Call to Order
Roll Call

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

JOINT CITY COUNCIL/PORTERVILLE REDEVELOPMENT AGENCY AGENDA
291 N. MAIN STREET, PORTERVILLE, CA
JULY 5, 2011

Roll Call: Agency Members

ORAL COMMUNICATIONS
This is the opportunity to address the City Council and/or Redevelopment Agency on any matter scheduled for Closed Session. Unless additional time is authorized by the Council/Agency, all commentary shall be limited to three minutes.

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

CITY COUNCIL CLOSED SESSION:
B. Closed Session Pursuant to:
   4- Government Code Section 54956.9(a) – Conference with Legal Counsel – Existing Litigation: Donald Sipple v. City of Alameda, et al., Los Angeles Superior Court Case No. BC462270.

6:30 P.M. RECONVENE OPEN SESSION
REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Council Member Ward
Invocation

Page 1 of 5
PROCLAMATIONS
National Parks & Recreation Month – July 2011

PRESENTATIONS
Employee of the Month – David Payne
Office Depot
Chamber of Commerce’s Annual Report
Southern California Edison’s State of the Utility

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. City Council Minutes of April 12, 2011 and June 28, 2011

2. Fiscal Year 2011/2012 Street Work Plan
Re: Considering approval of the 2011/2012 Street Works Plan, and an amendment to the 2011/2012 Capital Improvement Program to reflect the identified projects.

2a. Asphalt Overlay Program 2011/2012
Re: Informational report regarding streets that qualify for the asphalt overlay program.

3. Authorization to Advertise for Bids – 2011/2012 Fiscal Year Micro-Surfacing Project
Re: Considering approval of staff’s Plans and Project Manual for the project consisting of a durable thin asphalt overlay on several streets within the City, the removal and replacement of badly distressed asphalt concrete, along with the sealing of significant cracks.

4. Authorization to Advertise for Bids – Olive Avenue Rehabilitation
Re: Considering approval of staff’s Plans and Project Manual for the project consisting of the rehabilitation of Olive Avenue between ‘H’ Street and Carmelita Street, including cold in place recycling three (3) inches of existing asphalt concrete, application of a thin asphalt overlay, striping, marking and related work.

5. Negotiate for Consultant Services – Sludge De-Watering & Electric Air Blower Project
Re: Considering authorizing the negotiation of a contract for design services related to the Sludge De-Watering and Electric Blower Design Project.
6. **Plano Bridge Widening Project: Addendum to the Negative Declaration of Environmental Impact**  
   Re: Considering approval of an addendum to the Negative Declaration for the Plano Street Bridge Widening Project to address the adequacy and applicability of the previously prepared Negative Declaration, and to disclose and analyze any changes to the Project and/or the environment that have occurred since the date of original adoption in 2003.

7. **Lime Street Park Improvement Project Update**  
   Re: Considering authorizing staff to proceed with plans for Lime Street Park Improvements including cost estimates for filling the storm drain basin and continue seeking sources of financing to complete the project.

8. **Tulare County Agencies Regional Gang Enforcement Team – Memorandum of Understanding**  
   Re: Considering approval of a Memorandum of Understanding for the Tulare County Agencies Regional Gang Enforcement Team.

9. **Request to Apply for Edward Byrne Memorial Justice Assistance Grant Funds**  
   Re: Considering application for grant from the U.S. Department of Justice in the amount of $25,286 for the purposes of offsetting operational costs for the Law Enforcement Joint Use Helicopter Program.

10. **Authorize Transit Staff to Apply for Transit Security Grant Program Funding**  

11. **Authorization of Request for Funds From San Joaquin Valley Library System and Budget Adjustment**  
    Re: Considering authorizing a request for funds from the San Joaquin Valley Library System to pay for the purchase of six Early Literacy Stations, and budget adjustment upon receipt of the funds.

12. **Resolution Opposing Senate Bill 469 (Vargas)**  
    Re: Considering approval of a resolution opposing SB 469 which would require a city or county to prepare economic impact reports before it approves or disapproves the construction or conversion of “superstore” retailers.

13. **Airport Lease Renewal – Lot 43**  
    Re: Considering approval of the extension of the Lease Agreement between the City of Porterville and Leonard Alogna of Los Angeles, for Lot 43 at the Porterville Municipal Airport.

14. **Airport Lease Renewal – Lot 47**  
    Re: Considering approval of the extension of the Lease Agreement between the City of Porterville and James Costa of Tulare, for Lot 47 at the Porterville Municipal Airport.

15. **Adoption of Annual Appropriation Limit**  
    Re: Considering approval of a resolution adopting the appropriation limit of $49,693,348 for the 2011/2012 Fiscal Year.
16. 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
17. Consideration of Appointment of Mayor  
Re: Consideration of the appointment of Mayor.

18. Amendment to Loan Agreement and Approval of Request for Partial Release of Land  
Re: Considering approval of an amendment to Part I Section D of the Loan Agreement between the City and Prospect Henderson Partners with regard to provisions for partial release and reconveyance of property for expansion of available retail space.

19. Consideration of Appointment to the Transactions & Use Tax Oversight Committee  
Re: Considering an appointment to the Measure H Oversight Committee to fill a vacant seat with a term expiring in May, 2012.

20. Consideration of Appointment to the Measure R Citizens’ Oversight Committee  
Re: Considering an appointment to the Measure R Oversight Committee to fill a vacant seat with a term expiring in June, 2013.

21. Consideration of League of California Cities Annual Membership  
Re: Considering maintaining the City’s membership in the League of California Cities.

22. Consideration of City Council Procedural Handbook  
Re: Considering adoption of the procedural handbook for the City Council.

23. Council Member Requested Item – Request for the City Council to Authorize an Independent Financial Audit of the Porterville Chamber of Commerce  
Re: Consideration of a request to consider authorizing an independent financial audit of the Porterville Chamber of Commerce.

24. Council Member Requested Item – Request for the City Council to Consider a Resolution of Opposition to the Proposed Shift of Management of the Grant Sequoia National Monument from the U.S. Forest Service to the National Park Service  
Re: Consideration of a request to consider the approval of a resolution of opposition to the proposal made by Representative Sam Farr.
JOINT PUBLIC HEARING

PRA-01  Public Hearing to Authorize a Purchase and Sale Agreement between the Porterville Redevelopment Agency and Social Vocational Services, Inc. (APN 253-138-001)
Re: Considering approval of resolutions authorizing a Purchase and Sale Agreement for the sale of property located generally at the southeast corner of Fourth Street and Harrison Avenue, at a price of $125,000.

Adjourn to a meeting of the Porterville City Council.

ORAL COMMUNICATIONS

OTHER MATTERS

CLOSED SESSION
Any Closed Session Items not completed prior to 6:30 p.m. will be considered at this time.

ADJOURNMENT - to the meeting of July 19, 2011 at 5:30 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.
Called to Order at 5:30 p.m.
Roll Call: Council Member Ward, Vice Mayor Hamilton, Council Member Shelton, Council Member McCracken, Mayor Irish

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

ORAL COMMUNICATIONS
None

SCHEDULED MATTERS
1. CITY COUNCIL MEMBER REQUESTED AGENDA ITEM – CONSIDERATION OF RENAMING CITY HALL CONFERENCE ROOMS AND AREAS

Recommendation: Mayor Irish motions that the City Council:
1. Rescind Council Resolution 125-2004; and
2. Adopt the draft resolution, “Porterville’s Exceptional People”, and commence the name changes immediately.

Deputy City Manager Milt Stowe indicated that the item had been withdrawn at Mayor Irish’s request.

Disposition: Item withdrawn.

2. COUNCIL MEMBER REQUESTED AGENDA ITEM – MODIFICATION TO CITY COUNCIL BUDGET FOR ACCOUNTING OF COUNCIL MEMBER EXPENDITURES

Recommendation: Council Member Shelton motions that the City Council limit each individual Council member budget to $4,000 per fiscal year, and be charged for expenditures not currently charged to individual budgets, including computer maintenance and internet wireless air card service.

The Deputy City Manager introduced the item and presented the staff report.

Council Member Shelton spoke in favor of a cumulative budget for each individual Council Member in the amount of $6,500 per year. In response to an inquiry posed by Vice Mayor Hamilton, Deputy City Attorney Kabot advised that if there were Charter provisions specific to limiting an amount of money to be used for a particular purpose those provisions would still apply. A discussion then ensued regarding the merging of Council member budgets and acceptable uses of...
funds. Staff was directed to provide additional information regarding costs of airtime and attendance at the League of California Cities Conference.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Vice Mayor Hamilton that the City Council approve amending the amount to $5,500.

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

M.O. 01-041211 MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council continue the item to no later than the 1st Budget Study Session; and direct staff to provide additional figures regarding costs of airtime and League of California Cities Conference. The motion carried unanimously.

Disposition: Item continued; and direction given.

Mayor Irish acknowledged representatives from the Tule River Tribal Council were present in the audience. Tribal Council Members Kevin Bonds and Rhoda Hunter introduced themselves and presented a letter to the Mayor. The Mayor also acknowledged Mr. Dan Hackey, Tribal Public Relations Administrator.

3. COUNCIL MEMBER REQUESTED AGENDA ITEM – CONSIDERATION OF CO-SPONSORING WITH THE TULE RIVER TRIBAL COUNCIL A COMMUNITY FIREWORKS SHOW

Recommendation: Council Member Shelton motions that the City Council approve serving as a Co-Sponsor with the Tule River Tribal Council in the production of a community fireworks show, including the use of a City parks facility and “Freedom Fest”.

The Deputy City Manager introduced the item. The Mayor then recused himself due to a previously disclosed conflict of interest, and exited the Council chambers.

Council Member Shelton spoke in favor of a community fireworks show and “Freedom Fest”, and lauded the tribe for their generosity.

Council Member Ward spoke of the patriotic nature of the community, and voiced support for 4th of July celebration.

- Rhoda Hunter, Tribal Council Member, stated that they were a fairly new Council that wished to establish a working relationship with the City.

- Kevin Bonds, Tribal Council Member, spoke of the importance of honoring veterans and celebrating for the children of the community.
The Council discussed the proposed community event, and Vice Mayor Hamilton made a motion to authorize an amount not to exceed $15,000. Staff noted that the matter was time sensitive due to the need to secure a fireworks vendor, and secure equipment rental for desired attractions.

- Dan Hackey, Tule River Tribe Public Relations, volunteered to sit on a planning committee for the event.
- An unidentified individual spoke in support of an event to lift the community’s spirit.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Ward that the City Council approve co-sponsorship with the Tule River Tribal Council in the production of a community fireworks show in an amount not to exceed $15,000 and including the use of a City parks facility.

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

Following the vote, Tribal Member Bonds confirmed a $15,000 match from the Tribe.

Disposition: Approved

4. COUNCIL MEMBER REQUESTED AGENDA ITEM – MODIFICATION TO MUNICIPAL CODE REGARDING ITINERANT VENDOR OR ITINERANT MERCHANT

Recommendation: Council Member Ward motions that the City Council modify the City’s Municipal Code, as it related to itinerant vendors or merchants within the City, so as not to compete with established businesses within the City.

The Deputy City Manager presented the item, and Council Member Ward communicated concerns raised by constituents with whom he had spoken.

Mayor Irish indicated that the issue had been raised in the past and shared ideas for regulation such as limiting the number of permits issued and increasing the permit fees. The Deputy City Attorney advised that regulations needed to be reasonable, and could include limiting the number of permits issued, as well as an increase in permit fees. He then added that he could research how other cities were addressing the issue. Council Member McCracken spoke about the importance of enforcement and sales tax reporting. Council then directed staff to bring back the item with options for consideration.

Disposition: Direction given.

The Council recessed for fifteen minutes.
5. COUNCIL MEMBER REQUESTED AGENDA ITEM – CONSIDERATION OF CREATING CITY LISTSERV PROGRAM

Recommendation: Council Member Ward requests that the City Council approve the implementation of a Listserv function on the City’s website.

Deputy City Manager Stowe presented the item, and Council Member Ward spoke about his interest in creating a City listserv program to keep the public informed.

Council Member McCracken described the difference between a listserv and an e-mail subscription, and identified Constant Contact as a possible option. A discussion ensued regarding staff time and costs involved with the implementation of such a service. Staff was then directed to research the systems and services available which meet the Council’s interest, to be presented at the first meeting in May.

Disposition: Direction given.

6. COUNCIL MEMBER REQUESTED AGENDA ITEM – CONSIDERATION OF CITY MANAGER PERFORMANCE

Recommendation: Council Member Shelton requests that the City Council consider the performance of the City Manager.

Deputy City Manager Stowe presented the item. Council Member Shelton requested that the item be continued to the next meeting.

Disposition: Item continued.

ORAL COMMUNICATIONS
- William Oshesky, 339 E. Putnam Avenue, expressed his gratitude regarding the Council’s approval of Item No. 3.
- Curtis Rogers, 21990 Avenue 168, spoke about the Principles of Liberty flier that he provided to the Council; commended the Council for their conduct; and extended an invitation to a Tea Party rally on Friday, from 11:00 a.m. to 2:00 p.m. at Centennial Park.
- Susan Misner, 1894 W. Thurman Avenue, thanked the Council for their decision to sponsor a fireworks show.

OTHER MATTERS
- Council Member Ward spoke of upcoming events which included: a Step-Up meeting on April 13th, a Step-Up Event on May 5th, a Sesquicentennial meeting on April 13th, and Porterville Celebrates Reading on Saturday.
- Council Member Shelton noted the Tea Party Rally on Friday and the Iris Festival on Saturday.
- Vice Mayor Hamilton indicated that there was a Breakfast Rotary Drive-Thru Tri Tip Dinner on Thursday, and reminded the Mayor of the need to appoint a Council Member to the Sesquicentennial Committee.
- Mayor Irish appointed Council Member Ward to the Sesquicentennial Committee; and requested that staff look into means of addressing the issue of large animals at large.
**ADJOURNMENT**

The Council adjourned at 7:26 p.m. to the meeting of April 19, 2011 at 5:30 p.m.

______________________________
Luisa Herrera, Deputy City Clerk

SEAL

________________________________
Ronald L. Irish, Mayor
Called to Order at 5:30 p.m.
Roll Call: Council Member Ward, Vice Mayor Hamilton, Council Member Shelton, Council Member McCracken, Mayor Irish

Pledge of Allegiance Led by Council Member Pete McCracken

ORAL COMMUNICATIONS
- John Coffee, Porterville resident, expressed concerns regarding the speed of vehicle traffic on North Grand Avenue and parking of vehicles in bike lanes in the vicinity of Morton and F Street.
- Dave Paynter, Paynter Realty Investments, requested permission to speak during consideration of Item No. 2; informed the Council that the Pet Fair would remain open; and voiced support for approval of Item No. 3.
- Brock Neeley, Porterville resident, requested permission to speak during consideration of Item No. 3.
- Greg Woodard, 1055 W. Morton, spoke in support of Item No. 2 as a representative of the Chamber’s Economic Development Committee.

SCHEDULED MATTERS
3. COUNCIL MEMBER REQUESTED AGENDA ITEM – CONSIDERATION OF LETTER OR RESOLUTION OPPOSING SB 469 (VARGAS)

Recommendation: That the Council provide direction to staff.

City Manager John Lollis presented the item and indicated that the item has been requested by Mayor Irish. Mayor Irish then allowed the opportunity for public comment.

- John Coffee, spoke in favor of SB 469 and questioned why a company would be opposed to providing the proposed report.

- Brock Neeley, presented the Council with information regarding the economic impact of Wal-Mart stores and the retailer’s use of safety net programs; and voiced his support for SB 469, financial accountability and informed communities.

- Dave Paynter, spoke in opposition of SB 469, noting that it was redundant, targeted specific retailers, and would allow additional opportunity for litigation.

A discussion ensued regarding the number of regulations currently in place. During which it was noted that the opportunity for local municipalities to require such a report of a retailer already existed.
COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member McCracken that the City Council approve the drafting of a resolution in opposition of SB 469. The motion carried unanimously.

Disposition: Approved

Mayor Irish indicated that he had a conflict of interest with regard to Item Nos. 1 and 2. He recused himself and left the meeting. He indicated that he would not return for Oral Communications.

1. AWARD OF CONTRACT – SPORTS COMPLEX LIGHTING PROJECT

Recommendation: That the City Council:
1. Award the contract to the lowest responsible bidder, provided the lowest responsible bid is within 10% of the Engineer’s estimate;
2. Authorize a 10% Construction Contingency and a 5% Construction Management and Inspection contingency; and
3. Authorize payments to the Contractor up to 90% of the contract amount.

City Manager Lollis introduced the item, and Public Works Director Baldo Rodriguez presented the staff report. Following which he addressed questions regarding the last bid amounts.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Ward that the City Council award a contract to G & S Electric in the amount of $65,333.00.

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

Disposition: Approved

2. AMENDMENT TO LOAN AGREEMENT AND APPROVAL OF REQUEST FOR PARTIAL RELEASE OF LAND

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

Council Member McCracken MOVED to approve staff’s recommendation, which was SECONDED by Vice Mayor Hamilton.

Council Member Shelton voiced his opposition to the original loan agreement, and expressed his concerns with the decrease in property value.
Vice Mayor Hamilton spoke in favor of the amendment, the creation of jobs, and stated that the addition of 19,000 square feet of retail would increase the value.

Council Member Ward disclosed that he had met with Mr. Paynter and they had discussed the loan to value ratio. He indicated that he had reservations with the proposed options and spoke in favor of finding a means of securing the loan to protect the City’s position.

Council Member McCracken asked the Council to consider whether or not the approval of staff’s recommendation would improve the City’s position by creating more jobs, adding to the land, and improving the probability of being paid.

The Council discussed the idea of securing or protecting the loan, but were unable to identify an instrument by which to achieve it. Council Member McCracken suggested that staff research requirements of banking institutions and meet with Mr. Paynter to identify a feasible alternative that addresses Council’s concerns.

- Dave Paynter, expressed his disappointment in the discussion; indicated that he had never been asked to provide mortgage insurance on a commercial loan, and had not had sufficient time to research the option. He then stated that he was offended by Council Member Shelton’s comments and spoke of his reliable payment history.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Ward that the City Council direct staff to meet with Mr. Paynter to explore additional options which would secure the loan, and bring the item back for consideration at the next meeting.

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

Disposition: Approved

ORAL COMMUNICATIONS
- Dave Paynter, thanked the Council for their time, and stated that he would work with staff as directed.

OTHER MATTERS
- Council Member Ward spoke about the upcoming Freedom Fest on July 2nd, lauded the Pioneer Days event; and expressed his hope in finding an amicable solution to Item No. 2.

- Vice Mayor Hamilton requested that an item for consideration of a resolution in opposition of Representative Farr’s proposal to shift the management responsibilities for the Giant Sequoia National Monument from the U.S. Forest Service to the National Park Service be on the next regular agenda.
ADJOURNMENT

The Council adjourned at 6:35 p.m. to the meeting of July 5, 2011 at 5:30 p.m.

SEAL

Luisa Herrera, Deputy City Clerk

Ronald L. Irish, Mayor
SUBJECT: ASPHALT OVERLAY PROGRAM FOR 2011/2012

SOURCE: Public Works Department – Field Services Division

COMMENT: Staff has surveyed and prepared a list of streets that qualify for this year’s asphalt overlay program based on their condition. Proposed treatments include traditional curb to curb overlay and blade patching. The streets selected are as follows:

1. Jean Avenue from Prospect Street to Maston Street
2. Maston Street from Jean Avenue to Westfield Avenue
3. Cleveland Avenue from Indiana Street to Cottage Street
4. Thurman Avenue from Indiana Street to Cottage Street
5. Harrison Avenue from E Street to G Street
6. Lindale Street from San Lucia Avenue to Westfield Avenue
7. Howland Street from Olive Avenue to Sierra Vista Avenue
8. Sierra Vista Avenue from Howland Street to Villa Street
9. Wisconsin Street from Olive Avenue to Tomah Avenue
10. G Street from Henderson Avenue to Sequoia Circle
11. W. Westfield Avenue – 700 block
12. Mulberry Avenue from Lime Street to Division Street
13. Bellevue Avenue from E Street to railroad tracks
14. Villa Street from Olive Avenue 200’ north
15. Cottage Street from Olive Avenue 500’ north
16. Porter Road from Putnam Avenue to Morton Avenue
17. Morton Avenue from Prospect Street to Douglas Street

There are a number of streets located in the 2006 annexation areas that qualify for some type of surface treatment. These streets are not included in this year’s overlay program because of pending sewer main installation work scheduled for 2012. Once all sewer main installation work has been completed, the streets will be included in the overlay program.

Surface Transportation Program funds is the source of funding for this program.

RECOMMENDATION: Information only

ATTACHMENT: Locator Map
SUBJECT: FISCAL YEAR 2011/2012 STREET WORK PLAN

SOURCE: Public Works Department – Engineering and Building Division

COMMENT: Council adopted the 2011/2012 Annual Budget that includes above average street maintenance, rehabilitation and reconstruction dollars due in large part to staff’s success in obtaining a Congestion Mitigation and Air Quality (CMAQ) grant for the Jaye Street/Montgomery Avenue Roundabout Project. There is approximately $2.68 million available to spend on street reconstruction/rehabilitation/maintenance related projects in FY 2011/2012.

Staff’s Work Plan identifies the streets, recommended type of construction effort and the Engineer’s Estimate of Probable Cost. The Work Plan is as follows:

Reconstruction and Rehabilitation Projects:

➢ Olive Avenue Cold in Place Recycling Project (H Street to Cobb Street): $1,075,000.

➢ W. North Grand Avenue Reconstruction Project (SR 65 to R/R right of way near Main Street): $365,000.

➢ W. North Grand Avenue Rehabilitation Project (east side of Newcomb Street intersection): $110,000.

➢ W. North Grand Avenue Rehabilitation Project (west side of SR 65 intersection): $110,000.

Maintenance Projects:

➢ Olive Avenue Micro-Surfacing Project (Cobb Street to Salisbury Street) $660,000.


➢ Henderson Avenue Micro-Surfacing Project (Prospect Street to Newcomb Street): $272,000.

Total Estimate of Probable Cost is: $2,675,333. Staff will include several add alternates to provide sufficient flexibility to potentially enhance the scope of the project.
As indicated above, the Street Maintenance & Rehabilitation Annual Budget was adopted by Council on June 7, 2011. The Work Plan defines the specific projects that will receive treatment in FY 2011/2012. If Council agrees with staff’s recommendation, the 10-Year CIP will list these specific streets as "projects" for FY 2011/2012.

Schedule:
Olive Avenue Cold in Place Recycling Project, Olive Avenue Micro-Surfacing Project and Henderson Avenue Micro-Surfacing Project are scheduled to start construction during the first part of September 2011. Staff prepared the plans and specifications for these projects during the prior budget year so as to be ready when the budget is adopted by City Council.

Staff will focus design efforts on the W. North Grand Avenue Reconstruction and Rehabilitation Projects (all segments listed on page 1) during the fall of 2011. Construction will be scheduled to begin during the month of May 2012.

Funding:
Funding for these projects is a combination of Local Transportation Funds, Measure ‘R’ Local Funds and Special Gas Tax Funds, all of which is outlined in the adopted 2011/2012 Annual Budget. The amount per funding category is as follows:

- Local Transportation Funds: $500,000
- Special Gas Tax: $400,000
- Measure ‘R’ Local Funds: $725,333*
- Re-appropriated Measure ‘R’ Local Funds: $450,000**
- Re-appropriated LTF: $600,000**

Total: $2,675,333

* Remainder of Measure ‘R’ Local Funds after committing matching funds to the Jaye Street Roundabout CMAQ Funded Project.
** Funds available after obtaining a Congestion Mitigation and Air Quality (CMAQ) grant for the Jaye Street/Montgomery Avenue Roundabout Project.

RECOMMENDATION: That City Council:

1) Approve the 2011/2012 Streets Work Plan; and

2) Amend the 2011/2012 Capital Improvement Program to accurately reflect the projects undertaken in Fiscal Year 2011/2012.

ATTACHMENT: Locator Map
City of Porterville
Public Works Dept. / Engineering Division
2011/2012 Street Work Plan

Reconstruction And Rehabilitation Projects:
1. Olive Avenue Cold in Place Recycling Project ("H" Street to Cobb Street): $1,075,000.00
2. W. North Grand Avenue Reconstruction Project (SR 65 to R/R right of way): $350,000.00
3. W. North Grand Avenue Reconstruction Project (East side of Newcomb Street Intersection): $110,000.00
4. W. North Grand Avenue Reconstruction Project (west side of SR 65): $110,000.00

Maintenance Projects:
1. Olive Avenue Micro-Surfacing Project (Cobb Street to Salisbury Street): $800,000.00
2. Henderson Avenue Micro-Surfacing Project and related water main break repairs (Under SR 65): $23,333.00
3. Henderson Avenue Micro-Surfacing Project (Prospect Street to Newcomb Street): $275,000.00
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – 2011/2012 FISCAL YEAR MICRO-SURFACING PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The Plans and Project Manual have been prepared for the 2011/2012 Fiscal Year Micro-Surfacing Project. The project is part of the City’s Measure “R” Street Maintenance Program, which consists of a durable thin asphalt overlay on several streets within the City. An important project component is the removal and replacement of badly distressed asphalt concrete, along with the sealing of significant cracks. New pavement markings will be placed once each street receives the thin asphalt overlay. Streets and project limits are as follows:

- Olive Avenue – Cobb Street to Salisbury Street, with multiple add alternates that extend from Salisbury Street to Westwood Street.
- Henderson Avenue under the State Route 65 overpass.
- Henderson Avenue – Prospect Street to Newcomb Street.

The contract documents also include an add alternate bid structure for removing the existing grass within the median islands, associated irrigation system removal and installation of artificial turf within the median islands. The artificial turf add alternates will be listed and awarded after the street add alternates, if funds allow.

Staff continues to actively update our Pavement Management System, which will allow for a more systematic approach to maintaining our arterial and collector streets. Each arterial and collector street within the City’s jurisdiction is given a “Pavement Condition Index” (PCI) between 0 and 100, 0 being the worst and 100 being the best. The pavement industry has established the following general pavement treatment guide as it relates to the PCI:

<table>
<thead>
<tr>
<th>Pavement Treatment for Urban Major Roads</th>
<th>PCI Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do Nothing</td>
<td>90-100</td>
</tr>
<tr>
<td>Preventive Maintenance (e.g. slurry, chip seal, cape seal)</td>
<td>70-89</td>
</tr>
<tr>
<td>Thin Overlays (e.g. less than or equal to 2 inches)</td>
<td>50-69</td>
</tr>
<tr>
<td>Thick Overlays (e.g. more than 2 inches)</td>
<td>25-49</td>
</tr>
<tr>
<td>Reconstruction (e.g. remove and replace)</td>
<td>0-24</td>
</tr>
</tbody>
</table>
This year’s Street Maintenance Program has been evaluated by Staff and the PCI for each street is as follows:

<table>
<thead>
<tr>
<th>Street</th>
<th>Limits</th>
<th>PCI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Olive Avenue</td>
<td>Cobb Street to Salisbury Street</td>
<td>79-83</td>
</tr>
<tr>
<td>Olive Avenue</td>
<td>Salisbury Street to Mathew Street</td>
<td>82-83</td>
</tr>
<tr>
<td>Olive Avenue</td>
<td>Mathew Street to Westwood Street</td>
<td>86-92</td>
</tr>
<tr>
<td>Henderson Avenue</td>
<td>Under SR 65 Overpass</td>
<td>50</td>
</tr>
<tr>
<td>Henderson Avenue</td>
<td>Prospect Street to Newcomb Street</td>
<td>80</td>
</tr>
</tbody>
</table>

The Engineering Division is targeting arterial and collector streets that have a PCI near or above 70 for micro-surfacing projects. Unfortunately, this is difficult to do with so many arterials and collectors having numerous badly distressed pavement areas. To pursue the cost effectiveness of micro-surfacing, the Engineering Division has identified the badly distressed areas for removal and replacement. This remedial action pulls the PCI up to or above the target of 70.

Henderson Avenue at SR 65 is a classic example of elevating the PCI from a lower number (50) to an acceptable PCI (70) by simply removing and replacing severely distressed areas prior to the placement of the micro-surface. In this case, Henderson Avenue at SR 65 is a lower number than recently presented to City Council due to a serious water main break.

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

The Engineer’s Estimate Probable Cost for the base is $592,856.00. An additional $59,285.60 is necessary for construction contingency (10%) and $29,642.80 is required for construction management, quality control and inspection (5%), equating to a total construction cost of $681,784.40.

The Estimate of Probable Cost for the base bid and street add alternates (Salisbury Street to Westwood Street) is $865,584.00 with $86,558.40 required for construction contingency (10%). An additional $43,279.20 is required for construction management, quality control and inspection (5%), equating to a total construction cost of $995,421.60.

The Estimate of Probable Cost for the base bid, street add alternates and the median island artificial grass add alternates is $1,273,082.00 with $127,308.20 required for construction contingency (10%). An additional $63,654.10 is required for construction management, quality control and inspection (5%), equating to a total construction cost of $1,464,044.30.

City staff will provide construction management/inspection services and
the City's on-call consulting firm, Consolidated Testing, with assistance from APART, Inc., will provide quality control services (asphalt concrete aggregate sieve analysis, sand equivalent testing, oil content confirmation, field confirmation of micro-surfacing recycled mix design, etc.).

If the City receives favorable bids, a total of 7.56 lane miles of maintenance work will be accomplished with this project.

An appropriation of $55,000 from the Water Replacement Fund will finance the repair of existing curbs, gutters, sidewalk, etc. damaged by the water main fracture underneath the State Route Highway 65 overpass. The 2010/2011 “Local” Measure ‘R’ Tax Revenue advancement recently approved by Tulare County Association of Governments (TCAG) and re-appropriated “Local” Measure R Funds will be the funding source for this project as outlined in the recently adopted budget.

