GRANTOR:

________________________________________________________________________

NAME OF GRANTOR

Date: _________________

________________________________________________________________________

CITY OF PORTERVILLE:

By: ___________________________
   For City of Porterville

Date: _________________

By: ___________________________

Witness/Received:

By: ___________________________

Date: _________________

By: ___________________________
   Acquisition Agent

Date: _________________
Recorded at the request of
City of Porterville

When Recorded Mail to:
City of Porterville
c/o: Darryl Root, J.D., M.B.A
Paragon Partners Ltd.
5762 Bolsa Ave., Suite 201
Huntington Beach, CA 92649

This document is recorded for the benefit of City of Porterville and is
therefore exempt from the payment of the recording fee pursuant to
Government code Section 6103 and from the payment of the
documentary transfer tax pursuant to Revenue and Taxation Code
Section 11922.

GRANT DEED

Assessor's Parcel Number: 268-120-004

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, DARYL C.
NICHOLSON, TRUSTEE OF THE DARYL C. NICHOLSON AND VICTORIA M. NICHOLSON
TRUST AGREEMENT DATED OCTOBER 1, 1990, (GRANTORS), hereby grant(s) to the CITY OF
PORTERVILLE, a municipal corporation (GRANTEE), all that real property as described in Exhibit "A"
and shown on Exhibit "B" attached hereto and incorporated herein by reference.

Dated this ___ day of ________________, ___, 20___.

GRANTORS:

DARYL C. NICHOLSON, TRUSTEE

PRINT NAME - TITLE
STATE OF ______________________

COUNTY OF ______________________

On ________________, before me, ______________________, a notary public in and for the State of ______________________, personally appeared ______________________ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: ______________________

ACKNOWLEDGMENT

STATE OF ______________________

COUNTY OF ______________________

On ________________, before me, ______________________, a notary public in and for the State of ______________________, personally appeared ______________________ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: ______________________
PROPERTY PLAT

EXHIBIT "B"

NORTH

NE COR., SEC 10
T 22 S, R 27 E

25' WIDE ROAD
EASEMENT PER
Blk 864, Pg. 359
TULARE COUNTY
RECORDS

SCRANTON AVE

F.O.B.

P.O.B.

25' WIDE ROAD
EASEMENT PER
Blk 865, Pg. 32
TULARE COUNTY
RECORDS

LINE DATA

CURVE DATA

1 L
N89°48'26"W  758.18'

1 R
40.00'

2 L
N50°32'27"W  42'

2 R
30°10'25"

3 L
N89°49'38"E  692.67'

3 R
63.05'

4 L
N50°38'56"E  578.49'

4 R
25.00'

5 L
N89°49'36"E  660.66'

5 R

0 100 200 400 FT.

SCALE: 1" = 200'

City of Porterville
291 N. MAIN ST.
PORTERVILLE, CA 93257
559 7827462

That portion of the East half of the Northeast Quarter of Section 10, Township 22 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California.

OWNER: Nicholson Trust
APN: 258-120-004
AREA: 16.453.62 AC. (Total)
ADJACENCY: 0.374 AC. (Total)

DRAWN BY: TJ
CHECKED BY: WKR

ENGINEER'S PLAT OF THE FEE ACQUISITION
BASIC PROPERTY DATA

Assessor’s Parcel No.: 268-120-004
Property Address: Southwest Corner of Scranton Avenue and Indiana Street
Locale: Porterville, California
Property Owner: Tulare County, California
Daryl C. Nicholson, Trustee of the Daryl C. Nicholson and
Victoria M. Nicholson Trust Agreement dated October 1,
1990
Total Larger Parcel Size: 69.99 acres
Applicable Zoning: AE-20
Current Use: Olive grove.
Highest and Best Use: Continued agricultural uses over the foreseeable future
until such time as urban development is warranted.
Property to be Acquired in Fee: 0.3777 acres of usable area and 0.8005 acres of existing
right-of-way easement.
Entire Property: Yes: ☐ Portion: X
Including Access Rights: Yes: ☐ No: ☒
Date of Value: September 2, 2008
Acquiring Agency: City of Porterville
Total Just Compensation: $22,500

STATUTORY BASIS OF VALUATION

The market value for the property to be acquired is based upon an appraisal prepared in accordance
with accepted appraisal principles and procedures.

California Code of Civil Procedure Section 1263.320 defines Fair Market Value as follows:

a) The fair market value of the property taken is the highest price on the date of valuation that
would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for
so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no
particular necessity for so doing, each dealing with the other with full knowledge of all the uses
and purposes for which the property is reasonably adaptable and available.

b) The fair market value of property taken for which there is no relevant, comparable market is its
value on the date of valuation as determined by any method of valuation that is just and
equitable.
### VALUATION SUMMARY - Fee Acquisition

**Value of Larger Parcel:**
- Land Value ($30,000 per acre) $2,099,700
- Easement Value $1
- Improvement Value + $0
- **Total Value** $2,099,701

**Value of Property to be Acquired:**
- Land Value ($30,000 per acre) $11,331
- Easement Value $1
- Improvement Value + $0
- **Total Value** $11,332

**Value of Remainder as Part of the Whole Before Acquisition:**
- Land Value $2,088,369
- Improvement Value + $0
- **Total Value** $2,088,369

**Value of Remainder as a Separate Parcel Without Benefits:**
- Property Value $2,088,369
- Incurable Damages - $0
- Cost to Cure Damages - $10,925
- **Total Value** $2,077,444

**Damages Described:** Reconfigure the irrigation system. Maintain turn rows and comply with setback standards.

**Value of Remainder as a Separate Parcel With Benefits:**
- Property Value Before + $0
- **Total Value** $2,077,444

**Benefits Described:** None

**Net Damages:**
- Total Severance Damages $10,925
- Total Benefits - $0
- **Net Damages** $10,925

**Just Compensation:**
- Value of Property to be Acquired $11,332
- Net Damages + $10,925
- **Total Compensation for Fee Acquisition** $22,257

Rounded to $22,500
LIST OF PRINCIPAL TRANSACTIONS

Land Sales:

<table>
<thead>
<tr>
<th>Location:</th>
<th>E/S of Indiana Street, N. of Gibbons Avenue, Porterville</th>
</tr>
</thead>
<tbody>
<tr>
<td>APN:</td>
<td>269-120-002</td>
</tr>
<tr>
<td>Sale Date:</td>
<td>October 27, 2005</td>
</tr>
<tr>
<td>Parcel Size:</td>
<td>36.23 acres</td>
</tr>
<tr>
<td>Sale Price:</td>
<td>$750,000</td>
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<tr>
<td>Price per Acre:</td>
<td>$20,701</td>
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</table>

<table>
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<tr>
<th>Location:</th>
<th>SWC of Scranton Avenue &amp; Indiana Street, Porterville</th>
</tr>
</thead>
<tbody>
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<td>APN:</td>
<td>268-120-004</td>
</tr>
<tr>
<td>Sale Date:</td>
<td>January 17, 2007</td>
</tr>
<tr>
<td>Parcel Size:</td>
<td>69.99 acres</td>
</tr>
<tr>
<td>Sale Price:</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>Price per Acre:</td>
<td>$28,576</td>
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<table>
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<tr>
<th>Location:</th>
<th>SWC Linda Vista Avenue &amp; Newcomb Avenue, Porterville</th>
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<tbody>
<tr>
<td>APN:</td>
<td>243-130-042</td>
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<tr>
<td>Sale Date:</td>
<td>March 5, 2008</td>
</tr>
<tr>
<td>Parcel Size:</td>
<td>11.40 acres</td>
</tr>
<tr>
<td>Sale Price:</td>
<td>$400,000</td>
</tr>
<tr>
<td>Price per Acre:</td>
<td>$35,088</td>
</tr>
</tbody>
</table>

The above is a summary of my appraisal, prepared at the request of and to be used by the City of Porterville to comply with California Code of Civil Procedures Section 1255.01.0. My appraisal, that is the basis for this summary, was made in accordance with accepted appraisal principles, consistent with California Valuation Law.

By: KEITH J. HOPPER, MAI
CA #AG002559

Date: September 15, 2008
SUMMARY STATEMENT RELATED TO PURCHASE OF REAL PROPERTY INTEREST

The City of Porterville is undertaking the Scranton Avenue and Indiana Street Widening Project, which is designed to increase traffic capacity at the intersection. Your property located at Scranton Avenue and Indiana Street is within the project area, and is also identified by your county assessor as APN 268-120-004.

Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the California Relocation Assistance and Real Property Acquisition Guidelines require that each owner from whom the City purchases real property or an interest therein or each tenant owning improvements on said property be provided with a summary of the appraisal of the real property or interest therein, as well as the following information:

1. You are entitled to receive full payment prior to vacating the real property being purchased unless you have heretofore waived such entitlement. You are not required to pay recording fees, transfer taxes, or the pro rata portion of real property taxes which are allocable to any period subsequent to the passage of title or possession.

2. The City will offer to purchase any remnant(s) considered by the City to be an uneconomic unit(s) which is/are owned by you or, if applicable, occupied by you as a tenant and which is/are contiguous to the land being conveyed.

3. All buildings, structures and other improvements affixed to the land described in the referenced document(s) covering this transaction and owned by the grantor(s) herein or, if applicable, owned by you as a tenant, are being conveyed unless other disposition of these improvements has been made. The interest acquired is in fee title and comprises 0.3777 acres.

4. The market value of the property being purchased is based upon a market value appraisal which is summarized on the attached Appraisal Summary Statement and such amount:
   a. Represents the full amount of the appraisal of just compensation for the property to be purchased;
   b. Is not less than the approved appraisal of the fair market value of the property as improved;
   c. Disregards any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant; and
   d. Does not reflect any consideration of or allowance for any relocation assistance and payments or other benefits which the owner is entitled to receive under an agreement with the City.

5. Pursuant to Civil Code of Procedure Section 1263.025 should you elect to obtain an independent appraisal, the City will pay for the actual reasonable costs up to $5,000 subject to the following conditions:
   a. You, not the City, must order the appraisal. Should you enter into a contract with the selected appraiser, the City will not be a party to the contract;
   b. The selected appraiser must be licensed with the California Office of Real Estate Appraisers (OREA); and
   c. Appraisal cost reimbursement requests must be made in writing and submitted to Darryl Root, Paragon Partners, Ltd., 5762 Bolsa Avenue, Suite 201, Huntington Beach, California 92649, within 90 days of the earliest of the following dates: (1) the date the selected appraiser requests payment from you for the appraisal; or, (2) the date upon which you, or someone on your behalf, remitted full payment to the selected appraiser for the appraisal. Copies of the contract (if a contract was made), appraisal report, and invoice for completed work by the appraiser must be provided to the City concurrent with submission of the appraisal cost reimbursement request. The costs must be reasonable and justifiable.

6. The owner of a business conducted on a property to be acquired, or conducted on the remaining property which will be affected by the purchase of the required property, may be entitled to compensation for the loss of goodwill. Entitlement is contingent upon the ability to prove such loss in accordance with the provisions of Sections 1263.510 and 1263.520 of the Code of Civil Procedure.

7. If you ultimately elect to reject the City's offer for your property, you are entitled to have the amount of compensation determined by a court of law in accordance with the laws of the State of California.

8. You are entitled to receive all benefits that are available through donation to the City of all or part of your interest in the real property sought to be acquired by the City as set out in Streets and Highways Code Sections 104.2 and 104.12.
APPRAISAL REPORT

Partial Acquisition for Road Right-of-Way
Scranton Avenue & Indiana Street Widening Project

Nicholson Transitional Agricultural Property
Southwest Corner of Scranton Avenue & Indiana Street
Porterville, California

Date of Value:
October 2, 2009

Prepared For:
Julia Lew, Attorney
McCormick, Kabot, Jenner, Hurlbutt & Lew
1220 West Main Street
Visalia, California 93291

Prepared By:
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The Hopper Company
2918 West Main Street
Visalia, California 93291
ESTIMATE OF JUST COMPENSATION FOR PARTIAL TAKING

Step 9

The final estimate of just compensation for the partial acquisition of a portion of the subject property is the sum of the value of the portion acquired (step two) and the net damages to the remainder (step eight). The whole process is summarized below:

1 - Value of Larger Parcel Before Taking:
   Usable Land Value $1,388,465
   Road Easement Land Value + $1
   $1,388,466

2 - Value of Part Taken as Part of Whole:
   Usable Land Value $7,790
   Road Easement Land Value + $1
   $7,791

3 - Value of Remainder as Part of Whole:
   Land Value $1,380,675
   Improvement Value + $0
   $1,380,675

4 - Value of Remainder Without Benefits:
   Remainder Property Value $1,380,675
   Cost to Cure Damages - $4,666
   $1,376,009

5 - Severance Damages:
   Step Three Value $1,380,675
   Step Four Value - $1,375,009
   $4,666

6 - Value of Remainder With Benefits:
   Land Value $1,376,009
   Benefits + $0
   $1,376,009

7 - Benefits to the Remainder:
   Step Six Value $1,376,009
   Step Four Value - $1,376,009
   $0

8 - Net Damages to the Remainder:
   Step Five Value $4,666
   Step Seven Value - $0
   $4,666

9 - Estimate of Just Compensation:
   Step Two Value $7,791
   Step Eight Value + $4,666
   $12,557
   Rounded to $12,500

Therefore, after considering all of the data and pertinent information regarding the subject property and the proposed road widening project, it is my opinion that the total compensation due to the property owner for the partial acquisition as of October 2, 2009 is:

TWELVE THOUSAND FIVE HUNDRED DOLLARS
$12,500
EMINENT DOMAIN – Information Pamphlet

I. Introduction

Eminent domain is the power of the government to purchase private property for a "public use" so long as the property owner is paid "just compensation." Whenever possible, the City of Porterville tries to avoid use of the eminent domain power, exercising it only when it is necessary for a public project. The decision to acquire private property for a public project is made by the City only after a thorough review of the project, which often includes public hearings.

This pamphlet provides general information about the eminent domain process and the rights of the property owner in that process.1

- What is a "public use''?

A "public use" is a use that confers public benefits, like the provision of public services or the promotion of public health, safety, and welfare. Public uses include a wide variety of projects such as street improvements, construction of water pipelines or storage facilities, construction of civic buildings, redevelopment of blighted areas, and levee improvements to increase flood protection. Some public uses are for private entities, such as universities, hospitals and public utilities, which serve the public.

- What is "just compensation''?

Just compensation is the fair market value of the property being acquired by the government. The state law definition of fair market value is "the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available."2

II. The Eminent Domain Process and the Property Owner’s Rights

The eminent domain process begins with a public use project. When selecting a project location, the goal is to render the greatest public good and the least private injury or inconvenience. If it is determined that all or a portion of your property may

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1 This pamphlet reflects the current law as of January 1, 2008. However, the information in this pamphlet is not, nor should it be construed as, legal advice. You should consult with qualified legal counsel regarding your specific situation rather than relying on this pamphlet as legal advice.
be necessary for a public use project, the City will begin the appraisal process to
determine the property’s fair market value.

- **How is the fair market value of my property determined?**

The City will retain an independent, accredited appraiser familiar with local property
values to appraise your property. The appraiser will invite you to accompany him or
her during an inspection of your property. You may give the appraiser any
information about improvements and any special features that you believe may affect
the value of your property. It is in your best interest to provide the appraiser with all
the useful information you can in order to ensure that nothing of value will be
overlooked. If you are unable to meet with the appraiser, you may wish to have a
person who is familiar with your property meet with the appraiser instead.

After the inspection, the appraiser will complete an appraisal that will include the
appraiser's determination of your property's fair market value and the information
upon which the fair market value is based. The appraiser will provide the City with
the appraisal. The City will then make a written offer to purchase the property. The
offer will also include a summary of the appraisal. The offer will be for no less than
the amount of the appraisal.

- **What factors does the appraiser consider in determining fair market value?**

Each parcel of real property is different and, therefore, no single formula can be used
to appraise all properties. Among the factors an appraiser typically considers in
estimating fair market value are:

  o The location of the property;
  o The age and condition of improvements on the property;
  o How the property has been used;
  o Whether there are any lease agreements relating to the property;
  o Whether there are any environmental issues, such as contaminated soil;
  o Applicable current and potential future zoning and land use requirements;
  o How the property compares with similar properties in the area that have
    been sold recently;
  o How much it would cost to reproduce the buildings and other structures,
    less any depreciation; and
  o How much rental income the property produces, or could produce if put to
    its highest and best use.

- **Will I receive a copy of the appraisal?**

The City is required to provide you with its purchase offer, a summary of the
appraiser's opinion, and the basis for the City's offer. Among other things, this
summary must include:
o A general statement of the City's proposed use for the property;
o An accurate description of the property to be acquired;
o A list of the improvements covered by the offer;
o The amount of the offer; and
o The amount considered to be just compensation for each improvement which is owned by a tenant and the basis for determining that amount.

However, the City is only required to show you a copy of the full appraisal if your property is an owner-occupied residential property with four or fewer residential units. Otherwise, the City may, but is not required, to disclose its full appraisal during negotiations (though different disclosure requirements apply during the litigation process if the issue of fair market value goes to court).

- **Can I have my own appraisal done?**

Yes. You may decide to obtain your own appraisal of the property in negotiating the fair market value with the City. At the time of making its initial offer to you, the City must offer to reimburse you the reasonable costs, not to exceed $5,000, of an independent appraisal of your property. To be eligible for reimbursement, the independent appraisal must be conducted by an appraiser licensed by the State Office of Real Estate Appraisers.

- **What advantages are there in selling my property to the City?**

A real estate transaction with the City is typically handled in the same way as the sale of private property. However, there may be a financial advantage to selling to the City.

o You will not be required to pay for real estate commissions, title costs, preparation of documents, title policy or recording fees required in closing the sale. The City will pay all these costs.

o Although the City cannot give you tax advice or direction, you might also be eligible for certain property and income tax advantages. You should check with the Internal Revenue Service (IRS) for details or consult your personal tax advisor.

- **If only a portion of my property is taken, will I be paid for the loss to my remaining property?**

In general, when only a part of your property is needed, every reasonable effort is made to ensure you do not suffer a financial loss to the "remainder" property. The City will pay you the fair market value of the property being taken as well as compensation for any loss in value to your remaining property that is not offset by the
benefits conferred by the project. The compensation for the loss in value to your remaining property is often referred to as "severance damages."

Also, if any remaining part is of such a size, shape, or condition as to be of little market value, the City will offer to acquire that remaining part (or remnant) from you, if you so desire.

- Will I be compensated for loss of goodwill to my business?

If you are the owner of a business that is conducted on the property being acquired, you may have a right to compensation for lost business goodwill if the loss is caused by the acquisition of the property. "Goodwill" consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.

- What will happen to the loan on my property?

Where the City is acquiring the entire property, generally the compensation payable to the owner is first used to satisfy outstanding loans or liens as in a typical real estate transaction. Where less than the entire property is being acquired, whether outstanding loans or liens are paid from the compensation will depend on the particular facts and circumstances.

- Do I have to sell at the price offered?

No. If you and the City are unable to reach an agreement on a mutually satisfactory price, you are not obligated to sign an offer to sell or enter into a purchase agreement.

- If I agree to accept the City's offer, how soon will I be paid?

If you reach a voluntary agreement to sell your property or an interest in the property to the City, payment will be made at a mutually acceptable time. Generally, this should be possible within 30 to 60 days after a purchase/sale contract is signed by all parties.

- What happens if we are unable to reach an agreement on the property's fair market value?

The City, to the greatest extent practicable, will make every reasonable effort to acquire your property by negotiated purchase. If, however, the negotiations are unsuccessful, the City may either file an eminent domain action in a court located within the same county where your property is located or it may decide to abandon its intention to acquire the property. If the City abandons its intention to acquire, it will promptly notify you.
If the City proceeds with eminent domain, the first step is for the City staff to request authority from the City Council to file a condemnation action. The approval from the City Council is called a "Resolution of Necessity." In considering whether condemnation is necessary, the City Council must determine whether the public interest and necessity require the project, whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury, and whether your property is necessary for the project. You will be given notice and an opportunity to appear before the City Council when it considers whether to adopt the Resolution of Necessity. You may want to call an attorney or contact an attorney referral service right away. You or your representatives can raise any objections to the Resolution of Necessity and the condemnation either orally before the City Council or in writing to the City Council.

If the City Council adopts the Resolution of Necessity, the City can file a complaint in court to acquire title to the property upon payment of the property's fair market value. The City is the plaintiff. Anyone with a legal interest in the property, generally determined from a title report on the property (including tenants or mortgage holders), are named as defendants. Often, the City will also deposit the amount the City believes is the "probable amount of compensation" with the State Treasurer where the complaint is filed. A deposit must be made if the City is seeking to acquire possession of the property before agreement is reached on the fair market value.

- **Can the City acquire possession of my property before the property's fair market value is determined in the eminent domain lawsuit?**

In some cases, the City may decide it needs possession of the property before the property's fair market value is finally determined. In such a case, the City must apply to the court for an "order for possession" to allow it to take possession and control of the property prior to resolution of the property's fair market value. The City is required to schedule a hearing with the court on the proposed order for possession and to give you notice of the hearing. Notice must generally be sent at least 90 days before the hearing date if the property is occupied and 60 days before the hearing date if the property is unoccupied. A judge will decide whether the order for possession should be granted. As noted above, the City must deposit with the State Treasurer the probable amount of just compensation in order to obtain possession of the property.

- **Can I oppose the motion for an order for possession?**

Yes. You may oppose the motion in writing by serving the City and the court with your written opposition within the period of time set forth in the notice from the City.
• Can I rent the property from the City?

If the City agrees to allow you or your tenants to remain on the property after the City acquires possession, you or the tenants will be required to pay a fair rent to the City. Generally, such rent will not be more than that charged as rent for the use of a property similar to yours in a similar area.

• Can I withdraw the amount deposited with the State Treasurer before the eminent domain action is completed, even if I don't agree that the amount reflects the fair market value of my property?

Yes. Subject to the rights of any other persons having a property interest (such as a lender, tenant, or co-owner), you may withdraw the amount deposited with the State Treasurer before the eminent domain action is completed. If you withdraw the amount on deposit, you may still seek a higher fair market value during the eminent domain proceedings, but you may not contest the right of the City to acquire the property, meaning you cannot contest that the acquisition of your property is for a public purpose or is otherwise improper.

You also have the right to ask the court to require the City to increase the amount deposited with the State Treasurer if you believe the amount the City has deposited less than the "probable amount of compensation."

• Can I contest the condemning agency's acquisition of the property?

Yes. Provided you have not withdrawn the amount deposited, you can challenge in court the City's right to acquire or condemn the property.

• What happens in an eminent domain trial?

The main purpose of an eminent domain trial is to determine the fair market value of your property, including compensable interests such as lost business goodwill caused by the taking or severance damages. The trial is usually conducted before a judge and jury. You (and any others with interests in the property) and the City will have the opportunity to present evidence of value, and the jury will determine the property's fair market value. In cases where the parties choose not to have a jury, the judge will decide the property's fair market value. Generally, each party to the litigation must disclose its respective appraisals to the other parties prior to trial.

If you challenge the City's right to acquire the property, the eminent domain trial will also determine whether or not the City has the legal right to acquire the property. In such cases, the judge (not the jury) will make this determination before any evidence is presented concerning the property's fair market value.
At the end of the trial, the judge will enter a judgment requiring the City to pay fair market value. Once the City pays the amount listed in the judgment, the judge will enter a final order of condemnation. The City will record the final order with the County Recorder, and title to the property will then pass to the City.

- **Am I entitled to interest?**

Anyone receiving compensation in an eminent domain action is generally entitled to interest on that compensation from the date the condemning agency takes possession of the property until the person receiving the compensation has been fully paid. The rate and calculation of the interest is determined under formulas in State law.

- **Will the City pay my attorneys' fees and costs.**

In an eminent domain action, you are entitled to be reimbursed by the condemning agency for your court costs such as court filing fees. In some circumstances, you may also be entitled to be reimbursed by the condemning agency for your attorneys' fees in the lawsuit. Whether you will be entitled to receive reimbursement for your attorneys' fees will depend on the particular facts and circumstances of the case and the offers and demand for compensation made in the action.

- **Will I receive assistance with relocation?**

Any person, business, or farm operation displaced as a result of the property acquisition is typically entitled to relocation advisory and financial assistance for eligible relocation expenses, such as moving expenses. The amount of relocation compensation is determined on a case-by-case basis in accordance with prescribed law. Relocation benefits are handled separate and apart from the determination of the property's fair market value and are not part of the eminent domain process.
**Form W-9**

**Request for Taxpayer Identification Number and Certification**

**Give form to the requester. Do not send to the IRS.**

<table>
<thead>
<tr>
<th>Name (as shown on your income tax return)</th>
</tr>
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<tbody>
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</tbody>
</table>

**Business name, if different from above**

<table>
<thead>
<tr>
<th>Check appropriate box: ☐ Individual/ Sole proprietor</th>
<th>☐ Corporation</th>
<th>☐ Partnership</th>
<th>☐ Other</th>
<th>☐ Exempt from backup withholding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address (number, street, and apt. or suite no.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>City, state, and ZIP code</td>
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<th>See Specific Instructions on page 2</th>
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</table>

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your Social Security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see how to get a TIN on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

**Part II Certification**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest and dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Certification Instructions. You must complete item 1 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply.

For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally payments other than interest and dividends, you are not required to sign this Certification, but you must provide your correct TIN. (See the instructions on page 4.)

**Sign Here**

<table>
<thead>
<tr>
<th>Signature of U.S. person</th>
<th>Date</th>
</tr>
</thead>
</table>

**Purpose of Form**

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding,
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners’ share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester’s form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-5 and 7701-7(a) for additional information.

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners’ share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity.
SUBJECT: COMMUNITY DEVELOPMENT BLOCK GRANT BUSINESS ASSISTANCE PROGRAM – PORTERVILLE FORD LINCOLN MERCURY

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The Community Development Block Grant (CDBG) Program contains a component for the Business Assistance Program (BAP), which is intended to provide incentives for the investment in existing commercial or industrial facilities while addressing one or more of the national objectives of benefiting low income persons and helping in the elimination of slum and blight. City Council has previously approved and funded six projects under this program, the most recent being the assistance provided to Charles and Jan Crissman for the acquisition of the Clevenger Paint and Body Shop.

Porterville Ford Lincoln Mercury (PFLM) is a new company acquiring the Ford dealership that has been in existence in Porterville for 71 years. PFLM will be the third owner of this Ford dealership. The PFLM group has a combined 175 years of automotive experience and presently own Ford dealerships in Patterson and Merced. The PFLM group will lease the property from Clevenger and will continue to operate the full service dealership, including the parts and service shop.

Total investment required for the dealership acquisition is $640,000, which will fund the purchase of assets from Clevenger and provide the working capital required by the Ford Company to approve the acquisition of the dealership. The four owners are investing $340,000 from personal funds and a loan in the amount of $200,000 from Ford Motor Credit is pending. PFLM is requesting a loan of $100,000 from the City of Porterville Business Assistance Program to bridge the gap to meet the Ford Company’s financial requirements. The majority of the funds requested would be used for the purchase of new signage and the purchase and installation of telecommunications equipment, with the remaining funds to be used to upgrade building facades.

Due to funding of other projects, the BAP does not have adequate funding for this request; however, BAP funds in the amount of $510,000 are reserved for the Main Street Porter Slough (JC Penney lot) project. The 2010/2011 CDBG Action Plan has no new entitlement funding allocated for the BAP. To fund the current request, staff would recommend reallocation of BAP funds from the Main Street Porter Slough project in the amount of $100,000. As the funding is from the BAP allocation, no
amendment would be necessary for the CDBG Action Plan. Funding from General Fund carryover could be utilized to replace the BAP funds allocated for the Main Street Porter Slough project.

During staff’s most recent discussions with Clevenger Ford, the dealership employed 26 persons. PFLM has stated that they intend on keeping employment levels at or near the current number with the actual number of employees retained based upon the business climate. The BAP program policy provides for one job created/retained for each $35,000 of funding. Based on the 1:$35,000 ratio, the loan agreement will mandate the retention of 4 jobs.

There is a concern that should the PFLM not have the funding ratios required by the Ford Company that the dealership may be forced to close. If the dealership were to close, the Ford Company may not approve a new dealership in Porterville. Automobile dealerships are major sales tax revenue generators for the City and the loss of any dealership within the City would impact the City’s General Fund budget.

The Community Development Financial Assistance Review Committee has reviewed the request and has recommended the preparation of a Loan Agreement, whereby CDBG funds in the amount of $100,000 will be allocated towards the purchase of signage, purchase and installation of telecommunications equipment, and upgrade to facades. Funding approval is proposed to be structured into both a Loan Agreement and a Hiring Agreement with the following terms:

1. A Loan Agreement shall be signed between the City and PFLM, outlining the terms of the loan, including monthly payments, indemnification of the City, and a five year term. CDBG funding will be disbursed on a reimbursement basis for the purchase of signage, purchase and installation of telecommunications equipment, and upgrades to facades. The owners will secure the loan with a Promissory Note.

2. The loan shall bear simple annual interest of 2%. The program policy provides for loans to bear interest equivalent to the Local Agency Investment Fund (LAIF) rate or 2%, whichever is greater at the time of funding. As of April 2010 LAIF rate was .588%.

3. PFLM will enter into a Hiring Agreement with the City of Porterville to retain at least 4 positions at the dealership, per the 1:$35,000 of provided assistance as outlined in the BAP policies. The Agreement will include language to assure that 51 percent of the jobs retained or created by the CDBG funding will be filled by or made available to persons of low and moderate-income.
SUBJECT: CONSIDERATION OF SETTING A SPECIAL CITY COUNCIL MEETING FOR THE RIVERWALK MARKETPLACE PHASE II PROJECT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Processing of the Riverwalk Marketplace Phase II project is nearing completion and is being scheduled for final City Council consideration. The applicant has requested that the City Council schedule a special meeting due to the fact that the public hearing to certify the environmental impact report (EIR) and approve the project is potentially controversial, and as such may be time consuming. If the Council finds the special meeting desirable, it could be scheduled for July 12, 2010. This date would also allow time for the consultant to address the comments received during the public review period and will accommodate the statutory requirements for public notice. Should the special meeting not be scheduled, the matter would be scheduled for the next regular meeting on July 20, 2010.

RECOMMENDATION: That the City Council consider scheduling a special meeting on July 12, 2010 at 6:00 p.m.
AGENDA: June 15, 2010

JOINT MEETING OF THE CITY COUNCIL, THE PORTERVILLE REDEVELOPMENT AGENCY, AND THE CITY COUNCIL ACTING AS THE PORTERVILLE PLANNING COMMISSION

SUBJECT: PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – REDEVELOPMENT

COMMENT: **Background** – In order to more effectively carry out its projects and programs and improve and alleviate the economic and physical conditions of blight within the community, the Porterville Redevelopment Agency (the “Agency”) is proposing adoption of an amendment (the “2010 Amendment”) to the Redevelopment Plan (the “Plan”) for the Porterville Redevelopment Project No. 1 (the “Project” or “Existing Project Area”), as previously amended in 1994 and 2004, pursuant to the provisions of the California Community Redevelopment Law (the “CCRL”; Health and Safety Code Section 33000 et seq.). The purposes of the 2010 Amendment are to i) add territory (the “Added Territory”) to the Existing Project Area, thereby creating the “Amended Plan” and the “Amended Project Area”; ii) reinstate limited Agency eminent domain authority specific to the Existing Project Area; and iii) modify the Plan’s projects and programs list specific to the Existing Project Area, as appropriate and necessary.

Adoption of the 2010 Amendment would enable the Agency to implement projects and programs designed to: upgrade public facilities and infrastructure, promote and facilitate community development and job growth, and provide additional affordable housing opportunities within the limits of the Amended Project Area specifically and, as may be permissible, in other areas of the City of Porterville.

The formal redevelopment plan amendment process commenced on August 5, 2008, when the City Council adopted a redevelopment survey area which included much of the City of Porterville as well as a portion of unincorporated East Porterville. On April 7, 2009, the City Council approved an expansion of the previously adopted redevelopment survey area to include additional unincorporated areas. On April 7, 2009, the City Council, acting as the City’s Planning Commission, also adopted a Preliminary Plan for the 2010 Amendment which included preliminary boundaries of the Added Territory. On October 20, 2009, the City Council, acting as the Planning Commission, modified the preliminary boundaries of the Added Territory to remove unincorporated County areas from further consideration as a result of ongoing discussions with Tulare County officials. Subsequently, the Agency distributed a Unified Report to affected taxing agencies and the State Departments of Housing and Community Development and Finance for their review and comment pursuant to CCRL

DD appropriated/funded 2010 CM

ITEM NO. DBA-01
Sections 33344.5 and 33451.5. On April 6, 2010, the City Council, acting as the City’s Planning Commission, reviewed the proposed Amended Plan and the Draft Environmental Impact Report prepared for the 2010 Amendment and found that the Amended Plan conforms to the City’s General Plan and recommended its approval to the City Council. Throughout the process, the City Council and Agency Board have reviewed and adopted other documents required by the redevelopment plan amendment process.

On June 1, 2010, the Agency and City Council held a Joint Public Hearing to hear testimony from the public and consider all information in the record relating to the proposed 2010 Amendment. Because written objections were received prior to the Joint Public Hearing, after receiving all testimony regarding the proposed 2010 Amendment, the Agency and City Council closed the Joint Public Hearing and continued consideration of the various resolutions relating to the 2010 Amendment and the ordinance adopting the 2010 Amendment to the regularly scheduled meeting of the Agency and City Council on June 15, 2010.

Ten (10) letters containing written objections, communications, and suggestions relating to the 2010 Amendment were received at or prior to the Joint Public Hearing. In accordance with CCR Section 33363, the Agency has prepared detailed, reasoned responses to each written objection received at or prior to the Joint Public Hearing. The Agency and City Council must consider each written objection to the 2010 Amendment and make written findings in response to each written objection prior to adoption of the Ordinance approving the 2010 Amendment.

**Budget Impact** - None at this time. If the 2010 Amendment is ultimately approved, the Added Territory is anticipated to raise millions of dollars for eligible Agency projects and initiatives. The Agency’s advisors have projected the 2010 Amendment could generate as much as $108 million in net tax increment revenues (net of “pass throughs” to affected taxing entities) to the Agency over the 45-year term during which the Agency would be eligible to collect such revenues.

**DISCUSSION:** On May 27, 2010, prior to the Joint Public Hearing, the Agency distributed to each City Council/Agency Board member a compact disc (CD) containing an electronic copy of the Joint Public Hearing Evidentiary Record (the “Record”). The Record includes, among other items, the Amended Plan, the Final Program Environmental Impact Report prepared for the 2010 Amendment (the “FEIR”), and the Agency’s Report to the City Council on the 2010 Amendment (the “Report to Council”), related resolutions, and the adopting City Ordinance. The contents of the Record are summarized in the following paragraphs.

**Tab 1 — Joint Public Hearing Procedures:**

The Joint Public Hearing Procedures outline Agency and City Council procedures and actions necessary for approval and adoption of the 2010
Amendment. Assuming the Ordinance which adopts the 2010 Amendment becomes “effective” on or before August 20, 2010, the Agency will be able to establish FY 2009-2010 as the base year for tax increment collection purposes in the Added Territory.

Tab 2 — Amended and Restated Redevelopment Plan for the Porterville Redevelopment Project Area No. 1:

Similar to the Plan, as previously amended, the Amended Plan sets forth basic Agency authority and provides a general statement of redevelopment objectives and techniques; the Amended Plan does not prescribe a detailed, rigid course of sequential actions to achieve those objectives. The primary goal of the Amended Plan is to help the Agency further its efforts to revitalize the Amended Project Area under CCRL authority. The Amended Plan would not authorize the use of eminent domain by the Agency to acquire property on which any persons reside. The Amended Plan, which would be effective within the Added Territory for 30 years from its adoption, may be amended pursuant to procedures codified under the CCRL. Once adopted, the Amended Plan would provide the Agency with the legal framework and authority to, among other actions, collect tax increment from properties within the Added Territory to be used by the Agency to assist in the planning and implementation of redevelopment projects.

Tab 3 — Final Program Environmental Impact Report:

The preparation and distribution of the FEIR has been completed in accordance with the California Environmental Quality Act, commonly referred to as “CEQA”. This document was prepared as part of the redevelopment plan amendment process based on the findings contained in the Initial Study/Environmental Checklist prepared for the 2010 Amendment (and contained in Appendix A of the FEIR).

The FEIR contains two sections in addition to the content of the Draft EIR that was circulated for a 45-day review period to affected taxing entities, environmental entities, and other interested parties, which review period ended April 29, 2010. Section 9.0 contains comments received on the Draft EIR, and Section 10.0 contains the Agency's responses to those comments.

Tab 4 — Agency’s Report to the City Council:

The Report to Council summarizes the deficient physical and economic conditions presently existing within the Amended Project Area. While the Agency's Report to Council summarizes the physical and economic deficiencies, as defined by the CCRL, which are present in the Amended Project Area, not every property is deficient; the CCRL does not require that
every property contain deficiencies, but, requires that there is a predominance of physical and economic deficiencies throughout the area to be redeveloped. As described in the Report to Council, properties that do not display such conditions are generally, to some degree, negatively affected by the deficiencies in adjacent properties or by a lack of public facilities, utilities, or infrastructure.

**Tab 5 — Planning Commission Report on the Amended Plan's Conformity with the City's General Plan:**

Tab 5 of the Record contains the Planning Commission’s report and recommendation. In this report, the City Council, acting as the Planning Commission, found that the Amended Plan was in conformance with the City’s General Plan and recommended that the Agency approve, and City Council adopt, the Amended Plan. Once adopted, the Amended Plan will help the City to implement General Plan goals, objectives and policies within the Amended Project Area.

**Tab 6A — Information Transmitted to Property Owners and Tenants, Community Workshops Presentation, and Affidavits:**

Tab 6A of the Record contains information transmitted to all affected persons and/or entities in accordance with the CCRL as well as information presented to community members in attendance at three community workshops held by the Agency at the Porterville Public Library on May 11th, 19th, and 26th, 2010.

**Tab 6B — Information Transmitted to Affected Taxing and Responsible Environmental Agencies:**

Tab 6B of the Record contains information transmitted to all affected taxing entities and responsible environmental agencies in accordance with the CCRL and CEQA. Agency staff and consultants have consulted with affected taxing entities as required by the CCRL. This section includes samples of all notices, documents and related materials transmitted by the Agency to affected taxing agencies and responsible environmental agencies. The 2010 Amendment proposes to add new territory to the Existing Project Area; therefore, the CCRL requires the Agency to pay specified amounts of money, based upon the amount of tax increment the Agency receives, to each affected taxing agency pursuant to the formula specified in the CCRL.

**Tab 6C — Attachments to Transmittals to the Property Owners, Residents and Business Tenants, and Affected Taxing and Responsible Environmental Agencies:**
Tab 6C of the Record contains various documents which were included as attachments to the Agency transmittals included within Tabs 6A and 6B.

Tab 7 — Agency Resolution Re-adopting Existing Owners, Businesses and Tenants Participation and Re-entry Rules and Relocation Guidelines:

Tab 7 contains the Agency's resolution adopting the Owners, Business and Tenants Participation and Re-Entry Rules (the "Rules") and Relocation Guidelines (the "Guidelines") for application within the Added Territory, as well as a copy of the Rules and Guidelines. The Rules and Guidelines were previously adopted by the Agency in accordance with CCRL Section 33345 and Section 33339.5, respectively for the Existing Project Area.

Tab 8 — Agency Resolution Approving the Report to the City Council and Transmitting Said Report and the Amended Plan to the City Council:

This section contains the Agency resolution approving its Report to the City Council (see Tab 4 above for further discussion on the Report to Council) and authorizing the transmittal of the Report to Council and the Amended Plan to the City Council for that body's subsequent action. The basis for the Report to Council is the Agency's Unified Report, which was transmitted to each affected taxing entity not less than 90 days prior to the Joint Public Hearing, and made available for public review. The Agency adopted the Resolution included in Tab 8 on June 1, 2010, prior to opening the Joint Public Hearing on the 2010 Amendment.

Tabs 9A through 9G — i) Agency Resolution Making Findings Supporting the Inclusion of Certain Parcels of Land Which Are In Agricultural Use Within the Amended Project Area, ii) Agency and City Council Resolutions Finding That Use of LMI Housing Funds Outside the Amended Project Area Benefits the Amended Project Area, iii) Agency and City Council Resolutions Approving and Certifying the FEIR, iv) Agency Resolution Approving the 2010 Amendment, and v) Other Previously Adopted Resolutions Related to the 2010 Amendment:

This section of the Record contains the Agency Resolution approving the inclusion of certain parcels of land within the Amended Project Area which are currently in agricultural use. These parcels are more fully described in Section 7 of the Report to Council.

Also this section contains Agency and City Council resolutions approving the Agency's use of Low and Moderate Income ("LMI") Housing Funds outside the Amended Project Area, inasmuch as the use of these monies can be found to be of benefit to the Added Territory and the larger Amended Project Area. In addition, this section contains the Agency and City Council resolutions
certifying the previously described FEIR which was prepared for the 2010 Amendment.

The Agency resolution approving the 2010 Amendment and recommending that the City Council approve and adopt the 2010 Amendment is also contained under Tab 9, Section D.

Finally, this section contains those resolutions adopted by the Agency, City Council and Planning Commission throughout the redevelopment plan amendment process not included in other parts of the Record.

**Tab 10 — City Council Ordinance Approving and Adopting the 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1:**

Tab 10 of the Record is the Ordinance that approves and adopts the 2010 Amendment. Prior to introducing the Ordinance adopting the 2010 Amendment, the City Council must respond in writing to all written objections received prior to or at the Joint Public Hearing. Agency staff and advisors have prepared detailed written responses to all written objections to the 2010 Amendment received prior to or at the Joint Public Hearing. The detailed written responses to the written objections to the 2010 Amendment have been submitted to the members of the Agency Board and the City Council along with this Staff Report and prior to the June 15, 2010 meeting. Prior to adopting the Ordinance, the City Council must consider such written responses. If the City Council decides to approve the written responses and to overrule all written objections, then the City Council may introduce the Ordinance for the first reading.

In the event the City Council, upon the recommendation of the Agency, elects to change the Plan and/or change the boundaries of the Added Territory to exclude land from the Added Territory, the City Council may make such change to the Plan and/or the boundaries of the Added Territory upon first (1) receiving a report and recommendation from the Planning Commission concerning such changes (the Planning Commission must convene to consider such changes and give its report and recommendation regarding such changes) and (2) reopening the Joint Public Hearing of the Agency and City Council for the limited purpose of considering such proposed changes to the Plan and/or the boundaries of the Added Territory.

**RECOMMENDATION:** If the City Council decides to change the Plan and/or change boundaries of the Added Territory to exclude land from the Added Territory, reopen the Joint Public Hearing of the Agency and City Council for the limited purpose of considering such proposed changes to the Plan and/or the boundaries of the Added Territory.
Planning Commission Actions:

1. If the City Council decides to change the Plan and/or change boundaries of the Added Territory to exclude land from the Added Territory, convene a meeting of the City Council, acting as the Porterville Planning Commission, for the purpose of considering such proposed changes to the Plan and/or the boundaries of the Added Territory, and by motion submit a report and recommendation of the Planning Commission to the Agency and City Council regarding such changes.

Agency Board Actions:

1. Adopt a Draft Resolution of the Porterville Redevelopment Agency Making and Approving Findings Supporting the Inclusion of Certain Parcels of Land Which Are in Agricultural Use Within the Porterville Redevelopment Project No. 1, as Proposed to be Amended by the 2010 Amendment;

2. Adopt a Draft Resolution of the Porterville Redevelopment Agency Finding and Determining that the Use of Taxes Allocated from the Territory Proposed to be Added to the Porterville Redevelopment Project No. 1 by the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1, for the Purpose of Providing Affordable Housing Outside the Amended Project Area, Will be of Benefit to the Added Territory and the Overall Redevelopment Project;

3. Adopt a Draft Resolution of the Porterville Redevelopment Agency Certifying the Final Program Environmental Impact Report for the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1; Making Written Findings Pursuant to the California Environmental Quality Act; Adopting a Statement of Overriding Considerations; and Adopting a Mitigation Monitoring Program; and

4. Adopt a Draft Resolution of the Porterville Redevelopment Agency Approving the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1 and Recommending the City of Porterville City Council Approve Said Amendment.
City Council Actions:

1. Adopt a Draft Resolution of the City Council of the City of Porterville Finding and Determining that the Use of Taxes Allocated from the Territory Proposed to be Added to the Porterville Redevelopment Project No. 1 by the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1, for the Purpose of Providing Affordable Housing Outside the Amended Project Area, Will be of Benefit to the Added Territory and the Overall Redevelopment Project;

2. Adopt a Draft Resolution of the City Council of the City of Porterville Certifying the Final Program Environmental Impact Report for the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1; Making Written Findings Pursuant to the California Environmental Quality Act; Adopting a Statement of Overriding Considerations; and Adopting a Mitigation Monitoring Program;

3. Adopt a Draft Resolution of the City Council of the City of Porterville Receiving and Approving Written Findings Prepared in Response to Written Objections, Communications and Suggestions Received at or Before the Joint Public Hearing Conducted for the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1;

4. Approve the proposed Ordinance of the City Council of the City of Porterville Approving and Adopting the 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1 and give first reading of the draft Ordinance; and

5. Waive further reading of the draft Ordinance, approve Ordinance and order to print.
ATTACHMENTS

1. Joint Public Hearing Evidentiary Record for the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1 (electronic copy provided on CD);
2. Draft City Council Responses to Written Objections, Communications, and Suggestions Received by the City Council and Agency Relating to the 2010 Amendment;
3. Draft Agency Resolution Making Findings Relating to the Inclusion of Agricultural Land in the Added Territory;
6. Draft Agency Resolution Approving the 2010 Amendment and Making Certain Findings;
7. Draft City Council Resolution Making Findings of Housing Benefit;
9. Draft City Council Resolution Receiving and Approving Written Findings Prepared in Response to Written Objections, Communications and Suggestions Received at or Before the Joint Public Hearing Conducted for the 2010 Amendment; and
10. Draft City Council Ordinance Approving and Adopting the 2010 Amendment.
EVIDENTIARY RECORD FOR THE
PROPOSED 2010 AMENDMENT TO THE
REDEVELOPMENT AGENCY PLAN FOR THE
PORTERVILLE REDEVELOPMENT AGENCY
PROJECT NO. 1

ELECTRONIC COPY ON CD WAS GIVEN AT
PREVIOUS CITY COUNCIL MEETING OF
JUNE 1, 2010

ATTACHMENT NO. 1
CITY COUNCIL RESPONSES TO WRITTEN OBJECTIONS, COMMUNICATIONS AND SUGGESTIONS

As required by provisions contained in the California Community Redevelopment Law (Health and Safety Code Sections 33000 et seq. and sometimes referred to as the “CCRL”) the Agency and the City Council convened a joint public hearing (JPH) for the purpose of hearing public testimony about the proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1. At the JPH the City Council was presented with a binder which included substantial information and evidence relating to the incidence of blight in the Project Area as well as other items required by law. The primary document introduced at the JPH which evidenced blight in the Amended Project Area was the Agency’s Report to the City Council dated June 2010 (the “Report to Council”). Additionally, the Agency has distributed its Unified Report (the “Unified Report”) to the various affected taxing entities and the State Departments of Finance and Housing and Community Development in accordance with the requirements of CCRL Sections 33344.5 and 33451.5(b). The Unified Report is also a part of the public record. Together the Report to Council and Unified Report are sometimes referred to as the “Evidentiary Documents”.

At or prior to the JPH, the Agency received written objections, communications and suggestions from property owner(s) or affected taxing entity(s) to the Amendment, and the City Council is required to respond, in writing, to each written objection, communication, or suggestion received. A copy of each written objection, communication, or suggestion is included in its entirety in Exhibit “A” to this City Council Resolution.
Undated letter received by City on June 1, 2010 from a resident whose property is located outside the proposed Added Territory

Response A-1

The City's plan for the neighborhood area between (South) Williams Drive and (South) Corona Drive is mandated by the City's recently (2008) adopted 2030 General Plan; specifically, the properties located between the two roads are already designated by the General Plan Land Use Element for Low-Density Residential and Parkland land uses. A small portion on the western end of this area (the parcel bounded by S. Plano St., S. Park St. and S. Williams Dr.) is designated by the General Plan as Neighborhood Commercial. Zoning designations are consistent with the General Plan designations. The redevelopment plan amendment does not alter any General Plan or Zoning land use designations; it does not set land use policy. As a matter of law, the redevelopment plan amendment must conform to the General Plan. With respect to the redevelopment plan amendment, only affected property owners, residents, businesses and tenants (i.e., those who are located within the Added Territory) are required to be given notice by mail of the proposed plan amendment (see CCRL Sections 33349, 33350, 33361, and 33452). The notice is also published in the City's newspaper of general circulation for four weeks in advance of the hearing, as well as posted by the City Clerk and made available at the local library and the redevelopment agency's offices. Additionally, as you know, three community workshops were held in advance of the public hearing to inform the public about the redevelopment plan amendment. These workshops are in addition to the legal requirements for notice.

Response A-2

Comments regarding "lack of communication" and future communications are noted for the record.

Response A-3

Future amendments to the General Plan, when and if such amendments may be considered by the City Council, are outside the legal scope of this redevelopment plan amendment, which does not set land use policy. The redevelopment plan or an amendment thereto, does not dictate where development will occur, the intensity or character of such development, or the uses that will be permitted on any particular piece of property. Instead, the redevelopment plan is a fiscal and planning tool used to help implement the City's General Plan, as it currently exists and as it may be amended from time to time, for the benefit of the community. This "outside-the-proposed-Added-Territory" commenter's support of the City's redevelopment plan and amendment thereto is noted for the record.

Specific development projects will undergo environmental review as (and to the extent) required by the California Environmental Quality Act, Public Resources Code Section 21000, et seq., and the implementing regulations promulgated thereunder (collectively, "CEQA").
B. DOROTHY MARTIN  
141 South Williams Drive  
Porterville, CA

Letter dated and received by City on May 28, 2010 from a resident whose property is located outside the proposed Added Territory

Response B-1

The properties located on the north side of South Williams Drive, including the Commenter's property at 141 S. Williams Drive, are not included in the proposed Added Territory. Most of the properties between South Williams Drive and S. Corona Drive are included in the Added Territory because they are affected in different ways by various blighting factors; e.g., infrastructure deficiencies, such as the lack of curb, gutter and sidewalks, as well as adequate paving; external obsolescence (located within 300 feet of blighted properties); adjacent or nearby incompatible land uses, among other things. (See Figures 12, 14, 16, and 18 in the Report to City Council). Undeveloped parcels in this area have been included under authority of CCRL Section 33320.1, and for purposes of effective redevelopment, pursuant to CCRL Sections 33320.2 and 33321.

Response B-2

The principle and use of external obsolescence as a criterion to help delineate the Added Territory is described with specificity in the Agency's Report to Council (pp. 99-101 and Figure 16). To the extent parcels are potentially affected by the negative economic impacts of external obsolescence as provided for in the methodology employed by the Agency, as well as many other criteria, they have been included in the Added Territory. The proposed Added Territory is drawn along parcel boundary lines and/or public rights-of-way; portions of individual parcels, i.e., divided along arbitrary or imaginary lines, are neither included nor excluded. Only whole parcels are considered for inclusion or exclusion in the proposed Added Territory for technical and legal reasons.

Response B-3

This "outside-the-proposed-Added-Territory" commenter's support of the City's redevelopment plan and amendment thereto is noted for the record.

Response B-4

This "outside-the-proposed-Added-Territory" commenter's objection to the inclusion of the parcels between S. Corona Drive and S. Williams Drive is noted for the record.
Letter dated May 28, 2010 and received by City on June 1, 2010 from a resident whose property is located outside the proposed Added Territory

Response C-1

See Response B-1 above.

Response C-2

See Response B-2 above.

Response C-3

A redevelopment plan, or a plan amendment adding territory to a redevelopment project, does not dictate where development will occur, the intensity or character of such development, or the uses that will be permitted on any particular piece of property. The community’s adopted General Plan authorizes, and its Zoning Ordinance regulates, such uses, not the redevelopment plan. Today, a redevelopment plan is typically a fiscal and planning tool intended to use tax increment to help implement the City’s General Plan, as it currently exists and as it may be amended from time to time, for the benefit of the community, and in other ways satisfy the requirements of law with respect to redevelopment plan implementation. The parcels referred to by this “outside the proposed Added Territory” commenter are designated as Low-Density Residential (the same designation as the commenter’s property), Park or Neighborhood Commercial as those designations are defined within the General Plan. The redevelopment plan amendment does not change those designations. At the time the General Plan was adopted (May 2008), environmental analysis was conducted to assess the impacts on increased traffic congestion, among other things, in the City that would result from General Plan land use densities. Mandatory mitigation measures for such impacts, in the form of specific General Plan policies to address such impacts were included as part of the General Plan. Changing land uses, land use densities or any General Plan policy requires an amendment of the General Plan, which is far outside the scope of this redevelopment plan amendment proposed in accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.).

Response C-4

See Response B-2 above.

Response C-5

See Response B-3 above.

Response C-6

See Response B-4 above.
Response D-1

The comments with respect to redevelopment benefits for blighted properties and the 300-foot expansion zone around such properties are noted for the record. Again, for technical and legal reasons, the proposed Added Territory is drawn along parcel boundary lines and/or public rights-of-way. Portions of individual parcels, divided along arbitrary or imaginary lines, are neither included nor excluded. For technical and legal reasons, only whole parcels are considered for inclusion or exclusion; therefore, the "expansion zone" will not be strictly 300 feet; instead it will vary, according to actual parcel boundaries and/or public rights-of-way.

Response D-2

Responses to the comments/objections of the resident at 166 S. Williams Drive, whose property is within the Added Territory, may be viewed under Response F. below. This "outside-the-proposed-Added-Territory" commenter's objection to the inclusion of the 166 S. Williams Drive parcel is noted for the record.

Response D-3

A redevelopment plan, or a plan amendment adding territory to a redevelopment project, does not dictate where development will occur, the intensity or character of such development, or the uses that will be permitted on any particular piece of property. The community's adopted General Plan authorizes and its Zoning Ordinance regulates such uses. Today, a redevelopment plan is typically a fiscal and planning tool to use tax increment to help implement the City's General Plan, as it currently exists and as it may be amended from time to time, for the benefit of the community and in other ways satisfy the requirements of law with respect to redevelopment plan implementation. The parcels referred to by this "outside the proposed Added Territory" commenter are designated as Low-Density Residential (the same as the commenter's parcel) or Park or Neighborhood Commercial, as those designations are defined in the General Plan and as regulated by the Zoning Ordinance. The redevelopment plan amendment does not change those designations. At the time the General Plan was adopted (May 2008), environmental analysis was conducted to assess the impacts such as increased traffic congestion, additional water, sewer and trash responsibilities, and heavier burdens on police and fire services, among other things. Mandatory mitigation measures, in the form of specific General Plan policies, to reduce such impacts to less than significant levels were included as part of the General Plan. Changing land uses, land use densities or any General Plan guiding or implementing policy requires an amendment of the General Plan, which is far outside the scope of this redevelopment plan amendment, which is proposed in accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.). Development on Murry Hill can only be consistent with the General Plan land uses permitted there because the redevelopment plan amendment is required, as a matter of law, to be consistent with the General Plan.
Response D-4

Responses to the comments/objections of the resident at 166 S. Williams Drive, whose property is within the Added Territory, may be viewed under F. below. This "outside-the-proposed-Added-Territory" commenter's objection to the inclusion of the 166 S. Williams Drive parcel and the other parcels on the south side of South Williams Drive is noted for the record.
E. PERLEY GILBERT
157 S. Williams Drive
Porterville, CA

Undated letter received by City on May 28, 2010 from a resident whose property is located outside the proposed Added Territory

Response to E-1

The commenter's support of redevelopment in the City is noted for the record. The parcels included in the Added Territory are included because they are themselves blighted or affected by neighboring blight, or are necessary for effective redevelopment. The parcels on the south side of South Williams Drive are adjacent to blighted parcels further south, suffer from infrastructure deficiency issues (including deteriorated or absent curbs, gutters, sidewalks and pavement) and are necessary for the effective redevelopment of the parcels to the south. (See Figures 12 14 16 and 18 in the Report to City Council) The number of developable residential units per acre of land is based upon General Plan land use designations and Zoning ordinance regulations, which land use designations are the same as the commenter's parcel (Low Density Residential). In Porterville, land use density or intensity is not controlled by the adopted redevelopment plan, or any amendment to same.
F. ROSEMARIE A. AND WILLIAM R. WIGGINS
166 S. Williams Drive
Porterville, CA

Letter dated and received by the City on May 28, 2010 from a resident whose property is located inside the proposed Added Territory

Response to F-1

In accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.), specifically CCRL Sections 33320.2 and 33321, non-blighted parcels may be included in a redevelopment project area if they are "necessary for effective redevelopment". In order to resolve documented blight issues immediately on the south side of South Corona Drive, and to more effectively implement the redevelopment plan (as amended) in future years, it is beneficial to include the adjacent parcels directly across the street on the north side of South Corona Drive.

Response to F-2

The principal use of external obsolescence as a criterion to help delineate the Added Territory is described with specificity in the Agency's Report to Council (pp. 99-101). To the extent parcels are partially affected by the negative economic impacts of external obsolescence as provided for in the methodology employed by the Agency, as well as many other criteria, they have been included within the Added Territory. The proposed Added Territory is drawn along parcel boundary lines and/or public rights-of-way. For legal and technical reasons portions of individual parcels, i.e., divided along arbitrary or imaginary lines, are neither included nor excluded. Only whole parcels are considered for inclusion or exclusion in the proposed Added Territory. Most of the properties between South Williams Drive and S. Corona Drive are included in the Added Territory because they are affected in various ways by various blighting factors; e.g., infrastructure deficiencies, such as curb, gutter and sidewalks, as well as paving; and external obsolescence (located within 300 feet of blighted properties; see Figures 12, 14, 16, and 18 in the Report to City Council). The 300-foot "expansion" or buffer zone was selected because it is consistent with the Zoning Ordinance requirement for notice to property owners within 300 feet of a proposed zoning change. A review of Figure 16 shows, however, that most of the parcels on the north side of South Corona Drive are within about 100 feet of the sources of external obsolescence, except for the commenter's property at 166 S. Williams Drive. The Agency and City Council acknowledge that the outermost "fringe" areas of a newly determined Project Area are generally the most difficult areas to delineate but, the parcels in question have been included for reasons previously discussed, as well as for purposes of effective redevelopment of the larger amended Project Area.

Response to F-3

See the response to F-2 above.
Undated letter received by City on June 1, 2010 from residents whose property is located outside the proposed Added Territory

**Response G-1**

California Community Redevelopment Law (CCRL, Health and Safety Code Section 33000, *et.seq.*), specifically CCRL Sections 33320.1, 33320.2 and 33321, permit the inclusion of underdeveloped or non-urbanized parcels, and non-blighted parcels within a redevelopment project area if such parcels are "necessary for effective redevelopment." All but two of the ten parcels referenced by the commenters are faced with significant blight in adjacent properties and public rights-of-way. They are, therefore, directly impacted by these blighting conditions to their detriment (see Figures 12 and 18 of the Report to Council). Not only does the Redevelopment Plan not affect present zoning, it does not affect the General Plan Land Use Element's land use designations in the area, so development cannot be spurred in "another direction" from that permitted by the General Plan.
Letter dated May 26, 2010 re: two properties located within the Added Territory

Response to H-1

In Porterville, the redevelopment plan, or a plan amendment adding territory to the redevelopment project, does not dictate where development will occur, the intensity or character of such development, or the uses that will be permitted on any particular piece of property. The community’s adopted General Plan authorizes, and its Zoning Ordinance regulates, such designated uses. Today a redevelopment plan is typically a fiscal and planning tool intended to use tax increment to help implement the City's General Plan, as it currently exists and as it may be amended from time to time, for the benefit of the community, and in other ways to satisfy the requirements of law with respect to redevelopment plan adoption and implementation. It typically has no effect on property zoning.

Response to H-2

See the response to H-1 above. At the time site-specific projects are proposed for development in the City, including in the Added Territory, such projects are subject to the City's codes and standards, as well as to all applicable regional, State and federal regulations and statutes.
I. PETITION ENTITLED: Citizens "Against" inclusion of Williams Drive and Corona into the Porterville Redevelopment Plan; Petition "Against" Proposed 2010 amendment to the Redevelopment Plan for the Porterville Redevelopment Project Number 1 (sic); and Home owners against the proposed 2010 Amendment to the Redevelopment Plan

Petition submitted to the City Council on June 1, 2010 consisting of four (4) pages numbered as follows: Page 1 of 8, Page 2 of 8, Page 4 of 8 and Page 5 of 8. No Page 3 of 8 or Pages 6-8 of 8 were included.

