

**CITY COUNCIL AGENDA  
CITY HALL, 291 N. MAIN STREET  
PORTERVILLE, CALIFORNIA  
NOVEMBER 5, 2013, 5:30 P.M.**

Call to Order  
Roll Call

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

**JOINT CITY COUNCIL / SUCCESSOR AGENCY TO THE  
PORTERVILLE REDEVELOPMENT AGENCY AGENDA  
291 N. MAIN STREET, PORTERVILLE, CA**

Roll Call: Agency Members/Chairman

**ORAL COMMUNICATIONS**

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

**JOINT CITY COUNCIL/AGENCY CLOSED SESSION:**

- A. Closed Session Pursuant to:
- 1-** Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: County of Tulare v. All Persons Interested in the Matter of the Addition of the 2010 Amendment to Redevelopment Plan for the Redevelopment Project Area No. 1, as Adopted by Ordinance 1765 on June 15, 2010, by the City of Porterville, et al., Tulare County Superior Court Case No. 249877.
  - 2-** Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APNs 261-122-007 and 261-122-008. Agency Negotiator: John Lollis and Brad Dunlap. Negotiating Parties: Successor Agency to the Porterville Redevelopment Agency and Porterville Hotel Investors. Under Negotiation: Terms and Price.

During Closed Session, the Joint Council/Successor Agency Meeting shall adjourn to a Meeting of the Porterville City Council.

**CITY COUNCIL CLOSED SESSION:**

- B. Closed Session Pursuant to:
- 1 -** Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: City of Porterville v. County of Tulare et al., Tulare County Superior Court No. 249043.
  - 2-** Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: A 30.57 mile line of railroad between Strathmore, CA milepost 268.60 and Jovista, CA milepost 299.17 in Tulare County, particularly that portion of the railroad line within the limits of the City of Porterville. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Union Pacific Railroad Company. Under Negotiation: Terms and Price.



**3-** Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis, Steve Kabot, and Patrice Hildreth. Employee Organizations: Porterville City Employees Association; Public Safety Support Unit; Porterville Police Officers Association; Management and Confidential Series; Fire Officer Series; and all Unrepresented Management Employees.

**4-** Government Code Section 54956.95 – Liability Claim: Claimant: Caesar Espinoza. Agency claimed against: City of Porterville.

**5-** Government Code Section 54956.9(d)(2) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One Case concerning the May 9, 2013, written request by Tulare County Council on behalf of the Tulare County Local Community Benefit Committee for the City to return the 2011 and 2012 grant funds awarded to it totaling \$217,313.

**6-** Government Code Section 54956.9(d)(3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One Case.

**7-** Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One Case.

**8-** Government Code Section 54957 – Public Employee Performance Evaluation - Title: City Manager.

**9-** Government Code Section 54957 - Public Employee Performance Evaluation - Title: City Attorney.

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

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

Pledge of Allegiance Led by Vice Mayor Ward  
Invocation

### **PROCLAMATIONS**

Edgar Madrigal

### **PRESENTATIONS**

Outstanding Business  
Employee of the Month – Sabrina Barrios  
Introduction of New Employees

### **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) – October 21 & 24, 2013
2. Council of Cities – October 30, 2013
3. Tulare County Economic Development Corporation – October 23, 2013

### **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
4. Youth Commission – October 21, 2013
5. Charter Review Committee – October 23, 2013

II. Staff Informational Items

1. Street Performance Measure - 1<sup>st</sup> Quarter Report
2. Code Enforcement Quarterly Update
3. Attendance Records for Commissions, Boards and Committees
4. Report on Charitable Car Washes
5. Building Permit Activity
6. Invest from the Ground Up Grant Award
7. Installation of Street Lights Along North Plano Street and South Wisconsin Street
8. General Plan Referral - Tulare County Mental Health Offices

### **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. **Minutes of October 24, 2013**
2. **This item has been removed.**
3. **Authorize Parks and Leisure Services Director to Purchase Shade Structure and Playground Surfacing for Chase Avenue Park**  
Re: Considering authorization to purchase a shade structure from RCP Shelters, Inc. for an estimated cost of \$115,000; and playground surfacing from SofSurfaces for \$75,001.
4. **Authorization Contract Augmentation and Additional Work – Olive Avenue Rehabilitation Project**  
Re: Considering authorization to augment contract with Bowman Asphalt in the amount of \$47,549.13 for the removal of existing abandoned railroad improvements and constructions of a street structural section on Henderson and Oak Avenues, immediately east of Fourth Street.
5. **First Amendment to the Agreement for Transit Service Between the City of Porterville and the Tule River Indian Tribe**  
Re: Considering approval of First Amendment to Agreement for Transit Service Between the City of Porterville and the Tule River Indian Tribe to continue services through June 30, 2015; and authorizing acceptance of funding in the amount of 30% of operational costs from the Tule River Indian Tribe.



- 6. First Amendment to the Agreement for Transit Services Between the Tulare County Association of Governments and the City of Porterville**  
Re: Considering approval of First Amendment to the Agreement which clarifies that price setting of the T-Pass will be under the authority of the TCAG Board.
- 7. Authorization to Continue to Advertise for Proposals – Revenue Sharing Transit Advertising**  
Re: Considering authorization to distribute Requests for Proposals for the services of a qualified contractor to administer and carry out the day-to-day functions associated with the revenue sharing transit advertising program.
- 8. Final Ballot Results - Area 455A Sewer Utility District**  
Re: Considering acceptance of final ballot results, and adoption of a resolution approving the formation of Area 455A Sewer Utility District and Levying of the assessment.
- 9. Consideration of a Request for an Extension to CUP 2012-010; Walgreens; APNS 246-111-007, -008, and -035**  
Re: Considering adoption of a resolution approving a one year 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.
- 10. Response to California Attorney General and State Controller Concerning Letter to the Same Entities from the Tulare County Indian Gaming Local Community Benefit Committee**  
Re: Consideration of approval of the City's response concerning the Tulare County Indian Gaming Local Community Benefit Committee's request for the return of 60% nexus grant funds awarded to the City of Porterville for projects in 2011 and 2012.
- 11. Interim Financial Status Reports**  
Re: Considering acceptance of interim financial status reports for the 1<sup>st</sup> Fiscal Quarter ended September 30, 2013.
- 12. Quarterly Portfolio Summary**  
Re: Considering acceptance of the City's quarterly investment portfolio summary for the period ended September 30, 2013.
- 13. Request for Street Closure – Myers' 19<sup>th</sup> Annual Christmas Tree Memorial Service**  
Re: Considering authorization to temporarily close "E" Street, between Putnam and Cleveland, on December 10, 2013, from 5:00 p.m. to 9:00 p.m.
- 14. Consideration of Street Closure for Project Homeless Connect Outreach Event**  
Re: Considering authorization to temporarily close "B" Street between Olive Avenue and Vine Avenue on Thursday, November 7, 2013; and authorization to reroute City Transit Route 4 to use "C" Street to Vine Street.



- 15. Approval for Community Civic Event – Porterville Chamber of Commerce and Rotary Club of Porterville – Children’s Christmas Parade – December 5, 2013**  
Re: Considering approval of an annual event to take place on Thursday, December 5, 2013, from 5:00 p.m. to 9:00 p.m. on Main Street.
- 16. Approval of Proposed Proclamation – Sierra View District Hospital Volunteer League Day**  
Re: Considering approval of a request for proclamation designating November 12, 2013, as Sierra View District Hospital Volunteer League Day.
- 17. Review of Local Emergency Status**  
Re: Reviewing the City’s status of local emergency pursuant to Article 14, Section 8630 of the California Emergency Services Act.

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

#### **PUBLIC HEARINGS**

- 18. Change in Zone from D-PO (Downtown Professional Office) to DR-D (Downtown Retail – D Street Corridor) at 73 West Cleveland Avenue (PRC 2013-035-Z)**  
Re: Considering adoption of a draft ordinance approving a zone change for APN 252-186-003, located at the southeast corner of Cleveland Avenue and ‘D’ Street.

#### **SECOND READING**

- 19. Second Reading, Ordinance 1798, Approving Zone Change (PRC 2013-014-Z)**  
Re: Second Reading of Ordinance No. 1798, An Ordinance of the City Council of the City of Porterville Approving Zone Change (PRC2013-014-Z) From CG (General and Service Commercial) to IG (General Industrial) for that 10.21± Acre Site Located Generally at the Northwest Corner of North Grand Avenue and North Main Street, which was given first reading on October 15, 2013, and has been printed.
- 20. Second reading, Ordinance 1799, Amending Chapter 12, Article II: Fireworks**  
Re: Second Reading of Ordinance 1799, An Ordinance of the City Council of the City of Porterville Amending the Municipal Code, Chapter 12, Article II: Fireworks Related to Application Process, Regulations, and Penalties, which was given first reading on October 15, 2013, and has been printed.

#### **SCHEDULED MATTERS**

- 21. Request for Direction Related to Use of Cargo/Shipping Containers for Storage**  
Re: Consideration of policies pertaining to the use of cargo/shipping containers for storage
- 22. Consolidated Waste Management Authority (CWMA) Membership**  
Re: Consideration of the City’s CWMA membership for Fiscal Year 2014/2015.
- 23. Approval of Porterville Golf Course Twilight Rate**  
Re: Consideration of the proposed nine-hole twilight rates of \$5 greens fee and \$9 cart fee beginning at 2:00 p.m., Tuesday-Sunday, during the months of non-daylight savings time.



**24. Bid Results for Mathew Street Shoulder Stabilization Project**

Re: Considering rejecting all bids or awarding contract in the amount of \$316,527.70 to Lee's Paving of Visalia, CA, for the project consisting of the installation of curb and gutter, sidewalk, driveways, asphalt concrete paving, and other appurtenant construction along Mathew Street between Olive Avenue and Tomah Avenue; and the re-striping of Mathew Street between Olive Avenue and Morton Avenue.

**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 November 19, 2013.

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](http://www.ci.porterville.ca.us).



COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: STREET PERFORMANCE MEASURE – 1st QUARTER REPORT

SOURCE: Public Works Department - Engineering Division

COMMENT: The purpose of this staff report is to provide Council with an update on the progress made on street reconstruction, overlay, micro-surfacing and pothole repair efforts for the 1<sup>st</sup> quarter in FY 2013/2014.

For Council's information, the light blue bar represents staff's estimated quantity of "work" for each category. The black overlaid bar represents the quantity of work accomplished to date.

The W. North Grand Avenue Reconstruction Project has just begun and is therefore not included in this report. The project will be accounted for in the 2<sup>nd</sup> Quarter Report. The only street reconstruction project completed in the 1<sup>st</sup> quarter is Olive Avenue from Main Street to Plano Street.

RECOMMENDATION: Information Only

ATTACHMENT: 1<sup>st</sup> Quarter Street Performance Chart

P:\pubworks\General\Council\Report - Street Performance Measure - 1st Quarter Update - 2013-11-05.doc

Dir 384 Appropriated/Funded N/A CM J

Report No. II.1



Task	1000 SF	2000 SF	3000 SF	4000 SF	5000 SF	6000 SF	7000 SF	8000 SF	9000 SF	10000 SF	11000 SF	12000 SF
1. Street Reconstruction Progress Each square represents 250 LF of reconstruct street lane.	1000 LF	3000 LF	5000 LF	7000 LF	9000 LF	11,000	13,000	15000 LF				
2. Overlay Progress Each square represents 300 LF of Street Lanes	2000 LF	6000 LF	10000 LF	14000 LF	18000 LF	22000 LF	26000 LF	30000 LF	34000 LF	38000 LF	42000 LF	46000 LF
3. Micro Surfacing Progress Each square represents 1000 LF of Street Lane	4000 LF	12000 LF	20000 LF	28000 LF	36000 LF	44000 LF	52000 LF	60000 LF	68000 LF	76000 LF	84000 LF	92000 LF
4. Pot-hole Repair Progress Each Square Represents 125 SF of Pot-holes Repaired (Each Square represents Approx. 125 Pot-holes Repaired)												
Total annual effort in linear feet or square footage Completed as of September 30, 2013												



SUBJECT: QUARTERLY CODE ENFORCEMENT REPORT

SOURCE: FIRE DEPARTMENT

COMMENT: FOR INFORMATION ONLY

This informational report covers City of Porterville code enforcement activity during the third quarter of 2013, from July 1 – September 30.

During this quarter, 140 code compliance issues were recorded and assigned to departments having regulatory authority. Of these, 60 have been corrected through voluntary compliance, 14 were issued a notice of violation, and 2 administrative citations were issued.

Of the 1181 properties noticed for weed abatement this fire season, 1166 have been successfully abated by the end of September.

Attachment: Code Enforcement Statistics for July 1-September 30, 2013

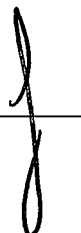
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Report No.

II-2



**CODE ENFORCEMENT ACTIVITY FROM JULY 1, 2013 TO SEPTEMBER 30, 2013**

Department	Fire	Comm. Dev.	Public Works	Finance	Parks	Police	Admin. Serv.	Current	YTD	Q3	YTD	Q3	YTD
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**Complaints Received**

Dept. Assigned	24	58	37	6	0	15	0	140	387				
Voluntary Compliance	19	15	12	1	0	13	0	60	148				
Notice of Violation Issued	14							14	45				
Administrative Citations Issued	2							2	4				

**Weed Abatement**

Weed Abatement Properties Noticed	26							26	1181	1083	1083		
Completed by Owner	172							172	1123				
Assigned to Contractor	13							13	43				
Pending	15							15	15				
Total Properties Complete	185							185	1166				

**Business License Inspections**

Business Operating Without License	9							9	49				
Voluntary Compliance	5							5	45				
Pending	4							4	4				

**Itinerant Vendor Inspections**

Voluntary Compliance	0							0	5				
Pending									0				

**Charitable Car Wash Inspections**

Voluntary Compliance	0							0	4				
Pending									0				

**Building Permit Inspections**

Building Permit Violations	0							0	3				
Voluntary Compliance	0							0	3				
Pending									0				

**YTD Voluntary Compliance by Department**

	Fire	Comm. Dev.	Public Works	Finance	Parks	Police	Admin. Serv.	Current	Current	Previous	Previous
Complaints Received	96	116	133	10	7	38	0	140	387		
Voluntary Compliance	64	20	37	2	3	18	0	60	148		

% Voluntary Compliance

66.66%    17.24%    22.66%    20.00%    42.86%    47.37%    0.00%    42.86%    37.29%



COUNCIL AGENDA – NOVEMBER 5, 2013

INFORMATIONAL REPORT

SUBJECT: ATTENDANCE REPORT FOR CITY COMMISSIONS AND COMMITTEES – 1<sup>ST</sup> QUARTER REPORT – FY 2013/14

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

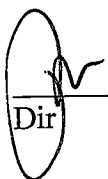
COMMENT: At the Council's request, staff is herein providing for informational purposes the attendance records as of the First Quarter FY 2013/14 for the following City Commissions and Committees:

- Parks & Leisure Services Commission;
- Library and Literacy Commission;
- Arts Commission;
- CDBG Advisory and Housing Opportunity Committee; and
- Transactions and Use Tax Oversight Committee (TUTOC)

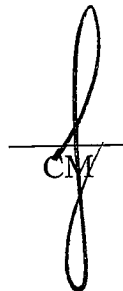
RECOMMENDATION: Informational report only.