RECOMMENDATION: That City Council:

1. Approve Staff’s recommended Plans and Project Manual for the 2011/2012 Micro-Surfacing Project;

2. Approve the advancement of 2011/2012 “Local” Measure ‘R’ Funds as approved by TCAG;

3. Approve the appropriation of Water Reserve Funds for that portion of the remediation work beneath State Route 65 Overpass caused by the water main fracture;

4. Authorize the Finance Director to adjust the 11/12 Fiscal Year Budget to account for the appropriation of Water Replacement Fund; and

5. Authorize Staff to advertise for bids on the project.

ATTACHMENTS: Locator Maps (Olive Avenue and Henderson Avenue) Engineer’s Estimate
<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>EST. QTY.</th>
<th>UNIT</th>
<th>ITEM</th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
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<td>L.S.</td>
<td>Mobilization and Demobilization</td>
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<td>2</td>
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<td>L.S.</td>
<td>Traffic Control - Night Work</td>
<td>$25,000.00</td>
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<tr>
<td>3</td>
<td>37,837</td>
<td>S.Y.</td>
<td>Micro-Surfacing, including site preparations per the guidelines set forth in the project specifications</td>
<td>$3.00</td>
<td>$113,511.00</td>
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<td>4</td>
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<td>L.S.</td>
<td>Crack Filling per the guidelines set forth in the project specifications</td>
<td>$17,000.00</td>
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<tr>
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<td>36,473</td>
<td>S.F.</td>
<td>Grind to 6&quot; Depth &amp; Replace with Asphalt Concrete per the guidelines set forth in the project specifications</td>
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<td>Remove and Replace Traffic Loop Detector</td>
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<td>$4,000.00</td>
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<td>7</td>
<td>1</td>
<td>L.S.</td>
<td>Striping &amp; Pavement Markings</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
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**BASE BID PART B – HENDERSON AVENUE (NEWCOMB STREET TO PROSPECT STREET)**

<table>
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<th>TOTAL PRICE</th>
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<td>Traffic Control - Night Work</td>
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<td>21,017</td>
<td>S.Y.</td>
<td>Micro-Surfacing, including site preparations per the guidelines set forth in the project specifications</td>
<td>$3.00</td>
<td>$63,051.00</td>
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<tr>
<td>3</td>
<td>1</td>
<td>L.S.</td>
<td>Crack Filling per the guidelines set forth in the project specifications</td>
<td>$10,000.00</td>
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<tr>
<td>4</td>
<td>4,427</td>
<td>S.F.</td>
<td>Grind to 6&quot; Depth &amp; Replace with Asphalt Concrete per the guidelines set forth in the project specifications</td>
<td>$5.00</td>
<td>$22,135.00</td>
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<tr>
<td>5</td>
<td>1,604</td>
<td>S.F.</td>
<td>Fine Grind Pavement per the guidelines set forth in the project specifications</td>
<td>$2.50</td>
<td>$4,010.00</td>
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<tr>
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<td>8</td>
<td>EA.</td>
<td>Remove and Replace Traffic Loop Detector</td>
<td>$500.00</td>
<td>$4,000.00</td>
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<tr>
<td>7</td>
<td>1</td>
<td>L.S.</td>
<td>Striping &amp; Pavement Markings</td>
<td>$8,000.00</td>
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**BASE BID PART C - HENDERSON AVENUE AT SR65**

<table>
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<td>L.S.</td>
<td>Traffic Control - Night Work</td>
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<td>2</td>
<td>3,334</td>
<td>S.Y.</td>
<td>Micro-Surfacing, including site preparations, all in accordance with the guidelines set forth in the project specifications</td>
<td>$3.00</td>
<td>$10,002.00</td>
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<tr>
<td>3</td>
<td>1</td>
<td>L.S.</td>
<td>Crack Filling per the guidelines set forth in the project specifications</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
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<tr>
<td>4</td>
<td>2,637</td>
<td>S.F.</td>
<td>Replace Street Structural section (6&quot; AC over 6&quot; Class II AB) and compact native material 12&quot; min to 24&quot; max</td>
<td>$10.00</td>
<td>$26,370.00</td>
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<tr>
<td>5</td>
<td>23144</td>
<td>S.F.</td>
<td>Fine Grind Pavement per the guidelines set forth in the project specifications</td>
<td>$0.50</td>
<td>$11,572.00</td>
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<tr>
<td>6</td>
<td>1148</td>
<td>S.F.</td>
<td>Remove and replace sidewalk per City Std C-8</td>
<td>$5.00</td>
<td>$5,740.00</td>
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<tr>
<td>7</td>
<td>368</td>
<td>L.F.</td>
<td>Remove and replace curb &amp; gutter per City Std C-1</td>
<td>$25.00</td>
<td>$9,200.00</td>
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<tr>
<td>8</td>
<td>2</td>
<td>EA.</td>
<td>Remove and replace curb ramp per Caltrans Standard Plan A#B Case CM</td>
<td>$2,000.00</td>
<td>$4,000.00</td>
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<tr>
<td>9</td>
<td>1</td>
<td>L.S.</td>
<td>16&quot; Ductile Iron Water Main Relocation</td>
<td>$10,000.00</td>
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<td>10</td>
<td>16</td>
<td>EA.</td>
<td>Remove and Replace Traffic Loop Detector</td>
<td>$400.00</td>
<td>$6,400.00</td>
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<td>11</td>
<td>1</td>
<td>L.S.</td>
<td>Striping &amp; Pavement Markings</td>
<td>$2,000.00</td>
<td>$2,000.00</td>
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</table>

**SUBTOTAL** $94,784.00
### ADD ALTERNATE A BID - OLIVE AVENUE (SALISBURY STREET TO MATHEW ST)

<table>
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<th>ITEM NO.</th>
<th>EST. QTY.</th>
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<th>TOTAL PRICE</th>
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<tr>
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<td>L.S.</td>
<td>Mobilization and Demobilization</td>
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<td>L.S.</td>
<td>Traffic Control - Night Work</td>
<td>$4,000.00</td>
<td>$4,000.00</td>
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<tr>
<td>3</td>
<td>9,413</td>
<td>S.Y.</td>
<td>Micro-Surfacing, including site preparations, all in accordance with the guidelines set forth in the project specifications.</td>
<td>$3.00</td>
<td>$28,239.00</td>
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<td>4</td>
<td>1</td>
<td>L.S.</td>
<td>Crack Filling per the guidelines set forth in these specifications.</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
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<tr>
<td>5</td>
<td>9,571</td>
<td>S.F.</td>
<td>Grind to 6&quot; Depth &amp; Replace with Asphalt Concrete per the guidelines set forth in the project specifications.</td>
<td>$5.00</td>
<td>$47,855.00</td>
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<td>6</td>
<td>10</td>
<td>E.A.</td>
<td>Remove and Replace Traffic Loop Detector</td>
<td>$5.00</td>
<td>$50.00</td>
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<tr>
<td>7</td>
<td>1</td>
<td>L.S.</td>
<td>Striping &amp; Pavement Markings</td>
<td>$9,000.00</td>
<td>$9,000.00</td>
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**SUBTOTAL** $99,144.00

### ADD ALTERNATE B BID - OLIVE AVENUE - MATHEW STREET TO WESTWOOD STREET

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>EST. QTY.</th>
<th>UNIT</th>
<th>ITEM</th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>L.S.</td>
<td>Mobilization and Demobilization</td>
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<td>$5,000.00</td>
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<tr>
<td>2</td>
<td>1</td>
<td>L.S.</td>
<td>Traffic Control - Night Work</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
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<tr>
<td>3</td>
<td>19,448</td>
<td>S.Y.</td>
<td>Micro-Surfacing, including site preparations, all in accordance with the guidelines set forth in the project specifications.</td>
<td>$3.00</td>
<td>$58,344.00</td>
</tr>
<tr>
<td>4</td>
<td>1</td>
<td>L.S.</td>
<td>Crack Filling per the guidelines set forth in these specifications.</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
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<tr>
<td>5</td>
<td>16,448</td>
<td>S.F.</td>
<td>Grind to 6&quot; Depth &amp; Replace with Asphalt Concrete per the guidelines set forth in the project specifications.</td>
<td>$5.00</td>
<td>$82,240.00</td>
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<tr>
<td>6</td>
<td>2</td>
<td>E.A.</td>
<td>Remove and Replace Traffic Loop Detector</td>
<td>$500.00</td>
<td>$1,000.00</td>
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<tr>
<td>7</td>
<td>1</td>
<td>L.S.</td>
<td>Striping &amp; Pavement Markings</td>
<td>$12,000.00</td>
<td>$12,000.00</td>
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</table>

**SUBTOTAL** $173,584.00

### ADD ALTERNATE C BID - OLIVE AVENUE COBB TO SALISBURY & RENDHERRSON AVENUE NEWCOMB STREET TO PROSPECT STREET

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>EST. QTY.</th>
<th>UNIT</th>
<th>ITEM</th>
<th>UNIT PRICE</th>
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</thead>
<tbody>
<tr>
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<td>1</td>
<td>L.S.</td>
<td>Mobilization and Demobilization</td>
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<tr>
<td>2</td>
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<td>L.S.</td>
<td>Traffic Control</td>
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<td>$4,000.00</td>
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<td>3</td>
<td>32,418</td>
<td>S.F.</td>
<td>Replace existing median island sod with artificial turf per guidelines set forth in the project specifications.</td>
<td>$6.00</td>
<td>$194,508.00</td>
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</table>

**SUBTOTAL** $203,508.00

### ADD ALTERNATE D BID - OLIVE AVENUE SALISBURY STREET TO MATHEW STREET

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>EST. QTY.</th>
<th>UNIT</th>
<th>ITEM</th>
<th>UNIT PRICE</th>
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</thead>
<tbody>
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<td>1</td>
<td>L.S.</td>
<td>Mobilization and Demobilization</td>
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<td>$3,000.00</td>
</tr>
<tr>
<td>2</td>
<td>1</td>
<td>L.S.</td>
<td>Traffic Control</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>3</td>
<td>11,080</td>
<td>S.F.</td>
<td>Replace existing median island sod with artificial turf per guidelines set forth in the project specifications.</td>
<td>$6.00</td>
<td>$66,480.00</td>
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**SUBTOTAL** $70,980.00

### ADD ALTERNATE E BID - OLIVE AVENUE MATHEW STREET TO WESTWOOD STREET

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>EST. QTY.</th>
<th>UNIT</th>
<th>ITEM</th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
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<tr>
<td>1</td>
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<td>L.S.</td>
<td>Mobilization and Demobilization</td>
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<td>$5,000.00</td>
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<td>2</td>
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<td>L.S.</td>
<td>Traffic Control</td>
<td>$3,500.00</td>
<td>$3,500.00</td>
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<tr>
<td>3</td>
<td>21,085</td>
<td>S.F.</td>
<td>Replace existing median island sod with artificial turf per guidelines set forth in the project specifications.</td>
<td>$6.00</td>
<td>$126,510.00</td>
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**SUBTOTAL** $133,010.00

**TOTAL COST OF CONSTRUCTION** $1,273,082.00

10% CONSTRUCTION CONTINGENCY $127,308.20
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tr>
<td>5% Construction Management and Quality Control</td>
<td>$63,654.10</td>
</tr>
<tr>
<td>Total Estimated Probable Cost of Project</td>
<td>$1,464,044.30</td>
</tr>
</tbody>
</table>

**Estimate Certified:**

- Project Manager: [Signature] 6/28/2011
- DPW Director: [Signature] 6/28/2011
- Public Works Director: [Signature] 6/28/11
- City Manager: [Signature] 6/29/11
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – OLIVE AVENUE REHABILITATION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The project base bid consists of the rehabilitation of Olive Avenue between ‘H’ Street and Carmelita Street including cold in place recycling three (3) inches of existing asphalt concrete, application of a thin asphalt overlay, striping, markings and related work. The project includes add alternates. Should the City receive favorable bids, alternates will be awarded in the order listed to the extent budgeted funds will allow. Add alternates are as follows:

- Add Alternate A – Olive Avenue, Carmelita Street to Indiana Street.
- Add Alternate B – Olive Avenue, Indiana Street to Cobb Street.

Staff is relatively confident that the overall project limits (‘H’ Street to Cobb Street) can be funded. However, due to some indications that construction costs are increasing and the volatility of oil prices, staff feels an "add alternate" bidding structure is the proper bidding approach.

The contract documents also include an add alternate bid structure for removing the existing grass within the median islands, associated irrigation system removal and installation of artificial turf within the median islands. The artificial turf add alternates will be listed and awarded after the street add alternates, if funds allow.

The Estimate of Probable Cost for the base bid is $286,759.50 with $28,657.95 required for construction contingency (10%). An additional $14,337.98 is required for construction management, quality control and inspection (5%), equating to a total construction cost of $329,773.42.

The Estimate of Probable Cost for the base bid and street add alternates is $826,000.00 with $82,600.00 required for construction contingency (10%). An additional $41,300.00 is required for construction management, quality control and inspection (5%), equating to a total construction cost of $949,900.00.

The Estimate of Probable Cost for the base bid, street add alternates and the median island artificial grass add alternates is $941,950.00 with $94,195.00 required for construction contingency (10%). An additional $47,097.50 is required for construction management, quality control and inspection (5%), equating to a total construction cost of $1,083,242.50.
City staff will provide construction management/inspection services and the City’s on-call consulting firm, Consolidated Testing, with assistance from APART, Inc., will provide quality control services (recycled asphalt compaction testing, asphalt concrete overlay compaction testing, asphalt concrete aggregate sieve analysis, sand equivalent testing, oil content confirmation, field confirmation of recycled asphalt mix design, etc.).

If the City receives favorable bids, a total of 3.67 lane miles of rehabilitation work will be accomplish with this project.

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

Re-appropriated Local Transportation Fund (LTF) and 2011/2012 Local Transportation Fund (LTF) is the funding source for this project as outlined in the recently adopted 2011/2012 Annual Budget.

RECOMMENDATION: That the City Council:

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

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

ATTACHMENTS: Locator Map
Estimate of Probable Cost
### Olive Avenue CIR Engineer’s Estimate

**BASE BID**

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**ADD ALTERNATE A (ADJOURNED STREET TO ADJOURNED STREET)**

<table>
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<td>A-1</td>
<td></td>
<td></td>
<td></td>
<td>Mobilization &amp; Demobilization</td>
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<tr>
<td>A-2</td>
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<td></td>
<td></td>
<td>Mobilizing Traffic</td>
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<tr>
<td>A-3</td>
<td></td>
<td></td>
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<td>Double Adj Maltrange to Gravel per City Standard B-3</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
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<td></td>
<td></td>
<td>Double Adj Maltrange to Gravel per City Standard B-3</td>
<td>$8,000.00</td>
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<td>A-5</td>
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<td>Actual Adjustable Monumentation per City Standard</td>
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<td>A-6</td>
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<td></td>
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<td>Traffic Loop per Collar Standard B-3 Type D Loop</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
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<td></td>
<td></td>
<td>Double Adj Maltrange to Gravel per City Standard B-3</td>
<td>$8,000.00</td>
<td>$8,000.00</td>
</tr>
<tr>
<td>A-8</td>
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<td></td>
<td></td>
<td>Actual Adjustable Monumentation per City Standard</td>
<td>$2,000.00</td>
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<tr>
<td>A-9</td>
<td></td>
<td></td>
<td></td>
<td>Traffic Loop per Collar Standard B-3 Type D Loop</td>
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<td>$5,000.00</td>
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<td></td>
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**TOTAL COST OF CONSTRUCTION**

$94,195,000.00

**10% Construction Contingency**

$9,419,500.00

**Total Estimated Construction Cost & Project**

$103,614,500.00

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*Project Manager*

*Michael K. Reed*

*City Manager*

*Rodriguez*

*Date*

*6/28/11*
SUBJECT: NEGOTIATE FOR CONSULTANT SERVICES – SLUDGE DE-WATERING & ELECTRIC AIR BLOWER PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Staff recently completed a review of four Consultant Qualification Proposals for the purpose of preparing plans and specifications for the Wastewater Treatment Facility Sludge De-Watering and Electric Air Blower project. This project is included in the recently approved 2011/2012 Annual Budget.

Three of the four proposers participated in oral interviews allowing staff to assess each of the proposer’s experience and expertise in the area of sludge de-watering and electric air blower design. The results of the oral interviews are as follows:

<table>
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<th>Consulting Firm</th>
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<td>AECom – Fresno Office</td>
<td>69.3</td>
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<td>Pace – Fountain Valley Office</td>
<td>68.3</td>
</tr>
<tr>
<td>Carollo Engineers – Fresno Office</td>
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With regard to the sludge de-watering project, the City currently pumps its sludge through a 6” ductile iron pipeline from the treatment facility 4 miles to the airport area solar sludge drying beds. Once dried the sludge is used as a soil amendment on the City’s reclamation area.

The maintenance effort required to keep the sludge line “plug” free is becoming greater each year due to the mineral deposits (struvite) that build up within the sludge line. In addition, the high water content in the sludge requires an inordinate amount of time and manpower to dry the sludge to a consistency suitable for spreading. The extended drying period diminishes the capacity of the drying beds.

The proposed sludge de-watering equipment will be located at the treatment facility. After the digestion process the sludge will be sent to the de-watering equipment. The sludge will be de-watered to a consistency that will allow it to be trucked to the drying beds. The de-watering equipment will reduce the amount of time required to dry the sludge for land application by 1/3 compared to current conditions.
With regard to the electric air blowers, the methane/natural gas engines currently in place are over 17 years old. The annual maintenance and general upkeep on the gas driven engines is becoming cost prohibitive. Furthermore, engine manufacturers are reluctant to guarantee that replacement engines will meet stringent emissions limits. The proposed electric blowers will eliminate the constant threat of "violating" air quality emission standards as promulgated by the San Joaquin Valley Unified Air Pollution Control Board.

Staff estimates that design costs to properly size, retrofit and upgrade electrical capacity at the treatment facility to receive the new equipment will be approximately $325,000 to $350,000. Funds for the design project will come from the Wastewater Treatment Facility Reserve fund.

RECOMMENDATION: That the City Council:

1. Authorize the Public Works Director to negotiate a contract with AECom for design services related to the Sludge De-Watering & Electric Blower Design Project;

2. Authorize the Public Works Director to negotiate a contract with PACE Engineering if negotiations with the top rated firm are not successful;

3. Authorize the Public Works Director to negotiate a contract with Carollo Engineering if negotiations with the 2nd rated firm are not successful; and

4. Authorize the Mayor to execute a Professional Services Agreement with the selected Engineering Firm once negotiations are successfully completed.

ATTACHMENT: Scope of Services
Exhibit “B”
CITY OF PORTERVILLE
Sludge De-Watering System & Electric Air Blower Project
City of Porterville Project No. 89-9639

GENERAL SCOPE OF WORK

The City of Porterville seeks engineering, final design construction plans and specifications for the City’s proposed Sludge De-Watering System and Electric Air Blower project. The successful Consultant shall prepare an “in depth” scope of work and fee schedule after meeting with City staff to discuss the City’s vision and requirements for the project. The meeting with staff will allow the Consultant to determine the amount of data available to the Consultant and allow staff to comment on those items of work that must be incorporated into the plans and specifications for a complete project.

After the initial meeting, the Consultant shall complete and present his “scope of services” expressing the Consultant’s understanding of the City’s requirements within 10 working days of the “scoping” session. The City will review the Consultant’s scope of work, red-line, modify and/or change as necessary and return for the Consultant’s action. The Consultant shall return the corrected/modified “scope of work” to the City within 10 working days along with the Consultant’s fee.

As noted above, the Consultant shall prepare a complete scope of services for construction ready plans & specifications for the Sludge De-Watering & Electric Air Blower project. It is the City’s opinion that a complete scope of services must include, as a minimum, the 7 general and 5 specific tasks listed below. These tasks are a guide and must be incorporated into the Consultant’s “scope of services”.

The City is relying on the Consultant as the expert in the design of sludge de-watering and electric air blower systems. As such, it is important that the Consultant and the principals who will perform the engineering design and analysis be engaged in the scoping session. All issues related to the successful design of the project will be discussed and agreed upon at the scoping session. The City will not accept, nor will it adjust the Consultant’s fee at a later date, based on a claim that certain items were not discussed or considered at the time of the scoping session. The City strongly re-iterates that the City is looking for a complete and thorough design for a sludge de-watering and electric air blower system.

General Tasks:

1. Field Review
2. Limited topography survey and mapping of existing site
3. Agency & Utility Company Coordination
4. Preliminary Construction Estimates
5. Complete Construction Plans and Specifications
6. Construction Bid Assistance
Specific Tasks:

A. Sludge De-watering System:

1. Prepare “Work Plan” that addresses physical constraints and special requirements needed for the successful installation and operation of a sludge de-watering system. The “Work Plan” must provide comments on issues such as piping and retrofit piping requirements, electrical requirements, space requirements, etc. Further, as a component of the Work Plan, but under separate section, an in-depth and thorough analysis must be provided culminating in a matrix that compares/contrasts screw, centrifuge, belt filter and rotary fan presses. The matrix will consider as a minimum:
   a) Footprint
   b) Initial capital outlay
   c) % solids produced
   d) Annual energy costs
   e) Annual costs associated with maintenance, chemical, etc.
   f) Reliability
   g) Ease of maintenance
   h) Odor control

2. Design a protective sludge de-watering Awning complete with footing and slab

3. Construction ready plans & specifications addressing
   a) Mechanical
   b) Electrical
   c) Plumbing
   d) Structural
   e) Telemetry

B. Electric Air Blower

Prepare a “Work Plan” that addresses the potential challenges in retro-fitting existing gas engine blowers with electric blowers. Issues of concern include, but are not limited to, footprint constraints, adequacy/inadequacy of existing electrical system, use of digester gas, plumbing (piping requirements), dissolved oxygen controls and instrumentation compatibility with existing SCADA system, etc. Prepare “Work Plan” that addresses physical constraints and special requirements needed for the successful installation of one or more electric air blower system.

1. Perform detailed analysis to determine appropriate parameters, size (horse power) and model of electric air blower compatible with existing floor layout.

2. Construction ready plans and specifications addressing
   a) Mechanical
   b) Electrical
   c) Plumbing
d) Structural  
e) Telemetry

Once a final “scope of services” has been agreed upon, the Consultant shall submit to the City for review and approval, a detailed 11" x 17" “Gantt” chart identifying each task, milestone and targeted dates for the completion of each task and all subsequent tasks discussed and agreed upon as a result of the “scoping” session. The Gantt chart must be submitted to the City prior to the first progress payment request. At each payment request, the Consultant shall provide a ½ page summary describing work performed to date that coincides with the payment request.

End of Scope of Work
SUBJECT: PLANO BRIDGE WIDENING PROJECT: ADDENDUM TO THE NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: On June 17, 2003, the Porterville City Council adopted Resolution 79-2003 approving a Negative Declaration for the Plano Bridge Widening Project. The Negative Declaration evaluated the impacts of the proposed widening of the existing 2-lane bridge structure and reconstructing approximately 60 meters (197 feet) of each roadway approach. The project site is located along Plano Street between East Date Avenue and East Vandalia Avenue. The Project is located in a generally urban portion of Porterville and the bridge crosses both the Tule River and Poplar Ditch just north of State Route 190.

The purpose of this addendum is to address the adequacy and applicability of the previously prepared Negative Declaration and to disclose and analyze any changes to the Project and/or the environment that have occurred since the date of original adoption in 2003.

The design of the project and construction plans for the bridge have not changed subsequent to the prior environmental analysis and approval. As such, this Addendum to the Negative Declaration demonstrates that the environmental analysis, impacts, and mitigation requirements identified in the Negative Declaration remain substantively unchanged by the situation described herein. The environmental review further supports the finding that the proposed Project does not raise any new issues and does not exceed the level of impacts identified in the previously approved Negative Declaration.

The proposed project meets the criteria established in Public Resources Code Sections 15162 of the CEQA Guidelines for an Addendum to a Negative Declaration. In order to approve the Addendum, the following findings must be made based on substantial evidence:

- No substantial changes have occurred or are proposed which would require major revision of the previous Mitigated Negative Declaration (MND) due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The Project will not in itself create new substantial environmental impacts above and beyond what was already analyzed in the previous environmental document. The determination is based on the following analysis:

  - Aesthetics: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

  - Agricultural Resources: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

  - Air Quality: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional
mitigation measures would be required. However, the Project will be subject to current San Joaquin Valley Air Pollution Control District rules and regulations. Regulation VIII, Rule 8021 was amended most recently in August of 2004. Rule 8021 was adopted by the District to limit dust emissions from construction, excavation and other earthmoving activities. Prior to the start of construction activities, the City will be required to file a Dust Control Plan with the District in accordance with Section 6.3 of Rule 8021.

**Biological Resources:** The previous MND included a Biological Assessment and Survey that was done in 2001. That report indicated presence of 19 elderberry shrubs within 100 feet of established work areas. However, due to the lapse in time, a new biological survey was conducted in February 2011 which identified approximately 30 elderberry shrubs within 100 feet of established work areas, an increase of 11 elderberry shrubs.

In early 2008, the City established a 7.7 acre Valley Elderberry Beetle (VELB) mitigation site in an effort to help offset the loss of VELB in the City due to various development projects. The site is maintained under the direction of the City and monitoring reports are prepared twice a year. The original biological report, prepared in 2002, identified fewer elderberry shrubs that would have been impacted by the proposed Project. As a result, original mitigation recommendations were made for 78 elderberry cuttings or seedlings and 44 native tree or plant species. The original mitigation measures have been implemented. Based on the results of the survey conducted in February 2011, recommended mitigation measures include an additional 193 elderberry cuttings or seedlings and 308 native trees or plantings as compensation for the impacts to the increased number of elderberry shrubs that are currently located in the project area. Mitigation measures for these shrubs will be implemented in accord with U.S. Fish & Wildlife requirements.

Although there is an increase in the number of elderberry shrubs and associated mitigation requirements, the severity of the impact and mitigation measures remains significantly the same as in the previous MND. The project will be required to compensate for loss of shrubs in the same manner that was previously identified in the MND (i.e. replanting, establishment of compensation area, construction flagging, etc.). Therefore, there are no new significant impacts that were not previously identified.

**Cultural Resources:** There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required. However, an updated Cultural Resources Report was prepared in April 2011 as part of Caltrans NEPA compliance requirements. The report identified no new cultural or historical resources.

**Geology/Soils:** There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.
Hazards/Hazardous Materials: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

Hydrology/Water Quality: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required. However, an updated Water Quality Report was prepared in April 2011 as part of Caltrans NEPA compliance requirements. The report identified no water quality impacts.

Land Use/Planning: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND. As such, no additional mitigation measures would be required. However, as part of the City's 2030 General Plan Update process, portions of the project area have been redesignated to accommodate more intense land uses (i.e., from Single-Family Residential to Multi-Family Residential as well as the addition of General and Service Commercial areas). This does not result in any additional land use impacts associated with the proposed Project.

Mineral Resources: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

Noise: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required. However, an updated Noise Study was prepared in May 2011 as part of Caltrans NEPA compliance requirements. The report identified no new noise mitigation requirements.

Population/Housing: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

Public Services: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

Recreation: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

Transportation/Traffic: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.
Utilities/Service Systems: There is no change in the Project design and therefore, there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

- The current Project does not cause one or more significant impacts not analyzed previously in the MND.
- The current Project does not substantially increase the severity of one or more significant impacts analyzed previously in the MND.
- The current Project does not necessitate substantial changes to the mitigation measures stated in the MND.

RECOMMENDATION: That the City Council approve the addendum to the Negative Declaration for the Plano Street Bridge Widening Project.

ATTACHMENTS:
1. Addendum to the Negative Declaration for the Plano Street Bridge Widening Project
2. Location Map
Addendum to the Mitigated Negative Declaration

For the
Plano Street Bridge Widening Project
(State Clearinghouse #2003051044)

July 2011

This Addendum to the Plano Street Bridge Widening Project Mitigated Negative Declaration (Project) has been prepared pursuant to CEQA Guidelines, Section 15164.

Background:

The City of Porterville prepared a Mitigated Negative Declaration (MND) (State Clearinghouse #2003051044) for the Project which was duly noticed, circulated and adopted by the City in 2003 pursuant to CEQA Guidelines. The project was subsequently put on hold, but efforts to proceed with the Project have resumed. As a result of the lapse in time, this Addendum has been prepared to address the adequacy and applicability of the previously prepared MND and to disclose and analyze any changes to the Project and/or the environment that have occurred since the date of original adoption in 2003.

Project Description:

Note: The following Project description was taken from the 2003 adopted MND. It should be noted that the Project design has not changed from this original description.

The proposed Project consists of widening the existing 2-lane bridge structure and reconstructing approximately 60 meters (197 feet) of each roadway approach.

The Project site is located along Plano Street between East Date Avenue and East Vandalia Avenue. The Project site is located in a generally urban portion of Porterville, and the bridge crosses both the Tule River and Poplar Ditch. Surrounding habitats include great valley willow scrub, annual grassland, stream habitat, and ruderal habitat (disturbed habitat).

The Plano Street bridge was constructed in 1952 as an approximately 10-meter-wide (33-foot-wide), two lane bridge. The structure is a reinforced concrete T-girder structure with reinforced concrete wall abutments. It has steel bridge railings and arched steel supports. Plano Street is four lanes wide on both ends up to the approach to the Plano Street bridge. The 2-lane bridge is inadequate to handle existing and projected traffic volumes on Plano Street. The City anticipated the future widening of the bridge in its acquisition of a 100-foot-wide right-of-way across the Tule River and Poplar Ditch.

The proposed project consists of widening the existing bridge structure, reconstructing the roadway approaches, and relocating existing utilities within the bridge. The cross-section of the reconstructed roadway approaches would match the recently completed roadway improvements to the north and south of the project site. The bridge would be widened
symmetrically about the centerline of the existing bridge structure, using cast-in-place T-girder superstructures. The bridge structure would be widened from its current width of approximately 10 meters (33 feet) to 24.35 meters (80 feet). The widened bridge would allow for two 3.66-meter travel lanes, a 1.98-meter (6.5-foot) bike lane, and a 2.135-meter (7-foot) sidewalk in each direction; railings; and lighting. The approaches to the bridge would be widened from 2 lanes to 4 lanes. The widened bridge would have a total length of approximately 179 meters (587 feet) and would have 2 abutments and 14 intermediate bents. The widened bridge and utilities would be located completely within the existing right-of-way.

Each of the bridge pier walls and associated pile caps would be lengthened to support the widened superstructure. Each abutment wall would also be lengthened to support the widened superstructure using diaphragm abutments for the widened portions of the bridge. The short, thin abutment walls of the existing bridge structure are inadequate to support the anticipated seismic load. Therefore, the abutment walls for the widening would be designed to support the seismic load from the existing bridge as well as the widened bridge. To collect the seismic load from the existing bridge and transfer it to the lengthened portions of the abutment walls, the existing abutment walls would be tied and strengthened seismically to the lengthened portion of the abutments.

In addition to seismically retrofitting the bridge abutments, the hinges on the existing bridge would be seismically strengthened by installing either pipe or rod restrainers.

**Determination:**

The City has reviewed the previously prepared MND and the proposed Project, and pursuant to CEQA Guidelines, Section 15162, has determined that no substantial changes to the MND are necessary. Pursuant to CEQA Guidelines, Section 15162, staff has determined the following:

- No substantial changes have occurred or are proposed which would require major revision of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The Project will not in itself create new substantial environmental impacts above and beyond what was already analyzed in the previous environmental document. The determination is based on the following analysis:
  
  - **Aesthetics:** There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.
  
  - **Agricultural Resources:** There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.
Air Quality: There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required. However, the Project will be subject to current San Joaquin Valley Air Pollution Control District rules and regulations. Regulation VIII, Rule 8021 was amended most recently in August of 2004. Rule 8021 was adopted by the District to limit dust emissions from construction, excavation and other earthmoving activities. Prior to the start of construction activities, the City will be required to file a Dust Control Plan with the District in accordance with Section 6.3 of Rule 8021.

Biological Resources: The previous MND included a Biological Assessment and survey that was done in 2001. That report indicated presence of 19 elderberry shrubs within 100 feet of established work areas. However, due to the lapse in time, a new biological survey was conducted in February 2011 which identified approximately 30 elderberry shrubs within 100 feet of established work areas, an increase of 11 elderberry shrubs.

In early 2008, the City established a 7.7 acre VELB mitigation site in an effort to help offset the loss of VELB in the City due to various development projects. The site is maintained under the direction of the City and monitoring reports are prepared twice a year. The original biology report, prepared in 2002, identified fewer elderberry shrubs that would have been impacted by the proposed project. As a result, original mitigation recommendations were made for 78 elderberry cuttings or seedlings and 44 native tree or plant species. The original mitigation measures have been implemented. Based on the results of the survey done in February 2011, recommended mitigation measures include an additional 193 elderberry cuttings or seedlings and 308 native trees or plantings as compensation for the impacts to the increased number of elderberries that are currently located in the project area. Mitigation measures for elderberries will be implemented in accord with U.S. Fish & Wildlife requirements.

Although there is an increase in the number of elderberry shrubs and associated mitigation requirements, the severity of the impact and mitigation measures remains significantly the same as in the previous MND. The project will be required to compensate for loss of shrubs in the same manner that was previously identified in the MND (i.e. replanting, establishment of compensation area, construction flagging, etc.). Therefore, there are no new significant impacts that were not previously identified.

Cultural Resources: There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required. However, an updated Cultural Resources Report was prepared (April 2011) as part of Caltrans NEPA compliance requirements. The report identified no new cultural or historical resources.
- **Geology/Soils**: There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

- **Hazards/Hazardous Materials**: There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

- **Hydrology/Water Quality**: There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required. However, an updated Water Quality Report (April 2011) was prepared as part of Caltrans NEPA compliance requirements. The report identified no water quality impacts.

- **Land Use/Planning**: There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required. However, as part of the City’s 2030 General Plan Update process, portions of the project area have been redesignated to accommodate more intense land uses (i.e., from Single Family Residential to Multi-Family Residential as well as the addition of General and Service Commercial areas). This does not result in any additional land use impacts associated with the proposed project.

- **Mineral Resources**: There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

- **Noise**: There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required. However, an updated Noise Study (May 2011) was prepared as part of Caltrans NEPA compliance requirements. The report identified no new noise mitigation requirements.

- **Population/Housing**: There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

- **Public Services**: There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

- **Recreation**: There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.
- **Transportation/Traffic:** There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

- **Utilities/Service Systems:** There is no change in the project design and therefore there are no new impacts above those previously disclosed in the MND: no additional mitigation measures would be required.

