Call to Order
Roll Call

CITY COUNCIL CLOSED SESSION:
A. Closed Session Pursuant to:
   4 - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis, Steve Kabot, and Patrice Hildreth. Employee Organizations: Management and Confidential Series; Porterville Police Officers Association; Fire Officer Series; Porterville City Firefighters Association; Public Safety Support Unit; and all Unrepresented Management Employees.
   5- Government Code Section 54956.9(d) (3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One Case in which facts are not yet known to potential plaintiff.
   6- Government Code Section 54956.9(d) (4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One Case.
   7- Government Code Section 54957 – Public Employee Performance Evaluation - Title: City Manager.
   8- Government Code Section 54957 - Public Employee Performance Evaluation - Title: City Attorney.

6:30 P.M. RECONVENE OPEN SESSION AND REPORT ON REPORTABLE ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Vice Mayor Hamilton
Invocation

AB 1234 REPORTS
This is the time for all AB 1234 reports required pursuant to Government Code § 53232.3.


REPORTS
This is the time for all committee/commission/board reports; subcommittee reports; and staff informational items.
I. City Commission and Committee Meetings:
   1. Parks & Leisure Services Commission
   2. Library & Literacy Commission
   3. Arts Commission
   5. Youth Commission
   6. Transactions and Use Tax Oversight Committee (TUTOC)

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. All items removed from the Consent Calendar for further discussion will be heard at the end of Scheduled Matters.

1. **City Council Minutes of November 18, 2014**

2. **This Item Has Been Moved to Scheduled Matters.**

3. **Authorization to “Piggy-back” on Existing Contract**
   Re: Considering authorization to “piggy-back” on the City of Visalia’s contact with Safety Striping Services, at an agreed upon amount not to exceed $70,000, for the maintenance of traffic striping throughout the city and those under City control via mutual maintenance agreements.

4. **Authorization to Award Consultant Agreement – Analysis of Edison Street Light Purchase Program**
   Re: Considering awarding a Consultant Service Agreement to Utilities Cost Management in an amount not to exceed $8,500 for the performance of an analysis regarding the purchase of Edison street lights.

5. **Program Supplement to the Local Agency-State Master Agreement – Newcomb Shoulder Stabilization Project**
   Re: Considering approval of a resolution approving Program Supplement Agreement No. N052 for the Newcomb Street (Roby Avenue to Olive Avenue) Shoulder Stabilization Project.

6. **Cooperative Work Agreement Extension – Jaye Street Bridge Rehabilitation**
   Re: Considering approval of a resolution approving a cooperative work agreement extension for the Jaye Street Bridge Rehabilitation Project.

7. **Reimbursement for the Construction of Master Plan Improvements – Riverview Estates No. 5 Subdivision (Gary Smee)**
   Re: Considering acceptance of the Master Plan public improvements from Smee Builders, Inc. for Riverview Estates No. 5 subdivision, generally located south of Orange Avenue and east of Matthew Street.
8. **Intent to Set Public Hearing for Concrete Improvements Construction by the City – W. North Grand Reconstruction Project (Prospect Street to Newcomb Street)**
   Re: Considering approval to schedule a Public Hearing for December 16, 2014, for consideration of the proposed construction of concrete improvements, and authorizing notification of all affected property owners.

9. **Representation by Elected Official for Providers of Public Transit**
   Re: Considering approval of Amendment 3 to the Tulare County Association of Governments Joint Powers Agreement to include language supporting the position of a Public Transit Representative in accordance with “Moving Ahead for Progress in the 21st Century.”

10. **Consideration of a Request for an Extension to CUP 2012-010; Walgreens; APNs 246-111-007 and 246-111-035**
    Re: Considering approval of a resolution approving an extension to the approval of CUP 2012-010 for a Type 20 license through December 4, 2015.

11. **Amendment to Employee Pay and Benefit Plan – Public Safety Support Unit**
    Re: Considering approval of a resolution amending the Employee Pay and Benefit Plan for Public Safety Support Unit employees.

12. **Amendment to Employee Pay & Benefit Plan – Management Confidential Series**
    Re: Considering approval of a resolution amending the Employee Pay and Benefit Plan for Management Confidential Series employees.

13. **Scheduling of Adjourned City Council Meeting for Goal Setting and to Establish 2015-16 Priorities**
    Re: Considering approval to schedule an adjourned meeting for goal setting to establish priorities on Tuesday, January 27, 2015, at 5:30 p.m.

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

PUBLIC HEARINGS

14. **Modification to Conditional Use Permit 2014-011-C**
    Re: Considering a request for modification to CUP 2014-011 and alcohol related standard conditions of approval.

15. **Request for a Conditional Use Permit (PRC 2014-019-C) to Allow for the Sale of Alcohol Under a Type 47 On-Sale General for Bona Fide Public Eating Place for Applebee’s Located at 892 W. Henderson Avenue**
    Re: Considering approval of a resolution to allow for the sale of alcohol under a Type 47 license in conjunction with a restaurant for Applebee’s located at 892 W. Henderson Avenue, within the former Blockbuster Video tenant space.

16. **General Plan Amendment & Zone Change from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Center)**
    Re: Considering the adoption of resolutions and an ordinance approving a General Plan Amendment and Zone Change for the project located at the southwest corner of Henderson Avenue and Newcomb Street on four parcels totaling approximately 1.3 acres.
17. **Modifications to the Municipal Code Related to Mobile Businesses, Farmer’s Markets and Yard Sales**
   Re: Considering adoption of an ordinance modifying the City’s Code as it pertains to mobile businesses, farmer’s markets and yard sales.

**SCHEDULED MATTERS**
18. **Consideration of Modification to Loan Agreement and Amendment to License and Development Agreement with the Tulare County Junior Livestock Show and Community Fair**
   Re: Consideration of modifications to the Construction Loan Agreement and License and Development Agreement between the City and the Fair.

19. **Award of Contract – Oak Avenue Transportation Enhancement (TE) Project**
   Re: Considering awarding contract in the amount of $397,809 to Hobbs Construction for the project consisting of enhancing sidewalk along the south side of Oak Avenue between Main Street and the Rails to Trails Parkway east of Fourth Street.

**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 December 16, 2014.

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

Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda packet are available for public inspection during normal business hours at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, and on the City’s website at www.ci.porterville.ca.us.
Call to Order at 5:32 p.m.
Roll Call: Council Member Reyes, Council Member Ward, Council Member Gurrola, Vice Mayor Hamilton, Mayor Stowe

ORAL COMMUNICATIONS
None

CITY COUNCIL CLOSED SESSION

A. Closed Session Pursuant to:
2. Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis, Steve Kabot, and Patrice Hildreth. Employee Organizations: Porterville City Employees Association; Management and Confidential Series; Porterville Police Officers Association; Fire Officer Series; Porterville City Firefighters Association; Public Safety Support Unit; and all Unrepresented Management Employees.
3. Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: City of Porterville v. Corridor Group LLC, Tulare Superior Court No. PCU255344
4. Government Code Section 54956.9(d)(3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One case in which facts are not known to potential plaintiff.
5. Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: Two Cases.

6:30 P.M. RECONVENE OPEN SESSION AND
REPORT ON REPORABLE ACTION TAKEN IN CLOSED SESSION

City Attorney Julia Lew reported that no reportable action took place.

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

PRESENTATIONS
Outstanding Business – Golden Touch Limousine
Employee Service Awards – Ryan Smalley, Dominic Barteau, and Sarah Weaver
Rocky Hill Speedway Local Dignitary Race

AB 1234 REPORTS
This is the time for all AB 1234 reports required pursuant to Government Code § 53232.3.

1. Tulare County Association of Governments (TCAG) – November 17, 2014
Council Member Gurrola indicated that the meeting was very short and that there was nothing to report.

2. Local Agency Formation Committee (LAFCO) – November 5, 2014
   Vice Mayor Hamilton reported on action pertaining to an annexation.

REPORTS

This is the time for all committee/commission/board reports; subcommittee reports; and staff informational items.

I. City Commission and Committee Meetings:
   1. Parks & Leisure Services Commission – November 6, 2014
      Commissioner Moore presented the Commission’s Monthly Report which consisted of park and Sports Complex improvements, the grand opening of Fallen Heroes Park, and Veterans Day Run. He also spoke of the upcoming Tree Lighting Ceremony and a request received from Porterville Little League regarding a larger field.
   2. Library & Literacy Commission – November 13, 2014
      Commissioner LaVonne indicated that the Council would soon be receiving correspondence from the Commission; reported on patron statistics; expressed support for the appointment of an individual to the Commission’s vacancy; and announced Santa photo opportunities at the library.
   3. Arts Commission – no meeting; and no report.
      Commissioners Stephanie Perez and Katie Murrillo from Granite Hills reported on the StepUp Banner Contest winner, and plans for a dodgeball tournament between the high schools.
   5. Transactions and Use Tax Oversight Committee (TUTOC) – November 12, 2014
      Committee Chair Fletcher stated that he would be providing a report of the meeting upon completion of the minutes.

II. Staff Informational Reports

ORAL COMMUNICATIONS

- Richard Hatfield, Porterville, requested that the City look into connecting the residences along E. Worth to City water.
- Brock Neeley, Porterville, expressed issue with sponsorship requirement as it pertained to proclamations and the status of pending appendices within the Council Handbook.
- Austin Slater, from Porterville College Young Democrats Club, spoke of the club’s intent to have a presence at City Council meetings in the future.
- Patience Christenson, introduced herself and expressed her interest in serving on the Library and Literacy Commission.
- Barry Caplan, spoke of circumstances leading up to a change in the proclamation process and the implementation of said process; and suggested that the current system was
discriminatory against the LGBT community.

- Monty Schaffer, expressed an interest in wanting to open a business.
- Mike Boudreaux, Tulare County Sheriff, expressed contentment with the collaborative relationship between the Porterville Police Department and Tulare County Sheriff’s Office.

CONSENT CALENDAR

COUNCIL ACTION: MOVED by Council Member Gurrola, SECONDED by Council Member Ward that the City Council approve Item Nos. 1 through 9. The motion carried unanimously.

1. CITY COUNCIL MINUTES OF NOVEMBER 4, 2014
Recommendation: That the City Council approve the Minutes of November 4, 2014.
Documentation: M.O. 01-111814
Disposition: Approved.

2. AUTHORIZATION TO ADVERTISE FOR BIDS – TOMAH STORM DRAIN PROJECT
Recommendation: That City Council:
1. Approve staff’s recommended plans and project manual;
2. Authorize staff to advertise for bids on the project; and
3. Authorize the Finance Director to appropriate Developer Impact Fee Funds in the amount of $30,000.
Documentation: M.O. 02-111814
Disposition: Approved.

3. ACCEPTANCE OF PROJECT – TRANSIT FIBER OPTIC CONDUIT INSTALLATION PROJECT
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.
Documentation: M.O. 03-111814
Disposition: Approved.

4. AMENDMENT OF DEE JASPAR AND ASSOCIATES WATER WELL DESIGN AND INSPECTION SERVICE AGREEMENT – WATER SYSTEM MODELING
Recommendation: That City Council:
1. Authorize the Mayor to execute Addendum No. 3 to Dee Jaspar & Associates Service Agreement at an agreed upon fee of $11,110 for the services described herein; and
2. Authorize progress payments up to 100% of the fee amount and authorize a 10% contingency to cover unforeseen costs.

Documentation: M.O. 04-111814
Disposition: Approved.

5. FEDERALLY DESIGNATED PROMISE ZONE FOR TULARE COUNTY

Recommendation: That the City Council authorize the Mayor to sign the letter of commitment to participate in the Promise Zone.

Documentation: M.O. 05-111814
Disposition: Approved.

6. REQUEST TO RESCHEDULE A PUBLIC HEARING FOR THE CONSIDERATION OF A CONDITIONAL USE PERMIT (PRC 2014-011-C) TO ALLOW THE UPGRADE TO A TYPE 21 GENERAL OFF-SALE LICENSE FOR ALCOHOL SALES LOCATED AT 1187 WEST HENDERSON AVENUE

Recommendation: Direct staff to publish a public notice scheduling the Conditional Use Permit (Resolution 73-2014) for reconsideration at the meeting of December 2, 2014.

Documentation: M.O. 06-111814
Disposition: Approved.

7. REQUEST FOR STREET CLOSURE – MYERS’ TWENTIETH ANNUAL CHRISTMAS TREE MEMORIAL SERVICE

Recommendation: That the City Council approve the closure of “E” Street, between Putnam and Cleveland, on December 9, 2014, from 5:00 p.m. to 9:00 p.m. subject to the conditions specified.

Documentation: M.O. 07-111814
Disposition: Approved.

Recommendation: That the City Council:
1. Approve the Community Civic Event application from the Porterville Chamber of Commerce and Rotary Club of Porterville subject to the Restrictions and Requirements contained in the Application, Agreement, Exhibit A and Exhibit B of the Community Civic Event Application;
2. Authorize the temporary suspension of the Fixed Route Transit System from 4:30 p.m. to 7:00 p.m. on December 4, 2014; and
3. Restrict the closure of parking spaces in front of City Hall from 3:00 p.m. to 5:00 p.m. to those at the north end of City Hall along Main Street.

Documentation: M.O. 08-111814
Disposition: Approved.

9. CANCELLING JANUARY 6, 2015 CITY COUNCIL MEETING

Recommendation: That the City Council cancel the January 6, 2015 Council Meeting.

Documentation: M.O. 09-111814
Disposition: Approved.

The Council recessed for ten minutes at 7:23 p.m.

PUBLIC HEARINGS

10. REQUEST FOR A CONDITIONAL USE PERMIT (PRC 2014-019-C) TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE 41 BEER AND WINE LICENSE IN CONJUNCTION WITH A RESTAURANT FOR APPLEBEE’S LOCATED AT 892 W. HENDERSON AVENUE

Recommendation: That the City Council:
1. Adopt the draft resolution approving Conditional Use Permit (PRC 2014-019-C) subject to conditions of approval; and
2. Authorize the mayor to sign the Letter of Public Convenience or Necessity.

City Manager John Lollis introduced the item. Community Development Director Jenni Byers indicated that the public hearing notice had incorrectly identified an application for a Type 41 license, and requested that the Council accept public comment with the knowledge that the item would be re-noticed to properly identify a Type 47 license and come back on December 2, 2014.

The public hearing was opened at 7:36 p.m.
Brock Neeley, Porterville, presented the Council with information from the 2013 DUI-MIS Report, and expressed concern regarding a saturation of alcohol sale licenses.

Steven Franklin, Area Director of Apple American Group Restaurants, spoke briefly about the company and their excitement about doing business in Porterville.

The public hearing was closed at 7:38 p.m.

City Attorney Lew noted that the comments made would be included in the record for the Type 47 public hearing on December 2nd.

Documentation: None
Disposition: Public Hearing to be re-noticed for December 2, 2014.

**SCHEDULED MATTERS**

11. CONSIDERATION OF CITY COUNCIL PROCEDURAL HANDBOOK

Recommendation: That the City Council consider the City Council Procedural Handbook, and adopt changes to the Handbook and/or provide direction to staff as deemed appropriate.

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

Council Member Gurrola identified the following housekeeping items:

- Page 8 of 25 – inquired about consideration of seniority in determining Council seating arrangements;
- Page 9 of 25 letter e – she noted the process was not being practiced and inquired about the need to keep the language;
- Page 15 of 25 – delivery of hardcopy agenda packet no longer applies and requested that process be updated to reflect electronic agenda process;
- Page 19 of 25 – requested that tickets could be used by other members of the Council if the mayor and vice mayor were unable to attend; and
- Page 23 of 25 – inquired about wireless communication policy and additional language pertaining to agenda delivery.

The Council discussed the identified items, and agreed that language regarding the agenda delivery process should be updated to reflect the current electronic process and No. 2 on Page 19 of 25 regarding event tickets should be removed.

Staff indicated that a wireless communication policy had been brought to the Council in the past, but had not been adopted due to changes in technology over the years.

Lastly, Council Member Gurrola communicated her interest in changing the proclamation process to not require sponsorship for placement on the Consent Calendar for Council consideration, and made a motion as such, which died for lack of a second. Council Member Ward spoke in
opposition to the public having the power to add items to the agenda without a Council sponsor.

Council Member Gurrola then made a motion to return to the previous process which required the Mayor’s approval. The motion was seconded by Council Member Reyes, who requested that members of the council be given the option of signing or not signing the proclamation.

Vice Mayor Hamilton stated that he did not subscribe to the opinion that proclamations were purely ceremonial in nature; and Council Member Ward spoke against granting the mayor the power to do something that was not supported by a majority of the council.

**COUNCIL ACTION:** MOVED by Council Member Gurrola, SECONDED by Council Member Reyes that the City Council proclamation process return to Mayor’s approval.

- **AYES:** Reyes, Gurrola
- **NOES:** Ward, Hamilton, Stowe
- **ABSENT:** None
- **ABSTAIN:** None

Documentation: M.O. 10-111814

**COUNCIL ACTION:** MOVED by Council Member Gurrola, SECONDED by Council Member Ward that the City Council approve the identified housecleaning items. The motion carried unanimously.

Documentation: M.O. 11-111814

Council Member Ward spoke in support of removing the requirement for a motion and a second prior to discussion, and extending the deadline for Council Member Requested Agenda Items from noon on Monday to noon on Wednesday.

**COUNCIL ACTION:** MOVED by Council Member Ward, SECONDED by Vice Mayor Hamilton that the City Council approve the removal of the requirement for a motion and a second prior to discussion.

- **AYES:** Reyes, Ward, Hamilton, Stowe
- **NOES:** Gurrola
- **ABSTAIN:** None
- **ABSENT:** None

Documentation: M.O. 12-111814
AYES: Reyes, Ward, Hamilton, Stowe
NOES: Gurrola
ABSTAIN: None
ABSENT: None

Documentation: M.O. 13-111814

Lastly, Council Member Ward requested that Page 18, letter D be amended to require Council approval for out of state travel only. The City Attorney advised of AB1234 requirements and suggested language to that regard.

COUNCIL ACTION: MOVED by Council Member Ward, SECONDED by Vice Mayor Hamilton that the City Council approve amending Page 18, letter D to read no City Council approval needed unless it is required by AB1234. The motion carried unanimously.

Documentation: M.O. 14-111814

The Council briefly discussed the consideration of criteria for proclamations and directed staff to calendar consideration for December 16, 2014. City Attorney Lew advised of information she had previously compiled from other cities and indicated she would send it to the Council.

Disposition: Council handbook amended.

12. CONSIDERATION OF APPOINTMENT TO LIBRARY AND LITERACY COMMISSION

Recommendation: That the City Council appoint one individual to fill the vacancy with a term to expire in October of 2015.

City Manager Lollis introduced the item, and the staff report was presented by Administrative Services Director Hildreth. Following which, Vice Mayor Hamilton noted that one of the interested individuals, Patience Christenson, was in attendance.

COUNCIL ACTION: MOVED by Council Member Gurrola, SECONDED by Council Member Ward that the City Council appoint Patience Christenson to the Library and Literacy Commission with a term to expire in October of 2015. The motion carried unanimously.

Documentation: M.O. 15-111814
Disposition: Individual appointed.

13. CONSIDERATION OF ALTERNATIVES FOR UPGRADES TO THE COUNCIL CHAMBERS
Recommendation: That the Council:

1. Approve the proposed Audio/Visual Chamber Upgrades and authorize staff to engage the services of in-house staff for miscellaneous electrical upgrades not to exceed $1,000; and ITC in an amount up to $19,419.97; and

2. Approve one of the four options presented, or any combination thereof, with regard to live/video/audio streaming of City Council Meetings.

City Manager Lollis introduced the item, and the staff report was presented by Administrative Services Director Patrice Hildreth. During the staff report, a presentation prepared by Doug Shumway of SuiteOne was played for the Council.

At the Council’s request, Deputy City Clerk Luisa Zavala and IT Manager Ted Williams addressed questions regarding the implementation of the SuiteView product and the proposed upgrades to chambers. Mr. Williams elaborated on the difficulties with replacing/repairing the dated equipment; the need to scavenge for parts on Ebay; and challenges in interfacing with newer technology. It was proposed by Vice Mayor Hamilton that said equipment should be amortized for replacement.

COUNCIL ACTION: MOVED by Council Member Gurrola, SECONDED by Council Member Reyes that the City Council approve the proposed Audio/Visual Chamber Upgrades and authorize staff to engage the services of in-house staff for miscellaneous electrical upgrades not to exceed $1,000; and ITC in an amount up to $19,419.97.

AYES: Reyes, Gurrola, Hamilton, Stowe
NOES: Ward
ABSTAIN: None
ABSENT: None

Documentation: M.O. 16-111814

A discussion ensued, during which Administrative Services Director Hildreth elaborated on the services proposed to be provided by SuiteOne Media, which she indicated was primarily comprised of unlimited cloud storage and bandwidth for public viewing of the video and/or audio. Director Hildreth then spoke of the benefits of having audio readily available for staff and the public, and the positive impact it would have on staff efficiency. In response to a question posed by Council, Director Hildreth indicated that a free trial period of the SuiteOne Media product was not likely available.

Will Lloyd expressed concerns regarding the production value of the proposed stationary cameras, and spoke of difficulties with his use of Vimeo to host his videos. He applauded staff for looking into live streaming, and suggested that in the event the City discontinued its current arrangement for his services, he would likely continue to video at no charge in order to continue his Council coverage on his website. Mr. Lloyd then offered to work with staff to explore alternatives for streaming his video for the public.
COUNCIL ACTION: MOVED by Council Member Gurrola, SECONDED by Vice Mayor Hamilton that the City Council approve Option No. 3.

AYES: Reyes, Gurrola
NOES: Ward, Hamilton, Stowe
ABSTAIN: None
ABSENT: None

Documentation: M.O. 17-111814

COUNCIL ACTION: MOVED by Vice Mayor Hamilton, SECONDED by Council Member Gurrola that the City Council approve Option 4. The motion carried unanimously.

Documentation: M.O. 18-111814

Disposition: Approved chamber upgrades and Option 4.

The Council adjourned at 9:16 p.m. to a meeting of the Porterville Public Financing Authority.

PORTERVILLE PUBLIC FINANCING AUTHORITY AGENDA
November 18, 2014

Roll Call: Director Reyes, Director Gurrola, Director Ward, Vice President Hamilton, President Stowe

WRITTEN COMMUNICATION
ORAL COMMUNICATIONS
None

PUBLIC FINANCING SCHEDULED MATTER
PFA-1. ANNUAL MEETING OF THE PORTERVILLE PUBLIC FINANCING AUTHORITY

Recommendation: That the City Council, sitting as the Porterville Public Financing Authority, hold a public meeting in accordance with the Authority’s By-laws, accept public comment, and approve the 2014 Status Report for the Redevelopment Bond Issue #1 and refinance of Tax Allocation Bond Projects.

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

Documentation: M.O. PFA 01-111814
Disposition: Approved.
The Board adjourned at 9:18 p.m. to a meeting of the Porterville City Council.

**ORAL COMMUNICATIONS**

- Brock Neeley, spoke of Roberts Rules of Order, and requested that a formal contract be drafted for video services between the City and Will Lloyd.
- Barry Caplan, congratulated Council Member Reyes and Council Member Gurrola for their stance/comments regarding the proclamation process; spoke of ceremonial duties of the Mayor as written in the Charter; and spoke in support of live streaming of council meeting video.

**OTHER MATTERS**

- Vice Mayor Hamilton, thanked individuals for their participation in the Local Dignitaries Race; announced a memorial for Chief Baca to take place on Sunday, 1:00 p.m. at the Rocky Hill Raceway.
- Council Member Gurrola, spoke of the upcoming dedication of the Elders Building at the Tule River Reservation.
- Council Member Ward, expressed an interested in reaching out to veterans to discuss placement of military banners; wished everyone a Happy Thanksgiving; suggested that the Council consider banning retailers who are open for the holiday.
- Council Member Reyes, spoke of the Dignitaries Race, Turkey Day Shoot Out, Veterans Day Parade and the need to educate the community about Veteran’s Day moment of silence protocol.
- Mayor Stowe, spoke of the Veteran’s Day Parade, Dignitaries Race, and Parnell “Chief” Baca’s memorial service; and congratulated Council Member Reyes for being awarded Volunteer of the Year by the Chamber of Commerce.
- City Manager Lollis thanked Chief Forsyth and the Police Captains for their efforts on Monday; reported on status of showers and indemnification agreements for provision of water.

**CLOSED SESSION**

None

**ADJOURNMENT**

The Council adjourned at 9:35 p.m. to the meeting of December 2, 2014.

_______________________________
Luisa M. Zavala, Deputy City Clerk

_______________________________
Milt Stowe, Mayor
THIS ITEM HAS BEEN MOVED TO SCHEDULED MATTERS.
SUBJECT: AUTHORIZATION TO "PIGGY-BACK" ON EXISTING CONTRACT

SOURCE: Public Works Department – Field Services Division

COMMENT: The City of Visalia solicited bids for traffic striping and on November 17, 2014, awarded the contract to Safety Striping Services, Inc. of Goshen. The contract is in effect for one fiscal year, and upon mutually agreeable terms, can be renewed for up to four consecutive years. Since 2006, the City has contracted for this service (striping of City streets) as it is the most efficient manner in terms of cost and painting of street lines.

The City of Visalia’s bid specifications established a unit price that meets our needs, and staff is requesting authorization to “piggy-back” onto the City of Visalia’s contract with Safety Striping Services, Inc. of Goshen for the maintenance of traffic striping throughout the city limits.

The cost for this project shall not exceed $70,000, an increase of $5,000 over prior contract from 2010, and staff is seeking approval to utilize funds slated for Sign and Signal Upgrades in the amount of $48,325. This capital improvement project was approved in the 2014/2015 Annual budget. An additional $21,675 is needed to fully fund the maintenance of the city's traffic striping. Therefore, staff is hereby seeking approval to augment Surface Transportation Program funds for the purpose of fully funding the striping of city maintained streets this fiscal year.

RECOMMENDATION: That the City Council:

1. Authorize “piggy-backing” on the City of Visalia’s contract with Safety Striping Services, at an agreed upon amount not to exceed $70,000, for the maintenance of traffic striping throughout the city and those streets within the county’s jurisdiction that are under city control via mutual maintenance agreements; and

2. Authorize the Finance Director to augment the Signs and Signal Upgrade Project with Surface Transportation Program funds in the amount of $21,675.

ATTACHMENT: Safety Striping Services, Inc. Bid Proposal
BID PROPOSAL

FROM: CONTRACTOR  Safety Striping Service, Inc.

Bids are required for the entire work complete and in place.

For improvement of:

RFB No.: 14-15-32
Project Name: TRAFFIC STRIPING, BIKE LANE IMPLEMENTATION, AND STOP SIGN INSTALLATIONS
Project No.: 2370-7200 / CP9226-999, 2370-72000/CP9923-999, 2370-72000/CP0037-999, and 3124-55100

To the City Clerk of the City of Visalia:

The estimate of quantities of work to be performed and materials to be furnished are approximate only, being given as a basis for the comparison of bids, and the City of Visalia does not expressly or by implication agree that the actual amount of work will correspond therewith. The City of Visalia reserves the right to increase or decrease the amount of any part of the work, or to omit portions of the work as deemed necessary by the Engineer.

The undersigned as bidder declares that he has carefully examined the location of the proposed work, that he has examined the plans and specifications, and read the accompanying instructions to bidders, and hereby proposes and agrees, if this proposal is accepted, to furnish all materials and do all the work required to complete said work in accordance with said Plans, if any, Standard Specifications, Construction Specifications and Contract Documents in the time and manner therein prescribed, for the unit price or lump sum price set forth in the following Bid Schedule:

(Do not remove from documents)

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION OF WORK</th>
<th>QUANTITY</th>
<th>UNIT</th>
<th>UNIT PRICE ($)</th>
<th>AMOUNT ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROJECT A - TRAFFIC STRIPING</td>
<td></td>
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<tr>
<td>1</td>
<td>White or Yellow 4-inch centerline or laneline, Detail Nos. 1 &amp; 8 (2010 Caltrans Standard Plan A20A)</td>
<td>160,000</td>
<td>LF</td>
<td>0.08</td>
<td>12,800.00</td>
</tr>
<tr>
<td>2</td>
<td>One direction No-Passing pattern, Detail No. 15 (2010 Caltrans Standard Plan A20A)</td>
<td>100,000</td>
<td>LF</td>
<td>0.16</td>
<td>16,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Two direction No-Passing pattern, Detail No. 21 (2010 Caltrans Standard Plan A20A)</td>
<td>160,000</td>
<td>LF</td>
<td>0.17</td>
<td>27,200.00</td>
</tr>
<tr>
<td>4</td>
<td>Left Edge Line, 4-inch yellow, Detail No. 24 or Right Edge Line, 4-inch white, Detail No. 27B (2010 Caltrans Standard Plan A20B)</td>
<td>80,000</td>
<td>LF</td>
<td>0.10</td>
<td>8,000.00</td>
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TRAFFIC STRIPING, BIKE LANE IMPLEMENTATION, AND STOP SIGN INSTALLATIONS
2370-7200 / CP9226-999, 2370-72000/CP9923-999, 2370-72000/CP0037-999, and 3124-55100

Page 4 of 38
<table>
<thead>
<tr>
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<th>Description</th>
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<tr>
<td>5</td>
<td>Two-Way Left-Turn lane pattern, Detail No. 31 (2010 Caltrans Standard Plan A20B)</td>
<td>30,000</td>
<td>LF</td>
<td>0.16</td>
<td>4,800.00</td>
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<tr>
<td>6</td>
<td>8-inch white Channelizing Line, Detail No. 38A (2010 Caltrans Standard Plan A20D)</td>
<td>20,000</td>
<td>LF</td>
<td>0.18</td>
<td>3,600.00</td>
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<tr>
<td>7</td>
<td>Bike Lane Line, 6-inch white line, Detail No. 39 (2010 Caltrans Standard Plan A20D)</td>
<td>50,000</td>
<td>LF</td>
<td>0.13</td>
<td>6,500.00</td>
</tr>
<tr>
<td>8</td>
<td>Raised pavement markers</td>
<td>2,500</td>
<td>EA</td>
<td>3.00</td>
<td>7,500.00</td>
</tr>
<tr>
<td>9</td>
<td>Removal of Striping or Markings by lightly grinding</td>
<td>2,500</td>
<td>SF</td>
<td>1.65</td>
<td>4,125.00</td>
</tr>
<tr>
<td>10</td>
<td>Removal of Striping or Markings by painting black</td>
<td>2,000</td>
<td>SF</td>
<td>1.10</td>
<td>2,200.00</td>
</tr>
<tr>
<td></td>
<td><strong>PROJECT A TOTAL</strong></td>
<td></td>
<td></td>
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<td><strong>92,725.00</strong></td>
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**PROJECT B - BIKE LANE IMPLEMENTATION**

<table>
<thead>
<tr>
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<th>Description</th>
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<tbody>
<tr>
<td>11</td>
<td>Bike Lane Intersection Line, broken 6-inch white line, Detail No. 39A (2010 Caltrans Standard Plan A20D)</td>
<td>85,000</td>
<td>LF</td>
<td>0.12</td>
<td>10,200.00</td>
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<tr>
<td>12</td>
<td>Bike Lane Intersection Line, broken 6-inch white line, Detail No. 39 (2010 Caltrans Standard Plan A20D)</td>
<td>15,000</td>
<td>LF</td>
<td>0.12</td>
<td>1,800.00</td>
</tr>
<tr>
<td>13</td>
<td>Bike Lane Arrow, (Caltrans Plate A24A)</td>
<td>65</td>
<td>EA</td>
<td>18.20</td>
<td>1,183.00</td>
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<tr>
<td>14</td>
<td>Stencil &quot;BIKE LANE&quot; (Caltrans Plate A24D)</td>
<td>65</td>
<td>EA</td>
<td>28.60</td>
<td>1,859.00</td>
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<tr>
<td>15</td>
<td>Shared Lane Marking, Bike Lane Symbol Without Person (Caltrans Standard Plan A24C) with chevrons</td>
<td>65</td>
<td>EA</td>
<td>33.80</td>
<td>2,197.00</td>
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<tr>
<td>16</td>
<td>Furnish and install 12-inch by 8-inch BIKE LANE with Symbol sign (R81(CA)) with Diamond Grade retroreflective sheeting and an anti-graffiti film</td>
<td>65</td>
<td>EA</td>
<td>11.00</td>
<td>715.00</td>
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<tr>
<td>17</td>
<td>Furnish and install 2-inch by 2-inch by 12-feet 14 gauge sign post</td>
<td>65</td>
<td>EA</td>
<td>220.00</td>
<td>14,300.00</td>
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<td><strong>PROJECT B TOTAL</strong></td>
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<td><strong>32,254.00</strong></td>
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**PROJECT C - STOP SIGN INSTALLATIONS**

