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:
   3- Government Code Section 54956.9(a) – Conference with Legal Counsel – Existing Litigation: Donald Sipple v. City of Alameda, CA, et al., Los Angeles Superior Court,-CCW, Case No. BC 462270.
   4- Government Code Section 54956.9(a) – Conference with Legal Counsel – Existing Litigation: Cynthia Bowles and Antonio Sousa v. City of Porterville, et al., U.S. District Court, Eastern Division, Case No. F CV 10-0937 LJO GSA.
   5- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One Case concerning facts not yet known to potential plaintiff.
   6- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One Case.

**6:30 P.M. RECONVENE OPEN SESSION**

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

Pledge of Allegiance Led by Council Member Pete V. McCracken
Invocation

**PROCLAMATIONS**
Bank of the Sierra

**PRESENTATIONS**
Employee of the Month – Janie Rodriguez
Outstanding Business

**AB 1234 REPORTS**
This is the time for all AB 1234 reports required pursuant to Government Code § 53232.3.
2. Consolidated Waste Management Authority (CWMA) – May 17, 2012
3. Tulare County Association of Governments (TCAG) – May 21, 2012

REPORTS
This is the time for all committee/commission/board reports; subcommittee reports; and staff informational items.
A. City Commission and Committee Meetings:
   1. Library and Literacy Commission – May 16, 2012

ORAL COMMUNICATIONS
This is the opportunity to address the Council on any matter of interest, whether on the agenda or not. Please address all items not scheduled for public hearing at this time. Unless additional time is authorized by the Council, all commentary shall be limited to three minutes.

CONSENT CALENDAR
All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar.

1. City Council Minutes of May 22, 2012

2. Adjustment to Smart Valley Places Grant for an Industrial Land Annexation Project
   Re: Considering approval of the use of Smart Valley Places Grant Program funds for the proposed Industrial Land Annexation project, which would include the addition of approximately 500 acres of pre-zoned industrial land south of Highway 190 and west of Highway 65.

3. Acceptance of Project – Martin Hill and Rocky Hill Water Reservoir Projects
   Re: Considering acceptance of project from Specialty Construction, and authorizing the filing of the Notice of Completion for the projects consisting of the construction of a 3.0 million gallon reservoir, 2,800 gpm booster pumping station, approximately 1.25 miles of 16-inch water main, and appurtenant facilities; and the construction of a 0.55 million gallon reservoir, modifications to the existing Granite Hills booster pumping station, approximately 0.5 miles of 16-inch water main, and appurtenant facilities.

4. City-County Agreement for Portions of Yates Avenue, Roche Street, Worth Avenue and Plano Street
   Re: Considering approval of an Operation and Maintenance Agreement with the County for portions of Yates and Worth Avenues, and Roche and Plano Streets.

5. Approval of Amendment No. 3 to Joint Powers Agreement Between the City of Porterville and Tulare County Health and Human Services Agency
   Re: Considering authorization to execute Amendment No. 3 to the Agreement with Tulare County Health and Human Services Agency for a Recycle-Only Household Hazardous Waste Collection Facility.
6. **Approval of a Resolution Proclaiming the City of Porterville as a “Share the Road” City**
   Re: Considering approval of a resolution affirming the City Council’s support of the goals and ideals of the “Share the Road” designation as outlined by the Tulare County “Share the Road” Committee.

7. **Authorization to Negotiate a Contract – Transit Administrator**
   Re: Considering authorization to negotiate a 5-year contract with Sierra Management for transit administrator services.

8. **Approval of Annual Transportation Agreement with County of Tulare**
   Re: Considering approval of an agreement with the County for Fiscal Year 2012/2013 to provide service to County residents within the Service Area Boundary.

9. **Change the Project Description of the 2010-2011 Public Transportation Modernization, Improvement, and Service Enhancement Account Project**
   Re: Considering approval of a resolution in support of amending the projection description for the 2010-2011 Transit Project, and the submittal of the corrective action plan.

10. **Authorization to Submit a Letter of No Prejudice (LONP) to CalTrans for Bus Stop Improvements and CNG Bus Purchase in Order to Use Future Proposition 1B Transportation Bond Act (Prop 1B) Funds**
    Re: Considering approval of a resolution approving a LONP from the City of Porterville to CalTrans for the Bus Stop Improvement and CNG Transit Bus Replacement Projects.

11. **CalTIP Board Member Selection**
    Re: Considering approval a resolution designating Patrice Hildreth as the City’s CalTIP Board Member and Baldo Rodriguez as the alternate designee.

12. **Airport Lease Renewal – Lot 31A**
    Re: Considering approval of an extension of the Lease Agreement between the City of Porterville and Mr. James Cost, Costa Spraying, Inc., of Tulare, CA, for Lot 31A at the Porterville Municipal Airport.

13. **Approval for Community Civic Event – City of Porterville and the Tule River Tribe – Freedom Fest and Fireworks Show**
    Re: Considering approval of an event to take place at the Sports Complex on June 30, 2012, from 4 p.m. to 9 p.m.; and authorizing the operation of a shuttle route to and from the Transit Center and Sports Complex, and a free parking lot shuttle from the Porterville Fairgrounds and Sports Complex during the event.

14. **Approval for Community Civic Event – Word of Victory Church – Church Community Outreach – June 30, 2012**
    Re: Considering approval of an event to take place at 163 W. Orange Street, on Saturday, June 30, 2012, from 3:00 p.m. to 8:00 p.m.
15. **Deferred Compensation Program for New Hires**  
Re: Considering approval of a deferred compensation plan for new hires, and the addition of Strategic Retirement Advisors as an authorize vendor for said plan.

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

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

**PUBLIC HEARINGS**

17. **Initiation of Preliminary Proceedings and Resolutions of Application for North Main Street Annexation No. 475**  
Re: Considering approval of a draft resolutions approving the Negative Declaration, and authorizing the initiation of preliminary procedures and application for Annexation 475, regarding the incorporation of 125.1± acres of land into the City.

**SECOND READINGS**

18. **Ordinance 1789, Amendments to Development Ordinance in Relation to Minor Conditional Use Permits**  
Re: Second Reading of Ordinance 1789, an Ordinance of the City Council of the City of Porterville amending the Porterville Development Ordinance in Relation to Minor Conditional Use Permits and Monetary Penalties, which was given first reading on May 15, 2012, and was printed.

**SCHEDULED MATTERS**

19. **Consideration of the City Manager’s Proposed Budget for Fiscal Year 2012-2013 and Setting a Public Hearing Date**  

20. **Appointment to the Transaction and Use Tax (“Measure H”) Oversight Committee**  
Re: Consideration of the appointment of an individual to the Transaction and Use Tax Oversight Committee to fill one vacancy with a four-year term to expire in May 2016.

21. **General Plan Referral – Tulare County Detention Facility**  
Re: Considering the determination of the Zoning Administrator that a correctional facility is consistent with other uses allowed in the Industrial Park Zone.

22. **This item has been removed.**

23. **Proposed Ordinance Amendment to the Municipal Code Pertaining to Card Tables**  
Re: Consideration of the submittal of the draft ordinance amending the Municipal Code to allow for one card room to have and to operate up to five tables to the State Department of Justice, Bureau of Gambling Control for review and approval by the State Gambling Commission.
24. **Consideration of Financial Support for the “Marching Through Time” Mural Project**  
   Re: Consideration of a request to financially support the “Marching Through Time” mural project.

25. **AB 1234 Expense Reimbursement Requirements for Elected Officials**  
   Re: Consideration of requirements under AB 1234, and specifically the reimbursement of expenses for elected officials.

**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 June 19, 2012.

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

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Office of City Clerk at (559) 782-7464. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.

Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda packet are available for public inspection during normal business hours at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, and on the City’s website at www.ci.porterville.ca.us.
Called to Order at 5:30 p.m.
Roll Call: Council Member Ward, Council Member McCracken, Council Member Shelton, Mayor Irish
Absent: Vice Mayor Hamilton

City Manager Lollis announced that Vice Mayor Hamilton would be listening to the meeting via telephone, but that he would not be participating.

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

ORAL COMMUNICATIONS
None

SCHEDULED MATTERS
1. TULARE COUNTY AGREEMENT FOR SPECIAL ASSESSMENT SERVICES

Recommendation: That the City Council:
   1. Approve the resolution to enter into the agreement with Tulare County for services of special assessments; and
   2. Authorize the Mayor and City Staff to execute the Tulare County Agreement for Special Assessment.

City Manager Lollis introduced the item and presented the staff report. During the staff report he noted a change in the agreement from previous agreements which would not require the need for additional agreements should a new fee schedule be adopted by the Board of Supervisors. Mr. Lollis then spoke briefly about the cost associated with electronic and manual processing of assessments, and direct billing.

The Council expressed concern with the change in the agreement, and Mayor Irish suggested that the Council consider the agreement each year, to afford the opportunity to provide ample notice should the Council wish to terminate the agreement. To ensure consideration would take place it was suggested by Council Member McCracken that the draft resolution be amended to require annual consideration of the agreement.

Council Member McCracken spoke briefly about full cost recovery and updated the Council on the last Consolidated Waste Management Authority meeting, during which the County was questioned about an increase in projected costs for household hazardous waste.

The Council took a ten minute recess to allow staff the time to amend the resolution as directed.
Following the break, the City Clerk stated that the resolution would be amended as follows:

WHEREAS, the City of Council of the City of Porterville shall annually review the agreement and consider its continuation by the first meeting of February.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Ward that the City Council approve the resolution to enter into the agreement with Tulare County for services of special assessments, as amended to include “Whereas, the City Council of the City of Porterville shall annually review the agreement and consider its continuation by the first meeting of February.”; and authorize the Mayor and City Staff to execute the Tulare County Agreement for Special Assessment. The motion carried unanimously.

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

Disposition: Approved.

2. BUDGET AND CAPITAL PROJECT STUDY SESSION – FY 2012-2013

Recommendation: That the City Council accept staff’s presentation, and give direction accordingly.

City Manager Lollis introduced the item and shared a Powerpoint presentation which covered Capital Projects, and General Fund and Measure H budgets.

During his presentation about Capital Projects, the City Manager spoke about the location, design, construction and funding for the following:

- Public Facilities – Public Safety Station, Animal Shelter, Law Enforcement Training Facility, Fire Training Facility, Chase Avenue Park, Sports Field Lighting, Hockett Street Parking Lot, and Murry Park Development.
- Water Projects – New Well Development.
- Sewer Projects – Island Annexation Extension.
- Storm Drain Projects – OHV Park Drainage Diversion, and Zalud Park Drainage Upgrade
- Street Projects – Plano Street Bridge Widening, Jaye Street Bridge Widening, CMAQ-Funded Projects, Highway 190 Corridor Study, Garden and Oak Avenue Walkways, W. North Grand Reconstruction, Olive Avenue Reconstruction, Lime Street Reconstruction, and Annual Micro-surfacing.

With regard to the proposed Capital Projects, Council Member Ward inquired about North
Grand improvements as he recalled Council direction from the year before for full reconstruction. The City Manager spoke of staff discussions pertaining to various segments of North Grand and the estimated costs for reconstruction. The segments from Main Street to Highway 65, and Highway 65 to Prospect were identified as the most in need of attention.

Mayor Irish proposed the removal of $50,000 budgeted for the Centennial Park Sound System.

City Manager Lollis then spoke of the General Fund Budget, revenue and expenditure projections and proposed budget-balancing solutions, which included: departmental savings of 5-6% and reorganization of the Fire, Parks and Leisure Services and Community Development Departments. He added that the City was looking into the refinancing of its 2005 Certificates of Participation to reduce the General Fund’s annual debt service obligations, and noted that all budgetary projections were traditionally conservative.

A brief discussion took place regarding an increase in sales tax revenues and uncertainty relative to the State’s impact on the budget.

Council Member McCracken commented on the flexibility of the budget, in that various projects could be postponed to address the deficit if necessary.

The City Manager then presented the Measure H Budget, which proposed an amendment to the staffing expenditure plan via the addition of a non-sworn Public Information Officer in the Fire Department and a Juvenile Delinquency Officer in the Police Department. Also proposed was an additional Information Technology Analyst to exclusively support the increasing technological demands of the Fire and Police Departments, to be funded 50% by Measure H.

While the Council did not argue the value of the positions themselves, they did express concerns regarding the use of Measure H to fund them. A discussion ensued regarding the current number of I.T. staff, and the growing technological demands of public safety and transit. The Council agreed that a third position was justified, but should not be funded by Measure H. City Manager Lollis indicated that Transit had expressed a willingness to fund a third position up to 50%, and staff would explore other funding options.

Council Members Shelton and Ward questioned Parks and Leisure Services Director Milt Stowe about the golf course and the installation of shade structures. Council Member Ward requested that staff explore cheaper shade options in the future.

Disposition: No action.

**ORAL COMMUNICATIONS**

None

**OTHER MATTERS**

- Council Member Ward lauded staff and previous council’s for being fiscally responsible.
- Council Member Shelton commended staff for their efforts; and spoke of the grand opening of
the Police Shooting Range on Friday, May 25th.

- Mayor Irish reported that Vice Mayor Hamilton had been re-appointed to LAFCO.

**ADJOURNMENT**
The Council adjourned at 7:56 p.m. to the meeting of June 5, 2012.

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SEAL

_________________________________

Luisa Herrera, Deputy City Clerk

__________________________

Ronald L. Irish, Mayor
CONSENT AGENDA

SUBJECT: ADJUSTMENT TO SMART VALLEY PLACES GRANT FOR AN INDUSTRIAL LAND ANNEXATION PROJECT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: In October 2010, 14 cities and several nonprofit groups located in the San Joaquin Valley were awarded a $4,000,000 grant from the Department of Housing and Urban Development (HUD) for planning projects that promote sustainability (Smart Valley Places Grant). Each of the 14 largest cities in the valley, including Porterville, was awarded $200,000 for a variety of planning projects. With a 46.5% required match, Porterville divided the $293,000 program into the following three planning and engineering projects:

1. $110,000 for the recently adopted Economic Development Strategy.
2. $43,000 for a high-density housing upzone project which is underway and scheduled for completion in July 2012.
3. $140,000 to update existing design standards and develop new standards to implement hillside development preservation and General Plan related concepts.

The program to update and draft new design standards has been delayed due to time constraints in the Engineering Division. To date, only $7,946 of the $140,000 allocated to this project has been spent. HUD has notified the City, as well as all other grant participants, that the funds must be drawndown in a more expeditious manner than the prior period (from the beginning through April 2012) or they will be revoked. Engineering has indicated that they will be unable to expend these funds in the allotted time period due to other project priorities (streets, bridges, others). As such, Staff is proposing an alternate use of the funds rather than give the funds back to HUD.

Staff is proposing to realign the remaining funds ($132,000±) and the estimated excess funds from the other two programs ($6,000±) into a new project for an industrial land annexation near the airport. This program would assist in implementing the City’s Economic Development Element of the General Plan and recently adopted Economic Development Strategy to establish an employment district near the airport by annexing properties south of Highway 190 and west of Highway 65 (Priority Strategy 2.1). The annexation could include the addition of approximately 500 acres of prezoned industrial land for future industrial expansion. The availability of vacant industrial land in the City is very limited, and it is vital to identify and annex additional land to effectively compete for new industry.
The cost of this annexation is estimated to be approximately $138,000, with the bulk of the funds going toward the preparation of an environmental impact report (EIR). With funds which have already been granted to the City, HUD would contribute approximately $94,000 and the City would match with $44,000± of in-kind funds. If approved by the City Council and HUD, the program will begin in July 2012 and would be completed in approximately one year.

RECOMMENDATION: That the City Council approve the proposed Industrial Land Annexation project as described above with funding from the SVP Grant Program.

ATTACHMENTS: Area Map
SUBJECT: ACCEPTANCE OF PROJECT – MARTIN HILL AND ROCKY HILL WATER RESERVOIR PROJECTS

SOURCE: Public Works Department - Engineering Division

COMMENT: Specialty Construction, Inc. has completed the Martin Hill and Rocky Hill Water Reservoir projects per plans and specifications. The Martin Hill Water Reservoir project consisted of construction of a 3.0-million-gallon reservoir, 2,800-gpm booster pumping station, approximately 1.25 miles of 16-inch water main, and appurtenant facilities. The Rocky Hill Water Reservoir project consisted of construction of a 0.55-million-gallon reservoir, modifications to the existing Granite Hills booster pumping station, approximately 0.5 miles of 16-inch water main, and appurtenant facilities.

Staff keeps track of construction costs for all Capital Improvements Projects. Consistent with Council's direction, staff has commenced reporting project construction expenditures. On February 15, 2011, City Council authorized expenditure of $3,963,039.30 for construction including the 10% contingency. On May 4, 2010, City Council authorized expenditure of $345,502 for construction management and inspection services for the Martin Hill and Rocky Hill Water Reservoir projects. The following itemizes the construction-related costs in two categories: 1) the construction contract; and 2) a combination of construction management, inspection services and project administration.

1) Final construction cost was $3,840,457.53;

2) Construction management and inspection services were performed by Dee Jaspar & Associates. The cost for both services was $345,502. Project administration was performed by City staff at a cost of $89,063.80.

Total project construction costs equate to $4,275,023.33, which is less than the $4,319,641.30 overall budget approved by Council at the time of award, including staff time and construction management costs.

California Infrastructure and Economic Development Bank (CIEDB) funds are the funding source for the project as included in the 2011/2012 Annual Budget.

Specialty Construction, Inc. requests that the City accept the project as complete. Staff reviewed the work and found it acceptable.

[Signatures]

Item No. 3
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 5% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

ATTACHMENT: Locator Maps

P:\pub\works\General\Council\Acceptance of Project - Martin Hill and Rocky Hill Water Reservoir Projects - 2012-06-05.doc
SUBJECT: CITY-COUNTY AGREEMENT FOR PORTIONS OF YATES AVENUE, ROCHE STREET, WORTH AVENUE AND PLANO STREET

SOURCE: Public Works Department - Engineering Division

COMMENT: Staff has completed the Martin Hill 3mg Water Reservoir Project, which includes a large water main installation in portions of Yates Avenue, Roche Street, Worth Avenue and Plano Street. City staff consented to forming an Operation and Maintenance Agreement with the County during the Encroachment Permit process. It was important to consent to the agreement for the purpose of maintaining a fluid construction project and eliminate the potential extra cost associated with County Standards and Quality Control measures. Specific limits are shown on Exhibit A of the attached agreement and listed as follows:

- Yates Avenue - Second Street to Roche Street
- Roche Street - Yates Avenue to Worth Avenue
- Worth Avenue - Roche Street to a point 425 feet east of the northerly prolongation of Leggett Street
- Plano Street - Worth Avenue to 900 feet north

There is a mixture of current road conditions. The segment of Worth Avenue, east of Plano Street is in relatively good shape. All of Plano Street is in good condition. Yates Avenue, Roche Street and the remaining segment of Worth Avenue are in poor condition. Tulare County Resource Management Agency has allocated funds and committed to rehabilitating these poor road segments during fiscal year 12/13.

Upon approval of this agreement, the City will have the authority to design, construct, maintain, and issue public works permits within the above listed street segments. The agencies' legal counsels have reviewed the agreement and both have found it to be acceptable.

RECOMMENDATION: That City Council:

1. Approve the City/County Agreement for a portion of Yates Avenue, Roche Street, Worth Avenue and Plano Street as written;

2. Authorize the Mayor and City Clerk to execute two (2) agreements; and

3. Authorize the City Clerk to forward the agreements to the Tulare County Board of Supervisors for their action.

ATTACHMENTS: Locator Map
City - County Maintenance Agreement w/ Exhibit
City\County Maintenance Agreement
Martin Hill Project

GENERALLY LOCATED IN SECTION 1, TOWNSHIP 22 SOUTH,
RANGE 27 EAST, AND A PORTION OF SECTION 6,
TOWNSHIP 22 SOUTH, RANGE 28 EAST,
MOUNT DIABLO BASE AND MERIDIAN,
IN THE COUNTY OF TULARE, STATE OF CALIFORNIA
AGREEMENT REGARDING A PORTION OF
YATES AND WORTH AVENUES AND ROCHE AND PLANO
STREETS

THIS AGREEMENT is entered into this _____ day of ______________________, 2012, between
the COUNTY OF TULARE, referred to as COUNTY, and the CITY OF PORTERVILLE, referred to as CITY,
with reference to the following:

A. WHEREAS, Yates Avenue from 2nd Street to Roche Street, Roche Street from Yates Avenue to
Worth Avenue, Worth Avenue from Roche Street to 1000 feet west of Crestview Street, and Plano
Street from Worth Avenue to 900 feet north are COUNTY-maintained roadways as defined on
the City / County Maintenance Agreement Exhibit attached hereto; and

B. WHEREAS, CITY in construction of water transmission lines, has requested construction of
special construction improvements that exceed County standards; and

C. WHEREAS, City desires to undertake such special improvements construction at this time
and County is willing to allow City to undertake such construction; and

D. WHEREAS, Government Code section 54981 authorizes COUNTY and CITY to contract for
the improvement, maintenance, repair and operation by City of streets and highways within
COUNTY’S jurisdiction.

ACCORDINGLY, IT IS AGREED:

1. COUNTY authorizes CITY to undertake, at no risk or expense to COUNTY, any construction
reconstruction and/or maintenance of Yates Avenue from 2nd Street to Roche Street, Roche Street
from Yates Avenue to Worth Avenue, Worth Avenue from Roche Street to point 425 feet east of the
northerly prolongation of Leggett Street, and Plano Street from Worth Avenue to 900 feet north. The
specific portions are more particularly identified in the City / County Maintenance Agreement
Exhibit which is attached hereto and incorporated herein by this reference.

2. CITY agrees to construct said improvements in accordance with all applicable Federal, State,
and local laws, regulations and directives, with the exception of COUNTY’S road standards. CITY
shall provide and administer all encroachment permits and other controls required by state and local

Tulare County Agreement No.____________

05/22/2012
laws, regulations and ordinances, provided that, in doing so, CITY need not require that said improvements be constructed to COUNTY'S road standards.

3. CITY and COUNTY agree that no further authorization, encroachment permits, oversight, input or requirement other than as required or authorized by this Agreement shall be required by COUNTY for any of CITY's responsibilities under this agreement, including the acquisition of additional right of way, and construction of improvements, including traffic signal installations, as deemed necessary by CITY.

4. The term of this Agreement is indefinite and shall continue until such time as the referenced segments of Yates, Worth, Roche, and Plano is annexed to CITY. The indemnity provisions contained in paragraph 7 of this Agreement shall continue in full force and effect beyond expiration by annexation or termination of this Agreement by any other means.

5. CITY hereby agrees to pay all expenses arising out of the design, operation, maintenance, construction and/or upkeep of said portions of Yates, Worth, Roche, and Plano and hereby waives any claim against the COUNTY for any cost of design, operation, maintenance, construction and/or upkeep of said portion of Yates, Worth, Roche, and Plano.

6. This agreement shall become effective upon the date first written above.

7. From and after the effective date of this Agreement as noted in paragraph 6 above, CITY shall have all responsibility and liability for all activities and omissions related to the design, construction, upkeep, operation and maintenance, enforcement of all traffic and pedestrian safety laws and ordinances of said portion of Yates, Worth, Roche, and Plano, including its integration with any connecting roads and streets, and CITY shall hold harmless, defend and indemnify COUNTY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including, but not limited to court cost and attorney fees, death or injury to any person and/or damage to any property (including COUNTY property), arising out of or related to said design, construction, upkeep, operation, maintenance enforcement of all traffic and pedestrian safety laws and ordinances or integration by CITY, its agents, officers, independent contractors, developers and employees of said portion of Yates, Worth, Roche, and Plano, including its integration with any connecting roads and streets. CITY specifically agrees to hold harmless, defend and indemnify COUNTY for any and all claims arising out of COUNTY'S waiver of COUNTY'S road
standards and any actions or omissions by CITY in connection with any encroachment permit or other discretionary permit issued by CITY to facilitate this Agreement. This indemnification obligation shall continue beyond the term of this Agreement or any extension of this Agreement. CITY shall maintain adequate insurance coverage, either through policies issued by insurance companies or through self insurance reserves, to provide said indemnity to the COUNTY.

8. From and after the effective date of this Agreement, CITY shall enforce all traffic and pedestrian safety laws and ordinances and issue encroachment permits on said portions of Yates, Worth, Roche, and Plano and COUNTY shall have no responsibility or liability therefore.

9. CITY shall maintain complete and accurate records with respect to all works of improvement authorized by this Agreement.

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

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

COUNTY:  RMA Director
Government Plaza
5961 S. Mooney Blvd.
Visalia, CA 93277

(Fax No.: (559) 730-2653 / Phone No. (559) 624-7000))

CITY:  City Manager
291 N. Main St.
Porterville, CA 93257

(Fax No.: (559) 715-4013/ Phone No. (559) 782-7466))

Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

12. This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.
13. Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

14. This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. This Agreement is entered into and shall be performed in Tulare County, California. CITY waives the removal provisions of California code of Civil Procedure Section 394.

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

16. The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

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

18. Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to affect the purposes of this Agreement.

19. CITY expressly agrees that it will not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.
THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

BY ____________________________
Chairman, Board of Supervisors

ATTEST: Jean M. Rousseau, County Administrative Officer/Clerk of the Board of Supervisors of the County of Tulare

By ____________________________
Deputy Clerk

Approved as to Form
County Counsel

By ____________________________
Deputy

CITY OF PORTERVILLE

BY ____________________________
John D. Lollis, City Manager

ATTEST:
Chief Deputy City Clerk of the City of Porterville

BY ____________________________
Patrice Hildreth, Chief Deputy City Clerk

Approved as to Form

BY ____________________________
City Attorney

05/22/2012
SUBJECT: APPROVAL OF AMENDMENT NO. 3 TO JOINT POWERS AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND TULARE COUNTY HEALTH AND HUMAN SERVICES AGENCY

SOURCE: Public Works Department – Field Services Division

COMMENT: The City entered into an agreement with Tulare County Health and Human Services Agency (TCHHSA) on September 29, 2009, to establish a Household Hazardous Waste (HHW) Collection Facility in Porterville. This agreement is for a Recycle-Only HHW Collection Facility, which only accepts latex paint; used oil; used oil filters; antifreeze; spent lead-acid batteries; nickel-cadmium, alkaline, or carbon-zinc batteries; intact spent fluorescent lamps; and intact spent high intensity discharge (HID) lamps. The current agreement is set to expire on June 30, 2012; and TCHHSA would like to renew the agreement for another year.

The City of Porterville will continue to be responsible for providing the site, facility, and staffing for collection and documentation of the Collection Facility. TCHHSA will continue to be responsible for obtaining any necessary permits and provide equipment and collection containers to operate, transport and dispose of materials, and signage and flyers. The City’s annual cost of $2,000 is four (4) man hours monthly and is funded from the Solid Waste Fund.

Staff recommends that City Council authorize the Mayor to sign Amendment No. 3 to the agreement with Tulare County Health and Human Services Agency extending the original agreement for one more year.

RECOMMENDATION: That the City Council approve and authorize the Mayor to sign Amendment No. 3 to the Agreement with Tulare County Health and Human Services Agency

ATTACHMENTS:

1. Amendment No. 3 to Agreement between the City of Porterville and Tulare County Health and Human Services Agency

2. Agreement between the City of Porterville and Tulare County Health and Human Services Agency

P:\pubworks\General\Council\Approval of Amendment 3 to JPA Between COP and TCHHS Agency - 2012-06-05.doc

Dir Appropriated/Funded MB CM Item No. 5
THIRD AMENDMENT TO AGREEMENT

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

A. The COUNTY and CONTRACTOR entered into Agreement No. 24233, on September 29, 2009 to jointly establish and operate a recycle-only household hazardous waste collection facility ("Facility") as defined in California Health and Safety Code Section 25218.1(n) within the City of Porterville.