Sixty-two signatures representing 41 addresses (40 property addresses, one post office box address) are contained in the petition. Of the 41 addresses, at least three addresses (including the post office box) are located outside the City's corporate limits; 33 property addresses are not located within the Added Territory's boundaries; and the remaining five property addresses are located within the Added Territory as follows:

1. 166 South Williams Drive
2. 210 "C" East Vandalia Avenue
3. 1071 East Vandalia Avenue
4. 128 West Morton Street
5. 231 N. Masten Street

Response to I

The receipt of the petition as described above is acknowledged for the record.
J. COUNTY OF TULARE

The Tulare County Counsel (the "County"), by letter dated June 1, 2010, submitted its objections to the Proposed Amendment to Porterville Redevelopment Project No. 1 (the "County Letter") to the City. The County Letter is Attachment "J" to the City Council Resolution. The Agency and the City Council have reviewed the County Letter and have identified 38 separate comments (the "Comments") which are numbered in the margins of Comment "J" for ease of reference. The numbering of each Response below corresponds to the appropriate number in the margin in Comment "J".

In the interest of providing the most complete set of information, these responses refer to data, research and facts found in the Evidentiary Documents but will, as appropriate, provide responses based primarily upon the Agency’s Unified Report prepared for the Amendment (referred to hereinafter as the "Unified Report"). The County has been provided a copy of the Unified Report in its entirety.

Response J-1

The comment is noted that the County Counsel did receive the Agency’s response to the County’s comments on the Draft Environmental Impact Report ("DEIR") on May 24, 2010. It shall be noted that Certification of the EIR will not take place until after June 3, 2010. It is also noted that the County adheres to their original comments on the DEIR and adds additional concerns.

Response J-2

The Initial Study (DEIR, Appendix A) prepared for the proposed Amendment evaluated all potential sensitive environmental resources and determined which environmental factors would be potentially affected; i.e., which would involve at least one impact that is a “Potentially Significant Impact” to the degree and level of specificity appropriate for a “program” EIR. According to CEQA Guidelines (the “Guidelines”) Section 15143, effects dismissed in an Initial Study as clearly insignificant and unlikely to occur need not be discussed further in the EIR unless the Lead Agency subsequently receives information inconsistent with the finding in the Initial Study; no such subsequent information was made available to the Agency.

All Agency implementation activities under the 2010 Amendment are required as a matter of law to be consistent with the City’s General Plan and Zoning Ordinance, and to comply with all applicable local, regional, State, and federal codes, regulations and mandatory standards. As stated in the DEIR, no site specific Redevelopment Agency implementation projects have been identified at this time. No detailed analysis is possible at this stage of the “Project”. In fact, such an analysis at this time would be highly speculative and be of no value to the current decision making process.

Furthermore, the Agency cites Section 15146 of the Guidelines which provides that “…the level of analysis provided in an EIR is subject to the rule of reason.” Certainly then, the type and specificity of “feasible measures” must be commensurate with the level of analysis appropriate to the Project and type of EIR prepared. Given the programmatic nature of the project, the Agency has prepared a program EIR with a “sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences” (Guidelines Section 15151). In fact, no other reviewing entity shares the County’s position with respect to Agency CEQA compliance. The
San Joaquin Valley Air Pollution Control District "...commends the City in its recognition of the importance of these programs in mitigating project related impacts and working toward air quality attainment status" (comment letter dated April 28, 2010, included under Section 9.0 of the Final EIR). The facts of the record show that the County has not, pursuant to Guidelines Section 15086 (c) made "...substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or which are required to be carried out or approved by the responsible agency." County comments most certainly have not been "supported by specific documentation."

Response J-3

In accordance with CEQA Guidelines Section 15130, the 2010 Amendment's cumulative effects were fully analyzed at a programmatic level in the DEIR. As the DEIR indicates, General Plan build-out within the Added Territory, as facilitated by the 2010 Amendment, will be the result of development and rehabilitation of existing parcels in accordance with the General Plan. Project-related growth resulting in cumulative impacts will occur in a gradual manner over the end of the 30-year effective life of the Amendment. Please note that with respect to this and all other County comments that "[d]isagreement among experts does not make an EIR inadequate...." (Guidelines Section 15151).

Response J-4

Water supply was evaluated in the Initial Study for the proposed DEIR. The Initial Study concluded that implementation of the 2010 Amendment-related programs does not contemplate any specific activity that would deplete groundwater resources or otherwise change the quantity of groundwater, direction or rate of groundwater flow, or cause an impact to groundwater quality beyond those impacts previously analyzed by the General Plan EIR. With the General Plan policies in place, the General Plan EIR concluded that impacts from General Plan build-out in the City Planning Area would be less than significant with respect to depletion of groundwater supplies or substantial interference with groundwater recharge, such that there would be a net deficit in aquifer volume or a lowering of the total groundwater table. The 2010 Amendment is required, as a matter of law, to be consistent with the General Plan and the General Plan policies with respect to water supplies were incorporated into the Initial Study by reference. As noted in the Initial Study, all site-specific, development/redevelopment projects are required to be in accordance with the General Plan and other local, regional, State and federal regulations and requirements affecting water quality, recharge and discharge. Development/redevelopment activities undertaken by the Agency over the 30-year effective life of the Amended Plan with respect to the Added Territory, will be within the planning parameters of the General Plan; i.e., land use densities, growth management policies, as well as with all local, regional, State and federal codes, guidelines and standards. The Initial Study further states, "As future site-specific projects are proposed within the Added Territory for development or rehabilitation and reviewed for their specific potential environmental impacts in compliance with CEQA requirements, additional project-specific environmental analysis and ensuing specific mitigation measures may be required as a condition of such project approval"; therefore, consistent with Guidelines Section 15145, no additional evaluation is required in the Program EIR for the Amendment. Future, site specific development/redevelopment projects may require further analyses which will be determined on a case-by-case basis at the most appropriate times.
Response J-5

In accordance with CEQA Guidelines Sections 15130 and 15146 (degree of specificity), the 2010 Amendment's cumulative effects were fully analyzed at the appropriate programmatic level in the DEIR. As the DEIR indicates, General Plan build-out within the Added Territory, as facilitated by the 2010 Amendment, will be the result of development and rehabilitation of existing parcels in accordance with the General Plan. Project-related growth resulting in cumulative impacts to regional waste management facilities, regional transportation, air quality, flood control, and public services will occur in a gradual manner over the 30-year effective life of the Amendment.

The County's allegation that the DEIR is inadequate for failing to analyze the impacts of the 2010 Amendment on "County resources" is not supported by specific evidence or examples. The County's comments imply that the DEIR should have analyzed the impacts of the 2010 Amendment on the tax revenues to be received by the County; however, tax revenues are not an environmental resource. Further, it is likely that the Agency's activities pursuant to the 2010 Amendment will actually increase the future tax revenues to be received by the County by removing blighting conditions, encouraging rehabilitation, maintenance and development of properties, and increasing overall property values in the Added Territory. Further, the CCRL provides for tax sharing to mitigate impacts on taxing agencies (CCRL Section 33607.7). Thus, to the extent the County's objections relate to a claim that the County will receive fewer future tax revenues, the County has not provided evidence to support this claim, and the County does not state a valid objection to the DEIR or 2010 Amendment under CEQA or the CCRL.

Response J-6

See Response J-5, which is incorporated herein by reference.

Response J-7

Public Services which included police and fire services were evaluated in the Initial Study for the proposed DEIR. The Initial Study concluded that implementation of the 2010 Amendment is subject to the guiding and implementing policies of the General Plan, as well as to all applicable local, regional, state and federal codes, regulations and standards. No significant adverse impacts are anticipated to occur with respect to the Added Territory not previously addressed by the General Plan EIR for the City Planning Area, including the Added Territory. Similar to other responses included herein, at such time as site-specific projects are proposed, additional environmental analysis may be required and mitigation measures imposed as appropriate and necessary. The Initial Study concluded that no further analysis in the Program EIR was required. In fact, such an analysis at this time would be highly speculative and of no value to the current decision making process.

Response J-8

See Responses J-5 and J-7, which are incorporated herein by reference.

Response J-9

See Responses J-5 and J-7, which are incorporated herein by reference.
Response J-10

Cumulative air quality impacts associated with the Project, including increased criteria pollutants, Toxic Air Contaminants and greenhouse gases, were analyzed according to CEQA requirements. CEQA Guidelines Section 15168 states “the use of the program EIR also enables the lead agency to characterize the overall program as the project being approved at that time. Following this approach when individual activities within the program are proposed, the agency would be required to examine the individual activities to determine whether their effects were fully analyzed in the program EIR.”

All Agency implementation activities under the 2010 Amendment are required as a matter of law to be consistent with the City’s General Plan and Zoning Ordinance, and to comply with all applicable local, regional, State, and federal codes, regulations and mandatory standards. As stated in the DEIR, no site specific Redevelopment Agency implementation projects have been identified at this time. No detailed analysis is possible at this stage. In fact, such an analysis at this time would be highly speculative and of no value to the current decision making process.

As indicated in the DEIR, without knowing specific quantity and type of GHG emissions generated by specific projects, attempting to evaluate their significance, individually and/or cumulatively, is speculative. This area of analysis is new and still evolving at all levels of government, including the County, which has not adopted thresholds for GHG emissions at this time. The purpose for adopting the 2010 Amendment is to remediate existing blight in the Added Territory through economic and community facilities development, infrastructure improvement and provision of affordable housing.

As previously stated with respect to this particular issue area, the San Joaquin Valley Air Pollution Control District commended the Agency on its efforts to recognize and mitigate potential project related impacts to air quality. The Administrative Services and County Counsel should limit their comments to “...those activities involved in the project that are within an area of expertise of the agency...” (Guidelines Section 15086(c)). The Agency respectfully suggests that stewardship of air quality resources, and review and analysis of potential project impacts related to air quality and air pollution issues are best addressed by technical experts in the SJVAPCD rather than County administrators and legal counsel.

Response J-11

The DEIR does not include site-specific project-level analysis because the 2010 Amendment does not propose any site-specific development/redevelopment projects. Specific land use impacts that may potentially affect the unincorporated portion of the County over the long-term are unknown at this time. However, all future development/redevelopment projects must be consistent with the current General Plan and related tools of authority including the City Zoning ordinance. In this regard, the DEIR states, at such time as site-specific projects are proposed, additional environmental analysis may be required and mitigation measures imposed as appropriate and necessary (DEIR pp. 16-18, 30).
The Program EIR’s authority is to describe the anticipated broad-based, Added Territory-wide and community-wide impacts of the 2010 Amendment. Subsequent redevelopment activities within the Added Territory must be examined in the light of this Program EIR, and additional CEQA assessment to determine whether additional environmental analysis and mitigation will be required. Consistent with CEQA, if a later activity will have effects that are not examined in this Program EIR, then additional environmental assessment leading to comprehensive CEQA documentation for such project in the Added Territory must be completed.

Response J-12

The County stated they did not receive the Notice of the Joint Public Hearing held on the 2010 Amendment on June 1, 2010, pursuant to CCRL Section 33349. On April 28, 2010, the Agency’s advisors, Urban Futures, Inc. (UFI), transmitted the Notice of Joint Public Hearing via US certified mail (Cert. #: 917108213393817231914) to the Tulare County Board of Supervisors. USPS records indicate that the item was delivered on April 30, 2010 at 8:22 a.m. and was received by Ms. Elaine Alvarado in the TC Mail Center (transmittal and electronic receipt enclosed as Attachment A). According to City staff, the Notice of Joint Public Hearing was also mailed to County legal Counsel on May 17, 2010, as requested.

Response J-13

The Agency notes the County’s proper recitation of CCRL Sections 33364, 33320.1(a), and (b) and hereby acknowledges that said statutes pertain to the adoption the 2010 Amendment.

Response J-14

The Agency notes the County’s proper recitation of CCRL Section 33321.5.

Response J-15

The County provides no specific evidence that Assessor’s Parcel Number (APN) 243-180-008 or 243-190-007 are currently in agricultural production. As shown in Figure 6 of the Unified Report, neither of these parcels was observed to be in agricultural production at the time the field reconnaissance of the Added Territory was completed during the months of July, August, and December 2008. To the contrary, APN 243-180-008 was observed to contain residential and commercial land uses (urban uses which also happened to exhibit a high number of blight indicators with weighting enough (87 blight points) to warrant a finding that the parcel is a blighted parcel (red or magenta on Figure 14 in the Unified Report) and APN 243-190-007 contained undeveloped land that was not in agricultural production.

The County letter stated that the Unified Report only gives “general reasons” to support the findings for inclusion of these parcels in accordance with CCRL Section 33321.5. The Agency respectfully points out that the Unified Report contains no such information with respect to the parcels identified above; however, the Agency has proposed the inclusion of two parcels within the Added Territory that are currently in agricultural production and which exceed two acres in size (APNs 246-111-001 and 251-240-053; see Attachment A). As indicated in pages 127 and 128 of the Unified Report, the Agency has entered substantial evidence into the record which supports the findings required by CCRL Section 33321.5 with respect to the inclusion of APNs 246-111-001 and 251-240-053 within the Added Territory.
While the Agency concedes these are not the kind of “dire inner-city slum conditions” described in the Bunker Hill case, the City is unaware of any recent changes to the CCRL which require a legislative body to find that “dire inner-city slum conditions” exist within an area in order to include it within a redevelopment project area (in fact, the term “inner-city” may not even be apropos for a city the size and population of Porterville). Rather, the City Council, like all legislative bodies in California, is required to find that the area proposed to be included within a redevelopment project area is i) “[a]n area that is predominantly urbanized...” and ii) “is an area in which the combination of conditions set forth in Section 33031 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community...”.

The Unified Report acknowledges that the law recognizes that in order for an “area” to be blighted, not all properties need to be blighted, rather the blight needs to be prevalent and substantial. The Unified Report goes to great length to describe specific instances of both prevalent and substantial economic and physical blight (see Section 6.0).

The comment introduces a notion which, if left unchallenged, would invalidate every attempt to incorporate land into a redevelopment project area other than land where all parcels are found to be blighted (which, as described above, is impossible, even in the most depressed areas of the State). The facts presented to evidence blight will, by definition, relate only to a discrete number of parcels. Once the amount, location and severity of blight has been identified (as has been done in the Unified Report and, more to the point, has been determined to be correct by the City Council) it is then incumbent upon the Unified Report to substantiate that the blight identified is so prevalent and so substantial. By necessity this is not accomplished by more facts (all the facts have already been assembled and identified), but rather by inference, professional knowledge of the effects of specific conditions of blight on an area, solid reasoning, and analysis. If to say that since structural deterioration and dilapidation exists on specific parcels, and as such is blighted, is, in fact, an incorrect statement of the law, then there can be no nexus between any assertion that the structural deterioration and dilapidation existing on individual parcels (regardless of how many such parcels evidence such blight) and the conclusion that the area is one of the “blighted areas constituting physical and economic liabilities, and requiring redevelopment in the interest of the health, safety and general welfare of the people of these communities and of the state.” (CCRL Section 33030(a)). That would mean that there can be no redevelopment under California law for areas other than those where all parcels are blighted.

Interspersed throughout the evidence of specific blight listed in the Unified Report, and based upon that evidence, is discussion relating to how the specific incidences of blight are so prevalent and so substantial that they cause a reduction of, or lack of, proper utilization of the Added Territory to such an extent that they constitute a serious physical and economic burden on the community which cannot reasonably by expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment. The mere fact that the conditions exist, and have existed for many years, documented as having grown worse in each succeeding year of analysis, is substantial and credible evidence that neither the public nor private sectors acting alone have been able, or will ever be able to remedy the existing deleterious conditions without the benefit of redevelopment.
While APN 243-180-008 is included in the Added Territory because, under the methodology employed within the Unified Report, it may be found to be blighted by the City Council because it exhibited a sufficient number of serious blight indicators to receive a blight score of more than twenty points, APN 243-190-007 is included within the Added Territory because it is negatively impacted by its adjacency to a blighted parcel, and is therefore, part of a "blighted area."

Further, the County asserts that these parcels are rural and not an integral part of an area developed for urban uses. This is a mischaracterization of the information presented by the Agency within its Unified Report. As indicated in Figure 8 within the Unified Report, the Agency never claimed that APN 243-190-007 was developed for urban uses or an integral part of an area developed for urban uses. As discussed above, UFI staff observed residential and commercial land uses on APN 243-180-008; therefore, said parcel has been developed for urban uses. Given that neither of these parcels was observed to be in agricultural production and the County has provided no evidence to the contrary, the Agency is not required to make findings regarding their inclusion within the Added Territory, pursuant to CCRL Section 33321.5.

Response J-16

The County asserts that certain subject parcels are "enjoying an economically viable use or capacity"; however no factual evidence has been provided to support the assertion. On the other hand the Agency has documented that, overall, conditions in both the Added Territory and Existing Project Area have been and remain dismal by most any comparison. As discussed earlier in the Agency's Response to the County's Comments, the Agency provided substantial evidence in its Unified Report that APN 243-180-008 might be found by the City Council to be blighted. Furthermore, the Unified Report explains the reasons why some non-blighted vacant, previously urbanized or underutilized parcels, such as APN 243-190-007, have been included in the Added Territory. As described on page 125 of the Unified Report, such parcels "may be used, as described in CCRL Section 33320.2, for the purpose of providing for: i) the relocation of owners or tenants from other portions of the Amended Project Area, if necessary over the life of the Amended Plan; or ii) the construction and rehabilitation of low- or moderate-income housing, within the parameters of the General Plan and other development provisions."

The Agency notes that APN 243-190-007 does not contain urban development, nor is it being used for agricultural production; the County has not provided credible evidence to the contrary and, therefore, it is reasonable to conclude that the County's reference to Sweetwater Valley Civic Association v. City of National City, 18 Cal. 3d 270 simply does not apply here. The court in Sweetwater found that the redevelopment agency's plan to convert a municipal golf course into a shopping center was made without a prior finding of blight, as based on existing conditions. In Porterville, there is an extensive compilation of blighting conditions located throughout the Added Territory that is documented in the Unified Report and the Report to Council, and might be found by the City Council to be so substantial and so prevalent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise, governmental action, or both, without redevelopment (CCRL Section 33031).
Response J-17

The Agency notes the County has improperly cited CCRL Sections 33030(b), which provides a definition of the term “blighted area,” and 33031(a) and (b), which define the physical and economic conditions that cause “blight” under the CCRL. Effective January 1, 2007, these important sections of the State redevelopment statutes were amended by California Senate Bill 1206 (adopted January 26, 2006) to read as follows:

§33030.

(b) A blighted area is one that contains both of the following:

(1) An area that is predominantly urbanized, as that term is defined in Section 3320.1, and is an area in which the combination of conditions set forth in Section 33031 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(2) An area that is characterized by one or more conditions set forth in any paragraph of subdivision (a) of Section 33031 and one or more conditions set forth in any paragraph of subdivision (b) of Section 33031.

§33031.

(a) This subdivision describes physical conditions that cause blight:

(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions may be caused by serious building code violations, serious dilapidation and deterioration caused by long-term neglect, construction that is vulnerable to serious damage from seismic or geologic hazards, and faulty or inadequate water or sewer utilities.

(2) Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots. These conditions may be caused by buildings of substandard, defective, or obsolete design or construction given the present general plan, zoning, or other development standards.

(3) Adjacent or nearby incompatible land uses that prevent the development of those parcels or other portions of the project area.

(4) The existence of subdivided lots that are in multiple ownership and whose physical development has been impaired by their irregular shapes and inadequate sizes, given present general plan and zoning standards and present market conditions.
(b) This subdivision describes economic conditions that cause blight:

(1) Depreciated or stagnant property values.

(2) Impaired property values, due in significant part, to hazardous wastes on property where the agency may be eligible to use its authority as specified in Article 12.5 (commencing with Section 33459).

(3) Abnormally high business vacancies, abnormally low lease rates, or an abnormally high number of abandoned buildings.

(4) A serious lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions.

(5) Serious residential overcrowding that has resulted in significant public health or safety problems. As used in this paragraph, "overcrowding" means exceeding the standard referenced in Article 5 (commencing with Section 32) of Chapter 1 of Title 25 of the California Code of Regulations.\(^1\)

(6) An excess of bars, liquor stores, or adult-oriented businesses that has resulted in significant public health, safety, or welfare problems.

(7) A high crime rate that constitutes a serious threat to the public safety and welfare.

Given the emphasis placed on the Agency's blight research and documentation methodology as it pertains to the Amendment in the County's objections, the Agency and City Council believe the improper citation of CCRL Sections 33030(b), 33031(a) and (b) seriously erodes the County's credibility and its standing to comment upon technical and legal aspects of the Amendment, and the underlying legal basis to process, adopt and implement the same. Furthermore, the inclusion of erroneous legal citations dating back to 2006 and references to items such as "tallies on pre-printed sheets" (all field observations were noted on Assessor parcel maps in the methodology employed by the Agency) seem to suggest that many of the County's comments consist of a "boilerplate" response last used in the pre SB1206 era, has not been modified for several years, and calls into serious question how many, if any, of the County's comments actually apply to the blight analysis contained in the Unified Report.

Understandably, the County's repeated references throughout its comments to sections of the CCRL which have since been amended to add or repeal pre-2007 CCRL sections of the law, complicates the Agency's efforts to respond to said comments. Notwithstanding the County's citation of invalid CCRL provisions, the Agency and City Council have made every effort to interpret the underlying intent of the objections and to respond accordingly.

\(^1\) This section did not appear to provide an appropriate definition of "overcrowding."
In response to the County's comment that the Unified Report looks at the number or percentage of structures that are unhealthy and unsafe, the Unified Report provided a summary of the number and percentage of parcels in the Added Territory and the Focus Area (the portion of the Existing Project Area in which blight remains) which contained serious building code violations (page 63), one or more indications of serious dilapidation and deterioration caused by long term neglect (page 86), and construction vulnerable to serious damage from seismic or geologic hazards (page 87). As set forth in CCRL Section 33031(a)(1), these are three of the four conditions that may cause buildings to be unsafe or unhealthy. A graphic breakdown of the number of times each of the indicators of these blight conditions was observed in each sub-area of the Added Territory is provided in Figures 10A through 10H, with the same provided in Figure 11 for the Focus Area.

The incidence of inadequate public improvements and faulty or inadequate water or sewer utilities in the Amended Project Area is discussed on page 121 of the Unified Report and shown in Figure 18. The Agency notes that it did not identify the location of inadequate parking facilities within the Amended Project Area as this no longer qualifies as a condition of blight, as currently defined in the CCRL.

As discussed above, the Unified Report examined the number of serious building code violations in the Added Territory and Focus Area (pages 62-63). A graphic breakdown of the number of specific serious building code violations observed in each sub-area of the Added Territory is provided in Figures 10A through 10H, with the same provided for the Focus Area in Figure 11.

In response to the County's assertion that information concerning "unprofitable commercial tenancies" be included in the Unified Report, the Agency analyzed the incidence of abnormally high business vacancies and abnormally low lease rates in the Amended Project Area within its Unified Report (pages 115-116, and in further detail within pages 13-21 of Appendix F). Since high turnover rates and excessive vacant lots within an area developed for urban use and served by utilities are no longer included within CCRL Section 33031(b), the incidence of these conditions in the Amended Project Area was not assessed.

Response J-18

The Agency notes that, unfortunately, the CCRL does not prescribe hard metric standards or thresholds, such as the statistics cited from the Bunker Hill and Morgan cases, concerning the incidence of blight within an area proposed for inclusion within a redevelopment project, such as the Added Territory in Porterville.

During the 2006 State Legislative Session, the State Legislature had an opportunity to adopt legislation which provided specific metrics to define blight, thereby taking away local discretion as to what "blight" actually meant and how it should be measured. While the State Legislature modified certain descriptive statements in CCRL Section 33031 (indeed, the County is apparently not aware of these and other 2006 legislative changes to the CCRL) to further provide guidance to local legislative bodies (SB 1206), it specifically chose not to attach quantifiable metrics or minimum threshold conditions to such core terms as "prevalent" and "substantial" in the statutes. Consequently, it remains the providence of local legislative bodies, such as the Porterville City Council, using the vaguely descriptive terms codified within the CCRL, to specifically find that an area is or is not a blighted area. It is, in short, up to each legislative body to examine the evidence before it to determine if the evidence, in its entirety, is sufficient for it to make a finding of blight.
The Agency has prepared both a Unified Report and Report to Council, pursuant to CCRL Sections 33344.5 and 33352, respectively. It is the position of the Agency that the content of these documents, and other evidence entered into the record of the Plan amendment proceedings, provide substantial evidence that not only do both physical and economic conditions of blight exist in the Amended Project Area, but that these conditions are so prevalent and so substantial in the Added Territory that they cause a reduction of, or lack of, proper utilization of the area to such an extent that they constitute a serious physical and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

Furthermore, it is the Agency's position that the evidence substantiating blight has been prepared and presented substantially in the form and process required by the CCRL in its current form. While the County has asserted that the Agency has not provided sufficient evidence of blight within the Amended Project Area, the County has provided no evidence to the contrary.

Response J-19

The Agency notes the County's recitation of the Gonzales case and points out that the CCRL very seldom, if ever, discusses blight in terms of individual parcels, but rather refers to "blighted areas" (see for example CCRL Sections 33030, 33035 and 33036). While the layman most often thinks of private properties being included within a redevelopment project area, "blighted areas" also include properties held by public and quasi public entities, and public rights-of-way. A blighted area may also include properties that are not blighted. Section 33321 of the CCRL prescribes that, "[a] redevelopment project area need not be restricted to buildings, improvements, or lands which are detrimental or inimical to the public health, safety or welfare, but may consist of an area in which such conditions predominate and injuriously affect the entire area." Furthermore, "...[a] project area may include lands, buildings, or improvements which are not detrimental to the public health...but whose inclusion is found necessary for the effective redevelopment of the area of which they are a part." It is the Agency's position that each and every parcel included within the Added Territory has been included within the Added Territory either because it is blighted or because it is necessary for effective redevelopment of the Amended Project Area as a whole. The Agency has gone to great effort to articulate its reasons and justifications for including non-blighted parcels within the Added Territory in Section 6.0 of the Unified Report.

Response J-20

The Agency notes the County's recitation of the Sweetwater and Mammoth cases. The County refers to the "economic viability" of parcels and its association to these cases and further states that "evidence must show the existence of physical conditions (such as design, size, lack of parking, etc.) that prevent or substantially hinder an existing use or capacity of a lot or building from achieving or maintaining economic viability"; however, the Agency notes here that it is under no requirement to provide evidence regarding the existence of conditions which are no longer codified under the CCRL Section 33031(a)(2). To the contrary, consistent with now current CCRL provisions, the Agency has documented substantial evidence within its Unified Report which suggests that there are "conditions that prevent or substantially hinder the viable use or capacity of buildings or lots" throughout the Amended Project Area, as provided for in the current definition of blight contained in the CCRL (see discussion included on pages 88-90 and graphs included as part of Figures 10A through 10H and 11).
The Agency adds that the urbanization analysis of the Added Territory included within pages 47-57 of the Unified Report accurately reflects the results of UFI's field reconnaissance. The Agency categorically rejects any implication by the County that parcels within the Added Territory were categorized as developed for urban uses, previously developed for urban uses, or an integral part of an area developed for urban uses for the purpose of delineating boundaries which were economically advantageous to the Agency.

Again, with respect to the County's contention that every parcel must be blighted (the County describes various parcels that it believes are not blighted by name and parcel number), the Agency is cognizant that blight has been found to be an "area wide concept" in case law. Therefore, the Agency has created a valid Added Territory that comports to current statute and affecting case law.

Response J-21

In response to the County's assertion that the Sears store (APN 260-320-033) is currently operating and is, therefore, economically viable, the Agency again reminds the County that it is not required to document the economic viability of any given parcel in the Added Territory (or Existing Project Area). Instead, the Agency is required to provide substantial evidence that there are conditions that prevent or substantially hinder the viable use of a building or a lot in order to support any finding by the City Council that a given parcel is affected by the conditions described in the current CCRL Section 33031(a)(2). As indicated in Appendix D-1 of the Unified Report, the field reconnaissance found evidence of poor construction quality and deteriorated private infrastructure on this parcel. As indicated in Appendix B of the Unified Report, poor construction quality is an indication of substandard or defective construction, while deteriorated private infrastructure is indicative of a condition that hinders the viable use of a lot.

The Agency concurs that there are no code violations at the Sears store, but points out that two important indications of serious dilapidation and deterioration (which also lead to unsafe or unhealthy buildings) were present at the site (boarded windows and doors and overgrown/hazardous vegetation). As described in Appendix B of the Unified Report, according to Health and Safety Code Section 17920.3(a)(8) and (j), respectively, the existence of these conditions on a property make buildings unsafe.

A May 2009 field audit of 627 storefront locations identified 552 hosting existing retail business operations, including the Sears store. Evaluating existing retail facilities on the basis of "economic viability" is problematic because determining what constitutes a "viable" or "non-viable" business can be argued from many perspectives including: store operators who may struggle but manage to raise a family; business partners seeking a preset return on investment; customers seeking operators that can deliver product selection and quality service, etc. The mere presence of a retail establishment within a storefront location does not mean the given commercial facility does not suffer from underutilization or that the community is not impacted by a serious lack of necessary commercial facilities. A proliferation of weak-to-marginal establishments may exist within a retail district but fail to provide a sufficient selection of merchandising products and services needed to adequately serve trade area consumers residing in a relevant neighborhood or community area setting. Existing retail businesses throughout the Existing Project Area and Added Territory do not serve mutually exclusive geographic settings but serve overlapping trade areas. Consequently, conditions that may indicate a serious lack of necessary facilities must be evaluated in the context of a larger setting common to both groups of retail facilities.
The economic blight analysis considered several factors to determine whether or not there is a serious lack of retail-commercial facilities including: vacancy, lease rates, storefront mix, floor space tenant mix, and sales performance. The analysis of sales performance is an important economic consideration because it indicates the storefront operator's ability to deliver products and services in sufficient volume (as indicated by sales) to satisfy consumption needs in the surrounding area. The economic blight analysis assesses the ability to serve consumer need by comparing reported sales performance of storefront operations against a benchmark indicator of median performance (one-half stronger, one-half weaker) based on a national sampling of retail establishments by the Urban Land Institute in cooperation with the International Council of Shopping Centers. Disclosing the performance of individual storefront business, however, violates confidentiality laws established to protect private businesses from such disclosure. In order not to violate the confidence of individual operators, the economic blight analysis aggregates store-level sales performance information into eight retail merchandising categories, two service categories, and a professions-business service category to determine the extent there is a lack of necessary retail resources (competitive business operations) within the Existing Project Area and Added Territory necessary to adequately serve area consumers. The analysis indicates storefront operations accounting for 76.0 percent of all retail merchandising floor space audited (1.13M square feet) achieve an overall level of sales performance ($104 per square foot) that is less that 40.0 percent of the median benchmark level of performance describing a normally competitive retail district. The proliferation of weak merchandisers occupying more than 76.0 percent of retail merchandising space within the Existing Project Area and Added Territory indicates a condition of prevalent and substantial economic blight.

With respect to the County's comments regarding APNs 260-140-012 and 260-150-031, the Agency has never attempted to state that these areas are not economically viable, nor is it required to do so (see above). As described in Section 6 of the Unified Report, these parcels have been included within the Added Territory because they are part of a "blighted area"; blight is treated as an "area wide concept" by the CCRL.

In response to the County's comments that APNs 260-300-015 and 260-300-014 are not blighted, the Agency submits that a number of indications of blight were found on these parcels during the UFI field reconnaissance. Such conditions are documented in Appendix D-1 of the Unified Report.

Response J-22

The Agency would like to clarify that, while some of the blight indicators described in the Unified Report, such as chipped or peeling paint and overgrown/hazardous vegetation, may appear to be merely "cosmetic" or "less serious" to the layman, the existence of these conditions on a property directly implies deterioration caused by long term neglect, as provided for in CCRL Section 33031(a)(1). As described in Appendix B of the Unified Report, Health and Safety Code Section 17920.3(g)(3) states that defective weather protection for exterior wall coverings, including a lack of paint, or weathering due to a lack of paint or other approved protective coating renders buildings unsafe. As another example, overgrown/hazardous vegetation, can provide nesting grounds for vermin and/or be a fire hazard.

The Agency and City Council challenge the County's assertion that properties cannot be included within a redevelopment project area due to obsolescence. CCRL Section 33031(a)(2) specifically mentions obsolete design or construction (given present general plan, zoning, or
other development standards) as a cause of conditions that prevent or substantially hinder the viable use of buildings or lots.

The Agency has provided reasons why the blight in the Added Territory cannot be eliminated by private enterprise or governmental action alone without redevelopment within Section 8.4 of the Unified Report (pages 132-134).

The County contends that the Agency has only provided "general statements" of blight within its Unified Report, which are insufficient to establish a project area. The Agency's position remains that a high degree of detail about conditions in the Amended Project Area has been included within the Evidentiary Documents.

In response to the County's complaint that the Unified Report refers mainly to "potential" health and safety considerations as opposed to current health and safety considerations, it is true that structures that exhibit problems such as sagging roofs or crumbling walls and foundations are unsafe. Empirically, Agency staff and consultants know that structures exhibiting these kinds of exterior problems also frequently have other problems including leaky plumbing, hazardous electrical service or wood rot. Unfortunately, without legal access to private property, and given that the Agency has limited funds and time to engage this process which has already consumed more than 24 months, it is impossible to identify these problems absolutely. It is, therefore, necessary to use qualifying words and phrases like those included in the Unified Report. In addition, there are no provisions in either the CCRL or elsewhere in state law that provide redevelopment agencies with extraordinary powers to enter onto private property without the owner's permission in order to generate such a "specific inventory of the conditions". Therefore, in order to review conditions in each structure, the Agency would need to secure voluntary admittance to private property. Having created its own redevelopment project areas the County is well aware that this is not, and has never been, standard industry protocol vis-à-vis project area creation. Even excluding the time and expense involved in securing voluntary permission to enter the 2,640 parcels in the Added Territory and 639 parcels in the Existing Project Area (page 16, Unified Report), an analysis based upon data generated from an inspection program which depended upon voluntary access to private property would engender a sense of completeness not supported by the actual data available. Such a database would, in fact, be comprised of *ad hoc* information derived from individuals who, for their own reasons, elected to allow inspectors onto their properties.

Settling for a random sampling in an effort both to: i) reduce the time and expense of a 100 percent sample of over two thousand structures; and ii) reduce the *ad hoc* nature of data gathering, helps only with reference to item (i). The arbitrariness of item (ii), while somewhat mitigated remains.
Therefore, expecting a field survey to examine conditions of blight "in each of the subject structures" is disingenuous and intended only to create an artificially high bar which, in fact, is impossible to hurdle. Since meaningful entry onto private property is impossible, the issue then becomes what methodology and analytical tools can an agency use in order to make defendable inferences about blight inside structures in compliance with the CCRL. The most obvious tool is to view and describe private properties from the public rights-of-way. The Agency completed this task by means of the field survey described in the Evidentiary Documents and elsewhere in this Response. Making inferences about blighting conditions inside structures based upon exterior observation is the only practical method for inferring interior conditions of a property short of an interior inspection. It is counter-intuitive to assume that interior conditions of a structure will be dramatically different from those observed on the structure's exterior.

Clearly, a field survey which does not include entry onto private property cannot, with authority, state that a specific condition (for instance an electrical deficiency) exists at a specific address. However, based upon the nexus established in the literature, the experience and professional knowledge of the individuals on the field survey and common sense, the Agency is able to infer that the condition of blight as observed from the public way and the age of the structure indicates blighting conditions on the inside.

Response J-23

The Agency considered the availability of a wide variety of government funding sources in Sections 8.1 (page 129) and 8.4.2 (page 133) of its Unified Report; however it did not consider the availability of so-called "stimulus money," presumably funding made available from the federal government through programs created by the American Recovery and Reinvestment Act of 2009 (ARRA) to reverse the conditions of blight in the Added Territory within its Unified Report.

First of all, funding available through the ARRA is subject to many of the same complex application and administration procedures that other federal funding sources, such as community development block grants require. The fact that ARRA funds are not under local control, or are definite and ongoing is also problematic. Further, since the ARRA is considered to be a "one time" economic stimulus, it cannot be counted on to serve as a significant funding source to the community for the wide variety of projects and programs which will be required to eliminate blight in the Added Territory over the thirty year effective life of the Plan for the Added Territory. The City reports that it has had some success in securing a limited amount of ARRA funding to complete Phase II of its Rails to Trails project; however, the awarding of additional ARRA funding to the City is not anticipated to even come close to approaching the sum of money required to implement the comprehensive redevelopment of the Added Territory.

Response J-24

In claiming that "low scoring, blight indicated properties should not be included as blighted," the County has grossly mischaracterized the methodology employed within the Unified Report. As explained in Section 3.4.2.4 of the Unified Report, in order for a parcel to be found to be blighted by the Porterville City Council, it must receive at least twenty blight points and exhibit one Blight Indicator totaling at least five points. Such parcels generate negative influences on neighboring properties (external obsolescence), which may or may not demonstrate on-site blight indicators, so that the value of these adjacent or nearby properties are negatively affected by their proximity to these structures. While the Agency does not argue that parcels which receive low
blight scores (less than twenty points) should not be considered “blighted”, under the methodology such parcels that have one or more blight indicators may contribute to blight within the neighborhood in which they are located (see page 125 of the Unified Report), particularly when conditions of inadequate infrastructure and economic blight are considered in conjunction with physical blight as required under CCRL Section 33030(b).

As further evidence of the County’s misreporting of the information contained in the Unified Report, the County charges that “[m]any of the properties only have a blight score of 1.” If County staff had properly reviewed the blight scores for each parcel in the Added Territory and Focus Area (included in Appendices D-1 and D-2 of the Unified Report), they would have discovered that none of the parcels in the Amended Project Area received blight scores of one. Based on the methodology employed in the Unified Report, it is not possible for a given parcel to receive a blight score of one because the minimum number of points accrued to a parcel exhibiting a blight indicator is two.

As stated elsewhere in the Agency’s Response to the City Council’s Comments, not every parcel in the Added Territory must be blighted in order for the City Council to make the required finding that the Added Territory is a blighted area.

Response J-25

The Agency has prepared the appropriate five year implementation plan that includes all required components in accordance with CCRL Sections 33352(c) and 33490(b). Consistent with these requirements, and at an appropriate degree of specificity given the preliminary assessment of available funding and the fact that no specific projects have been proposed by either public or private sectors, the Agency proposes to assist implementation of those projects and programs included in Appendix H of the Unified Report, which the Agency Board determines to be necessary and feasible, as funding and community support become available. The Agency adds that it recently adopted a comprehensive five-year implementation plan for the Existing Project Area on February 2, 2010, pursuant to CCRL Section 33490. This implementation plan contains a number of specific actions and expenditures anticipated to be completed in the Existing Project Area during the next five years.

In response to the County’s claim that the Report to Council does not contain the analysis and response required by CCRL Section 33352(n), the Agency’s Report to Council was prepared and made available for public review at least seven days prior to the Agency’s Joint Public Hearing with the Porterville City Council on June 1, 2010. Inasmuch as the County did not submit its written objections to the Amendment until June 1, 2010, the Agency was unable to provide an analysis of and response to said objections within its Report to Council. The Agency’s analysis and response to the County’s comments are included herein and hereby entered into the Record of Proceedings for the 2010 Amendment.

During the preliminary delineation of the Added Territory boundaries, which delineation process included multiple meetings with County executive staff and representative elected officials, County representatives expressed high interest to Agency staff and advisors in partnering with the Agency on the Amendment, even granting City staff preliminary direction to move forward with the inclusion of much of the unincorporated community of East Porterville and other unincorporated areas adjacent to the City within the Added Territory. At great expense and effort, the Agency surveyed these areas and completed various related tasks including the environmental and economic analyses required to process their inclusion within the Added Territory. County executive staff was presented with the preliminary blight findings and fiscal
analysis — data that was vetted by the same officials. During these consultations, County
officials were openly complimentary about the methodology employed by the Agency and
suggested they were in agreement with proposed Added Territory boundaries. The path
forward was to be fixed in a memorandum of understanding that would outline a mutually
agreed upon resolution to the amount and management of Agency expenditure of tax increment
monies in County portions of the Added Territory, with particular focus given to the matters of
affordable housing and infrastructure. Obviously this forward progression of events came to a
halt because, at some point, for reasons which remain uncertain to the Agency, the County
withdrew its support for the Amendment, thereby leaving the City in the difficult and costly
position of having to back track, including designation of an alternative base year, to revise the
preliminary boundaries of the Added Territory to exclude the unincorporated County areas.

The facts in the record indicate the County is very disingenuous in its claims that the Agency
has not addressed its consultation obligations.

**Response J-26**

The Agency does not understand the County’s objection to the consideration of serious building
code violations, such as garage conversions and unpermitted room additions, as a basis for
documenting unsafe and unhealthy buildings in accordance with CCRL Section 33031(a)(1).
CCRL Section 33031(a)(1) clearly states that “[b]uildings in which it is unsafe or unhealthy to
live or work...may be caused by serious building code violations...” In response to the County’s
charge that no explanation is provided within the Unified Report as to how these building code
violations fit in with CCRL Section 33031(a), Appendix B of the Unified Report contains a
description of the various Blight Indicators which are indicative of serious building code
violations and explain how each respective indicator can make buildings unsafe or unhealthy for
persons to live or work. Furthermore, as described in Appendix B, upon completion of the field
reconnaissance, each documented case of suspected unpermitted garage conversion (GC) and
construction (ANPA and ANPB) was researched and confirmed by City staff; only those parcels
vetted by City officials as being illegal cases were included in the final record.

**Response J-27**

A summary of the substantial professional qualifications of key individuals who participated in
the UFI/Alfred Gobar Associates (AGA) field reconnaissance and/or subsequent review and
analysis of data is provided in Section 3.3.3 of the Unified Report (pages 37-38) and duplicated
(with some amendments) below.

For reasons described in Response J-22, it would be virtually impossible to perform structural
inspections of each of the buildings in the Amended Project Area; therefore, a field survey of
private properties was generally completed from public rights-of-way. Making inferences about
blighting conditions inside structures based upon exterior observation is the only practical
method for inferring interior conditions of a property short of an interior inspection. With respect
to these matters it is counter-intuitive, and is disingenuous on part of the County, to assume that
interior conditions of a structure will be dramatically different from those observed on the
structure’s exterior.

### 3.3.3 Professional Experience

Summaries of the qualifications of key staff members who participated in the Field
Reconnaissance and/or subsequent review and analysis of data are provided...
below. This Report to Council, including the Field Reconnaissance, was completed by UFI and AGA staff under the direction of Mr. Jon Huffman, Managing Principal, UFI, and Mr. Alonzo Pedrin, Principal, AGA, respectively. Participating professional UFI staff included Mr. Paul Schowalter, Principal; Mr. Ryan Bensley, Senior Planner; and Mr. Jung Seo, Senior Planner. Participating professional AGA staff included Mr. Jim Wolf, Principal, and Mr. Ryan Early, Senior Research Associate. Also, participating in the field reconnaissance was Mr. Richard Tillberg, AICP, no longer with UFI.

Urban Futures, Inc.

Mr. Huffman holds a Bachelor of Architecture Degree from the University of Oregon, a Masters of Landscape Architecture Degree from the California State Polytechnic University, Pomona, and Certificates in Real Estate Appraisal from the California State University, Fullerton, and has personally participated in over 80 field reconnaissance and managed over 175 redevelopment plan adoptions and amendments; he has been with UFI since 1987.

Mr. Schowalter holds a Bachelor of Architecture Degree with an Urban Design Emphasis from the California State Polytechnic University, Pomona. He has been a redevelopment project manager for nearly 20 years, and has personally participated in over 100 field reconnaissance and provided analysis and document preparation in over 150 redevelopment plan adoptions and amendments in California.

Mr. Bensley holds a Bachelor of Arts Degree in Geography from the California State University, Long Beach, and has completed numerous field investigations for UFI and has over six years' experience with municipalities in Southern California and the private real estate management sector. Mr. Seo holds a Bachelor of Engineering in Architecture and Urban Planning from the Handong University, South Korea, and a Masters in Planning from the University of Southern California, heads the firm's GIS division, has participated in field reconnaissance activities, and is instrumental to preparing site analyses and GIS/fiscal projections for numerous redevelopment projects.

Mr. Tillberg holds a Bachelor of Arts degree from the College of William and Mary and a Master of Arts in Urban Planning from Morgan State University and has personally participated in more than 25 field reconnaissance and provided analysis and document preparation in over 85 redevelopment plan adoptions and amendments in California.

Alfred Gobar Associates

Mr. Pedrin holds a Bachelors Degree in Urban and Regional Planning from California State Polytechnic University, Pomona, a Masters in Business Administration from the University of California, Irvine, and has been the project manager and senior research analyst for numerous private and public sector studies since 1986. Mr. Early holds a Bachelor of Science Degree in 2004 from the University of Oregon, and has been directly responsible for field data collection, market research, data synthesis, and other supplemental analyses for a variety of real estate consulting assignments. Also, participating in development of this project from AGA is Mr. Jim Wolf who holds a Bachelors Degree in Real Estate and
Urban Planning and received his Real Estate Graduate Studies degree from the University of Wisconsin in 1977.

UFI and AGA use their professional experience and expertise as identified above, and that of City staff and other professionals including, in Porterville, legal Counsel from the law firm Stradling, Yocca, Carlson, and Rauth, to derive reasonable and professionally defensible definitions of terms used in the CCRL, and subsequently test these definitions against the evidence gathered during the Field Reconnaissance and through examination of the secondary evidence. Such analysis might include interpreting real estate trends, determining necessity for effective redevelopment (based upon generally accepted urban planning and appraisal principles), rationalizing apparently conflicting data, and selecting comparable data sets of parcels from within the Amended Project Area and the larger community.

Of course, the entire resources of all participating firms are accessed on an as needed basis; resumes of all senior staff are available on line at www.urbanfuturesinc.com and AGA at www.qobar.com.

Response J-28

As discussed earlier in the Agency's Response to the County's Comments, it is up to the City Council to make a determination as to whether "prevalent and substantial" blight exists within the Added Territory and "significant" blight exists within the Existing Project Area. The purpose of the Unified Report (and the Report to Council) is to provide the City Council with an accurate and detailed record of the physical and economic conditions in the Amended Project Area, among other information, so that the City Council can make an informed decision with respect to its deliberation on the Amendment. It is the Agency and City Council's position that the Unified Report contains a straight forward and accurate assessment of the conditions "on-the-ground" (specifically during the periods of analysis) in the Amended Project Area, and that ample, "meaningful analysis" has been provided.

Response J-29

In response to the County's charge that UFI improperly aggregated criteria, a description of the highly organized, well thought out and tested methodology used to gather and analyze the data during the field reconnaissance is provided within Section 3.4 of the Unified Report (pages 39-46).

Response J-30

In rebuttal of the County's contention that the field reconnaissance completed for the Amendment contained unverifiable conclusions, the Agency and City Council maintain that the conclusions of the field reconnaissance remain 100% verifiable with respect to conditions required to be documented and processed under current law, and industry protocols. Even though the field survey conducted by UFI revealed only those conditions which were present on the date that properties in the Amended Project Area were surveyed, and thus remains a "snapshot in time," City staff, and input received from the community during three community workshops detailing the Amendment and redevelopment generally, report that conditions in the Amended Project Area remain largely unchanged since the field reconnaissance was completed.
in December 2008, with respect to the Added Territory, and July 2009, with respect to the Existing Project Area. Given, then, that conditions have apparently not changed even marginally for the better since July 2008, when field reconnaissance began, the Agency believes that the results of a field survey conducted today, using the same methodology employed by UFI would reveal the same or worse blight conditions. Furthermore, the Agency respectfully points out that the current recession has had a severe impact on the economy of Porterville since the field reconnaissance was completed as County officials know. In all likelihood, the recession has contributed to further deterioration of the Amended Project Area’s structures; however, this remains an unverifiable conclusion.

Response J-31

The County asserts that the "[g]eneralized methodology and ‘overbroad definitions’ of blight did not conform to the California Redevelopment Law requirements." This is wholly untrue. This allegation is troubling given the County appears to be unaware of very significant amendments to the CCRL that occurred in 2006, and that play a pivotal role in preparation and processing of the 2010 Amendment. Furthermore, the Agency is unaware of any section in the CCRL where a prescribed methodology is given for preliminary report preparation.

CCRL Section 33344.5 provides the following directive:

"...a preliminary report which shall contain all of the following:

(a) The reasons for selection of the project area.
(b) A description of the physical and economic conditions existing in the project area.
(c) A description of the project area which is sufficiently detailed for a determination as to whether the project area is predominantly urbanized. The description shall include at least the following information, which shall be based upon the terms described and defined in Section 33320.1:
   (1) The total number of acres within the project area.
   (2) The total number of acres that is characterized by the condition described in paragraph (4) of subdivision (a) of Section 3031.
   (3) The total number of acres that are in agricultural use...
   (4) The total number of acres that is an integral part of an area developed for urban uses.
   (5) The percent of property within the project area that is predominantly urbanized.
   (6) A map of the project area that identifies the property described in paragraphs (2), (3) and (4), and the property not developed for an urban use.

(d) A preliminary assessment of the proposed method of financing the redevelopment of the project area, including an assessment of the economic feasibility of the project and the reasons for including a provision for the division of taxes pursuant to Section 33670 in the redevelopment plan.

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2 CCRL Section 33352 provides similar directives for what must be included in the Report to Council. This Section is quoted in its entirety in Appendix A of the Report to Council and should be reviewed by the reader. The Report to Council has included all components required in CCRL Section 33352.
(e) A description of the specific project or projects then proposed by the Agency.
(f) A description of how the project or projects to be pursued by the agency in the project area will improve or alleviate the conditions described in subdivision (b).
(g) If the project area contains land that are in agricultural use the report shall be sent to...."

Even a cursory review of the Unified Report shows that the Agency has included all of the required elements of a "preliminary report" within its Unified Report (the Unified Report also contains the required elements of the report required to be prepared pursuant to CCRL Section 33451.5(c); for this reason, it is referred to as the "Unified" Report). All analyses contained within the Evidentiary Documents have been professionally prepared, and it is the Agency's position that the Evidentiary Documents contain an appropriate degree of specificity and sufficient detail.

Response J-32

As described earlier in the Agency's Response to the County's Comments, the CCRL does not set forth any specific standards for determining blight other than those provided in CCRL Sections 33030 and 33031. The CCRL does not require that a redevelopment project area contain "urban slum conditions" as in the Bunker Hill case; therefore, it is the Porterville City Council's responsibility to set the standard for Porterville and determine whether "prevalent and substantial" blight exists within the Added Territory and "significant" blight remains in the Existing Project Area.

The Agency notes that the County mischaracterized the information presented on page 99 of the Unified Report within its comments on the Amendment by stating that "30 percent of the parcels or acres may be considered by the City Council to be blighted due to exhibiting one or more physical blight conditions" [italics added for emphasis]. This statistic actually relates to the percentage of parcels in the Added Territory that, per the methodology employed by the Agency, exhibit: i) at least one Blight Indicator which reaches a level of seriousness to equal at least five points, and ii) a sufficient number of Blight Indicators so that the combined total equals at least twenty blight points (refer to Section 3.4.2 of the Unified Report for a full explanation regarding this methodology). If the parcels which exhibited at least one Blight Indicator (physical or economic) are considered, 2,144 parcels (or approximately 81 percent of all parcels) in the Added Territory demonstrate some measure of blight (see Figure 14 of the Unified Report for a map showing the location of these parcels). While not considered "blighted" under the methodology set forth in the Unified Report, the 1,362 parcels in the Added Territory which were assigned blight indicator scores of between two and 19 (shown in Figure 14) are parcels that have one or more conditions that may contribute to blight within the neighborhood block in which they are located (see discussion regarding external obsolescence earlier in the Agency's Response to the County's Comments).

In fact, should the City Council elect to approve and adopt the 2010 Amendment following its full consideration of the entire record of Amendment proceedings, the City Council could find, based upon the methodology employed and the evidentiary record developed in accordance therewith, that the Added Territory is a blighted area under current provisions of CCRL Sections 33030, and 33031, et al.

Response J-33
The analysis of stagnant and depreciated property value relied on recorded transaction data (as reported by First American Real Estate Solutions) describing 218 residential sales transactions within the Amended Project Area and 2,373 residential sales transactions throughout the larger area of Porterville, not part of the Amended Project Area. In short, the economic blight analysis uses sales comparables as a proxy determination of value distinguishing the Amended Project Area from all other areas of Porterville. As the County knows, it is not realistically feasible to prepare an appraisal for every residential property comprising the Existing Project Area and Added Territory. Furthermore, the sales comparable approach employed in the economic blight analysis is generally consistent with one of the three fundamental approaches (income approach, replacement cost approach, sales comparable approach) used to prepare site specific appraisals. Due to the heavy concentration of non-residential land use within the Existing Project Area, over 95.0 percent of sales transaction records used to evaluate the Amended Project Area describes properties within the Added Territory. In effect, the economic blight analysis provides a strong indication of property value trends describing the Added Territory.

Much of the Existing Project Area and Added Territory describe long-established areas of the community that are likely to include older homes, which generally suffer depreciation in value due to the age-related design, safety, and functional deficiencies. By comparison, land is not a depreciable commodity, because the utility land provides for residential purposes is relatively unaffected by age. The economic blight analysis strictly evaluates underlying land value trends (excluding improvement value) distinguishing the Amended Project Area from other areas of Porterville to eliminate bias inherent to an analysis of improvement (building) value trends. All things equal, the unit price of a commodity fluctuates inversely with the quantity sold—the unit price (price per pound, price per square foot, etc.) for a smaller quantity will be more than the price for a larger quantity. As might be expected in such an older, less extensively planned and organized part of a community, the average lot size describing residential sales within the Amended Project Area is 45.0 to 60.0 percent smaller than is true in other areas of Porterville. Despite a significantly smaller average lot size, the unit pricing of residential property (price per square foot of lot area) within the Amended Project Area remains stagnant and unduly depreciated below transacted values describing larger residential property in other areas of Porterville.

Response J-34

A project area where there was no blight would be inappropriate; on the other hand, a proposed project area where every parcel was blighted would demand redevelopment. It is not likely in the real world, or even in the most wealthy or most depressed communities in the state, that either extreme would accrue. What is likely is that some number of parcels will be blighted and others will not. The legislature recognized this condition when, at CCRL Section 33321 it provides that "not every parcel must be blighted". If the legislature determined that blight only had to be "so prevalent" or "so substantial" and not "total", it clearly understood that blighted properties have a deleterious effect on non-blighted properties.

The issue then becomes, how many parcels must be blighted or be negatively affected by blight in order for blight to be so prevalent and so substantial. In the absence of quantitative authority set forth either in statutory or case law, the Agency has attempted to use a value neutral "yardstick" to understand how properties affect each other and to describe the effects that a blighted parcel has on surrounding parcels. Rather than selecting an arbitrary "envelope of effectiveness" (for instance: lines of uninterrupted sight, all parcels on the street, all parcels in the block, three, or four, or six parcels on either side, etc.), the Agency elected to refer to
accepted city planning practice. The city planning profession has established, over decades of practice, that there are land use activities where the effects of governmental and/or private action affects more than just the individual applicant and, consequently, adjacent properties should be notified. The City's Zoning Ordinance recognizes that owners of parcels within 300 feet of a subject parcel may be affected by land use and zoning decisions (such as applications for variances or conditional use permits, proposed revocations or modifications of variances or use permits, or appeal from actions taken on any of those applications) and, therefore, requires that they be notified of public hearings held by the Planning Commission regarding such actions. As described in Section 5.2.1.2 of the Unified Report (pages 109-111), since the Zoning Ordinance provides for a 300 foot radius, the methodology employed within the Unified Report assumes the effect of external obsolescence to be 300 feet.

The County rejects the notion that the City's Zoning Ordinance contains notification requirements in response to the well accepted real estate appraisal principle that conditions on a given property can have a negative, incurable impact on nearby properties. By stating that "[z]oning law merely determines a threshold for direct notice to members of the neighboring community of the pending project," the County's letter demonstrates an apparent unfamiliarity with the principle of accrued depreciation, which is the loss in value from the reproduction or replacement cost of improvements that may emanate from physical deterioration, functional obsolescence, external obsolescence, or any combination of these factors. While each of these factors negatively affects property values within the Amended Project Area, the most pertinent to the Unified Report analysis questioned by the County is external obsolescence and its impact upon the "proper utilization" of the area as described in CCRL Section 33030(b)(1).

External obsolescence, which is the diminished utility of a structure or property due to negative influences emanating from outside the subject building or property, is almost always incurable by the affected owner, landlord, or tenant. This kind of obsolescence, which is one aspect of the "principle of externalities," can be caused by a number of factors such as deferred maintenance of adjacent structures or properties, overall neighborhood decline, a property's location in the community, or local market conditions, and always has a negative effect on property values and development potential. The fact that external obsolescence is almost always incurable by an impacted owner means that the problems affecting the property cannot be practically or economically cured and that the property will suffer long-term loss of value (loss of value under this kind of circumstance means loss of market value, use value, investment value, assessed value, or any other specific kinds of real estate value).

Mitigation of the negative forces of external obsolescence is one of the objectives of a City's long range planning program. General plans and zoning codes are prepared, adopted and implemented to, in part, insure that land uses and development densities are compatible. Code enforcement activities help to ensure that deferred maintenance and property neglect does not occur within a neighborhood to such a degree that lack of maintenance or investment of one or more properties does not lead to the same problems overtaking other properties (these actions also comport to the principle of externalities, only in a positive sense - positive external factors typically add value to adjacent properties which is one underlying objective of code enforcement, homeowner associations, zoning, etc.).

Therefore, the analysis contained in Section 5.2.1.2 of the Unified Report correctly characterizes the negative impacts of external obsolescence which are occurring in many parts of the Amended Project Area in the form of inefficient and/or underutilization of parcels, and incompatible land uses (though limited under current CCRL provisions), which conditions negatively affect the value, as previously defined, and use of not only the parcel(s) that are not
properly maintained and/or underutilized, but adjacent and nearby parcels as well.

The Agency is somewhat confused by the County's comment regarding the number of "affected" parcels located within 300 feet of a parcels with at least 20 physical blight points which are not already deemed physically blighted; however, the Agency will attempt to clarify. One thousand seven hundred and seventy two (1,772) parcels (or 67 percent of all parcels) in the Added Territory are within 300 feet of a parcel which accrued at least 20 physical blight points. This is in addition to the 806 parcels (30 percent of all parcels) in the Added Territory that accrued at least 20 physical blight points. In total, 2,578 parcels (or 97 percent of all parcels) in the Added Territory may be found to be blighted or subject to the negative effects of external obsolescence (within 300 feet of a blighted parcel).

Response J-35

The County states that the economic blight analysis merely provides generalized information. The analysis of overcrowding relies on 2000 Bureau of Census SF3 tape information, the latest available comprehensive data describing the number of residents within habitable structures at the block-group level of reporting. The Decennial Census provides the most comprehensive reporting of occupancy within habitable structures and block-group level reporting (a geographic area generally consisting of 6 to 12 blocks) is the most detailed level of reporting on such information. The Amended Project Area constitutes a highly-detailed geographic boundary within the Decennial reporting structure but is too small to be effectively evaluated through statistical methodologies. The Bureau of Census has developed the American Community Survey, which permits statistically-driven estimates of demographic trends between Decennial periods. Unfortunately, this data series can only be applied in areas with a minimum population of 64,000 residents, far larger than the population base of the Amended Project Area. The County is aware that it is not realistically feasible to conduct a mini-Census in advance of the 2010 Decennial Census, which would require the blight survey team to visit every existing residence and inquire as to the number of persons residing, and the number of habitable rooms.

Due to the heavy mix of non-residential land uses within the Existing Project Area, overcrowded housing conditions identified in the blight analysis offer a strong indication of such conditions within the Added Territory alone. Regardless, an alternate analysis based on Census Block Groups within the Added Territory alone is included as Attachment B to this response. As shown, severe overcrowding (more than 1.50 persons per room) within the Added Territory remains more than 1.5 times higher than the City of Porterville and Tulare County and more than 6.0 times higher than the National incidence of overcrowding.

Response J-36

The Agency notes the County's proper recitation of the Gonzales and Sweetwater cases. As stated elsewhere in the Agency's Response to the County's Comments, the specific reasons the Agency has included non blighted property in the Added Territory have been articulated in Section 6.0 of the Unified Report (page 125).

In brief, consistent with CCRL Section 33321 authority, non-blighted parcels are proposed for inclusion within the Added Territory for the following reasons: i) they are located within a blighted area and are therefore subject to the negative effects of external obsolescence; and ii) their exclusion would result in a checkerboard and less coherent patterned redevelopment project area in which it would be difficult for the Agency staff to effectively plan, implement and administer its proposed projects and programs, and therefore, the Agency's efforts to lessen or
eliminate blight in the larger area would be marginalized and less effective. Additionally, some of these parcels, those which are vacant, previously urbanized or underutilized, may be used, as described in CCRL Section 33320.2, for the purpose of providing for: i) the relocation of owners or tenants from other parts of the Amended Project Area, if necessary over the life of the Amended Plan; or ii) the construction and rehabilitation of low- or moderate-income housing, within the parameters of the General Plan and other development provisions.

In its letter the County objects to the inclusion of several portions of the Added Territory that did not exhibit any Blight Indicators and implies that such properties were included in the Added Territory for the sole purpose of obtaining tax increment revenue from these areas. As previously indicated, the Agency and City Council reject any such claim.

The Redevelopment Plan, as proposed to be amended by the Amendment, is required to be consistent with the City’s General Plan; therefore, non-blighted parcels which are vacant, previously urbanized or underutilized will be developed in accordance with the General Plan and may be used for the purpose of accommodating the Agency’s efforts to relocate owners or tenants displaced by the Agency’s long - term development/redevelopment activities elsewhere in the Amended Project Area, and/or providing sites for the construction of low- or moderate-income housing in accordance with the General Plan (see Figure 3 of the Unified Report for a map showing the General Plan land use designations in the Amended Project Area).