  - The current Project does not cause one or more significant impacts not analyzed previously in the MND.
  - The current Project does not substantially increase the severity of one or more significant impacts analyzed previously in the MND.
  - The current Project does not necessitate substantial changes to the mitigation measures stated in the MND.

Signed

Name, Title

Date
RESOLUTION NO. 79-2003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A NEGATIVE DECLARATION FOR THE PLAN STREETF BRIDGE WIDENING PROJECT

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of June 17, 2003, considered the potential environmental impact of the proposed Plano Street Bridge widening project; and

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

1. That a Negative Declaration was prepared in accordance with the California Environmental Quality Act.

2. That the subject project will not create adverse environmental impacts. The approved Negative Declaration was evaluated in light of the prepared environmental initial study with studies, comments from interested parties and the public, as well as responses to written comments received during the review period. It was determined that potential impacts associated with the proposed project could be mitigated to a less than significant level through the implementation of the attached mitigation measures.

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

4. That the Negative Declaration prepared for the Plano Street Bridge widening project was transmitted to the State Clearinghouse and interested agencies, groups and individuals for review and comment. The review period ran from May 10, 2003 to June 9, 2003.

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

6. That the mitigation measures contained in the Negative Declaration were incorporated into a Mitigation Monitoring Program attached hereto as Attachment A.
7. That implementation of the project may proceed subsequent to approval and/or conditional approval of the State Department of Fish and Game relative to said State Department's consideration of a de minimis impact pursuant to Section 711.2 et. Seq. of the Fish and Game Code.

8. That the environmental assessment and analysis prepared for the project supporting the Negative Declaration reflects the independent judgement of the City of Porterville.

NOW THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Negative Declaration prepared for the Plano Street Bridge widening project.

Richard M. Stadther, Mayor

ATTEST:

By

John Longley, City Clerk
STATE OF CALIFORNIA
( SS
COUNTY OF TULARE )

I, JOHN LONGLLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution duly and regularly passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council regularly called and held on the 17th day of June, 2003.

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

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<tr>
<th>Councilmen:</th>
<th>WEST</th>
<th>MARTINEZ</th>
<th>HAMILTON</th>
<th>IRISH</th>
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JOHN LONGLLEY, City Clerk

By [Signature]
CITY COUNCIL AGENDA: JULY 5, 2011

SUBJECT: LIME STREET PARK IMPROVEMENT PROJECT UPDATE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The City Council adopted the Lime Street Park Improvement Project in the 2010/2011 Action Plan for the expenditure of Community Development Block Grant funds. The $20,000 initial allocation was to be used to look at the feasibility of restoring the neighborhood park that was originally established in the small water drainage basin. At that time, playground equipment was installed in a sandlot and the surrounding sloped areas were planted with grass and pine trees to provide a park-like atmosphere. Over the past several years, maintenance dollars have not been available for the park and the outdated and deteriorated playground equipment was removed.

Staff proceeded to meet regarding this project in the early part of the year and decided it would be advantageous to hold a neighborhood meeting on site in order to determine the level of neighborhood interest in the park improvements. Letters were sent to the surrounding neighborhoods on April 15, 2011 and the meeting was held on the corner of Lime Street and Brightwood on May 4, 2011. Interpreters were available at the meeting.

Staff from Parks and Leisure Services, Community Development Department, and the Police Department’s Neighborhood Watch Program were in attendance to discuss the issues with the public. Both residents of the single family subdivision to the north of the park and tenants of the rental complexes to the south of the park, including many small children, were in attendance. Several concerns were raised by the residents, many who have lived in this neighborhood for over 20 years. Drainage issues, poor street conditions, traffic safety concerns, maintenance of the park, supervision of children, school bus waiting areas, and police response times were all items brought to the attention of staff (Attachment No. 1).

The very definitive consensus of the public in attendance was to have the park rehabilitated and available to be used once again as a viable neighborhood park. A list of desired improvements was developed which included trimming trees, replanting landscaped areas, installing benches, new playground equipment, a drinking fountain, walkway around the park, lighting, area for kickball, and a waiting area for the bus stop (Attachment No.2).
Subsequent to the public meeting, staff met to review the comments and discuss the issues involved in proceeding with the improvements. After a considerable amount of discussion regarding the drainage basin issues, the Public Works Director and City Engineer concluded that the best option would be to eliminate this site as a drainage basin and fill it up, at least partially with fill dirt. This would provide a more level site for the playground equipment and park amenities. This option would be possible if the City constructed the Storm Drain Master Plan improvements of installing the pipe starting at the Lime Street/Henderson Avenue intersection and ending at the Zaldus Park Drainage Reservoir #9, and the pipe connecting Zaldus Park to “G” Street through one of the adjacent properties.

The Engineering Department has estimates for the Storm Drain Master Plan improvements and is currently working on cost estimates for the park and street improvements. Potential additional sources of financing/in kind services for the project are as follows:

- Storm Drain Developer Fees ($160,000 for Zaldus Park Storm Drain Upgrade pipeline work approved in 2011/12 capital budget. The Lime/Henderson portion of the project, estimated at $200,000, is not funded in this budget)
- Reallocation of CDBG funds designated for the Neighborhood Improvement Program (up to $150,000) and/or Murry Park Improvement Program (up to $50,329)
- Housing – Related Parks Program (HRPP) (reward program for producing affordable housing units at Villa Siena)
- Community Organizations including Lowe’s Hero Project, Leadership Porterville Project, CSET, Service Organizations

In terms of other issues discussed with the residents, staff is reviewing the following options:

- Increased enforcement for speed control on Lime Street adjacent to the Park
- Possible signage and/or speed monitoring equipment installed on Lime
- Installing a waiting area with benches for the school bus stop
- Utilizing re-grinding machines for pot hole repair
RECOMMENDATION: That the City Council:

1) Authorize staff to proceed with plans for Lime Street Park Improvements including cost estimates for filling the storm drain basin and continue seeking sources of financing to complete the project.

ATTACHMENTS: 1) Neighborhood Concerns
2) Desired Improvements for Lime Street Park Area
Concerns Voiced by Neighbors

Drainage Problem on corner of Lime Street and Brightwood Puddles when swimming pools are emptied

Poor Condition of Lime Street – potholes, drainage, etc

Condition of trees in park

Tree growing between fence and neighbor’s brick – called City with no results

General maintenance of park – weeds, trash, debris from ponding basin clogging drains

Security of park – which gates are locked and when

Problem of kids climbing over fence into park

Supervision of children playing in the park and on the street

Speed of traffic on Lime

Crossing Henderson without crosswalk

Kids bus stop on sidewalk

Police response to calls

Attachment No.1
**Desired Improvements**

Regular schedule for maintenance

Trim trees (correctly)

Ground cover in planters

Playground equipment – jungle gym/swings – sand for area

Benches – especially for parents to sit and supervise children

Walkway around park – use for bikes and dogs?

Waiting area for the bus stop area – indentation into park with benches

Drinking fountain

Area for kickball/soccer

Additional Lighting

Posting traffic signs – Slow – Children at play

Crosswalk on Henderson

Street Improvements

Neighborhood Watch

* Possible Lowe’s Hero Project
  Possible Leadership Porterville Project

Attachment No. 2
CITY COUNCIL AGENDA: July 5, 2011

SUBJECT: TULARE COUNTY AGENCIES REGIONAL GANG ENFORCEMENT TEAM - MEMORANDUM OF UNDERSTANDING

SOURCE: Police Department

COMMENT: The City of Porterville and its Police Department have been proactive in their approach in reducing gang activity in the city of Porterville using various methods. At a recent Region 5 Law Enforcement meeting, California Attorney General Kamala Harris vowed to assist in our efforts by establishing a taskforce in Tulare County to combat gang activity. The taskforce will be comprised of members from the following law enforcement agencies: California Department of Justice, California Department of Corrections and Rehabilitation, California Highway Patrol, Porterville Police Department, Visalia Police Department, Tulare Police Department, and the Tulare County Sheriff’s Department. The Porterville Police Department would assign a current police officer from its existing staffing level to the taskforce, as would all listed participating agencies. Funding would be contained within the FY 2011/2012 Police Department budget, and no additional funding is requested. The Police Department supports a regionalized approach to combating criminal activity and having support of the California Attorney General, Kamala Harris, and the California Department of Justice in Tulare County is a commendable commitment to the citizens of our community.

RECOMMENDATION: That the City Council:

1) Approve the Memorandum of Understanding for the Tulare County Agencies Regional Gang Enforcement Team; and
2) Authorize the Chief of Police to execute the agreement on behalf of the City of Porterville.

ATTACHMENTS: Draft TARGET MOU

D.D. Appropriated/Funded N/A C.M. Item No. 8
## Memorandum of Understanding

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TULARE COUNTY
AGENCIES REGIONAL GANG ENFORCEMENT TEAM
2011
MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) to establish TULARE COUNTY AGENCIES REGIONAL GANG ENFORCEMENT TEAM (hereinafter TARGET) is entered into by the California Department of Justice, Bureau of Narcotic Enforcement (hereinafter BNE) and the following participating agencies:

California Department of Corrections & Rehabilitation, Parole
California Department of Justice, Bureau of Narcotic Enforcement
California Department of Justice, Bureau of Firearms
California Highway Patrol
Porterville Police Department
Tulare County Sheriff=s Department
Tulare Police Department
Visalia Police Department
I. PURPOSE

The purpose of this memorandum is to set forth the responsibilities of the participating agencies in the Tulare County Agencies Regional Gang Enforcement Team (TARGET). Working cooperatively, the participating agencies will endeavor to effectively enforce the laws of the State of California including the Penal Code, Vehicle Code, Health and Safety Code, and applicable federal laws relating to violent crime, street terrorism and gang related crimes. Agencies participating in TARGET will be focusing their efforts toward the suppression of organized street gang activities occurring in Tulare County. The primary use of this task force is to gather intelligence on the illegal activities of all street gang members, with an emphasis on the identification of the core and upper level members. As information is gathered that is deemed actionable, TARGET will take action to suppress these illegal activities, or pass the information along to the appropriate agencies to take such action.

II. MISSION

The mission of the Tulare County Agencies Regional Gang Enforcement Team (TARGET) is to allocate resources from all Tulare County cities and other allied law enforcement agencies, for the purpose of securing the homeland by promoting safe, secure neighborhoods free of violent crime and gang violence.

The goals and objectives of the TARGET are as follows:

1. To gather intelligence on the illegal activities of gangs operating in and affecting the citizens of Tulare County. To maintain and/or use an intelligence system that conforms to the operating principles of Section 28 Part 23 of the Code of Federal Regulations (CFR).

2. To prevent and deter violent crime and gang activity through education and the promotion of positive commitments, beliefs, activities, and attachments.

3. To intervene and hold accountable, both adults and youth exhibiting delinquent behaviors leading to the formation of gangs and gang membership.

4. To suppress and deter gang activity and violent crime through enforcement, intensive supervision, vertical prosecution, the collection and dissemination of criminal intelligence, and by utilizing major investigative techniques which include the use of informants, undercover personnel, search warrants, visual surveillance and electronic surveillance.
III. EXECUTIVE COMMITTEE

TARGET will be governed by an “Executive Board.”

EXECUTIVE BOARD CHAIRPERSON

The TARGET Executive Board shall annually elect a Chairperson for the Executive Board. The Chairperson will be the Task Force Commander’s primary contact with the Executive Board on normal matters, and will bring to the Executive Board’s attention any matter which would require a consensus of the Executive Board prior to a regularly scheduled monthly meeting. The Chairperson shall also preside over TARGET Executive Board meetings, and is responsible for the formulation of minutes for the meetings. The Chairman shall notify Executive Board members of upcoming meetings, and shall have authority to represent the board in matters that require immediate response on behalf of the board. The Chairperson shall not be a member of the Bureau of Narcotic Enforcement (BNE) or the Bureau of Firearms (BOF).

CHANGES IN ORGANIZATION

In the event that a member, or members, of the TARGET Executive Board wish to change a task force procedure or policy as expressed in this agreement, or the task force policy and procedure manual, those changes will be made with the consent of the entire Executive Board resulting from a majority vote in favor of such a change. The Chairperson of the TARGET Executive Board shall notify the Task Force Commander of the pertinent policy changes prior to the effective date of such change.

* Participating Agency - A Participating Agency is an allied state, federal or local law enforcement agency that has made a commitment of resources and manpower for an agreed upon period of time.

* Structure - The Task Force Executive Board will consist of the Senior Special Agent in Charge (SSAC) or Special Agent in Charge (SAC) of the Fresno BNE Regional Office, or their designee, and the department heads of each participating agency, or their designee.

* Role - The Task Force Executive Board shall meet on a monthly basis, or as required for the purpose of reviewing the activities of the TARGET. The members of the Executive Board shall have general responsibility for the oversight of TARGET operations.

* Policy Authority - The TARGET Executive Board shall be responsible for the policies and operating procedures of TARGET. The Executive Board shall periodically review and evaluate the TARGET operations, goals, objectives, policies and procedures.
IV. MANAGEMENT

The management and supervision of TARGET resources will be the responsibility of the Task Force Commander. The Task Force Commander shall retain supervisory control of the personnel assigned to TARGET. When the number of local law enforcement personnel from participating agencies drops below four, BNE may terminate the MOU.

V. TASK FORCE COMMANDER

A Special Agent Supervisor (SAS) from BNE shall be responsible for managing TARGET and will report to the Executive Board through the Chairperson of the Executive Board. The Task Force Commander takes direction from the Chairperson of the Executive Board. The Task Force Commander will provide the Executive Board with monthly and annual reports of TARGET activities. Any personnel assigned to TARGET shall work under the immediate supervision and direction of the Task Force Commander, and shall adhere to the published policies and procedures of TARGET as adopted by the TARGET Executive Board.

VI. COMPENSATION

Each participating agency is responsible for providing its respective personnel with salaries, benefits and overtime in accordance with FLSA regulations. Overtime concerns, due to potential budgetary impact, must be an item of communication between each agency responsible for payment and the Task Force Commander.

VII. BUDGET

The Task Force Commander will prepare a proposed budget each year for the ensuing fiscal/calendar year for approval by the TARGET Executive Board. A monthly report of expenditures shall accompany the monthly statistics report submitted to the TARGET Executive Board as outlined in the Policies & Procedures Manual.

VIII. TRAINING

Training is handled by participating agencies according to their individual budgets. A yearly training plan for all task force personnel, sworn and non-sworn, shall be prepared upon their assignment to the task force. In addition, a yearly group training plan shall be prepared and submitted with the TARGET yearly budget proposal.

IX. ANNUAL REPORT

The Task Force Commander will provide the TARGET Executive Board and BNE Headquarters with an annual report of activity no later than March 15 of each year. This report will summarize the preceding calendar year's operation, and shall include a section for statistical data broken down in a similar fashion to that of the monthly reports. The report shall contain sufficient
information regarding trends to enable the Executive Board to reassess task force goals and objectives.

X. RESOURCES

Each of the below listed agencies have agreed, by virtue of the signature of the department head affixed to this MOU, to contribute the following personnel and/or resources to the TARGET in each year of this agreement.

**RESOURCES**

**BUreau of Narcotic Enforcement**

1. (1) one Special Agent Supervisor  
2. Standard compliment of investigative and safety equipment  
3. (1) one vehicle including cost of operation  
4. (1) personal computer for the use of the Special Agent Supervisor

**Bureau of Firearms**

1. (1) one Special Agent  
2. (1) one vehicle including cost of operation  
3. Standard compliment of investigative and safety equipment  
4. (1) personal computer for the use of the Special Agent

**California Department of Corrections & Rehabilitation, Parole**

1. (1) one Parole Agent  
2. (1) one vehicle including cost of operation  
3. Standard compliment of investigative and safety equipment  
4. (1) personal computer for the use of the Agent

**California Highway Patrol**

1. (1) one Investigator  
2. (1) one vehicle including cost of operation  
3. Standard compliment of investigative and safety equipment  
4. (1) personal computer for the use of the Investigator

**Porterville Police Department**

1. (1) one Investigator  
2. (1) one vehicle including cost of operation  
3. Standard compliment of investigative and safety equipment  
4. (1) personal computer for the use of the Investigator
TULARE COUNTY SHERIFF’S DEPARTMENT

1. (1) one Investigator
2. (1) one vehicle including cost of operation
3. Standard compliment of investigative and safety equipment
4. (1) personal computer for the use of the Investigator

VISALIA POLICE DEPARTMENT

1. (1) one Administrative support staff person
2. (2) two Investigators
3. (2) two vehicles including cost of operation
4. Standard compliment of investigative and safety equipment
5. Office space, including access to utilities, not limited to telephone and internet service, 24 hour monitored office security, and maintenance of all evidence and or property seized by TARGET
6. (1) personal computer for the use of the support staff
7. (2) personal computers for the use of the Investigators

TULARE POLICE DEPARTMENT

1. (1) one Investigator
2. (1) one vehicle including, cost of operation
3. Standard compliment of investigative and safety equipment
4. (1) personal computer for the use of the Investigator

XI. FACILITIES, EQUIPMENT & PROPERTY

When the number of law enforcement personnel from local participating agencies drops permanently below four, BNE may terminate the MOU.

Any and all property, including equipment, furniture, furnishings or whatever kind or description, purchased or acquired with participating agency funds shall be the property of the participating agency and at the termination of this agreement and whereupon no new agreement is reached, all said property shall be returned to the participating agency.
Any equipment purchased with task force or seized funds which are damaged, broken, misplaced, lost or stolen, through gross negligence, wrongful act, or omission of an officer or agent assigned to TARGET, shall be repaired or replaced by the agency of the responsible employee at the determination of the Task Force Commander. Responsibility of task force housing and all associated costs shall be the responsibility of the Visalia Police Department.

XII. ASSET FORFEITURE

Based on the attached asset forfeiture agreement, proceeds derived from asset forfeiture, under state or federal law, initiated in the course of investigations conducted by TARGET will be shared equitably among member agencies. The equitable sharing will be based on a formula developed by the Target Executive Board. All forfeiture procedures and sharing will be based upon the appropriate provisions of state or federal law and policy. Modification to the asset forfeiture agreement requires approval in writing by members of the Task Force Executive Board.

XIII. ADMINISTRATION AND AUDIT

In no event shall the member agencies charge any direct or indirect costs to DOJ for administration or implementation of this agreement during the term thereof. Any and all records pertaining to TARGET expenditures shall be readily available for examination and audit by BNE, or any other participating agency. In addition, all such records and reports shall be maintained until audits and examinations are completed and resolved, or for a period of (3) three years after termination of the agreement, whichever is sooner.

XIV. INSPECTION PROCESS

It is the policy of BNE to maintain a formal administrative inspection program. This program requires inspections of each BNE supervised regional task force once every twenty four (24) months, or as necessary, with follow-up inspections within six (6) months. Copies of the inspection report will be delivered to the regional office SSAC, the Task Force Commander and the Executive Board Chairperson.

At change of command, an audit of the controlled substance evidence, undercover funds, petty cash, seized money and assets, reverse sting stock, weapons and specialized equipment shall be performed.

XV. NONDISCRIMINATION CLAUSE

All participating agencies will comply with Title VI of the Civil Rights Act of 1964 and all requirements imposed or pursuant to the regulations of the U.S. Department of Justice (CFR, Part 42, Subparts C and D) issued pursuant to Title VI relating to discrimination on the grounds of race, color, creed, sex, age or national origin and equal employment opportunities.
XVI. RESPECTIVE RESPONSIBILITIES

For the purpose of indemnification, each participating agency of TARGET shall be responsible for the acts of its participating officer(s) and shall incur any liabilities arising out of the services and activities of those officers while participating in TARGET. Personnel assigned to TARGET shall be deemed to be continuing under the employment of their jurisdictions and shall have the same powers, duties, privileges, responsibilities and immunities as are conferred upon them as peace officers in their own jurisdictions.

XVII. POLICY AND PROCEDURE MANUAL

It is agreed that all members of TARGET shall abide by the standardized policies and procedures as expressed in the TARGET manual and to the unit specific language which addresses the specific needs, objectives and goals of the TARGET.

XVIII. TERM OF AGREEMENT

The term of this agreement shall be from July 1, 2011 for an indefinite period. The term of this agreement may be terminated by notice in writing to the TARGET Executive Board Chairperson thirty (30) days prior thereof. TARGET will only be responsible for financial obligations incurred by task force participating agencies during the term of this agreement.

XIX. AUTHORIZATION

The participating agencies, by their duly authorized officials, have executed this MOU on the respective dates indicated below. This MOU will become effective upon receipt by the BNE headquarters of the original MOU with all its attachments. All future amendments must be forwarded to headquarters and will become effective upon receipt.
SIGNATURE

Senior Special Agent in Charge
TITLE

DATE

SIGNATURE

Chief
TITLE

DATE

SIGNATURE

Chief
TITLE

DATE

SIGNATURE

Assistant Director
TITLE

DATE

SIGNATURE

Deputy Director
TITLE

DATE
AUTHORIZATION

The participating agencies, by their duly authorized officials, have executed this MOU on the respective dates indicated below. This MOU will become effective upon receipt by the BNE headquarters of the original MOU with all its attachments. All future amendments must be forwarded to headquarters and will become effective upon receipt.

SIGNATURE

PRINTED NAME
California Department of Corrections & Rehabilitation
AGENCY NAME

TITLE

DATE
AUTHORIZATION

The participating agencies, by their duly authorized officials, have executed this MOU on the respective dates indicated below. This MOU will become effective upon receipt by the BNE headquarters of the original MOU with all its attachments. All future amendments must be forwarded to headquarters and will become effective upon receipt.

______________________________  ______________________________
SIGNATURE                      PRINTED NAME

______________________________  ______________________________
TITLE                           AGENCY NAME

______________________________  ______________________________
DATE                            CALIFORNIA HIGHWAY PATROL
AUTHORIZATION

The participating agencies, by their duly authorized officials, have executed this MOU on the respective dates indicated below. This MOU will become effective upon receipt by the BNE headquarters of the original MOU with all its attachments. All future amendments must be forwarded to headquarters and will become effective upon receipt.

SIGNATURE

Chief
TITLE

DATE

Chuck McMillan
PRINTED NAME

Porterville Police Department
AGENCY NAME
AUTHORIZATION

The participating agencies, by their duly authorized officials, have executed this MOU on the respective dates indicated below. This MOU will become effective upon receipt by the BNE headquarters of the original MOU with all its attachments. All future amendments must be forwarded to headquarters and will become effective upon receipt.

________________________________________
SIGNATURE

Bill Wittman
PRINTED NAME

Sheriff

Tulare County Sheriff's Department
TITLE
AGENCY NAME

DATE
AUTHORIZATION

The participating agencies, by their duly authorized officials, have executed this MOU on the respective dates indicated below. This MOU will become effective upon receipt by the BNE headquarters of the original MOU with all its attachments. All future amendments must be forwarded to headquarters and will become effective upon receipt.

SIGNATURE

Chief
TITLE

DATE

Colleen Mestas
PRINTED NAME

Visalia Police Department
AGENCY NAME
AUTHORIZATION

The participating agencies, by their duly authorized officials, have executed this MOU on the respective dates indicated below. This MOU will become effective upon receipt by the BNE headquarters of the original MOU with all its attachments. All future amendments must be forwarded to headquarters and will become effective upon receipt.

Jerry Breckinridge
SIGNATURE
PRINTED NAME

Chief
TITLE

Tulare Police Department
AGENCY NAME

DATE
ATTACHMENT A

ASSET FORFEITURE FORMULA

Based on the attached asset forfeiture agreement, proceeds derived from any asset forfeiture, under state or federal law, initiated in the course of investigations conducted by TARGET, will be shared equitably among member agencies, including BNE. The equitable sharing will be based on the attached formula developed by the Task Force Council. Each agency shall receive an equal share for each number of personnel assigned to the Task Force after sharing costs for forfeiting agency, storage, publication, etc.

The Visalia Police Department will receive the first twenty five thousand dollars ($25,000) of adjudicated Asset Forfeiture that is distributed to TARGET. In the event this amount is not met in the first year of this agreement, the Visalia Police Department will continue to collect Asset Forfeiture until this amount is met. This initial receipt of asset forfeiture money will be used to offset the initial startup costs and housing of TARGET. The Visalia Police Department will receive the first $15,000 of adjudicated Asset Forfeiture each year thereafter to continue to pay for Task Force operating costs.

After these terms are met, TARGET will maintain up to $100,000 in an adjudicated Asset Forfeiture Account in order to fund Task Force operations. If at any time, funds exceed $100,000 in the TARGET adjudicated Asset Forfeiture Account, the TARGET Council may vote to distribute the excess funds. If excess funds are distributed, each participating agency will receive one share of distributed assets seized for each full time employee assigned to TARGET. In the event a participating agency removes their personnel from Target for a period of more than thirty (30) consecutive days, an equal amount of asset forfeiture sharing will be deducted from their share.

The Visalia Police Department will act as the fiduciary agent for all State and Federal asset forfeiture proceedings initiated by TARGET. All TARGET forfeiture proceedings will be based upon the appropriate provisions of State and Federal law and policy. The Visalia Police Department will maintain appropriate accounts for all State and Federal pending and adjudicated forfeiture proceedings initiated by TARGET.

The following agencies will participate in the asset forfeiture distribution formula for the TARGET:

- Bureau of Narcotic Enforcement
- Bureau of Firearms
- California Dept. of Corrections, Rehabilitation Parole
- California Highway Patrol
- Porterville Police Department
- Tulare County Sheriff’s Department
- Tulare Police Department
- Visalia Police Department

All forfeiture procedures and sharing will be based upon the appropriate provisions of state or federal law and policy. Modifications to the asset forfeiture agreement require approval in writing by the members of the Task Force Executive Board.
Should, however, any agency terminate participation, they will terminate their right to participate in any distribution pursuant to this section effective the date of their termination.

Should for any reason the Task Force Executive Board find it necessary to disband the task force, asset forfeitures that have not been distributed will be used to pay off all existing debt including all contracts or leases. Any remaining money will be equally distributed between participating agencies.
SUBJECT: REQUEST TO APPLY FOR EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FUNDS

SOURCE: Police Department

COMMENT: The City of Porterville has received notification that our jurisdiction is eligible to apply to the Bureau of Justice Assistance for a grant award of $25,286. The City of Porterville will be filing the grant application for funds from the Edward Byrne Memorial Justice Assistance Grants Program, established within the Bureau of Justice Assistance.

The purpose of the JAG Program is to provide local jurisdictions with opportunities to reduce crime and improve public safety through the use of the grant funds for a variety of activities, from increasing personnel and equipment resources for law enforcement, to developing and supporting programs to enhance effective criminal justice processes. It is proposed at this time, if the City is awarded the JAG Grant, the funds will be used to offset operational costs for the Law Enforcement Joint Use Helicopter Program.

To date, in FY 2010/2011, a total of $90,250 has been expended in support of the Law Enforcement Joint Use Helicopter Program. Last year, Council approved a similar request and as a result, approximately $29,845 of the above expenditure amount was charged to the 2010 Edward Byrne Memorial Justice Assistance Grants Program.

RECOMMENDATION: That the City Council:

1) Authorize the filing of the grant application; and
2) Authorize the Mayor to sign all necessary documents as they pertain to the grant; and
3) Authorize a budget adjustment upon receipt of the funds.

D.D. Appropriated/Funded C.M. Item No. 9
RESOLUTION NO._______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ACCEPTING EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT
FUNDS
AND
APPROVING A BUDGET ADJUSTMENT TO THE POLICE DEPARTMENT
BUDGET

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

1. That the City of Porterville accept the FY2011 Edward Byrne Memorial
   Justice Assistance Grant (JAG) funds;

2. That the Police Department appropriation be increased by $25,286 from
   JAG funds received for Fiscal Year 2011/2012 to allow for the
   expenditure of those Grant Funds in support of the Law Enforcement Joint
   Use Helicopter Program and its operational costs.

ADOPTED this 5th day of July, 2011.

________________________________________
Ronald L. Irish, Mayor

ATTEST:

John Lollis, City Clerk

________________________________________
By Patrice Hildreth, Chief Deputy City Clerk
NOTICE OF INVITATION FOR PUBLIC COMMENTS
USE OF EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FUNDS
BY THE PORTERVILLE POLICE DEPARTMENT

Notice is hereby given by the City of Porterville that public comment is being accepted on the use of available grant funds from the U.S. Department of Justice, Bureau of Justice Assistance, Edward Byrne Memorial Justice Assistance Grant Funds in the amount of $25,286. The City of Porterville proposes to use these funds to offset operational costs for the Law Enforcement Joint Use Helicopter Program.

This notice is given in order to provide all interested parties an opportunity to be heard and to present their views with respect to the proposed use of said funds. Interested parties may give comments by calling the Porterville Police Department at (559) 782-7405 before 5:00 p.m., July 5th, 2011.
SUBJECT: AUTHORIZE TRANSIT STAFF TO APPLY FOR TRANSIT SECURITY GRANT PROGRAM FUNDING

SOURCE: Public Works Department - Transit

COMMENT: The Transit Security Grant Program (TSGP) provides funding to owners and operators of transit systems to protect critical surface transportation infrastructure and the traveling public from acts of terrorism, major disasters and other emergencies.

The TSGP is one of five grant programs that constitute the Department of Homeland Security (DHS) fiscal year focus on transportation infrastructure security activities. These grant programs are part of a comprehensive set of measures implemented by the Department of Transportation to help strengthen the Nation’s critical infrastructure against risks associated with potential terrorist attacks. The TSGP is an important component of the Department’s effort to enhance the security of the Nation’s critical infrastructure. The program provides funds to owners and operators of transit systems (which include intracity bus, commuter bus, ferries, and all forms of passenger rail) to protect critical surface transportation infrastructure and the traveling public from acts of terrorism, major disasters, and other emergencies.

The City of Porterville’s apportionments for the Transit Security Grant Program for FY 09/10 will be $42,959 and the FY 10/11 will be $42,959. City staff recommends using these funds for various transit security projects, including the installation of security cameras at the City’s Corporation Yard.

RECOMMENDATION: That the City Council authorize City staff to apply for the Transit Security Grant funds for fiscal years 09/10 and 10/11.

ATTACHMENTS:
1. Governing Body Resolution
2. Grant Assurances
3. Authorized Agent Signature Authority

Item No. 10
GOVERNING BODY RESOLUTION

FY 2010-11 Transit System Safety, Security and Disaster Response Account Program

BE IT RESOLVED BY THE CITY COUNCIL
(Governing Body)

OF THE CITY OF PORTERVILLE THAT
(Name of Applicant)

__________________________
(Title or Name of Authorized Agent)

BALDERMERO RODRIGUEZ, PUBLIC WORKS DIRECTOR, OR

RICHARD TREE, TRANSIT MANAGER
(Title or Name of Authorized Agent)

is hereby authorized to execute for and on behalf of the named applicant, a public entity established under the laws of the State of California, any actions necessary for the purpose of obtaining financial assistance provided by the California Emergency Management Agency.

Passed and approved this _____05_____ day of ______JULY__________, 2011____

Certification

I, ________________
(Name)

__________________________
(Title)

MAYOR of the CITY COUNCIL
(Governing Body)

do hereby certify that the above is a true and correct copy of a resolution passed and approved by

the _________________________ of the _________________________ on the
(Governing body) (Name of Applicant)

_______05__________ day of, ________JULY__________, 2011__________.

__________________________
(Official Position)

__________________________
(Signature)
Grant Assurances

FY 2010-2011 Transit System Safety, Security and Disaster Response Account Program

Name of Applicant: ______________________________________________________________

Address: _____________________________________________________________________

City: ______________________ State: ___________ Zip Code: ________________

Telephone Number: (____) __________________________

E-Mail Address: ___________________________________________________________________

As the duly authorized representative of the applicant, I certify that the applicant named above:

1. Has the legal authority to apply for Transit System Safety, Security, and Disaster Response Account funds, and has the institutional, managerial and financial capability to ensure proper planning, management and completion of the grant provided by the State of California and administered by the California Emergency Management Agency (Cal EMA).

2. Will assure that grant funds are only used for allowable, fair, and reasonable costs.

3. Will give the State of California generally and Cal EMA in particular, through any authorized representative, access to and the right to examine all paper or electronic records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or Cal EMA directives.