B. The COUNTY and CONTRACTOR agree to amend Agreement No.24233 to extend the date of termination to June 30, 2013.

C. This amendment shall become effective July 1, 2012.

ACCORDINGLY, IT IS AGREED:

I. Effective July 1, 2012 Paragraph 1 entitled Term in the original Agreement is hereby revised to identify the new termination date of June 30, 2013.

II. Except as provided above, all other terms and conditions of Agreement No. 24233 shall remain in full force and effect.

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

COUNTY OF TULARE

By ____________________________
Chairman, Board of Supervisors

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

By ____________________________
Deputy Clerk

CITY OF PORTERVILLE

Date:
By ____________________________
Title

Date:
By ____________________________
Title

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

Approved as to Form
County Counsel

By ____________________________ Dated ____________________________
Deputy
JOINT POWERS AGREEMENT

THIS AGREEMENT, is entered into as of 9/29/09, between the COUNTY OF TULARE, referred to as COUNTY, and the City of Porterville, referred to as CONTRACTOR, with reference to the following:

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

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

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

ACCORDINGLY, IT IS AGREED:

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

2. SERVICES TO BE PERFORMED: See attached EXHIBIT A

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

   City:  1. Provide and make available an appropriate site ("Site"), including such buildings as are available, for the Facility at its Corporation Yard located at 555 N. Prospect, Porterville, CA;
   2. Provide staff to oversee the Facility and receive, segregate, containerize and label recyclable household hazardous waste materials from the public during operating hours as established by the City.
   3. CITY shall limit materials to be accepted at the Facility to those recyclable household hazardous waste materials listed in paragraph 1 of subsection (b), Section 25218.8, Article 10.8, Chapter 6.5, Division 20, Health and Safety Code (see subsection c of Exhibit A).

TULARE COUNTY AGREEMENT NO. 24233
1. Obtain any necessary permits and Hazardous Waste Generator ID Numbers for the Facility;
2. Evaluate the suitability of existing buildings made available by CITY at the Site;
3. Provide such equipment, containers, and labels as may be necessary to operate the Facility;
4. Provide expertise and advice necessary to operate the Facility;
5. Transport, or arrange for transport, of recyclable household hazardous waste materials collected at the Facility for proper recycling or disposal.

Responsibilities are more particularly described in Exhibit A.

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

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

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

7. **COMPLIANCE WITH LAW:** The parties agree to jointly operate and maintain the Facility in accordance with applicable Federal, State, and local laws, regulations and directives, including, without limitation, those provided in Division 20, Chapter 6.5, Article 10.8 of the Health and Safety Code (commencing with Section 25218). With respect to CONTRACTOR’S employees, CONTRACTOR shall comply with all laws and regulations pertaining to wages and hours, state and federal income tax, unemployment insurance, Social Security, disability insurance, workers’ compensation insurance, and discrimination in employment.

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

9. **INDEPENDENT CONTRACTOR STATUS:**
   
   (a) This Agreement is entered into by both parties with the express understanding that CONTRACTOR will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute the CONTRACTOR or any of its agents, employees or officers as an agent, employee or officer of COUNTY.
(b) CONTRACTOR agrees to advise everyone it assigns or hires to perform any
duty under this agreement that they are not employees of COUNTY. Subject to any
performance criteria contained in this Agreement, CONTRACTOR shall be solely
responsible for determining the means and methods of performing the specified services
and COUNTY shall have no right to control or exercise any supervision over
CONTRACTOR as to how the services will be performed. As CONTRACTOR is not
COUNTY’S employee, CONTRACTOR is responsible for paying all required state and
federal taxes. In particular, COUNTY will not:

1. Withhold FICA (Social Security) from CONTRACTOR’S
   payments.
2. Make state or federal unemployment insurance contributions
   on CONTRACTOR’S behalf.
3. Withhold state or federal income tax from payments to
   CONTRACTOR.
4. Make disability insurance contributions on behalf of
   CONTRACTOR.
5. Obtain unemployment compensation insurance on behalf of
   CONTRACTOR.

(c) Notwithstanding this independent contractor relationship, COUNTY shall have
the right to monitor and evaluate the performance of CONTRACTOR to assure
compliance with this Agreement.

10. **GOVERNING LAW:** This Agreement shall be interpreted and governed under
the laws of the State of California without reference to California conflicts of law
principles. The parties agree that this contract is made in and shall be performed in
Tulare County, California.

11. **RECORDS AND AUDIT:** CONTRACTOR shall maintain complete and
accurate records with respect to the services rendered and the costs incurred under this
Agreement. In addition, CONTRACTOR shall maintain complete and accurate records
with respect to any payments to employees or subcontractors. All such records shall be
prepared in accordance with generally accepted accounting procedures, shall be clearly
identified, and shall be kept readily accessible. Upon request, CONTRACTOR shall
make such records available within Tulare County to the Auditor of Tulare County and to
his agents and representatives, for the purpose of auditing and/or copying such records for
a period of five (5) years from the date of final payment under this Agreement.

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

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

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

14. INDEMNIFICATION: COUNTY and CONTRACTOR shall hold each other harmless, defend and indemnify their respective agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, arising out of the activities of COUNTY or CONTRACTOR or their agents, officers and employees under this Agreement. This indemnification shall be provided by each party to the other party regarding its own activities undertaken pursuant to this Agreement, or as a result of the relationship thereby created, including any claims that may be made against either party by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, or any claims made against either party alleging civil rights violations by such party under Government Code section 12920 et seq. (California Fair Employment and Housing Act). This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

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

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

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

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

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

(c) **Effects of Termination:** Expiration or termination of this Agreement shall
not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. Where CONTRACTOR’s services have been terminated by the County, said termination will not affect any rights of the County to recover damages against the CONTRACTOR.

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

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

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

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

20. NOTICES:

(a) Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:
COUNTY:
CONTRACT UNIT
TULARE HEALTH & HUMAN SERVICES AGENCY
5957 S. Mooney Boulevard
Visalia, CA 93277
Phone No.: 559-737-4686
Fax No.: 559-737-4059

CONTRACTOR:
CITY OF PORTERVILLE
291 N. Main Street
Porterville, CA 93257-3737

Phone No.: (559) 782-7514
Fax No.: (559) 782-8937

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

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

22. DISPUTE RESOLUTION: If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute.
23. **FURTHER ASSURANCES:** Each party will execute any additional documents and perform any further acts that may be reasonably required to effect the purposes of this Agreement.

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

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

26. **NO THIRD-PARTY BENEFICIARIES INTENDED:** Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

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

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

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

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

31. **ASSURANCES OF NON-DISCRIMINATION:** CONTRACTOR shall not discriminate in employment or in the provision of services on the basis of any
characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

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

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

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

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

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

COUNTY OF TULARE

Date: 9/29/09
BY
Chairman, Board of Supervisors

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

CONTRACTOR
City of Porterville

Date: 9/1-09
By
TITLE Mayor

Date: 9/2/09
By
TITLE City Manager

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

By
Deputy 2009765

Date 9/10/2009
FIRST AMENDMENT TO AGREEMENT

Tulare County Agreement Number 24233 is amended on July 27, 2010 between the COUNTY OF TULARE, hereinafter referred to as “COUNTY” and CITY OF PORTERVILLE, hereinafter referred to as “CONTRACTOR” with reference to the following:

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

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

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

ACCORDINGLY, IT IS AGREED:

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

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

COUNTY OF TULARE
By J. Thomas Stone
Chairman, Board of Supervisors

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

CITY OF PORTERVILLE
By __________
Title Mayor

Date: 6-22-10

Date: 6-23-10

By __________
Title City Clerk

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

Approved as to Form
County Counsel

By ____________________________ Dated __________
Deputy

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BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF:
Approval of amendment to Agreement No. 24233 with the City of Porterville.

) ) RESOLUTION NO. 2011-0518
) AGREEMENT NO. 24233-B

UPON MOTION OF SUPERVISOR COX, SECONDED BY SUPERVISOR
VANDER POEL, THE FOLLOWING WAS ADOPTED BY THE BOARD OF
SUPERVISORS, AT AN OFFICIAL MEETING HELD JULY 12, 2011, BY THE
FOLLOWING VOTE:

AYES: SUPERVISORS ISHIDA, VANDER POEL, COX AND ENNIS
NOES: NONE
ABSTAIN: NONE
ABSENT: SUPERVISOR WORTHLEY

ATTEST: JEAN M. ROUSSEAU
COUNTY ADMINISTRATIVE OFFICER/CLERK, BOARD OF SUPERVISORS

BY: Deputy Clerk

1. Ratified and approved an amendment to Agreement No. 24233 with the City of
Porterville for the Recycle-Only Household Hazardous Waste Program, retroactive
to July 1, 2011 through June 30, 2012. This agreement is retroactive due to
inadvertent delays in obtaining authorized signatures on the amendment. It was
impracticable for the Board to take action before July 1, 2011 due to the time
needed to process, prepare, and submit the agenda item;

2. Found that the Board had authority to enter into the proposed agreement as of July
1, 2011 and that it was in the County’s best interest to enter into the agreement on
that date; and

3. Authorized the Chairman of the Board to sign three (3) copies of the amendment.
SECOND AMENDMENT TO AGREEMENT

Tulare County Agreement Number 24233 is amended on July 12, 2011, between the COUNTY OF TULARE, hereinafter referred to as “COUNTY” and CITY OF PORTERVILLE, hereinafter referred to as “CONTRACTOR” with reference to the following:

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

B. The COUNTY and CONTRACTOR agree to amend Agreement No. 24233 to extend the date of termination to June 30, 2012.

C. This amendment shall become effective July 1, 2011.

ACCORDINGLY, IT IS AGREED:

I. Effective July 1, 2011 Paragraph 1 entitled Term in the original Agreement is hereby revised to identify the new termination date of June 30, 2012.

II. Except as provided above, all other terms and conditions of Agreement No. 24233 shall remain in full force and effect.

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

COUNTY OF TULARE:

By [Signature]
Chairman, Board of Supervisors

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

By [Signature]
Deputy Clerk

CITY OF PORTERVILLE

By [Signature]
Title

By [Signature]
Title City Manager

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

Approved as to Form
County Counsel

By [Signature]
Deputy

Dated [Signature]

H:\Paralegal\Contracts\2011 Agreements\Porterville,City of Joint Powers\1st Amendment.doc
COUNCIL AGENDA: JUNE 5, 2012

SUBJECT: APPROVAL OF A RESOLUTION PROCLAIMING THE CITY OF PORTERVILLE AS A “SHARE THE ROAD” CITY

SOURCE: Public Works Department - Engineering Division

COMMENT: The City of Porterville, as an active member of Tulare County Association of Governments (TCAG) would like to proclaim support of Tulare County’s “Share The Road” Program which endeavors to make our roads safer to all, specifically bicyclists, pedestrians, and others who may be vulnerable to vehicular traffic on the roads.

Approval of the resolution will send a message to our local citizens, that the City and its elected Council are committed to safety and would like to promote the health and well-being of the City’s residents that walk or bike on City roads through education of the public regarding bicycle user safety tips, the implementation of additional bicycle signage and increased enforcement of pedestrian, bicycle and vehicular laws.

The Public Works Department requests the City Council consider and approve this resolution designating the City of Porterville as a “Share the Road” City.

RECOMMENDATION: That the City Council:

1. Approve the attached resolution affirming the City Council’s support and proclaim the City of Porterville as a “Share the Road” City;

2. Support the goals and ideals of the “Share the Road” designation as outlined by the Tulare County “Share the Road” Committee; and

3. Improve the safety and enjoyment of all modes of transportation that utilize the City’s roadway system.

ATTACHMENT: Resolution

P:\pubworks\General\Council\Approval of Resolution Proclaiming City a Share the Road - 2012-06-05.doc
RESOLUTION NO. _______ - 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE PROCLAMING THE CITY OF PORTERVILLE AS A "SHARE THE ROAD" CITY

WHEREAS, the National Electronic Injury Surveillance System (NEISS) estimates there are a total of approximately 69 bicycle related injuries per thousand riders each year in the United States; and

WHEREAS, nearly three-quarters of bicycle related injuries treated in Hospital Emergency Rooms involve children under the age of 15; and

WHEREAS, it is estimated that there are nearly one million medically-attended injuries involving bicycles every year at a cost of approximately $8 billion annually; and

WHEREAS, approximately 53% of the injuries occur on roadways designed for motorized vehicles, approximately 15% of the injuries occurred as a result of collisions with moving objects, 13% involve collisions with non-moving objects, and 11% were the result of performing stunts on bicycles; and

WHEREAS, 88% of the victims of bicycle related injuries were not wearing helmets at the time of the incident; and

WHEREAS, the National Household Travel Survey (NHTS) estimates there are 42 billion walking trips nationwide each year; and

WHEREAS, 25% of those walking trips are for recreational purposes and approximately 6% are for commuting to school; and

WHEREAS, both of these modes of transportation share the road with motorized vehicles in the City of Porterville; and

WHEREAS, the California Center for Public Health Advocacy (2010) found that 43% of fifth, seventh, and ninth graders in Tulare County are overweight or obese and that policies promoting safe walking or bicycling to school encourage children’s physical activities and a healthy weight; and

WHEREAS, education is key to improving the safety for all users of City of Porterville’s roads by imparting the basic knowledge of the appropriate safety practices and the Rules of the Road for all modes of transportation utilizing City roadways; and

WHEREAS, the City of Porterville can best promote the safety of all transportation modes utilizing City roads by displaying a position impressing upon pedestrians, bicyclists, agricultural equipment, and motor vehicle operators the importance of courtesy, common sense, and obeying the rules of the road when utilizing the City roadway system;
NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Porterville, does hereby proclaim the City of Porterville as a "Share the Road" City and challenges all users of the City road system to work together through cooperation, courtesy, and observance of the laws governing the use of the public road system, and in doing so, improve the safety and enjoyment for all modes of transportation.

PASSED, APPROVED and ADOPTED this 5th day of June, 2012.

ATTEST:
John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk

Ronald L. Irish, Mayor
COUNCIL AGENDA: JUNE 5, 2012

SUBJECT:  AUTHORIZATION TO NEGOTIATE A CONTRACT – TRANSIT ADMINISTRATOR

SOURCE:  Public Works Department - Engineering Division

COMMENT:  On May 10, 2012, the City of Porterville received two proposals for Transit Administrator services. The current professional services contract with Mr. Richard Tree, Sierra Management, expires June 30, 2012.

Proposals were received from Sierra Management, Porterville, CA and from MV Transportation, Fairfield, CA. The two proposals were very thorough and addressed the City’s concerns and expectations. The evaluation committee members were unanimous in their assessment of the proposals ranking Sierra Management as the top proposer. The average scores for each of the proposers are as follows:

Sierra Management 89.75
61 W. Oak Avenue
Porterville, CA

MV Transportation 87.5
4620 Westamerica Drive
Fairfield, CA 94534

Staff requests Council authorization to negotiate a Transit Administrator Services contract with Sierra Management. The term of the contract is for 5-years with an option to extend for an additional 5-years. Duties include, but are not limited to, planning, monitoring and the preparation of transit grants, financial administration, marketing and most importantly, the continued research and programming for state and federal funds. The complete scope of services is attached for Council’s review. Staff estimates the value of the professional services contract at $85,000 to $90,000. The current contract amount for Transit Administration services is $86,476.

RECOMMENDATION:  That the City Council:

1. Direct the Public Works Director to meet with Sierra Management for the purpose of negotiating a 5-year Transit Administrator Services contract;

Dir Approved/Funded  MB CM Item No. 7
2. If successful, authorize the Mayor to execute the Transit Administrator Services contract with Sierra Management;

3. Authorize the Public Works Director to negotiate a Transit Administrator Services contract with MV Transportation if negotiations with Sierra Management are unsuccessful; and

4. If successful, authorize the Mayor to execute the Transit Administrator Services contract with MV Transportation.

ATTACHMENT: Scope of Services
TRANSPORT ADMINISTRATION - SCOPE OF WORK

Contractor shall provide the City of Porterville with Transit Administration services. These services will achieve the following:

1. Provide public transportation administration assistance to maintain ongoing support for the City’s general public transit service, to ensure efficient and effective operations for residents of Porterville, and to maximize existing and potential transit funds to the City.

2. Maximize the City’s use of Federal, State, and Local Transportation Funds (LTF). Funding sources include those from the Federal Transit Administration (FTA), California Transportation Development Act (TDA), State Proposition 1B (PTMISEA Funds), Office of Homeland Security, and Measure R.

3. Identify and develop new funding resources for the City’s transportation needs, including public transportation, facilities, transportation and environmental enhancement, capital equipment, and potential transportation air quality/congestion management-related projects.

4. Ensure that the City is represented at key transportation-related meetings, is fully informed of important issues, and actively participates in the transportation planning decision-making processes.

5. Work closely with City, County, and contracted staff to evaluate the City’s transit needs, secure resources, and implement and modify services to meet such needs.

6. Recommend policies and strategies to the City staff to most effectively meet community objectives and to deal with current issues; keep City staff informed of Porterville Transit operations and programs.

Transit administration services will promote maximum coordination of the City of Porterville’s efforts with Federal, State and local transportation planning agencies and will promote fiscal policies and efficient and effective City operations. The tasks below reflect fundamental planning efforts and requirements to ensure dynamic and successful implementation of services within the City of Porterville. They represent activities that directly impact the performance of the City and are designed to result in tangible, on-going efficiencies.
COUNCIL AGENDA: JUNE 5, 2012

SUBJECT: APPROVAL OF ANNUAL TRANSPORTATION AGREEMENT WITH COUNTY OF TULARE

SOURCE: Public Works Department - Transit

COMMENT: Since 1983, the City of Porterville has maintained annual agreements with the County of Tulare to provide contract transit service to residents within the unincorporated urban areas of the community, as depicted in the attached Service Area Boundary Map. The current agreement expires June 30, 2012, and it is proposed the attached successor agreement be approved and maintained for FY 2012/2013.

Traditionally, the County has shared in the net operating cost of the system, i.e., total costs less farebox revenues in proportion to the ridership percentage from the unincorporated area as experienced over the previous agreement year. However, the City’s LTF claim is delayed several months due to the closing of the City’s financials. In order to expedite the City’s LTF claim, the County and City agreed to a standard 3% increase over the previous agreement. Once the year-end financials have been finalized, staff will prepare the LTF calculations and modify the agreement based on the finalized operating costs and ridership percentages and make any adjustment to the agreement for the upcoming year.

The County’s contribution to City transit operations for the FY 2012/2013 agreement will be $348,010, the agreed upon 3% increase from last year’s contribution of $337,874.

RECOMMENDATION: That the City Council:

1. Enter into an agreement with the County of Tulare for FY 2012/2013 to provide service to County residents within the Service Area Boundary; and

2. Authorize the Mayor to execute the Agreement on behalf of the City.

ATTACHMENTS: Service Area Boundary Map
City/County Transit Agreement

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[Signature]

Appropriated/Funded CM

Item No. 8
AGREEMENT

THIS AGREEMENT, is entered into as of this ___ day of ____________, 2012, by
and between the COUNTY OF TULARE, hereinafter referred to as the “County”, and the CITY
OF PORTERVILLE, hereinafter referred to as the “City”.

WITNESSETH:

WHEREAS, the County and the City desire to coordinate their respective public
transportation systems in the Porterville urbanized area; and

WHEREAS, there are and will continue to be citizens of the County who can reasonably be
served by the City's transit system and there are and will continue to be citizens of the City who
can reasonably be served by the County's transit system; and

WHEREAS, the County and the City recognize the goals of providing a transportation
system to the general public at a reasonable fare and that providing coordinated public
transportation service within the Porterville urbanized area; and

WHEREAS, the County and the City desire to provide for the Joint Exercise of Powers for
the purpose of providing and maintaining public transportation systems in the Porterville
urbanized area;

NOW, THEREFORE, County and City mutually agree as follows:

1. Scope of Work. The County and City shall each control, manage, and operate a
separate transit system. The City and County shall furnish each other thirty (30) days prior
written notice of any and all service level and fare level changes.

   (a) County. The County shall provide transit service to those residents of the
City desiring to use the regularly scheduled service of the County transit system. The
County shall establish bus stop location(s) within the City which will interface with
the City bus stop locations and facilitate system transfers. The County stop(s) shall be
established at locations acceptable to the City. Approval on behalf of the City shall
be given by the City Transit Coordinator.

   (b) City. The City shall establish a series of bus stop locations within the
County. The City stops shall be established at locations acceptable to the County.
Approval on behalf of the County shall be given by the Director of Transportation.
The City shall provide transit service to County residents desiring transit service
within the urbanized service area as set forth in Exhibit “A” which is attached hereto
and made a part hereof by this reference.

2. Management-County. The County shall manage the County transit system in an
appropriate manner, insuring cost effective operation, including marketing the system in a
professional manner and collecting fares from riders on the County transit system.

-1-

Tulare County Agreement No. ____________________________
3. **Management-City.** The City shall manage the City transit system in an appropriate manner, insuring cost effective operation, including marketing the system in a professional manner and collecting fares from riders on the City transit system.

4. **Compensation.** The County shall compensate the City for service to County residents living in the herein agreed upon service area. Compensation shall be limited to a percentage of the operating costs of the City's Transit System. The term “operating cost” as used in this Agreement shall be defined as all costs in the operating expense object classes of the Uniform Systems of Accounts for Public Transit Operators adopted by the State Controller pursuant to Public Utilities Code Section 99243.

Compensation for the period July 1, 2012 through June 30, 2013, will be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Demand Response</th>
<th>Route Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>County LTF (See Below)</td>
<td>$199,010</td>
<td>$395,499</td>
</tr>
<tr>
<td>FTA Section 5307 Credit</td>
<td>($63,859)</td>
<td>($102,940)</td>
</tr>
<tr>
<td>Fare Box Credit</td>
<td>($11,189)</td>
<td>($92,734)</td>
</tr>
<tr>
<td>Depreciation</td>
<td>$4,602</td>
<td>$19,621</td>
</tr>
<tr>
<td><strong>Total Payment</strong></td>
<td>$128,564</td>
<td>$219,446</td>
</tr>
</tbody>
</table>

5. **Authorization of Payment.** FTA Section 5307 Funds will be claimed by the City on the County's behalf. The County by this Agreement authorizes the Tulare County Association of Governments to transfer $348,010 of State Transit Assistance Funds, and/or Local Transportation Funds from the County's 2012/13 Apportionment to the City of Porterville's Apportionment. The County further authorizes the City to claim said $348,010 as full payment for services under this Agreement. In case of termination of this Agreement prior to June 30, 2013, the County agrees to compensate the City for a proportional amount of the sum of $348,010 based upon the number of days the services were provided by the City during a 365 day period.

6. **FTA Funds.** Per the 2000 Census, the Porterville urbanized area has a population of 59,961; 39,615 (66.0%) of which are City residents, and 20,346 (34.0%) of which are County residents. The Porterville Urbanized Area is eligible to receive Federal Transit Administration (FTA) Funds from Section 5307. The City of Porterville will be the claimant of these funds. The City will, at the request of the County, claim and transmit up to 34% of said funds for use by the County for eligible purposes under FTA Section 5307. In no case shall the amount transmitted or credited to the County exceed 34% of the total available. Any Section 5307 Funds which are to be transmitted to the County shall be handled under a separate agreement.

7. **Renegotiation.** In the event a contract between the Federal Transit Administration and the City of Porterville is not executed by June 30, 2013 for the Section
5307 Funds specified in paragraphs 4, 5 and 6 or in the event that $166,799 exceeds 34% of
the total FTA Section 5307 funds available to the Porterville urbanized area, this contract
will be renegotiated to reflect this condition.

8. **Drivers.** The parties shall require that all transit drivers meet all licensing
requirements of the State of California.

9. **Indemnification-City.** City shall hold harmless, defend and indemnify County,
its agents, officers and employees from and against any liability, claims, actions, costs,
damages or losses of any kind, including death or injury to any person and/or damage to
property, arising out of the activities of City or its agents, officers and employees under this
Agreement. This indemnification specifically includes any claims that may be made
against County by any taxing authority asserting that an employer-employee relationship
exists by reason of this Agreement. This indemnification obligation shall continue beyond
the term of this Agreement as to any acts or omissions occurring under this Agreement or
any extension of this Agreement.

10. **Indemnification-County.** County shall hold harmless, defend and indemnify
City, its agents, officers and employees from and against any liability, claims, actions,
costs, damages or losses of any kind, including death or injury to any person and/or damage
to property, arising out of the activities of County or its agents, officers and employees
under this Agreement, and any claims made against County alleging civil rights violations
by City under Government Code section 12920 et seq. (California Fair Employment and
Housing Act). This indemnification obligation shall continue beyond the term of this
Agreement as to any acts or omissions occurring under this Agreement or any extension of
this Agreement.

11. **Insurance-Liability.** The City and the County shall each provide comprehensive
general public liability and comprehensive automotive liability insurance with single limit
coverage of not less than $5,000,000 or equivalent self-insurance covering their activities
under this Agreement. Prior to commencing operations, each party shall file with the Clerk
of the other party certificates of insurance evidencing the coverage required herein and
naming the other party, its officers, agents and employees as additional insured’s. Such
certificates shall state that the named additional insured’s are not responsible for the
payment of any premium or assessment and shall provide that in the event of a cancellation
or material change of policy, the insurer shall give the named additional insured’s no less
than thirty (30) days advance written notice of such cancellation or change. Upon request,
each party shall provide the other with a complete copy of the insurance policy or policies
or evidence and terms of self-insurance as required herein.
The parties agree, during the term of the Agreement, to maintain at their own expense (or require of their independent contractors) all necessary insurance for their respective officers, employees, and agents, including but not limited to workers' compensation, disability and unemployment insurance in accordance with state statutory requirements and to provide certificates of such insurance or other evidence of compliance to the other party upon request. The insurance, and evidence thereof, required by this Agreement may be provided either directly by the parties or, if a party contracts with an independent contractor/operator to provide the services required by this Agreement, by the operator of that party's system as deemed appropriate by such party.

12. **Term of Agreement.** This Agreement shall become effective July 1, 2012 and shall continue in full force and effect until June 30, 2013 unless terminated earlier, as herein provided.

13. **Termination.** The right to terminate this Agreement under this provision may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

   (a) **Without Cause.** Either party shall have the right to terminate this Agreement without cause by giving the other party SIXTY (60) days prior written notice of its intention to terminate pursuant to this provision, specifying the date of termination.

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

   (i) be adjudged a bankrupt; or

   (ii) become insolvent or have a receiver appointed, or

   (iii) make a general assignment for the benefit of creditors, or

   (iv) suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or

   (v) materially breach this Agreement.

For any of the occurrences except item (v), termination may be effected upon written notice by the terminating party specifying the date of the termination. Upon a material breach, the Agreement may be terminated following the failure of the defaulting party to remedy the breach to the satisfaction of the non-defaulting party within FIFTEEN (15) days of written notice specifying the breach. If the breach is not remedied within that FIFTEEN (15) day period, the non-defaulting party may terminate the Agreement on further written notice specifying the date of termination.
If the nature of the breach is such that it cannot be cured within a FIFTEEN (15) day period, the defaulting party may, submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting party consents to that proposal in writing, which consent shall not be unreasonably withheld, the defaulting party shall immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate upon written notice specifying the date of termination.