The County claims that several vacant parcels in the Added Territory can be developed without redevelopment assistance, however, the County neglects to provide any evidence to support this claim. The Agency has clearly explained the reasons why it has proposed to include various vacant parcels, none of which are in violation of CCRL Sections 33320.1(2) or 33321. Furthermore, the Agency has provided abundant discussion, infused with a great number of facts, articulating why many of these parcels have been, are currently, and are likely to remain underdeveloped or undeveloped long into the foreseeable future.

With respect to the County’s opposition to the inclusion of Porterville High School within the Added Territory, the Agency points out that, like the County, the Porterville Unified School District (PUSD) also qualifies as an “affected taxing entity” for purposes of the Amendment. PUSD has been notified and has not expressed any concerns whatsoever to the Agency or City regarding the inclusion of Porterville High School within the Added Territory. Furthermore, the Agency respectfully reminds the County that the Porterville High School site is a tax-exempt property and, therefore, would not generate any tax increment revenue for the Agency. Similar statements can be made regarding the County’s objection to the inclusion of other properties which contain public uses (the Rodeo Grounds, Armory and various PUSD properties). In fact, to the degree that it can in the future, the Agency will endeavor to partner with one or more of these public entities for the purpose of building new or upgrading one or more existing facilities that will be of benefit to the larger community.

The Agency and City Council dispute the County’s comment that most of the non-blighted parcels “are not surrounded by blighted areas and are appurtenant to the blighted areas of the Proposed Added Territory and Amended Project Area.” A review of Figure 16 in the Unified Report will show that, with the notable exception of the vacant parcels at the Riverwalk Marketplace site, most of these parcels are either surrounded by blighted areas or within 300 feet of a blighted parcel.

The Agency notes the County’s proper recital of the Riverside and Lancaster Redevelopment Agency cases; however, the Agency and City Council again deny the County’s assertion that
non-blighted areas were included in the Added Territory because their inclusion was economically advantageous. Such areas were included in the Added Territory for the reasons set forth in Section 6.0 of the Unified Report and summarized earlier in this response.

Response J-37

State CEQA Guidelines Section 15088.5 requires a lead agency to re-circulate an EIR only when significant new information is added to the EIR after public notice is given of the availability of the DEIR for public review under Section 15087 but before certification. It is the opinion of the Agency and City Council that, given the speculative, argumentative, and boilerplate nature of the County's comments, many which appear to disregard the scope of the defined project and the purpose of a program EIR, and the lack of any substantial evidence related to specific environmental effects in the Added Territory not addressed in the DEIR, as presented by the comments, there is no legal or factual basis requiring recirculation of the EIR. No new significant information is required to be added to the DEIR and thus, the DEIR is not required to be re-circulated for public review.

Response J-38

The Agency has endeavored to respond to each of the objections summarized in the conclusion of the County's letter to the Agency in the preceding responses, with the exception of the County's comment that the Unified Report contains "little mention" of significant blight in the Existing Project Area. This comment appears to ignore the body of text, data and analysis included in the Unified Report.

It is the Agency and City Council's position that the Unified Report and the Report to Council are professionally prepared documents that contain substantial documentation that may be used by the City Council to support a determination that significant blight remains in the Existing Project Area and that such blight cannot be eliminated without the reinstatement of the Agency's limited authority to acquire real property in the Existing Project Area through the use of eminent domain. Furthermore, the issue of Agency eminent domain authority is totally a local matter, and during Agency outreach efforts those members of the community affected by the 2010 Amendment have expressed little to no concern about reinstatement of this authority for the proposed 12 year period.

The Agency and City Council challenge the County's assertion that the methodology employed in the preparation of the Unified Report did not consider blight conditions described in the CCRL and remind the County that CCRL Section 33031(a)(1) does not require code enforcement officers to issue building code violations to offending property owners in order to satisfy the City Council's need to make blight findings. Nevertheless, as described in Response J-26 suspected instances of unpermitted garage conversions and illegal construction, among others as deemed appropriate and necessary, were forwarded to the appropriate City departments for verification. The final analysis contained in the Unified Report, therefore, reflects only those parcels which were subsequently confirmed by City staff to exhibit such Blight Indicators.

The remaining objections summarized by the County have been addressed by the Agency in previous responses. The City Council and Agency have carefully considered each of the County's objections to the Amendment and have determined that the County's objections are without merit. County objections appear to be boilerplate, refer to field tools not employed by the Agency and, as has been pointed out on numerous occasions in this document, the County has based many of its objections on invalid CCRL provisions.
The Agency and City Council will retain the right to make one or more boundary adjustments in deference to one or more members of the community. The few members of the Porterville Community objecting to some limited aspect of the 2010 Amendment have given statements recognizing the overall merit, need for, and validity of the larger project.

The complete evidentiary record provides resounding proof of economic and physical blight that is a burden on the community, is substantial and prevalent, and cannot be alleviated by either the private or public sectors acting alone or jointly, without benefit of redevelopment. The 2010 Amendment is fiscally feasible and will be an important tool to be used by the City to help remedy ongoing oppressive problems presently hobbling the community and threatening its future.

The Porterville City Council respectfully requests that the County reconsider its objections to the approval and adoption of the 2010 Amendment, actions clearly valid under current law, and then take appropriate action to retract all previously submitted objections to the 2010 Amendment.
RESOLUTION NO. ______

A RESOLUTION OF THE PORTERVILLE REDEVELOPMENT AGENCY MAKING AND APPROVING FINDINGS SUPPORTING THE INCLUSION OF CERTAIN PARCELS OF LAND WHICH ARE IN AGRICULTURAL USE WITHIN THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1, AS PROPOSED TO BE AMENDED BY THE 2010 AMENDMENT

WHEREAS, in accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.), the City Council of the City of Porterville (the "City Council") adopted the Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project No. 1 (the "Original Project Area") on July 10, 1990 by Ordinance No. 1436, and

WHEREAS, the Agency subsequently amended the Plan by adoption of Ordinance No. 1504 on December 15, 1994, for the purpose of establishing time limits in accordance with the requirements of the Community Redevelopment Reform Act of 1993 (Assembly Bill 1290), and later by adoption of Ordinance No. 1655 on July 6, 2004, for the purposes of i) deleting territory from the Original Project Area (thereby resulting in what is hereinafter referred to as the "Existing Project Area"); and ii) eliminating the time limit on the Porterville Redevelopment Agency’s establishment of loans, advances, and indebtedness, as authorized by then recently adopted Senate Bill 211; and

WHEREAS, the Porterville Redevelopment Agency (the "Agency") has initiated proceedings to amend (the "2010 Amendment") the Plan, as previously amended, for the purposes of i) adding territory (the "Added Territory") to the Existing Project Area, thereby creating the "Amended Plan" and the "Amended Project Area"; ii) reinstating limited Agency eminent domain authority specific to the Existing Project Area; and iii) modifying the Plan’s projects and programs list specific to the Existing Project Area, as appropriate and necessary; and

WHEREAS, there are two parcels of land within the Added Territory which exceed two acres in size and which are currently in agricultural use (hereafter referred to as the "Agricultural Parcels") as that term is defined in CCRL Section 33321.5(c)(1) and California Government Code Section 51201(b); and

WHEREAS, the Agricultural Parcels are identified on the map attached to this Resolution as Attachment "A" which, by this reference, is made a part hereof; and

WHEREAS, neither Agricultural Parcel is enforceably restricted as defined in CCRL Section 33321.5(c)(2); and

WHEREAS, the Agency is required to make certain findings, based upon substantial evidence in the record, in order to include the Agricultural Parcels within the Added Territory; and

ATTACHMENT
ITEM NO. 3
WHEREAS, the Agency has before it evidence and testimony regarding the 2010 Amendment and the Added Territory, including, without limitation, Section 7 of the Agency's Report to the City Council for the 2010 Amendment (the "Report to Council"), which includes substantial evidence to support the findings contained in Attachment "B" of this Resolution.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED THAT THE PORTERVILLE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The foregoing recitals are true and correct and a substantive part of this Resolution.

Section 2. The Agency hereby approves and adopts the following findings, based on substantial evidence set forth and discussed in Section 7 of the Report to Council approved by the Agency on June 1, 2010, which evidence and discussion is incorporated herein by this reference and is attached hereto as Attachment "B". As is shown in the Report to Council and in Attachment "B" hereto, with regard to the Agricultural Parcels:

1) Their inclusion is consistent with the purposes of Redevelopment Law;

2) Their inclusion will not cause the removal of adjacent agricultural land that is designated for agricultural use in the City’s General Plan from agricultural use;

3) Their inclusion is consistent with the City's General Plan;

4) Their inclusion will result in a more contiguous pattern of development;

5) There is no proximate land that is not in agricultural use that is both available and suitable for inclusion that is not already in the Existing Project Area or proposed to be included in the Added Territory.

Section 3. The Agency secretary shall certify to the passage and adoption of this Resolution and it shall thereupon take immediate effect and be in force.

PASSED, APPROVED AND ADOPTED by the Porterville Redevelopment Agency on the ____ day of June, 2010.

______________________________
Brian Ward
Vice Chairman, Porterville Redevelopment Agency

ATTEST:

______________________________
John D. Lollis
Secretary, Porterville Redevelopment Agency
PROPOSED 2010 AMENDMENT TO
THE REDEVELOPMENT PLAN FOR
THE PORTERVILLE REDEVELOPMENT
PROJECT NO. 1

ATTACHMENT A
AGRICULTURAL PARCELS MAP

Boundaries shown are for general reference and illustrative purposes only. Not intended to be a legal description of the metes and bounds.
ATTACHMENT B
ATTACHMENT "B"

FINDINGS RELATING TO THE CONDITION OF LAND IN AGRICULTURAL USE IN THE TERRITORY PROPOSED TO BE ADDED TO THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1 BY THE 2010 AMENDMENT TO THE REDEVELOPMENT PLAN

Capitalized terms used but not defined in this Attachment "B" shall have the meanings given in the resolution (the "Resolution") to which this Attachment "B" is attached and made a part, or to the definitions found in Section 1.1 of the Report to Council.

As further provided in the Resolution, the findings set forth below in this Attachment "B" are each expressly approved and adopted by the Agency and incorporated into the Resolution.

As shown on Attachment “A”, Agricultural Parcel Map, to the Resolution, there are two Agricultural Parcels located in the Added Territory. These Agricultural Parcels have been included in the Added Territory for the following reasons:

1. Their Inclusion Is Consistent with the Purposes of Redevelopment Law

   The purposes of redevelopment law, in general, are the eradication of blight and provision of housing for persons and families of low and moderate income. Inasmuch as blight is both physical and economic, redevelopment agencies may fulfill the purposes of redevelopment law in a variety of ways such as job creation, infrastructure improvements, provision of affordable housing, and land assembly and re-subdivision. The two Agricultural Parcels are designated by the General Plan for residential and commercial development (Retail Commercial and Medium Density Residential); therefore, their inclusion within the Amended Project Area and development in accordance with the General Plan is expected to result in new housing and employment opportunities within the Amended Project Area and greater community. CCRL Section 33071 states the provision of expanded housing opportunities, including the “supply of low- and moderate-income housing” for the residents of the City, and the expansion of employment opportunities for jobless, underemployed, and low-income persons are fundamental purposes of redevelopment law; therefore, the inclusion of the Agricultural Parcels within the Amended Project Area is consistent with the purposes of the CCRL.

2. Their Inclusion Will Not Cause the Removal of Adjacent Agricultural Land From Agricultural Use

   None of the parcels adjacent to the Agricultural Parcels are currently in agricultural production; therefore, the inclusion of the Agricultural Parcels within the Amended Project Area will not cause the removal of adjacent agricultural land from agricultural use.
3. **Their Inclusion Is Consistent with the City's General Plan**

   On April 6, 2010, the Planning Commission, by its Resolution No. 38-2010 determined that the Amended Plan conforms to the General Plan. The General Plan land use designations of the Agricultural Parcels have been addressed in the discussion for Section 1 above.

4. **Their Inclusion Will Result in a More Contiguous Pattern of Development**

   The inclusion of the Agricultural Parcels in the Amended Project Area is important to the ultimate development of the Amended Project Area because the Amended Project Area's General Plan land use designations anticipate urban development. There will continue to be pressure for urban development to occur within the Agricultural Parcels, and without the power and authority provided by redevelopment such development may be sporadic and would tend to be wasteful of City services and the provision of urban infrastructure.

5. **There Is No Proximate Land That Is Not Agricultural That Is Both Available and Suitable for Inclusion That Is Not Already in the Proposed Amended Project Area**

   All suitable and available land proximate to the Agricultural Parcels which is not in agricultural use is proposed to be included within the Added Territory or has already been included within the Existing Project Area. Therefore, there is no such proximate land.
RESOLUTION NO. _____

A RESOLUTION OF THE PORTERVILLE REDEVELOPMENT AGENCY FINDING AND DETERMINING THAT THE USE OF TAXES ALLOCATED FROM THE TERRITORY PROPOSED TO BE ADDED TO THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1 BY THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1, FOR THE PURPOSE OF PROVIDING AFFORDABLE HOUSING OUTSIDE THE AMENDED PROJECT AREA, WILL BE OF BENEFIT TO THE ADDED TERRITORY AND THE OVERALL REDEVELOPMENT PROJECT

WHEREAS, in accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.), the City Council of the City of Porterville (the "City Council") adopted the Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project No. 1 (the "Original Project Area") on July 10, 1990 by Ordinance No. 1436; and

WHEREAS, the City Council subsequently amended the Plan by adoption of Ordinance No. 1504 on December 15, 1994, for the purpose of establishing time limits in accordance with the requirements of the Community Redevelopment Reform Act of 1993 (Assembly Bill 1290), and later by adoption of Ordinance No. 1655 on July 6, 2004, for the purposes of i) deleting territory from the Original Project Area (thereby resulting in what is hereinafter referred to as the "Existing Project Area"); and ii) eliminating the time limit on the Porterville Redevelopment Agency's establishment of loans, advances, and indebtedness, as authorized by then recently adopted Senate Bill 211; and

WHEREAS, the Porterville Redevelopment Agency (the "Agency") has initiated proceedings to amend (the "2010 Amendment") the Plan, as previously amended, for the purposes of i) adding territory (the "Added Territory") to the Existing Project Area, thereby creating the "Amended Plan" and the "Amended Project Area"; ii) reinstating limited Agency eminent domain authority specific to the Existing Project Area; and iii) modifying the Plan's projects and programs list specific to the Existing Project Area, as appropriate and necessary; and

WHEREAS, the Amended Plan would provide for the allocation of taxes from the Added Territory to the Agency pursuant to CCRL Section 33670(b); and

WHEREAS, CCRL Section 33334.2 requires that not less than twenty percent (20%) of all taxes which are allocated to the Agency pursuant to CCRL Section 33670 be used by the Agency for purposes of increasing, improving and preserving the community's supply of low- and moderate-income housing available at an affordable housing cost (the "Low and Moderate Income Housing Fund"); and

WHEREAS, pursuant to Sections 33334.2 and 33487 of the CCRL, the State Legislature has declared its intent that the Low and Moderate Income Housing Fund shall be used to improve, preserve, and increase housing in the community available at affordable costs to households of limited income; and

ATTACHMENT ITEM NO. 4
WHEREAS, subsection (g) of CCRL Section 33334.2 authorizes the Agency to use monies from the Low and Moderate Income Housing Fund inside or outside the Amended Project Area, but the Agency may only use the funds outside the Amended Project Area upon resolutions of the Agency and the City Council finding that such use will be of benefit to the Amended Project Area; and

WHEREAS, under said subsection (g) of CCRL Section 33334.2 the State Legislature declares that the provision of replacement housing pursuant to CCRL Section 33413 is always of benefit to a redevelopment project area; and

WHEREAS, the Agency desires by this Resolution to declare that the expenditure of monies from the Low and Moderate Income Housing Fund outside the Amended Project Area for purposes authorized under the CCRL are and will be of benefit to the Amended Project Area.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED THAT THE PORTERVILLE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The above recitals are true and correct and a substantive part of this Resolution.

Section 2. The Agency hereby finds, determines, and declares that the expenditure of monies from the Low and Moderate Income Housing Fund outside the Amended Project Area for purposes authorized under the CCRL are and will be of benefit to the Amended Project Area.

Section 3. The Agency is authorized to expend monies from the Low and Moderate Income Housing Fund for said authorized purposes under the CCRL.

Section 4. The Agency Secretary shall certify to the passage and adoption of this Resolution, whereupon it shall take immediate effect and be in force.

PASSED, APPROVED AND ADOPTED by the Porterville Redevelopment Agency on the ___ day of June, 2010.

Brian Ward
Vice Chairman, Porterville Redevelopment Agency

ATTEST:

John D. Lollis
Secretary, Porterville Redevelopment Agency
RESOLUTION NO. _______

A RESOLUTION OF THE PORTERVILLE REDEVELOPMENT AGENCY CERTIFYING THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1; MAKING WRITTEN FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; AND ADOPTING A MITIGATION MONITORING PROGRAM

WHEREAS, in accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.), the City Council of the City of Porterville (the "City Council") adopted the Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project No. 1 (the "Original Project Area") on July 10, 1990 by Ordinance No. 1436; and

WHEREAS, the City Council subsequently amended the Plan by adoption of Ordinance No. 1504 on December 15, 1994, for the purpose of establishing time limits in accordance with the requirements of the Community Redevelopment Reform Act of 1993 (Assembly Bill 1290), and later by adoption of Ordinance No. 1655 on July 6, 2004, for the purposes of i) deleting territory from the Original Project Area (thereby resulting in what is hereinafter referred to as the "Existing Project Area"); and ii) eliminating the time limit on the Porterville Redevelopment Agency’s establishment of loans, advances, and indebtedness, as authorized by then recently adopted Senate Bill 211; and

WHEREAS, the Porterville Redevelopment Agency (the "Agency") has initiated proceedings to amend (the "2010 Amendment") the Plan, as previously amended, for the purposes of i) adding territory (the "Added Territory") to the Existing Project Area, thereby creating the "Amended Plan" and the "Amended Project Area"; ii) reinstating limited Agency eminent domain authority specific to the Existing Project Area; and iii) modifying the Plan’s projects and programs list specific to the Existing Project Area, as appropriate and necessary; and

WHEREAS, the above recited Ordinances, including the findings and determinations made by the City Council therein, are made part hereof by reference, and are final and conclusive, there having been no action timely brought to question the validity of said redevelopment plan adoption and amendments; and

WHEREAS, the 2010 Amendment has been prepared in accordance with the provisions of the CCRL; and

WHEREAS, the Agency caused an Initial Study to be prepared to evaluate the potential for adverse environmental impacts to occur as a result of the adoption and implementation of the 2010 Amendment, concluding that a Program Environmental Impact Report (EIR) would be prepared for the 2010 Amendment, and the Initial Study with a Notice of Preparation was mailed to the State Clearinghouse, responsible and trustee agencies and other interested parties; and

ATTACHMENT
ITEM NO. 5
WHEREAS, the Initial Study concluded that implementation of the Amended Plan would have less than significant or no impacts in the following categories: Aesthetics, Cultural Resources, Geology/Soils, Hazards and Hazardous Materials, Hydrology/Water Quality, Land Use/Planning, Mineral Resources, Noise, Population/Housing, Public Services, Recreation, Traffic/Transportation, and Utilities/Service Systems within the Amended Project Area; and

WHEREAS, the Agency, authorized as a "lead agency," prepared a Draft EIR (DEIR) for the adoption of the 2010 Amendment pursuant to the California Environmental Quality Act (the "CEQA Statutes"; Public Resources Code Section 21000 et seq.), and the State Guidelines for Implementation of the California Environmental Quality Act (the "CEQA Guidelines"; Title 14, California Code of Regulations, Section 15000 et seq.; hereinafter, the CEQA Statutes and CEQA Guidelines are collectively referred to as "CEQA"), which DEIR is on file with the City Clerk; and

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

WHEREAS, on April 6, 2010, after reviewing the DEIR in accordance with CEQA Guidelines Section 15025(c), the Porterville Planning Commission (the "Planning Commission"), pursuant to its Resolution No. 38-2010 adopted on April 6, 2010, approved and forwarded to the City Council a report finding that the Amended Plan conforms with the City's General Plan, approved the 2010 Amendment as proposed, and recommended approval and adoption of the 2010 Amendment to the Agency and City Council; and

WHEREAS, all actions required to be taken by applicable law related to the preparation, circulation and review of the DEIR have been taken; and

WHEREAS, public notice having been duly and regularly given, as required by law, a full and fair joint public hearing has been held by the Agency and the City Council concerning the adoption of the 2010 Amendment and approval of the Final EIR (FEIR) related thereto, and all interested persons expressing a desire to comment thereon, or object thereto, have been heard; and

WHEREAS, the FEIR consists of the DEIR, as revised and supplemented to incorporate all comments received during the public review period, if any, and the responses of the Agency to any such comments, and the Mitigation Monitoring Program; and

WHEREAS, copies of all documents and the record of proceedings related to the FEIR are on file in the Agency offices, 291 North Main Street, Porterville, California, and the FEIR is on file in the offices of the City Clerk, and all such documents are available for public inspection; and

WHEREAS, the Agency, as lead agency, has reviewed and considered the FEIR and the Mitigation Monitoring Program prepared for the 2010 Amendment, and all comments and responses thereto.
NOW, THEREFORE, BE IT RESOLVED AND ORDERED THAT THE PORTERVILLE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The above recitals are true and correct and a substantive part of this Resolution.

Section 2. A DEIR was prepared to evaluate the potential adverse environmental impacts of the 2010 Amendment and to incorporate previously prepared CEQA analyses, as applicable. It was circulated for a 45-day public review and comment period pursuant to CEQA requirements. The FEIR, which includes written comments, if any, and responses to said comments, was prepared and made available for public inspection at the office of the City Clerk prior to the joint public hearing on the 2010 Amendment and the FEIR. The FEIR, including comments, responses, and a proposed Mitigation Monitoring Program, makes minor corrections to the DEIR, and incorporates the DEIR and appendices to the DEIR.

Section 3. The Agency hereby certifies that the FEIR was completed in compliance with CEQA; certifies that the FEIR was presented to the Agency and the Agency has reviewed and considered the FEIR and the information contained therein prior to deciding whether to approve the 2010 Amendment; specifies that the FEIR for the 2010 Amendment constitutes a "Program EIR" for purposes of CEQA Statutes, Section 21090(a); and finds that the FEIR reflects the independent judgment and analysis of the Agency. The Agency further finds that the public comments and responses, if any, to the DEIR following the public comment period do not constitute significant new information as defined in CEQA Statutes Section 21092.1 and in CEQA Guidelines Section 15088.5.

Section 4. The City Council and Agency held a duly noticed joint public hearing on the 2010 Amendment and FEIR on June 1, 2010. All interested persons had the opportunity to present both written and oral comments regarding the 2010 Amendment and the FEIR at the hearing. The Agency has considered all comments received on the DEIR, which comments and responses thereto are contained in the FEIR. These actions having been taken, the FEIR is hereby approved, certified and adopted as the Final Environmental Impact Report for the 2010 Amendment and incorporated herein by reference.

Section 5. The findings made in this Resolution are based upon the information and evidence set forth in the FEIR and upon other substantial evidence in the record of the proceedings on the 2010 Amendment and the FEIR, which include, among other things, the City of Porterville General Plan and the Porterville zoning regulations. The documents, staff reports, plans, specifications, technical studies, and other relevant materials, including, without limitation, the FEIR, that constitute the record of proceedings on which this Resolution is based are on file and available for public examination during normal business hours in the Agency offices, 291 North Main Street, Porterville, California. Additionally, the FEIR is on file and available for public examination during normal business hours in the office of the City Clerk, City of Porterville, 291 North Main Street, Porterville, California. The custodian of the FEIR is the City Clerk of the City.

Section 6. Based upon the Initial Study, the DEIR, the public comments, if any, and responses thereto, the FEIR and the record before the Agency, the Agency finds that the

Section 7. Based on the Initial Study, the DEIR, the public comments, if any, and responses thereto, the FEIR, and the record before the Agency, the Agency hereby makes and adopts the CEQA Findings and Statement of Facts as set forth in Exhibit A, attached hereto and incorporated herein by reference. Without limiting the generality of the foregoing sentence, the Agency hereby expressly approves and adopts each of the mitigation measures set forth in the attached Exhibit A, and hereby requires that such mitigation measures shall be implemented in connection with, and are hereby made a part of the Amended Plan. In addition, the Agency acknowledges that it will consider the recommendations contained in the FEIR as it implements specific projects.

Section 8. Based on the foregoing, the Agency hereby finds that the Amended Plan may create significant impacts in the areas of Agricultural Resources, Air Quality and Biological Resources. Based on such Findings of Fact and the foregoing adoption and requirement for mitigation measures, which are contained in Exhibit A and incorporated herein by reference, the Agency hereby finds that mitigation measures have been required in, or incorporated into, the Amended Plan which will eliminate or reduce to a level of insignificance, the potentially significant environmental effects of the Amended Plan identified in the FEIR, except for impacts to Air Quality, as fully described in Section 2.3 of the FEIR. With regard to the impacts in Section 2.3, the Agency finds and determines that implementation of the Amended Plan will have a significant environmental effect on Air Quality, which cannot be mitigated to a level of insignificance.

Section 9. Based on the foregoing, as to the significant impacts to Air Quality, which are not eliminated or substantially lessened, the Agency hereby adopts the Statement of Overriding Considerations as set forth in Exhibit B hereto and incorporated herein by reference, and finds, based upon substantial evidence in the record, including but not limited to the Statement of Overriding Considerations, the specific economic, legal, social, technological and other benefits of the Project outweigh the significant effects to air quality.

Section 10. Exhibit A sets forth, and Section 3.0 of the FEIR more fully describes, a reasonable range of alternatives to the 2010 Amendment, which have been fully considered by the Agency. These alternatives include the "No Amendment Alternative"; the "Limited Redevelopment Activities Alternative," which considers reduced Agency activities in the Added Territory; the "Financing Alternative," which considers supplanting tax increment revenues with funds from a variety of other programs and sources, and the "Alternative Added Territory Alternative," which considers reduction of or enlargement of the Added Territory. As set forth in Sections 7 and 8 of this Resolution, the FEIR identifies feasible mitigation measures for each significant impact in the FEIR that could be mitigated and in Section 9 adopts a Statement of Overriding Considerations for those impacts that could not be wholly mitigated to a level of insignificance. The Agency hereby finds that the alternatives described in the FEIR and identified in Exhibit A are not feasible because they would not achieve the basic objectives of the Amended Plan, or would do so only to a much smaller degree and therefore leave unaddressed
significant social, physical and economic problems the Amended Plan is intended to eliminate. Of the reasons set forth herein in the attached Exhibit A, in the record of the Agency's proceedings or in the FEIR, none of the alternatives, including the No Amendment alternative, is environmentally superior to the 2010 Amendment because each would reduce redevelopment and blight removal activities, limit job creation, and constrain the Agency's ability to correct current deficiencies.

Section 11. The Agency hereby finds and determines that the mitigation measures and the Mitigation Monitoring Program set forth in the FEIR will mitigate or avoid all significant environmental effects that can feasibly be mitigated or avoided. The Agency hereby adopts the Mitigation Monitoring Program as set forth in Section 7.0 of the FEIR and attached hereto as Exhibit C and incorporated herein by reference. This program will be used to monitor the changes to conditions in the Amended Project Area, and should be made a condition of approval as set forth in Sections 7 and 8 above and in Exhibit A to this Resolution.

Section 12. Upon adoption of the 2010 Amendment by the City Council, the Agency Secretary shall, in cooperation with the City Clerk, cause a Notice of Determination to be filed forthwith in the Office of the County Clerk of the County of Tulare and the State Clearinghouse pursuant to CEQA Guidelines Section 15094.

Section 13. The Agency Secretary shall certify to the passage and adoption of this Resolution and it shall thereupon take immediate effect and be in force.

PASSED, APPROVED AND ADOPTED by the Porterville Redevelopment Agency on the ___ day of June, 2010.

Brian Ward
Vice Chairman, Porterville Redevelopment Agency

ATTEST:

John D. Lollis
Secretary, Porterville Redevelopment Agency
EXHIBIT A

FINDINGS OF FACT
I. FINDINGS CONCERNING THE SIGNIFICANCE OF SPECIFIC ENVIRONMENTAL IMPACTS IDENTIFIED IN THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT.

Capitalized terms used but not defined in this Exhibit A shall have the meanings given in the Resolution to which this Exhibit A is attached and made part (the "Resolution") or in the FEIR as applicable.

As further provided in the Resolution the mitigation measures set forth below in this Part I of Exhibit A are each expressly approved and adopted by the City Council and the Agency and incorporated into and made requirements of the Project pursuant to the Plan Amendment.

As used below in this Part I of Exhibit A, the phrases "insignificant" or "less than significant" or similar words as found in various subsections headed "Level of Significance After Mitigation" mean, for purposes of the CEQA Guidelines, with particular reference to CEQA Guidelines, Section 15091(a)(1), that:

    Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant effect as identified in the Final EIR.

Please refer to the applicable sections of the FEIR, incorporated herein by reference, for additional information concerning Project impacts and required mitigation measures and further explanation of the rationale for the significance findings set forth below in this Part I of Exhibit A.

A. AGRICULTURAL RESOURCES

IMPACTS

AGRICULTURE

No land included in the Added Territory is under a Williamson Act contract or is subject to any Farmland Security Zones requirements. The Amended Plan is required by law to be consistent with the General Plan, as it currently exists and as it may be amended from time to time. Adoption of the 2010 Amendment will not directly affect existing or future City General Plans, or specific plan policies and/or programs, or regulations contained within the City’s Zoning Ordinance that have been established, or that may be modified, by the City Council and Planning Commission anywhere within the Added Territory, because neither the Agency nor the Amendment directly affects land use policy or regulation. There is a small amount of agricultural land which is currently in agricultural production in the Added Territory which has the potential to be converted to more urbanized uses as a result of General Plan implementation. A total of approximately 113 acres in the Added Territory have been identified as potential Prime Farmland or Farmland of Local Importance of which approximately 0.0 acres appear to be in active agricultural use.
MITIGATION MEASURES

With respect to mitigation measures for the 2030 General Plan, the General Plan concludes that conversion of Prime, Important, and Unique Farmland to urban use is not directly mitigable, aside from preventing development altogether. The General Plan policies provide a framework for preventing long-term impacts, thereby limiting conversion of important farmland areas to the minimum extent needed to accommodate long-term growth. With respect to the Added Territory, this Program EIR incorporates the policies to reduce impacts contained within the 2030 General Plan EIR being available feasible mitigation measures. No mitigation measures beyond those previously incorporated from the 2030 General Plan EIR are recommended as a condition of approval of the 2010 Amendment. Additional mitigation measures may be imposed at such time as specific projects are proposed and reviewed.

B. AIR QUALITY

IMPACTS

SHORT-TERM IMPACTS:

A specific project's construction phase produces many types of emissions, especially particulate matter. The SJVAPCD recognizes that construction equipment also emits carbon monoxide and ozone precursor emissions; however, the SJVAPCD has determined that these emissions may cause a significant air quality impact only in the cases of very large or very intense construction projects; consequently, it is reasonable that construction impact significance should be determined on a case-by-case, site-specific project basis. Projects falling below the SJVAPCD's pre-calculated project size/emissions thresholds qualify for what the SJVAPCD refers to as the Small Project Analysis Level (SPAL). Individual, Agency-assisted projects, as they are identified and when they occur, may well fall below the SJVAPCD's SPAL threshold, and thus have individually insignificant short-term impacts if occurring one at a time.

LONG TERM IMPACTS:

The main sources of long-term air quality impacts due to emissions generated by Agency-assisted implementation projects will be from motor vehicles, just as build-out of the General Plan, without the 2010 Amendment, would result in increased motor vehicle emissions. Since it is unknown what particular industries or commercial operations might locate within the Added Territory, or what size or type of residential development will occur, or when, as a result of Agency assistance, accurate, non-speculative projections of potential emissions levels are not appropriate at this time and must be assessed and conducted on a project-by-project basis. All proposed Agency-assisted projects, as well as non-Agency-assisted projects, must meet development densities and intensities permitted under the General Plan, and must comply with emission standards and rules, as amended, which are regulated and controlled principally through the SJVAPCD.

MITIGATION MEASURES

The following enumerated mitigation measures are recommended as a condition of 2010 Amendment approval to be applied to future Agency-assisted, site-specific projects, as appropriate and applicable.
AQ-1. Compliance with the General Plan, its policies and objectives, which are promulgated to reduce air pollutants created within the City, including the Added Territory, and which are incorporated herein by this reference.

SHORT-TERM

AQ-2. Compliance with the SJVAPCD's Regulation VIII Control Measures For Construction Emissions of PM10 (Fugitive Dust Control), which contains construction (short-term) mitigation measures required by the SJVAPCD; these mitigation measures are incorporated herein by this reference. Individual, site-specific project implementation should coordinate regulation enforcement with the SJVAPCD.

LONG-TERM

AQ-3. Compliance with the SJVAPCD's Rule 2201, which sets emission thresholds above which stationary pollution sources must offset all emissions down to the thresholds.

AQ-4. Compliance with SJVAPCD's Indirect Source Review requirement, Rule 9510, which reduces the growth of NOx and PM10 emissions in the SJVAB by requiring construction and operational emissions from new development projects of certain size be reduced by certain percentages on-site, or through the payment of an offset fee to be used to gain off-site emissions reductions (addresses both short-term and long-term impacts)

AQ-5. Implement all feasible mitigation measures, as may be appropriate, to reduce the amount of ozone precursors that will result from Project implementation.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

The proposed Project is found to have unavoidable significant impacts upon Air Quality Resources which cannot be reduced to a less than significant level even with the inclusion of mitigation measures recommended as condition of Project approval. Therefore, in order to proceed with adoption of the Amendment a statement of overriding considerations would be required pursuant to CEQA Guidelines, Section 15093 in certifying the EIR prior to such adoption.

C. BIOLOGICAL RESOURCES

IMPACTS

Redevelopment in the Added Territory could assist in encouraging private development and financing public improvements necessary for development pursuant to the General Plan. Approximately 207 acres of vacant (undeveloped) land, 9.5 acres of land in existing apparent agricultural use (approximately 55 of these acres are designated by the General Plan as Parks and Recreation or Commercial Recreation land uses), and 24 acres of previously urbanized land existing in the 1,520-acre Added Territory, or approximately 16 percent. The remainder is urbanized, consisting of existing commercial, industrial, residential and public land uses. To the extent that these small
pockets of undeveloped or marginally developed parcels contain vestiges of habitat, special status species or wetlands, such Agency-implemented redevelopment activities, and development either directly or indirectly supported by redevelopment, could result in the removal of vegetation in the Added Territory, and could involve encroachment into or construction of infrastructure within remaining sensitive habitats. This is a potentially significant impact.

Any alterations of State regulated waters (e.g., the Tule River) and immediately adjacent riparian vegetation must be in conformance with Section 1600 of the State Fish and Game Code. Compliance with this regulation would include the preparation of mitigation plans that provide for no net loss of CDFG-regulated riparian habitat along the Tule River through the avoidance, creation, restoration, enhancement, and/or preservation of riparian habitat. Therefore, securing the required Streambed Alteration Agreement (SAA) would protect the hydrology and ecology of the River and ensure no net loss of riparian habitat along or within the river. General Plan implementation policies OSC-I-29, 31, 35 and 36 were adopted to ensure identification of any wetlands within the riparian habitats prior to any construction and to mitigate temporary and permanent impacts on riparian habitat within the City Planning Area, including areas not covered by Section 1600 of the Fish and Game Code. This would occur through the identification of the amount of riparian habitat removed and then the creation, restoration, enhancement, and/or preservation of riparian habitat; and the development of a detailed mitigation and/or restoration plan to offset loss of this community that would monitor it’s success, and ensure that once mitigated or preserved, these sensitive communities are appropriately protected from disturbance. The results of this effort, in combination with compliance with State Fish and Game Code, NPDES Regulations, local water quality, and runoff standards regulations, would be either avoidance of existing features, or on- or off-site mitigation as permitted by the regulatory agencies. With implementation of these mitigation measures and compliance with state and federal regulations, the direct impact to sensitive riparian habitats is less than significant.

According to the General Plan EIR, "[s]ome development that may occur [in the 36,000-acre Planning Area] under the proposed General Plan is located along the outskirts of the urbanized areas on previously undeveloped sites, but this would not result in the exclusion of species from their normal migration routes. No development is proposed directly within the Tule River channel on any watercourse, and therefore, would not interfere with the movement of any fish species. Therefore, development within the planned urban areas would not interfere with the movement of fish or other wildlife species that migrate through the already urbanized areas of the City, and impacts would be less than significant."

**MITIGATION MEASURES**

In addition to General Plan Open Space and Conservation Element Implementation Policies OSC-I-26 through 29, 31, and 35-36 identified above, the following mitigation measures will ensure that potential impacts to remaining habitat, special status species or wetlands on vacant or undeveloped land in the Added Territory are reduced to less than significant levels.

**B-1.** Prior to site-specific project development approval, a qualified biologist shall be retained by the project proponent to prepare a site-specific biological survey to determine the potential presence of wetlands, special status species, and/or suitable habitat for special status species and application of the appropriate "no net loss" mitigation measures for any identified impacts on same.
B-2. No physical alteration of a development site or issuance of building permits shall occur within potentially biologically sensitive areas until evidence is submitted for review and approval by the Agency and the City Planning Division that either no listed flora or fauna species are present, or areas containing habitat for listed species have been avoided, or if avoidance is not possible, that all required consultations with the USFWS and/or CDFG have occurred pursuant to the FESA and CESA, and evidence is provided of any necessary permits, approvals, or agreements from USACE and CDFG for removal of any wetland or riparian habitat and/or associated drainages. Future proposed development engendered by redevelopment shall be consistent with the provisions of any required consultations and associated permits or agreements.

B-3 No physical alteration of a development site or issuance of building permits shall occur within existing grasslands or riparian areas until a breeding season survey is conducted by a qualified biologist during spring or early summer (from March 1 through August 15, before development activity takes place) near annual grasslands, large trees, and riparian areas.

B-4 On parcels containing potential wetlands, a USACE verified wetland delineation and jurisdictional determination of the parcel shall be completed before any earthmoving or grading activities within or adjacent to potential jurisdictional wetlands and drainages. If the USACE determines that areas on the project site are jurisdictional, all work proposed in these areas shall be authorized by permits from the USACE. All applicable permits from the CDFG and RWQCB will also be obtained before construction in areas under the jurisdiction of these agencies, and provided to the Agency and City Planning Department prior to the initiation of ground disturbing activities or other construction activities.

B-5 If construction activities occur within any creek channel, ditches with a defined bed and bank, or within the riparian woodland drip line, the project sponsor shall obtain the appropriate permits from the CDFG. The project sponsor shall provide proof to the Agency and City Planning Division of compliance with the terms and conditions of the permits prior to issuance of the grading permit and prior to any construction in jurisdictional waters.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

Although the habitat value in the Added Territory is low, development within the Added Territory will be required to participate in mitigation plans approved by the State resource agencies if need be, which would replace lost habitat and preserve contiguous areas of habitat. In addition, development within the Added Territory would implement mitigation measures specifically designed to avoid, reduce, or mitigate impacts to special status/sensitive species and their habitat. Implementation of adopted mitigation measures on a project by project basis, in combination with compliance with General Plan Open Space and Conservation Implementation Policies, CESA, FESA, CWA Regulations, NPDES permit requirements, and the Fish and Game Code of California, reduce potential cumulative losses to the regional special-status and sensitive plant and wildlife and their habitat. Therefore, the 2010 Amendment would have a less-than-significant impact on special status species and their habitat.
II. FINDINGS CONCERNING THE PROJECT ALTERNATIVES

The following are summaries of alternatives to the Project, as currently proposed, which are examined in more detail in Section 3.0 of the FEIR.

NO AMENDMENT ALTERNATIVE

The No Amendment alternative would generate less intense development within the Added Territory, and therefore fewer environmental impacts. However, abandonment of the Amended Plan will not stop all development in the Added Territory and the environmental consequences resulting from implementation of those, as of yet undescribed development actions, will necessarily follow. Moreover, abandonment of the Amendment as proposed will deprive the Agency of the means to ameliorate the existing conditions of blight in the Added Territory, and to build the facilities necessary to avoid the more severe environmental consequences that could be attributed to "piecemeal" development which could exceed the available capacity of public infrastructure. Thus, the No Amendment alternative is not environmentally superior to the 2010 Amendment because, in actuality it would involve only a marginally lesser degree of redevelopment/development, albeit that would occur in a more piecemeal and unstructured fashion. Development of this fashion would not likely benefit from Agency-supported facility improvements, such as roadways, flood control facilities, and the like, which condition would in and of itself cause or be impacted by unacceptable environmental consequences.

ALTERNATIVE ADDED TERRITORY ALTERNATIVE

An "Alternative Added Territory Alternative," one that would consist of either more or fewer parcels than that number selected for the Project, does not take into consideration that the Added Territory Area, as proposed, was selected based upon existing conditions and an identified need for redevelopment.

An extension of Added Territory boundaries is not environmentally superior to the Amendment, as proposed, because the environmental benefits of the proposed Amendment that would be realized as a consequence of the implementation of the projects and programs included in Appendix B, might not be fully implemented if this alternative were selected. An extension of Added Territory boundaries as proposed is inappropriate because a larger Added Territory would have greater environmental consequences (due to more intense development of a broader area) without providing social and economic benefits comparable to those of the Amendment, and is therefore not environmentally superior to the Amendment.

The deletion of residential properties is not environmentally superior to the Amendment as proposed because the benefits of the Amendment that can realistically be expected to occur as the result of the long-term implementation of the projects and programs included in Appendix B of this EIR, such as: i) implementing the General Plan and facilitating creation of a more cohesive and better functioning community, ii) Improving circulation, utilities and other infrastructure deficiencies, iii) improving existing community services and facilities as necessary, and to provide new services as necessary to complement redevelopment. These benefits of the Amendment outweigh the environmental benefits of the alternative to the Amendment which would include reduced
traffic generation, reduced wastewater generation, reduced air contaminants, and reduced water consumption.

LIMITED REDEVELOPMENT ACTIVITIES ALTERNATIVE

The Limited Redevelopment Activities alternative is not an environmentally superior alternative to the Amendment because the environmental benefits of the Limited Redevelopment Activities, such as a decrease in short-term impacts and long-term impacts are outweighed by the concomitant negative impacts that would result from limited redevelopment activity such as: 1) increased growth impacts on existing public facilities without upgrading those facilities and 2) the restrictions on the Agency's ability to mitigate current infrastructure deficiencies and undertake aesthetic improvements in the Added Territory.

FINANCING ALTERNATIVE

Various financing programs, as an alternative to the 2010 Amendment adoption, might include Revenue Bonds, Community Development Block Grant funds, Economic Development Administration funds, special assessment districts, such as Infrastructure Financing Districts (IFDs), and/or other County, State and federal assistance and funding programs, some of which are currently being used, as available and permitted by law. Although most of these programs may be used to supplement the tax increment financing enabled by the CCRL through redevelopment, each financing program, taken alone, has inherent limitations and disadvantages; therefore, reliance on any of these sources as a sole financing tool is not considered feasible. Existing disadvantages associated with the Financing Alternative would jeopardize the Amendment's long-term implementation and prevent the Agency from being able to effect positive economic and physical changes within the Added Territory. Therefore, this alternative would allow existing conditions of deficiency, which negatively affect the proper utilization of the Added Territory, to continue without a substantial means of abatement. In contrast, adoption of the Amendment will lead to a steadily available source of funding through tax increment revenues for an extended period of time. Additionally, to obtain increased benefits, the Plan Amendment allows the Agency to take advantage of all available financing sources and programs allowed by law, in addition to its tax increment receipts in order to effect redevelopment of the Added Territory. Moreover, the CCRL requires that the Agency give consideration to alternative financing sources when it proposes to provide public facilities and improvements with tax increment revenues, in effect causing the examination of alternative financing sources throughout the term of the Amended Plan.

CONCLUSION

The Agency's primary goal is to eliminate blight within the Added Territory. The No Amendment Alternative will not achieve this goal, because blight in the Added Territory could not be addressed through Agency redevelopment assistance. The Financing Alternative, the Limited Redevelopment Activities Alternative and the Alternative Added Territory Alternative would each achieve the Agency's goal in part, but the ultimate success of the Agency's redevelopment effort would be limited by the specific constraints imposed by each alternative. In the end, all alternatives to the Project, including the No Amendment Alternative, fall short of achieving the Agency's goal of neighborhood revitalization and economic improvement through blight elimination in the Added Territory.
EXHIBIT B

STATEMENT OF OVERRIDING CONSIDERATIONS
STATEMENT OF OVERRIDING CONSIDERATIONS

Capitalized terms used but not defined in this Exhibit B shall have the meanings given in the Resolution to which this Exhibit is attached and made a part, or the FEIR, as applicable.

As detailed in Section 2.3 of the FEIR, the Project is expected to create a significant, unavoidable and adverse impact on Air Quality, even after adoption and implementation of all relevant mitigation measures. This Exhibit B constitutes the Statement of Overriding Considerations of the City Council and Agency in connection with the significant, unavoidable and adverse impacts of the Project on Air Quality, made in accordance with CEQA Guidelines, Section 15093.

The City Council and Agency have carefully and independently considered the significant, unavoidable and adverse impacts to Air Quality in deciding whether to approve the Project. Although the City Council and Agency believe that the unavoidable impacts will be lessened by the mitigation measures incorporated into the Project, each recognizes that approval of the Project will nonetheless result in certain unavoidable and potentially irreversible effects.

The City Council and Agency have weighed the benefits to the community of the Project against its environmental risks. The City Council and Agency each specifically find that, to the extent that any adverse or potentially adverse impact has not been mitigated to a level of insignificance, that specific economic, social, legal, environmental, technological or other benefits of the project outweigh the significant effects on the environment. Furthermore, the City Council and Agency each find that any and each of the following considerations is sufficient to approve the Project despite any one or more of the unavoidable impacts to Air Quality identified; that each of the overriding considerations is adopted with respect to each of the impacts individually; and that each consideration is severable from any other consideration should one or more considerations be shown to be legally insufficient for any reason. The following considerations support approval of the Project:

1. The Project will remedy, remove and prevent physical and economic blighting influences which are present in the Added Territory.

2. The Project will encourage increased employment and business opportunities through environmental and economic improvements resulting from the redevelopment activities.

3. The Project will provide for the rehabilitation of commercial and manufacturing structures and residential dwelling units.

4. The Project will revitalize neighborhoods by providing for participation in the redevelopment of property by owners who agree to so participate in conformity with the Plan Amendment.

5. The Project will provide public infrastructure improvements and community facilities, such as the installation, construction and/or reconstruction of streets, utilities, public buildings, facilities, structures, street lighting, landscaping and other improvements which are necessary for the effective redevelopment of the Added Territory.

6. The Project will increase, improve and preserve the community's supply of affordable housing available to eligible families and persons.

7. The Project will encourage the redevelopment of the Added Territory through the cooperation of private enterprise and public agencies.
8. Implementation of the Amended Plan will ensure the development and redevelopment of the Added Territory in a manner consistent with the goals and policies of the City's General Plan, as applicable.

9. Implementation of the Amended Plan will protect the safety of people living and working within the Added Territory by improving the seismic safety features of existing buildings and infrastructure.
The following Mitigation Monitoring & Reporting Program is excerpted from Section 7.3 of the FEIR for the Project.

### AMENDMENT TO THE PORTERVILLE REDEVELOPMENT PROJECT AREA NO. 1 (A REDEVELOPMENT PROJECT) MITIGATION MONITORING & REPORTING PROGRAM

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<tr>
<th>MITIGATION MEASURES</th>
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<td><strong>2.3 AIR QUALITY</strong></td>
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<td>AQ-1. Compliance with the General Plan, its policies and objectives, which are promulgated to reduce air pollutants created within the City, including the Added Territory, and which are incorporated herein by this reference.</td>
<td>Project Applicant</td>
<td>City of Porterville</td>
<td>Pre-Construction</td>
<td>Porterville Community Development Department</td>
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<td>Developer</td>
<td>Redevelopment Agency of the City of Porterville</td>
<td>Construction</td>
<td>San Joaquin Valley Unified Air Pollution Control District</td>
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<td>Redeveloper</td>
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#### 2.5 BIOLOGICAL RESOURCES

The following mitigation measures are recommended as a condition of Amendment adoption:

**B-1.** Prior to site-specific project development approval in potentially biological sensitive areas, a qualified biologist shall be retained by the project proponent to prepare a site-specific biological survey to determine the potential presence of wetlands, special status species, and/or suitable habitat for special status species and application of the appropriate "no net loss" mitigation measures for any identified impacts on same.

**B-2.** No physical alteration of a development site or issuance of building permits shall occur within potentially biologically sensitive areas until evidence is submitted for review and approval by the Agency and the City Planning Department that either no listed flora or fauna species are present, or areas containing habitat for listed species have been avoided, or if avoidance is not possible, that all required consultations with the USFWS and/or CDFG have occurred pursuant to the FESA and CESA, and evidence is provided of any necessary permits, approvals, or agreements from USACE and CDFG for removal of any wetland or riparian habitat and/or associated drainages. Future proposed development engendered by redevelopment shall be consistent with the provisions of any required consultations and associated permits or agreements.

**B-3.** No physical alteration of a development site or issuance of building permits shall occur within existing grasslands or riparian areas until a breeding season survey is conducted by a qualified biologist during spring or early summer (from March 1 through August 15, before development activity takes place) near annual grasslands, large trees, and riparian areas.

**B-4.** On parcels containing potential wetlands, a USACE verified wetland delineation and jurisdictional determination of the parcel shall be completed before any earthmoving or grading activities within or adjacent to potential jurisdictional wetlands and drainages. If the USACE determines that areas on the project site are jurisdictional, all work proposed in these areas shall be authorized by permits from the USACE. All applicable permits from the CDFG and RWQCB will also be obtained before construction in areas under the jurisdiction of these agencies, and provided to the Agency and City Planning Department prior to the initiation of ground disturbing activities or other construction activities.

**B-5.** If construction activities occur within any creek channel, ditches with a defined bed and bank, or within the riparian woodland dripline, the project sponsor shall obtain the appropriate permits from the CDFG. The project sponsor shall provide proof to the Agency and City Planning Department of compliance with the terms and conditions of the permits prior to issuance of the grading permit and prior to any construction in jurisdictional waters.
RESOLUTION NO. ________

A RESOLUTION OF THE PORTERVILLE REDEVELOPMENT AGENCY APPROVING THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1 AND RECOMMENDING THE CITY OF PORTERVILLE CITY COUNCIL APPROVE SAID AMENDMENT

WHEREAS, in accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.), the City Council of the City of Porterville (the "City Council") adopted the Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project No. 1 (the "Original Project Area") on July 10, 1990 by Ordinance No. 1436; and

WHEREAS, the City Council subsequently amended the Plan by adoption of Ordinance No. 1504 on December 15, 1994, for the purpose of establishing time limits in accordance with the requirements of the Community Redevelopment Reform Act of 1993 (Assembly Bill 1290), and later by adoption of Ordinance No. 1655 on July 6, 2004, for the purposes of i) deleting territory from the Original Project Area (thereby resulting in what is hereinafter referred to as the "Existing Project Area"); and ii) eliminating the time limit on the Porterville Redevelopment Agency’s establishment of loans, advances, and indebtedness, as authorized by then recently adopted Senate Bill 211; and

WHEREAS, the Porterville Redevelopment Agency (the “Agency”) has initiated proceedings to amend (the "2010 Amendment") the Plan, as previously amended, for the purposes of i) adding territory (the "Added Territory") to the Existing Project Area, thereby creating the “Amended Plan” and the “Amended Project Area”; ii) reinstating limited Agency eminent domain authority specific to the Existing Project Area; and iii) modifying the Plan’s projects and programs list specific to the Existing Project Area, as appropriate and necessary; and

WHEREAS, the Amended Plan does not authorize the Agency to acquire any property in the Amended Project Area on which any persons reside through the use of eminent domain, and the Amended Plan does not propose public projects that would displace a substantial number of low-or moderate-income persons; therefore, the Agency, by adoption of its Resolution No. PRA 2009-04 on June 2, 2009, determined that a Project Area Committee (PAC) was not required to be formed in connection with the 2010 Amendment pursuant to CCRL Section 33385; and

WHEREAS, the Agency, as lead Agency caused to be prepared a Final Environmental Impact Report for the 2010 Amendment (the "FEIR") pursuant to Section 21151 of the Public Resources Code; and

WHEREAS, pursuant to public notice duly given, a full and fair public hearing has been held on the Amended Plan and the FEIR, and the Agency has considered all written and oral comments and testimony relating thereto and is fully advised thereon; and

ATTACHMENT

ITEM NO. 6
WHEREAS, by Resolution adopted by the Agency, the Agency has certified that the FEIR was completed in compliance with the provisions of the California Environmental Quality Act ("CEQA," Public Resources Code Sections 21000 et seq. and Title 14, California Code of Regulations Sections 15000 et seq.), and that the Agency reviewed and considered the information contained in the FEIR prior to deciding to take action on the 2010 Amendment; and

WHEREAS, the Agency has taken all other actions required by law to prepare and present the Amended Plan.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED THAT THE PORTERVILLE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The foregoing recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Agency hereby finds and determines that significant blight remains within the Existing Project Area and that such blight cannot be eliminated without the use of eminent domain. This finding is based, in part, upon the information and analyses contained in Sections 5.0 and 9.0 of the Agency’s Report to the City Council prepared for the 2010 Amendment (the “Report to Council”) pursuant to the requirements of CCRL Section 33352. The Report to Council is on file in the City Clerk’s Office, 291 North Main Street, Porterville, California, 93257, and is incorporated herein by reference.

Section 3. The Agency hereby approves the 2010 Amendment, a copy of which is on file in the office of the City Clerk and which is incorporated herein and made part hereof by reference.

Section 4. The Agency hereby recommends approval and adoption of the 2010 Amendment by the City Council.

Section 5. The Agency Secretary shall certify to the passage and adoption of this Resolution and it shall thereupon take immediate effect and be in force.

PASSED, APPROVED AND ADOPTED by the Porterville Redevelopment Agency on the ____ day of June, 2010.

________________________________________
Brian Ward
Vice Chairman, Porterville Redevelopment Agency

ATTEST:

________________________________________
John D. Lollis
Secretary, Porterville Redevelopment Agency
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE FINDING AND DETERMINING THAT THE USE OF TAXES ALLOCATED FROM THE TERRITORY PROPOSED TO BE ADDED TO THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1 BY THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1, FOR THE PURPOSE OF PROVIDING AFFORDABLE HOUSING OUTSIDE THE AMENDED PROJECT AREA, WILL BE OF BENEFIT TO THE ADDED TERRITORY AND THE OVERALL REDEVELOPMENT PROJECT

WHEREAS, in accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.), the City Council of the City of Porterville (the "City Council") adopted the Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project No. 1 (the "Original Project Area") on July 10, 1990 by Ordinance No. 1436; and

WHEREAS, the City Council subsequently amended the Plan by adoption of Ordinance No. 1504 on December 15, 1994, for the purpose of establishing time limits in accordance with the requirements of the Community Redevelopment Reform Act of 1993 (Assembly Bill 1290), and later by adoption of Ordinance No. 1655 on July 6, 2004, for the purposes of i) deleting territory from the Original Project Area (thereby resulting in what is hereinafter referred to as the “Existing Project Area”); and ii) eliminating the time limit on the Porterville Redevelopment Agency’s establishment of loans, advances, and indebtedness, as authorized by then recently adopted Senate Bill 211; and

WHEREAS, the Porterville Redevelopment Agency has initiated proceedings to amend (the "2010 Amendment") the Plan, as previously amended, for the purposes of i) adding territory (the "Added Territory") to the Existing Project Area, thereby creating the “Amended Plan” and the “Amended Project Area”; ii) reinstating limited Agency eminent domain authority specific to the Existing Project Area; and iii) modifying the Plan’s projects and programs list specific to the Existing Project Area, as appropriate and necessary; and

WHEREAS, the Amended Plan would provide for the allocation of taxes from the Added Territory to the Agency pursuant to CCRL Section 33670(b); and

WHEREAS, CCRL Section 33334.2 requires that not less than twenty percent (20%) of all taxes which are allocated to the Agency pursuant to CCRL Section 33670 be used by the Agency for purposes of increasing, improving and preserving the community's supply of low- and moderate-income housing available at an affordable housing cost (the “Low and Moderate Income Housing Fund”); and

WHEREAS, pursuant to Sections 33334.2 and 33487 of the CCRL, the State Legislature has declared its intent that the Low and Moderate Income Housing Fund shall be used to improve, preserve, and increase housing in the community available at affordable housing costs to households of limited income; and

ATTACHMENT
ITEM NO. 7
WHEREAS, subsection (g) of CCRL Section 3334.2 authorizes the Agency to use monies from the Low and Moderate Income Housing Fund inside or outside the Amended Project Area, but the Agency may only use the funds outside the Amended Project Area upon resolutions of the Agency and the City Council finding that such use will be of benefit to the Amended Project Area; and

WHEREAS, under said subsection (g) of CCRL Section 3334.2 the State Legislature declares that the provision of replacement housing pursuant to CCRL Section 33413 is always of benefit to a redevelopment project area; and

WHEREAS, the City Council desires by this Resolution to declare that the expenditure of monies from the Low and Moderate Income Housing Fund outside the Amended Project Area for purposes authorized under the CCRL are and will be of benefit to the Amended Project Area.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED THAT THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The above recitals are true and correct and a substantive part of this Resolution.

Section 2. The City Council hereby finds, determines, and declares that the expenditure of monies from the Low and Moderate Income Housing Fund outside the Amended Project Area for purposes authorized under the CCRL are and will be of benefit to the Amended Project Area.

Section 3. The Agency is authorized to expend monies from the Low and Moderate Income Housing Fund for said authorized purposes under the CCRL.

Section 4. The City Clerk shall certify to the passage and adoption of this Resolution, whereupon it shall take immediate effect and be in force.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Porterville on the ____ day of June, 2010.

______________________________
Brian Ward
Vice Mayor, City of Porterville

ATTEST:

______________________________
John D. Lollis
City Clerk, City of Porterville
RESOLUTION NO. ________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CERTIFYING THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1; MAKING WRITTEN FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; AND ADOPTING A MITIGATION MONITORING PROGRAM

WHEREAS, in accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.), the City Council of the City of Porterville (the "City Council") adopted the Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project No. 1 (the "Original Project Area") on July 10, 1990 by Ordinance No. 1436; and

WHEREAS, the City Council subsequently amended the Plan by adoption of Ordinance No. 1504 on December 15, 1994, for the purpose of establishing time limits in accordance with the requirements of the Community Redevelopment Reform Act of 1993 (Assembly Bill 1290), and later by adoption of Ordinance No. 1655 on July 6, 2004, for the purposes of i) deleting territory from the Original Project Area (thereby resulting in what is hereinafter referred to as the "Existing Project Area"); and ii) eliminating the time limit on the Porterville Redevelopment Agency's establishment of loans, advances, and indebtedness, as authorized by then recently adopted Senate Bill 211; and

WHEREAS, the Porterville Redevelopment Agency (the "Agency") has initiated proceedings to amend (the "2010 Amendment") the Plan, as previously amended, for the purposes of i) adding territory (the "Added Territory") to the Existing Project Area, thereby creating the "Amended Plan" and the "Amended Project Area"; ii) reinstating limited Agency eminent domain authority specific to the Existing Project Area; and iii) modifying the Plan's projects and programs list specific to the Existing Project Area, as appropriate and necessary; and

WHEREAS, the above recited Ordinances, including the findings and determinations made by the City Council therein, are made part hereof by reference, and are final and conclusive, there having been no action timely brought to question the validity of said redevelopment plan adoption and amendments; and

WHEREAS, the 2010 Amendment has been prepared in accordance with the provisions of the CCRL; and

WHEREAS, the Agency caused an Initial Study to be prepared to evaluate the potential for adverse environmental impacts to occur as a result of the adoption and implementation of the 2010 Amendment, concluding that a Program Environmental Impact Report (EIR) would be prepared for the 2010 Amendment, and the Initial Study with a Notice of Preparation was mailed to the State Clearinghouse, responsible and trustee agencies and other interested parties; and

ATTACHMENT
ITEM NO. 8
WHEREAS, the Initial Study concluded that implementation of the Amended Plan would have less than significant or no impacts in the following categories: Aesthetics; Cultural Resources; Geology/Soils; Hazards and Hazardous Materials; Hydrology/Water Quality; Land Use/Planning; Mineral Resources; Noise; Population/Housing; Public Services; Recreation; Traffic/Transportation; and Utilities/Service Systems within the Amended Project Area; and

WHEREAS, the Agency, authorized as a "lead agency," prepared a Draft EIR (DEIR) for the adoption of the 2010 Amendment pursuant to the California Environmental Quality Act (the "CEQA Statutes"; Public Resources Code Section 21000 et seq.), and the State Guidelines for Implementation of the California Environmental Quality Act (the "CEQA Guidelines"; Title 14, California Code of Regulations, Section 15000 et seq.; hereinafter, the CEQA Statutes and CEQA Guidelines are collectively referred to as "CEQA"), which DEIR is on file with the City Clerk; and

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

WHEREAS, on April 6, 2010, after reviewing the DEIR in accordance with CEQA Guidelines Section 15025(c), the Porterville Planning Commission (the "Planning Commission"), pursuant to its Resolution No. 38-2010 adopted on April 6, 2010, approved and forwarded to the City Council a report finding that the Amended Plan conforms with the City's General Plan, approved the 2010 Amendment as proposed, and recommended approval and adoption of the 2010 Amendment to the Agency and City Council; and

WHEREAS, all actions required to be taken by applicable law related to the preparation, circulation and review of the DEIR have been taken; and

WHEREAS, public notice having been duly and regularly given, as required by law, a full and fair joint public hearing has been held by the Agency and the City Council concerning the adoption of the 2010 Amendment and approval of the Final EIR (FEIR) related thereto, and all interested persons expressing a desire to comment thereon, or object thereto, have been heard; and

WHEREAS, the FEIR consists of the DEIR, as revised and supplemented to incorporate all comments received during the public review period, if any, and the responses of the Agency to any such comments, and the Mitigation Monitoring Program; and

WHEREAS, the Agency has reviewed and certified the FEIR, made written findings required by CEQA, adopted a Mitigation Monitoring Program, and adopted a Statement of Overriding Considerations with respect to impacts to Air Quality which cannot be mitigated to a less than significant level, all in the exercise of its independent judgment; and

WHEREAS, copies of all documents and the record of proceedings related to the Agency’s approval and certification of the FEIR are on file in the Agency offices, 291 North Main Street, Porterville, California, and the FEIR is on file in the offices of the City Clerk, and all such documents are available for public inspection; and

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WHEREAS, the City Council has reviewed and considered the FEIR and the Mitigation Monitoring Program prepared for the 2010 Amendment, and all comments and responses thereto.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED THAT THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The above recitals are true and correct and a substantive part of this Resolution.

