Call to Order
Roll Call

Pledge of Allegiance Led by Council Member McCracken
Invocation

REPORTS
This is the time for all reports from the City Council, including but not limited to, reports pursuant to AB1234, reports from subcommittees, committees, commissions and boards on which the Council Members serve, and other miscellaneous informational reports.

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. **Authorization to Advertise for Bids – Heritage Center Trailway Extension (Rails to Trails Phase II) Project**
   Re: Considering acceptance of staff’s Plans and Project Manual for the project consisting of the extension of the existing trail from its current termination point (north of Olive Ave.) south to the Porterville Heritage Center.

2. **Authorization to Advertise for Bids – Waste Water Treatment Facility Sprayed Polyurethane Roofing Project**
   Re: Considering acceptance of staff’s Plans and Project Manual for the project consisting of the installation of sprayed polyurethane foam roofing system and related appurtenances at five (5) buildings at the City’s Wastewater Treatment Facility located at 1333 W. Grand Avenue.

3. **Acceptance of Bids for Painting and Ceiling Renovation of the Early Learning Center**
   Re: Considering acceptance of a ceiling renovation bid of $2,505 from Laubacher Construction, and a painting bid of $695 from Joe L. Jimenez for renovation of the Early Learning Center area at the Porterville Public Library; and authorize a budget adjustment in the Public Library Fund to cover projected costs of renovation.

4. **Adoption of Resolution for the Purchase of Property Located at APN No. 261-030-062 -- Sabatino**
   Re: Considering approval of a resolution accepting a Grant Deed from Murphy A. Sabatino and Jennifer L. Sabatino Trust, in the amount of $215,000 for 2.28 acres of property located APN 261-080-062.
5. **Approve Airport Improvement Project Grant Application**  
Re: Considering approval of the submission of an Application for Federal Assistance to the FAA for a grant request in the amount of $133,000, and the filing of a 2.5% matching application with the California Department of Transportation to design the rehabilitation of former Runway 7-25 as a commercial taxiway.

6. **This Item Has Been Removed**

7. **Scheduling of Adjourned Council Meeting for Annual Setting of Goals and Objectives**  
Re: Considering the scheduling of an adjourned meeting on a Saturday morning in March for the purpose of reviewing Fiscal Year 2010/2011 goals and objectives, and establishing goals and objectives for FY 2011/2012.

8. **Review of Local Emergency Status**  
Re: Reviewing the City’s status of local emergency pursuant to Article 14, Section 8690 of the California Emergency Services Act.

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

**SCHEDULED MATTERS**

9. **Approval of Zalud and Murry Parks Concession License Agreement**  
Re: Considering approval of the Zalud Park Concession Building and renewal of the Murry Park Concession License Agreement.

10. **Medical Cannabis Regulations – Review of Status of State Law and Discussion Concerning Additional Proposed Regulations**  
Re: Consideration of a report reviewing the status of State Law and proposed regulations relative to medical cannabis.

**ORAL COMMUNICATIONS**

**OTHER MATTERS**

**ADJOURNMENT** - to the meeting of March 10, 2011 at 6:00 p.m.

*Pursuant to Ordinance No. 1766, the Council Meeting shall adjourn no later than 9:45 p.m., unless otherwise approved by a majority of the Council Members present.*

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.
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – HERITAGE CENTER TRAILWAY EXTENSION (RAILS TO TRAILS PH II) PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Plans and Project Manual have been prepared for the Heritage Center Trailway Extension (Rails to Trails Ph II) Project. The project includes an extension of the existing trail from its current termination point (north of Olive Avenue) south to the Porterville Heritage Center. The current phase of the Rails to Trails project runs between West Olive Street and the cul-de-sac at the end of East Walnut Avenue. This phase will consist of approximately 1,000 feet of trail and will connect two existing trail segments.

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

The estimate of probable cost for the base bid portion of project is $250,848 with $25,085 required for the construction contingency (10%). It is estimated that an additional $22,576 is required for construction engineering (9%). The total estimated cost for the base bid portion is $298,509.

The estimate of probable cost for the add-alternate bid portion of project which provides a "loop" at the northern end is $57,670 with $5,767 required for the construction contingency (10%). It is estimated that an additional $5,190 is required for construction engineering (9%). The total estimated cost for the add-alternate bid portion is $68,627.

The total estimated cost associated with the project is $367,136. An Estimate of Probable Cost is attached for Council’s review.

Funding sources for the construction portion of the project will be Measure R “Pedestrian/Bike”, CDBG, ARRA and is included in the 2010/2011 Annual Budget.

RECOMMENDATION: That City Council:

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

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

ATTACHMENTS: Estimate of Probable Cost Locator Map

P:\pubworks\general\council\authorization to advertise for bids - heritage center trailway extension project (rails to trails ph ii) - 2011-03-01.doc

Dir BSL Appropriated/Funded FC CM Item No. 1
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**TOTAL BASE BID Estimate:** $250,840.00

10% Construction Contingency: $25,084.00

9% Staff & Testing: $22,576.00

**TOTAL CONSTRUCTION ESTIMATE BASE: $298,509.00**

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**TOTAL ADD-ALTERNATE BID Estimate:** $27,670.00

10% Construction Contingency: $2,767.00

9% Staff & Testing: $2,500.00

**TOTAL CONSTRUCTION ESTIMATE ADD ALTERNATE: $30,437.00**

**TOTAL CONSTRUCTION ESTIMATE BASE + ADD ALTERNATE: $328,746.00**

2/23/2011  
Jason Biaglio  
Project Manager  

2/23/2011  
Michail K. Reed  
City Engineer  

2/23/2011  
Baldomero Rodriguez  
PMO  

2/23/2011  
John D. Lofts  
City Manager  

City of Pomerol, California
COUNCIL AGENDA: MARCH 1, 2011

SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – WASTE WATER TREATMENT FACILITY SPRAYED POLYURETHANE ROOFING PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Plans and Project Manual have been prepared for the Waste Water Treatment Facility Sprayed Polyurethane Roofing Project. The project includes installation of sprayed polyurethane foam roofing system and related appurtenances at five (5) buildings at the City of Porterville Waste Water Treatment Facility (WWTF) located at 1333 W. Grand Avenue.

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

The estimate of probable cost for the 10,806 square foot project is $77,642.00 with $7,764.20 required for the construction contingency (10%). It is estimated that an additional $3,882.10 is required for construction engineering (5%). The total estimated cost associated with the project is $89,288.30. An Estimate of Probable Cost is attached for Council’s review.

Funding is included in the 2010/2011 Annual Budget under WWTF Impact Fees.

RECOMMENDATION: That City Council:

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

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

ATTACHMENTS: Estimate of Probable Cost Locator Map

P:\pubworks\General\Council\Authorization to Advertise for Bids - WWTF Sprayed Polyurethane Roofing Project - 2011-03-01.doc

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<td>SF</td>
<td>500</td>
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**Sub Total** $77,642.00

10% Construction Contingency $7,764.20
5% Construction Engineering $3,882.10

**Total** $89,288.30
COUNCIL AGENDA: MARCH 1, 2011

SUBJECT: ACCEPTANCE OF BIDS FOR PAINTING AND CEILING RENOVATION OF THE EARLY LEARNING CENTER

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: In the process of preparing the California State Library Grant for the Family Place Library Implementation in October 2010, staff wrote in a much needed renovation of the Early Learning Center area to be an “in-kind” City expenditure. The renovation is in line with the proposal of a master reorganization of space that staff presented to Council last spring.

The availability of children’s space within the library is sparse and compact, leaving little room for children to explore and play. The opportunity to create an Early Learning Center space for the community that is age appropriate, educational, and accessible supports three of our five library service roles: Create Young Readers: Early Literacy; Satisfy Curiosity: Lifelong Learning; Visit a Comfortable Place: Physical and Virtual Spaces.

Staff has evaluated the need to renovate this area of the library beginning with the water damaged and aged ceiling, as well as the need to paint the walls to brighten the space for its intended use. The exposed lighting also poses a potential safety concern because in the past, exposed light bulbs have fallen out of their fixtures.

Staff has gathered three bids from contractors to renovate the 378 sq. ft. ceiling area. The bids included installation of a T-Bar ceiling, new light panels, and removal of materials that will be replaced. Staff proposes a contingency of $1,000 for asbestos abatement if required.

Staff has gathered three bids to paint the walls in this area that measures 614 sq. ft.

The cost estimate to accomplish this project is $4,200 and includes contingency for asbestos abatement. Staff proposes a budget adjustment in the Public Library Fund (PLF) to cover projected cost of renovation.