4. Will provide progress reports and other information as may be required by Cal EMA.

5. Will initiate and complete the work within the applicable timeframe after receipt of Cal EMA approval.

6. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain for themselves or others, particularly those with whom they have family, business or other ties.

7. Will comply with all California and federal statues relating to nondiscrimination. These include but are not limited to:
a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended, which prohibits discrimination on the basis of race, color or national origin;
b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex;
c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 794) which prohibits discrimination on the basis of handicaps;
d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107) which prohibits discrimination on the basis of age;
e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255) as amended, relating to nondiscrimination on the basis of drug abuse;
f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
g. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290dd-2), as amended, relating to confidentiality of alcohol and drug abuse patient records;
h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
i. Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and
j. The requirements on any other nondiscrimination statute(s) which may apply to the application.

8. Will comply, if applicable, with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

9. Will comply with applicable environmental standards which may be prescribed pursuant to California or federal law. These may include, but are not limited to, the following:

b. Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO)11514;
c. Notification of violating facilities pursuant to EO 11738;
d. Protection of wetlands pursuant to EO 11990;
e. Evaluation of flood hazards in floodplains in accordance with EO 11988;
f. Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);
g. Conformity of federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.);
h. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and

10. Will comply, if applicable, with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et. seq.) related to protecting components or potential components of the national wild and scenic rivers system.


12. Will comply with Standardized Emergency Management System requirements as stated in the California Emergency Services Act, Gov Code §§ 8607 et seq. and CCR Title 19, Sections 2445, 2446, 2447 and 2448.

13. Will:
   a. Promptly return to the State of California all the funds received which exceed the approved, actual expenditures as accepted by Cal EMA;
   b. In the event the approved amount of the grant is reduced, the reimbursement applicable to the amount of the reduction will be promptly refunded to the State of California; and
   c. CTSGP-CTAF funds must be kept in a separate interest bearing account. Any interest that is accrued must be accounted for and used towards the approved Prop1B project approved by Cal EMA.

14. Will comply, if applicable, with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM’s Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

15. Agrees that equipment acquired or obtained with grant funds:

   a. Will be made available under the California Disaster and Civil Defense Master Mutual Aid Agreement in consultation with representatives of the various fire, emergency medical, hazardous materials response services, and law enforcement agencies within the jurisdiction of the applicant;

   b. Will be made available pursuant to applicable terms of the California Disaster and Civil Defense Master Mutual Aid Agreement and deployed with personnel trained in the use of such equipment in a manner consistent with the California Law Enforcement Mutual Aid Plan or the California Fire Services and Rescue Mutual Aid Plan.

16. Will comply, if applicable, with Subtitle A, Title II of the Americans with Disabilities Act (ADA) 1990.
17. Will comply with all applicable requirements, and all other California and federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this program.

18. Understands that failure to comply with any of the above assurances may result in suspension, termination or reduction of grant funds.

   a. The applicant certifies that it and its principals:

   1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of federal benefits by a state or federal court, or voluntarily excluded from covered transactions by any federal department or agency;

   2. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

   3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and (d) have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default; and where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

19. Will retain records for three years after notification of grant closeout by the State.

20. Will comply with the audit requirements set forth in the Office of Management and Budget (OMB) Circular A-133, “Audit of States, Local Governments and Non-Profit Organizations.”

21. Grantees and subgrantees will use their own procurement procedures which reflect applicable state and local laws and regulations.

22. Grantees and subgrantees will comply with their own contracting procedures or with the California Public Contract Code, whichever is more restrictive.

23. Grantees and subgrantees will maintain procedures to minimize the time elapsing between the award of funds and the disbursement of funds.
As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

The undersigned represents that he/she is authorized by the above named applicant to enter into this agreement for and on behalf of the said applicant.

Signature of Authorized Agent: ________________________________

Printed Name of Authorized Agent: ________________________________

Title: ________________________________ Date: ________________________________
Authorized Agent Signature Authority

FY 2010-11 Transit System Safety, Security and Disaster Response Account Program

AS THE ________________________ MAYOR
(Chief Executive Officer / Director / President / Secretary)

OF THE ________________________ CITY OF PORTERVILLE
(Name of State Organization)

I hereby authorize the following individual(s) to execute for and on behalf of the named state organization, any actions necessary for the purpose of obtaining state financial assistance provided by the California Emergency Management Agency.

__________________________________________, OR
(Name or Title of Authorized Agent)

__________________________________________
(Name or Title of Authorized Agent)

Signed and approved this _____ 05 _____ day of _____ JULY _____, 2011

__________________________________________ (Signature)
COUNCIL AGENDA: JULY 5, 2011

SUBJECT:  AUTHORIZATION OF REQUEST FOR FUNDS FROM SAN JOAQUIN VALLEY LIBRARY SYSTEM AND BUDGET ADJUSTMENT

SOURCE:  PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The Parks and Leisure Services Department, Library Division is a member of Califa Library Group, a cooperative serving libraries and information organizations in California. Califa puts together an annual group purchase order for members of an Early Literacy Stations product. The Early Literacy Station is an all-in-one digital learning solution for children 2-10 and features over 50 educational software programs. The Library Division has acquired six Early Literacy Stations through the Califa group purchase. The opportunity for young children to access technology that is age appropriate is a tremendous early learning benefit and enhances the early literacy service roles the library provides.

The San Joaquin Valley Library System (SJVLS) facilitates the technology reserves for the Library Division. The technology reserves are accessible for expenditures such as the purchase of Early Literacy Workstations. The cost of six Early Literacy Stations is $15,275.70. Upon approval from Council, staff would initiate a request for funds to cover the acquisition of the six Early Literacy Stations.

RECOMMENDATION: That the City Council:
1. Authorize request for funds from the San Joaquin Valley Library System to pay for purchase of six Early Literacy Stations; and
2. Authorize staff to make the appropriate budget adjustment upon receipt of funds to the Library Division 2010-11 General Fund.

ATTACHMENTS: Early Literacy Station – product flyer

[Signatures]
Support early literacy in your community with a proven asset: over 35% of public libraries have an Early Literacy Station™

Children learn independently

No technical support, Internet connection, or staff assistance required

A Perfect Addition to Your Library and Community
Durable & Internet-free

Put it on a desk, and plug it in!

Provide children in your community with years of fun and intrinsically motivated learning.

The Early Literacy Station™ (ELS) is a self-contained educational tool for children ages 2–10. The English version features 50 educational software programs spanning seven curricular areas. It is also available in Bilingual Spanish and French.

**Librarians love the ELS!**
- Kids are instantly engaged
- Helps kids learn to read and learn how to learn
- AWE has carefully selected the best educational software so libraries don’t have to
- The ELS is an incredible asset and value featuring a 3–5 year warranty, full technical support, and new content each year

Libraries continue to be “the great equalizer,” serving all types of communities

Some children don’t have access to educational computer programs in their homes. With the ELS, you can bridge the education gap in your communities. You can make your library more valuable by having tools that help all kids.

- Children gain literacy skills at your library that will put them on the path to a lifetime of learning
- Supports school readiness and cultivates a love of learning
- Draws children and families to your library
- Ideal for special programming like Math Mondays, Music Wednesdays, or Art Fridays
- Makes your library a popular destination for children—they will get hooked on the ELS and want to come back again and again

Children can learn on their own
SUBJECT: RESOLUTION OPPOSING SENATE BILL 469 (VARGAS)

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: At its meeting on June 28, 2011, the City Council authorized a resolution in opposition to Senate Bill 469 (Vargas) which would require a city or county to prepare economic impact reports before it approves or disapproves the construction or conversion of “superstore” retailers. Attached hereto is a draft resolution for Council’s approval.

RECOMMENDATION: That the City Council approve the draft Resolution in Opposition to Senate Bill 469 (Vargas).

ATTACHMENTS: Draft Resolution
RESOLUTION NO. _____-2011

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE IN OPPOSITION TO
SENATE BILL 469 (VARGAS)

WHEREAS, the City Council of the City of Porterville has reviewed Senate Bill 469 (Vargas), and upon its review has determined that the proposed bill will have a detrimental impact on the Porterville economy; and

WHEREAS, Senate Bill 469 proposes to add an unnecessary layer of regulation to business by requiring cities and counties to prepare additional economic and community impact analysis reports above and beyond that which is currently required by CEQA; and

WHEREAS, rather than streamlining regulation as Senate legislators are publically advocating, Senate Bill 469 proposes to expand regulations which will delay retail developments that bring new jobs and revenues to local communities, like Porterville; and

WHEREAS, during a time when the State of California is facing a massive fiscal crisis, elected officials should be seeking ways in which to support business and stimulate the economy by creating jobs and opportunities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville, after due consideration, the City of Porterville hereby opposes Senate Bill 469 and joins the coalition in opposition thereof.

PASSED, APPROVED AND ADOPTED this 5th day of July, 2011.

ATTEST:

JOHN D. LOLLIS, CITY CLERK

_________________________________________
Ronald L. Irish, Mayor

By: Patrice Hildreth, Chief Deputy City Clerk
COUNCIL AGENDA: JULY 5, 2011

SUBJECT: AIRPORT LEASE RENEWAL – LOT 43

SOURCE: FINANCE DEPARTMENT/PURCHASING DIVISION

COMMENT: Leonard Alogna is the current leaseholder of Lot 43 at the Porterville Municipal Airport, having acquired the lease pursuant to an assignment from Baughman Air Service in 2002. The lease will expire on July 31, 2011; however, the lease terms allow for an option to extend the lease for an additional five (5) years, provided the City receives a request to exercise the option 120 days prior to expiration. Paragraph 2 of the Lease Agreement (attached) further states the City’s granting of the option is discretionary, but will not be unreasonably withheld. We received a request from Mr. Alogna dated June 22, 2011, asking to continue the lease on Lot 43. Staff recommends that Council waive the 120-day notice requirement and grant the five-year option to extend the lease to 2016.

RECOMMENDATION: That the Council approve the extension of the Lease Agreement between the City of Porterville and Leonard Alogna of Los Angeles, CA, for Lot 43 at the Porterville Municipal Airport.

ATTACHMENT: Locator Map
Letter from Mr. Alogna requesting renewal
Paragraph 2 of original Lease Agreement

D.D. Appropriated/Funded C.M. Item No. 13
June 22, 2011

City of Porterville  
Susan Hartman  
291 No. Main St.  
Porterville, Ca 93257

Re: lot 43-lease agreement

Dear Ms. Hartman,

Per your letter dated June 02, 2011, yes, please extend the lease on the above lot 43 for another five years,

Sincerely,

[Signature]

Leonard J. Alogna  
P.O. Box 27-489  
Los Angeles, Ca 90027
LEASE AGREEMENT

PORTERVILLE MUNICIPAL AIRPORT

THIS LEASE AGREEMENT ("Lease"), executed at Porterville, California the first day of August, 2001 by and between the CITY OF PORTERVILLE, a charter city and municipal corporation of the State of California, hereinafter referred to as "City" and BAUGHMAN AIR SERVICE, INC., JAMES L. BAUGHMAN, President, hereinafter referred to as "Lessee".

WHEREAS, City owns and operates an airport in the City of Porterville, State of California, commonly known and described as "Porterville Municipal Airport"; and

WHEREAS, Lessee desires to lease a portion of said airport for the construction of a hangar; and

WHEREAS, it is the desire of City to utilize said airport for the general public by its development and use in providing aeronautical-related facilities and service.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1. **Premises:** Demised Premises: City, for and in consideration of the covenants, conditions, agreements, and stipulations herein set forth, does hereby demise and lease to Lessee, and Lessee hereby hires from City, those certain premises situated in the City of Porterville, State of California, described as Lot 43 at the Porterville Municipal Airport, more particularly described in Exhibit A being attached hereto and by this reference made a part hereof.

2. **Term:** The term of this lease shall commence on August 1, 2001, both parties having executed the same, and shall terminate on July 31, 2011. Provided Lessee is not in default with respect to any of the conditions or covenants of this lease, Lessee shall have an option to request an extension of the terms hereof for an additional period of five (5) years, by giving written notice thereof to Lessor not less than 120 days prior to expiration of this agreement or any five (5) year extension. Lessor is not obligated to grant any extension but said option shall not be unreasonably withheld.
COUNCIL AGENDA: JULY 5, 2011

SUBJECT: AIRPORT LEASE RENEWAL – LOT 47

SOURCE: FINANCE DEPARTMENT/PURCHASING DIVISION

COMMENT: James Costa, owner of Costa Spraying, Inc., is the current leaseholder of Lot 47 at the Porterville Municipal Airport, having acquired the lease pursuant to an assignment from Wes Creager in 2005. The lease will expire on July 31, 2011; however, the lease terms allow for an option to extend the lease for an additional five (5) years, provided the City receives a request to exercise the option 120 days prior to expiration. Paragraph 2 of the Lease Agreement (attached) further states the City's granting of the option is discretionary, but will not be unreasonably withheld. We received a request from Mr. Costa dated June 13, 2011, asking to continue the lease on Lot 47. Staff recommends that Council waive the 120-day notice requirement and grant the five-year option to extend the lease to 2016.

RECOMMENDATION: That the Council approve the extension of the Lease Agreement between the City of Porterville and James Costa of Tulare, CA, for Lot 47 at the Porterville Municipal Airport.

ATTACHMENT: Locator Map
Letter from Mr. Costa requesting renewal
Paragraph 2 of original Lease Agreement

D.D. Appropriated/Funded C.M. Item No. 14
June 13, 2011

Ms. Susan Hartman
Purchasing Agent
City Of Porterville
291 N. Main Street
Porterville, CA 93257

Re: Airport Lease Renewal for Lot 47

Dear Ms. Hartman:

I am writing to you to request the extension of my lease for five more years on Lot 47 at the Porterville Municipal Airport that is due to expire on July 31, 2011.

Please feel free to contact me at (559) 686-3559 with any questions.

Thank you,

[Signature]
James Costa
Costa Spraying, Inc.
LEASE AGREEMENT

PORTERVILLE MUNICIPAL AIRPORT

THIS LEASE AGREEMENT ("Lease"), executed at Porterville, California the first day of August, 2001 by and between the CITY OF PORTERVILLE, a charter city and municipal corporation of the State of California, hereinafter referred to as "City" and DR. WESTAL CREAGER, hereinafter referred to as "Lessee".

WHEREAS, City owns and operates an airport in the City of Porterville, State of California, commonly known and described as "Porterville Municipal Airport"; and

WHEREAS, Lessee desires to lease a portion of said airport for the purpose of operating an existing aircraft hangar to be used for the parking and storage of aircraft and other activities incidental thereto; and

WHEREAS, it is the desire of City to utilize said airport for the general public by its development and use in providing aeronautical-related facilities and service.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1. **Premises:** Demised Premises: City, for and in consideration of the covenants, conditions, agreements, and stipulations herein set forth, does hereby demise and lease to Lessee, and Lessee hereby hires from City, those certain premises situated in the City of Porterville, State of California, described as Lot 47 at the Porterville Municipal Airport, more particularly described in Exhibit A being attached hereto and by this reference made a part hereof.

2. **Term:** The term of this lease shall commence on August 1, 2001, both parties having executed the same, and shall terminate on July 31, 2011. Provided Lessee is not in default with respect to any of the conditions or covenants of this lease, Lessee shall have an option to request an extension of the terms hereof for an additional period of five (5) years, by giving written notice thereof to Lessor not less than 120 days prior to expiration of this agreement or any five (5) year extension. Lessor is not obligated to grant any extension but said option shall not be unreasonably withheld.
COUNCIL AGENDA: July 5, 2011

SUBJECT: ADOPTION OF ANNUAL APPROPRIATION LIMIT

SOURCE: Finance Department

COMMENT: Article XIII – B of the California Constitution requires that each governmental agency must adopt an appropriation limit each fiscal year. This limit represents the maximum amount of tax revenue that can be appropriated during the fiscal year.

The State Department of Finance has provided the percentage change in population for the City of Porterville and the percentage change in per capita personal income for the 2011/2012 fiscal year calculation. Based on this information and the guidelines established by the State, the appropriation limit for 2011/2012 fiscal year is $49,693,348. Budgeted tax proceeds subject to limitation are $25,204,030. The City continues to appropriate well below the maximum limit allowed by law.

RECOMMENDATION: That the City Council approve the attached resolution adopting the appropriation limit of $49,693,348 for the 2011/2012 fiscal year.

ATTACHMENTS: Draft Resolution
Worksheets
RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE SETTING THE APPROPRIATION LIMIT FOR THE 2011/2012 FISCAL YEAR

WHEREAS, Article XIII – B of the California Constitution requires that each governmental agency adopt an appropriation limit each fiscal year, and

WHEREAS, the State of California has presented the guidelines for the consumer price index, the per capita personal income, and the population data for local governments to compute the appropriation limit;

NOW, THEREFORE, be it resolved by the City Council of the City of Porterville, the appropriation limit for the 2011/2012 fiscal year is $49,693,348 as computed on the attached worksheet.

Adopted and approved this 5th day of July 2011.

_________________________________________
Ronald L. Irish, Mayor

ATTEST:

_________________________________________
City Clerk
## CITY OF PORTERVILLE
### APPROPRIATION LIMIT DOCUMENTATION
#### FISCAL YEAR 2011-2012

### PROCEEDS OF TAXES CALCULATION

<table>
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<td>OTHER TAXES</td>
<td>14,357,465</td>
<td>1,461,134</td>
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<td>PERMITS</td>
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<td>1988-1989</td>
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<td>REVENUE FROM AGENCIES</td>
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<td>FEDERAL GRANTS</td>
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<td>1992-1993</td>
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<td>4.51%</td>
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<td>USE OF MONEY &amp; PROPERTY INTEREST</td>
<td>328,972</td>
<td>513,528</td>
<td>1993-1994</td>
<td>2.72%</td>
<td>4.26%</td>
<td>17,934,831</td>
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<td>RENT</td>
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### APPROPRIATION LIMIT CALCULATION

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<th>PROCEEDS OF TAXES</th>
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[2] Per State Department of Finance (per capita personal income).

[3] Per State Department of Finance (population growth of City or County, whichever is greater).
## CITY OF PORTERVILLE
### APPROPRIATION LIMIT DOCUMENTATION
#### FISCAL YEAR 2011-2012

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<th></th>
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<th>MEAS H</th>
<th>SPECIAL</th>
<th>GAS TAX</th>
<th>LTF</th>
<th>TRAFFIC</th>
<th>SAFETY</th>
<th>ZALUD</th>
<th>ESTATE</th>
<th>CDBG</th>
<th>TRANSIT</th>
<th>COPS</th>
<th>SEWER OPER</th>
<th>SOLID WASTE</th>
<th>AIRPORT</th>
<th>GOLF COURSE</th>
<th>WATER OPER</th>
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<td><strong>OTHER TAXES</strong></td>
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<tr>
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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 June 21, 2011, City staff has continued its coordination with both State and Federal representatives in having made claims for reimbursement for public areas reported as suffering flood damage. An estimated total of $361,750 in damage repair projects (please see attachment) were defined and accepted by both State (CEMA) and Federal (FEMA) emergency agencies, which after final FEMA administrative review, a total of approximately $270,000 was approved. All repair projects are to be completed by no later than July 2012.

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.

ATTACHMENT: CEMA/FEMA List of Projects

Item No. 16
<table>
<thead>
<tr>
<th>ITEM #</th>
<th>LOCATION</th>
<th>DESCRIPTION OF DAMAGE AND SCOPE OF WORK</th>
<th>COST ESTIMATE</th>
<th>CATEGORY*</th>
<th>WAS WORK COMPLETED BY FIRM OR GOVERNMENT CONTRACT OR GO ON BOTH FOUND?</th>
<th>WAS THERE ENOUGH MONEY TO COMPLETE THE CONTRACT?</th>
<th>WAS THERE INSURANCE TO COMPLETE THE CONTRACT?</th>
<th>WAS THE FACILITY DAMAGED IN AN ACT OF WAR, TERRORISM, OR ANOTHER ELIGIBLE ENEMY ATTACK?</th>
<th>WAS THE FACILITY DAMAGED IN A PRECARIOUS CONDITION?</th>
<th>EMERGENCY MEASURES TAKEN TO MITIGATE THE DAMAGE?</th>
<th>CHECK IF AMENDED ITEM</th>
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<tbody>
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<td>1</td>
<td>El Granito North of Grand Avenue</td>
<td>Damaged asphalt concrete, &quot;X&quot; gutter and curb &amp; gutter.</td>
<td>$60,000.00</td>
<td>C</td>
<td>F/C</td>
<td>1</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>Y</td>
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<tr>
<td>2</td>
<td>Henderson - Newcomb to Mathew street.</td>
<td>Remove &amp; replace 11,000 SF damaged asphalt concrete.</td>
<td>$160,000.00</td>
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<td>F/C</td>
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<td>N</td>
<td>N</td>
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<td>Y</td>
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<tr>
<td>3</td>
<td>Hillcrest - Morton-Ave. North to Terminus street.</td>
<td>Grade-damaged street-shoulders, -place engineered fill, compact, -</td>
<td>$45,000.00</td>
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<td>Intersection at East Grand st. &amp; Hennahan st.</td>
<td>Remove &amp; replace 10,000 SF of damaged asphalt concrete.</td>
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<td>Murry Park @ Hennahan &amp; Putnam Ave.</td>
<td>Driveway and Parking lot damage.</td>
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<td>F/C</td>
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<td>N</td>
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<td>N</td>
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<td>7</td>
<td>Intersection at West Rd &amp; Teapot Dome Ave.</td>
<td>Damaged asphalt concrete shoulder on both sides of the road.</td>
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<td>Y</td>
<td>N</td>
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<tr>
<td>8</td>
<td>Plano st. between Putnam Ave. &amp; Thurman Ave.</td>
<td>Damaged drop inlet, asphalt concrete adjacent to drop inlet &amp; repair/replace</td>
<td>$15,000.00</td>
<td>C</td>
<td>F/C</td>
<td>1</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>9</td>
<td>West Rd. at Scranton Ave.</td>
<td>Damaged asphalt concrete shoulder along west side of the street.</td>
<td>$24,000.00</td>
<td>C</td>
<td>F/C</td>
<td>1</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>10</td>
<td>Hawaii &amp; Grand Ave.</td>
<td>Remove and replace damaged V gutter, spandrel &amp; minor asphalt</td>
<td>$5,000.00</td>
<td>C</td>
<td>F/C</td>
<td>1</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>11</td>
<td>Hillcrest Ave. north of Morton Ave.</td>
<td>Pipeline dredging to remove mud &amp; other debris</td>
<td>$12,000.00</td>
<td>A</td>
<td>F/C</td>
<td>1</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>N</td>
<td>X</td>
</tr>
<tr>
<td>12</td>
<td>West Rd. at Scranton Ave.</td>
<td>Flood waters pumped-out.</td>
<td>$1,500.00</td>
<td>B</td>
<td>FA</td>
<td>1</td>
<td>N</td>
<td>N</td>
<td>Y</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

*CATEGORY: A) Debris Clearance; B) Protective Measures; C) Road System; D) Water Control Facility; E) Buildings and Equipment; F) Public Utility System; G) Other. (Note: If a single site has more than one category, indicate the category that represents the majority of damage.)
SUBJECT: AMENDMENT TO LOAN AGREEMENT AND APPROVAL OF REQUEST FOR PARTIAL RELEASE OF LAND

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: During the June 28, 2011 adjourned meeting of the City Council, Council directed staff to work with Prospect-Henderson Partners (PHP) to develop acceptable language for an amendment to Part I Section D of the Loan Agreement between the City and Prospect Henderson Partners with regard to provisions for partial release and reconveyance of property for expansion of available retail space.

Staff and PHP have developed the proposed Amendment 1 (Exhibit 1) to the loan agreement in an effort to address Council's concern regarding loan to value (LTV) ratios. Significant terms of the proposed amendment are as follows:

1. LTV ratio on the loan will not exceed 79.9%
2. The City or PHP may order an appraisal on an annual basis to determine the value of the land. The ordering party shall be responsible for payment of the appraisal. (Commercial appraisals range in cost from $500 for a summary update to $2500 for a full appraisal).
3. Should the LTV ratio exceed 79.9%, PHP agrees to pay the appropriate amount to reduce the ratio to 79.9%.
4. Should the LTV ratio be lower than 79.9%, PHP may request a refund of any monies previously paid to achieve a LTV ratio of no more than 79.9%

Staff and PHP have evaluated other options discussed at the meeting, but this proposal seems to more directly address the issues raised by Council at the June 28 adjourned meeting.

PHP has agreed to pay the appraised value of $6.00 per square foot for the 19,025± square foot parcel which improves the current loan to value ratio from 78.5% to 77.75%. Further, approval of the loan agreement amendment will result in the creation of a new retail business providing 12 new jobs and will pay down a portion of the debt owed to the City. The release is required to allow PHP to obtain a construction loan to complete the new building with the 19,025± square foot site as security.

RECOMMENDATION: That the City Council:

1) Approve Amendment No. 1 to the Loan Agreement between the City of Porterville and Prospect-Henderson Partners dated December 29, 2009 Part I Section D as depicted in Exhibit A; and
2) Approve a Release and Reconveyance for the 19,025± square foot parcel to Prospect-Henderson Partners in exchange for the repayment of $6.00 per square foot ($114,500); and

[Signature]

[Signature]

Item No. 7
3) Authorize the Mayor to sign all documents necessary to complete this transaction.

ATTACHMENTS:  
   1) Exhibit A – Amendment 1 to Loan Agreement  
   2) Agenda Item 2 – June 28, 2011 Adjourned City Council Meeting
EXHIBIT A

AMENDMENT NO. 1 TO THE LOAN AGREEMENT
BETWEEN THE CITY OF PORTERVILLE AND PROSPECT-HENDERSON PARTNERS

This Amendment shall cause Section I General Terms and Conditions, Subsection D Special Conditions to be amended as follows:

The parties acknowledge that Borrower may desire to expand the available retail space on the Property, which will require a Request for Partial Release and Reconveyance from Borrower to the City, and the creation of a separate parcel for additional improvements for a major retail lessee. In the event Borrower makes such a Request for Partial Release and Reconveyance to the City for a parcel map, Borrower agrees to either i) pay the balance owed to the City in full; ii) pay down the required portion (if any) of the balance owed in order to maintain a maximum combined loan to value ratio of 67.5%, as determined by an appraisal in accordance with Section I.C.4, on the remaining encumbered parcel of 79.9% as determined by an appraisal in accordance with Section I.C.4, on the remaining unencumbered parcel. Commencing from the date of this Amendment, the City shall at its own expense order an appraisal every three years from a qualified MAI (Member Appraisal Institute) appraiser with experience in preparing commercial property appraisals to determine the loan to value ratio. It is further agreed that commencing July 1, 2012, the City or Borrower may order an appraisal no more often than once per year for the purposes of determining the loan to value ratio. The cost of such appraisal shall be the sole responsibility of the party ordering the appraisal. It is agreed that the appraiser shall be mutually approved by City and Borrower. Furthermore, Tim Simon of The Simon Company of Hanford, California, is pre-approved as an appraiser by City and Borrower. Once obtained, a copy of the appraisal shall be provided to both City and Borrower. In the event the loan to value ratio exceeds 79.9%, upon receipt of a sixty (60) day advance written notice, Borrower shall pay to City a sum sufficient to reduce the loan balance such that the loan to value ratio will be reduced to no more than 79.9%. If the appraisal reflects a value lower than 79.9%, upon receipt of a sixty (60) day advance written notice, the City shall refund to Borrower any monies paid to reduce the loan to value ratio to a maximum 79.9%. All Requests for Release and Reconveyance shall be accompanied by full payment for said land at fair market value as determined by an appraisal. Payment by the Borrower for land released under the provisions of this agreement shall not be eligible for refund to achieve the 79.9% loan to value ratio. In the event this alternative is exercised by the Borrower requests a Release and Reconveyance, the City agrees to execute the appropriate (partial or full) Release and Reconveyance. Said Additional improvements shall be subject to review and approval of the City, which shall be undertaken by the City in an expeditious manner and not unduly delayed, prior to amendments to this Agreement. Borrower acknowledges that this section does not provide it with future land use entitlements or other approvals for which it would be required to make application to the City in accordance with applicable State and local laws, regulations and requirements.

PROSPECT-HENDERSON PARTNERS, L.P.

By: __________________________  City of Porterville
   David H. Paynter, General Partner

By: __________________________  __________________________
   Ronald L. Irish, Mayor

ATTACHMENT
ITEM NO. /
CITY COUNCIL AGENDA: JUNE 28, 2011

SUBJECT: AMENDMENT TO LOAN AGREEMENT AND APPROVAL OF REQUEST FOR PARTIAL RELEASE OF LAND

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: On December 1, 2009, the City Council approved a loan agreement with Prospect Henderson Partners (PHP) for the purpose of acquiring the former Mervyn's building contingent upon securing Kohl's Department Store as a tenant for the property. Included in the loan agreement are provisions for partial release and reconveyance of property for expansion of available retail space on the property. PHP has secured a major retail lessee and is requesting a release of a 19,025± square foot parcel for the construction of a new building.

Part I Section D of the Loan Agreement requires PHP to either i) pay the balance owed to the City in full or ii) pay down the required portion of the balance owed in order to maintain a maximum combined loan to value ratio of 67.5% prior to the release of any portion of the property. Part II Section A allows for the Agreement to be modified by a written amendment. Pursuant to the amendment provisions of the Agreement, Staff is recommending that an amendment to the loan agreement be approved as depicted in Exhibit A – Amendment No. 1 to the Loan Agreement between the City of Porterville and Prospect Henderson Partners allowing for the release of land when terms of release are mutually agreed upon by the two parties.

PHP has agreed to pay the appraised value of $6.00 per square foot for the 19,025 square foot parcel which improves the current loan to value ratio from 78.5% to 77.75%. Further, approval of the loan agreement amendment will result in the creation of a new retail business providing 12 new jobs and will pay down a portion of the debt owed to the City. The release is required to allow PHP to obtain a construction loan to complete the new building with the 19,025 square foot site as security.

RECOMMENDATION: That the City Council:

1) Approve the Amendment No. 1 to the Loan Agreement between the City of Porterville and Prospect-Henderson Partners dated December 29, 2009 Part I Section D as depicted in Exhibit A.; and

2) Approve a Release and Reconveyance for the 19,025± square foot parcel to Prospect-Henderson Partners in exchange for the repayment of $6.00 per square foot ($114,500); and

3) Authorize the Mayor to sign all documents necessary to complete this transaction.

ATTACHMENTS: Exhibit A – Amendment 1 to Loan Agreement
EXHIBIT A

AMENDMENT NO 1 TO THE LOAN AGREEMENT
BETWEEN THE CITY OF PORTERVILLE AND
PROSPECT-HENDERSON PARTNERS

This Amendment shall cause Section I General Terms and Conditions, Subsection D Special Conditions to be amended as follows:

The parties acknowledge that Borrower may desire to expand the available retail space on the Property, which will require a Request for Partial Release and Reconveyance from Borrower to the City, and the creation of a separate parcel for additional improvements for a major retail lessee. In the event Borrower makes such a Request for Partial Release and Reconveyance to the City for a parcel map, Borrower agrees to either i) pay the balance owed to the City in full; ii) pay down the required portion (if any) of the balance owed in order to maintain a maximum combined loan to value ratio of 67.5%, as determined by an appraisal in accordance with Section I.C.4, on the remaining encumbered parcel; or iii) develop other terms as mutually agreed upon by the City and Borrower prior to the release of any portion of the property. In the event this alternative is exercised by Borrower, the City agrees to execute the appropriate (partial or full) Release and Reconveyance. Said additional improvements shall be subject to review and approval of the City, which shall be undertaken by the City in an expeditious manner and not unduly delayed, prior to amendments to this Agreement. Borrower acknowledges that this section does not provide it with future land use entitlements or other approvals for which it would be required to make application to the City in accordance with applicable State and local laws, regulations and requirements.

PROSPECT-HENDERSON PARTNERS, L.P.