Section 2. A DEIR was prepared to evaluate the potential adverse environmental impacts of the 2010 Amendment and to incorporate previously prepared CEQA analyses, as applicable. It was circulated for a 45-day public review and comment period pursuant to CEQA requirements. The FEIR, which includes written comments, if any, and responses to said comments, was prepared and made available for public inspection at the office of the City Clerk prior to the adoption date of the Agency Resolution certifying the FEIR. The FEIR, including comments, responses, and a proposed Mitigation Monitoring Program, makes minor corrections to the DEIR, and incorporates the DEIR and appendices to the DEIR.

Section 3. The City Council hereby certifies that the FEIR was completed in compliance with CEQA; certifies that the FEIR was presented to the City Council and the City Council has reviewed and considered the FEIR and the information contained therein prior to deciding whether to approve the 2010 Amendment; specifies that the FEIR for the 2010 Amendment constitutes a "Program EIR" for purposes of CEQA Statutes, Section 21090(a); and finds that the FEIR reflects the independent judgment and analysis of the City Council. The City Council further finds that the public comments and responses, if any, to the DEIR following the public comment period do not constitute significant new information as defined in CEQA Statutes Section 21092.1 and in CEQA Guidelines Section 15088.5.

Section 4. The City Council and Agency held a duly noticed joint public hearing on the 2010 Amendment and FEIR on June 1, 2010. All interested persons had the opportunity to present both written and oral comments regarding the 2010 Amendment and the FEIR at the hearing. The City Council has considered all comments received on the DEIR, which comments and responses thereto are contained in the FEIR. These actions having been taken, the FEIR is hereby approved, certified and adopted as the Final Environmental Impact Report for the 2010 Amendment and incorporated herein by reference.

Section 5. The findings made in this Resolution are based upon the information and evidence set forth in the FEIR and upon other substantial evidence in the record of the proceedings on the 2010 Amendment and the FEIR, which include, among other things, the City of Porterville General Plan and the Porterville zoning regulations. The documents, staff reports, plans, specifications, technical studies, and other relevant materials, including, without limitation, the FEIR, that constitute the record of proceedings on which this Resolution is based are on file and available for public examination during normal business hours in the Agency offices, 291 North Main Street, Porterville, California. Additionally, the FEIR is on file and available for public examination during normal business hours in the office of the City Clerk,
City of Porterville, 291 North Main Street, Porterville, California. The custodian of the FEIR is the City Clerk of the City.

Section 6. Based upon the Initial Study, the DEIR, the public comments, if any, and responses thereto, the FEIR and the record before the City Council, the City Council finds that the Amended Plan will not cause significant environmental impacts in the areas of: Aesthetics, Cultural Resources, Geology/Soils, Hazards and Hazardous Materials, Hydrology/Water Quality, Land Use/Planning, Mineral Resources, Noise, Population/Housing, Public Services, Recreation, Transportation/Traffic, and Utilities/Service Systems within the Project Area.

Section 7. Based on the Initial Study, the DEIR, the public comments, if any, and responses thereto, the FEIR, and the record before the City Council, the City Council hereby makes and adopts the CEQA Findings and Statement of Facts as set forth in Exhibit A, attached hereto and incorporated herein by reference. Without limiting the generality of the foregoing sentence, the City Council hereby expressly approves and adopts each of the mitigation measures set forth in the attached Exhibit A, and hereby requires that such mitigation measures shall be implemented in connection with, and are hereby made a part of the Amended Plan. In addition, the City Council acknowledges that it will consider the recommendations contained in the FEIR as it implements specific projects.

Section 8. Based on the foregoing, the City Council hereby finds that the Amended Plan may create significant impacts in the areas of Agricultural Resources, Air Quality and Biological Resources. Based on such Findings of Fact and the foregoing adoption and requirement for mitigation measures, which are contained in Exhibit A and incorporated herein by reference, the City Council hereby finds that mitigation measures have been required in, or incorporated into, the Amended Plan which will eliminate or reduce to a level of insignificance, the potentially significant environmental effects of the Amended Plan identified in the FEIR, except for impacts to Air Quality, as fully described in Section 2.3 of the FEIR. With regard to the impacts in Section 2.3, the City Council finds and determines that implementation of the Amended Plan will have a significant environmental effect on Air Quality, which cannot be mitigated to a level of insignificance.

Section 9. Based on the foregoing, as to the significant impacts to Air Quality, which are not eliminated or substantially lessened, the City Council hereby adopts the Statement of Overriding Considerations as set forth in Exhibit B hereto and incorporated herein by reference, and finds, based upon substantial evidence in the record, including but not limited to the Statement of Overriding Considerations, the specific economic, legal, social, technological and other benefits of the Project outweigh the significant effects to air quality.

Section 10. Exhibit A sets forth, and Section 3.0 of the FEIR more fully describes, a reasonable range of alternatives to the 2010 Amendment, which have been fully considered by the City Council. These alternatives include the "No Amendment Alternative"; the "Limited Redevelopment Activities Alternative," which considers reduced Agency activities in the Added Territory; the "Financing Alternative," which considers supplanting tax increment revenues with funds from a variety of other programs and sources, and the "Alternative Added Territory Alternative," which considers reduction of or enlargement of the Added Territory. As set forth in Sections 7 and 8 of this Resolution, the FEIR identifies feasible mitigation measures for each
significant impact in the FEIR that could be mitigated and in Section 9 adopts a Statement of Overriding Considerations for those impacts that could not be wholly mitigated to a level of insignificance. The City Council hereby finds that the alternatives described in the FEIR and identified in Exhibit A are not feasible because they would not achieve the basic objectives of the Amended Plan, or would do so only to a much smaller degree and therefore leave unaddressed significant social, physical and economic problems the Amended Plan is intended to eliminate. Of the reasons set forth herein in the attached Exhibit A, in the record of the City Council's proceedings or in the FEIR, none of the alternatives, including the No Amendment alternative, is environmentally superior to the 2010 Amendment because each would reduce redevelopment and blight removal activities, limit job creation, and constrain the Agency's ability to correct current deficiencies.

Section 11. The City Council hereby finds and determines that the mitigation measures and the Mitigation Monitoring Program set forth in the FEIR will mitigate or avoid all significant environmental effects that can feasibly be mitigated or avoided. The City Council hereby adopts the Mitigation Monitoring Program as set forth in Section 7.0 of the FEIR and attached hereto as Exhibit C and incorporated herein by reference. This program will be used to monitor the changes to conditions in the Amended Project Area, and should be made a condition of approval as set forth in Sections 7 and 8 above and in Exhibit A to this Resolution.

Section 12. Upon adoption of the 2010 Amendment by the City Council, the City Clerk shall cause a Notice of Determination to be filed forthwith in the Office of the County Clerk of the County of Tulare, pursuant to CEQA Guidelines Section 15094.

Section 13. The City Clerk shall certify to the passage and adoption of this Resolution and it shall thereupon take immediate effect and be in force.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Porterville on the ___ day of June, 2010.

________________________________________
Brian Ward
Vice Mayor, City of Porterville

ATTEST:

________________________________________
John D. Lollis
City Clerk, City of Porterville
EXHIBIT A

FINDINGS OF FACT
I. FINDINGS CONCERNING THE SIGNIFICANCE OF SPECIFIC ENVIRONMENTAL IMPACTS IDENTIFIED IN THE FINAL PROGRAM ENVIRONMENTAL IMPACT REPORT.

Capitalized terms used but not defined in this Exhibit A shall have the meanings given in the Resolution to which this Exhibit A is attached and made part (the "Resolution") or in the FEIR as applicable.

As further provided in the Resolution the mitigation measures set forth below in this Part I of Exhibit A are each expressly approved and adopted by the City Council and the Agency and incorporated into and made requirements of the Project pursuant to the Plan Amendment.

As used below in this Part I of Exhibit A, the phrases "insignificant" or "less than significant" or similar words as found in various subsections headed "Level of Significance After Mitigation" mean, for purposes of the CEQA Guidelines, with particular reference to CEQA Guidelines, Section 15091(a)(1), that:

Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant effect as identified in the Final EIR.

Please refer to the applicable sections of the FEIR, incorporated herein by reference, for additional information concerning Project impacts and required mitigation measures and further explanation of the rationale for the significance findings set forth below in this Part I of Exhibit A.

A. AGRICULTURAL RESOURCES

IMPACTS

AGRICULTURE

No land included in the Added Territory is under a Williamson Act contract or is subject to any Farmland Security Zones requirements. The Amended Plan is required by law to be consistent with the General Plan, as it currently exists and as it may be amended from time to time. Adoption of the 2010 Amendment will not directly affect existing or future City General Plans, or specific plan policies and/or programs, or regulations contained within the City's Zoning Ordinance that have been established, or that may be modified, by the City Council and Planning Commission anywhere within the Added Territory, because neither the Agency nor the Amendment directly affects land use policy or regulation. There is a small amount of agricultural land which is currently in agricultural production in the Added Territory which has the potential to be converted to more urbanized uses as a result of General Plan implementation. A total of approximately 113 acres in the Added Territory have been identified as potential Prime Farmland or Farmland of Local Importance of which approximately 0.0 acres appear to be in active agricultural use.
MITIGATION MEASURES

With respect to mitigation measures for the 2030 General Plan, the General Plan concludes that conversion of Prime, Important, and Unique Farmland to urban use is not directly mitigable, aside from preventing development altogether. The General Plan policies provide a frame work for preventing long-term impacts, thereby limiting conversion of important farmland areas to the minimum extent needed to accommodate long-term growth. With respect to the Added Territory, this Program EIR incorporates the policies to reduce impacts contained within the 2030 General Plan EIR being available feasible mitigation measures. No mitigation measures beyond those previously incorporated from the 2030 General Plan EIR are recommended as a condition of approval of the 2010 Amendment. Additional mitigation measures may be imposed at such time as specific projects are proposed and reviewed.

B. AIR QUALITY

IMPACTS

SHORT-TERM IMPACTS:

A specific project's construction phase produces many types of emissions, especially particulate matter. The SJVAPCD recognizes that construction equipment also emits carbon monoxide and ozone precursor emissions; however, the SJVAPCD has determined that these emissions may cause a significant air quality impact only in the cases of very large or very intense construction projects; consequently, it is reasonable that construction impact significance should be determined on a case-by-case, site-specific project basis. Projects falling below the SJVAPCD's pre-calculated project size/ emissions thresholds qualify for what the SJVAPCD refers to as the Small Project Analysis Level (SPAL). Individual, Agency-assisted projects, as they are identified and when they occur, may well fall below the SJVAPCD's SPAL threshold, and thus have individually insignificant short-term impacts if occurring one at a time.

LONG TERM IMPACTS:

The main sources of long-term air quality impacts due to emissions generated by Agency-assisted implementation projects will be from motor vehicles, just as build-out of the General Plan, without the 2010 Amendment, would result in increased motor vehicle emissions. Since it is unknown what particular industries or commercial operations might locate within the Added Territory, or what size or type of residential development will occur, or when, as a result of Agency assistance, accurate, non-speculative projections of potential emissions levels are not appropriate at this time and must be assessed and conducted on a project-by-project basis. All proposed Agency-assisted projects, as well as non-Agency-assisted projects, must meet development densities and intensities permitted under the General Plan, and must comply with emission standards and rules, as amended, which are regulated and controlled principally through the SJVAPCD.

MITIGATION MEASURES

The following enumerated mitigation measures are recommended as a condition of 2010 Amendment approval to be applied to future Agency-assisted, site specific projects, as appropriate and applicable.
AQ-1. Compliance with the General Plan, its policies and objectives, which are promulgated to reduce air pollutants created within the City, including the Added Territory, and which are incorporated herein by this reference.

SHORT-TERM

AQ-2. Compliance with the SJVAPCD's Regulation VIII Control Measures For Construction Emissions of PM10 (Fugitive Dust Control), which contains construction (short-term) mitigation measures required by the SJVAPCD; these mitigation measures are incorporated herein by this reference. Individual, site-specific project implementation should coordinate regulation enforcement with the SJVAPCD.

LONG-TERM

AQ-3. Compliance with the SJVAPCD's Rule 2201, which sets emission thresholds above which stationary pollution sources must offset all emissions down to the thresholds.

AQ-4. Compliance with SJVAPCD's Indirect Source Review requirement, Rule 9510, which reduces the growth of NOx and PM10 emissions in the SJVAB by requiring construction and operational emissions from new development projects of certain size be reduced by certain percentages on-site, or through the payment of an offset fee to be used to gain off-site emissions reductions (addresses both short-term and long-term impacts)

AQ-5. Implement all feasible mitigation measures, as may be appropriate, to reduce the amount of ozone precursors that will result from Project implementation.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

The proposed Project is found to have unavoidable significant impacts upon Air Quality Resources which cannot be reduced to a less than significant level even with the inclusion of mitigation measures recommended as condition of Project approval. Therefore, in order to proceed with adoption of the Amendment a statement of overriding considerations would be required pursuant to CEQA Guidelines, Section 15093 in certifying the EIR prior to such adoption.

C. BIOLOGICAL RESOURCES

IMPACTS

Redevelopment in the Added Territory could assist in encouraging private development and financing public improvements necessary for development pursuant to the General Plan. Approximately 207 acres of vacant (undeveloped) land, 9.5 acres of land in existing apparent agricultural use (approximately 55 of these acres are designated by the General Plan as Parks and Recreation or Commercial Recreation land uses), and 24 acres of previously urbanized land existing in the 1,520-acre Added Territory, or approximately 16 percent. The remainder is urbanized, consisting of existing commercial, industrial, residential and public land uses. To the extent that these small
pockets of undeveloped or marginally developed parcels contain vestiges of habitat, special status species or wetlands, such Agency-implemented redevelopment activities, and development either directly or indirectly supported by redevelopment, could result in the removal of vegetation in the Added Territory, and could involve encroachment into or construction of infrastructure within remaining sensitive habitats. This is a potentially significant impact.

Any alterations of State regulated waters (e.g., the Tule River) and immediately adjacent riparian vegetation must be in conformance with Section 1600 of the State Fish and Game Code. Compliance with this regulation would include the preparation of mitigation plans that provide for no net loss of CDFG-regulated riparian habitat along the Tule River through the avoidance, creation, restoration, enhancement, and/or preservation of riparian habitat. Therefore, securing the required Streambed Alteration Agreement (SAA) would protect the hydrology and ecology of the River and ensure no net loss of riparian habitat along or within the river. General Plan implementation policies OSC-I-29, 31, 35 and 36 were adopted to ensure identification of any wetlands within the riparian habitats prior to any construction and to mitigate temporary and permanent impacts on riparian habitat within the City Planning Area, including areas not covered by Section 1600 of the Fish and Game Code. This would occur through the identification of the amount of riparian habitat removed and then the creation, restoration, enhancement, and/or preservation of riparian habitat; and the development of a detailed mitigation and/or restoration plan to offset loss of this community that would monitor it’s success, and ensure that once mitigated or preserved, these sensitive communities are appropriately protected from disturbance. The results of this effort, in combination with compliance with State Fish and Game Code, NPDES Regulations, local water quality, and runoff standards regulations, would be either avoidance of existing features, or on- or off-site mitigation as permitted by the regulatory agencies. With implementation of these mitigation measures and compliance with state and federal regulations, the direct impact to sensitive riparian habitats is less than significant.

According to the General Plan EIR, "[s]ome development that may occur [in the 36,000-acre Planning Area] under the proposed General Plan is located along the outskirts of the urbanized areas on previously undeveloped sites, but this would not result in the exclusion of species from their normal migration routes. No development is proposed directly within the Tule River channel on any watercourse, and therefore, would not interfere with the movement of any fish species. Therefore, development within the planned urban areas would not interfere with the movement of fish or other wildlife species that migrate through the already urbanized areas of the City, and impacts would be less than significant."

MITIGATION MEASURES

In addition to General Plan Open Space and Conservation Element Implementation Policies OSC-I- 26 through 29, 31, and 35-36 identified above, the following mitigation measures will ensure that potential impacts to remaining habitat, special status species or wetlands on vacant or undeveloped land in the Added Territory are reduced to less than significant levels.

B-1. Prior to site-specific project development approval, a qualified biologist shall be retained by the project proponent to prepare a site-specific biological survey to determine the potential presence of wetlands, special status species, and/or suitable habitat for special status species and application of the appropriate "no net loss" mitigation measures for any identified impacts on same.
B-2. No physical alteration of a development site or issuance of building permits shall occur within potentially biologically sensitive areas until evidence is submitted for review and approval by the Agency and the City Planning Division that either no listed flora or fauna species are present, or areas containing habitat for listed species have been avoided, or if avoidance is not possible, that all required consultations with the USFWS and/or CDFG have occurred pursuant to the FESA and CESA, and evidence is provided of any necessary permits, approvals, or agreements from USACE and CDFG for removal of any wetland or riparian habitat and/or associated drainages. Future proposed development engendered by redevelopment shall be consistent with the provisions of any required consultations and associated permits or agreements.

B-3 No physical alteration of a development site or issuance of building permits shall occur within existing grasslands or riparian areas until a breeding season survey is conducted by a qualified biologist during spring or early summer (from March 1 through August 15, before development activity takes place) near annual grasslands, large trees, and riparian areas.

B-4 On parcels containing potential wetlands, a USACE verified wetland delineation and jurisdictional determination of the parcel shall be completed before any earthmoving or grading activities within or adjacent to potential jurisdictional wetlands and drainages. If the USACE determines that areas on the project site are jurisdictional, all work proposed in these areas shall be authorized by permits from the USACE. All applicable permits from the CDFG and RWQCB will also be obtained before construction in areas under the jurisdiction of these agencies, and provided to the Agency and City Planning Department prior to the initiation of ground disturbing activities or other construction activities.

B-5 If construction activities occur within any creek channel, ditches with a defined bed and bank, or within the riparian woodland drip line, the project sponsor shall obtain the appropriate permits from the CDFG. The project sponsor shall provide proof to the Agency and City Planning Division of compliance with the terms and conditions of the permits prior to issuance of the grading permit and prior to any construction in jurisdictional waters.

LEVEL OF SIGNIFICANCE AFTER MITIGATION

Although the habitat value in the Added Territory is low, development within the Added Territory will be required to participate in mitigation plans approved by the State resource agencies if need be, which would replace lost habitat and preserve contiguous areas of habitat. In addition, development within the Added Territory would implement mitigation measures specifically designed to avoid, reduce, or mitigate impacts to special status/sensitive species and their habitat. Implementation of adopted mitigation measures on a project by project basis, in combination with compliance with General Plan Open Space and Conservation Implementation Policies, CESA, FESA, CWA Regulations, NPDES permit requirements, and the Fish and Game Code of California, reduce potential cumulative losses to the regional special-status and sensitive plant and wildlife and their habitat. Therefore, the 2010 Amendment would have a less-than-significant impact on special status species and their habitat.
II. FINDINGS CONCERNING THE PROJECT ALTERNATIVES

The following are summaries of alternatives to the Project, as currently proposed, which are examined in more detail in Section 3.0 of the FEIR.

NO AMENDMENT ALTERNATIVE

The No Amendment alternative would generate less intense development within the Added Territory, and therefore fewer environmental impacts. However, abandonment of the Amended Plan will not stop all development in the Added Territory and the environmental consequences resulting from implementation of those, as of yet undescribed development actions, will necessarily follow. Moreover, abandonment of the Amendment as proposed will deprive the Agency of the means to ameliorate the existing conditions of blight in the Added Territory, and to build the facilities necessary to avoid the more severe environmental consequences that could be attributed to "piecemeal" development which could exceed the available capacity of public infrastructure. Thus, the No Amendment alternative is not environmentally superior to the 2010 Amendment because, in actuality it would involve only a marginally lesser degree of redevelopment/development, albeit that would occur in a more piecemeal and unstructured fashion. Development of this fashion would not likely benefit from Agency-supported facility improvements, such as roadways, flood control facilities, and the like, which condition would in and of itself cause or be impacted by unacceptable environmental consequences.

ALTERNATIVE ADDED TERRITORY ALTERNATIVE

An "Alternative Added Territory Alternative," one that would consist of either more or fewer parcels than that number selected for the Project, does not take into consideration that the Added Territory Area, as proposed, was selected based upon existing conditions and an identified need for redevelopment.

An extension of Added Territory boundaries is not environmentally superior to the Amendment, as proposed, because the environmental benefits of the proposed Amendment that would be realized as a consequence of the implementation of the projects and programs included in Appendix B, might not be fully implemented if this alternative were selected. An extension of Added Territory boundaries as proposed is inappropriate because a larger Added Territory would have greater environmental consequences (due to more intense development of a broader area) without providing social and economic benefits comparable to those of the Amendment, and is therefore not environmentally superior to the Amendment.

The deletion of residential properties is not environmentally superior to the Amendment as proposed because the benefits of the Amendment that can realistically be expected to occur as the result of the long-term implementation of the projects and programs included in Appendix B of this EIR, such as: i) implementing the General Plan and facilitating creation of a more cohesive and better functioning community, ii) improving circulation, utilities and other infrastructure deficiencies, iii) improving existing community services and facilities as necessary, and to provide new services as necessary to complement redevelopment. These benefits of the Amendment outweigh the environmental benefits of the alternative to the Amendment which would include reduced traffic generation, reduced wastewater generation, reduced air contaminants, and reduced water consumption.

12
LIMITED REDEVELOPMENT ACTIVITIES ALTERNATIVE

The Limited Redevelopment Activities alternative is not an environmentally superior alternative to the Amendment because the environmental benefits of the Limited Redevelopment Activities, such as a decrease in short-term impacts and long-term impacts are outweighed by the concomitant negative impacts that would result from limited redevelopment activity such as: 1) increased growth impacts on existing public facilities without upgrading those facilities and 2) the restrictions on the Agency's ability to mitigate current infrastructure deficiencies and undertake aesthetic improvements in the Added Territory.

FINANCING ALTERNATIVE

Various financing programs, as an alternative to the 2010 Amendment adoption, might include Revenue Bonds, Community Development Block Grant funds, Economic Development Administration funds, special assessment districts, such as Infrastructure Financing Districts (IFDs), and/or other County, State and federal assistance and funding programs, some of which are currently being used, as available and permitted by law. Although most of these programs may be used to supplement the tax increment financing enabled by the CCRL through redevelopment, each financing program, taken alone, has inherent limitations and disadvantages; therefore, reliance on any of these sources as a sole financing tool is not considered feasible. Existing disadvantages associated with the Financing Alternative would jeopardize the Amendment's long-term implementation and prevent the Agency from being able to effect positive economic and physical changes within the Added Territory. Therefore, this alternative would allow existing conditions of deficiency, which negatively affect the proper utilization of the Added Territory, to continue without a substantial means of abatement. In contrast, adoption of the Amendment will lead to a steadily available source of funding through tax increment revenues for an extended period of time. Additionally, to obtain increased benefits, the Plan Amendment allows the Agency to take advantage of all available financing sources and programs allowed by law, in addition to its tax increment receipts in order to effect redevelopment of the Added Territory. Moreover, the CCRL requires that the Agency give consideration to alternative financing sources when it proposes to provide public facilities and improvements with tax increment revenues, in effect causing the examination of alternative financing sources throughout the term of the Amended Plan.

CONCLUSION

The Agency's primary goal is to eliminate blight within the Added Territory. The No Amendment Alternative will not achieve this goal, because blight in the Added Territory could not be addressed through Agency redevelopment assistance. The Financing Alternative, the Limited Redevelopment Activities Alternative and the Alternative Added Territory Alternative would each achieve the Agency's goal in part, but the ultimate success of the Agency's redevelopment effort would be limited by the specific constraints imposed by each alternative. In the end, all alternatives to the Project, including the No Amendment Alternative, fall short of achieving the Agency's goal of neighborhood revitalization and economic improvement through blight elimination in the Added Territory.
EXHIBIT B

STATEMENT OF OVERRIDING CONSIDERATIONS
STATEMENT OF OVERRIDEING CONSIDERATIONS

Capitalized terms used but not defined in this Exhibit B shall have the meanings given in the Resolution to which this Exhibit is attached and made a part, or the FEIR, as applicable.

As detailed in Section 2.3 of the FEIR, the Project is expected to create a significant, unavoidable and adverse impact on Air Quality, even after adoption and implementation of all relevant mitigation measures. This Exhibit B constitutes the Statement of Overriding Considerations of the City Council and Agency in connection with the significant, unavoidable and adverse impacts of the Project on Air Quality, made in accordance with CEQA Guidelines, Section 15093.

The City Council and Agency have carefully and independently considered the significant, unavoidable and adverse impacts to Air Quality in deciding whether to approve the Project. Although the City Council and Agency believe that the unavoidable impacts will be lessened by the mitigation measures incorporated into the Project, each recognizes that approval of the Project will nonetheless result in certain unavoidable and potentially irreversible effects.

The City Council and Agency have weighed the benefits to the community of the Project against its environmental risks. The City Council and Agency each specifically find that, to the extent that any adverse or potentially adverse impact has not been mitigated to a level of insignificance, that specific economic, social, legal, environmental, technological or other benefits of the project outweigh the significant effects on the environment. Furthermore, the City Council and Agency each find that any and each of the following considerations is sufficient to approve the Project despite any one or more of the unavoidable impacts to Air Quality identified; that each of the overriding considerations is adopted with respect to each of the impacts individually; and that each consideration is severable from any other consideration should one or more considerations be shown to be legally insufficient for any reason. The following considerations support approval of the Project:

1. The Project will remedy, remove and prevent physical and economic blighting influences which are present in the Added Territory.

2. The Project will encourage increased employment and business opportunities through environmental and economic improvements resulting from the redevelopment activities.

3. The Project will provide for the rehabilitation of commercial and manufacturing structures and residential dwelling units.

4. The Project will revitalize neighborhoods by providing for participation in the redevelopment of property by owners who agree to so participate in conformity with the Plan Amendment.

5. The Project will provide public infrastructure improvements and community facilities, such as the installation, construction and/or reconstruction of streets, utilities, public buildings, facilities, structures, street lighting, landscaping and other improvements which are necessary for the effective redevelopment of the Added Territory.

6. The Project will increase, improve and preserve the community's supply of affordable housing available to eligible families and persons.
7. The Project will encourage the redevelopment of the Added Territory through the cooperation of private enterprise and public agencies.

8. Implementation of the Amended Plan will ensure the development and redevelopment of the Added Territory in a manner consistent with the goals and policies of the City’s General Plan, as applicable.

9. Implementation of the Amended Plan will protect the safety of people living and working within the Added Territory by improving the seismic safety features of existing buildings and infrastructure.
EXHIBIT C

MITIGATION MONITORING & REPORTING PROGRAM
The following Mitigation Monitoring & Reporting Program is excerpted from Section 7.3 of the FEIR for the Project.

### AMENDMENT TO THE PORTERVILLE REDEVELOPMENT PROJECT AREA NO. 1 (A REDEVELOPMENT PROJECT) MITIGATION MONITORING & REPORTING PROGRAM

<table>
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<tr>
<th>MITIGATION MEASURES</th>
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<tr>
<td><strong>2.3 AIR QUALITY</strong></td>
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<td>The following mitigation measures are recommended as a condition of Amendment adoption:</td>
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<tr>
<td><strong>AQ-1.</strong> Compliance with the General Plan, its policies and objectives, which are promulgated to reduce air pollutants created within the City, including the Added Territory, and which are incorporated herein by this reference.</td>
<td>Project Applicant Developer Redeveloper</td>
<td>City of Porterville Redevelopment Agency of the City of Porterville San Joaquin Valley Unified Air Pollution Control District</td>
<td>Pre-Construction Construction</td>
<td>Porterville Community Development Department San Joaquin Valley Unified Air Pollution Control District</td>
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<td><strong>SHORT-TERM</strong></td>
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<td><strong>AQ-2.</strong> Compliance with the SJVAPCD’s Regulation VIII Control Measures For Construction Emissions of PM$_{10}$ (Fugitive Dust Control), which contains construction (short-term) mitigation measures required by the SJVAPCD; these mitigation measures are incorporated herein by this reference. Individual, site-specific project implementation should coordinate regulation enforcement with the SJVAPCD.</td>
<td>Project Applicant Developer Redeveloper</td>
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<td><strong>AQ-3.</strong> Compliance with the SJVAPCD’s Rule 2201, which sets emission thresholds above which stationary pollution sources must offset all emissions down to the thresholds.</td>
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<td>City of Porterville Redevelopment Agency of the City of Porterville San Joaquin Valley Unified Air Pollution Control District</td>
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<td><strong>AQ-4.</strong> Compliance with SJVAPCD’s Indirect Source Review requirement, Rule 9510, which reduces the growth of NOx and PM$_{10}$ emissions in the SJVAB by requiring construction and operational emissions from new development projects of certain size be reduced by certain percentages on-site, or through the payment of an offset fee to be used to gain off-site emissions reductions (addresses both short-term and long-term impacts)</td>
<td>Project Applicant Developer Redeveloper</td>
<td>City of Porterville Redevelopment Agency of the City of Porterville San Joaquin Valley Unified Air Pollution Control District</td>
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<td><strong>AQ-5.</strong> Implement all feasible mitigation measures, as may be appropriate, to reduce the amount of ozone precursors that will result from Project Implementation.</td>
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<td>B-1. Prior to site-specific project development approval in potentially biological sensitive areas, a qualified biologist shall be retained by the project proponent to prepare a site-specific biological survey to determine the potential presence of wetlands, special status species, and/or suitable habitat for special status species and application of the appropriate &quot;no net loss&quot; mitigation measures for any identified impacts on same.</td>
<td>Project Applicant Developer Redeveloper</td>
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RESOLUTION NO. __________

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE RECEIVING AND APPROVING WRITTEN FINDINGS PREPARED IN RESPONSE TO WRITTEN OBJECTIONS, COMMUNICATIONS AND SUGGESTIONS RECEIVED AT OR BEFORE THE JOINT PUBLIC HEARING CONDUCTED FOR THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1

WHEREAS, the Porterville Redevelopment Agency (the “Agency”) has initiated proceedings to amend (the “2010 Amendment”) the Redevelopment Plan (the “Plan”) for the Porterville Redevelopment Project No. 1 (the “Project” or “Existing Project Area,” as appropriate) for the purposes of i) adding territory (the “Added Territory”) to the Existing Project Area; ii) reinstating limited Agency eminent domain authority specific to the Project Area adopted on July 10, 1990; and iii) modifying and creating the Plan’s projects and programs list specific to the Existing Project Area all pursuant to the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.); and

WHEREAS, on June 1, 2010, the Agency held a duly noticed joint public hearing with the City Council of the City of Porterville (the “City Council”) to consider the proposed 2010 Amendment; and

WHEREAS, any and all persons having any objections to the 2010 Amendment or who deny the existence of blight in the Added Territory or Existing Project Area, or the regularity of any of the prior proceedings, were given an opportunity to submit written objections, communications and suggestions prior to the commencement of or at the joint public hearing and to give oral testimony at the joint public hearing and show cause why the 2010 Amendment should not be approved and adopted; and

WHEREAS, the City Council has heard and considered all evidence, both written and oral, presented in support of and in opposition to the 2010 Amendment; and

WHEREAS, pursuant to CCRL Section 33363, before adopting a redevelopment plan [in this case an amendment thereto] the City Council is required to make written findings in response to each written objection, communication or suggestion of an affected property owner or taxing entity; and

WHEREAS, pursuant to the CCRL the City Council shall respond in writing to the written objections, comments and suggestions received before or at the noticed joint public hearing, including any extensions thereof, and may additionally respond to the written objections, communications and suggestions that are received after the hearing; and

WHEREAS, certain written objections, communications and suggestions to the 2010 Amendment were received on or before the joint public hearing and are attached hereto as Exhibit A and incorporated herein by reference.
NOW, THEREFORE, BE IT RESOLVED AND ORDERED THAT THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. Having reviewed such written objections, communications and suggestions, the City Council, pursuant to CCRL Sections 33363 and 33364, hereby adopts as its written findings Exhibit B, which is attached hereto and incorporated herein by this reference, in response to each written objection, communication and suggestion set forth in Exhibit A.

Section 3. The City Council has not accepted specified written objections, communications and suggestions for the reasons set forth in the attached Exhibit B.

Section 4. The City Clerk shall certify to the passage and adoption of this Resolution and it shall thereupon take immediate effect and be in force.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Porterville on the 15th day of June, 2010

__________________________
Pete V. McCracken
Mayor, City of Porterville

ATTEST:

__________________________
John D. Lollis
City Clerk, City of Porterville
EXHIBIT "A"

WRITTEN OBJECTIONS, COMMUNICATIONS AND SUGGESTIONS
City Council Members,

My name is Candace Boulton and I live at 123 S. Williams Drive in Porterville. I have come to speak to you regarding the Proposed 2010 Amendment to the Redevelopment Plan for the Redevelopment Project No 1. You may be glad to hear that I am in favor of the proposed Amendment to the Redevelopment Plan and to the Redevelopment Project No 1. However, my neighbors and I became very concerned when one of the houses on our street and the empty land at the end of our street were included in the Amended Plan, Sub Area D. Our first concern was, how would this plan affect our unique neighborhood, and what did the city have planned for the land between Williams Drive and Corona Drive? Since only one neighbor had been informed of the Workshops provided by the Redevelopment Agency we didn’t have any information and we became worried.

Many of my neighbors and I attended the Workshop on May 26, 2010 and received information which allayed many of my fears regarding the Proposed Amendment. At the same time I believe that a lack communication regarding the Project and the Plan is what upset us. The Project sounds like “The Projects” as “the projects” in Chicago. The Plan sounded like the General Plan for the City of Porterville. I hope you understand how we began to jump to conclusions.

I am here though to make requests for the future. First, please make every attempt to give information to the general public with more than just the required Public Notices in the back of the Porterville Recorder. A short article is needed to inform all citizens of the Proposed changes to the City’s General Plan and all meetings, which will discuss zoning changes of any kind. I may not live next to the area undergoing change, but it could affect my children or my grandchildren. Your constituency in this small neighborhood, made up of businessmen and women, business owners, professionals, and professional educators, wants to be involved in the future of our community. Please, help us to do so with improved communication.

Second, we would like to be allowed to make suggestions, at the appropriate time, for what types of improvements should be made to the bare land surrounding our neighborhood, including the archeological site with the Indian grinding rocks, and with regard to the habitats for the San Joaquin kit fox and the Turkey vultures in our area. In conclusion, I support the Redevelopment Plan, but my continued support and trust of the Council will be based upon improved communications, and being allowed to be involved in the changes to the General Plan.

Thank you for your attention.
Dorothy Martin  
141 South William Drive  
Porterville, California

Dear City Council Members/Porterville Redevelopment Agency,

I have lived for the past 39 years at my home on Williams Drive. I am here to object to the inclusion of the Williams Drive, Corona Street hill into the Porterville Development Project. I hold this view because of several reasons.

Our Location has good infrastructure and is a beautiful area. It is definitely not a blighted area, nor are there any distressed residencies or properties in this location. Public Safety is also not an issue as indicated by rare police activity.

Properties in the area maintain their land values as the area homes have wonderful esthetic appearance and are well cared for. The average residential sales are not below other well maintained areas of Porterville.

I also believe that we should be excluded from the project because the 300 foot buffer zone is “not” mandated. Therefore, the hill acreage does not have to be used in this manner and there is no legal reason for it to be used in this way.

I do not believe the hill properties meet the criteria and descriptions indicated by the Project Development Plan.

Although I am against including our hill area in the development project I do believe that the Porterville Redevelopment Project is vitally important to our city. Explanations by the Developmental Agency and especially the City Planner were enlightening and clarified what the Porterville Redevelopment Project included. This project will help many Porterville businesses and citizens.

I respectfully again submit that I am against the acquisition of the Corona, Williams Drive area into the Porterville Development Project. Hopefully you will consider my recommendation and eliminate it from the Development Project.

Thank You,

Dorothy Martin
Dorothy Martin  
141 South William Drive  
Porterville, California

Dear City Council Members/Porterville Redevelopment Agency

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Properties in the area maintain their land values as the area homes have wonderful esthetic appearance and are well cared for. The average residential sales are not below other well maintained areas of Porterville.

I also believe that we should be excluded from the project because the 300 foot buffer zone is "not" mandated. Therefore, the hill acreage does not have to be used in this manner and there is no legal reason for it to be used in this way.

Building 7.5 homes on each acre is impractical and possibly a public safety hazard. Plano is the main thoroughfare which people use to take to get to school, work and downtown. Williams and Corona hill residents exit the hill on Plano Street. It is an extremely busy street. Traffic is heavy because of the many schools that are close by. There are 5 elementary schools and two highscoles. People also travel Plano to commute to the Porterville Developmental Center. With the projected completion of the new courthouse, traffic will again increase. If the "hill" developed a higher density of homes the traffic would again increase. It is difficult now to turn onto Plano and increased traffic would make it even harder. I believe that the "hill" should be re-zoned to have three homes per acre. This number of homes would make it reflect the surrounding neighborhood and possibly lesson the traffic problem.
Overall I do not believe the hill properties meet the criteria and descriptions indicated by the Project Redevelopment Plan.

Although I am against including our hill area in the Redevelopment Project I do believe that the Porterville Redevelopment Project is vitally important to our city. Explanations by the Developmental Agency and especially the City Planner were enlightening and clarified what the Porterville Redevelopment Project included. This project will help many Porterville businesses and citizens.

I respectively again submit that I am against the acquisition of the Corona, Williams Drive "hill" area into the Porterville Redevelopment Project. Hopefully you will consider my recommendation and eliminate it from the Redevelopment Project.

Thank You,

Dorothy Martin
To City Council,

My name is Dave Hall and I live at 148 S. Williams Drive, Porterville.

I recently learned of the City of Porterville’s Redevelopment Plan. While I am in favor of communities having such plans, I am concerned with the redevelopment’s boundary line as it directly relates to my neighborhood.

After attending the informational meeting hosted by the redevelopment consultation firm, I understand the financial benefits that redevelopment bring to a community. I also understand that redevelopment helps removes boundaries to developers, and encourages new construction to stimulate the local economy and provide needed services and affordable housing.

The consultants informed us that the redevelopment boundary line was based on those areas needing the most improvement and specifically where blight was an issue. We were also told that areas within a 300 foot area adjacent to a blighted area, are affected by the blighted area, and thus the boundary is expanded by 300 feet from the target zone.

The homes, apartments and properties located South of Corona and East of Plano have been designated as a blighted area in the redevelopment plan. Additionally, the vacant lots and the home at 166 S. Williams Drive located across the street, North of Corona, have also been included based on the 300-foot expansion process.

This ‘expanding’ process appears reasonable and in most situations accurate. However, there are times when special circumstances warrant changes to this process.

The home at 166 S. Williams Drive was a custom built home in the 1950’s and has only had two owners. The home is not considered blight to the area, and is in need of no renovation. It seems odd that the consultants would not have taken this home’s excellent condition into account when creating the redevelopment boundary. Simply excluding this home from the plan would have been easy when the process was first begun. It appears they did not take the time to closely examine their 300-foot expansion process to see where it might negatively impact a particular property.

The consultants state that the redevelopment zone and surrounding areas always increase in value. While this is a reasonable observation for the overall plan, there will always be areas that do not follow this trend. Our neighborhood is one such model.

The homes located on Williams Drive and Park Avenue (generally referred to as Murry Hill) are all custom built homes on large lots many of which are over an acre. Unfortunately, the vacant lots are zoned to accommodate a subdivision of 7 homes per acre. If these lots are developed using redevelopment monies, then affordable housing is the most likely tenant. Small single-family homes or multi-plex units on small lots would not increase the value of the existing homes on Murry Hill.
If the vacant lots are approved as part of the redevelopment plan, it will "remove barriers" for a developer of low income housing to consider building on that site. This will devalue the existing homes on Murry Hill and may have other negative effects on the local neighborhood, such as increased traffic congestion, as well as additional water, sewer, and trash responsibilities that the city must manage, increased road maintenance, and heavier burdens on the Police and Fire departments. It should not be made any easier for a developer to build homes that are inconsistent with the rest of the homes on Murry Hill and inclusion of the vacant lots is opposed to that ideal.

I ask that at minimum you remove the home at 166 S. Williams Drive from the planned redevelopment area. Additionally, I believe the vacant lots, North of Corona and East of Plano, should also be excluded from the redevelopment area.

Thank you for considering this matter.

Dave Hall
148 S. Williams Drive
Porterville, Ca 93257
559-793-0655
Porterville Redevelopment Agency

From:
Kerley Gilbert
15710 Williams Dr.
Porterville, California

Subject:
Area D-Williams Dr., Park Dr., East of Plan

I am for redevelopment in my city. Help is needed with deteriorating buildings, inadequate conditions of streets and housing. As the city deleted twenty-six acres of the proposals in 1990 depending on context as surveys show, the project area around Williams Dr. should be deleted as it does not meet the criteria of recent or blighted area. This area is well preserved and maintained by property owners. It is not suited for development of more than two units (houses per acre) or PS1.

The home owners hope the agency and city council members will take this under advisement.

Thank you,
Kerley Gilbert
Dear City Council Members,

Blight, both physical and economic is the basis for inclusion of property in the proposed 2010 amendment to the redevelopment plan. I live on the hill behind the Barn Theater at 166 S. Williams Drive, also known as Corona Heights. My home and the lots going around the side of the hill are included in the proposed 2010 amendment. The lots are virgin land covered in wild oats and one lot contains Native American grinding rocks of historical significance. The lots are not blighted, my home is not blighted, and the neighborhood known as Corona Heights is not blighted.

The redevelopment agency confirms that my home and the Corona Heights lots are indeed not blighted, but are included in the 2010 amendment due to an arbitrary 300' radius around the targeted blight area. The 300' radius included in the proposed 2010 amendment is presumed to suffer economically because of the blighted target area. I am in support of the blighted target area receiving all benefits related to inclusion in the 2010 amendment, but I take the position that when the blighted target area is improved, this will automatically improve the nearby areas that are not blighted. The 300' radius around a targeted blight area is NOT legally required in order to include the targeted blight area in the proposed 2010 amendment.

Enlarging boundaries to include areas without blight is unneeded, unfair, and deceiving. It is especially deceiving as to the condition of a whole neighborhood where many areas without blight in that neighborhood are included. I ask that at the minimum my home at 166 S. Williams Drive be removed and that all lots in Corona Heights be removed from the final draft of the 2010 amendment to the redevelopment plan project 1.

I also reserve my right to future legal actions or proceedings challenging the 2010 amendment. I do this in response to the 2010 amendment mailing that indicated I could be precluded from such actions and/or proceedings. Thank you.

Sincerely,
Concerned Homeowners,

Rosemarie A Wiggins
William R Wiggins
PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1

EXISTING PROJECT AREA AND PROPOSED ADDED TERRITORY MAP

Porterville City Limits  Existing Project Area
Highways  Proposed Added Territory
Railroads

Prepared By: Urban Futures, Inc.
Base Map Source: City of Porterville
Date: 04/07/10
File: PC_RP/FP110

Boundaries shown are for general reference and illustrative purposes only. Not intended to be a legal description of the metes and bounds.
57 S. Corona Dr.
Porterville, CA 93257
June 1, 2010

Porterville City Council
291 N. Main St.
Porterville, Ca. 93257

Dear Porterville City Councilmen,

As residents of the Murry Hill area, we attended the recent Informational meeting for the proposed 2010 amendment to the Redevelopment Plan for Porterville. We are concerned about the proposed inclusion into the added territory of 10 lots and one house on the south side of Murry Hill between Williams Drive and Corona Drive. The vacant lots and one house are not blighted and they are not required as a buffer to the area south. These lots are zoned as RS2 which is consistent with the established neighborhood. All the homes across from these lots are on sites of an acre or more. Although the Redevelopment Project does not affect the present zoning, including this area might spur development in another direction.

Please consider removing these parcels and house from the proposed 2010 Amendment to the Redevelopment Plan.

Thank you for your consideration of this matter.

Less and Claudia Guthrie
Crawford and Caulk
201 N. Mathew Street
Porterville, CA 93257
559-784-4141
559-349-0239 Cell

May 26, 2010

City of Porterville
Porterville Redevelopment Agency

RE: Redevelopment Hearing—Porterville Library May 26, 2010

The following properties are involved with the current hearings:

Prop. APN 247-300-022-000 724 W. Pioneer Ave 2+ acres with occupied house

- 251-194-013-000 924 W Tomah Ave C-3 (D) Zoning-Lot/Occupied house
- 251-194-012-000 924 W Tomah Ave C-3 (D) Zoning-Lot/Garage

Crawford & Caulk purchases the 924 W Tomah properties as C-3 (D) zoned property with the intent to develop a potential commercial project when Porter Road progressed closer to our commercial lots. This development along Porter Road has been progressing toward our sites as we anticipated. We desire to be able to do this project at the appropriate time, either by ourselves (C&C) or a joint project with others if the opportunity developed. We want to retain that opportunity.

The 724 W Pioneer property is our inventory property that we plan to subdivide into 7 tri-plexes and 2 duplexes, totaling 25 units as rental property. In prior years we have worked with Jim Winton on subdivision plans but we delayed until we are in position to go forward in the near future.

We trust the proposed City plans will not interfere with the above projects and would like to work with the City of Porterville to bring the projects to completion.

Sincerely

Wade Crawford
Citizens "Against" inclusion of Williams Drive and
Corona into the Porterville Redevelopment Plan

Petition "Against Proposed 2010 Amendment to the Redevelopment Plan

For the Porterville Redevelopment Project Number 1

Home owners against the proposed 2010 Amendment to the Redevelopment Plan

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
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<td>355-7105</td>
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<tr>
<td>Renee Hall</td>
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<td>renee Gregory</td>
</tr>
<tr>
<td>Perley Gilbert</td>
<td>157 W. Williams Dr.</td>
<td>781-8257</td>
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<tr>
<td>Valda Wilcox</td>
<td>28 S. Corona</td>
<td>784-1042</td>
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<tr>
<td>William Foster</td>
<td>55 S. Park</td>
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<td>Carol Jane</td>
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<tr>
<td>Claudia Gutierrez</td>
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<td>793-2540</td>
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<tr>
<td>Less Gutierrez</td>
<td>57 S. Corona Dr.</td>
<td>793-2540</td>
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<tr>
<td>Ken</td>
<td>2125 W. Harrison St.</td>
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<tr>
<td>Cecelia Salazar</td>
<td>15 Fairway Dr.</td>
<td>783-8233</td>
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<tr>
<td>Jose Salazar</td>
<td>15 Fairway Dr.</td>
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<tr>
<td>Rosemary McDonald</td>
<td>25 Fairway Dr.</td>
<td>784-1682</td>
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<tr>
<td>Mark McDonald</td>
<td>25 Fairway Dr.</td>
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<tr>
<td>Douglas Johnston</td>
<td>35 Fairway Dr.</td>
<td>783-1964</td>
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<tr>
<td>John Johnston</td>
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<tr>
<td>Mr. T. and Brenda Wells</td>
<td>76 East Barn St.</td>
<td>788-3248</td>
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<tr>
<td>Jimmy MacFarlane</td>
<td>56 Fairway Dr.</td>
<td>794-5855</td>
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<tr>
<td>Alice L. Daniels</td>
<td>702 E. West Spur</td>
<td>785-5022</td>
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</tr>
<tr>
<td>Bernard Oyler</td>
<td>210 &quot;C&quot; E. Vandalia Ave</td>
<td>784-0309</td>
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</tbody>
</table>

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# Petition Against Proposed 2010 Amendment to the Redevelopment Plan

## For the Porterville Redevelopment Project Number 1

Home owners against the proposed 2010 Amendment to the Redevelopment Plan

<table>
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<tr>
<th>Name</th>
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<tbody>
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<td>Robert</td>
<td>1665 Williams Dr.</td>
<td>783-1068</td>
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<tr>
<td>Chris Edwards</td>
<td>1335 Williams Dr.</td>
<td>782-1779</td>
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<tr>
<td>Dave Hall</td>
<td>148 S. Williams Dr.</td>
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<td>Kelly Edwards</td>
<td>135 S. Williams Dr.</td>
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<td>Ron Glaun</td>
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<td>Valerie Lombardi</td>
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<td>Sara Silva</td>
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<td>Adrian Monte Reyes</td>
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<td>Nancy Littin</td>
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<td>Armando Silva</td>
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<td>Marcos Revels</td>
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<tr>
<td>Terri Revels</td>
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<tr>
<td>Candace Boulton</td>
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<tr>
<td>Robert Boulton</td>
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<tr>
<td>Julie Wiggins</td>
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<td>Flora Rehll</td>
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<td>Lawrence Keith</td>
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<td>Ralph H. Raleigh</td>
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<td>Juan T. Rodriguez</td>
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<tr>
<td>Raul Sotelo</td>
<td>281 S. Williams Dr. Porterville</td>
<td>789-9387</td>
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</table>
June 1, 2010

VIA FAX and EMAIL

Bradley Dunlap, AICP
Community Development Director,
Porterville Redevelopment Agency
291 N. Main Street
Porterville, CA 93257
bdunlap@ci.porterville.ca.us
Fax: (559) 782-7452

Re: Proposed Amendment to Porterville Redevelopment Project No. 1

Dear Mr. Dunlap,

Thank you for the opportunity to comment on this project. Please submit for consideration at the June 1, 2010 public hearing on the proposed amendment to the Porterville Redevelopment Agency (“Agency”), Project No. 1, our April 29, 2010 letter commenting on the Draft EIR for this project. Also, please submit this letter for consideration at the June 1, 2010 public hearing.

Environmental Impact Report

Thank you for your response dated May 21, 2010 to our comments. County Counsel received this response letter on May 24, 2010. Public Resources Code section 21092.5 and California Environmental Quality Act (CEQA) Guideline section 15088 provide that the lead agency shall provide a written proposed response to a public agency on comments made by that public agency at least 10 days prior to certifying an environmental impact report. Please note, CEQA Guideline § 15088 requires that the environmental impact report (EIR) not be certified until at least ten days later, which would be June 3, 2010. One of the purposes is to give the County ample time to review the Agency’s response to comments. We assume the certification of the EIR will not take place until after June 3, 2010.
The County adheres to our original comments on the Draft EIR and adds the following concerns we believe were not addressed in your response:

Mitigation Measures

- The County believes that there is not enough information provided in the EIR to evaluate how the projects impacts will be reduced by mitigation. Per CEQA Guidelines Section 15162.4, an EIR shall describe feasible measures which could minimize significant adverse impacts, including where relevant, inefficient and unnecessary consumption of energy.

Cumulative Impacts that Affect the County

- Cumulative Impact Assessment in accordance with CEQA imply an EIR must include a reasonable analysis of the cumulative impacts of a proposed project together with past, present and reasonably anticipated related future projects that could produce cumulative impacts with the proposed project. The County still concludes that the analysis was not reasonable in evaluating impacts that substantial redevelopment projects could have on the project area.

- The EIR prepared for the project failed to adequately identify and evaluate future water sources for the project. The Porterville General Plan indicates that water reliability is expected to be a concern in the future.

- The City of Porterville General Plan and the Project EIR state, "the County of Tulare is responsible for planning, land use, and environmental protection of unincorporated areas. Of particular importance are development of presently undeveloped lands, provision of regional solid waste management facilities, and regional transportation, air quality and flood control improvement programs." The County's feels that since the CEQA allows subsequent projects to "tie off" the cumulative analysis of the Program EIR it should be functional in accordance to CEQA, the current draft lacks an adequate analysis of the cumulative and impacts to County resources.

- The Porterville General Plan recognized that significant impact would occur with full implementation of the General Plan for solid waste collection and disposal and police and fire response times and that the construction of new facilities to maintain adequate service levels may cause significant environmental impacts. The EIR does not reasonably analyze the negative impacts to the County's level of service for waste and disposal collection and police and fire service.

  - The Tulare County Sheriff's Office has a Porterville substation at 379 N Third Street. This substation has ten patrols for the currently unincorporated areas of
the County. There is no mention as to how the projects will impact this substation.

- According to the Porterville General Plan and Project EIR, Tulare County Fire Department provides additional services for unincorporated areas within the Planning Area. There are two City-operated and two County-operated fire stations in the Planning Area. No analysis has been done to determine the impacts to the County facility.

- Tulare County Consolidated Waste Management Authority administers the solid waste programs, including disposal, for Tulare County and most of the incorporated cities within the County. Policies are recommended to reduce waste taken to but these policies are not measurable and it is not known which policies would be deemed feasible to assure the impacts will be less than significant.

- The County believes that cumulative air quality impacts such as increased criteria pollutants, Toxic Air Contaminants and greenhouse gases, were not adequately analyzed for the additional area. Major redevelopment involves construction activities, with emissions comparable to new development projects. Redevelopment projects may also generate additional vehicular traffic compared to the projects they replace because redevelopment projects often involve increasing population density compared to the previous use. Redevelopment includes demolishing existing buildings, increasing overall floor area or building additional capacity on an existing property. These types of activities can substantially increase air pollution within the County.

- The EIR should analyze site specific impacts when foreseeable. The February 2010 Unified Report for the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1 ("Redevelopment Report"), Appendix D-1, assessed 40 blight indicators to each parcel in the Added Territory. This should provide information as to what types of redevelopment projects and programs (Appendix H, Redevelopment Report) will be used in the different parcels or areas according to the concentration of blight indicators and the Agency’s planned remedies through redevelopment.

### Redevelopment Report, Blight Findings and Methodology

The County did not receive required notice of the June 1, 2010 public hearing pursuant to Health and Safety Code section 33356, including but not limited to the notice to affected taxing entities required by Section 33349. Please see the attached requests for notice to the Tulare County Board Clerk (Exhibit I). The County did not receive a response to these requests and the Board Clerk did not receive the required notice.
Please consider Health and Safety Code section 33364 which states:

"...If any written objections are delivered or presented, as specified in this article, the legislative body may adopt the plan only after consideration of the objections, and adoption of written findings in response thereto, pursuant to Section 33363 at a subsequent date not less than one week after the time the hearing on objections is commenced pursuant to Section 33363."

The County respectfully makes the following objections to certain properties included in the proposed Added Territory.

Urban Futures, Inc. prepared the Redevelopment Report assessing blight conditions in the Added Territory. The Agency must consider if the project area is predominantly urbanized and is blighted. County of Riverside v. City of Murrieta (4th Dist. 1998) 65 Cal.App.4th 616, 620. "Project area" is defined as:

"Project area" means, except as provided in Section 33320.2, 33320.3, 33320.4, or 33492.3, a predominantly urbanized area of a community that is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and that is selected by the planning commission pursuant to Section 33322. H&S Code § 33320.1 (a).

... (b) As used in this section, "predominantly urbanized" means that not less than 80 percent of the land in the project area is either of the following:
1. Has been or is developed for urban uses.
2. Is an integral part of one or more areas developed for urban uses that are surrounded or substantially surrounded by parcels that have been or are developed for urban uses. Parcels separated by only an improved right-of-way shall be deemed adjacent for the purpose of this subdivision. Parcels that are not blighted shall not be included in the project area for the purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for their inclusion... H&S Code § 33320.1 (b).

**Areas in Agricultural Production are not Urban or Blighted.**

Health & Safety Code section 33321.5 provides:

... (b) A parcel of land that is larger than two acres and is in agricultural use, but that is not enforceably restricted, shall not be included within a project area unless the agency makes each of the following findings, based upon substantial evidence in the record:

1. The inclusion of the land in the project area is consistent with the purposes of this part.
(2) The inclusion of the land in the project area will not cause the removal of adjacent
land, designated for agricultural use in the community’s general plan, from agricultural
use.

(3) The inclusion of the land within the project area is consistent with the community’s
general plan.

(4) The inclusion of the land in the project area will result in a more contiguous pattern of
development.

(5) There is no proximate land that is not in agricultural use, that is both available and
suitable for inclusion within the project area, and is not already proposed to be within the
project area.

Sub Area “B” of the Added Territory contains two parcels that are in agricultural production.
Assessor’s Parcel Number (APN) 243-180-008 is 12.11 acres. See Exhibit “D”. The parcel is
listed as having major blight, however is not urban. APN 243-190-007 is 9.98 acres and is
listed as having no blight. These parcels totaling 22.09 acres are remote from other areas of the
proposed addition. The parcels are not urbanized and should not be included in the Added
Territory. These lots make up about 1% of the proposed Added Territory. The Redevelopment
Report only gives general reasons to support the findings for inclusion of these parcels in
accordance with Health & Safety Code §33321.5. No specific reasons are given to prove a need
for inclusion of these properties.

These agricultural parcels are noncontiguous to the rest of the Amended Project Area. “All
noncontiguous areas of a project area shall be either blighted or necessary for effective
redevelopment.” H&S Code § 33320.2 (a). These parcels are rural and are not an integral part
of an area developed for urban uses that are substantially surrounded by urban parcels. H&S
Code § 33320.1 (b). In fact, these parcels only border on one side with a claimed urban use
included in the proposed Added Territory which is noncontiguous with the rest of the plan. The
Agency should have offered specific reasons for including noncontiguous land in agricultural
production in the project area. County of Riverside, supra, at 624. These two parcels are not
blighted because they are not the “kind of dire inner-city slum conditions” described in the
Bunker Hill case, Id. at 626.

Further, these two agricultural parcels are not necessary for effective redevelopment. The City
and Agency do not offer reasons these parcels may be necessary for effective redevelopment.
Redevelopment “never can be used just because the public agency considers that it can make a
better use or planning of an area than its present use or plan.” Sweetwater Valley Civic Assn. v.
City of National City (1976) 18 Cal.3d 270, 278. “Thus, factors limiting a building or lot which
is currently enjoying an economically viable use or capacity from achieving potentially greater
economic returns are outside the scope of Health & Saf. Code, § 33031, subd. (a)(2).”
Areas Deemed Blighted, Are Not Truly Blighted:

If an area is urban, we also need to consider if the area is blighted or necessary to the project area for blighted areas. Health and Safety Code section 33030 generally authorizes redevelopment in "blighted areas which constitute physical and economic liabilities" and provides a definition of the term "blighted area" in subdivision (b):

"A blighted area is one that contains both of the following: (1) An area that is predominantly urbanized... and is an area in which the combination of conditions set forth in Section 33031 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community... (2) An area that is characterized by either of the following: (A) One or more conditions set forth in any paragraph of subdivision (a) of Section 33031 and one or more conditions set forth in any paragraph of subdivision (b) of Section 33031."

Physical conditions that cause blight include:

- buildings in which it is unsafe or unhealthy for persons to live or work, which conditions can be caused by serious building code violations, dilapidation and deterioration, defective design or physical construction, faulty or inadequate utilities, or other similar factors. (Health & Saf. Code, § 33031, subd. (a).)
- The redevelopment agency's report should look at the number or percentage of structures that are unhealthy or unsafe. (Riverside, supra at 625.)
- Look at inadequate public improvements, parking facilities, or utilities. (Id.)
- Look at the number of building code violations. (Id.)
- factors that prevent or substantially hinder the economically viable use or capacity of buildings or lots, which condition can be caused by a substandard design, inadequate size given present standards and market conditions, lack of parking, or other similar factors.
- adjacent or nearby uses that are incompatible with each other and that prevent the economic development of those parcels or other portions of the project area.
- the existence of subdivided lots of irregular form and shape and inadequate size for proper usefulness and development that are in multiple ownership.