(c) Effects of Termination. Termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities.

14. Notices. Any notices to be given shall be written and served either by personal delivery or by first class mail, postage prepaid and addressed as follows:

   County: Director of Transportation
   Resource Management Agency
   5961 S. Mooney Blvd.
   Visalia, CA 93277

   City: Transit Coordinator
   City of Porterville
   291 N. Main Street
   Porterville, CA 93257

15. Integration. This Agreement constitutes the sole and only Agreement between the parties hereto as to the services to be provided hereunder. Any prior agreements, promises, negotiations or representations as to such services not expressly referred to herein are of no force and effect.

16. Modification. The City and County shall furnish each other thirty (30) days prior written notice of any and all recommended service level and fare level changes. The City shall request and receive approval from the County Director of Transportation prior to any changes in service levels or fare levels in unincorporated areas of the service area. Except for said changes, this Agreement shall be modified or amended only with the prior written consent of both parties.

17. Assignment. Neither party shall assign or transfer any of the rights or privileges or any parts thereof of this Agreement without the other party's prior written consent.

18. Records. Each party agrees to maintain all books, records, documents, and other evidence pertaining to this Agreement, any disputes surrounding the subject matter of this
Agreement, and any other related circumstances in accordance with generally accepted accounting principles and practices. Each party shall allow the other party’s agents or representative’s access to such records for inspection, audit, and copying during normal business hours. Each party shall provide further facilities for such access and inspection.

19. **Surveys.** Either the City or the County may conduct periodic ridership surveys. Said surveys shall not interfere with the operation of the system.

20. **Legal Operation.** City and County each shall carry out its obligations under this Agreement in full compliance with all applicable federal, state and local laws, ordinances, rules and regulations.

21. **Construction.** This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.

22. **Governing Law.** This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. Any litigation arising out of this Agreement shall be brought in Tulare County California. City waives the removal provisions of California Code of Civil Procedure Section 394.

23. **Conflict with Laws or Regulations/Severability.** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. The remainder of the Agreement shall continue in full force and effect.

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

25. **No Third Party Beneficiaries.** Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

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

27. **Exhibits and Recitals.** The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

28. **Further Assurances.** Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to effect the purposes of this Agreement.
29. Assurances of Non-Discrimination. City and County expressly agrees that it will not discriminate in employment or the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

COUNTY OF TULARE

By ____________________________
Chairman, Board of Supervisors
"COUNTY"

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

By ____________________________
Deputy

CITY OF PORTERVILLE

By ____________________________
Mayor "CITY"

ATTEST: Clerk of City of Porterville

By ____________________________
Deputy

Approved as to Form,
County Counsel

Approved as to Form,
City Attorney

By ____________________________
Deputy

By ____________________________
City Attorney
SUBJECT: CHANGE THE PROJECT DESCRIPTION OF THE 2010-2011 PUBLIC TRANSPORTATION MODERNIZATION, IMPROVEMENT, AND SERVICE ENHANCEMENT ACCOUNT PROJECT

SOURCE: Public Works Department - Transit

COMMENT: The City of Porterville is an eligible project sponsor and receives state funding from the Public Transportation Modernization, Improvement and Service Enhancement Account (PTMISEA) for transit projects. On May 18, 2012, the City received notice that it was the recipient of a PTMISEA grant in the amount of $243,000. The funds should be received within the next 90 days.

At the time the grant was written, the City had not implemented the program to purchase electronic fareboxes. The purpose of the grant was to provide additional funding to purchase the electronic fareboxes if federal funds were not secured. As of August 2011, the electronic farebox project has been successfully completed and no additional funding was needed.

Staff is requesting authorization to submit the required corrective action plan to change the project description from the purchase of electronic fareboxes and spare parts to the purchase of a passenger information system and to provide the local funding match for several transit bus purchases planned in FY 12/13.

The City is currently in the process of implementing Porterville Transit's passenger information system, and staff was directed to find an available funding source, other than LTF, to complete the project. The authorization to change the project description to partly fund this project would satisfy Council's direction and save approximately $33,000 in LTF funds.

The City is also planning to purchase four transit vehicles during FY 12/13. Each of these vehicle purchases requires a local match for the federal funding. Under the Transportation Equity Act for the 21st Century, the City is authorized to use state bond funding, PTMISEA, as the local match on federally funded projects. With authorization to change the project description to include the purchase of transit vehicles, staff is estimating a savings of approximately $210,000 in LTF funds that have been allocated as the local match for these vehicles.

Dir Appropriated/Funded CM Item No. 9
RECOMMENDATION: That the City Council:

1. Approve the attached Resolution in support of amending the project description for the 2010-2011 Transit project; and

2. Authorize staff to submit the required corrective action plan.

ATTACHMENT: Resolution

P:\pub\work\General\Council\Transit - PTMSEA Corrective Action Plan - 2012-06-05.doc
RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE TO APPROVE AMENDING THE PTMISEA PROGRAM PROJECT DESCRIPTION FOR THE 2010-2011 PUBLIC TRANSPORTATION MODERNIZATION, IMPROVEMENT, AND SERVICE ENHANCEMENT ACCOUNT

WHEREAS, the City of Porterville is an eligible project sponsor and may receive state funding from the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) now or sometime in the future for transit projects; and

WHEREAS, the California Department of Transportation has developed guidelines for the purpose of administering and distributing PTMISEA funds to eligible project sponsors (local agencies); and

WHEREAS, Staff plans to change the project description from the purchase of electronic fareboxes and spare parts to the purchase of a passenger information system and the purchase of transit vehicles in combination with federal funding;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville approves amending the project description for the 2010-2011 Public Transportation Modernization, Improvement, and Service Enhancement Account.

PASSED, ADOPTED AND APPROVED this 5th day of June, 2012.

Ronald L. Irish, Mayor

ATTEST:
John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: AUTHORIZATION TO SUBMIT A LETTER OF NO PREJUDICE (LONP) TO CALTRANS FOR TRANSIT PROJECTS

SOURCE: Public Works Department - Transit

COMMENT: The Public Transportation Modernization, Improvement, and Service Enhancement Account Program (PTMISEA) was created by Proposition 1B, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006. Of the $19.925 billion available to transportation, $3.6 billion dollars was allocated to PTMISEA to be available to transit operators over a ten-year period. PTMISEA funds may be used for transit rehabilitation, safety or modernization improvements, capital service enhancements or expansions, new capital projects, bus rapid transit improvements, or rolling stock (buses and rail cars) procurement, rehabilitation or replacement. Funds in this account are appropriated annually by the Legislature formula distributions. TCAG receives the regional apportionment of these funds, which are distributed to agencies based upon population. Only agencies that are transit operators are eligible for an allocation of funds under State Transit Assistance per Public Utilities Code (PUC), Section 99314.

Assembly Bill 672 authorizes the California Transportation Commission (CTC) to approve a Letter of No Prejudice (LONP), which allows local agencies to proceed with their eligible projects using other sources of revenue prior to an allocation of funds with the expectation, but without guarantee, that the CTC will approve a Prop 1B PTMISEA fund allocation when bond funds become available. In the event that an allocation of Prop 1B PTMISEA funds for this project are not made available in time for project completion, having a LONP would give the City of Porterville the flexibility to use Measure R funds, and potentially be reimbursed at a later date. The funds approved by voters through Prop 1B are guaranteed; however, delays could occur due to the State’s difficulty in selling the required bonds.

Staff is requesting authorization to submit the required Letter of No Prejudice for both the 2010/11 Bus Stop Improvement project ($226,654) and the 2011/12 CNG Replacement Bus project ($243,000) for a total amount of $469,654.

Staff is also requesting authorization to advance Measure R funds to complete the two projects prior to actual allocation of Proposition
1B funds. The Measure R Transit advance will be repaid throughout the upcoming fiscal years with Prop 1B funds and the City's annual Measure R transit allocation.

RECOMMENDATION: That the City Council:

1. Approve the attached Resolution approving a Letter of No Prejudice from the City of Porterville;

2. Authorize the submission of the attached required Letter of No Prejudice (LONP) to Caltrans; and

3. Authorize the submission of the attached Letter of Advance – Measure R Transit Funds to TCAG.

ATTACHMENTS: Resolution
Letter of No Prejudice
Letter of Advance
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING A LETTER OF NO PREJUDICE FOR THE CITY OF PORTERVILLE FOR
THE BUS STOP IMPROVEMENT AND CNG TRANSIT BUS REPLACEMENT
PROJECTS

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality, and Port Security
bond act of 2006, approved by the voters as Proposition 1B on November 7, 2006,
authorized the issuance of $19.925 billion in State general obligation bonds for specific
transportation programs intended to relieve congestion, facilitate goods movement,
improve air quality, and enhance the safety of the State’s transportation system; and

WHEREAS, the State’s current economic condition has placed these programs
at risk due to the difficulty in selling bonds; and

WHEREAS, the authority and scope for a Letter of No Prejudice comes from
Government Code Section 8879.501, added by Chapter 463 (Assembly Bill 672) of the
Statutes of 2009. The Bill establishes guidelines for approval of Letters of No Prejudice
(LONP) for projects or project components approved for funding from the Public
Transportation Modernization, Improvement and Service Enhancement Account
(PTMISEA); and

WHEREAS, a project sponsored under PTMISEA may apply to Caltrans for a
LONP for an approved PTMISEA project; and

WHEREAS, the LONP allows the City of Porterville to expend its own Measure R
funds and incur reimbursable expenses for any component of a program project prior to
actual allocation of Proposition 1B funds; and

WHEREAS, Measure R Transit funds are to be advanced to the City of
Porterville in the amount of $469,654 for the construction of bus stop improvements and
the purchase of a CNG Replacement Transit Bus; and

WHEREAS, the Measure R Transit advance will be repaid throughout the
upcoming fiscal years with Proposition 1B PTMISEA funds and the City of Porterville’s
annual Measure R Transit allocation; and

WHEREAS, it is understood by the City of Porterville that proceeding with the
projects is done so at City of Porterville’s own risk, as project expense reimbursement
under the LONP is not guaranteed and depends on the availability of Proposition 1B
bond funds.
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville approves the submittal of a Letter of No Prejudice to Caltrans for approval of the City of Porterville’s Bus Stop Improvement and CNG Replacement Bus projects in the amount of $469,654.

PASSED, APPROVED, AND ADOPTED this 5th day of June, 2012.

__________________________________
Ronald L. Irish, Mayor

ATTEST:
John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
June 6, 2012

Ms. Wendy King, Branch Chief
California Department of Transportation
Division of Mass Transportation, MS39
PO Box 942874
Sacramento, CA 94274-001

Re: Letter of No Prejudice (LONP) for the City of Porterville, Proposition 1B – PTMISEA for the purchase of Bus Stop Improvements and CNG Transit Bus Projects

Dear Ms. King,

The City of Porterville, Porterville Transit, requests to enter into a Letter of No Prejudice (LONP) for the purchase of “Bus Stop Improvements” and “CNG Transit Bus” projects. The City of Porterville is the lead agency and TCAG is the project sponsor.

The specifics of this LONP request are presented below:

- The allocation requested under FY 10/11 GC 8879.55(a)(3)/PUC 99314 was $226,654, which is for the construction of bus stop improvements. The total project cost is estimated at $226,654.
- The allocation requested under FY 11/12 GC 8879.55(a)(3)/PUC 99314 was $243,000, which is match funding for the purchase of one CNG Transit Bus. The total project cost is estimated at $450,000 and the balance of the project will be from LTF funds.
- Approval of the LONP will allow the projects to proceed to procurement immediately.
- The alternative funding source that will be substituted for Porterville’s PTMISEA allocation, until the allocation is funded, is the City’s apportionment of Measure R Transit funds.
- Proof of commitment is attached to this letter in the form of the City of Porterville’s Resolution adopted by the Porterville City Council on June 5, 2012.

Thank you for your consideration of this request. Please contact me directly with any questions.

Sincerely,

Richard I. Tree
Transit Manager

cc: Christine Chavez, Regional Planner, TCAG
June 6, 2012

Mr. Ted Smalley
Executive Director
Tulare County Association of Governments
210 N. Church St., Suite B
Visalia, CA 93291

Re: Letter of Advance – Measure R Transit Funds

Dear Mr. Smalley,

The City programmed its 2010/11 and 2011/12 Prop 1B PTMISEA allocations for funding of the construction of bus stop improvements and the purchase of a CNG Replacement Transit Bus; however, due to delay by the State in selling bonds, Prop 1B funding has not occurred as originally planned.

At its meeting of June 5, 2012, the Porterville City Council authorized City staff to pursue Measure R Transit as a proposed funding source for these projects. This letter shall serve as the City of Porterville’s official “Letter of Advance,” requesting advance funds from the Measure R Transit Fund. The specifics of this Measure R Transit advance request are presented below:

- The allocation requested under FY 10/11 GC 8879.55(a)(3)/PUC 99314 was $226,654, which is for the construction of bus stop improvements. The total project cost is estimated at $226,654.
- The allocation requested under FY 11/12 GC 8879.55(a)(3)/PUC 99314 was $243,000, which is match funding for the purchase of one CNG Transit Bus. The total project cost is estimated at $450,000 and the balance of the project will be from LTF funds.
- The advance requested is $469,654 (as estimated in the 2009-2017 Expenditure Plan Worksheet).
- Approval of the Measure R Transit advance will allow the projects to proceed to procurement immediately.

Approval of the advance will allow the projects to proceed as planned. Thank you in advance for considering this request. Please direct any questions to Richard Tree, Transit Manager, (559) 782-7448 or rtree@ci.porterville.ca.us.

Sincerely,

John D. Lollis
City Manager
COUNCIL AGENDA: JUNE 5, 2012

SUBJECT: CALTIP BOARD MEMBER SELECTION

SOURCE: Public Works Department - Transit

COMMENT: On January 20, 2004, the City Council approved staff joining the California Transit Insurance Pool (CaltIP) for Liability Coverage and Vehicle Physical Damage Coverage for the City's transit fleet. By doing so, the City has realized significant savings in premiums over coverage previously purchased in the open market.

Every member of CaltIP is represented on the Board of Directors and play an active role in the organization. The Board meets twice yearly for study sessions to conduct business of the pool, as well as to keep Board Members informed of changes in the market that could impact transit insurance rates. In addition to stabilizing the insurance market by becoming a member of this transit insurance pool, we also receive the added benefits of excellent claims adjustors, an extremely professional management group directing the pool, and numerous training programs, all designed to improve risk management experience.

All Board Members are staff members of the entities belonging to the pool, with the majority being well versed in transit, finance or risk management. The costs incurred by the Board Member attending the CaltIP meetings are reimbursed to the City of Porterville by CaltIP.

Each entity is required to submit a Resolution designating a representative to serve as a Board Member of CaltIP. On April 5, 2011, Council approved Baldo Rodriguez as the Board Member, without an alternate. The City's Transit Manager currently attends the Board Meetings and reports to Mr. Rodriguez.

Staff is requesting authorization to appoint Patrice Hildreth as the City's Board Member, with Baldo Rodriguez serving as the alternate. Mrs. Hildreth currently represents the City as the Board Member of the RMA and has extensive experience working with Bickmore Risk Services, CaltIP's general administrator. The City's Transit Manager will also attend the Board Meetings for transit specific topics.

Dir [Signature] Appropriated/Funded [Signature] CM [Signature] Item No. 11
RECOMMENDATION: That the City Council:

1. Approve the attached Resolution designating Patrice Hildreth as the City's CalTIP Board Member and Baldo Rodriguez as the alternate designee; and

2. Authorize the Mayor to execute the Resolution for submission to CalTIP.

ATTACHMENT: Resolution Designating the City's Representative to CalTIP
RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
DESIGNATING THE CITY’S REPRESENTATIVE TO
THE CALTIP BOARD OF DIRECTORS

WHEREAS, the City Council acted on January 20, 2004, approving the City of Porterville’s membership in the California Transit Insurance Pool (CalTIP); and

WHEREAS, the City of Porterville wishes to designate a representative of the City of Porterville to attend the CalTIP Board of Directors meetings and represent the City in its best interests; and

NOW, THEREFORE, BE IT RESOLVED that effective June 5, 2012, Patrice Hildreth shall be designated CalTIP representative for the City of Porterville and, as such, is hereby authorized to be the CalTIP Board Member on behalf of the City of Porterville.

BE IT FURTHER RESOLVED that effective June 5, 2012, Baldo Rodriguez shall be designated CalTIP alternate representative for the City of Porterville and, as such, is hereby authorized to be the alternate CalTIP Board Member on behalf of the City of Porterville.

PASSED, APPROVED AND ADOPTED this 5th day of June, 2012.

Ronald L. Irish, Mayor

ATTEST:
John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: AIRPORT LEASE RENEWAL – LOT 31A

SOURCE: FINANCE DEPARTMENT/PURCHASING DIVISION

COMMENT: Mr. James Costa of Costa Spraying, Inc., is the current leaseholder of Lot 31A at the Porterville Municipal Airport. The lease will expire on June 30, 2012; however, the lease terms allow for options to extend the lease in five-year periods, provided the City receives a request to exercise the option 120 days prior to expiration. Paragraph 2 of the Lease Agreement (attached) further states the City’s granting of the option is discretionary, but will not be unreasonably withheld. We have received a request from Mr. Costa dated May 22, 2012, asking to continue his lease on Lot 31A. Staff recommends that Council waive the 120-day notice requirement and grant the five-year option to extend the lease to June 30, 2017.

RECOMMENDATION: That the Council approve the extension of the Lease Agreement between the City of Porterville and Mr. James Costa, Costa Spraying, Inc., of Tulare, CA, for Lot 31A at the Porterville Municipal Airport.

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

D.D. Appropriated/Funded C.M. Item No. 12
May 22, 2012

Susan Hartman
Purchasing Agent
City Of Porterville
291 North Main St.
Porterville, CA 93257

RE: Airport Hangar Lease, Lot 31A

Dear Ms. Hartman:

I am currently leasing Lot 31A at the Porterville Municipal Airport. The lease is due to expire on June 30th and I would like to exercise my five-year renewal option at the same price I am now leasing for.
I look forward to hearing from you.

Thank you,

James Costa
LEASE AGREEMENT

PORTERVILLE MUNICIPAL AIRPORT

THIS LEASE AGREEMENT ("Lease"), executed at Porterville, California the 17th day of June 1997, by and between the CITY OF PORTERVILLE, a charter city and municipal corporation of the State of California, hereinafter referred to as "City" and WESTAL CRAEGER, M.D., hereinafter referred to as "Lessee".

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

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

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

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1. Premises: Demised Premises: City, for and in consideration of the covenants, conditions, agreements, and stipulations herein set forth, does hereby demise and lease to Lessee, and Lessee hereby hires from City, those certain premises situated in the City of Porterville, State of California, described as Lot 22A at the Porterville Municipal Airport, more particularly described in Exhibit A being attached hereto and by this reference made a part hereof.

2. Term: The term of this lease shall commence on July 1, 1997, both parties having executed the same, and shall terminate on June 30, 2007, provided Lessee is not in default with respect to any of the conditions or covenants of this lease. Lessee shall have an option to request an extension of the terms hereof for additional periods of five (5) years, by giving written notice thereof to Lessor not less than 120 days prior to expiration of this agreement or any five (5) year extension. Lessor is not obligated to grant any extension but said option shall not be unreasonably withheld.
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT - CITY OF PORTERVILLE AND THE TULE RIVER TRIBE - FREEDOM FEST AND FIREWORKS SHOW

SOURCE: Finance Department

COMMENT: The City of Porterville and the Tule River Tribe will present the second annual Freedom Fest and Fireworks Show at the Porterville Sports Complex on June 30, 2012, from 4 p.m. to 9 p.m. This event will include live music, Tribal dances, food vendors, family activities, and a beer garden hosted by the Breakfast Lions Club.

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all departments involved. The requirements are listed on the attached copy of the application, agreement and Exhibit 'A.'

In addition, staff is requesting authorization to extend transit service operating hours and to operate a shuttle route from the downtown Transit Center to the Porterville Sports Complex on June 30, 2012. The Freedom Fest shuttle will operate from 4:00 p.m. to 10:00 p.m., departing every 40 minutes from the Transit Center, and vice versa from the Sports Complex.

Due to limited parking at the Sports Complex, parking will be allowed at the Porterville Fairgrounds during the event. Staff is requesting authorization to operate a free parking lot shuttle to and from the Porterville Fairgrounds and the Sports Complex from 5:00 p.m. to 10:00 p.m. The estimated cost to the City for this service is approximately $100.00.

RECOMMENDATION: That the City Council:
1. Approve the attached Community Civic Event Application and Agreement submitted by the City of Porterville and the Tule River Tribe, subject to the stated requirements contained in Exhibit 'A';
2. Authorize staff to operate a shuttle route to and from the Transit Center and Sports Complex from 4:00 p.m. to 10:00 p.m. on June 30, 2012; and
3. Authorize staff to operate a free parking lot shuttle to and from the Porterville Fairgrounds and Sports Complex during the event.

ATTACHMENT: Community Civic Event Application and Agreement, Exhibit 'A,' Outside Amplifier Permit Application.
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date: 5/29/2012  Event date: 6/30/2012  Event time: 4PM-9PM
Name of Event: Porterville Freedom Fest

Sponsoring organization: City of Porterville  PHONE #
Address: 291 N Main St
Authorized representative:  PHONE #
Address: 
Event chairperson:  PHONE #

Location of event (location map must be attached): Porterville Sports Complex, 2701 W. Scranton Ave.
Type of event: Live band, beer garden, Kid Fun Zone w/ family activities, Food Vendors, Fireworks Show
Nonprofit status determination: 

City services requested (an (fees associated with these services will be billed separately)

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<tr>
<th>Service</th>
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<th>No</th>
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<td>Barricades (quantity):</td>
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<tr>
<td>Police protection</td>
<td>Yes</td>
<td>No</td>
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<td>Street sweeping</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td>Refuse pickup</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td>Other:</td>
<td></td>
<td></td>
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</tbody>
</table>

Parks facility application required: Yes | No |
Attached |
Assembly permit required: Yes | No |
Attached |

STAFF COMMENTS (list special requirements or conditions for event):

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<th>Approve</th>
<th>Deny</th>
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<td>Bus Lic Spvr</td>
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<td>Pub Works Dir</td>
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<td>Comm Dev Dir</td>
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<td>Field Svscs Mgr</td>
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<tr>
<td>Fire Chief</td>
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<td>Parks Dir</td>
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<td>Police Chief</td>
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<td>Deputy City Mgr</td>
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CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

What constitutes a Community Civic Event?
A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures.

Authorization: This permit must be submitted NO LESS THAN 30 days PRIOR to the date of the event in order to obtain City Council approval.
City Code requirements:
- At least 48" must remain clear on sidewalks for pedestrian traffic.
- Do not block any entrance to or exit from buildings.
- Area must be accessible to emergency and safety personnel and vehicles.
- Electrical cords must be approved and installation checked by the Fire Department.

Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. The City of Porterville shall be named as additional insured. When the location of the event is in Downtown Porterville, the Porterville Redevelopment Agency must also be named as additional insured. The amounts of such insurance and any additional requirements are listed in Exhibit "A." A Certificate of Liability Insurance form sample is enclosed for your convenience. This original certificate shall be submitted to the Finance Department prior to the City of Porterville Council's approval.

Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include full liquor liability in an amount not less than one million dollars ($1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permitted, his/her agents or representatives pursuant the permit. Claims-made policies are not acceptable.

Health permit: Organization/Applicant will obtain or ensure that all participants obtain a 'Temporary Food Facilities' permit(s) from the Tulare County Public Health Department, if any food is to be served in connection with this Community Civic Event. To contact the Tulare County Environmental Health Department located at 5957 S. Mooney Blvd., Visalia, CA, 93277, call 559-733-6441, or fax information to 559-733-6932; or visit their website: www.tularehhso.org.

First aid station: Organization/Applicant will establish a first aid station, with clearly posted signs, to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 15-20(e), as amended, and the terms and conditions set forth by City Council and stated in Exhibit "A." The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind or character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of any kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees.

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<th>CITY OF PORTERVILLE</th>
<th>[Signature]</th>
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<tr>
<td>(Name of Organization)</td>
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2 of 4
CITY OF PORTERVILLE

VENDOR/PARTICIPANT LIST IN CONNECTION WITH THE APPLICATION AND
AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY
TO BE HELD ON PUBLIC PROPERTY

Name of event: Porterville Freedom Fest
Sponsoring organization: City of Porterville
Location: Sports Complex  Event date: 6/30/12 Event time: 4PM-9PM

All vendors are required to complete the business license permit form. List all firms, individuals, organizations, etc., that
will engage in selling at or participate in the above-named event. NO PERMIT WILL BE ISSUED WITHOUT THIS
INFORMATION. Vendors with no valid City of Porterville business license are required to pay $1 per day to the City, with
the exceptions of non-profit organizations. This form should be completed at the time of application, but must be
submitted NO LESS THAN ONE week prior to the event.

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address/Telephone</th>
<th>Business License required?</th>
<th>Type of Activity</th>
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<td>Need list prior to event</td>
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Municipal Code 15-1: ITINERANT VENDOR OR ITINERANT MERCHANT: All persons, both principal and agent, who engage in a temporary or transient
business in the city, selling or offering to sell goods, wares or merchandise or any other thing of value, with the intention of conducting such business for a period of
less than ninety (90) days, and who for the purpose of such business hires, leases or occupies any room, doorway, vacant lot, building or other place, for the exhibition
for sale of goods, wares, merchandise or other thing of value. If any such place, occupied or used for such business, is rented or leased for a period of less than ninety
(90) days, such fact shall be presumptive evidence that the business carried on therein is a transient business; and any person so engaged shall not be relieved from the
provisions of this section or from payment of the license taxes herein provided for such business, by reason of any temporary association with local dealer, trader,
merchant or auctioneer.
CITY OF PORTERVILLE
REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER
ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Porterville Freedom Fest

Sponsoring organization: City of Porterville

Event date: 6/30/12 Hours: 4PM-9PM

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:

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<tr>
<th>Street Name</th>
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<td>Parking lots and spaces</td>
<td>Location</td>
<td>Activity</td>
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<td>Sports Complex</td>
<td>Parking</td>
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JUNE 30, 2012

Business License Supervisor:  
   S. Hartman

Business License Division will require vendor list prior to event.

Public Works Director:  
   B. Rodriguez

Community Development Director:  
   B. Dunlap

Field Services Manager:  
   B. Styles

No comments.

Fire Chief:  
   M.G. Garcia

Parks and Leisure Services Director:  
   M. Stowe

Police Lieutenant:  
   D. Haynes

Event organizers to contact/coordinate police activities with Officer C. Jordan of the Porterville Police Department. All road closures Must be approved by the City Council and coordinated with Officer Jordan.

Administrative Services Manager:  
   P. Hildreth

See Page 2, Exhibit ‘A.’
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: City of Porterville
Event: Freedom Fest Beer Garden
Event Chairman: 
Location: Porterville Sports Complex
Date of Event: June 30, 2012

RISK MANAGEMENT: Conditions of Approval

That the Lions Breakfast Club provide a Certificate of Alcohol Liability Insurance Coverage, with respect to the Beer Garden, evidencing coverage of not less than $1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as ‘Additional Insured’ against all claims arising from, or in connection with, the Permittee’s operation of the Beer Garden.

A. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than $1,000.