By: ________________________________
David H. Paynter, General Partner

CITY OF PORTERVILLE

By: ________________________________
Ronald L. Irish, Mayor

ATTACHMENT 1
COUNCIL AGENDA: July 5, 2011

SUBJECT: Consideration of Appointment of Mayor

SOURCE: City Manager

COMMENT: At its meeting on July 6, 2010, the City Council appointed Council Member Irish to serve as Mayor. During the “Other Matters” portion of the meeting, Mayor Irish requested that the Council again consider the appointment of Mayor at its first meeting of July 2011, which was supported by the Council and given as direction.

RECOMMENDATION: That the City Council consider the appointment of Mayor.

ATTACHMENT: None
CITY COUNCIL AGENDA – JULY 5, 2011

SUBJECT: CONSIDERATION OF APPOINTMENT TO THE TRANSACTIONS AND USE TAX OVERSIGHT COMMITTEE

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: On May 18, 2011, Ms. Shirley Hickman tendered her resignation from the Transactions and Use Tax Oversight Committee ("TUTOC") thereby creating a vacancy with a term due to expire in May, 2012. Pursuant to the direction of Council at its meeting of June 6, 2011, staff provided the public notice of the vacancy and solicited applications by way of a press release. As of the time of agenda compilation and distribution, no Requests for Appointment were received.

Staff seeks direction as to how the Council would like to proceed at this time. As with past practice, options available to the Council are:

1. Consider the Requests for Appointment, if any, received after distribution of the agenda packets;
2. Appoint an interested individual identified during the Council Meeting; or
3. Direct staff to re-notice the vacancy, and bring the item back at the next regular Council Meeting.

RECOMMENDATION: That the City Council provide direction to staff for the purposes of filling the seat vacated by Ms. Shirley Hickman, with a term expiring in May, 2012, on the Transactions and Use Tax Oversight Committee.

ATTACHMENTS: 1) Ms. Hickman’s letter of resignation

Item No. 19
Members of the City Council  
291 N. Main St.  
Porterville, CA 93257  

Gentlemen:  

Please accept my resignation from the Measure H Oversight Committee. Thank you.  

Sincerely,  

Shirley Skufca Hickman
CITY COUNCIL AGENDA – JULY 5, 2011

SUBJECT: CONSIDERATION OF APPOINTMENT TO MEASURE R CITIZENS' OVERSIGHT COMMITTEE

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: On May 24, 2011 the City Council appointed Mr. Kent D. Hopper to serve as the City’s representative on the Measure R Citizens’ Oversight Committee for a two-year term to expire in June, 2013. Subsequent to his appointment, Mr. Hopper advised of his inability to serve.

Pursuant to the direction of Council at its meeting of June 6, 2011, staff provided public notice of the vacancy and solicited applications by way of a press release. As of the time of agenda compilation and distribution, no Requests for Appointment have been received.

Staff seeks direction as to how the Council would like to proceed at this time. As with past practice, options available to the Council are:

1. Consider the Requests for Appointment, if any, received after distribution of the agenda packets;
2. Appoint an interested individual identified during the Council Meeting; or
3. Direct staff to re-notice the vacancy, and bring the item back at the next regular Council Meeting.

RECOMMENDATION: That the City Council provide direction to staff for the purposes of filling the seat vacated by Mr. Kent D. Hopper, with a two-year term expiring in June, 2013, on the Measure R Citizens’ Oversight Committee.
SUBJECT: CONSIDERATION OF CITY COUNCIL PROCEDURAL HANDBOOK

SOURCE: ADMINISTRATION

COMMENT: Pursuant to the direction from its meeting on May 17, 2011, the City Council is presented an amended Procedural Handbook for consideration for adoption. The City Council Procedural Handbook was last adopted by the Council on May 17, 2005, with an amended version having been considered (but not approved) by the Council on September 5, 2006. It was Council’s direction that the amended version of the Procedural Handbook again be considered for adoption, including additional proposed amendments consistent with Minute Order actions that have subsequently occurred.

Staff recommends that, in addition to the proposed amended Procedural Handbook presented for Council’s consideration, draft technology policies involving the provision of laptop computers, cell phones, and email retention be considered at later dates for inclusion in the Handbook.

RECOMMENDATION: That the Council consider adoption of the proposed amended Procedural Handbook.

Attachment: City Council Procedural Handbook (Proposed)
# CITY COUNCIL PROCEDURAL HANDBOOK

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IX. GENERAL ITEMS

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B. Compensation
C. Issuance of Laptop Computers to Council Members
D. Direction to staff
E. City Attorney
F. Annual City Manager/City Attorney Evaluation
G. Response to President/Governor Directives

Appendices:
A. Annual City Manager/City Attorney Evaluation Forms
B. Laptop Computers and Cell Phone Policy *(to be attached upon completion and adoption)*
C. Email Retention Policy *(to be attached upon completion and adoption)*
I. MEETINGS OF COUNCIL

The Council shall provide by ordinance the time and place of holding regular meetings and the manner in which special meetings may be called. Public interest and convenience shall be primary consideration when decisions are made as to time, location and frequency.

Except as otherwise provided by law, all meetings of the Council shall be open to the public.

A. REGULAR MEETINGS

1. Regular meetings shall be held the first and third Tuesday of each month beginning at 6:00 5:30 p.m. Closed Session Items shall be considered at 6:00 5:30 p.m., with open session to commence at 7:00 6:30 p.m. In the event that a regular meeting of the Council shall fall on a legal holiday, that regular meeting shall be held at the same place and time on the next succeeding working day, or as determined by Council. (Ordinance 1766, approved August 17, 2010.)

2. Regular meetings shall be held in the Council Chambers, 291 North Main Street, in the City of Porterville.

3. Regular meeting open sessions shall be between the hours of 7:00 6:30 p.m. - 11:00 9:45 p.m. It shall be the policy of the City Council to complete meetings, including closed sessions, by 11:00 p.m. unless, upon consensus, Council elects to continue past the adjournment hour. The Council Meetings shall adjourn no later than 9:45 p.m. unless otherwise approved by a majority vote of the Council Members present. Following the mid-meeting break (around 9:00 p.m.) the Mayor, with assistance from the City Manager, will review the balance of the agenda with Council to discuss how it can be handled in the allowed time. If it is necessary to continue any items, it will be announced at that time. (Ordinance 1766, approved August 17, 2010.)

B. ADJOURNED MEETINGS/STUDY SESSIONS (Open to the public)

1. The purpose of these meetings shall be for informal discussions between staff, advisory bodies or consultants and the City Council regarding specific programs, projects or policies. If noticed, formal action may be taken at such a meeting.

2. Adjourned Meetings/Study Sessions will be held at a time and place convenient to Council and advantageous for public participation.

3. Participation of the public shall be at the discretion of the Presiding Officer, upon consensus of the Council.
C. SPECIAL MEETINGS

1. Special meetings may be called by the Mayor or three members of the City Council. (GC § 54956) Written notice of each special meeting must be given not less than twenty-four (24) hours before such meeting to each member of the City Council not joining the call.

2. Written notice must be given to the City Council and to the media 24 hours prior to each meeting. (GC § 54956)

3. A supplemental telephone call shall be made if necessary to notify each Council Member.

4. No business other than that announced shall be discussed.

5. Any special meeting held at a place other than City Hall shall be open to the public. Notice requirements of the Brown Act shall be complied with for any such meetings; regular minutes shall be taken by the City Clerk and shall be available for public inspection.

D. ORDER OF BUSINESS:

Call to Order
Roll Call
Oral Communications
Closed Session(s)
Reconvene at 6:30 7:00 p.m.
Closed Session Report
Pledge of Allegiance
Invocation
Presentations/Proclamations
Reports (AB1234 Reports, Committee/Commission/Board Reports; Subcommittee Reports; Information Items and Reports)
Appointments
Oral Communications
Consent Calendar

Approval of Minutes
Claims Against the City
Payment of Bills
Payments on Public Works Projects
Authorization to Purchase
Authorization to Call for Bids
Award of Bids
Acceptance of Projects
Acceptance of Dedications/Property
Approval of Final Tract Maps
Annexations
Requests for City Services
Reports
Other Routine Matters
Public Hearings
Second Reading of Ordinances
Scheduled Matters
Oral Communications (on any matter of interest)
Council Comments
Adjournment
(Pursuant to Resolution 101-2010, approved August 17, 2010.)

E. CONSENT ITEMS

Consent items are the first items on the open session portion of the agenda (items that are routine, have been discussed before, relate to implementation of approved budget items, or to City operations or item to be later set for public hearing).
II. MEETING PROCEDURES

A. PRESIDING OFFICER

1. The Mayor is the Presiding Officer and acts as Chair at Council meetings.

2. In the absence or incapacity of the Mayor, the Mayor Pro Tempore will serve as Presiding Officer.

3. Seating arrangement of the Council:

   The Mayor Pro Tempore shall always be seated immediately next to the Mayor.

4. Signing of City Documents:

   The Mayor, unless unavailable, shall sign all ordinances, resolutions, contracts and other documents which have been adopted by the City Council and require an official signature; except when the City Manager, or his or her designee, has been authorized by Council action to sign documents. In the event the Mayor is unavailable, the Mayor Pro Tempore's signature may be used.

B. QUORUM

   A majority of the Council Members shall constitute a quorum for the transaction of business. (Charter)

C. DISCUSSION RULES

1. Obtaining the floor:

   a. A member of the City Council, staff, or public shall first address the Presiding Officer and gain recognition.

   b. Comments and questions shall be limited to the issue before Council except when members of the public are addressing the Council under Oral Communications.

   c. Council discussion on the item shall take place prior to requiring a motion and a second on the item. (Minute Order 18-050311, approved May 3, 2011.)

   d. Cross-exchange between Council Members, staff or public shall be avoided.
e. Any citizen may arise and address the City Council on any business especially concerning them or affecting their interests during Oral Communications, but preference will be given to those who have first presented matters in the form of a written communication or who have personally notified the presiding officer of their desire to speak.

f. Any member or other person using profane, vulgar, loud or boisterous language at any meeting, or otherwise interrupting the proceedings, who refuses to be seated or keep quiet when ordered to do so by the Mayor or Mayor Pro Tem of the City Council, shall be guilty of a misdemeanor. It shall be the duty of the Chief of Police, upon order of the presiding officer, to eject any such member or person from the council room. (Ordinance 1537)

2. Questions to staff:

A Council Member shall, after recognition by the Presiding Officer, address questions to duly designated staff members through the City Manager.

3. Interruptions:

a. Once recognized, a Council Member shall not be interrupted while speaking except to make a point of order or personal privilege.

b. If a Council Member is called to order while speaking, the individual shall cease speaking until the question of order is determined.

c. Upon being recognized by the Presiding Officer, members of staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.
III. COUNCIL REQUESTS FROM THE PUBLIC

A. **Response to Letters from the Public:**

Periodically Council Members receive letters requesting their response. If a Council Member wishes to answer the letter, the matter can be handled in either of three ways:

1. The Council Member can give the letter to the City Manager's Secretary along with direction on how they wish their response to be worded. The City Manager's staff will then prepare the letter on City Council stationery and forward it to the appropriate Council Member for approval and signature. Copies of both letters are kept on file in the City Manager's Office, and copies are available upon request.

2. If the letter requires specific information or details only available from another City Department, the City Manager may refer the letter to the appropriate Department Head for response by them or their designee. Copies of the letters will then be forwarded to the City Manager's Office for filing.

3. If the Council Member wishes to answer their own correspondence, City stationery is available upon request from the City Manager's secretary. **Copies of all such letters on City Letterhead shall be provided to all other Council members, and the letter shall include a provision clearly defining that the correspondence represents the views and/or feelings of the specific Council member signing the letter.** If the Council Member wishes to have a copy of the letters in their file, they should submit a copy to the City Manager's staff for filing.

If a Council Member receives an informational item and wants a copy to be given to the other Council Members and the City Manager or other Directors, the item should be given to the City Manager's staff and copies will be made and sent out.

B. **Referrals to Council agenda:**

Periodically Council Members receive correspondence or verbal requests for items to be acted upon, or considered, by the City Council. If a Council Member wishes to respond to the request, the matter should be referred to the City Manager. The request can then be handled as follows:

1. The Council Member may request the City Manager to place the item on the Council agenda as a written communication*; or

2. Upon research, the request may be determined to be a violation of City, State or Federal law, policy, or previous Council determination, in which case an
appropriate response as to why the matter can not be heard will be provided to the requesting party.

Correspondence requesting that an item be acted upon, or considered, by the City Council, which is received directly by the City Manager, is handled in either of two ways:

1. The City Manager shall place any routine and/or legitimate written request under written communications*, or have a staff report prepared if time permits, for the next City Council agenda; or

2. The City Manager shall place any request which has already been acted upon by Council, cannot legally be accomplished, or which has a potential for litigation, in an Administrative Memorandum.

*The "Request" must be stated on the agenda face sheet for Council to be able to act on it at the meeting.

C. Telephone Calls:

Citizens attempting to communicate with the City Council often call the offices at City Hall. Such calls are referred to the City Manager's Office. The City Manager's staff will take a message and refer it to the appropriate Council Member, or give the caller the telephone number of the City Council Member so they may call them directly, according to instructions given by the Council Member [see VII-C(1)].

D. Personal Meetings:

Council Members who wish to meet with their constituents may use various rooms at City Hall. The Council Member should call the City Manager's Secretary as soon as they know a room is needed so that it can be reserved for their use. No more than two Council Members may attend a meeting to discuss City matters without the meeting becoming a public meeting and therefore falling under the requirements of the Brown Act Open Meeting Laws.

E. Personal Correspondence:

Council Members who wish to send their own correspondence using City stationery shall include a provision clearly defining that the correspondence represents the views and/or feelings of the specific Council member signing the letter. Copies of all such letters on City Letterhead shall be provided to all other Council members. Letterhead stationary is available upon request from the City Manager's secretary, and if the Council Member wishes to have a copy of their letter in their file, they should submit a copy to the City Manager's staff for filing.
IV. COUNCIL MEMBER REQUESTS TO STAFF

A. General Information

All City Council Member requests for information or documents shall be referred through the City Manager. Any Department Head who receives a direct request from a Council Member shall submit the request, including the name of the requesting Council Member, to the City Manager.

B. Research

All City Council Member requests for information or documents which require extensive research shall be referred through the City Manager to the Council for direction. The City Manager will discuss the matter with the appropriate department and relay the approximate time table for completion to the City Council for discussion and action at the next available meeting of the City Council. If the request is approved by the Council, upon completion of the research, the item will be forwarded to the City Council Members by the City Manager.

C. Items for inclusion in Council Agenda

The City Manager shall compile the agenda for each meeting and shall include as agenda items, business in the normal course of City affairs, including but not limited to staff proposals to improve services, support the economy and land use, and enhance the efficiency and effectiveness of the City organization, items relating to current, past, and proposed City contracts, leases, franchises, agreements and similar documents, and matters affecting future or proposed City equipment and property, items relating to City employees, agents and contractors, and such other matters as are defined in this handbook or otherwise directed by the City Council.

All City Council Member requests for an item to be placed on the Council agenda should be referred to the City Manager. Pursuant to Minute Order No. 11-022096, such request shall be submitted prior to Monday noon of the week before the Council meeting in order to be placed on the next regularly scheduled meeting.

The City Manager will refer any routine items to the appropriate department for a staff report. If necessary, items will be referred to the City Attorney for a determination on legality. If an item is determined to be a legitimate request, the item will be referred for a staff report. Items having already been acted upon by the Council previously will be deferred to the Mayor for approval before being placed on the agenda.
V. COUNCIL AGENDA

A. Preparation:

Each Department Head submits agenda items regarding their Department to the City Manager for approval. Upon the City Manager's approval, the items are returned to the appropriate department for copying and collation.

The City Council meeting agendas are prepared on the Thursday prior to the Tuesday meeting. Any questions regarding whether items have been scheduled for consideration at a particular meeting may be directed to the Chief Deputy City Clerk and/or Deputy City Clerk.

B. Deadlines:

The deadlines for the agenda are the Monday preceding the Thursday preparation day. Public hearing items, scheduled matter items, Consent calendar items, and written communications must be submitted by the Monday deadline. The deadline for a Council member request for any item shall be Monday noon preceding the Thursday preparation day.

C. Delivery:

Agendas will be delivered to Council on the Thursday prior to the Tuesday meeting. The agenda shall include a complete copy of the agenda on compact disc suitable for loading on a laptop computer, with provisions for annotating materials with the use of a suitable Acrobat Reader. No items, or additional materials, shall be delivered after the initial delivery to Council on Thursday, except in the instance of a designated emergency item.

Council agendas shall be delivered to the Council Member's home or business, as requested. If no one is available to receive the agenda, the agenda shall be left in an area designated by the Council Member, unless other arrangements have been previously made with the City Clerk's staff [see IX-D(1)(2)].

The agendas for staff, public and the news media are available after Council receives their agendas, usually on Friday.
VI. THE BROWN ACT

The Ralph M. Brown Act (Gov. Code, § 54950 et seq. known as "the Act") governs meetings conducted by local legislative bodies such as city councils, boards of supervisors, special districts, and school boards. The Act represents the State Legislature's determination of how the balance should be struck between the public access to meetings of multi-member public bodies on one hand, and the need for confidential candor, debate, and information gathering on the other.

The Act contains specific exceptions from the open meeting requirements where government has a demonstrated need for confidentiality. Where matters are not subject to a closed meeting exception, the Act has been interpreted to mean that all of the deliberative processes by legislative bodies, including discussion, debate and the acquisition of information, be open and available for public scrutiny.

Meetings are defined as any gathering of a quorum of a legislative body (which includes newly elected but unsworn members of the body) to discuss or transact business under the body's jurisdiction and serial meetings are prohibited. Exemptions are individual contacts between board members and others which do not constitute serial meetings, attendance at conferences and meetings which are open to the public so long as legislative bodies do not discuss amongst themselves business of a specific nature under the body's jurisdiction, and attendance at social or ceremonial events where no business of the body is discussed.

The Act requires that notices of regular meetings must be posted at least seventy-two (72) hours prior to the meeting, and twenty-four (24) hour notice must be provided to members of the legislative body and media outlets for special meetings.

A user's guide to the Ralph M. Brown Act is provided to Council Members for their information. If a Council Member has a specific question which does not seem to be covered in the guide, the Council Member should contact the City Attorney for a legal opinion.
VII. TRAVEL, MEETINGS, AND EXPENSES

This policy would satisfy the requirements of California Government Code sections 53232.2 and 53233.3 in the event such requirements could be constitutionally applied to charter cities.

The City Manager, or his staff, will notify the City Council Members about any League of California Cities' Conferences, Redevelopment Conferences, Committee meetings, and/or local meetings that may be of interest to the Council. If a Council Member is interested in attending any such meeting, the following procedures should be followed:

A. Requests for Reservations:

When a City Council Member wishes to attend a conference or meeting, he/she should contact the City Manager's office and indicate the following:

1) The date(s) of the conference or meeting;
2) If the Council Member will be accompanied by anyone else, i.e. spouse, child;
3) Any personal preferences for hotel reservations, such as smoking or non-smoking, king or double beds, etc.; and
4) Whether special travel arrangements need to be made, i.e. airplane tickets, ride-sharing, etc.

A disbursement will then be prepared and the payment for the conference or meeting will be forwarded, and, if applicable, the hotel will be contacted to make the appropriate reservations. When making hotel reservations to attend a conference or meeting, a request for a room sales tax waiver shall be made on behalf of the applicable Council member. If a prior room reservation request is not made, the Council member shall request a room sales tax waiver prior to payment for a room.

For lodging in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question, if such rates are available at the time of booking. If the group rate is not available, government rates must be used when available. Lodging rates that are equal or less than the government rates are presumed to be reasonable and allowed per this policy. In the event that government rates are not available at a given time or in a given area, lodging rates that do not exceed the IRS per diem rates for a given area are presumed reasonable and hence allowed.

B. Travel and Expense Form:

A Travel and Expense Form will then be prepared for the Council Member which indicates the following:

1) The amount of money to be issued to the traveler as per diem*; and
2) Mileage expense* (if a personal vehicle is used for travel and cost is paid in advance).

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B. Travel and Expense Form:

A Travel and Expense Form will then be prepared for the Council Member which indicates the following:

1) The amount of money to be issued to the traveler as per diem*; and
2) Mileage reimbursement* (if a personal vehicle is used for travel).

* Amount set in Administrative Policy Manual Sec. II-E-1, Travel & Conference Expenses.

The Council Member will then be issued a packet of materials several days prior to the meeting which contains the following:

1) A check for per diem and mileage;
2) Confirmation notification and informational materials regarding the conference;
* Amount set in Administrative Policy Manual Sec. II-E-1, Travel &Conference Expenses. In regard to the per diem amount, if payments for expenses are made in advance pursuant to the specified per diem amounts, the disbursement shall not be considered to be “reimbursable expense” under AB 1234.

The Council Member will then be issued a packet of materials several days prior to the meeting which contains the following:

1) A check for per diem and mileage;
2) Confirmation notification and informational materials regarding the conference;
3) Confirmation notification for any hotel reservations; and
4) A City credit card to pay for the room charges at the end of the meeting.

C. Receipts:

The Council Member shall then bring the receipt for the hotel charges to the City Manager’s staff upon his/her return, together with the credit card, and any refund due the City. The Council Member shall sign the original Travel and Expense Form at that time, which shall then be filed with the Finance Department for final processing.

If a refund is due the Council Member, a check will be issued by the Finance Department and then distributed to the Council Member.

D. Eligibility:

The City shall pay for any Council Member to attend any meetings or conferences of their choice. When accompanied by a spouse or child, the Council Member shall pay for expenses incurred above that which would otherwise have been paid for the Council Member. Any charge placed on a City credit card for someone other than a Council Member shall also be considered a refund due the City, payable within 10 days of the receipt of the charges.
VIII. CONFLICT OF INTEREST

A. City Council Members Filing Requirements

City Council Members are under the provisions of the Political Reform Act (Gov. Code, § 81000 et seq. known as "the Act") as enforced by the Fair Political Practices Commission. The Act applies to campaign contributions requirements, as well as matters of conflict of interest while in office.

1) Disclosure of Economic Interests

City Council Members must file assuming office and leaving office statements, as well as annual statements while in office. The statements basically require the disclosure of the following information:

- Investments or interests in real property and its fair market value;

- Income, and the name and address of each source of income aggregating five hundred dollars ($500) or more, or fifty ($50) or more if a gift, and a general description of the business activity, if any of each source;

- Interests in real property held by a business entity or trust;

- Loans, and its annual interest rate and the security, if any, given for the loan;

2) Disqualification of Participation (Conflict of Interest)

A Council Member shall not make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. This might include decisions which affect property within up to 500 feet of the subject property in which the Council Member has an interest.

A financial interest in a decision, within the meaning of Section 87100 of the Act, is if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the Council Member or:

- A member of his or her immediate family;

- A business entity in which the Council Member has a direct or indirect investment worth $2000 or more;
- Any real property in which the Council Member has a direct or indirect interest worth $2,000 or more;

- Any source of income, other than gifts or commercial lending institutes loans, aggregating $500 or more received or promised to the City Council Member within twelve months prior to the time when the decision is made;

- Any business entity in which the City Council Member is a director, partner, trustee, employee, or holds any position of management;

- Any donor, or any intermediary or agent for a donor, or a gift or gifts aggregating $420 or more in value provided to, received by, or promised to the City Council Member within 12 months prior to the time when the decision is made.

Indirect investment or interest means any investments or interest owned by the spouse or dependent child of a City Council Member, by an agent on behalf of a Council Member, or by a business entity or trust in which the Council Member, the Council Member's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10% interest or greater.

Section 87100 of the Act does not prevent any Council Member from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made. The fact that a Council Member's vote is needed to break a tie does not make his participation legally required for purposes of this section.

Pursuant to Section 87105 of the Act, A public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

1. Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

2. Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.

3. Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.

4. Notwithstanding paragraph (3), a public official may speak on the issue during the time that the general public speaks on the issue.
B. Other Agencies

Whenever a Council Member is required to file a Statement of Economic Interest for an outside agency, the Deputy City Clerk will provide the correct form, and using the Statement of Economic Interest Form 700 filed in the City Clerk's Office for the City of Porterville, prepare a duplicate statement for signature, and forward the appropriate form to the requesting agency.

C. Redevelopment Agency Filing Requirements

Upon assuming office, a City Council Member will also serve as a Redevelopment Agency Member. As an Agency Member, they must file a Conflict of Interest statement for the Porterville Redevelopment Project area. After assuming office, an Agency Member may not acquire any property within the Redevelopment Project area. If prior interests exist within the Project area, the Agency Member must disqualify themselves from any action taken which would constitute a benefit to them.

D. City of Porterville Conflict of Interest Code

Certain designated City employees are also required to file conflict of interest forms under the provisions of the Political Reform Act Code, § 87100-87500 et seq. The City of Porterville Conflict of Interest Code was adopted by the City Council and is reviewed biennially to make sure it is kept current.

If Council Members have a question on whether an interest they have is sufficient for disqualification, they should contact the Fair Political Practices Commission at (866) 275-3772, or http://www.fppc.ca.gov, for a ruling or opinion.
IX. GENERAL ITEMS

A. Different Hats

Members of the City Council also serve as the governing bodies for the following local agencies:

1. Redevelopment Agency
2. Industrial Development Authority
3. Public Financing Authority
4. Public Improvement Corporation
5. Planning Commission
6. Conflicts and Disclosure Monitor Agency

B. Compensation

As stated in the City Charter, Section 9, City Council Members shall receive $20 per Council meeting, $25 per Council meeting for the Mayor, with a maximum of seven paid Council meetings per month.

Redevelopment Agency Members shall receive $30 per Redevelopment meeting.

Council Members receive no benefits other than the amounts per meeting stated above.

C. Issuance of Laptop Computers to Council Members

A Wireless Communications Policy for the laptop computers is being developed as set forth in Minute Order 14-090605. [See Appendix B]

D. Direction to Support Staff:

Upon assuming office, Council Members should notify the City Manager’s staff regarding the following items:

1. Where to deliver Council agendas and Administrative Reports and Memorandums, i.e. home or business.

2. Where to leave Council agendas if the business is closed and/or if no one is home, i.e. City Manager’s Office Council mail box, front porch, back door, etc.

3. How to direct citizens who wish to speak to Council Members, i.e. take a message, give out home telephone numbers, give out business telephone numbers, etc.
E. City Attorney

The City Attorney is the legal advisor of the City Council, and all other City officials. The City Attorney shall prosecute all violations of City ordinances and shall draft all contracts and other legal documents and instruments, required by the Council or the City Manager. The City Attorney shall perform such other legal services as the Council may direct and shall attend all meetings of the Council unless excused therefrom by three members or by the Mayor.

The types of questions referred to the City Attorney are as follows:

1) Generally whether a conflict of interest exists for a Council Member and whether they should abstain from voting on a specific matter.

   Please note: Any advice received from the City Attorney relating to Conflicts of Interests is informal only and not binding; the Council Member must seek and obtain a formal written opinion from the FPPC in order to be afforded any statutory immunities.

2) Whether an issue has a legal standing, and what type of action would be appropriate.

3) Legal recommendations for matters of litigation.

F. Annual City Manager/City Attorney Evaluations

The City Council shall provide for annual evaluations for the City Manager and the City Attorney. A standardized evaluation form shall be used which shall address the areas of importance as set forth by the City Council. Said evaluation form shall be included as Appendix A.

G. Response to President/Governor Directives

Directives issued by the President of the United States and/or Governor of the State of California shall not be considered a mandatory directive to the City of Porterville except as authorized and/or approved by the City Council. The one exception to this rule is that flags on City buildings shall be flown at half mast upon orders by the President, Governor and/or Mayor, or by majority approval of the City Council.
SUBJECT: Consideration of League of California Cities Annual Membership

SOURCE: City Manager

COMMENT: As part of the City Council’s budget deliberations for the 2010-11 fiscal year, the Council made the determination not to fund from its budget the $16,447 in annual dues for the City’s continued membership in the League of California Cities.

As the City is preparing the close of its budget for FY 2010-11, due to Departmental “savings” of budgeted expenditures, staff has determined that funds would be available to continue the City’s membership in the League. Given the League is the most powerful (and many times only) advocate for local city government in Sacramento, staff requests that the Council consider maintaining its League membership.

Given Members of Council and staff have previously attended the annual conference and other League meetings and training sessions, the question had been raised as to whether City representatives could continue to attend, which attendance would be allowed though typically at twice the League member meeting or training session registration charge.

RECOMMENDATION: That the City Council consider maintaining its membership to the League of California Cities.

ATTACHMENT: None
COUNCIL AGENDA: July 5, 2011

SUBJECT: COUNCILMEMBER REQUESTED AGENDA ITEM – Request for the City Council to Authorize an Independent Financial Audit of the Porterville Chamber of Commerce

SOURCE: City Manager

COMMENT: City Council Member Shelton has requested that the City Council authorize an independent financial audit of the Porterville Chamber of Commerce.

RECOMMENDATION: Councilman Shelton makes the motion that the City Council authorize an independent financial audit of the Porterville Chamber of Commerce.

ATTACHMENT: None

C/M

Item No. 23
SUBJECT: COUNCILMEMBER REQUESTED AGENDA ITEM – Request for the City Council to Consider a Resolution of Opposition to the Proposed Shift of Management of the Giant Sequoia National Monument from the U.S. Forest Service to the National Park Service

SOURCE: City Manager

COMMENT: Vice Mayor Hamilton has requested that the City Council consider adopting a Resolution in opposition to the shift of management responsibilities for the Giant Sequoia National Monument from the U.S. Forest Service to the National Park Service, as proposed by Representative Sam Farr (D-CA 17th District).

RECOMMENDATION: Vice Mayor Hamilton makes the motion that the City Council adopt a Resolution in opposition to the proposed shift of management of the Giant Sequoia National Monument from the U.S. Forest Service to the National Park Service.

ATTACHMENT: Dear Colleague and Letter to the President by Representative Farr
Dear Colleague and letter to the President submitted by Representative Sam Farr (D-CA 17th District)

**Cosigners:** Woolsey, Grijalva, McDermott, Capps, Olver, Waters, Stark, Van Hollen, Jackson Jr., Lee (CA), Hinchey, Honda, Frank, Connolly, Lofgren, Fliner, Norton

Dear Colleague:

I urge you to join me to encourage President Obama to use his authority to protect and preserve a true American icon for our future generations - the Giant Sequoia.

Sequoias are both the largest trees on Earth and the largest living individual organisms on Earth - a truly unique combination. They naturally occur only in one area of the world, the western slopes of California's Sierra Nevada. Until 2000, Sequoia National Forest contained half of the world's naturally-occurring Sequoias.

Prior to 2000, the treasured Sequoia groves in what was called Sequoia National Forest were managed for timber production by the U.S. Forest Service, which for decades allowed aggressive logging in the Sequoias. Regrettably, vast areas of these remarkable forests have been lost.

It was this ongoing destruction of the Sequoia forests by the Forest Service logging program that led President Clinton on April 15, 2000, to use his authority to declare that the majestic Sequoia groves and the surrounding forests of the Sequoia National Forest would be designated as the Giant Sequoia National Monument. **Sadly, despite President Clinton’s designation of the Giant Sequoia National Monument in 2000, the Forest Service continued logging.**

The National Park Service has a proud history of protecting our nation’s sacred outdoor spaces, from the Grand Canyon to the National Mall and from Yellowstone to Mount Rushmore. The National Park Service has protected our Sequoias in Sequoia and Kings Canyon National Parks on behalf of the American people and our grandchildren.

I'm asking for your support in signing the attached letter to President Obama. Let's stand together in urging President Obama to use his presidential power to transfer the Giant Sequoia National Monument to the National Park Service. Please support our American culture and our heritage and let's maintain our shared commitment to future Americans. The deadline to sign is C.O.B. May 25, 2011. If you have any questions or wish to sign this letter please contact Sam Chiron of my staff at sam.chiron@mail.house.gov or x5-2861.
May xx, 2011

The Honorable Barack Obama
President of the United States
The White House
Washington, DC

Dear President Obama:

We are writing to ask you to use your presidential powers to transfer jurisdiction of the Giant Sequoia National Monument to the National Park Service of the Department of the Interior.