Economic conditions that cause blight include:

- depreciated or stagnant property values, or impaired investments, including, but not necessarily limited to, those properties containing hazardous wastes that require the use of agency authority.
- abnormally high business vacancies, abnormally low lease rates, high turnover rates, abandoned buildings, or excessive vacant lots within an area developed for urban use and served by utilities. (Health & Saf. Code, § 33031, subd. (b).)
  - unprofitable commercial tenancies. (Riverside, supra at 625.)
- a lack of necessary commercial facilities that are normally found in neighborhoods,
including grocery stores, drug stores, and banks and other lending institutions
- residential overcrowding or an excess of bars, liquor stores, or other businesses that cater exclusively to adults, that has led to problems of public safety and welfare
- a high crime rate that constitutes a serious threat to the public safety and welfare

True blight is expressed by the kind of dire inner-city slum conditions described in the *Bunker Hill* case:

1) unacceptable living conditions of 82 percent;
2) unacceptable building conditions of 76 percent;
3) crime rate of double the city's average; arrest rate of eight times the city's average; fire rate of nine times the city's average; and
4) the cost of city services more than seven times the cost of tax revenues. (*In re Redevelopment Plan for Bunker Hill, supra, 61 Cal.2d at p. 45.*)

Another case in which blight was found is *Morgan v. Community Redevelopment Agency* (1991) 231 Cal.App.3d 243, where blighted conditions included:

1) unacceptable building conditions of 63 percent, including 25 percent seismically unsafe commercial buildings;
2) overcrowded housing; incompatible adjacent adult-entertainment and industrial uses;
3) no recreational uses;
4) transient rentals;
5) high crime rate;
6) large homeless and runaway population;
7) depreciating property values; and
8) no likelihood of private development and investment.

In yet another case, a court has required combined evidence of overcrowding, dilapidated structures, and an elevated crime rate to show blight. (*Gonzales v. City of Santa Ana* (1993) 12 Cal.App.4th 1335, 1345; see also *County of Riverside, supra* at 627).

In *Gonzales v. City of Santa Ana*, the court found the city had not articulated any concrete reason why certain property was:

...necessary for the effective redevelopment of the project area. The city merely cites certain all-purpose conclusory statements from the consultants' report which might apply to any property anywhere... There is no attempt at any specificity; the reasons appear to have emerged from the consultants' word processor without any thought as to why any particular parcel of non-blighted property must be taken by the government to effectively redevelop nearby blighted property. [Footnote.] While the inclusion of non-blighted property within a redevelopment project may be tested on an abuse of discretion standard (see *In re Redevelopment Plan for Bunker Hill*, [citation]), fidelity to section 33321 requires that there be some specific connection between the inclusion of non-blighted property and the 'effective redevelopment' of an area. We would render the statute a dead
letter if we allowed generic, "canned" reasons having no necessary relationship to any
given parcel of non-blighted property to serve that purpose. (Id., at 1346.)

Here, too, through Urban Futures, the Agency has merely cited all-purpose conclusory
statements which might apply to any property anywhere and has included non-blighted property
without a specific connection between the inclusion of such non-blighted property and the
effective redevelopment of the Amended Project Area of Redevelopment Project No. 1.

Non-blighted parcels within the plan that are not detrimental to health, safety or welfare, must be
necessary for effective redevelopment and can't be included for the purpose of obtaining the
allocation of tax increment revenue from such area, without other substantial justification for
inclusion. (H&S Code § 33321.) The city must articulate specific reasons it needs the non-
blighted property for effective redevelopment before it can take such property under its
redevelopment powers. (Gonzales, supra at 1346; 51 Cal. Jur. 3rd Public Housing § 50.)

Redevelopment "never can be used just because the public agency considers that it can make a
better use or planning of an area than its present use or plan." Sweetwater Valley Civic Assn.,
278. "Thus, factors limiting a building or lot which is currently enjoying an economically viable
use or capacity from achieving potentially greater economic returns are outside the scope of
Health & Saf. Code, § 33031, subd. (a)(2). Rather, the evidence must show the existence of
physical conditions (such as design, size, lack of parking, etc.) that prevent or substantially
hinder an existing use or capacity of a lot or building from achieving or maintaining economic
viability." (Friends of Mammoth (3rd Dist. 2000) 82 Cal.App.4th 511, 554.) The true basis for
the City's determination must not be that it was economically advantageous to characterize the
project area as predominantly urbanized. (Riverside, supra at 624; Lancaster Redevelopment

There are several parcels included in the proposed Added Territory that are marked as blighted,
however are not truly blighted:

1) The Sears store in Sub Area "A", APN 260-320-033, is currently operating and thus
is economically viable. See Exhibit "B". The Agency has not stated there are any
code violations that make this property unsafe or unhealthy.

2) There are claimed lightly blighted parcels of 17.6 acres and 11.1 acres, APNs 260-
140-012 & 260-150-031, however there is no specific proof these areas are not
economically viable.

3) In Sub Area "G", there are only 2 parcels, both industrial buildings. One is a 14.16
acre parcel occupied by Pro Document Solutions (APN 260-300-015) and is listed as
having less than moderate blight. The other is 10.17 acres classified as having major
blight (APN 260-300-014). These both appear to be viable facilities and not
significantly blighted or detrimental to health or safety. See Exhibit "F". Combined
they make up 2% of the proposed Added Territory.
Including properties merely for cosmetic, less serious deficiencies, or where the property’s condition is a result of age, obsolescence, or nonstandard, nonconforming or incompatible uses, is not enough to be included in the proposed Added Territory. *County of Riverside, supra at 626.* Further, the Agency must prove that the project area could not be assisted by either private or governmental enterprise rather than by redevelopment. *Id.* These two parcels are already being operated by private enterprise, thus are economically viable and do not need to be in the proposed Added Territory. The Agency only provided general statements of blight, which are insufficient to establish a project area. *Id.* (["absence of specific data to support the report’s general comments"])..

The facts here are similar to those in *Beach-Courchesne v. City of Diamond Bar* (2nd Dist 2000) 80 Cal.App.4th 388, where the court held the area of proposed redevelopment project did not suffer from physical blight due to buildings in which it was unsafe or unhealthy for persons to live or work, as would establish “blight” for purposes of Community Redevelopment Law (CRL), not a single structure was identified by city as being unsafe or unhealthy, and consultant who drafted the blight assessment report referred only to potential health and safety considerations. (Id. at 398.) Here, too, the blight assessment report refers mainly to “potential” health and safety considerations as opposed to current health and safety considerations.

**Areas that Received a low Blight Score**

There are several areas included in the Redevelopment Report that received a low blight score. They should be treated as follows:

Page 40 of the Redevelopment Report states that if a “...sufficient number of these conditions are found on one or more structures on a parcel, the legislative body of a community may appropriately find the parcel is blighted, unless it could also determine that private enterprise or governmental action, or both, would rectify this situation in a reasonable period of time. H&S Code §33030 (b). The Redevelopment Report should include for consideration by the Porterville Redevelopment Agency whether other programs such as stimulus money from the federal government could help rectify the situation over a period of time.

Moreover, low scoring, blight indicated properties should not be included as blighted, because they clearly do not have several numbers of blight-like conditions. Many of the properties only have a blight score of 1. This is clearly not enough to include the property in the Redevelopment Plan without further investigation and specification as to how the property is necessary for effective redevelopment, and how the condition cannot be cured by private enterprise or government action.

**Redevelopment Report and Methodology of Determining Blight**

Health and Safety Code section 33352, subdivision (c) requires an implementation plan that describes a program of actions and expenditures proposed to be made within the first five years of the plan, and a description of how specific projects will improve or alleviate the conditions
described in Section 33031. Section 12.3 of the Redevelopment Report merely reiterates all proposed projects and programs set forth in Appendix H and estimates tax increment proposed by the Agency to be allocated for implementation of the projects and programs, however does not provide specific actions and expenditures for the first five years.

Health and Safety Code section 33352, subdivision (a) requires analysis of and response regarding consultation and objections from an affected taxing entity. This has not been completed in regard to the County’s objections.

The general methodology underlying the Preliminary Report was faulty in numerous respects:

1) The blight conditions were based on local code violations rather than on the Redevelopment Law, and blight indicators related to serious building code violations, rather than actual building code violations. Redevelopment Report p. 62. There is no explanation as to how these building code violations fit in with H&S Code sec. 33031 (a) and make it unsafe or unhealthy for persons to live or work. For example, bars on windows are not illegal if they can open and provide escape.

2) The field reconnaissance was conducted by “two individuals in an automobile and by foot as necessary and appropriate.” Redevelopment Report p. 33. These individuals had no special training, conducted only superficial “sidewalk surveys” compiling tallies on preprinted sheets; the surveys relied only on visual inspections from the sidewalk without any structural inspection of specific buildings; the survey sheets included factors that did not necessarily indicate blight; there was no specific evidence of any unsafe or unhealthy conditions.

3) Urban Future’s tabulation of the results of the survey data was devoid of any meaningful analysis.

4) Urban Future improperly aggregated criteria.

5) The survey contained unverifiable conclusions.


According to the Redevelopment Report, only 30 percent of the parcels or acres may be considered by the City Council to be blighted due to exhibiting one or more physical blight conditions. Redevelopment Report p. 99. In this case, 70 percent of the parcels or acres are not physically blighted and should not be included in the proposed Added Territory. These are not the “urban slum conditions” described in Bunker Hill. County of Riverside, supra at 626.
The Redevelopment Report indicates the proposed Added Territory has depreciated property values, however does not indicate which parcels specifically. Redevelopment Report p. 104. Property values have depreciated throughout the County and we cannot tell from this Redevelopment Report how the depreciation within the Added Territory is significantly different from the rest of the county. Impacts of external obsolescence are generalized and not analyzed for specific, non-blighted properties. Redevelopment Report p. 109. The Redevelopment Report simply states “A standard city parcel adjacent to a blighted city parcel will suffer some form of external obsolescence from that blighted parcel; alternatively a standard city parcel a mile away from a blighted city parcel would not.” Redevelopment Report p. 109. This assumes that every parcel adjacent to a blighted parcel is affected by external obsolescence without looking at the adjacent parcels to determine on a case-by-case basis. The field team for the Redevelopment Report did not even have access to property values. Redevelopment Report P. 110. The Redevelopment Report uses the 300-foot notice criteria pursuant to the City’s Zoning Ordinance to determine if the non-physically blighted properties would be affected by the physically blighted properties. P. 110. The County objects to the use of this 300-foot criteria, as zoning laws do not assume a property is negatively affected if within 300-feet. Zoning law merely determines a threshold for direct notice to members of the neighboring community of the pending project. The report states that 67 percent of parcels in the Added Territory are within 300-feet of a parcel with at least 20 physical blight points and are therefore negatively impacted by their location pursuant to external obsolescence. The report fails to state how many of these “affected” parcels are already deemed as physically blighted, and how many are not considered physically blighted. Redevelopment Report p. 110.

The Redevelopment Report indicates there is prevalence of overcrowding in the Amended Project Area and economic blight; however merely provides generalized information. Redevelopment Report p. 115. Overcrowded households only amount to 11 to 13 percent of the Amended Project Area households. Redevelopment Report, Appendix F-6. Further, the Amended Project Area consists of more areas than just the proposed Added Territory; and we should only consider overcrowding in the proposed Added Territory at issue.

**Inclusion of Non-Blighted Areas**

Non-blighted parcels within the plan that are not detrimental to health, safety, or welfare, must be necessary for effective redevelopment. H&S Code § 33321: The city must articulate specific reasons it needs the non-blighted property for effective redevelopment before it can take such property under its redevelopment powers. Gonzales v. City of Santa Ana, supra.; 51 Cal. Jur. 3rd Public Housing sec. 50. Redevelopment “never can be used just because the public agency considers that it can make a better use of its area than its present use or plan.” Sweetwater Valley Civic Assn., 278. Each such area included under Health and Safety Code section 33321 shall be necessary for effective redevelopment and shall not be included for the purpose of obtaining the allocation of tax increment revenue from such area pursuant to Health and Safety Code section 33670 without other substantial justification for its inclusion. There are several parcels included in the proposed Added Territory that are marked as having zero (0) blight indicators, however are included in the Added Territory. We are concerned with particular
parcels of which we object to inclusion in the Added Territory, including but not limited to the following:

1) SUB AREA “A”


b) There is a vacant parcel west of Home Depot and another north of Home Depot that are not blighted. Development of these retail commercial designated sites can occur without redevelopment assistance. They are APN’s 260-300-069 and 260-300-017 and total 10.90 acres. See Exhibit “B”.

c) There are two un-blighted parcels totaling 5.09 acres (APN’s 260-310-048 & 260-320-036) that are currently in pasture and designated industrial. Located east of the Sears store on Jayde and on the north side of East Springville Drive these parcels can develop without redevelopment assistance. See Exhibit “B”.

d) Along the Tule River are five parcels (APN’s 260-250-025, 260-310-016, 260-310-043, 260-320-010 & 260-320-035) that are un-blighted natural river bottom and designated for parks. These parcels may be developed into a park without redevelopment assistance. These parcels total 15.96 acres. See Exhibit “B”.

e) Porterville High School is located in Sub Area “A”. There is one un-blighted parcel of 12.97 acres (APN - 260-130-033) and two parcels designated as lightly blighted totaling 23.72 acres (APN’s 260-140-012 and 260-150-031). The three parcels total 41.69 acres. See Exhibit “C”.

f) Located just west of State Highway 65 and north of the Tule River is an un-blighted 8.78 parcel (APN 259-160-037) that is vacant and undeveloped and designated for low density residential development. This property will develop without redevelopment assistance when the housing market recovers from the current recession. See Exhibit “C”.

g) There are six un-blighted parcels on the northwest corner of Morton and Indiana designated Professional Office use. APN 251-160-049 is occupied by the Social Security Administration, APN 251-160-052 contains a modern office building. The other four parcels (APN’s 251-160-041, 251-160-043, 251-160-053 and 251-160-054) are vacant and undeveloped. These vacant parcels will develop with out the assistance of
redevelopment when the demand for new professional office space makes construction feasible. The six parcels total 5.08 acres. See Exhibit "F".

All of the above parcels in Sub Area A add up to 128.93 acres or 8.48 percent of the proposed Added Territory.

2) SUB AREA “D”

a) Sub Area “D” includes the Rodeo Grounds, the Armory and Porterville Unified School District (PUSD) properties. This area contains 11.82 acres of City property (APN’s 253-160-032, 253-160-036, 253-160-058 & 261-130-001) that is to become the South County Justice Center.

b) There is also the 2.54 acre State owned Armory (APN 261-130-002) which may or may not be part of the new Justice Center site.

c) Additionally there is 28 acres of PUSD property which is primarily designated for parks (APN’s 261-230-008, 261-140-013, 261-140-023, 261-150-044, 261-150-053 & 261-164-001).

d) There are over 12 acres of un-blighted, currently undeveloped, vacant parcels designated for low density residential and park space on a steep slope (APN’s 261-190-005, 261-190-006, 261-190-007, 261-190-008, 261-190-009, 261-190-011, 261-200-004, 261-200-005, 261-200-006 & 261-200-030). Together these parcels make up 4% of the proposed Added Territory. See Exhibit “E”.

Most of these areas are not surrounded by blighted areas and are appurtenant to the blighted areas of the proposed Added Territory and Amended Project Area. As stated above, the true basis for the City’s determination must not be that it was economically advantageous to characterize the project area as predominately urbanized. Riverside, supra at 624; Lancaster Redevelopment Agency v. Dibley (1993) 20 Cal.App.4th 1656, 1658. It is evident that the main reason these non-blighted areas were included in the proposed Added Territory is because they are economically advantageous. The Preliminary Report does not explain why these areas are specifically necessary for the effective redevelopment of the project area.

Conclusion:

The environmental impact report is insufficient in accordance with CEQA and should be revised and recirculated. There is no substantial evidence in the City’s Redevelopment Report to support a finding by the City or Agency of blight in certain areas of the proposed Added Territory. Further, key findings required by the California Redevelopment Law are not supported by evidence in the report: for instance, non-blighted property was improperly included in the Project Area (H&S Code § 33321.1); agricultural, non-contiguous property was improperly included in the Project Area (H&S Code §§ 33321.5 and 33320.2, subd. (a)(2)); and there was no evidence to support the finding that private enterprise alone could not
accomplish redevelopment of certain properties within the Added Territory that are claimed to be blighted (H&S Code § 33367, subd. (f)(11)). The City has not adequately supported its "blight" findings in the proposed Added Territory. There is little mention of the current conditions that would indicate there are significant blighted conditions. Therefore, the County feels there has been no evidence as to the reason the City must extend its eminent domain powers.

Further, the Redevelopment Report has further need for compliance with H&S Code section 33352. Methodology for the Redevelopment Report shows that the blight conditions were based on local code violations rather than on Redevelopment Law and no actual building code violations were issued or observed; the field reconnaissance surveyors, who were not trained code compliance officers, conducted only superficial drive-by or "sidewalk surveys," compiling tallies on preprinted sheets; the surveys relied only on visual inspections from the street or sidewalk without any structural inspection of specific buildings; the survey sheets included factors that did not necessarily indicate blight; in many cases there was no specific evidence of any unsafe or unhealthy conditions; and "overbroad definitions" of blight did not conform to the California Redevelopment Law requirements. The County requests that the Agency and City of Porterville consider these objections and adjust the Added Territory boundaries accordingly.

Very truly yours,

KATHLEEN BALE-LANGE
County Counsel

By

Nina F. Dong
Deputy County Counsel
From: Nina Dong
To: Stevens, John; sduke@ci.porterville.ca.us
Date: 5/14/2010 4:42 PM
Subject: RE: Redevelopment Project Area Amendment

Thank you Susan. Please send notice to the County Board of Supervisors Clerk?

Best regards,
Nina

>>> "Susan Duke" 05/14/10 4:36 PM >>>
John/Nina:

The RDA Project Area Amendment Public Hearing is set for June 1, 2010.

--- Original Message ---
From: John Stevens [mailto:JStevens@co.naline.ca.us]
Sent: Friday, May 14, 2010 1:29 PM
To: Susan Duke
Subject: Redevelopment Project Area Amendment

Susan,

Is the Joint Public Hearing set for next Tuesday evening, May 18th?

John Stevens

This e-mail (and attachments, if any) may be subject to the California Public Records Act, and as such may therefore be subject to public disclosure unless otherwise exempt under the Act.
From: Nina Dong  
To: Herrera, Luisa  
Date: 5/18/2010 3:59 PM  
Subject: Re: Joint Public Hearing

Thank you Luisa, this is appreciated. Please send our Board Clerk a formal notice?

Nina

>>> "Luisa Herrera" <lherrera@ci.porterville.ca.us> 5/18/2010 3:26 PM >>>
Hi Nina,

I believe I spoke to you on Friday regarding the Joint Public Hearing.
That is to take place on June 1, 2010.

Thank you,

Luisa Herrera
Deputy City Clerk

City of Porterville
291 North Main Street
Porterville, CA 93257
Tel: (559) 782-7464
Fax: (559) 715-4010

This e-mail (and attachments, if any) may be subject to the California Public Records Act, and as such may therefore be subject to public disclosure unless otherwise exempt under the Act.
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**TOTAL**  
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1.000000  
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(1) Share of tax increment (T.I.) has been calculated on Post ERAF basis, as it would be done in the absence of a redevelopment project.  
Share of tax increment based on projections provided by Porterville RDA consultant.  
164,989,470

(2) Section 33607.5 payments calculated based on Pre-ERAF shares.  
(3) Represents total share of tax increment less 33607.5 Payment.
May 21, 2010

Nina Dong, Deputy County Council
Tulare County Counsel
2900 W. Burrel
County Civic Center
Visalia, CA 93291

Re: Comments by Tulare County Counsel (TCC), dated April 29, 2010, on the Draft Program Environmental Impact Report (DEIR), SCH #200912097 for the 2010 Amendment to the Porterville Redevelopment Project Area No. 1 (the “2010 Amendment” or “Amendment”).

Dear Ms. Dong,

The Redevelopment Agency of the City of Porterville (the “Agency”) acknowledges TCC’s comments on the above referenced DEIR. Agency and City Council consideration of certification of the Final Program EIR is scheduled for June 1, 2010 or later. The TCC’s comments are responded to in numerical order by paragraph as marked on TCC’s comment letter as follows:

As a general introduction to this response to comments, the DEIR for the Project was prepared pursuant to State CEQA Guidelines section 15180, which permits redevelopment plan EIRs to be Program EIR’s. The Project DEIR is clearly declared a program EIR (DEIR, Section 1.0, Introduction, p. 15). Section 15168 of the State CEQA Guidelines defines a program EIR as that which evaluates the overall effect of a series of actions that are related through the “issuance of rules, regulations, plans, or general criteria to govern the conduct of a continuing program...” Program EIRs are most useful in addressing program-wide impacts, including the secondary or cumulative effects of what would otherwise be evaluated separately as a series of individual actions.

Response A1.

The comment that the DEIR does not meet the two essential requirements of CEQA is an interpretation not based on fact. State CEQA Guidelines Sections 15120-15132 list information that EIRs must contain. The DEIR contains all the required information per CEQA Guidelines. The DEIR also recommends mitigation measures where appropriate, and includes project alternatives.

Response A2.

CEQA Statute 21081.6 requires a mitigation monitoring program be adopted when findings have been made, as a condition of project approval, that mitigation measures are necessary to mitigate or avoid the significant effects of the project on the environment. However, CEQA Guidelines Section 15097 does not require a mitigation monitoring program to be included in the DEIR. The DEIR includes recommended mitigation measures in a summary table within the
The DEIR is not required to evaluate the purely administrative action of amending the Redevelopment Plan to extend the Agency's eminent domain authority within the Original Project Area, which administrative action will not result in direct or indirect physical changes in the environment not previously evaluated at the time the Redevelopment Plan for the Original Project Area was adopted (DEIR, Section 1.0 p. 29, Documents Incorporated by Reference, pp. 28-29). Extending eminent domain is an action specifically permitted by CCRL Section 33333.4(g)(2), (DEIR, p. 8), subject to CCRL requirements. In fact, the use of eminent domain may never occur; the Agency has not implemented its authority during the previous 12 years it was enabled.

Response A7.

See the responses in A5 and A6 above, which are incorporated here by reference. The project description is clear and consistent in describing the Amendment as required by CEQA Guidelines Section 15124.

As stated in the DEIR, the 2010 Amendment does not evaluate site-specific development/redevelopment projects in the Added Territory as part of the Amendment process, because no such projects have been identified. (DEIR, pp. 18) Appendix B includes the Agency's Projects and Programs List, which describes the range of activities or reasonably foreseeable redevelopment actions that may be taken by the Agency over the life of the Project at the time this DEIR was prepared. The redevelopment activities and actions currently identified by the Agency are programmatic and conceptual in nature. An EIR cannot examine all phases of site specific projects, including planning, construction and operation, if the projects do not yet exist. To do otherwise would be speculative.

Response A8.

See response A7, which is incorporated herein by reference. As stated in the DEIR, site-specific future development/redevelopment projects are not known at this time. As specific projects are designed and proposed for Agency assistance, they shall be subject to additional environmental review to the extent required under Sections 15162 and 15163 of the CEQA Guidelines in recognition of the inherent limitations of this Program EIR in assessing site-specific project impacts. This program EIR provides only a description of the impacts and mitigation needs associated with implementation of those general redevelopment program actions and objectives.

Response A9.

See response A8, which is incorporated herein.

Response A10.

CEQA Guidelines Section 15125(a) states that the "description of the environmental setting shall be no longer than is necessary to establish an understanding of the significant effects of the proposed project and its alternatives." The land use analysis in this DEIR is adequate to present the types of uses along with the acreage within the Added Territory for providing a baseline environmental setting, for which no site-specific development or redevelopment projects are yet proposed.
Transportation, the San Joaquin Valley Air Pollution Control District, and the Department of Conservation. All of these comments were reviewed and addressed if applicable in the proposed DEIR.

CEQA Guidelines Section 15143 provides that effects dismissed in an Initial Study as clearly insignificant need not be discussed further in the EIR, unless the Lead Agency subsequently receives information inconsistent with the finding in the Initial Study.

The 2010 Amendment's impacts with regard to air quality, agricultural resources and biological resources in the Added Territory were fully analyzed according to CEQA requirements for a Program DEIR. Public Resources Code Section 15168 states "the use of the program EIR also enables the lead agency to characterize the overall program as the project being approved at that time. Following this approach when individual activities within the program are proposed, the agency would be required to examine the individual activities to determine whether their effects were fully analyzed in the Program EIR." The Original Redevelopment Plan for Porterville Redevelopment Project Area No. 1 received thorough environmental review when it was adopted and subsequently amended, which environmental review is final and conclusive and presumed adequate.

Response A16.

The recitation of CEQA Guidelines requirements is noted. The DEIR does not analyze relevant specifics of the area affected, the resources that will be involved, the physical changes that will result or alterations to ecological systems because, as stated above, no site-specific locations have been identified by the Agency; rather, the redevelopment activities and actions currently identified by the Agency are programmatic and conceptual in nature. CEQA Guidelines Section 15146 states, "The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR," and that an EIR on a project such as the 2010 Amendment "need not be as detailed as an EIR on the specific construction projects that might follow."

The Initial Study prepared for the Amendment evaluated all potential sensitive environmental resources and concluded with a determination of what environmental factors in the Added Territory would be potentially affected involving at least one impact that is a "Potentially Significant Impact". Based on considerable and adequate analysis, the Initial Study concluded that only air quality, agricultural resources and biological resources required further analysis in the proposed DEIR. See also the response to A15 above, which is incorporated herein by reference.

Response A17.

Water supply was evaluated in the Initial Study for the proposed DEIR. The Initial Study concluded that implementation of the 2010 Amendment-related projects/programs does not contemplate any specific activity that would deplete groundwater resources or otherwise change the quantity of groundwater, direction or rate of groundwater flow, or cause an impact to groundwater quality beyond those impacts previously analyzed by the General Plan EIR. With the General Plan policies in place, the General Plan EIR concluded that impacts from General Plan build out in the City Planning Area would be less than significant with respect to depletion of groundwater supplies or substantial interference with groundwater recharge such
Response A21.

See response A20, which is incorporated here by reference. Project-specific construction and operation emissions cannot be analyzed at this time because no site-specific construction projects are proposed as part of the 2010 Amendment.

Response A22.

See response A20, which is incorporated here by reference.

Response A23.

The proposed mitigation measures for the air quality impact analysis are in accordance with CEQA. In accordance with Section 15126.4(a)(1)(A) of CEQA Guidelines, mitigation measures can be proposed by the lead agency if it determines that such mitigation measures could reasonably be expected to reduce adverse impacts if required as conditions of approving the project. With regard to the proposed mitigation measures recommended in the DEIR to reduce air quality emission impacts, the mitigation measures are feasible and appropriate (DEIR, Section 2.3, pp. 74-76). In fact, in a letter dated April 29, 2010, the San Joaquin Valley Air Pollution Control District commended the City for including mitigation measures AQ-3 and AQ-4 in the DEIR, which require compliance with District Rule 2201 (New and Modified Stationary Source Review) and Rule 9510 (Indirect Source Review). The City was commended for its recognition of the importance of these programs in mitigating future project-related impacts and working towards air quality attainment status.

Response A24.

See response A23, which is incorporated herein by reference.

Response A25.

See response A20, which is incorporated herein by reference.

Response A26.

The Project’s impacts with regard to Greenhouse Gas Emissions (GHG), including cumulative impacts were analyzed according to CEQA requirements. CEQA Guidelines section 15168 states “the use of the program EIR also enables the lead agency to characterize the overall program as the project being approved at that time. Following this approach when individual activities within the program are proposed, the agency would be required to examine the individual activities to determine whether their effects were fully analyzed in the program EIR.”

All Agency implementation activities under the 2010 Amendment are required as a matter of law to be consistent with the City’s General Plan and Zoning Ordinance, and to comply with all applicable local, regional, State, and federal codes, regulations and mandatory standards. As stated in the DEIR, no site specific Redevelopment Agency implementation projects have been identified at this time. No detailed analysis is possible at this stage. In fact, such an analysis at this time would be highly speculative and of no value to the current decision making process.
Response A30.

In accordance with CEQA Guidelines Section 15126.2(d), the 2010 Amendment's indirect effects, including growth rate induced by the Amendment, were analyzed at a programmatic level in the DEIR. As the DEIR indicates, projected growth that is consistent with and does not exceed the General Plan will not be immediate, but instead is projected to occur over a period of 30 years; therefore many related indirect effects are expected to be successfully absorbed on a gradual basis.

Response A31.

As stated above, the DEIR does not include site-specific project-level analysis because the 2010 Amendment does not propose any site-specific development projects. Specific land use impacts that may potentially affect the unincorporated portion of the County over the long-term are unknown at this time. The DEIR states, at such time as site-specific projects are proposed, additional environmental analysis may be required and mitigation measures imposed as appropriate and necessary (DEIR pp. 16-18, 30).

Response A32-A35.

The Agency notes the County’s comments and points out that the County’s General Fund is used to fund a broad range of public services and facilities across the entire County; therefore, it is not possible for the City to “trace” the economic impacts the 2010 Amendment may have on the County’s General Fund to any specific resultant physical changes. Inasmuch as decisions regarding the use of County funds are made each fiscal year by the sitting County Board of Supervisors, it would be highly speculative for the Agency to attempt to determine which County programs, services, and facilities would receive reduced funding as a result of the economic effects of the 2010 Amendment over the 45 year period during which the Agency would be authorized to collect tax increments generated within the Added Territory and what physical changes, if any, would occur as a result of such funding reductions.

As stated in the DEIR, the principal purpose of the 2010 Amendment is to reverse and/or alleviate the many conditions of physical and economic blight which currently exist in the Added Territory and Existing Project Area. Among these conditions is the existence of depreciated property values in the Added Territory and Existing Project Area.

Following the conclusion of the 45-year term during which the Agency would be authorized to collect tax increment, the County, as well as all other affected taxing entities within the boundaries of the Added Territory, should realize the benefits of an increased property tax base. Further, the Agency notes that, should the 2010 Amendment be adopted, the County would continue to receive its full share of property tax revenues from assessed properties located just beyond the boundaries of the Added Territory and Existing Project Area. It is likely that redevelopment activities undertaken within the Added Territory and Existing Project Area will have a positive “spill over effect” on the assessed value of such neighboring properties as conditions of blight are lessened over time.

In addition to eliminating conditions of physical and economic blight in the community, one of the purposes and objectives of the 2010 Amendment is to strengthen the local economy of Porterville, Tulare County’s third largest city. As of March 2010, the City's unemployment rate
Response A45.

The Program EIR’s authority is to describe the anticipated broad-based, Added Territory-wide and community-wide impacts of the 2010 Amendment. Subsequent redevelopment activities within the Added Territory must be examined in the light of this Program EIR, and additional CEQA assessment to determine whether additional environmental analysis and mitigation will be required. If a later activity will have effects that are not examined in this Program EIR, then additional environmental assessment leading to comprehensive CEQA documentation for such project in the Added Territory must be completed. The DEIR clearly states that subsequent site-specific activities will be subject to analysis of potential environmental effects and mitigation imposed, as appropriate and necessary. (DEIR, pp. 16-18, 30)

Response A46.

The recitation of CEQA Guidelines Section 15151 is noted; no further response is necessary.

Response A47.

CEQA Guidelines Section 15204 states that in reviewing EIRs, the public agency should focus on the sufficiency of the document in identifying and analyzing possible environmental impacts and ways in which the significant effects of the project might be avoided or mitigated; and states further that comments are most helpful when they suggest additional specific alternatives or mitigation measures that would avoid or provide a better way to mitigate significant environmental effects.

State CEQA Guidelines section 15088.5 requires a lead agency to recirculate an EIR only when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. Given the speculative, argumentative, boilerplate nature of the TCC comments, many which appear to disregard the scope of the defined project and the purpose of a program EIR, and the lack of any substantial evidence related to specific environmental effects in the Added Territory not addressed in the DEIR, as presented by the comments, there is no legal or factual basis requiring recirculation of the EIR. No new significant information is required to be added to the DEIR and thus, the DEIR is not required to be recirculated for public review.

Conclusion.

Your letter and this response are included in “Comments and Responses to Comments on the DEIR”, respectively, of the Final DEIR for the Project.

Sincerely,

Brad Dunlap
Community Development Manager
TULARE COUNTY COUNSEL

VIA FAX and EMAIL

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Re: Draft Environmental Impact Report (DEIR) for the Porterville Redevelopment Project Area 1, State Clearinghouse #200912097

Dear Mr. Dunlap:

Thank you for the opportunity to provide comments related to the above mentioned project ("Project" or "Project Area"). To assist the Porterville Redevelopment Agency ("PRA") in preparing a Draft Program EIR ("DEIR") that provides an adequate and complete document, in accordance with the California Environmental Quality Act ("CEQA") the County submits the following comments and concerns:

CEQA Requirements

CEQA has two essential requirements, neither of which the DEIR satisfies. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 Cal. Code Regs. ("State CEQA Guidelines") § 15002(a)(1).) Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. (State CEQA Guidelines § 15002(a)(2) and (3). (See also Citizens of Goleta Valley v. Board of Supervisors, (1990) 52 Cal.3d 553, 564; Laurel Heights Improvement Ass’n v. Regents of the University of California, (1988) 47 Cal.3d 376, 400.)
The DEIR does not include a Mitigation Monitoring Program, deferring it until consideration of the Final EIR, stating:

The Agency is not required to prepare a Mitigation Monitoring Program until such time as the Final Environmental Impact Report is considered for certification, at which time it will be included here. DEIR, p. 127.

However, by deferring the Mitigation Monitoring Plan and not including it in the DEIR, the public, the County, and other decision makers are denied the opportunity to evaluate how the project’s impacts will be reduced to a level of less than significant and the PRA is precluded from evaluating whether the program is vulnerable to legal challenge.

An EIR must identify mitigation measures and alternatives to the project which may reduce or avoid the project’s significant adverse impacts, thus accomplishing CEQA’s basic statutory goals. This analysis of feasible mitigation measures and a reasonable range of alternatives is crucial to CEQA’s substantive mandate that significant environmental damage be substantially lessened or avoided where feasible. Cal. Pub. Res. Code §§ 21002, 21081, 21100; State CEQA Guidelines § 15002, subd. (a)(2) and (3). Laurel Heights, supra, 47 Cal.3d at 392, 404-405.

Project Description

The Project Description in the DEIR is legally insufficient and does not adequately evaluate the environmental result of the Project and it lacks sufficient detail to allow meaningful analysis. The project description is the crucial element or initial step for every CEQA environmental document. A project description is a brief summary of the proposed project and its consequences in sufficient detail as to describe the project being proposed and provide the subject for the environmental review. The term “project” means the whole of the action that has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. It does not mean each separate governmental approval. State CEQA Guidelines, §15378. A “finite project description is indispensable to an informative, legally adequate EIR.” County of Inyo v. City of Los Angeles (1977) 71 CA 3d 185, 192. Without an accurate description on which to base the Environmental Impact Report’s (EIR’s) analysis, CEQA’s objective of public disclosure and informed environmental decision making is stymied. A project description that omits integral components of the project may result in an EIR that fails to disclose all of the project impacts. Santiago County Water Dist. v. County of Orange (1981) 118 CA 3d 818, 829. The EIR’s project description must provide “enough information to ascertain the project’s environmentally significant effects, assess ways of mitigating them, and consider project alternatives.” Sierra Club v. City of Orange (2008) 163 CA 4th 523.

In accordance with State CEQA Guideline § 15124, the description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impacts.
The precise location and boundaries of the proposed project shall be shown on a detailed map, preferably topographic. The location of the project shall also appear on a regional map.

- A statement of objectives sought by the proposed project. A clearly written statement of objectives will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings or a statement of overriding considerations, if necessary. The statement of objectives should include the underlying purpose of the project.

- A general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals if any and supporting public service facilities.

- A statement briefly describing the intended uses of the EIR.

- This statement shall include, to the extent that the information is known to the Lead Agency,

- A list of related environmental review and consultation requirements mandated by federal, state or local laws, regulation or policies

Here, the project description is vague, unclear and inconsistent as to what extent the Project will enable the Porterville Redevelopment Agency to carry out development. For example Chapter one, of the DEIR states:

"The Project is the adoption and subsequent implementation of the 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1 within or for the benefit of the Added Territory, specifically, for the Original Project Area, generally, and ultimately for the community, which is located in the southwest corner of the County (see Section 1.2, Figure 1 Vicinity Map).” DEIR p. 14.

The DEIR goes on to say:

"The 2010 Amendment proposes to reinstate the Agency's eminent domain authority in the Existing Project Area for an additional 12-year period as permitted by CCRL Section 33333.4(g)(2)…” DEIR p. 8.

*The DEIR fails to state why the PRA needs to reinstate its eminent domain authority for an additional 12-year period.*

The project description indicates that the activities involved in the Project include but are not limited to a list of desires and objectives of the PRA:

"Such activities should help to cause the long-term revitalization of the Added Territory and may include, but not necessarily be limited to, construction of new and upgrading existing public facilities and infrastructure, promoting and facilitating economic development and job growth, providing additional..."
affordable housing opportunities for eligible persons and families, and generally helping to improve the quality of life for residents, and business and property owners within the Added Territory, specifically, and the Existing Project Area and community overall.” DEIR p. 13.

The Project DEIR first identifies the projects goals without first indicating what the Project is. The DEIR goes on to express the objectives as:

"The Agency is proposing adoption of the 2010 Amendment to add territory to the Existing Project Area for the purposes of: i) implementing the goals, policies and standards of the General Plan, as applicable, within, or for the benefit of, the Added Territory; ii) promoting long-term Agency activities to improve or alleviate existing blighting conditions within the Added Territory; and iii) increasing, improving and preserving the supply of housing affordable to eligible persons and families of very low and low and moderate income in the community." DEIR p. 13.

The DEIR does not provide sufficient detail in the project description to adequately evaluate the environmental result and impacts of the Project. The project description does not appear be accurate and complete for a proper evaluation of the potential significant impacts. For example, types of specific projects are not set forth in the actual project description, but in the back of the DEIR in Appendix B, Projects and Programs list. This Appendix B also does not give a sufficient explanation of the proposed projects and programs to be completed as part of the Project. This is contrary to the mandate that, “[t]he EIR shall examine all phases of the project including planning, construction, and operation.” State CEQA Guidelines § 15161.

The Project Description must include all relevant parts of a project, including reasonably foreseeable future expansion or other activities that are part of the project. Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal. (1988) 47 C3d 376. The DEIR here fails to include all relevant parts of the Project.

Future activities must be treated as part of the project, and included in an EIR’s impact analysis if those activities are likely to result from approval of the project. National Parks & Conserv. Ass’n v. County of Riverside (1996) 42 CA 4th 1505. The Project Description and DEIR in general should contain as much site-specific detail as can reasonably be obtained so the environmental impacts of these projects and programs can be analyzed. This analysis has not been completed in the DEIR. We cannot tell from the Project Description or from Appendix B of the DEIR which projects and programs will be instituted, where the projects and programs will be located, when they will occur, or what environmental impacts will or may result from the projects and programs. We can merely speculate and discern from the DEIR that the general list of projects and programs in Appendix B may occur at sometime within the life of the redevelopment plan, and somewhere within the Project Area. The DEIR clearly attempts to minimize the impacts of the project by not fully discussing the extent of the project. This is legally insufficient.
The DEIR's project description also does not contain a general description of the project's technical, economic, and environmental characteristics, considering the principal engineering proposals, if any, and supporting public service facilities. State CEQA Guidelines §15124 (c). This analysis was not set forth in the DEIR. It discusses the environment of the valley and region in general, however does not discuss the actual project's technical, economic and environmental characteristics. For an example of affected supporting public service facilities, see the Section below on Indirect Effects.

Environmental Setting

The EIR, in describing the environmental setting for the Project, contains only a legally inadequate condensed description of the valley region and City of Porterville, but does not adequately address the physical environmental conditions to establish a proper baseline for this Project.

An EIR must include a description of the physical conditions in the vicinity of the project at the time notice of preparation is published, or at the time the environmental analysis is commenced if no notice is published. State CEQA Guidelines § 15125. This environmental setting will normally constitute the baseline physical conditions by which the lead agency determines whether an impact is significant. Id. See also Planning & Conservation League v. Department of Water Resources (2000) 83 Cal. App. 4th 892, 915-916; Environmental Planning & Information Council v. County of El Dorado (1982) 131 Cal. App. 3d 350, 357.

In San Joaquin Raptor v. County of Stanislaus (1994) 27 Cal. App. 4th 713, the court held:

[T]he ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by CEQA." (Santiago County Water Dist. v. County of Orange (1981) 118 Cal. App.3d 818, 829. The error is prejudicial "if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process." (Kings County Farm Bureau v. City of Hanford (1990) 221 Cal. App.3d 692, 712.)

Further, the emphasis should be placed on sensitive environmental resources on the project site as well as on those nearby that might be adversely affected by the project. State CEQA Guideline §15125; County of Amador v. El Dorado County Water Agency (1999) 76 ca 4TH 931, 955. This has not been achieved in the DEIR.

The EIR, in describing the environmental setting does not address the physical environmental conditions, to establish a proper baseline for the project. The DEIR only includes a condensed description of the environmental conditions of the valley region and City of Porterville. The discussion does not actually describe the environmental setting of the proposed Project and Project Area. The failure to include an adequate description is crucial. Such a description is
particularly important where existing cumulative impacts such as those related to traffic, noise, aesthetics, sediment loading, air pollution, wildlife corridor depletion, etc., are already "significant." By contributing to existing significant effects, a project will be considered to have significant impacts on the environment under CEQA. See Kings County Farm Bureau, supra, 221 Cal.App.3d at 722; EPIC v. Johnson (1985) 170 Cal.App.3d 604, 624-625.

The environmental setting description in the DEIR is also inadequate to create a baseline for review of project impacts, as it is merely a general discussion of the areas much larger than the project area and not a discussion of the project area itself. The DEIR does not describe the existing physical conditions or potential future development under the existing plans, which would allow the lead agency to compare the impacts of the project as required by CEQA. Woodward Park Homeowners Ass’n v. City of Fresno (2007) 150 CA 4th 683, 707. The DEIR cites to the Porterville 2030 General Plan and the City of Porterville’s Final and Draft Environmental Impact Report, 2030 General Plan, however the Porterville 2030 General Plan Update EIR’s analyzed a much broader project area than the Project for this DEIR. Thus a proper analysis of the baseline is lacking in this DEIR.

Any inconsistency between the project and “applicable general plans and regional plans” must be discussed. State CEQA Guidelines §15125 (d). Regional plans that may apply to a project include but are not limited to air quality attainment or maintenance plans, the state implementation plan for air quality, area-wide waste treatment and water quality plans, regional transportation plans, regional housing allocation plans, habitat conservation plans, and natural community conservation plans. Potential inconsistencies are not considered in the DEIR.

Analysis of Environmental Impacts Inadequate.

The DEIR’s sections on impacts do not adequately quantify impacts. The DEIR must consider the full amount of development authorized under the Project as it has been presented. As the DEIR fails to analyze the environmental effects in comparison an appropriate existing baseline or with maximum build out in the Added Territory pursuant to the Projects and Programs listed in Appendix B, all of the DEIR impact analyses are inadequate under CEQA.

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure. State CEQA Guidelines §15151; San Francisco Ecology Center v. City and County of San Francisco (1975) 48 Cal. App. 3d 584.
An EIR's discussion of significant impacts must analyze and describe both direct and indirect effects on the environment that will result from the project. State CEQA Guidelines §15126.2 (a). The environment is defined as the physical conditions as they exist in the area that is affected by the project. Pub. Res. Code § 21060.5. The area to be considered in the analysis is the area in which the project will cause significant effects to occur either directly or indirectly. CA State CEQA Guidelines § 15360. All phases of the project must be considered, including planning, acquisition, development and operation. CA State CEQA Guidelines § 15126 (a). The DEIR fails to adequately discuss direct and indirect environmental effects because it does not discuss or analyze relevant specifics of the area affected, the resources that will be involved, the physical changes that will result, alterations to ecological systems, changes induced in population distribution, population concentration and human use of the land, and health and safety problems caused by the specific physical changes. Nor does the DEIR discuss other aspects of the resource base such as water, historical resources, scenic quality and public services within the Project Area. The DEIR includes general discussions regarding the City and citing the City of Porterville 2030 General Plan Update; however, it does not discuss the specific impacts associated in the DEIR Project Area, which is a smaller area than that analyzed in the City's General Plan Update. Thus, we cannot tell from the DEIR what all the significant adverse changes in the environment that will result from the project are. State CEQA Guidelines §15126.2 (a).

**Water Supply**

The DEIR fails to adequately address, analyze, and mitigate water supply impacts. Identifying a water supply is a clear legal obligation of an EIR. Especially in the Central Valley, water supply planning must be seriously considered. Although the DEIR identifies the intended water sources in general terms, it does not clearly and logically explain, using relevant and reasonable assumptions, how the long-term demand for water is likely to be met with the sources available, the environmental impacts of using those sources, and how those impacts are to be mitigated. The EIR must analyze the reasonably foreseeable impacts of supplying water to most of the project. Natural Heritage Project v. County of Stanislaus (1996) 48 CA 4th 182; Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova (2007) 40 CA 4th 412. The water supply analysis is inadequate in the DEIR.

The DEIR does not identify the actual source of the water needed to supply the Project's demand due to the Added Territory and Proposed Projects and Programs (Appendix B, DEIR). CEQA's informational purposes are not fulfilled by an EIR that simply ignores or assumes a solution to the problem of supplying water to a proposed land use project. Decision makers must, under the law, be presented with sufficient facts to "evaluate the pros and cons of supplying the amount of water that the [project] will need." (Santiago County Water Dist. v. County of Orange, supra, 118 Cal.App.3d at p. 829.) An EIR must base the water supply analysis on reliable evidence relating to projected future supplies, and not theoretical water supply entitlements. Santa Clarita Org. for Planning the Env't v. County of Los Angeles (2003) 106 CA 4th 715.
The Initial study states:

"...No adverse impacts are anticipated to occur with respect to the Added Territory and no further analysis with respect to potential violations of water quality standards or wastewater discharge are required to be undertaken in the Program EIR for the Amendment."

The DEIR's determination of no significant impact is made solely on the analysis in the Porterville 2030 General Plan Update EIR and does not adequately identify and assess the impacts of future water supplies. The DEIR does not identify the actual source of the water needed to supply the Project's demand due to the Added Territory. The DEIR recognizes the negative impacts the project will have on water quality and quantity, yet does not offer solutions to mitigate the impacts. The DEIR merely relies on state regulation and past policies to determine the impact to be less than significant. The Initial Study in the DEIR states:

"Implementation of 2010 Amendment-related projects/programs does not contemplate any specific activity that would deplete groundwater resources or otherwise change the quantity of groundwater, direction or rate of groundwater flow, or cause an impact to groundwater quality beyond those impacts previously analyzed by the General Plan EIR. Furthermore, all site-specific, development/redevelopment projects are required to be in accordance with the General Plan and other local, regional, State and federal regulations and requirements affecting water quality, recharge and discharge. Development/redevelopment activities undertaken by the Agency over the 30-year life of the Amended Plan will be within the planning parameters of the General Plan; i.e., land use densities, growth management policies, as well as with all local, regional, State and federal codes, guidelines and standards." DEIR p. 44.

On a general level, State CEQA Guidelines §15144, addressing the need to forecast future events in an EIR, state that "While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can." The DEIR here does not reflect that the agency has used its best efforts to find out and disclose all that it reasonably can.

**Air Quality and Climate Change**

**Criteria Pollutants**

*Short-term and long-term impacts from the Project will create significant levels of air pollutants within the County of Tulare. The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-*
loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., degreasers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

Under Short-term impacts on page 72 in the Air Quality/Climate Change Section of the DEIR, construction activities would result in on-going construction emission impacts overlapping with operation air quality impacts. If construction and operational phases will overlap, the lead agency needs to sum construction and operation emissions to determine peak daily emissions. The sum of the peak construction and operational emission estimates together would then need to be compared to San Joaquin Valley Air Pollution Control District's recommended operational daily significance.

The DEIR fails to evaluate the increase from toxic air contaminates, including diesel particulate emissions from trucks. The DEIR indicates that diesel particulate emissions associated with construction grading and the transport of goods to the area via diesel-fueled vehicles during the operational phase have the potential to cause a significant impact. It is recommended that PRA for projects generating or attracting vehicular trips, especially heavy-duty diesel fueled vehicles, perform a mobile source health risk assessment. An analysis of all toxic air contaminant impacts due to the use of equipment potentially generating such air pollutants should also be included.

Mitigation Measures provided in the DEIR to reduce construction and operational air pollution are not in accordance with CEQA. Unknown mitigation measures are "recommended" in the DEIR to be included in the future. In accordance with CEQA, mitigation measures should be disclosed, quantifiable and measurable. State CEQA Guidelines § 15370, Federation of Hillside & Canyon Ass'ns v. City of Los Angeles (2000) 83 CA 4th 1252, 1260 (Mitigation measures must not be remote and speculative). Mitigation measures are legally inadequate if they are so undefined, that it is impossible to gauge their effectiveness. San Franciscans for Reasonable Growth v. City & County of San Francisco (1984) 151 CA 3d 61, 79. One example of an inadequate mitigation measure in the DEIR is Mitigation Measure AQ-5, which suggests that feasible mitigation measures may be appropriate to reduce ozone precursors that will result from *implementation of specific projects*. Also, the DEIR (DEIR at p. 73) has determined that criteria pollutant emissions from project construction activities will exceed the SJVAPCD's significance thresholds for oxides of nitrogen (NOx), and the recommended threshold for particulate matter PM10, the County recommends that the lead agency consider adding mitigation measures in addition to the ones recommended in Table 9 (page. 72) of the DEIR to further reduce construction air quality impacts from the project. The DEIR should be more specific as to the type of mitigation that would be determined feasible and appropriate.
The Porterville Redevelopment Agency should ensure that mitigation measures are implemented to protect the health and economic well being of all impacted areas and do not hamper the efforts of Tulare County to help achieve good air quality.

The exact site-specific projects may not be known at this time but the types of projects (residential, commercial and industrial) are known; therefore, a good faith effort should be made to quantify emissions from the Project.

Greenhouse Gases (GHG)

This Project will impact the County’s responsibility to reduce greenhouse gas emission in accordance with current legislation. (i.e. AB 32, SB 375) Climate change is by definition a cumulative impact, because it is not the result of any one project, but of emissions generated over many decades. Intergovernmental Panel on Climate Change, Understanding and Attributing Climate Change (2007); Center for Biological Diversity v. National Highway Traffic Safety Admin. (9th Cir. 2008) 538 F 3d. 1172. The EIR should discuss the severity of the cumulative impacts and their likelihood of occurrence. State CEQA Guidelines § 15130 (b). The analysis should focus on the project’s contribution to the cumulative impact and evaluate the project’s greenhouse gas emissions with disclosure of the project’s contribution to total emissions. The increase in vehicle traffic alone could be a substantial increase in CO2 emission within the County. The County emphasizes the importance of implementing mitigation measures to reduce the substantial climate change impacts the Project will have within the County.

The DEIR’s discussion of the Project’s GHG emissions and the projected reductions in GHG emissions from proposed mitigation measures does not satisfy CEQA’s requirement to disclose to the public and the decision makers the Project’s GHG emissions impacts. The DEIR’s discussion of projected reductions merely includes tables showing greenhouse gas emission reduction strategies from the Climate Action Team Greenhouse Gas Emission Reduction Strategies. DEIR, at p. 81-83. The DEIR should contain more detailed analysis of the projected reductions resulting from the proposed mitigation measures relating to GHG emissions impacts. The DEIR should quantify GHG emissions according to population growth, foreseeable projects and programs in the Project Area, and cumulative impacts of the Project Area on the outlying City and County areas. State CEQA Guidelines § 15130.

Transportation

The DEIR, without adequate analysis and factual documentation, comes to the conclusion that the impact on transportation will be less than significant based only on the Porterville 2030 General Plan Update EIR and requires no mitigation. “The environmental impact report (EIR) must contain facts and analysis, not just an agency’s bare conclusions or opinions. It is only the EIR that can effectively disclose to the public the analytic route the agency traveled from evidence to action.” Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal. 3d 553, 568; Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 515. The DEIR should analyze the additional traffic impacts that the Project will have on local
Cumulative Effects

Although the Project has potential significant environmental effects that are cumulatively considerable, the DEIR does not include adequate cumulative impact analysis or adequate mitigation measures for all cumulative impacts.

An EIR must discuss a cumulative impact if the project’s incremental effect combined with the effects of other projects is “cumulatively considerable.” State CEQA Guidelines § 15130 (a). This determination is based on assessment of the project’s incremental effects “viewed in connection with the effects of probable future projects.” The definition of cumulative impacts is “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” State CEQA Guidelines §§ 15355 and 15065 (a)(3). The purpose of the cumulative impacts analysis is to avoid considering projects in a vacuum, because failure to consider cumulative harm may risk environmental disaster. Whitman v. Board of Supervisors (1979) 88 CA 3d 397, 408. Without this analysis, piecemeal approval of several projects with related impacts could lead to severe environmental harm. San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus (1994) 27 CA 4th 713. The requirement of a cumulative impacts analysis of a project’s regional impacts has been described as a “vital provision” of CEQA. See Bozung v. LAFCO (1975) 13 C3d 263, 283. Further, an EIR must discuss reasonable, feasible options for reducing or avoiding the project’s contribution to significant cumulative environmental effects. State CEQA Guidelines § 15130 (b)(5).

The DEIR does not have an adequate cumulative impact analysis or adequate mitigation measures for all cumulative impacts. The Project has potential significant environmental effects that are cumulatively considerable and at the program level should assess those impacts. The DEIR does not adequately quantify, summarize, and/or analyze other projects that may have an incremental effect in combination with the proposed project. The Program EIR should include an analysis of the Project’s regional effects including, but not limited to air and water quality impacts, water supply impacts and traffic impacts, impacts on County facilities and services and include a determination as to whether impacts will result in cumulatively considerable or significant impacts within the County. (See discussion in Section on Indirect Effects below.)

Indirect Effects

The DEIR must identify significant indirect environmental impacts that will result from the project. State CEQA Guidelines §15126.2 (a). An indirect environmental impact is a change in the physical environment that is not immediately related to the project but that is caused indirectly by the project. State CEQA Guideline § 15064 (d)(2). This includes secondary effects, growth-inducing effects and other effects relating to a change in the pattern of land use,
30. Population density, or growth rate induced by the project. State CEQA Guidelines §§ 15064 (d)(3), 15358 (a) (2). An indirect impact should be considered only if it is a reasonably foreseeable impact caused by the project. Id.

31. Failure to Disclose Impact to Communities Nearby:

The Project has the potential to influence growth in the unincorporated communities of Tulare County. The County requests that an adequate cumulative analysis be prepared and land use impacts that affect the unincorporated portion of the County be clearly identified. These impacts would require evaluation of compatibility and consistency with the County's General Plan. The County further requests that Program EIR identify "covered" projects near the County's jurisdictional boundary and, that the Program EIR include appropriate project-level analysis.

32. Effects on the Tulare County General Fund:

The DEIR fails to adequately address the impact and effect of the Project on the Tulare County General Fund.

33. An EIR must discuss significant physical changes to the environment caused by a project's economic or social effects. State CEQA Guideline § 15064 (e). The EIR must trace the effects of economic or social changes resulting from a project to physical changes caused by the economic or social changes. State CEQA Guideline § 15131 (a). For instance, although increased student enrollment and potential for overcrowding by itself is likely insufficient to implicate CEQA, such effects are relevant when they will lead to construction of new facilities. El Dorado Union High Sch. Dist. V. City of Placerville (1983) 144 CA 3d 123. Further, the possibility that a large shopping center could drive other retailers out of business may cause blight like conditions in other areas, may be considered an environmental impact. Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 CA 4th 1184, 1215.

34. Increases in population resulting from a project can indirectly lead to further development by overburdening existing community service facilities, which could in turn require construction of new facilities. CEQA Guidelines § 15126.2 (d). Napa Citizens for Honest Gov't v. Napa County Bd. Of Supervisors (2001) 91 CA 4th 342, 368. Stanislaus Audubon Soc'y, Inc. v. County of Stanislaus (1995) 33 CA 4th 144. The Project will also indirectly impact County public facilities, services and operations. The Project will cause increased population in the City of Porterville and thus more vehicle miles traveled in and out of the City. This will result in an increasing need for the County to repair and maintain roads outside the City of Porterville. The changes to the environment and to the population caused by the Project will make it necessary for the County to increase public facilities, services and operations that serve residents and businesses within the City of Porterville and within the Project Area as well as increase County maintenance, operation and renovation of the existing facilities.

The Project will also result in an estimated loss of General Fund revenues to the County in the amount of $38,622,296 (Exhibit A, chart created by Urban Futures, Inc.) for the life of the
Project. Any loss in General Fund revenues will negatively affect the County's ability to maintain, operate or renovate public facilities and limit the County's ability to place new public facilities as needed in appropriate locations within the County due to the costs of construction and real property.

These impacts on County public facilities must be analyzed in the Environmental Impact Report and mitigated with an agreement with the County for the City of Porterville to adopt, impose and collect County impact fees for development in the City of Porterville and to pay the fees to the County. The County impact fees should be collected by the City of Porterville at the building permit stage, unless required by law to be collected at an earlier or later stage in the development project. The County is in the process of developing a system of Development Impact Fees (DIFs) that are intended to recover costs needed to expand and upgrade County facilities as a result of the impact from increased development within the County and Cities. Development within the Cities creates impacts on County provided facilities and services and such impacts and demand for increased services must be offset by collection of DIFs and other funding systems imposed on new development within the Cities and paid to the County to offset the demand for increased services as a result of new development occurring in the Cities. County impact fees will need to be adopted by the County and incorporated cities pursuant to the Mitigation Fee Act, Chapter 5, Government Code sections 66000 et. seq. Public facilities fees for county wide public protection, parks and open space, general government, and animal control apply to all development in the County because they provide countywide systems of services that are not duplicated by the city governments. The County and cities must ensure that new development pay the capital costs associated with growth, as new development leads to service population increases.

Countywide public protection refers to the judicial and criminal justice functions provided by the County that serve all County areas, both incorporated and unincorporated. The demand for countywide public protection services is primarily related to the demands that residents and businesses place on the County's judicial system. County Public Protection Facilities include real property, vehicles and equipment. The County can use countywide public protection fee revenues for the construction or purchase of new buildings, land, vehicles, or equipment that expand the capacity of the existing system to serve new development. Planned public protection facilities include a share of the proposed County Civic Center, South County Justice Center, and South County Detention Center. Fee revenues may not be used for replacement of aging facilities or equipment or to otherwise correct existing deficiencies unrelated to new development.

Impact fees must ensure that new development in the cities fund their fair share of parks and open space facilities. The County will use fee revenues to expand park facilities to serve new development. Demand for parks and associated facilities are based on the County's residential population (including incorporated areas) because residents are the primary users of parks and open space facilities. The County currently has park facilities throughout the unincorporated and incorporated areas. For instance, Barlett Park is in Porterville. The County also has an inventory of vehicles and equipment to serve the parks. The County can use park facilities fee
revenues for the construction or purchase of new buildings, land, land improvements, vehicles, or equipment that expand the capacity of the existing parks system to serve new development. Fee revenues may not be used for replacement of aging facilities or equipment or to otherwise correct existing deficiencies unrelated to new development.

Impact fees must ensure that new development funds its fair share of County general government facilities. General government encompasses all administrative functions that the County government provides to residents and businesses in both incorporated and unincorporated portions of the County. Demand for services and associated facilities are based on the City's service population including residents and workers. Existing County General Government facilities include but are not limited to: the Visalia Courthouse at 221 S. Mooney, Visalia, CA; Government Plaza at 5961 S. Mooney, Visalia, CA; the Board of Supervisors/CAO at 2800 W. Burrel, Visalia, CA; County Counsel/Human Resources Department at 2900 W. Burrel, Visalia CA; and the County Warehouse located at 11200 Ave 368. The County can use general government facility fee revenues for the construction or purchase of new buildings, land, vehicles, or equipment that expand the capacity of the existing system to serve new development. One future facility will be planned as a County Civic Center located at the site of the existing government complex in Visalia. Fee revenues may not be used for replacement of aging facilities or equipment or to otherwise correct existing deficiencies unrelated to new development.

Impact fees must ensure that new development funds its fair share of County animal control facilities. Demand for animal control facilities is based on the County's unincorporated and incorporated area residential population because residents are the primary users of animal control facilities. The County currently has real property, vehicles and equipment used to serve the County-wide animal control needs. The County can use animal control facilities fee revenues for the construction or purchase of new buildings, land, vehicles, or equipment that expand the capacity of the existing system to serve new development. Fee revenues may not be used for replacement of aging facilities or equipment or to otherwise correct existing deficiencies unrelated to new development.

Effects on Tulare County Funds:

The attached chart (Exhibit A) also indicates the Project will have an impact on the funds for Tulare County School Service, Tulare County Flood Control and Tulare County Resource Conservation, thus impacting the existing and future public facilities managed by such funds.