ATTACHMENTS: Attendance Reports

Report No. II-3

  
Dir

N/A  
Approp./  
Funded

  
CM



**Parks & Leisure Services Commissioner's Record of Attendance**

	2013 July	2013 Aug	2013 Sept	2013 Oct	2013 Nov	2013 Dec	2014 Jan	2014 Feb	2014 Mar	2014 Apr	2014 May	2014 June	
	3	1	5										
Rocco Calantone	P	P	P										FT Exp 10/15
Monte Moore	E	P	P										FT Exp 10/13
Leticia Lupio	P	P	P										FT Exp 10/13
Rick Vafeades	P	E	P										FT Exp 10/13
Richard Rankin	P	P	P										PUSD Rep.
Carroll Land	P	P	P										FT Exp 10/15
Shannon Bennett	P	P	E										FT Exp 10/13
Eric Mendoza	P	P	E										
	7	7	6										

P = Present; E = Excused Absence; A = Absent; T = Tardy

**Parks & Leisure Services Commissioner's Record of Attendance**

	2012 July	2012 Aug	2012 Sept	2012 Oct	2012 Nov	2012 Dec	2013 Jan	2013 Feb	2013 Mar	2013 Apr	2013 May	2013 June	
	5	2	6	4	1*	6	3	7	7	4	2	**	
Rocco Calantone	P	P	P	P		P	P	P	P	P	P		FT Exp 10/15
Monte Moore	P	P	P	P		P	P	P	P	P	P		FT Exp 10/13
Leticia Lupio	P	P	P	E		P	P	P	A	P	A		FT Exp 10/13
Rick Vafeades	A	P	P	P		P	P	P	P	P	P		FT Exp 10/13
Richard Rankin	P	P	A	P		P	P	P	P	P	P		PUSD Rep.
Jim Carson	P	A	T	E		E	P		Resigned 2/12				FT Exp 10/15
Carroll Land	A	P	P	P		P	A	P	P	P	P		FT Exp 10/15
Shannon Bennett	Appt 8/12		P	E		P	P	P	P	P	P		FT Exp 10/13
Eric Mendoza	Appt 2/13 to fill unexpired term of J. Carson									A	P	P	
	5	6	6	5		7	7	7	7	8	7		

\* No meeting due to lack of quorum. \*\* No meeting held.

P = Present; E = Excused Absence; A = Absent; T = Tardy



# LIBRARY & LITERACY COMMISSION - Attendance Record

As of: September 30, 2013

P = Present; A = Absent; E = Excused absence; T = Tardy

■ = Summer Hiatus

	2013 June	2013 July	2013 Aug 13	2013 Sept 10	2013 Oct	2013 Nov	2013 Dec	2014 Jan	2014 Feb	2014 Mar	
Catherine May			P	P							Re-appt. 10/10
Rebecca Ybarra			T	P							Appt. 10/10
Allan Bailey			P	P							Appt. 9/11
Esther Figueroa			P	P							Appt. 4/12
Tamara Bishop			P	P							Appt. 11/12
Carol Wilkins			E	P							Appt. 11/12
Edith La Vonne			P	P							Appt. 11/12

	2012 Oct *29	2012 Nov *7	2012 Nov 13	2012 Dec 11	2013 Jan 8	2013 Feb 12	2013 Mar 12	2013 Apr 9	2013 May 14	2013 May 18**	
Joe Moreno	P										Term Expired
Ellen Nichols	T										Term Expired
Catherine May	P	P	P	P	T	P	P	T	T	P	Re-appt. 10/10
Rebecca Ybarra	P	P	P	A	P	T	A	P	A	A	Appt. 10/10
Allan Bailey	P	P	T	P	P	P	T	P	P	P	Appt. 9/11
Esther Figueroa	P	P	P	P	P	P	P	P	P	P	Appt. 4/12
Tamara Bishop		P	P	P	P	P	P	P	P	P	Appt. 11/12
Carol Wilkins		P	T	E	T	P	A	P	A	T	Appt. 11/12
Edith La Vonne		E	P	P	P	P	P	P	P	P	Appt. 11/12

\* Special Meeting with Arts Commission

\*\* Special Meeting - Board Effectiveness Training.

	2012 Jan 10	2012 Feb 14	2012 Mar 13	2012 Apr 10	2012 May 16	2012 June	2012 July	2012 Aug 14	2012 Sept 11	2012 Oct 9	
Joe Moreno	P	P	P	P	P			P	P	P	
Ellen Nichols	P	P	P	P	E			P	P	P	Re-appt. 10/09
Catherine May	P	P	P	P	P			P	T	P	Re-appt. 10/10
Rebecca Ybarra	P	P	P	P	E			T	P	T	Appt. 10/10
Mary Leavitt	P	P									Appt. 1/11; resigned 3/12
Stephanie Cortez	E	P	T	P	P			P	Res. 9/12		Appt. 1/11
Allan Bailey	P	P	P	P	P			E	P	T	Appt. 9/11
Esther Figueroa			Appt. 4/12	P	T			P	P	P	Appt. 4/12



**Arts Commission  
Attendance Records**

As of: September 30, 2013

	2012 17-Oct	2012 29-Oct*	2012 7-Nov	2012 14-Nov	2013 16-Jan	2013 20-Feb	2013 20-Mar	
Deana Worthington	P	A	P	P	A	P	P	
Rebecca Ybarra	P	P	P	P	P	P	P	
Monte Reyes	P	P	P	A	P	P	P	
Alex Schooler	A	P	P	A	A	P	P	
Joan Givan	P	P	P	P	P	P	P	
Roger Merryman	P	P	P	P	A	P	P	
Sandra Romero	P	A	P	P	P	A	A	

*\*Joint Meeting with Library & Literacy Commission*

	2013 17-Apr	2013 15-May	2013 19-Jun	2013 17-Jul	2013 25-Sep	2013	2013	
Deana Worthington	P	A	P					
Rebecca Ybarra	P	P	P			Term Expired		
Monte Reyes	P	P	P					
Alex Schooler	P	P	P					
Joan Givan	P	P	P					
Roger Merryman	A	P	P			Term Expired		
Sandra Romero	P	A	P			Term Expired		
Judith Holloway		Appointed 9/2013						
Mel Gosage		Appointed 9/2013						
Brenda Carrasco		Appointed 9/2013						



**CDBG Citizens' Advisory and Housing Opportunity Committee  
Attendance Report as of September 30, 2013**

Committee Member	Year Originally Appointed	Reg. Mtg 3/15/2010	Reg. Mtg 3/14/2011	Reg. Mtg 3/12/2012	Reg. Mtg 3/11/2013
Pat Contreras	1988	P	P	P	P
Linda Olmedo	1997	P	P	P	P
Grace Munoz-Rios	1992	P	P	P	P
Doug Heusdens	2012	N/A	N/A	P	P
John Dennis	1998	P	P	P	A
Rebecca Vigil	2008	A	P	P	A
Kelle Jo Lowe	2009	P	P	P	P

*This Committee meets on an annual basis in March.*



**Transactions and Use Tax Oversight Committee  
Attendance Records**

As of: September 30, 2013

	2011 21-Jul	2011 18-Aug	2012 4-Jun	2012 18-Jul	2012 22-Aug	2012 12-Dec	2013 13-Mar	
Gary Mekeel	P	A	A	A	A	A	A	Apptd 04/2010 thru 05/2014
Michael Pavone	A	P	P	P	A	A	Resigned	Apptd 04/2010 thru 05/2014
Adrian Monte Reyes	P	P	Term ended					Term expired 5/2012.
Khris Saleh	P	P	T	P	A	P	A	Apptd 04/2010 thru 05/2012
Charles Webber	P	P	P	P	P	P	P	Apptd 04/2010 thru 05/2014
John Simonich	P	P	P	P	P	P	P	Apptd. 01/2011 thru 05/2014.
Michael MacDonald	A	P	P	P	P	P	P	Apptd 01/2011 thru 05/2014.
Gail Lemmen	P	P	A	A	P	P	P	Apptd 09/2010 thru 05/2012.
John Dennis	P	P	P	P	P	P	P	Apptd 09/2010 thru 05/2012.
Kent D. Hopper	A	A	Term ended					Resigned 2/2012.
Margaret Stinson	Appt. 5/12		P	P	P	P	P	Apptd 05/2012.
Janet Meister	N/A	N/A	N/A	N/A	A	P	P	Apptd 08/2012.
Bill Nebeker	Appt. 2/12 to fill unexpired term of M. Pavone							Apptd. 02/12.

	2013** 23-May	2013** 30-May	2013 13-Jun	2013 8-Aug	2013	2013	2013	
Gary Mekeel	-	-	A	A	Resigned effective 8/13/13			Apptd 04/2010 thru 05/2014
Khris Saleh	-	-	A	P				Apptd 04/2010 thru 05/2012
Charles Webber	-	-	P	Resigned effective 6/30/13				Resigned 6/2013.
John Simonich	-	-	A	P				Apptd. 01/2011 thru 05/2014.
Michael MacDonald	-	-	P	P				Apptd 01/2011 thru 05/2014.
Gail Lemmen	-	-	P	P				Apptd 09/2010 thru 05/2012.
John Dennis	-	-	P	P				Apptd 09/2010 thru 05/2012.
Margaret Stinson	-	-	P	A				Apptd 05/2012.
Janet Meister	-	-	P	P				Apptd 08/2012.
Bill Nebeker	-	-	A	P				Apptd. 02/12.
Kathleen "Kat" Harris	Appt. 6/30/13			P				Apptd. 06/2013.

\*\* No meeting held due to lack of quorum.



# COUNCIL AGENDA: November 5, 2013

SUBJECT: REPORT ON CHARITABLE CAR WASHES

SOURCE: Finance Department

COMMENT: In accordance with City Council direction, staff is providing an updated report on charitable car wash permits issued during the year. Article VI, Section 15-130 of the City Code allows up to four car washes at any commercial property per calendar year and up to four car washes by a charitable organization in a calendar year. For the period January 1 to September 30, 2013, the following car washes occurred within the City.

Event Date	Name of Organization	Location of Car Wash
January 12, 2013	Helping Hands	BMK Automotive – 300 W Henderson Ave
January 19, 2013	Comision Honorifica Mexicana-Americana, Inc.	BR's Food Store – 284 W Olive Ave
January 20, 2013	Comision Honorifica Mexicana-Americana, Inc.	BR's Food Store – 284 W Olive Ave
February 2, 2013	El Granito Foundation	Express Mart & Gas – 1060 W Olive Ave
February 3, 2013	El Granito Foundation	El Gallito Market – 283 W Olive Ave
February 18, 2013	Church of God of Prophecy	Church of Good of Prophecy – 88 E Putnam Ave
March 1, 2013	First Christian Church	BR's Food Store – 284 W Olive Ave
March 2, 2013	First Christian Church	BR's Food Store – 284 W Olive Ave
March 29, 2013	MHS Environmental Science Academy	MHS Gym – 960 N Newcomb St
April 27, 2013	Pixley Church of the Nazarene	El Gallito Market – 283 W Olive Ave
May 1, 2013	Porterville Iglesia del Nazareno	Ace Cash Express -308 W Olive Ave
May 3, 2013	El Granito Foundation	El Gallito Market – 283 W Olive Ave
May 4, 2013	Porterville Area Coordinating Council	360° Performance Automotive - 1164 W Olive Ave
May 4, 2013	Central California Family Crisis Center	Five Star Realty – 19 N D St
May 5, 2013	Porterville Youth Soccer League	Roscoe Melton's Discount Tires - 921 W Olive Ave
May 8, 2013	New Life Center	New Life Center - 2012 W Morton Ave
May 11, 2013	Church of God Prophecy	Church of God Prophecy - 88 E Putnam Ave
May 11, 2013	Porterville Church of Christ	Porterville Church of God - 1000 N Newcomb St

D.D. MB Appropriated/Funded MB C.M. J

Report No. II-4



Event Date	Name of Organization	Location of Car Wash
May 11, 2013	Terra Bella American Legion	Express Mart & Gas - 1060 W Olive Ave
June 8, 2013	Terra Bella American Legion	Roscoe Melton's Discount Tires - 921 W Olive Ave
June 15, 2013	New Life Center	New Life Center - 2012 W Morton Ave
June 22, 2013	Girl Scouts of Central California South	El Gallito Market – 283 W Olive Ave
June 29, 2013	GHHS Cheerleaders	GHHS – 1701 E Putnam Ave
June 29, 2013	Porterville United Soccer	Roscoe Melton's Discount Tires - 921 W Olive Ave
June 29, 2013	First Assembly of God	O'Reilly Auto Parts – 1236 W Olive Ave
June 30, 2013	First Assembly of God	Crossfit Power House - 63 S Main St
July 6, 2013	Porterville Youth Soccer League	PetSmart – 1265 W Henderson Ave
July 6, 2013	New Life Center	Shelly's - 1616 W Olive Ave
July 20, 2013	La Mision de Jesus of Porterville	La Mision de Jesus of Porterville – 765 W Henderson Ave
July 27, 2013	Newspaper in Education Institute	Porterville Recorder – 115 E Oak Ave
August 3, 2013	Lindsay Church of God	O'Reilly Auto Parts – 1236 W Olive Ave
August 4, 2013	Fraternal Order of Eagles	Fraternal Order of Eagles – 97 E Henderson Ave
August 7, 2013	Porterville Pregnancy Resource Center	O'Reilly Auto Parts – 1236 W Olive Ave
August 10, 2013	Fraternal Oder of Eagles	600 N Prospect St
August 11, 2013	Fraternal Oder of Eagles	Fraternal Order of Eagles – 97 E Henderson Ave
August 17, 2013	Monache High School Club	MHS – 960 N Newcomb St
August 24, 2013	American Cancer Society	Merle Stone – 800 W Henderson Ave
August 29, 2013	Porterville Free Will Baptist Church	CVS - 1155 W Henderson Ave
September 7, 2013	El Granito Foundation	Phillips Pool Supply – 1031 W North Grand Ave
September 7, 2013	New Hope Christian Fellowship Church	BMK Automotive – 300 W Henderson Ave
September 7, 2013	Cornerstone Assembly of God	Mahurien Dance Studio - 31 S Cloverleaf
September 7, 2013	PHS Varsity Girls Soccer	PHS – 465 W Olive Ave
September 21, 2013	Helping Hands of Porterville	BMK Automotive – 300 W Henderson Ave
September 27, 2013	Helping Hands of Porterville	O'Reilly Auto Parts – 1236 W Olive Ave
September 28, 2013	St. Anne's Bookstore	BMK Automotive – 300 W Henderson Ave

RECOMMENDATION: For information only.



COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: BUILDING PERMIT ACTIVITY – SEPTEMBER 2013

SOURCE: Public Works Department - Engineering Division

COMMENT: The Building Permit Activity Report (BPAR) presented herein to the City Council covers the month of September 2013.

The two main categories include new residential permits issued and new commercial permits issued. New residential permits issued in September 2013 (2) are the same as September 2012 (2). New commercial permits issued in September 2013 (1) are up 100% from September 2012 (0).

This year to date, new single family residential construction is up 38% from last year and new commercial construction is up 150% from last year.

RECOMMENDATION: None. Informational Only.