The intent of national monuments is to protect important features of areas that have cultural importance, prehistoric prominence, and/or important scientific and ecological significance. It was pressure from citizen groups, organizations, and members of the Congress at the beginning of the 20th century, according to Gerald W. Williams, Ph.D., U.S.D.A. Forest Service in National Monuments and the Forest Service, that eventually spurred Congress to pass the Antiquities Act in 1906. This Act gave the President the power to "combat the increasing acts of vandalism and even destruction" of important cultural and natural areas around the country by designating national monuments. One of its first uses was when President Teddy Roosevelt designated the Grand Canyon a U.S. National Monument on January 11, 1908.

No national monument in the United States could more perfectly fit this definition than Giant Sequoia National Monument. It contains the unique Sequoia forest ecosystems centered around the Sequoias, the largest trees in the world, indeed, the Earth’s largest living individual organisms, which are also some of the tallest and oldest trees on Earth, and which occur naturally only in this one area of the world. Additionally, the Sequoia groves contain rare species and many sites containing historical artifacts from various eras of human occupation dating to the prehistoric. Giant Sequoia National Monument contains 50% of the world's remaining giant Sequoias.

Prior to 2000, these 327,769 acres of Sequoia groves were called Sequoia National Forest and were managed for timber production by the U.S. Forest Service, which for decades allowed aggressive logging in the Sequoia groves that supplied four nearby lumber mills with a continuous supply of timber. The Forest Service, proud of its logging programs in the Sequoia forests, erected "educational" markers along a Sequoia grove visitor trail explaining and illustrating the different stages of timber production, from logging trees to milling them in the timber mills.

It was this destruction to the Sequoias by the Forest Service logging program that led President Clinton on April 15, 2000 to use his powers under the Antiquities Act to designate the Sequoia groves and the surrounding forest of the Sequoia National Forest as the Giant Sequoia National Monument. Clinton’s Proclamation stated "No portion of the monument shall be considered to be suited for timber production..." and "No new roads or trails will be authorized within the monument except to further the purposes of the monument." Despite President Clinton’s
designation of the Giant Sequoia National Monument in 2000, the Forest Service continued logging.

In 2004, in the premier tourist spot in the Monument known as the Trail of 100 Giants, the Forest Service closed access to the public for a year and conducted logging operations. When the site was reopened the following year, hundreds of giant trees, including 300-year-old sugar pines, and hundreds of smaller trees had been logged under Forest Service direction, destroying the natural character of this world-famous Sequoia grove. In protest, on October 13, 2006, 29 members of the House of Representatives wrote to the Secretary of Agriculture and the Chief of the Forest Service pointing out that the logging was in violation of the National Environmental Policy Act, and demanded that the Forest Service end logging operations in the Giant Sequoia National Monument.

But logging continued throughout the National Monument, including large-tree removal, falsely labeled as "hazard tree" projects. The Burton Timber Sale included construction of twelve miles of new roads, although new roads are prohibited by the Monument Proclamation.

Five citizen groups had sued the Forest Service for its illegal management plan for the Giant Sequoia National Monument, and in 2006 a federal judge ruled that the Forest Service plan was in violation of NEPA. The judge required the Forest Service to write a new plan and also halted logging on the timber sales that remained.

In September 2010, 48 members of Congress wrote to the Chief of the Forest Service and to the Supervisor of the Sequoia National Forest criticizing the new Giant Sequoia National Monument management plan just released by the Forest Service, which would allow continued and even increased logging. The new plan draft would enable the destructive Ice, Saddle, and White River Timber Sales to be completed and would implement salvage logging and "hazard tree" logging without scientific basis and without complying with the letter and protective intent of the Monument Proclamation.

The logging and road building in the Sequoia groves after they were proclaimed a national monument in 2000 bring to mind an incident told in National Monuments and the Forest Service. The author relates how in 1943 President Franklin D. Roosevelt established the Jackson Hole National Monument, turning over management of this federal land from the Forest Service to the National Park Service. In retaliation, the local staff of the Forest Service ripped out the plumbing and telephone equipment before turning their office over to the Park Service. This Forest Service behavior seems all too similar to the logging which caused irreparable ecological damage in 2004 in the Trail of 100 Giants, the very spot where President Clinton signed the proclamation creating the Monument.

After more than a decade of destructive logging and road-building by the Forest Service in Giant Sequoia National Monument, and after repeated failures to produce an environmentally sound and legal management plan for the Monument or to comply with federal court orders, the Forest Service has demonstrated it has neither the intention nor the institutional ability to protect this American national ecological treasure.

Clearly, the time is long overdue for transfer of authority to the National Park Service, an agency with a 120-year record of properly managing the unique Sequoia ecosystems in Sequoia,
Yosemite, and Kings Canyon National Parks, with the purpose of protecting the Sequoia forests and on behalf of the American people, not for a few local timber interests.

Therefore, we the undersigned ask you to use your presidential powers to transfer jurisdiction of the Giant Sequoia National Monument to the National Park Service immediately, in order to protect this irreplaceable national and worldwide jewel for future generations of Americans.

Sam Chiron
Staff Assistant & Legislative Correspondent
Rep. Farr (CA-17)
Tel: 202.225.2861
JOINT CITY COUNCIL/REDEVELOPMENT AGENCY AGENDA: JULY 5, 2011

SUBJECT:  PUBLIC HEARING TO AUTHORIZE A PURCHASE AND SALE AGREEMENT BETWEEN THE PORTERVILLE REDEVELOPMENT AGENCY AND SOCIAL VOCATIONAL SERVICES, INC. (APN 253-138-001)

SOURCE:  COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT:  Social Vocational Service, Inc. (SVS) has been negotiating with staff for the acquisition of the approximately 27,752 square foot vacant site (Property) located generally at the southeast corner of Fourth Street and Harrison Avenue (APN 253-138-001). SVS is a provider for non-residential disabled adult care and vocational training. SVS desires to utilize the Property for the construction of a professional office building of not less than 4,000 square feet, in accordance with all land use entitlements, permits, the Porterville Development Code, and other applicable state, federal and local laws.

The Property is currently vacant and not economically productive. The Agreement will ultimately ensure that the Property is productive and utilized in a manner consistent with the Redevelopment Plan, the Agency’s current five-year Implementation Plan, the City’s General Plan and the Porterville Development Code. The proposed Agreement will result in the development of an undeveloped lot that will support the residents and businesses within the downtown area of the City and the Project Area and create jobs for Porterville residents. Therefore, the Agreement will reduce conditions of blight and create jobs pursuant to the goals of the Redevelopment Plan.

Negotiations between the Agency and SVS have resulted in the following terms and conditions:

1)  SVS will purchase the property for $125,000.00. The offer equals the appraised fair market value of the property. The Agency will pay all closing costs and a Broker’s commission of up to $7,500.00.

2)  SVS will commence development of the building within six (6) months following closing date and will complete development within twenty-four (24) months following closing date.

3)  SVS will sign and record a Maintenance and Use Covenant against the property for the timely development and orderly maintenance of the Property for a term of twenty (20) years from the date of the City’s issuance of a final certificate of occupancy for the Project.

4)  The City/Agency will terminate and remove from title to the Property those certain Operation, Use and Maintenance Covenants...
Running with the Land (Parking Facilities) dated as of March 10, 2011 and recorded against the Property (Parking Covenants).

RECOMMENDATION: That the Porterville City Council:
1) Finds and determines that the conveyance of the Property to Social Vocational Services, Inc. and the development and operation of a non-residential daycare facility for disabled adults will be of benefit to the Project Area and will help to eliminate blight within the Redevelopment Project Area by providing for the development of a vacant parcel of land with a high quality professional office building; and
2) Terminates the Operation, Use and Maintenance Covenants (Parking Covenant) with respect to the Property and remove the Parking Covenant from record title to the Property; and
3) Adopt a Resolution approving the Purchase and Sale Agreement between the Porterville Redevelopment Agency and Social Vocational Services, Inc.; and
4) Authorize the City Manager, or his designee, to sign all necessary documents to complete the transaction; and
5) Authorize staff to record all documents with the County Recorder.

That the Porterville Redevelopment Agency:

1) Finds and determines that the conveyance of the Property to Social Vocational Services, Inc. and the development and operation of a non-residential daycare facility for disabled adults will be of benefit to the Project Area and will help to eliminate blight within the Redevelopment Project Area by providing for the development of a vacant parcel of land with a high quality professional office building; and
2) Adopt a Resolution approving the Purchase and Sale Agreement between the Redevelopment Agency and Social Vocational Services, Inc. for the sale of property located generally at the southeast corner of Fourth Street and Harrison Avenue (APN 253-138-001), at a price of $125,000.00; and
3) Authorize the Executive Director to sign all necessary documents to complete the transaction; and
4) Authorize staff to enter escrow, with the Agency paying escrow fees as described in the Purchase and Sale Agreement; and
5) Authorize staff to record all documents with the County Recorder.

Attachments:
1) Resolution of the Porterville City Council Terminating Those Certain Operation, Use and Maintenance Covenants (Parking Covenants)
2) Purchase and Sale Agreement
3) Resolution of the Porterville City Council Approving a Purchase and Sale Agreement
4) Resolution of the Porterville Redevelopment Agency Approving a Purchase and Sale Agreement
5) Summary Report Pursuant to Section 33433 of the California Community Redevelopment Law
6) Locator Map
RESOLUTION NO. ___
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
TERMINATING THOSE CERTAIN OPERATION, USE AND MAINTENANCE COVENANTS RUNNING WITH THE LAND (PARKING FACILITIES)
WITH RESPECT TO CERTAIN REAL PROPERTY IN THE CITY AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

WHEREAS: The Porterville Redevelopment Agency ("Agency") is a California public body, corporate and politic, duly formed and authorized by the City Council of the City ("City Council") to exercise the powers of a redevelopment agency pursuant to the California Community Redevelopment Law, Health and Safety Code Section 33000, et seq. ("Redevelopment Law").

WHEREAS: The Agency owns certain real property generally located at the southeast corner of Fourth Street and Harrison Avenue in the City (APN 253-138-001), consisting of approximately 27,752 square feet of vacant land ("Property"). The Property is legally described in Exhibit A, which is attached hereto and incorporated herein by this reference.

WHEREAS: The Agency intended to use the Property as a public parking facility and, to that end, the Agency executed those certain Operation, Use and Maintenance Covenants Running with the Land (Parking Facilities), dated as of March 10, 2011 ("Parking Covenant"), and caused the Parking Covenant to be recorded against the Property in the Official Records of Tulare County, California on March 11, 2011 as Instrument No. 2011-0014487.

WHEREAS: By its terms, the Parking Covenant may be modified or terminated by resolution of the City Council.

WHEREAS: Social Vocational Services, Inc. ("Buyer") has offered to purchase the Property from the Agency for the development of a professional office building thereon, for operation of a daycare facility for developmentally disabled adults ("Facility").

WHEREAS: The Agency and City desire for the Agency to convey the Property to the Buyer.

WHEREAS: The City Council desires to terminate the Parking Covenant with respect to the Property only, in order to permit the development and operation of the Facility by the Buyer.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1: The foregoing recitals are true and correct.

ATTACHMENT ITEM NO. /
SECTION 2: The City Council hereby finds and determines, based on substantial evidence provided in the record before it, that the conveyance of the Property to the Buyer and development and operation of the Facility thereon will be of benefit to the Project Area and will help to eliminate blight within the Redevelopment Project by: providing for the development of a vacant parcel of land with a high quality professional office building and by providing for the operation of a daycare facility for developmentally disabled adults by the Buyer, which already operates another, similar facility in the City for the benefit of the citizens and residents of the City of Porterville, all pursuant to and consistent with the purposes and provisions of the Redevelopment Law, the Agency's Redevelopment Plan, the Agency's 2010-2014 Implementation Plan, and the prior implementation plans adopted by the Agency pursuant to Section 33490 of the Redevelopment Law.

SECTION 3: The City Council hereby terminates the Parking Covenant with respect to the Property and removes the Parking Covenant from record title to the Property. The Parking Covenant shall remain in full force and effect in accordance with its terms with respect to all other properties included within the definition of "Properties" set forth in the Parking Covenant and described in Exhibit A thereto.

SECTION 4: This Resolution may be recorded against the Property in the Official Records of Tulare County, California.

SECTION 5: This Resolution shall be effective immediately upon adoption.

APPROVED AND ADOPTED this 5th day of July, 2011.

By: ________________

Ronald L. Irish, Mayor

ATTEST:

John Lollis, City Clerk

Patrice Hildreth, Chief Deputy City Clerk
EXHIBIT A

LEGAL DESCRIPTION

That real property located in the City of Porterville, County of Tulare, State of California, and described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF TULARE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

City of Porterville

That portion of the Northeast quarter of the Southwest quarter of Section 25, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, being more particularly described as follows:

The Westerly 115.9 feet of Block "A" of the Amended Map of Eastern Addition to Porterville, according to the map thereof recorded in Book 10 Page 8 of Maps, Tulare County Records, including the abandoned alley in said Block "A".

Excepting therefrom all ownership rights to the entire mineral estate below the property, below a depth of twenty-five feet, including without limitation, all oil, petroleum, gas and other minerals, whether gaseous, liquid or solid, in and under the above-described premises, below a depth of twenty-five feet. Such rights shall include surface and subsurface access easements, rights to construct, maintain and operate surface and subsurface facilities, and other rights to develop and extract oil, petroleum, gas or any other mineral, except that grantor (1) shall not, without prior written consent from grantee, which consent shall not be unreasonably withheld or delayed, have any right to enter the surface of the property for purposes of exploration, development or extraction of such minerals; (2) shall not in exercising these rights more than minimally interfere with grantee’s use of the property; and (3) prior to the exercise of these rights, shall provide adequate liability protection to grantee, in the form of general liability insurance obtained (or extended), at the sole cost of grantor, naming grantee as an insured party, upon such terms as are reasonable and customary, unless grantor, in the reasonable opinion of grantee, possesses the financial capability to fund such liability protection as self-insured entity, under than reasonable and customary standard, for any losses or damages reasonably likely to be sustained by grantee as a result of grantor’s exercise of these rights. In addition any surface or subsurface facilities constructed, or equipment used, by grantor in the course of grantor’s exercise of these rights, shall be constructed and used in a manner that results in no more than minimal interference with grantee’s use of the property, as reserved in the deed from The Atchison, Topeka and Santa Fe Railway Company, (ATSF), a Delaware Corporation to Tulare Valley Railroad Company, a Nevada Corporation, recorded December 29, 1992 as Document No. 92094547 of Official Records, and recorded October 18, 1994 as Document No. 94074651 of Official Records.

APN: 253-138-001
PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT ("Agreement") is dated for reference purposes as of the 5th day of July, 2011 ("Agreement Date"), and is being entered into by and between the PORTERVILLE REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency"), and SOCIAL VOCATIONAL SERVICES, INC., a California non-profit corporation ("Buyer"), for the acquisition by Buyer of certain real property described below.

NOW, THEREFORE, Agency and Buyer hereby agree as follows:

1. Agreement to Sell and Purchase. Agency is the owner in fee of that certain vacant real property consisting of approximately 27,752 square feet of land area generally located at the southeast corner of Fourth Street and Harrison Avenue in the City of Porterville ("City"), County of Tulare, State of California ("Property"). The Property is more particularly described in Exhibit "A" and is shown on the map in Exhibit "B" attached hereto and fully incorporated herein by reference. Agency agrees to sell the Property to Buyer and Buyer agrees to purchase the Property from Agency upon the terms and for the consideration set forth in this Agreement.

2. Purchase Price. The purchase price of the Property ("Purchase Price") is One Hundred Twenty-Five Thousand Dollars ($125,000.00). The Purchase Price is not less than the fair reuse value of the Property.

3. Conveyance of Title and Possession. Agency agrees to convey by Grant Deed to Buyer fee simple title to the Property, free and clear of all recorded and unrecorded liens, encumbrances, assessments, easements, leases, taxes and other title or survey matters ("Exceptions") except such matters which are acceptable to the Buyer, following Buyer's review of the Report (defined below) as provided in this Section 3. Within fifteen (15) calendar days following the Agreement Date, Agency shall cause Chicago Title Company ("Title Company") to deliver to Buyer a preliminary title report or commitment ("Report") with respect to the title to the Property, together with legible copies of documents creating the Exceptions set forth in the Report. Buyer shall have thirty (30) days from its receipt of the Report within which to give written notice to Agency of Buyer’s approval or disapproval of any of such Exceptions. Buyer’s failure to give written approval of the Report within such time limit shall be deemed approval of the Exceptions set forth in the Report; provided that (i) Agency agrees to use its reasonable efforts to cause the City Council of the City to remove those certain Operation, Use and Maintenance Covenants Running with Land (Parking Facilities), dated as of March 10, 2011 and recorded against the Property in the Official Records of Tulare County, California on March 11, 2011 as Instrument No. 2011-0014487 ("Parking Covenant") from title to the Property prior to and as a condition precedent to the Closing, and (ii) provided further that no deeds of trust, mortgages or other liens, except for the lien of property taxes and assessments not yet due, shall be approved Exceptions. If Buyer notifies Agency of its disapproval of any Exceptions in the Report, Agency shall have the right, but not the obligation, to remove any disapproved Exceptions or provide assurances satisfactory to Buyer that such Exception(s) will be removed on or before the Closing within fifteen (15) days after receiving written notice of Buyer’s disapproval. If Agency cannot or does not elect to remove any of the disapproved Exceptions within that period, Buyer shall

ATTACHMENT
ITEM NO. 2
have until the Closing Date to either give Agency and the Escrow Holder written notice that Buyer elects to proceed with the purchase of the Property subject to the disapproved Exceptions or to give Agency written notice that Buyer elects to terminate this Agreement. Buyer shall have the right to approve or disapprove any Exceptions reported by the Title Company after Buyer has approved the condition of title for the Property. Agency shall not voluntarily create any new exceptions to title following the Agreement Date.

4. **Title Insurance Policy.** Escrow Holder shall, following recording of the Grant Deed, provide Buyer with a standard owner’s CLTA (or extended coverage ALTA, at the request of Buyer) policy of title insurance in the amount of the Purchase Price, issued by the Title Company, together with any endorsements and additional coverage reasonably requested by Buyer, showing fee simple title to the Property vested in Buyer, subject only to the Exceptions set forth in Section 3 approved by Buyer and the printed exceptions and stipulations in the policy. Agency shall pay the portion of the premium which would be charged for a CLTA (standard coverage) owners title insurance policy in the amount of the Purchase Price, and Buyer shall pay the additional cost for an ALTA (extended coverage) title insurance policy if Buyer elects to receive such a policy and for any other additional costs, including the costs of any endorsements and additional coverage.

5. **Escrow.** Buyer and Agency shall open an escrow (“Escrow”) in accordance with this Agreement with Chicago Title Company or another escrow company mutually agreeable to both parties (“Escrow Holder”). This Agreement, together with the escrow instructions prepared by Escrow Holder and executed by Buyer and Agency, constitutes the joint escrow instructions of Buyer and Agency, and the Escrow Holder to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to do all acts necessary to close this Escrow on or before the Closing Date set forth in Section 7.5 hereof; provided, however, Buyer shall not be obligated to waive any of its rights, conditions or contingencies under this Agreement in order to close the Escrow.

5.1 **Grant Deed.** Agency shall execute and deliver into the Escrow a Grant Deed (“Grant Deed”) to Buyer, in substantially the form attached hereto as Exhibit “C” and incorporated herein. Buyer agrees to deposit the Purchase Price upon demand of Escrow Holder. Buyer and Agency agree to deposit with Escrow Holder any additional instruments as may be necessary to complete this transaction.

5.2 **Maintenance Covenant.** Buyer and Agency shall execute and deliver into the Escrow the Maintenance and Use Covenant (“Maintenance Covenant”) in substantially the form attached hereto as Exhibit “D” and incorporated herein.

5.3 **Insurance.** Insurance policies are not to be transferred, and Agency may cancel its own policies after close of escrow.

5.4 **Escrow Account.** All funds received in the Escrow shall be deposited with other escrow funds in a general escrow account(s) and may be transferred to any other escrow trust account in any state or national bank doing business in the State of California. All disbursements shall be made by check from such account.

6. **Tax Adjustment Procedure.** Escrow Holder shall pay and charge Agency for any unpaid delinquent property taxes and/or penalties and interest thereon, if any, and for
any delinquent assessments or bonds against the Property. Escrow Holder shall prorate property taxes and assessments for the current fiscal year, if any, as of the Closing Date.

7. **Escrow Holder Authorization.** Escrow Holder is authorized to, and shall:

7.1 **Fees, Charges and Costs.** Pay and charge Agency for all Escrow fees, charges, and costs payable under Section 5, 7.7 and 19 of this Agreement.

7.2 **Disbursement.** Disburse funds, record the Grant Deed and Maintenance Covenant, and deliver the title policy to Buyer, when conditions of the Escrow have been fulfilled by Buyer and Agency.

7.3 **Close of Escrow.** The term “Close of Escrow,” if and where written in these instructions, shall mean the date the Grant Deed, Maintenance Covenant and other necessary instruments of conveyance are recorded in the office of the Tulare County Recorder. Recordation of instruments delivered through this Escrow is authorized, if necessary or proper for the issuance of the policy of title insurance pursuant to Section 4 hereof.

7.4 **Time Limits.** All time limits within which any matter specified is to be performed may be extended by mutual agreement of the parties. Any amendment of, or supplement to, any instructions must be in writing.

7.5 **Time of the Essence.** Provided that the conditions set forth in Section 8 hereof have been satisfied, Escrow shall close (“Close of Escrow,” “Close,” or “Closing”) on or before October 5, 2011 (“Closing Date”). In the event the Closing does not occur on or before the Closing Date, either party that is not in default hereunder shall be entitled to cancel Escrow, terminate this Agreement, and the Escrow Holder shall return to the depositor thereof all documents, instruments, and monies which were deposited hereunder. The foregoing shall not constitute an election of remedies for a non-defaulting party if the other party wrongfully fails to close Escrow.

7.6 **Limitations on Escrow Holder Responsibility.** Escrow Holder shall have no responsibility for performance or ensuring either party’s performance of the provisions set forth in Sections 10, 12, 13, 14, 15, 16, 17, or 18 of this Agreement.

7.7 **Escrow Fees, Charges and Costs.** Title charges shall be allocated between the parties as set forth in Section 4. Except for the title charges to be charged to the Buyer pursuant to Section 4, and subject to the limitation on the Agency Commission amount described in Section 19, Agency agrees to pay all of the escrow fees and other fees, charges, and costs which arise in this Escrow.

7.8 **Tax Requirements.** Escrow Holder shall prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms are provided for or required by law.
8. Conditions Precedent to Close of Escrow.

8.1 Buyer’s Conditions Prior to Closing. Buyer’s obligation to complete the purchase of the Property is subject to the satisfaction or Buyer’s waiver in its sole and absolute discretion of each of the following conditions:

a. Agency shall have delivered through Escrow an executed and recordable Grant Deed sufficient to convey fee title to Buyer as set forth in Section 5.1.

b. Agency shall have delivered through Escrow such other documents as are necessary to comply with Agency’s obligations under this Agreement.

c. Buyer shall have approved the condition of title to the Property and the Title Company shall have committed to deliver to Buyer a title insurance policy as required by Section 4 hereof at or immediately after the Closing.

d. The physical, soils, and environmental condition of the Property shall be satisfactory to the Buyer, in the exercise of Buyer’s good faith discretion, and in the condition required by this Agreement.

e. The City Council of the City shall have caused the Parking Covenant to be removed as an Exception to title to the Property.

f. Buyer shall not have terminated this Agreement as otherwise specifically permitted by the provisions of this Agreement.

8.2 Agency’s Conditions Precedent to Closing. Agency’s obligation to complete the sale of the Property is subject to the satisfaction or Agency’s waiver in its sole and absolute discretion of each of the following conditions:

a. Buyer shall have delivered through Escrow the Grant Deed and Maintenance Covenant signed by Buyer and in recordable form, as set forth in Sections 5.1 and 5.2.

b. Buyer shall not be in default of any of its obligations under the terms of this Agreement, and all representations of Buyer herein shall be true and correct.

c. Buyer shall have deposited with Escrow Holder immediately available funds in an amount equal to the Purchase Price and Buyer’s share of title charges described in Section 4.

d. The Agency shall not have terminated this Agreement as otherwise specifically permitted by the provisions of this Agreement.

10. Permission to Enter on Premises. Pursuant to the terms and conditions of a Right of Entry Agreement by and between Agency and Buyer, Agency agrees to grant to Buyer, or its authorized agents, permission to enter upon the Property at all reasonable times prior to Close of Escrow for the purpose of making necessary or appropriate inspections, tests, surveys, assessments and reports of the Property, at Buyer’s expense (“Tests”). Buyer shall indemnify, defend, and hold harmless Agency and its officers, directors, shareholders, partners, employees, agents, and representatives from and against all claims, liabilities or damages, and including expert witness fees and reasonable attorney’s fees and costs, caused by Buyer’s activities with respect to or arising out of such testing, inspection, or investigatory activity on the Property.

11. Closing Statement. Agency instructs Escrow Agent to release a copy of Agency’s closing statement to Buyer, and Buyer instructs Escrow Agent to release a copy of Buyer’s closing statement to Agency.

12. Possession and Disposition of Personal Property. Agency shall, prior to the close of Escrow, remove or otherwise dispose of all personal property which is located on the Property.

13. Warranties, Representations, and Covenants of Agency. Agency hereby warrants, represents, and/or covenants to Buyer that:

13.1 Pending Claims. The parties acknowledge that the Governor of the State of California has submitted a proposal to the State Legislature that, if enacted (“Adverse Legislation”), would prevent the Agency from entering into this Agreement and, if adopted after the Agreement Date, could prevent the Agency from performing its obligations under this Agreement. Except as described in the immediately preceding sentence, to Agency’s Actual Knowledge, there are no actions, suits, claims, legal proceedings, or any other proceedings affecting the Property or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign.

13.2 Agency’s Title. Until the Close of Escrow, Agency shall not do anything which would impair Agency’s title to the Property or Buyer’s right of possession, development, or use of the Property after the Close of Escrow consistent with this Agreement.

13.3 Conflict with Other Obligation. To Agency’s Actual Knowledge and except for the Parking Covenant, which the parties anticipate will be removed from title to the Property prior to the Closing, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, covenants, conditions and restrictions, or other agreement or instrument to which Agency or the Property may be bound.

13.4 Authority. Agency has the full right, power, and authority to sell, convey, and transfer the Property to Buyer as provided herein and to carry out Agency’s obligations hereunder.
13.5 **Bankruptcy.** Agency is not the subject of a bankruptcy proceeding, and permission of a bankruptcy court is not necessary for Agency to be able to transfer the Property as provided herein.

13.6 **Governmental Compliance.** Agency has not received any notice from any governmental agency or authority alleging that the Property is currently in violation of any law, ordinance, rule, regulation or requirement applicable to its use and operation. If any such notice or notices are received by Agency following the date this Agreement is signed by Buyer, Agency shall, within ten (10) days of receipt of such notice notify Buyer; Agency then, at its option, may either elect to perform the work or take the necessary corrective action prior to the close of Escrow or refuse to do so, in which case Agency shall notify Buyer of such refusal and Buyer shall be entitled to either close Escrow with knowledge of such notice(s) or terminate this Agreement.

13.7 **Right to Possession.** Except as expressly set forth in Sections 3 and 4 of this Agreement, no person, firm, partnership or corporation has or will have the right to possess the Property or any portion of it as of the Agreement Date or the Close of Escrow.

13.8 **Change of Situation.** Until the Close of Escrow, Agency shall, upon learning of any fact or condition which would cause any of the warranties and representations in the section not to be true as of the Close of Escrow, immediately give written notice of such fact or condition to Buyer.

13.9 **Agency’s Actual Knowledge.** As used in this Agreement, “Agency’s Actual Knowledge” means the actual knowledge of Brad Dunlap, Susan Duke, and Linda Wammack, with no duty of investigation.

14. **Warranties, Representations, and Covenants of Buyer.** Buyer hereby warrants, represents, and/or covenants to Agency that:

14.1 **Authority.** Buyer is a California non-profit corporation duly organized, validly existing and in good standing under the laws of the State of California; this Agreement and all documents executed by Buyer are and at the time of Close of Escrow will be duly authorized, executed and delivered by Buyer, are and at the time of Close of Escrow will be legal, valid and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms.

14.2 **Bankruptcy.** Buyer is not the subject of a bankruptcy proceeding.

14.3 **Change of Situation.** Until the Close of Escrow, Buyer shall, upon learning of any fact or condition which would cause any of the warranties and representations in the section not to be true as of the Close of Escrow, immediately give written notice of such fact or condition to Agency.

15. **Use and Development Requirements.** Buyer hereby covenants to abide by the following restrictions in the use and development of the Property purchased from Agency:
15.1 Compliance with Redevelopment Plan. Buyer shall use, and permit use of, the Property solely for purposes designated in the Redevelopment Plan for the Porterville Redevelopment Project No. 1 ("Redevelopment Plan").

15.2 Development of Project. After acquisition of the Property by Buyer and subject to Enforced Delay (defined in Section 34), Buyer shall exercise commercially reasonable diligence to perform all of the following:

a. Construct a professional office building of not fewer than 4,000 square feet, in accordance with all land use entitlements, permits, the Porterville Development Code, and other applicable state, federal and local laws ("Project"). Notwithstanding anything to the contrary in this Agreement or the Maintenance Covenant, Buyer shall comply with all applicable requirements of the California Environmental Quality Act, California Public Resources Code Sections 21000, et seq., and the guidelines promulgated thereunder at Title 14 California Code of Regulations Section 15000, et seq. ("CEQA") in connection with the development of the Project at the Property. Buyer acknowledges and agrees that this Agreement does not constitute an approval by the City or Agency of the Project and Buyer shall obtain all such approvals in accordance with the Porterville Municipal Code, Porterville Development Code, and all other applicable Governmental Requirements applicable to the Property and/or the Project.

b. Commence development of the Project within six (6) months following the Closing Date.

c. After commencement of the development of the Project, not cease development for longer than thirty (30) days without the express written consent of the Agency’s Executive Director.

d. Complete development of the Project within twenty-four (24) months following the Closing Date, as evidenced by the City’s issuance of the final certificate of occupancy for the Project.

e. Not voluntarily or involuntarily assign Buyer’s development obligations under this Section 15 or make any total or partial sale, conveyance, assignment, or other transfer of the Property (collectively referred to herein as a “Transfer”) without Agency’s prior written approval, which approval Agency agrees shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, the restrictions in this Section 15.2.e. shall terminate and shall be of no further force or effect at the time that Buyer completes construction of the Project, as evidenced by City’s issuance of the final certificate of occupancy with respect thereto. In addition, and notwithstanding the foregoing, Agency approval shall not be required for any of the following, which shall not be deemed to be a Transfer for purposes of this Section 15.2.e.:

(i) Any transfers to an entity or entities in which Buyer, as of the Agreement Date, (A) retains operational control over the management, development and construction of the Project, and subject to the right of non-managerial members, partners, or shareholders, as applicable, to exercise voting rights with respect to so-called “major decisions,” and (B) has not less than a five percent (5%) interest in profit and losses in the Project.
(ii) The conveyance or dedication of any portion of the Property to the City or other appropriate governmental agency, or the granting of easements or permits to facilitate construction of the Project.

(iii) Any assignment for financing purposes, including the grant of a deed of trust to a lender ("Lender") to secure the funds necessary for land acquisition and construction of all or any portion of the Project, and any subsequent transfer to the Lender or its nominee or successor or to a third party purchaser at a foreclosure sale, after foreclosure, or by virtue of a deed conveyed in lieu of foreclosure.

f. From and after the Closing, Buyer shall use, operate and maintain the Property and the Project in accordance with the Maintenance Covenant.

16. Remedy for Default by Buyer. The Agency has the right, at its election, to reenter and take possession of the Property, with all improvements thereon, and terminate and revest in the Agency the estate conveyed to the Buyer, if after the Closing but prior to the issuance of the final certificate of occupancy for the Project by the City, the Buyer, shall:

a. fail to start the construction of the Project as required by this Agreement for a period of thirty (30) days after written notice from Agency that Buyer has failed to commence construction within the time set forth in Section 15, subject to events of Enforced Delay; or

b. abandon or substantially suspend construction of the Project as required by this Agreement and fail to resume construction within thirty (30) days after written notice thereof from Agency, subject to Enforced Delay; or

c. contrary to the provisions of Section 15.2.e., Transfer or suffer any involuntary Transfer in violation of this Agreement, and such Transfer is not rescinded within thirty (30) days of notice thereof from Agency.