Effects on County Services and Operations:

Any shortfall of police, fire, and emergency services in the City of Porterville combined with the impacts of the proposed Project could strain the County's Sheriff and fire emergency services pursuant to mutual aid agreements. As a result, impacts from this project may result in a deficit in emergency services for the County of Tulare and affect such County facilities.
The Project EIR must mitigate the impacts of Project Area development on County services and operations, which in turn affect County public facilities and cause blight-like conditions in the unincorporated areas. The County provides services and operations, including but not limited to social services, general government services, public safety services, and road and park services to benefit the residents and businesses of the incorporated cities, the County and any development therein. These services and operations depend in part or all on the County General Fund. Even if the cities mitigate impacts on County facilities by agreeing to adopt and collect County impact fees, this does not mitigate County non-facility services or operations and results in a loss to County General Fund. Further, the decrease in General Fund monies resulting in losses including but not limited to social services, transportation and road services, may disproportionately affect those including, but not limited to disadvantaged communities, thus causing an environmental justice problem and blight-like conditions in the unincorporated areas. Much of the unincorporated area of Tulare County suffers from critical infrastructure and service deficits and is in dire need of potable drinking water, sewer systems, improved police services, sidewalks, curbs, gutters, streetlights and improved streets. While the proposed Project will bring public services and infrastructure improvements within the Project Area, it will reduce the funds available to the County to provide the same public services and infrastructure improvements to the unincorporated areas of Tulare County. The City of Porterville must mitigate and offset the impacts of development on County services and operations by entering into an agreement with the County to share the City of Porterville’s increased Transient Occupancy Tax and increased sales tax as a result of the proposed Added Territory of the Project.

The EIR must discuss the ways the proposed project could foster growth. State CEQA Guidelines §15126.2 (d) (2). A simple statement of population growth is not enough. An analysis in growth of public facilities, utilities and infrastructure is necessary as well. The DEIR fails to accomplish this.

**Program EIR**

An EIR is primarily a disclosure document. The State CEQA Guidelines § 15149(b) states:

"...The EIR serves as a public disclosure document explaining the effects of the proposed project on the environment, alternatives to the project, and ways to minimize adverse effects and to increase beneficial effects."

Please clearly identify whether the Program EIR will be used to approve subsequent development without further CEQA review. In accordance with CEQA if an EIR for a redevelopment plan is a program EIR, subsequent activities in the program will be subject to the review as required by State CEQA Guidelines § 15168.

State CEQA Guidelines § 15151 sets forth a standard of adequacy of an EIR:
"An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure."

Although the Program EIR will allow for subsequent environmental documents through the process of tiering. Tiering “is not a device for deferring the identification of significant environmental impacts that the adoption of a specific plan can be expected to cause.” (Stanislaus Natural Heritage v. County of Stanislaus (5th Dist. 1996) 48 Cal. App. 4th 182, 199.)

Conclusion

For the above reasons, the County of Tulare requests the City of Porterville and the City of Porterville Redevelopment Agency to take no action regarding the Project and DEIR until such documents have been revised to resolve the inadequacies discussed herein and in other comment letters. The necessary revisions to the Project DEIR will require its recirculation for further public comment.

If you have any questions that require further information, please call me at (559) 636-4980; or Cynthia Echavarria (Tulare County, Resource Management Agency, Planner) at (559) 624-7000.

Very truly yours,
KATHLEEN BALES-LANGE
County Counsel

By [Signature]
Nina Dong
Deputy County Counsel
County of Tulare
**PASS-THRU PAYMENT PROJECTIONS**

**PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1**

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TOTALS | $161,752,591 | $161,828,815 | $161,267,329 | $161,622,296 |

2 Par the preliminary Tulea County 33328 Report provided by the County Auditor-Controller/Treasurer-Tax Collector in February 26, 2010.
3 Estimated by UII staff.
4 Base year A.V. is per the preliminary Tulea County 33328 Report provided by the County Auditor-Controller/Treasurer-Tax Collector in February 26, 2010. Please note that this is the preliminary version; the final version will be prepared when the final 33328 Report is provided by the County.
5 Assumes 3% tax rate. With special assessments, actual tax rate may be higher.
6 Pursuant to CCR Section 38607.5 pass through formula ("Statutory Pass Thru").
## PASS-THRU PAYMENT PROJECTIONS

PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1

<table>
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<th>Affected Taxing Entity</th>
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<td>Affect</td>
<td>Gross Val</td>
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**Notes:**
- Par the preliminary Tulare County 29328 Report provided by the County Auditor-Controller / Treasurer-Tax Collector in February 28, 2010.
- Estimated by UPI staff.
- Base year A.Y. is per the preliminary Tulare County 29328 Report provided by the County Auditor-Controller / Treasurer-Tax Collector in February 28, 2010. Please note that this is the preliminary version; the final version will be prepared when the Final 29328 Report is provided by the County.
- Assumed 1% tax rate. With special assessments, actual tax rate may be higher.
- Pursuant to CCR, Section 38007.5 pass through formula ("Statutory Pass Thru").

**Totals:**
- $1,617,253,911
- $3,942,488
- $4,306,378
- $2,653,205
## PASS-THRU PAYMENT PROJECTIONS

**PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1**

<table>
<thead>
<tr>
<th>AFFECTED TAXING ENTITY</th>
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**TOTA L:** $164,752,991 $284,722 $780,378 $182,855

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1. Per the preliminary Tulare County 2010 Report provided by the County Auditor-Controller/Treasurer-Tax Collector in February 26, 2010.
2. Estimated by UFI staff.
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4. Assumes 1% tax rate. With special assessments, actual tax rate may be higher.
5. Pursuant to CCRS Section 33075.5 pass through formula ("Statutory Pass Thru").
## PASS-THRU PAYMENT PROJECTIONS

**PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1**

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<th>AFFECTED TAXING ENTITY</th>
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**TOTALS**

$164,752,561

$182

$54

$108

---

1. Per the preliminary Tulare County 83328 Report provided by the County Auditor Controller/Treasurer-Tax Collector in February 26, 2020.
2. Estimated by UFO staff.
3. Base year A.V. is per the preliminary Tulare County 83328 Report provided by the County Auditor Controller/Treasurer-Tax Collector in February 26, 2020. Please note that this is the preliminary version; the final version will be prepared when the final 83328 Report is provided by the County.
4. Assumes 1% tax rate. With special assessments, actual tax rate may be higher.
5. Pursuant to COE Section 38467.5 pass through formula ("Statutory Pass Through").
TULARE COUNTY COUNSEL

Attorneys
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Kathleen A. Taylor
Julia C. Langley
Amy-Marie Costa
Clinton D. Sims, II
Nina F. Dong
Special Assistant
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Arlene F. Silva
Channone Smith-Sheller
Barbara Booth Grunwald
Carol Helsing
Jason Chu
Erin K. Leedy
Elizabeth A. Klotz
Desiree Serrano

2900 W. Burrel, County Civic Center, Visalia, CA 93291
11200 Avenue 368, Room 102, Visalia CA 93291
Telephone: (559) 656-4950
Fax: (559) 737-4319

April 29, 2010

VIA FAX and EMAIL

Bradley Dunlap, AICP
Community Development Director,
Porterville Redevelopment Agency
291 N. Main Street
Porterville, CA 93257
bdunlap@ci.porterville.ca.us
Fax: (559) 782-7452

Re: Draft Environmental Impact Report (DEIR) for the Porterville Redevelopment Project Area 1, State Clearinghouse #200912097

Dear Mr. Dunlap:

Thank you for the opportunity to provide comments related to the above mentioned project (“Project” or “Project Area”). To assist the Porterville Redevelopment Agency (“PRA”) in preparing a Draft Program EIR (“DEIR”) that provides an adequate and complete document, in accordance with the California Environmental Quality Act (“CEQA”) the County submits the following comments and concerns:

CEQA Requirements

CEQA has two essential requirements, neither of which the DEIR satisfies. First, CEQA is designed to inform decision makers and the public about the potential, significant environmental effects of a project. (14 Cal. Code Regs. (“State CEQA Guidelines”) § 15002(a)(1).) Second, CEQA directs public agencies to avoid or reduce environmental damage when possible by requiring alternatives or mitigation measures. (State CEQA Guidelines § 15002(a)(2) and (3). (See also Citizens of Goleta Valley v. Board of Supervisors, (1990) 52 Cal.3d 553, 564; Laurel Heights Improvement Ass’n v. Regents of the University of California, (1988) 47 Cal.3d 376, 400).)
The DEIR does not include a Mitigation Monitoring Program, deferring it until consideration of the Final EIR, stating:

The Agency is not required to prepare a Mitigation Monitoring Program until such time as the Final Environmental Impact Report is considered for certification, at which time it will be included here. DEIR, p. 127.

However, by deferring the Mitigation Monitoring Plan and not including it in the DEIR, the public, the County, and other decision makers are denied the opportunity to evaluate how the project’s impacts will be reduced to a level of less than significant and the PRA is precluded from evaluating whether the program is vulnerable to legal challenge.

An EIR must identify mitigation measures and alternatives to the project which may reduce or avoid the project’s significant adverse impacts, thus accomplishing CEQA’s basic statutory goals. This analysis of feasible mitigation measures and a reasonable range of alternatives is crucial to CEQA’s substantive mandate that significant environmental damage be substantially lessened or avoided where feasible. Cal. Pub. Res. Code §§ 21002, 21081, 21100; State CEQA Guidelines § 15002, subd. (a)(2) and (3). Laurel Heights, supra, 47 Cal.3d at 392, 404-405.

Project Description

The Project Description in the DEIR is legally insufficient and does not adequately evaluate the environmental result of the Project and it lacks sufficient detail to allow meaningful analysis. The project description is the crucial element or initial step for every CEQA environmental document. A project description is a brief summary of the proposed project and its consequences in sufficient detail as to describe the project being proposed and provide the subject for the environmental review. The term "project" means the whole of the action that has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. It does not mean each separate governmental approval. State CEQA Guidelines, §15378. A “finite project description is indispensable to an informative, legally adequate EIR.” County of Inyo v. City of Los Angeles (1977) 71 CA 3d 185, 192. Without an accurate description on which to base the Environmental Impact Report’s (EIR’s) analysis, CEQA’s objective of public disclosure and informed environmental decision making is stymied. A project description that omits integral components of the project may result in an EIR that fails to disclose all of the project impacts. Santiago County Water Dist. v. County of Orange (1981) 118 CA 3d 818, 829. The EIR’s project description must provide “enough information to ascertain the project’s environmentally significant effects, assess ways of mitigating them, and consider project alternatives.” Sierra Club v. City of Orange (2008) 163 CA 4th 523.

In accordance with State CEQA Guideline § 15124, the description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impacts.
The precise location and boundaries of the proposed project shall be shown on a
detailed map, preferably topographic. The location of the project shall also appear
on a regional map.

A statement of objectives sought by the proposed project. A clearly written
statement of objectives will help the lead agency develop a reasonable range of
alternatives to evaluate in the EIR and will aid the decision makers in preparing
findings or a statement of overriding considerations, if necessary. The statement
of objectives should include the underlying purpose of the project.

A general description of the project's technical, economic, and environmental
characteristics, considering the principal engineering proposals if any and
supporting public service facilities.

A statement briefly describing the intended uses of the EIR.

This statement shall include, to the extent that the information is known to the
Lead Agency,

A list of related environmental review and consultation requirements mandated by
federal, state or local laws, regulation or policies

Here, the project description is vague, unclear and inconsistent as to what extent the Project will
enable the Porterville Redevelopment Agency to carry out development. For example Chapter
one, of the DEIR states:

"The Project is the adoption and subsequent implementation of the 2010
Amendment to the Redevelopment Plan for the Porterville Redevelopment Project
No. 1 within or for the benefit of the Added Territory, specifically, for the
Original Project Area, generally, and ultimately for the community, which is
located in the southwest corner of the County (see Section 1.2, Figure 1 Vicinity

The DEIR goes on to say:

"The 2010 Amendment proposes to reinstate the Agency's eminent domain
authority in the Existing Project Area for an additional 12-year period as
permitted by CCRL Section 33333.4(g)(2)..." DEIR p. 8.

The DEIR fails to state why the PRA needs to reinstate its eminent domain authority for an
additional 12-year period.

The project description indicates that the activities involved in the Project include but are not
limited to a list of desires and objectives of the PRA:

"Such activities should help to cause the long-term revitalization of the Added
Territory and may include, but not necessarily be limited to, construction of new
and upgrading existing public facilities and infrastructure, promoting and
facilitating economic development and job growth, providing additional
affordable housing opportunities for eligible persons and families, and generally helping to improve the quality of life for residents, and business and property owners within the Added Territory, specifically, and the Existing Project Area and community overall.” DEIR p. 13.

The Project DEIR first identifies the projects goals without first indicating what the Project is. The DEIR goes on to express the objectives as:

“The Agency is proposing adoption of the 2010 Amendment to add territory to the Existing Project Area for the purposes of: i) implementing the goals, policies, and standards of the General Plan, as applicable, within, or for the benefit of, the Added Territory; ii) promoting long-term Agency activities to improve or alleviate existing blighting conditions within the Added Territory; and iii) increasing, improving and preserving the supply of housing affordable to eligible persons and families of very low and low and moderate income in the community.” DEIR p. 13.

The DEIR does not provide sufficient detail in the project description to adequately evaluate the environmental result and impacts of the Project. The project description does not appear be accurate and complete for a proper evaluation of the potential significant impacts. For example, types of specific projects are not set forth in the actual project description, but in the back of the DEIR in Appendix B, Projects and Programs List. This Appendix B also does not give a sufficient explanation of the proposed projects and programs to be completed as part of the Project. This is contrary to the mandate that, “[t]he EIR shall examine all phases of the project including planning, construction, and operation.” State CEQA Guidelines § 15161.

The Project Description must include all relevant parts of a project, including reasonably foreseeable future expansion or other activities that are part of the project. Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal. (1988) 47 C3d 376. The DEIR here fails to include all relevant parts of the Project.

Future activities must be treated as part of the project, and included in an EIR’s impact analysis if those activities are likely to result from approval of the project. National Parks & Conserv. Ass’n v. County of Riverside (1996) 42 CA 4th 1505. The Project Description and DEIR in general should contain as much site-specific detail as can reasonably be obtained so the environmental impacts of these projects and programs can be analyzed. This analysis has not been completed in the DEIR. We cannot tell from the Project Description or from Appendix B of the DEIR which projects and programs will be instituted, where the projects and programs will be located, when they will occur, or what environmental impacts will or may result from the projects and programs. We can merely speculate and discern from the DEIR that the general list of projects and programs in Appendix B may occur at sometime within the life of the redevelopment plan, and somewhere within the Project Area. The DEIR clearly attempts to minimize the impacts of the project by not fully discussing the extent of the project. This is legally insufficient.
The DEIR’s project description also does not contain a general description of the project’s technical, economic, and environmental characteristics, considering the principal engineering proposals, if any, and supporting public service facilities. State CEQA Guidelines §15124 (c). This analysis was not set forth in the DEIR. It discusses the environment of the valley and region in general, however does not discuss the actual project’s technical, economic and environmental characteristics. For an example of affected supporting public service facilities, see the Section below on Indirect Effects.

Environmental Setting

The EIR, in describing the environmental setting for the Project, contains only a legally inadequate condensed description of the valley region and City of Porterville, but does not adequately address the physical environmental conditions to establish a proper baseline for this Project.

An EIR must include a description of the physical conditions in the vicinity of the project at the time notice of preparation is published, or at the time the environmental analysis is commenced if no notice is published. State CEQA Guidelines § 15125. This environmental setting will normally constitute the baseline physical conditions by which the lead agency determines whether an impact is significant. Id. See also Planning & Conservation League v. Department of Water Resources (2000) 83 Cal. App. 4th 892, 915-916; Environmental Planning & Information Council v. County of El Dorado (1982) 131 Cal. App. 3d 350, 357.

In San Joaquin Raptor v. County of Stanislaus (1994) 27 Cal. App. 4th 713, the court held:

[The ultimate decision of whether to approve a project, be that decision right or wrong, is a nullity if based upon an EIR that does not provide the decision-makers, and the public, with the information about the project that is required by CEQA."
(Santiago County Water Dist. v. County of Orange (1981) 118 Cal. App.3d 818, 829. The error is prejudicial "if the failure to include relevant information precludes informed decision making and informed public participation, thereby thwarting the statutory goals of the EIR process."
(Kings County Farm Bureau v. City of Hanford (1990) 221 Cal. App.3d 692, 712.)

Further, the emphasis should be placed on sensitive environmental resources on the project site as well as on those nearby that might be adversely affected by the project. State CEQA Guideline §15125; County of Amador v. El Dorado County Water Agency (1999) 76 ca 4TH 931, 955. This has not been achieved in the DEIR.

The EIR, in describing the environmental setting does not address the physical environmental conditions, to establish a proper baseline for the project. The DEIR only includes a condensed description of the environmental conditions of the valley region and City of Porterville. The discussion does not actually describe the environmental setting of the proposed Project and Project Area. The failure to include an adequate description is crucial. Such a description is
particularly important where existing cumulative impacts such as those related to traffic, noise, aesthetics, sediment loading, air pollution, wildlife corridor depletion, etc., are already "significant." By contributing to existing significant effects, a project will be considered to have significant impacts on the environment under CEQA. See Kings County Farm Bureau, supra, 221 Cal.App.3d at 722; EPIC v. Johnson (1985) 170 Cal.App.3d 604, 624-625.

The environmental setting description in the DEIR is also inadequate to create a baseline for review of project impacts, as it is merely a general discussion of the areas much larger than the project area and not a discussion of the project area itself. The DEIR does not describe the existing physical conditions or potential future development under the existing plans, which would allow the lead agency to compare the impacts of the project as required by CEQA. Woodward Park Homeowners Ass’n v. City of Fresno (2007) 150 CA 4th 683, 707. The DEIR cites to the Porterville 2030 General Plan and the City of Porterville’s Final and Draft Environmental Impact Report, 2030 General Plan, however the Porterville 2030 General Plan Update EIR’s analyzed a much broader project area than the Project for this DEIR. Thus a proper analysis of the baseline is lacking in this DEIR.

Any inconsistency between the project and “applicable general plans and regional plans” must be discussed. State CEQA Guidelines §15125 (d). Regional plans that may apply to a project include but are not limited to air quality attainment or maintenance plans, the state implementations plan for air quality, area-wide waste treatment and water quality plans, regional transportation plans, regional housing allocation plans, habitat conservation plans, and natural community conservation plans. Potential inconsistencies are not considered in the DEIR.

Analysis of Environmental Impacts Inadequate.

The DEIR’s sections on impacts do not adequately quantify impacts. The DEIR must consider the full amount of development authorized under the Project as it has been presented. As the DEIR fails to analyze the environmental effects in comparison an appropriate existing baseline or with maximum build out in the Added Territory pursuant to the Projects and Programs listed in Appendix B, all of the DEIR impact analyses are inadequate under CEQA.

An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure. State CEQA Guidelines §15151; San Francisco Ecology Center v. City and County of San Francisco (1975) 48 Cal. App. 3d 584.
An EIR’s discussion of significant impacts must analyze and describe both direct and indirect effects on the environment that will result from the project. State CEQA Guidelines §15126.2 (a). The environment is defined as the physical conditions as they exist in the area that is affected by the project. Pub. Res. Code § 21060.5. The area to be considered in the analysis is the area in which the project will cause significant effects to occur either directly or indirectly. CA State CEQA Guidelines § 15360. All phases of the project must be considered, including planning, acquisition, development and operation. CA State CEQA Guidelines § 15126 (a). The DEIR fails to adequately discuss direct and indirect environmental effects because it does not discuss or analyze relevant specifics of the area affected, the resources that will be involved, the physical changes that will result, alterations to ecological systems, changes induced in population distribution, population concentration and human use of the land, and health and safety problems caused by the specific physical changes. Nor does the DEIR discuss other aspects of the resource base such as water, historical resources, scenic quality and public services within the Project Area. The DEIR includes general discussions regarding the City and citing the City of Porterville 2030 General Plan Update; however, it does not discuss the specific impacts associated in the DEIR Project Area, which is a smaller area than that analyzed in the City’s General Plan Update. Thus, we cannot tell from the DEIR what all the significant adverse changes in the environment that will result from the project are. State CEQA Guidelines §15126.2 (a).

Water Supply

The DEIR fails to adequately address, analyze, and mitigate water supply impacts. Identifying a water supply is a clear legal obligation of an EIR. Especially in the Central Valley, water supply planning must be seriously considered. Although the DEIR identifies the intended water sources in general terms, it does not clearly and logically explain, using relevant and reasonable assumptions, how the long-term demand for water is likely to be met with the sources available, the environmental impacts of using those sources, and how those impacts are to be mitigated. The EIR must analyze the reasonably foreseeable impacts of supplying water to most of the project. Natural Heritage Project v. County of Stanislaus (1996) 48 CA 4th 182; Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova (2007) 40 CA 4th 412. The water supply analysis is inadequate in the DEIR.

The DEIR does not identify the actual source of the water needed to supply the Project’s demand due to the Added Territory and Proposed Projects and Programs (Appendix B, DEIR). CEQA’s informational purposes are not fulfilled by an EIR that simply ignores or assumes a solution to the problem of supplying water to a proposed land use project. Decision makers must, under the law, be presented with sufficient facts to “evaluate the pros and cons of supplying the amount of water that the [project] will need.” (Santiago County Water Dist. v. County of Orange, supra, 118 Cal.App.3d at p. 829.) An EIR must base the water supply analysis on reliable evidence relating to projected future supplies, and not theoretical water supply entitlements. Santa Clarita Org. for Planning the Env’t v. County of Los Angeles (2003) 106 CA 4th 715.
The Initial study states:

"...No adverse impacts are anticipated to occur with respect to the Added Territory and no further analysis with respect to potential violations of water quality standards or wastewater discharge are required to be undertaken in the Program EIR for the Amendment."

The DEIR's determination of no significant impact is made solely on the analysis in the Porterville 2030 General Plan Update EIR and does not adequately identify and assess the impacts of future water supplies. The DEIR does not identify the actual source of the water needed to supply the Project's demand due to the Added Territory. The DEIR recognizes the negative impacts the Project will have on water quality and quantity, yet does not offer solutions to mitigate the impacts. The DEIR merely relies on state regulation and past policies to determine the impact to be less than significant. The Initial Study in the DEIR states:

"Implementation of 2010 Amendment-related projects/programs does not contemplate any specific activity that would deplete groundwater resources or otherwise change the quantity of groundwater, direction or rate of groundwater flow, or cause an impact to groundwater quality beyond those impacts previously analyzed by the General Plan EIR. Furthermore, all site-specific, development/redevelopment projects are required to be in accordance with the General Plan and other local, regional, State and federal regulations and requirements affecting water quality, recharge and discharge. Development/redevelopment activities undertaken by the Agency over the 30-year life of the Amended Plan will be within the planning parameters of the General Plan; i.e., land use densities, growth management policies, as well as with all local, regional, State and federal codes, guidelines and standards." DEIR p. 44.

On a general level, State CEQA Guidelines §15144 , addressing the need to forecast future events in an EIR, state that "While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can." The DEIR here does not reflect that the agency has used its best efforts to find out and disclose all that it reasonably can.

**Air Quality and Climate Change**

**Criteria Pollutants**

Short-term and long-term impacts from the Project will create significant levels of air pollutants within the County of Tulare. The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-
loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., degreasers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

Under Short-tem impacts on page 72 in the Air Quality/Climate Change Section of the DEIR, construction activities would result in on-going construction emission impacts overlapping with operation air quality impacts. If construction and operational phases will overlap, the lead agency needs to sum construction and operation emissions to determine peak daily emissions. The sum of the peak construction and operational emission estimates together would then need to be compared to San Joaquin Valley Air Pollution Control District’s recommended operational daily significance.

The DEIR fails to evaluate the increase from toxic air contaminates, including diesel particulate emissions from trucks. The DEIR indicates that diesel particulate emissions associated with construction grading and the transport of goods to the area via diesel-fueled vehicles during the operational phase have the potential to cause a significant impact. It is recommended that PRA for projects generating or attracting vehicular trips, especially heavy-duty diesel fueled vehicles, perform a mobile source health risk assessment. An analysis of all toxic air contaminant impacts due to the use of equipment potentially generating such air pollutants should also be included.

Mitigation Measures provided in the DEIR to reduce construction and operational air pollution are not in accordance with CEQA. Unknown mitigation measures are “recommended” in the DEIR to be included in the future. In accordance with CEQA, mitigation measures should be disclosed, quantifiable and measurable. State CEQA Guidelines § 15370, Federation of Hillside & Canyon Ass’ns v. City of Los Angeles (2000) 83 CA 4th 1252, 1260 (Mitigation measures must not be remote and speculative). Mitigation measures are legally inadequate if they are so undefined, that it is impossible to gauge their effectiveness. San Franciscans for Reasonable Growth v. City & County of San Francisco (1984) 151 CA 3d 61, 79. One example of an inadequate mitigation measure in the DEIR is Mitigation Measure AQ-5, which suggests that feasible mitigation measures may be appropriate to reduce ozone precursors that will result from implementation of specific projects. Also, the DEIR (DEIR at p. 73) has determined that criteria pollutants emissions from project construction activities will exceed the SJVAPCD’s significance thresholds for oxides of nitrogen (NOx), and the recommended threshold for particulate matter PM10, the County recommends that the lead agency consider adding mitigation measures in addition to the ones recommended in Table 9 (page. 72) of the DEIR to further reduce construction air quality impacts from the project. The DEIR should be more specific as to the type of mitigation that would be determined feasible and appropriate.
The Porterville Redevelopment Agency should ensure that mitigation measures are implemented to protect the health and economic well being of all impacted areas and do not hamper the efforts of Tulare County to help achieve good air quality.

The exact site-specific projects may not be known at this time but the types of projects (residential, commercial and industrial) are known; therefore, a good faith effort should be made to quantify emissions from the Project.

Greenhouse Gases (GHG)

This Project will impact the County’s responsibility to reduce greenhouse gas emissions in accordance with current legislation. (i.e. AB 32, SB 375) Climate change is by definition a cumulative impact, because it is not the result of any one project, but of emissions generated over many decades. Intergovernmental Panel on Climate Change, Understanding and Attributing Climate Change (2007); Center for Biological Diversity v. National Highway Traffic Safety Admin. (9th Cir. 2008) 538 F 3d. 1172. The EIR should discuss the severity of the cumulative impacts and their likelihood of occurrence. State CEQA Guidelines § 15130 (b). The analysis should focus on the project’s contribution to the cumulative impact and evaluate the project’s greenhouse gas emissions with disclosure of the project’s contribution to total emissions. The increase in vehicle traffic alone could be a substantial increase in CO2 emission within the County. The County emphasizes the importance of implementing mitigation measures to reduce the substantial climate change impacts the Project will have within the County.

The DEIR’s discussion of the Project’s GHG emissions and the projected reductions in GHG emissions from proposed mitigation measures does not satisfy CEQA’s requirement to disclose to the public and the decision makers the Project’s GHG emissions impacts. The DEIR’s discussion of projected reductions merely includes tables showing greenhouse gas emission reduction strategies from the Climate Action Team Greenhouse Gas Emission Reduction Strategies. DEIR, at p. 81-83. The DEIR should contain more detailed analysis of the projected reductions resulting from the proposed mitigation measures relating to GHG emissions impacts. The DEIR should quantify GHG emissions according to population growth, foreseeable projects and programs in the Project Area, and cumulative impacts of the Project Area on the outlying City and County areas. State CEQA Guidelines § 15130.

Transportation

The DEIR, without adequate analysis and factual documentation, comes to the conclusion that the impact on transportation will be less than significant based only on the Porterville 2030 General Plan Update EIR and requires no mitigation. “The environmental impact report (EIR) must contain facts and analysis, not just an agency’s bare conclusions or opinions. It is only the EIR that can effectively disclose to the public the analytic route the agency traveled from evidence to action.” Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal. 3d 553, 568; Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 515. The DEIR should analyze the additional traffic impacts that the Project will have on local
road systems. The Project will add strain to the current County road system. Possible impacts include deterioration and additional maintenance upon the County’s roads. Cumulative, regional effects should be reviewed and analyzed in the Environmental Impact Report.

**Cumulative Effects**

Although the Project has potential significant environmental effects that are cumulatively considerable, the DEIR does not include adequate cumulative impact analysis or adequate mitigation measures for all cumulative impacts.

An EIR must discuss a cumulative impact if the project’s incremental effect combined with the effects of other projects is “cumulatively considerable.” State CEQA Guidelines § 15130 (a). This determination is based on assessment of the project’s incremental effects “viewed in connection with the effects of probable future projects.” The definition of cumulative impacts is “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” State CEQA Guidelines §§ 15355 and15065 (a)(3). The purpose of the cumulative impacts analysis is to avoid considering projects in a vacuum, because failure to consider cumulative harm may risk environmental disaster. Whitman v. Board of Supervisors (1979) 88 CA 3d 397, 408. Without this analysis, piecemeal approval of several projects with related impacts could lead to severe environmental harm. San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus (1994) 27 CA 4th 713. The requirement of a cumulative impacts analysis of a project’s regional impacts has been described as a “vital provision” of CEQA. See Bozung v. LAFCO (1975) 13 C3d 263, 283. Further, an EIR must discuss reasonable, feasible options for reducing or avoiding the project’s contribution to significant cumulative environmental effects. State CEQA Guidelines § 15130 (b)(5).

The DEIR does not have an adequate cumulative impact analysis or adequate mitigation measures for all cumulative impacts. The Project has potential significant environmental effects that are cumulatively considerable and at the program level should assess those impacts. The DEIR does not adequately quantify, summarize, and/or analyze other projects that may have an incremental effect in combination with the proposed project. The Program EIR should include an analysis of the Project’s regional effects including, but not limited to air and water quality impacts, water supply impacts and traffic impacts, impacts on County facilities and services and include a determination as to whether impacts will result in cumulatively considerable, or significant impacts within the County. (See discussion in Section on Indirect Effects below.)

**Indirect Effects**

The DEIR must identify significant indirect environmental impacts that will result from the project. State CEQA Guidelines §15126.2 (a). An indirect environmental impact is a change in the physical environment that is not immediately related to the project but that is caused indirectly by the project. State CEQA Guideline § 15064 (d)(2). This includes secondary effects, growth-inducing effects and other effects relating to a change in the pattern of land use,
population density, or growth rate induced by the project. State CEQA Guidelines §§ 15064 (d)(3), 15358 (a) (2). An indirect impact should be considered only if it is a reasonably foreseeable impact caused by the project. Id.

Failure to Disclose Impact to Communities Nearby:

The Project has the potential to influence growth in the unincorporated communities of Tulare County. The County requests that an adequate cumulative analysis be prepared and land use impacts that affect the unincorporated portion of the County be clearly identified. These impacts would require evaluation of compatibility and consistency with the County's General Plan. The County further requests that Program EIR identify "covered" projects near the County's jurisdictional boundary and, that the Program EIR include appropriate project-level analysis.

Effects on the Tulare County General Fund:

The DEIR fails to adequately address the impact and effect of the Project on the Tulare County General Fund.

An EIR must discuss significant physical changes to the environment caused by a project's economic or social effects. State CEQA Guideline § 15064 (e). The EIR must trace the effects of economic or social changes resulting from a project to physical changes caused by the economic or social changes. State CEQA Guideline § 15131 (a). For instance, although increased student enrollment and potential for overcrowding by itself is likely insufficient to implicate CEQA, such effects are relevant when they will lead to construction of new facilities. El Dorado Union High Sch. Dist. V. City of Placerville (1983) 144 CA 3d 123. Further, the possibility that a large shopping center could drive other retailers out of business may cause blight like conditions in other areas, may be considered an environmental impact. Bakersfield Citizens for Local Control v. City of Bakersfield (2004) 124 CA 4th 1184, 1215.

Increases in population resulting from a project can indirectly lead to further development by overburdening existing community service facilities, which could in turn require construction of new facilities. CEQA Guidelines § 15126.2 (d). Napa Citizens for Honest Gov't v. Napa County Bd. Of Supervisors (2001) 91 CA 4th 342, 368. Stanislaus Audubon Soc'y, Inc. v. County of Stanislaus (1995) 33 CA 4th 144. The Project will also indirectly impact County public facilities, services and operations. The Project will cause increased population in the City of Porterville and thus more vehicle miles traveled in and out of the City. This will result in an increasing need for the County to repair and maintain roads outside the City of Porterville. The changes to the environment and to the population caused by the Project will make it necessary for the County to increase public facilities, services and operations that serve residents and businesses within the City of Porterville and within the Project Area as well as increase County maintenance, operation and renovation of the existing facilities.

The Project will also result in an estimated loss of General Fund revenues to the County in the amount of $38,622,296 (Exhibit A, chart created by Urban Futures, Inc.) for the life of the
Project. Any loss in General Fund revenues will negatively affect the County’s ability to maintain, operate or renovate public facilities and limit the County’s ability to place new public facilities as needed in appropriate locations within the County due to the costs of construction and real property.

These impacts on County public facilities must be analyzed in the Environmental Impact Report and mitigated with an agreement with the County for the City of Porterville to adopt, impose and collect County impact fees for development in the City of Porterville and to pay the fees to the County. The County impact fees should be collected by the City of Porterville at the building permit stage, unless required by law to be collected at an earlier or later stage in the development project. The County is in the process of developing a system of Development Impact Fees (DIFs) that are intended to recover costs needed to expand and upgrade County facilities as a result of the impact from increased development within the County and Cities. Development within the Cities creates impacts on County provided facilities and services and such impacts and demand for increased services must be offset by collection of DIFs and other funding systems imposed on new development within the Cities and paid to the County to offset the demand for increased services as a result of new development occurring in the Cities. County impact fees will need to be adopted by the County and incorporated cities pursuant to the Mitigation Fee Act, Chapter 5, Government Code sections 66000 et. seq. Public facilities fees for county wide public protection, parks and open space, general government, and animal control apply to all development in the County because they provide countywide systems of services that are not duplicated by the city governments. The County and cities must ensure that new development pay the capital costs associated with growth, as new development leads to service population increases.

Countywide public protection refers to the judicial and criminal justice functions provided by the County that serve all County areas, both incorporated and unincorporated. The demand for countywide public protection services is primarily related to the demands that residents and businesses place on the County’s judicial system. County Public Protection Facilities include real property, vehicles and equipment. The County can use countywide public protection fee revenues for the construction or purchase of new buildings, land, vehicles, or equipment that expand the capacity of the existing system to serve new development. Planned public protection facilities include a share of the proposed County Civic Center, South County Justice Center, and South County Detention Center. Fee revenues may not be used for replacement of aging facilities or equipment or to otherwise correct existing deficiencies unrelated to new development.

Impact fees must ensure that new development in the cities fund their fair share of parks and open space facilities. The County will use fee revenues to expand park facilities to serve new development. Demand for parks and associated facilities are based on the County’s residential population (including incorporated areas) because residents are the primary users of parks and open space facilities. The County currently has park facilities throughout the unincorporated and incorporated areas. For instance, Bartlett Park is in Porterville. The County also has an inventory of vehicles and equipments to serve the parks. The County can use park facilities fee
revenues for the construction or purchase of new buildings, land, land improvements, vehicles, or equipment that expand the capacity of the existing parks system to serve new development. Fee revenues may not be used for replacement of aging facilities or equipment or to otherwise correct existing deficiencies unrelated to new development.

Impact fees must ensure that new development funds its fair share of County general government facilities. General government encompasses all administrative functions that the County government provides to residents and businesses in both incorporated and unincorporated portions of the County. Demand for services and associated facilities are based on the City’s service population including residents and workers. Existing County General Government facilities include but are not limited to: the Visalia Courthouse at 221 S. Mooney, Visalia, CA; Government Plaza at 5961 S. Mooney, Visalia, CA; the Board of Supervisors/CAO at 2800 W. Burrel, Visalia, CA; County Counsel/Human Resources Department at 2900 W. Burrel, Visalia CA; and the County Warehouse located at 11200 Ave 368. The County can use general government facility fee revenues for the construction or purchase of new buildings, land, vehicles, or equipment that expand the capacity of the existing system to serve new development. One future facility will be planned as a County Civic Center located at the site of the existing government complex in Visalia. Fee revenues may not be used for replacement of aging facilities or equipment or to otherwise correct existing deficiencies unrelated to new development.

Impact fees must ensure that new development funds its fair share of County animal control facilities. Demand for animal control facilities is based on the County’s unincorporated and incorporated area residential population because residents are the primary users of animal control facilities. The County currently has real property, vehicles and equipment used to serve the County-wide animal control needs. The County can use animal control facilities fee revenues for the construction or purchase of new buildings, land, vehicles, or equipment that expand the capacity of the existing system to serve new development. Fee revenues may not be used for replacement of aging facilities or equipment or to otherwise correct existing deficiencies unrelated to new development.

Effects on other Tulare County Funds:

The attached chart (Exhibit A) also indicates the Project will have an impact on the funds for Tulare County School Service, Tulare County Flood Control and Tulare County Resource Conservation, thus impacting the existing and future public facilities managed by such funds.

Effects on County Services and Operations:

Any shortfall of police, fire, and emergency services in the City of Porterville combined with the impacts of the proposed Project could strain the County’s Sheriff and fire emergency services pursuant to mutual aid agreements. As a result, impacts from this project may result in a deficit in emergency services for the County of Tulare and affect such County facilities.
“An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.”

Although the Program EIR will allow for subsequent environmental documents through the process of tiering. Tiering “is not a device for deferring the identification of significant environmental impacts that the adoption of a specific plan can be expected to cause.” (Stanislaus Natural Heritage v. County of Stanislaus (5th Dist. 1996) 48 Cal. App. 4th 182, 199.)

**Conclusion**

For the above reasons, the County of Tulare requests the City of Porterville and the City of Porterville Redevelopment Agency to take no action regarding the Project and DEIR until such documents have been revised to resolve the inadequacies discussed herein and in other comment letters. The necessary revisions to the Project DEIR will require its recirculation for further public comment.

If you have any questions that require further information, please call me at (559) 636-4980; or Cynthia Echavarria (Tulare County, Resource Management Agency, Planner) at (559) 624-7000.

Very truly yours,
KATHLEEN BALES-LANGE
County Counsel

By [Signature]
Nina Dong
Deputy County Counsel
County of Tulare
### Pass-Through Payment Projections

**Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1**

<table>
<thead>
<tr>
<th>Affected Taxing Entity</th>
<th>Tulare County Flood Control</th>
<th>Entity Share Factor</th>
<th>0.5405%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Assessed Valuation</td>
<td>Gross T.I. Revenue</td>
<td>Affected AB 1250 Net to RDA</td>
</tr>
<tr>
<td></td>
<td>Growth</td>
<td></td>
<td>Pass-Through from</td>
</tr>
<tr>
<td></td>
<td>Entity Share Taxing Entity</td>
<td></td>
<td>Gross T.I. Taxing Entity</td>
</tr>
<tr>
<td>Base Year</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>09-10</td>
<td>$344,637.96</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

| 1 | 09-11 | $354,662.234 | $0 | $0 | $0 | $0 |
| 2 | 09-12 | $364,185.156 | $105,672 | $571 | $314 | $457 |
| 3 | 10-13 | $365,587.946 | $138,700 | $868 | $373 | $691 |
| 4 | 10-14 | $367,071.765 | $214,838 | $1,260 | $232 | $928 |
| 5 | 10-15 | $376,637.841 | $170,139 | $1,460 | $929 | $1,668 |
| 6 | 11-16 | $386,053.787 | $364,358 | $1,989 | $394 | $1,578 |
| 7 | 11-17 | $395,705.323 | $460,872 | $2,491 | $498 | $1,993 |
| 8 | 11-18 | $405,597.670 | $559,798 | $5,026 | $605 | $2,421 |
| 9 | 12-19 | $415,737.704 | $651,197 | $5,576 | $715 | $2,859 |
| 10 | 12-20 | $426,131.147 | $765,132 | $4,336 | $827 | $3,308 |
| 11 | 12-21 | $436,784.425 | $873,665 | $4,711 | $942 | $3,769 |
| 12 | 12-22 | $447,504.036 | $980,861 | $5,302 | $1,144 | $4,158 |
| 13 | 12-23 | $458,899.867 | $1,092,287 | $5,907 | $1,350 | $4,557 |
| 14 | 12-24 | $470,369.039 | $1,207,521 | $6,527 | $1,561 | $4,965 |
| 15 | 12-25 | $482,166.932 | $1,325,193 | $7,162 | $1,778 | $5,384 |

1. Per the preliminary Tulare County 3B323 Report provided by the County Auditor-Controller/Treasurer-Tax Collector in February 26, 2010.
2. Estimated by UI staff.
3. Base year A.V. is per the preliminary Tulare County 3B323 Report provided by the County Auditor-Controller/Treasurer-Tax Collector in February 24, 2010. Please note that this is the preliminary version; the final version will be prepared when the final 3B323 Report is provided by the County.
4. Assumes 1% tax rate. With special assessments, actual tax rate may be higher.
5. Pursuant to CCR Section 33075.5 pass through formula ("Statutory Pass Thru").

**Totals**

- $161,762,591
- $384,278
- $2,988,378
- $58,695
## PASS-THRU PAYMENT PROJECTIONS

**PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1**

<table>
<thead>
<tr>
<th>AFFECTED TAXING ENTITY</th>
<th>TULARE RESOURCE CONSERVATION</th>
<th>ENTITY SHARE FACTOR</th>
<th>0.0001%</th>
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<tbody>
<tr>
<td><strong>BASE YEAR</strong></td>
<td><strong>2009</strong></td>
<td>**GROSS TID **</td>
<td><strong>AFFRATED</strong></td>
</tr>
<tr>
<td>1</td>
<td>10-19</td>
<td>$354,862,234</td>
<td>$0</td>
</tr>
<tr>
<td>2</td>
<td>11-20</td>
<td>$360,185,188</td>
<td>$155,672</td>
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<tr>
<td>3</td>
<td>12-13</td>
<td>$365,587,946</td>
<td>$159,700</td>
</tr>
<tr>
<td>4</td>
<td>13-14</td>
<td>$370,072,785</td>
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<tr>
<td>5</td>
<td>14-15</td>
<td>$376,637,841</td>
<td>$270,199</td>
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<tr>
<td>6</td>
<td>15-16</td>
<td>$386,053,787</td>
<td>$364,838</td>
</tr>
<tr>
<td>7</td>
<td>16-17</td>
<td>$395,705,132</td>
<td>$460,872</td>
</tr>
<tr>
<td>8</td>
<td>17-18</td>
<td>$406,597,760</td>
<td>$559,758</td>
</tr>
<tr>
<td>9</td>
<td>18-19</td>
<td>$417,577,704</td>
<td>$661,157</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td>$3,862,522</td>
</tr>
</tbody>
</table>

1. Per the preliminary Tulare County 2008-2009 Report provided by the County Auditor-Controller/Treasurer-Tax Collector in February 26, 2010.
2. Estimated by ULI staff.
3. Base year A.V. is per the preliminary Tulare County 2008-2009 Report provided by the County Auditor-Controller/Treasurer-Tax Collector in February 26, 2010. Please note that this is the preliminary version; the final version will be prepared when the final 2008-2009 Report is provided by the County.
4. Assumes 1% tax rate. With special assessments, actual tax rate may be higher.
5. Pursuant to CCEA, Section 33607.5 pass through formula ("Statutory Pass Thru").

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For the July 2009 calculations, the new share factors were applied, leading to an increase in the total pass-through amount.
EXHIBIT “B”

CITY COUNCIL RESPONSES TO WRITTEN OBJECTIONS, COMMUNICATIONS AND SUGGESTIONS
EXHIBIT B
CITY COUNCIL RESPONSES TO WRITTEN OBJECTIONS, COMMUNICATIONS AND SUGGESTIONS

As required by provisions contained in the California Community Redevelopment Law (Health and Safety Code Sections 33000 et seq. and sometimes referred to as the “CCRL”) the Agency and the City Council convened a joint public hearing (JPH) for the purpose of hearing public testimony about the proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1. At the JPH the City Council was presented with a binder which included substantial information and evidence relating to the incidence of blight in the Project Area as well as other items required by law. The primary document introduced at the JPH which evidenced blight in the Amended Project Area was the Agency’s Report to the City Council dated June 2010 (the “Report to Council”). Additionally, the Agency has distributed its Unified Report (the “Unified Report”) to the various affected taxing entities and the State Departments of Finance and Housing and Community Development in accordance with the requirements of CCRL Sections 33344.5 and 33451.5(b). The Unified Report is also a part of the public record. Together the Report to Council and Unified Report are sometimes referred to as the “Evidentiary Documents”.

At or prior to the JPH, the Agency received written objections, communications and suggestions from property owner(s) or affected taxing entity(s) to the Amendment, and the City Council is required to respond, in writing, to each written objection, communication, or suggestion received. A copy of each written objection, communication, or suggestion is included in its entirety in Exhibit “A” to this City Council Resolution.
A. CANDACE BOULTON
123 S. Williams Drive
Porterville, CA

Undated letter received by City on June 1, 2010 from a resident whose property is located outside the proposed Added Territory

Response A-1

The City's plan for the neighborhood area between (South) Williams Drive and (South) Corona Drive is mandated by the City's recently (2008) adopted 2030 General Plan; specifically, the properties located between the two roads are already designated by the General Plan Land Use Element for Low-Density Residential and Parkland land uses. A small portion on the western end of this area (the parcel bounded by S. Plano St., S. Park St. and S. Williams Dr.) is designated by the General Plan as Neighborhood Commercial. Zoning designations are consistent with the General Plan designations. The redevelopment plan amendment does not alter any General Plan or Zoning land use designations; it does not set land use policy. As a matter of law, the redevelopment plan amendment must conform to the General Plan. With respect to the redevelopment plan amendment, only affected property owners, residents, businesses and tenants (i.e., those who are located within the Added Territory) are required to be given notice by mail of the proposed plan amendment (see CCRL Sections 33349, 33350, 33361, and 33452). The notice is also published in the City's newspaper of general circulation for four weeks in advance of the hearing, as well as posted by the City Clerk and made available at the local library and the redevelopment agency's offices. Additionally, as you know, three community workshops were held in advance of the public hearing to inform the public about the redevelopment plan amendment. These workshops are in addition to the legal requirements for notice.

Response A-2

Comments regarding "lack of communication" and future communications are noted for the record.

Response A-3

Future amendments to the General Plan, when and if such amendments may be considered by the City Council, are outside the legal scope of this redevelopment plan amendment, which does not set land use policy. The redevelopment plan or an amendment thereto, does not dictate where development will occur, the intensity or character of such development, or the uses that will be permitted on any particular piece of property. Instead, the redevelopment plan is a fiscal and planning tool used to help implement the City's General Plan, as it currently exists and as it may be amended from time to time, for the benefit of the community. This "outside-the-proposed-Added-Territory" commenter's support of the City's redevelopment plan and amendment thereto is noted for the record.

Specific development projects will undergo environmental review as (and to the extent) required by the California Environmental Quality Act, Public Resources Code Section 21000, et seq., and the implementing regulations promulgated thereunder (collectively, "CEQA").
B. DOROTHY MARTIN
141 South Williams Drive
Porterville, CA

Letter dated and received by City on May 28, 2010 from a resident whose property is located outside the proposed Added Territory

Response B-1

The properties located on the north side of South Williams Drive, including the Commenter's property at 141 S. Williams Drive, are not included in the proposed Added Territory. Most of the properties between South Williams Drive and S. Corona Drive are included in the Added Territory because they are affected in different ways by various blighting factors; e.g., infrastructure deficiencies, such as the lack of curb, gutter and sidewalks, as well as adequate paving; external obsolescence (located within 300 feet of blighted properties); adjacent or nearby incompatible land uses, among other things. (See Figures 12, 14, 16, and 18 in the Report to City Council). Undeveloped parcels in this area have been included under authority of CCRL Section 33320.1, and for purposes of effective redevelopment, pursuant to CCRL Sections 33320.2 and 33321.

Response B-2

The principle and use of external obsolescence as a criterion to help delineate the Added Territory is described with specificity in the Agency's Report to Council (pp. 99-101 and Figure 16). To the extent parcels are potentially affected by the negative economic impacts of external obsolescence as provided for in the methodology employed by the Agency, as well as many other criteria, they have been included in the Added Territory. The proposed Added Territory is drawn along parcel boundary lines and/or public rights-of-way; portions of individual parcels, i.e., divided along arbitrary or imaginary lines, are neither included nor excluded. Only whole parcels are considered for inclusion or exclusion in the proposed Added Territory for technical and legal reasons.

Response B-3

This "outside-the-proposed-Added-Territory" commenter's support of the City's redevelopment plan and amendment thereto is noted for the record.

Response B-4

This "outside-the-proposed-Added-Territory" commenter's objection to the inclusion of the parcels between S. Corona Drive and S. Williams Drive is noted for the record.
C. DOROTHY MARTIN (Letter 2)
141 South Williams Drive
Portersville, CA

Letter dated May 28, 2010 and received by City on June 1, 2010 from a resident whose property is located outside the proposed Added Territory

Response C-1

See Response B-1 above.

Response C-2

See Response B-2 above.

Response C-3

A redevelopment plan, or a plan amendment adding territory to a redevelopment project, does not dictate where development will occur, the intensity or character of such development, or the uses that will be permitted on any particular piece of property. The community's adopted General Plan authorizes, and its Zoning Ordinance regulates, such uses, not the redevelopment plan. Today, a redevelopment plan is typically a fiscal and planning tool intended to use tax increment to help implement the City's General Plan, as it currently exists and as it may be amended from time to time, for the benefit of the community, and in other ways satisfy the requirements of law with respect to redevelopment plan implementation. The parcels referred to by this "outside the proposed Added Territory" commenter are designated as Low-Density Residential (the same designation as the commenter's property), Park or Neighborhood Commercial as those designations are defined within the General Plan. The redevelopment plan amendment does not change those designations. At the time the General Plan was adopted (May 2008), environmental analysis was conducted to assess the impacts on increased traffic congestion, among other things, in the City that would result from General Plan land use densities. Mandatory mitigation measures for such impacts, in the form of specific General Plan policies to address such impacts were included as part of the General Plan. Changing land uses, land use densities or any General Plan policy requires an amendment of the General Plan, which is far outside the scope of this redevelopment plan amendment proposed in accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.).

Response C-4

See Response B-2 above.

Response C-5

See Response B-3 above.

Response C-6

See Response B-4 above.
D. DAVID HALL
148 S. Williams Drive
Porterville, CA

Undated letter received by City on June 1, 2010 from a resident whose property is located outside the proposed Added Territory

Response D-1

The comments with respect to redevelopment benefits for blighted properties and the 300-foot expansion zone around such properties are noted for the record. Again, for technical and legal reasons, the proposed Added Territory is drawn along parcel boundary lines and/or public rights-of-way. Portions of individual parcels, divided along arbitrary or imaginary lines, are neither included nor excluded. For technical and legal reasons, only whole parcels are considered for inclusion or exclusion; therefore, the "expansion zone" will not be strictly 300 feet; instead it will vary, according to actual parcel boundaries and/or public rights-of-way.

Response D-2

Responses to the comments/objections of the resident at 166 S. Williams Drive, whose property is within the Added Territory, may be viewed under Response F. below. This "outside-the-proposed-Added-Territory" commenter's objection to the inclusion of the 166 S. Williams Drive parcel is noted for the record.

Response D-3

A redevelopment plan, or a plan amendment adding territory to a redevelopment project, does not dictate where development will occur, the intensity or character of such development, or the uses that will be permitted on any particular piece of property. The community's adopted General Plan authorizes and its Zoning Ordinance regulates such uses. Today, a redevelopment plan is typically a fiscal and planning tool to use tax increment to help implement the City's General Plan, as it currently exists and as it may be amended from time to time, for the benefit of the community and in other ways satisfy the requirements of law with respect to redevelopment plan implementation. The parcels referred to by this "outside the proposed Added Territory" commenter are designated as Low-Density Residential (the same as the commenter's parcel) or Park or Neighborhood Commercial, as those designations are defined in the General Plan and as regulated by the Zoning Ordinance. The redevelopment plan amendment does not change those designations. At the time the General Plan was adopted (May 2008), environmental analysis was conducted to assess the impacts such as increased traffic congestion, additional water, sewer and trash responsibilities, and heavier burdens on police and fire services, among other things. Mandatory mitigation measures, in the form of specific General Plan policies, to reduce such impacts to less than significant levels were included as part of the General Plan. Changing land uses, land use densities or any General Plan guiding or implementing policy requires an amendment of the General Plan, which is far outside the scope of this redevelopment plan amendment, which is proposed in accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.). Development on Murry Hill can only be consistent with the General Plan land uses permitted there because the redevelopment plan amendment is required, as a matter of law, to be consistent with the General Plan.
Response D-4

Responses to the comments/objections of the resident at 166 S. Williams Drive, whose property is within the Added Territory, may be viewed under F. below. This "outside-the-proposed-Added-Territory" commenter's objection to the inclusion of the 166 S. Williams Drive parcel and the other parcels on the south side of South Williams Drive is noted for the record.
E. PERLEY GILBERT
157 S. Williams Drive
Porterville, CA

Undated letter received by City on May 28, 2010 from a resident whose property is located outside the proposed Added Territory

Response to E-1

The commenter's support of redevelopment in the City is noted for the record. The parcels included in the Added Territory are included because they are themselves blighted or affected by neighboring blight, or are necessary for effective redevelopment. The parcels on the south side of South Williams Drive are adjacent to blighted parcels further south, suffer from infrastructure deficiency issues (including deteriorated or absent curbs, gutters, sidewalks and pavement) and are necessary for the effective redevelopment of the parcels to the south. (See Figures 12 14 16 and 18 in the Report to City Council) The number of developable residential units per acre of land is based upon General Plan land use designations and Zoning ordinance regulations, which land use designations are the same as the commenter's parcel (Low Density Residential). In Porterville, land use density or intensity is not controlled by the adopted redevelopment plan, or any amendment to same.
F. ROSEMARIE A. AND WILLIAM R. WIGGINS
166 S. Williams Drive
Porterville, CA

Letter dated and received by the City on May 28, 2010 from a resident whose property is located inside the proposed Added Territory

Response to F-1

In accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.), specifically CCRL Sections 33320.2 and 33321, non-blighted parcels may be included in a redevelopment project area if they are "necessary for effective redevelopment". In order to resolve documented blight issues immediately on the south side of South Corona Drive, and to more effectively implement the redevelopment plan (as amended) in future years, it is beneficial to include the adjacent parcels directly across the street on the north side of South Corona Drive.

Response to F-2

The principal use of external obsolescence as a criterion to help delineate the Added Territory is described with specificity in the Agency's Report to Council (pp. 99-101). To the extent parcels are partially affected by the negative economic impacts of external obsolescence as provided for in the methodology employed by the Agency, as well as many other criteria, they have been included within the Added Territory. The proposed Added Territory is drawn along parcel boundary lines and/or public rights-of-way. For legal and technical reasons portions of individual parcels, i.e., divided along arbitrary or imaginary lines, are neither included nor excluded. Only whole parcels are considered for inclusion or exclusion in the proposed Added Territory. Most of the properties between South Williams Drive and S. Corona Drive are included in the Added Territory because they are affected in various ways by various blighting factors; e.g., infrastructure deficiencies, such as curb, gutter and sidewalks, as well as paving; and external obsolescence (located within 300 feet of blighted properties; see Figures 12, 14, 16, and 18 in the Report to City Council). The 300-foot "expansion" or buffer zone was selected because it is consistent with the Zoning Ordinance requirement for notice to property owners within 300 feet of a proposed zoning change. A review of Figure 16 shows, however, that most of the parcels on the north side of South Corona Drive are within about 100 feet of the sources of external obsolescence, except for the commenter's property at 166 S. Williams Drive. The Agency and City Council acknowledge that the outermost "fringe" areas of a newly determined Project Area are generally the most difficult areas to delineate but, the parcels in question have been included for reasons previously discussed, as well as for purposes of effective redevelopment of the larger amended Project Area.

Response to F-3

See the response to F-2 above.
G. KESS AND CLAUDIA GUTHRIE
57 S. Corona Drive
Porterville, CA

Undated letter received by City on June 1, 2010 from residents whose property is located outside the proposed Added Territory

Response G-1

California Community Redevelopment Law (CCRL, Health and Safety Code Section 33000, et.seq.), specifically CCRL Sections 33320.1, 33320.2 and 33321, permit the inclusion of underdeveloped or non-urbanized parcels, and non-blighted parcels within a redevelopment project area if such parcels are "necessary for effective redevelopment." All but two of the ten parcels referenced by the commenters are faced with significant blight in adjacent properties and public rights-of-way. They are, therefore, directly impacted by these blighting conditions to their detriment (see Figures 12 and 18 of the Report to Council). Not only does the Redevelopment Plan not affect present zoning, it does not affect the General Plan Land Use Element's land use designations in the area, so development cannot be spurred in "another direction" from that permitted by the General Plan.
H. WADE CRAWFORD
   CRAWFORD AND CAULK
   201 N. Mathew Street
   Porterville CA

Letter dated May 26, 2010 re: two properties located within the Added Territory

Response to H-1

In Porterville, the redevelopment plan, or a plan amendment adding territory to the redevelopment project, does not dictate where development will occur, the intensity or character of such development, or the uses that will be permitted on any particular piece of property. The community's adopted General Plan authorizes, and its Zoning Ordinance regulates, such designated uses. Today a redevelopment plan is typically a fiscal and planning tool intended to use tax increment to help implement the City's General Plan, as it currently exists and as it may be amended from time to time, for the benefit of the community, and in other ways to satisfy the requirements of law with respect to redevelopment plan adoption and implementation. It typically has no effect on property zoning.

Response to H-2

See the response to H-1 above. At the time site-specific projects are proposed for development in the City, including in the Added Territory, such projects are subject to the City's codes and standards, as well as to all applicable regional, State and federal regulations and statutes.
I. PETITIONENTITLED: Citizens "Against" inclusion of Williams Drive and Corona into the Porterville Redevelopment Plan; Petition "Against" Proposed 2010 amendment to the Redevelopment Plan for the Porterville Redevelopment Project Number 1 (sic); and Home owners against the proposed 2010 Amendment to the Redevelopment Plan

Petition submitted to the City Council on June 1, 2010 consisting of four (4) pages numbered as follows: Page 1 of 8, Page 2 of 8, Page 4 of 8 and Page 5 of 8. No Page 3 of 8 or Pages 6-8 of 8 were included.

Sixty-two signatures representing 41 addresses (40 property addresses, one post office box address) are contained in the petition. Of the 41 addresses, at least three addresses (including the post office box) are located outside the City's corporate limits; 33 property addresses are not located within the Added Territory's boundaries; and the remaining five property addresses are located within the Added Territory as follows:

1. 166 South Williams Drive
2. 210 "C" East Vandalia Avenue
3. 1071 East Vandalia Avenue
4. 128 West Morton Street
5. 231 N. Masten Street

Response to 1

The receipt of the petition as described above is acknowledged for the record.
J. COUNTY OF TULARE

The Tulare County Counsel (the "County"), by letter dated June 1, 2010, submitted its objections to the Proposed Amendment to Porterville Redevelopment Project No. 1 (the "County Letter") to the City. The County Letter is Attachment "J" to the City Council Resolution. The Agency and the City Council have reviewed the County Letter and have identified 38 separate comments (the "Comments") which are numbered in the margins of Comment "J" for ease of reference. The numbering of each Response below corresponds to the appropriate number in the margin in Comment "J".

In the interest of providing the most complete set of information, these responses refer to data, research and facts found in the Evidentiary Documents but will, as appropriate, provide responses based primarily upon the Agency's Unified Report prepared for the Amendment (referred to hereinafter as the "Unified Report"). The County has been provided a copy of the Unified Report in its entirety.

Response J-1

The comment is noted that the County Counsel did receive the Agency's response to the County's comments on the Draft Environmental Impact Report ("DEIR") on May 24, 2010. It shall be noted that Certification of the EIR will not take place until after June 3, 2010. It is also noted that the County adheres to their original comments on the DEIR and adds additional concerns.

Response J-2

The Initial Study (DEIR, Appendix A) prepared for the proposed Amendment evaluated all potential sensitive environmental resources and determined which environmental factors would be potentially affected; i.e., which would involve at least one impact that is a "Potentially Significant Impact" to the degree and level of specificity appropriate for a "program" EIR. According to CEQA Guidelines (the "Guidelines") Section 15143, effects dismissed in an Initial Study as clearly insignificant and unlikely to occur need not be discussed further in the EIR unless the Lead Agency subsequently receives information inconsistent with the finding in the Initial Study; no such subsequent information was made available to the Agency.

All Agency implementation activities under the 2010 Amendment are required as a matter of law to be consistent with the City's General Plan and Zoning Ordinance, and to comply with all applicable local, regional, State, and federal codes, regulations and mandatory standards. As stated in the DEIR, no site specific Redevelopment Agency implementation projects have been identified at this time. No detailed analysis is possible at this stage of the "Project". In fact, such an analysis at this time would be highly speculative and be of no value to the current decision making process.

Furthermore, the Agency cites Section 15146 of the Guidelines which provides that "...the level of analysis provided in an EIR is subject to the rule of reason." Certainly then, the type and specificity of "feasible measures" must be commensurate with the level of analysis appropriate to the Project and type of EIR prepared. Given the programmatic nature of the project, the Agency has prepared a program EIR with a "sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences" (Guidelines Section 15151). In fact, no other reviewing entity shares the County's position with respect to Agency CEQA compliance. The
San Joaquin Valley Air Pollution Control District "...commends the City in its recognition of the importance of these programs in mitigating project related impacts and working toward air quality attainment status" (comment letter dated April 28, 2010, included under Section 9.0 of the Final EIR). The facts of the record show that the County has not, pursuant to Guidelines Section 15086 (c) made "...substantive comments regarding those activities involved in the project that are within an area of expertise of the agency or which are required to be carried out or approved by the responsible agency." County comments most certainly have not been "supported by specific documentation."