RECOMMENDATION: 1) That Council accept ceiling renovation bid of $2,505 from Laubacher Construction and painting bid of $695 from Joe L. Jimenez.
2) That Council allow staff to reorganize line items in PLF to support the expenditures of the Early Learning Center project.

**ATTACHMENTS:** Bids from Contractors for Ceiling Renovation:
- Laubacher Construction
- Dayco Construction
- Joe L. Jimenez

Bids for Painting:
- Joe L. Jimenez
- RCTM Construction
- Russell Sanders Painting
We hereby submit specifications and estimates for:

**INSTALL A NEW SUSPENDED T-BAR CEILING IN EXISTING ROOM (APPROXIMATELY 15'4" X 24'7") USING STANDARD WHITE 2' X 4' GRID AND NON-RATED CEILING TILE. WORK WILL INCLUDE SIX NEW 4-LAMP T-BAR LIGHT FIXTURES USING EXISTING SWITCH AND WIRING. INCLUDES REMOVAL OF OLD LIGHT FIXTURES. WE WILL EXTEND EXISTING AIR CONDITIONING/HEATING REGISTERS TO NEW CEILING LEVEL. WE WILL SUBMIT SKETCH TO CITY FOR APPROVAL, NO PERMIT FEES ARE INCLUDED. ANY ASBESTOS ABATEMENT, IF REQUIRED, IS NOT INCLUDED.**

---

**We Propose** hereby to furnish material and labor — complete in accordance with above specifications, for the sum of: **Two Thousand Five Hundred Five dollars ($2,505.00).**

Payment to be made as follows:

*Upon Completion*

---

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature

Note: This proposal may be withdrawn by us if not accepted within 30 days.

**Acceptance of Proposal** — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the job as specified.

Signature
2/16/2011

TO: Tony Arellano

FAX: 781-4396

PHONE: 782-7498

FROM: Gary Day

FAX: (559) 782-3692 PHONE: (559) 782-3689

PAGES: One

RE: Interior Lighting and Suspended Ceiling

CC:

COMMENTS:

Attention Tony,
I appreciate the opportunity to offer a quotation for the new proposed improvements you requested as follows:
Remove existing florescent fixtures in the existing 15'x24' library room and install a new suspended 2'x4' T-Bar ceiling including (6) 8 lamp T-8 fixtures, (recessed fixtures) including Emergency lighting feature in one fixture. Existing HVAC grills shall be removed and replaced at new ceiling level, (97).

Total price including freight and sales tax for the sum of $3,650.00.

Thank you,
Gary Day
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<td>new light panels &amp; air regs</td>
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Last date: 7/11 pending on fixtures testing, cost not included.

Total Materials 6800
Tax
Sub-Total
Labor
TOTAL 6800
Balance Due
**JOE L. JIMENEZ**  
**GENERAL CONTRACTOR**  
State Lic.# 706110  
(559) 784-4011  
Cellular 783-3659  

151 N. Lombardi Street  
Porterville, CA 93257

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<td>earl, patch, primer &amp; paint.</td>
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License # 803152

RCTM Construction

PROPOSAL and CONTRACT

TO PORTERVILLE PUBLIC LIBRARY

DATE January 6, 2011

ATTN: TONY

Dear Sir / Madam:

I propose to furnish all materials and perform all labor necessary to complete the following:

1) PREP AND PAINT VIDEO ROOM WITH 2 OR 3 COATS OF ACRYLIC SEMI-GLOSS ENAMEL TO HIDE BLUE PAINT

2) ____________________________________________________________

3) ____________________________________________________________

4) ____________________________________________________________

5) ____________________________________________________________

All of the above work to be completed in a substantial and workmanlike manner according to standard practices for the sum of SEVEN HUNDRED THIRTY-FIVE AND NO/100 Dollars ($735.00)

Progress payments to be made ___UPON COMPLETION____ as the work progresses to the value of ___ONE HUNDRED ___________ per cent (___100___%) of all work completed. The entire amount of contract to be paid ___UPON COMPLETION__.

Any alterations or deviation from the above specifications involving extra cost of material or labor will only be executed upon written orders for same, and will become an extra charge over the sum mentioned in this contract. All agreements must be made in writing.

Contractors are required by law to be licensed and regulated by the Contractor's State License Board, which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the registrar of the board whose address is:

Contractor's State License Board
Post Office Box 26000
Sacramento, California 95826

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after this transaction.

By RANDY L. MARTIN

20646 AVENUE 152
PORTERVILLE, CA. 93257

ACCEPTANCE

You are hereby authorized to furnish all materials and labor required to complete the work mentioned in the above proposal, for which _____________________________ agree to pay the amount mentioned in said proposal, and according to the terms thereof.

ACCEPTED ________________________________ Date_____________________

PLEASE SIGN AND RETURN 1 COPY UPON ACCEPTANCE
Russell Sanders Painting  
436 Sycamore  
Lindsay, Ca. 93247  
Lic# 672096  
Phone/Fax 559-562-2080

<table>
<thead>
<tr>
<th>Submitted To:</th>
<th>Job Name</th>
</tr>
</thead>
</table>
| Porterville Library  
C/O Tony | Interior Painting  
Video Room |

Specifications and Estimates for:
- Interior Paint
  - Walls and Trim: $0.00
  - Ceiling: Spot Primer  
  Complete Ceiling Paint - $0.00

We hereby propose to furnish labor and materials complete in accordance with the above specifications, for the sum of $0.00.  
(Payment to be made as follows): draws as needed.

All material is guaranteed to be as specified. All work to be completed according to standard practices. Any deviation from above specifications, will be close upon written orders, and will become an extra charge over and above the estimate. These proposals subject to acceptance within 30 days.

Authorized Signature

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

ACCEPTED:

Date:  
Signature:  

Typewriter marks: Tony, away
CITY COUNCIL AGENDA: March 1, 2011

SUBJECT: ADOPTION OF RESOLUTION FOR THE PURCHASE OF PROPERTY LOCATED AT APN NO. 261-030-062 – SABATINO

SOURCE: Parks and Leisure Services Department

COMMENT: Murphy A. Sabatino and Jennifer L. Sabatino Trust, owners of property located at APN No. 261-080-062, have accepted the City’s offer of $215,000 to sell 2.28 acres of property.

Purchase of this property is required for the construction of the Chase Avenue Park which is funded by the California State Parks and Recreation Department Prop 84 Grant.

RECOMMENDATION: That the City Council:

1. Authorize staff to begin escrow with City paying all escrow fees;

2. Adopt resolution Accepting a Grant Deed from Murphy A. Sabatino and Jennifer L. Sabatino Trust;

3. Authorize staff to make payment to Murphy A. Sabatino and Jennifer L. Sabatino Trust, in the amount of $215,000 after completion of escrow;

4. Authorize the mayor to sign all necessary documents; and

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

ATTACHMENT: Draft Resolution
Exhibit “A” Legal Description
Exhibit “B” Parcel Map

ITEM NO.: 4
RESOLUTION NO. ________


BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville, hereby accepts a Grant Deed in fee from Murphy A. Sabatino, Trustee of the Murphy A. Sabatino and Jennifer A. Sabatino Trust, dated October 23, 2004, for property APN No. 262-030-062, in the City of Porterville, County of Tulare, State of California, to-wit:

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

BE IT FURTHER RESOLVED that the purchase price of $215,000.00 is hereby approved with the City to open an escrow account, pay all escrow fees, and authorize the Mayor to sign all necessary documents, and said deed to be recorded in the office of the Tulare County Recorder. The foregoing has been accepted by the City Council for the City of Porterville.

______________________________
Cameron Hamilton, Vice Mayor

ATTEST:

John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
EXHIBIT "A"

That portion of the Southeast quarter of the Southwest quarter of Section 36, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, more particularly described as follows:

Parcel No. 3 of Parcel Map No. 3609 as shown on a map recorded in Book 37 of Parcel Maps, at page 12 in the office of the Tulare County Recorder.

END OF DESCRIPTION
Parcel Map
SUBJECT: APPROVE AIRPORT IMPROVEMENT PROJECT GRANT APPLICATION

SOURCE: FINANCE DEPARTMENT/PURCHASING DIVISION

COMMENT: On January 19, 2010, Council approved the Airport Capital Improvement Program which identified design and construction projects through year 2016. The airport’s current project, the rehabilitation of Runway 12-30, is nearing completion, and Staff has been informed that the Federal Aviation Administration (FAA) may have money available this budget cycle, which ends on March 4, to fund our next project. Consequently, an Application for Federal Assistance has been prepared to design the rehabilitation of former Runway 7-25 as a commercial taxiway. A copy of the Application and Budget Information is attached for Council’s review. The proposed scope of the rehabilitation effort includes localized removal and reconstruction of isolated, failed areas, cleaning, filling and sealing of cold joints and cracks, followed by an asphalt pavement overlay over the entire 200,000 square feet. In addition, the project will include minor grading around the perimeter of the improvement, installation of drainage facilities and pavement markings.

