CITY COUNCIL AGENDA  
CITY HALL, 291 N. MAIN STREET  
PORTERVILLE, CALIFORNIA  
SEPTEMBER 20, 2011, 5:30 P.M.

Call to Order  
Roll Call  

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

**CITY COUNCIL CLOSED SESSION:**  
A. Closed Session Pursuant to:  
1- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: A 30.57 mile line of railroad between Strathmore, CA milepost 268.60 and Jovista, CA milepost 299.17 in Tulare County, particularly that portion of the railroad line within the limits of the City of Porterville. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Union Pacific Railroad Company. Under Negotiation: Terms and Price.  

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

Pledge of Allegiance Led by Mayor Irish.  
Invocation  

**PROCLAMATION**  
Employer Support of the Guard & Reserve Week, September 19 – 25, 2011

**PRESENTATIONS**  
Fire Chief Mario Garcia – National Fire Academy “Executive Fire Officer”  
Employee Service Awards
REPORTS
This is the time for all AB 1234 reports; Committee/Commission/Board Reports; Subcommittee Reports; and Information Items and 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.


2. Henderson Avenue Micro-Surfacing Project – Budget Adjustment Request
Re: Considering approval to implement a budget adjustment in the amount of $26,083 from the Water Replacement Fund to the 2011/2012 Henderson Avenue Micro-Surfacing Project.

3. Acceptance of Project – Pearson Drive Turnout
Re: Considering acceptance of project from Halopoff & Sons, and authorizing the filing of the Notice of Completion for the project consisting of the removal of existing concrete improvements and installation of new concrete improvements allowing a bus to completely pull out of the travel way to access the bus stop location on Pearson Street.

4. Acceptance of Four (4) Compressed Natural Gas (CNG) Refuse Trucks
Re: Considering acceptance of the purchase of four (4) CNG Refuse trucks from E.M. Tharpe, which included three (3) side-loader refuse trucks and one (1) front-loaders refuse truck; and authorizing the filing of the Notice of Completion.

5. Parks & Leisure Services Commission Vacancies
Re: Consideration of filling upcoming vacancies to the Parks and Leisure Services Commission for terms to expire October 2015.

6. Consideration of Support to Collaborate with the Tule River Indian Tribe to Increase Regional Public Mobility and the Reduction of Congestion
Re: Considering authorization to sign a letter of support for the Tribe’s purpose of obtaining Tribal Transit Program funds; and authorizing the continued exploration and collaboration with the Tribe and large business representatives for the purpose of increasing regional mobility and reducing congestion of residents in the City’s sphere.

7. Solicitation for the Purchase of Water Shares
Re: Considering authorization for the Public Works Director to actively solicit the purchase of Pioneer Water Company shares for the remainder of the current Fiscal Year.
8. **Direction From City Council Study Session in Review of the Programs and the City’s Participation in the Consolidated Waste Management Authority**  
   Re: Consideration of a draft Letter of Request to the CWMA regarding a consumption based Member dues structure.

9. **This Item Has Been Removed.**

10. **Renewal of Personnel Examining Services Agreement Between the City of Porterville and Cooperative Personnel Services**  
    Re: Considering approval of a resolution authorizing the renewal of the Test Security Agreement with Cooperative Personnel Services.

11. **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*

**PUBLIC HEARINGS**

12. **Vacation of a Portion of 30’ Wide Public Utility Easement Related to PetSmart Development Project (Prospect Henderson Partners, LP)**  
    Re: Considering approval of a Resolution of Vacation for a portion of the public utility easement generally located within the easterly portion of the PetSmart Development Project west of Prospect Street and south of Henderson Avenue.

**SCHEDULED MATTERS**

13. **Consideration of Appointment to the Library & Literacy Commission**  
    Re: Considering the appointment of one individual to fill the unexpired term of Mr. Joseph Carter, which expires in October 2012.

14. **Consideration of Appointment to Measure R Citizens’ Oversight Committee**  
    Re: Considering the appointment of one individual to fill the City of Porterville’s vacancy on the Measure R Citizens’ Oversight Committee.

15. **Sports Field Lighting**  
    Re: Consideration of funds which remain in the Sports Field Lighting account following completion of the Sports Lighting Project.

Adjourn to a joint meeting of the Porterville City Council and Redevelopment Agency.
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: Conducting a public hearing to accept comment regarding the purchase and sale agreement for APN 253-138-001.

JOINT SCHEDULED MATTER
PRA-02 City Council of the City of Porterville and Porterville Redevelopment Agency Adopting Resolutions Finding Conformance to AB1X26 and AB1X27 Trailer Bills and California Redevelopment Law
Re: Considering approval of resolutions finding conformance to AB1X26 and AB1X27 Trailer Bills and California Redevelopment Law.

Adjourn the joint meeting to a meeting of the Porterville Public Improvement Corporation.

PORTERVILLE PUBLIC IMPROVEMENT CORPORATION
291 N. MAIN STREET, PORTERVILLE, CA

Roll Call: Directors/President

WRITTEN COMMUNICATIONS
ORAL COMMUNICATIONS

PUBLIC IMPROVEMENT SCHEDULED MATTER
PIC-1. Annual Meeting of the Porterville Public Improvement Corporation
Re: Considering approval of the election of officers and the 2011 Status Report for Certificates of Participation Projects.

Adjourn the Porterville Public Improvement Corporation Meeting 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 October 4, 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.
Call to Order at 5:30 p.m.
Roll Call: Council Member Ward, Vice Mayor Hamilton, Council Member Shelton, Council Member McCracken, Mayor Irish

ORAL COMMUNICATIONS
None

CITY COUNCIL CLOSED SESSION:
A. Closed Session Pursuant to:

City Manager Lollis advised that additional information relative to the properties subject to the negotiations had been located, which included properties owned by Union Pacific Railroad Company located on Assessor Parcel Maps 243-18, 243-19, 243-21, 255-25, 247-03, 247-30, 247-05, 247-06, 247-20, 247-19, 247-18, 247-17, 247-16, 247-15, 252-13, 252-14, 252-15, 252-16, 252-17, 252-18, 252-19, 252-20, 260-21, 260-22, 260-23, 260-24, 260-24, 260-26, 260-33, 260-31, 261-05, 270-02, 270-01, 270-16, 270-12, 269-06, 269-08, 269-09, and 303-06.
City Attorney Julia Lew advised that: both Mayor Irish and Council Member Shelton had a conflict of interest relative to Assessor Parcel Maps 247-06 and 247-20, would recuse themselves from the discussion, and abstain on any action taken by the Council.

9- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation – One Case concerning AT&T/Mobility Claim dated November 3, 2010 related to Utility Users Tax.
10- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – One Case.

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

City Attorney Julia Lew reported that the Council took the following action:

ITEMS A2 – A5: On a motion by Council Member McCracken, seconded by Council Member Ward, the Council unanimously authorized staff to 1) open escrow in the amount of $115,000 for the property located at 1150 E. Putnam Avenue, with the Buyer paying all closing costs; 2) open escrow in the amount of $115,000 for the property located at 1090 E. Putnam Avenue, with the Buyer paying all closing costs; 3) open escrow in the amount of $129,000 for the property located at 275 S. Chestnut, with the City paying closing costs up to $5,160; 4) open escrow in the amount of $107,500 for the property located at 1761 W. Westfield Avenue, with the City paying all closing costs up to $3,762; 5) authorize the Mayor to sign all necessary documents; and 6) authorize staff to record all documents with the County Recorder.

Disposition: Approved.

Pledge of Allegiance Led by Council Member Greg Shelton
Invocation – a moment of silence was observed.

PROCLAMATIONS
National Wrestling Hall of Fame Inductee – Tim Vanni
Iris Festival Day – April 16, 2011
National Library Week, April 10th – 16th
National Volunteer Week, April 10th – 16th
Public Safety Telecommunications Week, April 10th – 16th
Porterville’s Sesquicentennial Year – 2011 (to be read at event on Friday, April 8th)

PRESENTATIONS
Employee of the Month – Rick Land
Sesquicentennial Committee
REPORTS
• Council Member Ward spoke of the recent Sesquicentennial Committee Meeting, updated everyone on the progress, and thanked the Committee members for their hard work. He then reported on the recent Gang Intervention Committee meeting and commented on the good turnout.
• Council Member Shelton spoke of the recent events he attended, including: Lion’s Brewfest; Bunco Fundraising event to support the surgery involving Mr. Ted Rafanan’s donation of his kidney to Ms. Sonia Lopez-Chavez; Kids Fest event; City/Schools Meeting; First Friday Coffee; and the Wagonmaster’s Dinner at Charlie’s.
• Vice Mayor Hamilton lauded the Chamber’s Annual Dinner and Auction event.

ORAL COMMUNICATIONS
• Dalton Rogers, voiced concerns with fewer resources available for patrons at the City Library and urged the City Council to restore Measure H funding therefore.
• Martha Alcazar Flores came forward and introduced her Leadership Porterville mentee Lupe Chapa, and invited the other class members to come forward.
• Lupe Chapa, member of the Leadership Porterville Class of 2011, and employee of Family Healthcare Network, came forward and introduced herself to the Council.
• Catherine May, Leadership Porterville Class of 2011 member, Granite Hills High School Teacher/Librarian, and Library and Literacy Commissioner, greeted the Council.
• Brian Williams, Leadership Porterville Class of 2011 member and Managing Editor of the Porterville Recorder came forward and introduced himself.
• Michael Gutierrez, Leadership Porterville Class of 2011 member and Site Coordinator for the Employment Connection, introduced himself to the Council and spoke of the upcoming fundraising event, the “Corporate Games.”
• Donnie Moore, Leadership Porterville Class of 2011 member and Leisure Superintendent with the City of Porterville, introduced himself to the Council.
• Lisa Day, came forward on behalf of the Summit Charter PTO and voiced support for the abolishment of the Fireworks Lottery.
• Brock Neely, spoke against the proposed action in Items 13, 14 and 26.
• Donnette Silva Carter, Chamber of Commerce CEO, 1) invited everyone to the Sesquicentennial Celebration Kick-off Event to take place in Centennial Park on Friday, the upcoming Chamber Mixer scheduled for April 14th at the Galaxy Theater, and the Iris Festival scheduled for April 16th, and thanked the Tule River Tribal Council and all of the supporters of the event. Ms. Carter then invited everyone to the Bank of the Sierra Mixer on May 5th.
• Dick Eckhoff, a Springville resident, 1) spoke in favor of the City’s support of the Sesquicentennial celebration; 2) voiced support for Item 22 regarding the Library Budget; and requested that staff contact the Transactions and Use Tax Committee Members to assist them in scheduling a meeting.
• Teri Irish, a Porterville resident, commended Mr. Augie Gonzales for his actions in corralling a group of horses running loose in the vicinity of Morton Avenue and Crestview the evening of March 26th.

CONSENT CALENDAR
Item Nos. 3, 4, 5, 6, 7, 10, 11, 13, 14 and 18 were removed for further discussion.
1. CITY COUNCIL MINUTES OF OCTOBER 13, 2010 AND MARCH 10, 2011

Recommendation: That the City Council approve the draft Minutes of October 13, 2010 and March 10, 2011.

Documentation: Minute Order 01-040511
Disposition: Approved.

2. AUTHORIZATION TO ADVERTISE FOR BIDS – PEARSON DRIVE BUS TURNOUT

Recommendation: That the City Council:
1. Approve staff’s recommended Plans and Project Manual; and
2. Authorize staff to advertise for bids on the project.

Documentation: Minute Order 02-040511
Disposition: Approved.

8. AWARD CONTRACT – AUTOMATIC FARE COLLECTION EQUIPMENT

Recommendation: That the City Council:
1. Award the Automatic Fare Collection Project to GFI Genfare of Elk Grove Village, Illinois in the amount of $337,453.72;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize the Public Works Director, with the assistance of the Transit Manager, to evaluate the technical data on an alternate computer hardware system, audit unit, and other related equipment, and initiate a formal change order to reduce project costs if said alternate computer hardware and supporting equipment satisfy all of the City’s stated requirements.

Documentation: Minute Order 03-040511
Disposition: Approved.

9. AWARD CONTRACT – WAUKESHA ENGINE OVERHAUL

Recommendation: That the City Council award the contract for the overhaul of one (1) Waukesha engine at the Wastewater Treatment Facility to Valley Power Systems, Inc., of Bakersfield, CA, in the amount of $51,062.97. Further that the Council authorize payment upon satisfactory completion of the work.

Documentation: Minute Order 04-040511
Disposition: Approved.

12. CALTIP BOARD MEMBER RESOLUTION

Recommendation: That the City Council:
1. Approve the draft resolution designating Baldo Rodriguez as the City’s
designee for representation on the CalTIP Board of Directors, effective
June 1, 2011; and
2. Authorize the Mayor to execute the resolution for submission to CalTIP.

Documentation: Resolution 17-2011
Disposition: Approved.

15. APPROVAL FOR COMMUNITY CIVIC EVENT – ROLLIN’ RELICS CAR CLUB – ROLLIN’ RELICS CAR SHOW – MAY 7, 2011

Recommendation: That the City Council approve the Community Civic Event Application and Agreement submitted by the Rollin’ Relics Car Club, subject to the stated requirements contained in the Application, Agreement and Exhibit ‘A.’

Documentation: Minute Order 05-040511
Disposition: Approved.


Recommendation: That the City Council approve the Community Civic Event Application and Agreement submitted by the Porterville Breakfast Rotary, subject to the stated restrictions and requirements contained in the Application, Agreement, Exhibit ‘A’ and Exhibit ‘B.’

Documentation: Minute Order 06-040511
Disposition: Approved.


Recommendation: That the City Council approve the Community Civic Event Application and Agreement submitted by the Comision Honorifica Mexicana-Americana, subject to the stated restrictions and requirements contained in the Application, Agreement, Exhibit ‘A’ and Exhibit ‘B.’

Documentation: Minute Order 07-040511
Disposition: Approved.

19. REVIEW OF LOCAL EMERGENCY STATUS

Recommendation: That the City Council:
1. Receive the status report and review of the designated local emergency; and
2. Pursuant to the requirements of the California Emergency Services Act, determine that a need exists to continue said local emergency
COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member McCracken that the Council approve Item Nos. 1, 2, 8, 9, 12, 15 through 17, and 19. The motion carried unanimously.

3. AUTHORIZATION TO AWARD A PROFESSIONAL SERVICE AGREEMENT – QUALITY CONTROL SERVICES FOR JAYE STREET IMPROVEMENTS AND SCRANTON AVENUE & INDIANA STREET RECONSTRUCTION PROJECTS

Recommendation: That the City Council:
1. Authorize staff to execute a Professional Services Agreement with BSK Associates in the amount of $49,584.00 for material testing services in the amount of $49,584.00 for material testing services for the Jaye Street Improvements and Scranton Avenue and Indiana Street Reconstruction Projects;
2. Authorize the Mayor to sign all contract documents;
3. Authorize quality control progress payments that concur with construction progress; and
4. Authorize a 10% contingency to cover unforeseen additional testing services, such as, but not limited to, testing of import materials to resolve discovery of unsuitable geological material, saturated soils, etc., as approved by the City Engineer.

City Manager John Lollis presented the item, indicating it had been pulled from Consent Calendar by Council Member Ward. Council Member Ward voiced concern with the outsourcing of such services. A discussion ensued during which staff elaborated on the difference between “inspection” services which were conducted in-house, and “material testing” services which required laboratory facilities and geological testing expertise.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council authorize staff to execute a Professional Services Agreement with BSK Associates in the amount of $49,584.00 for material testing services in the amount of $49,584.00 for material testing services for the Jaye Street Improvements and Scranton Avenue and Indiana Street Reconstruction Projects; authorize the Mayor to sign all contract documents; authorize quality control progress payments that concur with construction progress; and authorize a 10% contingency to cover unforeseen additional testing services, such as, but not limited to, testing of import materials to resolve discovery of unsuitable geological material, saturated soils, etc., as approved by the City Engineer.
AYES: Ward, Hamilton, McCracken, Irish
NOES: Shelton
ABSTAIN: None
ABSENT: None

Disposition: Approved.

Without objection, Mayor Irish directed staff to present Items 4 and 7, noting he had a conflict of interest on both and would therefore recuse himself. Mayor Irish then exited the Chambers for those items.

4. AWARD OF CONTRACT – JAYE STREET IMPROVEMENTS PROJECT (FROM THE EASTERLY EXTENSION OF BROWN AVENUE TO GIBBONS AVENUE)

Recommendation: That the City Council:
1. Award the Jaye Street Improvements Project (from the Easterly Extension of Brown Avenue to Gibbons Avenue), to Mitch Brown Construction, Inc. in the amount of $821,037.66;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs and 7% for construction management, quality control and inspection.

Mayor Irish noted a conflict of interest, recused himself from the discussion, and exited the Council Chambers.

City Manager John Lollis presented the item, and indicated that Council Member Shelton had removed it from Consent Calendar. Council Member Shelton voiced concern that the same problematic materials that were utilized in the Henderson Avenue Reconstruction Project would be utilized on this project, noting that the proposed contractor was the same. A brief discussion ensued during which staff elaborated on the inspection process.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member McCracken that the Council award the Jaye Street Improvements Project (from the Easterly Extension of Brown Avenue to Gibbons Avenue), to Mitch Brown Construction, Inc. in the amount of $821,037.66; authorize progress payments up to 90% of the contract amount; and authorize a 10% contingency to cover unforeseen construction costs and 7% for construction management, quality control and inspection.

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

Disposition: Approved.
7. AWARD OF CONTRACT – HERITAGE CENTER TRAILWAY EXTENSION (RAILS TO TRAILS PH. II) PROJECT

Recommendation: That the Council:
1. Award the Heritage Center Trailway Extension (Rails to Trails Ph. II) Project to Dawson Mauldin Construction, in the amount of $246,283.00;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs and 9% for construction management, quality control and inspection.

City Manager John Lollis presented the item, and indicated that the item had been pulled from the Consent Calendar at the request of Council Member Shelton. Council Member Shelton voiced concerns; however, when it was determined that he owned real property within 500 feet of the project, he recused himself from the discussion and exited the Council Chambers.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member McCracken that the Council award the Scranton Avenue and Indiana Street Reconstruction Project to Halopoff & Sons, Inc. in the amount of $1,730,377.51; authorize progress payments up to 90% of the contract amount; authorize a 10% contingency to cover unforeseen construction costs and 5% for construction management, quality control and inspection; and authorize and direct the Public Works Director to transmit a letter to the TCTA requesting that the project savings be moved to the Main Street/SR 190 Project Study Report project.

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

Disposition: Approved.