B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less that A:VII, and the insurance company must be an ‘admitted’ insurer in the State of California.
CITY OF PORTERVILLE
OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-9 & 18-14)

This application must be submitted ten (10) days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

1 Name and home address of the applicant: City of Porterville
291 W Main St.

2 Address where amplification equipment is to be used: 2701 W. Scranton Ave

3 Names and addresses of all persons who will use or operate the amplification equipment:

4 Type of event for which amplification equipment will be used: Live Band, guitars, etc.

5 Dates and hours of operation of amplification equipment: 6/30/12 - 4 pm - 8 pm

6 A general description of the sound amplifying equipment to be used: Live music

Section 18-9 It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, Jukebox, record player, loudspeaker, musical instrument, mechanical device, machine, apparatus, or instrument for instrumentalization or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort.

The operation of any such instrument, phonograph, Jukebox, machine or device in such manner as to be plainly audible at a distance of one hundred feet (100') from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section. (Ord. Code § 9311)

Section 18-14 It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or connected any or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loudspeaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code § 9312)

Penal Code Section 415 (2) Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars ($400), or both such imprisonment and fine: (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

I hereby certify that I have read and answered all statements on this registration form and that they are true and correct.

Signature of Applicant

[Signature]

Date

5/29/12

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGES YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

City of Porterville, Chief of Police Designee

Date

5-29-12
CITY OF PORTERVILLE
Community Civic Event Application

FREEDOM FEST- June 30, 2012

Proposed Conditions/Requirements for 2012 Freedom Fest

➤ There shall be no closing or blocking of Scranton Avenue, nor shall any action be taken that may impede or otherwise interfere with the normal flow of traffic.

➤ Event organizers shall contact/coordinate activities and needed police involvement with Officer Carl Jordan, 559-782-7408/559-782-7400.

➤ The Beer Garden shall be established and clearly defined. Alcohol may only be sold and consumed within the designated beer garden. A minimum of two (2) security guards shall be assigned to control the Beer Garden while it is in operation. No persons under the age of 21 shall be allowed to enter the beer garden and no alcohol shall be allowed to leave the beer garden.

➤ Event organizers shall have applied and been granted a temporary license to sell alcohol, from the CA Dept. of Alcoholic Beverage Control.

➤ An Outside Amplifier Permit has been approved and granted. However, event organizers shall not allow music to be played so loud as to unreasonably disturb the peace and good order of the neighborhoods or business establishments in the surrounding area.

➤ Amplified music shall not continue after 9:00 p.m.

Dan Haynes, Lieutenant
Police Department- Services Division

EXHIBIT 'B'
SUBJECT:  APPROVAL FOR COMMUNITY CIVIC EVENT  
WORD OF VICTORY CHURCH – CHURCH COMMUNITY OUTREACH - JUNE 30, 2012

SOURCE:  Finance Department

COMMENT:  The Word of Victory Church is requesting approval to hold their annual Church Community Outreach event. This event, with carnival games and live music, will be held in the church parking lot and in front of the church on ‘E’ Street, Saturday, June 30, 2012, from 3:00 p.m. to 8:00 p.m. They have requested closure of ‘E’ Street from Orange Street to the end of their church building.

This application is submitted in accordance with the Community Civic Events Ordinance No. 1326, as amended and has been routed according to the ordinance regulations and reviewed by all the departments involved. All requirements are listed on the attached copy of the Application, Agreement and Exhibit ‘A’ and Exhibit ‘B.’

RECOMMENDATION:  That the Council approve the Community Civic Event Application and Agreement from the Word of Victory Church, subject to the Restrictions and Requirements contained in the Application, Agreement, Exhibit ‘A’ and Exhibit ‘B’ of the Community Civic Event Application.

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

DO YOU HAVE? Event Flyer? E-mail address? Website?
Application date: 5-16-17 Event date: 6-30-2012

Name of Event: WORD OF VICTORY Event time: CHURCH COMMUNITY OUTREACH

Sponsoring organization: Patabac De Victoria Phone #
Address: 163 W. Orange
Authorized representative: Jose A. Segura Phone # 782 1573
Address: 1184 W. Brown Ave.
Event chairperson: Same Phone # Same

Location of event (location map must be attached): 163 W. Orange St.

Type of event: CHURCH EVENT

Non-profit status determination: __________

City services requested (fees associated with these services will be billed separately):
Barricades (quantity): 12 Street sweeping Yes ___ No __
Police protection Yes ___ No __ Refuse pickup Yes ___ No __
Other: __________________________

Parks facility application required: Yes ___ No ___ Attached __
Assembly permit required: Yes ___ No ___ Attached __

STAFF COMMENTS (list special requirements or conditions for event):

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<tr>
<th>Appr.</th>
<th>Deny</th>
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<td>Comm. Dev. Dir.</td>
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<td>Field Svcs. Mgr.</td>
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<td>Fire Chief</td>
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<td>Parks Dir.</td>
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<td>Police Chief</td>
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<td>Admin. Svcs. Dir.</td>
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CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

What constitutes a Community Civic Event?
A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures.

Authorization: This permit must be submitted NO LESS THAN 30 days PRIOR to the date of the event in order to obtain City Council approval.
City Code requirements:
- At least 48” must remain clear on sidewalks for pedestrian traffic.
- Do not block any entrance to or exit from buildings.
- Area must be accessible to emergency and safety personnel and vehicles.
- Electrical cords must be approved and installation checked by the Fire Department.

Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. The City of Porterville shall be named as additional insured. **When the location of the event is in Downtown Porterville, the Porterville Redevelopment Agency must also be named as additional insured.** The amounts of such insurance and any additional requirements are listed in Exhibit "A." A Certificate of Liability Insurance form sample is enclosed for your convenience. **This original certificate shall be submitted to the Finance Department prior to the City of Porterville Council’s approval.**

Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include full liquor liability in an amount not less than one million dollars ($1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permitted, his/her agents or representatives pursuant the permit. **Claims-made policies are not acceptable.**

Health permit: Organization/Applicant will obtain or ensure that all participants obtain a ‘Temporary Food Facilities’ permit(s) from the Tulare County Public Health Department, if any food is to be served in connection with this Community Civic Event. To contact the Tulare County Environmental Health Department located at 5957 S. Mooney Blvd., Visalia, CA, 93277, call 559-733-6441, or fax information to 559-733-6932; or visit their website: www.tularehhhsa.org.

First aid station: Organization/Applicant will establish a first aid station, with clearly posted signs, to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 15-20(e), as amended, and the terms and conditions set forth by City Council and stated in Exhibit "A." The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind or character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of any kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees.

[Signatures and dates]
CITY OF PORTERVILLE

VENDOR/PARTICIPANT LIST IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Church Community Outreach
Sponsoring organization: Palabra De Victoria Church
Location: 163 W. Orange St.  Event date: 6-30-12  Event time: 3PM-8PM

All vendors are required to complete the business license permit form. List all firms, individuals, organizations, etc., that will engage in selling at or participate in the above-named event. NO PERMIT WILL BE ISSUED WITHOUT THIS INFORMATION. Vendors with no valid City of Porterville business license are required to pay $1 per day to the City, with the exceptions of non-profit organizations. This form should be completed at the time of application, but must be submitted NO LESS THAN ONE week prior to the event.

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address/Telephone</th>
<th>Business License required?</th>
<th>Type of Activity</th>
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Municipal Code 15-1: ITINERANT VENDOR OR ITINERANT MERCHANT: All persons, both principal and agent, who engage in a temporary or transient business in the city, selling or offering to sell goods, wares or merchandise or any other thing of value, with the intention of conducting such business for a period of less than ninety (90) days, and who for the purpose of such business hires, leases or occupies any room, doorway, vacant lot, building or other place, for the exhibition for sale of goods, wares, merchandise or other thing of value. If any such place, occupied or used for such business, is rented or leased for a period of less than ninety (90) days, such fact shall be presumptive evidence that the business carried on therein is a transient business; and any person so engaged shall not be relieved from the provisions of this section or from payment of the license taxes herein provided for such business, by reason of any temporary association with local dealer, trader, merchant or auctioneer.
CITY OF PORTERVILLE
REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER
ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Church Community Outreach

Sponsoring organization: Pabrac O Victoria Church

Event date: 6-30-12  
Hours: 3 PM - 8 PM

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;E.&quot; ST</td>
<td>Church Building</td>
<td>End of Church Building</td>
<td>CARNIVAL</td>
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<td>Type: Games</td>
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<td>Equipment (Eg)Ball</td>
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<td>Small prizes $7</td>
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<td>Orange ST.</td>
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<td>Orange ST.</td>
<td>Toss/Ang Toss/B. in.</td>
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<td>No Rides @ Arrival</td>
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<tr>
<td>Sidewalks</td>
<td>From</td>
<td>To</td>
<td>Activity</td>
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<td></td>
<td>No Drinking Machine</td>
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<td>Live Christian Band</td>
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<td>No DJ</td>
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<td></td>
<td>No Vendors</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>No Other Participants</td>
</tr>
<tr>
<td>Parking lots and spaces</td>
<td>Location</td>
<td></td>
<td>Activity</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Except For Church Members, Band &amp;</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>Patrons of Community</td>
</tr>
</tbody>
</table>


REQUIREMENTS FOR COMMUNITY CIVIC EVENT

WORD OF VICTORY CHURCH

CHURCH COMMUNITY OUTREACH

JUNE 30, 2012

Business License Supervisor:  
  
  S. Hartman  
  Business License has no requirements.

Public Works Director:  
  
  B. Rodriguez  
  Field Services will provide final comments for this event. Event organizer is responsible for picking up and returning the City property (barricades).

Community Development Director:  
  
  B. Dunlap  
  No comments.

Field Services Manager:  
  
  B. Styles  
  Barricades may be obtained at 555 N. Prospect.

Fire Marshal:  
  
  David LaPere  
  In event of emergency, the street will be reopened.

Parks and Leisure Services Director:  
  
  M. Stowe

Police Lieutenant:  
  
  D. Haynes  
  Please see proposed conditions and requirements in Exhibit ‘B.’

Administrative Services Manager:  
  
  P. Hildreth  
  Please see Exhibit ‘A,’ page 2.

EXHIBIT ‘A,’ Page 1
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Word of Victory Church
Event: Church Community Outreach
Event Chairman: Angel Segura
Location: Word of Victory Church parking lot/front of church
Date of Event: June 30, 2012
Time of Event: 3:00 p.m. to 8:00 p.m.

RISK MANAGEMENT: Conditions of Approval

That the Word of Victory Church provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than $500,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, City of Porterville Redevelopment Agency and its Officers, Employees, Agents and Volunteers as ‘Additional Insured’ against all claims arising from, or in connection with, the Permittee’s operation and sponsorship of the aforementioned Community Civic Event.

A. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than $1,000.

A. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less that A:VII, and the insurance company must be an ‘admitted’ insurer in the State of California.
CITY OF PORTERVILLE
OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-9 & 18-14)

This application must be submitted ten (10) days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

1 Name and home address of the applicant: Jose A. Segura
   1184 W. Brown Ave.

2 Address where amplification equipment is to be used: 163 W. Orange St

3 Names and addresses of all persons who will use or operate the amplification equipment:
   Rick Frederick
   Cassandra Angu 890 W. Minnie, 2550 Kings Cross Pardeeke Rd.

4 Type of event for which amplification equipment will be used: Church Community Outreach

5 Dates and hours of operation of amplification equipment: June 30th 2012 3PM - 8PM

6 A general description of the sound amplifying equipment to be used: Amplified PA, Country, Spoke, Sound
   Keyboard, Yamaha Davic, T-A System, Bass, Guitar

Section 18-9. It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, jukebox, record player, loudspeaker, musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort.

The operation of any such instrument, phonograph, jukebox, machine or device in such manner as to be plainly audible at a distance of one hundred feet (100') from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section.
(Ord. Code § 8311)

Section 18-14. It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or operated, or connected any or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loudspeaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code § 8312)

Penal Code Section 415 (2) Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars ($400), or both such imprisonment and fine: (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

I hereby certify that I have read and answered all statements on this registration form and that they are true and correct.

[Signature]
Signature of Applicant

5-16-12
Date

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

City of Porterville, Chief of Police/Designee

5-25-12
Date
CITY OF PORTERVILLE/POLICE DEPARTMENT
Community Civic Event Application

Church/Community Outreach, June 30, 2012

Proposed Conditions/Requirements for Community Outreach Event:

➢ City Council approval is required for all street closures.

➢ On all streets approved for closure, ensure adequate barricades/barriers are used to warn motorists of non-access and prevent vehicle access to those designated areas.

➢ An Outside Amplifier Permit has been approved and granted. However, event organizers shall not allow music to be played so loud as to unreasonably disturb the peace and good order of any residents or business establishments in the surrounding area.

➢ At conclusion of event, event organizers shall ensure streets are promptly cleared of any vehicles, equipment, booths or anything that could present a hazard to pedestrians or vehicles traveling through this area.

Dan Haynes, Lieutenant
Police Department
May 29, 2012
CERTIFICATE OF LIABILITY INSURANCE

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not affirmatively or negatively amend, extend or alter the coverage afforded by the policies below. This certificate of insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder.

IMPORTANT: If the certificate holder is an additional insured, the policy(ies) must be endorsed. If subrogation is waived, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Church & Casualty Insurance Agency Inc
3440 Irvine Ave
Newport Beach CA 92660

INSURED
PALABRA DE VICTORIA CHURCH DBA WORD OF VICTORY
163 W ORANGE AVE
PORTERVILLE CA 93257-4650

COVERAGES
This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and condition of such policies. Limits shown may have been reduced by paid claims.

<table>
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<tr>
<th>INSR</th>
<th>TYPE OF INSURANCE</th>
<th>ADL SUB</th>
<th>INSR</th>
<th>POLICY NUMBER</th>
<th>LIMITS</th>
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<tbody>
<tr>
<td>A</td>
<td>COMMERCIAL GENERAL LIABILITY</td>
<td>0255275-02-248364</td>
<td>8/3/2010</td>
<td>8/3/2013</td>
<td>EACH OCCURRENCE: $1,000,000</td>
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<td>DAMAGE TO RENTED PREMISES ($1,000,000)</td>
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<td>MED EXP (Any one person) $15,000</td>
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<td>PERSONAL &amp; ADV INJURY $1,000,000</td>
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<td>GENERAL AGGREGATE $3,000,000</td>
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<td>PRODUCTS &amp; COMMODITY ABB $1,000,000</td>
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<td>RETENTION</td>
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<td>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</td>
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<td>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N/A</td>
</tr>
</tbody>
</table>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Evidence of insurance for a street closure (community outreach) at the corner of Orange & E Street (163 W Orange Ave), Porterville, CA on June 30, 2012. Certificate holder is named additional insured but only with respect to the activities of the Named Insured on the above described premises. All activities/operations not specifically ran/or conducted by the Named Insured are excluded. Refer to attached A2014.

CERTIFICATE HOLDER
City of Porterville
& The City of Porterville Redevelopment Agency
291 N Main Street
Porterville, CA 93257

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

J Taheri Kenari/TAHIC

© 1988-2009 ACORD CORPORATION. All rights reserved.
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED DESIGNATED PERSON OR ORGANIZATION
FOR SPECIFIC ACTIVITY

This endorsement modifies insurance provided under the General Liability Coverage Part.

The following is added to the General Liability Additional Provisions Form.

<table>
<thead>
<tr>
<th>Additional Insured Person(s) or Organization(s):</th>
</tr>
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<tbody>
<tr>
<td>Name: City of Porterville</td>
</tr>
<tr>
<td>&amp; The City of Porterville Redevelopment Agency</td>
</tr>
<tr>
<td>Address: 291 N Main Street</td>
</tr>
<tr>
<td>Porterville, CA</td>
</tr>
<tr>
<td>City</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Zip 93257</td>
</tr>
<tr>
<td>Activity: street closure (community outreach) at the corner of Orange &amp; E Street(163 W Orange Ave), Porterville, CA</td>
</tr>
<tr>
<td>policy# 0255275-02-248364</td>
</tr>
<tr>
<td>Date(s): June 30, 2012</td>
</tr>
</tbody>
</table>

A. ADDITIONAL INSURED DESIGNATED PERSON OR ORGANIZATION FOR SPECIFIC ACTIVITY

1. Paragraph C., Who is an Insured, is amended to include the person(s) or organization(s) shown above, but only with respect to "bodily injury," "property damage," "personal injury," and "advertising injury" liability, and only with respect to operations of the Named Insured that are directly related to the activity shown above during the dates shown above.
SUBJECT: DEFERRED COMPENSATION PROGRAM FOR NEW HIRES

SOURCE: ADMINISTRATIVE SERVICES/ HUMAN RESOURCES

COMMENT: Pursuant to Council direction, the City successfully negotiated with employee bargaining units the implementation of a second tier CalPERS formula for all new hires effective July 1, 2012. To supplement the lesser retirement benefit for new hires, the City agreed to concurrently implement a deferred compensation program (a 457 plan) with a City-match component. The match component provides for a City match of funds contributed to the plan, provided however, that the City’s contribution on behalf of the employee to PERS plus the City’s contribution to the 457 plan shall not exceed 25% of the employee’s gross salary. CalPERS has indicated that the employer’s contribution rate for the second tier shall be 22.285% for the miscellaneous group (set to decrease as employees are hired on), and 20.040% for the safety group.

At the time the MOUs with the employee bargaining units were signed, the match component was not set out in detail. The purpose of this item is to memorialize said program consistent with previous Council approval.

RECOMMENDATION: That the City Council:
1. Approve the deferred compensation plan for new hires effective July 1, 2012;
2. Approve ICMA and Strategic Retirement Advisors as authorized vendors for said 457 plan; and
3. Authorize the City Manager or his designee to execute all necessary documents.

ATTACHMENT: Draft Resolution

Item No. 15
RESOLUTION NO. ______-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING THE ADDITION OF A DEFERRED COMPENSATION PLAN AND A DEFINED MATCHING DEFERRED COMPENSATION PROGRAM FOR SPECIFIED EMPLOYEES

WHEREAS, the City of Porterville maintains one Deferred Compensation Plan for its employees; and

WHEREAS, through the meet and confer process, the City has agreed to contract with Strategic Retirement Advisors as an additional retirement investment option; and

WHEREAS, the City Council recognizes the necessity of updating and/or changing such plans from time to time, and the importance of allowing employees to participate in investing in their own retirement; and

WHEREAS, the City is interested in implementing a two-tiered California Public Employees’ Retirement System (CalPERS) plan effective July 1, 2012 along with a supplemental deferred compensation (457) plan with a City-match component.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville approve the additional deferred compensation plan and matching deferred compensation plan for employees hired on or after July 1, 2012 as follows:

I. DEFERRED COMPENSATION MATCHING PROGRAM

Effective 07-01-12 the City shall implement a two-tiered retirement plan for all new employees hired on or after July 1, 2012. The plan formulas shall be as follows:

<table>
<thead>
<tr>
<th>Safety (Police &amp; Fire)</th>
<th>Formula</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees hired before July 1, 2012</td>
<td>3% @ 55</td>
</tr>
<tr>
<td>Employees hired on or after July 1, 2012</td>
<td>2% @ 50</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Local Miscellaneous</th>
<th>Formula</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employees hired before July 1, 2012</td>
<td>2.7% @ 55</td>
</tr>
<tr>
<td>Employees hired on or after July 1, 2012</td>
<td>2% @ 55</td>
</tr>
</tbody>
</table>
Concurrent with the implementation of this two-tiered program, the City shall implement a supplemental retirement benefit program through ICMA and Strategic Retirement Advisors, for employees hired on or after July 1, 2012. The City shall match, from the first dollar contributed by an employee, all employee contributions to said supplemental retirement benefit program, on a tax year basis, provided that the City's contribution on behalf of the employee to PERS plus the City's contribution to the supplemental retirement benefit system shall not exceed twenty five percent (25%) of the employee's gross salary, as calculated under PERS rules, in any tax year.

Employee's right to vest, as to City's contributions to the supplemental retirement benefit system, shall not accrue until and unless the employee has completed five (5) years of service with the City.

In exchange for this City matching contribution, employees hired on or after July 1, 2012, shall be required to have any amount of City contributions to PERS in excess of twenty-five percent (25%) in any tax year, be deducted from their salary and used by the City as an offset against said excess contribution to PERS.

II. STRATEGIC RETIREMENT ADVISORS

Effective 06-01-12, or as soon thereafter as possible, the City will contract with Strategic Retirement Advisors, LLC to provide all employees with an additional investment advisor vendor.

BE IT FURTHER RESOLVED that the City Manager or his designee may, on behalf of the City, execute all deferred compensation employment agreements with employees which are necessary for participation in such plans.

PASSED, APPROVED AND ADOPTED this 5th day of June, 2012

__________________________________________
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 May 15, 2012, 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 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. Although all repair projects were originally to be completed by no later than July 2012, the City has received a one (1)-year extension to July 2013.

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 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: None
PUBLIC HEARING

SUBJECT: INITIATION OF PRELIMINARY PROCEEDINGS AND RESOLUTIONS OF APPLICATION FOR NORTH MAIN STREET ANNEXATION NO. 475

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

HISTORY: The proposed North Main Street Annexation area was identified in a city-wide annexation program initiated in 2005 in an effort to “clean up” the convoluted City limits boundary with numerous county islands. The State of California, County of Tulare, Tulare County Local Agency Formation Commission (LAFCo), and the City of Porterville have all identified the presence of unincorporated territories within the boundaries of an incorporated city (such as the subject annexation areas) as a source of government inefficiency. To rectify this problem, the State of California adopted Government Code Section 56375.3, simplifying the annexation process for islands (or groups of islands) meeting certain requirements by waiving protest hearings. The provision was originally established for a seven-year period, scheduled to sunset in 2007, but was extended to sunset in January 2014.

In 2008, the City received an application for annexation of a smaller area proposed for a tentative subdivision map within a county island adjacent to this annexation area. In 2010, the City Council authorized the smaller 8.5 acre site to proceed with annexation by itself so as to not delay development of a proposed subdivision. Direction was then provided to staff to proceed to annex the larger island. This Project complies with the directive given by Council and is supported by Tulare County LAFCo.

At the meeting of May 15, 2012, the City Council continued the public hearing to June 5, 2012, to allow time for staff to research whether there would be an additional cost if one or more of the five annexation areas were heard separately by the Council to avoid a potential conflict of interest from one Council Member who owns property near Area B. Staff has found that there is no additional cost for approving more than one resolution initiating the annexation provided they are processed together at LAFCo. Each of the five areas has been described independently, but have been incorporated into a single resolution. In the event Council chooses to consider the two areas separately, staff has also provided separate resolutions: one for Areas A-1 through A-4, and one for Area B – the area with a potential conflict of interest.

COMMENT: In accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Act), as amended, the City Council may authorize filing of the necessary application and proposal for presenting Annexation No. 475 to LAFCo for its review and approval.

DD [Signature] APPROPRIATED/FUNDED [Signature] CM [Signature] ITEM NO. 17
Annexation No. 475 proposes the incorporation of 125.1± acres of land into the City of Porterville. The annexation area is generally (but not entirely) located north of Henderson Avenue, south of Pioneer Avenue, east of Villa Street, and west of Main Street (see attached map). The proposed project includes the annexation of five (5) unincorporated islands, four of which are completely surrounded by city limits, and one that is 77% surrounded and is thereby considered an island pursuant to the Act:

<table>
<thead>
<tr>
<th>Area</th>
<th># of Parcels</th>
<th>Acres</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1</td>
<td>167</td>
<td>114±</td>
<td>Majority of Annexation Area</td>
</tr>
<tr>
<td>A-2</td>
<td>1</td>
<td>8±</td>
<td>SE Corner Pioneer &amp; Main St.</td>
</tr>
<tr>
<td>A-3</td>
<td>2</td>
<td>1±</td>
<td>E of Highland Drive</td>
</tr>
<tr>
<td>A-4</td>
<td>1</td>
<td>0.1±</td>
<td>Main Street</td>
</tr>
<tr>
<td>B</td>
<td>3</td>
<td>2±</td>
<td>SW Corner Henderson &amp; G St.</td>
</tr>
</tbody>
</table>

The annexation area is substantially developed with 125 single-family residences. Additionally, there are a few businesses, and a small percentage of the subject parcels are undeveloped. In all, there are 165 structures in the annexation area. If annexed, any future development must be consistent with the current General Plan, the Porterville Development Ordinance and all other applicable codes.

All of the annexation areas are located within the City's Urban Area Boundary and Urban Development Boundary. The Porterville General Plan designates these areas for a mix of low-density residential, commercial, and public uses. Upon consummation of the proposed annexation, the subject area will automatically be zoned City RS-2, RM-2 and CG (Low Density Residential, Low Medium Density Residential and General and Service Commercial, respectively) pursuant to Section 200 of the Porterville Development Ordinance and in support of the General Plan. However, some of the land uses will become legal nonconforming uses upon annexation.

Collectively, the roads in Area A-1 are in fair to poor condition, and areas that need improvement would be added to the City's queue of road improvement projects. The roads that service all of the other areas (A-2 through B) are currently within City limits and will incur no additional cost to the City if the adjacent areas are annexed. After annexation, maintenance responsibility for the roads in A-1 will transfer from the County to the City. Most of the properties are served with City water, which is part of the former Roland Water Company. A sewer line runs through Area A-1 (from Mulberry to Westfield via Howland) but there are limited hookups to this line, if any. There are no known storm drains in the area. The estimated cost to bring the area up to City standards is $7.5 million. Most of this cost is attributed to Area A-1 due to its size and the inclusion of roadways not currently maintained by the City. These improvements would occur over time as funds become available.

The proposed annexation is somewhat unique from other annexations as it includes
an existing petro/chemical storage facility situated between North Main Street and the Union Pacific rail line right-of-way. It is located in an area with deficient water service and poses a concern to the City’s Fire Department. If a significant event were to occur at the facility, the water service at the site is inadequate to meet the required fire flows for fire suppression. Although the site is currently located in the County, regardless of annexation, a significant event could affect both City and County residents. Once annexed to the City, the fire service responsibilities will transfer to the City. Since it is an existing condition, staff wanted to raise the issue to the Council for full disclosure. If so directed, staff can coordinate with the County to determine a reasonable solution to the problem or range of options. Upon annexation, this site will become a legal nonconforming use according to the Zoning Map.

ENVIRONMENTAL:
On April 18, 2012, the Environmental Coordinator made a preliminary determination that a Negative Declaration would be appropriate for the North Main Annexation. The Initial Study has been transmitted to interested agencies, groups and individuals for review and comment. The review period ran for 20 days from April 19, 2012, to May 9, 2012. No comments were received on the Initial Study.

RECOMMENDATION: That the City Council:
1. Adopt the draft resolution approving the Negative Declaration for Annexation 475; and
2. Adopt the draft resolution(s) authorizing initiation of preliminary proceedings and filing of the necessary application with LAFCo for Annexation 475.

ATTACHMENTS:
1. Annexation No. 475 Map
2. Map representing General Plan Designations
3. Map representing proposed Zoning
4. Initial Study supporting Negative Declaration
5. Draft Resolution approving the Negative Declaration for Annexation 475.
6. Draft Resolution authorizing initiation of preliminary proceedings and filing of the necessary application for Annexation 475 (all islands).
North Main Street Area Annexation

Initial Study & Mitigated Negative Declaration

City of Porterville
Community Development Department
Planning Division

April 2012

Prepared by:

Planning Tree Consulting
1 INTRODUCTION

The City of Porterville (City) has prepared this Initial Study/Mitigated Negative Declaration (IS/MND) to address the environmental effects of the proposed North Main Street Area Annexation (Project). This document has been prepared in accordance with the California Environmental Quality Act (CEQA), Public Resources Code §21000 et.seq. The City is the CEQA lead agency for this Project.