ATTACHMENT: September 2013 Building Permit Activity Report

P:\pubworks\General\Council\Building Permit Activity Report - 2013-11-05.doc

Dir B. G. A. Appropriated/Funded ME CM J

Report No. II.5



CITY OF PORTERVILLE - BUILDING DIVISION  
REPORT FOR THE PERIODS OF  
1/1/2012 - 9/30/2012 AND  
1/1/2013 - 9/30/2013

PERMIT	NUMBER OF PERMITS ISSUED				ACTUAL VALUATION OF PERMITS ISSUED				BUILDING FEES TOTALS FOR PERMITS ISSUED			
	SEPTEMBER 2013	SEPTEMBER 2012	THIS YEAR TO DATE	LAST YEAR TO DATE	SEPTEMBER 2013	SEPTEMBER R	THIS YEAR TO DATE	LAST YEAR TO DATE	SEPTEMBER 2013	SEPTEMBER 2012	THIS YEAR TO DATE	LAST YEAR TO DATE
NEW RESID	2	2	29	21	385,250	606,360	6,625,554	4,799,506	3,472	5,216	62,965	45,458
NEW COMM	1	0	5	2	980,000	0	10,035,267	470,000	4,743	0	30,881	9,932
RESID IMPROV	15	10	82	110	113,452	182,737	819,997	1,680,699	6,213	5,224	28,449	41,497
COMM IMPROV	5	7	51	50	157,000	362,874	15,484,642	2,600,494	1,992	4,588	55,572	25,650
OTHER	23	19	190	174	248,195	133,463	1,747,309	1,343,890	4,417	3,458	37,459	33,435
ELECT	19	11	153	97	617,681	174,796	1,648,455	1,102,609	3,700	2,226	30,368	16,217
PLUMB	33	25	299	252	1,200	0	16,224	263,800	4,050	3,574	41,404	36,616
TOTALS	98	74	809	706	2,512,778	1,460,230	36,377,448	12,260,998	28,588	24,286	287,098	209,805

	NEW DWELLING UNITS TOTALS			
	SEPTEMBER R	SEPTEMBER 2012	THIS YEAR TO DATE	LAST YEAR TO DATE
SINGLE FAMILY	2	2	29	21
TOTAL	2	2	29	21

\_\_\_\_\_  
CHIEF BUILDING OFFICIAL



**COUNCIL AGENDA: NOVEMBER 5, 2013**

**SUBJECT:** INVEST FROM THE GROUND UP GRANT AWARD

**SOURCE:** PARKS AND LEISURE SERVICES DEPARTMENT

**COMMENT:** Invest From the Ground Up (IFGU) Community Tree Planting, sponsored by Cal Fire and U.S. Forest Service Urban and U.S. Community Forestry Program, is a regional planting and education program led by California Urban Forests Council and the Western Chapter of the International Society of Arboriculture. IFGU will be organizing, training, and equipping selected tree planting partners across the San Francisco Bay Area and the Southern San Joaquin Valley to plant thousands of trees all in one day, February 15, 2014. IFGU will also be learning from partners, teaching the community about tree care, and sharing new knowledge about trees in our communities.

Parks and Leisure Services Department was awarded a grant on October 18, 2013, from the California Urban Forests Council Invest From the Ground Up Community Tree Planting Program. Many of the state's communities experience a significant deficit in tree canopy cover and the associated services and benefits delivered by trees. IFGU's goal with this program is to help address those deficits through tree planting and education and create healthier communities.

The grant award was for 30 trees to be planted along the Tule River Parkway. The types of 15 gallon trees that will be planted include: Southern Live Oaks, Holly Oaks, London Plane, Valley Oaks and Cork Oaks. Tree stakes and ties will also be provided from the grant.

Project partners for this community event will include members of the Porterville Youth Commission, PUSD Pathways students, and the Porterville Breakfast Lions Club.

**RECOMMENDATION:** Informational report only.

**ATTACHMENT:** Site map

DS Director

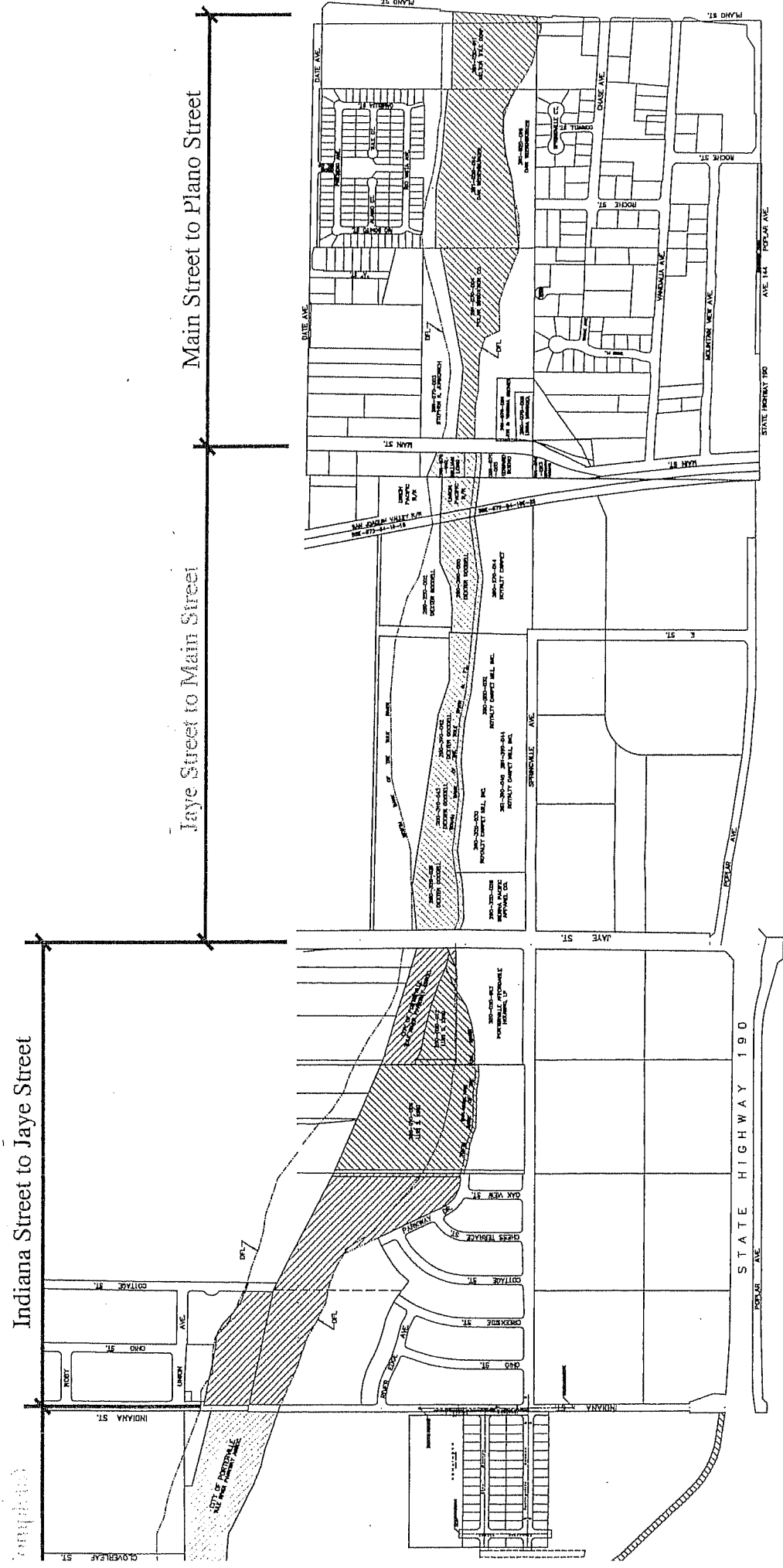
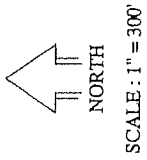
MB Appropriated/Funded

J City Manager

**Report No.:** II-6



# TULE RIVER PARKWAY PHASING MAP





COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: INSTALLATION OF STREET LIGHTS ALONG NORTH PLANO STREET  
AND SOUTH WISCONSIN STREET

SOURCE: Public Works Department - Engineering Division

COMMENT: Staff received requests from the public to install street lights along North Plano Street from Henderson Avenue to Mulberry Avenue, and along South Wisconsin Street in the vicinity of the 1100 block.

Plano Street is an arterial street and lacks street lights between Henderson Avenue and Mulberry Avenue. Staff deems it fitting that this arterial corridor receive lights.

Wisconsin Street, south of State Route 190 is approximately 3/8<sup>th</sup> of a mile long terminating at the Poplar Ditch. The request for one street light was made by the property owner who lives near the Poplar Ditch. Staff's field review at dusk of the South Wisconsin Street corridor convinced staff that it would be appropriate to install lights along the entire length of South Wisconsin Street.

Staff will present a work order to Edison to install 21 street lights as shown on the attached plans. The annual cost per street light is \$108 for a total annual cost of \$2,268. Special GasTax monies is the funding source.

RECOMMENDATION: None. Informational only.

ATTACHMENT: North Plano Street and South Wisconsin Street Light Lay-Out

P:\pubworks\General\Council\Report - North Plano & South Wisconsin Street Light Installation Plan - 2013-11-05.doc

Dir ES Appropriated/Funded MB CM J

Report No. II.7



MULBERRY AVE.

HEATHERWOOD CIR.


OLIVEWOOD CIR.

PROSPERITY CIR.

HENDERSON AVE.

PLANO STREET

SCALE: 1"=100'

NORTH 

CITY OF PORTERVILLE  
ENGINEERING DIVISION  
201 N. MAIN ST. PORTERVILLE, CALIFORNIA 93257 (559) 782-7482

DESIGNED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
DRAWN BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
CHECKED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

REVIEWED BY: \_\_\_\_\_ CITY ENGINEER \_\_\_\_\_ DATE: \_\_\_\_\_  
APPROVED BY: \_\_\_\_\_ PUBLIC WORKS DIRECTOR \_\_\_\_\_ DATE: \_\_\_\_\_

REVISION NO. \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_ DATE: \_\_\_\_\_

SHEET \_\_\_\_\_ OF \_\_\_\_\_





SCALE: 1"=150'

NORTH

**CITY OF PORTERVILLE**  
**ENGINEERING DIVISION**  
 291 N. MAIN ST. PORTERVILLE, CALIFORNIA 93257 (559)762-7482

DESIGNED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 CHECKED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

REVIEWED BY: CITY ENGINEER \_\_\_\_\_ DATE: \_\_\_\_\_  
 APPROVED BY: PUBLIC WORKS DIRECTOR \_\_\_\_\_ DATE: \_\_\_\_\_

REVISION NO. \_\_\_\_\_ DATE: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

SHEET  
 OF



CITY COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: GENERAL PLAN REFERRAL – TULARE COUNTY MENTAL HEALTH OFFICES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: Pursuant to Government Code Section 65402, Tulare County has requested General Plan conformance review of a proposed site for new offices for the Health and Human Service Agency's Mental Health programs. The request was received by the Planning Division on September 25, 2013. On October 9, 2013, the Project Review Committee discussed the matter with representatives from Tulare County. The facility would be located generally at the northeast corner of Grand Avenue and Porter Street east of the bowling alley, and is identified as Assessor Parcel Number 251-140-029. The County is required to carry out such referral prior to purchasing the site. At this time, the County is completing due diligence efforts for land acquisition; no construction has yet been proposed. The City is required to respond to such requests within 40 days or the proposal is deemed to conform to the General Plan. In order to comply with the timeframe, staff prepared a response relative to the definition of a proposed use and outlining the process to consider a future development at the site. The item is now being forwarded to the Council for informational purposes.

The subject site is located in the Commercial Mixed Use land use designation and zoning district. Staff's analysis concludes that the proposed use would be classified as a Social Service Facility, which could be allowed on the proposed site subject to approval of a Conditional Use Permit. As no development is proposed at this time, and any future development would require additional consideration by the Project Review Committee and the City Council, the County was provided a letter summarizing the process for development application.

RECOMMENDATION: Information only

ATTACHMENT:

1. Request letter from Tulare County
2. Locator Map
3. General Plan land use diagram
4. Response letter

DD 50 Approp./Funded N/A CM J Report No. II-8





# COUNTY OF TULARE

## GENERAL SERVICES/PROPERTY MANAGEMENT

5953 S. Mooney Blvd.  
Visalia, CA 93277

Phone: 559-624-7240  
Fax: 559-624-1022

RECEIVED

September 23, 2013

SEP 25 2013

Bradley Dunlap, Director  
Community Development  
City of Porterville  
291 N. Main Street  
Porterville, CA 93257

Community Development  
Department

Dear Mr. Dunlap:

The County of Tulare is viewing property in Porterville (APN 251-140-029) for possible acquisition. Pursuant to Government Code Section 65402, Tulare County is requesting a general plan referral for the property. The contemplated use for the property is for Tulare County's Health and Human Services Agency's Mental Health programs. The specific programs are being implemented through funding of the California Voter approved Proposition 63 Mental Health Services Act in November 2004.

We are in the process of doing our due diligence work before committing to the property purchase. The above code section indicates the agency with an adopted general plan will respond within 40 days. Failure to respond to the request within the 40 day time "...shall be conclusively deemed a finding that the proposed acquisition...is in conformity with said adopted general plan or part thereof."

Thank you. Please let me know if you have any questions.

Sincerely,

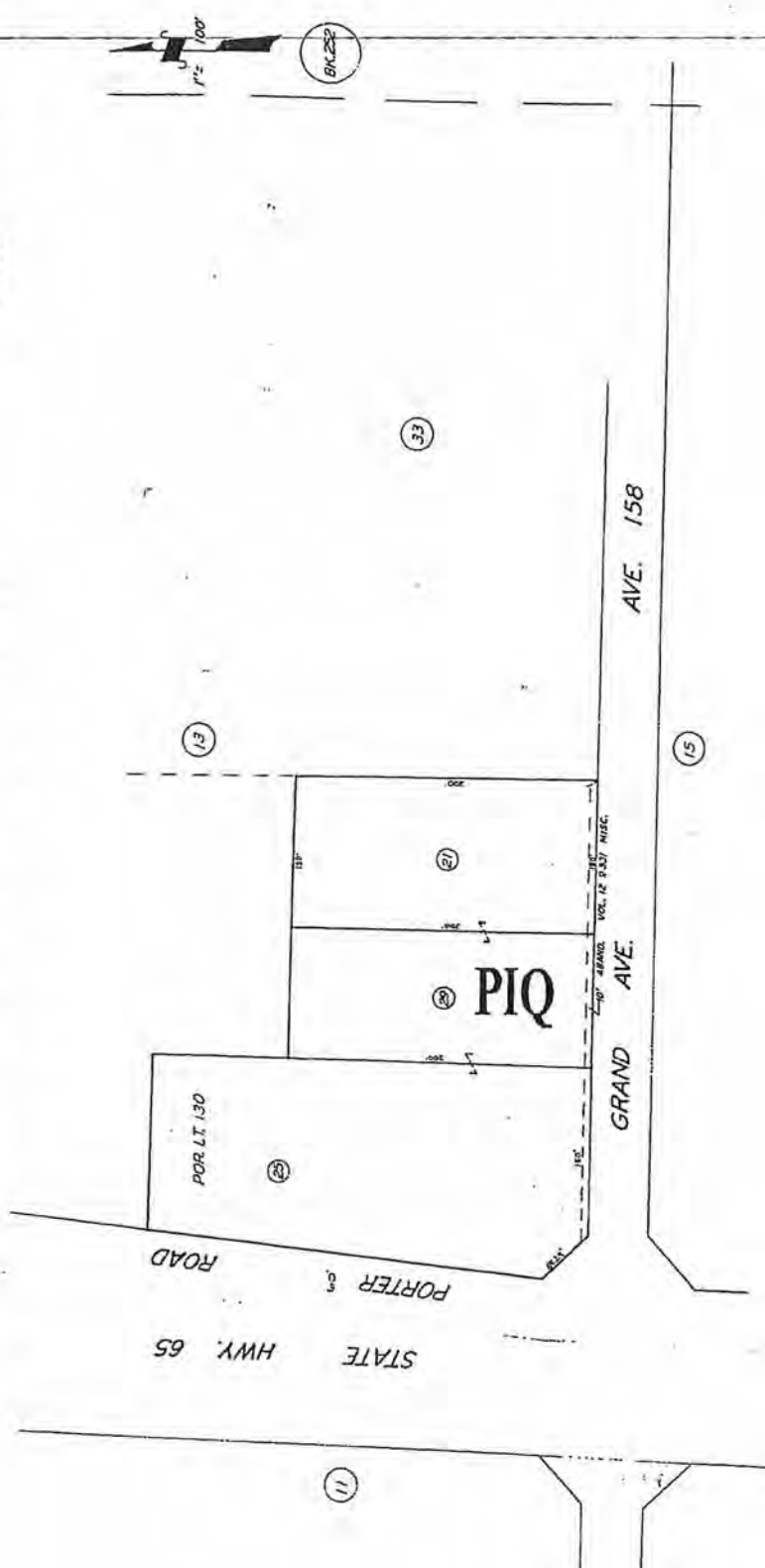
A handwritten signature in black ink that reads "Robert Newby". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert Newby  
Tulare County Property Manager