5. AWARD OF CONTRACT – SCRANTON AVENUE AND INDIANA STREET RECONSTRUCTION PROJECT

Recommendation: That the City Council:
1. Award the Scranton Avenue and Indiana Street Reconstruction Project to Halopoff & Sons, Inc. in the amount of $1,730,377.51;
2. Authorize progress payments up to 90% of the contract amount;
3. Authorize a 10% contingency to cover unforeseen construction costs and 5% for construction management, quality control and inspection; and
4. Authorize and direct the Public Works Director to transmit a letter to the TCTA requesting that the project savings be moved to the Main Street/SR 190 Project Study Report project.
City Manager John Lollis presented the item, and indicated that it had been pulled from Consent Calendar at the request of Council Member Shelton. Council Member Shelton voiced appreciation that a local contractor had been the lowest bidder.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Ward that the Council award the Scranton Avenue and Indiana Street M.O. 12-040511 Reconstruction Project to Halopoff & Sons, Inc. in the amount of $1,730,377.51; authorize progress payments up to 90% of the contract amount; authorize a 10% contingency to cover unforeseen construction costs and 5% for construction management, quality control and inspection; and authorize and direct the Public Works Director to transmit a letter to the TCTA requesting that the project savings be moved to the Main Street/SR 190 Project Study Report project. The motion carried unanimously.

Disposition: Approved.

6. AWARD OF CONTRACT – WASTE WATER TREATMENT FACILITY SPRAYED POLYURETHANE ROOFING PROJECT

Recommendation: That the City Council:
1. Award the Waste Water Treatment Facility Sprayed Polyurethane Roofing Project to Universal Coatings, Inc., in the amount of $64,516.98;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs and 10% for construction management, quality control and inspection.

City Manager John Lollis presented the item, and indicated that it had been pulled from Consent Calendar at the request of Council Member Shelton. Council Member Shelton confirmed that construction management, quality control and inspection would be handled in-house.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Vice Mayor Hamilton that the Council award the Waste Water Treatment Facility Sprayed Polyurethane Roofing Project to Universal Coatings, Inc., in the amount of $64,516.98; authorize progress payments up to 90% of the contract amount; and authorize a 10% contingency to cover unforeseen construction costs and 10% for construction management, quality control and inspection. The motion carried unanimously.

Disposition: Approved.

10. RECYCLING PROCESSING REQUEST FOR PROPOSAL (RFP)

Recommendation: Informational Only.

City Manager John Lollis presented the item, and indicated that Council Member Shelton had removed it from Consent Calendar. Council Member Shelton spoke of future issues with the landfill and commented that staff should get creative.
11. CALTAC BOARD EFFECTIVENESS TRAINING

Recommendation: That the City Council accept the information.

City Manager John Lollis presented the item, and indicated that it had been pulled by Council Member Shelton. Council Member Shelton lauded the training opportunity.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Ward that the Council accept the information. The motion carried unanimously.

Disposition: Approved.

13. AMENDED AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND SIERRA MANAGEMENT FOR THE PROVISION OF TRANSIT SERVICES ADMINISTRATION AND MANAGEMENT

Recommendation: That the City Council approve the Amended Agreement Between the City of Porterville and Sierra Management.

City Manager John Lollis presented the item, and indicated that it had been removed from the Consent Calendar by Council Member Shelton. Council Member Shelton spoke against the item, commenting that it was a “no-bid contract.”

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member McCracken that the Council approve the Amended Agreement Between the City of Porterville and Sierra Management.

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

Disposition: Approved.

14. PORTERVILLE FAIR BOARD REQUEST FOR MUNICIPAL BALLFIELD LIGHTS

Recommendation: That the City Council approve the transfer of ownership of the light fixtures to the Fair Board.

City Manager John Lollis presented the item, and indicated that it had been removed from Consent Calendar by Council Member Ward. A brief discussion ensued during which staff stated that the lights were antiquated and consumed excessive energy. Council Member Shelton spoke against donating the lights, suggesting a use could be found.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member
McCracken that the Council approve the transfer of ownership of the light fixtures to the Fair Board.

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

Disposition: Approved.

18. CITY-FUNDED SUPPLEMENTAL INSURANCE FOR HISTORICAL PARADES

Recommendation: That the City Council:
1. Accept the quote submitted by Burlington Insurance Company in the amount of $2,346.57; and
2. Authorize the Risk Manager to purchase said policy for supplemental insurance coverage for the three historical City parades for calendar year 2011.

City Manager John Lollis presented the item, and indicated that the item had been removed from Consent Calendar by Council Member Shelton. In response to a question posed by Council Member Shelton, staff elaborated on the proposed coverage.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the Council accept the quote submitted by Burlington Insurance Company in the amount of $2,346.57; and authorize the Risk Manager to purchase said policy for supplemental insurance coverage for the three historical City parades for calendar year 2011. The motion carried unanimously.

Disposition: Approved.

SECOND READINGS

20. ORDINANCE 1776, FIREWORKS

Recommendation: That the City Council give Second Reading to Ordinance No. 1776, waive further reading, and order the ordinance to print.

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

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the Council give Second Reading to Ordinance No. 1776, waive further reading, and order the ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 12, ARTICLE II, FIREWORKS, OF THE PORTERVILLE MUNICIPAL CODE. The motion carried unanimously.
City Manager Lollis read the Ordinance by title only.

Disposition: Approved.

**SCHEDULED MATTERS**

21. **PORTERVILLE SESQUICENTENNIAL COMMITTEE REQUEST FOR CITY FINANCIAL SUPPORT OF CELEBRATION ACTIVITIES**

Recommendation: As directed by Council.

City Manager Lollis presented the item and the staff report.

Council Member McCracken MOVED that the City Council approve a loan in the amount of $1,500 to the 2011 Porterville Sesquicentennial Committee. The motion was SECONDED by Vice Mayor Hamilton.

- Rick Elkins, Sesquicentennial Committee Member, requested financial assistance from the Council in the form of a donation versus a loan, noting the Chamber of Commerce’s reluctance at managing loaned funds. He indicated that rather than a loan for $2,500, that the Council consider donating approximately $1,000 to $1,500.

Council Member Shelton spoke in favor of donating $5,000 to the Committee, with any remaining funds returned to the City. A discussion ensued during which the Council sought clarification as to how much financial support the Committee was requesting. Mr. Elkins indicated that donations would be used to purchase promotional items such as buttons and posters.

**COUNCIL ACTION:** MOVED by Council Member Shelton, SECONDED by Council Member Hamilton to amend Council Member McCracken’s motion to approve a donation of $5,000 to the 2011 Porterville Sesquicentennial Committee, with the unexpended balance being returned to the City.

AYES: Shelton, Ward

NOES: McCracken, Hamilton, Irish

ABSENT: None

ABSTAIN: None

Council Member McCracken cautioned the committee about purchasing promotional items to be sold, presenting City coins as an example. A discussion ensued regarding the use of public funds for promotion of the city, and past Council action.

- Mr. Elkins indicated that the Sesquicentennial Committee would proceed without help from the City, and withdrew his request for donation.

- Mary McClure, Porterville resident, expressed her displeasure with the Council.
Rhoda Hunter, Tule River Reservation Tribal Council Member, expressed her disappointment with the Council’s comments, and indicated that she was re-thinking requesting the City’s support for a community fireworks show.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member McCracken that the City Council approve a loan of $1,500 to the 2011 Porterville Sesquicentennial Committee, as amended to a donation of $1,500.

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

Council Member Ward MOVED that the Council donate $3,000 to the 2011 Sesquicentennial Committee, in addition to payment for the banners. The motion died for lack of a second.

Disposition: Denied.

22. **REVIEW OF LIBRARY BUDGET**

Recommendation: That the City Council approve the Measure H Budget to allow for the expenditures for services.

City Manager Lollis presented the item and Library Supervisor II Tony Arellano presented the staff report.

**COUNCIL ACTION:** MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the Council approve the Measure H Budget to allow for the expenditures for services. The motion carried unanimously.

Disposition: Approved.

23. **AMENDMENT TO ORDINANCE 1397 – FLOODPLAIN MANAGEMENT ORDINANCE**

Recommendation: That the City Council approve and adopt the draft Floodplain Ordinance amending Article XIV, Flood Damage Prevention Code of the City of Porterville Municipal Code; give first reading; and order the Ordinance to print.

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

Council Member McCracken made a MOTION to approve and adopt the draft ordinance, which was SECONDED by Vice Mayor Hamilton. Following the motion, a discussion ensued regarding the consequences of not adopting the proposed ordinance, which included an increase in flood insurance premiums and precluding residents from obtaining loans.
• Jim Winton, inquired about the requirement that the same professional be utilized for both the preliminary and final elevation certification.

The Council directed staff research the necessity of including language which required the same professional to prepare the preliminary and final elevation certificates, and bring the item back to the Council at the next meeting.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED BY Vice Mayor Hamilton that the City Council continue the item to the next City Council Meeting. The motion carried unanimously.

Disposition: Direction given to staff; and item continued to April 19, 2011.

24. FEDERAL AVIATION ADMINISTRATION RELEASE OF NONAERONAUTICAL LAND

Recommendation: That the City Council:
1. Adopt a draft resolution obligating the City to expend the proceeds of the sale of excess land at the Porterville Municipal Airport upon the airport within a five-year period;
2. Authorize the City Manager and/or the Mayor to execute all necessary documents; and
3. Approve a budget adjustment to allocate the $169,740 to the Airport Security Fencing and Access Control Project.

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

Mayor Irish inquired whether the item involved the Porterville Fair in any way. Upon confirmation that the discussion might involve the Fair, Mayor Irish noted a conflict of interest, recused himself and exited the Council Chambers.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council adopt the draft resolution obligating the City to expend the proceeds of the sale of excess land at the Porterville Municipal Airport upon the airport within a five-year period; authorize the City Manager and/or the Mayor to execute all necessary documents; and approve a budget adjustment to allocate the $169,740 to the Airport Security Fencing and Access Control Project.

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

Disposition: Approved.
Council Member McCracken MOVED to continue Item Nos. 25 through 32. The motion was SECONDED by Vice Mayor Hamilton. Council Member Shelton requested that Item Nos. 26 and 27 be considered due to Mr. Winton being present.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Vice Mayor Hamilton that the Council consider Item Nos. 26 and 27. The motion carried unanimously.

M.O. 20-040511

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council continue Item Nos. 25, 28, 29, 30, 31 and M.O. 21-040511 32 continued to an Adjourned Meeting to be scheduled for April 12, 2011. The motion carried unanimously.

Disposition: Item Nos. 25, 28, 29, 30, 31 and 32 continued to April 12, 2011.

26. COUNCIL MEMBER REQUESTED AGENDA ITEM – MODIFICATION TO MUNICIPAL CODE REQUIRING IMPROVED AREAS FOR PARKING

Recommendation: As directed by Council.

City Manager Lollis introduced the item, and Council Member Shelton MOVED that the Council consider amending the Municipal Code to allow for parking on dirt. The motion was SECONDED by Vice Mayor Hamilton.

- Jim Winton, proposed intermittent parking on unpaved surfaces, and suggested that the issue be referred to Zoning Ordinance Review Committee.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council refer the matter to the Zoning Ordinance Review Committee regarding possible amendment to allow for parking on uninformed lots in certain circumstances. The motion carried unanimously.

Disposition: Matter referred to Zoning Ordinance Review Committee.

The Council recessed at 9:55 p.m. for five minutes. Following the recess, Mayor Irish exited the meeting due to a prior commitment.

27. COUNCIL MEMBER REQUESTED AGENDA ITEM – MODIFICATION TO CITY PROJECT REVIEW COMMITTEE FEES

Recommendation: As directed by Council.

City Manager Lollis introduced the item, and Council Member Shelton MOVED that the City Council eliminate Project Review Committee (PRC) Fees. The motion died for lack of a second.

Council Member Ward spoke in favor of modifying the fees to a differentiated fee structure.
Jim Winton, indicated that he agreed with Council Member Ward’s comments, and spoke of the benefits of Project Review Committee.

A discussion ensued regarding the types of projects that would require PRC, and the initial development of the fees. Council Member Shelton voiced his discontent with the fees.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member McCracken that the City Council authorize staff development of a tiered fee schedule for Project Review Committee.

M.O. 23-040511

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

Disposition: Direction given to staff.

25. COUNCIL MEMBER REQUESTED AGENCY ITEM – CONSIDERATION OF RENAMING CITY HALL CONFERENCE ROOMS AND AREAS

Recommendation: As directed by Council.

Disposition: Item continued to April 12, 2011.

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

Recommendation: As directed by Council.

Disposition: Item continued to April 12, 2011.

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

Recommendation: As directed by Council.

Disposition: Item continued to April 12, 2011.

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

Recommendation: As directed by Council.
Disposition: Item continued to April 12, 2011.

31. COUNCIL MEMBER REQUESTED AGENDA ITEM – CONSIDERATION OF CREATING CITY LISTSERV PROGRAM

Recommendation: As directed by Council.

Disposition: Item continued to April 12, 2011.

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

Recommendation: As directed by Council.

Disposition: Item continued to April 12, 2011.

ORAL COMMUNICATIONS

• Dick Eckhoff, 1) commented on the coins that were purchased for the City’s Centennial celebration; and 2) voiced confidence that staff could handle drafting a restructured fee schedule for PRC.

OTHER MATTERS

• Council Member Shelton noted the upcoming events: Kick-off for the Sesquicentennial Celebration at Centennial Park on Friday; the Drive-Thru Dinner at Grand Avenue Church; Town Talk; the Iris Festival; and the Fishing Derby at Murry Park.

ADJOURNMENT

The City Council adjourned at 10:24 p.m. to the meeting of April 12, 2011 at 5:30 p.m.

______________________________
Luisa Herrera, Deputy City Clerk

SEAL

______________________________
Ronald L. Irish, Mayor
Call to Order 5:30 p.m.
Roll Call: Council Member Ward, Council Member Shelton (arrived during Closed Session), Council Member McCracken, Vice Mayor Hamilton, Mayor Irish

ORAL COMMUNICATIONS
None

City Attorney Lew stated that staff had been noticed of a mediation pertaining to pending litigation subsequent to the compilation of the Agenda. She advised that the addition of the Emergency Closed Session item would have to be approved by a 4/5 vote.

Emergency Closed Session Item: Closed Session Pursuant to Government Code Section 54956.9(a) Existing Litigation: Barbara E. Hill, Trustee to the Hill Family Trust v. City of Porterville, Tulare County Superior Case No. 10-143764.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council approve the addition of the Emergency Closed Session Item.

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

Disposition: Approved.

The Mayor then inquired if there was anyone in the audience who wished to comment on the addition of the item. Seeing no one, the Council adjourned to Closed Session.

CITY COUNCIL CLOSED SESSION:
A. Closed Session Pursuant to:
   2- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: A 30.57 mile line of railroad between Strathmore, CA milepost 268.60 and Jovista, CA milepost 299.17 in Tulare County, particularly that portion of the railroad line within the limits of the City of Porterville. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Union Pacific Railroad Company. Under Negotiation:

4- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: Two Cases concerning facts not yet known to potential plaintiffs.

5- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: Three Cases.

6:30 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

The City Attorney reported that no reportable action had taken place.

The Pledge of Allegiance was led by Logan Tyler.

Invocation – a moment of silence was observed.

The Mayor acknowledged Tribal Council Member Rhoda Hunter and Dan Hackey, Public Relations.

PROCLAMATIONS

National Library Card Sign Up Month – September 2011
Filipino-American Cultural Week – September 10-17, 2011

At the Mayor’s request, the following scouts introduced themselves to the Council: Daniel Flores, Logan Tyler, Colin Davis, Michael Davis, Aiden Willet, and Ian Robertson.

PRESENTATIONS

Employee of the Month – Tonya Hall

REPORTS

- Council Member Shelton reported attendance at the following: Sesquicentennial Committee meeting on 8/17; Porterville Area Republican Association meeting and Measure H Oversight Committee meeting on 8/18; Bill Horst Talk at the Museum on 8/20; Sesquicentennial Committee meeting and StepUp Committee meeting on 8/24; Mixer on 8/25; Dive-In Theater on 8/26; Murry Park trackless train on 8/27; Sesquicentennial meeting and StepUp Committee meeting on 8/31; and Chili Cook-off on 9/3.

- Council Member Ward reported his attendance at the aforementioned StepUp Committee meetings.

ORAL COMMUNICATIONS

- Fernando Medina, host of the Something Out of Nothing Art Show, spoke about an art project he wished to see to fruition which would inspire use of the public library, and requested that he be advised on how to proceed.
Donnette Silva Carter, Chamber of Commerce, spoke about the kickoff of the Fall Music on Main Street Concert Series on September 2nd, and announced Protect the Dream as the Music on Main Street performers for the 9th, and extended invitations to the 9/11 Remembrance event on September 11th, and the Taste of Porterville event on September 22nd.

**CONSENT CALENDAR**

Item Nos. 2, 4, 6 and 7 were pulled for further discussion.

1. **CITY COUNCIL MINUTES OF MARCH 15, 2011 AND AUGUST 25, 2011**

Recommendation: That the City Council approve the Minutes of March 15, 2011 and August 25, 2011.

Documentation: Minute Order 02-090611

Disposition: Approved.

3. **AGREEMENT WITH PORTERVILLE YOUTH FOOTBALL LEAGUE FOR FACILITY USE AND MAINTENANCE**

Recommendation: That the City Council approve the proposed Agreement and direct the City Manager to execute same.

Documentation: Minute Order 03-090611

Disposition: Approved.

5. **AUTHORIZE STAFF TO ACT ON BEHALF OF THE CITY OF PORTERVILLE FOR THE PURPOSE OF OBTAINING FINANCIAL ASSISTANCE BY THE PUBLIC TRANSPORTATION MODERNIZATION, IMPROVEMENT, AND SERVICE ENHANCEMENT ACCOUNT**

Recommendation: That the City Council:

1. Approve the draft Resolution in support of the authorized agents for the purpose of obtaining PTMISEA funds; and
2. Authorize the Mayor to sign the required authorized agent form.

Documentation: Resolution 51-2011

Disposition: Approved.

8. **APPROVAL FOR COMMUNITY CIVIC EVENT – FATHERS AGAINST DRUNK DRIVING AND PORTERVILLE IGLESIA DEL NAZARENO THIRD ANNUAL WALK-A-THON AND BBQ**

Recommendation: That the City Council approve the proposed Community Civic Event Application and Agreement submitted by the Fathers Against Drunk Driving and Porterville Iglesia Del Nazareno, pending completion of the Application
and Agreement, receipt of Certificate of Liability Insurance and Additional Insured Endorsement and subject to the stated requirements contained in Exhibit ‘A’ of the Community Civic Event Application.