Such right to reenter, terminate and revest shall be subject to and be limited by and shall not defeat, render invalid or limit:

1. Any mortgage or deed of trust permitted by the Agreement; or

2. Any rights or interests provided in the Agreement for the protection of holders of bona fide mortgages or deeds of trust against the Property.

Upon the revesting in the Agency of title to the Property as provided in this Section, the Agency shall, pursuant to its responsibilities under state law, use its reasonable efforts to resell the Property as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law and of the Redevelopment Plan, as it exists or may be amended, to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of making or completing the Project, or such improvements in their stead as shall be satisfactory to the Agency and in accordance with the uses specified for the Property in the Redevelopment Plan. The Buyer acknowledges that there may be substantial delays experienced by the Agency if the Agency must remarket the Property following the revesting of the Property in the Agency. Upon such resale of the Property, the
net proceeds thereof after repayment of any mortgage or deed of trust encumbering the Property which is permitted by the Agreement, shall be applied:

(i) First, to reimburse the Agency all costs and expenses incurred by the Agency, excluding Agency staff costs, but specifically including, but not limited to, any expenditures by the Agency or the City in connection with the recapture, management and resale of the Property (but less any income derived by the Agency from the Property in connection with such management); all taxes, assessments and water or sewer charges with respect to the Property which the Buyer has not paid; any payments made or necessary to be made to discharge any encumbrances or liens existing on the Property at the time of revesting of title thereto in the Agency, or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Buyer; any expenditures made or obligations incurred with respect to the making or completion of the improvements or any part thereof on the Property; and any amounts otherwise owing to the Agency, and in the event additional proceeds are thereafter available, then

(ii) Second, to reimburse the Buyer; up to the amount equal to the costs incurred for the acquisition and development of the Property and for the improvements existing on the Property at the time of the reentry and possession.

Any balance remaining after such reimbursements shall be retained by the Agency as its property. The rights established in this Section are not intended to be exclusive of any other right, power or remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy authorized herein. These rights are to be interpreted in light of the fact that the Property has been conveyed to the Buyer for redevelopment purposes, particularly for development and operation of the Project thereon, and not for speculation in undeveloped land.

17. Condition of the Property.

17.1 Hazardous Materials. As used in this Agreement, the term "Hazardous Materials" shall mean any substance, material, or waste which is or becomes, regulated by any local governmental authority, the County of Tulare, the State of California, any regional governmental authority, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated biphenyls, (viii) methyl tertiary butyl ether, (ix) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6901, et seq. (42 U.S.C. §6903) or (xi) defined as "hazardous substances" pursuant to Section 101

17.2 Compliance with Environmental Laws. To Agency’s Actual Knowledge, Agency has not received any notice from any governmental agency that the Property is not in compliance with any applicable laws and governmental regulations including, without limitation, all applicable federal, state, and local laws pertaining to air and water quality, hazardous waste, waste disposal, and other environmental matters, including, but not limited to, the Clean Water, Clean Air, Federal Water Pollution Control, Solid Waste Disposal, Resource Conservation Recovery and Comprehensive Environmental Response Compensation and Liability Acts, and the California Environmental Quality Act, and the rules, regulations, and ordinances of the City of Porterville, the California Department of Health Services, the Regional Water Quality Control Board, the State Water Resources Control Board, the Environmental Protection Agency, and all applicable federal, state, and local agencies and bureaus.

17.3 As Is Sale. Except as otherwise provided herein, the physical condition, possession or title of the Property is and shall be delivered from Agency to Buyer in an “as is” condition, with no warranty expressed or implied by Agency, including without limitation, the presence of Hazardous Materials or the condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Property for the development purposes intended hereunder.

Buyer hereby waives, releases and discharges forever Agency and City and their respective elected officials, employees, volunteers, directors, officers, agents and representatives, from all present and future claims, demands, suits, legal and administrative proceedings and from all liability for damages, losses, costs, liabilities, fees and expenses, present and future, arising out of or in any way connected with the condition of the Property, any Hazardous Materials on or under the Property, or the existence of Hazardous Materials contamination due to the generation of Hazardous Materials from the Property, however they came to be placed there, except that arising out of the gross negligence or willful misconduct of Agency or City or their respective elected officials, employees, volunteers, directors, officers, agents or representatives.

Buyer acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

As such relates to this Section 17.3, Buyer hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

17.4 Approval of Physical Condition of the Property. Buyer shall have forty-five (45) days from the date the Escrow is opened to inspect the Property in accordance with Section 10 and to either approve the condition of the Property or terminate this
Agreement. Any alteration or remediation of the Property deemed necessary by Buyer shall be performed by Buyer, at Buyer’s sole cost and expense, and only after the Closing.

18. **Nondiscrimination Covenants.** Buyer covenants by and for itself and any assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the Buyer or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land.

19. **Broker’s Commission.** The parties acknowledge that Buyer has engaged the services of a real estate broker in connection with the transaction which is the subject of this Agreement, and that Agency shall be responsible for payment of any and all fees, commissions and other charges that may accrue to such broker by means of the sale of the Property to Buyer, up to the amount of Seven Thousand Five Hundred Dollars ($7,500) (“Agency Commission Amount”). Notwithstanding the foregoing, Buyer shall be responsible for any and all fees, commissions and other charges that may accrue to such broker, or any other broker hired by Buyer, in excess of the Agency Commission Amount. Buyer hereby agrees to and does indemnify and hold Agency harmless from and against any and all costs, liabilities, losses, damages, claims, causes of action or proceedings which may result from any broker, agent or finder, licensed or otherwise, which it has employed in connection with the transaction covered by this Agreement.

20. **Waiver, Consent and Remedies.** Each provision of this Agreement to be performed by Buyer and Agency shall be deemed both a covenant and a condition and shall be a material consideration for Agency’s and Buyer’s performance hereunder, as appropriate, and any breach thereof by Buyer or Agency shall be deemed a material default hereunder by such breaching party. Either party may specifically and expressly waive in writing any portion of this Agreement or any breach thereof, but no such waiver shall constitute a further or continuing waiver of a preceding or succeeding breach of the same or any other provision. A waiving party may at any time thereafter require further compliance by the other party with any breach or provision so waived. The consent by one party to any act by the other for which such consent was required shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or any similar acts in the future. No waiver or consent shall be implied from silence or any failure of a party to act, except as otherwise specified in this Agreement. All rights, remedies, undertakings, obligations, options, covenants, conditions and agreements contained in this Agreement shall be cumulative and no one of them shall be exclusive of any other. Except as otherwise specified herein, either party hereto, after expiration of the cure period specified in Section 23 below without cure thereof, may pursue any one or more of its rights, options or remedies hereunder or may seek damages or specific performance in the event of the other party’s breach hereunder, or may pursue any other remedy at law or equity, whether or not stated in this Agreement.
21. **Attorney’s Fees.** In the event any declaratory or other legal or equitable action is instituted between Agency, Buyer and/or Escrow Holder in connection with this Agreement then, as between Buyer and Agency, the prevailing party shall be entitled to recover from the losing party all of its costs and expenses, including court costs, reasonable attorneys’ fees, expert witness fees, and all fees, costs and expenses incurred on any appeal or in collection of any judgment.

22. **Notices.** Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered in person to an officer or duly authorized representative of the other party, or deposited in the United States mail, duly certified or registered (return receipt requested), postage prepaid, or delivered through another reasonably acceptable method, and addressed to the party for whom intended, as follows:

If to Agency:  
Porterville Redevelopment Agency  
291 North Main Street  
Porterville, California 93257  
Attention: Bradley D. Dunlap, Executive Director

With a copy to:  
Stradling Yocca Carlson & Rauth  
660 Newport Center Drive, Suite 1600  
Newport Beach, CA 92660  
Attention: Thomas P. Clark, Jr., Esq.

If to Buyer:  
Social Vocational Services, Inc.  
c/o SVS, Inc.  
1401 Fulton Street, Suite 510  
Fresno, CA 93721  
Attention: Susan Leonhardt

With a copy to:  
SVS, Inc.  
3555 Torrance Blvd.  
Torrance, CA 90503  
Attention: Edward T. Dawson, Executive Director

Any party may from time to time, by written notice to the other, designate a different address which shall be substituted for that specified above. If any notice or other document is sent by mail as aforesaid, the same shall be deemed fully delivered and received forty-eight (48) hours after mailing as provided above.

23. **Breaches and Defaults.** Subject to Enforced Delay, failure or delay by either party to perform any material term or provision of this Agreement (a “Breach”) following written notice and failure to cure as described hereafter constitutes a “Default” under this Agreement.

The nondefaulting party shall give written notice of any Breach to the party in Breach, specifying the Breach complained of by the nondefaulting party (“Notice of Default”). Delay in giving such Notice of Default shall not constitute a waiver of any Breach nor shall it change the time of Breach. Upon receipt of the Notice of Default, the party in
Breach shall promptly commence to cure the identified Breach at the earliest reasonable time after receipt of the Notice of Default and shall complete the cure of such Breach not later than thirty (30) days after receipt of the Notice of Default, or if such Breach cannot reasonably be cured within such thirty (30) day period, then as soon thereafter as reasonably possible, provided that the party in Breach shall diligently pursue such cure to completion (“Cure Period”). Failure of the party in Breach to cure the Breach within the Cure Period set forth above shall constitute a “Default” hereunder.

Any failure or delay by either party in asserting any of its rights and remedies as to any Breach or Default shall not operate as a waiver of any Breach or Default or of any such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

24. Gender and Number. In this Agreement (unless the context requires otherwise), the masculine, feminine and neuter genders and the singular and the plural shall be deemed to include one another, as appropriate.

25. Entire Agreement. This Agreement and its exhibits constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understanding of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

26. Captions. The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

27. Governing Law. This Agreement and the exhibits attached hereto have been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California.

28. Counterparts. This Agreement may be executed in counterparts, each of which when executed shall, regardless of the date of its execution and delivery, be deemed an original, and all counterparts together shall constitute one and the same instrument.

29. Invalidity of Provision. If any provision of this Agreement as applied to any party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

30. Amendments. No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing by Buyer and Agency.

31. Time of Essence. Time is of the essence of each provision of this Agreement.
32. **Binding Upon Successors.** The terms and conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereof.

33. **Public Works Requirements.** Buyer shall carry out the construction and the development of the Property in conformity with all applicable federal and state labor laws (including, without limitation, if applicable, the requirement under California law to pay prevailing wages and to hire apprentices). Although the parties believe that any development of the Property would not be considered to be a “public work” under California law because the Property is being sold to Buyer at its fair market value, and no Agency assistance is being provided to such development, Buyer shall be solely responsible for determining and effectuating compliance with such laws, and the Agency makes no representation as to the applicability or non-applicability of any of such laws to any such construction and development. Buyer hereby expressly acknowledges and agrees that the Agency has not previously affirmatively represented to the Buyer or its contractor(s) for the construction or development of the Property, in writing or otherwise, in a call for bids or otherwise, that the development of the Property is not a “public work,” as defined in Section 1720 of the Labor Code. Buyer hereby agrees that Buyer shall have the obligation to provide any and all disclosures or identifications required by Labor Code Section 1781, as the same may be amended from time to time, or any other similar law. Buyer shall indemnify, protect, defend and hold harmless the Agency and its officers, employees, contractors and agents, with counsel reasonably acceptable to Agency, from and against any and all loss, liability, damage, claim, cost, expense and/or “increased costs” (including reasonable attorneys fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development of the Property, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (1) the noncompliance by Buyer with any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay state prevailing wages and to hire apprentices); (2) the implementation of Section 1781 of the Labor Code, as the same may be amended from time to time, or any other similar law; and/or (3) failure by Buyer to provide any required disclosure or identification as required by Labor Code Section 1781, as the same may be amended from time to time, or any other similar law. It is agreed by the parties that, in connection with the development of the Property, including, without limitation, any and all public works (as defined by applicable law), Buyer shall bear all risks of payment or nonpayment of prevailing wages and hiring of apprentices under California law and/or the implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law. “Increased costs,” as used in this Section 33, shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be amended from time to time. The foregoing indemnity shall survive termination of this Agreement and shall continue after completion of any development of the Property by the Buyer.

34. **Enforced Delay.** In addition to specific provisions of this Agreement, performance by either party hereunder with respect to the Closing shall not be deemed to be a breach, and all performance and other dates specified in this Agreement shall be extended where delays of Closing are due to litigation challenging the validity of this transaction or any element thereof or the rights of either party to engage in the acts and transactions contemplated by this Agreement, or acts or omissions of the other party; acts or failure to act of the City or any public or governmental agency or entity (other than acts or failures to act
of the Agency which shall not excuse performance by the Agency) ("Enforced Delay"). Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for a period reasonably attributable to the Enforced Delay and shall commence to run from the time of commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times and performance under this Agreement may also be extended in writing by the mutual agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Agreement Date.

AGENCY:

PORTERVILLE REDEVELOPMENT AGENCY,
a public body, corporate and politic

By:_____________________________________
Bradley D. Dunlap, Executive Director

ATTEST:

John D. Lollis, Agency Secretary

APPROVED AS TO FORM:

Stradling Yocca Carlson & Rauth,
Agency Counsel

BUYER:

SOCIAL VOCATIONAL SERVICES, INC.,
a California non-profit corporation

Dr. Edward T. Dawson, Executive Director
EXHIBIT “A”

LEGAL DESCRIPTION

That real property located in the City of Porterville, County of Tulare, State of California, and described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF TULARE, STATE OF CALIFORNIA, AND IS DESCRIBED AS follows:

City of Porterville

That portion of the Northeast quarter of the Southwest quarter of Section 25, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, being more particularly described as follows:

The Westerly 115.9 feet of Block "A" of the Amended Map of Eastern Addition to Porterville, according to the map thereof recorded in Book 10 Page 8 of Maps, Tulare County Records, including the abandoned alley in said Block "A".

Excepting therefrom all ownership rights to the entire mineral estate below the property, below a depth of twenty-five feet, including without limitation, all oil, petroleum, gas and other minerals, whether gaseous, liquid or solid, in and under the above-described premises, below a depth of twenty-five feet. Such rights shall include surface and subsurface access easements, rights to construct, maintain and operate surface and subsurface facilities, and other rights to develop and extract oil, petroleum, gas or any other mineral, except that grantor (1) shall not, without prior written consent from grantee, which consent shall not be unreasonably withheld or delayed, have any right to enter the surface of the property for purposes of exploration, development or extraction of such minerals; (2) shall not in exercising these rights more than minimally interfere with grantee's use of the property; and (3) prior to the exercise of these rights, shall provide adequate liability protection to grantee, in the form of general liability insurance obtained (or extended), at the sole cost of grantor, naming grantee as an insured party, upon such terms as are then reasonable and customary, unless grantor, in the reasonable opinion of grantee, possesses the financial capability to fund such liability protection as self-insured entity, under than reasonable and customary standard, for any losses or damages reasonably likely to be sustained by grantee as a result of grantor's exercise of these rights. In addition any surface or subsurface facilities constructed, or equipment used, by grantor in the course of grantor's exercise of these rights, shall be constructed and used in a manner that results in no more than minimal interference with grantee's use of the property, as reserved in the deed from The Atchison, Topeka and Santa Fe Railway Company, (ATSF), a Delaware Corporation to Tulare Valley Railroad Company, a Nevada Corporation, recorded December 29, 1992 as Document No. 92094547 of Official Records, and recorded October 18, 1994 as Document No. 94074651 of Official Records.

APN: 253-138-001
EXHIBIT “C”

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Social Vocational Services, Inc.
1401 Fulton Street, Suite 510
Fresno, CA 93721
Attention: Susan Leonhardt

This document is exempt from payment of a recording fee pursuant to Government Code Section 27383.

Documentary Transfer Tax: $
Based on full value of property conveyed

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged,

The PORTERVILLE REDEVELOPMENT AGENCY, a public body, corporate and politic (“Agency”), hereby grants to SOCIAL VOCATIONAL SERVICES, INC., a California non-profit corporation (“Buyer”), the real property hereinafter referred to as the “Property,” described in Attachment No. 1 attached hereto and incorporated herein.

The Buyer herein covenants by and for itself, its successors and assigns, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the Buyer or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land.

The Buyer further covenants that all deeds, leases and contracts relating to the Property shall contain the following prohibition against discrimination:

(a) In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of

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tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

(b) **In Leases:** "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

(c) **In Contracts:** "There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises which are the subject of this Agreement, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

[Signatures appear on following page.]
IN WITNESS WHEREOF, Agency and Buyer have executed this Grant Deed the day and year first set forth herein above.

AGENCY:

PORTERVILLE REDEVELOPMENT AGENCY,
a public body, corporate and politic

Dated: ____________________

By: ____________________________
Bradley D. Dunlap, Executive Director

ATTEST:

______________________________
John D. Lollis, Agency Secretary

APPROVED AS TO FORM:

______________________________
Stradling Yocca Carlson & Rauth,
Agency Counsel

ACCEPTED BY BUYER:

SOCIAL VOCATIONAL SERVICES, INC.,
a California non-profit corporation

______________________________
Dr. Edward T. Dawson, Executive Director

[All signatures must be acknowledged]
ATTACHMENT NO. 1

PROPERTY DESCRIPTION

That real property located in the City of Porterville, County of Tulare, State of California, and described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF TULARE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

City of Porterville

That portion of the Northeast quarter of the Southwest quarter of Section 25, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, being more particularly described as follows:

The Westerly .115.9 feet of Block "A" of the Amended Map of Eastern Addition to Porterville, according to the map thereof recorded in Book 10 Page 8 of Maps, Tulare County Records, including the abandoned alley in said Block "A".

Excepting therefrom all ownership rights to the entire mineral estate below the property, below a depth of twenty-five feet, including without limitation, all oil, petroleum, gas and other minerals, whether gaseous, liquid or solid, in and under the above-described premises, below a depth of twenty-five feet. Such rights shall include surface and subsurface access easements, rights to construct, maintain and operate surface and subsurface facilities, and other rights to develop and extract oil, petroleum, gas or any other mineral, except that grantor (1) shall not, without prior written consent from grantee, which consent shall not be unreasonably withheld or delayed, have any right to enter the surface of the property for purposes of exploration, development or extraction of such minerals; (2) shall not in exercising these rights more than minimally interfere with grantee's use of the property; and (3) prior to the exercise of these rights, shall provide adequate liability protection to grantee, in the form of general liability insurance obtained (or extended), at the sole cost of grantor, naming grantee as an insured party, upon such terms as are then reasonable and customary, unless grantor, in the reasonable opinion of grantee, possesses the financial capability to fund such liability protection as self-insured entity, under than reasonable and customary standard, for any losses or damages reasonably likely to be sustained by grantee as a result of grantor's exercise of these rights. In addition any surface or subsurface facilities constructed, or equipment used, by grantor in the course of grantor's exercise of these rights, shall be constructed and used in a manner that results in no more than minimal interference with grantee's use of the property, as reserved in the deed from The Atchison, Topeka and Santa Fe Railway Company, (ATSF), a Delaware Corporation to Tulare Valley Railroad Company, a Nevada Corporation, recorded December 29, 1992 as Document No. 92094547 of Official Records, and recorded October 18, 1994 as Document No. 94014531 of Official Records.

APN: 253-138-001
MAINTENANCE AND USE COVENANT

This MAINTENANCE AND USE COVENANT ("Covenant") is made as of __________, 2011 ("Date of Covenant") by and between SOCIAL VOCATIONAL SERVICES, INC., a California non-profit corporation ("Owner") and PORTERVILLE REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency").

RECITALS

A. Owner is the fee owner of certain real property located in the City of Porterville ("City"), County of Tulare, State of California, described in Attachment No. 1 attached hereto and incorporated herein ("Property").

B. Owner acquired the Property from Agency pursuant to that certain Purchase and Sale Agreement dated as of July 5, 2011 ("Agreement"). All initially capitalized terms used herein but not expressly defined shall have the meanings set forth in the Agreement.

C. The Agreement requires the Owner to construct a professional office building at the Property, which Owner intends to operate as a daycare facility for developmentally disabled adults. The Agreement further requires Owner to enter into this Covenant to maintain and use the Property in accordance with the requirements set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner hereby agrees as follows:

1. Use and Development Requirements. Owner hereby covenants to abide by the following restrictions in the use and development of the Property:

1.1 Compliance with Redevelopment Plan. Owner shall use, and permit use of, the Property solely for purposes designated in the Redevelopment Plan for the Porterville Redevelopment Project No. 1 ("Redevelopment Plan").

1.2 Development of Project. Subject to Enforced Delay (defined in the Agreement), Owner shall exercise commercially reasonable diligence to perform all of the following:
a. Construct a professional office building of not fewer than 4,000 square feet, in accordance with all land use entitlements, permits, the Porterville Development Code, and other applicable state, federal and local laws ("Project"). Notwithstanding anything to the contrary in this Covenant or the Agreement, Owner shall comply with all applicable requirements of the California Environmental Quality Act, California Public Resources Code Sections 21000, et seq., and the guidelines promulgated thereunder at Title 14 California Code of Regulations Section 15000, et seq. ("CEQA") in connection with the development of the Project at the Property. Owner acknowledges and agrees that this Agreement does not constitute an approval by the City or Agency of the Project and Owner shall obtain all such approvals in accordance with the Porterville Municipal Code, Porterville Development Code, and all other applicable Governmental Requirements applicable to the Property and/or the Project.

b. Commence development of the Project within six (6) months following the Closing Date.

c. After commencement of the development of the Project, not cease development for longer than thirty (30) days without the express written consent of the Agency’s Executive Director.

d. Complete development of the Project within twenty-four (24) months following the Closing Date.

e. Not voluntarily or involuntarily assign Owner’s development obligations under this Section 1.2 or make any total or partial sale, conveyance, assignment, or other transfer of the Property (collectively referred to herein as a “Transfer”) without Agency’s prior written approval, which approval Agency agrees shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, the restrictions in this Section 1.2.e. shall terminate and shall be of no further force or effect at the time that Owner completes construction of the Project, as evidenced by City’s issuance of the final certificate of occupancy with respect thereto. In addition, and notwithstanding the foregoing, Agency approval shall not be required for any of the following, which shall not be deemed to be a Transfer for purposes of this Section 1.2.e.:

   (i) Any transfers to an entity or entities in which Owner, as of the Date of Covenant, (A) retains operational control over the management, development and construction of the Project, and subject to the right of non-managerial members, partners, or shareholders, as applicable, to exercise voting rights with respect to so-called “major decisions,” and (B) has not less than a five percent (5%) interest in profit and losses in the Project.

   (ii) The conveyance or dedication of any portion of the Property to the City or other appropriate governmental agency, or the granting of easements or permits to facilitate construction of the Project.

   (iii) Any assignment for financing purposes, including the grant of a deed of trust to a lender ("Lender") to secure the funds necessary for land acquisition and construction of all or any portion of the Project, and any subsequent transfer to the Lender or its nominee or successor or to a third party purchaser at a foreclosure sale, after foreclosure, or by virtue of a deed conveyed in lieu of foreclosure.
2. **Remedy for Default by Owner.** The Agency has the right, at its election, to reenter and take possession of the Property, with all improvements thereon, and terminate and revest in the Agency the estate conveyed to the Owner, if after the Date of Covenant but prior to the issuance of the final certificate of occupancy for the Project by the City, the Owner, shall:

   a. fail to start the construction of the Project as required by this Agreement for a period of thirty (30) days after written notice from Agency that Owner has failed to commence construction within the time set forth in Section 1.2, subject to events of Enforced Delay; or

   b. abandon or substantially suspend construction of the Project as required by this Agreement and fail to resume construction within thirty (30) days after written notice thereof from Agency, subject to Enforced Delay; or

   c. contrary to the provisions of Section 1.2.e., Transfer or suffer any involuntary Transfer in violation of this Agreement, and such Transfer is not rescinded within thirty (30) days of notice thereof from Agency.

   Such right to reenter, terminate and revest shall be subject to and be limited by and shall not defeat, render invalid or limit:

   1. Any mortgage or deed of trust permitted by the Agreement; or

   2. Any rights or interests provided in the Agreement for the protection of holders of bona fide mortgages or deeds of trust against the Property.

   Upon the revesting in the Agency of title to the Property as provided in this Section, the Agency shall, pursuant to its responsibilities under state law, use its reasonable efforts to resell the Property as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law and of the Redevelopment Plan, as it exists or may be amended, to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of making or completing the Project, or such improvements in their stead as shall be satisfactory to the Agency and in accordance with the uses specified for the Property in the Redevelopment Plan. The Owner acknowledges that there may be substantial delays experienced by the Agency if the Agency must remarket the Property following the revesting of the Property in the Agency. Upon such resale of the Property, the net proceeds thereof after repayment of any mortgage or deed of trust encumbering the Property which is permitted by the Agreement, shall be applied:

   (i) First, to reimburse the Agency all costs and expenses incurred by the Agency, excluding Agency staff costs, but specifically including, but not limited to, any expenditures by the Agency or the City in connection with the recapture, management and resale of the Property (but less any income derived by the Agency from the Property in connection with such management); all taxes, assessments and water or sewer charges with respect to the Property which the Owner has not paid; any payments made or necessary to be made to discharge any encumbrances or liens existing on the Property at the time of revesting of title thereto in the Agency, or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Owner; any expenditures made or obligations incurred with respect to the making or completion of the improvements or any part thereof on the Property; and any amounts otherwise owing to the Agency, and in the event additional proceeds are thereafter available, then
(ii) Second, to reimburse the Owner; up to the amount equal to the costs incurred for the acquisition and development of the Property and for the improvements existing on the Property at the time of the reentry and possession.

Any balance remaining after such reimbursements shall be retained by the Agency as its property. The rights established in this Section are not intended to be exclusive of any other right, power or remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy authorized herein. These rights are to be interpreted in light of the fact that the Property has been conveyed to the Owner for redevelopment purposes, particularly for development and operation of the Project thereon, and not for speculation in undeveloped land.

3. **Hazardous Materials.**

3.1 **As-Is Condition; Exceptions.** The Property was conveyed by Agency to Owner in an “as is” physical and environmental condition, with no warranty, express or implied, by Agency as to the condition of any existing improvements, the soil, its geology, the presence of known or unknown faults or Hazardous Materials or toxic substances. The parties acknowledge and agree that prior to Owner’s acquisition of the Property, Owner had a full, complete, and adequate opportunity to investigate the environmental and physical condition of the Property, and by entering into this Covenant, Owner has approved the condition of the Property and hereby accepts all responsibility for the condition of the Property as between Agency and Owner. It shall be the sole responsibility and obligation of Owner to take such action as may be necessary to place the physical and environmental condition of the Property in a condition entirely suitable for the purposes set forth in this Covenant.

3.2 **Release of Agency.** Owner hereby waives, releases and discharges forever Agency and City, and their respective elected officials, employees, volunteers, directors, officers, agents and representatives, from all present and future claims, demands, suits, legal and administrative proceedings and from all liability for damages, losses, costs, liabilities, fees and expenses, present and future, arising out of or in any way connected with the physical and environmental condition of the Property, any Hazardous Materials on or under the Property, or the existence of Hazardous Materials contamination due to the generation of Hazardous Materials from the Property, however they came to be placed there, except that arising out of the gross negligence or willful misconduct of Agency or City or their respective elected officials, employees, volunteers, directors, officers, agents or representatives.

Owner acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

As such relates to this Section 3.2, Owner hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.
3.3 **Owner Precautions.** Owner shall take all necessary but reasonable precautions to prevent the release into the environment of any Hazardous Materials which are located in, on or under the Property. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, Owner shall install and utilize such equipment and implement and adhere to such procedures as are consistent with commercially reasonable standards as respects the disclosure, storage, use, removal and disposal of Hazardous Materials.

3.4 **Owner Indemnity Re Hazardous Material.** Owner hereby agrees and hereby shall indemnify, defend (with counsel reasonably acceptable to Agency and City) and hold Agency and City harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, reasonable attorneys’ fees), resulting from, arising out of, or based upon (i) the presence, release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from the Property, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment or license relating to the use, generation, release, discharge, storage, disposal or transportation of Hazardous Materials on, under, in or about, to or from, the Property. This indemnity shall include, without limitation, any damage, liability, fine, penalty, or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, contamination, leak, spill, release or other adverse effect on the environment. At the request of Owner, Agency shall cooperate with and assist Owner in its defense of any such claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense; provided that Agency shall not be obligated to incur any expense in connection with such cooperation or assistance.

3.5 **Definitions.** As used herein, the following terms have the meanings set forth below:

(a) "**Governmental Requirements**" means all laws, ordinances, statutes, codes, rules, regulations, orders, and decrees of the United States, the State of California, the County, the City, or any other political subdivision in which the Property is located, and of any other political subdivision, agency, or instrumentality exercising jurisdiction over Owner or the Property.

(b) "**Hazardous Materials**" means any substance, material, or waste which is or becomes regulated by any local governmental Agency, the County of Tulare, the State of California, regional governmental authority, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated biphenyls, (viii) methyl tertiary butyl ether, (ix) designated as "hazardous
substances” pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (ix) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. (42 U.S.C. §6903) or (x) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq.

4. **Permitted and Prohibited Uses.** Owner and Agency hereby acknowledge and agree that the Property is contemplated to be used for professional office uses or other uses that are expressly approved in writing by the Agency or the City Council, which approval shall not be unreasonably conditioned, withheld or delayed. Notwithstanding anything to the contrary set forth herein or in the Agreement, in no event shall the use or operation of the Property by Owner and/or Owner’s successors, assigns, or lessees at any time include establishments selling alcohol, adult-oriented retail, services catering mainly to adults (provided that operation of a daycare facility for developmentally disabled adults or a similar facility is expressly permitted), smoke shops and discount tobacco product stores, tattoo or body piercing establishments, single price overstock or discount stores, second hand or thrift stores, check cashing facilities, payday loan facilities, rent-to-own businesses, massage or acupressure services, pawn shops, water services, liquor stores, bars or taverns, dance halls, billiard halls, arcades, dog grooming shops, frozen food lockers, furriers and fur storage, hotels, laundrette services, taxidermists, or taxi stands. In addition, in no event shall the Property be used or operated by Owner and/or Owner’s successors, assigns, or lessees at any time for any purpose that requires a conditional development or use permit pursuant to the Porterville Municipal Code unless first approved by the Agency or the City Council, which approval shall be in the sole and absolute discretion of the Agency or the City Council, as applicable.

5. **Maintenance.** Owner shall maintain the Property, or shall cause the Property to be maintained, in a decent, safe and sanitary manner, and in accordance with the standard of maintenance of other well-maintained, comparable commercial developments within Tulare County, California. If at any time Owner fails to maintain the Property in accordance with this Covenant and such condition is not corrected within five business days after written notice from Agency with respect to debris and waste material, or 30 days after written notice from Agency with respect to general maintenance, landscaping and building improvements, then Agency, in addition to whatever remedy it may have at law or at equity, shall have the right to enter upon the applicable portion of the Property and perform all acts and work necessary to protect, maintain, and preserve the Property, and to attach a lien upon the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by Agency and/or costs of such cure, including a reasonable administrative charge, which amount shall be promptly paid by Owner to Agency upon demand. Owner shall also comply at all times with the graffiti abatement policies and rules set forth in Article II of Chapter 18 of the City of Porterville Municipal Code.