ATTACHMENT  
ITEM NO. 1



TAX CODE AREA 251-14  
4-000

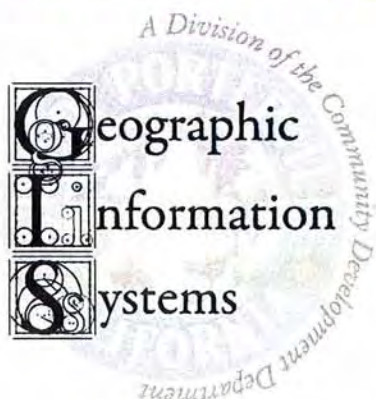
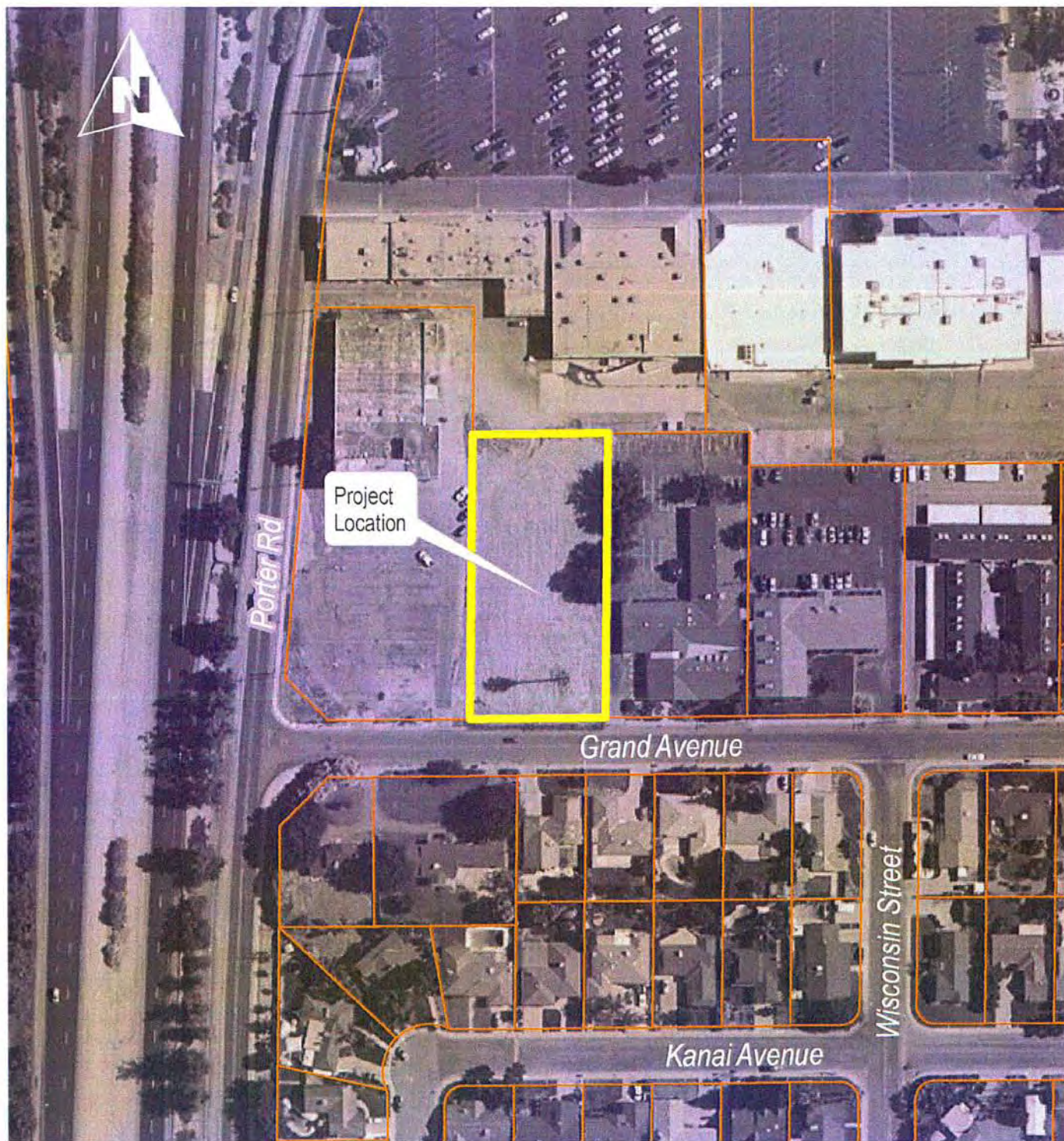


POR. PIONEER LAND CO'S. FIRST SUB. R.M. 3-34.

CITY OF PORTERVILLE  
ASSESSOR'S MAPS BK. 251, PG. 14  
COUNTY OF TULARE, CALIF.

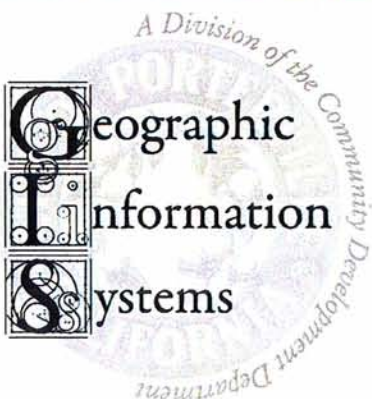
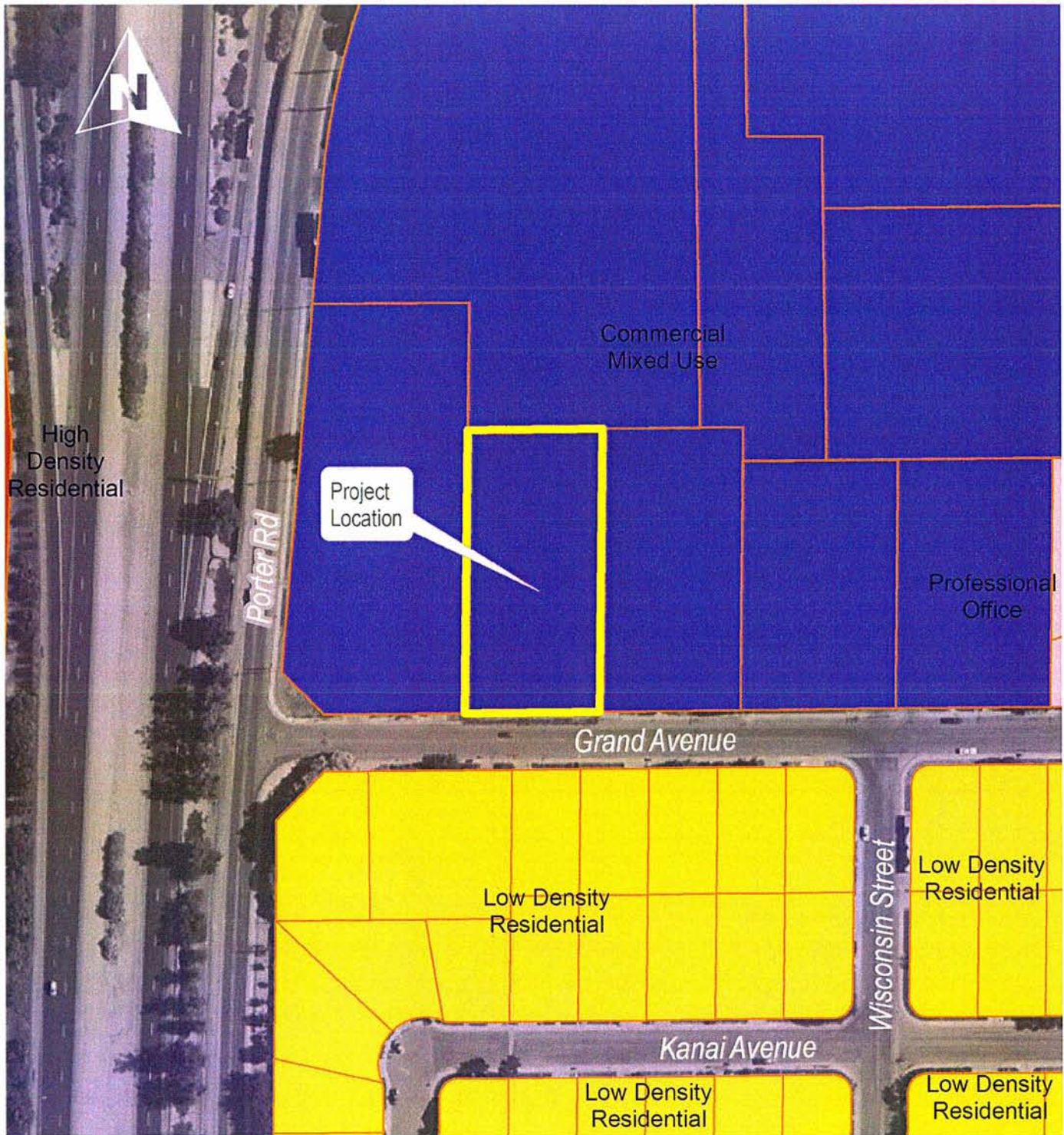
NOTE-ASSESSOR'S BLOCK NUMBERS SHOWN IN ELIPSES  
ASSESSOR'S PARCEL NUMBERS SHOWN IN CIRCLES





PRC 2013-036 - General Plan Referral  
@ Grand Avenue  
Locator Map  
1" = 150 ft  
ATTACHMENT  
ITEM NO. 2





PRC 2013-036 - General Plan Referral  
@ Grand Avenue  
General Plan Land Use Map  
1" = 150 ft. ATTACHMENT  
ITEM NO. 3





**Community Development  
Department**

October 9, 2013

Resource Management Agency  
County of Tulare  
5961 South Mooney Boulevard  
Visalia, CA 93277

ATTN: Robert Newby, Tulare County Property Manager

RE: Acquisition of property (APN 251-140-029)

Dear Mr. Newby,

Thank you for the opportunity to review the possible above mentioned property acquisition. The property is located within City limits and is designated in our General Plan as Commercial Mixed Use and Zoned CMX (Commercial Mixed-Use). Tulare County's contemplated use for this property is for the Health and Human Services Agency's Mental Health programs. It should be noted that this specific use is classified as Social Services Facilities under the City of Porterville's Development Ordinance and would be subject to review and approval of a Conditional Use Permit by the City Council.

At such time as your agency is ready to proceed with physical development of the site, please submit an application to the Project Review Committee for processing. Upon development the applicant shall comply with the development standards of the Porterville Development Ordinance and shall comply with the City of Porterville Municipal Code and State Law.

We appreciate the opportunity to provide comments.

Respectfully,

Fernando Rios  
Assistant Planner

**ATTACHMENT  
ITEM NO. 4**



**SPECIAL CITY COUNCIL MINUTES  
CITY COUNCIL CHAMBERS  
CITY HALL, 291 N. MAIN STREET  
PORTERVILLE, CALIFORNIA  
OCTOBER 24, 2013, 5:15 P.M.**

Called to Order at 5:15 p.m.

Roll Call: Council Member Shelton, Council Member McCracken, Vice Mayor Ward, Mayor Hamilton

Absent: Council Member Gurrola

Pledge of Allegiance Led by Vice Mayor Brian Ward

Invocation – a moment of silence was observed.

**ORAL COMMUNICATIONS**

- Barry Caplan, Porterville, spoke regarding the proclamation process and questioned the consideration of the proposed proclamation at a special meeting.
- Michelle Reneau, with regard to Item No. 1, requested that Cleveland be closed between Main Street and the Alley.
- Donald Thulin, Donald's Children's Amusement, confirmed that the requested closure provided sufficient room to maneuver his train.

**SCHEDULED MATTERS**

1. REQUEST FOR STREET CLOSURE – BOYS AND GIRLS CLUB OF PORTERVILLE FOR THE PARENTS AGAINST BULLYING RALLY EVENT ON OCTOBER 26, 2013

Recommendation: That the City Council approve the temporary street closures of Main Street and Cleveland Avenue for the Parents Against Bullying Event on October 26, 2013.

Finance Director Maria Bemis introduced the item and presented the staff report. She noted that at the staff report was written, it was unclear which areas were being requested for closure. During oral communications however, Ms. Reneau clarified that only Cleveland Avenue, from Main Street to the alleyway east of Main Street was being requested for closure.

**COUNCIL ACTION:** MOVED by Vice Mayor Ward, SECONDED by Council Member Shelton that the City Council approve the temporary closure of Cleveland Avenue, from Main Street to the alleyway east of Main Street, for the Parents Against Bullying Event on October 26, 2013.

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



Documentation: M.O. 01-102413  
Disposition: Approved.

2. APPROVAL OF PROPOSED PROCLAMATION – EDGAR MADRIGAL

Recommendation: That the City Council consider the approval of the proposed Proclamation recognizing Edgar Madrigal.

Finance Director Bemis introduced the item and presented the staff report. Mayor Hamilton spoke of the action of Edgar Madrigal, and addressed comments made by Mr. Caplan with regard to the Council's proclamation process.

**COUNCIL ACTION:** MOVED by Vice Mayor Ward, SECONDED by Council Member Shelton that the City Council approve the proposed Proclamation recognizing Edgar Madrigal.

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

Documentation: M.O. 02-102413  
Disposition: Approved.

**ORAL COMMUNICATIONS**

- Barry Caplan, Porterville, indicated that he had visited the Clerk's Office to view a copy of the updated Council Handbook and was told that it was not yet available.

**OTHER MATTERS**

- Council Member Shelton noted upcoming Anti-Bullying Event; Murder Mystery Dinner; and Halloween.

**ADJOURNMENT**

The Council adjourned at 5:29 p.m. to the meeting of November 5, 2013.

SEAL

---

Luisa M. Zavala, Deputy City Clerk

---

Cameron Hamilton, Mayor



## CITY COUNCIL AGENDA – NOVEMBER 5, 2013

THIS ITEM HAS BEEN REMOVED FROM THE AGENDA.



**COUNCIL AGENDA: NOVEMBER 5, 2013**

**SUBJECT:** **AUTHORIZE PARKS AND LEISURE SERVICES DIRECTOR TO PURCHASE SHADE STRUCTURE AND PLAYGROUND SURFACING FOR CHASE AVENUE PARK**

**SOURCE:** PARKS AND LEISURE SERVICES DEPARTMENT

**COMMENT:** Parks and Leisure Services was awarded a \$2,150,000 Prop 84 Statewide Park Development and Community Revitalization Program grant to create a park located on a 2.33 acre parcel on Chase Avenue. The grant does not require any matching funds, thus it will be constructed with 100% Prop 84 grant funds. The park is scheduled to open around June 2014.

At the February 2, 2010, City Council meeting, the Council approved Resolution No. 10-2010 delegating the authority to the Parks and Leisure Services Director to conduct all negotiations, sign and submit all documents, including, but not limited to, applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope. The grant scope items include a shade structure, playground surfacing, and a restroom.

Consistent with the General Plan EIR, the project includes sustainable design features that would qualify the project for a bronze level LEED certification. The project plans specify the City purchase the playground equipment, surfacing and shade structure, and the splash pad equipment. The general contractor will oversee the remaining purchases for the park.