9. APPROVAL FOR COMMUNITY CIVIC EVENT – CENTRAL CALIFORNIA FAMILY CRISIS CENTER’S ANNUAL CANDLELIGHT VIGIL FOR DOMESTIC VIOLENCE, OCTOBER 15, 2011

Recommendation: That the Council approve the proposed Community Civic Event Application and Agreement submitted by the Central California Family Crisis Center, subject to the stated requirements contained in the Application, Agreement and Exhibit ‘A’.

Documentation: Minute Order 05-090611
Disposition: Approved.

10. APPROVAL FOR COMMUNITY CIVIC EVENT – WILDPLACES GREAT SIERRA RIVER CLEAN UP

Recommendation: That the Council approve the proposed Community Civic Event Application and Agreement submitted by WildPlaces of Springville, subject to the state requirements contained in Exhibit ‘A’.

Documentation: Minute Order 06-090611
Disposition: Approved.

11. REVIEW OF LOCAL EMERGENCY STATUS

Recommendation: That the City 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.

Documentation: Minute Order 07-090611
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member McCracken that the City Council approve Item Nos. 1, 3, 5, and 8-11. The motion carried unanimously.
2. ACCEPTANCE OF PROJECT – SPORTS COMPLEX LIGHTING PROJECT

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

City Manager Lollis introduced the item, and the staff report was waived at the Council’s request. Council Member Shelton indicated that he had pulled the item to note that the project had finished over budget.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Council Member Ward that the City Council accept the project as complete; authorize the filing of the Notice of Completion; and authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed. The motion carried unanimously.

Disposition: Approved.

4. INFORMATION OF THE PURCHASE OF WATER SHARES AND/OR SURFACE WATER FOR GROUND WATER RECHARGE

Recommendation: Information only per Council’s direction.

City Manager Lollis introduced the item, and the staff report was waived at the Council’s request. Council Member Shelton stated that he would prefer that the City pursue the solicitation of Pioneer Water Company shares, and suggested that an item be brought back for Council consideration.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Shelton that the City Council accept the informational report, and direct staff to bring back an item on the next Agenda regarding the solicitation of shares for Council consideration. The motion carried unanimously.

Disposition: Approved.

6. SCHEDULING OF STUDY SESSION REGARDING COORDINATED COMMUNITY SERVICES (“STEP UP”) EFFORTS

Recommendation: That the City Council set October 11, 2011 at 6:00 p.m. as the date and time for a Study Session regarding coordinated community services efforts.

City Manager Lollis introduced the item, and the staff report was waived at the Council’s request. At Council Member Shelton’s request, Vice Mayor Hamilton clarified briefly spoke about the purpose of the meeting.
COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Vice Mayor Hamilton that the City Council set October 11, 2011 at 6:00 p.m. as the date and time for a Study Session regarding coordinated community services efforts. The motion carried unanimously.

Disposition: Approved.

7. AIRPORT DRY FARM LEASE AMENDMENT

Recommendation: That the City Council approve Amendment No. 1 to the Lease Agreement between the City of Porterville and Jeff Sheets of J.C. Sheets Farming, Terra Bella, CA, for dry farming at the Porterville Municipal Airport.

City Manager Lollis introduced the item, and the staff report was waived at the Council’s request. Council Member Shelton indicated that he had pulled the item in order to suggest that the Council consider a reduction in production acres to avoid the issue of having the area directly to the east of the Freedom Fest disked before the show.

COUNCIL ACTION: MOVED by Council Member Shelton, SECONDED by Vice Mayor Hamilton that the City Council approve Amendment No. 1 to the Lease Agreement between the City of Porterville and Jeff Sheets of J.C. Sheets Farming, Terra Bella, CA, for dry farming at the Porterville Municipal Airport. The motion carried unanimously.

Disposition: Approved.

SCHEDULED MATTERS

12. COST BENEFIT ANALYSIS FOR REPLACING MEDIAN ISLAND GRASS WITH ARTIFICIAL TURF – OLIVE AVENUE REHABILITATION PROJECT AND 2011/2012 MICRO-SURFACING PROJECT

Recommendation: That the City Council:

1. Consider allocating $531,495.79 from General Fund reserves or other funds to finance the replacement of median island grass with artificial turf for both the Olive Avenue Rehabilitation Project and the 2011/2012 Micro-Surfacing Project;
2. Authorize the City Engineer to augment the existing contracts by utilizing the previously provided bid add alternate amounts given by both contractors should Council approve a budget re-appropriation for the herein described work; and
3. Authorize the Finance Director to establish an annual payback plan per Council’s direction if a budget re-appropriation is approved.

City Manager Lollis introduced the item, and the staff report was presented by Public Works Director Baldo Rodriguez.
Council Member McCracken MOVED to approve staff’s recommendation. The motion was SECONDED by Vice Mayor Hamilton.

Council Member Shelton lauded the use of artificial turf, and supported the use of General Fund monies for infrastructure. Council Member Ward expressed concerns regarding the 10-year payback plan. A discussion ensued regarding the payback of general funds for infrastructure; and savings which would result from the installation of artificial turf. Council Member McCracken indicated that he was comfortable with staff identifying the funds and establishing a payback plan. City Manager Lollis noted that grants opportunities may be available for the project.

Council Member Shelton made a motion to strike No. 3 from the initial motion. The motion died for lack of a second.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Vice Mayor Hamilton that the City Council allocate $531,495.79 from General Fund reserves or other funds identified by staff to finance the replacement of median island grass with artificial turf for both the Olive Avenue Rehabilitation Project and the 2011/2012 Micro-Surfacing Project; authorize the City Engineer to augment the existing contracts by utilizing the previously provided bid add alternate amounts given by both contractors should Council approve a budget re-appropriation for the herein described work; and authorize the Finance Director to establish an annual payback plan per Council’s direction if a budget re-appropriation is approved. The motion carried unanimously.

Disposition: Approved.

The Council recessed for 15 minutes at 7:20 p.m.

13. STREET SELF PERFORMANCE & EQUIPMENT PURCHASES

Recommendation: That the Council provide direction.

City Manager Lollis introduced the item, and the staff report was presented by Public Work Director Rodriguez.

A discussion ensued regarding possible savings which could result if the work was done in house. Staff indicated that they could elaborate on the numbers, and bring the item back to the Council for consideration. Without objection, the item was continued to the next meeting to allow staff the opportunity to bring back a more detailed analysis of costs and savings.

Disposition: Item continued.

14. CONSIDERATION OF FORMING A COMMUNITY FACILITIES DISTRICT(S) FOR NEIGHBORHOOD STREET MAINTENANCE
Recommendation: That the City Council provide direction.

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

Staff identified annexed areas as those with the greatest need, and spoke of the difficulty in forming Community Facilities Districts (CFDs). The Council discussed the benefits of CFDs, which included flexibility. Council Member Ward spoke of the importance of the street inventory analysis, and suggested that the Council wait to move forward.

Council Member McCracken suggested continuing the item, as well as Item No. 13, to allow for review of the street inventory analysis findings. He then questioned staff regarding the use of the grinder and paver, during which time it was noted that the equipment, if purchased, would not be used until spring of 2012. The amount of time required for the purchase was briefly discussed.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Council Member McCracken that the City Council continue the Item Nos. 13 and 14 to the first meeting in February 2012. The motion carried unanimously.

Disposition: Items 13 and 14 continued to the first meeting in February 2012.

ORAL COMMUNICATIONS
- Brock Neely, stated that the majority of litigation relative to Mello Roos was regarding issues of disclosure from developers.

OTHER MATTERS
- Council Member Ward encouraged attendance at the 9/11 event.
- Council Member Shelton noted the following upcoming events: meeting at PUSD regarding voting districts on 9/8; fundraiser for Sin Cal roller derby team on 9/9; Bill Horst Talk and art show for Kendall Collins at the museum on 9/10; 9/11 Anniversary event; StepUp event on 9/15; Tule River Tribe Pow Wow 9/16-9/18; trackless train at Murry Park on 9/17 and 9/18; and an ice cream social on 9/18 at the Zalud House.
- City Manager Lollis noted the Wall of Fame ceremony would be taking place at the Heritage Center on Friday, September 9th.

The Council took a five minute recess at 8:17 p.m. and reconvened in closed session.

CLOSED SESSION
The Council reconvened in open session at 9:34 p.m. and the following action was reported:


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RESPECTIVELY). UNDER NEGOTIATION: TERMS AND PRICE.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Mayor Irish that the
Resolution 52-2011 City Council approve the purchase of APNs 247-140-053, 259-180-041
and
Resolution 53-2011 245-060-020.
Resolution 54-2011
AYES: Ward, McCracken, Irish
NOES: Shelton, Hamilton
ABSTAIN: None
ABSENT: None

Disposition: Approved.

ADJOURNMENT
The Council adjourned at 9:35 p.m. to the meeting of September 20, 2011 at 5:30 p.m.

__________________________________________
Luisa Herrera, Deputy City Clerk

SEAL

__________________________
Ronald L. Irish, Mayor
Called to Order at 6:30 p.m.
Roll Call: Council Member Ward, Council Member Shelton, Council Member McCracken, Vice Mayor Hamilton
Absent: Mayor Irish

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

ORAL COMMUNICATIONS
None.

SCHEDULED MATTER

1. STUDY SESSION FOR REVIEW OF CONSOLIDATED WASTE MANAGEMENT AUTHORITY

Recommendation: Informational item only.

City Manager Lollis indicated that the purpose of the meeting was to review the City’s membership in the Consolidated Waste Management Authority. He noted that Anne Magana, CWMA Administrator, and Britt Fussel, Assistant Director of the Tulare County Resource Management Agency, were in attendance, and available to answer any questions.

Anne Magana then presented a PowerPoint presentation regarding the Consolidated Waste Management Authority, which covered: the history and structure of the JPA, diversion rates, programs, funding sources, the 2011-2012 Budget, legislation, and reporting. During the presentation the Council inquired about the Household Hazardous Waste Program and the Construction and Demolition (C&D) Program.

Following the presentation Council Member Shelton expressed his concern regarding the accuracy of the C&D tonnage reported for Porterville. He noted that use of the zip code as the basis for reporting was inaccurate because it encompassed a large area, and suggested that a different method be implemented. Council Member Shelton added that the City of Porterville was performing above and beyond in terms of its diversion rate, and he believed the City was paying a disproportionate amount.

The Council discussed the problems associated with use of the zip code to monitor C&D waste, and explored alternative means which would provide more accurate numbers, such as use of the street address or building permits. Mr. Britt Fussel, Tulare County RMA, indicated that currently the gate attendants inquire about where the individuals are from, and added that the County took great care in tracking the waste being generated. There was then brief discussion about the monitoring of landfills by City staff, which occurred prior to the City’s participation in the JPA.
Council Member Ward also commented on the City’s diversion rates, and inquired as to the reasoning behind the population based formula used to calculate each agency’s contribution. He noted that the rate per ton paid by the City of Porterville was higher than other agencies, and proposed that the JPA consider a consumption based formula. Council Member Ward added that in that scenario each agency’s contribution would be dependent on their diversion, and could serve as an incentive. Britt Fussell indicated that the CWMA Board adopted a formula modeled after TCAG’s formula when it was formed, and the formula had remained unchanged since that time.

Council Member Ward identified three options, to be further explored by staff: 1) staying the current course; 2) change to a consumption based contribution formula; and 3) withdrawal from the JPA and working independently. The Council discussed possible action, direction, and the communication of their concerns to the CWMA Board. Council Member McCracken requested formal action from the Council directing the CWMA representatives to report to the CWMA Board.

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Ward that the City Council direct staff to bring back an item for Council consideration regarding the three scenarios identified: 1) staying the current course; 2) change to a consumption based contribution formula; and 3) working independently from the CWMA; and direct staff to draft a letter, to be signed by the Mayor, requesting that the CWMA consider a new contribution formula based on consumption.

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

Disposition: Direction given.

ORAL COMMUNICATIONS
None.

Staff requested clarification regarding the direction, which was provided by the Council. Britt Fussel then addressed questions regarding the reporting of the City of Woodlake’s waste.

ADJOURNMENT
At 7:52 p.m. to the meeting of September 20, 2011 at 5:30 p.m.
SUBJECT: HENDERSON AVENUE MICRO-SURFACING PROJECT – BUDGET ADJUSTMENT REQUEST

SOURCE: Public Works Department - Engineering Division

COMMENT: At the July 5, 2011 City Council meeting, Council authorized staff to proceed with advertisement for the Henderson Avenue Micro-Surfacing project. As stated in the Council item, street reconstruction work on Henderson Avenue directly underneath Highway 65 was necessary due to street and concrete damage caused by a water main break. At the time, staff estimated the reconstruction work caused by the water damage at $55,000.

The cost for the street repairs which must be completed prior to the micro-surfacing application is $81,083. This figure was extracted directly from the successful contractor’s bid document. For the purpose of proper record keeping, staff respectfully requests that the City Council direct the Finance Director to implement a “budget adjustment” to the 2011/2012 budget authorizing the additional expenditure of $26,083 from the Water Replacement Fund. The funds identified herein will be used solely for street and concrete improvement repairs damaged by the Henderson Avenue water main break. The previous budget approval was for $55,000.

RECOMMENDATION: That the City Council:

1. Accept staff’s report and direct the Finance Director to implement a budget adjustment in the amount of $26,083 from the Water Replacement Fund to the 2011/2012 Henderson Avenue Micro-Surfacing Project.
SUBJECT: ACCEPTANCE OF PROJECT – PEARSON DRIVE BUS TURNOUT

SOURCE: Public Works Department - Engineering Division

COMMENT: Halopoff & Sons has completed construction of the Pearson Drive Bus Turnout per plans and specifications. The bus turnout project included removal of existing concrete improvements and installation of new concrete improvements allowing a bus to completely pull out of the travel way to access the bus stop location. A bus shelter, provided by the City and installed by the contractor, was placed at the back of the new sidewalk. All improvements were constructed within public right of way recently donated by Sierra View District Hospital.

Staff carefully tracks construction costs of all Capital Improvements Projects. Consistent with Council’s direction, staff has commenced with the reporting of project construction expenditures. On June 7, 2011, City Council authorized expenditure of $34,118.22 for construction, construction management and quality control testing for the Pearson Drive Bus Turnout Project. The following itemizes the construction-related cost in two categories: 1) the construction contract, and 2) a combination of construction management and quality control.

1) Final construction cost is $27,294.57

2) Construction management was performed by staff and quality control by Consolidated Testing Laboratory. The cost for both services was $3,459.52. This amount is less than the $4,094.14 construction management and quality control amount requested at time of award.

Total project construction costs equate to $30,754.09, which is less than the $34,118.52 overall budget approved by Council at the time of award.

Funding for this project is from a Federal Transit Authority grant and Local Transportation Funds, and was approved in the 2011/2012 Annual Budget for bus turnouts.

Halopoff & Sons requests that the City accept the project as complete. Staff reviewed the work and found it acceptable.

RECOMMENDATION: That City Council:

1. Accept the project as complete;

2. Authorize the filing of the Notice of Completion; and

3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

ATTACHMENT: Locator Map

P:\subworks\General\Council\Acceptance of Project - Pearson Drive Bus Turnout - 2011-09-20.doc

Dir © Appropriated/Funded ΝΕ CM

Item No. 3
COUNCIL AGENDA: SEPTEMBER 20, 2011

SUBJECT: ACCEPTANCE OF FOUR (4) COMPRESSED NATURAL GAS (CNG) REFUSE TRUCKS

SOURCE: Public Works Department - Engineering Division

COMMENT: E.M. Tharp has completed the manufacture and delivery of the City's four CNG Refuse trucks according to City's specifications. The City has taken possession of three (3) side-loader refuse trucks and one (1) front-loader refuse truck.

City Council authorized an expenditure of $1,038,344.03 to purchase the four (4) refuse trucks. Final manufacture cost is $1,033,640.83. Additionally, the City will seek reimbursement of $4,703.20 to recover staff expenditures to install radios and place decals on the new equipment. Funding for this project is from a Congestion Mitigation & Air Quality Grant (CMAQ) with an 11.51% local share. The City's local share ($119,513.40) is from the Equipment Replacement Fund.

RECOMMENDATION: That City Council:

1. Accept the project as complete; and

2. Authorize the filing of the Notice of Completion.
SUBJECT: PARKS & LEISURE SERVICES COMMISSION VACANCIES

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: In October 2011, four seats on the City's Parks and Leisure Services Commission will be expiring, three of which must be filled by City Council appointment. Pursuant to Section 19-5 of the Porterville Municipal Code, the remaining seat is appointed by Porterville Unified School District. The seats with expiring terms are currently filled as follows:

- Mr. Donald Beardsley
- Mr. Rocco Calantone
- Mr. Charles Webber
- Mr. Gary Ingraham (appointed by PUSD)

Commissioner Rocco Calantone has conveyed his interest in continuing to serve and has submitted an updated Request for Appointment which is attached for Council's consideration. Staff has further confirmed that Commissioners Beardsley, Webber and PUSD-Appointee Ingraham will be vacating their seats. Staff has been in communication with PUSD relative to the vacancy and will advise the Council of the District's appointment once made.

At this time, staff recommends that the Council appoint Mr. Rocco Calantone to serve a four-year term expiring in October 2015. With regard to the remaining two vacant seats, at Council's direction, staff can publicize notice and solicit applicants by way of a press release for Council's consideration and appointment at its next meeting.

RECOMMENDATION: That the City Council:
1. Appoint Mr. Rocco Calantone to serve a four-year term expiring in October 2015; and
2. Direct staff to provide public notice of and solicit applications for the two remaining vacancies for Council consideration and appointment at the meeting of October 4, 2011.

ATTACHMENT: Request for Appointment
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: ROCCO CALANTONE
(Please Print)

Appointment to: PARKS AND LEISURE SERVICES COMMISSION
(Name of Board, Commission, or Committee)

Reappointment; or IF NEW, please provide:

Street Address: ____________________________
________________________________________

Mailing Address: ____________________________
________________________________________

Name of Business: ____________________________

☐ Own  ☐ Operate

Business Address: ____________________________
________________________________________

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

City of Porterville resident: ☐ Yes  ☐ No
Registered Voter: ☐ Yes  ☐ No
Qualifications: I am currently the Chairman of the Commission. I would like to be reappointed to the Commission.

Thank you.