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<tr>
<td>18</td>
<td>Furnish Portable Changeable Message Signs (PCMS)</td>
<td>6</td>
<td>EA</td>
<td>1,130.00</td>
<td>6,780.00</td>
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<tr>
<td>19</td>
<td>Furnish and install 30-inch by 30-inch STOP sign (R1-1) with Diamond Grade Cubed (DG3) retroreflective sheeting and an anti-graffiti film</td>
<td>4</td>
<td>EA</td>
<td>90.00</td>
<td>360.00</td>
</tr>
<tr>
<td></td>
<td>Description</td>
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<td>Unit</td>
<td>Unit Cost</td>
<td>Total Cost</td>
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<td>------------------------------------------------------------------------------</td>
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<tr>
<td>20</td>
<td>Furnish and install 36-inch by 36-inch STOP sign (R1-1) with Diamond Grade Cubed (DG3) retroreflective sheeting and an anti-graffiti film</td>
<td>8</td>
<td>EA</td>
<td>119.00</td>
<td>952.00</td>
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<tr>
<td>21</td>
<td>Furnish and install 30-inch by 30-inch STOP AHEAD sign (W3-1) with Diamond Grade Cubed (DG3) retroreflective sheeting and an anti-graffiti film</td>
<td>6</td>
<td>EA</td>
<td>90.00</td>
<td>540.00</td>
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<tr>
<td>22</td>
<td>Furnish and install 18-inch by 6-inch ALL WAY sign (R1-3P) with Diamond Grade Cubed (DG3) retroreflective sheeting and an anti-graffiti film</td>
<td>16</td>
<td>EA</td>
<td>12.00</td>
<td>192.00</td>
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<tr>
<td>23</td>
<td>Install 36-inch by 36-inch NEW TRAFFIC PATTERN AHEAD sign (W23-2)</td>
<td>12</td>
<td>EA</td>
<td>119.00</td>
<td>1,428.00</td>
</tr>
<tr>
<td>24</td>
<td>Install 12-inch diameter flashing red beacon on top of newly installed STOP sign</td>
<td>10</td>
<td>EA</td>
<td>33.00</td>
<td>330.00</td>
</tr>
<tr>
<td>25</td>
<td>Install 12-inch diameter flashing yellow beacon on top of newly installed STOP AHEAD sign</td>
<td>6</td>
<td>EA</td>
<td>33.00</td>
<td>198.00</td>
</tr>
<tr>
<td>26</td>
<td>Furnish and install 2-inch by 2-inch by 12-feet 14 gauge sign post</td>
<td>28</td>
<td>EA</td>
<td>220.00</td>
<td>6,160.00</td>
</tr>
<tr>
<td>27</td>
<td>Crosswalk and Limit Line, 12-inch white or yellow, Caltrans Plate A24E</td>
<td>720</td>
<td>LF</td>
<td>2.00</td>
<td>1,440.00</td>
</tr>
<tr>
<td>28</td>
<td>&quot;STOP&quot; Stencil (2010 Caltrans Standard Plan A24D)</td>
<td>28</td>
<td>EA</td>
<td>44.00</td>
<td>1,232.00</td>
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<tr>
<td>29</td>
<td>&quot;AHEAD&quot; Stencil (2010 Caltrans Standard Plan A24D)</td>
<td>12</td>
<td>EA</td>
<td>62.00</td>
<td>744.00</td>
</tr>
<tr>
<td>30</td>
<td>Pavement Markings Arrows (2010 Caltrans Standard Plan A24A)</td>
<td>12</td>
<td>EA</td>
<td>30.00</td>
<td>360.00</td>
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**PROJECT C TOTAL** $20,716.00

**BID TOTAL ($)** = $145,695.00

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<tbody>
<tr>
<td>31</td>
<td>Crosswalk and Limit Line, 12-inch white or yellow</td>
<td>9,000</td>
<td>LF</td>
<td>1.25</td>
<td>11,250.00</td>
</tr>
<tr>
<td>32</td>
<td>Pavement Markings Arrows (2010 Caltrans Standard Plan A24A)</td>
<td>4,500</td>
<td>SF</td>
<td>1.25</td>
<td>5,625.00</td>
</tr>
<tr>
<td>33</td>
<td>Pavement Markings Words stencil (2010 Caltrans Standard Plans A24D and A24E)</td>
<td>15,000</td>
<td>SF</td>
<td>1.25</td>
<td>18,750.00</td>
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<tr>
<td>34</td>
<td>Curb Marking (all colors)</td>
<td>2,000</td>
<td>LF</td>
<td>1.25</td>
<td>2,500.00</td>
</tr>
<tr>
<td>35</td>
<td>Parking stall line, 4-inch white or blue</td>
<td>10,000</td>
<td>LF</td>
<td>0.40</td>
<td>4,000.00</td>
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</table>

**PROJECT D - PAVEMENT MARKINGS (OPTIONAL)**

**TRAFFIC STRIPING, BIKE LANE IMPLEMENTATION, AND STOP SIGN INSTALLATIONS**

2370-7200 / CP9226-999, 2370-72000/CP9923-999, 2370-73000/CP0037-999, and 3124-55100

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<table>
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<tr>
<td>36</td>
<td>Parallel Parking “T” Markings</td>
<td>200</td>
<td>EA</td>
<td>8.00</td>
</tr>
<tr>
<td>37</td>
<td>Rail Road Crossing Symbol with limit lines (2010 Caltrans Standard Plan A24B)</td>
<td>30</td>
<td>EA</td>
<td>130.00</td>
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<tr>
<td>38</td>
<td>International Symbol of Accessibility (ISA) Marking (2010 Caltrans Standard Plan A24C)</td>
<td>200</td>
<td>EA</td>
<td>22.00</td>
</tr>
<tr>
<td>39</td>
<td>Bike Lane Symbol with Person (2010 Caltrans Standard Plan A24C)</td>
<td>75</td>
<td>EA</td>
<td>19.00</td>
</tr>
<tr>
<td>40</td>
<td>Shared Lane Marking, Bike Lane Symbol Without Person (Caltrans Standard Plan A24C) with chevrons</td>
<td>25</td>
<td>EA</td>
<td>35.00</td>
</tr>
</tbody>
</table>

**PROJECT D TOTAL $54,325.00**

**TOTAL PROJECT A, B, & C: $ One hundred Forty five thousand six hundred ninety five dollars and zero cents**

(WRITTEN IN WORDS)

**TOTAL PROJECT D (Optional): $ Fifty Four Thousand Three hundred Twenty Five Dollars and zero cents**

(WRITTEN IN WORDS)

In case of a discrepancy between unit price and total, the unit price shall prevail.
The award of the Contract, if it is awarded, will be to the lowest responsible bidder whose proposal complies with all the requirements described. For projects with no alternates, the award shall be determined by comparing the base bids. When alternative bids are included in the bid proposal, the award shall be determined by comparing the lowest totals of the base bid plus the bids of those alternatives specifically identified in the bid proposal to be used for the purpose of determining the lowest bid. The City reserves the right to add or subtract any of the alternatives after the lowest bid has been determined.

If this proposal shall be accepted and the undersigned shall fail to contract as aforesaid and to deliver the payment and performance bonds in the sums to be determined as aforesaid, with surety satisfactory to the City of Visalia, and to deliver all required insurance policies within ten (10) days, not including Sundays and legal holidays, after the bidder has received notice that the contract has been awarded, the City Council may, at its option, determine that the bidder has abandoned the Contract, and thereupon this proposal and the acceptance thereof shall be null and void, and the forfeiture of such security accompanying this proposal shall operate and the same shall be the property of the City of Visalia.

Bidder acknowledges receipt of the following addenda:

<table>
<thead>
<tr>
<th>No.</th>
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<tbody>
<tr>
<td>1</td>
<td>October 24</td>
</tr>
<tr>
<td>2</td>
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<tr>
<td>6</td>
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<tr>
<td>7</td>
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</table>
NON COLLUSION AFFIDAVIT

(Title 23 United States Code Section 112 and Public Contract Code Section 7106)

In accordance with Title 23 United States Code section 112 and Public Contract Code 7106 the bidder declares that bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Signature

Date

Note: The above Non-collusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Non-collusion Affidavit.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.
STATE OF CALIFORNIA
DRUG-FREE WORKPLACE CERTIFICATION
STD.21 (REV.12-03)

CERTIFICATION

I, the official named below, hereby swear that I am duly authorized legally to bind the contractor or grant recipient to the certification described below. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.

CONTRACTOR/BIDDER FIRM NAME: Safety Stripping Service, Inc.

FEDERAL ID NUMBER: 95-2946627

AUTHORIZED SIGNATURE:

DATE EXECUTED: 11/4/2014

PRINTED NAME AND TITLE OF PERSON SIGNING: David L. Preston (President)

TELEPHONE NUMBER (Include Area Code): (559) 651-1022

The contractor or grant recipient named above hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The above named contractor or grant recipient will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).

2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b), to inform employees about all of the following:

   (a) The dangers of drug abuse in the workplace,

   (b) The person's or organization's policy of maintaining a drug-free workplace,

   (c) Any available counseling, rehabilitation and employee assistance programs, and

   (d) Penalties that may be imposed upon employees for drug abuse violations.

3. Provide as required by Government Code Section 8355(c), that every employee who works on the proposed contract or grant:

   (a) Will receive a copy of the company's drug-free workplace policy statement, and

   (b) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.

4. At the election of the contractor or grantee, from and after the "Date Executed" and until __________ (NOT TO EXCEED 36 MONTHS), the state will regard this certificate as valid for all contracts or grants entered into between the contractor or grantee and this state agency without requiring the contractor or grantee to provide a new and individual certificate for each contract or grant. If the contractor or grantee elect to fill in the blank date, then the terms and conditions of this certificate shall have the same force, meaning, effect and enforceability as if a certificate were separately, specifically, and individually provided for each contract or grant between the contractor or grantee and this state agency.
BID PROPOSAL CONTRACT

Accompanying this proposal is $ (Bidders Bond) ______ cash, cashier's check, certified check, or bidder's bond in the amount equal to at least ten percent (10%) of the total bid.

The name of all persons interested in the foregoing proposal as principals are as follows:

IMPORTANT NOTICE: If bidder or other interested person is a corporation, state legal name of corporation, also names of the president, secretary, treasurer, director and manager thereof and all stockholders owning more than 10% equity interest in corporation; if a co-partnership, state true name of firm, also names of all individual copartners composing firm; if bidder or other interested person is an individual, state first and last name in full.

Safety Striping Service, Inc.
Print Name of Corporation or True Name of Firm

David L. Preston (President)
Print Officer's Name or Copartner's Name and Title

Louisa Preston (Vice President, Secretary, Treasurer)
Print Officer's/Stockholder Name or Copartner's Name and Title

Print Officer's/Stockholder Name or Copartner's Name and Title

Print Officer's/Stockholder Name or Copartner's Name and Title

Print Officer's/Stockholder Name or Copartner's Name and Title

Print Officer's/Stockholder Name or Copartner's Name and Title

Licensed in accordance with an act providing for the registration of Contractors,

License No. 308669, Class of License(s) A & C32

License Expiration Date 05/31/16

The representations made herein are made under penalty of perjury. Any bid not containing this information, or a bid containing information which is subsequently proven false, shall be considered non-responsive and shall be rejected by the City of Visalia.

Signature of Authorized Person(s)

President

Title

David L. Preston
Print Name
SUBCONTRACTORS LIST

In accordance with the provisions of Section 2-8 "Designation of Subcontractors," of the Standard Specifications, each bidder shall list below the name and location of place of business of each subcontractor who will perform a portion of the contract work in an amount in excess of one-half of one percent of the total contract price or $10,000, whichever is greater. In each instance, the nature and extent of the work to be sublet shall be described.

The general Contractor to whom the contract is awarded will not be permitted, without the written consent of the Engineer, to substitute any person as subcontractor in place of the subcontractor designated in the original bid, or to permit any subcontract to be assigned or transferred, or to allow it to be performed by anyone other than the original subcontractor. The Engineer may consent to the substitution of another person as subcontractor, if the original subcontractor, after having reasonable opportunity to do so, shall fail or refuse to execute, when said written contract is based upon the conditions of the general contract and complies with the subcontractor's written bid.

The failure of the Contractor to specify a subcontractor for any portion of the contract work in excess of one-half of one percent or $10,000 of the total contract price shall be deemed to indicate that the Contractor intends to perform such portion himself. The subletting or subcontracting of work for which is in excess of one-half of one percent or $10,000 of the total contract price, will be allowed only with the written consent of the Engineer.

Complete Columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or fax to (559) 713-4802 within twenty-four (24) hours after the bid opening. Failure to provide complete information in Columns 1 through 4 will result in a non-responsive bid. See the following page for the SUBCONTRACTORS LIST table.
## SUBCONTRACTORS LIST

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
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<tbody>
<tr>
<td>Business Name, Location and Contractor License Number &amp; Class of License</td>
<td>Bid Item No(s.)</td>
<td>Dollar Amount &amp; Percent of Bid Item Subcontracted</td>
<td>Description of Subcontracted Work</td>
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TRAFFIC STRIPING, BIKE LANE IMPLEMENTATION, AND STOP SIGN INSTALLATIONS
2370-72000/CP9226-999, 2370-72000/CP9923-999, 2370-72000/CP9007-999, and 3124-55100

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BIDDERS BOND

TO ACCOMPANY BID PROPOSAL

Known all men by these presents:

That we, Safety Striping Service, Inc. as principal, and
The Hanover Insurance Co. as surety, are held and firmly bound unto the City of Visalia in the sum of ten percent (10%) of the total amount of the bid of the principal, to be paid to the said City or its certain attorney, its successors and assigns, for which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, successors, or assigns, jointly and severally, firmly by these presented.

In no case shall the liability of the surety hereunder exceed the sum of $ Ten Percent of the Bid Amount.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the principal has submitted the above mentioned bid to the City of Visalia for certain construction specifically described as follows, for which bids are to be opened at Visalia, CA on October 31, 2014 for improvement of:

RFB No.: 14-15-32
Project Name: TRAFFIC STRIPING, BIKE LANE IMPLEMENTATION, AND STOP SIGN INSTALLATIONS
Project No.: 2370-7200 / CP9226-999, 2370-72000/CP9923-999, 2370-72000/CP0037-999, and 3124-55100

NOW THEREFORE, if the aforesaid principal is awarded the contract, and within the time and manner required under the specifications, after the prescribed form in accordance with the bid, and files the two bonds with the City of Visalia, one to guarantee faithful performance and the other to guarantee payment of labor and materials, as required by law, then this obligation shall be null and void, otherwise it shall be and remain in full force and virtue.
BIDDER'S BOND

In the event suit is brought upon this bond by the obligee and judgment is recovered, the surety shall pay all costs incurred by the obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this 30th day of October 2014.

Safety Striping Service, Inc. (Seal)

David Preston, President

Hanover Insurance Company (Seal)

Christine Emmons, Attorney in Fact

Surety  The Hanover Insurance Company

5 Hutton Centre, Suite 1060

Address

Santa Ana, CA 92707

City and Zip Code

NOTE: Signatures of those executing for the surety must be properly acknowledged.
ACKNOWLEDGMENT

State of California
County of Tulare

On October 30, 2014 before me, Gloria D Gonzales, Public Notary
(insert name and title of the officer)

personally appeared David Lloyd Preston,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Gloria D. Gonzales (Seal)
KNOW ALL MEN BY THESE PRESENTS: That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, do hereby constitute and appoint
Christine Emmons, Shelly Weldon, Larry File, Jeanie Swan, Patty Gouthro,
Elizabeth Newland, Gary E. Richards, Gary Cox and/or Mark Smith
of Fresno, CA and each is a true and lawful Attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, or, if the following line be filled in, only within the area therein designated any and all bonds, recognizances, undertakings, contracts of indemnity or other writings obligatory in the nature thereof, as follows:
Any such obligations in the United States, not to exceed Ten Million and No/100 ($10,000,000) in any single instance
and said companies hereby ratify and confirm all and whatsoever said Attorney(s)-in-fact may lawfully do in the premises by virtue of these presents. These appointments are made under and by authority of the following Resolution passed by the Board of Directors of said Companies which resolutions are still in effect:
"RESOLVED, That the President or any Vice President, in conjunction with any Vice President, be and they are hereby authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as its acts, to execute and acknowledge for and on its behalf as Surety any and all bonds, recognizances, contracts of indemnity, waivers of citation and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company in their own proper persons." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)
IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by two Vice Presidents, this 12th day of April 2013.
THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

THE COMMONWEALTH OF MASSACHUSETTS )
COUNTY OF WORCESTER ) ss.

On this 12th day of April 2013 before me came the above named Vice Presidents of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.

I, the undersigned Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America.
"RESOLVED, That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or any Vice President in conjunction with any Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures therein may be facsimile." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 30th day of October 2014.

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

J. Michael Pete, Vice President
ADDENDUM NO. 1
This Addendum is being issued to provide information regarding State Prevailing Wages requirements for RFB-14-15-32. The information in this addendum will become part of the RFB document.

ITEM 1: STATE PREVAILING WAGES
This project is subject to state prevailing wages. Please see Attachments 1 and 2 of this addendum for wage rate determinations.

END OF ADDENDUM NO. 1
This addendum must be signed and returned with the bid proposal.

By: [Signature]
SUBJECT: AUTHORIZATION TO AWARD CONSULTANT AGREEMENT – ANALYSIS OF EDISON STREET LIGHT PURCHASE PROGRAM

SOURCE: Public Works Department - Engineering Division

COMMENT: In October 2013, the City Council approved and directed the Public Works Director to move forward with preliminary steps to purchase Edison owned street lights (LS-1). To move the project forward, Edison required payment in the amount of $10,000 to perform an appraisal of their street lights. Edison completed their appraisal effort and met with City staff on November 14, 2014. Edison appraised the value of 2,754 street lights at $2,065,000 or $750 per street light.

The cities of Visalia, Tulare and Porterville interviewed and selected the firm of Utility Cost Management, LLC (UCM) of Fresno to perform a variety of analytical tasks to determine if it is good business sense to consummate the purchase of Edison street lights. Visalia and Tulare have already awarded a Consultant Service Agreement to UCM and a copy of that agreement is included in Council’s packet for reference. Specifically, UCM will:

1. Review and analyze Edison’s appraisal report, calculations and methodology.

2. Review past sales to provide comparable data that may help reduce SCE’s price.

3. Forecast utility bill savings and ongoing cost of maintenance.


5. Retrofit options, i.e., change out existing lights to LED lighting.

UCM’s fee to accomplish all tasks is $7,100. If the City Council feels it is in the City’s best interest to continue exploring the purchase of the street lights, it is staff’s recommendation that the Council award a Consultant Service Agreement to UCM in an amount not to exceed $8,500 which includes a 20% contingency to cover, as of this writing, unforeseen events that may arise in our dealings with Edison.
RECOMMENDATION: That the City Council:

1. Award a Consultant Service Agreement to Utilities Cost Management (UCM) in the not to exceed amount $8,500; and

2. Direct the Public Works Director to bring to a future Council meeting a complete and thorough Financial Feasibility Analysis Report (FFAR) with recommendations on whether to purchase or not purchase the street lights offered by Southern California Edison.

ATTACHMENT: City of Visalia Service Agreement with Utility Cost Management, LLV
PROFESSIONAL SERVICES AGREEMENT
SOUTHERN CALIFORNIA EDISON (SCE) STREET LIGHT PURCHASE
FEASIBILITY ANALYSIS

This Agreement, entered into this 20th day of March, 2014, by and between the City of Visalia, hereinafter referred to as the “CITY”, and Utility Cost Management, LLC hereinafter referred to as the “CONSULTANT”. WITNESSETH

WHEREAS, the CITY is authorized and empowered to employ consultants and specialists in the performance of its duties and functions; and

WHEREAS, the CITY has the desire to secure certain technical and professional services to assist in the preparation and completion of the items of work described as “Scope of Work” in Exhibit “A”, and hereinafter referred to as the “PROJECT”; and

WHEREAS, the CONSULTANT represents it is licensed, qualified and willing to provide such services pursuant to terms and conditions of this Agreement.

NOW, THEREFORE, CITY and CONSULTANT agree as follows:

I. SERVICES TO BE PERFORMED BY THE CONSULTANT

A. Authorized Scope of Work: The CONSULTANT agrees to perform all work necessary to complete in a manner satisfactory to the CITY those tasks described in Exhibit “A” - Scope of Work, for the cost identified in Exhibit “B”: Project Fees/Progress Payment Schedule.

B. Additional Services: Incidental work related to the PROJECT and not provided for in Exhibit “A” may be needed during the performance of this Agreement. The CONSULTANT agrees to provide any and all additional services at the rates identified in attached Exhibit “C” - Schedule of Fees for Professional Services. Such additional services shall not be performed by CONSULTANT without the written consent of CITY.

II. TIME OF PERFORMANCE

The CONSULTANT shall commence performance of this Agreement within ten (10) days of Consultant’s Notice to Proceed following City Council approval of this Agreement and shall complete the work within the timeframes outlined in Exhibit “A”, unless otherwise extended in writing by CITY, in its sole discretion.

If the CONSULTANT fails to complete the PROJECT within the time specified, plus any extensions of time which may be granted, the CITY shall determine the percent of each work item completed and shall pay the CONSULTANT on that basis.

CONSULTANT shall not be responsible for delays which are due to causes beyond the CONSULTANT’s reasonable control. In the case of any such delay, the time of completion shall be extended accordingly in a writing signed by both parties.

III. COMPENSATION

A. Total Compensation: For services performed pursuant to this Agreement, the CITY agrees to pay and the CONSULTANT agrees to accept, as payment in full, a sum not to exceed Eleven Thousand Nine Hundred Dollars ($11,900.00). This amount shall constitute complete compensation,
including document production and out-of-pocket expenses for all services for the work and PROJECT identified in Exhibits "A" and "B".

B. Payment of Compensation: The CONSULTANT shall be compensated according to the progress payment schedule set forth in Exhibit "B" upon completion of percentage of each noted phase. The CONSULTANT shall be paid no later than thirty (30) days following submission of a written, verified billing to the CITY. Said billing shall include the percentage of each task completed to date and since the date of the preceding billing, if any.

IV. AUTHORIZED REPRESENTATIVE

A. CITY: The Project Manager shall represent the CITY in all matters pertaining to the services to be rendered under this Agreement, except where approval of the City Council of the City of Visalia is specifically required.

B. CONSULTANT: Michael Kerkorian shall represent and act as principle for CONSULTANT in all matters pertaining to the services to be rendered by it under this Agreement.

V. TERMINATION

The right to terminate this Agreement, with or without cause, 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. Termination By Either Party Without Cause: The CITY or CONSULTANT may terminate this Agreement at any time by giving written notice to the other of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination.

B. Termination of Agreement for Cause: The CITY may by written notice to the CONSULTANT specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination, terminate the whole or any part of this Agreement in any of the following circumstances:

1. If the CONSULTANT fails to perform the services called for by this Agreement within time(s) specified herein or any extension thereof; or

2. If the CONSULTANT fails to make progress under this Agreement as to endanger performance of this Agreement in accordance with its terms, and does not correct such failure within a period of ten (10) days (or longer period as the CITY may authorize in writing) after receipt of notice from the CITY specifying such failure.

C. Post-Termination:

1. In the event the CITY terminates this Agreement with or without cause, the CITY may procure, upon such terms and such manner as it may determine appropriate, services similar to those terminated.

2. Except with respect to defaults of subconsultants, the CONSULTANT shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the CONSULTANT. Such causes include, but are not limited to, acts of God or of the public enemy, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather; but in the event the failure to perform is caused by the default of a subconsultant, the CONSULTANT shall not be liable for failure to perform, unless the services to be furnished by the subconsultant were obtainable from
other sources in sufficient time and within budgeted resources to permit the
CONSULTANT to meet the required delivery schedule or other performance requirements.

3. Should the Agreement be terminated with or without cause, the CONSULTANT shall
provide the CITY with all finished and unfinished documents, data, studies, services,
drawings, maps, models, photographs, reports, etc., prepared by the CONSULTANT
pursuant to this Agreement.

4. Upon termination, with or without cause, CONSULTANT will be compensated for the
services satisfactorily completed to the date of termination according to compensation
provisions contained herein. In no event, shall the total compensation paid
CONSULTANT exceed the total compensation agreed to herein.

5. If, after notice of termination of this Agreement, as provided for in this article, it is
determined for any reason that the CONSULTANT was not in default under the provisions
of this article, then the rights and obligations of the parties shall be the same as if the
Agreement was terminated without cause.

6. Termination of this Agreement shall not terminate any obligation 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 activities.

VI. INTEREST OF OFFICIALS AND THE CONSULTANT

A. No officer, member, or employee of the CITY who exercises any functions or responsibilities in the
review or approval of this Agreement shall:

1. Participate in any decision relating to this Agreement which effects their personal interest or
the interest of any corporation, partnership, or association in which they have, directly or
indirectly, any interest; or

2. Have any interest, direct or indirect, in this Agreement or the proceeds thereof during his/her
tenure or for one year thereafter.

B. The CONSULTANT hereby covenants that they have, at the time of the execution of this Agreement,
no interest, and that they shall not acquire any interest in the future, direct or indirect, which would
conflict in any manner or degree with the performance of services required to be performed pursuant
to this Agreement. The CONSULTANT further covenants that in the performance of this work, no
person having any such interest shall be employed.

VII. NO PERSONNEL, AGENCY OR COMMISSION

The CONSULTANT warrants, by execution of this Agreement, that no personnel agency has been employed or
retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage,
brokerage or contingent fee, excepting bona fide established commercial or selling agencies maintained by the
CONSULTANT for the purpose of securing business. For breach or violation of this warranty, the CITY shall have
the right to annul this Agreement without liability or, in its discretion, to deduct from this Agreement price or
consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or
contingent fee.

VIII. SUBCONTRACTING

A. The CONSULTANT shall not subcontract or otherwise assign any portion of the work to be
performed under this Agreement without the prior written approval of the CITY.

B. In no event shall the CONSULTANT subcontract work in excess of 50% of the contract amount, excluding specialized services. Specialized services are those items not ordinarily furnished by a consultant performing the particular type of project.

IX. INDEPENDENT CONTRACTOR

In the performance of the services herein provided for, the CONSULTANT shall be, and is, an independent contractor and is not an agent or employee of the CITY. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder. The CONSULTANT shall be solely responsible for all matters relating to the payment of its employees including compliance with social security and income tax withholding and all other regulations governing such matters.

X. SPECIFICATIONS

All specifications, manuals, standards, etc., either attached to this Agreement or incorporated by reference, are binding as to the performance of the work specified in this Agreement unless they are changed by written amendment to this Agreement modified in writing to incorporate such changes.

XI. DOCUMENTS/DATA

A. Ownership of Documents: All original papers and documents, produced as a result of this Agreement, shall become the property of the CITY. In addition, CITY shall be provided with access and use of any other papers and documents consistent with the purpose and scope of services covered by this Agreement. Any additional copies, not otherwise provided for herein, shall be the responsibility of the CITY.

Documents, including drawings and specifications, prepared by CONSULTANT pursuant to this Agreement, are not intended or represented to be suitable for reuse by CITY or others on extensions of the PROJECT or on any other project. Any use of the completed documents for other projects and any use of incomplete documents without the specific written authorization from CONSULTANT will be at CITY’s sole risk and without liability to CONSULTANT. Further, any and all liability arising out of changes made to CONSULTANT’s deliverables under this Agreement by CITY or persons other than CONSULTANT is waived as against CONSULTANT, and the CITY assumes full responsibility for such changes unless the CITY has given CONSULTANT prior notice and has received from CONSULTANT written consent for such changes.

B. Publication: No report, information, or other data given or prepared or assembled by the CONSULTANT pursuant to this Agreement, shall be made available to any individual or organization by the CONSULTANT without the prior written approval of the CITY. Notwithstanding the foregoing, however, the CONSULTANT shall not be required to protect or hold in confidence and confidential information which (1) is or becomes available to the public with the prior written consent of the CITY; (2) must be disclosed to comply with law; or (3) must be disclosed in connection with any legal proceedings.

C. Copyrights: The CONSULTANT shall be free to copyright material developed under this Agreement with the provision that the CITY be given a nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the material for government or public purposes.
XII. INDEMNIFICATION AND INSURANCE

The CONSULTANT agrees to comply with all of the Indemnification and Insurance requirements identified in Exhibit "E" - Indemnification and Insurance.

XIII. NON-DISCRIMINATION

CONSULTANT and all subcontractors shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement.

XIV. MISCELLANEOUS PROVISIONS

A. Successors and Assigns: This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.

B. Prohibition of Assignment: Neither the CITY nor CONSULTANT shall assign, delegate or transfer their rights and duties in this Agreement without the written consent of the other party.

C. Dispute/Governing Law: Any dispute not resolvable by informal arbitration between the parties to this Agreement shall be adjudicated in a Court of Law under the laws of the State of California.

D. Notices: Notice shall be sufficient hereunder if personally served upon the City Clerk of the CITY or an officer or principal of the CONSULTANT, or if sent via the United States Postal Service, postage prepaid, addressed as follows:

CITY OF VISALIA
707 W. Acequia Ave
Visalia, CA 93291
Attention: City Clerk

Utility Cost Management, LLC
6475 N. Palm Avenue, Suite 105
Fresno, CA 93704
Attn: Michael Kerkorian

E. Jurisdiction/Venue/Waiver Of Removal: This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in that State. Any action brought to interpret or enforce this Agreement, or any of the terms or conditions hereof, shall be brought in Tulare County, California. The CONSULTANT hereby expressly waives any right to remove any action to a county other than Tulare County as permitted pursuant to Section 394 of the California Code of Civil Procedure.

F. Integration/Modification: This Agreement and each of the exhibits referenced herein, which are incorporated by reference, represents the entire understanding of the CITY and the CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by the CITY and the CONSULTANT.

G. Conflict With Law: If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder of the Agreement shall be in full force and effect.

H. Attorney’s Fees: In the event either party commences any action, arbitration or legal proceedings for the enforcement of this Agreement, the prevailing party, as determined by the court or
arbitrator, shall be entitled to recovery of its attorney's fees and court costs incurred in the action
brought thereon.

I. **Construction:** This Agreement is the product of negotiation and compromise on the part of each
party and the parties agree, notwithstanding Civil Code Section 1654, that in the event of
uncertainty the language will not be construed against the party causing the uncertainty to exist.

J. **Authority:** Each signatory to this Agreement represents that it is authorized to enter into this
Agreement and to bind the party to which its signature represents.

K. **Headings:** Section headings are provided for organizational purposes only and do not in any
manner affect the scope or intent of the provisions thereunder.

IN WITNESS WHEREOF, this Agreement is executed on the day and year first above written.

CITY OF VISALIA

City Manager

CONSULTANT

Approved as to Form

City Attorney

Risk Manager

Project Manager

Attachments:

- Exhibit “A”: Scope of Work
- Exhibit “B”: Project Fees/Progress Payment Schedule
- Exhibit “C”: Schedule of Fees for Professional Services
- Exhibit “D”: Indemnification and Insurance Requirements

SCE Street Light Purchase—Feasibility Analysis
RFP No.13-14-08
Page 6 of 11
B. Proposed Project Approach

Municipalities interested in purchasing street lights from their electricity provider face an unusual type of sales negotiation. There is only one possible seller of the street lights, the utility, and only one possible buyer, the city. So the transaction is in no way a market-based process in which price is determined by supply and demand.