The proposed cost of this design only project is $140,000 with the FAA share being 95%, or $133,000. Upon receipt of a grant award, an application will be submitted to the California Department of Transportation for a matching grant of $3,325, making the City’s portion of the total project $3,675.

RECOMMENDATION:

That City Council:
1. Approve the submission of an Application for Federal Assistance to the FAA for a grant request in the amount of $133,000;
2. Authorize the filing of a 2.5% matching application with the California Department of Transportation;
3. Authorize the execution of both the FAA and State Grant Agreements when awarded;
4. Authorize the expenditure of the City’s share in the amount of $3,675 from the Airport Development Fund; and
5. Authorize the City Manager to sign all documents on behalf of the City.

ATTACHMENTS: Application for Federal Assistance

D.D. Appropriated/Funded C.M. Item No. 5
APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION:
   - Application
   - Preapplication
   - Construction
   - Non-Construction

2. DATE SUBMITTED

3. DATE RECEIVED BY STATE
   - State Application Identifier

4. DATE RECEIVED BY FEDERAL AGENCY
   - Federal Identifier

5. APPLICANT INFORMATION
   - Legal Name: City of Porterville
   - Organizational DUNS: 159081611
   - Address: 291 North Main Street
   - City: Porterville
   - County: Tulare
   - State: CA
   - Zip Code: 93257
   - Country: USA

6. EMPLOYER IDENTIFICATION NUMBER EIN:
   - 94-6000398

7. TYPE OF APPLICANT:
   - C
   - Other (specify):

8. TYPE OF APPLICATION:
   - New
   - Continuation
   - Revision
   - If Revision, enter appropriate letter(s) in box(es):
     - (See back of form for description of letters)

9. NAME OF FEDERAL AGENCY
   - Federal Aviation Administration

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER
    - 20-106

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
    - Rehabilitate former Runway 7-25 as commercial taxiway (design only).

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):
    - City of Porterville & southeast Tulare County

13. PROPOSED PROJECT
    - Start Date: March 2011
    - Ending Date: March 2012

14. CONGRESSIONAL DISTRICTS OF
    - a. Applicant
      - CA-21: Devin Nunes
    - b. Project
      - CA-21: Devin Nunes

15. ESTIMATED FUNDING
    - a. Federal
      - $133,000
    - b. Applicant
      - $3,675
    - c. State
      - $3,325
    - d. Local
      - $0
    - e. Other
      - $0
    - f. Program income
      - $0
    - g. TOTAL
      - $140,000

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS
    - a. Yes
    - b. No

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
    - Yes if "Yes" attach an explanation
    - No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

   - a. Authorized Representative
     - Prefix: Mr.
     - First Name: John
     - Last Name: Lollis
     - Title: City Manager
     - Signature of Authorized Representative
   - b. Title: City Manager
     - Telephone number (give area code)
     - (559) 782-7466
     - Date Signed: 4-17-2011

Standard Form 424 (Rev.9-2003)
Prescribed by OMB Circular A-102

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PART II
PROJECT APPROVAL INFORMATION
SECTION A

Item 1
Does this assistance request require State, local, regional, or other priority rating? ☑Yes ☐No

Name of Governing Body Priority

Item 2.
Does this assistance request require State, local advisory, educational or health clearances? ☐Yes ☑No

Name of Agency or Board
(Attach Documentation)

Item 3
Does this assistance request require clearinghouse review in accordance with OMB Circular A-95? ☐Yes ☑No

Item 4
Does this assistance request require State, local, regional or other planning approval? ☐Yes ☑No

Name of Approving Agency
Date

Item 5.
Is the proposed project covered by an approved comprehensive plan? Porterville Airport Master Plan ☑Yes ☐No

Check One: State ☐ Local ✔ Regional ☐

Location of plan City of Porterville offices

Item 6.
Will the assistance requested serve a Federal installation? ☐Yes ☑No

Name of Federal Installation
Federal Population benefiting from Project

Item 7
Will the assistance requested be on Federal land or installation? ☐Yes ☑No

Name of Federal Installation
Location of Federal Land
Percent of Project

Item 8
Will the assistance requested have an impact or effect on the environment? ☐Yes ☑No

See instructions for additional information to be provided.

Item 9.
Will the assistance requested cause the displacement of individuals, families, businesses, or farms? ☐Yes ☑No

Number of:
- Individuals
- Families
- Businesses
- Farms

See instructions for additional information to be provided.

Item 10.
Is there other related Federal assistance on this project previous, pending, or anticipated? ☑Yes ☐No

Catalog 20-106
Airport Improvement Program: 3-06-0190
PART II – SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use. – The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

   The City of Porterville has a Comprehensive Land Use Plan that assures compatible usage of land adjacent to the airport. This plan has been accepted by the Tulare County Airport Land Use Commission. The City Council adopted an up-date to the City’s General Plan that incorporated all the provisions of the Airport Land Use Plan.

2. Defaults. – The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

   None.

3. Possible Disabilities. – There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

   None.

4. Land. – (a) The sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

   Title, in fee, to all land occupied by the Airport as shown on the approved Airport Plan.

*State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.
PART II - SECTION C (CONTINUED)

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above property interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

None

(c) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

None

5. Exclusive Rights. – There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

None.

*State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.
<table>
<thead>
<tr>
<th>Cost Classification</th>
<th>Use only for revisions</th>
<th>Total Amount Required</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Latest Approved Amount</td>
<td>Adjustment+ or (-)</td>
</tr>
<tr>
<td>1. Administration Expense</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>2. Preliminary Expense</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>3. Land, structures, right-of-way</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>4. Architectural engineering basic fees</td>
<td></td>
<td>127,000.00</td>
</tr>
<tr>
<td>5. Other architectural engineering fees</td>
<td></td>
<td>8,000.00</td>
</tr>
<tr>
<td>6. Project inspection fees</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>7. Land development</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>8. Relocation Expenses</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>9. Relocation payments to individuals and businesses</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>10. Demolition and removal</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>11. Construction and project improvement</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>12. Equipment</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>13. Miscellaneous</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>14. Total (Lines 1 through 13)</td>
<td></td>
<td>140,000.00</td>
</tr>
<tr>
<td>15. Estimated Income (if applicable)</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>16. Net Project Amount (Line 14 minus 15)</td>
<td></td>
<td>140,000.00</td>
</tr>
<tr>
<td>17. Less: Ineligible Exclusions</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>18. Add: Contingencies</td>
<td></td>
<td>0.00</td>
</tr>
<tr>
<td>19. Total Project Amt. (Excluding Rehabilitation Grants)</td>
<td>$</td>
<td>140,000.00</td>
</tr>
<tr>
<td>20. Federal Share requested of Line 19</td>
<td></td>
<td>133,000.00</td>
</tr>
<tr>
<td>21. Add Rehabilitation Grants Requested (100 percent)</td>
<td>$</td>
<td>133,000.00</td>
</tr>
<tr>
<td>22. Total Federal grant requested (Lines 20 &amp; 21) (95%)</td>
<td>$</td>
<td>133,000.00</td>
</tr>
<tr>
<td>23. Grantee share</td>
<td></td>
<td>3,675.00</td>
</tr>
<tr>
<td>24. Other shares (State)</td>
<td></td>
<td>3,325.00</td>
</tr>
<tr>
<td>25. Total project (Lines 22, 23, &amp; 24)</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>
### SECTION C – EXCLUSIONS

<table>
<thead>
<tr>
<th>26. Classification</th>
<th>Ineligible for Participation (1)</th>
<th>Excluded from Contingency Provision (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g. Totals</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE

<table>
<thead>
<tr>
<th>27. Grantee Share (City of Porterville)</th>
<th>$</th>
<th>3,675</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Securities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Mortgages</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Appropriations (By Applicant)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Bonds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. Tax Levies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Non Cash</td>
<td></td>
<td>3,675</td>
</tr>
<tr>
<td>g. Other (Explain)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>h. TOTAL – Grantee share</td>
<td></td>
<td>3,675</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>28. Other Shares</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a. State</td>
<td></td>
<td>3,325</td>
</tr>
<tr>
<td>b. Other</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>c. Total Other Shares</td>
<td></td>
<td>3,325</td>
</tr>
</tbody>
</table>

| 29. TOTAL                              | $ | 7,000 |

### SECTION E – REMARKS

**PART IV PROGRAM NARRATIVE** *(ATTACH – SEE INSTRUCTIONS)*
THIS ITEM HAS BEEN REMOVED
COUNCIL AGENDA: March 1, 2011

SUBJECT: SCHEDULING OF ADJOURNED CITY COUNCIL MEETING FOR ANNUAL SETTING OF GOALS AND OBJECTIVES

SOURCE: City Manager

COMMENT: Due to the length of the City Council meeting on February 15, 2011, this Agenda item was continued to the March 1st meeting.