Resume attached

Letter of request attached

Submitted By: [Signature] 9-14-2011

Date

Received by:

Forwarded to: City Clerk Date: 9/14/11

City Council Date: 9/14/11

City Manager Date: 9/14/11

Applicable Dept. Date: 9/14/11

Tentative Council Mtg Date:

Page 2 of 2
CONSIDERATION OF SUPPORT TO COLLABORATE WITH THE TULE RIVER INDIAN TRIBE TO INCREASE REGIONAL PUBLIC MOBILITY AND THE REDUCTION OF CONGESTION

SOURCE: Public Works Department – Transit Division

COMMENT: The City of Porterville’s Transit Division is a recipient of a Federal Transit Administration (FTA) Section 5307, Urbanized Area Formula Funding Program and is required to update its Short Range Transit Plan (SRTP) every two years. The SRTP serves as the primary planning document for Porterville’s transit services. The SRTP is developed to support the development of a safe, efficient, and economical transit system using sustainable transportation principles and techniques that encourage public mobility, provide affordable transportation alternatives, reduce congestion, improve air quality and support appropriate land use and development.

As part of this year’s SRTP, the City is exploring the possibility of expanding public mobility to Strathmore, as well as, a new park and ride lot constructed by the Tule River Indian Tribe located at the corner of State Route 190 and Road 284 east of Porterville. The primary purpose of providing transportation service to these outlying areas is to increase mobility and reduce congestion of Tribal, Strathmore and Porterville residents who commute, and to provide a transportation alternative where public transportation service is currently not available.

This year, in conjunction with SRTP, the City is also updating the Porterville Transit Regional Mobility Plan. This mobility plan provides the planning document to facilitate collaboration with various large business representatives (including the Tribe) to explore possible mobility, capital and operational needs to implement transportation services where they currently are not accessible. As part of the Regional Mobility Plan, the City is exploring possible solutions to provide and/or acquire transportation services and transportation equipment through lease agreements with

Dir [Signature] Appropriated/Funded [Signature] CM [Signature] Item No. 10
other transportation agencies. Funding for the SRTP and Mobility Plan is funded through FTA Section 5303, Transit Planning Funds, and is administered by TCAG.

The Tule River Indian Tribe is in the process of applying for Tribal Transit Program (TTP) funds. TTP funds are authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). TTP funds are allocated for grants to Federally recognized Indian Tribes for any purpose eligible under the FTA’s Section 5311 program. These funds will be competitively allocated to support planning, capital and operating assistance for Tribal public transit services. The Tule River Indian Tribe is requesting a letter of support for their purpose of obtaining these funds.

RECOMMENDATION: That the City Council:

1. Authorize staff to continue to explore and collaborate with the Tribe and large business representatives in an effort to increase the regional mobility and the reduction of vehicle congestion in the City’s sphere; and

2. Authorize the Mayor to sign the letter of support for the Tribes purpose of obtaining Tribal Transit Program funds.

ATTACHMENT: Letter of Support
September 20, 2011

Lorna Wilson  
Office of Program Management  
Tribal Transit Program  

Subject: Tribal Transit Program Funds for the Tule River Indian Tribe

Dear Ms. Wilson,

On behalf of the City of Porterville, I urge you and the selection committee to consider the Tule River Indian Tribe as a valuable recipient for Tribal Transit Program funds for the purpose of planning and operating assistance for tribal public transit service.

The City of Porterville, a Section 5307 designee, currently provides public transportation service in the Porterville Urbanized Area. The Tule River Indian reservation is outside of our service area and is not being serviced by the City of Porterville or the County of Tulare at this time.

However, because of the close proximity of the reservation, the long-term benefits of this project and the excellent relationship we have with the Tribe, the City has begun to coordinate with the Tule River Indian Tribe to explore possibilities of increasing public mobility and the reducing of congestion to the reservation and its residents. The City and the Tribe are also exploring the possibilities of coordinating the administration of the transit program, as well as, the leasing and maintenance of transit vehicles to the Tribe to help implement transit service in a cost effective and efficient manner.

The City of Porterville continues to actively work with various groups within the City’s service area to increase the mobility of its residents, but is particularly excited to work with the Tribe to provide transit services inside of the reservation, as well as, linking their system to ours.

In view of the extensive benefits and limited funding available to the Tribe, we urge you to consider the Tule River Indian Tribe as a valuable recipient of Tribal Transit Program funds.

Sincerely,

Ronald L. Irish, Mayor  
City of Porterville

City Manager’s Office  
291 North Main Street, Porterville, California 93257  
(559) 782-7466 Fax (559) 715-4013 Email: mgr-Office@ci.porterville.ca.us
COUNCIL AGENDA: SEPTEMBER 20, 2011

SUBJECT: SOLICITATION FOR THE PURCHASE OF WATER SHARES

SOURCE: PUBLIC WORKS DEPARTMENT - FIELD SERVICES DIVISION

COMMENT: At the August 25, 2011 Council meeting, the Council authorized the Public Works Director, at his discretion, to purchase surface water for ground water recharge and purchase or bid on Pioneer Water Company (PWC) shares. Council also directed Staff to present a follow up item at the next Council meeting.

The City Water Operating Fund has $50,000 available for water purchases of this nature. The City Attorney affirmed the ability of the Council to authorize the Public Works Director to make such transactions for the remainder of the fiscal year. Staff will prepare a new authorization for each fiscal year budget.

At the September 6, 2011 Council meeting, staff reported it was successful in purchasing two (2) additional shares of PWC. This brings our total shares in PWC to 453 or approximately 12.58% of total PWC shares.

Council directed staff to bring back an item to direct the Public Works Director to actively solicit current PWC shareholders for the purpose of buying shares.

RECOMMENDATION: That City Council direct the Public Works Director to actively solicit the purchase of Pioneer Water Company shares.
SUBJECT: DIRECTION FROM CITY COUNCIL STUDY SESSION IN REVIEW OF THE PROGRAMS AND THE CITY'S PARTICIPATION IN THE CONSOLIDATED WASTE MANAGEMENT AUTHORITY

SOURCE: City Manager

COMMENT: At its Study Session on Tuesday, September 13, 2011, the City Council reviewed the programs and its participation in the Consolidated Waste Management Authority (CWMA). As a result of the Study Session, the Council provided the following directions to staff:

1. That staff prepare a letter for the Mayor's signature to CWMA, requesting that the CWMA Board of Directors consider alternative Member dues structures that would recognize consumption rates and incentivize diversion and recycling efforts; and

2. That staff provide Council an analysis at its first meeting in October 2011 (October 4th), comparing the current CWMA program and expense with CWMA dues options that recognize consumption and incentivize diversion, as well as terminating its participation in CWMA and "self-performing" the functions and programs currently provided by CWMA.

RECOMMENDATION: That the City Council accept staff's report, and authorize the Mayor to sign the draft Letter of Request to CWMA.

ATTACHMENT: Draft CWMA Letter of Request
September 20, 2011

Consolidated Waste Management Authority (CWMA)
Ms. Anne Magaña, Administrator
336 N. Ben Maddox Way
Visalia, California 93292

RE: Request for Consideration of Member Agency Dues Formula Alternatives

Dear Ms. Magaña:

Thank you for your presentation to the Porterville City Council at its recent Study Session regarding the programs, and the City’s participation in, the Consolidated Waste Management Authority (CWMA). Please accept this written correspondence as a formal request by the City of Porterville for the CWMA Board of Directors, at its next regular meeting on Thursday, October 21, 2011, to consider alternative member agency dues structure(s) that would recognize individual agency consumption rates and seek to incentivize diversion and ongoing recycling efforts, in lieu of the current singular population-based dues formula.

Thank you for your time and CWMA’s consideration of this request by the City of Porterville, and please contact the City Manager’s Office at (559)782-7466 should you have any questions and/or if we can be of any further assistance.

Sincerely,

Ronald L. Irish, Mayor
THIS ITEM HAS BEEN REMOVED
COUNCIL AGENDA – SEPTEMBER 20, 2011

SUBJECT: RENEWAL OF PERSONNEL EXAMINING SERVICES AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND COOPERATIVE PERSONNEL SERVICES

SOURCE: Administrative Services/ Human Resources

COMMENT: In order for the City to continue to participate in the written testing programs offered through Cooperative Personnel Services, the attached Test Security Agreement must be approved by the City Council. This agreement is a vital personnel tool in the evaluation process for screening and selecting qualified individuals for employment. For the specific test services that the City utilizes, there are no increases in fees since our last agreement.

RECOMMENDATION: That the Council approve the attached draft resolution authorizing renewal of the Test Security Agreement with Cooperative Personnel Services, and authorize the City Manager or his designee to sign on behalf of the City.

Attachment: Draft Resolution
Test Rental and Use Agreement

Item No. 10
TEST RENTAL AND USE AGREEMENT

This Test Rental and Use Agreement ("Agreement") is by and between Cooperative Personnel Services, dba CPS HR Consulting, a California Joint Powers Authority ("CPS HR") and the Agency or Organization named in the signature block at the end of the Agreement ("Client").

A. Purpose. This Agreement defines CPS HR test rental, use and security policies and procedures. CPS HR develops and rents tests for a number of purposes and in a number of formats. For that reason, some of the below paragraphs apply under certain circumstances. But, unless specifically limited, each paragraph applies to all testing purposes and formats.

B. Ownership of CPS HR Tests.
1. CPS HR owns all rights, title and interest, including copyrights, in all tests provided under this Agreement. They are the property of CPS HR and shall remain the property of CPS HR, even while in the custody of Client.
2. Additionally, tests that have been constructed or modified based on information provided by the client shall not be considered works made for hire, as that term is defined under U.S. Copyright Law. CPS HR shall own all rights, title and interest, including the copyright, in any test it creates for the Client.
3. Ownership of tests specifically developed for a client and of individual test questions supplied by Client, if any, shall be governed by a separate Agreement between CPS HR and Client.

C. Test Materials. Test Materials consist of all used and unused test booklets, proctors instructions, proctors manuals, scoring instructions, key sheets, key overlays, keybooklets, scoring keys, instructions, CDs (for oral tests), and any other materials generated at the test administration, such as completed answer sheets (if applicable), scratch paper, note paper and the like.

D. Test Security. CPS HR security standards are designed to protect the mutual interests of all Clients that use Test Materials as well as the interests of applicants who take CPS HR tests. In order that no person may gain special advantage by having improper access to the material, all users must sign this Agreement and agree to fulfill its terms, before the Agreement is effective.
1. Client agrees to take all reasonable and diligent steps to keep CPS HR tests, sample tests, and testing processes confidential and free from unauthorized access and use. This includes, but is not limited to, client agreeing not to divulge, convey, copy in whole or part, duplicate, convert to another format or medium, or otherwise disseminate tests, portions of tests, or test materials.
2. For on-line tests, client further agrees to take all reasonable and diligent steps to prevent any modification to or reverse engineering of the testing software, and any transfer, storage or dissemination of tests or testing software and data on any storage medium or computer server other than those specifically authorized by CPS HR.
3. Should Client suspect any breach of test security, Client agrees to immediately notify CPS HR and immediately take all steps necessary to preserve evidence of or related to the breach, whether physical or electronic.

E. Test Review, Ordering and Administration.
1. Review Copies. Review of CPS HR tests is subject to the test security standards.
   (a) Test Rental Division: To help in deciding whether to rent exams, Client may review CPS HR stock tests and other stock test materials free of charge (e.g., stock supplements, structured interview packages, and specialized item sets).
   (b) SLPP: CPS HR does not offer review copies of the Spanish Language Proficiency Program (SLPP) tests. However, for new clients, CPS HR can provide a sample written test booklet showing the different components of the test.
   (c) On-line Testing: To help in deciding whether to utilize on-line testing, Client may review sample on-line tests free of charge.

   (a) Test Rental Division and SLPP:
      (i) To insure materials are received in time, Client must notify CPS HR at least 10 business days prior to the test date of the total number of candidates in each job classification to be tested. If orders are placed less than 10-business-days prior to the test date, rush shipment charges may apply and timely delivery cannot be guaranteed.
      (ii) Client shall rent one test booklet per candidate to be tested. CPS HR shall provide Client with Test Materials including instructions for administering the test, sufficient test booklets and any other material CPS HR deems necessary.
   (b) On-line Testing:
      (i) To insure Client equipment is functioning and capable of administering on-line testing, Client must request testing from CPS HR at least 10 business days prior to the test date on the first time Client utilizes on-line testing. After Client has successfully used on-line testing, 5 working days notice is normally sufficient for subsequent testing.
      (ii) Client recognizes that CPS HR has no control over the functioning of the internet, and any problems with on-line testing due to the failure thereof are not attributable to CPS HR.

Client Initials __________

City of Porterville (PORT008)
3. After the test date.
   (a) Test Rental Division and SLPP:
      (i) Within 10 business days of the test date, Client shall return to CPS HR all Test Materials including all materials provided by CPS HR for the test administration.
      (ii) Client shall not reuse printed tests on the test date or on any other date but shall return Test Materials to CPS HR, whether or not the test was administered.
   (b) On-line Testing:
      (i) After the scheduled test date(s), CPS HR will suspend access to the on-line test site.
      (ii) Within 10 business days of the test date, Client shall destroy all CPS HR Test Materials including scratch paper and note paper in a way that make the materials unrecoverable.

F. Billing, Pricing, and Payment.
   1. CPS HR shall bill Client at the billing address provided in Exhibit A, unless notified in writing of a new billing address.
   2. The bill shall be derived from the most current applicable Rate Sheet(s): Exhibit B for Test Rental, Exhibit C for SLPP, and Exhibits D and E for On-line Testing. Client acknowledges and understands that the Test Price List(s) are only effective as of the date shown each of them and are subject to change.
   3. Client shall be billed for any work done on a canceled or postponed test up to the time CPS HR is notified of such cancellation or postponement. Under certain circumstances, and in CPS HR's sole discretion, credit may be given for work already performed if the test is rescheduled.
   4. CPS HR may charge Client for lost or compromised tests if Test Materials are not timely returned.
   5. Client agrees to and shall pay all invoices within thirty (30) days of receipt of invoice.

G. Candidate Inspections
   1. Test Materials.
      CANDIDATE INSPECTION OF TEST MATERIALS SHALL NOT BE ALLOWED EXCEPT IN CASE OF ANSWER SHEETS AS DESCRIBED BELOW
   2. Answer Sheets.
      (a) If a candidate files a protest regarding the scoring of his or her test, inspection of a candidate's own answer sheet(s) for the purpose of detecting whether any clerical or other error has been made in the scoring of the answer sheets shall be allowed, upon request by the Client, for a 10-business-day period immediately following the notification to the candidate of test results.
      (b) Candidates are not allowed to review the question booklet during this inspection period.
      (c) Not more than one hour will normally be allowed for answer sheet(s) review. A representative of Client's Personnel or Administrative office shall be present to assure that no changes or marks of any kind are made by the candidate on the answer sheet(s) or keyed answer sheet.

H. Client Responsibilities.
   1. Client shall perform all parts of the testing process which are not performed by CPS HR. Client has the responsibility for assuring that the testing process performed by Client conforms to any applicable laws, rules or ordinances, and for the test as a whole. Under the federal Uniform Guidelines on Employee Selection Procedures, the Client as test user is responsible for the results of the selection process, and Client understands and acknowledges that it must be prepared to demonstrate that the process is valid and meets other testing standards if it adversely affects groups protected by fair employment laws.
   2. Client is responsible for insuring that all persons who handle or have access to Test Materials in any capacity for Client shall do so in compliance with this Agreement, and are trained to handle Test Materials and administer tests before they do so.

I. Legal Proceedings Involving Test Materials.
   1. If Client receives notice of any administrative or court proceeding involving a CPS HR test, or a request for disclosure of Test Materials, such as a subpoena, or a public records or freedom of information request, Client shall notify CPS HR of such request immediately and well before a response is due.
   2. Upon CPS HR request, Client shall maintain the confidentiality of the Test Materials pending the grant or denial of a protective order or the decision of a court or administrative body as to whether the requested Test Materials must be disclosed under the applicable public records statute.
   3. Client shall cooperate with CPS HR in seeking any relief necessary to maintain the confidentiality of the Test Materials.
   4. Client shall indemnify and hold CPS HR harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorney fees and costs) arising out of or in connection with administration of a test, or with maintaining confidentiality of Test Materials.

J. Term and Termination of Agreement.
   1. Term. This Agreement is effective beginning the date it is signed by both parties and continuing for one year thereafter unless earlier terminated by either party as stated below.
   2. Immediate Termination upon Material Breach. Either party may terminate this Agreement immediately upon any material breach by the other party. For purposes of this Agreement, but without limiting the meaning of material breach, any breach of the test security provisions, however minor, shall be considered a material breach. Client understands and acknowledges that immediate termination by CPS HR may result in the withholding or recall of Test Materials.
   3. Termination Without Cause. CPS HR and Client may terminate the Agreement without cause upon thirty days written notice to the other party.
   4. Return of Test Materials. Upon termination of the Agreement, Client shall immediately return to CPS HR any Test Materials that it possesses.
K. Miscellaneous.

1. Notices. Any notice to the parties required or permitted under this Agreement shall be given in writing and shall be sent to Client at the address provided for the Principal Signer and to CPS HR at 241 Lathrop Way, Sacramento, CA 95815.

2. Dispute Resolution; Remedies.
   (a) In the event of a dispute, the parties may agree to pursue mediation or either binding or nonbinding arbitration to resolve their dispute, under such rules as the parties may agree.
   (b) If either CPS HR or Client determines to file a judicial action, then, in addition to any other remedies available at law or in equity to the parties for breach of this Agreement, Client acknowledges that breach of this Agreement may result in irreparable harm to CPS HR for which damages would be an inadequate remedy and, therefore, in the event of a breach, in addition to its rights and remedies otherwise available by law, CPS HR shall be entitled to seek equitable relief, including injunction.

3. Attorneys Fees. If any legal action or arbitration or other proceeding is brought to enforce or construe the terms of this Agreement or because of an alleged dispute, breach or default in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys fees and other costs incurred in that action, arbitration or proceeding in addition to any other relief to which it may be entitled.

4. Waiver. The failure of any party at any time or times to require performance of any provisions of this Agreement shall in no manner affect its right to enforce such provision at a later time. Nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself. No waiver shall be enforceable unless made in writing and signed by the party granting the waiver.

5. Entire Agreement; Modifications. This Agreement constitutes the entire Agreement between the parties regarding the subject matter hereof and supersedes all other Agreements, representations and warranties. All modifications and supplements to this Agreement must be in writing and signed by both parties.

6. Counterparts; Facsimile Signature; Electronic Signature. This Agreement may be executed in any number of counterparts. If this Agreement or any counterpart is signed and then faxed or e-mailed by PDF or otherwise, the faxed or e-mailed copy bearing the signature shall be as good as the original wet-ink signed copy for all intents and purposes.