The proposed Project involves the annexation of approximately 125 acres of mostly developed land into the City. These areas are currently County islands, which were developed in the County, and have since been surrounded by the City. No physical modifications are proposed at this time. The annexation would provide more efficient delivery of services and reduce cost for various government services, including improved service times for public safety services such as fire and police. The proposed Project is described in detail in Chapter 2, Project Description.

DOCUMENT FORMAT

This IS/MND contains five chapters, and one technical attachment. Section 1, Introduction, provides an overview of the project and the CEQA environmental documentation process. Chapter 2, Project Description, provides a detailed description of project objectives and components. Chapter 3, Initial Study Checklist, presents the CEQA checklist and environmental analysis for all impact areas, mandatory findings of significance, and feasible mitigation measures. If the proposed project does not have the potential to significantly impact a given issue area, the relevant section provides a brief discussion of the reasons why no impacts are expected. If the project could have a potentially significant impact on a resource, the issue area discussion provides a description of potential impacts, and appropriate mitigation measures and/or permit requirements that would reduce those impacts to a less than significant level. Chapter 4, References, provides a list of reference materials used during the preparation of the IS/MND, and Chapter 5, List of Preparers, provides a list of key personnel involved in the preparation of the IS/MND.

The CalEEMOD Output File is provided as an appendix at the end of this document.

Environmental impacts are separated into the following categories:

Potentially Significant Impact. This category is applicable if there is substantial evidence that an effect may be significant, and no feasible mitigation measures can be identified to reduce impacts to a less than significant level. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.

Less Than Significant After Mitigation Incorporated. This category applies where the incorporation of mitigation measures would reduce an effect from a “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measure(s), and briefly explain how they would reduce the effect to a less than significant level (mitigation measures from earlier analyses may be cross-referenced).
Less Than Significant Impact. This category is identified when the project would result in impacts below
the threshold of significance, and no mitigation measures are required.

No Impact. This category applies when a project would not create an impact in the specific environmental
issue area. "No Impact" answers do not require a detailed explanation if they are adequately supported by the
information sources cited by the lead agency, which show that the impact does not apply to the specific
project (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where
it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive
receptors to pollutants, based on a project-specific screening analysis.)
2 PROJECT DESCRIPTION

PROJECT LOCATION

The Project area is a series of islands approximately 125 acres in size and is located in northern Porterville, in southern Tulare County (County), California, 240 miles southeast of Sacramento. The annexation area is generally (but not entirely) located north of Henderson Avenue, south of Pioneer Avenue, east of Villa Street, and west of Main Street (see Figure 1). The Project is located within the Porterville, CA, United States Geological Survey 7.5 minute quadrangle, in Sections 23 and 26, Township 21 South, Range 27 East, MDB&M.

Latitude: N 36° 5' 344"
Longitude: W 119° 1' 934"

The Project area includes the following Tulare County Assessor parcel numbers:

| 247010005 | 247170008 | 247180021 | 247200023 | 247210026 | 247220024 | 247230006 |
| 247010006 | 247170009 | 247180022 | 247200025 | 247210027 | 247220025 | 247230111 |
| 247040020 | 247170010 | 247180023 | 247200026 | 247210028 | 247220026 | 247230122 |
| 247040021 | 247170011 | 247180024 | 247200027 | 247210029 | 247220032 | 247230201 |
| 247050001 | 247170012 | 247180035 | 247200028 | 247210032 | 247220032 | 247230202 |
| 247050005 | 247170013 | 247180036 | 247200029 | 247210033 | 247220036 | 247230203 |
| 247060001 | 247170014 | 247180037 | 247200030 | 247210034 | 247220038 | 247230204 |
| 247060002 | 247170015 | 247190001 | 247210002 | 247210035 | 247220039 | 247230205 |
| 247060004 | 247170016 | 247190015 | 247210003 | 247210036 | 247220040 | 247230206 |
| 247060006 | 247170017 | 247190016 | 247210004 | 247210037 | 247220041 | 247230207 |
| 247060007 | 247170018 | 247200001 | 247210006 | 247210038 | 247220042 | 247230208 |
| 247060008 | 247170019 | 247200002 | 247200002 | 247210039 | 247220043 | 247230209 |
| 247060009 | 247170024 | 247200006 | 247210008 | 247210040 | 247220044 | 247230213 |
| 247060012 | 247170025 | 247200007 | 247210011 | 247210041 | 247220047 | 247230214 |
| 247060014 | 247170026 | 247200008 | 247210012 | 247220007 | 247220049 | 247230215 |
| 247060015 | 247170027 | 247200009 | 247210013 | 247220008 | 247220050 | 247230217 |
| 247060016 | 247170029 | 247200010 | 247210014 | 247220010 | 247220051 | 247230218 |
| 247060017 | 247170030 | 247200011 | 247210015 | 247220011 | 247220052 | 247230219 |
| 247060018 | 247170031 | 247200013 | 247210016 | 247220012 | 247220053 | 247230220 |
| 247060019 | 247170032 | 247200014 | 247210017 | 247220017 | 247230001 | 247260003 |
| 247060020 | 247180003 | 247200016 | 247210018 | 247220018 | 247230102 | 25210004 |
| 247170001 | 247180004 | 247200017 | 247210019 | 247220019 | 247230103 | 252120005 |
| 247170003 | 247180016 | 247200019 | 247210023 | 247220020 | 247230104 | 252120006 |
| 247170005 | 247180018 | 247200020 | 247210025 | 247220023 | 247230105 | 247290012 |
| 247170007 | 247180019 | 247200022 |
CITY OF PORTERVILLE
NORTH MAIN STREET AREA ANNEXATION

Figure 1
Project Location Map

Legend
North Main Annexation
CITY OF PORTERVILLE
NORTH MAIN STREET AREA ANNEXATION

PROJECT BACKGROUND AND OBJECTIVES

The proposed annexation area was identified in a city-wide island annexation program initiated in 2005, in an effort to "clean up" the City limits. The State of California, County of Tulare, Tulare County LAFCo, and the City of Porterville have all identified the presence of unincorporated territories within the boundaries of an incorporated city (such as the subject annexation area) as a source of government inefficiency. To promote this goal, the State of California adopted Government Code section 56375.3, simplifying the island annexation process for islands (or groups of islands) meeting certain requirements. The provision was originally established for a seven year period, scheduled to sunset in 2007, but was extended to sunset in January 2014.

As development applications which involve an annexation are submitted to the City, staff and the City Council consider whether an annexation reduces the size of an existing island area, and whether or not it is appropriate to annex the entire island. In May 2010, the City Council approved the annexation of approximately 8.5 acres - a portion of a larger island, the remainder of which is the proposed Project. While the City Council did approve that smaller annexation, direction was provided to Staff to proceed in annexation of the larger island. This Project complies with the directive given by Council and echoed by Tulare County LAFCo.

ENVIRONMENTAL SETTING

The Project site is approximately 60 miles east of the Coast Range and approximately 10 miles west of the Sierra Nevada Mountain Range. Topographically, the Project site is at an elevation of approximately 420 feet above mean sea level and generally slopes to the west. The Project area is mostly developed as single family residential, and includes a few parcels developed with multi-family residential uses, commercial uses, industrial uses, and a small number of lots are vacant.

The land uses surrounding the Project site include residential, commercial, and public uses. General Plan Land Use designations and zoning varies throughout the neighboring areas, and is represented on Figures 2 and 3, respectively.

The nearest water bodies to the Project site are the Porter Slough located approximately one mile south. Lake Success is located approximately 8 miles east of the Project site.

PROJECT DESCRIPTION

The proposed Project includes the annexation of five unincorporated islands: Area A consisting of 178 parcels, Area B consisting of 1 parcel, Area C consisting of 3 parcels, Area D consisting of 2 parcels, and Area E consisting of 1 parcel.

Area A is 100% surrounded, and encompasses 91.67 acres. Area B is 100% surrounded, and encompasses 6.91 acres. Area C is 100% surrounded, and encompasses 2.34 acres. Area D is 77% surrounded, and encompasses 1 acre. Area E is 100% surrounded, and encompasses 0.08 acre.
3 INITIAL STUDY CHECKLIST

1. Project title: North Main Street Area Annexation

2. Lead agency: City of Porterville
291 North Main Street
Porterville, CA 93257

3. Contact person: Bradley D. Dunlap, AICP
Community Development Director
(559) 782-7460

4. Project location: See Chapter 2, Project Description

5. Latitude, Longitude: N 36° 5' 344”, W 119° 1' 934”

6. General plan designation: See Chapter 2, Project Description

7. Zoning: See Chapter 2, Project Description

8. Description of project: See Chapter 2, Project Description

9. Surrounding land uses and setting: See Chapter 2, Project Description

10. Other public agencies whose approval is required: Tulare County LAFCo
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, as indicated by the checklist and subsequent discussion on the following pages.


DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature
Bradley D. Dunlap, AICP

Date
Community Development Dept

Printed name
For
CITY OF PORTERVILLE
NORTH MAIN STREET AREA ANNEXATION

Issues:

1. AESTHETICS
Would the project:

<table>
<thead>
<tr>
<th>a) Have a substantial adverse effect on a scenic vista?</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant with Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>c) Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
<tr>
<td>d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
</tr>
</tbody>
</table>

Responses:

a), b), c), d) No Impact. The project is limited to annexation and re-zoning of primarily developed land, and would not directly change the existing land uses of the subject sites. No scenic vistas would be affected as a result of the project’s implementation. The proposed project may facilitate additional infill development; however, none of the subject areas are in designated scenic vistas, and likewise no physical changes are proposed as a part of the project that would damage scenic resources or degrade the existing visual character of the site.
II. AGRICULTURE & FORESTRY
RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined in Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>d) Result in the loss of forest land or conversion of forest land to non-forest use?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>
Responses:

a) No Impact. The proposed annexation would incorporate already developed lands into the City of Porterville. With few exceptions of undeveloped, surrounded vacant land, the project would not accommodate conversion of land uses. While most soil types in the region could at some point been deemed farmland conducive, the project area is primarily developed and at this time is considered urban built up land.

b) No Impact. None of the current zoning (County) nor the proposed pre-zoning (City) accommodates agricultural uses, and no Williamson Act contracts are in place for any of the proposed annexation area.

c) No Impact. The project does not infringe upon forest land. There would be no impact.

d) No Impact. Any impact to forest land has been discussed in impact II-c.

e) No Impact. Any impacts to agricultural resources or forest land have been discussed in impact II-a and c.
III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

d) Expose sensitive receptors to substantial pollutant concentrations?

e) Create objectionable odors affecting a substantial number of people?

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
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<td></td>
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<tr>
<td>b)</td>
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<td>c)</td>
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<td>d)</td>
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<tr>
<td>e)</td>
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</tbody>
</table>

Response:

a) **No Impact.** The Project lies within the San Joaquin Valley Air Basin, which is managed by the San Joaquin Valley Air Pollution Control District (SJVAPCD). National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS) have been established for the following criteria pollutants: carbon monoxide (CO), ozone (O₃), sulfur dioxide (SO₂), nitrogen dioxide (NO₂), particulate matter (PM₁₀ and PM₂.₅), and lead (Pb). The CAAQS also set standards for sulfates, hydrogen sulfide, and visibility.

Areas are classified under the Federal Clean Air Act as either “attainment” or “non-attainment” areas for each criteria pollutant based on whether the NAAQS have been achieved or not. Attainment relative to the State standards is determined by the California Air Resources Board (CARB). The San Joaquin Valley (SV) is designated as a State and Federal non-attainment area for O₃ and PM₂.₅, and a State and Federal attainment area for CO, SO₂, NO₂, and Pb (SJVAPCD, 2012).

The Project would not conflict with or obstruct the implementation of the air quality management standards. Standards set by the SJVAPCD, CARB, and Federal agencies relating to the Project would continue to apply. There would be no impact.

b) **No Impact.** The San Joaquin Valley is designated as a Federal and State non-attainment area for O₃ and PM₂.₅. The SJVAPCD is the regional agency that regulates air permitting and maintains an extensive air quality monitoring network to measure criteria pollution concentrations throughout the San Joaquin Valley air basin.
However, the proposed project includes no construction element and therefore would not result in generation of criteria pollutants.

c) **No Impact.** As discussed in Impact III-b, the Project would not result in the generation of criteria pollutants as there is no proposed construction.

d) **No Impact.** Section 3 of the Guide for Assessing and Mitigating Air Quality Impacts defines a sensitive receptor as a location where human populations, especially children, seniors, and sick persons are present and where there is a reasonable expectation of human exposure to pollutants. Sensitive receptors normally refer to people with heightened sensitivity to localized, rather than regional pollutants. As no criteria pollutants would be generated by the proposed project, there is no impact.

e) **No Impact.** The Project would not be a source of odors; therefore, there would be no impact.
### IV. BIOLOGICAL RESOURCES

<table>
<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
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</tr>
<tr>
<td>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?</td>
<td>☒</td>
<td>☐</td>
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</tr>
<tr>
<td>d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?</td>
<td>☐</td>
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</tr>
</tbody>
</table>

**Response:**

a) **Less Than Significant Impact.** The project proposes to annex approximately 125 acres of mostly developed land into the City of Porterville; no physical changes and in turn no habitat modification is proposed as part of the project. However, the potential future infill development of undeveloped or underdeveloped properties would create physical change within the project area. Infill development in the Project area is consistent with the General Plan. Impacts would be less than significant.

b) **No Impact.** No riparian communities or other sensitive natural communities exist within or adjacent to the annexation area. There would be no impact.

c) **No Impact.** No wetland areas exist within or adjacent to the annexation area. There would be no impact.
d) No Impact. No wildlife corridors or wildlife nursery sites are located within or adjacent to the annexation area.

e) No Impact. The Porterville 2030 General Plan (2008) indicates that the City currently does not have a tree preservation ordinance. There is no adopted biological preservation or tree preservation ordinance in Tulare County. There would be no impact.

f) No Impact. No habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan, is in effect for the area of the proposed Project. Therefore, the proposed Project would have no impact.
V. CULTURAL RESOURCES

Would the project:

| a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? |
|---|---|---|---|
| Potentially Significant Impact | Less than Significant With Mitigation Incorporation | Less than Significant Impact | No Impact |
| ☐ | ☐ | ☐ | ☒ |

| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? |
|---|---|---|---|
| ☐ | ☐ | ☐ | ☒ |

| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? |
|---|---|---|---|
| ☐ | ☐ | ☐ | ☒ |

| d) Disturb any human remains, including those interred outside of formal cemeteries? |
|---|---|---|---|
| ☐ | ☐ | ☐ | ☒ |

Response:

a) **No Impact.** The project proposes to annex approximately 125 acres of mostly developed land into the City of Porterville; no physical changes- and in turn no adverse changes in the significance of a historical or archaeological resource- is proposed as part of the project. There would be no impact.

b) **No Impact.** Any impacts to archaeological resources have been discussed in Impact V-a.

c) **No Impact.** No known paleontological resources exist within the Project area, nor are there any known geologic features in the Project area. No physical changes- and in turn no adverse changes relative to paleontological or geologic resources- is proposed as part of the project. There would be no impact.

d) **No Impact.** No formal cemeteries or other places of human interment are known to exist within the project area. Further, the project does not include a construction element. As such, potential impacts to human remains would not occur as a result of the Project. There is no impact.
VI. GEOLOGY AND SOILS
Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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</thead>
<tbody>
<tr>
<td>a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:</td>
<td></td>
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<tr>
<td>i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.</td>
<td></td>
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<tr>
<td>ii) Strong seismic ground shaking?</td>
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<tr>
<td>iii) Seismic-related ground failure, including liquefaction?</td>
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<tr>
<td>iv) Landslides?</td>
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<tr>
<td>b) Result in substantial soil erosion or the loss of topsoil?</td>
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<tr>
<td>c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subidence, liquefaction or collapse?</td>
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<tr>
<td>d) Be located on expansive soil, as defined in Table 18-1-B of the most recently adopted Uniform Building Code creating substantial risks to life or property?</td>
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<tr>
<td>e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?</td>
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</tbody>
</table>

Response:

a-i) No Impact. No substantial faults are known to occupy Tulare County according to the Alquist-Priolo Earthquake Fault Zoning Maps and the State of California Department of Conservation. The closest known fault likely to affect the Project site is the Owens Valley Fault located about 40 miles to the northeast in the Sierra Nevada Range.

According to the Five County Seismic Safety Element (FCSSE), Tulare County is located in the V-1 zone, defined as an area "of hard rock alluvium on valley floors". The FCSSE further states that, "The distance to either of the faults expected to be a source of shaking is sufficiently great that shaking should be minimal and the requirements of the Uniform Building Code Zone II should be adequate for normal facilities. The risk of
the rupture of a known earthquake fault is less than significant; however, in light of the project description (Chapter 2), the annexation project itself would not further expose people or structures to these risks. The subject properties are primarily developed.

a-ii) No Impact. Any impacts regarding strong seismic ground shaking have been discussed in Impact IV-a-i. There would be no impact.

a-iii) No Impact. No subsidence-prone soils or oil or gas production is involved with the Project. There would be no impact.

a-iv) No Impact. No geologic landforms exist on or near the site that would result in a landslide event. There would be no impact.

b) No Impact. The proposed project would not directly lead to development or other activity which may affect current drainage patterns or increase erosion.

c) No Impact. Lacking any proposed construction component, substantial grade change would not occur in the topography to the point where the Project would expose people or structures to potential substantial adverse effects on, or offsite, such as landslides, lateral spreading, subsidence, liquefaction or collapse. There would be no impact.

d) No Impact. The Soil Survey of Tulare County, Western Part (Soil Survey) indicates that soils in the annexation area are not expansive.

e) No Impact. The Project does not include the use of septic tanks or other alternative waste water disposal system. There would be no impact.
VII. GREENHOUSE GAS EMISSIONS

Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

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<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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</table>

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

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<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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Response:

a), b) No Impact. While climate change has been a concern since at least 1988, as evidenced by the establishment of the United Nations and World Meteorological Organization's Intergovernmental Panel on Climate Change (IPCC), the efforts devoted to greenhouse gas (GHG) emissions reduction and climate change research and policy have increased dramatically in recent years. In 2002, with the passage of Assembly Bill 1493 (AB 1493), California launched an innovative and pro-active approach to dealing with GHG emissions and climate change at the state level. AB 1493 requires the Air Resources Board (ARB) to develop and implement regulations to reduce automobile and light truck GHG emissions; these regulations applied to automobiles and light trucks beginning with the 2009 model year.

On June 1, 2005, Governor Arnold Schwarzenegger signed Executive Order S-3-05. The goal of this Executive Order is to reduce California's GHG emissions to: 1) 2000 levels by 2010, 2) 1990 levels by the year 2020, and 3) 80% below the 1990 levels by the year 2050. In 2006, this goal was further reinforced with the passage of Assembly Bill 32 (AB 32), the Global Warming Solutions Act of 2006. AB 32 sets the same overall GHG emissions reduction goals while further mandating that ARB create a plan, which includes market mechanisms, and implement rules to achieve "real, quantifiable, cost-effective reductions of greenhouse gases." Executive Order S-20-06 further directs state agencies to begin implementing AB 32, including the recommendations made by the state's Climate Action Team.

Climate change and GHG reduction is also a concern at the federal level; however, at this time, no legislation or regulations have been enacted specifically addressing GHG emissions reductions and climate change. As the proposed project does not include a construction component, there would be no impact.
VIII. HAZARDS AND HAZARDOUS MATERIALS

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<thead>
<tr>
<th>Would the project:</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?</td>
<td>☐</td>
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</tr>
<tr>
<td>d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?</td>
<td>☐</td>
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<tr>
<td>f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?</td>
<td>☐</td>
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<tr>
<td>g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?</td>
<td>☐</td>
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</tbody>
</table>
Response:

a) No Impact. There would be no transport, use or disposal of hazardous materials. There would be no impact.

b) No Impact. The Project would not create a significant hazard to the public or the environment as the Project would not discharge hazardous materials into the environment. There would be no impact.

c) No Impact. The Project involves no construction components, and the annexation would have no effect on hazardous emissions, involve hazardous materials, or create a hazard to adjacent schools in any way. There would be no impact.

d) No Impact. The Project does not involve land that is listed as a hazardous materials site pursuant to Government Code Section 65962.5 and is not included on a list compiled by the Department of Toxic Substances Control. There would be no impact.

e) No Impact. The nearest airport, the Porterville Municipal Airport, is approximately seven miles south of the Project area. Due to the project description and the distance to the airport, there would be no impact.

f) No Impact. Any impacts regarding private airstrips have been discussed in Impact VII-e. There would be no impact.

g) No Impact. The Project does propose changes to any publicly accessed routes, and would not interfere with implementation of an emergency response plan or evacuation. There would be no impact.

h) No Impact. The proposed project area is surrounded by developed urban land uses. Therefore, the project would not result in risk of loss, injury, or death involving wildland fires.
IX. HYDROLOGY AND WATER QUALITY

Would the project:

<table>
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<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>
a) Violate any water quality standards or waste discharge requirements? | ☐ | ☐ | ☒ | ☐ |

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | ☐ | ☐ | ☒ | ☐ |

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? | ☐ | ☐ | ☒ | ☐ |

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? | ☐ | ☐ | ☒ | ☐ |

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | ☐ | ☐ | ☒ | ☐ |

f) Otherwise substantially degrade water quality? | ☐ | ☐ | ☒ | ☐ |

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | ☐ | ☐ | ☒ | ☐ |

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | ☐ | ☐ | ☒ | ☐ |
IX. HYDROLOGY AND WATER QUALITY

Would the project:

i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? □ □ □ ☒

j) Inundation by seiche, tsunami, or mudflow? □ □ □ ☒

Response:

a) Less Than Significant Impact. The Project is located approximately one mile away from the nearest water body. The Project would not violate any water quality standards and would not impact waste discharge requirements. The impact would be less than significant.

b) Less Than Significant Impact. The Project site is located in the Tulare Lake Basin, an area significantly affected by overdraft. The Department of Water Resources (DWR) has estimated the groundwater by hydrologic region and for the Tulare Lake Basin; the total overdraft is estimated at 820,000 acre-feet per year, the greatest overdraft projected in the state, and 56 percent of the statewide total overdraft. The Project site is located within the Tule Subbasin portion of the regional area. Groundwater levels have declined an average of 0.75 feet/year on well hydrographs completed by DWR.

The Project proposes annexation of approximately 125 acres and approximately 165 developed structures. Many of these residences already receive water service from the City of Porterville, and the additional water demand of the remaining parcels (approximately 400 persons) can be met by existing City facilities and supplies. Over time, those properties annexed as a part of the Project would connect to the City water system. The Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge. There would be a less than significant impact.

c) Less Than Significant Impact. Drainage patterns would not change as a result of the annexation Project. As infill development occurs, curb and gutter improvements would improve the management of stormwater flows to reduce existing erosion or siltation. No modifications to natural or created channels would occur, as there are none within the project area. As a part of future infill development, implementation of erosion control measures described by the Tulare County Development Standards and mandated in the Stormwater Pollution Prevention Program would minimize any potential impacts to less than significant.

d) Less Than Significant Impact. Any impacts regarding the alteration of drainage patterns to increase runoff water that would potentially induce flooding have been discussed in the impact analysis for Impact VIII-c.

e) Less Than Significant Impact. Any impacts regarding the creation or contribution to runoff water that would potentially exceed the capacity of existing stormwater drainage systems have been discussed in the impact analysis for Impact VIII-c.

f) Less Than Significant Impact. Any impacts to water quality have been discussed in the impact analysis for Impact VIII-a.
g) **No Impact.** According to the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP) Flood Insurance Rate Map (FIRM) for Map Numbers 06107C1634E and 06107C1633E dated June 16, 2009, the entirety of the Project site is located within Zone X, areas determined to be outside the 2% annual chance floodplain. Further, the construction of housing is not a part of the proposed Project. There would be no impact with regard to flood related events.

h) **No Impact.** Any impacts regarding the placement of structures in a 100-year flood hazard area that would impede or redirect flood flows have been discussed in the analysis of Impact VIII-g.

i) **Less Than Significant Impact.** The dam potentially affecting the Project, Success Dam, is approximately 10 miles to the east of the Project site. According to Tulare County’s Geographic Information Systems data, the Project area is not located within the 24-hour inundation area of the Success dam in the event of its failure. The impact would be less than significant.

j) **No Impact.** The nearest large body of water is Lake Success, which is located approximately 10 miles to the east of the Project site. Due to the lengthy distance between the lake and the Project site, there would be no potential for seiche or tsunami to occur. There would be no impact.
X. LAND USE AND PLANNING

Would the project:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Physically divide an established community?</td>
<td>☐</td>
<td>☐</td>
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<td>☒</td>
</tr>
<tr>
<td>b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the General Plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>c) Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
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</tbody>
</table>

Response:

a) No Impact. The Project areas are completely or substantially developed and are fully integrated into their surrounding urban neighborhoods.

b) No Impact. All proposed pre-zoning conforms with the adopted City of Porterville General Plan and Development Ordinance.

c) No Impact. No habitat conservation plan or natural community conservation plan has been adopted for the project areas.
XI. MINERAL RESOURCES

Would the project:

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<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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</thead>
<tbody>
<tr>
<td>a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?</td>
<td>☐</td>
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</tbody>
</table>

Response:

a) No Impact. The Porterville General Plan (2008) includes Figure 6-3 Soil and Mineral Conservation, which indicates the locations of State-designated Mineral Resource Zones or areas possessing minerals which are of state-wide or regional significance. According to the map, the Project areas are not located in a Mineral Resource Zone. The nearest Mineral Resource Zone is located along the Tule River, approximately one and one-half miles north of the Project site. Therefore, the Project would not result in the loss of an available known mineral resource. There would be no impact.

b) No Impact. The Project site is not delineated on a local land use plan as a locally important mineral resource recovery site; therefore, the existence of the Project would not result in the loss of availability of any mineral resources. There would be no impact.
XII. NOISE

Would the project:

| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? |
|---|---|---|---|---|
| | | | | No Impact |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? |
| | | | | No Impact |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? |
| | | | | No Impact |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? |
| | | | | No Impact |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? |
| | | | | No Impact |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? |
| | | | | No Impact |

Response:

a), b), c), d) No Impact. The project areas are generally developed, and integrated into their urban neighborhoods. Annexation into the City does not change the noise level generation in the project area. Conversely, annexation into the City of Porterville would subject the project areas to the City’s Noise Ordinance, providing greater enforcement mechanisms to monitor and reduce noise generation.

e) No Impact. The proposed annexation project is located approximately seven miles north of the Porterville Municipal Airport. The Porterville General Plan (2008), indicates in Figure 9-3, Projected Noise Contours 2030, that the Project site is located well outside of the 55 dB CNE/EL noise contour. There would be no impact.

f) No Impact. There are no private airstrips in the project vicinity. There would be no impact.
XIII. POPULATION AND HOUSING

Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

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<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

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<th>Potentially Significant Impact</th>
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<th>Less than Significant Impact</th>
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c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

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<th>Less than Significant Impact</th>
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</table>

Response:

a) **No Impact.** The proposed Project would annex approximately 125 acres of land into the City of Porterville. The majority of parcels are already developed; for those parcels not yet fully developed (approximately 25 acres), the land holds capacity to develop approximately 125 single family residences. The potential cumulative impact to population growth was considered and addressed in the Final EIR adopted with the General Plan. There would be no impact.

b) **No Impact.** No housing or people would be displaced by the Project. There would be no impact.

c) **No Impact.** Any impacts regarding the displacement of people have been discussed in Impact XII-b. There would be no impact.
XIV. PUBLIC SERVICES

Would the project:

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<th>Potentially Significant Impact</th>
<th>Less than Significant Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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</table>

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

<table>
<thead>
<tr>
<th>Fire protection?</th>
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<tbody>
<tr>
<td>Police protection?</td>
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Response:

a)

**Less Than Significant Impact: Fire Protection** – The City of Porterville currently shares responsibility for fire services within the project area under a reciprocal aid agreement with Tulare County Fire Department. This agreement would continue after annexation, though the primary responder role would switch from County to the City. Demand for services would change slowly as the Project areas redevelop. No new public safety buildings are needed as a result of the Project. The impact would be less than significant impact.