In preparation for the approaching fiscal year and establishing budgetary priorities, the Council has traditionally met in an adjourned meeting to review the Council's prior fiscal year's goals and priorities, and to establish goals and priorities for the coming fiscal year. For the past several years, the Council has utilized a "project driven" process for the setting of goals and objectives, with the Council identifying specific projects for particular attention and focus. However, several Council Members have recently expressed their interest in utilizing a "strategic planning" process for establishing goals and priorities, including broader community input as well.

Under the "strategic planning" process, potentially with the assistance of a moderator, a cross-section of community stakeholders (i.e., business/industry, education, healthcare, faith-based, non-profit, etc) would join the Council and staff in defining goals and priorities toward the direction and benefit of the community.

It is recommended that an adjourned meeting of the Council be scheduled for a Saturday morning during the month of March, as it is anticipated that the Council will begin conducting its budgetary study sessions for the upcoming 2011-2012 fiscal year during the month of May.

RECOMMENDATION: That the City Council consider utilizing the "strategic planning" process for establishing its goals and priorities for the coming fiscal year, and schedule an adjourned meeting for establishing such goals and priorities on a Saturday morning during the month of March.

ATTACHMENT: 2010-2011 Priority Projects

Item No. 7
SUBJECT: ADOPTION OF 2010 PRIORITY PROJECTS AND OBJECTIVES

SOURCE: City Manager

COMMENT: On Saturday, January 23, 2010, the Council met in an adjourned session to consider priority projects for the coming year. After considering the priorities advanced by each City department, as well as accepting public comment, the Council gave direction in establishing the following projects and objectives as the priorities for the 2010 calendar year:

- Heritage Sports Complex
- Plano Street Bridge
- Porterville Hotel
- Public Safety Station
- Range Relocation
- Skate Park Lighting
- Technology Resources

In addition to the priorities considered above, the Council also gave direction that staff consider and provide options for road improvements on Date Avenue between Jaye and "G" Streets, as well as again focusing on the Newcomb Street bridge over the Tule River.

RECOMMENDATION: That the City Council adopt the 2010 Priority Projects and Objectives.

ATTACHMENT: None

C/M ______  Item No. ______
SUBJECT: REVIEW OF LOCAL EMERGENCY STATUS

SOURCE: Administration

COMMENT: In accordance with the City Council’s Resolution of Local Emergency adopted on December 21, 2010, and pursuant to Article 14, Section 8690 of the California Emergency Services Act, the Council must review the status of its local emergency at every regularly scheduled meeting and make a determination whether to continue or terminate the local emergency declaration.

Since its last review on February 15, 2011, as a follow up to the damage assessment conducted by State and Federal representatives on January 5, 2011, City staff again met with State and Federal representatives on Thursday, February 24, 2011. The purpose of the meeting was to review important timelines, as well as the regulations and requirements for receiving reimbursement for damage repair activities. By no later than the middle of April 2011, all damage repair projects must be defined and accepted by both State (CEMA) and Federal (FEMA) emergency agencies, and all repair projects must be completed by July 2012. In addition, several potential State and Federal funding sources were discussed that would assist in implementing flood mitigation measures.

The Council has scheduled a study session to review the local emergency for Thursday, March 10, 2011, beginning at 6:00 PM in City Hall Council Chambers, for the purposes of reviewing staff’s analysis of the response to the local emergency and to discuss options for future mitigation of any identified issues.

RECOMMENDATION: That the Council:
1. Receive the status report and review of the designated local emergency; and
2. Pursuant to the requirements of Article 14, Section 8690 of the California Emergency Services Act, determine that a need exists to continue said local emergency designation.

Item No. 8
COUNCIL AGENDA: MARCH 1, 2011

SUBJECT: APPROVAL OF ZALUD AND MURRY PARKS CONCESSION LICENSE AGREEMENT

SOURCE: Parks and Leisure Services Department

COMMENT: At the direction of the City Council, staff is submitting the revised Concession License Agreement for Zalud and Murry Parks proposed by Mr. Richard Sanchez.

Mr. Sanchez has requested the consolidation of the Murry Park and Zalud Park Agreements. The Murry Park Agreement expired October 2010. Staff has prepared the revised agreement to accommodate the two facilities at request of City Council. The Murry Park Agreement will be effective April through September, while the Zalud Park Agreement will be effective March through October, each maintaining a five (5) year agreement with a five (5) year renewal with mutual agreement by both parties involved.

RECOMMENDATION: That the City Council approve the Zalud Park Concession building and Renewal of Murry Park Concession License Agreement.

ATTACHMENT: Draft of License Agreement

ITEM NUMBER: 9

[Signature] Director [Signature] Appropriated/Funded [Signature] City Manager
CITY OF PORTERVILLE
MURRY AND ZALUD PARKS
CONCESSION LICENSE

The City of Porterville, hereinafter referred to as “CITY” hereby grants to RICHARD SANCHEZ, hereinafter referred to as “LICENSEE,” a license for services to the public in general, of the sale of soft drinks, ice cream, hot dogs, pre-packaged and outdoor grilled food, and general confectionary articles and products at the Murry Park Pool Concession building located at Murry Park (“Facility One”), and the Zalud Park Concession building located at Zalud Park (“Facility Two”).

A. TERMS AND CONDITIONS APPLICABLE TO FACILITY ONE ONLY

1. Term of this license shall be five months commencing April 21, 2011 through September 20, 2011.

2. This License Agreement replaces and supersedes any and all prior License Agreements.

B. TERMS AND CONDITIONS APPLICABLE TO FACILITY TWO ONLY

1. The term of this license shall be six months commencing April 21, 2011, through October 20, 2011.

2. This license is contingent upon Licensee completing the improvements to the Zalud Park Storage Rooms/Concession Building as specified in the Proposal attached hereto as Exhibit “A.” All such work shall be performed in accordance with all applicable laws and regulations, at the applicant’s sole cost and expense.

C. TERMS APPLICABLE TO BOTH FACILITIES ONE AND TWO

1. The License Agreement for either or both facilities may be extended for an additional five (5) years, during the same five- or six-month period as specified above, upon the same terms and conditions, at the option of the Licensee, provided that Licensee provides Notice of Intent to extend the agreement at least 30 days prior to expiration of the initial period. Thereafter, the License may be extended for an additional five (5) year period (during the same five- or six-month period), upon terms and conditions mutually agreeable to both parties. Licensee shall have no right, via this Agreement, to operation or use of the facilities outside the specified five- or six-month periods, unless otherwise specified in this Agreement.

2. The LICENSEE shall, at all times during the term of said License, keep and maintain concession buildings open for the convenience of patrons at Murry and Zalud Parks during the hours in which said Park is being utilized for recreational and family swimming or at any other time the CITY deems the operation of the concession necessary for special activities. Failure to operate the concession facilities during the
specified periods is a breach of this Agreement and shall constitute grounds for termination of this Agreement.

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

4. The LICENSEE may operate the Facility One during times other than pool operations as a convenience for Park patrons, and may operate Facility Two during time of operation at Zalud Park as a convenience for Park patrons.

5. In the event the LICENSEE shall coordinate the placement of refrigerators or vending and dispensing machines at the facility, LICENSEE shall ensure such machines are disengaged from CITY-provided utilities promptly at the conclusion of the term of this license.

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

7. If this Agreement is terminated by the City without cause prior to the conclusion of the initial License term, or the initial five year extension period, and a nonprofit organization enters into a Concession License Agreement with the City for the facility, the CITY shall reimburse Licensee for the documented start-up expenditures including but not limited to structural improvements. In this event the concession fees collected for the facility as specified in paragraph 11 shall be credited against said start-up costs.

8. The LICENSEE shall not assign, transfer or convey this license or any of the rights or benefits hereunder to any person, firm or corporation without first securing the written consent of the CITY, and said consent can be withheld for any reason.

9. The CITY, by its authorized agents and servants, reserves the right of entry upon the premises where said license is being operated for purposes of inspection.

10. Nothing herein shall be construed as making the CITY and the LICENSEE partners and/or the parties engaging in joint ventures.