7. Interpretation; Jurisdiction. This Agreement shall be interpreted and enforced under the laws of the State of California and jurisdiction shall be in Sacramento County, California. The Agreement shall be interpreted in a fair and balanced manner to best preserve its intent, and without bias against the drafter.

8. Authority to Sign. The person signing this Agreement on behalf of the Client (the Principal Signer) represents that he or she is the head of the agency or is otherwise duly authorized to sign this Agreement and to bind the Client.

Principal Signer By signing below, I represent that the persons(s) listed in Exhibit A and on any attached sheets is/are authorized to handle CPS HR Test Materials on Clients behalf. I affirm that I will handle all CPS HR Test Materials in accordance with the terms of the CPS HR Test Rental Agreement then in effect, and that I will insure all individuals handling and/or administering tests are properly trained.

Cooperative Personnel Services dba
CPS HR Consulting,
A California Joint Powers Authority

By: __________________________
Authorized Signature

Name: Jeff Hove
Title: Managing Director, Client Svcs West
Date: __________________________

Client City of Porterville (PORT008)

By: __________________________
Authorized Signature

Name: John Lollis
Title: City Manager
Date: September 20, 2011

Client Initials ________
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<thead>
<tr>
<th>Name, Title</th>
<th>Signature</th>
<th>E-mail Address</th>
<th>Phone Number</th>
<th>Fax Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patrice Hildreth, Admin Services Manager</td>
<td>[Signature]</td>
<td><a href="mailto:phildreth@ci.porterville.ca.us">phildreth@ci.porterville.ca.us</a></td>
<td>(559)782-7442</td>
<td></td>
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<tr>
<td>Josie Castaneda, HR Admin Analyst I</td>
<td>[Signature]</td>
<td><a href="mailto:jcastaneda@ci.porterville.ca.us">jcastaneda@ci.porterville.ca.us</a></td>
<td>(559)782-7443</td>
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<tr>
<td>Sarah Cardoza, HR Admin Analyst I</td>
<td>[Signature]</td>
<td><a href="mailto:scardoza@ci.porterville.ca.us">scardoza@ci.porterville.ca.us</a></td>
<td>(559)782-7444</td>
<td></td>
</tr>
<tr>
<td>Shauna Craig, HR Assistant</td>
<td>[Signature]</td>
<td><a href="mailto:scraig@ci.porterville.ca.us">scraig@ci.porterville.ca.us</a></td>
<td>(559)782-7465</td>
<td></td>
</tr>
<tr>
<td>Hortencia Diaz, Clerical Assistant III</td>
<td>[Signature]</td>
<td><a href="mailto:hdiaz@ci.porterville.ca.us">hdiaz@ci.porterville.ca.us</a></td>
<td>(559)782-7441</td>
<td>(559)782-7452</td>
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II. Billing Contact

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<td>[Signature]</td>
<td>9/20/11</td>
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<tr>
<td>291 N. Main Street; Porterville, CA 93257</td>
<td>(559)782-7441</td>
<td>(559)782-7452</td>
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III. Ship To Address:

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# Exhibit B

**CPS HR Test Rental Division Rates (Effective March 25, 2009 – Subject to Change)**

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<th>STOCK TESTS*</th>
<th>MODULAR TESTS</th>
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<td>501+ Candidates (per candidate)</td>
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**Shipping outside contiguous U.S.**

CALL FOR DETAILS

### Entry Law/Fire Candidate Preparation Manuals

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<td>1001+</td>
<td>$1.50</td>
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### Structured Interview Packages

| Base Fee: $595.00 |
| Per Candidate Fee:
| 1 - 500: $75.00 |

*CPS HR will apply a credit of $35.00 for each fully paid UNOPENED package of Stock Exams of test booklets on the current STOCK test order.

**Standard shipping applies to orders placed at least 10 business days prior to test date. Expedited shipping applies to orders placed less than 10 business days prior to test date. Orders placed less than 3 business days prior to the test date will be charged at the premium shipping rate.

**Semi-Stock, Modular and Custom Tests require Job Analysis Workbooks or Job Specifications

‡ Base fee includes the following at no additional charge: Proctor’s Manual, Scoring Manual, CPS HR Scoring, CPS HR answer sheets and a scoring report.

### SPECIAL SERVICES

<table>
<thead>
<tr>
<th>Stock Supplements</th>
<th>$2.00 per book when ordered with a Stock test</th>
</tr>
</thead>
<tbody>
<tr>
<td>Writing Proficiency Exam</td>
<td>$350.00 Base Fee + $15.00 per candidate (Professional Scoring included)</td>
</tr>
<tr>
<td>Scoring Keys and Scoring Overlays</td>
<td>$10.00 per key or overlay</td>
</tr>
<tr>
<td>Faxing/Emailing of Test Results</td>
<td>Available at no additional charge</td>
</tr>
<tr>
<td>Re-Scoring/Hand-Scoring of Answer Sheet</td>
<td>$30.00 (Requested directly by Agency)</td>
</tr>
<tr>
<td>Non-specified special services</td>
<td>CALL FOR DETAILS (Billed at applicable hourly rate)</td>
</tr>
</tbody>
</table>

### Test Rental Contact Information:

CPS HR Consulting  
Attn: Test Rental Division  
241 Lathrop Way, Sacramento CA 95815  

Telephone: 916.263.1800 / Toll Free 866.867.5272  
Fax: 916.921.6240 / E-mail: testrental@cps.ca.gov
# Exhibit C

## Spanish Language Proficiency Program

### Test Rental Rates

**Effective July 1, 2009 -- Subject to Change**

<table>
<thead>
<tr>
<th></th>
<th>Written Test</th>
<th>Oral Test</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Fee</td>
<td>$295.00</td>
<td>$295.00</td>
</tr>
<tr>
<td>++Per Booklet Fee</td>
<td>$9.00</td>
<td>N/A</td>
</tr>
<tr>
<td>+++Per Tape Scoring Fee</td>
<td>N/A</td>
<td>$120.00</td>
</tr>
<tr>
<td>Expedited Shipping</td>
<td>*20%</td>
<td>*20%</td>
</tr>
</tbody>
</table>

*Orders placed less than two weeks prior to the exam date will incur expedited shipping charges.*

**Per Booklet Fee will be charged for number of books ordered.**

***Billed for the number rated.***

### Special Services

<table>
<thead>
<tr>
<th>Service</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Faxing/Emailing Test Results</td>
<td>Available at no additional charge</td>
</tr>
<tr>
<td>Hand Scoring</td>
<td>$30.00</td>
</tr>
<tr>
<td>Proctoring Services</td>
<td>Call for details/quote</td>
</tr>
<tr>
<td>SLPP Extended Use Program</td>
<td>Call for details</td>
</tr>
</tbody>
</table>

### Charges for Cancellations, and Lost or Compromised Tests

Minimum cancellation charge once a SLPP order is shipped is $200.00.

For each lost **written** test, there will be a base charge of $10,000. For each additional copy (test) of the same test that is lost, there will be a $75 charge with a maximum total charge of $20,000.

For each lost **oral** test, there will be a base charge of $15,000. For each additional copy (test) of the same test that is lost, there will be a $75 charge with a maximum total charge of $20,000.
Exhibit D

CPS HR On-line Testing Rates
Effective January 1, 2010 – Subject to Change

<table>
<thead>
<tr>
<th>Annual Base Fee</th>
<th>$175.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fees for on-line testing in a true tiered schedule**:</td>
<td></td>
</tr>
<tr>
<td>1 - 25 Candidates (per candidate)</td>
<td>$25.00</td>
</tr>
<tr>
<td>26 - 75 Candidates (per candidate)</td>
<td>$22.50</td>
</tr>
<tr>
<td>76 + Candidates (per candidate)</td>
<td>$20.00</td>
</tr>
<tr>
<td>Non-specified special services – Call for Details</td>
<td></td>
</tr>
</tbody>
</table>

**Note: Tests are considered consumed if test identification is submitted to the system.
### Online Skills Test Pricing Schedule

<table>
<thead>
<tr>
<th>Online Skills Test Pricing Schedule</th>
<th>Fee Per Test**</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 25 Candidates (per candidate)</td>
<td>$20.00</td>
</tr>
<tr>
<td>26 - 100 Candidates (per candidate)</td>
<td>$18.00</td>
</tr>
<tr>
<td>101 - 250 Candidates (per candidate)</td>
<td>$17.00</td>
</tr>
<tr>
<td>251 - 1,000 Candidates (per candidate)</td>
<td>$15.00</td>
</tr>
<tr>
<td>1,001 - 2,500 Candidates (per candidate)</td>
<td>$10.00</td>
</tr>
<tr>
<td>2,500 + Candidates (per candidate)</td>
<td>$8.00</td>
</tr>
</tbody>
</table>

**When multiple tests are combined into a test battery each test is charged separately.

### Access 2003 or 2007

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Advanced Skills</td>
<td>Advanced Skills</td>
<td>Standard</td>
</tr>
<tr>
<td>Basic Skills</td>
<td>Basic Skills</td>
<td>Power User</td>
</tr>
<tr>
<td>Standard</td>
<td>Standard</td>
<td>**Includes Word, Excel, and PowerPoint</td>
</tr>
</tbody>
</table>

### PowerPoint 2003 or 2007

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Advanced Skills</td>
<td>Advanced Skills</td>
<td>Computing</td>
</tr>
<tr>
<td>Basic Skills</td>
<td>Basic Skills</td>
<td>Internet</td>
</tr>
<tr>
<td>Standard</td>
<td>Standard</td>
<td>Software Skills</td>
</tr>
</tbody>
</table>

### Windows XP

<table>
<thead>
<tr>
<th>Windows XP</th>
<th>Other Exams</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advanced Skills</td>
<td>Basic Computer Literacy</td>
</tr>
<tr>
<td>Basic Skills</td>
<td>Excel Functions</td>
</tr>
<tr>
<td>Standard</td>
<td>Internet Literacy (with Explorer)</td>
</tr>
<tr>
<td></td>
<td>Outlook 2003 or 2007 - Standard</td>
</tr>
<tr>
<td></td>
<td>Publisher 2003 - Standard</td>
</tr>
</tbody>
</table>

### Test Rental Contact Information:

CPS HR Consulting  
Attn: Test Rental Division  
241 Lathrop Way, Sacramento CA 95815  
Telephone: 916.263.1800 / Toll Free 866.867.5272  
Fax: 916.921.6240 / E-mail: testrental@cps.ca.gov
RESOLUTION NO. _________

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE TO RENEW THE PERSONNEL
EXAMINATION SERVICES AGREEMENT BETWEEN THE CITY
OF PORTERVILLE AND COOPERATIVE PERSONNEL SERVICES

WHEREAS, the previous agreement for personnel examining services with
Cooperative Personnel Services expired in September, 2011; and

WHEREAS, such an agreement is a vital personnel tool in the evaluation process
for selecting qualified individuals for certain key positions.

NOW, THEREFORE, BE IT RESOLVED that the Porterville City Council does
hereby authorize the City Manager or his designee to enter into and sign an agreement
with Cooperative Personnel Services, for the purpose of performing examining services
for the City of Porterville

PASSED, APPROVED, AND ADOPTED this 20th day of September, 2011.

Ronald L. Irish, Mayor

ATTEST:

John D. Lollis, City Clerk

By _____________________________
Patrice Hildreth, Chief Deputy City Clerk
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 September 6, 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.

As was previously reported, staff made application for almost $2 million in State Office of Emergency Services (OES) grant funds, which would provide financial assistance for mitigating repetitive flooding conditions. Considering the preliminary flood prevention measures previously presented to the Council, staff evaluated the grant application criteria, and made application for mitigation projects, specifically focusing on Downtown, Murry Park, and Zalud Park projects. Staff is pleased to report that its proposed grant-funded projects successfully passed initial screening, with staff having also recently attended several days of required training in preparation for administering the grant funds.

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. 11
<table>
<thead>
<tr>
<th>ITEM #</th>
<th>LOCATION</th>
<th>DESCRIPTION OF DAMAGE</th>
<th>SCOPE OF WORK</th>
<th>COST ESTIMATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Henderson - Newcomb to El Granito North of Grand</td>
<td>Damaged asphalt concrete, y-gutter</td>
<td>Remove &amp; replace 10,000 SF of damaged asphalt concrete.</td>
<td>$30,000.00</td>
</tr>
<tr>
<td>2</td>
<td>El Granito North of Grand and curb &amp; gutter</td>
<td>Damaged asphalt concrete, y-gutter</td>
<td>Remove &amp; replace 11,000 SF.</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Henderson - Metcalf Ave. North to El Granito</td>
<td>Damaged asphalt concrete, y-gutter</td>
<td>Replace engineered fill, damaged asphalt, &amp; gravel.</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>4</td>
<td>Metcalf Ave. north to El Granito</td>
<td>Driveway and Parking lot damage</td>
<td>Remove &amp; replace 10,000 SF of</td>
<td>$3,750.00</td>
</tr>
<tr>
<td>5</td>
<td>Metcalf Ave. north to El Granito</td>
<td>Driveway and Parking lot damage</td>
<td>Remove &amp; replace 10,000 SF of</td>
<td>$66,000.00</td>
</tr>
<tr>
<td>6</td>
<td>Metcalf Ave. north to El Granito</td>
<td>Driveway and Parking lot damage</td>
<td>Remove &amp; replace 10,000 SF of</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>7</td>
<td>Metcalf Ave. north to El Granito</td>
<td>Driveway and Parking lot damage</td>
<td>Remove &amp; replace 10,000 SF of</td>
<td>$3,750.00</td>
</tr>
<tr>
<td>8</td>
<td>West Rd. at Stonelough Ave.</td>
<td>Damaged asphalt shoulder on both sides of the road</td>
<td>Remove and replace damaged asphalt.</td>
<td>$16,000.00</td>
</tr>
<tr>
<td>9</td>
<td>West Rd. at Stonelough Ave.</td>
<td>Damaged asphalt shoulder on both sides of the road</td>
<td>Remove and replace damaged asphalt.</td>
<td>$17,000.00</td>
</tr>
<tr>
<td>10</td>
<td>Hillrose Ave. north of Morton Ave.</td>
<td>Paved street</td>
<td>Asphalt concrete damage.</td>
<td>$24,000.00</td>
</tr>
<tr>
<td>11</td>
<td>Hillrose Ave. north of Morton Ave.</td>
<td>Paved street</td>
<td>Asphalt concrete damage.</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>12</td>
<td>West Rd. at Scarsdale Ave.</td>
<td>Flood waters pumped-out</td>
<td>Other debris.</td>
<td>$15,000.00</td>
</tr>
<tr>
<td></td>
<td>West Rd. at Scarsdale Ave.</td>
<td>Flood waters pumped-out</td>
<td>Other debris.</td>
<td>$5,000.00</td>
</tr>
</tbody>
</table>

**CATEGORt:** A) Public Facilities (B) Public Rights-of-Way (P) Private Facilities (F) Private Rights-of-Way (C) Other (Note: If a site has more than one category, indicate the category that represents the majority of damage.)

**COST ESTIMATE**
- WAS WORK COMPLETED BY FORCE ADCT. (PA), CONTRACT (C), OR BOTH (PC)?
- ENTER "ENV" IF THERE ARE ENVIRONMENTAL ISSUES OR "HIST" FOR HISTORIC ISSUES, OR BOTH.
- WAS THERE INSURANCE COVERAGE? IF YES, ENTER DEDUCTIBLE AMOUNT.
- WAS THE FACILITY DAMAGED IN A PRIOR DISASTER(S)? IF YES, ENTER DISASTER NAME(S) OR NUMBER(S).
- ARE THERE COST EFFECTIVE HAZARD MITIGATION MEASURES THAT MAY PREVENT FUTURE DAMAGE?

**DATE COMPLETED:** 4/2003

**IS THIS AN AMENDED LIST OF PROJECTS?** 

**CONTACT NAME AND PHONE:** M. Beth Beelman (909)792-7400

**APPLICATION:** FERM-92-DR-CA

**PORTERVILLE, CA**

**STATE OF CALIFORNIA**

**CITY OF EMERGENCY SERVICES**

**AGENCY:** FEMA-92-DR-CA
PUBLIC HEARING

SUBJECT: VACATION OF A PORTION OF A 30' WIDE PUBLIC UTILITY EASEMENT RELATED TO PETSMART DEVELOPMENT PROJECT (Prospect Henderson Partners, LP)

SOURCE: Public Works Department – Engineering Division

COMMENT: This is the time and place set for the public hearing on the proposed vacation of a portion of a 30’ wide public utility easement generally located within the easterly portion of the PetSmart Development Project west of Prospect Street and south of Henderson Avenue. The Prospect Henderson Partners, LP represents the proprietary interest in the property described within the proposed easement vacation, attached, and is hereby the requesting party.

The easement was necessary for the orderly development of the Porterville Marketplace Shopping Center and is now being partially encroached upon by the construction of the PetSmart building. The utilities within this easement have been removed and rerouted to serve the project in accordance with the approved improvement plans. New easements, if necessary, will be shown on the Parcel Map currently being processed by the developer.

Therefore, since no other interests in the easement have been stated, staff supports the request to vacate the portion of the public utility easement described in Exhibit “A” attached.

RECOMMENDATION: That City Council:

1. Open the Public Hearing and take comments;

2. Adopt the Resolution of Vacation for a portion of the public utility easement described in the attached legal description;

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

ATTACHMENTS: Resolution
Exhibit “A” - Legal Description
Exhibit “B” - Map of Easement Vacation
RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ORDERING THE VACATION AND CLOSING, TO PUBLIC USE, OF
A PORTION OF A 30' WIDE PUBLIC UTILITY EASEMENT
RELATED TO THE PETSMART DEVELOPMENT PROJECT

WHEREAS, by Resolution No. 48-2011, passed on August 16, 2011, the Council of the
City of Porterville declared its intention to vacate a portion of a 30' wide public utility easement
located within the easterly portion of the PetSmart Development Project west of Prospect
Street and south of Henderson Avenue, hereinafter more particularly described, and set the
hour of 7:00 p.m. on the 20th day of September, 2011, or as soon thereafter as the matter can
be heard, in the Council Chambers of said City as the time and place for hearing all persons
objecting to the proposed vacation; and

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

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

SECTION 1: The Council hereby finds, from all the evidence submitted, that the portion
of the public utility easement hereinafter described is unnecessary for present or prospective
use, and the City Council hereby makes its order vacating said portion of public utility
easement west of Prospect Street and south of Henderson Avenue which is described in the
legal description attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2: The City Clerk shall cause a copy of this resolution to be recorded in the
office of the County Recorder of Tulare County, California.