The design plans, which were prepared in 2012, include a customized shade structure manufactured by RCP Shelters, Inc. The shade includes nine sails and twelve posts. The cost of the shade structure is \$70,300 and installation cost is \$45,000. The cost of the preliminary construction cost estimate was \$115,000.

In researching surfacing for the playground, SofSurfaces was discovered to be a superior product to the initially planned poured-in-place surfacing. The SofSurfaces product is more durable, less expensive, and easier to repair. The SofSurfaces product and installation is \$75,001 and \$8,972 below the \$83,973 estimate for poured-in-place. RCP Shelters, Inc. and SofSurfaces piggy-back on Gametime who is a member of the US Communities government discount program which the City of Porterville has been a member of

Director MB Appropriated/Funded

J City Manager

ITEM NO.: 3

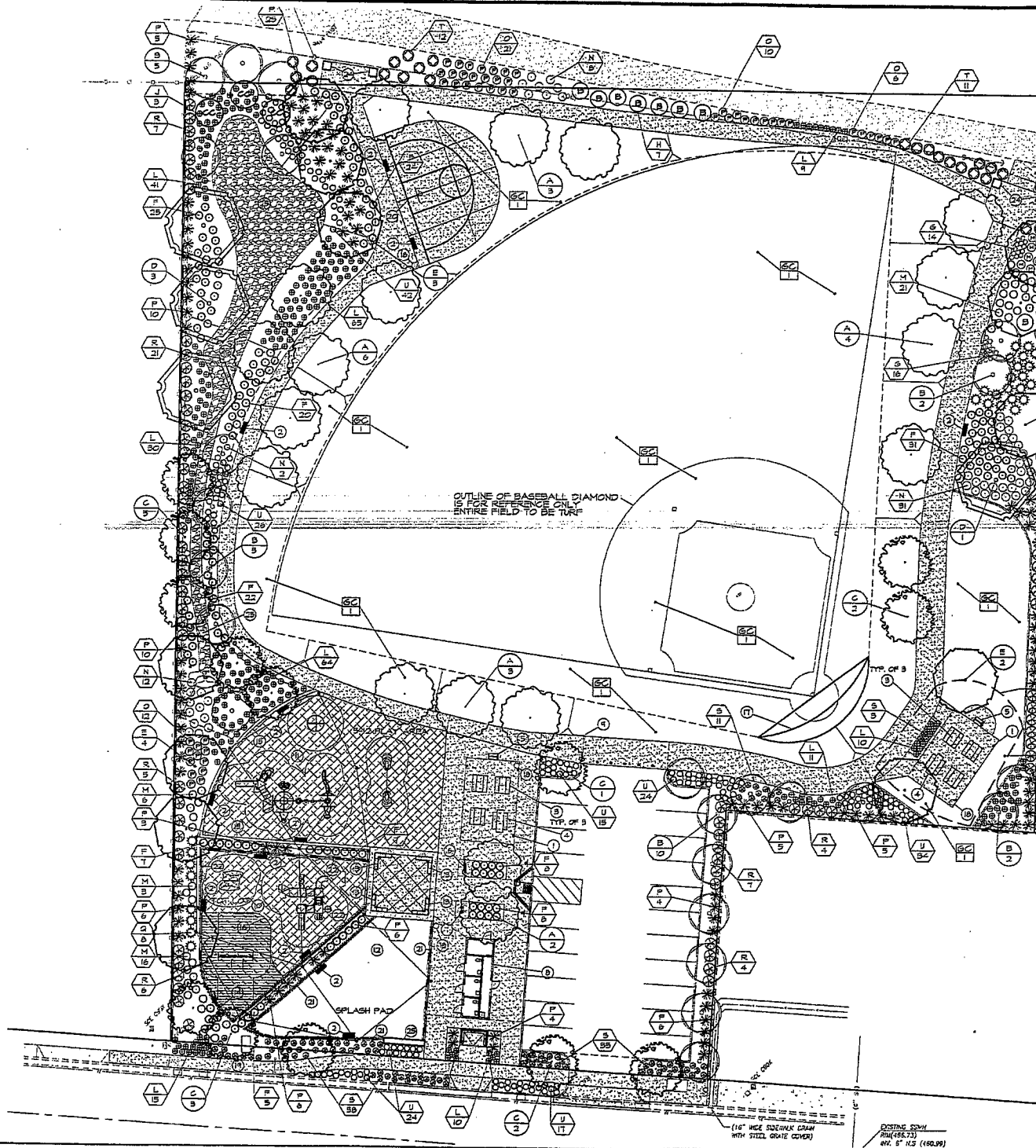


for several years. The playground equipment for the project was approved and has already been purchased from Gametime.

**RECOMMENDATION:** That the City Council authorize Parks and Leisure Services Director to purchase shade structure and playground surfacing for Chase Avenue Park.

**ATTACHMENTS:** Chase Avenue Park plan  
SofSurface tile layout  
Shade structure plan  
Resolution No. 10-2010





# LANDSCAPE PLAN

**CITY OF PORTERVILLE**  
ENGINEERING DIVISION

291 N. MAIN ST. PORTERVILLE, CALIFORNIA 93257 559 782-7482

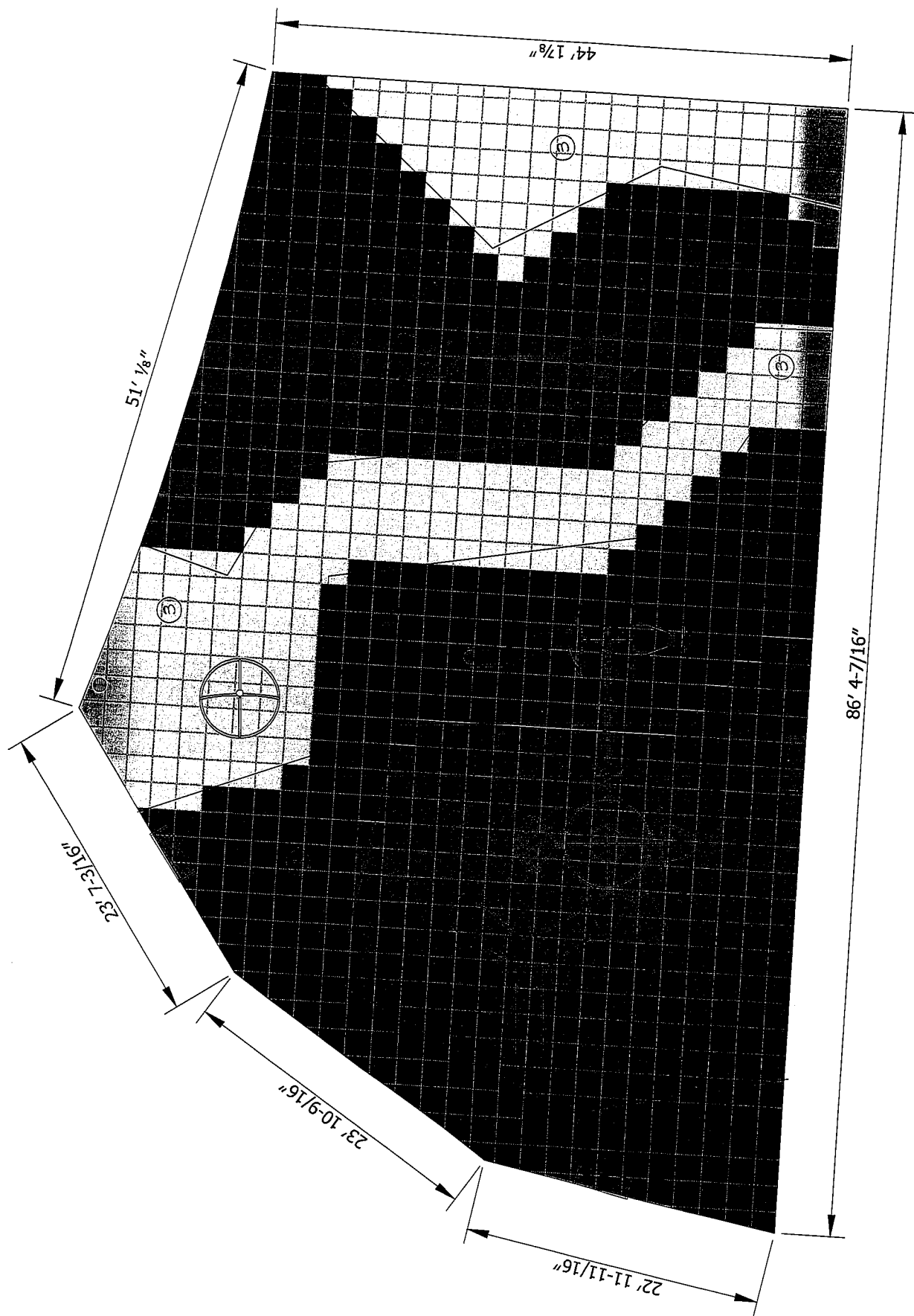


DESIGN BY DS DATE 8-28-12  
DRAWN BY \_\_\_\_\_ DATE \_\_\_\_\_  
CHECKED BY GR DATE 8-28-12

REVIEWED BY \_\_\_\_\_ DATE \_\_\_\_\_  
CITY ENGINEER  
APPROVED BY \_\_\_\_\_ DATE \_\_\_\_\_  
PUBLIC WORKS DIRECTOR

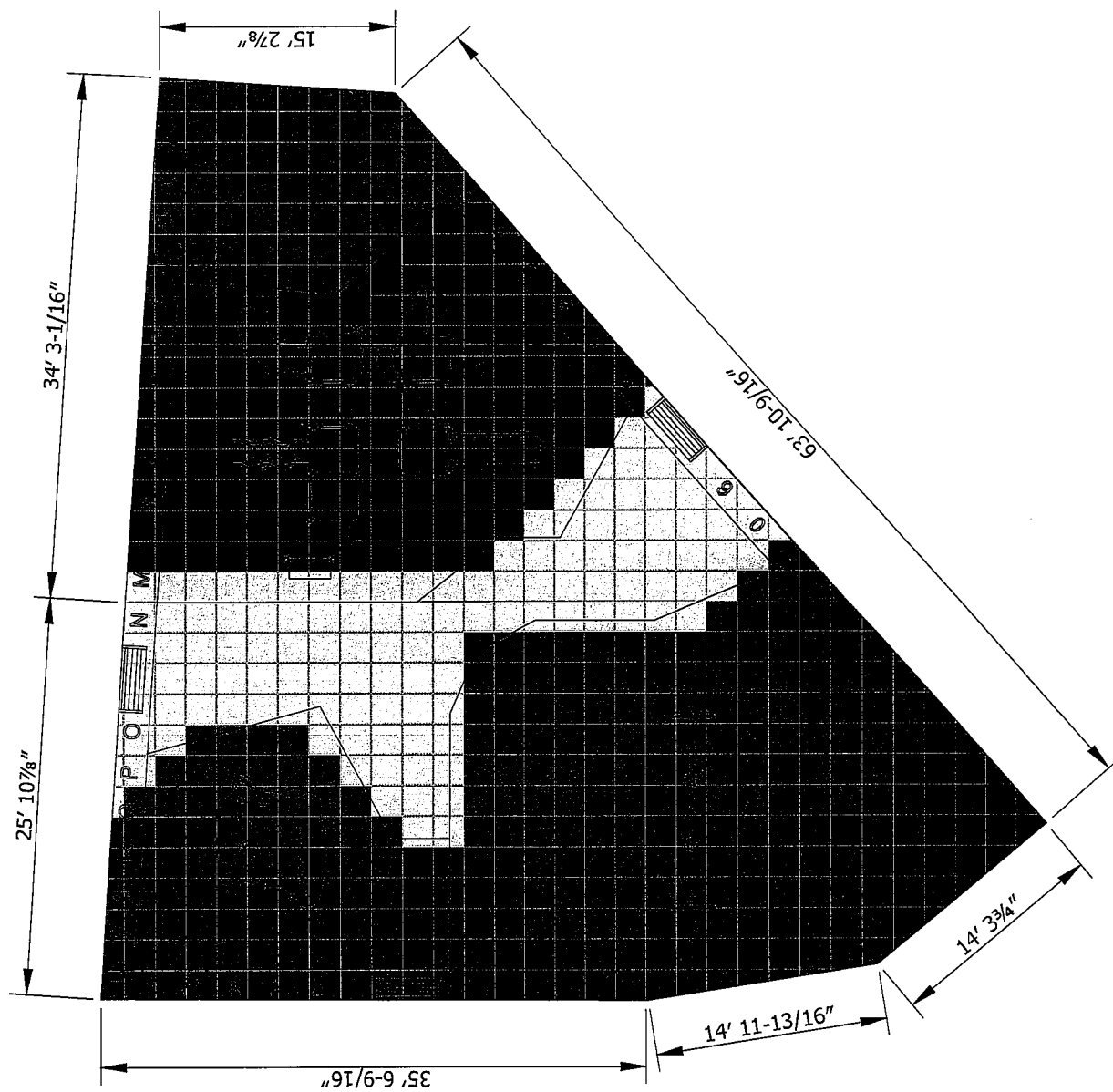


**Tile Layout - Area No. 1 - Porterville Park**

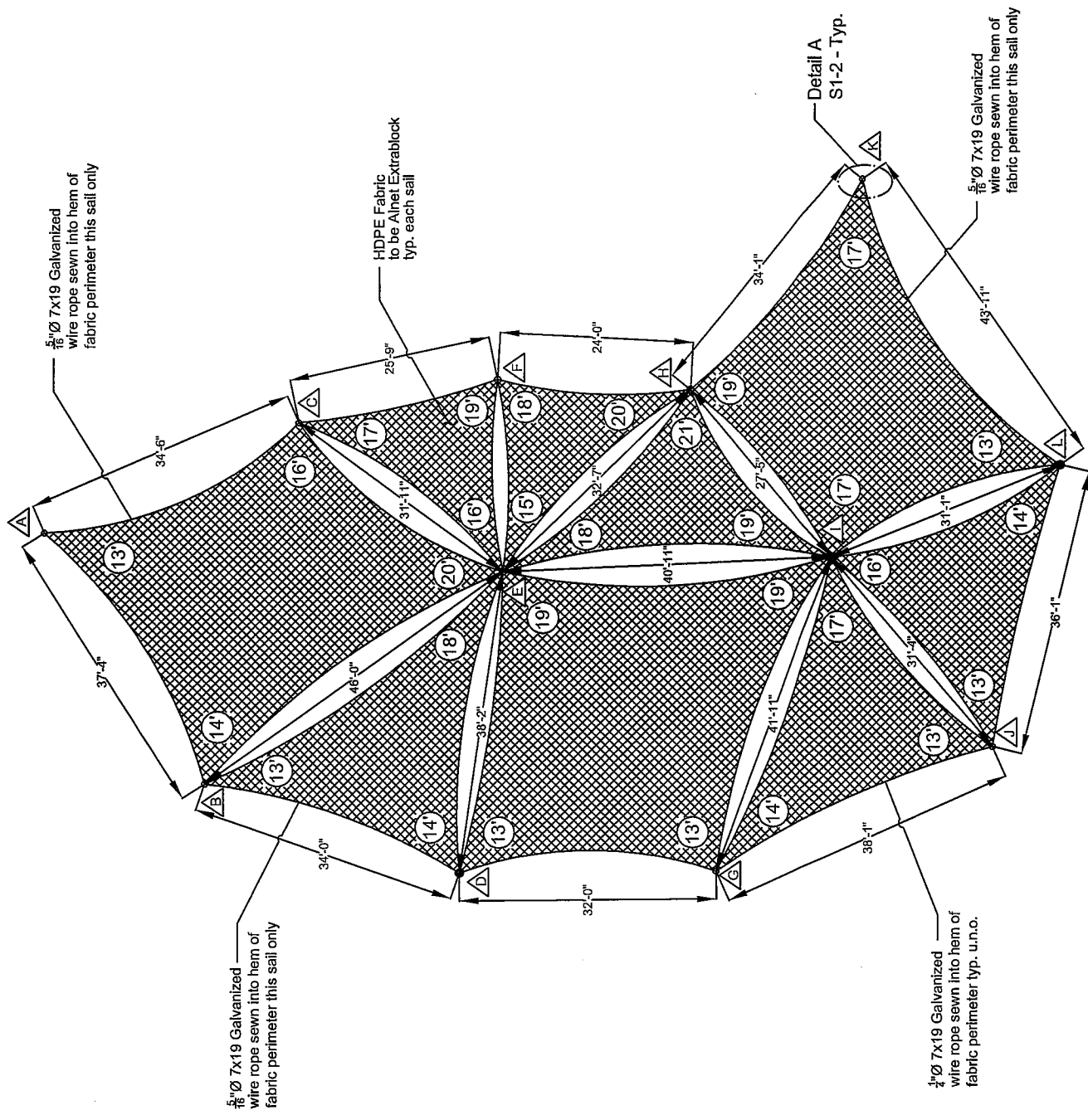




**Tile Layout - Area No. 2 - Porterville Park**







PLAN



RESOLUTION NO: 10 -2010

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING  
THE APPLICATION FOR STATEWIDE PARK PROGRAM GRANT FUNDS

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Program, setting up necessary procedures governing the Application; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application(s) before submission of said application(s) to the State; and

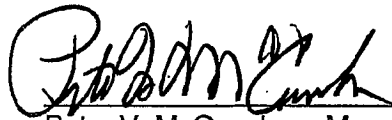
WHEREAS, the applicant will enter into a contract with the State of California to complete the grant scope project;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville hereby:

Approves the filing of an application for the Heritage Ballfield project, and

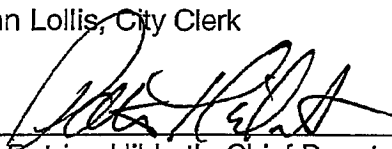
1. Certifies that said applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project; and
2. Certifies that the applicant has or will have sufficient funds to operate and maintain the project(s), and
3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide; and
4. Delegates the authority to Jim Perrine, Director of Parks & Leisure Services Department, to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope; and
5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Approved and adopted the 2<sup>nd</sup> day of February, 2010.