In some ways, for cities like Visalia, Tulare and Porterville ("Cities") that are evaluating a purchase, the lack of alternative sellers can be problematic. The seller, SCE, understands that it is the "only game in town" and that the Cities would like to avoid the cost of taking the street lights through eminent domain, and therefore has less incentive to compromise on price and other transaction terms.

Fortunately, California municipal street light purchases have occurred often enough during the past twenty years to offer a template on appropriate valuation methodology. The California Public Utilities Commission (CPUC) has made clear that it endorses "Replacement Cost New Less Depreciation" (RCNLD), and this technique provides a starting point for negotiations with SCE.

In approaching this project, Utility Cost Management LLC (UCM) will focus on RCNLD to arrive at a reasonable initial offer from SCE. From there, we will work to reduce the initial offer by scrutinizing SCE’s figures, calculations, and assumptions in light of its testimony and workpapers in past CPUC proceedings. UCM also will analyze CPUC filings from other street light sales to provide comparable data that may help to reduce SCE’s price.

Of course, the purchase price is only one of the factors that Cities will evaluate for potential street light purchases. UCM’s written report will include analysis of other important considerations, such as transaction costs, forecasted utility bill savings, ongoing maintenance and other costs of ownership, financing options, retrofit options, and financial risks.

In addition to a written report, UCM will prepare an Excel-based financial model that will calculate 20-year discounted cash flows, return on investment, net present value, and simple payback of the street light purchase under various assumptions. This model will allow UCM to perform sensitivity analyses to assess "best-case", "worst-case" and "likely-case" scenarios, which will provide Cities with an understanding of the possible range of outcomes and the uncertainties that are inherent in any long-term financial projections.

The specific approach that UCM will take is described more fully below:

1. Obtain SCE’s Initial Offer

UCM will contact SCE to request a written offer, along with supporting calculations and documentation. The supporting information is essential to in order to establish a reasonable
valuation methodology, so that as negotiations proceed SCE will not be inclined to alter its price without proper justification.

2. **Evaluate SCE’s Initial Offer**

SCE’s initial offer will be broken down in various ways to identify opportunities to lower the proposed price or otherwise secure more favorable terms for Cities:

- UCM will ensure that SCE’s calculations are consistent with workpapers, testimony and CPUC rulings from Phase 2 of the utility’s 2012 General Rate Case (GRC). These documents contain detailed cost accounting data for every type of SCE street light, and therefore provide an excellent basis for reviewing RCNLD calculations. For example, SCE’s testimony explains its approach to deriving street light “replacement cost”, its depreciation methodology, and its detailed street light operations and maintenance costs.

- UCM will review workpapers, testimony and CPUC rulings from GRC’s of PG&B and SDG&E, so that it can assess whether SCE’s cost assumptions are reasonable. For example, if SCE claims the total installed cost of a 30-feet concrete pole is $2,000, but PG&B claims it is only $1,500, then that discrepancy should be explained. Similarly, if SDG&E depreciates its street lights over a useful life of 32 years, but SCE uses 40 years, that difference will have a significant impact on RCNLD figures, and should be investigated.

- UCM has in its files over 1,200 pages of archived CPUC documents from Section 851 street light sales that have occurred since 1998. These documents were obtained in 2012 as part of an internal UCM analysis of street light purchase opportunities, and contain a wealth of information, including purchase price and terms, agreements, and detailed inventories of the assets being purchased. While none of the sales were with SCE, the information will nonetheless be useful as an additional source of comparable data.

- UCM will review SCE’s mapping and inventory data to ensure that it is a reasonably accurate representation of the actual number, location, type and wattage of Cities’ street lights. Rather than verify every individual street light, which would be time-consuming and costly, UCM will utilize statistical sampling to establish the accuracy of the SCE data within prescribed confidence intervals. (While this effort will require some in-field site visits, it will not include an independent appraisal of the condition of the street light system, which UCM views as outside the scope of this RFP. Cities may wish to undertake such an appraisal prior to completing any street light purchase, but UCM believes that such an appraisal is unnecessary to evaluate the feasibility of the purchases.)
3. Negotiate with SCE to Arrive at “True Price”

While analyses of utility company and CPUC data will certainly enable UCM to minimize the RCNLD price, the final price and terms of Cities’ street light purchases will require more than RCNLD calculations. It may be difficult to arrive at SCE’s final, “true” price as part of this feasibility analysis, because UCM will not be negotiating the actual deal. However, we believe that UCM’s lengthy track record of successful negotiations with California’s major utilities, its reputation as an able customer advocate at the CPUC, and its familiarity with GRC cost accounting will help us to obtain SCE’s lowest possible offer as part of this feasibility analysis. (See Tab “C” on UCM’s Experience.)

4. Transaction Process and Associated Costs

UCM’s analysis will include a description of the anticipated steps involved in the purchase transaction. Some of these steps may require out-of-pocket costs (e.g., SCE administrative fees, retaining consultants and other professional services), while others may require time from Cities’ staffs (e.g., obtaining city council approval, preparing RFPs). In either case, if Cities have a clear understanding of the process, they can make more informed decisions on whether or not to proceed with the purchases.

UCM’s explanation of the transaction process will include a discussion of Cities’ right to take the street lights through condemnation if negotiations fail. While we would not expect condemnation to be necessary because of SCE’s apparent willingness to sell its street light assets, nonetheless it is important for Cities to be aware of this option. (Please note, UCM is not an attorney or a law firm and cannot provide legal advice or services.)

UCM also will discuss the process of obtaining an independent appraisal of the street light system. As mentioned above, we do not believe this is necessary as part of the feasibility analysis, but prior to the sale, the city will want to ascertain the condition of the system and the potential costs associated with deteriorating poles and other deferred maintenance. Because the cost of this appraisal could be significant, that cost must be included as part of the Cities’ feasibility evaluation.

5. Utility Bill Savings

The main benefit associated with the Cities’ street light purchases is the resulting reduction in SCE electricity charges. While it is relatively straightforward to quantify the savings under currently applicable SCE rates, it is more difficult to project savings over the next 10, 15 or 20 years. Over longer time periods, even a seemingly modest adjustment to the escalation rate used to forecast savings – say from 2% to 3% – can have a material effect on Cities’ savings.

UCM will review SCE street light rates over the past 20 years to determine how the relationship between LS1 and LS2 charges has fluctuated. This information will be combined with utility
testimony, utility workpaper calculations, and CPUC decisions in recent years to help determine whether the future differential between LS1 and LS2 charges is likely to increase, decrease or remain the same. UCM's analysis will also include calculations of expected utility bill savings if the street lights are retrofitted to more energy efficient fixtures.

6. Retrofit Opportunities

Street light ownership will offer Cities the opportunity to retrofit their systems with more energy efficient technologies. UCM's analysis will include a discussion of retrofit options, including costs, benefits, financing alternatives and risks. UCM will include case studies of recently completed LED and induction retrofits that it has gathered as an advisor to various California cities.

7. Costs of Ownership

Through its review of GRC testimony and workpapers, UCM will obtain SCE's average maintenance costs for various types of street lights. In addition, UCM will seek SCE's historical maintenance data specifically for Cities. This will include data on routine maintenance, such as fixture replacements and reflector cleanings, as well as event-driven repairs such as pole knock-downs and copper wire theft. UCM also will survey other California cities - both those that perform street light maintenance in-house and those that contract with third-party vendors - to provide comparable information on expected maintenance costs.

UCM will also gather information on ancillary costs and benefits of street light ownership, such as insurance, lost property tax revenue, and opportunities to generate revenue by leasing street light space to companies for placement of wireless communication devices.

8. Analysis of Potential Risks

As mentioned in the above discussion of "Utility Bill Savings", it is difficult to forecast electricity rates over 10, 15 or 20 years, and this represents one of the risks associated with street light purchases. However, there are other future events that could impact financial results, and the likelihood of these events should be assessed. For example, the application of dimming and solar technologies would reduce street light electricity usage and therefore could benefit Cities, but could also result in rate changes that could lengthen the purchase payback period. Similarly, if SCE upgrades utility-owned street lights to more efficient technologies in the next several years, the benefits of ownership could be reduced significantly.

9. Creation of Excel-Based Financial Model to Calculate Impact of Purchase Under Various Assumptions and Scenarios

Even with the best information, it is likely that one or more of the assumptions that are critical to Cities' analysis of the street light purchases will have to be modified as the purchases move forward. In addition, from the outset, Cities should have a clear understanding of how their
financial results will be impacted if anticipated situations do not materialize. For this reason, UCM will create an Excel-based financial model that will quickly allow the evaluation of the purchases under various scenarios. This model will be part of the work product that will be provided to Cities upon project completion.

10. Timeline

We estimate the following timeline for this project. Please note, this is only an estimated timeline, and the project could take longer if SCE does not provide requested information timely.

<table>
<thead>
<tr>
<th>Time from contract signing...</th>
<th>Task to be completed...</th>
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<tbody>
<tr>
<td>1 week</td>
<td>1. Notify SCE of Cities’ desire to obtain written offer.</td>
</tr>
<tr>
<td>1 week to 2 weeks</td>
<td>2. Project kickoff meeting with participating cities.</td>
</tr>
<tr>
<td>2 weeks to 6 weeks</td>
<td>3. Obtain written offers from SCE.</td>
</tr>
<tr>
<td>5 weeks to 9 weeks</td>
<td>4. Complete initial analysis of SCE offer, and notify SCE of requested changes.</td>
</tr>
<tr>
<td>7 weeks to 11 weeks</td>
<td>5. Ongoing discussions with SCE, analysis of data, drafting of report, and creation of financial model.</td>
</tr>
<tr>
<td>9 weeks to 13 weeks</td>
<td>6. Submittal of completed report and financial model to participating cities.</td>
</tr>
<tr>
<td>10 weeks to 14 weeks</td>
<td>7. Meetings with participating cities to review UCM’s findings, and to discuss potential next steps.</td>
</tr>
</tbody>
</table>

11. Schedule of Deliverables

The deliverables for this project are:

a. A written report, which will include a summary of UCM’s findings and recommendations, as well as more detailed explanations and supporting documentation for each recommendation.

b. An Excel-based financial model that will enable Cities to perform calculations based on various assumptions associated with the street light purchases.

As indicated in the above timeline, we would expect to submit the deliverables to participating cities within 8 to 12 weeks of contract signing.
E. Proposed Fee Structure and Schedules

UCM is proposing to provide the services described in this RFP response for a fixed fee. Assuming all three cities sign agreements with UCM within 30 days of RFP award, then the proposed fee for each of the participating cities is:

City of Visalia $11,900
City of Tulare $8,800
City of Porterville $7,100

UCM will be responsible for travel costs and other out-of-pocket costs necessary to complete the project.

UCM will invoice Cities for 30% of the total fee amount upon contract award. UCM will invoice for the remaining 70% after all work product has been delivered to Cities. UCM’s invoices are due within 30 days, and past due amounts will accrue interest charges at a rate of 1% per month.

UCM believes that working with all three cities at the same time is an important way to minimize the cost of the feasibility analysis, because there are significant economies of scale available. The data that UCM will obtain from SCE and the CPUC in order to evaluate SCE’s offers will be similar for each city. The information that UCM obtains from other California cities and UCM’s other fact-finding efforts will enhance UCM’s findings for all three cities. Certain sections of each written report will be similar for each city. The computer model that UCM will create will be useful to all three cities.

Because of these economies of scale, the above figures must increase if all three cities do not retain UCM. If only two of the three cities sign agreements with UCM within 30 days of RFP award, then UCM proposes that the above figures be increased by 15%. If only one of the three cities signs an agreement with UCM within 30 days of RFP award, then UCM proposes that the above figures be increased by 35%.

UCM’s Fresno location will allow it to conduct separate meetings with each of the participating cities, in order to ensure that each city’s specific concerns are addressed in UCM’s findings. UCM envisions kickoff meetings with each participating city shortly after contract execution, as well as meetings with each participating city after UCM has completed its work.

The approximate breakdown of the above fees by type of service is as follows:

- Obtain, Evaluate and Negotiate SCE’s Initial Offer (See Sections 1-3 of "Proposed Project Approach"). 20%
- Fact-Finding and Analysis of Transaction Process, Utility Bill Savings,
Retrofit Opportunities, Costs of Ownership, and Risks  
(See Sections 4-8 of “Proposed Project Approach”).  
30%

Creation of Excel-based Financial Model  
(See Section 9 of “Proposed Project Approach”).  
15%

Preparation of Written Report with Supporting Documentation  
30%

Preparation for and Attendance at Client Meetings  
5%
Exhibit "C": Schedule of Fees for Professional Services

All additional service shall be performed as the following rate:

- Michael Kerkorian: $175 per hour
- All other UCM staff: $90 per hour
EXHIBIT D
Indemnification and Insurance Requirements

City of Visalia Indemnification and Insurance Requirements

A. As respects acts, errors, or omissions in the performance of services, CONSULTANT agrees to indemnify and hold harmless CITY, its elected and appointed officers, employees, and CITY designated volunteers from and against any and all claims, demands, losses, defense costs, liability or consequential damages arising directly out of CONSULTANT’s negligent acts, errors or omissions in the performance of his/her services under the terms of this Agreement, except to the extent those arise out of the negligence of CITY.

B. CITY agrees to indemnify and hold harmless CONSULTANT, its officers, employees, and designated volunteers from and against any and all losses, defense costs, liability or consequential damages to the extent arising out of CITY’S negligent acts, errors or omissions in the performance of this Agreement.

C. As respects all acts or omissions which do not arise directly out of the performance of services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, CONSULTANT agrees to indemnify, defend (at CITY’s option), and hold harmless CITY, its elected and appointed officers, agents, employees, representatives, and volunteers from and against any and all claims, demands, defense costs, liability, or consequential damages of any kind or nature arising out of or in connection with CONSULTANT’s (or CONSULTANT’s subcontractors, if any) performance or failure to perform, under the terms of this Agreement; except to the extent those which arise out of the negligence of CITY.

D. Without limiting CITY’s right to indemnification, it is agreed that CONSULTANT shall obtain and submit within ten (10) calendar days of the Notice of Award for this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:

1. Workers’ compensation insurance as required by California statutes.

2. Commercial general liability insurance with a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence. Such insurance shall include coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products and Completed Operations Liability, Broad Form Property Damage (if applicable), Independent Contractor’s Liability (if applicable).

3. Professional liability insurance coverage, in an amount not less than One Million Dollars ($1,000,000).

4. Comprehensive Automobile Liability coverage with a combined single limit of not less than One Million Dollars ($1,000,000) per occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles and shall be provided by a business automobile policy.

E. CITY’S Risk Manager is hereby authorized to reduce the requirements set forth above in the event he/she determines that such reduction is in the CITY’S best interest.

F. Each insurance policy required by this Agreement shall contain the following clause:

“This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the City Clerk, City of Visalia, 707 W. Acequia, Visalia, CA 93291.”
In addition, the commercial general liability and comprehensive automobile liability policies required by this Agreement shall contain the following clauses:

"It is agreed that any insurance maintained by the City of Visalia shall apply in excess of and not contribute with insurance provided by this policy."

"The City of Visalia, its officers, agents, employees, representatives and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Visalia."

G. Within ten (10) calendar days of the Notice of Award for this Agreement, CONSULTANT shall deliver to CITY insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above. Within thirty (30) days of the execution date of this Agreement, CONSULTANT shall provide to CITY endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Said endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title. Should it be deemed necessary by CITY, it shall be CONSULTANT's responsibility to see that CITY receives documentation acceptable to CITY which sustains that the individual signing said endorsements is indeed authorized to do so by the insurance company. CITY has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.

H. In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:

1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; or

2. Order CONSULTANT to stop work under this Agreement and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof; or

3. Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies CITY may have and is not the exclusive remedy for CONSULTANT's failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which CONSULTANT may be held responsible for payments of damages to persons or property resulting from CONSULTANT's or its subcontractor's performance of the work covered under this Agreement.
SUBJECT: PROGRAM SUPPLEMENT TO THE LOCAL AGENCY-STATE MASTER AGREEMENT – NEWCOMB SHOULDER STABILIZATION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The Department of Transportation has submitted Program Supplement Agreement Number N052 and requests that the City execute said agreement. The executed agreement shall become a part of the Agency-State Agreement for Federal-Aid Projects No. 06-5122R.

The attached Program Supplement is for the Newcomb Street Shoulder Stabilization (Roby Avenue to Olive Avenue) Project. The project consists of road reconstruction, including widening, new curb, gutter, sidewalk and storm drain.

RECOMMENDATION: That the City Council:

1. Approve the program supplement by passing a resolution authorizing the Mayor to sign the subject program supplement; and

2. Direct the City Clerk to return the signed program supplement to the Department of Transportation.

ATTACHMENTS: Program Supplement Agreement No. N052
Resolution
Locator Map
This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 02/20/07 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. approved by the Administering Agency on (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

**PROJECT LOCATION:**
On Newcomb St, from Roby Ave to Olive Ave.

**TYPE OF WORK:** Road Reconstruction, including widening, new curb, gutter, sidewalk, and drainage.

<table>
<thead>
<tr>
<th>Estimated Cost</th>
<th>Federal Funds</th>
<th>Matching Funds</th>
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<tbody>
<tr>
<td>M400</td>
<td>$629,000.00</td>
<td>LOCAL $359,212.00</td>
</tr>
<tr>
<td>$988,212.00</td>
<td></td>
<td>OTHER $0.00</td>
</tr>
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</table>

**CITY OF PORTERVILLE**

By __________________________
Title __________________________
Date __________________________
Attest __________________________

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Office __________________________
Date 11/4/14 $629,000.00

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Statutes</th>
<th>Item</th>
<th>Year</th>
<th>Program</th>
<th>BC</th>
<th>Category</th>
<th>Fund Source</th>
<th>AMOUNT</th>
</tr>
</thead>
</table>

|                               |                               |                               |                               |        |
|                               |                               |                               |                               |        |

Program Supplement 06-5122-R-N052-ISTEA Page 1 of 3
TO: STATE CONTROLLER'S OFFICE  
Claims Audits  
3301 "C" Street, Rm 404  
Sacramento, CA 95816  

FROM: Department of Transportation  

SUBJECT: Encumbrance Document  

VENDOR / LOCAL AGENCY: City of Porterville  

CONTRACT AMOUNT: $629,000.00  

PROCUREMENT TYPE: Local Assistance  

<table>
<thead>
<tr>
<th>CHAPTER</th>
<th>STATUTES</th>
<th>ITEM</th>
<th>YEAR</th>
<th>PEC / PECT</th>
<th>TASK / SUBTASK</th>
<th>AMOUNT</th>
</tr>
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<tbody>
<tr>
<td>20</td>
<td>2013</td>
<td>2660-102-0890</td>
<td>2014</td>
<td>2030010820</td>
<td>26200400</td>
<td>629,000.00</td>
</tr>
</tbody>
</table>

ADA Note: For individuals with sensory disabilities, this document is available in alternate formats. For information, call (915) 654-6410 of TDD (916) -3880 or write Records and Forms Management, 1120 N. Street, MS-86, Sacramento, CA 95814.
1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract. Failure to do so will cause a delay in the State processing invoices for the construction phase. Please refer to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

D. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumberances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period. If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

E. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal
obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

F. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

G. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at www.sam.gov.
RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE AUTHORIZING THE MAYOR TO SIGN
PROGRAM SUPPLEMENT NO. N052
TO ADMINISTER THE AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO. 06-5122R

BE IT RESOLVED by the City Council of the City of Porterville that the Mayor is hereby authorized to execute the document known as Program Supplement No. N052 to the Local Agency-State Master Agreement No. 06-5122R, for the Newcomb Street Shoulder Stabilization (Roby Avenue to Olive Avenue) Project

PASSED, APPROVED AND ADOPTED this 2nd day of December, 2014.

Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

By Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: COOPERATIVE WORK AGREEMENT EXTENSION – JAYE STREET BRIDGE REHABILITATION

SOURCE: Public Works Department - Engineering Division

COMMENT: The Department of Transportation requires that a cooperative work agreement extension be signed and submitted for any project receiving Federal Funding that will not be fully reimbursed or closed out by December 31, 2014. The Jaye Street Bridge Rehabilitation Project has appropriated funding totaling $39,308 for the design phase of the project that will lapse should the City not take the necessary action. Filing for the extension will help ensure that the City is able to compensate the design consultant per the executed contract agreement.

The attached lapsing project detail spreadsheet is for the Jaye Street Bridge Rehabilitation Project.

RECOMMENDATION: That the City Council:

1. Approve the cooperative work agreement extension by passing a resolution authorizing the Mayor to sign the subject extension request; and

2. Direct Public Works staff to return the signed extension request to the Department of Transportation.

ATTACHMENTS: Cooperative Work Agreement Extension Resolution
District 6 Lapsing Projects Detail Spreadsheet
RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE AUTHORIZING THE MAYOR TO SIGN
COOPERATIVE WORK AGREEMENT EXTENSION REQUEST
FOR THE JAYE STREET BRIDGE REHABILITATION PROJECT

BE IT RESOLVED by the City Council of the City of Porterville that the Mayor is hereby
authorized to execute the document known as the Cooperative Work Agreement
Extension Request for the Jaye Street Bridge Rehabilitation project.

PASSED, APPROVED AND ADOPTED this 2nd day of December, 2014.

__________________________
Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

__________________________
By Patrice Hildreth, Chief Deputy City Clerk
| District | Agency | Work Performed/Arch Location | Federal Project # | State Project #: | Contract Start | Contract End | Initial Award | Funds Obligated | Funds Remaining | Project Status | Right of Way Needed | Right of Way Addressed | Final Report Date | Final Payment Date | Final Payment Date | Corresponding Districts or District Project Manager | Corresponding Districts or District Project Manager |
|----------|--------|-----------------------------|------------------|-----------------|----------------|--------------|---------------|---------------|----------------|---------------|----------------|----------------------|----------------------|-------------------|-------------------|----------------|------------------------------------------------|------------------------------------------------|
| 06       | Portland | Bridge rehabilitation on June 30, 2015 | 8003-5122221951 | 000000583 | 563 | Federal | Jun - 05/30/09 | $124,000 | $46,643 | $79,358 | N/A | Yes | Right of way acquisition is needed. | 2015-06-30 | | | stool.rodiguez@ci.portland.or.us | stool.rodiguez@ci.portland.or.us |

Signature of Approving Agency's Board or Council: ________________________________

Print Name: Milt Stowe, Mayor

Date: ________________________________
SUBJECT: REIMBURSEMENT FOR THE CONSTRUCTION OF MASTER PLAN IMPROVEMENTS – RIVERVIEW ESTATES NO. 5 SUBDIVISION (Gary Smee)

SOURCE: Public Works Department - Engineering Division

COMMENT: The developer of the subject subdivision, Smee Builders, Inc., is requesting reimbursement for the cost of constructing Water Master Plan improvements as a part of their phased development.

The subject phase of this development is generally located south of Orange Avenue and east of Mathew Street. The improvements constructed consist of 1,061 lineal feet of 12-inch water main pipeline, a pressure regulating valve and related appurtenances. The underground improvements constructed have enhanced the water delivery system in accordance with the City’s Water Master Plan.

Section 25-32.3c of the Municipal Code of the City of Porterville states that revenues raised by payment of acreage fees (developer fees) be placed in a separate and special account and such revenues shall be used to reimburse developers who have been required to install Master Plan facilities.

The costs associated with the water main improvements constructed along the extension of Date Avenue as part of Riverview Estates No. 5 Subdivision were prepared by the Civil Engineer in charge and found to be acceptable to staff. A brief summary of reimbursement amounts per category is as follows:

<table>
<thead>
<tr>
<th>WATER MAIN MASTER PLAN IMPROVEMENTS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>PRV Station</td>
<td></td>
</tr>
<tr>
<td>1,061 L.F. 12-inch Water Main Pipeline</td>
<td></td>
</tr>
<tr>
<td>Trench Resurfacing</td>
<td></td>
</tr>
<tr>
<td>Appurtenances</td>
<td></td>
</tr>
<tr>
<td>Plan Check &amp; Inspection</td>
<td></td>
</tr>
<tr>
<td>Administration, Engineering &amp; Construction Staking</td>
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</tr>
<tr>
<td>Total Master Plan Reimbursement:</td>
<td></td>
</tr>
<tr>
<td>Appropriated/Funded</td>
<td></td>
</tr>
<tr>
<td>CM</td>
<td></td>
</tr>
</tbody>
</table>

$35,057.00  32,891.00  2,812.50  10,000.00  2,069.22  6,153.70

Total Master Plan Reimbursement: $88,983.42
These improvements were constructed in conjunction with said subdivision and were necessary for the orderly development of the area. Staff has inspected the improvements and found them to be acceptable.

RECOMMENDATION: That the City Council:

1. Accept the Master Plan public improvements of Riverview Estates No. 5 Subdivision for maintenance; and

2. Approve reimbursement to Mr. Gary Smee per Section 25-32.3c of the City of Porterville Municipal Code. The total reimbursement amount to be disbursed shall not exceed $88,983.42.

ATTACHMENT: Locator Map
MASTER PLAN REIMBURSEMENT
1,061 L.F. OF 12" WATER MAIN AND
PRESSURE REGULATING VALVE STATION

SUBJECT LOCATION

PRESSURE REGULATING VALVE
SUBJECT: INTENT TO SET A PUBLIC HEARING FOR CONCRETE IMPROVEMENTS CONSTRUCTION BY THE CITY – W. NORTH GRAND AVENUE RECONSTRUCTION PROJECT (PROSPECT STREET TO NEWCOMB STREET)

SOURCE: Public Works Department - Engineering Division

COMMENT: The W. North Grand Avenue Reconstruction Project (Prospect Street to Newcomb Street) includes the construction of curbs, gutters, sidewalks and/or drive approaches in front of undeveloped properties and/or developed properties that lack these public improvements. Section 20-40.1 of the Municipal Code stipulates that these improvements, once constructed, shall be reimbursed to the City of Porterville upon the issuance of a new building permit. Section 20-40.2 of the Municipal Code allows the City to recover the cost of the concrete improvements when the owner pulls a building permit(s) from the City and said permit(s) has a valuation of $18,421 or more within a two (2) year period.

Section 20-40.8 of the Municipal Code requires that each property owner affected by the project be notified of this Public Hearing. The notification clearly describes the City’s intent to seek reimbursement for the concrete improvements constructed by the City. This section also requires that City Council hold at least one additional Public Hearing prior to the establishment of a fee. Once the fee is established, the City shall record a general notice of “reimbursement fee” with the office of the Tulare County Recorder. The recorded document will officially notify the current owner and potential buyers that the property is subject to a concrete reimbursement fee.

RECOMMENDATION: That the City Council:

1. Set a Public Hearing for December 16, 2014, to discuss the proposed construction of concrete improvements for the subject project; and

2. Authorize staff to publish the public notice and notify all affected property owners of the Public Hearing.

ATTACHMENT: W. North Grand Avenue Reimbursement Map
SUBJECT: REPRESENTATION BY ELECTED OFFICIAL FOR PROVIDERS OF PUBLIC TRANSIT

SOURCE: Public Works Department - Engineering Division

COMMENT: The President's "Moving Ahead for Progress in the 21st Century" (MAP-21) requires that each Transportation Management Area (TMA) have an elected representative from each agency that offers transit service.

Amendment 3, attached herein for Council's review and approval, modifies the existing Joint Powers Agreement (JPA) to include the appropriate language supporting the position of a Public Transit Representative. In Tulare County, the Tulare County Association of Governments (TCAG) has been designated as the TMA. The Cities of Porterville, Tulare, Visalia and the County are the only agencies in the county that offer transit service.

At the November 19, 2014, the Council of Cities appointed Councilman Cameron Hamilton to serve as the Public Transit Representative. The Public Transit Representative will represent the City of Porterville for a term of three years.

The composition of the governing board will consist of:

a) The 5 members of the Board of Supervisors.

b) One Councilmember from each City, which is a party to this agreement appointed by the City Council of such respective Cities.

c) Three residents, over the age of 18, of the County to be appointed by a majority vote of the other members of the governing board.

d) One representative, to be appointed by the Tulare County Council of Cities to serve as a representative from a provider of public transit in accordance with 23 U.S.C as amended by MAP-21 for a three year term.

RECOMMENDATION: That the City Council:

1. Approve Amendment 3 to the Tulare County Association of Governments Joint Powers Agreement, which amends Paragraph 6 of the Agreement adding...
Section d) to read as follows: “One representative, to be appointed by the Tulare Council of Cities to serve as a representative from a provider of public transit in accordance with 23 U.S.C. as amended by MAP-21 for a three year term”.

ATTACHMENT: Amendment 3 Joint Powers Agreement

P:\pubworks\General\Council\Representation by Elected Official - Transit System - 2014-12-02.doc
MEMORANDUM

To: TCAG Member Agencies

From: Ted Smalley, Executive Director

Date: October 31, 2014

Subject: TCAG Joint Powers Agreement (JPA) Amendment Three

Attached for your consideration is Amendment Three to the Tulare County Association of Governments’ (TCAG) Joint Powers Agreement (JPA). The TCAG governing board has taken action to circulate this amendment to your respective agency for approval.

The amendment would allow a change to the TCAG Board composition to meet the requirement for a transit representative to serve on the TCAG Board. On September 15, 2014, the TCAG Board took action to support the Federal Transit Administration and the Federal Highway Administration issued joint guidance for implementing the policy for Moving Ahead for Progress in the 21st Century (Map-21). This bill, which was signed into law, is a two-year transportation bill that outlines expenditures for planning and infrastructure and policies for implementation. One of the new provisions of MAP-21 requires representation by providers of public transportation in each Metropolitan Planning Organization (MPO) that serves as a Transportation Management Area (TMA). As of 2012 TCAG is now classified as a TMA.

Each city and the county must pass a resolution approving the JPA Amendment Three with no changes in order to authorize its execution. It is respectfully requested that the amendment is considered at your agency’s earliest convenience. The goal set for action by all agencies is December 31, 2014. TCAG staff will be in touch with your agency regarding the item’s approval on your agenda. When the JPA has been considered by all and is approved, staff will circulate copies for signature.

Please contact me with any questions, and thank you for your collaborative effort and support for transportation in Tulare County.
WHEREAS, On July 6, 2012 President Obama signed Moving Ahead in the 21st Century (MAP-21), which is a two-year transportation bill that outlines expenditures for planning and infrastructure and policies for implementation; and

WHEREAS, Map-21 includes a Requirement for Representation by Providers of Public Transit in each Metropolitan Planning Organization Board that serves a Transportation Management Area (TMA); and

WHEREAS, On June 2, 2014, the Federal Transit Administration and the Federal Highway Administration issued joint guidance for implementing the policy; and

WHEREAS, Tulare County Association of Governments (TCAG) is now classified as a Transportation Management Area (TMA); and

WHEREAS, the requirement involves changes to the Tulare County Association of Governments’ (TCAG) board composition, and amendment to the TCAG Joint Powers Agreement (JPA) is necessary; and

WHEREAS, Tulare County Council of Cities recommended that the Council of Cities provide the nomination of an elected official from an agency providing transit services to fulfill the new position.
NOW, THEREFORE, BE IT RESOLVED that the Tulare County Association of Governments approves Joint Powers Agreement Amendment Number 3 for circulation to the member agencies for consideration in order to fulfill the Map-21 Requirement for Representation by Providers of Public Transit in each Metropolitan Planning Organization Board that serves a Transportation Management Area (TMA) as follows:

The proposed change to Section 6 (page 4) of the current JPA is as follows (change in bold and underlined):

6) The Association shall be administered by a governing board composed of the following members:
   a) The five (5) members of the Board of Supervisors
   b) One (1) Councilperson from each City which is a party to this Agreement, appointed by the City Councils of such respective Cities.
   c) Three (3) residents, over the age of 18, of the County to be appointed by a majority vote of the other members of the governing board of the Association listed in subparagraphs (a) and (b) above at a meeting of the governing board.
   d) One (1) representative, to be appointed by the Tulare County Council of Cities to serve as a representative from a provider of public transit in accordance with 23 U.S.C. as amended by MAP-21 for a three year term.