SECTION 3: The City Clerk shall certify to the passage and adoption of this resolution
and it shall thereupon take effect and be in force.

PASSED, ADOPTED AND APPROVED this 20th day of September, 2011.

_________________________________________________________
Ronald L. Irish, Mayor

ATTEST:
John D. Lollis, City Clerk

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

That portion of an easement for public utilities and access located within Parcel 5 of Parcel Map No. 3874, in the City of Porterville, County of Tulare, State of California, per map recorded in Book 39, page 77 of Parcel Maps in the Office of the County Recorder of said County, described as follows:

Beginning at a point in the East line of said Parcel 5, said point being North 00°57'48" East, 97.79 feet of the Northerly Southeast corner of said Parcel 5;

Thence, North 00°57'48" East, 244.20 feet along the East line of said Parcel 5 to a point in the Easterly prolongation of the South line of a 30 foot wide public utility easement shown on said Parcel Map No. 3874;

Thence, South 89°57'38" West, 35.82 feet along said Easterly prolongation to a point in the centerline of a 10 foot wide storm drain easement and West line of a public utility easement per said Parcel Map No. 3874;

Thence, South 00°02'22" East, 243.61 feet along the West line of said public utility easement;

Thence, South 89°02'12" East, 31.55 feet to the point of beginning.
SUBJECT: CONSIDERATION OF APPOINTMENT TO THE LIBRARY AND LITERACY COMMISSION

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: On July 29, 2011, Mr. Joseph Carter tendered his resignation from the Library and Literacy Commission thereby creating a vacancy with a term due to expire in October 2012.

Pursuant to Council’s direction on August 16th, staff publicized notice of the vacancy and solicited applications from interested individuals. As of the time of agenda compilation and distribution, one Request for Appointment, from Ms. Carol Wilkins, was received and is attached for Council’s consideration. Further, one prior applicant, Mr. Khris Saleh, confirmed his continued interest in being appointed to the Commission, and his Request for Appointment is also herein provided.

RECOMMENDATION: That the City Council appoint one individual to the Library and Literacy Commission to fill the unexpired term of Mr. Joseph Carter.

ATTACHMENTS: Requests for Appointment
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: CAROL WILKINS
(Please Print)

Appointment to: Library/Literacy Bd
(Name of Board, Commission, or Committee)

☐ Reappointment; or If NEW, please provide:

Street Address: 1943 W. Monache Ave
PORTERVILLE, CA

Mailing Address:

Name of Business: Retired - PORTERVILLE COLLE

☐ Own    ☐ Operate

Business Address:

Telephone: Home 559-733-2909, Mobile 559-359-5097
FAX
E-mail carolwilkins8@yahoo.com

City of Porterville resident: ☐ Yes
☐ No

Registered Voter: ☐ Yes
☐ No
Qualifications: My qualifications include a Bachelor of Science Degree in Elementary Education and a Master of Arts Degree in Learning Handicapped. I have a lifelong love of reading and libraries. I spent many years in education from kindergarten to community college.

My experience leads me to believe this will be a good fit for this Board.

☐ Resume attached
☐ Letter of request attached

Submitted By: Carol Williams 9/10/11 Date

Received by: ____________________________

Forwarded to: City Clerk ☐ Date: ____________________________
City Council ☐ Date: 9/12/11
City Manager ☐ Date: 9/12/11
Applicable Dept. ☐ Date: 9/12/11

Tentative Council Mtg Date: 9/20/11

Page 2 of 2
September 11, 2011

To Whom It May Concern:

Reading has been my hobby since I was five years old. My parents read to me for many years and eventually we would all read in the evening.

It was a thrill to go to the local library and check out books. Going to the library is still something I enjoy and do often.

After sixteen months of retirement, I'm looking for ways to participate in the community. I would be proud to serve on the Library/Literacy Board.

Thank you for your consideration.

Carol Wilkins
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name:  **KHRIS SALEH**  (Please Print)

Appointment to:  **LIBRARY AND LITERACY COMMISSION**
(Note of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address:  **1235 N. PROSPECT ST**

Porterville, CA 93257

Mailing Address:  **Same as above**

Name of Business:  

☐ Own  ☐ Operate

Business Address:  

Telephone:  

Home  **559-310-0173**

Work

FAX  **559-782-3023**

E-mail  **Khris_saleh@yahoo.com**

City of Porterville resident:  

☐ Yes  ☐ No

Registered Voter:  

☐ Yes  ☐ No

CONFIRMED  
CONTINUED INTEREST  
8/15/11.

Page 1 of 2
Qualifications:

Library Patron - I use the public library extensively along with my two young children.

Board & Commission Experience: I currently serve on the Pronto Valley little league board as well as the oversight committee. In addition, I have attended several of the library board meetings and would love to be a proactive member of the commission.

□ Resume attached

☒ Letter of request attached

Submitted By: [Signature] 12/16/10

Received by: ____________________________

Forwarded to: City Clerk □ Date: ____________________________

□ City Council Date: ____________________________

□ City Manager Date: ____________________________

□ Applicable Dept. Date: ____________________________

Tentative Council Mtg Date: ____________________________
Khris Saleh
1235A N. Prospect Street
Porterville, Ca 93257
(559) 310-0173 hm
(559) 782-3023 fax

December 16, 2010

Porterville City Council
City Hall
291 N. Main Street
Porterville, Ca 93257

Dear Mayor and Respected Council Members,

I am humbly requesting appointment onto the Library and Literacy Commission.

I have extensive experience in working on various boards and commissions throughout the Porterville community.

If appointed, I plan to work in concert with the other Commissioners in advising the Council on the management and control of the Public Library and its resources. I believe I can bring a unique perspective to this new Commission.

If you have any further questions or comments, please do not hesitate to contact me at your convenience.

Sincerely,

[Signature]

Khris Saleh
SUBJECT: CONSIDERATION OF APPOINTMENT TO MEASURE R CITIZENS’ OVERSIGHT COMMITTEE

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: Pursuant to City Council direction on July 5, 2011, staff provided public notice of the vacancy on the Measure R Citizens’ Oversight Committee. This committee is charged with monitoring the expenditures and revenues derived from the county-wide 30-year 1/2 cent transportation sales tax approved by the voters in 2006. The vacant seat has a two-year term expiring in June of 2013.

As of the time of agenda compilation and distribution, one Request for Appointment, from Mr. Charles Webber, was received and is attached for Council’s consideration.

RECOMMENDATION: That the City Council appoint one individual to fill the City of Porterville’s vacancy on the Measure R Citizens’ Oversight Committee.

ATTACHMENT: Request for Appointment
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: CHARLES F. WEBBER
(Please Print)

Appointment to: MEASURE A COMMITTEE
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: 346 N. OHIO STREET
PORTERVILLE, CA. 93257-3207

Mailing Address:

Name of Business:

☐ Own ☐ Operate

Business Address:

Telephone: Home 559-781-2005
Work ____________________
FAX ____________________
E-mail MANPAWEBBER@OCSNET.NET

City of Porterville resident: ☐ Yes ☐ No
Registered Voter: ☐ Yes ☐ No
Qualifications:

- 2005-2006 Grand Jury
- 2006-2007 Grand Jury
- 2008-2009 Grand Jury - PTO
- 2009-2010 Grand Jury - Foreman

Member Parks Commission

Member Measure "H" Committee

Member Internal Audit Committee C.O.P.

☐ Resume attached

☐ Letter of request attached

Submitted By: Charles Easley  
Date: Sept 8, 2011

Received by: Shauna Craig

Forwarded to: City Clerk  
Date: 9-8-2011

City Council  
Date: 9/12/11

City Manager  
Date: 9/12/11

Applicable Dept.  
Date:

Tentative Council Mtg Date: 9-20-2011
COUNCIL AGENDA: September 20, 2011

SUBJECT: SPORTS FIELD LIGHTING

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: On April 19, 2011, the City Council authorized staff to advertise for bid proposals to light the Skate Park and a designated area at the Sports Complex intended to be used for youth football as a combined project. At the June 7, 2011 meeting, all proposals submitted were over the estimated cost for the project. The City Council rejected all bids and directed staff to advertise each facility as separate projects. On June 28, 2011 the City Council authorized construction of the Sports Complex lighting to G & S Electric and the completed project was accepted at the September 6, 2011 meeting.

Staff has carefully tracked the budget of these two projects, initially the total budget for the sports lighting projects was $595,000, including $442,000 for the Sports Complex and $153,000 for the Skate Parks. To date the expenditures for both projects are as follow: the Sports Complex $130,337 and the Skate Park lighting $15,485. for a total of $145,822. A total of $449,178 remains in the Sports Field Lighting account, $311,663 for the Sports Complex and $137,515 in the Skate Park account.

Staff is seeking direction from the City Council regarding priorities for lighting with the remaining funds.

RECOMMENDATION: That the City Council provide direction for remaining funds.
JOINT MEETING OF CITY COUNCIL AND REDEVELOPMENT AGENCY

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: On August 2, 2011, the City Council and the Redevelopment Agency continued the public hearing for the purchase and sale agreement between the Porterville Redevelopment Agency and Social Vocational Services, Inc., due to the State’s action to eliminate Redevelopment and Redevelopment Agencies authority to conduct business. On August 16, 2011, the Council approved an ordinance to retain redevelopment authority; however, prior to the adoption of the ordinance the State issued a stay on all redevelopment activities and eliminated Redevelopment Agencies’ authority to conduct business, pending a decision from the California Supreme Court in regard to AB1X26 and AB1X27.

Upon recommendation from the Agency’s Redevelopment Attorney, staff is recommending that the City Council and the Porterville Redevelopment Agency open the public hearing and continue it to January 17, 2012 at which time a decision regarding AB1X26 and AB1X27 from the California Supreme Court should have been reached.

RECOMMENDATION: That the City Council and the Porterville Redevelopment Agency open the public hearing and continue the public hearing to January 17, 2012.

Item No. PRA-01
SEPTMBER 20, 2011

JOINT MEETING OF CITY COUNCIL AND PORTERVILLE REDEVELOPMENT AGENCY

SUBJECT: CITY COUNCIL OF THE CITY OF PORTERVILLE AND PORTERVILLE REDEVELOPMENT AGENCY ADOPTING RESOLUTIONS FINDING CONFORMANCE TO AB1X26 AND AB1X27 TRAILER BILLS AND CALIFORNIA REDEVELOPMENT LAW

COMMENT: As the City Council (Council) and Redevelopment Agency (Agency) are aware, AB1X 26 and AB1X 27 are trailer bills to the 2011-12 State budget. They were approved by both houses of the Legislature on June 15, 2011, and signed by the Governor on June 28, 2011. Through the adoption of the bills, Parts 1.8, 1.85 and 1.9 of Division 24 of the Health and Safety Code were added to the California Redevelopment Law (CRL) and became effective immediately.

Part 1.8 of the CRL provides for the restriction of activities and authority of the Agency in the interim period prior to dissolution of certain “enforceable obligations”, and actions required for the general winding up of affairs, preservation of assets, and certain other goals delineated in Part 1.8.

Part 1.85 of the CRL provides for the statewide dissolution of all redevelopment agencies, as of October 1, 2011, and provides that, thereafter, a successor agency will administer the enforceable obligations of the Agency and otherwise wind up the Agency’s affairs, all subject to the review and approval by an oversight committee.

Part 1.9 of the CRL provides that a redevelopment agency may continue in operation if a city or county that includes a redevelopment agency adopts an ordinance agreeing to comply with and participate in the Voluntary Alternative Redevelopment Program (Program) established in Part 1.9. On August 16, 2011, the Council adopted Ordinance No. 1779 authorizing participation in the voluntary program.

As the Council and Agency are also aware, the validity, passage, and applicability of the 2011 Redevelopment Legislation have been challenged by the California Redevelopment Association (CRA) and the League of California Cities (League). On August 11, 2011, the California Supreme Court issued a stay as to Parts 1.85 and 1.9, but did not include Part 1.8. Part 1.8, which is Section 34169(h) of the CRL, was added to the CRL by AB1X 26, and requires the Agency to prepare an Initial Recognized Obligation Payment Schedule (IROPS) no later than September 30, 2011, and provide it to the successor agency, if a successor agency is established. The Agency desires to adopt the IROPS attached to this Resolution as Attachment No. 1 and incorporated herein and to transmit the IROPS to the City to act as the successor agency.

As drafted, the actions proposed through the adoption of the attached resolutions and approval of the related agreement between the Agency and City will in no way be construed as requiring the Agency (or the City) to abide by the 2011

DD APPROPRIATED/FUNDED CM

ITEM NO. PRA-02
Redevelopment Legislation in the event either, or both, bills are found unconstitutional or otherwise legally invalid in whole or in part, nor shall these actions effect or give rise to any waiver of rights or remedies the Agency (and/or the City) may have, whether in law or in equity, to challenge 2011 Redevelopment Legislation.

The City is anticipated to adopt a Resolution concurrently with the Agency’s adoption of this Resolution, confirming its election to become the successor agency in the event the Agency is dissolved. In addition, each city and county electing to participate in the Program, as a condition of its redevelopment agency’s continued existence and operation, is required to make certain annual remittances (Program Remittances) to the County Auditor-Controller (CAC).

The City and Agency desire to enter into an agreement whereby the Agency shall make an initial transfer of a portion of its tax increment to the City in an amount equal to the First Remittance, and thereafter transfer amounts of tax increment equal to any subsequent remittance, which the City is required to make to the CAC pursuant to the City’s participation in the Program (Agreement to Transfer Tax Increment).

The Agency has duly considered all other related matters and has determined that the Agency’s adoption of the IROPS, submission of the IROPS to the City, and approval and execution of the Agreement to Transfer Tax Increment is in the best interests of the City and in accord with the public purposes and provisions of applicable state and local laws and requirements.

RECOMMENDATION: The Porterville Redevelopment Agency:

1. Adopt the attached Draft Resolution adopting the Initial Recognized Obligation Payment Schedule transmitting such schedule to the City of Porterville, approving an agreement to Transfer Tax Increment between the Agency and the City and acknowledge the City will elect to be the Successor Agency.

The City Council:

1. Adopt the attached Draft Resolution electing to serve as the Successor Agency to the Redevelopment Agency of the City of Porterville, accepting transmittal of an Initial Recognized Obligation Payment Schedule, and approving an agreement to transfer tax increment between the Agency and the City.

ATTACHMENTS:

1. Porterville Redevelopment Agency Draft Resolution
2. City of Porterville Draft Resolution
RESOLUTION NO. ___

A RESOLUTION OF THE PORTERVILLE REDEVELOPMENT AGENCY ADOPTING AN INITIAL RECOGNIZED OBLIGATION PAYMENT SCHEDULE, TRANSMITTING SUCH SCHEDULE TO THE CITY OF PORTERVILLE, APPROVING AN AGREEMENT TO TRANSFER TAX INCREMENT BETWEEN THE AGENCY AND THE CITY, AND MAKING CERTAIN FINDINGS IN CONNECTION THERewith

WHEREAS: The Porterville Redevelopment Agency ("Agency") is a community redevelopment agency organized and existing under the California Community Redevelopment Law, Health and Safety Code Sections 33000, et seq. ("CRL") and has been authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council ("City Council") of the City of Porterville ("City"); and

WHEREAS: The City Council has, by ordinance, duly adopted the Redevelopment Plan for the Porterville Redevelopment Project No. 1, as amended, all in compliance with all requirements of the CRL; and

WHEREAS: AB1X 26 and AB1X 27 are trailer bills to the 2011-12 budget bills and were approved by both houses of the Legislature on June 15, 2011, signed by the Governor on June 28, 2011, and chaptered on June 29, 2011 (together, "2011 Redevelopment Legislation"); and

WHEREAS: Parts 1.8, 1.85 and 1.9 of Division 24 of the Health and Safety Code were added to the CRL by the 2011 Redevelopment Legislation and such measures purported to become effective immediately; and

WHEREAS: Part 1.8 of the CRL ("Part 1.8") provides for the restriction of activities and authority of the Agency in the interim period prior to dissolution of certain "enforceable obligations" and to actions required for the general winding up of affairs, preservation of assets, and certain other goals delineated in Part 1.8; and

WHEREAS: Part 1.85 of the CRL ("Part 1.85") provides for the statewide dissolution of all redevelopment agencies, including the Agency, as of October 1, 2011, and provides that, thereafter, a successor agency will administer the enforceable obligations of the Agency and otherwise wind up the Agency’s affairs, all subject to the review and approval by an oversight committee; and

WHEREAS: Part 1.9 of the CRL ("Part 1.9") provides that a redevelopment agency may continue in operation if a city or county that includes a redevelopment agency adopts an ordinance agreeing to comply with and participate in the Voluntary Alternative Redevelopment Program established in Part 1.9 ("Program"); and

WHEREAS: The Agency is aware that the validity, passage, and applicability of the 2011 Redevelopment Legislation are the subject of judicial challenge(s), including the action: California Redevelopment Association, et al v. Ana Matosantos, et al; and

WHEREAS: On August 11, 2011 the California Supreme Court issued a stay as to Parts 1.85 and 1.9, but not as to Part 1.8; and
WHEREAS: Section 34169(h) of the CRL, which was added to the CRL by AB1X 26 and is located in Part 1.8 of the CRL, requires the Agency to prepare an Initial Recognized Obligation Payment Schedule, no later than September 30, 2011, and provide it to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170); and

WHEREAS: While Part 1.85 (which provides for the dissolution of redevelopment agencies and the creation of successor agencies) and Part 1.9 (which authorizes the City to opt into the Program) are both stayed by order of the California Supreme Court, Part 1.8, specifically including Section 34169, of the CRL, currently remains in full force and effect; and

WHEREAS: The City is anticipated to adopt a resolution concurrently with the Agency’s adoption of this Resolution, confirming its election to become the successor agency in the event the Agency is dissolved; and

WHEREAS: The Agency desires to adopt the Initial Recognized Obligation Payment Schedule attached to this Resolution as Attachment No. 1 and incorporated herein (“IROPs”) and to transmit the IROPs to the City, as required by Section 34169(h) of the CRL; and

WHEREAS: Each city and county electing to participate in the Program, as a condition of its redevelopment agency’s continued existence and operation, is required to make certain annual remittances (“Program Remittances”) to the county auditor-controller (“CAC”) pursuant to Chapter 3 of Part 1.9, beginning with a larger upfront remittance for FY 2011-12 (“First Remittance”), to be paid in two equal installments on January 15, 2012 and May 15, 2012; and

WHEREAS: The City expects it will have sufficient moneys and revenues to fund an amount equal to the City’s payment of the First Remittance and further expects to have sufficient moneys and revenues to fund the subsequent annual remittances required by Part 1.9; and

WHEREAS: The City has adopted the ordinance required by Part 1.9, in order to allow the Agency to continue in operation and perform its functions; and

WHEREAS: The City and Agency desire to enter into an agreement pursuant to CRL Section 34194.2 whereby the Agency shall make an initial transfer of a portion of its tax increment to the City in an amount equal to the First Remittance, and thereafter transfer amounts of tax increment equal to any subsequent remittance which the City is required to make to the CAC pursuant to the City’s participation in the Program (“Agreement to Transfer Tax Increment” attached hereto as Attachment 2); and

WHEREAS: The Agency, by the adoption of this Resolution, does not represent, disclaim, or take any position whatsoever on the issue of the validity of AB1X 26 or AB1X 27, but rather the Agency seeks to comply with the Constitution and laws of the State of California, in order to preserve the ability of the Agency to continue to operate and thereby benefit the community; and

WHEREAS: The dissolution of the Agency would be detrimental to the health, safety, and economic well-being of the residents of the City and cause irreparable harm to the community, because, among other reasons, the redevelopment activities and projects made possible, implemented, and funded by the Agency are highly significant and of enduring benefit to the community and the City, and are a critical component of its future; and
WHEREAS: The Agency has duly considered all other related matters and has determined that the Agency’s adoption of the IROPS, submission of the IROPS to the City, and approval and execution of the Agreement to Transfer Tax Increment is in the best interests of the City 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 hereby approves the IROPS attached hereto as Attachment No. 1 and incorporated herein, and hereby authorizes the Agency Executive Director to transmit the IROPS to the City Manager, the City Clerk, and the City’s Finance Director for implementation thereof by the City, acting as successor agency to the Agency, to the extent authorized and/or required by law, including Part 1.85.