**Less Than Significant Impact: Police Protection** – The City of Porterville currently shares responsibility for police services within the project area under a reciprocal aid agreement with Tulare County Sheriff’s Department. This agreement would continue after annexation, though the primary responder role would switch from County to the City. Demand for services would change slowly as the Project areas redevelop. No new public safety buildings are needed as a result of the Project. The impact would be less than significant impact.

**No Impact: Schools** – The Project site is located within the Porterville Unified School District; no schools are located within the project area, but Monte Vista Elementary school is immediately adjacent to the southwesterly part, just west of Villa Street, south of Westfield Avenue. The students within the Project area already attend schools within Porterville Unified School District. The Project would not result in an increase of population that would require additional school facilities. There would be no impact.

**No Impact: Parks** – As the Project would not induce population growth, the project would not create a need for additional park or recreational services. Residents within the Project area are already able to take advantage of the City’s numerous recreational areas. There would be no impact.
No Impact: Other public facilities – As the Project would not induce population growth, the project would not create additional need for other public facilities. There would be no impact.
XV. RECREATION

Would the project:

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a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Response:

a) No Impact. As discussed in Impact XIII-a (Parks), the Project would not increase the demand for recreational facilities nor put a strain on the existing recreational facilities. There would be no impact.

b) No Impact. No existing recreational facilities are proposed to be annexed, and none area currently planned within the Project area. There would be no impact.
XVI. TRANSPORTATION/TRAFFIC

Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

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b) Conflict with an applicable congestion management program, including but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

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c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

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d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

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e) Result in inadequate emergency access?

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f) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

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Response:

a), b) No Impact. The Project would annex mostly developed land that is surrounded by existing development. The City’s circulation element does not propose additional roadways within the Project area, and existing roads have been identified in current City infrastructure plans. Therefore, annexation would not conflict with the existing plans, ordinances, or policies. Instead, over time as funding becomes available to improve existing roadways, the annexation would assist in implementation of policies related to circulation performance. There would be no impact.
c) No Impact. The Project is located approximately seven miles north of the Porterville Municipal Airport. The annexation of the Project areas would not cause an increase in air traffic levels or cause a change in air traffic location. There would be no impact.

d) No Impact. No roadway design features are associated with this Project and there is no change in the existing land use which would result in an incompatible use. There would be no impact.

e) No Impact. Circulation would not be modified as a result of this Project; therefore, there would be no impact to any emergency access.

f) No Impact. There are no adopted alternative transportation policies, plans, or programs in the Project area. There would be no impact.
XVII. UTILITIES AND SERVICE SYSTEMS

Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

g) Comply with federal, state, and local statutes and regulations related to solid waste?

Response:

a) Less Than Significant Impact. The subject sites are included within the City of Porterville Sewer, Water, and Storm Drain Master Plans. The capacity of the City of Porterville Wastewater Treatment Plant is currently 8 million gallons per day. Current usage averages 5.2 million gallons per day. At this rate, sufficient capacity is available to handle the proposed increase in population of approximately 750 people. As septic systems currently in place at a given parcel fail, property owners would connect to the Wastewater Treatment Plant. As infill development and redevelopment occurs throughout the annexation areas, the sewer, water, and storm drain systems would be extended as necessary to accommodate new construction. Funding mechanisms are identified in the Master Plans to ensure that system development keeps pace with population growth. The impact would be less than significant.
b) Less Than Significant Impact. Any impacts regarding the need for wastewater treatment facilities have been discussed in Impact XVI-a. The impact would be less than significant.

c) Less Than Significant Impact. Any impacts regarding the need for storm water drainage facilities have been discussed in Impact XVI-a. The impact would be less than significant.

d) Less Than Significant Impact. Approximately half of the project area is currently served by City water, due to acquisition in the past of failed private water companies. Service to the remaining property owners (approximately 400 persons) can be sufficiently met with the City’s existing water system. The impact would be less than significant.

e) Less Than Significant Impact. Any impacts regarding wastewater treatment have been discussed in Impact XVI-a. The impact would be less than significant.

f) Less Than Significant Impact. The areas proposed for annexation are currently receiving solid waste services from a private water company through a contract with the County of Tulare. Responsibility for providing that service will transition to the City of Porterville over a five year period following annexation. Both the private and public solid waste services make use of the Teapot Dome Landfill operated by the County of Tulare. Adequate capacity exists in that landfill for potential infill development consistent with the designated zoning. The impact would be less than significant.

g) Less Than Significant Impact. Any impacts regarding solid waste have been discussed in Impact XVI-f. The impact would be less than significant.
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

Would the project:

| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? |
|---|---|---|---|---|
| Potentially Significant Impact | Less than Significant With Mitigation Incorporation | Less than Significant Impact | No Impact |
| ☐ | ☐ | ☒ | ☐ |

b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

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c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

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Response:

a) **No Impact.** The analysis conducted in this Initial Study/Mitigated Negative Declaration results in a determination that the Project would have no negative effect on the local natural environment. The Project area is substantially developed and the proposed annexation would not result in loss of native habitat. The potential for impacts to biological and cultural resources from annexation would be less than significant as discussed in the previous impact sections. Accordingly, the Project would involve no potential for significant impacts through the degradation of the quality of the environment, the reduction in the habitat or population of fish or wildlife, including endangered plants or animals, the elimination of a plant or animal community or example of a major period of California history or prehistory. The impact would be less than significant.

b) **Less Than Significant Impact.** As discussed above, the Project would result in less than significant impacts to biological and cultural resources. Compliance with applicable codes, ordinances, laws and other required regulations would assure that potential impacts associated with infill development after annexation remain at a less than significant level.

c) **Less Than Significant Impact.** The Project would not result in substantial adverse effects on human beings, either directly or indirectly. Adverse effects on human beings resulting from implementation of the Project would be less than significant.
4 REFERENCES


California Air Pollution Control Officers Association. CEQA and Climate Change, January 2008.


City of Porterville 2030 General Plan. March 4, 2008.


United States Department of Agriculture, Natural Resources Conservation Service. Soil Survey of Tulare County, Western Part.

5 LIST OF PREPARERS

The following firms, individuals and agency staff contributed to the preparation of this document:

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William H. Nebeke, City Planner
Jenni Byers, Assistant Planner

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Porterville, CA 93257

Julie Phillips, AICP

Planning Tree Consulting
4216 S Mooney Blvd
Suite 107
Visalia, CA 93277
RESOLUTION NO._________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE containing findings in support of approval of a NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR THE NORTH MAIN STREET ANNEXATION, NO. 475

WHEREAS: On April 18, 2012, the City of Porterville circulated an Initial Study and Notice of Intent to Adopt a Negative Declaration for the North Main Annexation, No. 475; and

WHEREAS: No comments were received from agencies or the public prior to the close of the public comment period; and

WHEREAS: On May 21, 2012, the City Council opened the duly noticed public hearing and directed staff to research whether the annexation could be divided into two (2) parts due to a Council Member’s conflict of interest without incurring additional costs, then continued the hearing to June 5, 2012; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of June 5, 2012, conducted a public meeting to consider approval of the Negative Declaration which evaluates the environmental impacts of the annexation of 125.1± acres into the City of Porterville; and

WHEREAS: The subject land proposed for annexation is considered “islands,” subject to Section 56375.3, and are entirely or substantially surrounded by land currently within the City.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby make the following findings:

1. That a Negative Declaration was prepared for the project in accordance with the California Environmental Quality Act and was transmitted to interested agencies and made available for public review and comment. The review period ran for twenty (20) days from April 19, 2012, to May 9, 2012.

2. That the proposed project will not create adverse environmental impacts. The approved Negative Declaration was evaluated in light of the prepared environmental initial study. It was determined that no potential impacts are associated with the proposed project.

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

NOW, THEREFORE, BE IT FURTHER RESOLVED: That the City Council does hereby approve the Negative Declaration for the North Main Street Annexation No. 475 as described herein.

PASSED, APPROVED AND ADOPTED this _____ day of June 2012.
By: __________________________
Ronald L. Irish, Mayor

ATTEST:

John D. Lollis, City Clerk

By: __________________________
Patrice Hildreth, Chief Deputy City Clerk
RESOLUTION NO._______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA
MAKING APPLICATION FOR CHANGE OF ORGANIZATION OF TERRITORY KNOWN AS ANNEXATION NO. 475

WHEREAS, the California State Legislature finds and declares that it is the policy of the State to encourage orderly growth and development which is essential to the social, fiscal, and economic well-being of the State, and recognizes that the logical formation and determination of City boundaries is an important factor in promoting the orderly development of urban areas; and

WHEREAS, the legislature recognizes that population density and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities must be established regarding the type and levels of such services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against total financial resources available for securing community services; and that such community service priorities must reflect local circumstances, conditions, and limited financial resources. The legislature finds and declares that a single government agency, rather than several limited purpose agencies, is better able to assess and be accountable for community service needs and financial resources and, therefore, is the best mechanism for establishing community service priorities; and

WHEREAS, the City Council of the City of Porterville desires to initiate proceedings for a change of organization of the hereinafter described territory.

NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED AND ORDERED AS FOLLOWS:

1. Application is hereby made to the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California, as follows:

   A. This proposal is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 of the State of California.

   B. The nature of the proposal is a change of organization as follows:
   A description of the exterior boundaries of the territory to be annexed is attached hereto and marked Exhibit "A" and made a part hereof by reference as though set forth herein.

   C. The reasons for this proposal are as follows:
   To provide municipal services including streets, sanitary sewer, water, and storm drainage services, increased police and fire protection, and other municipal services as so required. To provide proper control, orderly development, and logical growth in
accordance with the City of Porterville General Plan, LAFCo's Sphere of Influence Boundary, and the Urban Development Boundary as adopted by the County of Tulare and the City of Porterville.

D. In compliance with the California Environmental Quality Act (CEQA), on April 18, 2012, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the North Main Annexation. The Initial Study was transmitted to interested agencies, groups and individuals for review and comment. The review period ran for 20 days from April 19, 2012, to May 9, 2012. No comments were received on the Initial Study.

E. The subject site is an inhabited annexation and is not located within an agricultural preserve.

F. That the subject site consists of 125.1± acres substantially developed with a variety of uses including single-family residences, businesses, and a few vacant parcels.

G. The subject site is located within Porterville's Urban Development Boundary and LAFCo's Sphere of Influence Boundary.

H. Porterville's General Plan designates the area for a mix of low density residential, commercial, and industrial uses.

I. Upon consummation of the proposed annexation, the subject site will automatically be zoned City RS-2, RM-1 and CG (Low Density Residential, Low Medium Density Residential, and General and Service Commercial, respectively) zone districts pursuant to Section 200 of the Porterville Development Ordinance and in support of the General Plan.

J. It is hereby requested that proceedings be taken for the change of organization proposed herein.

2. The City Clerk (or other official) of the City of Porterville is hereby authorized and directed to file a certified copy of this resolution with the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California.

______________________________
Ronald L. Irish, Mayor

ATTEST:

John D. Lollis, City Clerk

By ________________________________
Patrice Hildreth, Chief Deputy City Clerk
RESOLUTION NO._______


WHEREAS, the California State Legislature finds and declares that it is the policy of the State to encourage orderly growth and development which is essential to the social, fiscal, and economic well-being of the State, and recognizes that the logical formation and determination of City boundaries is an important factor in promoting the orderly development of urban areas; and

WHEREAS, the legislature recognizes that population density and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities must be established regarding the type and levels of such services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against total financial resources available for securing community services; and that such community service priorities must reflect local circumstances, conditions, and limited financial resources. The legislature finds and declares that a single government agency, rather than several limited purpose agencies, is better able to assess and be accountable for community service needs and financial resources and, therefore, is the best mechanism for establishing community service priorities; and

WHEREAS, the City Council of the City of Porterville desires to initiate proceedings for a change of organization of the hereinafter described territory.

NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED AND ORDERED AS FOLLOWS:

1. Application is hereby made to the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California, as follows:

   A. This proposal is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 of the State of California.

   B. The nature of the proposal is a change of organization as follows:
      A description and map of the exterior boundaries of the territory to be annexed is attached hereto, marked Exhibit "A," and made a part hereof by reference as though set forth herein.

   C. The reasons for this proposal are as follows:
      To provide municipal services including streets, sanitary sewer, water, and storm drainage services, increased police and fire protection, and other municipal services as so required. To provide proper control, orderly development, and logical growth in

ATTACHMENT
ITEM NO. 7
accordance with the City of Porterville General Plan, LAFCo's Sphere of Influence Boundary, and the Urban Development Boundary as adopted by the County of Tulare and the City of Porterville.

D. In compliance with the California Environmental Quality Act (CEQA), on April 18, 2012, the Environmental Coordinator made a preliminary determination that a Negative Declaration would be appropriate for the North Main Annexation. The Initial Study was transmitted to interested agencies, groups and individuals for review and comment. The review period ran for 20 days from April 19, 2012, to May 9, 2012. No comments were received on the Initial Study.

E. The subject site is an inhabited annexation and is not located within an agricultural preserve.

F. That the subject site consists of 123.1± acres substantially developed with a variety of uses including single-family residences, businesses, and a few vacant parcels.

G. The subject site is located within Porterville's Urban Development Boundary and LAFCo's Sphere of Influence Boundary.

H. Porterville's General Plan designates the area for a mix of low-density residential, commercial, and industrial uses.

I. Upon consummation of the proposed annexation, the subject site will automatically be zoned City RS-2, RM-1 and CG (Low Density Residential, Low Medium Density Residential, and General and Service Commercial, respectively) zone districts pursuant to Section 200 of the Porterville Development Ordinance and in support of the General Plan.

J. It is hereby requested that proceedings be taken for the change of organization proposed herein.

2. The City Clerk (or other official) of the City of Porterville is hereby authorized and directed to file a certified copy of this resolution with the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California.

________________________________________
Ronald L. Irish, Mayor

ATTEST:

John D. Lollis, City Clerk

By

Patrice Hildreth, Chief Deputy City Clerk
RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA MAKING APPLICATION FOR CHANGE OF ORGANIZATION OF TERRITORY KNOWN AS ANNEXATION NO. 475, (AREA B)

WHEREAS, the California State Legislature finds and declares that it is the policy of the State to encourage orderly growth and development which is essential to the social, fiscal, and economic well-being of the State, and recognizes that the logical formation and determination of City boundaries is an important factor in promoting the orderly development of urban areas; and

WHEREAS, the legislature recognizes that population density and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities must be established regarding the type and levels of such services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against total financial resources available for securing community services; and that such community service priorities must reflect local circumstances, conditions, and limited financial resources. The legislature finds and declares that a single government agency, rather than several limited purpose agencies, is better able to assess and be accountable for community service needs and financial resources and, therefore, is the best mechanism for establishing community service priorities; and

WHEREAS, the City Council of the City of Porterville desires to initiate proceedings for a change of organization of the hereinafter described territory.

NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED AND ORDERED AS FOLLOWS:

1. Application is hereby made to the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California, as follows:

   A. This proposal is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 of the State of California.

   B. The nature of the proposal is a change of organization as follows:
   A description and map of the exterior boundaries of the territory to be annexed is attached hereto, and marked Exhibit "A," and made a part hereof by reference as though set forth herein.

   C. The reasons for this proposal are as follows:
   To provide municipal services including streets, sanitary sewer, water, and storm drainage services, increased police and fire protection, and other municipal services as so required. To provide proper control, orderly development, and logical growth in
accordance with the City of Porterville General Plan, LAFCo's Sphere of Influence Boundary, and the Urban Development Boundary as adopted by the County of Tulare and the City of Porterville.

D. In compliance with the California Environmental Quality Act (CEQA), on April 18, 2012, the Environmental Coordinator made a preliminary determination that a Negative Declaration would be appropriate for the North Main Annexation. The Initial Study was transmitted to interested agencies, groups and individuals for review and comment. The review period ran for 20 days from April 19, 2012, to May 9, 2012. No comments were received on the Initial Study.

E. The subject site is an inhabited annexation and is not located within an agricultural preserve.

F. That the subject site consists of 2± acres substantially developed with single-family residences.

G. The subject site is located within Porterville's Urban Development Boundary and LAFCo's Sphere of Influence Boundary.

H. Porterville's General Plan designates the area for a mix of low-density residential, commercial, and industrial uses.

I. Upon consummation of the proposed annexation, the subject site will automatically be zoned City RS-2 (Low Density Residential) zone district pursuant to Section 200 of the Porterville Development Ordinance and in support of the General Plan.

J. It is hereby requested that proceedings be taken for the change of organization proposed herein.

2. The City Clerk (or other official) of the City of Porterville is hereby authorized and directed to file a certified copy of this resolution with the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California.

Ronald L. Irish, Mayor

ATTEST:

John D. Lollis, City Clerk

By ________________________________
Patrice Hildreth, Chief Deputy City Clerk
DISCLAIMER

"FOR ASSESSMENT PURPOSES ONLY. THIS DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS FOR AN OFFER FOR SALE OF THE LAND DESCRIBED."

LEGEND
- EXISTING CITY LIMITS
- ANNEXATION BOUNDARY
COUNCIL AGENDA – JUNE 5, 2012

SUBJECT: SECOND READING – ORDINANCE NO. 1789, AMENDMENTS TO THE DEVELOPMENT ORDINANCE IN RELATION TO MINOR CONDITIONAL USE PERMITS

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT/CITY CLERK DIVISION

COMMENT: Ordinance 1789, an Ordinance of the City Council of the City of Porterville amending the Porterville Development Ordinance in Relation to Minor Conditional Use Permits and Monetary Penalties, was given first reading on May 15, 2012, and was printed.

RECOMMENDATION: That the Council give Second Reading to Ordinance No. 1789, waive further reading, and adopt said Ordinance.

ATTACHMENT: Ordinance No. 1789

Item No. 18
ORDINANCE NO. 1789

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING THE PORTERVILLE DEVELOPMENT ORDINANCE
IN RELATION TO MINOR CONDITIONAL USE PERMITS
AND MONETARY PENALTIES

WHEREAS: On February 21, 2012, the City Council provided direction to staff to prepare an amendment to the Porterville Development Ordinance to: 1) provide for a minor conditional use permit process that would apply to an agricultural operation conditionally approved subject to the recently adopted Commercial Crop Cultivation Ordinance, as well as other uses that require less staff resources to process; 2) a graduated monetary penalty for violations of the recently adopted Commercial Crop Cultivation Ordinance that may also be applied to other uses deemed to be a nuisance; and 3) an amendment to the fee resolution to set an appropriate fee for a minor conditional use permit; and

WHEREAS: At the meeting of March 6, 2012, the City Council further directed staff to draft an amendment to the Development Ordinance to accommodate on-site sale of commercially cultivated crops; and

WHEREAS: A public hearing was held before the City Council on May 1, 2012, pursuant to the Planning and Zoning Law of the State of California and the Porterville Development Ordinance of the City of Porterville; and

WHEREAS: On May 1, 2012, the public hearing was opened and testimony was requested prior to the City Council acting to continue the matter to the meeting of May 15, 2012, at which time the continued public hearing was held; and

WHEREAS: Pursuant to State and local environmental regulations, the proposed ordinance revisions serve to implement policies identified in the Porterville 2030 General Plan, and the proposed ordinance revision is an implementation measure of the policies, goals, and objectives of the Plan; and

WHEREAS: On March 4, 2008, the City Council adopted Resolution 21-2008 certifying the Final Environmental Impact Report (EIR) for the General Plan; and

WHEREAS: On April 20, 2010, a public hearing was held before the City Council approving Ordinance 1764 which adopted a Comprehensive Development Ordinance and determined the adequacy of an Addendum to the Final Environmental Impact Report to the Porterville General Plan; and

WHEREAS: On April 17, 2012, the Environmental Coordinator made a determination on the basis of substantial evidence that the proposed action is adequately covered under the addendum to the previously certified EIR.
NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does hereby adopt Ordinance No. 1789 amending the Porterville Development Ordinance to include a provision for a “Minor Conditional Use Permit” as follows:

SECTION 1:

1. Amend Section 200.02 Land Use Regulations to add Minor Conditional Use Permit as follows:

“C” designates use classifications that are permitted after review and approval of a Conditional Use Permit by the City Council.

“M” designates use classifications that are permitted after review and approval of a Minor Conditional Use Permit by the City Council.

“(#)” numbers in parentheses refer to specific limitations listed at the end of the table.

2. Amend Table 200.02: Land Use Regulations—Agriculture/Rural/Conservation Districts to add Minor Conditional Use Permits and allow on-site sales of crops as follows:

<table>
<thead>
<tr>
<th>TABLE 200.02: Land Use Regulations—AGRICULTURE/RURAL/CONSERVATION Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use Classification</td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>Transportation, Communication, and Utilities Uses</td>
</tr>
<tr>
<td>Antenna and Transmission Towers, non-camouflage facilities</td>
</tr>
<tr>
<td>----------------------------------------------------------------</td>
</tr>
<tr>
<td>Agricultural and Extractive Uses</td>
</tr>
<tr>
<td>Crop Cultivation (commercial)</td>
</tr>
<tr>
<td>----------------------------------------------------------------</td>
</tr>
<tr>
<td>Commercial Uses</td>
</tr>
<tr>
<td>Kennels</td>
</tr>
</tbody>
</table>

3. Amend Section 201.02 Land Use Regulations to add Minor Conditional Use Permit as follows:

“C” designates use classifications that are permitted after review and approval of a Conditional Use Permit by the City Council.

“M” designates use classifications that are permitted after review and approval of a Minor Conditional Use Permit by the City Council.
“(#)” numbers in parentheses refer to specific limitations listed at the end of the table.

4. Amend Table 201.02: Land Use Regulations-Residential Districts to add Minor Conditional Use Permits and allow on-site sales of crops as follows:

<table>
<thead>
<tr>
<th>TABLE 201.02: Land Use Regulations—RESIDENTIAL DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use Classification</td>
</tr>
<tr>
<td>----------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Commercial Uses</strong></td>
</tr>
<tr>
<td>Coffee Shops/Cafes</td>
</tr>
<tr>
<td><strong>Agricultural and Extractive Uses</strong></td>
</tr>
<tr>
<td>Crop Cultivation (commercial)</td>
</tr>
</tbody>
</table>

5. Amend Section 203.02 Land Use Regulations to add Minor Conditional Use Permit as follows:

“C” designates use classifications that are permitted after review and approval of a Conditional Use Permit by the City Council.

“M” designates use classifications that are permitted after review and approval of a Minor Conditional Use Permit by the City Council.

“(#)” numbers in parentheses refer to specific limitations listed at the end of the table.

6. Amend Table 203.02: Land Use Regulations-Commercial Districts to add Minor Conditional Use Permits and allow on-site sales of crops as follows:

<table>
<thead>
<tr>
<th>TABLE 203.02: Land Use Regulations—COMMERCIAL DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use Classifications</td>
</tr>
<tr>
<td>----------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Commercial Uses</strong></td>
</tr>
<tr>
<td>Kennels</td>
</tr>
<tr>
<td>Pet Stores</td>
</tr>
<tr>
<td>General Offices</td>
</tr>
<tr>
<td>Walk-In Clientele</td>
</tr>
<tr>
<td><strong>Transportation, Communication, and Utilities Uses</strong></td>
</tr>
</tbody>
</table>
TABLE 203.02: Land Use Regulations—COMMERCIAL DISTRICTS

<table>
<thead>
<tr>
<th>Use Classifications</th>
<th>CN</th>
<th>CR</th>
<th>CG</th>
<th>CMX</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facilities within Buildings</td>
<td>-</td>
<td>M</td>
<td>M</td>
<td>P(22)</td>
<td></td>
</tr>
</tbody>
</table>

**Agricultural and Extractive Uses**

<table>
<thead>
<tr>
<th>Use Classification (commercial)</th>
<th>PO</th>
<th>IP</th>
<th>IG</th>
<th>IA</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crop Cultivation (commercial)</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>Section 301.21, Crop Cultivation; 301.22, Sale of Agricultural Crops</td>
</tr>
</tbody>
</table>

7. Amend Section 204.02 Land Use Regulations to add Minor Conditional Use Permit as follows:

“C” designates use classifications that are permitted after review and approval of a Conditional Use Permit by the City Council.

“M” designates use classifications that are permitted after review and approval of a Minor Conditional Use Permit by the City Council.

“(#)” numbers in parentheses refer to specific limitations listed at the end of the table.

8. Amend Table 204.02: Land Use Regulations—Employment Districts to add Minor Conditional Use Permits and allow on-site sales of crops as follows:

TABLE 204.02: Land Use Regulations—EMPLOYMENT DISTRICTS

<table>
<thead>
<tr>
<th>Use Classification</th>
<th>PO</th>
<th>IP</th>
<th>IG</th>
<th>IA</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Uses</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kennels</td>
<td>-</td>
<td>M</td>
<td>M</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Transportation, Communication, and Utilities Uses
TABLE 204.02: Land Use Regulations—EMPLOYMENT DISTRICTS

<table>
<thead>
<tr>
<th>Use Classification</th>
<th>PO</th>
<th>IP</th>
<th>IG</th>
<th>IA</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antenna and Transmission Towers, non-camouflage facilities</td>
<td>M(10)</td>
<td>M(10)</td>
<td>M(10)</td>
<td>M(1,10)</td>
<td>Chapter 306, Telecommunications Facilities</td>
</tr>
<tr>
<td>Facilities within Buildings</td>
<td>M</td>
<td>C</td>
<td>C</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

Agricultural and Extractive Uses

<table>
<thead>
<tr>
<th>Use Classification</th>
<th>PS</th>
<th>REC</th>
<th>PK</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crop Cultivation (commercial)</td>
<td>M</td>
<td>P</td>
<td>P</td>
<td>M</td>
</tr>
</tbody>
</table>

9. Amend Section 205.02 Land Use Regulations to add Minor Conditional Use Permit as follows:

“C” designates use classifications that are permitted after review and approval of a Conditional Use Permit by the City Council.

“M” designates use classifications that are permitted after review and approval of a Minor Conditional Use Permit by the City Council.

“(#)” numbers in parentheses refer to specific limitations listed at the end of the table.