  
Pete V. McCracken, Mayor

ATTEST:

John Lollis, City Clerk

  
By: Patrice Hildreth, Chief Deputy City Clerk



COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: AUTHORIZATION CONTRACT AUGMENTATION AND ADDITIONAL WORK – OLIVE AVENUE REHABILITATION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The City's contractor, Bowman Asphalt, is still under contract for the Olive Avenue Rehabilitation Project. There have been several complaints regarding the poor condition of Henderson Avenue and Oak Avenue, immediately east of Fourth Street. These streets are extremely rough and deteriorated, specifically to the area confined by the existing railroad improvements that are no longer in use due the abandonment of this railway. Staff recognizes an opportunity to expedite removal of these abandoned rails by utilizing our existing contract with Bowman Asphalt. Bowman Asphalt is receptive to the augmentation of their contract to completely remove the existing abandoned railroad improvements and to construct an appropriate street structural section (aggregate base and asphalt concrete) in its place.

Staff's independent Engineer's Estimate for this work is \$52,224. At the City's request Bowman Asphalt provided a cost proposal in the amount of \$40,549.13 or 22.4% below the estimate. The cost proposal is attached for Council's review. An additional \$4,000 is necessary for construction contingency (9.9%). It is anticipated that an additional \$3,000 (7.4%) is required for construction management, quality control, and inspection services for a total estimated projected cost of \$47,549.13. This request for additional work equates to a 9.4% increase to Bowman Asphalt's existing bid contract amount. City Council approved contingencies are not applicable to this increase.

Staff is requesting an appropriation of \$47,549.13 from unallocated Local Transportation Funds to cover the cost associated with this request for additional work.

RECOMMENDATION: That City Council:

1. Authorize a scope of contract expansion for the Olive Avenue Rehabilitation Project as discussed herein;
2. Authorize a \$47,549.13 contract augmentation with Bowman Asphalt; and

Dir BR Appropriated/Funded MP CM J

Item No. 41

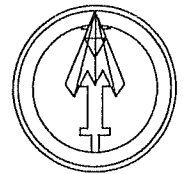
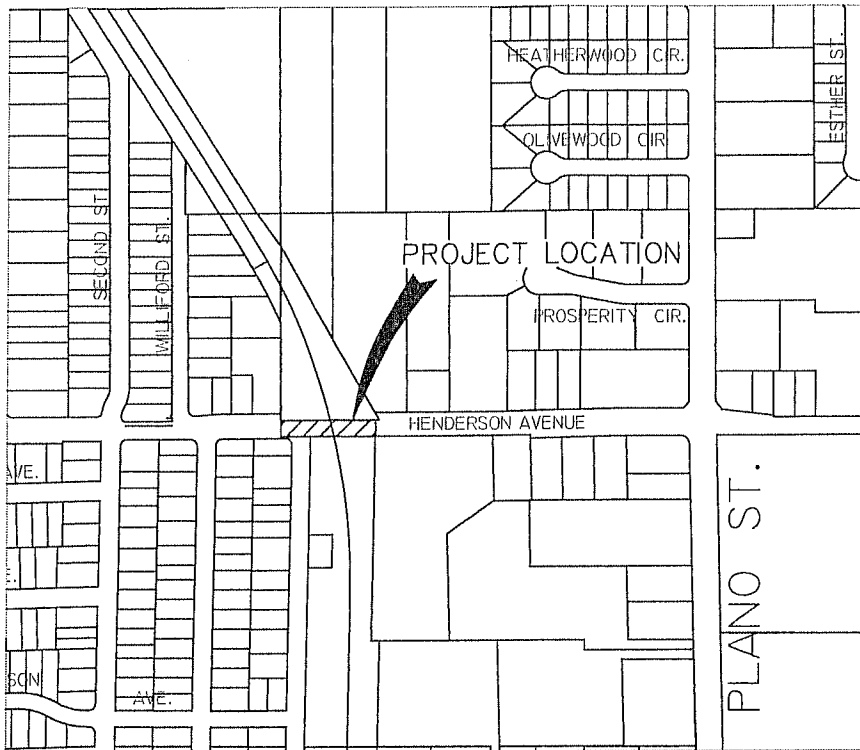


3. Approve an appropriation of \$47,549.13 from unallocated Local Transportation Funds for the Olive Avenue Rehabilitation Project.

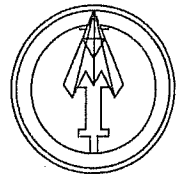
ATTACHMENTS: Locator Map  
Cost Proposal

P:\pubworks\General\Council\Authorization to Execute Additional Work - Olive Ave Rehabilitation Project - 2013-11-05.doc





North



North

# CITY OF PORTERVILLE

## ENGINEERING DIVISION

291 NORTH MAIN STREET  
PORTERVILLE, CA. 93257  
(559) 782-7462

Henderson and Oak Avenue Rail  
Removal Project Locator Map





Grading • Paving • Sealcoating

3351 Fairhaven Drive  
Bakersfield, CA 93308

661.334.1356  
661.334.1879 fax

License #862672

<b>To:</b> City Of Porterville	<b>Contact:</b> Nathan Delk
<b>Address:</b> Porterville, CA	<b>Phone:</b> 559-782-7462
	<b>Fax:</b> 559-781-6437
<b>Project Name:</b> Henderson Ave. & Oak Ave. Rail Removal	<b>Bid Number:</b> 137760PW
<b>Project Location:</b> Henderson Ave. & Oak Ave., Porterville, CA	<b>Bid Date:</b> 10/25/2013

Item #	Item Description
1	Mobilization
2	Traffic Control Including Traffic Plan.
3	Sawcut, Demo Rails, And Offhaul.
4	Compact Subgrade 12" From Top Of Finish Subgrade.
5	Class 2 Base Rock. (11" On Oak & 9" On Henderson)
6	Asphalt Concrete 1/2" Type A PG 64-10. (3" On Oak & 5" On Henderson)

**Total Bid Price: \$40,549.13**

**Notes:**

- Grades to balance +/- .10'.
- Compaction testing provided by others.
- This proposal is good for Thirty (30) days.
- Traffic control provided for our work only.
- Permits, Testing, Staking and Surveying not included.
- Cannot guarantee proper drainage with 1.5% or less in grade fall.
- Compaction and sections based on plan sheet provided by City of Porterville.
- Water and Water Source, in close proximity to work area, supplied by others.
- Due to volatile oil prices, the asphalt material price included in this proposal expires November 30, 2013. Any Asphalt placed after that date is subject to price increases.

**Payment Terms:**

This proposal is to be paid in 30 days from invoice date. Subject to a service charge of 1.5% per month. Interest rate per annum is 18%. Should Bowman Asphalt be required to commence any legal action to recover losses under this agreement or required to employ an attorney for the enforcement of any of its rights herein, customer agrees to pay for reasonable fees and costs incurred thereby.

<p><b>ACCEPTED:</b></p> <p>The above prices, specifications and conditions are satisfactory and are hereby accepted.</p> <p><b>Buyer:</b> _____</p> <p><b>Signature:</b> _____</p> <p><b>Date of Acceptance:</b> _____</p>	<p><b>CONFIRMED:</b></p> <p><b>Bowman Asphalt, Inc.</b></p> <p><b>Authorized Signature:</b> _____</p> <p><b>Estimator:</b> Marty Adams madams@bowmanasphalt.com</p>
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COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: FIRST AMENDMENT TO THE AGREEMENT FOR TRANSIT SERVICE BETWEEN THE CITY OF PORTERVILLE AND THE TULE RIVER INDIAN TRIBE

SOURCE: Public Works Department - Transit

COMMENT: On November 6, 2012, City Council entered into an Agreement with the Tule River Indian Tribe to expand fixed route transit service and paratransit service from the City to the Reservation. The term of the Agreement was for a one-year period and will expire on November 30, 2013.

The expanded transit and paratransit services were funded in full by competitive grants awarded to the City from the Federal Transit Administration's Job Access and Reverse Commute and New Freedom programs. To improve the proposed expanded transit services, the Tule River Indian Tribe agreed to partner with the City to provide free public transportation to all passengers by financing the required farebox from general tribal funds.

Since expanded transit service started on December 1, 2012, the service, Route 9, has provided 70,359 passenger trips and has quickly become the third most utilized route in the transit system. This highly successful route has improved transportation for Tribal, County, and City residents, regardless of income, who are seeking to secure and maintain employment, maintain self-sufficiency, and to improve the quality of life in and around our communities. This expanded transit service has also reduced congestion, traffic accidents, and improved the environment by providing a sustainable alternative transportation to those traveling along this corridor.

With the expanded transit service, the transit system, as a whole, has benefited from increased ridership. During the last fiscal year (2012/2013) the transit system has received its highest ridership in its 16 years of service, transporting 505,082 passengers. During the first quarter of this fiscal year (July through September) the transit system had increased 22%, which is directly attributed to the expanded transit service area, evening and Sunday service. It is projected, if ridership continues to increase, the transit system will transport over 616,000 passengers during the 2013/2014 fiscal year.

Dir Bor Appropriated/Funded MP CM J

Item No. 5



On August 12, 2013, the City was preliminarily awarded \$560,263 in grant funds to continue the expanded transit service for another year and a half. Since operational funding is secured and the service is highly successful, it is staff's recommendation to extend said services until June 30, 2015.

RECOMMENDATION: That City Council:

1. Approve the attached First Amendment to the Agreement for Transit Service between the Tule River Indian Reservation and the City of Porterville;
2. Accept funding from the Tule River Indian Tribe in the amount of 30% of the operational costs to cover the required farebox return; and
3. Authorize the Mayor and City Attorney to execute the attached Agreement.

ATTACHMENT: First Amendment to the Agreement for Transit Service between the City of Porterville and the Tule River Indian Reservation.



**FIRST AMENDMENT TO THE AGREEMENT  
FOR TRANSIT SERVICES  
BETWEEN THE CITY OF PORTERVILLE  
AND THE TULE RIVER INDIAN TRIBE**

This is an amendment to the agreement entered into on November 1, 2012, between the City of Porterville, hereinafter referred to as "CITY" and Tule River Indian Tribe of California, hereinafter referred to as "TRIBE," regarding expanded transit services to the Tule River Indian Reservation.

WHEREAS, CITY and TRIBE entered into an Agreement on November 1, 2012, for the purpose to provide public transportation services and administration to the Tule River Indian Reservation; and

WHEREAS, the CITY and TRIBE acknowledge the need to amend the agreement to extend transit services to June 30, 2015;

**ACCORDINGLY, IT IS AGREED:**

I. Paragraph 1(b), entitled "City" is hereby amended to read as follows:

Bus stop(s) shall be established at locations acceptable to the Tribe. The City shall provide bus stop signs and amenities to the Tribe and assist in the installation. The City shall provide fixed route and complimentary paratransit service within the service area on the following schedule: Monday to Friday (Weekday) from 6:00 AM to 10:00 PM, Saturday and Sunday (Weekend) from 8:00 AM to 6:00 PM. The City will not operate on New Year's Day, Independence Day, Thanksgiving, Day, or Christmas Day and operate weekend schedule on Memorial Day, Labor Day and Veterans Day. City shall provide administrative services for Tribe's Federal Transit Administration (FTA) Section 5311(c) program.



- I. Paragraph 3, entitled "**Compensation**" is hereby amended to read as follows:

TRIBE agrees to compensate CITY for thirty percent (30%) of the total operating and administrative costs of transit services in the herein agreed upon service area. The TRIBE agrees to transfer funds to CITY monthly and within thirty (30) business days of receiving ridership and operational data which is due the 15<sup>th</sup> day of every month. The term "operating cost" as used in this Agreement shall be defined as all costs in the operating expense object classes of the Uniform Systems of Accounts for Public Transit Operators adopted by the State Controller pursuant to Public Utilities Code Section 99243.

- II. Paragraph 5, entitled "**Fares**" is hereby amended to read as follows:

City will provide free transportation on all City transit and paratransit services to eligible Tule River Tribal residents. City will provide free transit and paratransit service to the general public and Eagle Mountain Casino employees who use the services in the herein agreed upon service area.

- III. Paragraph 12, entitled "**Term of Agreement**" is hereby amended to read as follows:

The term of the agreement shall be effective on December 1, 2013, through June 30, 2015, and continue until terminated or succeeded. The agreement will be renewable for similar or different terms and conditions upon mutual agreement between CITY and TRIBE. The terms of this Agreement may be terminated upon 60 day advance written notice by either party.

**ADDITIONALLY, IT IS AGREED:**

- I. The following recital is inserted following Paragraph 1:

**Service Area.** The City shall provide fixed route transit service from the downtown Transit Center, located in Porterville, to and within the Tule River Indian Reservation and defined as Route 9. The City shall provide



complimentary paratransit service to all eligible passengers within a ¾ mile corridor of fixed route services.

- II. Except as provided above, all other terms and conditions of Agreement shall remain in full force and effect.