**Response J-3**

In accordance with CEQA Guidelines Section 15130, the 2010 Amendment’s cumulative effects were fully analyzed at a programmatic level in the DEIR. As the DEIR indicates, General Plan build-out within the Added Territory, as facilitated by the 2010 Amendment, will be the result of development and rehabilitation of existing parcels in accordance with the General Plan. Project-related growth resulting in cumulative impacts will occur in a gradual manner over the end of the 30-year effective life of the Amendment. Please note that with respect to this and all other County comments that "[d]isagreement among experts does not make an EIR inadequate...." (Guidelines Section 15151).

**Response J-4**

Water supply was evaluated in the Initial Study for the proposed DEIR. The Initial Study concluded that implementation of the 2010 Amendment-related programs does not contemplate any specific activity that would deplete groundwater resources or otherwise change the quantity of groundwater, direction or rate of groundwater flow, or cause an impact to groundwater quality beyond those impacts previously analyzed by the General Plan EIR. With the General Plan policies in place, the General Plan EIR concluded that impacts from General Plan build-out in the City Planning Area would be less than significant with respect to depletion of groundwater supplies or substantial interference with groundwater recharge, such that there would be a net deficit in aquifer volume or a lowering of the total groundwater table. The 2010 Amendment is required, as a matter of law, to be consistent with the General Plan and the General Plan policies with respect to water supplies were incorporated into the Initial Study by reference. As noted in the Initial Study, all site-specific, development/redevelopment projects are required to be in accordance with the General Plan and other local, regional, State and federal regulations and requirements affecting water quality, recharge and discharge. Development/redevelopment activities undertaken by the Agency over the 30-year effective life of the Amended Plan with respect to the Added Territory, will be within the planning parameters of the General Plan; i.e., land use densities, growth management policies, as well as with all local, regional, State and federal codes, guidelines and standards. The Initial Study further states, "As future site-specific projects are proposed within the Added Territory for development or rehabilitation and reviewed for their specific potential environmental impacts in compliance with CEQA requirements, additional project-specific environmental analysis and ensuing specific mitigation measures may be required as a condition of such project approval"; therefore, consistent with Guidelines Section 15145, no additional evaluation is required in the Program EIR for the Amendment. Future, site specific development/redevelopment projects may require further analyses which will be determined on a case-by-case basis at the most appropriate times.
Response J-5

In accordance with CEQA Guidelines Sections 15130 and 15146 (degree of specificity), the 2010 Amendment's cumulative effects were fully analyzed at the appropriate programmatic level in the DEIR. As the DEIR indicates, General Plan build-out within the Added Territory, as facilitated by the 2010 Amendment, will be the result of development and rehabilitation of existing parcels in accordance with the General Plan. Project-related growth resulting in cumulative impacts to regional waste management facilities, regional transportation, air quality, flood control, and public services will occur in a gradual manner over the 30-year effective life of the Amendment.

The County's allegation that the DEIR is inadequate for failing to analyze the impacts of the 2010 Amendment on “County resources” is not supported by specific evidence or examples. The County's comments imply that the DEIR should have analyzed the impacts of the 2010 Amendment on the tax revenues to be received by the County; however, tax revenues are not an environmental resource. Further, it is likely that the Agency's activities pursuant to the 2010 Amendment will actually increase the future tax revenues to be received by the County by removing blighting conditions, encouraging rehabilitation, maintenance and development of properties, and increasing overall property values in the Added Territory. Further, the CCRL provides for tax sharing to mitigate impacts on taxing agencies (CCRL Section 33607.7). Thus, to the extent the County's objections relate to a claim that the County will receive fewer future tax revenues, the County has not provided evidence to support this claim, and the County does not state a valid objection to the DEIR or 2010 Amendment under CEQA or the CCRL.

Response J-6

See Response J-5, which is incorporated herein by reference.

Response J-7

Public Services which included police and fire services were evaluated in the Initial Study for the proposed DEIR. The Initial Study concluded that implementation of the 2010 Amendment is subject to the guiding and implementing policies of the General Plan, as well as to all applicable local, regional, state and federal codes, regulations and standards. No significant adverse impacts are anticipated to occur with respect to the Added Territory not previously addressed by the General Plan EIR for the City Planning Area, including the Added Territory. Similar to other responses included herein, at such time as site-specific projects are proposed, additional environmental analysis may be required and mitigation measures imposed as appropriate and necessary. The Initial Study concluded that no further analysis in the Program EIR was required. In fact, such an analysis at this time would be highly speculative and of no value to the current decision making process.

Response J-8

See Responses J-5 and J-7, which are incorporated herein by reference.

Response J-9

See Responses J-5 and J-7, which are incorporated herein by reference.
Response J-10

Cumulative air quality impacts associated with the Project, including increased criteria pollutants, Toxic Air Contaminants and greenhouse gases, were analyzed according to CEQA requirements. CEQA Guidelines Section 15168 states “the use of the program EIR also enables the lead agency to characterize the overall program as the project being approved at that time. Following this approach when individual activities within the program are proposed, the agency would be required to examine the individual activities to determine whether their effects were fully analyzed in the program EIR.”

All Agency implementation activities under the 2010 Amendment are required as a matter of law to be consistent with the City’s General Plan and Zoning Ordinance, and to comply with all applicable local, regional, State, and federal codes, regulations and mandatory standards. As stated in the DEIR, no site specific Redevelopment Agency implementation projects have been identified at this time. No detailed analysis is possible at this stage. In fact, such an analysis at this time would be highly speculative and of no value to the current decision making process.

As indicated in the DEIR, without knowing specific quantity and type of GHG emissions generated by specific projects, attempting to evaluate their significance, individually and/or cumulatively, is speculative. This area of analysis is new and still evolving at all levels of government, including the County, which has not adopted thresholds for GHG emissions at this time. The purpose for adopting the 2010 Amendment is to remediate existing blight in the Added Territory through economic and community facilities development, infrastructure improvement and provision of affordable housing.

As previously stated with respect to this particular issue area, the San Joaquin Valley Air Pollution Control District commended the Agency on its efforts to recognize and mitigate potential project related impacts to air quality. The Administrative Services and County Counsel should limit their comments to “...those activities involved in the project that are within an area of expertise of the agency...” (Guidelines Section 15086(c)). The Agency respectfully suggests that stewardship of air quality resources, and review and analysis of potential project impacts related to air quality and air pollution issues are best addressed by technical experts in the SJVAPCD rather than County administrators and legal counsel.

Response J-11

The DEIR does not include site-specific project-level analysis because the 2010 Amendment does not propose any site-specific development/redevelopment projects. Specific land use impacts that may potentially affect the unincorporated portion of the County over the long-term are unknown at this time. However, all future development/redevelopment projects must be consistent with the current General Plan and related tools of authority including the City Zoning ordinance. In this regard, the DEIR states, at such time as site-specific projects are proposed, additional environmental analysis may be required and mitigation measures imposed as appropriate and necessary (DEIR pp. 16-18, 30).
The Program EIR’s authority is to describe the anticipated broad-based, Added Territory-wide and community-wide impacts of the 2010 Amendment. Subsequent redevelopment activities within the Added Territory must be examined in the light of this Program EIR, and additional CEQA assessment to determine whether additional environmental analysis and mitigation will be required. Consistent with CEQA, if a later activity will have effects that are not examined in this Program EIR, then additional environmental assessment leading to comprehensive CEQA documentation for such project in the Added Territory must be completed.

Response J-12

The County stated they did not receive the Notice of the Joint Public Hearing held on the 2010 Amendment on June 1, 2010, pursuant to CCRL Section 33349. On April 28, 2010, the Agency’s advisors, Urban Futures, Inc. (UFI), transmitted the Notice of Joint Public Hearing via US certified mail (Cert. #: 917108213393817231914) to the Tulare County Board of Supervisors. USPS records indicate that the item was delivered on April 30, 2010 at 8:22 a.m. and was received by Ms. Elaine Alvarado in the TC Mall Center (transmittal and electronic receipt enclosed as Attachment A). According to City staff, the Notice of Joint Public Hearing was also mailed to County legal Counsel on May 17, 2010, as requested.

Response J-13

The Agency notes the County’s proper recitation of CCRL Sections 33364, 33320.1(a), and (b) and hereby acknowledges that said statutes pertain to the adoption the 2010 Amendment.

Response J-14

The Agency notes the County’s proper recitation of CCRL Section 33321.5.

Response J-15

The County provides no specific evidence that Assessor’s Parcel Number (APN) 243-180-008 or 243-190-007 are currently in agricultural production. As shown in Figure 6 of the Unified Report, neither of these parcels was observed to be in agricultural production at the time the field reconnaissance of the Added Territory was completed during the months of July, August, and December 2008. To the contrary, APN 243-180-008 was observed to contain residential and commercial land uses (urban uses which also happened to exhibit a high number of blight indicators with weighting enough (87 blight points) to warrant a finding that the parcel is a blighted parcel (red or magenta on Figure 14 in the Unified Report) and APN 243-190-007 contained undeveloped land that was not in agricultural production.

The County letter stated that the Unified Report only gives “general reasons” to support the findings for inclusion of these parcels in accordance with CCRL Section 33321.5. The Agency respectfully points out that the Unified Report contains no such information with respect to the parcels identified above; however, the Agency has proposed the inclusion of two parcels within the Added Territory that are currently in agricultural production and which exceed two acres in size (APNs 246-111-001 and 251-240-053; see Attachment A). As indicated in pages 127 and 128 of the Unified Report, the Agency has entered substantial evidence into the record which supports the findings required by CCRL Section 33321.5 with respect to the inclusion of APNs 246-111-001 and 251-240-053 within the Added Territory.
While the Agency concedes these are not the kind of “dire inner-city slum conditions” described in the *Bunker Hill* case, the City is unaware of any recent changes to the CCRL which require a legislative body to find that “dire inner-city slum conditions” exist within an area in order to include it within a redevelopment project area (in fact, the term “inner-city” may not even be apropos for a city the size and population of Porterville). Rather, the City Council, like all legislative bodies in California, is required to find that the area proposed to be included within a redevelopment project area is i) “[a]n area that is predominantly urbanized...” and ii) “is an area in which the combination of conditions set forth in Section 33031 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community...”.

The Unified Report acknowledges that the law recognizes that in order for an “area” to be blighted, not all properties need to be blighted, rather the blight needs to be prevalent and substantial. The Unified Report goes to great length to describe specific instances of both prevalent and substantial economic and physical blight (see Section 6.0).

The comment introduces a notion which, if left unchallenged, would invalidate every attempt to incorporate land into a redevelopment project area other than land where all parcels are found to be blighted (which, as described above, is impossible, even in the most depressed areas of the State). The facts presented to evidence blight will, by definition, relate only to a discrete number of parcels. Once the amount, location and severity of blight has been identified (as has been done in the Unified Report and, more to the point, has been determined to be correct by the City Council) it is then incumbent upon the Unified Report to substantiate that the blight identified is so prevalent and so substantial. By necessity this is not accomplished by more facts (all the facts have already been assembled and identified), but rather by inference, professional knowledge of the effects of specific conditions of blight on an area, solid reasoning, and analysis. If to say that since structural deterioration and dilapidation exists on specific parcels, and as such is blighted, is, in fact, an incorrect statement of the law, then there can be no nexus between any assertion that the structural deterioration and dilapidation existing on individual parcels (regardless of how many such parcels evidence such blight) and the conclusion that the area is one of the “blighted areas constituting physical and economic liabilities, and requiring redevelopment in the interest of the health, safety and general welfare of the people of these communities and of the state.” (CCRL Section 33030(a)). That would mean that there can be no redevelopment under California law for areas other than those where all parcels are blighted.

Interspersed throughout the evidence of specific blight listed in the Unified Report, and based upon that evidence, is discussion relating to how the specific incidences of blight are so prevalent and so substantial that they cause a reduction of, or lack of, proper utilization of the Added Territory to such an extent that they constitute a serious physical and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment. The mere fact that the conditions exist, and have existed for many years, documented as having grown worse in each succeeding year of analysis, is substantial and credible evidence that neither the public nor private sectors acting alone have been able, or will ever be able to remedy the existing deleterious conditions without the benefit of redevelopment.
While APN 243-180-008 is included in the Added Territory because, under the methodology employed within the Unified Report, it may be found to be blighted by the City Council because it exhibited a sufficient number of serious blight indicators to receive a blight score of more than twenty points, APN 243-190-007 is included within the Added Territory because it is negatively impacted by its adjacency to a blighted parcel, and is therefore, part of a “blighted area.”

Further, the County asserts that these parcels are rural and not an integral part of an area developed for urban uses. This is a mischaracterization of the information presented by the Agency within its Unified Report. As indicated in Figure 8 within the Unified Report, the Agency never claimed that APN 243-190-007 was developed for urban uses or an integral part of an area developed for urban uses. As discussed above, UFI staff observed residential and commercial land uses on APN 243-180-008; therefore, said parcel has been developed for urban uses. Given that neither of these parcels was observed to be in agricultural production and the County has provided no evidence to the contrary, the Agency is not required to make findings regarding their inclusion within the Added Territory, pursuant to CCRL Section 33321.5.

**Response J-16**

The County asserts that certain subject parcels are “enjoying an economically viable use or capacity”; however no factual evidence has been provided to support the assertion. On the other hand the Agency has documented that, overall, conditions in both the Added Territory and Existing Project Area have been and remain dismal by most any comparison. As discussed earlier in the Agency’s Response to the County’s Comments, the Agency provided substantial evidence in its Unified Report that APN 243-180-008 might be found by the City Council to be blighted. Furthermore, the Unified Report explains the reasons why some non-blighted vacant, previously urbanized or underutilized parcels, such as APN 243-190-007, have been included in the Added Territory. As described on page 125 of the Unified Report, such parcels “may be used, as described in CCRL Section 33320.2, for the purpose of providing for: i) the relocation of owners or tenants from other portions of the Amended Project Area, if necessary over the life of the Amended Plan; or ii) the construction and rehabilitation of low- or moderate-income housing, within the parameters of the General Plan and other development provisions.”

The Agency notes that APN 243-190-007 does not contain urban development, nor is it being used for agricultural production; the County has not provided credible evidence to the contrary and, therefore, it is reasonable to conclude that the County’s reference to *Sweetwater Valley Civic Association v. City of National City*, 18 Cal. 3d 270 simply does not apply here. The court in *Sweetwater* found that the redevelopment agency’s plan to convert a municipal golf course into a shopping center was made without a prior finding of blight, as based on existing conditions. In Porterville, there is an extensive compilation of blighting conditions located throughout the Added Territory that is documented in the Unified Report and the Report to Council, and might be found by the City Council to be so substantial and so prevalent that it causes a reduction of, or a lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise, governmental action, or both, without redevelopment (CCRL Section 33031).
Response J-17

The Agency notes the County has improperly cited CCRL Sections 33030(b), which provides a definition of the term “blighted area,” and 33031(a) and (b), which define the physical and economic conditions that cause “blight” under the CCRL. Effective January 1, 2007, these important sections of the State redevelopment statutes were amended by California Senate Bill 1206 (adopted January 26, 2006) to read as follows:

§33030.

(b) A blighted area is one that contains both of the following:

(1) An area that is predominantly urbanized, as that term is defined in Section 33320.1, and is an area in which the combination of conditions set forth in Section 33031 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(2) An area that is characterized by one or more conditions set forth in any paragraph of subdivision (a) of Section 33031 and one or more conditions set forth in any paragraph of subdivision (b) of Section 33031.

§33031.

(a) This subdivision describes physical conditions that cause blight:

(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions may be caused by serious building code violations, serious dilapidation and deterioration caused by long-term neglect, construction that is vulnerable to serious damage from seismic or geologic hazards, and faulty or inadequate water or sewer utilities.

(2) Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots. These conditions may be caused by buildings of substandard, defective, or obsolete design or construction given the present general plan, zoning, or other development standards.

(3) Adjacent or nearby incompatible land uses that prevent the development of those parcels or other portions of the project area.

(4) The existence of subdivided lots that are in multiple ownership and whose physical development has been impaired by their irregular shapes and inadequate sizes, given present general plan and zoning standards and present market conditions.
(b) This subdivision describes economic conditions that cause blight:

(1) Depreciated or stagnant property values.

(2) Impaired property values, due in significant part, to hazardous wastes on property where the agency may be eligible to use its authority as specified in Article 12.5 (commencing with Section 33459).

(3) Abnormally high business vacancies, abnormally low lease rates, or an abnormally high number of abandoned buildings.

(4) A serious lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores, and banks and other lending institutions.

(5) Serious residential overcrowding that has resulted in significant public health or safety problems. As used in this paragraph, "overcrowding" means exceeding the standard referenced in Article 5 (commencing with Section 32) of Chapter 1 of Title 25 of the California Code of Regulations.¹

(6) An excess of bars, liquor stores, or adult-oriented businesses that has resulted in significant public health, safety, or welfare problems.

(7) A high crime rate that constitutes a serious threat to the public safety and welfare.

Given the emphasis placed on the Agency's blight research and documentation methodology as it pertains to the Amendment in the County's objections, the Agency and City Council believe the improper citation of CCRL Sections 33030(b), 33031(a) and (b) seriously erodes the County's credibility and its standing to comment upon technical and legal aspects of the Amendment, and the underlying legal basis to process, adopt and implement the same. Furthermore, the inclusion of erroneous legal citations dating back to 2006 and references to items such as "tallies on pre-printed sheets" (all field observations were noted on Assessor parcel maps in the methodology employed by the Agency) seem to suggest that many of the County's comments consist of a "boilerplate" response last used in the pre SB1206 era, has not been modified for several years, and calls into serious question how many, if any, of the County's comments actually apply to the blight analysis contained in the Unified Report.

Understandably, the County's repeated references throughout its comments to sections of the CCRL which have since been amended to add or repeal pre-2007 CCRL sections of the law, complicates the Agency's efforts to respond to said comments. Notwithstanding the County's citation of invalid CCRL provisions, the Agency and City Council have made every effort to interpret the underlying intent of the objections and to respond accordingly.

¹ This section did not appear to provide an appropriate definition of "overcrowding."
In response to the County's comment that the Unified Report looks at the number or percentage of structures that are unhealthy and unsafe, the Unified Report provided a summary of the number and percentage of parcels in the Added Territory and the Focus Area (the portion of the Existing Project Area in which blight remains) which contained serious building code violations (page 63), one or more indications of serious dilapidation and deterioration caused by long term neglect (page 86), and construction vulnerable to serious damage from seismic or geologic hazards (page 87). As set forth in CCRL Section 33031(a)(1), these are three of the four conditions that may cause buildings to be unsafe or unhealthy. A graphic breakdown of the number of times each of the indicators of these blight conditions was observed in each sub-area of the Added Territory is provided in Figures 10A through 10H, with the same provided in Figure 11 for the Focus Area.

The incidence of inadequate public improvements and faulty or inadequate water or sewer utilities in the Amended Project Area is discussed on page 121 of the Unified Report and shown in Figure 18. The Agency notes that it did not identify the location of inadequate parking facilities within the Amended Project Area as this no longer qualifies as a condition of blight, as currently defined in the CCRL.

As discussed above, the Unified Report examined the number of serious building code violations in the Added Territory and Focus Area (pages 62-63). A graphic breakdown of the number of specific serious building code violations observed in each sub-area of the Added Territory is provided in Figures 10A through 10H, with the same provided for the Focus Area in Figure 11.

In response to the County's assertion that information concerning "unprofitable commercial tenancies" be included in the Unified Report, the Agency analyzed the incidence of abnormally high business vacancies and abnormally low lease rates in the Amended Project Area within its Unified Report (pages 115-116, and in further detail within pages 13-21 of Appendix F). Since high turnover rates and excessive vacant lots within an area developed for urban use and served by utilities are no longer included within CCRL Section 33031(b), the incidence of these conditions in the Amended Project Area was not assessed.

Response J-18

The Agency notes that, unfortunately, the CCRL does not prescribe hard metric standards or thresholds, such as the statistics cited from the Bunker Hill and Morgan cases, concerning the incidence of blight within an area proposed for inclusion within a redevelopment project, such as the Added Territory in Porterville.

During the 2006 State Legislative Session, the State Legislature had an opportunity to adopt legislation which provided specific metrics to define blight, thereby taking away local discretion as to what "blight" actually meant and how it should be measured. While the State Legislature modified certain descriptive statements in CCRL Section 33031 (indeed, the County is apparently not aware of these and other 2006 legislative changes to the CCRL) to further provide guidance to local legislative bodies (SB 1206), it specifically chose not to attach quantifiable metrics or minimum threshold conditions to such core terms as "prevalent" and "substantial" in the statutes. Consequently, it remains the providence of local legislative bodies, such as the Porterville City Council, using the vaguely descriptive terms codified within the CCRL, to specifically find that an area is or is not a blighted area. It is, in short, up to each legislative body to examine the evidence before it to determine if the evidence, in its entirety, is sufficient for it to make a finding of blight.
The Agency has prepared both a Unified Report and Report to Council, pursuant to CCRL Sections 33344.5 and 33352, respectively. It is the position of the Agency that the content of these documents, and other evidence entered into the record of the Plan amendment proceedings, provide substantial evidence that not only do both physical and economic conditions of blight exist in the Amended Project Area, but that these conditions are so prevalent and so substantial in the Added Territory that they cause a reduction of, or lack of, proper utilization of the area to such an extent that they constitute a serious physical and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

Furthermore, it is the Agency's position that the evidence substantiating blight has been prepared and presented substantially in the form and process required by the CCRL in its current form. While the County has asserted that the Agency has not provided sufficient evidence of blight within the Amended Project Area, the County has provided no evidence to the contrary.

Response J-19

The Agency notes the County's recitation of the Gonzales case and points out that the CCRL very seldom, if ever, discusses blight in terms of individual parcels, but rather refers to "blighted areas" (see for example CCRL Sections 33030, 33035 and 33036). While the layman most often thinks of private properties being included within a redevelopment project area, "blighted areas" also include properties held by public and quasi public entities, and public rights-of-way. A blighted area may also include properties that are not blighted. Section 33321 of the CCRL prescribes that, "[a] redevelopment project area need not be restricted to buildings, improvements, or lands which are detrimental or inimical to the public health, safety or welfare, but may consist of an area in which such conditions predominate and injuriously affect the entire area." Furthermore, "...[a] project area may include lands, buildings, or improvements which are not detrimental to the public health...but whose inclusion is found necessary for the effective redevelopment of the area of which they are a part." It is the Agency's position that each and every parcel included within the Added Territory has been included within the Added Territory either because it is blighted or because it is necessary for effective redevelopment of the Amended Project Area as a whole. The Agency has gone to great effort to articulate its reasons and justifications for including non-blighted parcels within the Added Territory in Section 6.0 of the Unified Report.

Response J-20

The Agency notes the County's recitation of the Sweetwater and Mammoth cases. The County refers to the "economic viability" of parcels and its association to these cases and further states that "evidence must show the existence of physical conditions (such as design, size, lack of parking, etc.) that prevent or substantially hinder an existing use or capacity of a lot or building from achieving or maintaining economic viability"; however, the Agency notes here that it is under no requirement to provide evidence regarding the existence of conditions which are no longer codified under the CCRL Section 33031(a)(2). To the contrary, consistent with now current CCRL provisions, the Agency has documented substantial evidence within its Unified Report which suggests that there are "conditions that prevent or substantially hinder the viable use or capacity of buildings or lots" throughout the Amended Project Area, as provided for in the current definition of blight contained in the CCRL (see discussion included on pages 88-90 and graphs included as part of Figures 10A through 10H and 11).
The Agency adds that the urbanization analysis of the Added Territory included within pages 47-57 of the Unified Report accurately reflects the results of UFI’s field reconnaissance. The Agency categorically rejects any implication by the County that parcels within the Added Territory were categorized as developed for urban uses, previously developed for urban uses, or an integral part of an area developed for urban uses for the purpose of delineating boundaries which were economically advantageous to the Agency.

Again, with respect to the County’s contention that every parcel must be blighted (the County describes various parcels that it believes are not blighted by name and parcel number), the Agency is cognizant that blight has been found to be an “area wide concept” in case law. Therefore, the Agency has created a valid Added Territory that comports to current statute and affecting case law.

Response J-21

In response to the County’s assertion that the Sears store (APN 260-320-033) is currently operating and is, therefore, economically viable, the Agency again reminds the County that it is not required to document the economic viability of any given parcel in the Added Territory (or Existing Project Area). Instead, the Agency is required to provide substantial evidence that there are conditions that prevent or substantially hinder the viable use of a building or a lot in order to support any finding by the City Council that a given parcel is affected by the conditions described in the current CCRL Section 33031(a)(2). As indicated in Appendix D-1 of the Unified Report, the field reconnaissance found evidence of poor construction quality and deteriorated private infrastructure on this parcel. As indicated in Appendix B of the Unified Report, poor construction quality is an indication of substandard or defective construction, while deteriorated private infrastructure is indicative of a condition that hinders the viable use of a lot.

The Agency concurs that there are no code violations at the Sears store, but points out that two important indications of serious dilapidation and deterioration (which also lead to unsafe or unhealthy buildings) were present at the site (boarded windows and doors and overgrown/hazardous vegetation). As described in Appendix B of the Unified Report, according to Health and Safety Code Section 17920.3(a)(8) and (j), respectively, the existence of these conditions on a property make buildings unsafe.

A May 2009 field audit of 627 storefront locations identified 552 hosting existing retail business operations, including the Sears store. Evaluating existing retail facilities on the basis of “economic viability” is problematic because determining what constitutes a “viable” or “non-viable” business can be argued from many perspectives including: store operators who may struggle but manage to raise a family; business partners seeking a preset return on investment; customers seeking operators that can deliver product selection and quality service, etc. The mere presence of a retail establishment within a storefront location does not mean the given commercial facility does not suffer from underutilization or that the community is not impacted by a serious lack of necessary commercial facilities. A proliferation of weak-to-marginal establishments may exist within a retail district but fail to provide a sufficient selection of merchandising products and services needed to adequately serve trade area consumers residing in a relevant neighborhood or community area setting. Existing retail businesses throughout the Existing Project Area and Added Territory do not serve mutually exclusive geographic settings but serve overlapping trade areas. Consequently, conditions that may indicate a serious lack of necessary facilities must be evaluated in the context of a larger setting common to both groups of retail facilities.
The economic blight analysis considered several factors to determine whether or not there is a serious lack of retail-commercial facilities including: vacancy, lease rates, storefront mix, floor space tenant mix, and sales performance. The analysis of sales performance is an important economic consideration because it indicates the storefront operator’s ability to deliver products and services in sufficient volume (as indicated by sales) to satisfy consumption needs in the surrounding area. The economic blight analysis assesses the ability to serve consumer need by comparing reported sales performance of storefront operations against a benchmark indicator of median performance (one-half stronger, one-half weaker) based on a national sampling of retail establishments by the Urban Land Institute in cooperation with the International Council of Shopping Centers. Disclosing the performance of individual storefront business, however, violates confidentiality laws established to protect private businesses from such disclosure. In order not to violate the confidence of individual operators, the economic blight analysis aggregates store-level sales performance information into eight retail merchandising categories, two service categories, and a professions-business service category to determine the extent there is a lack of necessary retail resources (competitive business operations) within the Existing Project Area and Added Territory necessary to adequately serve area consumers. The analysis indicates storefront operations accounting for 76.0 percent of all retail merchandising floor space audited (1.13M square feet) achieve an overall level of sales performance ($104 per square foot) that is less than 40.0 percent of the median benchmark level of performance describing a normally competitive retail district. The proliferation of weak merchandisers occupying more than 76.0 percent of retail merchandising space within the Existing Project Area and Added Territory indicates a condition of prevalent and substantial economic blight.

With respect to the County’s comments regarding APNs 260-140-012 and 260-150-031, the Agency has never attempted to state that these areas are not economically viable, nor is it required to do so (see above). As described in Section 6 of the Unified Report, these parcels have been included within the Added Territory because they are part of a “blighted area”; blight is treated as an “area wide concept” by the CCRL.

In response to the County’s comments that APNs 260-300-015 and 260-300-014 are not blighted, the Agency submits that a number of indications of blight were found on these parcels during the UFI field reconnaissance. Such conditions are documented in Appendix D-1 of the Unified Report.

Response J-22

The Agency would like to clarify that, while some of the blight indicators described in the Unified Report, such as chipped or peeling paint and overgrown/hazardous vegetation, may appear to be merely “cosmetic” or “less serious” to the layman, the existence of these conditions on a property directly implies deterioration caused by long term neglect, as provided for in CCRL Section 33031(a)(1). As described in Appendix B of the Unified Report, Health and Safety Code Section 17920.3(g)(3) states that defective weather protection for exterior wall coverings, including a lack of paint, or weathering due to a lack of paint or other approved protective coating renders buildings unsafe. As another example, overgrown/hazardous vegetation, can provide nesting grounds for vermin and/or be a fire hazard.

The Agency and City Council challenge the County’s assertion that properties cannot be included within a redevelopment project area due to obsolescence. CCRL Section 33031(a)(2) specifically mentions obsolete design or construction (given present general plan, zoning, or
other development standards) as a cause of conditions that prevent or substantially hinder the viable use of buildings or lots.

The Agency has provided reasons why the blight in the Added Territory cannot be eliminated by private enterprise or governmental action alone without redevelopment within Section 8.4 of the Unified Report (pages 132-134).

The County contends that the Agency has only provided "general statements" of blight within its Unified Report, which are insufficient to establish a project area. The Agency's position remains that a high degree of detail about conditions in the Amended Project Area has been included within the Evidentiary Documents.

In response to the County's complaint that the Unified Report refers mainly to "potential" health and safety considerations as opposed to current health and safety considerations, it is true that structures that exhibit problems such as sagging roofs or crumbling walls and foundations are unsafe. Empirically, Agency staff and consultants know that structures exhibiting these kinds of exterior problems also frequently have other problems including leaky plumbing, hazardous electrical service or wood rot. Unfortunately, without legal access to private property, and given that the Agency has limited funds and time to engage this process which has already consumed more than 24 months, it is impossible to identify these problems absolutely. It is, therefore, necessary to use qualifying words and phrases like those included in the Unified Report. In addition, there are no provisions in either the CCRL or elsewhere in state law that provide redevelopment agencies with extraordinary powers to enter onto private property without the owner's permission in order to generate such a "specific inventory of the conditions". Therefore, in order to review conditions in each structure, the Agency would need to secure voluntary admittance to private property. Having created its own redevelopment project areas the County is well aware that this is not, and has never been, standard industry protocol vis-à-vis project area creation. Even excluding the time and expense involved in securing voluntary permission to enter the 2,640 parcels in the Added Territory and 639 parcels in the Existing Project Area (page 16, Unified Report), an analysis based upon data generated from an inspection program which depended upon voluntary access to private property would engender a sense of completeness not supported by the actual data available. Such a database would, in fact, be comprised of ad hoc information derived from individuals who, for their own reasons, elected to allow inspectors onto their properties.

Settling for a random sampling in an effort both to: i) reduce the time and expense of a 100 percent sample of over two thousand structures; and ii) reduce the ad hoc nature of data gathering, helps only with reference to item (i). The arbitrariness of item (ii), while somewhat mitigated remains.
Therefore, expecting a field survey to examine conditions of blight "in each of the subject structures" is disingenuous and intended only to create an artificially high bar which, in fact, is impossible to hurdle. Since meaningful entry onto private property is impossible, the issue then becomes what methodology and analytical tools can an agency use in order to make defensible inferences about blight inside structures in compliance with the CCRL. The most obvious tool is to view and describe private properties from the public rights-of-way. The Agency completed this task by means of the field survey described in the Evidentiary Documents and elsewhere in this Response. Making inferences about blighting conditions inside structures based upon exterior observation is the only practical method for inferring interior conditions of a property short of an interior inspection. It is counter-intuitive to assume that interior conditions of a structure will be dramatically different from those observed on the structure's exterior.

Clearly, a field survey which does not include entry onto private property cannot, with authority, state that a specific condition (for instance an electrical deficiency) exists at a specific address. However, based upon the nexus established in the literature, the experience and professional knowledge of the individuals on the field survey and common sense, the Agency is able to infer that the condition of blight as observed from the public way and the age of the structure indicates blighting conditions on the inside.

Response J-23

The Agency considered the availability of a wide variety of government funding sources in Sections 8.1 (page 129) and 8.4.2 (page 133) of its Unified Report; however it did not consider the availability of so-called "stimulus money," presumably funding made available from the federal government through programs created by the American Recovery and Reinvestment Act of 2009 (ARRA) to reverse the conditions of blight in the Added Territory within its Unified Report.

First of all, funding available through the ARRA is subject to many of the same complex application and administration procedures that other federal funding sources, such as community development block grants require. The fact that ARRA funds are not under local control, or are definite and ongoing is also problematic. Further, since the ARRA is considered to be a "one time" economic stimulus, it cannot be counted on to serve as a significant funding source to the community for the wide variety of projects and programs which will be required to eliminate blight in the Added Territory over the thirty year effective life of the Plan for the Added Territory. The City reports that it has had some success in securing a limited amount of ARRA funding to complete Phase II of its Rails to Trails project; however, the awarding of additional ARRA funding to the City is not anticipated to even come close to approaching the sum of money required to implement the comprehensive redevelopment of the Added Territory.

Response J-24

In claiming that "low scoring, blight indicated properties should not be included as blighted," the County has grossly mischaracterized the methodology employed within the Unified Report. As explained in Section 3.4.2.4 of the Unified Report, in order for a parcel to be found to be blighted by the Porterville City Council, it must receive at least twenty blight points and exhibit one Blight Indicator totaling at least five points. Such parcels generate negative influences on neighboring properties (external obsolescence), which may or may not demonstrate on-site blight indicators, so that the value of these adjacent or nearby properties are negatively affected by their proximity to these structures. While the Agency does not argue that parcels which receive low
blight scores (less than twenty points) should not be considered “blighted”, under the methodology such parcels that have one or more blight indicators may contribute to blight within the neighborhood in which they are located (see page 125 of the Unified Report), particularly when conditions of inadequate infrastructure and economic blight are considered in conjunction with physical blight as required under CCRL Section 33030(b).

As further evidence of the County’s misreporting of the information contained in the Unified Report, the County charges that “[m]any of the properties only have a blight score of 1.” If County staff had properly reviewed the blight scores for each parcel in the Added Territory and Focus Area (included in Appendices D-1 and D-2 of the Unified Report), they would have discovered that none of the parcels in the Amended Project Area received blight scores of one. Based on the methodology employed in the Unified Report, it is not possible for a given parcel to receive a blight score of one because the minimum number of points accrued to a parcel exhibiting a blight indicator is two.

As stated elsewhere in the Agency’s Response to the City Council’s Comments, not every parcel in the Added Territory must be blighted in order for the City Council to make the required finding that the Added Territory is a blighted area.

**Response J-25**

The Agency has prepared the appropriate five year implementation plan that includes all required components in accordance with CCRL Sections 33352(c) and 33490(b). Consistent with these requirements, and at an appropriate degree of specificity given the preliminary assessment of available funding and the fact that no specific projects have been proposed by either public or private sectors, the Agency proposes to assist implementation of those projects and programs included in Appendix H of the Unified Report, which the Agency Board determines to be necessary and feasible, as funding and community support become available. The Agency adds that it recently adopted a comprehensive five-year implementation plan for the Existing Project Area on February 2, 2010, pursuant to CCRL Section 33490. This implementation plan contains a number of specific actions and expenditures anticipated to be completed in the Existing Project Area during the next five years.

In response to the County’s claim that the Report to Council does not contain the analysis and response required by CCRL Section 33352(n), the Agency’s Report to Council was prepared and made available for public review at least seven days prior to the Agency’s Joint Public Hearing with the Porterville City Council on June 1, 2010. Inasmuch as the County did not submit its written objections to the Amendment until June 1, 2010, the Agency was unable to provide an analysis of and response to said objections within its Report to Council. The Agency’s analysis and response to the County’s comments are included herein and hereby entered into the Record of Proceedings for the 2010 Amendment.

During the preliminary delineation of the Added Territory boundaries, which delineation process included multiple meetings with County executive staff and representative elected officials, County representatives expressed high interest to Agency staff and advisors in partnering with the Agency on the Amendment, even granting City staff preliminary direction to move forward with the inclusion of much of the unincorporated community of East Porterville and other unincorporated areas adjacent to the City within the Added Territory. At great expense and effort, the Agency surveyed these areas and completed various related tasks including the environmental and economic analyses required to process their inclusion within the Added Territory. County executive staff was presented with the preliminary blight findings and fiscal
analysis — data that was vetted by the same officials. During these consultations, County officials were openly complimentary about the methodology employed by the Agency and suggested they were in agreement with proposed Added Territory boundaries. The path forward was to be fixed in a memorandum of understanding that would outline a mutually agreed upon resolution to the amount and management of Agency expenditure of tax increment monies in County portions of the Added Territory, with particular focus given to the matters of affordable housing and infrastructure. Obviously this forward progression of events came to a halt because, at some point, for reasons which remain uncertain to the Agency, the County withdrew its support for the Amendment, thereby leaving the City in the difficult and costly position of having to back track, including designation of an alternative base year, to revise the preliminary boundaries of the Added Territory to exclude the unincorporated County areas.

The facts in the record indicate the County is very disingenuous in its claims that the Agency has not addressed its consultation obligations.

Response J-26

The Agency does not understand the County's objection to the consideration of serious building code violations, such as garage conversions and unpermitted room additions, as a basis for documenting unsafe and unhealthy buildings in accordance with CCRL Section 33031(a)(1). CCRL Section 33031(a)(1) clearly states that “[b]uildings in which it is unsafe or unhealthy to live or work...may be caused by serious building code violations...” In response to the County's charge that no explanation is provided within the Unified Report as to how these building code violations fit in with CCRL Section 33031(a), Appendix B of the Unified Report contains a description of the various Blight Indicators which are indicative of serious building code violations and explain how each respective indicator can make buildings unsafe or unhealthy for persons to live or work. Furthermore, as described in Appendix B, upon completion of the field reconnaissance, each documented case of suspected unpermitted garage conversion (GC) and construction (ANPA and ANPB) was researched and confirmed by City staff; only those parcels vetted by City officials as being illegal cases were included in the final record.

Response J-27

A summary of the substantial professional qualifications of key individuals who participated in the UFI/Alfred Gobar Associates (AGA) field reconnaissance and/or subsequent review and analysis of data is provided in Section 3.3.3 of the Unified Report (pages 37-38) and duplicated (with some amendments) below.

For reasons described in Response J-22, it would be virtually impossible to perform structural inspections of each of the buildings in the Amended Project Area; therefore, a field survey of private properties was generally completed from public rights-of-way. Making inferences about blighting conditions inside structures based upon exterior observation is the only practical method for inferring interior conditions of a property short of an interior inspection. With respect to these matters it is counter-intuitive, and is disingenuous on part of the County, to assume that interior conditions of a structure will be dramatically different from those observed on the structure’s exterior.

3.3.3 Professional Experience

Summaries of the qualifications of key staff members who participated in the Field Reconnaissance and/or subsequent review and analysis of data are provided
below. This Report to Council, including the Field Reconnaissance, was completed by UFI and AGA staff under the direction of Mr. Jon Huffman, Managing Principal, UFI, and Mr. Alonzo Pedrin, Principal, AGA, respectively. Participating professional UFI staff included Mr. Paul Schowalter, Principal; Mr. Ryan Bensley, Senior Planner; and Mr. Jung Seo, Senior Planner. Participating professional AGA staff included Mr. Jim Wolf, Principal, and Mr. Ryan Early, Senior Research Associate. Also, participating in the field reconnaissance was Mr. Richard Tillberg, AICP, no longer with UFI.

**Urban Futures, Inc.**

Mr. Huffman holds a Bachelor of Architecture Degree from the University of Oregon, a Masters of Landscape Architecture Degree from the California State Polytechnic University, Pomona, and Certificates in Real Estate Appraisal from the California State University, Fullerton, and has personally participated in over 80 field reconnaissance and managed over 175 redevelopment plan adoptions and amendments; he has been with UFI since 1987.

Mr. Schowalter holds a Bachelor of Architecture Degree with an Urban Design Emphasis from the California State Polytechnic University, Pomona. He has been a redevelopment project manager for nearly 20 years, and has personally participated in over 100 field reconnaissance and provided analysis and document preparation in over 150 redevelopment plan adoptions and amendments in California.

Mr. Bensley holds a Bachelor of Arts Degree in Geography from the California State University, Long Beach, and has completed numerous field investigations for UFI and has over six years’ experience with municipalities in Southern California and the private real estate management sector. Mr. Seo holds a Bachelor of Engineering in Architecture and Urban Planning from the Handong University, South Korea, and a Masters in Planning from the University of Southern California, heads the firm’s GIS division, has participated in field reconnaissance activities, and is instrumental to preparing site analyses and GIS/fiscal projections for numerous redevelopment projects.

Mr. Tillberg holds a Bachelor of Arts degree from the College of William and Mary and a Master of Arts in Urban Planning from Morgan State University and has personally participated in more than 25 field reconnaissance and provided analysis and document preparation in over 85 redevelopment plan adoptions and amendments in California.

**Alfred Gobar Associates**

Mr. Pedrin holds a Bachelors Degree in Urban and Regional Planning from California State Polytechnic University, Pomona, a Masters in Business Administration from the University of California, Irvine, and has been the project manager and senior research analyst for numerous private and public sector studies since 1986. Mr. Early holds a Bachelor of Science Degree in 2004 from the University of Oregon, and has been directly responsible for field data collection, market research, data synthesis, and other supplemental analyses for a variety of real estate consulting assignments. Also, participating in development of this project from AGA is Mr. Jim Wolf who holds a Bachelors Degree in Real Estate and
Urban Planning and received his Real Estate Graduate Studies degree from the University of Wisconsin in 1977.

UFI and AGA use their professional experience and expertise as identified above, and that of City staff and other professionals including, in Porterville, legal Counsel from the law firm Stradling, Yocca, Carlson, and Rauth, to derive reasonable and professionally defensible definitions of terms used in the CCRL, and subsequently test these definitions against the evidence gathered during the Field Reconnaissance and through examination of the secondary evidence. Such analysis might include interpreting real estate trends, determining necessity for effective redevelopment (based upon generally accepted urban planning and appraisal principles), rationalizing apparently conflicting data, and selecting comparable data sets of parcels from within the Amended Project Area and the larger community.

Of course, the entire resources of all participating firms are accessed on an as needed basis; resumes of all senior staff are available on line at www.urbanfuturesinc.com and AGA at www.qobar.com.

**Response J-28**

As discussed earlier in the Agency's Response to the County's Comments, it is up to the City Council to make a determination as to whether "prevalent and substantial" blight exists within the Added Territory and "significant" blight exists within the Existing Project Area. The purpose of the Unified Report (and the Report to Council) is to provide the City Council with an accurate and detailed record of the physical and economic conditions in the Amended Project Area, among other information, so that the City Council can make an informed decision with respect to its deliberation on the Amendment. It is the Agency and City Council's position that the Unified Report contains a straightforward and accurate assessment of the conditions "on-the-ground" (specifically during the periods of analysis) in the Amended Project Area, and that ample, "meaningful analysis" has been provided.

**Response J-29**

In response to the County's charge that UFI improperly aggregated criteria, a description of the highly organized, well thought out and tested methodology used to gather and analyze the data during the field reconnaissance is provided within Section 3.4 of the Unified Report (pages 39-46).

**Response J-30**

In rebuttal of the County's contention that the field reconnaissance completed for the Amendment contained unverifiable conclusions, the Agency and City Council maintain that the conclusions of the field reconnaissance remain 100% verifiable with respect to conditions required to be documented and processed under current law, and industry protocols. Even though the field survey conducted by UFI revealed only those conditions which were present on the date that properties in the Amended Project Area were surveyed, and thus remains a "snapshot in time," City staff, and input received from the community during three community workshops detailing the Amendment and redevelopment generally, report that conditions in the Amended Project Area remain largely unchanged since the field reconnaissance was completed.
in December 2008, with respect to the Added Territory, and July 2009, with respect to the Existing Project Area. Given, then, that conditions have apparently not changed even marginally for the better since July 2008, when field reconnaissance began, the Agency believes that the results of a field survey conducted today, using the same methodology employed by UFI would reveal the same or worse blight conditions. Furthermore, the Agency respectfully points out that the current recession has had a severe impact on the economy of Porterville since the field reconnaissance was completed as County officials know. In all likelihood, the recession has contributed to further deterioration of the Amended Project Area’s structures; however, this remains an unverifiable conclusion.

Response J-31

The County asserts that the "[g]eneralized methodology and ‘overbroad definitions’ of blight did not conform to the California Redevelopment Law requirements." This is wholly untrue. This allegation is troubling given the County appears to be unaware of very significant amendments to the CCRL that occurred in 2006, and that play a pivotal role in preparation and processing of the 2010 Amendment. Furthermore, the Agency is unaware of any section in the CCRL where a prescribed methodology is given for preliminary report preparation.

CCRL Section 33344.5 provides the following directive:  

"...a preliminary report which shall contain all of the following:

(a) The reasons for selection of the project area.
(b) A description of the physical and economic conditions existing in the project area.
(c) A description of the project area which is sufficiently detailed for a determination as to whether the project area is predominantly urbanized. The description shall include at least the following information, which shall be based upon the terms described and defined in Section 33320.1:
   (1) The total number of acres within the project area.
   (2) The total number of acres that is characterized by the condition described in paragraph (4) of subdivision (a) of Section 33031.
   (3) The total number of acres that are in agricultural use...
   (4) The total number of acres that is an integral part of an area developed for urban uses.
   (5) The percent of property within the project area that is predominantly urbanized.
   (6) A map of the project area that identifies the property described in paragraphs (2), (3) and (4), and the property not developed for an urban use.

(d) A preliminary assessment of the proposed method of financing the redevelopment of the project area, including an assessment of the economic feasibility of the project and the reasons for including a provision for the division of taxes pursuant to Section 33670 in the redevelopment plan.

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2 CCRL Section 33352 provides similar directives for what must be included in the Report to Council. This Section is quoted in its entirety in Appendix A of the Report to Council and should be reviewed by the reader. The Report to Council has included all components required in CCRL Section 33352.
(e) A description of the specific project or projects then proposed by the Agency.
(f) A description of how the project or projects to be pursued by the agency in the project area will improve or alleviate the conditions described in subdivision (b).
(g) If the project area contains land that are in agricultural use the report shall be sent to...."

Even a cursory review of the Unified Report shows that the Agency has included all of the required elements of a “preliminary report” within its Unified Report (the Unified Report also contains the required elements of the report required to be prepared pursuant to CCRL Section 33451.5(c); for this reason, it is referred to as the “Unified” Report). All analyses contained within the Evidentiary Documents have been professionally prepared, and it is the Agency’s position that the Evidentiary Documents contain an appropriate degree of specificity and sufficient detail.

Response J-32

As described earlier in the Agency’s Response to the County’s Comments, the CCRL does not set forth any specific standards for determining blight other than those provided in CCRL Sections 33030 and 33031. The CCRL does not require that a redevelopment project area contain “urban slum conditions” as in the Bunker Hill case; therefore, it is the Porterville City Council’s responsibility to set the standard for Porterville and determine whether “prevalent and substantial” blight exists within the Added Territory and “significant” blight remains in the Existing Project Area.

The Agency notes that the County mischaracterized the information presented on page 99 of the Unified Report within its comments on the Amendment by stating that “30 percent of the parcels or acres may be considered by the City Council to be blighted due to exhibiting one or more physical blight conditions” [italics added for emphasis]. This statistic actually relates to the percentage of parcels in the Added Territory that, per the methodology employed by the Agency, exhibit: i) at least one Blight Indicator which reaches a level of seriousness to equal at least five points, and ii) a sufficient number of Blight Indicators so that the combined total equals at least twenty blight points (refer to Section 3.4.2 of the Unified Report for a full explanation regarding this methodology). If the parcels which exhibited at least one Blight Indicator (physical or economic) are considered, 2,144 parcels (or approximately 81 percent of all parcels) in the Added Territory demonstrate some measure of blight (see Figure 14 of the Unified Report for a map showing the location of these parcels). While not considered "blighted" under the methodology set forth in the Unified Report, the 1,362 parcels in the Added Territory which were assigned blight indicator scores of between two and 19 (shown in Figure 14) are parcels that have one or more conditions that may contribute to blight within the neighborhood block in which they are located (see discussion regarding external obsolescence earlier in the Agency’s Response to the County’s Comments).

In fact, should the City Council elect to approve and adopt the 2010 Amendment following its full consideration of the entire record of Amendment proceedings, the City Council could find, based upon the methodology employed and the evidentiary record developed in accordance therewith, that the Added Territory is a blighted area under current provisions of CCRL Sections 33030, and 33031, et al.

Response J-33
The analysis of stagnant and depreciated property value relied on recorded transaction data (as reported by First American Real Estate Solutions) describing 218 residential sales transactions within the Amended Project Area and 2,373 residential sales transactions throughout the larger area of Porterville, not part of the Amended Project Area. In short, the economic blight analysis uses sales comparables as a proxy determination of value distinguishing the Amended Project Area from all other areas of Porterville. As the County knows, it is not realistically feasible to prepare an appraisal for every residential property comprising the Existing Project Area and Added Territory. Furthermore, the sales comparable approach employed in the economic blight analysis is generally consistent with one of the three fundamental approaches (income approach, replacement cost approach, sales comparable approach) used to prepare site specific appraisals. Due to the heavy concentration of non-residential land use within the Existing Project Area, over 95.0 percent of sales transaction records used to evaluate the Amended Project Area describes properties within the Added Territory. In effect, the economic blight analysis provides a strong indication of property value trends describing the Added Territory.

Much of the Existing Project Area and Added Territory describe long-established areas of the community that are likely to include older homes, which generally suffer depreciation in value due to the age-related design, safety, and functional deficiencies. By comparison, land is not a depreciable commodity, because the utility land provides for residential purposes is relatively unaffected by age. The economic blight analysis strictly evaluates underlying land value trends (excluding improvement value) distinguishing the Amended Project Area from other areas of Porterville to eliminate bias inherent to an analysis of improvement (building) value trends. All things equal, the unit price of a commodity fluctuates inversely with the quantity sold—the unit price (price per pound, price per square foot, etc.) for a smaller quantity will be more than the price for a larger quantity. As might be expected in such an older, less extensively planned and organized part of a community, the average lot size describing residential sales within the Amended Project Area is 45.0 to 60.0 percent smaller than is true in other areas of Porterville. Despite a significantly smaller average lot size, the unit pricing of residential property (price per square foot of lot area) within the Amended Project Area remains stagnant and unduly depreciated below transacted values describing larger residential property in other areas of Porterville.

Response J-34

A project area where there was no blight would be inappropriate; on the other hand, a proposed project area where every parcel was blighted would demand redevelopment. It is not likely in the real world, or even in the most wealthy or most depressed communities in the state, that either extreme would accrue. What is likely is that some number of parcels will be blighted and others will not. The legislature recognized this condition when, at CCRL Section 33321 it provides that "not every parcel must be blighted". If the legislature determined that blight only had to be "so prevalent" or "so substantial" and not "total", it clearly understood that blighted properties have a deleterious effect on non-blighted properties.

The issue then becomes, how many parcels must be blighted or be negatively affected by blight in order for blight to be so prevalent and so substantial. In the absence of quantitative authority set forth either in statutory or case law, the Agency has attempted to use a value neutral "yardstick" to understand how properties affect each other and to describe the effects that a blighted parcel has on surrounding parcels. Rather than selecting an arbitrary "envelop of effectiveness" (for instance: lines of uninterrupted sight, all parcels on the street, all parcels in the block, three, or four, or six parcels on either side, etc.), the Agency elected to refer to
accepted city planning practice. The city planning profession has established, over decades of practice, that there are land use activities where the effects of governmental and/or private action affects more than just the individual applicant and, consequently, adjacent properties should be notified. The City's Zoning Ordinance recognizes that owners of parcels within 300 feet of a subject parcel may be affected by land use and zoning decisions (such as applications for variances or conditional use permits, proposed revocations or modifications of variances or use permits, or appeal from actions taken on any of those applications) and, therefore, requires that they be notified of public hearings held by the Planning Commission regarding such actions. As described in Section 5.2.1.2 of the Unified Report (pages 109-111), since the Zoning Ordinance provides for a 300 foot radius, the methodology employed within the Unified Report assumes the effect of external obsolescence to be 300 feet.

The County rejects the notion that the City's Zoning Ordinance contains notification requirements in response to the well accepted real estate appraisal principle that conditions on a given property can have a negative, incurable impact on nearby properties. By stating that "[z]oning law merely determines a threshold for direct notice to members of the neighboring community of the pending project", the County's letter demonstrates an apparent unfamiliarity with the principle of accrued depreciation, which is the loss in value from the reproduction or replacement cost of improvements that may emanate from physical deterioration, functional obsolescence, external obsolescence, or any combination of these factors. While each of these factors negatively affects property values within the Amended Project Area, the most pertinent to the Unified Report analysis questioned by the County is external obsolescence and its impact upon the "proper utilization" of the area as described in CCRL Section 33030(b)(1).

External obsolescence, which is the diminished utility of a structure or property due to negative influences emanating from outside the subject building or property, is almost always incurable by the affected owner, landlord, or tenant. This kind of obsolescence, which is one aspect of the "principle of externalities," can be caused by a number of factors such as deferred maintenance of adjacent structures or properties, overall neighborhood decline, a property's location in the community, or local market conditions, and always has a negative effect on property values and development potential. The fact that external obsolescence is almost always incurable by an impacted owner means that the problems affecting the property cannot be practically or economically cured and that the property will suffer long-term loss of value (loss of value under this kind of circumstance means loss of market value, use value, investment value, assessed value, or any other specific kinds of real estate value).

Mitigation of the negative forces of external obsolescence is one of the objectives of a City's long range planning program. General plans and zoning codes are prepared, adopted and implemented to, in part, insure that land uses and development densities are compatible. Code enforcement activities help to ensure that deferred maintenance and property neglect does not occur within a neighborhood to such a degree that lack of maintenance or investment of one or more properties does not lead to the same problems overtaking other properties (these actions also comport to the principle of externalities, only in a positive sense - positive external factors typically add value to adjacent properties which is one underlying objective of code enforcement, homeowner associations, zoning, etc.).

Therefore, the analysis contained in Section 5.2.1.2 of the Unified Report correctly characterizes the negative impacts of external obsolescence which are occurring in many parts of the Amended Project Area in the form of inefficient and/or underutilization of parcels, and incompatible land uses (though limited under current CCRL provisions), which conditions negatively affect the value, as previously defined, and use of not only the parcel(s) that are not
properly maintained and/or underutilized, but adjacent and nearby parcels as well.

The Agency is somewhat confused by the County’s comment regarding the number of “affected” parcels located within 300 feet of a parcel with at least 20 physical blight points which are not already deemed physically blighted; however, the Agency will attempt to clarify. One thousand seven hundred and seventy two (1,772) parcels (or 67 percent of all parcels) in the Added Territory are within 300 feet of a parcel which accrued at least 20 physical blight points. This is in addition to the 806 parcels (30 percent of all parcels) in the Added Territory that accrued at least 20 physical blight points. In total, 2,578 parcels (or 97 percent of all parcels) in the Added Territory may be found to be blighted or subject to the negative effects of external obsolescence (within 300 feet of a blighted parcel).

Response J-35

The County states that the economic blight analysis merely provides generalized information. The analysis of overcrowding relies on 2000 Bureau of Census SF3 tape information, the latest available comprehensive data describing the number of residents within habitable structures at the block-group level of reporting. The Decennial Census provides the most comprehensive reporting of occupancy within habitable structures and block-group level reporting (a geographic area generally consisting of 6 to 12 blocks) is the most detailed level of reporting on such information. The Amended Project Area constitutes a highly-detailed geographic boundary within the Decennial reporting structure but is too small to be effectively evaluated through statistical methodologies. The Bureau of Census has developed the American Community Survey, which permits statistically-driven estimates of demographic trends between Decennial periods. Unfortunately, this data series can only be applied in areas with a minimum population of 64,000 residents, far larger than the population base of the Amended Project Area. The County is aware that it is not realistically feasible to conduct a mini-Census in advance of the 2010 Decennial Census, which would require the blight survey team to visit every existing residence and inquire as to the number of persons residing, and the number of habitable rooms.

Due to the heavy mix of non-residential land uses within the Existing Project Area, overcrowded housing conditions identified in the blight analysis offer a strong indication of such conditions within the Added Territory alone. Regardless, an alternate analysis based on Census Block Groups within the Added Territory alone is included as Attachment B to this response. As shown, severe overcrowding (more than 1.50 persons per room) within the Added Territory remains more than 1.5 times higher than the City of Porterville and Tulare County and more than 6.0 times higher than the National incidence of overcrowding.

Response J-36

The Agency notes the County’s proper recitation of the Gonzales and Sweetwater cases. As stated elsewhere in the Agency’s Response to the County’s Comments, the specific reasons the Agency has included non blighted property in the Added Territory have been articulated in Section 6.0 of the Unified Report (page 125).

In brief, consistent with CCRL Section 33321 authority, non-blighted parcels are proposed for inclusion within the Added Territory for the following reasons: i) they are located within a blighted area and are therefore subject to the negative effects of external obsolescence; and ii) their exclusion would result in a checkerboard and less coherent patterned redevelopment project area in which it would be difficult for the Agency staff to effectively plan, implement and administer its proposed projects and programs, and therefore, the Agency’s efforts to lessen or
eliminate blight in the larger area would be marginalized and less effective. Additionally, some of these parcels, those which are vacant, previously urbanized or underutilized, may be used, as described in CCRL Section 33320.2, for the purpose of providing for: i) the relocation of owners or tenants from other parts of the Amended Project Area, if necessary over the life of the Amended Plan; or ii) the construction and rehabilitation of low- or moderate-income housing, within the parameters of the General Plan and other development provisions.

In its letter the County objects to the inclusion of several portions of the Added Territory that did not exhibit any Blight Indicators and implies that such properties were included in the Added Territory for the sole purpose of obtaining tax increment revenue from these areas. As previously indicated, the Agency and City Council reject any such claim.

The Redevelopment Plan, as proposed to be amended by the Amendment, is required to be consistent with the City's General Plan; therefore, non-blighted parcels which are vacant, previously urbanized or underutilized will be developed in accordance with the General Plan and may be used for the purpose of accommodating the Agency's efforts to relocate owners or tenants displaced by the Agency's long-term development/redevelopment activities elsewhere in the Amended Project Area, and/or providing sites for the construction of low- or moderate-income housing in accordance with the General Plan (see Figure 3 of the Unified Report for a map showing the General Plan land use designations in the Amended Project Area).

The County claims that several vacant parcels in the Added Territory can be developed without redevelopment assistance, however, the County neglects to provide any evidence to support this claim. The Agency has clearly explained the reasons why it has proposed to include various vacant parcels, none of which are in violation of CCRL Sections 33320.1(2) or 33321. Furthermore, the Agency has provided abundant discussion, infused with a great number of facts, articulating why many of these parcels have been, are currently, and are likely to remain underdeveloped or undeveloped long into the foreseeable future.

With respect to the County's opposition to the inclusion of Porterville High School within the Added Territory, the Agency points out that, like the County, the Porterville Unified School District (PUSD) also qualifies as an "affected taxing entity" for purposes of the Amendment. PUSD has been notified and has not expressed any concerns whatsoever to the Agency or City regarding the inclusion of Porterville High School within the Added Territory. Furthermore, the Agency respectfully reminds the County that the Porterville High School site is a tax-exempt property and, therefore, would not generate any tax increment revenue for the Agency. Similar statements can be made regarding the County's objection to the inclusion of other properties which contain public uses (the Rodeo Grounds, Armory and various PUSD properties). In fact, to the degree that it can in the future, the Agency will endeavor to partner with one or more of these public entities for the purpose of building new or upgrading one or more existing facilities that will be of benefit to the larger community.

The Agency and City Council dispute the County's comment that most of the non-blighted parcels "are not surrounded by blighted areas and are appurtenant to the blighted areas of the Proposed Added Territory and Amended Project Area." A review of Figure 16 in the Unified Report will show that, with the notable exception of the vacant parcels at the Riverwalk Marketplace site, most of these parcels are either surrounded by blighted areas or within 300 feet of a blighted parcel.

The Agency notes the County's proper recital of the Riverside and Lancaster Redevelopment Agency cases; however, the Agency and City Council again deny the County's assertion that
non-blighted areas were included in the Added Territory because their inclusion was economically advantageous. Such areas were included in the Added Territory for the reasons set forth in Section 6.0 of the Unified Report and summarized earlier in this response.

Response J-37

State CEQA Guidelines Section 15088.5 requires a lead agency to re-circulate an EIR only when significant new information is added to the EIR after public notice is given of the availability of the DEIR for public review under Section 15087 but before certification. It is the opinion of the Agency and City Council that, given the speculative, argumentative, and boilerplate nature of the County's comments, many which appear to disregard the scope of the defined project and the purpose of a program EIR, and the lack of any substantial evidence related to specific environmental effects in the Added Territory not addressed in the DEIR, as presented by the comments, there is no legal or factual basis requiring recirculation of the EIR. No new significant information is required to be added to the DEIR and thus, the DEIR is not required to be re-circulated for public review.

Response J-38

The Agency has endeavored to respond to each of the objections summarized in the conclusion of the County's letter to the Agency in the preceding responses, with the exception of the County's comment that the Unified Report contains "little mention" of significant blight in the Existing Project Area. This comment appears to ignore the body of text, data and analysis included in the Unified Report.