11. The LICENSEE shall pay to the City of Porterville by the 5th day of each month a fee of $200 for each month in which the concession building is utilized for concession activities.
12. To the fullest extent permitted by law, the LICENSEE shall and hereby does agree to save, defend and indemnify the CITY, all of its officers, agents and employees of and from all manner of claims, demands, actions or causes of actions of all persons arising from or in any way connected with the use, occupation or employment of said License, or activities engaged in, or carried on, or conducted upon the premises by the LICENSEE, together with costs and attorney’s fees and shall secure, at LICENSEE’S expense, liability insurance including product liability indemnifying the CITY and the LICENSEE in the sum of one million dollars ($1,000,000) combined single limit for property damage and injury, including death, to one or more persons, and deposit with the CITY an original certificate of said insurance, name the CITY, its officers, agents and employees as an additional insured on LICENSEE’S policy.

13. The LICENSEE shall maintain Workers’ Compensation Insurance for all its employees and volunteers who are in any way connected with the performance of LICENSEE’S concessionary interest to the extent as provided by law.

14. The LICENSEE shall maintain a City of Porterville Business License during the term of this Concession License.

15. The LICENSEE shall maintain and keep adequate records of its sales from the licensed premises and agrees to permit the City to examine said records on demand.

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

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

18. Attorney Fees. If any litigation is commenced between the parties to the Agreement concerning the Agreement or the rights and duties of either in relation to the Agreement, the party prevailing in that litigation shall be entitled, in addition to any other relief that may be granted in the litigation, to a reasonable sum as and for its attorneys fees in the litigation, which shall be determined by the court in that litigation or in a separate action brought for that purpose.
IN WITNESS WHEREOF the parties have executed this License Agreement at Porterville, California this _____ day of __________, 2011.

CITY OF PORTERVILLE

By: __________________________
    Cameron Hamilton, Vice Mayor

LICENSEE

BY: __________________________
    Richard Sanchez

ATTEST:
John Lollis, Mayor

BY: Patrice Hildreth, Chief Deputy Clerk

APPROVED AS TO FORM:

Julia M. Lew, City Attorney
COMMENT: California Voters approved Proposition 215, which codified into the California Health and Safety Code the "Compassionate Use Act of 1996." The stated intent of the Proposition was to enable people in need of cannabis (marijuana) for medical purposes the ability to obtain and use it without fear of criminal prosecution under limited, specific circumstances. In 2003, the State legislature added the "Medical Marijuana Program Act" to the Health and Safety Code. Pursuant to federal law the use, possession, transpiration, and distribution of marijuana was, and still is, illegal. The state statutes provide, among other things, that qualified patients and their primary care givers have limited immunity from prosecution for violation of various violations of the Penal and Health and Safety Code related to marijuana. However, it was unclear at the time whether the State law allowed for "dispensaries" under the Compassionate Use Act.

In November 2007, the City Council approved regulations that 1) effectively prohibited land uses that are inconsistent with local, state, and federal law (by implication prohibiting the location of medical marijuana dispensaries), and 2) provided for regulation of such dispensaries in the event federal law is changed so that such a use is permitted.

The City regulations that would apply if the federal law changes are summarized as follows: The person or department charged with enforcement of these regulations shall be designated by the City Manager. Anyone wishing to operate a dispensary shall be required to obtain a special permit. The City limits the number of permits allowed to one for every 25,000 residents. Such permits are for the duration of one year and may be renewed. Background checks and investigations are required. Once permitted, the dispensary must operate pursuant to specific requirements including 1) business hours between 8:00 a.m. and 8:00 p.m., 2) maintenance of a current employee register, 3) maintenance of a current register of all qualified patients, persons with i.d. cards, and primary caregivers, with provisions for the protection of the confidentiality of cardholders, 4) sign posting requirements concerning the prohibition of persons under the age of 18 from entering the premises, 5) quantity restrictions, 6) prohibition regarding consumption on the premises, 7) cultivation restrictions, 8) probation on the sale of alcohol by the business, 9) prohibition on the
sale of any commercial product, good or service, 10) provisions for adequate security, 11) provisions for litter removal on and in front of the premises, 12) prohibitions on the cultivation, distribution, or sale of medical marijuana for profit, 13) provisions for consistency with State law, 14) records inspection requirements, 15) packaging requirements, 16) provisions for verification that the business is not engaging in interstate commerce, and 17) prohibitions on the sale or display of drug paraphernalia. Minors may not be employed by or permitted on the premises. The permits may not be transferred to a different location unless approved by the City.

Since the passage of Prop. 215, subsequent case law has managed to evade definitive answers with regard to the interplay between the federal and state regulatory schemes. That stated, several cases have provided some further guidance, and the State Attorney General and U.S Attorney have both issued policy statement and/or guidelines concerning these issues, the effect of which has resulted in allowance of a certain level of cultivation and usage by individuals who have complied with the State law.

The end result for the City is a substantial increase in the cultivation and use of cannabis, purportedly for medical purposes, increased complaints related to the growing and cultivation of marijuana, and new public safety concerns and practical difficulties for local law enforcement. Consequently, the Porterville Police Department, in conjunction with the City Attorney and Community Development departments, is drafting regulations that would require that cultivation, for personal use only (in accordance with State law), occur within a fully enclosed, secure area, with limitations on the size of the cultivation area.

In coordination with this effort, this office has reviewed the regulations adopted in 2007, and would propose that the City Council revisit these regulations due to the additional clarification (although limited) that has occurred. In City of Claremont v. Kruse (2009) 177 Cal.App.4th 1153, the Court upheld the lower court’s determination that operation of a dispensary was a nuisance per se in violation of the City’s municipal code, finding that the Compassionate Use Act does not authorize the operation of a medical marijuana dispensary, nor does it prohibit local governments from regulating dispensaries. The Court also found that the State laws do not compel the establishment of local regulations to accommodate medical marijuana dispensaries.

Cities as well as medical marijuana advocates hoped that Qualified Patients Association v. City of Anaheim (2010) 187 Cal.App.4th 734, would provide a definitive answer to the federal versus state law question. The Court did find that the lower court had erred in concluding, as a matter of law, that federal regulations (Controlled Substances Act) preempt the Compassionate Use Act. However, the Anaheim decision pertained to statutes that imposed purely criminal penalties for operation of a medical marijuana dispensary, and the Court did not address zoning and land use restrictions.
As of January 1, 2011, the Legislature enacted Health and Safety Code Section 11362.768, which provides (per subsection (f)) "Nothing in this section shall prohibit a city, county or city and county from adopting ordinances or policies that further restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider." Per County of Los Angeles v. Martin Hill (2011) Cal. Court of Appeal (2nd Dist.) No. B216432, state law does not confer on qualified patients and care givers an unfettered right to cultivate or dispense marijuana anywhere they choose (although this case did not address outright bans on dispensaries).

Given the new information available since the passage of the City's local regulations, this office recommends that the City Council revisit its current regulations and consider whether it wishes to consider maintaining the current dispensary regulations, whether it wishes to modify the condition for the regulations to go into effect to include that the State law (in addition to the Federal Law) would need to change, or consider further modifications as it deems appropriate. This office would also recommend that the regulations also be reviewed for consistency of certain terms and definitions with the Attorney General's 2008 guidelines, given that these have now been cited with authority by the Courts. If the City Council wishes to consider proposed limitations concerning cultivation and processing by qualified patients, it would make sense to review and prepare the new regulations in conjunction with a review of its current regulations.

I have attached my February 20, 2007 staff report concerning the background and history related to the Compassionate Use Act, the issues concerning the conflict between State and Federal law, Section 105 of Article I Appendix A (Zoning), and Sections 15-85 through 15-105 of the Municipal Code.

RECOMMENDATION: That the City Council consider the staff report and provide direction as it deems appropriate.

ATTACHMENTS: A. February 20, 2007 Staff Report (minus attachments)
B. Current Regulations
   1) Section 105 of Article I, Appendix A (Zoning) of the Porterville Municipal Code Relating to the Legal Use of Land
   2) Article VII, Sections 15-85 through 15-104, of Chapter 15 of the Porterville Municipal Code, Concerning Medical Marijuana Dispensaries and Other Operations
REGULATIONS CONCERNING THE USE OF LAND FOR THE PURPOSE OF OPERATING DISPENSARIES OF MARIJUANA FOR MEDICAL PURPOSES

CITY ATTORNEY

California voters approved Proposition 215, which codified into the California Health and Safety Code the "Compassionate Use Act of 1996." The stated intent of the Proposition 215 was to enable people in need of marijuana for medical purposes the ability to obtain and use it without fear of criminal prosecution under limited, specific circumstances.