The foregoing Resolution was adopted upon motion of Member Vejvoda, seconded by Member Stammer, at a regular meeting held on the 15th day of September, 2014, by the following vote:

AYES: Boyer, Vander Poel, Cox, Worthley, Ennis, Smith, Allwardt, Gomez, Gurrola, Vejvoda, Link, Holscher, Stammer, Townsend

NOES:

ABSTAIN:

ABSENT: Kimball, Mendoza

TULARE COUNTY ASSOCIATION OF GOVERNMENTS

Phil Cox
Chair, TCAG

Ted Smalley
Executive Director, TCAG
AMENDMENT THREE TO THE
TULARE COUNTY ASSOCIATION OF GOVERNMENTS
JOINT POWERS AGREEMENT

THIS AGREEMENT, dated for convenience as of this ____ day of ________, 2014, by
and between the COUNTY OF TULARE, hereinafter referred to as the “County,” and the CITIES
OF DINUBA, EXETER, FARMERSVILLE, LINDSAY, PORTERVILLE, TULARE, VISALIA,
and WOODLAKE, or so many of said Cities as have executed this Agreement, hereinafter
collectively referred to as the “Cities”;

WITNESSETH:

WHEREAS, THE Tulare County Association of Governments, hereinafter referred to as the
“Association,” will be a separate entity from the County; and
WHEREAS, as of the 4th day of May, 1971, the County and the Cities executed an
Agreement (Tulare County Agreement No. 6460) which established the Association, and set forth
the powers and duties of the Association; and
WHEREAS, the Joint Powers Agreement has been amended from time to time; and
WHEREAS, the Association incorporate subsequent amendments to the original Agreement
entered into on the 4th day of May, 1971 and make changes to the Agreement to reflect current
practices and terminology on the 15th day of June, 2010 (Tulare County Agreement No. 24583); and
WHEREAS, the Association amended said Agreement to comply with Moving Ahead for
Progress in the 21st Century Act (MAP-21) Requirement for Representation by Providers of Public
Transit in each Metropolitan Planning Organization Board that serves a Transportation Management
Area (TMA)
NOW, THEREFORE, BE IT AGREED as follows:

(1) Paragraph (6) of said Agreement is hereby amended by adding thereto subparagraph to read as follows:

6) The Association shall be administered by a governing board composed of the following members:
   a) The five (5) members of the Board of Supervisors
   b) One (1) Councilperson from each City which is a party to this Agreement, appointed by the City Councils of such respective Cities.
   c) Three (3) residents, over the age of 18, of the County to be appointed by a majority vote of the other members of the governing board of the Association listed in subparagraphs (a) and (b) above at a meeting of the governing board.
   d) One (1) representative, to be appointed by the Tulare County Council of Cities to serve as a representative from a provider of public transit in accordance with 23 U.S.C. as amended by MAP-21 for a three year term.

(2) Except as expressly provided herein, all other terms and conditions of the Joint Powers Agreement and the Amendments thereto shall remain in full force and effect.

(3) The County and Cities hereby agree that this Amendment Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute the same Agreement. Notwithstanding the forgoing, the Parties hereby agree that duplicate originals shall be executed so each party may retain a fully executed counterpart of this Amendment Agreement.

///
IN WITNESS WHEREOF, the parties hereto have caused this Amendment Agreement to be executed as of the day and year first above written pursuant to resolutions of the governing bodies of the respective parties, duly adopted, authorizing such execution.

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

COUNTY OF TULARE
By ___________________________
Chairman, Board of Supervisors

By ___________________________
Deputy

Approved as to Form

County Counsel

By ___________________________

ATTEST: CITY OF DINUBA

By ___________________________
City Clerk

Mayor

ATTEST: CITY OF EXETER

By ___________________________
City Clerk

Mayor

Name of Document
ATTEST:  

CITY OF FARMERSVILLE

By ______________________ __  
City Clerk

By ______________________ __  
Mayor

ATTEST:  

CITY OF LINDSAY

By ______________________ __  
City Clerk

By ______________________ __  
Mayor

ATTEST:  

CITY OF PORTERVILLE

By ______________________ __  
City Clerk

By ______________________ __  
Mayor

ATTEST:  

CITY OF TULARE

By ______________________ __  
City Clerk

By ______________________ __  
Mayor

ATTEST:  

CITY OF VISALIA

By ______________________ __  
City Clerk

By ______________________ __  
Mayor

ATTEST:  

CITY OF WOODLAKE

By ______________________ __  
City Clerk

By ______________________ __  
Mayor

Name of Document
CONSENT CALENDAR

SUBJECT: CONSIDERATION OF A REQUEST FOR AN EXTENSION TO CUP 2012-010; WALGREENS; APNS 246-111-007, -008, AND -035.

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: On December 4, 2012, the City Council of the City of Porterville adopted Resolution 116-2012 for Conditional Use Permit (CUP) 2012-010-C. The application consisted of a request by Village Investment Partners, L.P. to develop a 14,550± square foot Walgreens Pharmacy at the northeast corner of Henderson Avenue and Prospect Street. According to the December 4, 2012, staff report the CUP was required because of the applicant’s request for a Type 20 off-sale alcohol license for the pharmacy.

Resolution 116-2012 approving CUP 2012-010-C contained a condition limiting the term of the approval (Condition No. 7), which is typical for this type of discretionary action. It is therefore the only approval needing an extension at this time. The initial term of the CUP was set to expire on December 4, 2013.

On November 5, 2013, the City Council adopted Resolution 69-2013 which approved a one-year extension of CUP 2012-010-C. The term was through December 4, 2014. The applicant recently contacted staff to request an extension to the CUP, as the applicant does not yet have full control over the properties and is unable to move forward with the project until that time. Since the approval of the CUP, no additional ABC permits (licenses to serve alcohol) have been issued in this census tract.

The current extension request is within the authority granted to the City Council in Section 601.08 of the Development Ordinance.

RECOMMENDATION: That the City Council adopt the draft resolution approving the requested Extension to the approval of CUP 2012-010 for a Type 20 off-sale alcohol license within Census Tract 35.02 for the proposed Walgreens Pharmacy with a term extension for a period of one (1) year beyond the original and extended approval date through December 4, 2015.

ATTACHMENTS:
1. Resolution 116-2012
2. Resolution 69-2013
3. Draft Resolution
RESOLUTION NO. 116-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT PRC-2012-010-C TO ALLOW THE SALE OF BEER AND WINE UNDER AN OFF-SALE TYPE 20 ALCOHOL LICENSE TO BE LOCATED AT THE NORTHEAST CORNER OF HENDERSON AVENUE AND PROSPECT STREET

WHEREAS: The applicant is requesting approval of Conditional Use Permit PRC 2012-010-C to allow the sale of beer and wine under a Type 20 off-sale alcohol license at the northeast corner of Henderson Avenue and Prospect Street in the CR (Retail Centers) Zone; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of December 4, 2012, conducted a public hearing to consider Conditional Use Permit PRC-2012-010-C; and

WHEREAS: The City Council received testimony from all interested parties relative to said Conditional Use Permit; and

WHEREAS: Section 301.03 of the Porterville Development Ordinance requires Conditional Use Permit approval for any use involving the sale of alcoholic beverages under an on-sale or off-sale license; and

WHEREAS: The City Council made the following findings:

1. Approval of the Conditional Use Permit will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable plan that the City has adopted, as follows:
   LU-G-1 Promote a sustainable, balanced land use pattern that responds to existing needs and future needs of the City.
   LU-G-2 Attract and retain specialty retail and restaurant businesses that will enhance Porterville’s unique character.
   ED-G-7 Create an image for Porterville that will attract and retain economic activity.

2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conforms in all significant respects with the General Plan and with any other applicable plan adopted by the City Council.

The General Plan and Zoning Map designates the proposed project site as Retail Centers (CR). The proposed project promotes and implements the specific purposes of the Retail Centers Zone, including the following purposes as set forth in Section 203 of the Development Ordinance and Retail Centers Guidelines:
- To maintain areas for regional shopping centers located at major circulation intersections.
- Ensure the provision of services and facilities needed to accommodate

ATTACHMENT ITEM NO.
planned population densities.

WHEREAS: That the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity. Conditions of approval are included to ensure applicable development standards are met; and

WHEREAS: The subject site is located in Census Tract 35.02 which allows, according to the Alcoholic Beverage Control Board, ten (10) off-sale licenses. At present, eight (8) off-sale licenses exist in this census tract.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit PRC-2012-010-C subject to the following conditions:

1. No advertising of alcoholic beverages shall be placed on the exterior of the building nor seen from the public right of way (i.e. no window advertising or digital signage).

2. That the applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the Conditional Use Permit as provided in Section 601.12 of the Porterville Development Ordinance.

3. Compliance with all applicable development and access laws (both State and Federal) is required.

4. The developer/applicant shall keep and maintain the beer and wine in the area as identified on Exhibit A. Any such expansion or relocation shall be approved by the City Council.

5. That the on-site consumption of alcoholic beverages shall be prohibited.

6. The Conditional Use Permit, approving off-site alcohol sales, will be subject to modification or revocation if the off-sale license is sanctioned by the State of California.

7. The Conditional Use Permit shall become null and void if not undertaken and actively and continuously pursued within one (1) year. The Conditional Use Permit will expire when the use ceases to operate for one year or more.

8. The use shall be conducted in compliance with all applicable local, state and federal regulations.
9. Truck deliveries of store merchandise and products shall be restricted to the hours of 7am – 10pm.


11. The developer/applicant shall construct per the attached details (Exhibits B and C), and driveways shall be setback as far as practical from the Henderson Avenue/Prospect Street intersection. The Prospect Street driveway shall be thirty (30) feet wide.

PASSED, APPROVED AND ADOPTED this 4th day of December, 2012.

By: Virginia B. Gurrola, Mayor

ATTEST:
John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
NOTES:

1. CONCRETE WORK SHALL BE 2500 P.S.I. DESIGN (3 SACK MIX), 4" MAXIMUM SLUMP.

2. ALL CONCRETE SHALL HAVE A LIGHT BROOM FINISH, EXCEPT AS NOTED.

3. WEAKENED PLANE JOINTS AT DRIVEWAY APPROACHES AND AT 20' SPACING, PER STANDARD SPECIFICATIONS. (SEE STD. DWG. C-21, DETAIL D) WEAKENED PLANE JOINTS SHALL BE A MIN. DEPTH OF 1 1/2" AND SHALL BE FINISHED WITH A SCORING TOOL LEAVING THE EDGES ROUNDED.

4. REFER TO STD. DWG. C-15 FOR DRIVEWAY SPACING.

5. BACK OF DRIVE APPROACH MAY BE SET 3" LOWER THAN THE BACK OF WALL TO FACILITATE LOT DRAINAGE.

6. FINISHED SURFACES SHALL BE TREATED WITH CLEAR CURING COMPOUND COMPLYING WITH SECTION 201-4 OF THE STANDARD SPECIFICATIONS.

7. TRANSITIONS FROM RAMPS TO WALKS, GUTTERS OR STREET SHALL BE FLUSH & FREE OF ABRUPT CHANGES.

8. REPAIRS SHALL BE MADE BY REMOVING & REPLACING THE ENTIRE UNIT BETWEEN JOINTS.
SITEPLAN

DEVELOPMENT SUMMARY

SITE AREA: 78,045 SF
(1.79 AC)

BUILDING AREA: 14,521 SF

PARKING REQ'D: 73

PARKING PROVID: APRID

74 STALLS

246-111-035
246-111-007
246-111-008

PROPOSED 14,550 S.F.
WALGREEN'S
PHARMACY

HENDERSON AVENUE

EXHIBIT C

NOT TO SCALE
I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the 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 4th day of December, 2012.

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

<table>
<thead>
<tr>
<th>Council:</th>
<th>WARD</th>
<th>McCracken</th>
<th>Gurrola</th>
<th>Shelton</th>
<th>Hamilton</th>
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<tr>
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JOHN D. LOLLIS, City Clerk

[Signature]

By: Luisa M. Herrera, Deputy City Clerk
RESOLUTION NO. 69-2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVING AN EXTENSION TO THE APPROVAL OF CONDITIONAL USE PERMIT PRC-2012-010-C TO ALLOW THE SALE OF BEER AND WINE UNDER AN OFF-SALE TYPE 20 ALCOHOL LICENSE TO BE LOCATED AT THE NORTHEAST CORNER OF HENDERSON AVENUE AND PROSPECT STREET

WHEREAS: The applicant requested approval of Conditional Use Permit PRC 2012-010-C to allow the sale of beer and wine under a Type 20 off-sale alcohol license at the northeast corner of Henderson Avenue and Prospect Street in the CR (Retail Centers) Zone; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of December 4, 2012, conducted a public hearing to consider Conditional Use Permit PRC-2012-010-C; and

WHEREAS: On December 4, 2012, the City Council approved the request with Resolution 116-2012, Condition No. 7 of which limited the term of the associated Conditional Use Permit (CUP 2012-010) to one year; and

WHEREAS: Section 601.08 (b) of the Porterville Development Ordinance allows the City Council to approve a one (1) year extension of any permit granted under (the Development Code); and

WHEREAS: On November 5, 2013, the City Council approved the applicant's request for extension to the term of the Conditional Use Permit (CUP 2012-010) for an additional one-year term; and

WHEREAS: The City Council made the following findings:

1. The applicant submitted the required written application for extension of the CUP approval prior to permit expiration; and

2. No fee is currently established in the Fee Schedule for the extension of a Conditional Use Permit and the applicant is therefore not required to pay a fee for the extension request; and

3. All Conditions of Approval set forth in Resolution 116-2012 approving CUP 2012-010 continue to apply to the project and associated Type 20 off-sale alcohol license. Condition No. 7 is hereby modified to provide for extension to the term of CUP 2012-010.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve a one-year extension to Conditional Use Permit PRC-2012-010-C subject to the conditions of approval contained in Resolution 116-2012.
PASSED, APPROVED AND ADOPTED this 5th day of November 2013.

By: Cameron J. Hamilton, Mayor

ATTEST:
John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the 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 5th day of November, 2013.

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

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<th>Council:</th>
<th>McCracken</th>
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<th>Shelton</th>
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<td>ABSENT:</td>
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JOHN D. LOLLIS, City Clerk

By: Luisa M. Zavalá, Deputy City Clerk
RESOLUTION NO. __________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF
APPROVING AN EXTENSION TO THE APPROVAL OF CONDITIONAL USE PERMIT
PRC-2012-010-C TO ALLOW THE SALE OF BEER AND WINE UNDER AN OFF-SALE
TYPE 20 ALCOHOL LICENSE TO BE LOCATED AT THE NORTHEAST CORNER OF
HENDERSON AVENUE AND PROSPECT STREET

WHEREAS: The applicant requested approval of Conditional Use Permit PRC 2012-010-C to allow the sale of beer and wine under a Type 20 off-sale alcohol license at the northeast corner of Henderson Avenue and Prospect Street in the CR (Retail Centers) Zone; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of December 4, 2012, conducted a public hearing to consider Conditional Use Permit PRC-2012-010-C; and

WHEREAS: On December 4, 2012, the City Council approved the request with Resolution 116-2012, Condition No. 7 of which limited the term of the associated Conditional Use Permit (CUP 2012-010) to one year; and

WHEREAS: On November 5, 2013, the City Council adopted Resolution 69-2013, approving the applicant’s request for extension to the term of the Conditional Use Permit (CUP 2012-010) for an additional one-year term; and

WHEREAS: On December 2, 2014, the City Council approved the applicant’s request for an additional one-year extension to the term of the Conditional Use Permit (CUP 2012-010); and

WHEREAS: Section 601.08 (b) of the Porterville Development Ordinance allows the City Council to approve a one (1) year extension of any permit granted under (the Development Code); and

WHEREAS: The City Council made the following findings:

1. The applicant submitted the required written application for extension of the CUP approval prior to permit expiration; and

2. No fee is currently established in the Fee Schedule for the extension of a Conditional Use Permit and the applicant is therefore not required to pay a fee for the extension request; and

3. All Conditions of Approval set forth in Resolution 116-2012 approving CUP 2012-010 continue to apply to the project and associated Type 20 off-sale alcohol license. Condition No. 7 is hereby modified to provide for extension to the term of CUP 2012-010 through December 4, 2015. The Conditional Use Permit shall become null and void if not

ATTACHMENT
ITEM NO. 3
undertaken and actively and continuously pursued within one (1) year. The Conditional Use Permit will expire when the use ceases to operate for one year or more.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve a one-year extension to Conditional Use Permit PRC-2012-010-C subject to the conditions of approval contained in Resolution 116-2012.

PASSED, APPROVED AND ADOPTED this 2nd day of December 2014.

By: __________________________
    Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

By: __________________________
    Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: AMENDMENT TO EMPLOYEE PAY AND BENEFIT PLAN – PUBLIC SAFETY SUPPORT UNIT

SOURCE: ADMINISTRATIVE SERVICES/ HUMAN RESOURCES

COMMENT: Within the scope of the Meyers-Milias-Brown Act, City representatives have concluded labor negotiations with the Public Safety Support Unit (PSSU). City representatives and PSSU have reached an agreement, and a written Memorandum of Understanding (MOU) has been executed restating current benefits as well as amendments pertaining to wages, benefits and working conditions.

City Council acceptance and approval of an executed MOU is most commonly demonstrated by Council authorization to change or amend, when applicable, those documents as are necessarily known to implement the points of agreement contained in the MOU.

RECOMMENDATION: That the City Council approve the draft resolution amending the Employee Pay and Benefit Plan.

Attachment: Draft Resolution
RESOLUTION NO. __________-2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE EMPLOYEE PAY AND BENEFIT PLAN FOR THE PUBLIC SAFETY SUPPORT UNIT

WHEREAS, the City Council has determined and reiterated that an Employee Pay and Benefit Plan, Classification Plan, Personnel System Rules and Regulations, Health Plan and Retirement Plan are essential for the proper administration of the City’s affairs, including employee recruitment and retention, and for proper supervision of City Employees; and

WHEREAS, the City Council recognizes the necessity of amending and/or changing the contents of such plans and regulations from time to time, and of executing instruments to implement and to keep the provisions thereof current, and to maintain the relevancy of the same; and

WHEREAS, there has been concurrence on a comprehensive Memorandum of Understanding with the Public Safety Support Unit for the period from July 1, 2014, until June 30, 2015, covering provisions to amend the Employee Pay and Benefit Plan, as they relate to employees holding positions represented by such recognized employee organization.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Employee Pay and Benefit Plan, for employees holding positions represented by the aforementioned recognized employee organization, is hereby amended as follows:

I. TERM OF MEMORANDUM OF UNDERSTANDING

Twelve months, from July 1, 2014 through June 30, 2015.
II. **SALARIES**

Effective on the first pay-period following the date a fully executed Memorandum of Understanding (MOU) is officially accepted, PSSU employees shall receive a one percent (1%) salary increase.

Effective January 1, 2015, concurrent with the implementation of PSSU employees’ two percent (2%) contribution towards healthcare coverage, PSSU employees shall receive a one percent (1%) salary increase.

III. **ONE TIME OFF SCHEDULE PAYMENT**

Effective concurrent with the implementation of PSSU employees’ two percent (2%) contribution towards healthcare coverage, PSSU employees shall receive a one-time payment of $408, which is equal to one percent (1%) of the total payroll within the PSSU bargaining unit averaged over all employees.

IV. **EMPLOYEE HEALTH BENEFIT CONTRIBUTIONS**

Effective January 1, 2015, PSSU employees shall contribute two percent (2%) of the employees’ base salary towards PSSU employees’ own medical coverage on the City’s health plan.

Effective January 1, 2015, contribution rates for PSSU employees’ dental and vision coverage, and contribution rates for PSSU dependents’ medical, dental and vision coverage shall be increased as set out in the Exhibit A of Attachment 1.

V. **EMPLOYEE HEALTH BENEFIT AMENDMENTS**

The City shall implement changes to the healthcare benefit of PSSU employees as set forth in Attachment 1 and Exhibits. Said changes may be subject to minor modification, to the benefit of the employees, as and when all City bargaining units approve them. Further, said changes to the employees’ healthcare benefit shall not become effective until such time as all bargaining units approve same.

VI. **SAFETY SHOE/BOOT ALLOWANCE REIMBURSEMENT**

Effective on the date of a fully executed Memorandum of Understanding (MOU), the Employee Pay and Benefit Plan and Personal Protective Equipment Administrative Policy shall be amended to state that PSSU employees shall receive a boot allowance as determined/approved by their Department Head.
VII. **OVERTIME/COMPENSATORY TIME**

Effective the pay-period after the Memorandum of Understanding is fully executed and officially accepted, or as soon thereafter as possible, the Employee Pay and Benefit Plan shall be amended to increase the maximum accrual of compensatory time for PSSU employees to a maximum of not more than eighty (80) hours at any given time.

VIII. **WORKERS COMPENSATION BENEFIT**

Effective the pay-period after the Memorandum of Understanding is fully executed and officially accepted, or as soon thereafter as possible, the Workers Compensation benefit provided by the City to PSSU employees shall be modified to provide no additional benefits other than those required by applicable state law. This item is separate and apart from any Carve-Out negotiations and/or agreement.

IX. **STATEMENT OF CONTINUING BENEFITS AND WORKING CONDITIONS**

Benefits and working conditions as were previously agreed upon through the Meet and Confer process, and subsequently approved and implemented by appropriate authority shall, unless herein expressly modified or eliminated, remain in effect until such time as they are subsequently modified or eliminated through the Meet and Confer process and similarly approved by appropriate authority.

BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

PASSED, APPROVED AND ADOPTED this _______ day of December, 2014.

________________________________________
Milt Stowe, Mayor

**ATTEST:**
John Lollis, City Clerk

By ______________________________________
Patrice Hildreth, Chief Deputy City Clerk
Effective January 1, 2015, or as soon thereafter as possible, the City of Porterville ("City") proposes to amend the Employees' Healthcare benefits as follows:

1. An orthodontic benefit shall be added to the City's dental plan. Said benefit shall be for children up to age 19 only, and will have a lifetime maximum benefit of $1,000 per child.

2. Dental implants shall be added as a covered benefit to the City's dental plan. The plan's current maximum limits shall apply to said covered benefit.

3. Progressive and transitional lenses shall be added as a covered benefit to the City's vision plan. All current maximum limits shall apply to said benefit.

4. Deductible rates for medical coverage (not including dental and vision) will increase from $150 to $175 for individual; and from $300 to $350 for family.

5. Dependent rate tier structure for medical coverage, and contribution rates for medical, dental and vision coverage shall be amended as set forth in the attached Exhibit A.

6. Co-insurance rates for out-of-network providers shall be increased from 20% to 30%. In-network rates shall remain at 20%.

7. Generic prescriptions shall be mandatory, unless specifically requested otherwise by the treating physician.

8. Mail order for all maintenance medication shall be encouraged.

9. The City shall make available Flexible Spending Accounts ("FSA") including a Healthcare FSA and Dependent Care FSA.

10. The City’s Fitness Incentive Program shall be amended to eliminate quarterly fitness incentive testing. Instead, Employees who participate in the voluntary program shall receive incentive pay for verifiable healthy lifestyle choices. Eligible activities shall include verifiable regular physical exercise, completion of a certified weight loss or nutrition program, and completion of a certified smoking cessation program. The Risk Manager shall have the authority to approve or deny the eligibility of any and all proposed activities. The proposed program is more specifically set out in attached Exhibit B.
# Proposed Medical Contribution Rates and New Tier Structure

**All Bargaining Units**

**MOU 2014 - 2015**

## MEDICAL

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<tr>
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<td>$150 Plus Spouse</td>
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<tr>
<td>Plus 1</td>
<td>$230 Plus Child/children</td>
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<tr>
<td>Plus 2 or more</td>
<td>Plus Spouse &amp; Child/Children</td>
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<td>Plus 2 or more</td>
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<table>
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<td>Plus 1</td>
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## DENTAL

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<tr>
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EXHIBIT A
Voluntary Fitness Incentive Program
All Bargaining Units
MOU 2014 - 2015

REGULAR PHYSICAL EXERCISE

Monthly Incentive Rates

<table>
<thead>
<tr>
<th>Monthly Workouts</th>
<th>“Good”</th>
<th>“Excellent”</th>
<th>“Superior”</th>
</tr>
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<tr>
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1. A maximum of one workout per day shall be eligible. Further, eligible workouts must last at least one hour in duration and should include cardio exercise.

2. To be eligible, workouts must be verifiable (i.e. sign in/out sheets at City fitness facilities witnessed/signed by HR staff or employee supervisor; or printout provided from professional third-party gym/fitness membership/classes.)

3. To be eligible, participants must submit their completed workout logs (forms to be provided by HR) to HR by the 10th day of each month for the prior month. Incentive pay shall be disbursed to participants on a quarterly basis. Forms submitted after the 10th day, or not containing the appropriate supervisor/HR sign-off or verified third-party gym/class printout shall not be eligible.

4. Employees who knowingly sign and/or submit inaccurate/fraudulent sign in/out sheets or workout logs shall be prohibited from participating in the Regular Physical Exercise program for one year from the date of discovery. The Risk Manager maintains the right to make such a determination.

SMOKING CESSATION PROGRAM

Incentive Rate A one-time payment of up to $200

Participating employees shall be eligible for a one-time incentive payment up to $200 for completion of a certified smoking cessation class which shall be pre-approved by the Risk Manager. Proof of completion must be provided to receive payment.

WEIGHT LOSS & NUTRITION PROGRAM

Incentive Rate Two payments of up to $50 per Calendar Year

Participating employees shall be eligible for up to two payments of $50 each per year for completion of a certified weight loss or nutrition program, which shall be pre-approved by the Risk Manager. Proof of completion must be provided to receive payment.

The Risk Manager shall have the authority to approve or deny the eligibility of any and all proposed programs.
SUBJECT: AMENDMENT TO EMPLOYEE PAY AND BENEFIT PLAN – MANAGEMENT CONFIDENTIAL SERIES

SOURCE: ADMINISTRATIVE SERVICES/ HUMAN RESOURCES

COMMENT: Within the scope of the Meyers-Milias-Brown Act, City representatives have concluded labor negotiations with the Management Confidential Series (MCS). City representatives and MCS have reached an agreement, and a written Memorandum of Understanding (MOU) has been executed restating current benefits as well as amendments pertaining to wages, benefits and working conditions.

City Council acceptance and approval of an executed MOU is most commonly demonstrated by Council authorization to change or amend, when applicable, those documents as are necessarily known to implement the points of agreement contained in the MOU.

RECOMMENDATION: That the City Council approve the draft resolution amending the Employee Pay and Benefit Plan.

Attachment: Draft Resolution

Item No. 12
WHEREAS, the City Council has determined and reiterated that an Employee Pay and Benefit Plan, Classification Plan, Personnel System Rules and Regulations, Health Plan and Retirement Plan are essential for the proper administration of the City’s affairs, including employee recruitment and retention, and for proper supervision of City Employees; and

WHEREAS, the City Council recognizes the necessity of amending and/or changing the contents of such plans and regulations from time to time, and of executing instruments to implement and to keep the provisions thereof current, and to maintain the relevancy of the same; and

WHEREAS, there has been concurrence on a Memorandum of Understanding with the Management Confidential Series for the period from July 1, 2014, until June 30, 2015, covering provisions to amend the Employee Pay and Benefit Plan, as they relate to employees holding positions represented by such recognized employee organization.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Employee Pay and Benefit Plan, for employees holding positions represented by the aforementioned recognized employee organization, is hereby amended as follows:

I. TERM OF MEMORANDUM OF UNDERSTANDING

Twelve months, from July 1, 2014 through June 30, 2015.
II. SALARIES

Effective the pay-period beginning December 1, 2014, MCS employees shall receive a one percent (1%) salary increase.

Effective January 1, 2015, concurrent with the implementation of MCS employees’ two percent (2%) contribution towards healthcare coverage, MCS employees shall receive a one percent (1%) salary increase.

III. ONE TIME OFF SCHEDULE PAYMENT

Effective concurrent with the implementation of MCS employees’ two percent (2%) contribution towards healthcare coverage, MCS employees shall receive a one-time payment equivalent to one-percent (1%) of the employee’s annual base salary.

IV. EMPLOYEE HEALTH BENEFIT CONTRIBUTIONS

Effective January 1, 2015, MCS employees shall contribute two percent (2%) of the employees’ base salary towards MCS employees’ own medical coverage on the City’s health plan.

Effective January 1, 2015, contribution rates for MCS employees’ dental and vision coverage, and contribution rates for MCS dependents’ medical, dental and vision coverage shall be increased as set out in the Exhibit A of Attachment 1.

V. EMPLOYEE HEALTH BENEFIT AMENDMENTS

The City shall implement changes to the healthcare benefit of MCS employees as set forth in Attachment 1 and Exhibits. Said changes may be subject to minor modification, to the benefit of the employees, as and when all City bargaining units approve them. Further, said changes to the employees’ healthcare benefit shall not become effective until such time as all bargaining units approve same.

VI. STATE DISABILITY INSURANCE

Effective as soon as possible, pending approval by MCS employees and by the State Employment Development Department, the City agrees to MCS employees’ participation in the California State Disability Insurance Program.

VII. WORKERS COMPENSATION BENEFIT

Effective the pay-period after the Memorandum of Understanding is fully executed and officially accepted, or as soon thereafter as possible, the Workers Compensation benefit provided by the City to MCS employees shall be modified to provide no additional
benefits other than those required by applicable state law. This item is separate and apart from any Carve-Out negotiations and/or agreement.

VIII. STATEMENT OF CONTINUING BENEFITS AND WORKING CONDITIONS

Benefits and working conditions as were previously agreed upon through the Meet and Confer process, and subsequently approved and implemented by appropriate authority shall, unless herein expressly modified or eliminated, remain in effect until such time as they are subsequently modified or eliminated through the Meet and Confer process and similarly approved by appropriate authority.

BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

PASSED, APPROVED AND ADOPTED this _________ day of December, 2014.

Milt Stowe, Mayor

ATTEST:
John Lollis, City Clerk

By ______________________ __
Patrice Hildreth, Chief Deputy City Clerk
Effective January 1, 2015, or as soon thereafter as possible, the City of Porterville ("City") proposes to amend the Employees' Healthcare benefits as follows:

1. An orthodontic benefit shall be added to the City’s dental plan. Said benefit shall be for children up to age 19 only, and will have a lifetime maximum benefit of $1,000 per child.

2. Dental implants shall be added as a covered benefit to the City’s dental plan. The plan’s current maximum limits shall apply to said covered benefit.

3. Progressive and transitional lenses shall be added as a covered benefit to the City’s vision plan. All current maximum limits shall apply to said benefit.

4. Deductible rates for medical coverage (not including dental and vision) will increase from $150 to $175 for individual; and from $300 to $350 for family.

5. Dependent rate tier structure for medical coverage, and contribution rates for medical, dental and vision coverage shall be amended as set forth in the attached Exhibit A.

6. Co-insurance rates for out-of-network providers shall be increased from 20% to 30%. In-network rates shall remain at 20%.

7. Generic prescriptions shall be mandatory, unless specifically requested otherwise by the treating physician.

8. Mail order for all maintenance medication shall be encouraged.

9. The City shall make available Flexible Spending Accounts ("FSA") including a Healthcare FSA and Dependent Care FSA.

10. The City’s Fitness Incentive Program shall be amended to eliminate quarterly fitness incentive testing. Instead, Employees who participate in the voluntary program shall receive incentive pay for verifiable healthy lifestyle choices. Eligible activities shall include verifiable regular physical exercise, completion of a certified weight loss or nutrition program, and completion of a certified smoking cessation program. The Risk Manager shall have the authority to approve or deny the eligibility of any and all proposed activities. The proposed program is more specifically set out in attached Exhibit B.
## Proposed Medical Contribution Rates and New Tier Structure

### All Bargaining Units

**MOU 2014 - 2015**

### MEDICAL

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<thead>
<tr>
<th>CURRENT MONTHLY</th>
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<td><strong>2011-Present</strong></td>
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<tr>
<td>Plus 1</td>
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<td>Plus 2 or more</td>
<td>$230 Plus Child/children</td>
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<td></td>
<td>Plus Spouse &amp; Child/Children</td>
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<td>Plus 2 or more</td>
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<td><strong>1995 - 2005</strong></td>
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</tbody>
</table>
|                 | Plus Spouse & Child/Children | $0
| **1995 - Present** |                  |
| Employee Only   | $0 Employee Only |
| Plus 1          | $8.18 Plus Spouse |
| Plus 2 or more  | $19.03 Plus Child/children |
|                 | Plus Spouse & Child/Children | $0

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EXHIBIT A
REGULAR PHYSICAL EXERCISE

Monthly Incentive Rates

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<td>10-13 times</td>
<td>14-17 times</td>
<td>18 or more</td>
</tr>
<tr>
<td>Incentive Pay</td>
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<td>$40</td>
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1. A maximum of one workout per day shall be eligible. Further, eligible workouts must last at least one hour in duration and should include cardio exercise.