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

**TULE RIVER INDIAN TRIBAL COUNCIL**

Date \_\_\_\_\_

By \_\_\_\_\_  
Neil Peyron, Chairman

Approved as to Form, Tribal Counsel

By \_\_\_\_\_  
Tribal Attorney

Date \_\_\_\_\_

**CITY OF PORTERVILLE**

Date \_\_\_\_\_

By \_\_\_\_\_  
Cameron J. Hamilton, Mayor

Approved as to Form, City Attorney

By \_\_\_\_\_  
City Attorney



COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: FIRST AMENDMENT TO THE AGREEMENT FOR TRANSIT SERVICE BETWEEN THE CITY OF PORTERVILLE AND THE TULARE COUNTY ASSOCIATION OF GOVERNMENTS

SOURCE: Public Works Department - Transit

COMMENT: On July 19, 2011, the City and Tulare County Association of Governments (TCAG) entered into an Agreement for the purpose of establishing the administrative responsibilities of the Tulare County regional monthly transit pass (T-Pass). The T-Pass is a regional monthly transit pass valid on all fixed route services in Tulare County. The T-Pass fosters continued support of passenger transfer activity between the various transit systems in the County.

Since the original agreement, the T-Pass purchase price was set at \$45 and provided no guidance or authority to change the T-Pass purchase price in the future. TCAG is recommending amending existing agreements with transit providers to clarify that the T-Pass price setting will be under the authority of, and approved by, the TCAG Board. TCAG staff will evaluate the price of the T-Pass no less than every three years.

RECOMMENDATION: That the City Council:

1. Approve the attached First Amendment to the Agreement for Transit Service between Tulare County Association of Governments and the City of Porterville; and
2. Authorize the Mayor and City Attorney to execute the attached Agreement.

ATTACHMENT: First Amendment to the Agreement for Transit Service between the Tulare County Association of Governments and the City of Porterville.

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Dir B. B. B. Appropriated/Funded ME CM 1

Item No. 6



**FIRST AMENDMENT TO AGREEMENT  
FOR TRANSIT SERVICES  
BETWEEN THE TULARE COUNTY ASSOCIATION OF  
GOVERNMENTS (TCAG)  
AND THE CITY OF  
PORTERVILLE**

This is an amendment to the agreement entered into on July 19, 2011, between the City of Porterville, hereinafter referred to as "AGENCY," and the Tulare County Association of Governments, hereinafter referred to as "TCAG," regarding a regional monthly pass for unlimited fixed route rides on transit systems in Tulare County.

WHEREAS, TCAG and AGENCY entered into an Agreement on July 19, 2011, for the purpose of establishing the administrative responsibilities of the Tulare County Regional Transit Pass (T-Pass); and

WHEREAS, at its Board meeting on July 22, 2013, TCAG identified the need to increase the price of the T-PASS to cover the rising costs of providing the unlimited fixed route rides on transit systems in Tulare County; and

WHEREAS, TCAG and AGENCY acknowledge the need to amend the Agreement to reflect the price increase;

**ACCORDINGLY, IT IS AGREED:**

- I. Recital Number Three (3) is hereby amended to read as follows:

WHEREAS, the T-Pass is available for purchase for \$50.00 at agency outlets throughout the County; and

- II. The following recital is inserted following the above recital:

WHEREAS, the price of the T-Pass may be increased in the future by resolution of the Board of TCAG, following a public hearing regarding the same.

- III. Paragraph 1 entitled "**TERM**" is hereby amended to read as follows:

The Term of the Agreement shall be effective from October 1, 2013, through October 1, 2014, and continue until terminated or succeeded. The Agreement will be renewable for similar or different terms and conditions upon mutual agreement between TCAG and AGENCY. The terms of this Agreement may be terminated upon 60 day advance written notice by either party. Upon terminating the terms of this Agreement, AGENCY is also terminating participation in the T-Pass program.

- III. Except as provided above, all other terms and conditions of Agreement for Transit Services shall remain in full force and effect.







COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: AUTHORIZATION TO CONTINUE TO ADVERTISE FOR PROPOSALS –  
REVENUE SHARING TRANSIT ADVERTISING

SOURCE: Public Works Department - Transit

COMMENT: On August 20, 2013, the City Council authorized staff to advertise for proposals for the services of a qualified contractor to administer and carry out the day-to-day functions associated with the revenue sharing transit advertising program.

On September 9, 2013, staff advertised for forty days, both nationally and locally, seeking the services of a qualified advertising contractor. The deadline to submit proposals was October 18, 2013. During that period, the City did not receive any comments or proposals from firms, including the firm that was currently contracting with the City.

Since the City did not receive any comments or proposals from any firms, staff again reached out to firms to receive feedback and to identify items that may have prevented them from submitting a proposal.

Based on comments received from three advertising firms, staff determined that the City's desire to have a contractor perform all of the day-to-day functions, including accounts and receivables, installation and removal of advertisements, proved to be a logistical hardship.

Given the comments that staff received, staff has prepared an updated scope of work to define the contractor's responsibilities as solely soliciting advertisements on transit vehicles and bus stop amenities which are in line with the City's Transit Advertising Policy. The City will maintain the responsibility of managing the advertising program, maintain accounts and receivables, and install, maintain and remove advertisements.

It is staff's recommendation to advertise for proposals for the services of a qualified contractor to carry out the functions associated with the revenue sharing transit advertising program for a period of three (3) years, with the option to renew for one (1) additional three-year period.

RECOMMENDATION: That the City Council authorize staff to distribute Requests for Proposals for Advertising Contractor.

P:\pubworks\Transit\City Council Staff Report\Transit - Authorization to continue to advertise for proposals for revenue sharing transit advertising - 2013-11-5.doc

Dir Ben Appropriated/Funded MB CM 1

Item No. 7



COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: FINAL BALLOT RESULTS – AREA 455A SEWER UTILITY DISTRICT

SOURCE: Public Works Department - Engineering Division

COMMENT: This report is a follow-up to the Area 455A Sewer Utility District Public Hearing held on October 15, 2013. At the Public Hearing, staff requested for the Hearing to be opened, comments and ballots received, and due to time constraints, to open and tabulate the votes the following day. Staff also requested that the results be presented to the City Council at the November 5, 2013, meeting.

The votes were subsequently tabulated and certified. 76.6% (72 votes) of the ballots received voted in favor of forming the Sewer Utility District; 23.4% (22 votes) of the ballots received voted against forming the Sewer Utility District. City Council may now consider the attached Resolution approving the formation of the Sewer Utility District and the levying of the assessment.

RECOMMENDATION: That the City Council:

1. Accept the voting results of Area 455A Sewer Utility District and adopt the resolution approving the Formation of Sewer Utility District No. 455A.

ATTACHMENTS: Resolution  
Certification of Ballot Results

P:\pubworks\General\Council\Final Ballot Results - Area 455A Sewer Utility District - 2013-11-05.doc

Dir BSC Appropriated/Funded MB CM J

Item No. 8



RESOLUTION NO.: \_\_\_\_\_ - 2013

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF PORTERVILLE APPROVING  
THE FORMATION OF AREA 455A SEWER UTILITY DISTRICT,  
AND LEVYING THE ASSESSMENT

WHEREAS, Area 455A was annexed into the City in November 2006; and

WHEREAS, the parcels in this area utilize individual septic tanks that are failing;  
and

WHEREAS, in accordance with California Streets and Highways Code Section 10000 et seq. and other applicable law, the property owners were provided with notice of the public hearing and assessment ballot proceeding; and

WHEREAS, the public hearing has been held and the ballots from the proceeding have been tabulated; and

WHEREAS, the property owners within the proposed District have approved, via ballots cast at the end of the Public Hearing held October 15, 2013, with tabulation of said ballots continued to October 16, 2013, the imposition of the assessment and the formation of the District.

NOW THEREFORE BE IT RESOLVED,

- 1) The City Council of the City of Porterville approves the formation of the Area 455A Sewer Utility District establishing an assessment to pay for the installation of sewer mains and sewer laterals. A diagram of the District setting forth the boundaries and parcels located within the District is attached hereto as Exhibit "A."
- 2) The City Council of the City of Porterville hereby authorizes the levying of the assessment based on the cost of actual construction to install sewer mains, laterals, manholes, trench pavement, etc.
- 3) The City Council of the City of Porterville hereby authorizes the City to permit property owners to pay the one-time assessment over a period of a 30 year loan, with 3% interest. The City Council authorizes the execution and transmittal of all documents necessary to effect the payment schedule through the Tulare County Assessor's Office.
- 4) The City Council of the City of Porterville hereby proclaims that property owners may, via an agreement with the City, opt in the alternative to pay the assessment at the time of development but subject to 3% interest compounded annually from the date of imposition of the assessment.



PASSED, APPROVED AND ADOPTED this 5<sup>th</sup> day of November, 2013.

\_\_\_\_\_  
Cameron J. Hamilton, Mayor

ATTEST:  
John D. Lollis, City Clerk

By:\_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk



## CITY OF PORTERVILLE

### CERTIFICATION OF BALLOT RESULTS FOR ANNEXATION AREA 455 SEWER UTILITY DISTRICT INTENT TO CREATE SEWER UTILITY DISTRICT

### BALLOT TABULATION RESULTS

Total of Valid Ballots Received	Total "Yes" Ballots	Total "No" Ballots
No. of Ballots <u>94</u>	No. of Ballots <u>72</u>	No. of Ballots <u>22</u>
	<b>AYES</b>	<b>NAYS</b>
	Percent "Yes" <u>76.60%</u>	Percent "No" <u>30.56%</u>

In addition, 3 ballots received were invalid due to:

- 1 Already connected
- 1 Voter was not the property owner
- 1 Duplicate

Ballots Tabulated By:

Luisa Zavala, Deputy City Clerk

Vickie Ratta, Secretary

I hereby certify that the above are true and accurate ballot tabulation results for the Annexation Area 455 Sewer Utility District majority protest/election for all affected property owners.

  
Signature

Luisa Zavala  
Print Name

Deputy City Clerk  
Title

10/16/2013  
Date



CITY COUNCIL AGENDA: NOVEMBER 5, 2013

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, with a drive through and provision for sales of beer and wine, to be located 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.

The project also required a General Plan Amendment (Resolution 115-2012) and Zone Change (Ordinance No. 1794) to allow a change in Land Use designation/Zoning District from High Density Residential (RM-3) to Retail Center (RC) on one of the three parent parcels (APN 246-111-008). During review of the CUP and related requested Code/Map amendments, Council found that it would be necessary for the applicant to merge the three parent parcels to allow for orderly development. Council approved the General Plan Amendment, Zone Change and a Mitigated Negative Declaration (Resolution 114-2012) for the potential environmental impacts associated with the project. Council voted 4 to 0 to approve the project with one member abstaining on each of these decisions.

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 term of the CUP is set to expire on December 4, 2013. The current extension request is within the authority granted to the City Council in Section 601.08 of the Development Ordinance.

The applicant recently contacted staff to request an extension to the CUP in order to give them time to complete the land acquisition process. Due to existing tenancies and the timing of escrow for property purchase, the applicant does not yet have full control over the properties. Completion of escrow for the acquisition of the southernmost parcel (APN 246-111-035) is anticipated to close in January 2014 (after the expiration of the CUP's current term). According to the applicant, they intend to break ground on the project before the end of 2014. Since the approval of the CUP, no additional ABC permits (licenses to serve alcohol) have been issued in this census tract.



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 approval to (December 4, 2014).

ATTACHMENTS:

1. Resolution 116-2013
2. Draft Resolution
3. Prior Staff Report with Attachments
4. Section 301.08 of Porterivlle Development Ordinance



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-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 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. 1**



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.

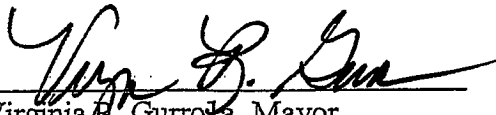
NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit PRC-2012-010-C subject to the following conditions:

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.

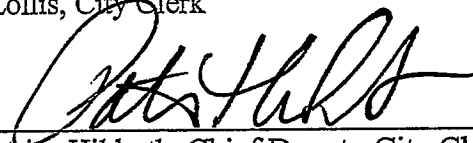


9. Truck deliveries of store merchandise and products shall be restricted to the hours of 7am – 10pm.
10. The business operation shall comply with Noise Ordinance No. 1757 of the Municipal Code.
11. The developer/applicant shall construct per the attached details (Exhibits B and C), and driveways shall 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 R. Gurrola, Mayor

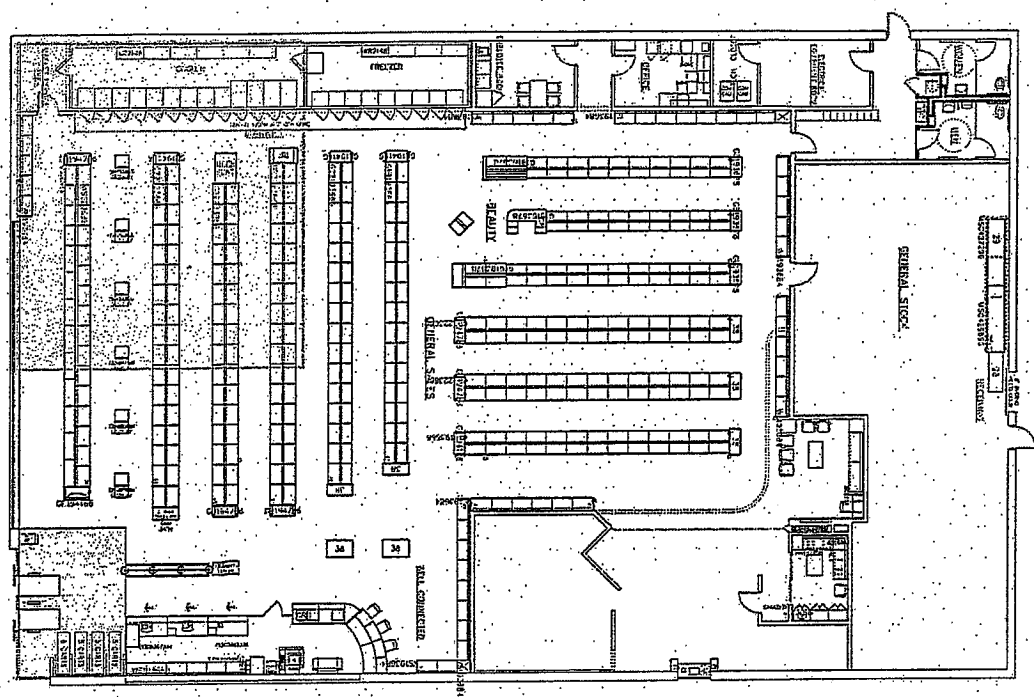
ATTEST:  
John D. Lollis, City Clerk

By:   
Patrice Hildreth, Chief Deputy City Clerk



1 GENERAL FLOOR PLAN

MAXIMUM 40' x 50' AREA FOR BEER AND WINE SALES




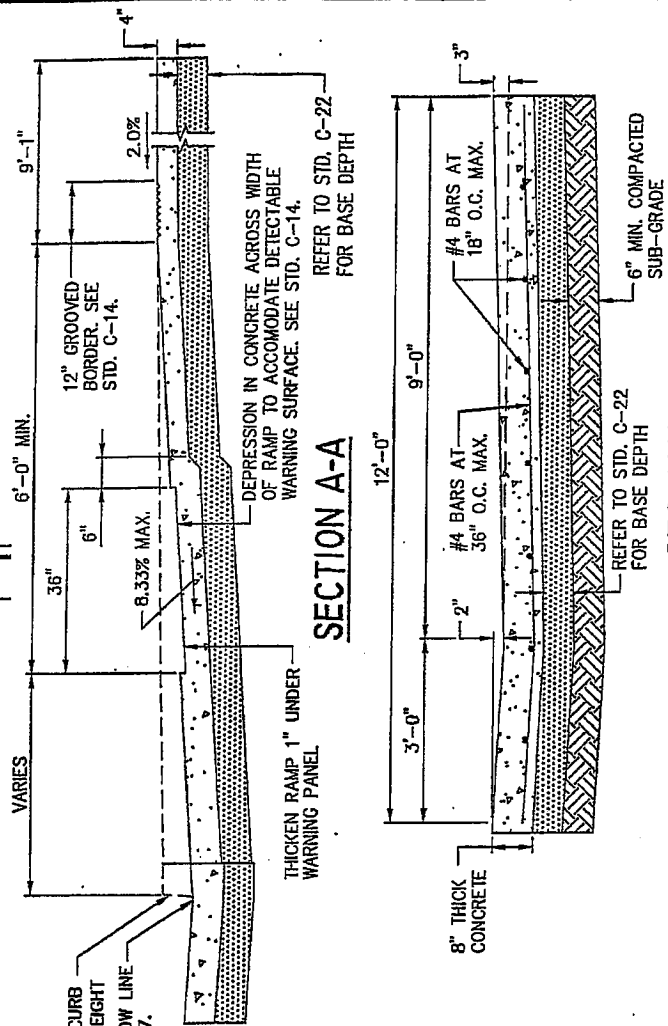
D-1	FLOOR PLAN			
	STORE NUMBER #15220			
	WALGREENS			
	NEC PROSPECT & HENDERSON PORTERVILLE, CA			
GADD PLOT: DRAWN BY: DATE: 6-1-2012 REVIEWED: 6/5/2012		NO. DATE BY DESCRIPTION REVISIONS		
		<b>Stantec</b> 1303 N. McDaniel Blvd., Suite 250 Pasadena, CA 91106 Tel: 767.743.1640 Fax: 767.743.8938 www.stantec.com JGB MACO: 20163371		
		I HEREBY CERTIFY THAT THIS PLAN AND SPECIFICATION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A QUALIFIED ARCHITECT OR ENGINEER UNDER THE LAWS OF THE STATE OF CALIFORNIA AS INDICATED BY MY BOARD AND SEAL.		
		 FACILITIES PLANNING DESIGN AND ENGINEERING 10000 HUNTERS BLVD., SUITE 200 DUBLIN, CA 94568		