Consequently, there have been commercial (as well as noncommercial) endeavors to distribute medical marijuana to those who qualify under the Act. The proposition is unclear, however, about the details of doctor recommendations and how the substance is distributed. Adding further confusion is the fact that pursuant to Federal law the use, possession, transpiration and distribution of marijuana is specifically illegal.

In 2005, the U.S. Supreme Court issued its decision in Gonzales v. Raich (2005) 545 U.S. 1. The Respondents in the case, two women who cultivated, obtained, and/or processed cannabis for their own personal medical use, claimed that their individual activities (which would have been in compliance with State law and the Compassionate Use Act) were purely local activities beyond the reach of federal power. The Supreme Court overruled the 9th Circuit and found that Congress’ Commerce Clause authority includes the power to prohibit the local cultivation and use of marijuana, even if said activities are in compliance with California law. While the Court did clearly provide that under the Supremacy clause of the U.S. Constitution the federal law would prevail over state law with regard to these activities, the Court was also careful to note that in this case, the parties did not assert that a particular statute or body of state law fell outside the federal commerce power. Rather, this case involved individual activities. Therefore, there was no express holding that they Compassionate Use Act was unlawful or unconstitutional.

Immediately after the Supreme Court ruling, The California Attorney General’s office issued a bulletin to all law enforcement agencies in the State stating that it was the Attorney General’s position that the Compassionate Use Act is not preempted by federal law, and that law enforcement should continue to refrain from arresting and prosecuting individuals who use medicinal marijuana under the Act. The Attorney General also issued a statement providing, in part

ITEM NO. 21

Attachment A
“Today’s ruling does not overturn California law permitting the use of medical marijuana, but it does uphold a federal regulatory scheme that contradicts the will of California voters and limits the right of states to provide appropriate medical care for its citizens.” Hence, while state authorities will not prosecute those operating under the State law, those who use or distribute medical marijuana run the risk of federal prosecution.

THE COMPASSIONATE USE ACT

The Compassionate Use Act adopted in 1996, and SB 420 enacted in 2004 are codified as Division 10, Chapter 6, Article 2.5 of the California Health and Safety Code, Sections 11362.7 et seq., portions of which are attached to this report. The laws establish a State system for permitting possession and cultivation of marijuana for limited medical treatment purposes, subject to the procedural requirements under the Act. Medical cannabis or marijuana dispensaries appear to be an instance where advocates of the medical use of marijuana are using the statutory language of the Act to establish businesses (nonprofit – as state law prohibit the provision of medical marijuana “for profit” under the law) to distribute to those entitled to possess or use under the law. While dispensaries are not specifically addressed under the Act, a person providing the marijuana may be the “primary care giver” to persons located in the same city or county the primary care giver is located.

The Act does not directly require that cities and counties, in exercising their police power and land use regulatory authority, permit businesses that would distribute medical marijuana. Cities may permit the uses under State law. However, and especially given the status of the most recent interpretation of the Federal Controlled Substances Act (CSA) as discussed above, cities may also arguably prohibit land uses that are inconsistent with any other law, including federal law. Such a regulation would, from a practical standpoint, prohibit the location of medical marijuana dispensaries within City limits until and unless marijuana is reclassified under the CSA.

REGULATORY ALTERNATIVES

Attached, as sample regulations, are two types of ordinances. The first is an ordinance that simply prohibits land uses inconsistent with local, state, or federal law. This ordinance would have the effect of prohibiting medical marijuana dispensaries within the City unless the federal laws change.

The second ordinance, as adopted by the City of Tulare, regulates medical marijuana dispensaries by establishing a “medical marijuana business permit,” prohibiting the public smoking or consumption of medical marijuana, and adding certain location requirements. Under these provisions, an applicant for such a business permit must provide, for example, additional information concerning security arrangements for safety purposes. The permit must be renewed annually. The business must also adhere to certain operational requirements, including but
not limited to the maintenance of a current register of all qualified patients and primary care givers, signage, requirements concerning the volume of marijuana per patient, and prohibitions on consumption on the premises, security, prohibition of the sale of alcohol, food, or other sales of goods or services. The ordinance prohibits medical marijuana businesses/uses as an accessory use to any other use. Only one dispensary may operate out of a single building, and the dispensaries are prohibited within 1000 feet of schools, and may only be located in the City's C-2 zone or within the downtown precinct area as defined by the City's general plan.

Given the ambiguity that still exists in the law, either scheme could still be subject to legal challenge. However, it should be noted that the City of Tulare did consult with certain nonprofit medical marijuana advocates in the development of its ordinance. Also, the general consensus in California is that, unless and until there is a higher court holding that the Compassionate Use Act is invalid pursuant to federal law, cities and counties are unlikely to face legal challenge from federal authorities (although this is theoretically possible) for the adoption of regulatory ordinances consistent with the state law. Thus far, federal authorities have focused on the users/providers of medical marijuana, and not the local authorities that permit or regulate them. If the City Council were to proceed with a regulatory structure, I would recommend that additional staff input be received concerning appropriate locations given the current zoning in Porterville, and additional samples of regulations can be reviewed.

There is, of course, a third option, which would be to do nothing. If the Council does not adopt local laws prohibiting or regulating the location and operations of these dispensaries, the City cannot refuse to issue a business license or otherwise impose restrictions that would not otherwise be enforceable against any other business. These businesses would then simply be subject to State law in that circumstance.

If the Council directs the development of an ordinance, a public hearing will be required.

**RECOMMENDATION:** That the City Council consider the staff report and attachments, accept this report as the report required pursuant to the interim ordinance adopted February 9, 2007, and provide direction concerning the regulation of medical marijuana dispensaries.

**ATTACHMENTS:**

1. Excerpts from California Health and Safety Code Sections 11362.7 et seq. ("Compassionate Use Act" as amended.)

2. Sample ordinance prohibiting any land uses inconsistent with federal law.

3. City of Tulare's Ordinances related to medical marijuana dispensaries.
Government Code of the state of California, commonly known as the conservation and planning law (section 65800 et seq.). (Ord. 1198, 5-6-1980)

104: **DEFINITIONS AND CONSTRUCTION:** The definitions of words used in this appendix, and the construction of the words and provisions thereof, shall be as set forth in article 33 of this appendix. (Ord. 1198, 5-6-1980; Ord. 1537 § B98, 8-6-1996)

105: **LEGAL USE OF LAND:** No use of land, under this appendix, shall be permitted within the city limits if such use shall be in violation of any local, state or federal laws. No building or land shall be used for any purpose, and no building or structure shall be erected, reconstructed or structurally altered in any manner, except in conformity with the regulations applicable to the zone in which the same is located and as otherwise provided in this appendix. (Ord. 1198, 5-6-1980; Ord. 1733, 11-20-2007)

106: **NAMES OF ZONES:** The zones established are as follows:

- **R-A** Suburban residential zone
- **R-E** One-family estate zone
- **R-1-8** One-family 8,000 square foot zone
- **R-1** One-family 6,000 square foot zone
- **H-D** Hillside development zone
- **R-2** Four-family zone
- **R-3** Multiple-family zone
- **R-4** Multiple-family and professional office zone
- **P-O** Professional office zone
- **C-1** Neighborhood commercial zone
- **C-2** Central commercial zone
- **C-3** Heavy commercial zone
- **C-H** Highway commercial zone
- **M-1** Light manufacturing zone
- **M-2** Heavy manufacturing zone
- **O-A** Open area zone
- **F-1** Floodplain zone
- **F-2** Floodplain zone
- **A-S** Airport safety zone
- **A-D** Airport development zone
- **P-D** Planned unit development zone

February 2009

City of Porterville
Article VII
MEDICAL MARIJUANA DISPENSARIES

15-85: PURPOSE AND INTENT; EFFECTIVE DATE:

It is the purpose and intent of this article to provide direction concerning medical marijuana dispensaries, in the event federal law is altered to accommodate the legal operation of such, in a manner that will promote the health, safety, and general welfare of the residents and businesses within the city. It is not the intent nor effect of this article to restrict or deny qualified patients access to marijuana for medical purposes as intended by the passage of the compassionate use act of 1996 and SB 420 in 2004. Neither is it the intent nor effect of this article to condone or legitimize the use of marijuana. This article shall not go into effect unless and until and only to the extent federal law changes to permit the legal operation of medical marijuana dispensaries and/or cooperatives. (Ord. 1734, 11-20-2007)

15-86: DEFINITIONS:

All definitions set forth in Health and Safety Code sections 11362.5 and 11362.7 et seq., as may be amended, including, but not limited to, the terms "attending physician", "person with an identification card", "serious medical conditions", shall apply under this article in addition to the definitions set forth as follows:

APPLICANT: A person who is required to file an application for a permit under this article, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee or agent of a medical marijuana business.