10. Amend Table 205.02: Land Use Regulations—PUBLIC AND OPEN SPACE DISTRICTS to add Minor Conditional Use Permits and allow on-site sales of crops as follows:

TABLE 205.02: Land Use Regulations—PUBLIC AND OPEN SPACE DISTRICTS

<table>
<thead>
<tr>
<th>Use Classification</th>
<th>PS</th>
<th>REC</th>
<th>PK</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transportation, Communication, and Utilities Use Classifications</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Antenna and Transmission Towers, non-camouflage facilities</td>
<td>M(3)</td>
<td>M(3)</td>
<td>M(3)</td>
<td>Chapter 306, Telecommunications Facilities</td>
</tr>
</tbody>
</table>

Agricultural and Extractive Uses
TABLE 205.02: Land Use Regulations—PUBLIC AND OPEN SPACE DISTRICTS

<table>
<thead>
<tr>
<th>Use Classification</th>
<th>PS</th>
<th>REC</th>
<th>PK</th>
<th>Additional Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crop Cultivation (commercial)</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>Section 301.21, Crop Cultivation; 301.22, Sale of Agricultural Crops</td>
</tr>
</tbody>
</table>

11. Amend Section 301.21(c)(4) to read as follows:

4. On-site sale of crops is allowed in accordance with Section 301.22, Sale of Agricultural Crops.

12. Add Section 301.22 to read as follows:

301.22 Sale of Agricultural Crops

The on-site sale of agricultural crops is allowed in any zone district except the downtown districts in conjunction with commercial crop cultivation if a minor conditional use permit is obtained. The City Council will consider the following criteria before granting a minor conditional use permit for on-site sales:

(a) Sales from the site are seasonal in nature.
(b) Sales are limited to those crops grown on site.
(c) Sales booths have adequate parking and there is appropriate surfacing for the parking area and drive aisle.
(d) There is safe access to and from the site from the right of way.
(e) The sales booth conforms to all requirements of the California Building Code and the size of the booth is commensurate with the crop to be sold, the size of the cultivation area and the length of the season, but shall not exceed 500 square feet.
(f) One 40 square foot sign is allowed as a wall sign or freestanding sign not greater than twelve (12) feet in height.

13. Amend Section 605.02 Applicability to read as follows:

605.02 Applicability
Conditional Use Permit approval is required for uses or developments specifically identified in the Series 200, Base Districts, and Series 500, Overlay Districts, of this Ordinance or any other section of this Ordinance which requires a Conditional Use Permit. Some conditional uses that have been identified by the City Council to require less staff review time are titled “Minor Conditional Use Permits”, and such uses are identified in the Series 200, Base Districts. Minor Conditional Use Permits shall conform to all applicable criteria required of Conditional Use Permits.
14. Amend Section 614.04 Penalties, to read as follows:

614.04 Penalties
(a) Any person, firm or corporation, violating any of the provisions of this Ordinance may be subject to the Administrative Citation procedure pursuant to Chapter 2, Article XIV of the City of Porterville Municipal Code and shall be deemed guilty of an infraction or misdemeanor; and upon conviction thereof, shall be punishable by a fine of not more than $1,000, by imprisonment in the county jail of Tulare County for a term not exceeding 180 days, or by both such fine and imprisonment. If an injunction is sought and granted, the person, firm, or corporation shall be deemed to be guilty and shall be obligated to pay the City’s attorney’s fees and costs of the City at the discretion of the court. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed or continued by such person, firm, or corporation, and shall be punishable as herein provided.

(b) As an alternate penalty, any nuisance associated with a use allowed by a discretionary permit (i.e. Conditional Use Permit, etc.) as set forth in this code, may be subject to a fine as follows:

(1) First offense: Not more than $500
(2) Second offense: Not more than $2,500
(3) Third offense: Not more than $5,000

SECTION 2: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED, AND ADOPTED this 5th day of June, 2012.

By: ____________________________
Ronald L. Irish, Mayor

ATTEST:
John D. Lollis, City Clerk

By: ____________________________
Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: CONSIDERATION OF THE CITY MANAGER’S PROPOSED BUDGET FOR FISCAL YEAR 2012-2013 AND SETTING A PUBLIC HEARING DATE

SOURCE: City Manager

COMMENT: Consistent with the calendar approved in the development of the City Budget, the City Manager's draft budget is presented for the City Council’s consideration. The customary process involves the Council’s consideration of the draft budget through study session and public hearing.

The study session for the 2012-2013 Budget was held on May 22, 2012. Staff recommends the public hearing be set for the next regular council meeting on June 19, 2012.

RECOMMENDATION: That the City Council schedule the Public Hearing on the Fiscal Year 2012-2013 Budget on June 19, 2012.

ATTACHMENT: Preliminary Budget provided under separate cover.

SUBJECT: APPOINTMENT TO THE TRANSACTIONS AND USE TAX ("MEASURE H") OVERSIGHT COMMITTEE

SOURCE: ADMINISTRATIVE SERVICES/CITY CLERK DIVISION

COMMENT: The Transactions and Use Tax Oversight Committee currently has one vacancy with a four-year term to expire in May 2016.

Pursuant to Council’s direction, staff publicized notice of the vacancy and solicited applications from interested individuals. As of the time of agenda compilation and distribution, staff has received one Request for Appointment. The Request was submitted by Ms. Janet Meister and is attached hereto for Council’s consideration. Requests received subsequent to agenda distribution will be presented under separate cover.

To be eligible for appointment, individuals must either be a resident of Porterville, a business owner, or operator.

RECOMMENDATION: That the City Council consider the appointment of an individual to the Transactions and Use Tax Oversight Committee to fill the vacant position with a four-year term to expire in May 2016.

ATTACHMENT: 1. Request for Appointment
2. Resolution 24-2006
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Janet Meister
(Please Print)

Appointment to: Measure H Citizens Oversight Committee
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: 1056 Lotaq Pl
Porterville, CA 93257

Mailing Address: same

Name of Business: NA

☐ Own  ☐ Operate

Business Address: NA

Telephone: Cell 559-361-1920
Home
Work
FAX
E-mail boldtuesday@gmail.com

City of Porterville resident: ☑ Yes
☐ No

Registered Voter: ☑ Yes
☐ No
Qualifications:

Submitted By: Janet Tiderman Meister 5-22-2012

Received by: Rick Herrera

Forwarded to: City Clerk  Date:

City Council  Date:

City Manager  Date:

Applicable Dept.  Date:

Tentative Council Mtg Date: 6-5-12
Janet Tiderman Meister

Request for Appointment to Measure H Citizens Oversight Committee

In 1970 my family moved to the “big city” of Porterville from Strathmore. Even at 12 years old I knew Porterville was a great place to live since Porterville City Schools allowed girls to wear pants! And Porterville is where I chose to raise my family.

In 1986 I began my career with the Tulare County Office of Education as an instructional aide for severely handicapped children. My current assignment is a class at Burton Middle School.

The qualifications I bring to this position are:

1. Resident of Porterville.
2. 25 years public service.
4. Strong desire to serve the community of Porterville.

Thank you for your consideration.
RESOLUTION NO. 24-2006

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

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

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

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

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

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

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

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

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

B. **Purpose**

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

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

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

C. **Charge of Committee**

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

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

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

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

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

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

**The committee shall not have the following authority:**

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

E. **Committee Operations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Signature]

Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

[Signature]

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

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

Fiscal Accountability Protections

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

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

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

Dedicated Accounting Structure

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

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

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

Priorities if additional revenues are available

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

Review and Modification of Expenditure Plan

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

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

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

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

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

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

Fiscal Year 2007-08 Additional Sales Tax Revenues (Second full F/Y) $1,863,680
Increase Police Sworn by 1 additional position to the base $87,000
Maintain Expanded Patrol Operations $508,000
Maintain Expanded Gang Suppression and Narcotics Operations $255,250
Maintain 7 additional Sworn Fire personnel $557,637
Hire 1 additional Fire Investigator $74,167
Station and Equipment $20,000
Maintain Literacy Programs/hours $187,200
Expand Homework Assistance and Creative Expression Program $83,200
Increase Established Capital Reserve Fund for New Fire Station $91,226
Total 2007-08 Fiscal Year Expenditures $1,863,680
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<tr>
<th>Fiscal Year 2008-09 Additional Sales Tax Revenues (Third full F/Y)</th>
<th>$1,938,227</th>
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<tr>
<td>Additional Supplemental Resources (General Fund)</td>
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<td>Increase Police Sworn by 1 additional position to the base</td>
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<td>Maintain Expanded Patrol Operations</td>
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<td>Maintain Expanded Patrol Operations</td>
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<td>Maintain Expanded Gang Suppression and Narcotics Operations</td>
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<td>Expand Homework Assistance and Creative Expression Program</td>
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<td>Partial Year Debt Service Payment on New Fire Station Financing</td>
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<td>Total 2009-10 Fiscal Year Expenditures</td>
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<td>Fiscal Year 2010-11 Additional Sales Tax Revenues (Fifth full F/Y)</td>
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<td>Additional Supplemental Resources (General Fund)</td>
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<td>Total Resources Available</td>
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<td>Maintain 8 additional Sworn Police personnel</td>
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<td>Maintain Expanded Patrol Operations</td>
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<td>Total 2010-11 Fiscal Year Expenditures</td>
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* Total Reserve Cash Available for Real Property Acquisition for New Fire Station in Fiscal Year 2008/09. $266,288
1. Assumes 4% growth rate in annual sales tax revenue.

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

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

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

5. The City will use base budget amounts established and approved under the Expenditure Control Budget System in determining additional funding for Police, Fire, and Literacy programs delivered through the Library to prevent erosion of existing General Fund support for these activities.
STATE OF CALIFORNIA  )
CITY OF PORTERVILLE  )  SS
COUNTY OF TULARE  )

I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 21st day of February, 2006.

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

<table>
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<th>IRISH</th>
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<th>HAMILTON</th>
<th>STADTHERR</th>
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<td>ABSENT:</td>
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JOHN LONGLEY, City Clerk

[Signature]

by Patrice Hildreth, Deputy City Clerk
SCHEDULED MATTER

SUBJECT: GENERAL PLAN REFERRAL – TULARE COUNTY DETENTION FACILITY

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: Pursuant to Government Code Section 65402, Tulare County has requested General Plan conformance review of a proposed site for a new criminal detention facility. The facility would be located generally at the northwest corner of Scranton Avenue and Newcomb Street, and is a portion of Assessor Parcel Number 302-080-065. More specifically, the County is considering acquiring the 37.36± acre parcel, excluding the easterly 230± feet, which contains an agricultural well, house and barn. The County is required to carry out such referral prior to purchasing the site for the construction of a new facility. The City is required to respond to such request within 40 days or the proposal is deemed to conform to the General Plan. Although it has been more than 40 days, the County consented to scheduling the meeting on June 5, 2012, to allow Staff adequate time to evaluate the proposal and to account for May having five Tuesdays, which extended the scheduling time.

The request was received by the Planning Division on April 18, 2012. On May 2, 2012, the Project Review Committee discussed the matter with representatives from Tulare County. City staff requested additional time to complete review of the project and submit for City Council review.

At the Project Review Committee meeting, members of the community expressed concerns that there was a lack of communication as they had not been notified of any development. There was also a concern that County staff had not sought out other willing landowners for development of their property. A concern was expressed about the location of a detention facility so close to the Sports Complex and the Fairgrounds. A sign-in sheet was circulated and interested members were notified of this meeting. Although the comments by members of the public present at the PRC meeting speak to process and communication, all but the comment about the proximity of the site to the Sports Complex are matters between the commentors and the County.

Staff's analysis concludes that the site is located in the primary planned industrial area of the City, that the use will be generally consistent with the less sensitive nature of industrial uses, that the site is well served by roads that distribute vehicles in multiple directions, and the site is served by infrastructure that is anticipated to be adequate to serve the proposed use. As such, Staff finds that large scale facilities
with limited customer access and crop cultivation such as the proposed detention facility be considered consistent with the General Plan and Ordinance.

RECOMMENDATION: That the City Council:
1. Determine the location on the northwest corner of Scranton Avenue and Newcomb Street for a proposed detention facility would be consistent with the General Plan of the City of Porterville; and
2. Affirm the determination of the Zoning Administrator that a correctional facility is consistent with other uses allowed in the Industrial Park Zone.

ATTACHMENT: Complete Staff Report
GENERAL PLAN REFERRAL – TULARE COUNTY DETENTION FACILITY

APPLICANT: County of Tulare General Services
5953 S. Mooney Blvd.
Visalia, Ca 93277

SPECIFIC REQUEST: On April 18, 2012, Tulare County requested a General Plan conformance review of a proposed site for a new criminal detention facility they are considering purchasing. The County made the request pursuant to Government Code Section 65402, which requires that a governmental agency consult with a local agency with an adopted General Plan when considering purchase of land within that agency’s jurisdiction. The facility would be located generally at the northwest corner of Scranton Avenue and Newcomb Street, and is a portion of Assessor Parcel Number 302-080-065.

SIZE OF PROPERTY: 37.36± acres

GENERAL PLAN CLASSIFICATION: Industrial Park

ZONING CLASSIFICATION: Industrial Park

SURROUNDING ZONING:

North: County zoning AE-20 (Exclusive Agricultural Zone – 20 acre minimum); prezoned Industrial Park.
West: City zoning IP (Industrial Park)
South: County zoning AE-20 (Exclusive Agricultural Zone – 20 acre minimum); prezoned Airport Industrial
East: County zoning AE-20 (Exclusive Agricultural Zone – 20 acre minimum); prezoned Industrial Park

PROJECT DESCRIPTION: The County is considering acquiring the 37.36± acre parcel, excluding the easterly 175 feet which contains an agricultural well, house and barn for the purposes of developing a County detention facility. The matter before the City Council is whether the proposed use on the proposed site is consistent with the City’s General Plan.

ANALYSIS: It is important to note that none of the zoning classifications or land use designations in the City explicitly address detention facilities with the exception of the Airport Environments Overlay Zone. Therefore, staff has evaluated the proposed use of the land relative to the existing General Plan Land Use Designation and the uses that would be allowed under the City’s Development Ordinance.
This designation comprises a mix of light industrial, secondary office, bulk retail, and service uses. Typical uses include warehouse, mini-storage, research and development, wholesale, bulk retail, and office space with limited customer access. Other uses may be allowed, such as commercial recreation, distribution centers, or other uses that require large, warehouse-style buildings.

The General Plan, which establishes a long-range plan for the development of the community, includes goals and implementation measures including:

**LU-G-17:** Provide sufficient land for civic and institutional uses such as police and fire services, water and sanitary facilities, infrastructure and other City services to meet future demand.

Principles woven throughout the General Plan address issues such as compatibility of land uses, intensity of land uses should consider accessibility from adequately sized streets, and access to appropriate infrastructure to serve the use. The site is surrounded by agricultural land planned for conversion to industrial land uses. The surrounding half mile radius has amongst the lowest concentrations of housing units as anywhere in the City's Planning Area as designated in the adopted 2008 General Plan. The site is conveniently located to provide vehicular accessibility from all directions allowing for the disbursement of traffic, and the City recently installed significant sewer and water infrastructure along the frontage of the subject property to accommodate intense industrial uses. As such, staff has evaluated the proposed use at the proposed location and has determined to recommend to the City Council that the proposal is consistent with the General Plan.

In order to further clarify the determination, the Porterville Development Ordinance (Ordinance) is an implementation measure of the General Plan. One of the specific purposes of the “Employment” Districts (in which the site is located) is to provide appropriate areas of the city where employment uses can locate and operate without significant conflicts with other land uses. The zoning classification in the Ordinance is “Industrial Park.” The site is located in the Airport Environ Overlay District Safety Zone 6 which identifies penal institutions as a normally compatible use (relative to the airport operations); however, this type of use is not otherwise mentioned in the Ordinance.

The Ordinance provides that in instances where a specific land use or activity is not defined, the Zoning Administrator shall assign the land use or activity to a classification that is substantially similar in character. Uses typically permitted by right are General and Limited Industry, Warehousing, Crop Cultivation and Transportation Passenger Terminals.

Large scale facilities with limited customer access and crop cultivation could be considered to be consistent with the General Plan and Ordinance. The Zoning Administrator has determined that a correctional facility would be consistent with the use characteristics of other allowed uses in the Industrial Park Zone and is seeking confirmation from the City Council.

In the event the City Council concurs, Staff will incorporate the clarification in the update of the
Ordinance. Specifically, it is proposed that a “correctional facility” be permitted by right in the Industrial Park Zone district.

ADDITIONAL COMMENTS: On May 2, 2012, the Project Review Committee (PRC) discussed the matter with representatives from Tulare County and communicated the following information:

1. As Tulare County would be the lead agency for an environmental determination, City staff requests to be added as a reviewer of any CEQA documentation.
2. The City requests that the County submit the plans for City review through the Project Review Committee for comments on infrastructure and other development requirements.
4. The developer/applicant shall pay all applicable fees in accordance with the Municipal Code and State law, prior to approval of the final map by City Council. Fees are subject to change annually. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code section 66020(a). You have 90 days from the date fees are paid to file a written protest.
5. The developer/applicant shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by City Council. The developer/applicant shall dedicate and improve a right-of-way adequate for a minimum of two lanes of traffic and on-street parking, on one side, on streets adjacent to the property lines as well as dedication of property required for disabled ramp(s) (C.C. Sec. 21-23).
6. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.
7. Prior to start of grading, the developer/applicant shall abandon and cap existing wells that are no longer in service. Prior to approval of the improvement plans, the developer/applicant shall obtain an abandonment permit from the County Department of Environmental Health.
8. Developer/applicant shall comply with City standard for “backflow” prevention pursuant to Resolution No. 9615 for all wells that will remain in service.
9. The developer/applicant shall replace irrigation pipes in the right-of-way, if, in the opinion of the City Engineer, replacement is warranted.
10. The developer/applicant shall install a refuse container enclosure according to City standards. The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot.
11. The developer/applicant shall obtain a demolition permit from San Joaquin Valley Unified Air Pollution Control District when destroying existing, abandoned and unnecessary structures, including existing foundations, septic tanks, etc.
12. The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g. Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The
developer/applicant shall provide a street sweeper as necessary to comply. The improvement plans shall show a designated wash out area for concrete trucks, and a sign designating it as such. The developer/applicant shall remove and properly dispose of waste concrete deposited in this area.

13. The developer/applicant shall comply with Chapter 7, Article XIII of the City Code and Chapter 18 and Appendix J of the California Building Code and provide a Preliminary Soils Report (C.C. Sec. 7-126 & Res. 4997) including results of "R-Value" tests and recommendations regarding construction of public improvements that address City Standard C-13, satisfactory to the City Engineer, prior to the approval of the improvement plans or start of grading, whichever comes first. Additional reporting requirements are as indicated below:
   - Final Grading, Drainage and Soils Report, prior to issuance of building permits (C.C. Sec. 7-133);
   - Storm Water Soil Loss Prevention Plan in conformance with the California Green Building Standards Code and this plan shall be incorporated into the improvement plan set;
   - Soils Report(s) in accordance with Chapter 18 and Appendix J of the California Building Code.

14. The developer/applicant shall construct all drainage facilities that the City Engineer determines are necessary to comply with the intent of the Storm Drain Master Plan. Alternatively, the developer/applicant shall provide documentation that illustrates the project can retain storm water on-site temporarily, if it is infeasible to implement the Master Plan improvements.

15. The developer/applicant is advised that he is obligated to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for discharge of Storm Water Associated with construction activity will be required (except operations that result in disturbance of less than five acres of total land area and which are not a part of a larger common plan of development or sale). Before construction begins, the proponent must submit a Notice of Intent (NOI) to comply with the permit, a site map, and appropriate fee to the State Water Resources Control Board (SWRCB). The proponent must also prepare a Storm Water Pollution Prevention Plan (SWPPP) for the entire project before construction begins. The SWPPP must contain at a minimum all items listed in Section A of the permit, including descriptions of measures to be taken to prevent or eliminate unauthorized non-storm water discharges and both temporary (e.g., fiber rolls, silt fences, etc.) and permanent (e.g., vegetated swales, detention basins, etc.) best management practices that will be implemented to prevent pollutants from discharging with storm water into water of the United States. If portions of the project area are to be sold off before the entire project is completed, the proponent must submit to the California Regional Water Quality Control Board a change of information form identifying the new owners along with a revised site map clearly depicting those portions that were sold and those that are remaining. The proponent is also responsible for informing each new owner of their responsibility to submit their own NOI, site map, and appropriate fee to the SWRCB and to prepare their own SWPPP.

16. The developer/applicant shall construct for construction of curb, gutter, sidewalk, water, sewer, street paving to the center of the street (if necessary), pavement lane transitions
(offsite), traffic safety marking and signs, etc. along the full frontage of the proposed project, except where they exist to City standards and are in good condition in the opinion of the City Engineer. The developer/applicant shall stub improvements to the property line if, in the opinion of the City Engineer, they will be needed for connection to development on the adjacent property. The streets subject to this condition are:

- Scranton Avenue: Please note that an additional right of way dedication is required before constructing these improvements.
- Newcomb Street.

17. The developer/applicant shall cause the sewer system to be completed, tested, and accepted by the City prior to occupying the proposed facility. City sewer facilities are located in the adjacent streets and comments will be reserved on capacity of these facilities until details of the project are provided.

18. The developer/applicant shall move existing utility structures (For example, poles, splice boxes, vaults, etc.) to a position that provides a minimum of four feet (4') of clear space in the sidewalk area and a minimum of two feet (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 DSA) or provide surety in lieu of (Section 2616.1 of the Zoning Ordinance).

19. Prior to acceptance of improvements, the developer/applicant shall provide street lights on Marbelite poles complying with Southern California Edison Company specifications as required by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer. 16,000 lumen street lights shall be installed along the west side of Newcomb Street and the north side of Scranton Avenue. Spacing between these lights shall not exceed 320 feet.

20. The developer/applicant shall design on-site water systems meeting the requirements of California Plumbing Code and Fire Code. It shall be noted that the City water system complies with Title 22 of the California Administrative Code and any assurance to effectively provide water pressure for multi-story buildings is the sole responsibility of the owner/developer.

21. The developer/applicant shall cause the water system to be completed, tested, and accepted by the City prior to occupying the proposed facility. City water facilities are located in the adjacent streets and comments will be reserved on capacity of these facilities until details of the project are provided.

22. The developer/applicant is hereby notified that reimbursement for Master Plan facilities is made when funds are available and is contingent upon the work being done by the approved low bidder of at least two bona fide bidders. The bids must be approved by the City prior to construction. Formal request for reimbursement shall be submitted within 90 days of full occupancy in order to qualify for reimbursement of Master Plan facilities per Section 403.02 of the Development Ordinance.

23. The developer/applicant shall provide an improvement plan/profile set for all improvements related to the project prepared by a Registered Civil Engineer and shall be submitted to and approved by the Public Works Department prior to initiating construction. Said plans shall also incorporate provisions for drainage and erosion control.
RECOMMENDATION:  That the City Council:

1. Determine the location at the northwest corner of Scranton Avenue and Newcomb Street for a proposed detention facility is consistent with the General Plan of the City of Porterville; and

2. Affirm the determination of the Zoning Administrator that a detention facility is consistent with other uses allowed in the Industrial Park Zone.

EXHIBITS:

1. Letter from Tulare County General Services Department Requesting Review
2. Government Code Section 65402
3. General Plan Land Use Map
April 16, 2012

Bradley Dunlap, Director
Community Development
City of Porterville
291 N. Main Street
Porterville, CA 93257

Re: GPR Request / Portion of APN 302-080-065

Dear Mr. Dunlap:

The County of Tulare is viewing property at Scranton and Newcomb in the City of Porterville to purchase for the construct of a county detention facility. The area under consideration is a portion of Assessor’s Parcel Number 302-080-065, a 37.36 acre parcel. The area under consideration to acquire excludes the easterly 175 feet. The exact dimensions will be determined by a survey of the property. This excluded area contains an ag well, house and barn integral to the owners farming activities on property planted to olives north of the subject. Pursuant to Government Code Section 65402, Tulare County is requesting a general plan referral for the property under consideration.

We are in the process of doing our due diligence work before committing to the property purchase. The above code section indicates the agency with an adopted general plan will respond within 40 days. Failure to respond to the request within the 40 day time “…shall be conclusively deemed a finding that the proposed acquisition is in conformity with said adopted general plan or part thereof.”

Please let me know if you have any questions.

Sincerely,

Robert Newby
Tulare County Property Manager
Government Code §65402.

(a) If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

(b) A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another county or within the corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution.

(c) A local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. If the planning agency disapproves the location, purpose or extent of such acquisition, disposition, or the public building or structure, the disapproval may be overruled by the local agency.

Local agency as used in this paragraph (c) means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. Local agency does not include the state, or county, or a city.
General Plan Land Use

City Limits
General Plan Referral site
Industrial Park
Public/Institutional
Low Density Residential
Retail Commercial
Park
Agriculture/Rural

Exhibit 3
THIS ITEM HAS BEEN REMOVED.
SCHEDULED MATTER

SUBJECT: PROPOSED ORDINANCE AMENDMENT TO THE MUNICIPAL CODE PERTAINING TO CARD TABLES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: On April 17, 2012, the City Council considered a citizen’s request of the City Council to amend the Porterville Municipal Code to allow for one card room to have and to operate all nine (9) tables provided for in the Municipal Code. The City Council directed staff to evaluate legal potential to approve an expansion and to prepare an amendment to the Municipal Code consistent with the legal parameters of State Gambling Law.

In response to Council’s direction, the City Manager, Community Development Director and Captain Rodriguez met (via telephone) with representatives of the California Department of Justice, Bureau of Gambling Control (Bureau) to discuss the proposed amendment. The primary controlling factor as to whether the City can approve additional card tables at an establishment depends on the ordinance the City had in effect on January 1, 1995, or January 1, 2010, as contained in Business and Professions (B&P Code) Code Section 19961 through 19965. A copy is attached as Attachment 1 for reference.

It is important to fully understand what the City’s current ordinance allows with regard to number of card rooms and tables in order to understand the applicable provisions of the B&P Code. Section 15-20 A.6. states that not more than three (3) card tables shall be located at each establishment, not more than nine (9) tables in total shall be located in the City, and not more than three (3) establishments operating such tables shall be located in the City.

As noted above, an interested party has requested that the City Council amend the current ordinance to allow all nine tables to be located in one establishment. The B&P Code limits a city’s ability to expand the number of tables allowed in the city or in a card room. Given the history of the City’s ordinance and prior amendments, B&P Code Section 19961.06 limits the total increase in tables at an establishment to no more than two additional tables. This would result in a total of no more than five (5) tables in the active card room. The two (2) other card room licenses that ceased operation many years ago are not available to be reactivated nor transferred to a consolidated site, under the current provisions of the B&P Code. The City may exercise the authority provided by this section only one time, but this authority shall be in addition to any authorization under any other law for a city to increase the number of gambling tables operated in a card room in the City.
If the City Council determines its interest in amending the City's ordinance to allow up to 5 (five) tables at the remaining card room, the State Gambling Commission would need to approve the draft ordinance prior to the Council taking action. Staff at the Bureau indicated that since they have done the majority of their research for our meeting, it would not take them much longer than 30 days to review a draft ordinance. Staff has attached a draft ordinance for the Council to consider submitting to the Bureau for review and approval by the Commission.

The City Attorney can provide additional information on whether the City can further regulate card rooms and impose additional fees.

RECOMMENDATION: That the City Council provide direction to staff regarding the submittal of the draft ordinance to the State Department of Justice, Bureau of Gambling Control for review and approval by the State Gambling Commission.

ATTACHMENTS:  
1. Business and Professions Code Sections 19961 - 19965  
2. Draft Amendment  
3. Draft Ordinance  
4. April 17, 2012, Council Agenda Item
19960. This chapter shall not prohibit the enactment, amendment, or enforcement of any ordinance by any city, county, or city and county relating to licensed gambling establishments that is not inconsistent with this chapter. No city, county, or city and county shall issue a gambling license with respect to any gambling establishment unless one of the following is true:

(a) The gambling establishment is located in a city, county, or city and county wherein, after January 1, 1984, an ordinance was adopted by the electors of the city, county, or city and county, in an election conducted pursuant to former Section 19819 of the Business and Professions Code, as that section read immediately before its repeal by the act that enacted this chapter.

(b) The gambling establishment is located in a city, county, or city and county wherein, prior to January 1, 1984, there was in effect an ordinance that expressly authorized the operation of one or more cardrooms.