2. To be eligible, workouts must be verifiable (i.e. sign in/out sheets at City fitness facilities witnessed/signed by HR staff or employee supervisor; or printout provided from professional third-party gym/fitness membership/classes.)

3. To be eligible, participants must submit their completed workout logs (forms to be provided by HR) to HR by the 10th day of each month for the prior month. Incentive pay shall be disbursed to participants on a quarterly basis. Forms submitted after the 10th day, or not containing the appropriate supervisor/HR sign-off or verified third-party gym/class printout shall not be eligible.

4. Employees who knowingly sign and/or submit inaccurate/fraudulent sign in/out sheets or workout logs shall be prohibited from participating in the Regular Physical Exercise program for one year from the date of discovery. The Risk Manager maintains the right to make such a determination.

SMOKING CESSATION PROGRAM

Incentive Rate A one-time payment of up to $200

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Participating employees shall be eligible for up to two payments of $50 each per year for completion of a certified weight loss or nutrition program, which shall be pre-approved by the Risk Manager. Proof of completion must be provided to receive payment.

The Risk Manager shall have the authority to approve or deny the eligibility of any and all proposed programs.
SUBJECT: SCHEDULING OF ADJOURNED CITY COUNCIL MEETING FOR
GOAL SETTING AND TO ESTABLISH 2015-16 PRIORITIES

SOURCE: City Manager

COMMENT: At its meeting on September 16, 2014, the City Council gave direction to staff to schedule an adjourned meeting of the Council toward the end of January 2015 to conduct goal setting and establish priorities for the coming 2015-16 fiscal year. It was also the Council's direction that the approach for the goal setting session be project driven, with the Council identifying specific projects for particular attention and focus in the development of the 2015-16 fiscal year budget. It is recommended to schedule the adjourned meeting for the fourth Tuesday, January 27, 2015, beginning at 5:30 P.M. in City Hall Council Chambers. If the Council desires a less formal setting for the planning session, then the Regional Fire Training Facility Classroom is also available for that purpose.

RECOMMENDATION: That the City Council schedule an adjourned meeting for goal setting to establish priorities for Tuesday, January 27, 2015, beginning at 5:30 PM.

ATTACHMENT: None
PUBLIC HEARING

SUBJECT: MODIFICATION TO CONDITIONAL USE PERMIT 2014-011-C

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT: At the meeting of October 21, 2014, the City Council approved a Conditional Use Permit for JJ’s Market, located at 1187 West Henderson Avenue. During the public hearing, the applicant’s agent requested that a condition prohibiting outdoor advertising of alcoholic beverages be removed from the resolution of approval. At the end of the public hearing, the City Council voted to approve the Conditional Use Permit as written, though directed staff to meet with the applicant about the signage restriction concerns. Following the City Council meeting, the applicant’s agent requested that the condition be removed, which would have been supported under the previous zoning ordinance. At the meeting of November 18, 2014, the City Council directed staff to publish a public notice scheduling the Conditional Use Permit (Resolution 73-2014) for reconsideration at the meeting of December 2, 2014.

The resolution approved on October 21, 2014, included the following condition:

No advertising of alcoholic beverages shall be placed on the exterior of the building nor seen from the public right of way (i.e. no window advertising or digital signage).

The proposed condition is consistent with the majority of alcohol related Conditional Use Permits since the comprehensive amendment to the Development Ordinance in June 2010. Of fourteen Conditional Use Permits approved in that timeframe (including the applicant’s permit), twelve included a condition that no outdoor advertising of alcohol is permitted. Of those twelve, four were on-sale with a bona-fide eating place, one was on-sale with a theater, and six were off-sale licenses. The two Conditional Use Permits that did not have this particular condition were for the Rinconcito Restaurant (expired from inactivity) and the Porta Villa Market.

Prior to June 2010, the language in the Zoning Ordinance (Ordinance 1198 as amended) allowed certain types of alcohol related businesses to operate without a Conditional Use Permit. The current Development Ordinance, in Section 301.02, requires a Conditional Use Permit for any use involving the sale of alcoholic beverages under an on-sale or off-sale license. With the requirement of the Conditional Use Permit, the detailed provisions outlined in the earlier ordinance were no longer necessary, as they could be implemented as conditions of approval on a project per project basis. One specific provision from the previous zoning ordinance was written as follows:

Any use involving the sale of alcoholic beverages under an on-sale license
shall be subject to obtaining approval of a conditional use permit except bona fide eating establishments (restaurants) that comply with all of the following... Where such a use is within six hundred (600) linear feet of the nearest property line of any sensitive use, the outdoor advertising of alcoholic beverages shall be prohibited. [Excerpt does not include all provisions of Section 2100 B of Ordinance 1198 as amended.]

The current Development Ordinance does not define any specific conditions of approval associated with alcohol sales, except where the proposed project meets the definition of a Liquor Store. As a result, staff coordinates between the different departments and proposes conditions for Council consideration in light of project details and past precedent.

As outlined in Section 305 of the Development Ordinance, signage placed on the exterior of buildings can be achieved, where not otherwise prohibited by a condition of approval, through approval of either a building permit or a temporary sign permit. Standards are defined regarding the size and materials of signage allowed per zone district. Section 305.06 prohibits banners or similar advertising display constructed of cloth, canvas, light fabric, or other light materials, except as allowed as a Temporary Sign. Window signs painted or otherwise adhered directly onto a window are exempt from the permit requirements, so long as they do not cover more than 50% of a window and are not placed on windows on the second story of a building.

In summary, many of the signs typically seen advertising alcohol on the outside of a building violate the Development Ordinance regardless of a condition of approval, either because such signs are not allowed without a temporary sign permit or the signs are hung from, not directly applied to, the window (for example an illuminated neon beer sign), and may result in more signage than what is allowed.

If the Council chooses to adopt a resolution modifying Conditional Use Permit 2014-011-C, staff requests that a condition be inserted clearly explaining limitations on signage as required by the Development Ordinance. If the Council finds that more specific conditions related to alcohol are needed to avoid inconsistent or arbitrary implementation of conditions on future Conditional Use Permits, staff will work on a text amendment to the Development Ordinance for consideration at a future meeting.

RECOMMENDATION: That the City Council:

1. Provide direction to staff regarding the requested modification to CUP 2014-011; and
2. Provide further direction regarding alcohol related standard conditions of approval as appropriate.

ATTACHMENTS: Staff report of October 21, 2014, including resolution as approved.
PUBLIC HEARING

SUBJECT: CONSIDERATION OF A CONDITIONAL USE PERMIT (PRC 2014-011-C) TO ALLOW THE UPGRADE TO A TYPE 21 GENERAL OFF-SALE LICENSE FOR ALCOHOL SALES LOCATED AT 1187 WEST HENDERSON AVENUE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of a Conditional Use Permit to upgrade the current Type 20 (beer and wine) license to a Type 21 (general) alcohol license in conjunction with reconfiguration of site improvements at J J's Market, located at 1187 West Henderson Avenue. In addition to the upgrade of the alcohol beverage license, the applicant is proposing a complete demolition and reconstruction of the buildings on site, except the fuel pumps and canopy, which will remain in the current configuration.

Although ownership has changed through the years, the business has been in operation since 1987, and at that time obtained a Conditional Use Permit for approval to develop a self-service gasoline facility in conjunction with a convenience market and self-service car wash. According to records on file with the State of California Department of Alcohol Beverage Control (ABC), this business location has maintained a Type 20 Off-Sale Beer and Wine license since December 1987. At that time, the City of Porterville did not require that businesses engaged in the off-sale of alcoholic beverages obtain a Conditional Use Permit. As a result, J J's Market has maintained legal non-conforming status relative to sale of alcoholic beverages for off-site consumption since it originally opened. With the requested upgrade in license type from Type 20 Beer and Wine to Type 21 General, a Conditional Use Permit is required. It is important to note that the applicant has a current, valid license with the ABC. As such, approval of the proposed project would not result in an increase of ABC licenses within the census tract.

The applicant, agent, and staff have worked together on conditions and site plan revisions to meet all applicable requirements of the Porterville Development Ordinance, which shall be implemented prior to issuance of a building permit. Conditions of approval have been incorporated to facilitate compliance with all applicable codes.

RECOMMENDATION: That City Council adopt the draft resolution approving the Conditional Use Permit (PRC 2014-011-C) subject to conditions of approval.

ATTACHMENT: Complete Staff Report
PUBLIC HEARING

SUBJECT: CONSIDERATION OF A CONDITIONAL USE PERMIT (PRC 2014-011-C) TO ALLOW THE UPGRADE TO A TYPE 21 GENERAL OFF-SALE LICENSE FOR ALCOHOL SALES LOCATED AT 1187 WEST HENDERSON AVENUE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

APPLICANT/AGENT:

Mike Dakhil
1187 W Henderson Avenue
Porterville, CA 93257

Hillman Building Designers
34583 Hwy 190
Springville, CA 93265

PROJECT DESCRIPTION:

The applicant is requesting approval of a Conditional Use Permit to upgrade the current Type 20 (beer and wine) license to a Type 21 (general) alcohol license in conjunction with reconfiguration of site improvements at JJ’s Market, located at 1187 West Henderson Avenue. In addition to the upgrade of the alcohol beverage license, the applicant is proposing a complete demolition and reconstruction of the buildings on site, except the fuel pumps and canopy, which will remain in the current configuration.

Although ownership has changed through the years, the business has been in operation since 1987, and at that time obtained a Conditional Use Permit for approval to develop a self-service gasoline facility in conjunction with a convenience market and self-service car wash. According to records on file with the State of California Department of Alcohol Beverage Control (ABC), this business location has maintained a Type 20 Off-Sale Beer and Wine license since December 1987. At that time, the City of Porterville did not require that businesses engaged in the off-sale of alcoholic beverages obtain a Conditional Use Permit. As a result, JJ’s Market has maintained legal non-conforming status relative to sale of alcoholic beverages for off-site consumption since it originally opened. With the requested upgrade in license type from Type 20 Beer and Wine to Type 21 General, a Conditional Use Permit is required. The draft resolution (Attachment 1) includes conditions of approval to ensure operation of the business complies with state and local regulations regarding sale of alcohol, as well as conditions that protect the public’s safety and welfare. It is important to note that the applicant has a current, valid license with the ABC. As such, approval of the proposed project would not result in an increase of ABC licenses within the census tract (Attachment 2).

Additionally, as referenced above, the applicant is proposing a complete demolition and reconstruction of the buildings on the 24,500± square foot site (APN 251-120-003). The current development includes a 3,700± square foot market that is backed up to the northwest corner, a car wash area under a 2,000± square foot canopy in the southeast corner, and four self-service fuel pumps under a 1,350± square foot canopy near the northeast corner of the property. Drive approaches onto Henderson Avenue and Prospect Street would remain as they are constructed, and the fuel pumps, canopy, and appurtenances will not change; otherwise, the site will be almost entirely demolished and reconstructed as shown in Attachment 3.
The carwash and drying canopy will be demolished and will no longer be included in the business model. The new building will be located in the southeast corner of the property and include three tenant spaces. The largest space, at 2,960± square feet would serve as the new market; two other tenant spaces, 1089± square feet each, will provide opportunity for additional retail or services at the location. Tenants for the two smaller spaces have not yet been named, and any future occupation of those areas would require review by staff for use type and tenant improvements subject to the Development Ordinance and California Building Codes, respectively.

The applicant, agent, and staff have worked together on conditions and site plan revisions to meet all applicable requirements of the Porterville Development Ordinance, which shall be implemented prior to issuance of a building permit. Conditions of approval have been incorporated to facilitate compliance with all applicable codes.

GENERAL PLAN CLASSIFICATION: Retail Centers

ZONING CLASSIFICATION: CR (Retail Centers)

SURROUNDING ZONING AND LAND USES:
- North: CR (Retail Centers)
- West: CR (Retail Centers)
- South: CR (Retail Centers)
- East: PD (Planned Development - Retail Centers)

LEGAL NOTICE:

<table>
<thead>
<tr>
<th>Date Environmental Document Distributed</th>
<th>Date Notice Published in Porterville Recorder</th>
<th>Date Notice Mailed to Property Owners within 300 feet of property</th>
</tr>
</thead>
</table>

ENVIRONMENTAL REVIEW:

Pursuant to Section 15302 Class 2 (Replacement or Reconstruction) the proposed project is categorically exempt from California Environmental Quality Act.

RECOMMENDATION:

That City Council adopt the draft resolution approving the Conditional Use Permit (PRC 2014-011-C) subject to conditions of approval.

ATTACHMENTS:

1. Draft Resolution containing findings in support of approval for Conditional Use Permit 2014-011-C for a Type 21 off-sale general license
2. Department of Alcoholic Beverage Control Licenses per Census Tract
3. Site Plan
4. Project Locator Map
5. General Plan Land Use Map
6. Zoning Map
RESOLUTION NO.________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT 2014-011-C TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES UNDER AN OFF-SALE TYPE 21 GENERAL ALCOHOL LICENSE AT THE SOUTHEAST CORNER OF HENDERSON AVENUE AND PROSPECT STREET

WHEREAS: The applicant is requesting approval of Conditional Use Permit 2014-011-C to allow the sale of beer and wine under a Type 21 off-sale alcohol license at the southeast corner of Henderson Avenue and Prospect Street in the CR (Retail Centers) Zone; and

WHEREAS: The applicant’s business has been in operation since 1987, at which time it received a resolution of approval (Resolution 28-87) for Conditional Use Permit 1-87 and Design Overlay Site Review 1-87 for development of a self-service gasoline facility in conjunction with a convenience market and self-service car wash. Conditions of approval at that time related to the proposed development, safety and environmental conditions related to the fuel dispensers, and food service facilities within the convenience market. Resolution 28-87, approving Conditional Use Permit 1-87 is not affected by the proposed Conditional Use Permit, aside from revised conditions associated with physical improvements on the site; and

WHEREAS: The business has been operational with a valid Alcohol Beverage Control Board license consistently since 1987, prior to the City’s adoption of an ordinance requiring conditional use permits for off-sale alcohol licenses, and as such is a legal, non-conforming use. The proposed site improvements and upgrade from a Type 20 to a Type 21 license prompts a requirement to legalize the use by obtaining a conditional use permit; and

WHEREAS: The applicant has a current, valid license with the State of California Department of Alcohol Beverage Control (ABC). As such, approval of the proposed project would not result in an increase of ABC licenses within the census tract, nor will it result in an overconcentration of licenses within the census tract; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of October 21, 2014, conducted a public hearing to consider Conditional Use Permit 2014-011-C; and

WHEREAS: The City Council received testimony from all interested parties relative to said Conditional Use Permit; and

WHEREAS: Section 301.02 of the Porterville Development Ordinance requires Conditional Use Permit approval for any use involving the sale of alcoholic beverages under an on-sale or off-sale license; and

WHEREAS: The City Council made the following findings:
1. Approval of the Conditional Use Permit will advance the goals and objectives of, and is consistent with, the policies of the General Plan and any other applicable plan that the City has adopted, as follows:

LU-G-1 Promote a sustainable, balanced land use pattern that responds to existing needs and future needs of the city.

LU-G-21 Attract and retain specialty retail and restaurant businesses that will enhance Porterville’s unique character.

ED-G-7 Create an image for Porterville that will attract and retain economic activity.

2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conforms in all significant respects with the General Plan and with any other applicable plan adopted by the City Council.

The General Plan and Zoning Map designates the proposed project site as Retail Centers (CR). The proposed project promotes and implements the specific purposes of the Retail Centers Zone, including the following purposes as set forth in Section 203 of the Development Ordinance:

- To strengthen the city’s economic base and provide employment opportunities for residents of the city.
- To maintain areas for regional shopping centers located at major circulation intersections.
- Ensure the provision of services and facilities needed to accommodate planned population densities.

WHEREAS: The proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity. Conditions of approval are included to ensure applicable development standards are met; and

WHEREAS: The subject site is located in Census Tract 36.02 which allows, according to the ABC, seven off-sale licenses. At present, seven off-sale licenses exist in this census tract, one of which is the subject business. Approval of this Conditional Use Permit will serve to legalize an existing non-conforming use, but will not result in an over concentration of off-sale licenses.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 2014-011-C subject to the following conditions:

1. No advertising of alcoholic beverages shall be placed on the exterior of the building nor seen from the public right of way (i.e. no window advertising or digital signage).
2. That the applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the Conditional Use Permit as provided in Section 601.12 of the Porterville Development Ordinance.

3. Compliance with all applicable development and access laws, both State and Federal, is required.

4. Physical modifications to the site shall comply with the site plans and designs submitted, as represented in Exhibit A. Any substantial modification of these plans shall be approved by the City Council. The development will be required to adhere to the represented building articulations shown, including (but not limited to) the general palette of colors, indentation in plane, stone façade columns, and contrasting color of awnings above doors and windows.

5. The developer/applicant shall keep and maintain the beer, wine, and distilled spirits in the areas identified on Exhibit B. Any expansion or relocation of same shall be approved by the City Council.

6. That the on-site consumption of alcoholic beverages shall be prohibited.

7. The Conditional Use Permit, approving off-site alcohol sales, will be subject to modification or revocation if the State of California imposes sanctions on the off-sale license.

8. The Conditional Use Permit shall become null and void if not undertaken and actively and continuously pursued within one (1) year. The Conditional Use Permit will expire when the use ceases to operate for one year or more.

9. The use shall be conducted in compliance with all applicable local, state and federal regulations.

10. Abandonment. Any service station shall in the case of abandonment or non-operation of the primary use be dismantled and the site cleared within twelve (12) months subsequent to the close of the last business day.

11. The existing fuel canopy must be updated to be architecturally compatible with the proposed main building structure.

12. Lighting shall be designed to be low-profile, indirect or diffused, create a pleasing appearance, and avoid adverse impacts on surrounding uses.
13. The development shall comply with the Development Ordinance; specific points were outlined through the Project Review Committee process. Additional detail will be provided through the building permit process.

14. The developer/applicant shall construct and/or repair street, curb, gutter, sidewalk, etc. along the full parcel frontages (Henderson Avenue and Prospect Street), except where they exist and are in good condition in the opinion of the City Engineer (Ord. No. 1306). Existing frontage improvements were evaluated and determined that they were noncompliant. A minimum of four feet (4') of clear space in the sidewalk area must be provided around obstructions. An accessible path of travel across the driveway(s) serving the property must be provided by the removal and replacement of each driveway per the attached professional office/commercial standard driveway standard plan or by constructing an accessible path around each driveway. A pedestrian easement(s) may be required if right of way is limited. The developer/applicant shall have a registered Civil Engineer or Land Surveyor prepare and submit legal descriptions necessary to dedicate pedestrian easements to the City for public use, if applicable. The easement(s) shall be approved prior to the issuance of a building permit.

15. An accessible path of travel from the City sidewalk to the front entrance will be required. It is recommended that the path be directed towards Henderson Avenue.

16. The developer/applicant shall provide a site plan that illustrates truck-turning movements where applicable within the parking lot. The site plan shall be approved prior to issuance of a building permit application.

17. The Police Department recommends consideration of an interior and exterior video monitoring system which is capable of recording activity in and around the establishment. Such a system should be capable of immediate on-site replay/review.

PASSED, APPROVED AND ADOPTED this 21st day of October, 2014.

By: ____________________________

Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By: ____________________________

Patrice Hildreth, Chief Deputy City Clerk
HENDERSON AVE

NEW SIGN PER CITY STANDARDS

(E) CURB, GUTTER & SIDEWALK

(E) APPROACH

(E) APPROACH

(E) APPROACH

(E) APPROACH

(E) APPROACH

(F) SIGN TO BE REMOVED

(F) UG TANKS

(F) PUMP ISLAND & CANOPY 19' HIGH

(F) APCD TANK TO BE RELOCATED

(F) BUILDING (NOT A PART)

SITE PLAN

40' X 24' 1069 SF RETAIL

40' X 24' 1069 SF RETAIL

5132 SF TOTAL

40' X 74' 2969 SF MARKET

PROSPECT

NORTH

EXHIBIT:

HILLMAN BUILDING DESIGNERS

CUT "REPLACEMENT" OF CUSTOM DESIGNS

2004 by Hillman Building Designers

All rights reserved by Hillman Building Designers

A-1

DRAWN: 03/14/01

SCALE: 1" = 1' 0"

CHECKED: 03/16/01

DRAWN: 03/14/01

A-1
WHEREAS: The City Council at its regularly scheduled meeting of March 17, 1987 held a public hearing to consider approval of a conditional use permit and "D" overlay site review to allow a self-service gasoline facility in conjunction with a convenience market and self-service car wash in the C-2 (D) zone at the southeast corner of Prospect Street and Henderson avenue; and

WHEREAS: The City Council received testimony from interested parties relative to the subject conditional use permit, which was combined with the site review to provide for expeditious processing and consideration; and

WHEREAS: The City Council reviewed the proposed locations of the four (4) remote controlled, self-service gasoline pumps and three (3) underground storage tanks in relation to the proposed market and car wash and found the on-site parking, landscaping and development proposal to be adequate for the proposed use and in keeping with the requirements of the Design Review Overlay as it applies to such commercial developments; and

WHEREAS: The City Council considered the following findings in review of the subject project:

1. That the design and improvement of the proposed project is consistent with the General Plan.

2. That the site is physically suitable for the type and density of the development.
3. That the design of the project and proposed improvements are not likely to cause substantial environmental damage or public health problems.

4. That a Negative Declaration was approved for the project in accordance with the California Environmental Quality Act.

5. That the architectural theme, landscaping design, parking area and locations of structures of the proposed development will be compatible with the area surrounding the subject site.

NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve Conditional Use Permit 1-87 and "D" Overlay Site Review 1-87 for a self-service gasoline facility in conjunction with a convenience market and self-service car wash in the C-2 (D) zone, subject to the following conditions:

1. That development shall be in conformance with Sections 79.901 through 79.912 of the 1985 edition of the Uniform Fire Code.

2. That the applicant shall comply with all applicable air pollution control district requirements for vapor recovery, to include permits to construct and operate such equipment.

3. That two sets of plans shall be required when submitting for a building permit.

4. That all plans shall have approval by the Building Inspector, City Engineer and Fire Chief prior to issuance of the building permit.

5. That the air and water dispenser at the southerly property line shall be relocated to an area outside the required loading zone prior to approval of the building permit.

6. That development shall be in strict compliance with plans submitted (Exhibit "A") with the exception of Condition No. 5 herein, including the three (3) plans consisting of the exterior elevations, landscaping diagram and site plan.

7. That development of the subject site shall be in conformance with all applicable City requirements and codes, including but not limited to, the Standard Plans and Specifications, Zoning Ordinance, and Building Code.

8. That the landscaped areas shall be maintained in a neat and viable condition and shall be provided with an appropriate and efficient means of irrigation.
9. That all on-site lighting shall be directed away from adjoining properties and rights-of-way and shall be so designed and located as to preclude glare and visibility impacts on surrounding areas.

10. That all applicable City fees shall be paid.

11. That the food service area and related food service facilities shall comply with the requirements of the County Health Department and City Building Inspector.

12. That the site shall be maintained in a neat and viable condition and that the operator(s) shall preclude to the extent practicable, the congregation or assemblage of nuisance causing individuals.

13. That the developer shall make diligent efforts toward obtaining a mutually acceptable vehicular ingress/egress easement from the contiguous property to the east. Should said easement be obtained, the developer shall install a driveway cut from the subject site to said contiguous commercial property to the east allowing free vehicular movement between the proposed and existing commercial developments.

John T. Rankin, Jr., Mayor

ATTEST:

C. A. Halvaker, City Clerk

CUP: RES/1-87
STATE OF CALIFORNIA)  
COUNTY OF TULARE  

I, C. G. HUFFAKER, the duly appointed City Clerk of the City of Porterville, 
do hereby certify and declare that the foregoing is a full, true and correct copy 
of a resolution duly and regularly passed and adopted at a regular meeting of the 
Porterville City Council regularly called and held on  

1981  

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

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<th>BONDS</th>
<th>LEAVITT</th>
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C. G. HUFFAKER, City Clerk

Georgia Hawley, Deputy City Clerk
SITE PLAN

HENDERSON AVE

NEW SIGN PER CITY STANDARDS

(C) CURB, GUTTER & SIDEWALK

(E) APPROACH

(W) APPROACH

(E) APPROACH

(E) APPROACH

(E) APPROACH

(E) APP CO TANK TO BE RELOCATED

(E) PUMP ISLAND & CANOPY 18' HIGH

(E) SIGN TO BE REMOVED

(E) US TANKS

(E) BUILDING (NOT A PART)

40' X 40' 1089 SF RETAIL

40' X 40' 1089 SF RETAIL

5132 SF TOTAL

40' X 74' 2980 SF MARKET

TRASH SHED

PROSPECT

(NORTH)

A-1
PRC 2014-011
JJ's Market Renovations &
Conditional Use Permit for Alcohol Sales
General Plan Land Use Map
1" = 200 ft
ATTACHMENT
ITEM NO. 5
CITY COUNCIL AGENDA: DECEMBER 2, 2014

PUBLIC HEARING

SUBJECT: REQUEST FOR A CONDITIONAL USE PERMIT (PRC 2014-019-C) TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE 47 ON-SALE GENERAL FOR BONA FIDE PUBLIC EATING PLACE FOR APPLEBEE’S RESTAURANT LOCATED AT 892 W. HENDERSON AVENUE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: On October 15, 2014, the applicant submitted an application to the Project Review Committee (PRC) to consider a Conditional Use Permit (PRC 2014-019-C) to allow for the sale of alcohol under a Type 47 On-Sale General for Bona Fide Public Eating Place license for Applebee’s located at 892 W. Henderson Avenue within the Porterville Town Center. A Type 47 license would authorize the sale of beer, wine and distilled spirits for consumption on the licensed premises.

During the PRC meeting, the Police Department indicated that the location of Applebee’s has sufficient exterior lighting to illuminate the parking lot and the entire site during business hours and maintaining this security lighting shall be a condition of approval. The PRC also acknowledged that the proposed location of the project and the conditions under which it will be operated or maintained would not be detrimental to the public health, safety, or welfare to properties or improvements in the vicinity.

Staff noticed a public hearing for the November 18, 2014, City Council meeting; however, it was noted that the public hearing notice incorrectly identified an application for a Type 41 (On-Sale Beer and Wine for Bona Fide Public Eating Place) license. In an abundance of caution staff requested the item be pulled, but to first take public comment. There were two members of the public who spoke regarding the item. One was opposed to the project and one was in favor. Staff renoticed the item for the December 2, 2014, City Council meeting for the appropriate Type 47 On-sale general for a bona fide eating place.

ANALYSIS: The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. The subject site is located within Census Tract 37.00; this tract contains 14 licenses for alcohol sales; seven (7) on-sale, six (6) off-sale and one (1) club licenses (Eagles Lodge). In Census Tract 37.00, four (4) on-sale and five (5) off-sale licenses are allowed without being deemed over-concentrated. Approval of this on-sale licenses would be the eighth (8th) on-sale licenses, five (5) above the allowable as determined by ABC. Due to the over concentration of on-sale licenses, a Letter of Public Conveniences or Necessity will be required.

Appropriated/Funded N/A CM Item No. 15
It is not anticipated that this use would have a negative impact on the surrounding properties. As a condition of approval, due to the close proximity of Trinity Lutheran Church and La Mision De Jesus, located at the northeast and southeast corner respectively of Henderson Avenue and Indiana Street (approximately 545 and 550 feet from property line to property line) alcohol advertising visible from the outside of the proposed building shall not be allowed. The applicant is conditioned to operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and to operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. Furthermore, at all times the facility shall be operated and maintained to comply with State Laws, the City of Porterville Development Ordinance, adopted Building Codes and all other applicable laws and ordinances.

The subject site is zoned PD (Planned Development), which requires consistency with the underlying General Plan designation. The project is indeed consistent with the General Plan land use designation for Commercial Mixed Use (CMX). The CMX designation is intended to provide for commercial, service, office and residential uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the General Plan Land Use Designation. The restaurant is a permitted use in the CMX land use designation, and alcohol sales may be permitted in that land use with the requested Conditional Use Permit.

ENVIRONMENTAL REVIEW: On November 5, 2014, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines), under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

RECOMMENDATION: That the City Council:
1. Adopt the draft resolution approving Conditional Use Permit (PRC 2014-019-C) subject to conditions of approval; and
2. Authorize the mayor to sign the Letter of Public Convenience or Necessity.

ATTACHMENTS:
1. Locator Map
2. General Plan Land Use Designation
3. Floor Plan
4. Existing licenses in Census Tract 37.00
5. Draft Resolution
6. Letter of Public Convenience or Necessity
Current Allowances in Tract 37.00
On-Sale (41/47): 4
Off-Sale (20/21): 5

Current Permits in Tract 37.00
On-Sale (41/47): 7
Off-Sale (20/21): 6
Club (51): 1

PRC 2014-019
Applebees @ 892 W Henderson
Tract 37.00 ABC License Map
1” = 300 ft.  ATTACHMENT ITEM NO. 4
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF CONDITIONAL USE
PERMIT (PRC 2014-019-C) TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE
47 ON-SALE GENERAL FOR BONA FIDE PUBLIC EATING PLACE FOR APPLEBEE’S
RESTAURANT LOCATED AT 892 W. HENDERSON AVENUE

WHEREAS: On November 5, 2014, the Environmental Coordinator made a preliminary
determination that the project is exempt from the California Environmental Quality Act pursuant
to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines); and

WHEREAS: The City Council of the City of Porterville, at its regular scheduled
meeting of December 2, 2014, conducted a public hearing to consider Conditional Use Permit
(PR C 2014-019-C) to allow for the sale of alcohol under a Type 47 On-Sale General for Bona
Fide Public Eating Place license for Applebee’s Restaurant located at 892 W. Henderson
Avenue; and

WHEREAS: The City Council of the City of Porterville authorized the mayor to sign the
Letter of Public Convenience or Necessity because of the regional nature of the shopping center
within which the restaurant is located; and

WHEREAS: The City Council of the City of Porterville received testimony from all
interested parties related to said Conditional Use Permit; and

WHEREAS: The City Council made the following findings:

1. That the proposed project will advance the goals and objectives of and is
consistent with the policies of the General Plan and any other applicable plan that
the City has adopted.

The CMX designation is intended to provide for commercial, service, office and
residential uses that meet local and regional demand. The proposed restaurant
with alcohol sales would suit the purpose of the land use designation. The
restaurant is a permitted use in the CMX land use, and alcohol sales may be
permitted with a Conditional Use Permit.

2. That the proposed location of the project and the conditions under which it will be
operated or maintained will not be detrimental to the public health, safety,
welfare, or materially injurious to properties or improvements in the vicinity.

Conditions of approval are included herein to ensure adequate development
standards are met. The project is located within an existing building in a regional
shopping center that has been well maintained since its original development.
Further, all land owners within the city of Porterville are held to performance
standards identified in Chapter 306 of the Development Ordinance. Specifically,
Section 306.03 of the Ordinance states, “Land or buildings shall not be used or
occupied in a manner creating any dangerous, injurious, or noxious fire, explosive, or other hazard; noise, vibration, smoke, dust, odor, or form of air pollution; heat, cold, dampness, electrical or other disturbance; glare, refuse, or wastes; or other substances, conditions, or elements which would substantially adversely affect the surrounding area."

3. This project is Categorically Exempt pursuant to CEQA Guidelines §15061(b), (3) - General Rule: the approval of the alcohol sales creates no physical change to the environment.