5.1 **Failure to Maintain Property.** In the event Owner does not maintain the Property in the manner set forth herein, Agency and/or City shall have the right to maintain such Property, or to contract for the correction of such deficiencies, after written notice to Owner. However, prior to taking any such action, Agency agrees to notify Owner in writing to specify the deficiencies and the actions required to be taken by Owner to cure the deficiencies. Upon notification of any maintenance deficiency, Owner shall have 30 days within which to correct, remedy or cure the deficiency. If the written notification states the problem is urgent relating to the public health and safety of City, then Owner shall have 48 hours to rectify the problem.
In the event Owner fails to correct, remedy, or cure or has not commenced correcting, remediing or curing such maintenance deficiency after notification and after the period of correction has lapsed, then City and/or Agency shall have the right to maintain the Property. Owner agrees to pay Agency and City such reasonable charges and costs. Until so paid, Agency and/or City, as applicable, shall have a lien on the Property for the amount of such reasonable charges or costs, which lien shall be perfected by the recordation of a “Notice of Claim of Lien” against the Property. Upon recordation of a Notice of Claim of Lien against the Property, such lien shall constitute a lien on the fee estate in and to the Property prior and superior to all after recorded monetary liens. Any such lien shall be subject and subordinate to any lease or sublease of the interest of Owner in the Property or any portion thereof and to any easement affecting the Property or any portion thereof entered into at any time (either before or after) the date of recordation of such a Notice. Any lien in favor of Agency created or claimed hereunder is expressly made subject and subordinate to any mortgage or deed of trust made in good faith and for value, recorded as of the date of the recordation of the Notice of Claim of Lien describing such lien as aforesaid, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of any such mortgage or deed of trust, unless the mortgage or beneficiary thereunder expressly subordinates his interest, of record, to such lien. No lien in favor of Agency created or claimed hereunder shall in any way defeat, invalidate, or impair the obligation or priority of any lease, sublease or easement unless such instrument is expressly subordinated to such lien. Upon foreclosure of any mortgage or deed of trust made in good faith and for value and recorded prior to the recordation of any unsatisfied Notice of Claim of Lien, the foreclosure purchaser shall take title to the Property free of any lien imposed by Agency that has accrued up to the time of the foreclosure sale, and upon taking title to the Property, such foreclosure purchaser shall only be obligated to pay costs associated with this Covenant accruing after the foreclosure purchaser acquires title to the Property. Owner acknowledges and agrees that City and Agency may also pursue any and all other remedies available in law or equity. Owner shall be liable for any and all attorneys’ fees, and other legal costs or fees incurred in collecting said maintenance costs.

6. Code Enforcement. Owner acknowledges and agrees that Agency, City, and their employees and authorized agents, shall have the right to conduct code compliance and/or code enforcement inspections of the Property and the Project, both exterior and interior, at reasonable times and upon reasonable notice (not less than 48 hours prior notice, except in an emergency) to Owner and/or an individual tenant, if any. If such notice is provided by City or Agency representative(s) to Owner, then Owner shall immediately and directly advise any and all affected tenants of such upcoming inspection and cause access to the area(s) and/or units of the Project to be made available and open for inspection. Owner shall include express advisement of such inspection rights within any and all lease/rental agreements for each separately-leased portion of the Property and/or the Project in order for each and every tenant to be aware of this inspection right.

7. Nondiscrimination. Owner hereby covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the Owner or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land.
8. **Rights of Access.** At any time during the construction of the Project or after completion of construction if Agency has reason to believe that Owner is in breach of any provisions of this Covenant, but subject to the rights of any tenant of the Project under its lease, representatives of Agency and City shall have the right of access to the Project, without charges or fees, at all reasonable times, upon not less than two (2) business days prior written notice from Agency or City to Owner, for the purposes of verifying Owner’s compliance with this Covenant, including but not limited to, the inspection of the work being performed in constructing the Project, and so long as Agency and City representatives comply with all safety rules and do not unreasonably interfere with the work of Owner. Agency and City shall conduct the entry and inspections in a manner that causes the least possible disturbance to the work in progress or the operation of the Project. If Agency or City disturbs the Project in the course of such entry and inspection, Agency or City, as applicable, shall, following the entry and inspection, restore the Project to the condition it was in immediately prior to the entry and inspection. Owner acknowledges that neither Agency nor City is under any obligation to supervise, inspect, or inform Owner of the progress of construction, and Owner shall not rely upon Agency or City therefor. Any inspection by Agency and/or City is entirely for their purposes in determining whether Owner is in compliance with the Agreement and this Covenant and is not for the purpose of determining or informing Owner of the quality or suitability of construction. Owner shall rely entirely upon its own supervision and inspection in determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers. Agency’s and City’s rights hereunder are subject to the rights of tenants in possession; provided, Owner shall include express advisement of such rights within the lease/rental agreement for each separately-leased portion of the Property and/or Project in order for each and every tenant to be aware of this access right.

9. **Miscellaneous Provisions.**

9.1 If any provision of this Covenant or portion thereof, or the application to any person or circumstances, shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Covenant, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; provided, that if any material terms or provisions of this Covenant are rendered invalid, void and/or unenforceable, or due to changes in the law such terms or provisions would materially alter the terms of the transactions contemplated herein, the parties agree to meet and negotiate in good faith to attempt to reform this Covenant to accomplish the intent of the parties.

9.2 This Covenant shall be construed in accordance with the laws of the State of California.

9.3 This Covenant shall be binding upon and inure to the benefit of the successors and assigns of Owner and Agency.

9.4 In the event action is instituted to enforce any of the provisions of this Covenant, the prevailing party in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorney’s fees, expert witness fees, and costs.

10. **Breaches and Defaults.** Subject to Enforced Delay, failure or delay by either party to perform any material term or provision of this Covenant (a “Breach”) following written notice and failure to cure as described hereafter constitutes a “Default” under this Covenant.
The nondefaulting party shall give written notice of any Breach to the party in Breach, specifying the Breach complained of by the nondefaulting party ("Notice of Default"). Delay in giving such Notice of Default shall not constitute a waiver of any Breach nor shall it change the time of Breach. Upon receipt of the Notice of Default, the party in Breach shall promptly commence to cure the identified Breach at the earliest reasonable time after receipt of the Notice of Default and shall complete the cure of such Breach not later than thirty (30) days after receipt of the Notice of Default, or if such Breach cannot reasonably be cured within such thirty (30) day period, then as soon thereafter as reasonably possible, provided that the party in Breach shall diligently pursue such cure to completion ("Cure Period"). Failure of the party in Breach to cure the Breach within the Cure Period set forth above shall constitute a "Default" hereunder.

Any failure or delay by either party in asserting any of its rights and remedies as to any Breach or Default shall not operate as a waiver of any Breach or Default or of any such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

11. Remedies.

11.1 Institution of Legal Actions. Either party may institute legal action to cure, correct, or remedy any Default, to recover damages for any Default, or to obtain any other remedy consistent with the purpose of this Covenant including actions for specific performance. Such legal actions must be instituted in the Superior Court of the County of Tulare, State of California or in the Federal District Court in the Eastern District of California.

11.2 Acceptance of Service of Process. In the event that any legal action is commenced by Owner against Agency, service of process on Agency shall be made by personal service upon the Executive Director or Chairman of Agency, or in such other manner as may be provided by law. In the event that any legal action is commenced by Agency against Owner, service of process on Owner shall be made by personal service upon Owner or in such manner as may be provided by law, and shall be valid whether made within or without the State of California.

11.3 Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Covenant, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other party.

12. Effect of Restrictive Covenants. The covenants and agreements established in this Covenant shall, without regard to technical classification and designation, run with the land and be binding on each owner of the Property and any successor in interest to the Property, or any part thereof, for the benefit of and in favor of Agency, its successor and assigns, and the City of Porterville, for the term specified herein.

13. Recordation. This Covenant shall be recorded against the Property in the Official Records of Tulare County, California.
14. **Interpretation.** In the event of any conflict or inconsistency between the terms and conditions of this Covenant and the Agreement, the terms and conditions of this Covenant shall prevail.

15. **Third Party Beneficiary.** The City of Porterville is an intended third party beneficiary of this Covenant. Other than the City, no third party beneficiaries are intended, and the only parties who are entitled to enforce the provisions of this Covenant are Agency, City, Owner and their respective successors and assigns.

16. **Term.** The “Term” of this Covenant shall commence on the Date of Restrictive covenants and shall expire on the date that is twenty (20) years from the date of the City’s issuance of a final certificate of occupancy for the Project. The covenants contained in Sections 1.1, 4, 5, 6 and 8 shall remain in effect until the expiration of the Term of this Covenant. The covenants described in Sections 1.2 and 4 shall remain in effect until Agency issues the final certificate of occupancy for the Project. The Covenants described in Sections 3 and 7 shall remain in effect in perpetuity.
IN WITNESS WHEREOF, the parties hereto have executed this Covenant as of the Date of Covenant.

AGENCY:

PORTERVILLE REDEVELOPMENT AGENCY,
a public body, corporate and politic

By: ____________________________
    Bradley D. Dunlap, Executive Director

ATTEST:

______________________________
John D. Lollis, Agency Secretary

APPROVED AS TO FORM:

______________________________
Stradling Yocca Carlson & Rauth,
Agency Counsel

OWNER:

SOCIAL VOCATIONAL SERVICES, INC.,
a California non-profit corporation

______________________________
Dr. Edward T. Dawson, Executive Director
ATTACHMENT NO. 1

PROPERTY DESCRIPTION

That real property located in the City of Porterville, County of Tulare, State of California, and described as follows:

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF TULARE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

City of Porterville

That portion of the Northeast quarter of the Southwest quarter of Section 25, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, being more particularly described as follows:

The Westerly .115.9 feet of Block "A" of the Amended Map of Eastern Addition to Porterville, according to the map thereof recorded in Book 10 Page 8 of Maps, Tulare County Records, including the abandoned alley in said Block "A".

Excepting therefrom all ownership rights to the entire mineral estate below the property, below a depth of twenty-five feet, including without limitation, all oil, petroleum, gas and other minerals, whether gaseous, liquid or solid, in and under the above-described premises, below a depth of twenty-five feet. Such rights shall include surface and subsurface access easements, rights to construct, maintain and operate surface and subsurface facilities, and other rights to develop and extract oil, petroleum, gas or any other mineral, except that grantor (1) shall not, without prior written consent from grantee, which consent shall not be unreasonably withheld or delayed, have any right to enter the surface of the property for purposes of exploration, development or extraction of such minerals; (2) shall not in exercising these rights more than minimally interfere with grantee's use of the property; and (3) prior to the exercise of these rights, shall provide adequate liability protection to grantee, in the form of general liability insurance obtained (or extended), at the sole cost of grantor, naming grantee as an insured party, upon such terms as are then reasonable and customary, unless grantor, in the reasonable opinion of grantee, possesses the financial capability to fund such liability protection as self-insured entity, under than reasonable and customary standard, for any losses or damages reasonably likely to be sustained by grantee as a result of grantor's exercise of these rights. In addition any surface or subsurface facilities constructed, or equipment used, by grantor in the course of grantor's exercise of these rights, shall be constructed and used in a manner that results in no more than minimal interference with grantee's use of the property, as reserved in the deed from The Atchison, Topeka and Santa Fe Railway Company, (ATSF), a Delaware Corporation to Tulare Valley Railroad Company, a Nevada Corporation, recorded December 29, 1992 as Document No. 92094547 of Official Records, and recorded October 18, 1994 as Document No. 94074651 of Official Records.

APN: 253-138-001
RESOLUTION NO. ___

A RESOLUTION OF THE CITY OF PORTERVILLE APPROVING A PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS BY AND BETWEEN THE PORTERVILLE REDEVELOPMENT AGENCY AND SOCIAL VOCATIONAL SERVICES, INC., AND MAKING CERTAIN FINDINGS IN CONNECTION THEREBOTH

WHEREAS: The Porterville Redevelopment Agency ("Agency") is a California public body, corporate and politic, duly formed and authorized by the City Council of the City of Porterville ("City Council") to exercise the powers of a redevelopment agency pursuant to the California Community Redevelopment Law, Health and Safety Code Section 33000, et seq. ("Redevelopment Law").

WHEREAS: The Agency owns approximately 27,752 square feet of vacant land area generally located at the southeast corner of Fourth Street and Harrison Avenue in the City of Porterville ("City"), County of Tulare, State of California ("Property").

WHEREAS: In order to carry out and implement the "Redevelopment Plan" for the Agency's Porterville Redevelopment Project No. 1 ("Redevelopment Project"), the Agency proposes to enter into that certain Purchase and Sale Agreement ("Agreement") with Social Vocational Services, Inc. ("Buyer"), for the conveyance of the Property to the Buyer and Buyer's development of a professional office building at the Property, which Buyer intends to operate as a daycare facility for developmentally disabled adults ("Facility").

WHEREAS: Buyer desires to acquire the Property pursuant to the Agreement and to construct and operate the Facility thereon.

WHEREAS: Pursuant to the Agreement, the Agency would sell the Property to the Buyer for a Purchase Price of $125,000.00, which is equal to or greater than the fair market value of the Property at its highest and best use, as determined by an appraisal of the Property conducted by a certified appraiser.

WHEREAS: The Agreement further requires the Buyer to execute a Maintenance and Use Covenant, which will be recorded against the Property in the Official Records of Tulare County, California, concurrently with the close of escrow for the Agency's conveyance of the Property to the Buyer.

WHEREAS: The Agency and City desire for the Agency to convey the Property to the Buyer.

WHEREAS: Pursuant to Section 33433 of the Redevelopment Law, the Agency is authorized, with the approval of the City Council after a duly noticed public hearing, to sell the Property for development pursuant to the Redevelopment Plan upon a determination by the City Council that the sale of the property will either assist in the elimination of blight or provide affordable housing for low and moderate income persons, that the consideration for such sale is not less than either the fair

ATTACHMENT
ITEM NO. 3
market value or fair reuse value of the Property in accordance with the covenants and conditions governing the sale and the development costs required thereof, and that the sale is consistent with the current five-year implementation plan which has been adopted by the Agency for the Redevelopment Project ("Implementation Plan").

WHEREAS: The City Council has previously determined, in its adoption of the ordinance approving the Redevelopment Project, that the Property was blighted, as a vacant and unimproved parcel of real property the development of which has been impeded by the blighting conditions affecting the Redevelopment Project.

WHEREAS: The Agreement would provide for the elimination of such blighting conditions by providing for the construction and operation of the Facility thereon.

WHEREAS: The Agreement will assist the Agency in implementing the Agency’s current five-year Implementation Plan adopted pursuant to Section 33490 of the Redevelopment Law ("Implementation Plan") and Redevelopment Plan for the Redevelopment Project by providing for the construction and operation of the Facility, which will benefit the residents of the City.

WHEREAS: The proposed Agreement and a summary report meeting the requirements of Section 33433 of the Redevelopment Law were available for public inspection prior to the joint public hearing consistent with the requirements of Section 33433 of the Redevelopment Law.

WHEREAS, on July 5, 2011, the Agency and City Council held a joint public hearing on the proposed Agreement, at which time the City Council reviewed and evaluated all of the information, testimony, and evidence presented during the joint public hearing.

WHEREAS: All actions required by all applicable law with respect to the proposed Agreement have been taken in an appropriate and timely manner.

WHEREAS: The City Council has reviewed the summary required pursuant to Section 33433 of the Redevelopment Law and evaluated other information provided to it pertaining to the findings required pursuant to Section 33433 of the Redevelopment Law.

WHEREAS: The environmental impacts of the construction and operation of the Facility will be evaluated by the City prior to approval of development plans for the Facility in accordance with all applicable provisions of the California Environmental Quality Act, California Public Resources Code Sections 21000, et seq., and the guidelines promulgated thereunder at Title 14 California Code of Regulations Section 15000, et seq. ("CEQA"). Approval of the proposed Agreement does not constitute a "project" pursuant to CEQA because the conveyance of the Property to the Buyer will not result in any environmental impacts and any potential environmental impacts of the construction and operation of the Facility will be evaluated in accordance with the Porterville Municipal Code, Porterville
Development Code, and all other applicable local, state and federal laws, rules and regulations.

WHEREAS: The City Council has duly considered all terms and conditions of the proposed Agreement and believes that the conveyance of the Property to Buyer in contemplation of the development of the Facility thereon is in the best interests of the City of Porterville and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1: The foregoing Recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

SECTION 2: The City Council finds and determines that, based upon substantial evidence provided in the record before it, the consideration for the Agency’s sale of the Property to Buyer pursuant to the terms and conditions of the Agreement is not less than the fair market value of the Property.

SECTION 3: The City Council hereby finds and determines that the sale of the Property to Buyer pursuant to the Agreement and the construction of the Facility will eliminate blight within the Redevelopment Project by providing for (a) the proper reuse and redevelopment of a portion of the Redevelopment Project which was declared blighted for the reasons described above and (b) the construction and operation of a daycare facility for developmentally disabled adults, which will eliminate blight by providing for the development of a vacant parcel of land and provide a service that will benefit the Redevelopment Project and the City.

SECTION 4: The City Council hereby finds and determines that the Agreement is consistent with the provisions of the Implementation Plan and the Redevelopment Plan.

SECTION 5: The City Council hereby finds and determines that approval of the proposed Agreement does not constitute a "project" pursuant to CEQA because the conveyance of the Property to the Buyer will not result in any environmental impacts. Any potential environmental impacts of the construction and operation of the Facility will be evaluated in accordance with the Porterville Municipal Code, Porterville Development Code, and all other applicable local, state and federal laws, rules and regulations prior to approval of the construction and operation of the Facility by the City.

SECTION 6: The City Council hereby approves the Agreement. A copy of the Agreement when executed shall be placed on file in the office of the City Clerk. The City Manager of the City, or his designee, is authorized to implement the Agreement and take all further actions and execute all escrow documents and other documents which are necessary or appropriate to carry out the Agreement.

SECTION 7: This Resolution shall be effective immediately upon adoption.
SECTION 8: The City Clerk shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this 5th day of July, 2011.

By: ____________________________

Ronald L. Irish, Mayor

ATTEST:

John Lollis, City Clerk

______________________________

Patrice Hildreth, Chief Deputy City Clerk
RESOLUTION NO. ___

A RESOLUTION OF THE PORTERVILLE REDEVELOPMENT AGENCY
APPROVING A PURCHASE AND SALE AGREEMENT AND ESCROW
INSTRUCTIONS BY AND BETWEEN THE PORTERVILLE
REDEVELOPMENT AGENCY AND SOCIAL VOCATIONAL SERVICES,
INC., AND MAKING CERTAIN FINDINGS IN CONNECTION
THEREWITH

WHEREAS: The Porterville Redevelopment Agency ("Agency") is a
California public body, corporate and politic, duly formed and authorized by the City
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redevelopment agency pursuant to the California Community Redevelopment Law,
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for the Agency's Porterville Redevelopment Project No. 1 ("Redevelopment Project"),
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("Agreement") with Social Vocational Services, Inc. ("Buyer"), for the conveyance of
the Property to the Buyer and Buyer's development of a professional office building
at the Property, which Buyer intends to operate as a daycare facility for
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Agreement and to construct and operate the Facility thereon.

WHEREAS: Pursuant to the Agreement, the Agency would sell the Property
to the Buyer for a Purchase Price of $125,000.00, which is equal to or greater than
the fair market value of the Property at its highest and best use, as determined by an
appraisal of the Property conducted by a certified appraiser.

WHEREAS: The Agreement further requires the Buyer to execute a
Maintenance and Use Covenant, which will be recorded against the Property in the
Official Records of Tulare County, California, concurrently with the close of escrow
for the Agency's conveyance of the Property to the Buyer.

WHEREAS: The Agency and City desire for the Agency to convey the
Property to the Buyer.

WHEREAS: Pursuant to Section 33433 of the Redevelopment Law, the
Agency is authorized, with the approval of the City Council after a duly noticed public
hearing, to sell the Property for development pursuant to the Redevelopment Plan
upon a determination by the City Council that the sale of the property will either
assist in the elimination of blight or provide affordable housing for low and moderate income persons, that the consideration for such sale is not less than either the fair market value or fair reuse value of the Property in accordance with the covenants and conditions governing the sale and the development costs required thereof, and that the sale is consistent with the current five-year implementation plan which has been adopted by the Agency for the Redevelopment Project ("Implementation Plan").

WHEREAS: The City Council has previously determined, in its adoption of the ordinance approving the Redevelopment Project, that the Property was blighted, as a vacant and unimproved parcel of real property the development of which has been impeded by the blighting conditions affecting the Redevelopment Project.

WHEREAS: The Agreement would provide for the elimination of such blighting conditions by providing for the construction and operation of the Facility thereon.

WHEREAS: The Agreement will assist the Agency in implementing the Agency's current five year Implementation Plan adopted pursuant to Section 33490 of the Redevelopment Law ("Implementation Plan") and Redevelopment Plan for the Redevelopment Project by providing for the construction and operation of the Facility, which will benefit the residents of the City.

WHEREAS: The proposed Agreement and a summary report meeting the requirements of Section 33433 of the Redevelopment Law were available for public inspection prior to the joint public hearing consistent with the requirements of Section 33433 of the Redevelopment Law.

WHEREAS, on July 5, 2011, the Agency and City Council held a joint public hearing on the proposed Agreement, at which time the Agency reviewed and evaluated all of the information, testimony, and evidence presented during the joint public hearing.

WHEREAS: All actions required by all applicable law with respect to the proposed Agreement have been taken in an appropriate and timely manner.

WHEREAS: The Agency has reviewed the summary required pursuant to Section 33433 of the Redevelopment Law and evaluated other information provided to it pertaining to the findings required pursuant to Section 33433 of the Redevelopment Law.

WHEREAS: The environmental impacts of the construction and operation of the Facility will be evaluated by the City prior to approval of development plans for the Facility in accordance with all applicable provisions of the California Environmental Quality Act, California Public Resources Code Sections 21000, et seq., and the guidelines promulgated thereunder at Title 14 California Code of Regulations Section 15000, et seq. ("CEQA"). Approval of the proposed Agreement does not constitute a "project" pursuant to CEQA because the conveyance of the Property to the Buyer will not result in any environmental impacts and any potential environmental impacts of the construction and operation of the Facility will be
evaluated in accordance with the Porterville Municipal Code, Porterville Development Code, and all other applicable local, state and federal laws, rules and regulations.

WHEREAS: The Agency has duly considered all terms and conditions of the proposed Agreement and believes that the conveyance of the Property to Buyer in contemplation of the development of the Facility thereon is in the best interests of the City of Porterville and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1: The foregoing Recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

SECTION 2: The Agency finds and determines that, based upon substantial evidence provided in the record before it, the consideration for the Agency’s sale of the Property to Buyer pursuant to the terms and conditions of the Agreement is not less than the fair market value of the Property.

SECTION 3: The Agency hereby finds and determines that the sale of the Property to Buyer pursuant to the Agreement and the construction of the Facility will eliminate blight within the Redevelopment Project by providing for (a) the proper reuse and redevelopment of a portion of the Redevelopment Project which was declared blighted for the reasons described above and (b) the construction and operation of a daycare facility for developmentally disabled adults, which will eliminate blight by providing for the development of a vacant parcel of land and provide a service that will benefit the Redevelopment Project and the City.

SECTION 4: The Agency hereby finds and determines that the Agreement is consistent with the provisions of the Implementation Plan and the Redevelopment Plan.

SECTION 5: The Agency hereby finds and determines that approval of the proposed Agreement does not constitute a “project” pursuant to CEQA because the conveyance of the Property to the Buyer will not result in any environmental impacts. Any potential environmental impacts of the construction and operation of the Facility will be evaluated in accordance with the Porterville Municipal Code, Porterville Development Code, and all other applicable local, state and federal laws, rules and regulations prior to approval of the construction and operation of the Facility by the City.

SECTION 6: The Agency hereby approves the Agreement. A copy of the Agreement when executed shall be placed on file in the office of the Agency Secretary. The Executive Director and Secretary of the Agency are hereby authorized to execute the Agreement, with such minor and non-substantive revisions as may be deemed appropriate by the Executive Director. The Executive Director, or his designee, is authorized to implement the Agreement and take all further
actions and execute all escrow documents and other documents which are necessary or appropriate to carry out the Agreement.

SECTION 7: This Resolution shall be effective immediately upon adoption.

SECTION 8: The Agency Secretary shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this 5th day of July, 2011.

By: __________________________________________________________________
    Ronald L. Irish, Chair

ATTEST:

John Lollis, Agency Secretary

Patrice Hildreth, Chief Deputy Agency Secretary
STATE OF CALIFORNIA  )  
CITY OF PORTERVILLE  )  SS  
COUNTY OF TULARE  )  

I, JOHN LOLLIS, the duly appointed Secretary of the Porterville Redevelopment Agency do hereby certify and declare that the foregoing is a full, true, and correct copy of a resolution passed and adopted by the Board of the Porterville Redevelopment Agency at a regular meeting of the Porterville Redevelopment Agency duly called and held on the 5th day of July, 2011.

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

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JOHN LOLLIS, Agency Secretary

By: Patrice Hildreth,  
Chief Deputy Agency Secretary
SUMMARY REPORT PURSUANT TO SECTION 33433 OF THE CALIFORNIA COMMUNITY REDEVELOPMENT LAW IN CONNECTION WITH A PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE PORTERVILLE REDEVELOPMENT AGENCY AND SOCIAL VOCATIONAL SERVICES, INC.

BACKGROUND

Section 33433 of the Community Redevelopment Law of the State of California (California Health and Safety Code, Sections 33000 et. seq.) provides that before any property owned by a Redevelopment Agency acquired in whole or in part, directly or indirectly, with tax increment funds, is sold or leased for development pursuant to the redevelopment plan, the proposed sale or lease must first be approved by resolution of the legislative body after a legally noticed public hearing. A copy of the proposed sale or lease agreement and a summary report that describes and contains specific financing elements of the proposed transaction shall be available for public inspection prior to the public hearing.

Pursuant to Section 33433, the summary report must include the following information:

The cost of the agreement to the agency including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the agency plus the expected interest on any loans or bonds to finance the agreement;

The estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the plan;

The estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants, and development costs required by the sale or lease;

The purchase price or present value of the lease payments which the lessor will be required to make during the term of the lease. If the sale price or total lease amount is less than the fair market value of the interest to be conveyed or leased, determined at the highest and best use consistent with the redevelopment plan, then the agency shall provide as part of the summary an explanation of the reasons for the difference; and

An explanation of why the sale or lease of the property will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation.

This report outlines the pertinent points of the proposed Purchase and Sale Agreement ("Agreement") by and between the Porterville Redevelopment Agency ("Agency") and
Social Vocational Services ("SVS"), pursuant to which the Agency will sell to SVS certain Agency-owned real property, generally located at the southeast corner of Fourth Street and Harrison Avenue (APN 253-138-001), consisting of approximately 27,752 square feet of vacant land ("Property").

REPORT ORGANIZATION

This report is based upon information in the proposed Agreement and is organized into the following seven sections:

Summary of the Proposed Agreement – This section includes a description of the Project, and pertinent responsibilities of the Agency and SVS;

Cost of the Proposed Agreement to the Agency – This section summarizes the costs of the Agreement to the Agency;

Estimated Value of the Interest to be Conveyed Determined at the Highest and Best Use Permitted Under the Redevelopment Plan – This section estimates the value of the interest to be conveyed, determined at the highest and best use permitted under the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1 ("Project Area");

Estimated Reuse Value of the Interest to be Conveyed – This section summarizes the estimated value of the interest to be conveyed given the requirements within the Agreement;

Consideration Received and Comparison with the Established Value – This section includes a description of the consideration to be paid by SVS to the Agency, and explains any difference between the consideration to be received and the estimated value of the interest to be conveyed determined at the highest and best use permitted under the Redevelopment Plan;

Elimination of Blight – This section describes the existing conditions of the Property and includes an explanation of why the Agreement will assist in the elimination of blight and the supporting facts and materials;

Conformance with the AB 1290 Five-Year Implementation Plan – This section describes how the Agreement is in conformance and achieves the goals identified in the Agency’s adopted AB 1290 Implementation Plan.

SUMMARY OF THE PROPOSED AGREEMENT

Project Description
The project consists of the transfer of ownership from the Agency to SVS of an unimproved vacant lot for the development of a professional office building. The Property is located within the Porterville Redevelopment Project No. 1 ("Project Area"), as most recently amended on August 5, 2010, by City Council Ordinance No. 1765. The sale of the Property will support the Redevelopment Plan objective of elimination of blight by providing for the development of a vacant parcel with a professional office building and by imposing maintenance and use requirements on SVS and any future owners of the Property. Pertinent details of the proposed transaction follow below.

**SVS Responsibilities Under the Agreement**

The Agreement requires that SVS complete the following activities:

SVS will purchase the Property from the Agency for $125,000.00 (One hundred twenty-five thousand dollars and no cents).

SVS will utilize the property for the construction of a professional office building.

SVS will sign and record a Maintenance and Use Covenant against the Property.

**Agency Responsibilities Under the Agreement**

Under the Agreement, the Agency is responsible for the following activities:

The Agency will sell the Property to SVS.

The Agency will pay all closing costs and a Broker’s commission of up to $7,500.

The Agency will cause that certain Operation, Use and Maintenance Covenants Running with the Land (Parking Facilities) dated as of March 10, 2011 and recorded against the Property ("Parking Covenants") to be terminated and removed from title to the Property.

**COST OF THE PROPOSED AGREEMENT TO THE AGENCY**

The Agency originally expended approximately $27,732 to acquire the Property. The Agency will not incur any relocation, demolition or construction costs as a result of this Agreement and will have no further obligation to maintain the Property after the close of escrow.

**ESTIMATED VALUE OF THE INTEREST TO BE CONVEYED DETERMINED AT THE HIGHEST AND BEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN**

The property is within the Project Area, but use of the property is not specifically addressed in the Redevelopment Plan. Therefore, the highest and best use contemplated and evaluated herein is the permitted uses of the Property under the Porterville...
Development Ordinance. Under the City’s current zoning, the land underlying the Property has a land use classification of D-P-O (Downtown Professional Office). Although the Property is currently subject to the Parking Covenant, the Agreement requires the Agency to terminate and remove the Parking Covenant from title to the Property; therefore, the fair market value of the Property has been determined without regard to the effect of the Parking Covenant.

The D-P-O classification allows only office uses or related accessory uses. The anticipated use of the Property will provide for a professional office in conformance with Porterville Development Ordinance 21.304.07. As such, the value of the interest to be conveyed under the Agreement, at its highest and best use, is $125,000, determined by an appraisal conducted as of March 1, 2011.

ESTIMATED REUSE VALUE OF THE INTEREST TO BE CONVEYED

Under the Agreement, the Property will be conveyed to SVS for the development and use of a professional office building. As explained above, this use represents the highest and best use of the Property; thus, the estimated reuse value of the interest to be conveyed under the Agreement is $125,000.00.

CONSIDERATION RECEIVED AND COMPARISON WITH THE ESTABLISHED VALUE

Under the proposed agreement the agency will receive consideration of $125,000.00 in exchange for the property, which equals the appraised fair market value of the property.

ELIMINATION OF BLIGHT

The Agreement will support the continued reduction and elimination of blight within the Project Area through the infill development of a vacant lot as a professional office building.

The Property is currently vacant and not economically productive. The Agreement will ultimately ensure the Property is productive and utilized in a manner consistent with the Redevelopment Plan, the Agency’s current five-year Implementation Plan, the City’s General Plan and the Porterville Development Ordinance. The proposed Agreement will ultimately result in the development of an undeveloped lot that will support the residents and businesses within the downtown area of the City and the Project Area. Therefore, the Agreement will reduce conditions of blight pursuant to the goals of the Redevelopment Plan.
CONFORMANCE WITH THE AB 1290 FIVE-YEAR IMPLEMENTATION PLAN

While use of the Property is not specifically addressed in the Agency’s current five-year Implementation Plan, the Agreement is in conformance with the Implementation Plan. The most recent amendment of the Implementation Plan identified the following major conditions of blight within the overall Project Area as: (1) conditions that prevent or substantially hinder the viable use of buildings or lots, (2) depreciated or stagnant property values, (3) abnormally high business vacancies and abnormally low lease rates, and (4) inadequate public improvements. Included with the identified conditions of blight are proposed resolutions for each of the various conditions. Pursuant to the Implementation Plan, proposed activities to reduce the prevalence of blight include providing for viable commercial developments in the downtown area of the City, such as the development contemplated by the Agreement.

This Report provides substantial evidence for the following findings and determinations:

1. The fair market value of the Property is $125,000.00.
2. The project is consistent with the Porterville Redevelopment Plan and Implementation Plan for the Porterville Redevelopment Agency.
3. The Agreement will eliminate the blighting influence of underutilized and vacant lots in the Project Area and help to support the businesses and residents in the Project Area.