CITY MANAGER: The city manager holding office in the city of Porterville or his or her designee.

COLLECTIVE OR COOPERATIVE CULTIVATION: The association with California of qualified patients, persons with valid identification cards, and designated primary caregivers to cultivate marijuana for medical

purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 et seq.

CULTIVATION OF MEDICAL MARIJUANA: The growing of medical marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 et seq.

MEDICAL MARIJUANA: Is defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 et seq.

MEDICAL MARIJUANA BUSINESSES: Any medical marijuana dispensary; any cultivation and/or processing of medical marijuana operations by primary caregivers for three (3) or more qualified patients or persons with identification cards; or collective or cooperative cultivation operations.

MEDICAL MARIJUANA DISPENSARY: Any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by, or distributed to one or more of the following: a) a qualified patient, b) a person with an identification card, or c) a primary caregiver. All three (3) of these terms are defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 et seq. Unless otherwise regulated by this code or applicable law, a “medical marijuana dispensary” shall not include the following uses: a clinic licensed pursuant to chapter 1 of division 2 of the Health and Safety Code, a healthcare facility licensed pursuant to chapter 2 of division 2 of the Health and Safety Code, a residential care facility for persons with chronic life threatening illness licensed pursuant to chapter 3.01 of division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to chapter 3.2 of division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to chapter 8 of division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code sections 11362.5 and 11362.7 et seq.

PERMITTEE: The person to whom a medical marijuana business permit is issued.

PROCESSING OF MEDICAL MARIJUANA: The harvesting of marijuana or the use of any process or equipment, including, but not limited to, dehydrators or humidifiers, that may be necessary to convert raw marijuana plants or plant parts into a consumable product.

WRITTEN RECOMMENDATION: Shall have the same definition as California Health and Safety Code section 11362.7 et seq., and as may be amended. (Ord. 1734, 11-20-2007)

15-87: ENFORCEMENT OF ARTICLE:

The city manager of the city of Porterville or his/her designee shall have the responsibility and duty of enforcement of this article. (Ord. 1734, 11-20-2007)

15-88: PERMIT AND LICENSE REQUIRED:

A. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city of Porterville the operation of a medical marijuana business unless the person first obtains and continues to maintain in full force and effect a medical marijuana business permit from the city of Porterville as herein required.

B. A medical marijuana business shall also be required to apply for and maintain a general city of Porterville business license as a prerequisite to obtaining a permit pursuant to the terms hereof.
C. The total number of permitted medical marijuana dispensaries shall be limited to one dispensary per twenty five thousand (25,000) city population. Population shall be determined by the federal census bureau or state department of finance. The standard of one dispensary per twenty five thousand (25,000) city population may be deviated from upon the submittal of evidence that additional dispensaries are needed to serve the city. Any such evidence shall be approved by the city council. (Ord. 1734, 11-20-2007)

15-89: APPLICATIONS:

A. The applicant for a medical marijuana business permit shall submit to the city manager or designee an application for a permit. The application shall be made under penalty of perjury and shall include the following information:

1. The full name, present address, and telephone number of the applicant;

2. The address to which notice of action on the application is to be mailed;

3. Previous addresses for the past five (5) years immediately prior to the present address of the applicant;

4. Written proof that the applicant is over the age of eighteen (18) years;

5. Applicant's height, weight, color of eyes and hair;

6. An identification photograph of the applicant;

7. All business, occupation, or employment of the applicant for the five (5) years immediately preceding the date of the application;

8. The business license history of the applicant, including whether such person, in previously operating in this or another city, county or state under a license has had such license revoked or suspended, the reason therefor, and the business or activity or occupation subsequent to such action of suspension or revocation;

9. The name or names of the person or persons having the management or supervision of applicant's business;

10. Whether the person or persons having the management or supervision of applicant's business have been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received therefor;

11. The name of all employees, independent contractors, and other persons who will work at the proposed medical marijuana business;

12. The proposed security arrangements for ensuring the safety of persons, safe and secure storage of the marijuana, and to protect the premises from theft which shall be kept confidential and not disclosed to the public as the public interest is served in preserving the confidentiality of such security arrangements;

13. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the proposed medical marijuana business. The sketch or diagram need not...
be professionally prepared, but must be drawn with marked dimensions of the interior of the premises;

14. A current and accurate straight line drawing depicting the building and/or the portion thereof to be occupied by the proposed medical marijuana business;

15. Authorization for the city of Porterville, its agents and employees to seek verification of the information contained within the application;

16. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

B. If the applicant has completed the application improperly, or if the application is incomplete, the city manager or designee shall within ten (10) days of receipt of the original application, notify the applicant of such fact.

C. The fact that an applicant possesses other types of state or city permits or licenses does not exempt the applicant from the requirement of obtaining a medical marijuana business permit. (Ord. 1734, 11-20-2007)

15-90: TERM, RENEWALS AND FEES:

A. Unless otherwise suspended or revoked, a medical marijuana business permit shall expire one year following its issuance. An operator of a medical marijuana business may reapply for a permit for subsequent year(s).

B. Every application for a permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution adopted by the city council from time to time. This application or renewal fee shall not include fingerprinting, photographing or background check costs and shall be in addition to any other business license fee or permit fee imposed by this code or other governmental agencies. (Ord. 1734, 11-20-2007)

15-91: NOTIFICATIONS:

Within ten (10) calendar days of filing an application for a medical marijuana business permit, the applicant shall provide the city manager or designee with proof that all residents and property owners within three hundred feet (300') of the proposed premises have been notified in writing by U.S. mail of the applicant's intent to open such a business and filing of such application. (Ord. 1734, 11-20-2007)

15-92: INVESTIGATION AND ACTION ON APPLICATION:

After the background checks and investigation are complete, and in no case later than forty five (45) days after receipt of a completed application, the city manager or designee shall determine whether to issue the medical marijuana business permit. The city manager or designee may grant the permit subject to conditions he or she deems reasonable under the circumstances to protect the public health, safety and welfare of the community. The city manager or designee shall cause a written notice of his or her decision to issue or deny
a permit to be delivered in person or mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested. (Ord. 1734, 11-20-2007)

15-93: GROUNDS FOR DENIAL OF PERMIT:

The grounds for denial of a permit shall be one or more of the following:

A. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule or regulation.

B. The applicant has violated any local or state law, statute, rule or regulation relating to medical marijuana business.

C. The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

D. The applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this article means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

F. The applicant has committed any act, which, if done by a permittee, would be grounds for suspension or revocation of a permit.

G. An applicant is under eighteen (18) years of age.

H. The medical marijuana business does not comply with the ordinance standards of this code or the development standards set forth in this article.

I. The required application or renewal fees have not been paid. (Ord. 1734, 11-20-2007)

15-94: APPEAL FROM DENIAL:

A. An applicant aggrieved by the decision of the city manager or designee to deny a permit may appeal such decision to the city council by filing a written notice with the city clerk within ten (10) calendar days of service of the written notice of decision. If an appeal is not taken within such time, the city manager's decision shall be final.
B. Upon filing of a timely appeal, the permit application shall be scheduled by the city clerk for a public hearing within forty five (45) calendar days.

C. Notice of the hearing shall be given by the posting of notice on the premises where the activity is to be conducted for a period of not less than five (5) working days prior to the date of the hearing. In addition, a copy of the notice of hearing shall be mailed to the applicant at least five (5) working days in advance of the hearing. The city council may give such additional notice of hearing as it deems appropriate in a particular case.

D. Following public hearing, the city council may grant the permit subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the community or it may deny the issuance of the permit for any of the grounds specified in this article. The decision of the city council shall be final. (Ord. 1734, 11-20-2007)

15-95: SUSPENSION OR REVOCATION OF PERMIT:

A. The city manager or designee may suspend or revoke a permit when the permittee or the permittee’s agent or employee has committed any one or more of the following acts:

1. Any act which would be considered a grounds for denial of the permit in the first instance.

2. Violates any other provision of this article or any local or state law, statute, rule or regulation relating to his or her permitted activity.

3. Engages in or permits misconduct substantially related to the qualification, functions or duties of the permittee.

4. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.

5. Fails to take reasonable measures to control the establishment’s patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business.

6. Violates or fails to comply with the terms and conditions of the permit.

B. Prior to suspension or revocation, the city manager or designee shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least five (5) working days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery to the permittee or by certified U.S. mail, postage prepaid, addressed to the permittee at his or her address as it appears in his application for the permit.

C. If any permittee or person acting under the authority of a permittee is convicted of a public offense in any court for the violation of any law which relates to his or her permit, the city manager or designee may immediately revoke the permit without any further action, other than giving notice of revocation to the
permittee. In this circumstance, during the pendency of any appeal to the city council, the permit shall not remain in effect.