4. The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an "undue concentration" of licenses is determined to exist. The subject site is located within Census Tract 37.00; this tract contains 14 licenses for alcohol sales; seven (7) on-sale, six (6) off-sale and one (1) club licenses (Eagles Lodge). In Census Tract 37.00, four (4) on-sale and five (5) off-sale licenses are allowed without being deemed over-concentrated. Approval of this on-sale licenses would be the eighth (8th) on-sale licenses, five (5) above the allowable as determined by ABC. Due to the over concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be required.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit (PRC 2014-019-C) subject to the following conditions:

1. The developer/applicant shall keep the beer and wine in a secure place with access only available to the employees, shown herein as the walk-in refrigeration and separate bar area in Exhibit "A." Any future changes in operation which substantially alter the condition or nature of the subject business will require approval by the City Council if such modification involves expansion, relocation, or change in accessibility to the conditioned uses.

2. The facility shall be operated and maintained to comply with applicable State and Federal laws, and the City of Porterville Development Ordinance at all times.

3. The applicant shall maintain the security lighting on the exterior of the building and in the parking lot in a manner to allow reasonable surveillance of the area to the satisfaction of the Police Department and Zoning Administrator.

4. The applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the conditional use permit as provided in Section 601.10 of the Porterville Development Ordinance.
5. The elements of the conditional use permit approving on-site alcohol sales will be subject to modification or revocation if the State of California imposes sanctions on the on-sale license.

6. The entire site shall be permanently maintained free of accumulated dirt and litter and in an otherwise neat and attractive manner.

7. No alcohol advertising shall be displayed and/or viewed from the outside of the proposed building.

8. The consumption of alcoholic beverages shall be prohibited off-site or outside of the building.

9. Upon approval of the conditional use permit, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls by the Police Department resulting from the sales of alcohol will result in revocation of the Conditional Use Permit.

10. Unless an extension of time is granted by the City Council, the conditional use permit shall expire two (2) years after the date of approval if the on-sale Type 47 Alcohol License for General Bona Fide Eating Place is not active or actively pursued. The alcohol license permits sale of beer and wine in conjunction with the serving of meals.

11. The hours of operation during which alcoholic beverages may be sold and served under the on-sale license shall be limited to only during business hours.

12. That a Letter of Public Convenience or Necessity shall be required.

PASSED, APPROVED AND ADOPTED this 2nd day of December, 2014.

ATTEST:

Milt Stowe, Mayor

John D. Lollis, City Clerk

Patrice Hildreth, Chief Deputy City Clerk
December 3, 2014

California Department of Alcoholic Beverage Control
Fresno District Office
3640 East Ashlan Ave
Fresno, CA 93726
ATTN: Christine Weldon

RE: Applebee’s – 892 W. Henderson Avenue, Porterville, CA

Dear Ms. Weldon:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of an on-sale Type 47 (on-sale general for bona fide public eating place) license for Applebee’s located at 892 W. Henderson Avenue. The shopping center within which the proposed restaurant will be located is a regional center, and has significant economic draw beyond the boundaries of the census tract.

Approval of this letter was based on the following:

1. Per Section 23958.4 of the “Business and Professions Code,” the subject site is located within Census Tract 37.00 which allows four (4) on-sale licenses. At the present time seven (7) on-sale licenses currently exist in this tract. Due to the over concentrated of on-sale licenses a Letter of Public Convenience or Necessity was required.

2. On December 2, 2014, the City Council conditionally approved Conditional Use Permit (PRC 2014-019-C), review attached resolution, to allow the on-sale of beer and wine located at 892 W. Henderson Avenue. As a condition of approval, a Letter of Public Convenience or Necessity was required to be approved by the City Council.

3. In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of an on-sale beer and wine license.

ATTACHMENT
ITEM NO. 6
Further issuance of an on-sale license allowing beer and wine sales represents a viable economic asset to the community which will contribute tax revenues to the local economy. The subject site is consistent with the General Plan Land Use Designation for Commercial Mixed-Use (CMX). The CMX designation is intended to provide for commercial, service, office and residential uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the General Plan Land Use Designation. The restaurant is a permitted use in the CMX land use designation, and alcohol sales may be permitted in that land use with the requested Conditional Use Permit.

For these reasons, the City Council of the City of Porterville supports issuance of a Type 47 license which would allow the sale of beer, wine and distilled spirits for an Applebee's Restaurant located in the Porterville Town Center at 892 W. Henderson Avenue.

Sincerely,

Milt Stowe, Mayor

Attachment: Resolution
PUBLIC HEARING

SUBJECT: GENERAL PLAN AMENDMENT AND ZONE CHANGE FROM CN (NEIGHBORHOOD COMMERCIAL) AND RM-2 (MEDIUM DENSITY RESIDENTIAL) TO CR (RETAIL CENTER)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: On October 1, 2014, the applicant submitted to the Project Review Committee an application requesting a General Plan Amendment and Zone Change from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Center). The proposed project is located at the southwest corner of Henderson Avenue and Newcomb Street on four parcels (APNs 245-070-087, 245-070-036, 245-070-047 and 245-070-083) totaling approximately 1.3 acres. The project site is currently vacant with the exception of an existing house located at the southern end of the project site (APN 245-070-036) that will be removed for future development from said parcel. The site is located along two major arterials, Henderson Avenue and Newcomb Street, and is in an urban area that provides a mix of land uses.

The project applicant intends to construct an approximate 2,418 square foot drive-through restaurant in the near future located on the northern two parcels at the southwest corner of Henderson Avenue and Newcomb Street (245-070-083 and 245-070-047). Future development on the remaining parcels will comply with the City of Porterville General Plan and Development Ordinance.

RECOMMENDATION: That the City Council:

1. Conduct a Public Hearing to receive input regarding the proposed General Plan Amendment and Zone Change;
2. Adopt the draft resolution approving a Mitigated Negative Declaration for PRC 2014-026-GZ;
3. Adopt the draft resolution approving General Plan Amendment for PRC 2014-026-GZ;
4. Approve the draft ordinance adopting Zone Change for PRC 2014-026-GZ contingent upon approval of General Plan Amendment; and
5. Waive further reading of the draft ordinance, approving the Zone Change and order it to print.

ATTACHMENT: Complete Staff Report

[Signatures and Appropriated/Funded status]
PUBLIC HEARING

SUBJECT: GENERAL PLAN AMENDMENT AND ZONE CHANGE FROM CN (NEIGHBORHOOD COMMERCIAL) AND RM-2 (MEDIUM DENSITY RESIDENTIAL) TO CR (RETAIL CENTER)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

APPLICANT/AGENT:

Thomas O’Sullivan
1279 W. Henderson Avenue #340
Porterville, CA 93257

Jim Winton
150 W. Morton Avenue
Porterville, CA 93257

PROJECT LOCATION: Located at the southwest corner of Henderson Avenue and Newcomb Street

PROJECT DESCRIPTION: The applicant is requesting approval for a General Plan Amendment and Zone Change from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Center). The proposed project is located at the southwest corner of Henderson Avenue and Newcomb Street on four parcels (APNs 245-070-087, 245-070-036, 245-070-047 and 245-070-083) totaling approximately 1.3 acres. The project site is currently vacant with the exception of an existing house located at the southern end of the project site (APN 245-070-036) that will be removed prior to future development of the site. The site is located along two major arterials, Henderson Avenue and Newcomb Street, and is in an urban area that provides a mix of land uses. Monache High School is located northeast of the site and an 80 unit multi-family apartment complex is planned immediately south of the project site (Newcomb Court). Veterans Park is east of the project site, across Newcomb Street, and an existing church (First Southern Baptist Church) is located immediately west of the project site.

The project applicant intends to construct an approximately 2,418 square foot drive-through restaurant in the near future located on the northern two parcels at the southwest corner of Henderson Avenue and Newcomb Street (245-070-083 and 245-070-047). Future development on the remaining parcels will comply with the City of Porterville General Plan and Development Ordinance. The applicant proposes to construct the commercial development in two phases. The initial phase will include the 2,418 square foot drive-through restaurant, road frontage improvements along Henderson Avenue and Newcomb Street, median improvements in Newcomb Street and parking lot improvements to accommodate the restaurant. The initial phase is proposed to be constructed in early 2015. The second phase of commercial establishments will be completed as economic conditions dictate.

HISTORY: The proposed project site has been vacant and undeveloped for well over 30 years with the exception of an existing house located at the southern end of the project site (APN 245-070-
that was built in 1940. Over the last several years, the surrounding area has experienced both residential and commercial growth with the recently approved Pacific Rim Commercial Mixed Use Project to the west and Newcomb Court Apartments (an affordable housing project) to the south of the project area.

GENERAL PLAN CLASSIFICATION: The subject site is designated on the General Plan land use diagram as High Density Residential on the northern three parcels (APNs 245-070-036, 245-070-047 and 245-070-083) and Medium Density Residential on the southern parcel (APN 245-070-087).

PROPOSED GENERAL PLAN CLASSIFICATION: Retail Centers

CURRENT ZONING: The subject site is zoned CN (Neighborhood Commercial) on the northern three parcels (APNs 245-070-036, 245-070-047 and 245-070-083) and Medium Density Residential on the southern parcel (APN 245-070-087).

PROPOSED ZONING: CR (Retail Centers)

SURROUNDING ZONING AND LAND USES:
- North: RS-2 Low Density Residential (Single family Residence)
- West: RM-3 High Density Residential (Religious Facility)
- South: RM-2 Medium Density Residential (Vacant Lot)
- East: PK Parks and Recreation (Veteran’s Park)

LEGAL NOTICE:
Mitigated Negative Declaration: 30 day public review period

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<tr>
<th>Date Environmental Document Distributed</th>
<th>Date Notice Published in Porterville Recorder</th>
<th>Date Notice Mailed to Property Owners within 300 feet of property</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 30, 2014</td>
<td>October 31, 2014</td>
<td>October 30, 2014</td>
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</table>

ENVIRONMENTAL DETERMINATION: On October 30, 2014, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate to review potential environmental impacts associated with a General Plan Amendment and Zone Change from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Centers). The Initial Study has been transmitted to interested agencies, groups and individuals for review and comment. The review period ran for thirty (30) days from October 31, 2014, to December 1, 2014. As of the date of this report, no comments were received.

STAFF ANALYSIS: Based on review of application materials and submitted conceptual plans, the proposed project serves to fulfill the goals and policies of the General Plan as adopted. The amendments of the land use designations on the subject parcels from High Density Residential and
Medium Density Residential to Retail Centers and Zone Change from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Centers) complies with the Retail Centers Land Use definition.

The General Plan Amendment and Zone Change will not create adverse environmental impacts on biological resources or adjacent neighborhoods when mitigation measures are implemented and standards of the Development Ordinance and General Plan are applied to the subsequent development project. Future development of the project area would require additional review by the Project Review Committee and would be subject to the City’s development standards and the General Plan Land Use Implementation Policies, including but not limited to General Plan Land Use Implementation Policy LU-I-21 (prohibits new strip commercial development).

RECOMMENDATIONS: That the City Council:

1. Conduct a Public Hearing to receive input regarding the proposed General Plan Amendment and Zone Change;
2. Adopt the draft resolution approving a Mitigated Negative Declaration for PRC 2014-026-GZ;
3. Adopt the draft resolution approving General Plan Amendment for PRC 2014-026-GZ;
4. Approve the draft ordinance adopting Zone Change for PRC 2014-026-GZ contingent upon approval of General Plan Amendment; and
5. Waive further reading of the draft ordinance, approving the Zone Change and order it to print.

ATTACHMENTS:

1. Conceptual Site Development Plan
2. Mitigated Negative Declaration
3. Draft Resolution to adopt the Mitigated Negative Declaration
4. Draft Resolution to adopt General Plan Amendment for PRC 2014-026-GZ
5. Draft Ordinance to approve Zone Change for PRC 2014-026-GZ
MITIGATED NEGATIVE DECLARATION

Newcomb Commercial Development

October 2014
RESOLUTION NO.__________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF
A MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT
FOR THE GENERAL PLAN AMENDMENT AND ZONE CHANGE LOCATED AT THE
SOUTHWEST CORNER OF HENDERSON AVENUE AND NEWCOMB STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of December 2, 2014, conducted a public hearing to consider approval of the Mitigated Negative Declaration which evaluates the environmental impacts of a General Plan Amendment and Zone Change from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Centers) and development of the project in a manner consistent with City codes and plans; and

WHEREAS: General Plan Amendment (PRC 2014-026-GZ) proposes to change the land use designation on the General Plan Land Use Diagram for the subject parcels (APNs 245-070-087, 245-070-036, 245-070-047 and 245-070-083) from High-Density Residential and Medium Density Residential to Retail Centers; and

WHEREAS: Zone Change PRC 2014-026-GZ proposes to change the present zoning classifications of the subject parcels from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Centers) contingent upon approval of the General Plan Amendment; and

WHEREAS: Development of the project area would require additional review by the Project Review Committee and would be subject to the City’s development standards and the General Plan Land Use Implementation Policies, including but not limited to General Plan Land Use Implementation Policy LU-I-21 (prohibits new strip commercial development); and

WHEREAS: On October 30, 2014, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the General Plan Amendment and Zone Change from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Centers) and development of the project in a manner consistent with City codes and plans; and

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

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

2. The General Plan Amendment and Zone Change will not create adverse environmental impacts on biological resources or adjacent neighborhoods when mitigation measures are implemented and standards of the Development Ordinance and General Plan are applied to the subsequent development project.
3. That the City Council is the decision making body for the project.

4. On October 30, 2014, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the General Plan Amendment and Zone Change from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Centers). The Initial Study has been transmitted to interested agencies, groups and individuals for review and comment. The review period ran for thirty (30) days from October 31, 2014, to December 1, 2014. No comments were received.

5. That review of the environmental circumstances regarding this project indicates that no adverse impacts would accrue to biological resources when the mitigation measures are implemented and standards of the Development Ordinance and General Plan are applied. Mitigation measures to reduce impacts to less than significant were defined and have been incorporated into the Mitigation Monitoring Program attached hereto as Exhibit A.

6. That the environmental assessment and analysis prepared for this project supporting the Mitigated Negative Declaration reflects the independent judgment of the City of Porterville.

7. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. The developer/applicant will be required to sign a document committing to comply with the adopted mitigation measures prior to any construction on the site.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Mitigated Negative Declaration prepared for the General Plan Amendment and Zone Change (PRC 2014-026-GZ) and development of the project in a manner consistent with City codes and plans, and that the mitigation measures defined in Exhibit A shall be implemented by the developer/applicant or his/her partners and successors with project implementation.

By: ______________________
Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

By: ______________________
Patrice Hildreth, Chief Deputy City Clerk
<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Party responsible for Implementing Mitigation</th>
<th>Implementation Timing</th>
<th>Party responsible for Monitoring</th>
<th>Verification (name/date)</th>
</tr>
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<tbody>
<tr>
<td>BIO-1</td>
<td>City of Porterville</td>
<td>During construction</td>
<td>City of Porterville</td>
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<td></td>
<td>To protect raptors and migratory song birds and to assist in avoiding take of avian species as required by Fish and Game Code Section 3503, 3503.5, and 3513, Project related activities will occur during the non-breeding season (September 16th through December 31st).</td>
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<tr>
<td>BIO-2</td>
<td>City of Porterville</td>
<td>During construction</td>
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<td></td>
<td>If Project related activities will occur during the breeding season (Jan 1 through Sept 15), the City of Porterville shall conduct nest surveys for nesting Swainson's hawks within ½ mile buffer around the Project site before starting any Project related activities following the survey methodology developed by the Swainson's hawk Technical Advisory Committee. In the event that Swainson’s hawk is detected, California Department of Fish &amp; Wildlife (CDFW) shall be consulted by the Applicant or the Applicant’s consultant to discuss project implementation and take avoidance. If take cannot be avoided the City shall obtain an</td>
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Mitigation Measure: Incidental Take Permit from CDWF for project related incidental take of Swainson’s hawk.

If other nesting raptors and migratory songbirds are identified, the following minimum no disturbance buffers shall be required:

- 250 feet around active passerine (perching birds and songbirds) nests
- 500 feet around active raptor nests

These buffers shall be maintained until the breeding season has ended or until a qualified biologist has determined and CDFW has agreed in writing that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

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<th>Mitigation Measure</th>
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<th>Implementation Timing</th>
<th>Party responsible for Monitoring</th>
<th>Verification (name/date)</th>
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<tr>
<td>Incidental Take Permit from CDWF for project related incidental take of Swainson’s hawk.</td>
<td>City of Porterville</td>
<td>During construction</td>
<td>City of Porterville</td>
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BIO-3 Vertical tubes such as chain link fencing poles can result in the entrapment and death of a variety of bird species. All vertical tubes such as chain link fencing poles shall be immediately capped at the time that they are installed to prevent avian fatalities.
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<tr>
<th>Mitigation Measure</th>
<th>Party responsible for Implementing Mitigation</th>
<th>Implementation Timing</th>
<th>Party responsible for Monitoring</th>
<th>Verification (name/date)</th>
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<tr>
<td>CUL-1</td>
<td>City of Porterville</td>
<td>Prior to and during construction</td>
<td>City of Porterville</td>
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- The City shall require that the provisions of Senate Bill 18, which requires consultation with California Native American Tribes, be completed prior to initiation of construction or ground-disturbing activities associated with the Project.

- Before initiation of construction or ground-disturbing activities associated with the Project, the Project proponent for all Project phases shall require all construction personnel to be alerted to the possibility of buried cultural resources, including historic, archeological and paleontological resources;

- The general contractor and its supervisory staff shall be responsible for monitoring the construction Project for disturbance of cultural resources; and

- If a potentially significant historical, archaeological, or paleontological resource, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains or trash deposits are encountered during subsurface construction activities (i.e., trenching, grading), all construction activities within a 100-foot radius of the identified potential resource shall cease until a qualified archaeologist evaluates the item for its significance and records the item on the
Mitigation Measure

appropriate State Department of Parks and Recreation (DPR) forms. The archaeologist shall determine whether the item requires further study. If, after the qualified archaeologist conducts appropriate technical analyses, the item is determined to be significant under California Environmental Quality Act, the archaeologist shall recommend feasible mitigation measures, which may include avoidance, preservation in place or other appropriate measure, as outlined in Public Resources Code section 21083.2. The City of Porterville shall implement said measures.

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<tr>
<th>Mitigation Measure</th>
<th>City of Porterville</th>
<th>During construction</th>
<th>City of Porterville</th>
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<tr>
<td>CUL-2</td>
<td>City of Porterville</td>
<td>During construction</td>
<td>City of Porterville</td>
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The City of Porterville will incorporate into the construction contract(s) a provision that in the event a fossil or fossil formations are discovered during any subsurface construction activities for the proposed Project (i.e., trenching, grading), all excavations within 100 feet of the find shall be temporarily halted until the find is examined by a qualified paleontologist, in accordance with Society of Vertebrate Paleontology standards. The paleontologist shall notify the appropriate representative at the City of Porterville, who shall coordinate with the paleontologist as to any necessary investigation of the find. If the find is determined to be significant under CEQA, the City shall implement those measures, which may include
<table>
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<tr>
<th>Mitigation Measure</th>
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<th>Party responsible for Monitoring</th>
<th>Verification (name/date)</th>
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<tr>
<td>Avoidance, preservation in place, or other appropriate measures, as outlined in Public Resources Code section 21083.2.</td>
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<td><strong>LU-1</strong></td>
<td>Any future development on the site will be required to comply with Land Use Policy LU-1-21, which prohibits new strip commercial developments. Future development will also be required to comply with all applicable City General Plan Policies and provisions outlined in the City's Development Ordinance. The City of Porterville will be responsible for review of future development and interpretation of City planning documents as they apply to the Project.</td>
<td>City of Porterville</td>
<td>Prior to issuance of building permits associated with the future development</td>
<td>City of Porterville</td>
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<tr>
<td><strong>NO-1</strong></td>
<td>Delivery trucks serving the Project shall be limited to between 6:00 A.M. and 9:00 P.M. Monday through Friday and between 7:00 A.M. and 5:00 PM on Saturday or Sunday to avoid noise-sensitive hours of the day.</td>
<td>City of Porterville</td>
<td>During construction and operation</td>
<td>City of Porterville</td>
</tr>
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<td><strong>NO-2</strong></td>
<td>The drive-thru restaurant shall include on-site signage directing that car stereo/radio volumes be reduced so that stereo/radio noise from vehicles waiting in the drive-thru lane do not produce excessive noise.</td>
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<td>Mitigation Measure</td>
<td>Party responsible for Implementing Mitigation</td>
<td>Implementation Timing</td>
<td>Party responsible for Monitoring</td>
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<td>NO-3 Construction activities shall be limited to between 6:00 A.M. and 9:00 P.M. Monday through Friday and between 7:00 A.M. and 5:00 PM on Saturday or Sunday to avoid noise-sensitive hours of the day. Construction activities shall be prohibited on holidays (President’s Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Day after Thanksgiving, Christmas Day, and New Year’s Day).</td>
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<td>NO-4 The construction contract shall require the construction contractor to ensure that construction equipment noise is minimized by muffling and shielding intakes and exhaust on construction equipment (in accordance with the manufacturer’s specifications) and by shrouding or shielding impact tools.</td>
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<tr>
<td>TR-1 Prior to issuance of a building permit, the final design of Project-related ingress/egress (location of driveways, improvements of median, signage requirements, and other components) will be subject to review and approval by the City of Porterville Public Works Department.</td>
<td>City of Porterville</td>
<td>Prior to issuance of a building permit</td>
<td>City of Porterville</td>
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RESOLUTION NO. ___________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL FOR THE GENERAL PLAN
AMENDMENT (PRC 2014-026-GC) FOR THAT 1.3± ACRE SITE DESCRIBED HEREIN
LOCATED AT THE SOUTHWEST CORNER OF HENDERSON AVENUE AND
NEWCOMB STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled
meeting of December 2, 2014, conducted a public hearing to consider approval of a General Plan
amendment from High Density Residential and Medium Density Residential to Retail Centers
located at the southwest corner of Henderson Avenue and Newcomb Street (APNs 245-070-087,
245-070-036, 245-070-047 and 245-070-083); and

WHEREAS: Zone Change 2014-026-GZ proposes to change the present zoning
classifications of the subject parcels from CN (Neighborhood Commercial) and RM-2 (Medium
Density Residential) to CR (Retail Centers) contingent upon approval of the General Plan
Amendment; and

WHEREAS: Development of the project area would require additional review by the
Project Review Committee and would be subject to the City’s development standards and the
General Plan Land Use Implementation Policies, including but not limited to General Plan Land
Use Implementation Policy LU-I-21 (prohibits new strip commercial development); and

WHEREAS: Approval of the General Plan Amendment would allow the project site to
be developed for a regional bases with multiple uses in an integrated manner, and that may provide
for commercial, office, and public and semi-public uses to the existing region. In essence, the
proposed land use designations would foster strong, visually attractive regional commercial center
with a mix of tenants to serve both local and regional needs; and

WHEREAS: Approval of the General Plan Amendment furthers the goals and objectives
of the General Plan by establishing regional shopping centers located at major intersections and
that Henderson Avenue and Newcomb Street are identified as Major Arterials pursuant to the
General Plan Circulation Element; and

WHEREAS: On December 2, 2014, the City Council adopted a resolution approving a
Mitigated Negative Declaration for the General Plan Amendment and Zone Change from CN
(Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Centers) and
development of the project in a manner consistent with City codes and plans.

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

1. The proposed General Plan Amendment has been requested by the applicant to
accommodate opportunities for regional commercial development that was
unanticipated at the time of the adoption of the General Plan. The General Plan
Amendment from High Density Residential and Medium Density Residential to Retail Centers would allow for the intended development of an approximate 2,418 square foot drive-through restaurant. In essence, the proposed land use designations would foster strong, visually attractive regional commercial center with a mix of tenants to serve both local and regional needs.

2. Based on review of application materials and submitted plans, the proposed project serves to fulfill the goals of the General Plan as adopted, and the amendment of the land use designation on the subject parcel Street (APNs 245-070-087, 245-070-036, 245-070-047 and 245-070-083) does not infringe on the goals of the General Plan to maintain transitions between types and intensities of land use.

3. That a Mitigated 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 (30) days, from October 31, 2014, to November 30, 2014.

4. The City Council is the decision-making body for the project.

BE IT FURTHER RESOLVED: That the City Council does hereby approve the General Plan Amendment from High Density Residential and Medium Density Residential to Retail Centers for those four parcels located at the southwest corner of Henderson Avenue and Newcomb Street (APNs 245-070-087, 245-070-036, 245-070-047 and 245-070-083).

PASSED, APPROVED AND ADOPTED this 2nd day of December 2014.

By: ____________________
    Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

By: ____________________
    Patrice Hildreth, Chief Deputy City Clerk
ORDINANCE NO. ________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING ZONE CHANGE (PRC 2014-026-GZ) FROM CN (NEIGHBORHOOD
COMMERCIAL) AND RM-2 (MEDIUM DENSITY RESIDENTIAL) TO CR (RETAIL
CENTERS) FOR THAT 1.3± ACRE SITE DESCRIBED HEREIN LOCATED AT THE
SOUTHWEST CORNER OF HENDERSON AVENUE AND NEWCOMB STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled
meeting of December 2, 2014, conducted a public hearing to approve findings and consider Zone
Change PRC 2014-026-GZ, being a change of zone from CN (Neighborhood Commercial) and
RM-2 (Medium Density Residential) to CR (Retail Centers) located at the southwest corner of
Henderson Avenue and Newcomb Street (APNs 245-070-087, 245-070-036, 245-070-047 and
245-070-083); and

WHEREAS: The City Council of the City of Porterville determined that the proposed
Zone Change (PRC 2014-026-GZ) is consistent with the guiding and implementation policies of
the adopted 2030 General Plan; and

WHEREAS: Development of the project area would require additional review by the
Project Review Committee and would be subject to the City’s development standards and the
General Plan Land Use Implementation Policies, including but not limited to General Plan Land
Use Implementation Policy LU-I-21 (prohibits new strip commercial development); and

WHEREAS: That a Mitigated 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 thirty (30)
days from October 31, 2014 to December 1, 2014; and

WHEREAS: The City Council made the following findings that the proposed project will
advance the goals and objectives of and is consistent with the policies of the General Plan and any
other applicable plan that the City has adopted.

a. The project supports and complies with the following General Plan guiding
policies:
   LU-G-1: Promote a sustainable, balanced land use pattern that responds to
   existing needs and future needs of the City.
   LU-G-3 Promote sustainability in the design and development of public and
   private development projects.
   LU-G-11: Foster strong, visually attractive regional commercial centers with a
   mix of tenants to serve both local and regional needs.
   LU-G-21: Prohibit new strip commercial developments.

b. Development of the site would be required to be reviewed by the Project Review
Committee and would be subject to the City’s development standards.

ATTACHMENT
ITEM NO. 5
c. An amendment to the General Plan designation is being processed concurrently with this Zone Change request. Approval of the Zone Change is contingent upon the approval of General Plan Amendment (PRC 2014-026-GZ), to ensure consistency between the General Plan and Zoning. The Zone Change from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Centers) would foster strong, visually attractive regional commercial center with a mix of tenants to serve both local and regional needs.

d. The subject Zone Change will not create adverse environmental impacts on the biological resources or adjacent neighborhood when mitigation measures are implemented and standards of the Development Ordinance and General Plan are applied to the subsequent development project.

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does ordain as follows:

Section 1: That the following described property in the City of Porterville, County of Tulare, State of California, known as Zone Change PRC 2014-026-GZ, is hereby rezoned from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Centers) pursuant to Section 3 below, for the parcels described herein as Assessor’s Parcel Numbers 245-070-087, 245-070-036, 245-070-047 and 245-070-083 located on the southwest corner of Henderson Avenue and Newcomb Street; and

Section 2: It is further ordained that all records of the City of Porterville, together with the official zoning map of the City of Porterville, shall be changed to show the above described real property is rezoned from CN (Neighborhood Commercial) and RM-2 (Medium Density Residential) to CR (Retail Centers) for the site described above, more particularly shown on the attached map as Exhibit “A”; and

Section 3: This ordinance shall be in full force and effect not sooner than thirty (30) days from and after the ordinance’s publication and passage, subject to the following condition:

Development of the site would be required to be reviewed by the Project Review Committee and would be subject to the City’s development standards.

PASSED, APPROVED AND ADOPTED this 2nd day of December, 2014.

By: ____________________________
Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

By: ____________________________
Patrice Hildreth, Chief Deputy City Clerk
PUBLIC HEARING

TITLE: MODIFICATIONS TO THE MUNICIPAL CODE RELATED TO MOBILE BUSINESSES, FARMER’S MARKETS AND YARD SALES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The Porterville Municipal Code includes various regulations addressing businesses and the locations and methods in which they operate. Over the last few years, the City Council has reviewed those sections of the Municipal Code related to non-standard businesses activities, such as yard sales and itinerant vendors. The ordinance amendments proposed at this time are in response to past Council direction as well as a recent increase in requests by members of the public. The proposed revisions address three distinct, but inter-related topics: mobile businesses, farmer’s markets, and yard sales.

Business licenses are issued by the City of Porterville for four distinct business models:

1. The business operates fully within the city limits, in a building authorized for commercial uses.

2. The business operates outside the city limits, but provides services within the city limits.

3. The business is an itinerant vendor as defined in Chapter 15 of the Municipal Code, and sells goods within the city limits for not more than ninety days unless otherwise excluded.

4. The business is a street vendor or peddler, subject to specific additional business regulations as defined in Chapter 15 of the Municipal Code.

The ordinance amendments proposed herein for Mobile Businesses and Farmer’s Markets would accommodate two specific and atypical business models, promoting local businesses by allowing them to legally operate within the city limits.

Mobile Businesses:

As the general economy improves after the Great Recession, staff has noted an increase in the number of applicants for new business licenses and home occupation permits where the business activity is a mobile service rather than activities based in the home. In earlier discussions about itinerant vending in November 2011, the City Council had expressed interest in encouraging new locally based businesses while protecting the investment made by more traditional “brick and mortar” businesses. To that end, discussion had focused on additional regulations, fees, and/or enforcement activities on itinerant vendors. However,
more recent inquiries relate not to vendors coming in from out of town for a short period, but businesses based in city limits that do not have a storefront.

One such inquiry relates to a service-related mobile business where the business owner maintains an office within the home, but the activities occur at the home of the client. Considering the number of services that occur intermittently in the home, it is reasonable that some businesses would have no need for a storefront. The Development Ordinance does have provisions for these business models to some extent with the allowance of “offices for personal services such as janitorial service, gardening service, office services, etc.,” but not all businesses meet the definition of personal services. Personal services are defined within the Development Ordinance as recurrently needed services of a personal nature. The proposed language would allow service-oriented businesses to use a home occupation permit to obtain a business license where the services occur at the client’s location, subject to conditions identified in Section 301.09 - Home Occupations, of the Development Ordinance.

**Farmer's Markets:**

Since the last consideration by the Council of itinerant vendors, multiple individuals have approached staff with the concept of developing a for-profit farmer’s market that would coordinate other itinerant vendors for sale of food, food products, plants, and arts & crafts with a specific event. The Development Ordinance was drafted with the intent to support such a business, and Farmer’s Markets (interchangeable with “Swap Meet” or “Flea Market” in Chapter 21 of the Municipal Code) are allowed within certain zone districts subject to a Conditional Use Permit. Section 15-1 of the Municipal Code defines itinerant vendors as follows:

**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.

It goes on to exempt from the definition of itinerant vendor certain merchants as follows:

The provisions of this definition shall not apply to commercial travelers or selling agents, selling their goods exclusively to merchants, dealers or traders, whether selling for present or future delivery, by sample or otherwise, nor to peddlers, as the
same is defined in this chapter, nor to persons selling fruit, vegetables, eggs, butter or other farm or ranch products of their own farm or dairy, exclusively.