SECTION 3: The Agency hereby approves that certain Agreement to Transfer Tax Increment in substantially the form attached hereto as Attachment No. 2 and incorporated herein, with such changes mutually agreed upon by the Agency Executive Director, the City Manager, the Agency’s Counsel and the City Attorney, respectively, as are minor and in substantial conformance with the form of the Agreement to Transfer Tax Increment submitted herewith. The Agency Executive Director and the Agency Secretary/City Clerk are hereby authorized to execute and attest the Agreement to Transfer Tax Increment on behalf of Agency. In such regard, the Agency Executive Director (or his duly authorized representative) is authorized to sign the final version of the Agreement to Transfer Tax Increment after completion of any such non-substantive, minor revisions. Copies of the final form of the Agreement to Transfer Tax Increment, when duly executed and attested, shall be placed on file in the office of the City Clerk. Further, the Agency Executive Director (or his duly authorized representative) is authorized to implement the Agreement to Transfer Tax Increment and take all further actions and execute all documents referenced therein and/or necessary and appropriate to implement the purposes of the Agreement to Transfer Tax Increment. The Agency Executive Director (or his duly authorized representative) is hereby authorized to the extent necessary during the implementation of the Agreement to Transfer Tax Increment to make technical or minor changes, modifications, amendments and interpretations thereto after execution, as necessary to properly implement and carry out the Agreement to Transfer Tax Increment; provided any and all such changes shall not in any manner materially affect the rights and obligations of the Agency thereunder.

SECTION 4: For fiscal year 2011-12 only, pursuant to CRL Section 34194.3, the Agency shall be exempt from making the full allocation required to be made to the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3 and 33334.6. The Agency hereby finds and determines based upon substantial evidence provided in the record before it, that there are insufficient other moneys to meet its debt and other obligations, current priority program needs, or its obligations under Section 34194.2 and the Agreement to Transfer Tax Increment.

SECTION 5: Agency Counsel is hereby authorized, to the greatest extent permitted by law, to bring an action or appear in an action brought in the Superior Court pursuant to Sections 33500 and 33501 of the CRL to determine the validity of the Agreement to Transfer Tax Increment, or the validity of any bonds contemplated to be issued by the Agency or other material contracts of the Agency, or any findings of the governing body or the City Council related thereto, upon the determination of the Agency Executive Director that such action is reasonably necessary or appropriate to facilitate the consummation of any Agency transaction for which governing board approval has been given.
SECTION 6: This Resolution shall in no way be construed as requiring the Agency (or the City) to abide by the 2011 Redevelopment Legislation in the event either, or both, bills are found unconstitutional or otherwise legally invalid in whole or in part, nor shall this Resolution effect or give rise to any waiver of rights or remedies the Agency (and/or the City) may have, whether in law or in equity, to challenge 2011 Redevelopment Legislation. This Resolution shall not be construed as the Agency's (and/or the City's) willing acceptance of, or concurrence with the 2011 Redevelopment Legislation, either AB1X 26 or AB1X 27; nor does this Resolution evidence any assertion or belief whatsoever on the part of the Agency (and/or City) the 2011 Redevelopment Legislation is constitutional or lawful.

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 ___ day of ________, 2011.

By: ______________________

Ronald L. Irish, Chair

ATTEST:

John D. Lollis, Agency Secretary

________________________

Patrice Hildreth, Chief Deputy Agency Secretary
ATTACHMENT NO. 1

INITIAL RECOGNIZED OBLIGATION PAYMENT SCHEDULE

[Attached on following pages.]
## INITIAL DRAFT RECOGNIZED OBLIGATION PAYMENT SCHEDULE

<table>
<thead>
<tr>
<th>Project Name / Debt Obligation</th>
<th>Payee</th>
<th>Description</th>
<th>Total Outstanding Debt or</th>
<th>Total Due During Fiscal Year</th>
<th>Payments by month</th>
<th>Jan**</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>June</th>
<th>Total</th>
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<td>1) 2008 Tax Allocation Bonds Series A</td>
<td>US Bank</td>
<td>Bonds issued to fund non-housing projects</td>
<td>$8,837,236.00</td>
<td>$266,693.00</td>
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<tr>
<td>2) 2008 Tax Allocation Bonds Series B</td>
<td>US Bank</td>
<td>Bonds issued to fund non-housing projects</td>
<td>$5,360,600.00</td>
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<td>3) 2008 Tax Allocation Bonds Series C</td>
<td>US Bank</td>
<td>Bonds issued to fund housing projects</td>
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<td>4) 2008 Tax Allocation Bonds Series D</td>
<td>US Bank</td>
<td>Bonds issued to fund housing projects</td>
<td>$1,638,879.00</td>
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<td>5) Rural Eco. Dev. Infrastructure Prog.</td>
<td>St. of Calif Dept of Commerce</td>
<td>Loan for Infrastructure</td>
<td>$153,295.00</td>
<td>$27,672.00</td>
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<td>6) City Loan entered into 3/19/11</td>
<td>City of Porterville</td>
<td>Loan for Public Works (paid in June of each yr)</td>
<td>$3,840,223.00</td>
<td>$150,000.00</td>
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<td>7) City Loan entered into 6/2/11</td>
<td>City of Porterville</td>
<td>Loan for Administration and Operation of the</td>
<td>$405,000.00</td>
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<td>Agency $165,000 each year for three years</td>
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<td>10) Housing Employee Cost</td>
<td>Employees of Agency</td>
<td>Payroll for employee</td>
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Totals - This Page: $22,774,871.00, $1,034,495.00, $5,035.00, $5,035.00, $5,035.00, $5,035.00, $378,137.00, $333,971.00, $732,248.00

Totals - Page 2: 
Totals - Page 3: 
Totals - Page 4: 
Totals - Other Obligations: 
Grand total - All Pages: $22,774,871.00, $1,034,495.00, $5,035.00, $5,035.00, $5,035.00, $5,035.00, $378,137.00, $333,971.00, $732,248.00
ATTACHMENT NO. 2

AGREEMENT TO TRANSFER TAX INCREMENT

[Attached on following pages.]
AGREEMENT TO TRANSFER TAX INCREMENT

This AGREEMENT TO TRANSFER TAX INCREMENT ("Agreement") is entered into as of September 20, 2011 ("Date of Agreement"), by and between the CITY OF PORTERVILLE, a municipal corporation ("City"), and the PORTERVILLE REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency").

RECOLLECTIONS

A. The Agency is a community redevelopment agency organized and existing under the California Community Redevelopment Law, Health and Safety Code Sections 33000, et seq. ("CRL") and has been authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council ("City Council") of the City.

B. The City Council has duly adopted the Redevelopment Plan for the Porterville Redevelopment Project No. 1 (as amended from time to time, the "Project Area").

C. The Agency receives and has available to it tax increment revenues from the Project Area in accordance with and pursuant to the Redevelopment Plan, CRL Section 33670(b) and Article XVI, Section 16 of the California Constitution.

D. Assembly Bills 1X 26 and 1X 27, which are trailer bills to the 2011-12 budget bills, were approved by both houses of the Legislature on June 15, 2011, signed by the Governor on June 28, 2011, and chaptered on June 29, 2011 (together, "2011 Redevelopment Legislation").

E. Parts 1.8, 1.85 and 1.9 of Division 24 of the Health and Safety Code were added to the CRL by the 2011 Redevelopment Legislation and such measures purported to become effective immediately.

F. Part 1.8 of the CRL ("Part 1.8") provides for the restriction of activities and authority of the Agency in the interim period prior to dissolution of certain "enforceable obligations" and actions required for the general winding up of affairs, preservation of assets, and certain other goals delineated in Part 1.8.

G. Part 1.85 of the CRL ("Part 1.85") provides for the statewide dissolution of all redevelopment agencies, including the Agency, as of October 1, 2011, and provides that, thereafter, a successor agency will administer the enforceable obligations of the Agency and otherwise wind up the Agency’s affairs, all subject to the review and approval by an oversight committee.

H. Part 1.9 of the CRL ("Part 1.9") provides that a redevelopment agency may continue in operation if a city or county that includes a redevelopment agency adopts an ordinance agreeing to comply with and participate in the Voluntary Alternative Redevelopment Program established in Part 1.9 ("Program").

I. The City is aware that the validity, passage, and applicability of the 2011 Redevelopment Legislation are the subject of judicial challenge(s), including the action: California Redevelopment Association, et al v. Ana Matosantos, et al.
J. On August 11, 2011, the California Supreme Court issued a stay as to Parts 1.85 and 1.9, but not as to Part 1.8.

K. Each city and county electing to participate in the Program, as a condition of its redevelopment agency’s continued existence and operation, is required to make certain annual remittances (“Program Remittances”) to the county auditor-controller (“CAC”) pursuant to Chapter 3 of Part 1.9, beginning with a larger upfront remittance for FY 2011-12 (“First Remittance”), to be paid in two equal installments on January 15, 2012 and May 15, 2012.

L. The City will have sufficient funds and revenues to fund an amount equal to the City’s payment of the First Remittance and expects to have funds and revenues sufficient to fund amounts equal to the subsequent fiscal years’ remittances required by Part 1.9.

M. The City and Agency desire to enter into this Agreement pursuant to CRL Section 34194.2 whereby the Agency shall transfer tax increment to the City in an amount equal to the First Remittance, and thereafter shall transfer amounts of tax increment equal to each and all subsequent fiscal years’ remittances that the City is required to make to the CAC as a condition of the City’s participation in the Program.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions herein contained, the parties hereto agree as follows:

Section 1. The Agency shall be liable to the City for the payment of the Program Remittances in connection with the City’s participation in the Program. The Agency agrees that no later than fifteen (15) days prior to the date upon which the City shall be statutorily required to make any full or partial payment of a Program Remittance in any fiscal year, the Agency shall transfer funds to the City in an amount equal to such payment; each such payment by the Agency shall be referred to herein as a “Required Agency Payment” and, as such payments are combined, “Required Agency Payments.” Interest shall accrue on any unpaid balance of the Required Agency Payments at an annual interest rate pursuant to Section 53531 of the Government Code. Interest on amounts paid as Required Agency Payments shall be deemed to begin accruing on the date upon which the City makes any required Program Remittance to the CAC.

Section 2. The Agency hereby pledges Tax Increment (defined below) to repayment of its indebtedness to the City hereunder; provided that such pledge is junior and subordinate to all outstanding bonds of the Agency, any refunding bonds issued by or through the Agency, and any additional bonds issued hereafter by or through the Agency. The City and Agency agree that such obligation by Agency to City may be further subordinated by agreement of the City and the Agency.

As used in this Section 2, “Tax Increment” means all taxes annually allocated to the Agency with respect to the Project Area in each year following the Date of Agreement, pursuant to Article 6 of Chapter 6 (commencing with Section 33670) of the CRL and Section 16 of Article XVI of the Constitution of the State of California and as provided in the Redevelopment Plan for the Project Area, including all payments, subventions and reimbursements (if any) to the Agency specifically attributable to ad valorem taxes lost by reason of tax exemptions and tax rate limitations; but excluding (i) all amounts of such taxes required to be deposited into the Low and Moderate Income Housing Fund of the Agency in any Fiscal Year pursuant to Sections 33334.2 or 33334.6 of the CRL,
(ii) all amounts of such taxes required to be paid to taxing entities under Sections 33607.5 and 33607.7 of the CRL to the extent such required payments create a prior lien on such taxes, (iii) amounts, if any, payable by the State of California to the Agency under and pursuant to the provisions of Chapter 1.5 of Part 1 of Division 4 of Title 2 (commencing with Section 16110) of the Government Code of the State of California, (iv) amounts retained by the County of Tulare as costs of collection pursuant to Chapter 466, Statutes of 1990, and (v) such taxes, to the extent subject to a prior express pledge by the Agency.

Section 3. Pursuant to Sections 34194.2 and 34194.3 of the CRL and for FY 2011-12 only, the Agency finds that that there are insufficient other moneys to meet its debt and other obligations, current priority program needs, and/or its obligations under Section 34194.2; therefore, the Agency is exempted from making the annual deposit to the Housing Fund and an amount equal thereto shall be part of the tax increment transfer hereunder.

Section 4. The obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency within the meaning of Section 33670, et seq. of the CRL.

Section 5. The City agrees to spend those funds received from the Agency under this Agreement “for the purpose of financing activities within the redevelopment area that are related to accomplishing the redevelopment agency project goals” pursuant to CRL Section 34194.2 (or as otherwise determined by the courts or subsequent law) and in accordance with the laws of the United States and the State of California, all as applicable.

Section 6. This Agreement shall become effective upon a final order of a court of competent jurisdiction and/or a decision or order from the California Supreme Court, or other court of competent jurisdiction, that the provisions of AB 1X 27 (including Sections 34194.2 and 34194.3) are valid and enforceable.

Section 7. If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable. The City Council and Agency each hereby declares that it would have approved this Agreement irrespective of the invalidity of any particular portion hereof as long as and subject to Part 1.9 being declared valid and enforceable.

[Signature blocks appear on following page.]
IN WITNESS WHEREOF, the parties have executed this Agreement to Transfer Tax Increment as of the Date of Agreement.

CITY:

CITY OF PORTERVILLE,  
a California municipal corporation

By: __________________________  
    John D. Lollis, City Manager

ATTEST:

____________________________________  
Patrice Hildreth, Chief Deputy City Clerk

AGENCY:

PORTERVILLE REDEVELOPMENT AGENCY,  
a public body, corporate and politic

By: __________________________  
    Bradley D. Dunlap, Executive Director

ATTEST:

____________________________________  
John D. Lollis, Agency Secretary
RESOLUTION NO. ___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ELECTING TO SERVE AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF PORTERVILLE, ACCEPTING TRANSMITTAL OF AN INITIAL RECOGNIZED OBLIGATION PAYMENT SCHEDULE, APPROVING AN AGREEMENT TO TRANSFER TAX INCREMENT BETWEEN THE AGENCY AND THE CITY, AND MAKING CERTAIN FINDINGS IN CONNECTION THERewith

WHEREAS: The Porterville Redevelopment Agency ("Agency") is a community redevelopment agency organized and existing under the California Community Redevelopment Law, Health and Safety Code Sections 33000, et seq. ("CRL") and has been authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council ("City Council") of the City of Porterville ("City"); and

WHEREAS: The City Council has, by ordinance, duly adopted the Redevelopment Plan for the Porterville Redevelopment Project No. 1, as amended, all in compliance with all requirements of the CRL; and

WHEREAS: AB1X 26 and AB1X 27 are trailer bills to the 2011-12 budget bills and were approved by both houses of the Legislature on June 15, 2011, signed by the Governor on June 28, 2011, and chaptered on June 29, 2011 (together, "2011 Redevelopment Legislation"); and

WHEREAS: Parts 1.8, 1.85 and 1.9 of Division 24 of the Health and Safety Code were added to the CRL by the 2011 Redevelopment Legislation and such measures purported to become effective immediately; and

WHEREAS: Part 1.8 of the CRL ("Part 1.8") provides for the restriction of activities and authority of the Agency in the interim period prior to dissolution of certain "enforceable obligations" and to actions required for the general winding up of affairs, preservation of assets, and certain other goals delineated in Part 1.8; and

WHEREAS: Part 1.85 of the CRL ("Part 1.85") provides for the statewide dissolution of all redevelopment agencies, including the Agency, as of October 1, 2011, and provides that, thereafter, a successor agency will administer the enforceable obligations of the Agency and otherwise wind up the Agency’s affairs, all subject to the review and approval by an oversight committee; and

WHEREAS: Part 1.9 of the CRL ("Part 1.9") provides that a redevelopment agency may continue in operation if a city or county that includes a redevelopment agency adopts an ordinance agreeing to comply with and participate in the Voluntary Alternative Redevelopment Program established in Part 1.9 ("Program"); and

WHEREAS: The City is aware that the validity, passage, and applicability of the 2011 Redevelopment Legislation are the subject of judicial challenge(s), including the action: California Redevelopment Association, et al v. Ana Matosantos, et al; and

WHEREAS: On August 11, 2011, the California Supreme Court issued a stay as to Parts 1.85 and 1.9, but not as to Part 1.8; and

ATTACHMENT
ITEM NO. ___
WHEREAS: Section 34169(h) of the CRL, which was added to the CRL by AB1X 26 and is located in Part 1.8 of the CRL, requires the Agency to prepare an Initial Recognized Obligation Payment Schedule, no later than September 30, 2011, and provide it to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170); and

WHEREAS: While Part 1.85 (which provides for the dissolution of redevelopment agencies and the creation of successor agencies) and Part 1.9 (which authorizes the City to opt into the Program) are both stayed by order of the California Supreme Court, Part 1.8, specifically including Section 34169, of the CRL, currently remains in full force and effect; and

WHEREAS: The City desires to confirm its election to become the successor agency in the event the Agency is dissolved; and

WHEREAS: By resolution adopted concurrently with this Resolution, the Agency has adopted an Initial Recognized Obligation Payment Schedule ("IROPS") and has directed the Agency Executive Director to transmit the IROPS to the City, as required by Section 34169(h) of the CRL; and

WHEREAS: The City desires to accept the transmittal of the IROPS; and

WHEREAS: Each city and county electing to participate in the Program, as a condition of its redevelopment agency’s continued existence and operation, is required to make certain annual remittances ("Program Remittances") to the county auditor-controller ("CAC") pursuant to Chapter 3 of Part 1.9, beginning with a larger upfront remittance for FY 2011-12 ("First Remittance"), to be paid in two equal installments on January 15, 2012 and May 15, 2012; and

WHEREAS: The City expects it will have sufficient moneys and revenues to fund an amount equal to the City’s payment of the First Remittance and further expects to have sufficient moneys and revenues to fund the subsequent annual remittances required by Part 1.9; and

WHEREAS: The City has adopted the ordinance required by Part 1.9, in order to allow the Agency to continue in operation and perform its functions; and

WHEREAS: The City and Agency desire to enter into an agreement pursuant to CRL Section 34194.2 whereby the Agency shall make an initial transfer of a portion of its tax increment to the City in an amount equal to the First Remittance, and thereafter transfer amounts of tax increment equal to any subsequent remittance which the City is required to make to the CAC pursuant to the City’s participation in the Program ("Agreement to Transfer Tax Increment" attached hereto as Attachment 1); and

WHEREAS: The City, by the adoption of this Resolution, does not represent, disclaim, or take any position whatsoever on the issue of the validity of AB1X 26 or AB1X 27, but rather the City seeks to comply with the Constitution and laws of the State of California, in order to preserve the ability of the Agency to continue to operate and thereby benefit the community; and

WHEREAS: The dissolution of the Agency would be detrimental to the health, safety, and economic well-being of the residents of the City and cause irreparable harm to the community, because, among other reasons, the redevelopment activities and projects made possible,
implemented, and funded by the Agency are highly significant and of enduring benefit to the community and the City, and are a critical component of its future; and

WHEREAS: The City has duly considered all other related matters and has determined that the City’s election to serve as successor agency to the Agency, acceptance of the IROPS, and approval and execution of the Agreement to Transfer Tax Increment is in the best interests of the City 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 hereby elects to serve as the successor agency to the Agency in the event the Agency is dissolved for any reason, including due to Part 1.85 of the CRL being upheld and determined to be valid and Part 1.9 of the CRL being declared and determined to be invalid by final and binding decision of a competent court with jurisdiction, including the California Supreme Court.