(c) After the effective date of this chapter, a majority of the electors voting thereon affirmatively approve a measure permitting controlled gambling within that city, county, or city and county.

1) The measure to permit controlled gambling shall appear on the ballot in substantially the following form:
"Shall licensed gambling establishments in which any controlled games permitted by law, such as draw poker, low-ball poker, panguine (pan), seven-card stud, or other lawful card games or tile games, are played, be allowed in ____? Yes ___ No ____.

2) In addition, the initial implementing ordinances shall be drafted and appear in full on the sample ballot and shall set forth at least all of the following:
(A) The hours of operation.
(B) The games to be played.
(C) The wagering limits.
(D) The maximum number of gambling establishments permitted by the ordinance.
(E) The maximum number of tables permitted in each gambling establishment.
(d) The authorization of subdivision (c) is subject to Sections 19962 and 19963 until those sections are repealed.

19961. (a) (1) Except as provided in paragraph (2), on or after the effective date of this chapter, any amendment to any ordinance that
would result in an expansion of gambling in the city, county, or city and county, shall not be valid unless the amendment is submitted for approval to the voters of the city, county, or city and county, and is approved by a majority of the electors voting thereon.

(2) Notwithstanding paragraph (1) and Section 19962, an ordinance may be amended without the approval of the electors after the effective date of this chapter to expand gambling by a change that results in an increase of less than 25 percent with respect to any of the matters set forth in paragraphs (1), (2), (3), and (5) of subdivision (b). Thereafter, any additional expansion shall be approved by a majority of the electors voting thereon.

(b) For the purposes of this article, "expansion of gambling" means, when compared to that authorized on January 1, 1996, or under an ordinance adopted pursuant to subdivision (a) of Section 19960, whichever is the lesser number, a change that results in any of the following:

(1) An increase of 25 percent or more in the number of gambling tables in the city, county, or city and county.
(2) An increase of 25 percent or more in the number of licensed card rooms in the city, county, or city and county.
(3) An increase of 25 percent or more in the number of gambling tables that may be operated in a gambling establishment in the city, county, or city and county.
(4) The authorization of any additional form of gambling, other than card games, that may be legally played in this state, to be played at a gambling establishment in the city, county, or city and county.
(5) An increase of 25 percent or more in the hours of operation of a gambling establishment in the city, county, or city and county.

(c) The measure to expand gambling shall appear on the ballot in substantially the following form: "Shall gambling be expanded in ___ beyond that operated or authorized on January 1, 1996, by ___ (describe expansion) Yes ___ No ____." 

(d) The authorization of subdivision (c) is subject to Sections 19962 and 19963 until those sections are repealed.

(e) Increasing the number of games offered in a gambling establishment does not constitute an expansion of gambling pursuant to this section.

(f) No city, county, or city and county shall amend its ordinance in a cumulative manner to increase gambling by more than 25 percent for the factors listed in subdivision (b), when compared to that authorized on January 1, 1996, without conducting an election pursuant to this section.

19961.06. Notwithstanding Sections 19961 and 19962, a city, county, or city and county may amend an ordinance to increase by two the number of gambling tables that may be operated in a gambling establishment in the city, county, or city and county, compared to
the ordinance that was in effect on January 1, 2010. A city, county, or city and county may exercise the authority provided by this section only one time, but this authority shall be in addition to any authorization under any other law for a city, county, or city and county to increase the number of gambling tables that may be operated in a gambling establishment in the city, county, or city and county.

19961.1. Any amendment to a city or county ordinance relating to gambling establishments, or the Gambling Control Act, shall be submitted to the department for review and comment, before the ordinance is adopted by the city or county.

19962. (a) On and after the effective date of this chapter, neither the governing body nor the electors of a county, city, or city and county that has not authorized legal gaming within its boundaries prior to January 1, 1996, shall authorize legal gaming.

(b) An ordinance in effect on January 1, 1996, that authorizes legal gaming within a city, county, or city and county may not be amended to expand gaming in that jurisdiction beyond that permitted on January 1, 1996.

(c) This section shall becomeoperative on January 1, 2010.

(d) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

19963. (a) In addition to any other limitations on the expansion of gambling imposed by Section 19962 or any provision of this chapter, the commission may not issue a gambling license for a gambling establishment that was not licensed to operate on December 31, 1999, unless an application to operate that establishment was on file with the department prior to September 1, 2000.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

19964. No city, county, or city and county may grant, or permit to continue in effect, a license to deal, operate, carry on, conduct, maintain, or expose for play any controlled game to any applicant or holder of a local license unless the applicant or local licensee is an owner licensee as defined in this chapter. However, the issuance
of a state gambling license to a person imposes no requirements upon the city, county, or city and county to issue a license to the person.

19965. Notwithstanding Sections 19961 and 19962, a city, county, or city and county may amend an ordinance to increase the number of gambling tables that may be operated in a gambling establishment as follows:
(a) If the ordinance in effect on July 1, 2007, provided for five to eight tables, inclusive, the amended ordinance may allow an increase of three tables.
(b) If the ordinance in effect on July 1, 2007, provided for nine to 12 tables, inclusive, the amended ordinance may allow an increase of four tables.

19966. If a gambling establishment is located in an unincorporated area annexed by a city, notwithstanding Section 19960 or 19962, without a local election other than the election to approve the annexation, the city acquiring jurisdiction may adopt an ordinance permitting and regulating controlled gaming in the existing gambling establishment, providing hours of operation, the games to be played, wagering limits, the maximum number of gambling establishments, and the maximum number of tables permitted in each gambling establishment, the same as those limits in any ordinance or resolutions that formerly applied to the gambling establishment. Where this article refers to an expansion of gaming as compared to that permitted on January 1, 1996, for the purposes of this section, that reference shall be to the ordinance or resolutions that governed the gambling establishment as of that date.
Draft Amendment

Porterville Municipal Code Section 15-20, paragraph 6

6. Number Of Gambling Tables: Not more than three (3) **five (5)** card tables shall be located at each establishment. Not more than nine (9) tables total shall be located in the city of Porterville, and not more than three (3) establishments operating such tables shall be located in the city of Porterville.
AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF PORTERVILLE
AMENDING THE REGULATIONS FOR
CARD TABLES

WHEREAS: On April 2, 2012, an interested party made a request for the City Council to consider amending Municipal Code Section 15-20, paragraph 6 to allow one card room to have and operate all nine (9) card tables mentioned in the current Municipal Code; and

WHEREAS: The request was scheduled for the City Council’s consideration on April 17, 2012, at which time the Council directed Staff to investigate the State requirements for amending the ordinance relating to the number of tables in any one establishment; and

WHEREAS: On June 5, 2012, the City Council considered the potential amendment of the ordinance to allow an increase of a maximum of two (2) tables at an existing card room pursuant to the provisions of the Business and Professions Code Section 19961.06 and directed Staff submit the draft ordinance to the State Department of Justice, Bureau of Gambling Control for review and approval by the State Gambling Commission; and

WHEREAS: On May 29, 2012, the Environmental Coordinator made a determination that the project is subject to a General Rule Exemption from the California Environmental Quality Act (CEQA).

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does hereby adopt Ordinance No. _______ amending the Porterville Development Ordinance as follows:

SECTION 1:

15-20: REGULATIONS:

A. Card Tables:

1. Conformance With State Law: It is the stated purpose of this subsection to regulate card rooms, licenses and permits in the city of Porterville concurrently with the state of California, and to impose local controls and conditions upon establishments operating card rooms and card tables as permitted in the "gambling control act" as codified in division 8, chapter 5 of the California Business and Professions Code.

2. Licenses: Each card table shall be assigned a separate license with such license designating the number of the table and the location of the table, and the exact place of business where such card table is to be maintained. The operator shall attach to each licensed table a metal identification number, which shall be plainly visible at all times; and no license or identification number shall be transferable; provided, however, that it may be moved to a new location with the approval of the city council.
3. Hours Of Operation: Playing at all card tables shall absolutely cease and terminate at two o'clock (2:00) A.M. of each day; and it is hereby declared to be unlawful for any person to deal, participate in, play, carry on or bet at, against, rent, open up, carry on, conduct or have charge of or to control any card table in the city between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M. of each day.

4. Patron Security And Safety: All licensees shall have in effect a security plan to address the safety and security of patrons in and around the card room. The plan, and any amendments thereto, must be filed with and approved by the chief of police. The licensee shall be liable for the security and safety of its patrons to the extent required by law. Any information about security measures that is provided to the city by an establishment operating a card table shall be confidential and not open to public inspection.

The physical arrangements of the gambling area and parking lots of the establishment operating card tables shall meet the requirements and specifications determined necessary by the chief of police for the security and safety of citizens, patrons, and police officers. During all hours of operation, the outside doors to the establishments wherein card tables are operated and the main doors to rooms wherein the tables are located must be unlocked and accessible to the general public. Any part and all of the establishment where a card table is operated shall be open to police inspection during all hours of operation.

5. Wagering Limits: Unless otherwise authorized by the chief of police based upon a finding of necessity because of the rules relating to a particular game, a maximum of ten (10) hands may be dealt at any one table. The maximum number of persons who may participate in play at a table may be limited by the licensee consistent with the provisions of this chapter, provided that in any event, the number of persons present in any establishment or room shall not exceed the occupant load as otherwise prescribed by law. There shall be posted in a conspicuous place on the establishment premises the minimum buy-in and wagering limits. Not later than July 1 of each calendar year, the licensee shall execute under penalty of perjury and file with the chief of police a declaration stating the following: a) the minimum buy-in, table and wagering limits and any and all charges or other fees assessed of all players at a table; and b) a set of the then current posted detailed house rules applicable to the games played. There is no wagering limit imposed by this subsection. However, all wagering limits fixed by the licensee shall be posted as required in this subsection, and shall comply with all state laws and all ordinances of the city.

6. Number Of Gambling Tables: Not more than five (5) card tables shall be located at each establishment. Not more than nine (9) tables total shall be located in the city of Porterville, and not more than three (3) establishments operating such tables shall be located in the city of Porterville.

7. Location: No license shall be issued except for a location deemed suitable by the city council.
8. Permit Required For Dealers And Employees: All card room dealers and employees shall be required to obtain a permit from the chief of police. In addition, all card room dealers and employees are required to submit to a fingerprint based criminal history background check by the department of justice. Permit applicants are responsible for all fees charged for applying for and obtaining the permit and submitting to the background check. The chief of police shall deny said permit for any of the following reasons, as set forth in California Business and Professions Code section 19850A(a):

   a. Failure of the applicant to clearly establish eligibility and qualification in accordance with California Business and Professions Code, division 8, chapter 5;

   b. Failure of the applicant to provide any information, documentation, and assurances required by said chapter of the Business and Professions Code or requested by the director of the division of gambling control, department of justice, or failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria;

   c. Conviction of the applicant for any crime punishable as a felony;

   d. Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within the ten (10) year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to sections 1203.4, 1203.4a and 1203.45 of the California Penal Code;

   e. Association of the applicant with criminal profiteering activity or organized crime, as defined by section 186.2 of the Penal Code;

   f. Willful and obstinate defiance by the applicant of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling; official corruption related to gambling activities; or criminal profiteering activity or organized crime, as defined by section 186.2 of the Penal Code; or

   g. The applicant is less than twenty one (21) years of age.

   The department of justice's division of gambling control may object to the issuance of a work permit by the city for any cause deemed reasonable by the division.

9. Revocation And Appeal:

   a. By The Chief Of Police: The chief of police may refuse to issue or may revoke the permit of a card room dealer or employee at any time if, in his judgment, such action is necessary. A person whose application for a permit is denied or a person whose permit is revoked, if the decision to deny or revoke was made solely by the chief of police, may appeal the action of the chief of police to the city council in accordance with the procedure set forth in subsection 15-13B of this article.
b. By The Division Of Gambling Control: If the division objects to the issuance of a work permit, the permit shall be denied. Any person whose application for a work permit has been denied because of an objection by the division may apply to the California gambling commission for an evidentiary hearing in accordance with regulations. In addition, the California gambling control commission may notify the chief of police to revoke a work permit, if the commission makes the necessary findings after a hearing, pursuant to California Business and Professions Code section 19912A.

SECTION 2: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED, AND ADOPTED this _____ day of ____, 2012.

By: ______________________________________  Ronald L. Irish, Mayor

ATTEST:
John D. Lollis, City Clerk

By: ____________________________
Patrice Hildreth, Chief Deputy City Clerk
CITY COUNCIL AGENDA: APRIL 17, 2012

SCHEDULED MATTER

SUBJECT: REQUEST FOR AN AMENDMENT TO THE MUNICIPAL CODE PERTAINING TO CARD TABLES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: Staff has received a written request for the City Council to consider an amendment to Chapter 15 – Licenses and Business Regulations of the Municipal Code (Code) “to permit up to nine (9) card tables in one card room establishment in the City of Porterville or fewer card tables per establishment if there be more than one such establishment”. The Code currently stipulates the maximum number of card rooms and the maximum number of tables per card room allowed in the City. Section 15-20 A.6. of the Code states that not more than three (3) card tables shall be located at each establishment, not more than nine (9) tables in total shall be located in the City, and not more than three (3) establishments operating such tables shall be located in the City.

If the City Council wishes to consider the applicant’s request, the Council can direct staff to prepare a draft code amendment and to affirm that the draft amendment is in accordance with State Gambling Law.

Prior to locating a card room, the Council is required to approve a suitable location. As noted in the applicant’s request, the applicant has identified a site on which they would like to operate the business; however, consideration of the location is not before the Council at this time. That would come to a subsequent meeting once the Council has determined whether to amend the Code and all aspects of local and state laws have been evaluated.

RECOMMENDATION: That the City Council provide direction to staff.

ATTACHMENTS: 1. Applicant’s Request Letter
2. Municipal Code, Section 15-20: Regulations
March 30, 2012

John D. Lollis
City Manager
City of Porterville
291 N. Main Street
Porterville, CA 93257

RE: Proposed Change to City Ordinance 15-20:6

Dear Mr. Lollis:

Please be advised I have been retained by Candice Garrett with regard to the above matter. I write to request that an item be placed before the Porterville City Council regarding Ms. Garrett’s request to change City of Porterville’s City Code 15-20 paragraph 6 to allow one card room to have and operate all nine (9) card tables mentioned in the current ordinance.

There was a meeting at your office on Tuesday, March 27, 2012, at which Ms. Garrett’s father, Darrin Garrett presented their business proposal of opening a new card room in Porterville. The establishment is intended to be “classy” and modern such as the “The Aviator” card room in Delano, CA, which currently has twenty (20) card tables. My client’s proposed site is the old Paul Bunyan meeting hall at Morton & Porter Rd. However, with the current limit of only 3 card tables per card room establishment, their proposed card room would not be economically feasible.

My client requests that the City of Porterville amend City Code 15-20:6 to permit up to nine (9) card tables in one card room establishment in the city of Porterville or fewer card tables per establishment if there be more than one such establishment. The overall limit of nine card tables in Porterville would not change. Please take the steps necessary to present this proposed amendment to the City Staff and the City Council for consideration and vote of approval.

Please give me a call if you have any questions or if you require further information to move this matter forward.

Thank you for your attention to this matter.

Very truly yours,

Robert E. Vanderhorst
REV/mp
cgarrett.jf

cc: Porterville Police Captain, Silver Rodriguez; Porterville City Planner, Brad Dunlop;
City Council Members: Ron Irish, Mayor
Cameron Hamilton, Vice Mayor, Pete McCracker, Brian Ward and Greg Shelton
Municipal Code, Section 15-20: Regulations

A. Card Tables:

1. Conformance With State Law: It is the stated purpose of this subsection to regulate card rooms, licenses and permits in the city of Porterville concurrently with the state of California, and to impose local controls and conditions upon establishments operating card rooms and card tables as permitted in the "gambling control act" as codified in division 8, chapter 5 of the California Business and Professions Code.

2. Licenses: Each card table shall be assigned a separate license with such license designating the number of the table and the location of the table, and the exact place of business where such card table is to be maintained. The operator shall attach to each licensed table a metal identification number, which shall be plainly visible at all times; and no license or identification number shall be transferable; provided, however, that it may be moved to a new location with the approval of the city council.

3. Hours Of Operation: Playing at all card tables shall absolutely cease and terminate at two o'clock (2:00) A.M. of each day; and it is hereby declared to be unlawful for any person to deal, participate in, play, carry on or bet at, against, rent, open up, carry on, conduct or have charge of or to control any card table in the city between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M. of each day.

4. Patron Security And Safety: All licensees shall have in effect a security plan to address the safety and security of patrons in and around the card room. The plan, and any amendments thereto, must be filed with and approved by the chief of police. The licensee shall be liable for the security and safety of its patrons to the extent required by law. Any information about security measures that is provided to the city by an establishment operating a card table shall be confidential and not open to public inspection.

The physical arrangements of the gambling area and parking lots of the establishment operating card tables shall meet the requirements and specifications determined necessary by the chief of police for the security and safety of citizens, patrons, and police officers. During all hours of operation, the outside doors to the establishments wherein card tables are operated and the main doors to rooms wherein the tables are located must be unlocked and accessible to the general public. Any part and all of the establishment where a card table is operated shall be open to police inspection during all hours of operation.

5. Wagering Limits: Unless otherwise authorized by the chief of police based upon a finding of necessity because of the rules relating to a particular game, a maximum of ten (10) hands may be dealt at any one table. The maximum number of persons who may participate in play at a table may be limited by the licensee consistent with the provisions of this chapter, provided that in any event, the number of persons present in any establishment or room shall not exceed the occupant load as otherwise prescribed by law. There shall be posted in a conspicuous place on the establishment premises the minimum buy-in and wagering limits. Not later than July 1 of each calendar year, the licensee shall execute under penalty of perjury and file with the chief of police a declaration stating the following: a) the minimum buy-in, table and wagering limits and any and all charges or other fees assessed of all players at a table; and b) a set of the then current posted detailed house rules applicable to the games played. There is no wagering limit imposed by this subsection. However, all wagering limits fixed by the licensee shall be posted as required in this subsection, and shall comply with all state laws and all ordinances of the city.

6. Number Of Gambling Tables: Not more than three (3) card tables shall be located at each establishment. Not more than nine (9) tables total shall be located in the city of Porterville, and not more than three (3) establishments operating such tables shall be located in the city of Porterville.

Attachment 2
7. Location: No license shall be issued except for a location deemed suitable by the city council.

8. Permit Required For Dealers And Employees: All card room dealers and employees shall be required to obtain a permit from the chief of police. In addition, all card room dealers and employees are required to submit to a fingerprint based criminal history background check by the department of justice. Permit applicants are responsible for all fees charged for applying for and obtaining the permit and submitting to the background check. The chief of police shall deny said permit for any of the following reasons, as set forth in California Business and Professions Code section 19850A(a):

a. Failure of the applicant to clearly establish eligibility and qualification in accordance with California Business and Professions Code, division 8, chapter 5;

b. Failure of the applicant to provide any information, documentation, and assurances required by said chapter of the Business and Professions Code or requested by the director of the division of gambling control, department of justice, or failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria;

c. Conviction of the applicant for any crime punishable as a felony;

d. Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within the ten (10) year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to sections 1203.4, 1203.4a and 1203.45 of the California Penal Code;

e. Association of the applicant with criminal profiteering activity or organized crime, as defined by section 186.2 of the Penal Code;

f. Willful and obstinate defiance by the applicant of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling; official corruption related to gambling activities; or criminal profiteering activity or organized crime, as defined by section 186.2 of the Penal Code; or

g. The applicant is less than twenty one (21) years of age.

The department of justice's division of gambling control may object to the issuance of a work permit by the city for any cause deemed reasonable by the division.

9. Revocation And Appeal:

a. By The Chief Of Police: The chief of police may refuse to issue or may revoke the permit of a card room dealer or employee at any time if, in his judgment, such action is necessary. A person whose application for a permit is denied or a person whose permit is revoked, if the decision to deny or revoke was made solely by the chief of police, may appeal the action of the chief of police to the city council in accordance with the procedure set forth in subsection 15-13B of this article.

b. By The Division Of Gambling Control: If the division objects to the issuance of a work permit, the permit shall be denied. Any person whose application for a work permit has been denied because of an objection by the division may apply to the California gambling commission for an evidentiary hearing in accordance with regulations. In addition, the California gambling control commission may notify the chief of police to revoke a work permit, if the commission makes the necessary findings after a hearing, pursuant to California Business and Professions Code section 19912A.
SUBJECT: CONSIDERATION OF FINANCIAL SUPPORT FOR THE "MARCHING THROUGH TIME" MURAL PROJECT

SOURCE: Administration

COMMENT: The Porterville Mural Committee has requested that the City Council consider contributing $35,000 in support of the installation of the "Marching Through Time" mural in Centennial Plaza. The Committee has itemized $18,245 in costs for potential reimbursement associated with improvements to Centennial Plaza in support of the mural’s installation, and requests an additional $19,755 in support of the mural’s creation.

In December 2006, at the request of Member of City Council, the Council considered and supported the creation of the Iris Mural, located on Main Street on the Tulare County Child Support Services building, in the amount of $2,500.

RECOMMENDATION: That the City Council:
1. Consider the request of the Porterville Mural Committee to financially support the "Marching Through Time" mural project; and
2. If approved, please authorize appropriate budget adjustment.

ATTACHMENTS: 1. Letter from Porterville Mural Committee, dated May 10, 2012
2. City Council Agenda Item: December 19, 2006
Mr. John Lollis, City Manager  
Porterville City Hall  
Porterville, CA 93257

Dear Mr. Lollis,

The Porterville Mural Committee is respectfully requesting that the City of Porterville donate $35,000 toward the costs for the completion of the Marching Through Time Mural located in the City’s Centennial Park.

As you know, murals are generally placed on the walls of existing buildings, and therefore have only the expense of the artist and little or no cost for the preparation of the wall. For our mural, Marching Through Time, a building large enough to accommodate it was not possible along Main Street. With the concurrence of the City, a free-standing wall was designed and built in Centennial Park for our 100 foot by 10 foot mural.

The Mural Committee was committed to “doing it right” so that the mural and improvements would make Centennial Park a venue for musical events and a show place park downtown on Main Street for community events. In addition, murals in a city have a known draw to tourism, and they have positive appeal to new industry and commercial development that are seeking a community with a desirable and attractive culture.

To accomplish that, a local landscape contractor volunteered his ideas and considerable labor and materials to level the lawn area of the park, rearrange the sprinkler system to accommodate the change. The Mural Committee then moved ahead to put in a wrought-iron fence around the mural and tie the fencing into the gazebo and existing landscaping. A cement curb was installed in the alley on the back side of the mural, along with re-grading and paving to match the alley north and south of the mural location. Cement pads were poured around the perimeter of the park to accommodate additional wrought-iron benches to provide more seating for events in the park.

Listed on the following page is an itemization of the billed costs for the expenditures not directly a part of the mural project.

Sincerely yours,
Porterville Mural Committee
Itemization of Costs

Valley Oak Contractors:
Concrete curb in alley—-—$2632.
Concrete pads for benches—-$2250.

Bartlett Construction:
Cut, grade and re-pave alley—-$2140.

Lowe's:
Wrought-iron fence material—-$4998.

Chiapa Welding:
Install wrought-iron fence—-$2400.

Kaylor Landscaping:
Re-grade grass area, re-arrange sprinklers and drains, re-sod grass area.
Install shrubbery and irrigation system for planter area around Mural.—-
($8045, with donation of — $4222)
Total Cost—-$3825.

The above labor and materials total $18,245 for work done in Centennial Park as a
Public Improvement to the Park. The Mural Committee would appreciate a total
donation of $35,000 which will cover the above costs, plus yet unpaid billings related
to the Mural Project.
COUNCIL AGENDA: December 19, 2006

SUBJECT: COUNCIL MEMBER REQUEST FOR AN AGENDA ITEM – "Consideration of $2,500 Mural Sponsorship"

SOURCE: Administration

COMMENT: A Council member has requested the above subject matter be added to the agenda for consideration under Scheduled Matters.

RECOMMENDATION: As directed by Council. (If item is approved, please authorize appropriate budget adjustment)

ATTACHMENT: Porterville Mural Project Contribution Card
TITLE: AB 1234 EXPENSE REIMBURSEMENT REQUIREMENTS FOR ELECTED OFFICIALS

SOURCE: CITY ATTORNEY

COMMENT: Council Member Shelton has made inquiries related to AB 1234 Expense Reimbursement and Reporting requirements of elected officials. Specifically, it is my understanding that Council Member Shelton seeks advice as to whether he can request reimbursement in the total amount of $0.01 for various expenses incurred in performing his official duties as a Council Member (and whether he would be subject to enforcement if he did not), but he has additionally requested, per a Consent Item on the May 1, 2012 Agenda, that the Council consider the requirements under AB 1234, specifically the reimbursement of expenses for elected officials.

With regard to his specific inquiry as to enforcement, we contacted the FPPC advice line, but were advised that the FPPC does not provide advice on AB 1234 expense reporting. However, upon review of AB 1234 and applicable City policies, it is clear that the City must reimburse for actual expenses at the rate established by statute and City policy. Council Members cannot specify the amount of money they want reimbursed (even if only $0.01) and must instead identify the amount of mileage necessarily traveled or other actual expense in the performance of official duties. Council Members are not required to request reimbursement for their expenses, and may simply choose not to submit an expense report.

AB 1234 allows cities to reimburse council members for expenses occurred in the performance of official duties. (Gov. Code § 53232.2(a).) Reimbursement is only allowed if the city adopts a written policy specifying the occurrences that entitle a council member to reimbursement. (Gov. Code § 53232.2(b).) In determining the amount of reimbursement for travel expenses, local agencies shall use the Internal Revenue Service allowances, unless the local agency’s written policy specifies another reasonable rate. (Gov. Code § 53232.2(c).) To receive payment for expenses, council members shall submit expense reports which document that the expenses meet the existing policy and shall include receipts documenting each expense. (Gov. Code § 53232.3(b)-(c).)
Section VIII of the Porterville Council Handbook contains an adopted written reimbursement policy for Council Member expenses that complies with Government Code section 53232.2 and 53232.3. Subsection B indicates that the mileage reimbursement amount is set by the Administrative Policy Manual Section II-E-1. Policy II-E-1, subsection B.2, requires reimbursement at the current IRS approved allowance per mile.

There is no provision in AB 1234, the Council Handbook, or the Administrative Policy Manual allowing reimbursement at any amount other than the current IRS allowance. Since the rate is set by statute and an approved policy, Council Members do not have the authority to seek reimbursement in any other amount, even if the amount is less than the established rate. Reimbursement must be paid at the current IRS mileage allowance.

The purpose of AB 1234 is to ensure that only accurate and necessary compensation is provided. Council Members’ expense reports should indicate that the expense is consistent with existing policy by providing an accurate detail of the mileage necessarily incurred. Even though Members cannot provide receipts for gas expenses necessarily incurred, mileage reimbursements should be made in a form so that staff can verify the accuracy of the mileage traveled (e.g., by using an internet map service).

Of course, there is nothing in AB 1234 or any local rule that requires Council Members to request reimbursement for expenses incurred in the course of performing official duties. It is entirely up to the individual Council Members to request reimbursement, and the Council Members may forego reimbursement for some or all expenses. If Council Members do not desire to be paid for all of a particular expense, then the Council Member should not request reimbursement.

Council Members are required to provide brief reports on meetings attended at the expense of the City. (Gov. Code § 53232.3(d).) If a Council Member attends a meeting but is not reimbursed for any expenses, then there is no requirement to provide a brief report on the meeting.

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