The regulations, as currently written, would allow fruits, vegetables, eggs, and cheese at such an event, but would limit the supplemental sort of items available at many farmer’s markets. For example, it is not uncommon to find a farmer’s market that sells jams & jellies, cut flowers, live plants (either ornamental or edible), grilled corn, or homemade arts & crafts when sold by the artist or craftsperson at the event. Staff has drafted the following text for consideration that would expand the exclusions within the definition of Itinerant Vendors in Chapter 15:

The provisions of this definition shall not apply to commercial travelers or selling agents, selling their goods exclusively to merchants, dealers or traders, whether selling for present or future delivery, by sample or otherwise, nor to peddlers, as the same is defined in this chapter. Further, the provisions of this definition shall not apply to persons selling fruit, vegetables, eggs, butter or other farm or ranch products of their own farm or dairy, exclusively, nor shall it apply to food products defined as “cottage foods” pursuant to the Health and Safety Code, live plants or plant cuttings, or homemade arts or crafts when such items are offered for sale by the preparer at a coordinated Farmer’s Market or similar event approved through the City.

By including these types of vendors in the exempting provision, such vendors could be allowed at a future Farmer’s Market under the umbrella of the business license obtained by the Farmer’s Market operator. If the proposed language modification is not approved, a vendor of these specific types would be limited to ninety days of participation at the market, according to the current restrictions within Chapter 15 of the Municipal Code.

To provide clarity, the definition of “Flea Market” or “Swap Meet” in Chapter 15 would also be amended to add “Farmer’s Market” as referenced in Chapter 21.

FLEA MARKET OR SWAP MEET: Any collection of two (2) or more vendors gathered together in a common area segregated by spaces, booths or other designated selling locations for the purpose of selling, offering to sell, bartering, or offering to barter, or any combination thereof, goods, wares, merchandise or articles of value. This definition shall be liberally construed so as to apply to any activity commonly known and referred to as a flea market, swap meet, or farmer’s market.

Yard Sales:

Earlier this year, an increased number of code enforcement actions related to a proliferation of yard sale signs resulted in the discovery of perpetual yard sales. As a result of concerns voiced by the public, the Council directed staff to look into increasing the number of yard sales allowed per year, and address the issue of yard sale signage. Staff has developed a new standard related to signage, which was the initial issue. The following language is
proposed to be added to Section 301.21 - Temporary Uses (Chapter 21 - Development Ordinance):

(b) (3). One sign not exceeding two feet by two feet in size may be posted on the property where the sale is being held during the duration of the sale only. No signs regarding such sale shall be posted on any property other than where the sale is held.

The California Board of Equalization (BOE) requires a person to obtain a seller’s permit if yard sales events are three or greater in a 12-month period. Staff is of the opinion that more than four yard sales per year would significantly detract from the residential quality of a neighborhood and is effectively a commercial enterprise, which should be conducted in a commercially zoned district or at an event coordinated for such activities such as the Porterville swap meet. To establish a permit process that accommodates more than two yard sales per year, staff recommends the best way to maintain compliance with the BOE is to use the City’s existing business license permit process, supplemented by a home occupation permit. Section 301.09, Home Occupations, of the Development Ordinance would be amended to specify conditions related to additional yard sales as follows:

(p) More than two yard sales per year, but not more than four yard sales per year, may be permitted subject to issuance of a business license and a home occupation permit subject to the following standards:

1. A Seller’s Permit must be obtained through the State Board of Equalization prior to the date of the third yard sale.

2. The sales events must be compliant with the provisions of Section 301.21, Temporary Uses, of this Chapter.

Additionally, Section 301.21(b) - Temporary Uses, would be further amended to read:

1. Garage sales are limited to no more two (2) events for no more than three (3) consecutive days in any six (6) month period.

Section 18-8.2: Sale of Personal Property from Residential Premises of the Municipal Code would be amended as follows:

18-8.2 B. Time And Place of Sale: Only two (2) such sales may be conducted at a particular place in any six (6) month period. No sale shall continue more than three (3) days. Sales shall be conducted between the hours of eight o’clock (8:00) A.M. and eight o’clock (8:00) P.M. only.

ENVIRONMENTAL: The proposed ordinance serves to provide greater clarity to uses as identified in the Porterville 2030 General Plan, and the proposed ordinance is an implementation measure of the policies, goals and objectives of the Plan. The Environmental Coordinator made a determination on the basis of substantial evidence that no additional environmental review is necessary beyond the environmental review already considered for the General Plan and the Development Ordinance.
RECOMMENDATION: That the City Council:
1. Approve the proposed ordinance for the Development Code and Municipal Code and give first reading to the draft ordinance; and
2. Waive further reading and order the Ordinance to print.

ATTACHMENTS: Draft Ordinance
ORDINANCE NO. _________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 21, SECTION 301.09 OF THE PORTERVILLE MUNICIPAL CODE CONCERNING MOBILE BUSINESSES, AMENDING CHAPTER 15, SECTION 15-1 OF THE PORTERVILLE MUNICIPAL CODE CONCERNING DEFINITIONS OF ITINERANT VENDORS, AND AMENDING CHAPTER 21, SECTION 301.21 OF THE PORTERVILLE MUNICIPAL CODE CONCERNING YARD SALE SIGNAGE

WHEREAS, the City Council has reviewed the current limitations on atypical business models and found that accommodations could be made that would encourage development and growth of local businesses without compromising the success of existing businesses in the city; and

WHEREAS, the City Council finds that complaints of excessive signage advertising yard sales may be reduced if specific parameters were clearly defined for residents throughout the city; and

WHEREAS, Pursuant to State and local environmental regulations, the proposed ordinance amendments serve to provide greater clarity to uses as identified in the Porterville 2030 General Plan, and the proposed ordinance is an implementation measure of the policies, goals and objectives of the Plan. The Environmental Coordinator made a determination on the basis of substantial evidence that no additional environmental review is necessary beyond the environmental review already considered for the General Plan and the Development Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES HEREBY ORDAIN as follows:

SECTION 1. The Porterville Municipal Code, Chapter 21, Series 300, Chapter 301.09 is hereby amended as follows:

Home occupations that are carried on by an occupant of a dwelling unit for gainful employment, are clearly incidental and subordinate to the use of the structure for dwelling purposes and that do not change the residential character of the primary use, are allowed and shall be operated in compliance with the following standards. Home occupations are subject to zoning conformance approval pursuant to Chapter 602, "Zoning Conformance Review".

(a) Permitted Uses: Home occupations generally include, but are limited to the following uses:

(1) Professional offices.

(2) Offices for personal services such as janitorial service, gardening service, office services, etc.

(3) Dressmaking, millinery, and other home sewing work.

ATTACHMENT NO. 1
(4) Handicrafts such as weaving, leatherwork, and other arts and crafts.

(5) Instructional classes, not exceeding two (2) students at one time.

(6) Internet sales, mail order or direct sales provided no merchandise is sold on the premises.

(7) Cottage food operations.

(b) Prohibited Uses: The following uses are not permitted as a home occupation:

(1) The repair, reconditioning, servicing or manufacture of any internal combustion or diesel engine or of any motor vehicle, including automobiles, trucks, motorcycles, or boats.

(2) Repair, fix it or plumbing shops.

(3) Uses that entail the harboring, training, raising, or grooming of dogs, cats or other animals, on the premises.

(4) Uses that entail food handling, processing or packing, other than specialized minor cooking or baking.

(5) Healing arts.

(6) Spiritual advisory service (fortune telling).

(c) The residential use remains the primary activity on the property.

(d) No sign shall be publicly displayed on the premises relating to the home occupation or product thereof.

(e) No person not residing on the premises may be employed at the site of the home occupation.

(f) Sale of goods on the premises shall be limited to the products of the home occupations, and no other merchandise or goods shall be sold, kept or displayed for the purposes of sale on the premises.

(g) The home occupation shall not attract or generate excessive auto or foot traffic, require additional off street parking spaces, involve the use of commercial vehicles for delivery of materials or supplies to or from the premises, or exceed six (6) patrons or customers for any calendar day.

(h) No use of materials, mechanical equipment, utilities, or community facilities beyond that normal to the use of the property for residential purposes shall be permitted.
(i) Storage related to the home occupation shall be confined to the dwelling or accessory building.

(j) No dwelling or accessory buildings shall be built, altered, finished, or decorated externally for the purposes of conducting the home occupation in such a manner as to change the residential character and appearance of the dwelling, or in such a manner as to cause the structure to be reasonably recognized as a place where a home occupation is conducted.

(k) No garage or accessory building shall be altered or used in such a manner that would reduce the number of covered parking spaces required in the district in which it is located.

(l) Not more than one vehicle of not more than one ton capacity used in connection with the home occupation shall be kept on the site. Any trailer, wheeled equipment, or any vehicle displaying or advertising the home occupation shall not be visible from off the premises.

(m) The home occupation shall not involve the use of power equipment on the premises using motors exceeding one horsepower combined capacity.

(n) No equipment or process shall be used which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family detached residence, or outside the dwelling unit if conducted in other than a single-family detached residence. No equipment or process shall be used which creates visual or audible electrical interference in any radio or television receiver off the premises, or causes fluctuations in line voltage off the premises.

(o) Service oriented mobile businesses that provide services at the location of a client may function as a home based business, where compliant with all other provisions of this section and subject to the following standards:

1. No business activities other than office activities occur on the premises. A client may not come to the home of the business to use the mobile unit.

2. The primary business activity involves provision of services that by their nature are intermittent and convenient to be provided at the home or business of the client. Examples include: mobile notary, personal services, minor vehicle repair not involving engines as prohibited above (windshield repair or battery replacement), computer maintenance and repair.

3. Sale of goods is permitted only as an accessory to the service oriented use, such as sale of a windshield when it is replaced, or a new hard-drive when it is required and installed as a part of a computer repair.

(p) More than two yard sales per year, but not more than four yard sales per year, may be permitted subject to issuance of a business license and a home occupation permit subject to the following standards:
(1) A Seller’s Permit must be obtained through the State Board of Equalization prior to the date of the third yard sale.

(2) The sales events must be compliant with the provisions of Section 301.21 of this Chapter.

SECTION 2. The Porterville Municipal Code, Chapter 15, Article I, Section 15-1 is hereby amended as follows:

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.

The provisions of this definition shall not apply to commercial travelers or selling agents, selling their goods exclusively to merchants, dealers or traders, whether selling for present or future delivery, by sample or otherwise, nor to peddlers, as the same is defined in this chapter. Further, the provisions of this definition shall not apply to persons selling fruit, vegetables, eggs, butter or other farm or ranch products of their own farm or dairy, exclusively, nor shall it apply to food products defined as “cottage foods” pursuant to the Health and Safety Code, live plants or plant cuttings, or homemade arts or crafts when such items are offered for sale by the preparer at a coordinated Farmer’s Market or similar event approved through the City.

FLEA MARKET OR SWAP MEET: Any collection of two (2) or more vendors gathered together in a common area segregated by spaces, booths or other designated selling locations for the purpose of selling, offering to sell, bartering, or offering to barter, or any combination thereof, goods, wares, merchandise or articles of value. This definition shall be liberally construed so as to apply to any activity commonly known and referred to as a flea market, swap meet, or farmer’s market.

SECTION 3. The Porterville Municipal Code, Chapter 21, Series 300, Chapter 301.21 is hereby amended as follows:

301.21: TEMPORARY USES

(b) Garage Sales: A garage or yard sale may be permitted on any developed lot in an R district, in accordance with Section 18-8.2 of the Municipal Code and the following standards:

(1) Garage sales are limited to no more than three (3) consecutive days in any six (6) month period.
(2) All merchandise to be sold shall be displayed on a private lot and not within the public right of way.

(3) One sign not exceeding two feet by two feet in size may be posted on the property where the sale is being held during the duration of the sale only. No signs regarding such sale shall be posted on any property other than where the sale is held.

SECTION 4. The Porterville Municipal Code, Chapter 18, Article 8.2 is hereby amended as follows:

18-8.2 Sale of Personal Property from Residential Premises

B. Time And Place of Sale: Only two (2) such sales may be conducted at a particular place in any six (6) month period. No sale shall continue more than three (3) days. Sales shall be conducted between the hours of eight o’clock (8:00) A.M. and eight o’clock (8:00) P.M. only.

SECTION 5. This ordinance shall be in full force and effect not sooner than thirty days from and after the ordinance’s publication and passage.

PASSED, APPROVED AND ADOPTED this ___ day of December, 2014.

By: ____________________________
    Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

By: ____________________________
    Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: Consideration of Modification to Loan Agreement and Amendment to License and Development Agreement with the Tulare County Junior Livestock Show and Community Fair

SOURCE: City Manager

COMMENT: At its meeting on September 7, 2010, the City Council approved direct financial assistance from the City to the Fair by a Construction Loan Agreement, whereby up to $2,000,000 in City financing would be made available to the Fair at an annual interest rate of three percent (3%) over a ten (10) year amortization period, with no prepayment penalty. The purpose of the financing was to provide assistance to the Fair to complete construction in relocating from its original Downtown site that now serves as the location of the South County Justice Center. Upon completion of construction in 2011, the Fair financed a total amount of $1,900,283.11, and consistent with the Agreement, began making semi-annual payments of $110,620.00 in January 2012. For the past three years, the Fair has made its payments, paying the balance of financing down to $1,387,540.42 (please see attached financing schedule).

Beginning in January 2015, the Fair has requested that the City Council consider a modification to the Construction Loan Agreement, whereby the Fair would first pay $132,860.97 toward reducing the current principal to $1,200,000, then refinance the new balance over twenty-five (25) years at an annual interest rate of four percent (4%). Instead of semi-annual payments in January and July of each year, the Fair would make a single annual payment in July (please see attached financing schedule). Also, the Fair proposes to modify the License and Development Agreement regarding the ten (10) acre joint-use property immediately adjacent to the east of the Fair, to designate the property as exclusive use for the Fair, and in consideration not seek reimbursement for eligible development expenses in (approximately $60,000) of the property as specified in the Agreement (Part 4.3.3).

As an alternative, the Fair has pursued independent financing through the Bank of the Sierra, however, given the City owns the fifteen (15) acres of land upon which the Fair is located, the City would need to commit the property as collateral to the Bank’s loan. Under City financing, the City maintains control of the property, and per the Construction Loan Agreement in the event of default, would assume possession of Fair facilities without a foreclosure process or other compensation for improvements on the property.
Consistent with Council's consideration and direction, the City Attorney can draft an Amendment to the Construction Loan Agreement, License and Development Agreement, and Promissory Note.

RECOMMENDATION: That the City Council consider the request of the Fair to refinance its Construction Loan Agreement, as well as Amendment to the License and Development Agreement, and provide direction to staff accordingly.

ATTACHMENTS:

1. Current Loan Amortization Schedule
2. Proposed Loan Amortization Schedule
3. Construction Loan Agreement
4. License and Development Agreement
Porterville Fair
Amortization Schedule - City of Porterville Construction Loan
Equal Payments - 2 payments per year for 10 years

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Porterville Fair
Amortization Schedule - City of Porterville Construction Loan (Proposed)

Equal Payments - 1 payment per year for 25 years

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1,920,359.00  720,358.81  1,200,000.19
CONSTRUCTION LOAN AGREEMENT

THIS AGREEMENT is executed by the TULARE COUNTY JUNIOR LIVESTOCK SHOW AND COMMUNITY FAIR, hereinafter called “FAIR,” licensee of certain real property in the County of Tulare, State of California, described in Exhibit “A” attached hereto, for the purpose of obtaining a loan from the CITY OF PORTERVILLE, owner of said real property, hereinafter called “CITY,” the proceeds of which shall be used for the construction of certain improvements upon said real property consisting of Fairgrounds facilities as listed in Section 4.2 (Phases 1 through 3) of the License and Development Agreement between the parties dated December 10, 2009 (attached hereto as Exhibit “B”). This loan agreement is contingent upon execution of Amendment No. 1 to License and Development Agreement Between City of Porterville and Tulare County Junior Livestock Show and Community Fair (also attached hereto as part of Exhibit “B”).

LOAN AMOUNT:

1. City shall loan to Fair the funds necessary for Fair to have constructed on the licensed real property, the improvements identified in Exhibit “B” in an amount not to exceed TWO MILLION DOLLARS ($2,000,000.00). The actual amount of the loan shall be determined upon completion of all such improvements and the submission by Fair to City of proper evidence of costs of said improvements, as more fully set forth hereinafter. Said loan shall be evidenced by a Promissory Note consistent with the terms of this Agreement and executed by the parties, the form of which is attached hereto as Exhibit “E.”

DISBURSEMENTS FROM LOANS IN PROCESS ACCOUNTS:

2. (a) From said total the following Loans In Process Accounts shall be established at City:

   Account “A” for onsite construction ....................... $ 1,900,000.00
   Account “B” for contingency ............................... $  100,000.00

(b) As to the above accounts which are established, the following shall prevail:

   Account “A” shall be used for the purpose of defraying the cost of construction of improvements contemplated by the plans and specifications heretofore approved by City.

   Account “B” shall be a contingency account and may be used by City in its discretion to pay any shortages for the items for which Account “A” is established.

(c) Accounts “A” and “B” are to be disbursed by City during the progress of the work of construction on a monthly basis after review and approval by the Oversight...
Committee per 2(d) below. Fair shall, as a condition precedent to the monthly disbursement of any of the funds from said Accounts "A" and "B", furnish City and Oversight Committee with bills, invoices or other evidences of costs incurred by Fair equal to the total funds requested to be disbursed from said accounts, and also furnish releases of lien rights covering work performed and materials furnished for said improvements. All funds disbursed by City from said accounts will be received by Fair in trust for the purpose of fully paying all contractors, subcontractors, materialmen, laborers and others engaged in the construction of the subject improvements.

(d) Fair shall establish an Oversight Committee to meet monthly to review and approve for submission to City all such requests for disbursements. Membership in said Oversight Committee shall be as set forth in Exhibit "C" attached hereto and incorporated by this reference and shall include at least one representative of City.

(e) City may defer making any disbursement from said Accounts "A" and "B" (i) until it receives evidence that the work being performed conforms with the plans and specifications approved by City, or, if no plans and specifications are required, then in accordance with good construction practices, and in any event in compliance with all laws and regulations of local, federal or state authorities relating thereto; (ii) until City's authorized representative certifies in writing that the construction required for the making of such disbursement has been completed; (iii) until any default existing under the provisions of this agreement has been corrected; (iv) so long as any conflicting claims based upon assignments, or otherwise, are being made to any of the funds in said accounts; (v) so long as any notice to withhold served upon City remains unsatisfied, or any lien or claim of mechanics, materialmen or others affecting said real property appears and remains of record, or any suit upon any such notice to withhold or for the foreclosure of any such lien or claim is pending; and (vi) so long as any levy or service of any process affecting or appearing to affect the funds in said accounts or any part thereof remains in force.

(f) City shall disburse said funds within five (5) days of its approval of all requests submitted in conformance with Subsections 2 (c), (d) and (e) hereinabove.

INTEREST ON DISBURSEMENTS:

3. Interest shall accrue on each disbursement made by City from all of said Loans in Process Accounts at the rate of three percent (3%) per annum, compounded semi-annually on each January 15 and July 15.

PAYMENTS:

4. Fair shall repay said loan, including principal and interest, in twenty (20) semi-annual payments, commencing with an interest only payment due on or before January 15, 2011, and interest and principal payment due on or before July 15, 2011, and each succeeding January 15 and July 15 thereafter until paid in full. The term of
the loan shall be ten (10) years commencing on January 15, 2011 and terminating on January 15, 2021.

It is anticipated that all construction of improvements shall be completed on or before December 31, 2010. At the time of such completion the actual amount of the loan shall be determined based upon the total of disbursements from the Loans in Process Accounts set forth in Paragraph 2 above. City shall then establish the principal/interest portions of the semi-annual payments by dividing the amount of the loan into twenty (20) payments amortized over 10 years, and a copy of said calculation shall be attached hereto as Exhibit "D" and incorporated herein by this reference. If construction and/or disbursements are not completed prior to the first payment deadline, until construction/disbursements are completed, at least 30 days prior to the payment due date for each semi-annual payment, City shall provide to Fair an invoice with the specific payment amount due in accord with this agreement.

PREPAYMENT:

5. Fair may, at any time, prepay any or all of the amount then due and payable without imposition of any prepayment penalty.

COMMENCEMENT OF CONSTRUCTION AND COMPLIANCE WITH PLANS AND SPECIFICATIONS:

6. (a) Fair shall promptly commence construction of said improvements and continue such construction diligently and without delay in a good and workmanlike manner. Fair will complete such improvements in accordance with the plans and specifications approved by City, including any additional specifications prescribed by City, and in compliance with all requirements of governmental authorities having or asserting jurisdiction.

(b) No change shall be made in the plans and specifications approved by City, which would result in said improvements having a value less than the value which would have existed had such deviation not occurred. In the event a change in the plans or specifications results in a decrease in the value of any improvement, City may reduce the principal amount of the loan by an amount equivalent to the reduction in value of said improvements.

(c) Fair, should City so request, will immediately upon completion of the building foundations cause a survey to be made and certified by a licensed engineer or surveyor, showing that said foundations are located entirely within the property lines and do not encroach upon any easement or breach or violate any covenant, condition or restriction of record, or any building or zoning ordinance.

(d) It is anticipated that all construction shall be completed on or before December 31, 2010. Should Fair determine this will not happen, it shall promptly so notify City, in writing, and provide a new scheduled completion date.
NO PURCHASES UNDER CONDITIONAL SALES AGREEMENTS, ETC.:

7. No supplies, materials, equipment, fixtures, carpets, appliances, or any part of said improvements shall be purchased or installed under any conditional sales agreement, lease or under any other arrangement wherein the right is reserved or accrues to anyone to remove or to repossess any such items without prior written approval of the City. It is expressly agreed that all such items (other than leased items approved by City) become a part of the real property upon delivery to the site. It is understood by City and Fair that certain items such as fire and burglar alarms, video, and telephone equipment are routinely leased rather than purchased and remain the property of the installer.

SECURITY AGREEMENT:

8. Fair hereby grants to City a security interest in all supplies, materials, fixtures, carpets, appliances, furniture or equipment now or hereafter located on said real property, together with all proceeds thereof, including insurance proceeds paid or payable as the result of any loss, injury or damage of the foregoing collateral, whether or not City is named beneficiary under any such insurance. Upon request, from time to time, Fair shall furnish City with an inventory of such collateral. Nothing contained in this paragraph shall affect the provisions of Paragraph 7.

INSURANCE:

9. Upon request, Fair agrees to furnish City with a valid fire and extended coverage insurance policy covering the collateral described in Paragraph 8 above, written by an insurance company satisfactory to City, in an amount as required by City, with loss payable to Fair and City as their interests may appear.

DEPOSIT BY FAIR OF ADDITIONAL FUNDS AND DISPOSITION OF REMAINING FUNDS AFTER COMPLETION:

10. If at any time City shall determine that the amount of funds remaining in said accounts is less than the amount required to complete and pay for said improvements and shall demand that Fair deposit with City for credit to said accounts an amount equal to the deficiency as estimated by City, Fair shall comply with such demand within ten (10) days from the date thereof, and the judgment of City shall be final and conclusive in this report.

STOPPAGE OF WORK BY CITY:

11. City or its agents shall have the right at all times to enter upon said real property and the improvements during the period of construction. If the work of construction is not in conformance with the plans specifications or is not otherwise satisfactory to City, it shall have the right to stop the work and order the replacement of any unsatisfactory work theretofore incorporated in said improvements, and to withhold
all disbursements from the accounts until it is satisfied with the work. If the work is not made satisfactory to City within sixty (60) calendar days from the date written notice of the deficiency and demand for cure is provided by the City, such shall constitute a default hereunder. In the event the deficiency is such that the parties agree it will take more than sixty days to remedy, if the work is not made satisfactory within the mutually agreed upon time period in writing, such shall constitute a default hereunder. In addition to all other remedies available to the City, City shall have the option to have such unsatisfactory or deficient work repaired or replaced at Fair's expense, such costs to be subtracted from the available account balances then in place.

DEFAULT BY FAIR:

12. (a) In the event of a default by Fair in the performance of any of the terms, covenants and conditions contained in this agreement, or any Note given in conjunction herewith, or in the event of the filing of a Bankruptcy or chapter proceeding by or against Fair, all sums disbursed or advanced by City shall at the option of City immediately become due and payable and City shall have no obligation to disburse any further funds from said account, or otherwise, and City shall be released from any and all obligations to Fair under the terms of this agreement.

(b) In addition to any other consequences of default, should Fair fail to make a semi-annual loan payment within thirty (30) days of its due date, it is specifically understood and agreed as follows:

(i) this Construction Loan Agreement shall be terminated without any need for City to provide any further notices to Fair and without any right of Fair to cure such default; and

(ii) all improvements constructed or under construction on the subject real property shall immediately become the property of City with no right of Fair to receive any compensation therefore; and

(iii) that certain License and Development Agreement between City and Fair, dated December 10, 2009, and attached as Exhibit B, and as amended per Exhibit E, shall terminate and Fair shall no longer have any right or interest to occupy or use the subject real property; and

(iv) Fair shall immediately convey copies to City of all documents, records, contracts and invoices from contractors; materialmen, suppliers and parties providing professional services relating to the design, development and construction of all said improvements on the subject real property.

CESSATION OF WORK, COMPLETION BY CITY, ETC.:

13. Should the work of constructing the improvements cease, specifically including stoppage by City in accordance with Paragraph 11 hereof, or should said work
for any reason whatsoever not progress continuously in a manner satisfactory to City, it being the sole judge as to this requirement, then City may, at its option and without notice, declare Fair to be in default hereunder, and City may thereupon, should it so elect, take possession of said property and let contracts for the completion of said improvements and pay the cost thereof, plus a fee of fifteen (15) percent for supervision of construction, disbursing all or any part of the loan for such purposes; and should the cost of completing said improvements plus such fee exceed the undisbursed balance of the loan, then the amount of such excess may be expended by City, in which event such amount shall be considered as an additional loan to Fair, and the repayment thereof, together with interest thereon at the rate provided in the promissory note, shall be repaid within thirty (30) days after the completion of said improvements, and Fair agrees to pay the same. Fair further hereby authorizes City at its option at any time, whether default exists or not, either in its own name or in the name of Fair, to do any act or thing necessary or expedient in the opinion of City to secure the performance of construction contracts and assure the completion of construction of the improvements substantially in accordance with the plans and specifications, disbursing all or any part of the loan funds for such purposes. In addition to the specific rights and remedies hereinabove mentioned, City shall have the right to avail itself of any other rights or remedies to which it may be entitled under any existing law or laws or as otherwise specified in this Agreement.

MECHANIC'S LIENS AND NOTICES TO WITHHOLD:

14. In the event of the filing with City of a notice to withhold or the recording of a mechanic's lien pursuant to Division 3, Part 4, Title 15 of the Civil Code of the State of California, City may summarily refuse to honor any request for payment pursuant to this agreement. In the event Fair fails to furnish City with a bond causing such notice or lien to be released within ten (10) days after the filing or recording thereof, such failure shall at the option of City constitute a default under the terms of this agreement.

INDEMNIFICATION:

15. Fair agrees to indemnify and hold harmless City from and against any and all claims, damages, losses, liability or expense (including but not limited to attorney's fees) arising from the works of improvements contemplated herein or this loan transaction, including but not limited to, any claim made by any person performing labor or furnishing material by way of a mechanic's lien, stop notice, equitable lien, or other proceeding, and any claims made by any purchasers or the subject property or their successors, or any other person with regard to any claimed defects in design or construction of the improvements.

IN VolvEMENT OF CITY IN LEGAL PROCEEDINGS:

16. The City shall have the right to commence, to appear in, or to defend any action or proceeding purporting to affect the rights or duties of the parties hereunder or the payment of any funds in said account and in connection therewith pay out of said
deposited funds necessary expenses, employ counsel and pay his/her reasonable fees, all of which the undersigned agree to repay to the City upon demand.

INSPECTIONS BY CITY DO NOT CONSTITUTE SUPERVISION OF CONSTRUCTION:

17. Fair agrees that City shall be under no obligation to construct or supervise construction of said improvements; that inspections by City of the construction of said improvements shall be for the purpose of protecting the security of City; that such inspections are not to be construed as a representation by City that the improvements have been or will be constructed in strict compliance with said plans and specifications; and that such inspections are not to be construed as a representation that the construction is or will be free from faulty material or workmanship.

DESIGNATION OF CITY AS FAIR’S AGENT:

18. Fair does hereby irrevocably appoint, designate, empower and authorize City as Fair’s agent, coupled with an interest, to sign and file for record any notices of completion, notices of cessation of labor, or any other notice or written document that City may deem necessary to file or record to protect its interest. The City is hereby irrevocably authorized to deliver copies of this contract or excerpts therefrom to any person, firm or corporation supplying labor, materials, supplies or equipment for the improvements contemplated by this Agreement.

BOOKS AND RECORDS:

19. The undersigned Fair and contractor shall maintain complete and accurate books and records showing all of the income and disbursements made in connection with the work of improvements and such books and records shall be available for inspection and copy by the City upon request.

CITY’S RELIANCE ON STATEMENTS AND DISCLOSURES OF FAIR:

20. Fair has made certain statements and disclosures in order to induce City to make said loan and enter into this agreement, and in the event Fair has made material misrepresentations or failed to disclose any material fact, City may treat such misrepresentation or omission as a breach of this agreement, and the act of so doing shall not affect any remedies City may have under the promissory note and loan agreement for such misrepresentation or concealment.

CITY NOT LIABLE FOR ACTS OR OMISSIONS OF FAIR OR OTHERS:

21. City shall in no way be liable for any acts or omissions of Fair, any agent or contractor employed by Fair, or any person furnishing labor and/or materials used in or related to the construction of said improvements.
TIME OF THE ESSENCE:

22. Time is of the essence of this agreement and of each and every provision hereof. The waiver by City of any breach or breaches hereof shall not be deemed, nor shall the same constitute, a waiver of any subsequent breach or breaches.

SUCCESSORS AND ASSIGNS, AND INTEGRATED AGREEMENT:

23. This agreement is made for the sole benefit and protection of Fair and City, and City’s successors and assigns, and no other person shall have any right of action or right to rely thereon. This agreement and the other executed loan documents contain all of the terms and conditions agreed upon between Fair and City, and no other
agreement regarding the subject matter thereof shall be deemed to exist or bind any party unless in writing and signed by the party to be charged.

NO MODIFICATION OR CHANGE IN THIS INSTRUMENT SHALL BE VALID UNLESS APPROVED IN WRITING BY AN OFFICER OF CITY.

Executed this 7th day of September, 2010

TULARE COUNTY JUNIOR LIVESTOCK SHOW AND COMMUNITY FAIR

John A. Corkins, President
Dennis Sexton, Vice President

Approved as to form:

By:
Legal Counsel

CITY OF PORTERVILLE

Ronald L. Irish, Mayor
Cameron Hamilton, Vice Mayor

Approved as to form:

By: Julia M. Law, City Attorney
LICENSE AND DEVELOPMENT AGREEMENT
(Porterville, California)

THIS PROPERTY LICENSE AND DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of this 10TH day of December 2009, by and between the CITY OF PORTERVILLE (the "City"), a municipal corporation, and TULARE COUNTY JUNIOR LIVESTOCK SHOW AND COMMUNITY FAIR ("Fair"), with respect to the following:

WHEREAS, the City is the owner of an approximate 37± acres of land, located in the City of Porterville, County of Tulare, State of California, more particularly described on Exhibits A-1 and A-2 attached hereto and depicted as the “Property.” The Property is currently a part of the Porterville Municipal Airport.

WHEREAS, the Fair desires an exclusive License for the approximate 15 acres of land depicted on Exhibit A-1, and referenced as Parcel 1, to develop as a Fairplex (community fair); and

WHEREAS, the Fair desires to utilize the approximate 10 acres of land depicted on Exhibit A-2, and referenced as Parcel 2, to be used for parking, staging, and a carnival midway during the period of May 1 through June 1 annually, and used throughout the year by the Fair for general uses until such time as the City begins construction, development, or usage of the property whereas the terms of use by the Fair will be modified, but not be unduly limited or eliminated. Such development will be mutually complementary; and

WHEREAS, the City is willing to enter into a License with the Fair under the terms and conditions set forth below.

ACCORDINGLY IT IS AGREED:

PART 1
LICENSE, TERM, OPTION TO EXTEND, HOLDOVER, ASSIGNMENT, SUBLICENSING

1.1 License.
The Fair will obtain a License of the Premises located in the City of Porterville, County of Tulare, California, depicted on Exhibit A-1, from the City on the terms and conditions set forth below.