SECTION 3: The City Council hereby accepts transmittal of the IROPS by the Agency pursuant to Section 34169(h) of the CRL.

SECTION 4: The City Council hereby approves that certain Agreement to Transfer Tax Increment in substantially the form attached hereto as Attachment No. 1 and incorporated herein, with such changes mutually agreed upon by the City Manager, the Agency Executive Director, the City Attorney and the Agency’s Counsel, respectively, as are minor and in substantial conformance with the form of the Agreement to Transfer Tax Increment submitted herewith. The City Manager and the City Clerk are hereby authorized to execute and attest the Agreement to Transfer Tax Increment on behalf of the City. In such regard, the City Manager (or his duly authorized representative) is authorized to sign the final version of the Agreement to Transfer Tax Increment after completion of any such non-substantive, minor revisions. Copies of the final form of the Agreement to Transfer Tax Increment, when duly executed and attested, shall be placed on file in the office of the City Clerk. Further, the City Manager (or his duly authorized representative) is authorized to implement the Agreement to Transfer Tax Increment and take all further actions and execute all documents referenced therein and/or necessary and appropriate to implement the purposes of the Agreement to Transfer Tax Increment. The City Manager (or his duly authorized representative) is hereby authorized to the extent necessary during the implementation of the Agreement to Transfer Tax Increment to make technical or minor changes, modifications, amendments and interpretations thereto after execution, as necessary to properly implement and carry out the Agreement to Transfer Tax Increment; provided any and all such changes shall not in any manner materially affect the rights and obligations of the City thereunder.

SECTION 5: The City Attorney is hereby authorized, to the greatest extent permitted by law, to bring an action or appear in an action brought in the Superior Court pursuant to Sections 33500 and 33501 of the CRL to determine the validity of the Agreement to Transfer Tax Increment, or the validity of any bonds contemplated to be issued by the Agency or other material contracts of the Agency, or any findings of the City Council related thereto, upon the determination of the City Manager that such action is reasonably necessary or appropriate to facilitate the consummation of any Agency transaction for which City Council approval has been given.

SECTION 6: This Resolution shall in no way be construed as requiring the City (or the Agency) to abide by the 2011 Redevelopment Legislation in the event either, or both, bills are found
unconstitutional or otherwise legally invalid in whole or in part, nor shall this Resolution effect or give rise to any waiver of rights or remedies the City (and/or the Agency) may have, whether in law or in equity, to challenge 2011 Redevelopment Legislation. This Resolution shall not be construed as the City’s (and/or the Agency’s) willing acceptance of, or concurrence with the 2011 Redevelopment Legislation, either AB1X 26 or AB1X 27; nor does this Resolution evidence any assertion or belief whatsoever on the part of the City (and/or Agency) the 2011 Redevelopment Legislation is constitutional or lawful.

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 ___ day of ________, 2011.

By: ____________________________
Ronald L. Irish, Mayor

ATTEST:

John D. Lollis, City Clerk

Patrice Hildreth, Chief Deputy City Clerk
ATTACHMENT NO. 1

AGREEMENT TO TRANSFER TAX INCREMENT

[Attached on following pages.]
AGREEMENT TO TRANSFER TAX INCREMENT

This AGREEMENT TO TRANSFER TAX INCREMENT ("Agreement") is entered into as of September 20, 2011 ("Date of Agreement"), by and between the CITY OF PORTERVILLE, a municipal corporation ("City"), and the PORTERVILLE REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency").

RECITALS

A. The Agency is a community redevelopment agency organized and existing under the California Community Redevelopment Law, Health and Safety Code Sections 33000, et seq. ("CRL") and has been authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the City Council ("City Council") of the City.

B. The City Council has duly adopted the Redevelopment Plan for the Porterville Redevelopment Project No. 1 (as amended from time to time, the "Project Area").

C. The Agency receives and has available to it tax increment revenues from the Project Area in accordance with and pursuant to the Redevelopment Plan, CRL Section 33670(b) and Article XVI, Section 16 of the California Constitution.

D. Assembly Bills 1X 26 and 1X 27, which are trailer bills to the 2011-12 budget bills, were approved by both houses of the Legislature on June 15, 2011, signed by the Governor on June 28, 2011, and chaptered on June 29, 2011 (together, "2011 Redevelopment Legislation").

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F. Part 1.8 of the CRL ("Part 1.8") provides for the restriction of activities and authority of the Agency in the interim period prior to dissolution of certain "enforceable obligations" and actions required for the general winding up of affairs, preservation of assets, and certain other goals delineated in Part 1.8.

G. Part 1.85 of the CRL ("Part 1.85") provides for the statewide dissolution of all redevelopment agencies, including the Agency, as of October 1, 2011, and provides that, thereafter, a successor agency will administer the enforceable obligations of the Agency and otherwise wind up the Agency's affairs, all subject to the review and approval by an oversight committee.

H. Part 1.9 of the CRL ("Part 1.9") provides that a redevelopment agency may continue in operation if a city or county that includes a redevelopment agency adopts an ordinance agreeing to comply with and participate in the Voluntary Alternative Redevelopment Program established in Part 1.9 ("Program").

I. The City is aware that the validity, passage, and applicability of the 2011 Redevelopment Legislation are the subject of judicial challenge(s), including the action: California Redevelopment Association, et al v. Ana Matosantos, et al.
J. On August 11, 2011, the California Supreme Court issued a stay as to Parts 1.85 and 1.9, but not as to Part 1.8.

K. Each city and county electing to participate in the Program, as a condition of its redevelopment agency’s continued existence and operation, is required to make certain annual remittances ("Program Remittances") to the county auditor-controller ("CAC") pursuant to Chapter 3 of Part 1.9, beginning with a larger upfront remittance for FY 2011-12 ("First Remittance"), to be paid in two equal installments on January 15, 2012 and May 15, 2012.

L. The City will have sufficient funds and revenues to fund an amount equal to the City’s payment of the First Remittance and expects to have funds and revenues sufficient to fund amounts equal to the subsequent fiscal years’ remittances required by Part 1.9.

M. The City and Agency desire to enter into this Agreement pursuant to CRL Section 34194.2 whereby the Agency shall transfer tax increment to the City in an amount equal to the First Remittance, and thereafter shall transfer amounts of tax increment equal to each and all subsequent fiscal years’ remittances that the City is required to make to the CAC as a condition of the City’s participation in the Program.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions herein contained, the parties hereto agree as follows:

Section 1. The Agency shall be liable to the City for the payment of the Program Remittances in connection with the City’s participation in the Program. The Agency agrees that no later than fifteen (15) days prior to the date upon which the City shall be statutorily required to make any full or partial payment of a Program Remittance in any fiscal year, the Agency shall transfer funds to the City in an amount equal to such payment; each such payment by the Agency shall be referred to herein as a "Required Agency Payment" and, as such payments are combined, “Required Agency Payments.” Interest shall accrue on any unpaid balance of the Required Agency Payments at an annual interest rate pursuant to Section 53531 of the Government Code. Interest on amounts paid as Required Agency Payments shall be deemed to begin accruing on the date upon which the City makes any required Program Remittance to the CAC.

Section 2. The Agency hereby pledges Tax Increment (defined below) to repayment of its indebtedness to the City hereunder; provided that such pledge is junior and subordinate to all outstanding bonds of the Agency, any refunding bonds issued by or through the Agency, and any additional bonds issued hereafter by or through the Agency. The City and Agency agree that such obligation by Agency to City may be further subordinated by agreement of the City and the Agency.

As used in this Section 2, "Tax Increment" means all taxes annually allocated to the Agency with respect to the Project Area in each year following the Date of Agreement, pursuant to Article 6 of Chapter 6 (commencing with Section 33670) of the CRL and Section 16 of Article XVI of the Constitution of the State of California and as provided in the Redevelopment Plan for the Project Area, including all payments, subventions and reimbursements (if any) to the Agency specifically attributable to ad valorem taxes lost by reason of tax exemptions and tax rate limitations; but excluding (i) all amounts of such taxes required to be deposited into the Low and Moderate Income Housing Fund of the Agency in any Fiscal Year pursuant to Sections 33334.2 or 33334.6 of the CRL,
(ii) all amounts of such taxes required to be paid to taxing entities under Sections 33607.5 and
33607.7 of the CRL to the extent such required payments create a prior lien on such taxes,
(iii) amounts, if any, payable by the State of California to the Agency under and pursuant to the
provisions of Chapter 1.5 of Part 1 of Division 4 of Title 2 (commencing with Section 16110) of the
Government Code of the State of California, (iv) amounts retained by the County of Tulare as costs
of collection pursuant to Chapter 466, Statutes of 1990, and (v) such taxes, to the extent subject to a
prior express pledge by the Agency.

Section 3. Pursuant to Sections 34194.2 and 34194.3 of the CRL and for FY 2011-12
only, the Agency finds that that there are insufficient other moneys to meet its debt and other
obligations, current priority program needs, and/or its obligations under Section 34194.2; therefore,
the Agency is exempted from making the annual deposit to the Housing Fund and an amount equal
thereto shall be part of the tax increment transfer hereunder.

Section 4. The obligations of the Agency under this Agreement shall constitute an
indebtedness of the Agency within the meaning of Section 33670, et seq. of the CRL.

Section 5. The City agrees to spend those funds received from the Agency under this
Agreement “for the purpose of financing activities within the redevelopment area that are related to
accomplishing the redevelopment agency project goals” pursuant to CRL Section 34194.2 (or as
otherwise determined by the courts or subsequent law) and in accordance with the laws of the
United States and the State of California, all as applicable.

Section 6. This Agreement shall become effective upon a final order of a court of
competent jurisdiction and/or a decision or order from the California Supreme Court, or other court
of competent jurisdiction, that the provisions of AB 1X 27 (including Sections 34194.2 and 34194.3)
are valid and enforceable.

Section 7. If any provision of this Agreement or the application thereof to any person or
circumstance is held invalid, such invalidity shall not affect other provisions or applications of this
Agreement which can be given effect without the invalid provision or application, and to this end the
provisions of this Agreement are severable. The City Council and Agency each hereby declares that
it would have approved this Agreement irrespective of the invalidity of any particular portion hereof
as long as and subject to Part 1.9 being declared valid and enforceable.

[Signature blocks appear on following page.]
IN WITNESS WHEREOF, the parties have executed this Agreement to Transfer Tax Increment as of the Date of Agreement.

CITY:

CITY OF PORTERVILLE,
a California municipal corporation

By: ________________________________
    John D. Lollis, City Manager

ATTEST:

______________________________
Patrice Hildreth, Chief Deputy City Clerk

AGENCY:

PORTERVILLE REDEVELOPMENT AGENCY,
a public body, corporate and politic

By: ________________________________
    Bradley D. Dunlap, Executive Director

ATTEST:

______________________________
John D. Lollis, Agency Secretary
PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

SUBJECT: ANNUAL MEETING OF THE PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: In 1988, the Porterville Public Improvement Corporation was formed, designating the City Council members as Directors. An annual meeting is required to be held each year.

Action by the Board of Directors is required to approve the election of new officers in accordance with Article III, Section 2 of the Bylaws of the Corporation. Article III, Section 1 of the Bylaws provides that the Mayor shall act ex officio as President, the Vice Mayor shall act ex officio as Vice President, the City Clerk shall act ex officio as Secretary, the Deputy City Manager shall act ex officio as the Treasurer, and the City Attorney shall act ex officio as Legal Counsel to the corporation.

In addition to the election of officers, a report on the progress of the Certificates of Participation (COP) projects is to be submitted to the Board of Directors at the time of the annual meeting. In accordance with Corporation Bylaws and Resolution No. 89-2, a public meeting (not a public hearing) is required prior to approving the annual report. A status report for COP projects is provided as an attachment to this agenda item.

RECOMMENDATION: That the City Council, sitting as the Porterville Public Improvement Corporation:

1. Approve the election of officers as indicated in the attached draft resolution;
2. Accept public comment; and
3. Approve the 2011 Status Report for Certificates of Participation Projects.

ATTACHMENTS:
1. Draft Resolution for Election of Officers
2. 2011 Status Report for Certificates of Participation Projects
3. Original COP Priority Projects List
4. COP Project Status Spreadsheet

DD Appropriated/Funded CM ITEM NO. PIC-1
RESOLUTION NO. PIC _____

A RESOLUTION OF THE PORTERVILLE PUBLIC IMPROVEMENT CORPORATION ELECTING OFFICERS FOR THE PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

BE IT HEREBY RESOLVED by the Directors of the Porterville Public Improvement Corporation, that the following persons are elected to the offices set forth opposite their names below, as officers of the Corporation, to serve until succession, or election and qualification of the successors, as provided in Article III, Section 2 of the Bylaws of the Corporation:

<table>
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<tr>
<th>Name</th>
<th>Office</th>
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<tbody>
<tr>
<td>Ronald L. Irish</td>
<td>President</td>
</tr>
<tr>
<td>Cameron Hamilton</td>
<td>Vice President</td>
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<tr>
<td>John Lollis</td>
<td>Secretary</td>
</tr>
<tr>
<td>Milt Stowe</td>
<td>Treasurer</td>
</tr>
<tr>
<td>Julia Lew</td>
<td>Legal Counsel</td>
</tr>
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</table>

Ronald L. Irish, President

ATTEST:

John Lollis, Secretary

ATTACHMENT NO. 1
CITY OF PORTERVILLE  
Certificates of Participation  
Status Report  

As of September 1, 2011  

1998 ISSUE:  

On May 5, 1998, City Council authorized the issuance of Certificates of Participation to finance major components of the City Circulation Element.  

Total Certificates of Participation Issue: $20,000,000  

<table>
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<th>Project</th>
<th>Percentage of Design Complete</th>
<th>Percentage of Const. Complete</th>
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<td>BRIDGES:</td>
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<tr>
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<td>10%</td>
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<tr>
<td>Jaye - Tule River Widening</td>
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<td>0%</td>
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<td>STREETS:</td>
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ATTACHMENT NO. 2
# CITY OF PORTERVILLE

## ORIGINAL CERTIFICATE OF PARTICIPATION

### PRIORITY PROJECTS LIST

<table>
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<th>PROJECT</th>
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<tr>
<td>A. BRIDGES:</td>
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<tr>
<td>1. Plano - Tule River Widening</td>
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<td>2. Main - Tule River Reconstruction</td>
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<td>3. Jaye - Tule River Widening</td>
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| SLOUGH CROSSING: |
| 4. Henderson & Porter Slough |
| 5. Westwood & Porter Slough |
| 6. Indiana & Porter Slough |

| C. STREETS |
| 7. Granite Hills Circulation |
| | Phase 1: Morton - Plano to Hillcrest - Morton - Hillcrest to Connor - Connor - Morton to Olive - Putnam - Connor to School |
| | Phase 2: Crestview - Putnam to Morton - Olive Avenue - Putnam to Tulsa |
| 8. Indiana - Olive/Thurman |
| 9. Henderson - Newcomb to Westwood |
| 10. Olive Avenue - Newcomb/Westwood |
| 11. Main St.- Henderson/Linda Vista (Phase 1 & 2) |
| 12. Orange Avenue - S. Main/Plano |
| 13. S. Jaye St - 190/Gibbons |
| 14. Gibbons - S. Main/Indiana (2 lanes) |
| 15. So. Main - 190/Gibbons |
| 16. N. Grand/Hwy. 65 right-of-way/EIR/EIS |
| 17. Prospect - Morton/Pioneer |
| 18. Westfield - Hwy 65/ N. Main |
| 19. So. Jaye - Olive/190 |
| 20. N. Villa - Olive to Henderson |
| 21. Date - S. Main/Plano |
| 22. W. Henderson - Indiana to Main |
| 23. Westwood - Henderson/Westfield |
| 24. N. Main - Morton to Henderson |

ATTACHMENT NO. 3
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<th>ACCOUNT NUMBER</th>
<th>PROJECT DESCRIPTION</th>
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**Total COP Funds Appropriated not expended to date:** $71,603

**Subtotals:** $20,100,000 $21,583,974 $24,100,144

** ATTACHMENT ITEM NO. 4**