It is the Agency and City Council’s position that the Unified Report and the Report to Council are professionally prepared documents that contain substantial documentation that may be used by the City Council to support a determination that significant blight remains in the Existing Project Area and that such blight cannot be eliminated without the reinstatement of the Agency's limited authority to acquire real property in the Existing Project Area through the use of eminent domain. Furthermore, the issue of Agency eminent domain authority is totally a local matter, and during Agency outreach efforts those members of the community affected by the 2010 Amendment have expressed little to no concern about reinstatement of this authority for the proposed 12 year period.

The Agency and City Council challenge the County’s assertion that the methodology employed in the preparation of the Unified Report did not consider blight conditions described in the CCRL and remind the County that CCRL Section 33031(a)(1) does not require code enforcement officers to issue building code violations to offending property owners in order to satisfy the City Council’s need to make blight findings. Nevertheless, as described in Response J-26 suspected instances of unpermitted garage conversions and illegal construction, among others as deemed appropriate and necessary, were forwarded to the appropriate City departments for verification. The final analysis contained in the Unified Report, therefore, reflects only those parcels which were subsequently confirmed by City staff to exhibit such Blight Indicators.

The remaining objections summarized by the County have been addressed by the Agency in previous responses. The City Council and Agency have carefully considered each of the County's objections to the Amendment and have determined that the County's objections are without merit. County objections appear to be boilerplate, refer to field tools not employed by the Agency and, as has been pointed out on numerous occasions in this document, the County has based many of its objections on invalid CCRL provisions.
The Agency and City Council will retain the right to make one or more boundary adjustments in deference to one or more members of the community. The few members of the Porterville Community objecting to some limited aspect of the 2010 Amendment have given statements recognizing the overall merit, need for, and validity of the larger project.

The complete evidentiary record provides resounding proof of economic and physical blight that is a burden on the community, is substantial and prevalent, and cannot be alleviated by either the private or public sectors acting alone or jointly, without benefit of redevelopment. The 2010 Amendment is fiscally feasible and will be an important tool to be used by the City to help remedy ongoing oppressive problems presently hobbiling the community and threatening its future.

The Porterville City Council respectfully requests that the County reconsider its objections to the approval and adoption of the 2010 Amendment, actions clearly valid under current law, and then take appropriate action to retract all previously submitted objections to the 2010 Amendment.
ORDINANCE NO.______

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING AND ADOPTING THE 2010 AMENDMENT TO THE
REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT
PROJECT NO. 1

WHEREAS, in accordance with the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000, et seq.), the City Council of the City of Porterville (the "City Council") adopted the Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project No. 1 (the "Original Project Area") on July 10, 1990 by Ordinance No. 1436; and

WHEREAS, the City Council subsequently amended the Plan by adoption of Ordinance No. 1504 on December 15, 1994, for the purpose of establishing time limits in accordance with the requirements of the Community Redevelopment Reform Act of 1993 (Assembly Bill 1290), and later by adoption of Ordinance No. 1655 on July 6, 2004, for the purposes of i) deleting territory from the Original Project Area (thereby resulting in what is hereinafter referred to as the "Existing Project Area"); and ii) eliminating the time limit on the Porterville Redevelopment Agency’s establishment of loans, advances, and indebtedness, as authorized by then recently adopted Senate Bill 211; and

WHEREAS, the above recited Ordinances, including the findings and determinations made by the City Council therein, are made part hereof by reference, and are final and conclusive, there having been no action timely brought to question the validity of said redevelopment plan adoption and amendments; and

WHEREAS, the City Council and the Porterville Redevelopment Agency (the "Agency") have initiated proceedings to amend (the "2010 Amendment") the Plan, as previously amended, for the purposes of i) adding territory (the "Added Territory") to the Existing Project Area, thereby creating the "Amended Plan" and the "Amended Project Area”; ii) reinstating limited Agency eminent domain authority specific to the Existing Project Area; and iii) modifying the Plan’s projects and programs list specific to the Existing Project Area, as appropriate and necessary; and

WHEREAS, the City Council has received from the Agency the Amended Plan, dated June 2010, and entitled, “The Amended and Restated Redevelopment Plan for the Porterville Redevelopment Project Area No. 1,” a copy of which is on file at the office of the City Clerk, who is the custodian of records, together with the Agency’s Report to the City Council (the "Report to Council") prepared pursuant to CCRL Sections 33457.1 and 33352 and entitled, “Report to the City Council for the Proposed 2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1”, which includes, among other things: i) the reasons for including the Added Territory in the Amended Project Area; ii) a description of the physical and economic conditions existing in the Added Territory and continuing to exist in the Existing Project Area, iii) an implementation plan; iv) an explanation why the elimination of blight and the redevelopment of the Amended Project Area, including the Added Territory, cannot reasonably be expected to be accomplished by private enterprise acting alone, or by the use of alternative financings; v) the proposed method of financing the redevelopment of the Added Territory, vi) a plan for the relocation of families and persons who may be temporarily or permanently displaced from.
housing facilities in the Added Territory; vii) an analysis of the Preliminary Plan for the 2010 Amendment required by CCRL Sections 33322, et seq.; viii) the report and recommendations of the Planning Commission of the City (the "Planning Commission") as to the conformity of the Amended Plan to the City's General Plan, including the General Plan Housing Element, in accordance with Government Code Section 65402; ix) the Owner Participation Rules; x) the Final Program Environmental Report (FEIR) prepared in accordance with Public Resources Code Section 21151; xi) the Report of the County Fiscal Officer pursuant to CCRL Section 33328; xii) a neighborhood impact report, xiii) the Agency's analysis of the report required by CCRL Section 33328, including a summary of consultations with affected taxing entities; and

WHEREAS, the Amended Plan does not authorize the Agency to acquire any property in the Amended Project Area on which any persons reside through the use of eminent domain, and the Amended Plan does not propose public projects that would displace a substantial number of low-or moderate-income persons; therefore, the Agency, by adoption of its Resolution No. PRA 2009-04 on June 2, 2009, determined that a Project Area Committee (PAC) was not required to be formed in connection with the 2010 Amendment pursuant to CCRL Section 33385; however, in accordance with CCRL Section 33385(f), the Agency conducted public workshops and transmitted information about the 2010 Amendment, specifically, and about redevelopment, generally, to property and business owners, residents and tenants in the Amended Project Area to elicit public participation; and

WHEREAS, by its Resolution No. 38-2010 adopted April 6, 2010, the Planning Commission approved its report (the "Conformity Report") finding that the Amended Plan is consistent with and conforms to the City's General Plan as required by the CCRL, and the Conformity Report has been submitted to the City Council with the Planning Commission's recommendation that the City Council adopt the 2010 Amendment; and

WHEREAS, the City Council and the Agency held a joint public hearing on the adoption of the 2010 Amendment in accordance with the requirements of the CCRL and certification of the FEIR in accordance with the requirements of the California Environmental Quality Act (CEQA); Public Resources Code Section 21000, et seq., hereafter referred to as the "CEQA Statutes," and Title 14 California Code of Regulations, Section 15000 et. seq., hereafter referred to as the "CEQA Guidelines") on June 1, 2010, in the City Council Chambers, Porterville City Hall, located at 291 North Main Street, Porterville, California, 93257, for the purpose of hearing public testimony from all interested persons and organizations and receiving all written communications (if any) from interested persons and organizations on the 2010 Amendment and the FEIR; and

WHEREAS, notice of said joint public hearing was duly and regularly published in the Porterville Recorder, a newspaper of general circulation in the City, once a week for four successive weeks prior to the date of said hearing, and copies of said notices and affidavits of publication are on file with the City Clerk and the Agency; and

WHEREAS, copies of the notice of joint public hearing were mailed by first class mail to the last known address of each assissee as shown on the last equalized assessment roll of the County of Tulare for each parcel of land in the Amended Project Area, and to all known residents, tenants and businesses within the Amended Project Area, including the Added Territory, not less than 30 days prior to the date of commencement of said joint public hearing; and
WHEREAS, each assessees in the Amended Project Area whose property could be subject to acquisition by purchase or condemnation under the provisions of the Amended Plan was sent a notice to such effect attached to the notice of the joint public hearing, including a map of the Amended Project Area, including the Added Territory; and

WHEREAS, copies of the notice of joint public hearing were mailed by certified mail with return receipt requested to the governing body of each taxing agency which receives taxes from property in the Amended Project Area; and

WHEREAS, the Agency and the City Council have each independently found and determined that the 2010 Amendment may create significant impacts to Agricultural Resources, Air Quality, and Biological Resources, and mitigation measures and a mitigation monitoring program are required to be incorporated into the 2010 Amendment to avoid or substantially lessen environmental effects, except for impacts to Air Quality; and

WHEREAS, as to the unavoidable impacts to Air Quality identified in the FEIR, which could not be eliminated or substantially lessened, the Agency and the City Council have each adopted a Statement of Overriding Considerations pursuant to CEQA, and specifically CEQA Guidelines Section 15093; and

WHEREAS, the Agency and the City Council have each independently found and determined, based, in part, upon input received from the Planning Commission, which body reviewed the Draft Program EIR, that project alternatives not incorporated into the 2010 Amendment (including the "No Project" Alternative) were not environmentally superior, would not result in significantly fewer or less pronounced environmental impacts when compared to the 2010 Amendment, and are infeasible based upon specific economic, social or other considerations as set forth in the FEIR; and

WHEREAS, the Agency, as the “lead agency”, as defined in CEQA Statutes Section 21067, and the City Council, as the responsible agency, have each certified the adequacy of the FEIR submitted pursuant to CEQA, and specifically, CEQA Statutes, Section 21151 and have each made necessary findings and determinations; and

WHEREAS, the City Council has considered the report and recommendation of the Planning Commission, the Agency's Report to Council, the Amended Plan and its economic feasibility, and the FEIR; has provided an opportunity for all persons to be heard, and has received and considered all evidence and testimony presented for or against any and all aspects of the 2010 Amendment; and, as appropriate, has made written findings in response to each written objection (if any) of an affected property owner or taxing entity filed with the City Clerk prior to the conclusion of the joint public hearing (to the extent any such written objections were received).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS FOLLOWS:

SECTION 1. The above facts are true and correct and a substantive part of this Ordinance.
SECTION 2. The Amended Plan, dated June 2010, and entitled, "The Amended and Restated Redevelopment Plan for the Porterville Redevelopment Project Area No. 1," on file in the office of the City Clerk of the City of Porterville and hereby incorporated by this reference, is designated the official redevelopment plan of the Amended Project Area.

SECTION 3. As established in the Amended Plan, the purposes and intent of the City Council are to eliminate conditions of blight in the Amended Project Area, and to prevent their reoccurrence and to accomplish to the greatest extent feasible the following actions:

1. Rehabilitate aging downtown commercial buildings to improve their viability for retail use and their appearance, where feasible;
2. Restore and preserve buildings of historic character and significance, where feasible;
3. Provide more conveniently located parking in the downtown retail area;
4. Assemble parcels into larger sites capable of accommodating: (1) major retailers in a shopping center complex located in the downtown area; (2) an entertainment center complex also located adjacent to the downtown; (3) a hotel/convention center; and a multi-modal transit facility;
5. Provide new streetscape and signing in the downtown to improve its image in order to attract more retail shoppers to the area;
6. Provide new infrastructure in the Central Business District to replace aging and substandard infrastructure;
7. Provide improvements to the traffic circulation system following a review by traffic engineers;
8. Provide other improvements necessary to revitalize the Central Business District and assist in carrying out the Main Street Program objectives;
9. Provide a County Civic Center area by assisting in the consolidation of branch office services into a centralized County center;
10. Eliminate patterns of land use which are incompatible and maintain balanced land uses throughout the Amended Project Area;
11. Provide initial infrastructure for industrial development in the approved Sequoia Valley Enterprise Zone and acquire one or more sites in order to attract new industries to the area;
12. Expand existing employment base and create new employment opportunities which will reduce the City’s high rate of unemployment and underemployment;
13. Re-plan portions of the Amended Project Area which are characterized by economically stagnant and improperly and under-utilized properties;
14. Rehabilitate or remove dilapidated and obsolete buildings which negatively influence new development in the vicinity;
15. Provide adequate housing at affordable rates for senior citizens and low and moderate income persons and families;
16. Promote seismic safety measures,
(17) Increase, improve, and preserve affordable housing in the community,

(18) Provide public infrastructure improvements and community facilities, such as the installation, construction and/or reconstruction of streets, utilities, public buildings, facilities, structures, street lighting, parks, landscaping, and other improvements which are necessary for the effective redevelopment of the [Amended] Project Area; and

(19) Provide for the rehabilitation of residential, commercial, and industrial structures throughout the Amended Project Area.

SECTION 4. Based on the record of the joint public hearing on the 2010 Amendment, and the various reports and other information provided to the Planning Commission, the Agency, and the City Council, including, but not limited to, the Agency's Report to Council prepared in connection with the 2010 Amendment, and all documents referenced therein, the City Council hereby makes the following findings and determinations as warranted by the 2010 Amendment:

(a) The evidence upon which the below determinations are made is clearly articulated and fully documented and is specific and quantifiable in full compliance with all laws and regulations.

(b) The Added Territory is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in the CCRL. The Added Territory is characterized by a combination of conditions which are so prevalent and so substantial that it causes a reduction of, and lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community which cannot be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

This finding is based, in part, on the information and analysis contained in Sections 5.0 and 8.0 of the Report to Council, and on the fact that governmental action available to the City without redevelopment would be insufficient to cause any significant correction of the blighting conditions, and that the nature and costs of the public improvements and facilities and other actions required to correct the blighting conditions are beyond the capacity of the City and cannot be undertaken or borne by private enterprise acting alone or in concert with available governmental action without redevelopment.

(c) Significant blight remains in the Existing Project Area, the redevelopment of which is necessary to effectuate the public purposes declared in the CCRL.

Since the adoption of the Original Project Area, the Agency has made efforts to eliminate conditions of blight by funding needed infrastructure, providing housing, housing rehabilitation, and public facilities, and assisting existing businesses and providing incentives for new development. However, many of the blighting conditions remain to a significant extent and there continues to be a substantial need to eliminate deficient public facilities and other blighting conditions within the Existing Project Area that cannot be accomplished by private enterprise or governmental action, or both, without redevelopment. Furthermore, the City Council hereby finds that such remaining blight cannot be eliminated without the use of eminent domain. These findings are based, in part, on the information and analysis contained
in Sections 5.0, 8.0 and 9.0 of the Report to Council, the testimony received at the joint public hearing, and the fact that governmental action available to the City without redevelopment would be insufficient to cause any significant correction of the blighting conditions, and that the nature and costs of the public improvements and facilities and other actions required to correct the blighting conditions are beyond the capacity of the City and cannot be undertaken or borne by private enterprise acting alone or in concert with available governmental action.

(d) The Added Territory is a predominantly "urbanized" area, as defined in Sections 33320.1(b)(1) and (2) of the CCRL. This finding is based upon information contained in Section 4.0 of the Report to Council, which demonstrates that not less than eighty percent (80%) of the property in the Added Territory has been or is developed for urban uses or is an integral part of one or more areas developed for urban uses which are surrounded or substantially surrounded by parcels which have been or are developed for urban uses.

(e) The finding and determination required by Section 33367(d)(12) is not warranted by the 2010 Amendment with respect to the Existing Project Area because the Agency previously documented that the Original Project Area was a predominantly urbanized area as defined in CCRL Section 33320.1(b).

This finding is further based on the City Council's earlier findings in Ordinance No. 1436, which found the Original Project Area to be predominantly urbanized as described above. The decision by the City Council in connection with the adoption of the Original Project Area is final and conclusive and subsequent to such adoption date it has been, is and shall be conclusively presumed that the portion of the Original Project Area which remains in the Existing Project Area is urbanized.

(f) The Amended Plan would redevelop the Amended Project Area in conformity with the CCRL and in the interests of the public peace, health, safety and welfare. The implementation of the Amended Plan will assist in the elimination of conditions of blight within the Amended Project Area and prevent their recurrence. The Amended Plan also provides for the rehabilitation of public and private structures, provision of low- and moderate-income housing and economic development. These improvements and programs are essential to encouraging private investment and eliminating the conditions of blight in the Project Area and preventing their recurrence. This finding is based, in part, on the information and analysis contained in Section 2.1 of the Report to Council.

(g) The adoption and implementation of the Amended Plan is economically sound and feasible. This finding is based, in part on the information and analysis contained in Section 8.0 of the Report to Council, and on the fact that under the Amended Plan, the Agency will be authorized to seek and utilize a variety of potential financing resources, including property tax increment revenues. The nature and timing of redevelopment activities will depend on the amount and availability of such financing resources, including tax increment revenue generated in the Amended Project Area. No redevelopment activity will be undertaken unless the Agency can demonstrate that it has adequate revenue to finance the activity and that sufficient public and private financial resources, when taken together with tax increment revenue, will be available to carry out the proposed redevelopment activities of the Agency.
The Agency will issue its tax increment bonds or other obligations payable from tax increment revenues only when such revenues are projected to be available to the Agency in amounts sufficient to pay for the principal of and interest on such bonds and other obligations. In addition, there are available to the Agency other methods of financing its redevelopment activities, including, but not limited to, bonds issued pursuant to CCRL Sections 33750 or 33641(d). The Agency may receive financial assistance from the County of Tulare, State of California, the federal government, and any other public agency. As available, other funds also may be used to pay the costs of the Agency's redevelopment activities, including, but not limited to, a variety of federal and State programs through which loans or grants to the Agency would be possible.

(h) The Amended Plan conforms to the City's General Plan, including, but not limited to, the General Plan's Housing Element, which substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, as set forth in the findings of the Planning Commission in Resolution No. 38-2010 adopted April 6, 2010. The Amended Plan proposes land uses and public improvements contemplated by the General Plan and it is consistent with the goals, policies and implementation programs of the General Plan.

(i) The implementation of the Amended Plan would promote the public peace, health, safety and welfare of the community, and would effectuate the purposes and policies of the CCRL. The implementation of the Amended Plan would assist in the elimination of conditions of blight within the Amended Project Area. This finding is based in part on Sections 2.1, 9.0, 10.0 and 11.0 of the Report to Council, and on the fact that the Amended Plan provides for the installation and construction of certain public improvements and community facilities, the rehabilitation of certain public and private structures, economic development, provision of low-and moderate-income housing for eligible persons and families and economic development.

(j) As provided by law, the Amended Plan provides for condemnation of property in the Amended Project Area; however, such authority is restricted to properties on which no persons reside. Such authority is necessary to the execution of the Amended Plan and adequate provisions have been made for payment for property to be acquired as provided by law. To facilitate redevelopment, the Agency may need to assemble parcels to produce more cohesive and economically feasible development within the Amended Project Area. The Agency is required to comply with all State laws pertaining to a public agency acquiring real property, whether acquisition is by condemnation or negotiation, and these laws require paying just compensation for all real property. The Agency shall not proceed with any voluntary acquisition of real property for which funds are not available.

(k) The Agency proposes no displacement of persons; however, in the event any displacement should occur, the Agency has adopted a feasible method and plan for the relocation of families and persons who might be displaced temporarily or permanently from housing facilities, if any, in the Added Territory, which incorporates the California Relocation Assistance and Real Property Acquisition Guidelines. The Agency also has a feasible method and plan for its relocation of businesses in the event such relocation may occur. This finding is based, in part, on Sections 13.0 and 20.0 of the Agency's Report to
Council; upon the fact that the Agency has adopted a plan for relocation of families, persons and businesses affected by Agency projects in the Added Territory; upon the fact that the Amended Plan provides for relocation assistance according to law ("Relocation Guidelines"); and the fact that such assistance, including relocation payments, constitutes a feasible method for relocation. With respect to the Existing Project Area, the Agency adopted similar plans for relocation of families, persons and businesses affected by Agency projects in the Existing Project Area and has provided for relocation assistance according to law.

(l) There are, or shall be provided, within the Amended Project Area or in other areas not generally less desirable with regard to public utilities and public and industrial and commercial facilities and at rents or prices within the financial means of the families and persons who might be displaced from the Amended Project Area, decent, safe and sanitary dwellings equal in number to the number of and available to such displaced families and persons and reasonably accessible to their places of employment. This finding is based, in part, upon the information contained in the Amended Plan and Sections 13.0 and 20.0 of the Report to Council that no persons are expected to be displaced as a result of the implementation of the Amended Plan, and that even if some persons were to be displaced, there are sufficient existing dwellings which would be available to persons displaced by the implementation of the Amended Plan.

(m) Families and persons shall not be displaced prior to the adoption of a relocation plan pursuant to CCRL Sections 33411 and 33411.1. Dwelling units housing persons and families of low or moderate income shall not be removed or destroyed prior to the adoption of a replacement housing plan pursuant to CCRL Sections 33334.5, 33413, and 33413.5. This finding is based, in part, on the information and analysis contained in Sections 13.0 and 20.0 of the Report to Council, and upon the fact that the Agency has adopted a plan for relocation of families, persons and businesses affected by Agency projects, and upon the fact that the Amended Plan provides for relocation assistance according to law, and the fact that such assistance, including relocation payments, constitutes a feasible method for relocation (see also finding (k) above).

(n) With respect to the Added Territory, inclusion of any lands, buildings, or improvements which are not detrimental to the public health, safety or welfare is necessary for the effective redevelopment of the entire area of which they are a part, and any such area is not included solely for the purpose of obtaining the allocation of tax increment revenues from such area pursuant to CCRL Section 33670 without other substantial justification for its inclusion. This finding is based, in part, on the information and analysis contained in Sections 2.3, 5.0, and 6.0 of the Report to Council, and upon the fact that all properties within the Added Territory boundaries were included because they were underutilized because of blighting influences, or were detrimentally affected by the existence of blighting influences, or were necessary either to accomplish the objectives and benefits of the Amended Plan, or because of the need to impose uniform requirements on the Added Territory as a whole.

(o) The Added Territory is comprised of seven non-contiguous land areas, six of which are contiguous to the Existing Project Area. These non-contiguous areas are either blighted or necessary for effective redevelopment and are not included for the purpose of obtaining
the allocation of taxes pursuant to CCRL 33670 without other substantial justification for their inclusion. This finding is based, in part, on the information and analysis contained in Sections 2.3, 5.0 and 6.0 of the Report to Council.

The finding and determination required by Section 33367(d)(9) is not warranted by the 2010 Amendment with respect to the Existing Project Area, because the Agency previously documented that the Original Project Area was either blighted or necessary for effective redevelopment. This finding is further based on the City Council's earlier findings contained in Ordinance No. 1436, which found that the Original Project Area was blighted area or necessary for effective redevelopment and was not included for the purpose of obtaining the allocation of taxes pursuant to CCRL 33670 without other substantial justification.

(p) The elimination of blight and the redevelopment of the Amended Project Area could not be reasonably expected to be accomplished by private enterprise acting alone without the aid and assistance of the Agency. This finding is based, in part, on the information and analysis contained in Sections 5.0, 6.0, 8.0 and 9.0 of the Report to Council, and upon the existence of blighting influences, as described in the Agency's Report to Council, including the lack of adequate public improvements and facilities, and the inability of individual owners and developers to economically remove these blighting influences without substantial public assistance.

(q) The time limitation and limitation on the number of dollars to be allocated to the Agency that are contained in the Amended Plan with respect to the Added Territory are reasonably related to the proposed projects to be implemented in the Added Territory, and are reasonable related to the ability of the Agency to eliminate blight within the Amended Project Area. This finding is based upon the information and analysis contained in Sections 8.0, 9.0, 10.0, and 11.0 of the Report to Council.

(r) The implementation of the Amended Plan will improve or alleviate the physical and economic conditions of blight in the Amended Project Area. This is based on information contained in the Report to Council as well as other evidentiary material before the City Council as described herein. The Report to Council describes that there are existing physical and economic conditions of blight in the Amended Project Area (Section 5.0), how implementation of the Amended Plan can alleviate these conditions (Sections 9.0, 10.0, and 11.0), and that Amended Plan implementation is financially feasible (Section 8.0).

(s) Based upon the record of the joint public hearing held on the 2010 Amendment and the various reports and other information provided to the City Council, the City Council is satisfied that permanent housing facilities will be available within three years from the time occupants of the Added Territory may be displaced and that pending the development of such facilities there will be available to such occupants who may be displaced adequate temporary housing facilities at rents comparable to those in the City at the time of their displacement.

The finding and determination required by Section 33367(e) is not warranted by the 2010 Amendment with respect to the Existing Project Area. This finding is based on the City Council's earlier findings contained in Ordinance No. 1436, which found that permanent housing facilities would be available within three years from the time occupants of the
Existing Project Area may be displaced and that pending the development of such facilities there would be available to such occupant who may be displaced adequate temporary housing facilities at rents comparable to those in the City at the time of their displacement.

**SECTION 5.** The City Council is satisfied and therefore finds and determines that its findings and determinations, as set forth above, are all the findings and determinations warranted under CCRL Section 33367 by the Amended Plan.

**SECTION 6.** In accordance with CCRL Section 33342.7, a description of the Agency's program and limited authority to acquire property by eminent domain within the Existing Project Area and the Added Territory is set forth in its entirety in Sections 402 and 403 of the Amended Plan, which has been incorporated in its entirety herein. The Agency's program to acquire real property by eminent domain may be amended only by amending the Amended Plan pursuant to the requirements of CCRL Section 33450 et seq.

**SECTION 7.** Written objections (if any) to the Amended Plan filed with the City Clerk before the hour set for the joint public hearing, and all written and oral objections (if any) presented to the City Council at the joint public hearing having been considered and, in the case of written objections (if any) received from Amended Project Area property owners, occupants, and affected taxing agencies, having been responded to in writing as appropriate, are hereby overruled.

**SECTION 8.** The FEIR, a copy of which is on file in the office of the Agency and in the office of the City Clerk, having been duly reviewed and considered, is hereby incorporated into this Ordinance by reference and made a part hereof. Mitigation measures have been recommended and a mitigation monitoring program has been proposed for Agency activities in the Added Territory; however, the Agency shall undertake such additional environmental review or assessment as appropriate and necessary at the time of proposed redevelopment implementation activities.

**SECTION 9.** The Amended Plan, including the maps contained therein, and such other reports as are incorporated therein by reference, a copy of which is on file in the office of the Agency and the office of the City Clerk, having been duly reviewed and considered is hereby incorporated into this Ordinance by reference and made a part hereof, and as so incorporated is hereby designated, approved, and adopted as the official redevelopment plan for the Amended Project Area.

**SECTION 10.** In order to implement and facilitate the effectuation of the Amended Plan hereby approved, this City Council hereby: (a) pledges its cooperation in helping to carry out the Plan, (b) requests the various officials, departments, boards, and agencies of the City having administrative responsibilities in the Amended Project Area likewise to cooperate to such end and to exercise their respective functions and powers in a manner consistent with redevelopment of the Amended Project Area, (c) stands ready to consider and take appropriate action upon proposals and measures designed to effectuate the Amended Plan, and (d) declares its intention to undertake and complete any proceeding, including the expenditure of moneys, necessary to be carried out by the City under the provisions of the Amended Plan.

**SECTION 11.** The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, whereupon the Agency is vested with the responsibility for carrying out the Amended Plan.
SECTION 12. The City Clerk is hereby authorized and directed to record with the County Recorder of Tulare County, a description of the land within the Added Territory and a statement that proceedings for the redevelopment of the Added Territory have been instituted under the CCRL.

SECTION 13. The Building Department of the City is hereby directed for a period of two (2) years after the effective date of this Ordinance to advise all applicants for building permits within the Added Territory that the site for which a building permit is sought for the construction of buildings or for other improvements is within a redevelopment project area.

SECTION 14. The City Clerk is hereby authorized and directed to transmit a copy of the description and statement recorded by the City Clerk pursuant to Section 12 of this Ordinance, a copy of this Ordinance, and a map or plat indicating the boundaries of the Added Territory, to the Auditor-Controller and Assessor of the County of Tulare, to the governing body of each of the taxing agencies which receives taxes from property within the Added Territory, and to the State Board of Equalization, within thirty (30) days following the adoption of the Amended Plan.

SECTION 15. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance or the Amended Plan which it approves is held to be invalid for any reason or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or of the Amended Plan. The City Council hereby declares that it would have adopted the remainder of the Ordinance or approved the remainder of the Amended Plan if such invalid portion thereof had been deleted. In the event that any portion of the Added Territory shall be determined to have been invalidly or incorrectly included in the Amended Project Area, such invalidly or incorrectly included portion of the Added Territory shall be deemed severable from the remainder of the Amended Project Area, and the remainder of the Amended Project Area shall remain fully subject to the provisions of the Amended Plan.

SECTION 16. EFFECTIVE DATE. The City Clerk is hereby authorized and directed to certify to the passage of this Ordinance by the City Council. This Ordinance shall be in full force and effect thirty (30) days after its final passage and adoption.

SECTION 17. Within fifteen (15) days after its final passage, the City Clerk shall cause this Ordinance to be published in full in accordance with Section 36933 of the Government Code.
The foregoing Ordinance was introduced and the title thereof read at the regular meeting of the City Council of the City of Porterville held on the ___ day of _____, 2010, and by unanimous vote of the Council members present, further reading was waived.

On a motion by Council Member _____________, second by Council Member _____________, the foregoing Ordinance was duly passed and adopted by the City Council of the City of Porterville at a regular meeting thereof, this ___ day of _____, 2010, by the following vote, to wit:

AYES: Council Members:
NOES: Council Members:
ABSTAIN: Council Members:
ABSENT: Council Members:

____________________________________________________________________
Brian Ward
VICE MAYOR, City of Porterville

ATTEST:

____________________________________________________________________
CITY CLERK, City of Porterville
AGENDA: JUNE 15, 2010

JOINT MEETING OF CITY COUNCIL AND PORTERVILLE REDEVELOPMENT AGENCY

SUBJECT: REDEVELOPMENT AGENCY 2010-2011 BUDGET

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Section 33606 of the California Health and Safety Code requires the Redevelopment Agency to adopt an annual budget which contains the following information: proposed expenditures of the agency, proposed indebtedness to be incurred by the agency, the anticipated revenues of the agency, the work program and goals for the coming year, and an examination of the previous year’s achievements.

The 2010-2011 work program includes the following items that may require Agency direction:

- Completion of the Redevelopment Project Area Amendment to expand the boundaries of Project Area No. 1.
- Acquisition and revitalization of the former Porterville Hotel.
- Agency debt restructure program
- Acquisition and revitalization of the former JC Penney site.

Due to the Supplemental Revenue Augmentation Funds (SERA F) take by the State of $373,167 during fiscal year 2009/2010, the Redevelopment budget for fiscal year 2010/2011 will be a deficit of ($172,727). The California Redevelopment Association has filed a Notice of Appeal regarding the legality of SERAF which is expected to take up to two years for a decision. Following are steps requested for approval during this interim period in order to have a positive fund balance in the 2010/2011 RDA budget:

1. Defer payments of the Risk Management loan for the reconstruction of the Hockett Parking Lot. The annual scheduled payment is $53,900.

2. Defer payments of the City loan, which was assumed after the County of Tulare’s loan to the Agency was paid in full by City funds. This loan was used for the development of parking lots in close proximity to the County Civic Center. The annual scheduled payment is $43,033.

3. The City using General Fund Reserves pay the loan from Porterville Civic Development Foundation which was for the RDA Amendment. This payment of $200,000 is due before May 1, 2011, or it will start accruing interest at a rate of 7% per annum.

ITEM NO. PRA-02
In the near future, Agency staff will propose to the Council/Agency a restructure program of all RDA debt to the City in order to keep the Agency budget in the positive. It is anticipated that this may include consolidation of debt into one term, and may also include the sale of the Stout Building (located at the northwest corner of Hockett and Thurman) and/or Fourth Street (located at the southeast corner of Fourth and Harrison) properties to the City or private party. At this time, the Stout Building can be considered surety for the interim loan to the Redevelopment Agency.

As you are aware, the Joint Public Hearing for the RDA Amendment is also on the agenda tonight. Should this be approved, it is projected that in fiscal year 2011/2012 the agency should start seeing increased tax increment in the amount of approximately $86,000 (see Attachment No. 6), increasing each year by a conservative estimate of approximately 1.5 to 3.5 percent for the 45 year period. These figures will be included in the restructure program that will be brought to the Council/Agency.

The annual budget for 2010-2011 has been prepared in accordance with Section 33606 and is provided as an attachment for Agency review and adoption.

**RECOMMENDATION:**

That the City Council:

1. Adopt draft resolution deferring the Redevelopment Agency’s annual payments to Risk Management fund for the reconstruction of the Hockett Parking Lot;
2. Adopt draft resolution deferring the Redevelopment Agency’s annual payments to the City for the loan which was used for the development of parking lots; and
3. Adopt draft resolution providing General Fund Reserves to the Redevelopment Agency for the payment of the Porterville Civic Development Foundation loan which was used for the Redevelopment Amendment;

That the Porterville Redevelopment Agency:

1. Adopt the attached 2010-2011 Redevelopment Agency Budget which reflects the above draft resolutions.

**ATTACHMENTS:**

1. Draft Resolution Amending Resolution No. 56-2007
2. Draft Resolution Amending Resolution No. 31-2007
3. Draft Resolution to Provide Funds to the Porterville Redevelopment Agency
4. Draft Resolution adopting the 2010-2011 Redevelopment Budget
5. Proposed 2010-2011 Redevelopment Budget
RESOLUTION NO. ______

A RESOLUTION OF THE CITY OF PORTERVILLE AMENDING RESOLUTION NO. 56-2007 DEFERRING DEBT PAYMENTS OF THE PORTERVILLE REDEVELOPMENT AGENCY LOAN FROM RISK MANAGEMENT FOR THE RECONSTRUCTION OF THE HOCKETT PARKING LOT

WHEREAS, by Resolution No. 56-2007 adopted June 19, 2007, the City Council of the City of Porterville (the "City") approved a Cooperative Agreement by and between the City and the Porterville Redevelopment Agency (the "Agency") to provide a loan for the reconstruction of the Hockett parking Lot; and

WHEREAS, the terms of this agreement established that loan payments would begin one year after completion of the project; and

WHEREAS, the Hockett Parking Lot was completed during fiscal year 2009/2010; therefore, the first payment would be due during fiscal year 2010/2011; and

WHEREAS, the Supplemental Revenue Augmentation Fund (SERAFF) take by the State of California in the amount of $373,167 will result in a financial deficit of ($172,727) for fiscal year 2010/2011 if all debt payments are made in accordance with existing agreements; and

WHEREAS, the California Redevelopment Association has filed a Notice of Appeal regarding the legality of SERAFF on which a decision is expected to take up to two years; and

WHEREAS, until the decision has been rendered by the Judicial System, the Agency has no other reasonable means of payment.

NOW, THEREFORE, BE IT RESOLVED that Resolution No. 56-2007 is hereby amended to defer debt payment until a decision has been rendered by the Judicial System in regard to SERAFF.

By:

Pete V McCracken, Mayor

ATTEST:

By:

John Lollis, City Clerk

ATTACHMENT
ITEM NO. 1
RESOLUTION NO. ______

A RESOLUTION OF THE CITY OF PORTERVILLE AMENDING RESOLUTION NO. 31-2007 DEFERRING DEBT PAYMENTS OF THE PORTERVILLE REDEVELOPMENT AGENCY LOAN FROM CITY OF PORTERVILLE FOR THE PAYMENT OF EXISTING DEBT TO THE COUNTY

WHEREAS, by Resolution No. 31-2007 adopted May 1, 2007, the City Council of the City of Porterville (the "City") approved a Cooperative Agreement by and between the City and the Porterville Redevelopment Agency (the "Agency") to provide a loan for the payment of existing debt to the County for Construction of a parking lot; and

WHEREAS, the terms of this agreement established that loan payments would be over a five year period commencing May 1, 2008; and

WHEREAS, the Agency has made payments in accordance with the agreement for three of the five years; and

WHEREAS, the Supplemental Revenue Augmentation Fund (SERAF) take by the State of California in the amount of $373,167 will result in a financial deficit of ($172,727) for fiscal year 2010/2011 if all debt payments are made in accordance with existing agreements; and

WHEREAS, the California Redevelopment Association has filed a Notice of Appeal regarding the legality of SERAF on which a decision is expected to take up to two years; and

WHEREAS, until the decision has been rendered by the Judicial System, the Agency has no other reasonable means of payment for the remaining two years of the loan agreement.

NOW, THEREFORE, BE IT RESOLVED that Resolution No. 31-2007 is hereby amended to defer debt payment until a decision has been rendered by the Judicial System in regard to SERAF.

By: ____________________________
Pete V McCracken, Mayor

ATTEST:

By: ____________________________
John Lollis, City Clerk

ATTACHMENT
ITEM NO. 2
CONTENTS

I. PREFACE
II. FINANCIAL SUMMARY
III. WORK PROGRAM 2010-2011
IV. PREVIOUS YEAR'S ACTIVITIES
I. PREFACE

The Redevelopment Agency is administered by the Community Development Department. The Agency was created pursuant to California Health and Safety Code Community Redevelopment Law. Redevelopment revitalizes targeted areas of blight and deterioration through several methods of Agency participation.

Porterville’s Redevelopment Project Area No. 1, implemented in August 1990, originally encompassed approximately 471 acres. During the 2004-2005 Fiscal Year, the process to remove 2 sites (26 acres) from the project area was completed, leaving approximately 445 acres in Project Area No. 1. The area is primarily commercially and industrially zoned.

Section 33080.1 of the Health and Safety Code requires the redevelopment agency to submit to its legislative body annually a list of the fiscal years that the agency expects specified time limits to expire. As required by Section 33080.1, the Porterville Redevelopment Agency hereby reports the following:

1. The time limit for incurring debt was originally July 3, 2010. The term was amended in 2004 pursuant to SB211 to extend the term for the life of the plan to July 3, 2030.
2. The effectiveness of the plan is for a term of forty (40) years (July 3, 2030).
3. The repayment of indebtedness and collection of tax increment is for a ten (10) year period after the effectiveness of the plan (July 3, 2040).
5. On June 2, 2009 Porterville Redevelopment Agency approved the reinstatement of eminent domain authority for the Redevelopment Area Project No. 1 and Amended Area which will become effective on approval of the proposed Amended Project Area.

This budget has been prepared in accordance with California Health and Safety Code Section 33606, which requires each agency to adopt an annual budget.
# II. FINANCIAL SUMMARY

## AGENCY DEBT

<table>
<thead>
<tr>
<th>Description</th>
<th>AS OF 6-30-09</th>
<th>AS OF 6-30-10</th>
<th>B. PROPOSED INDEBTEDNESS 2010-2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Redevelopment Agency Bond Indebtedness (Non-housing Series A &amp; B)</td>
<td>$6,465,000</td>
<td>$6,380,000</td>
<td>$6,295,000</td>
</tr>
<tr>
<td>Redevelopment Agency Bond Indebtedness (Housing Series C &amp; D)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Original Bond Debt Incurred December 1992</td>
<td>$1,745,000</td>
<td>$1,725,000</td>
<td>$1,705,000</td>
</tr>
<tr>
<td>Refinanced 2002</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Refinanced 2008</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Redevelopment Agency Debt to State of California Rural Economic Development</td>
<td>$185,950</td>
<td>$163,489</td>
<td>$140,350</td>
</tr>
<tr>
<td>Infrastructure Program (REDIP)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Redevelopment Agency Debt to City of Porterville</td>
<td>$117,000</td>
<td>$78,000</td>
<td>$82,032</td>
</tr>
<tr>
<td>Refinanced Agency Loan from County of Tulare</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Incurred 2007</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Redevelopment Agency Debt to City of Porterville</td>
<td>$1,145,425</td>
<td>$1,145,425</td>
<td>$1,145,425</td>
</tr>
<tr>
<td>Fund Advance Agreement #1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Incurred 1981-1990; Principal plus interest</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Redevelopment Agency Debt to City Risk Management Fund Advance Agreement #3</td>
<td>$164,477</td>
<td>$166,944</td>
<td>$170,282</td>
</tr>
<tr>
<td>(Parking Lot, St. Dr.) (1.5% 6/10, 2% 6/11)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Incurred 1997; Principal plus interest</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Redevelopment Agency Debt to City Risk Management Fund Advance Agreement #4</td>
<td>$496,251</td>
<td>$496,251</td>
<td>$503,744</td>
</tr>
<tr>
<td>(Hockett Parking Lot)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Incurred 2007; Payments begin 1-year after completion of project</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Porterville Civic Development Foundation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Incurred 2008; Payments begin in 2010-11</td>
<td>$200,000</td>
<td>$200,000</td>
<td>$0</td>
</tr>
<tr>
<td><strong>TOTAL DEBT INCURRED</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As of 06-30-09</td>
<td>$10,519,103</td>
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<tr>
<td>As of 06-30-10</td>
<td></td>
<td>$10,355,109</td>
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<tr>
<td>As of 06-30-11</td>
<td></td>
<td></td>
<td>$10,041,833</td>
</tr>
</tbody>
</table>
## REDEVELOPMENT PROJECT AREA #1
### BOND ISSUE SERIES A, B, C, & D
#### PROJECT FUNDING REPORT

### 2008 Bond Issue

<table>
<thead>
<tr>
<th>Account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Redevelopment Fund (Series A &amp; B)</td>
<td>$1,800,000</td>
</tr>
<tr>
<td>Refund 1992 Bonds</td>
<td>$4,074,680</td>
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<tr>
<td>Reserve Account</td>
<td>$495,843</td>
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<tr>
<td>Issuance Costs (Series A &amp; B)</td>
<td>$304,477</td>
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</tbody>
</table>

### 2008 Total Bond Issue Series A & B

<table>
<thead>
<tr>
<th>Account</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>$6,675,000</td>
</tr>
<tr>
<td>Low and Moderate Income Housing Fund (Series C &amp; D)</td>
<td>$540,000</td>
</tr>
<tr>
<td>Refund 1992 Bonds</td>
<td>$1,018,670</td>
</tr>
<tr>
<td>Reserve Account</td>
<td>$139,610</td>
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<tr>
<td>Issuance Costs (Series C &amp; D)</td>
<td>$101,720</td>
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</table>

### 2008 Total Bond Issue Series C & D

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,800,000</td>
</tr>
</tbody>
</table>

### Total Bond Issuance

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$8,475,000</td>
</tr>
</tbody>
</table>

### Projects Funded by Redevelopment Fund

<table>
<thead>
<tr>
<th>Project</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Porterville Hotel Project</td>
<td>$1,800,000</td>
</tr>
</tbody>
</table>

### Total Projects Funded by Redevelopment Fund

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,800,000</td>
</tr>
</tbody>
</table>

### Projects Funded by Low and Moderate Income Housing Fund

<table>
<thead>
<tr>
<th>Project</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Villa Siena Housing Project</td>
<td>$540,000</td>
</tr>
</tbody>
</table>

### Total Projects Funded by Low and Moderate Income Housing Fund

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$540,000</td>
</tr>
</tbody>
</table>

### Total Refund of 1992 Bonds

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$5,093,350</td>
</tr>
</tbody>
</table>

### Total Bond Issuance Costs

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$406,197</td>
</tr>
</tbody>
</table>

### Total Expenditures Utilizing Bond Funds

<table>
<thead>
<tr>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$7,839,547</td>
</tr>
</tbody>
</table>

---

1. Difference between Total Bond Issuance and Total Expenditures Utilizing Bond Funds is the Reserve Accounts in the amount of $635,453.
ANTICIPATED REVENUES 2010-2011 – REDEVELOPMENT FUND

Income:
- Gross Tax increment Revenue $1,200,000
- Lease of Redevelopment Property 1 $ 18,413
- Interest 2 $ 46,051

$1,264,464

Less:
- Pass Through to other Agencies $ 234,683
- 20% Housing Set-Aside
  - County Allocation $ 20,737
  - City Allocation $ 184,288
- County Administration Fee $ 23,139

($ 462,847)

NET REVENUE

$ 801,617

PROPOSED EXPENDITURES 2010-2011 – REDEVELOPMENT FUND

Debt Service:
- Bond Payments $ 490,508
- REDIP Loan $ 27,872
- City Loan (County) $ 0 Deferred
- City Loan (Civic Dev. Foundation) 3 $ 0 Deferred
- Risk Management Loan (Hockett Lot) $ 0 Deferred
- Bond Administration $ 1,450
- ERAF $ 80,000
- Agency Administration $ 162,110

TOTAL PROPOSED EXPENDITURES $ 761,940

Transfer to (From) Fund Balance $ 39,677

Estimated Redevelopment Fund Balances:

<table>
<thead>
<tr>
<th></th>
<th>06/30/09</th>
<th>06/30/10</th>
<th>06/30/11</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$664,679</td>
<td>$84,529</td>
<td>$124,206</td>
</tr>
</tbody>
</table>

Notes:
1 Income from the lease of the Stout building is included in the budget estimates with the assumption building will be leased continually for the 12-month period.
2 Includes $658 interest earned on restricted funds on deposit with financial institutions (REDIP).
3 Civic Development Foundation Loan for Amendment paid by General Fund Reserves, new loan from City to Agency for $200,000
4 Staff will be presenting to Agency a debt restructure program during Fiscal Year 2010/2011
ANTICIPATED REVENUES 2010-2011 – HOUSING FUND

Tax Increment Revenue 2010-2011:
  County Allocation $ 20,737
  City Allocation $184,288
  Home loan repayment (Casas) $  3,480

TOTAL ANTICIPATED REVENUE $208,505

PROPOSED EXPENDITURES 2010-2011 – HOUSING FUND

Administration and Debt Service:
  Agency Administration $ 82,502
  Bond Payments $131,521
  Bond Administration $  1,200

TOTAL PROPOSED EXPENDITURES $215,223

Transfer to (from) Fund Balances ($ 6,718)

Estimated Housing Fund Balances:

<table>
<thead>
<tr>
<th></th>
<th>06/30/09</th>
<th>06/30/10</th>
<th>06/30/11</th>
</tr>
</thead>
<tbody>
<tr>
<td>$185,010</td>
<td>$174,223</td>
<td>$167,505</td>
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</table>
II. WORK PROGRAM

The work program for the 2010-2011 Fiscal Year is based on the continued implementation of both the Redevelopment Strategic Plan adopted in 1992 and the Five-Year Implementation Plan adopted in 2010. The Agency re-financed the bonds in 2008 which will allow additional funding for projects and refunding of 1992 Bonds. The Agency will be managing and monitoring the Redevelopment projects that have been completed and planning ahead for future projects. Therefore, the work program for 2010-2011 is as follows:

1. Implementation Plan

   A. Continue implementation of the 2010-2014 Redevelopment Implementation Plan for the Redevelopment Agency that contains the specific goals and objectives of the Agency for the project area, the specific programs, including potential projects, and estimated expenditures proposed to be made during the five-year period beginning 2010.

   B. Continue to evaluate future plans associated with Stout building property.

2. Housing Strategic Plan Implementation

   A. Continue implementation of the Housing portion of the 2010-2014 Redevelopment Implementation Plan that established policies for the expenditure of the low and moderate-income housing funds. Review status of housing funds and determine priorities for expenditure of available funds.

   B. Continue monitoring Casas Buena Vista subdivision in terms of compliance with the CalHFA loan requirements, the recorded affordability covenants on each home, and the Landscape Maintenance District.

   C. Continue to monitor the St. James Place historical renovation project for compliance with the terms of the Regulatory Agreements and HOME requirements.

   D. Continue to monitor the Date Avenue Family Apartment rental project for compliance with the terms of the Affordable Housing Agreement between the Agency and 148 Date Avenue, LP and Corporation for Better Housing.

   E. Continue to monitor Sequoia Village on River’s Edge, a 64-unit apartment complex in the Redevelopment Project Area that executed a Payment In Lieu of Taxes Agreement with the Agency. The majority of the funding for the project was from a HOME loan from the City and a low-income housing tax credit allocation.
F. Participate in the final planning and implementation of the Porterville Hotel project with the planned demolition of the building and the development of the required affordable replacement units in the Villa Siena project adjacent to the downtown. Complete negotiations with the Department of Housing and Community Development (HCD) to pay off their loan on the property and transfer the affordability covenants to the Villa Siena project. Administer the contract with Rosenow Spevacek Group, Inc., Redevelopment consultants, on the financial review of different aspects of the project. Continue to implement the Affordable Housing Agreement to develop Villa Siena, a 70 unit apartment complex on the southeast corner of Putnam Avenue and “E” Street with Redevelopment Low and Moderate Housing Fund assistance of at least $930,000 which was expended for the acquisition of the property and rolled over into a long term loan upon close of escrow selling the property to the developer. Coordinate and cooperate with the developer in applying for and securing other sources of financing to make the project feasible.

3. Administration

A. Staff will continue to implement both the Redevelopment Strategic Plan adopted in 1992 and the Five-Year Implementation Plan adopted in 2010. Staff will also continue to manage all administrative duties of the agency and manage and monitor Redevelopment projects.

B. In the 2007-2008 fiscal year, the Agency Board approved staff to negotiate a contract with a consultant to prepare an amendment to Project Area No. 1. Staff will collaborate, throughout the entire amendment process, with the consultant on the establishment of the new project area. The amendment to Project Area No. 1 is anticipated to be completed during the 2010-2011 fiscal year. If the amendment is approved and adopted, staff will initiate implementation of the actions identified in the amended Five Year Implementation Plan for the amended area.

C. Financing Restructure

Due to the state of the economy and the State of California taking of Redevelopment funds through the Supplemental Education Revenue Augmentation Fund (SERAf), staff will be presenting, to the Agency for approval, a financing restructure program.

4. Building Façade Rehabilitation

A. Staff continues to investigate funding sources for implementation of an updated Façade program.
B. Continue to review guidelines and executed agreements for the Building Façade program to address the issues arising from the improvements paid for by the program that may be beyond their useful life.

5. Public Parking

A. Monitor and maintain all Agency owned parking lots.

B. Continue to evaluate need for rehabilitation of existing parking lots that are in poor condition and the possibility of development of new parking lots.

6. Public Street and Streetscape Improvements

A. Continue to monitor the Main Street streetscape improvements and address maintenance issues such as paver cleaning, planter refurbishing, and re-painting of light standards, street sign poles, traffic signal poles, and bollards.

B. Continue to pursue funding for required traffic circulation improvements, replacement or installation of sidewalks, crosswalks, curbs, gutters, storm drains, street lighting, and landscaping to improve their functioning and attractiveness through out the Project Area.

C. During the 2010-2011 fiscal year, staff will monitor the public space maintenance as provided in the Development and Disposition Agreement (DDA) with Garfield Beach CVS, LLC for compliance.

7. Downtown Revitalization

A. Porterville Hotel – Agency staff, working with Redevelopment legal counsel, will finalize the Purchase and Sale Agreement with the property owner with the condition that demolition of the hotel be completed before escrow closes. The Agency will then have a clean, graded site to market for a mixed use development, most likely consisting of retail and office space. It is anticipated that the demolition and acquisition will occur in the 2010-2011 fiscal year and the process of soliciting qualifications of developers will commence thereafter.

B. Through the efforts of the Redevelopment Agency and Economic Development Division encourage downtown revitalization. As part of this effort, the City will place an emphasis on filling vacant and underutilized buildings, as well as the development of vacant parcels, within Redevelopment Project Area No. 1, with a focus on the former JC Penney site.
C. Work with the property owner of the Porter Theater to identify future use and revitalization of property.

D. Staff will investigate funding sources for replacement of downtown tree wells.

9. Public Improvement Projects

Coordinate with the City’s Engineering Division on the reconstruction of the Plano Street Bridge and the Jaye Street Bridge that are adjacent to the Project Area.

10. Tule River Parkway and Rails to Trails Projects

Coordinate with the City’s Engineering Division and the Parks and Leisure Services Department on the planning and construction of the phases of the Tule River Parkway and the Rails to Trails projects that are within the Redevelopment Project Area.
III. PREVIOUS YEAR’S ACHIEVEMENTS

In reviewing the activities of the Redevelopment Agency in 2010-11 significant progress was made in accomplishing the goals of the work program established in last year’s budget. Following are the elements of that work program and a description of the progress made in each area:

1. Implementation Plan

   Goal: Continue implementation of the 2005-2009 Redevelopment Implementation Plan for the Redevelopment Agency that contains the specific goals and objectives of the Agency for the project area, the specific programs, including potential projects, and estimated expenditures proposed to be made during the five-year period beginning 2005.

   Action: The Redevelopment Agency, through the actions discussed below, has continued implementation of the 2005-2009 Implementation Plan for the Redevelopment Agency. During the year, the Agency also adopted the new 2010-2014 Implementation Plan developed by the Agency’s consultants, Urban Futures, Inc.

   Goal: Continue to evaluate future plans associated with Stout building property.

   Action: The Agency invested a new roof on the building this fiscal year and staff continues to review potential options for this property.

2. Housing Strategic Plan Implementation

   Goal: Continue implementation of the Housing portion of the 2005-2009 Redevelopment Implementation Plan that established policies for the expenditure of the low and moderate-income housing funds. Review status of housing funds and determine priorities for expenditure of available funds.

   Action: The Agency continued the implementation of the Housing Strategic Plan primarily by continuing implementation of the Affordable Housing Agreement (AHA) with Macfarlane Costa Housing Partners for the development of a 70 unit multifamily project adjacent to the downtown area and within the Redevelopment Project Area. Concurrently, staff continued negotiations with the owner of the Porterville Hotel property and HCD in order for the Agency to acquire that site. These two related projects are discussed in more detail below.

   Goal: Continue monitoring Casas Buena Vista subdivision in terms of compliance with the CalHFA loan requirements, the recorded
affordability covenants on each home, and the Landscape Maintenance District.

Action: The Agency has been monitoring all of the loan agreements and affordability covenants, working through issues as they arise dealing with refinancings, sales of homes to income qualified buyers, loan servicing problems including several foreclosures. Annual income certification letters were sent to all the residents assisted by the City/Agency.

Goal: Continue to monitor the St. James Place historical renovation project for compliance with the terms of the Regulation Agreements and HOME requirements.

Action: The annual monitoring, including physical inspection of the property, was conducted with the Agency requesting additional information to be submitted to determine compliance with the Agency and HOME requirements.

Goal: Continue to monitor the Date Avenue Family Apartments rental project for compliance with the terms of the Affordable Housing Agreement between the Agency and 148 Date Avenue, LP and Corporation for Better Housing.

Action: The annual income certifications for occupancy were received by the Agency showing 67 of the 78 units being occupied by low-income households with only 9 vacant units. Thirty eight percent of those households were below 50% of Area Median Income (AMI) and forty six percent were between 51% and 80% of AMI. The owner and management company continue to be cooperative and work towards resolving the false fire alarm problem and other maintenance issues.

Goal: Continue to monitor Sequoia Village on River’s Edge, a 64-unit apartment complex in the Redevelopment Project Area that executed a Payment In Lieu of Taxes Agreement with the Agency. The majority of the funding for the project was from a HOME loan from the City and a low-income ho using tax credit allocation.

Action: The second annual monitoring was completed for Sequoia Village and submitted to HCD. The income certifications for occupancy showed that 56 of the 64 units were occupied, 37 were occupied by low-income households, and 11 were occupied by moderate-income households between 51% and 80% AMI with only 8 vacant units. There were no major concerns found in the monitoring. The complex is very well maintained and is a real asset to the neighborhood.

Goal: Participate in the planning and implementation of the Porterville Hotel project with the planned demolition of the building and the
development of the required affordable replacement units in one or two locations within or adjacent to the downtown. Work with HCD to assume the state loan on the property and the affordability covenants. Administer the contract with Rosenow Spevacek Group, Inc., Redevelopment consultants, on the financial feasibility of the project(s). Work on the implementation of the Affordable Housing Agreement with MacFarlane Costa Housing Partners to develop a 70-unit apartment complex on the southeast corner of Putnam Avenue and “E” Street with Redevelopment Low and Moderate Housing Fund assistance of at least $930,000 which has already been expended for the acquisition of the property. Coordinate and cooperate with the developer in applying for and securing other sources of financing to make the project feasible. Determine if additional Redevelopment funds can be contributed to the project.

Action:

As previously discussed, staff continues implementation of the AHA executed with MacFarlane Costa Housing Partners and continued discussions with the owner of the Porterville Hotel property and HCD. A result of the Agency’s negotiations with HCD to propose to pay off their existing loan, is that the number of replacement units required has been considerably reduced. After the Redevelopment Agency stepped in last year to acquire the property for the Villa Siena project, legal documents, including completion guarantees, were executed in order for the developer to close escrow for the purchase the property and roll the Redevelopment Agency funds into a long term loan on the project. The developer did receive an allocation of Low Income Housing Tax Credits for the project which allowed them to proceed with the close of escrow and issuance of building permits. Several additional state and federal grants and loans have conditionally been awarded for the project. Rosenow Spevacek Group Inc. (RSG), Redevelopment consultants for the Agency, assisted with the financial review of various aspects for this project, including both the acquisition of the Porterville Hotel site and the construction of the new housing. Discussions with the owner of the hotel building and the HCD have continued to work toward a resolution of all of the issues involved. A draft Purchase and Sales Agreement has been developed by Agency counsel and staff is awaiting the legal documents from HCD.

The ultimate goal is for the Agency to acquire the Porterville Hotel property after demolition of the building and the site filled and graded to specification. The Agency will then be able to market the site to a developer for a possible mixed use commercial/professional office project. Villa Siena, the affordable housing project adjacent to downtown and assisted by the Agency, would then provide the affordable replacement units required by HCD.
3. Administration

Goal: Staff will continue to implement both the Redevelopment Strategic Plan adopted in 1992 and the Five-Year Implementation Plan adopted in 2004. Staff will also continue to manage all administrative duties of the agency and manage and monitor Redevelopment projects.

Action: During 2009/2010, staff did continue to manage all the administrative duties of the agency and work towards implementing the applicable plans. As discussed elsewhere, Agency staff worked cooperatively with the consultant on the proposed Project Area amendment and spent a substantial amount of time on reviewing the Agency’s financial condition, especially in light of the State’s taking of funds for the Education Revenue Augmentation Fund.

Goal: In the 2007-2008 fiscal year, the Agency Board approved staff to negotiate a contract with a consultant to prepare an amendment to Project Area No. 1. Staff will collaborate, throughout the entire amendment process, with the consultant on the establishment of the new project area. The amendment to Project Area No. 1 is anticipated to be completed during the 2009-2010 fiscal year.

Action: During the 2009-2010 fiscal year, staff entered into a contract with Urban Futures, Inc. to prepare the necessary findings to amend Project Area No. 1 with expanded boundaries. Staff monitored and assisted the consultant through the various phases of the amendment process. The amendment process is anticipated to be completed early in the 2010-2011 fiscal year.

4. Building Façade Rehabilitation

Goal: Staff continues to investigate funding sources for implementation of an updated Façade program.

Action: Staff did continue to search for additional funding sources to reinstate an updated Building Façade program. The best possibility for funding the program would come from the adoption of the Project Area amendment that would provide additional tax increment and leveraging of the increment for such projects. Additionally, building façade improvements are an eligible use under the Community Development Block Grant Business Assistance Program.

Goal: Continue to review guidelines and executed agreements for the Building Façade program to address the issues arising from the improvements paid for by the program that may be beyond their useful life.
within Redevelopment Project Area No. 1, with a focus on the former JC Penney site.

Action: During the 2009-2010 fiscal year, staff continued negotiations with the property owner for the acquisition and rehabilitation of the vacant JC Penney site. Additionally, the City initiated the “refresh” with Buxton Company to update the data and retailer match information for retail recruitment. Refresh utilizes a central point to evaluate opportunities city-wide.

Goal: Work with property owner of Porter Theater to identify future use and revitalization of property.

Action: Staff continued to be in contact with the owner of the Porter Theater to discuss options and issues regarding the property, including regular maintenance issues.

Goal: Staff will investigate funding sources for replacement of downtown tree wells.

Action: Staff completed an inventory of the downtown tree wells and continued to look for funding sources for the project.

8. Public Improvement Projects

Goal: Coordinate with the City’s Engineering Division on the reconstruction of the Plano Street Bridge and the Jaye Street Bridge that are adjacent to the Project Area.

Action: The Redevelopment Strategic Plan and the adopted Streetscape Design for the Redevelopment Area were used extensively in the planning and design of the Plano Street Bridge project and construction is scheduled to begin Summer 2011. The Jaye Street street widening project is complete and the Jaye Street Bridge project is slated for Summer 2013.

9. Tule River Parkway and Rails to Trails Projects

Goal: Coordinate with the City’s Engineering Division and the Parks and Leisure Services Department on the planning and construction of the phases of the Tule River Parkway and the Rails to Trails projects that are within the Redevelopment Project Area.

Action: Staff has participated in the planning and coordination of both of these projects that are within the Redevelopment Area. One time CDBG – Recovery funds of $191,000 have been designated for improvement of the Rails to Trails Project as part of the Heritage Center Complex. The project is currently being designed and construction is scheduled for early 2011.
### TAX INCREMENT PROJECTIONS

**PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO.1**

#### SUMMARY (PROPOSED-ADDED TERRITORY)

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1 Estimated by City staff.
2 Base year A.V. is per the Tulare County 33328 Report provided by the County Auditor-Controller/Treasurer-Tax Collector on May 6, 2010.
3 Assumes 1% tax rate. With special assessments, actual tax rate may be higher.
4 Pursuant to CCRL Section 33607.5 pass through formula ("Statutory Pass Thru").