1.2 Licensee’s Usage Date and Terms
The Fair will be entitled to exclusive use of Parcel 1 of the Premises on the date to be mutually agreed upon by the Fair and the City. If the Fair commences utilization of the Premises on other than the first day of a calendar month, the initial term will consist of the unexpired portion of the calendar month in which the Fair holds the license of the
Premises plus fifty (50) full years from the first day of the calendar month immediately following. The anniversary date will be the first day of the first full month of the term.

1.3 Licensee's Option to Extend Term
Provided Fair is not then in default of this License at maturity of the initial term, the Fair is granted the option to extend this License for a period of two (2) fifty (50) year extensions. In the event the property is not released from FAA obligations at the end of the initial term, said extensions may be subject to Federal approval.

1.4 Assignment and Sublicensing
The Fair may not assign this Agreement to any organization, nor shall the Fair grant any sublicenses inconsistent with the uses allowed in Section 3.1, without the prior written consent of the City, which consent will not be unreasonably withheld.

PART II
LICENSE FEE

2.1 Amount
The Fair will pay the following License Fee to the City for the exclusive use and occupancy of the Property.

2.1.1 Annual License Fee

2.1.1.1 Tier 1
The Fair acknowledges that the property is under the purview of the Federal Aviation Administration (FAA) and, as such, commands an annual license fee equal to fair market value for the property. Therefore, until such time as the land is released from FAA obligations, the annual license fee shall be the sum of $13,500. In the event the Fair takes use of the Property on a day other than the first day of the month, the annual license fee shall include payment of $37.00 per day for any unexpired portion of the calendar month in which the Fair has possession of the Property. License Fees shall be paid in annual installments on the anniversary date.

The City agrees to provide annual license fee assistance in an amount not to exceed $13,500 during the license period of the Fair. The assistance is provided from the Porterville Municipal Airport fund as a credit against the debt owed from the Airport to the City. Said assistance shall be available to the Fair for a period not to exceed ten (10) years or until such time as the Fair either (a) purchases the property from the City or (b) is no longer operating at the site.

2.1.1.2 Tier 2
Upon release of the property from FAA purview, the annual license fee shall be reduced to $1.00 per year for the remainder of the term of this License and any extensions thereof. Said reduction shall be effective upon the first
anniversary date following the release from the FAA. There shall be no proration nor shall there be any refund of license fees.

2.1.2 Place of Payment
The Fair will pay all license fees at the City of Porterville Finance Department, located at 291 North Main Street, Porterville, California 93257

PART III
USE OF PREMISES

3.1 Allowed Uses
The Fair and the Fair’s sublicensees will use the Premises to:

- Provide a venue for junior exhibitors of livestock, agricultural products, handicrafts, and other artistic works; and
- Provide a source of community entertainment, as well as a showplace for local businesses, civic groups, and youth groups; and
- Provide a venue for local community groups to participate in community service.

The Fair will use the Premises in compliance with all laws, ordinances, and other governmental regulations now in force or which may hereafter be in force relating thereto, including, but not limited to all building, safety, and public health requirements and regulations. Additionally, at no profit to the Fair, the Fair will make every effort to support the use of the fairgrounds by all community oriented and/or non-profit organizations. These organizations may include, but are not limited to, 4-H Clubs, Future Farmers of America Chapters, Comision Honorifica Mexicana-Americana, Inc., and other community service organizations.

3.2 Prohibited Uses
The Fair will not commit or permit the commission of any acts on the Property that:

1. Increase the City’s existing rates for, or causes the cancellation of any fire, casualty, liability, or other policy of Lessor insuring the Premises or its contents; or
2. Violate or conflict with any law, statute, ordinance, or governmental rule or regulation, where now in force or hereafter enacted, applicable to the Premises; or
3. Constitute waste on the Premises, or the maintenance of a nuisance as defined by the laws of California; or
4. Adult oriented business or residual uses will not be allowed.
PART IV
DEVELOPMENT OBLIGATIONS

4.1 Development Assistance

4.1.1 To assist with the relocation of the Fair to Parcel 1 of the City-owned property described on Exhibit A-1, the City agrees to provide financial assistance to the Fair from the proceeds of the sale of the Olive Street site upon which the Fairgrounds is currently located. Said assistance shall be the net proceeds from the property sale, exclusive of brokerage, escrow, and other related fees, and is subject to the terms and conditions set forth in this Agreement. The proceeds of the assistance may be utilized by the Fair for relocation, construction of facilities, and related costs. No portion of the assistance may be allocated to costs relating to the operation of the Fair.

4.1.2 It is anticipated that the Fair and the City will prepare an application for tax-exempt bonds through California Communities, or a similar organization, in an amount supportable by a capital fund raising campaign for the construction of facilities. Said amount of bonding shall not exceed Two Million Dollars ($2,000,000.00).

4.2 Development of Parcel 1 (Exhibit A-1) Fair agrees to construct upon Parcel 1 those improvements that are related to fair activities. Improvements may be made in Phases as set forth below:

Phase 1
Site Preparation
Installation of On-Site Infrastructure
Construction of Multipurpose Building #1
Construction of Livestock Barn
Construction of Rabbit Barn/Livestock Office
Construction of Outdoor Stage (2)
Construction of 100' x 200' Entertainment Area
Storage for Pens, Panels, and Livestock Parking
Preparation of Area for “Kiddie Land”
Restroom (1)
Ticket Booth(s)
Concession Stands
Bank of the Sierra Structure
Fire Lanes
Site Landscaping and Irrigation
Parking Lot along Teapot Dome Avenue

Phase 2
Construction of Livestock Barn
Construction of Livestock Parking
Pen and Panel Storage Area
Restroom #2
Phase 3
Construction of Multipurpose Building #2

4.2.1 Fair will submit plans for Project Review Committee review.
4.2.2 Fair will submit complete plans for issuance of building permit for the initial phase within six (6) months from date of this Agreement.
4.2.3 City Connection Fees (Impact Fees) including Trunk Line Sewer Fees, Treatment Plant Fees, Sewer Connection Charges, Water Trunk Fees, Water Connection Fees, Street Light Fees, Storm Drainage Fees, Fire Hydrant Fees, Transportation Impact Fees, Frontage Improvement Valuation Threshold, and Park Impact Fees will be calculated for the project. Said fees shall be deferred while the site remains under the ownership of the City. In the event that the Fair acquires ownership of the site, fees shall become due and payable to the City. Furthermore, Fair shall have the option to enter into a Development Fee Payment Plan for the payment of said fees.
4.2.4 Fair will be responsible for all fees related to the issuance of a building permit, with the exception of those fees identified in Section 4.2.3 above. Fair shall have the option to enter into a Development Fee Payment Plan for the payment of said fees.
4.2.5 Fair will be responsible for utility connections and associated fees.
4.2.6 Concurrent with the Agreement, Fair will apply for an alcohol agreement, which shall not be unreasonably withheld. Fair desires to utilize an “Adult Refreshment Area” concept to keep the consumption of alcohol within contained areas and away from the general public. A copy of said agreement is included as Exhibit B.
4.2.7 City hereby agrees to expedite the issuance of the building permit for the Project in order that the building permit or comments will be available within fourteen (14) days of submittal of complete building plans, inclusive of electrical and plumbing plans.
4.2.8 City will provide water and sewer services to the property boundary.
4.2.9 City will make every effort to obtain approval for the release of land from the purview of the Federal Aviation Administration within twelve months from the date of this Agreement. All fees and expenses related to the FAA release will be the responsibility of the City.

4.3 Development of Parcel 2 (Exhibit A-2)
4.3.1 City anticipates developing Parcel 2 for shared use by the City, Fair, and other public/governmental use. Future use may include a training/entertainment center.
4.3.2 City will provide the Fair exclusive use of all or a portion of Parcel 2 for the thirty-day period surrounding the annual fair, and may be used by the Fair throughout the year for general uses until such time as the City begins construction, development, or usage of the property. Fair will provide insurance pursuant to Section 7 of this Agreement for the use of this parcel.
4.3.3 In conjunction with development of Phase I by the Fair, Fair may perform site improvements to Parcel 2. Site work is subject to reimbursement to the Fair upon future development of Parcel 2 by the City, or within four (4) years from the date of the completion of mutually agreed upon improvements, whichever occurs first.

4.3.4 City will install curb, gutter, sidewalk, and street paveout along Teapot Dome Avenue.

4.4 Other Obligations

4.4.1 City agrees to allow the Fair use of a portion of City's Sports Complex as indicated on Exhibit C located on Scranton Avenue during the thirty-day period surrounding the fair week each year for overflow parking.

4.4.2 Fair will provide insurance pursuant to Section 7 of this Agreement for times that the Fair is utilizing the Sports Complex for overflow parking.

4.4.3 City will prepare and record parcel maps for Parcels 1 and 2 as shown on Exhibit A-1 and A-2.

4.4.4 Fair agrees to grant City access to drill a water well(s) as may be deemed necessary by the City. Location(s) of water well(s) will be mutually agreed upon by City and Fair and shall be situated so as not to interfere with Fair operations.

PART V
MAINTENANCE, REPAIR, AND UPKEEP

5.1 Licensee's Responsibilities
Maintenance, repair, and upkeep of the grounds and buildings on Parcel 1 will be solely the responsibility of the Fair. All portions of Parcel 1 shall be kept free and clear of weeds and debris until developed.

5.2 Licensor's Responsibilities
Maintenance, repair, and upkeep of the grounds and buildings on Parcels 2 and 3 will be solely the responsibility of the City. All portions of Parcels 2 and 3 shall be kept free and clear of weeds and debris until developed.

PART VI
UTILITIES

6.1 Licensee's Responsibilities
Fair shall be responsible for and will pay for all utilities and services furnished to the Property identified on Exhibit A-1, including gas, electricity, telephone, water, trash collection, and all related connection charges.

6.2 Licensor's Responsibilities
City shall be responsible for and will pay for all utilities and services furnished to the Properties identified on Exhibit A-2 and A-3, including gas, electricity, telephone, water, trash collection, and all related connection charges.
PART VII
INSURANCE

7.1 Licensee’s Insurance
The Fair, at its own expense, shall procure and maintain, throughout the term of this License, public liability insurance including bodily injury and property damage insuring the Fair and the City with minimum coverage as follows:

- $1,000,000 for personal injury for each person
- $1,000,000 for personal injury or death of two or more persons in each accident or event.

The policy must contain, or be endorsed to contain, the following:

City of Porterville
The City of Porterville, its officers, employees, agents and subtenants must be covered as additional insured as respects liability arising out of activities performed by or on behalf of Lessee, and premises owned, occupied or used by Lessee. The coverage must contain no special limitations on the scope of protection afforded to the City, its officers, employees, or agents.

The Fair shall also procure and maintain, at its expense, throughout the term of this License, insurance against loss or damage to any structures constituting any part of the demised Premises, by fire and lightning, with extended coverage insurance.

The Fair will provide the City with a certificate or certificates of coverage showing the policy or policies are issued by insurers permitted to conduct business in the State of California.

The policy must not be suspended, voided, canceled, or reduced in coverage or in limits, except after 30 days prior written notice has been given to the City.

PART VIII
TERMINATION FOR CAUSE

8.1 Cause.
Either party may terminate this Agreement for cause without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement. Cause for the purpose of this Agreement exists if a party:

(a) is adjudged a bankruptcy; or
(b) becomes insolvent or has a receiver appointed; or
(c) makes a general assignment for the benefit of creditors; or
(d) suffers any judgment which remains unsatisfied for 90 days, and which
would substantively impair the ability of the judgment debtor to perform
under this Agreement; or
(e) materially breaches this Agreement.

8.2 Notice to Defaulting Party.
For any of the above occurrences except item (e), 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 only after the failure of the defaulting
party to remedy the breach within 90 calendar days of delivery of a written notice specifying the nature of the breach. If the breach is not remedied within that 90-day period, the non-defaulting party may terminate this Agreement by delivering a further written notice specifying the date of the termination. If the nature of breach is such that it cannot be cured within the 90-day period, the defaulting party may deliver a written proposal to the non-defaulting party 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 will not be unreasonably withheld, the defaulting party will immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate after delivering a written notice specifying the date of termination.

8.3 Delivery of Notices
Notices given under Section 8.2 will be deemed delivered as provided in Section 9 below.

8.4 Ownership of Improvements
Upon termination of this Agreement, City shall have the option of purchasing any
structures, fixtures, signs, or other improvements made upon the site by Fair over the
term of this Agreement. City agrees to reimburse Fair for those improvements being
purchased by City an amount determined to be the appraised value at the termination period, less the original financial assistance provided to Fair as stated in Section 4.1 of this Agreement. Fair shall be responsible for the removal of all structures, fixtures, signs, and other improvements not acquired by City and shall restore the premises to the same condition as that existing prior to the erection or installation of improvements. Should the Fair fail or refuse to remove improvements, City may do so at Fair's sole cost and expense.

8.5 Obligations Surviving Termination
Termination of this Agreement will 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.
PART IX
NOTIFICATIONS

9.1 All notices or other communications required or permitted hereunder shall be in writing, and may be personally delivered or sent by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

To City: City of Porterville
291 N. Main Street
Porterville, CA 93257
Attn: City Clerk

To Fair: Tulare County Junior Livestock Show and Community Fair
P.O. Box 369
Porterville, CA 93258
Attn: President

subject to the right of a party to designate a different address for itself by notice similarly given. Any notice so given by United States mail shall be deemed to have been given on the second business day after the same is deposited in the United States mail as above provided. Any notice not so given by registered or certified mail shall be deemed given upon receipt of the same by the party to whom the same is given.

PART X
AIRPORT DISCLOSURE STATEMENT

10.1 Notice of Airport in Vicinity: The subject property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Fair may wish to consider what airport annoyances, if any, are associated with the property before completing this transaction and determine whether they are acceptable.

10.2 Notice of Intent to Record Restrictive Covenant: It is the intent of the City of Porterville to record a Restrictive Covenant upon all City-owned property within the Airport Development Area concurrent with this Agreement. A draft of said Covenant is shown as Exhibit D.

PART XI
MISCELLANEOUS PROVISIONS

11.1 Quiet Enjoyment
Upon payment of the license fees and the performance of all the terms, covenants, and conditions by the Fair to be performed as herein provided, the Fair will be allowed to
peaceably and quietly hold and enjoy the premises during the term of this license, or any extended term thereof.

11.2 Surrender
The Fair will peaceably surrender use of the Premises upon the expiration or other termination of this License, and will return the Premises to the City in as good a condition as when received, reasonable wear and tear and damage from the elements excepted, except for so much of said Premises as may be injured or destroyed by fire, earthquake or other casualty not the fault of the Fair.

11.3 Addenda
This Agreement may be modified, amended, or terminated at any time by mutual consent in writing of the parties hereto in the form of an Addendum to the Agreement.

11.4 Entire Agreement Represented
This Agreement represents the entire understanding between the City and the Fair 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, waived, or repealed without the written consent of both parties.

11.5 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.

11.6 Interpretation
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.

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

11.8 Governing Law
This Agreement will 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 will be brought in Tulare County California. The City waives the removal provisions of California Code of Civil Procedure Section 394.

11.9 Waivers
The failure of either party to insist on strict compliance with any provision of this Agreement will 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 will not be considered to be a waiver of any preceding breach of the Agreement by the other party.
11.10 Exhibits and Recitals
All Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

11.11 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 regulations governing its subject, the conflicting provision will 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 will continue in full force and effect. If either party, exercising its sole discretion, elects to defend this Agreement against a third party suit alleging any invalidity in this Agreement, they must do so at their own expense.

11.11.1 Legal Fees
In the event that an action shall be instituted by either party hereto for the enforcement of any of its rights or remedies in or under this Agreement, the party in whose favor judgment shall be rendered therein shall be entitled to recover from the other party all costs and expenses incurred by said prevailing party in said action, including reasonable attorney's fees as fixed by the court therein.

11.12 Further Assurances
Each party will execute any additional documents and will perform any further acts which may be reasonably required to affect the purposes of this Agreement. The Fair will, on request by the City, execute appropriate estoppels certificates and attornments in favor of any trust deed holders or encumbrances.

11.13 Assurances of Non-discrimination
The Fair will not discriminate in employment or the performance of the Work or in the provision of services called for under this Agreement on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

The Fair herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this License is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein licensed nor shall the lessee himself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein licensed.
11.14 Licensor’s Right to Enter to Inspect and Post
The Fair will permit the City and its agents to enter upon the Premises at all reasonable times for the purpose of posting notices of non-responsibility for alterations or additions made by the Fair, or for the purpose of inspecting the Premises.

11.15 Brokers
All negotiations relative to this Agreement have been carried out directly by representatives of the City and the Fair without the participation of brokers, and each party represents to the other that there are no unpaid broker’s fees in connection with this Agreement.

11.16 Successors and Assigns
This Agreement is binding on and will inure to benefit the successors and assigns of the parties, but nothing in this section shall be construed as consent by the City to any sublicense or assignment by the Fair if such consent is otherwise required by the terms of this Agreement.

11.17 Representations of Authority
Each party executing this Agreement represents and warrants to the other parties that the party has full power and authority to execute and deliver this Agreement in the manner contemplated hereby and that this Agreement is binding upon the party in accordance with its terms.

11.18 Venue
If either party initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that the venue thereof shall be the County of Tulare, State of California. Fair hereby waives any rights it might have to remove any such action pursuant to California Code of Civil Procedure Section 394.

11.19 Counsel
The parties represent and warrant that this Agreement has been freely negotiated and has been reviewed by each party’s respective legal counsel.

11.20 Duplicate Originals
This Agreement will be executed in duplicate originals.

11.21 Time is of the Essence
Time is of the essence for this Agreement.

---

**PART XII**

**REPRESENTATIONS AND WARRANTIES OF CITY**

City hereby makes the following representations and warranties to and agreements with Fair, which are true as of the date hereof, which shall be true as of the date of the License, which are not intended to replace or limit in any manner any express or implied warranty provided under the applicable law and which, except to the extent they relate to events or
circumstances occurring or arising after the License, shall survive the License. Fair shall be entitled to rely upon said representations and warranties notwithstanding Fair's inspections and investigations:

12.1 As of the date of License, City has complied or will comply with all applicable federal, state or local laws, regulations, ordinances or orders and has completed all proceedings or other actions necessary to complete the License and all of the transactions contemplated by this Agreement and the Annual License Fee reflects the fair market License value of the Property as of the date of this Agreement. There are no unrecorded liens or encumbrances affecting the Property and no person or entity has any right, title or interest in or to the Property other than City.

12.2 City has not received notice of, nor does City have any knowledge of, any pending or threatened action of governmental proceeding in eminent domain, zoning change or other proposed change, nor does City know of any fact which might give rise to any such proceeding, nor does City know of any other type of existing or intended use of any adjacent or nearby real property which might adversely affect the use of the Property for Fair purposes.

12.3 There are not presently pending any assessments by any governmental entity or public utility (other than for annual ad valorem real property taxes) of any nature with respect to the Property or any part of the Property. No property tax with respect to the Property is delinquent, and all requirements of all insurance policies with respect to the Property have been, and are being, fully complied with.

12.4 As of the date of the License, there shall be no easements, licenses, leases or tenancies of any type on the Property or any portion of the Property except those approved by Fair in accordance with this Agreement.

12.5 There are no encroachments upon the Property or any portion of the Property or any easement, appurtenance or other interest in the Property except those existing utilities above and below ground surface that are to remain in service. No improvements located on the Property encroach upon any property adjacent to the Property or upon any easement, building setback line, appurtenance or other interest in real property except as shown on the Preliminary Title Report, dated July 7, 2009, and shown as Exhibit E.

12.6 There are no liens or encumbrances against the Property for work performed or commenced or material supplied with respect to the Property, nor can there be claimed against the Property any such lien.

12.7 There is no suit or arbitration, bond issuance or proposal for bond issuance, proposals for public improvement assessment, pay-back agreement, paving agreement, road expansion or improvement agreement, utility moratorium, use moratorium, improvement moratorium, license fee increase moratorium, or legal, administrative or other proceeding or governmental investigation or requirement, formal or informal, existing or pending or threatened which affects the Property or which adversely affects
Fair's ability to develop the Property for Fair purposes, or which imposes any other charge or expense upon, or relating to, the Property which has not been disclosed to Fair in writing prior to the date of this Agreement, or, in the case of any such requirement, fully complied with.

12.8 City has no knowledge, nor has City received notice of any environmental rule, order or regulation which would adversely affect the commercial development on the Property.

12.9 This Agreement is a valid obligation of City and is binding upon City in accordance with its terms.

12.10 This Agreement, when executed by City, shall have been duly and properly executed and neither the execution of this Agreement nor the consummation of the transactions contemplated by this Agreement will constitute:

(i) a default or an event which with notice or the passage of time or both would constitute a default under, or a violation or breach of, any indenture, license, lease, franchise, mortgage, deed of trust or other instrument or agreement to which City is a party or by which City, or City's property, including without limitation, the Property, may be bound, or

(ii) an event which would permit any party to any agreement or instrument affecting the Property or affecting City's ability to perform its obligations under this Agreement to terminate it, or permit the holder of any indebtedness to accelerate its maturity, or

(iii) a violation of any statute, order, rule or regulation applicable to City or any portion of the Property.

12.11 After the date of this Agreement, City shall not undertake any work on the Property which may result in the creation of a mechanic's lien on the Property or any portion of this Property.

12.12 City has no knowledge of any adverse geological or soil condition affecting the Property.

12.13 No portion of the Property lies within a flood plain designated by the federal, state or local government.

PART XIII
FIRST RIGHT OF REFUSAL

13.1 In the event the City obtains the release of land from purview of the Federal Aviation Administration and desires to sell the released land, Fair shall have the First Right of Refusal for Parcel 1 and Parcel 2.
13.2 Purchase Price
The purchase price shall be established by the fair market value of the land at the time of
the transaction as set forth in an appraisal obtained by the City from a licensed appraiser.

13.3 Lapse of Option
If at the time of offer of land for sale, the Fair is no longer operating upon Parcel 1, this
First Right of Refusal shall automatically terminate.

13.4 Purchase and Sale
In the event the City makes an offer to sell the property, and the Fair accepts said offer, then the parties shall open an escrow (the "Option Escrow") with the Escrow Holder. The Escrow shall close fifteen days after the date of the exercise of the Option (the "Option Closing Date"). Prior to the Option Closing Date, City shall deposit a fully executed and acknowledged Grant Deed conveying the Property to the Fair. If the Option Escrow is in a position to close on the Option Closing Date (or as soon thereafter as is possible but in no event later than 30 days following the option Closing Date), Escrow Holder shall deliver to Fair the Grant Deed by depositing the same with the County Recorder of the County of Tulare, California, with instructions to record the same and thereafter to mail the same to Fair and shall deliver to City funds in the amount as agreed upon as the fair market value of the property. City shall bear the fee for recordation of the Grant Deed, one-half of the Escrow Holder's fee and any additional charges customarily charged to sellers in Tulare County. Fair shall bear the documentary transfer tax required, one-half of Escrow Holder's fee and any additional costs and charges customarily charged to buyers in Tulare County.
IN WITNESS WHEREOF, the parties have executed this Agreement as of the
day and year first written above.

APPROVED AS TO FORM:

CITY:

CITY OF PORTERVILLE
a Municipal Corporation

BY: ____________________________
    Pete V. McCracken, Mayor

BY: ____________________________
    John D. Lollis, City Clerk

FAIR:

Tulare County Junior Livestock
Show and Community Fair

BY: ____________________________
    John Corkins, President

BY: ____________________________
    Dennis Sexton,
    First Vice President
SUBJECT: AWARD OF CONTRACT – OAK AVENUE TRANSPORTATION ENHANCEMENT (TE) PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On November 18, 2014, staff received six (6) bids for the Oak Avenue Transportation Enhancement (TE) Project. The proposed project consists of enhancing sidewalk along the south side of Oak Avenue between Main Street and the Rails to Trails Parkway east of Fourth Street. The project includes red brick stamped concrete sidewalk pattern, street trees, benches, trash receptacles and nostalgic street lights that match the Main Street downtown theme and an artistic mural.

The bids are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Hobbs Construction</td>
<td>$397,809</td>
</tr>
<tr>
<td>Fresno, CA</td>
<td></td>
</tr>
<tr>
<td>2. Dawson-Mauldin Construction</td>
<td>$451,288</td>
</tr>
<tr>
<td>Huntington Beach, CA</td>
<td></td>
</tr>
<tr>
<td>3. JT2 Inc. DBA Todd Co</td>
<td>$451,629</td>
</tr>
<tr>
<td>Visalia, CA</td>
<td></td>
</tr>
<tr>
<td>4. DOD Construction</td>
<td>$460,429</td>
</tr>
<tr>
<td>Bakersfield, CA</td>
<td></td>
</tr>
<tr>
<td>5. Breneman Inc.</td>
<td>$495,150</td>
</tr>
<tr>
<td>Walnut Creek, CA</td>
<td></td>
</tr>
<tr>
<td>6. Lee’s Paving</td>
<td>$589,435</td>
</tr>
<tr>
<td>Visalia, CA</td>
<td></td>
</tr>
</tbody>
</table>

The Engineer’s Estimate of Probable Cost presented to City Council on October 7, 2014, was $445,078.71. Costs associated with SCE street lights and the Subway building mural were included in the estimate and will or have been paid by the City. These costs have been removed from the Engineer’s Estimate previously presented to Council and as a result, the Engineer’s Estimate for the installation of sidewalk, street trees, benches and nostalgic street lights is $352,942. With this adjustment, the low bid is 11.28% higher than the Engineer’s Estimate.
An additional $39,780.90 is needed for the construction contingency (10%) and an additional $29,835.60 (7.5%) is needed for construction management, construction staking, quality control, and inspection services for a total estimated project cost of $467,425.50. Again, this amount excludes street lights and the mural. The project is partially funded by a Transportation Enhancement Grant in the amount of $224,000. The City must award the contract and present grant acceptance documents to Caltrans by December 13, 2014.

The Transportation Enhancement Funds combined with the fiscal year 2014/2015 allotment of Measure R and Local Transportation Funds finances 90% of the project. An additional $44,867 is needed to fully fund the project should the Council choose to move forward with the project. Unused Local Transportation Funds are available to cover the $44,867 request.

RECOMMENDATION: That City Council:

1A. Award the Oak Avenue Transportation Enhancement (TE) Project to Hobbs Construction in the amount of $397,809;

B. Authorize a 10% contingency to cover unforeseen construction costs;

C. Authorize 7.5% for construction management, construction staking, quality control and inspection;

D. Direct the Finance Director to re-appropriate $44,867 of unused Local Transportation Fund funds to this project; OR

2. Reject all bids per past Council practice and direct the Public Works Director to notify TCAG and Caltrans that the City will not be accepting the Transportation Enhancement Grant.

ATTACHMENT: October 7, 2014, Engineer’s Estimate of Probable Costs
Locator Map
### Exhibit 12-A (Equivalent)

**Preliminary Estimate of Cost**

**CITY OF PORTERVILLE**

**OAK AVENUE TE GRANT PROJECT**

<table>
<thead>
<tr>
<th>PART A: CTE Project</th>
<th>PART B: City Project</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ITEM NO.</strong></td>
<td><strong>DESCRIPTION</strong></td>
</tr>
<tr>
<td>1</td>
<td>Mobilization and Demobilization</td>
</tr>
<tr>
<td>2</td>
<td>Traffic &amp; Pedestrian Control</td>
</tr>
<tr>
<td>3</td>
<td>Maintenance Program for Storm Water Pollution Prevention Plan (SWPPP) and Construction Site Measures</td>
</tr>
<tr>
<td>4</td>
<td>Clearing, grubbing &amp; demolition</td>
</tr>
<tr>
<td>5</td>
<td>Earthwork, Grading, &amp; Compaction</td>
</tr>
<tr>
<td>6</td>
<td>Signing, Striping, &amp; Pavement Markings</td>
</tr>
<tr>
<td>7</td>
<td>Furnish &amp; Install 0&quot; Bench</td>
</tr>
<tr>
<td>8</td>
<td>Furnish &amp; Install Trash receptacle</td>
</tr>
<tr>
<td>9</td>
<td>Furnish &amp; Install 4&quot; Thick Concrete (includes standard sidewalk, concrete band)</td>
</tr>
<tr>
<td>10</td>
<td>Furnish &amp; Install 6&quot; Thick Concrete (sidewalk behind drive approaches)</td>
</tr>
<tr>
<td>11</td>
<td>Furnish &amp; Install 4&quot; Thick Colored Stamped Sidewalk</td>
</tr>
<tr>
<td>12</td>
<td>Furnish &amp; Install Drive Approach (includes curb &amp; gutter)</td>
</tr>
<tr>
<td>13</td>
<td>Furnish &amp; Install Drive Approach per Modified City Std. C-20K Commercial/Office Drive Approach</td>
</tr>
<tr>
<td>14</td>
<td>Furnish &amp; Install 10’R ADA Ramp (includes truncated domes)</td>
</tr>
<tr>
<td>15</td>
<td>Furnish &amp; Install Hot Mix Asphalt Concrete</td>
</tr>
<tr>
<td>16</td>
<td>Furnish &amp; Install Class 2 Aggregate Base</td>
</tr>
<tr>
<td>17</td>
<td>Furnish &amp; Install Detectable Warning Surface</td>
</tr>
<tr>
<td>18</td>
<td>Pavement Patching</td>
</tr>
<tr>
<td>19</td>
<td>Furnish &amp; Install Vee Gutter</td>
</tr>
<tr>
<td>20</td>
<td>Furnish &amp; Install Cross Gutter</td>
</tr>
<tr>
<td>21</td>
<td>Furnish &amp; Install 8&quot; Wide Retaining Curb</td>
</tr>
<tr>
<td>22</td>
<td>Adjustable Water Meter to Grade</td>
</tr>
<tr>
<td>23</td>
<td>Furnish &amp; Install Tree Well (includes concrete, rebar, grate, &amp; tree guard)</td>
</tr>
<tr>
<td>24</td>
<td>Furnish &amp; Install 1-1/2&quot; Water Service (includes pavement resurfacing)</td>
</tr>
<tr>
<td>25</td>
<td>Furnish &amp; Install 1-1/2&quot; Water Meter</td>
</tr>
<tr>
<td>26</td>
<td>Furnish &amp; Install 1-1/2&quot; Gate Valve</td>
</tr>
<tr>
<td>27</td>
<td>Furnish &amp; Install Lighting System/Electrical</td>
</tr>
<tr>
<td>28</td>
<td>Furnish &amp; Install Conduits, Handholes, Pull Boxes and Appurtenances for Decorative Street Lights per SCE Plans</td>
</tr>
<tr>
<td>29</td>
<td>Furnish &amp; Install Landscaping &amp; Irrigation</td>
</tr>
<tr>
<td>30</td>
<td>Extra Cost for SCE Decorative Street Lights Cost</td>
</tr>
</tbody>
</table>

**Subtotal** | **$384,319.63** |
| **5% Contingency** | **$19,215.96** |
| **Construction Management** | **$33,908.00** |
| **Total** | **$450,443.79** |

---

**PART B: City Project**

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>QUANTITY</th>
<th>UNIT</th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>31</td>
<td>SCE cost for Standard Street lights</td>
<td>1</td>
<td>LS</td>
<td>$34,759.10</td>
<td>$34,759.10</td>
</tr>
<tr>
<td>32</td>
<td>Mural</td>
<td>1</td>
<td>LS</td>
<td>$25,000.00</td>
<td>$25,000.00</td>
</tr>
</tbody>
</table>

**City Subtotal** | **$59,759.10** |
| **10% Contingency** | **$5,975.91** |
| **Construction Management** | **$5,258.80** |
| **City Total** | **$70,993.81** |

**Combination subtotal** | **$455,078.71** |
| **10% Contingency** | **$44,907.87** |
| **Construction Management** | **$35,186.93** |
| **Combination Total** | **$538,215.53** |

Prepared by: Javier Sandoval, Asst. Cty Engineer  
Reviewed by: Michael K. Reed, City Engineer  
Reviewed by: Baldemoro S. Rodrigues, Public Works Director  
Reviewed by: John Collins, Cty Manager

Date: 09/13/2014  
Date: 09/23/2014  
Date: 10/01/14