D. Any permittee aggrieved by the decision of the city manager or designee in suspending or revoking a permit may, within ten (10) calendar days, appeal to the city council by filing a written notice with the city clerk. Unless otherwise stated in this article, during the pendency of the appeal to the council, the permit shall remain in effect. If such appeal is not taken within ten (10) days, the decision of the city manager or designee shall be final. If an appeal is timely filed, the appeal shall be held in accordance with the procedures for considering an appeal of the denial of a permit. The city council may suspend or revoke the permit for any of the grounds specified in this article. The city council’s decision shall be final. (Ord. 1734, 11-20-2007)

15-96: JUDICIAL REVIEW:

Judicial review of a final decision made under this article may be had by filing a petition for a writ of mandate with the superior court in accordance with the provision of the California Code of Civil Procedure section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in California Code of Civil Procedure section 1094.6, which shall be applicable for such actions. (Ord. 1734, 11-20-2007)

15-97: EFFECT OF DENIAL OR REVOCATION:

When the city manager or designee has denied or revoked a permit and the time for appeal to the city council has elapsed, or if after appeal to the city council, the decision of the city manager or designee has been affirmed by the city council, no new application for a permit shall be accepted from the applicant and no permit shall be issued to such person or to any corporation in which he or she shall have any beneficial interest for a period of one year after the action denying or revoking the permit. (Ord. 1734, 11-20-2007)

15-98: OPERATING REQUIREMENTS:

A medical marijuana business, once permitted by the city manager or designee, shall meet the following operating standards for the duration of the use:

A. A medical marijuana business shall be open for business only between the hours of eight o’clock (8:00) A.M. and eight o’clock (8:00) P.M. on any particular day.

B. A medical marijuana business shall maintain a current register of the names of all employees employed by the business.

C. A medical marijuana business shall maintain a current register of all qualified patients, persons with identification cards and primary caregivers to whom it provides or distributes medical marijuana. Once documented, the qualified patients, persons with identification cards and primary caregivers shall be “registered” patrons of the business. The business’s register shall be subject to periodic inspection to ensure compliance with the state law. The business shall further maintain records of all patients and primary caregivers using the identification card number only when issued by the county, or its agent,
pursuant to California Health and Safety Code section 11362.7 et seq., so as to protect the confidentiality of the cardholders, or a copy of the written recommendation from a physician stating the need for medical marijuana.

D. A medical marijuana business shall post a sign, either at the building entrance or inside at the entrance, with a notice indicating that persons under the age of eighteen (18) years are precluded from entering the premises unless they are a qualified patient and they are in the presence of their parent or guardian.

E. A medical marijuana dispensary may not possess more than eight (8) ounces of dried marijuana per registered qualified patient or primary caregiver on the premises. However, if a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the dispensary may increase the amount of dried marijuana per the doctor's recommendation, the dispensary may not possess an amount of marijuana in excess of the registered patient's needs.

F. No marijuana shall be smoked, ingested or otherwise consumed on the premises of the business. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. The building entrance to a medical marijuana business shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the business is prohibited.

G. Any cultivation of medical marijuana or processing of medical marijuana conducted by the business shall at all times occur in a secure, locked, and fully enclosed structure. No medical marijuana business may cultivate or process more than ninety nine (99) marijuana plants, whether mature or immature.

H. No medical marijuana business shall hold or maintain a license from the state department of alcohol beverage control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the business.

I. No medical marijuana business shall conduct or engage in the commercial sale of any product, goods or service. The term "commercial sale" does not include the provision of medical marijuana on terms and conditions consistent with this article and the compassionate use act of 1996, and any amendments thereto.

J. A medical marijuana business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.

K. A medical marijuana business shall provide litter removal services once during each day of operation on and in front of the premises and, if necessary, on public sidewalks within one hundred feet (100') of the premises.

L. A medical marijuana business shall not cultivate, distribute or sell medical marijuana for a profit. A business may receive compensation for its actual expenses, including reasonable compensation for service provided, or for payment of out of pocket expenses incurred in providing those services. However, any such business must pay applicable sales tax on such sales or services and maintain the applicable seller's permit or similar permit from the state franchise tax board or other applicable agency.
M. A medical marijuana business shall meet all the operating criteria for the dispensing of medical marijuana as required pursuant to California Health and Safety Code sections 11362.5 and 11362.7 et seq.

N. Each medical marijuana business shall allow the city manager or designee to have access to the business's books, records, accounts, and any and all data relevant to its activities for the purposes of conducting an audit or examination. Books, records, accounts, and any and all relevant data shall be produced no later than twenty four (24) hours after receipt of the city manager’s written request(s).

O. The medical marijuana business shall meet any specific additional operating procedures and measures as may be imposed as conditions of approval by the city manager or designee to ensure that operations of the business are consistent with protection of the health, safety and welfare of the community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.

P. The building in which the medical marijuana business is located shall comply with all applicable local, state and federal rules, regulations and laws including, but not limited to, building codes and the Americans with disability act, as certified by the building official of the city.

Q. Any marijuana provided by a medical marijuana business for the purpose of consumption by the recipient shall be contained in a package that includes, in a conspicuous location, the following warning:

Smoking may be hazardous to the health of the consumer, and smoking by pregnant women may result in fetal injury, premature birth and low birth weight. Further, ingestion of marijuana in any form may be hazardous to the health of the consumer and may impair the judgment of the consumer.

R. A medical marijuana business that provides marijuana in the form of food or other comestibles shall obtain and maintain the appropriate licenses from the county health department for the provisions of food or other comestibles.

S. A medical marijuana business shall provide to the city manager or designee, upon request, written evidence to the city manager or designee’s reasonable satisfaction, that the business is not engaged in interstate commerce.

T. No medical marijuana business shall sell or display any drug paraphernalia as defined in California Health and Safety Code section 11364 et seq., or any implement that may be used to administer, use, consume, smoke or ingest medical marijuana.

Failure to comply with any of the above operating requirements shall result in the revocation of any permit issued. (Ord. 1734, 11-20-2007)

15-99: ZONING AND DEVELOPMENT STANDARDS:

Failure to comply with any of the above operating requirements shall result in the revocation of any permit issued. (Ord. 1734, 11-20-2007)
15-100: MINORS:

A. It shall be unlawful for any permittee, operator, or other person in charge of any medical marijuana business to employ any person who is not at least eighteen (18) years of age.

B. Persons under the age of eighteen (18) years shall not be allowed on the premises of a medical marijuana business unless they are a qualified patient and they are in the presence of their parent or guardian. (Ord. 1734, 11-20-2007)

15-101: DISPLAY OF PERMIT:

Every medical marijuana business shall display at all times during business hours the permit issued pursuant to the provisions of this article in a conspicuous place so that the same may be readily seen by all persons entering the medical marijuana business. (Ord. 1734, 11-20-2007)

15-102: TRANSFER OF PERMITS:

A. A permittee shall not operate a medical marijuana business under the authority of a medical marijuana business permit at any place other than the address of the medical marijuana business stated in the application for the permit.

B. A permittee shall not transfer ownership or control of a medical marijuana business permit to another person unless and until the transferee obtains an amendment to the permit from the city manager or designee stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the city manager or designee in accordance with this article and accompanies the application with the transfer fee in an amount set by the resolution of the city council, and the city manager determines that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the city manager or designee has notified the permittee that the permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this article is hereby declared void, and the permit shall be deemed revoked. (Ord. 1734, 11-20-2007)

15-103: VIOLATION; ENFORCEMENT:

A. Any person that violates any provision of this article shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.
B. Any use of condition caused or permitted to exist in violation of any of the provisions of this article shall be 
and is hereby declared a public nuisance and may be summarily abated by the city pursuant to this code.

C. Any person who violates, causes, or permits another person to violate any provision of this article 
commits a misdemeanor.

D. The violation of any provisions of this article shall be and is hereby declared to be contrary to the public 
interest and shall, at the discretion of city, create a cause of action for injunctive relief.

E. In addition to the civil remedies and criminal penalties set forth above, any person that violates the 
provisions of this article may be subject to administrative remedies as set forth by city ordinance. (Ord. 
1734, 11-20-2007)

15-104: EXISTING MEDICAL MARIJUANA DISPENSARIES; TIME LIMIT FOR FILING 
APPLICATION FOR PERMIT:

The continued operation of a medical marijuana business in existence before the effective date of this article 
without having applied for a permit obtained pursuant to the provisions of this article for more than ninety 
(90) days after the effective date of this article shall constitute a violation of this article. (Ord. 1734, 11-20-
2007)