EXHIBIT A





**SECTION B-B**

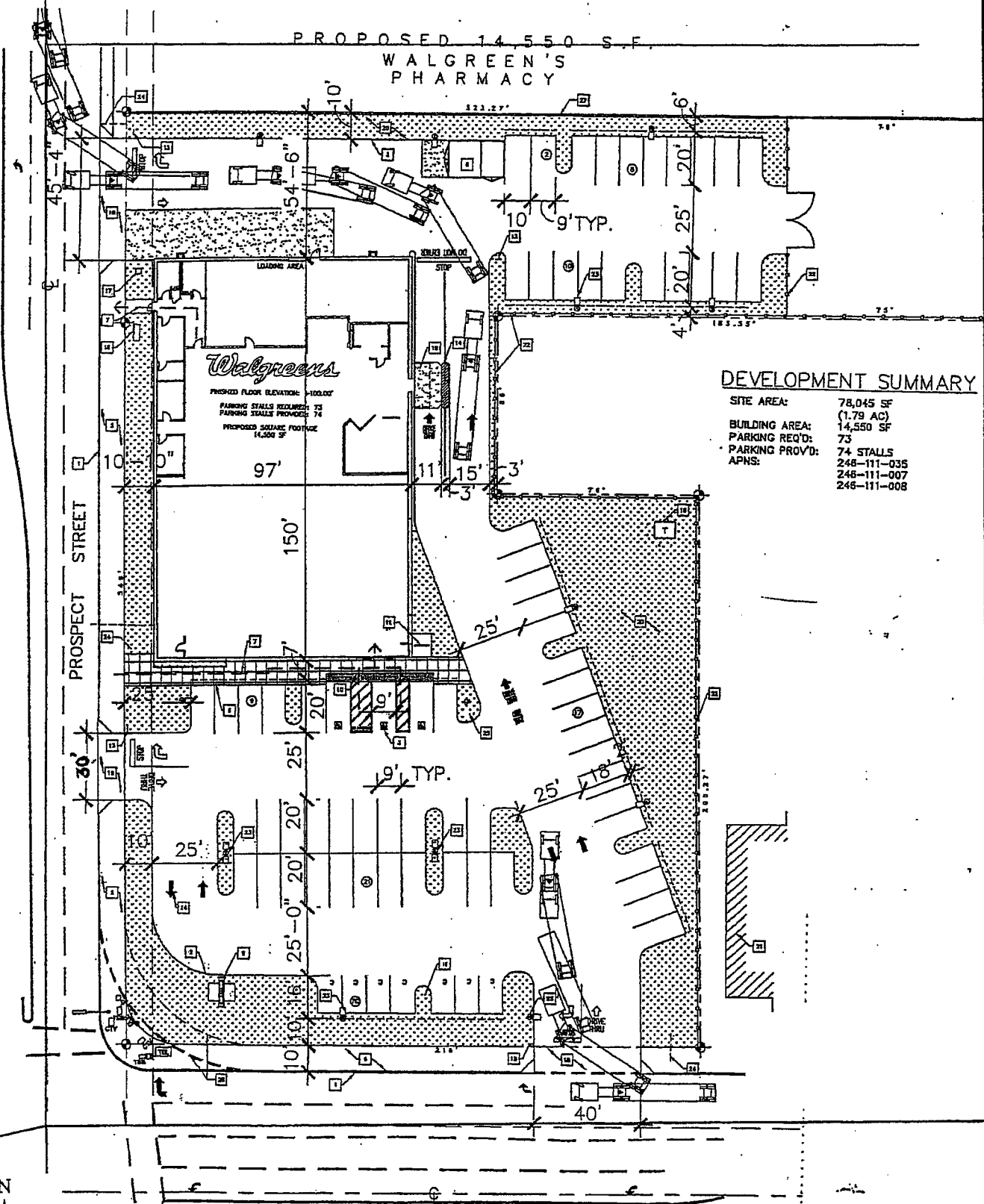
**8. REPAIRS SHALL BE MADE BY REMOVING & REPLACING THE ENTIRE UNIT BETWEEN JOINTS.**

REVISION APPROVED BY  
PUBLIC WORKS DIRECTOR  
*Baltimore Rodriguez*  
DATE: 05/10/2010 R.C.E. 43304  
SUPERCEDES  
DRAWING NO. C-20



# SITEPLAN

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



## DEVELOPMENT SUMMARY

SITE AREA:	78,045 SF (1.79 AC)
BUILDING AREA:	14,550 SF
PARKING REQ'D:	73
PARKING PROVIDED:	74 STALLS
APNS:	248-111-035 248-111-007 248-111-008



NOT TO SCALE

HENDERSON AVENUE

EXHIBIT C



STATE OF CALIFORNIA   )  
CITY OF PORTERVILLE   )       SS  
COUNTY OF TULARE     )

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 4<sup>th</sup> day of December, 2012.

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

Council:	WARD	McCRACKEN	GURROLA	SHELTON	HAMILTON
AYES:	X	X	X		X
NOES:					
ABSTAIN:				X	
ABSENT:					

JOHN D. LOLLIS, City Clerk

  
By: Luisa M. Herrera, 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: 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.

**ATTACHMENT**  
**ITEM NO. 2**



PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of November 2013.

By: \_\_\_\_\_  
Cameron J. Hamilton, Mayor

ATTEST:  
John D. Lollis, City Clerk

By: \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk



CITY COUNCIL AGENDA: DECEMBER 4, 2012

SUBJECT: WALGREENS PHARMACY AT HENDERSON AVENUE AND PROSPECT STREET (PRC 2012-010)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of a General Plan Amendment, Zone Change and Conditional Use Permit to facilitate the development of a 1.79± acre site for a new 14,550± square foot Walgreens Pharmacy at the northeast corner of Henderson Avenue and Prospect Street.

The proposed General Plan Amendment and Zone Change are supported by staff due to the logical pattern continued by the proposed action. The intersection of Henderson Avenue and Prospect Street has long been a major commercial corner in the city, and commercial uses extend north and south of the intersection on all other corners at dimensions consistent with what is now proposed for the northeast corner. Approval of the General Plan Amendment and Zone Change would bring the current zoning of the subject parcels into consistency and compliance with the proposed use.

The present land use and zoning for the subject 1.79± acre site is split between CR (Retail Centers) [1.23± acres] and RM-3 (High Density Residential) [0.56± acres] and is being proposed to change entirely to CR (Retail Centers). Land uses surrounding the project area are primarily commercial to the south, east, and west, with high- and medium-density residential to the north of the project. The applicant is requesting approval of a Conditional Use Permit to authorize the sale of alcohol under a Type 21 off-sale beer, wine and distilled spirits license. Additionally, prior to development, a parcel merger will be required to configure the subject three (3) parcels for project as proposed. The requested Zone Change would be contingent on the Lot Line Adjustment to consolidate the project parcels in order to be effective.

The proposed pharmacy is allowed by right in the CR Zone. However, the sale of alcohol requires a Conditional Use Permit. The project lies in Tract 35.02, which currently has eight (8) other alcohol licenses. The Department of Alcoholic Beverage Control (ABC) verified that ten (10) off-sale licenses are allowed in the tract area before the area is deemed over-concentrated. The census tract boundary in the project area is Henderson Avenue, and the census tracts to the south and east are over-concentrated with off-sale licenses. The nearest sensitive use is the First Christian Church of Porterville 550± feet north of the project site at the south east corner of Prospect Street and Mulberry Avenue.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving a Negative Declaration of environmental impact; and

DD

APPROPRIATED/FUNDED  
ACTING

MB

CM

ITEM NO. 10

ATTACHMENT  
ITEM NO. 3



2. Adopt the draft resolution approving a General Plan Amendment to change APN 246-111-008 land use designation from High Density Residential to Retail Center; and
3. Approve the draft ordinance approving Zone Change for APN 246-111-008 from High Density Residential Zone to Retail Center Zone contingent upon General Plan Amendment; and
4. Waive further reading of the draft ordinance, approving the Zone Change, and order it to print; and
5. Adopt the draft resolution containing findings and conditions in support of approval of Conditional Use Permit for a Type 21 off-sale alcohol license within Census Tract 35.02 for the proposed Walgreens Pharmacy at the northeast corner of Henderson Avenue and Prospect Street contingent upon Zone Change and General Plan Amendment.

ATTACHMENTS:

Complete Staff Report



CITY COUNCIL AGENDA: NOVEMBER 20, 2012

STAFF REPORT

TITLE: GENERAL PLAN AMENDMENT, ZONE CHANGE AND CONDITIONAL USE PERMIT (PRC 2012-010 WALGREENS PHARMACY)

APPLICANT: Doug Mighell  
Stantec Architecture  
1383 N. McDowell Blvd., Suite 250  
Petaluma, CA 94954

PROJECT LOCATION: Northeast corner of Henderson Avenue and Prospect Street

SPECIFIC REQUEST: The applicant is requesting approval of a General Plan Amendment, Zone Change and Conditional Use Permit for development of a 1.79± acre site. The development proposes a new 14,550± square foot Walgreens Pharmacy at the northeast corner of Henderson Avenue and Prospect Street.

The proposed General Plan Amendment and Zone Change are supported by staff due to the logical pattern continued by the proposed action. The intersection of Henderson Avenue and Prospect Street has long been a major commercial corner in the city, and commercial uses extend north and south of the intersection on all other corners at dimensions consistent with what is now proposed for the northeast corner. Approval of the General Plan Amendment and Zone Change would bring the current zoning of the subject parcels into consistency and compliance with the proposed use.

The present land use and zoning for the subject 1.79± acre site is split between CR (Retail Centers) [1.23± acres] and RM-3 (High Density Residential) [0.56± acres] and is being proposed to change entirely to CR (Retail Centers). The applicant is requesting approval of a Conditional Use Permit to authorize the sale of alcohol under a Type 21 off-sale beer, wine and distilled spirits license. Additionally, prior to development, a parcel merger will be required to configure the subject three (3) parcels for project as proposed. The requested Zone Change would be contingent on the Lot Line Adjustment to consolidate the project parcels in order to be effective.

The proposed pharmacy is permitted by right in the CR Zone. The sale of alcohol requires a Conditional Use Permit. The project lies in Tract 35.02, which currently has eight (8) other alcohol licenses (1 on-sale and 7 off-sale). The Department of Alcoholic Beverage Control (ABC) verified that ten (10) off-sale licenses are allowed in the tract area before the area is deemed over concentrated. The census tract boundary in the project area is Henderson Avenue, and the census tracts to the south and east are over-concentrated. Census alcohol permit concentrations are calculated based on population.

HISTORY: For more than twenty-five years, the northeast corner of Henderson Avenue and Prospect Street has been an active commercial corner. Initially it was a "7-Eleven" mini-mart with gas pumps and additional retail lease spaces, the corner has evolved into a strip mall of check cashing, salon, nutrition and tax preparation businesses. The existing circulation is poor

**ATTACHMENT  
ITEM NO. |**



and limited by nature of design and frontage along Henderson Avenue and Prospect Street. The adjacent property to the north was occupied by a residence several years ago but has since been cleared by the owner for the purposes of attracting development. The parcel furthest north has remained a residential use and been occupied predating most of the urban development in the immediate area; that residence is now vacant. The proposed project plans to consolidate the properties and develop the site as one pharmacy with drive-thru facility.

**PROJECT DETAILS:** The site selected for a proposed Walgreens Pharmacy with a drive-through and an off-sale alcohol license is currently vacant and located on multiple parcels that will require a lot merger to consolidate the parcels.

The colors and finish of the proposed development will completely update and improve visibility at the commercial corner. The new retail store proposes a modern design with colors of white, soft beige, tan, and fog tones. The concrete masonry building, framed pilasters and pop-outs will have a painted stucco finish. Other building finishes include anodized blue aluminum trim, clear anodized aluminum storefront and sunshades. Sign faces will compliment the building with red metal returns. Steel trellises attached to the building with live plant vines will provide enhancements and further help break up bare walls. The lower wall sections will be brown split face block approximately three and half feet high around the entire building. Additionally, increased landscaping will be installed along Henderson Avenue throughout the parking lot and median areas.

The proposed site plan meets City parking standards, and the layout allows additional landscaping near the pharmacy drive-thru. The building design, as proposed, provides a fresh and modern look that aesthetically improves the site as well as develops two vacant and underutilized parcels.

**STAFF ANALYSIS:** Although the use of a pharmacy is allowed by right in the Retail Center Zone, the project as proposed requires a Conditional Use Permit per Development Ordinance Section 301.03 "Alcohol Beverage Sales." While the City's Development Ordinance does not have proximity restrictions to sensitive uses (i.e. schools and churches), over the last several years the City Council has been sensitive and protective of surrounding uses. Consistent with recent projects, conditions have been placed on the draft resolution restricting outdoor advertising, restricting access to distilled spirits to employees, and requiring Council approval of changes regarding alcohol storage, sales and licensing. Attachment 4 represents the proximity of some of the existing alcohol permits adjacent to the subject site, but does not include the entire representation of active alcohol licenses per census tract.

In the subject Census Tract (35.02), nine (9) on-sale and ten (10) off-sale licenses are permitted. Currently, one (1) on-sale license and seven (7) off-sale licenses exist within the census tract. Eight (8) more on-sale and three (3) more off-sale licenses would be allowed, respectively. Adjacent census tracts include 36.01 to the southwest, 36.02 directly to the south, 37 to the east, and 38 to the southeast.

In Census Tract 36.01, six (6) on-sale licenses and seven (7) off-sale licenses are permitted. Currently, one Veteran's club and one off-sale beer and wine license exist. Additional on-sale and off-sale licenses would be allowed.



Similarly, in Census Tract 36.02, seven (7) off-sale licenses and six (6) on-sale licenses are permitted. Currently, thirteen (13) off-sale licenses and three (3) on-sale licenses exist within the census tract. The census tract is over-concentrated with off-sale licenses; however, three (3) more on-sale licenses would be allowed.

In Census Tract 37, five (5) off-sale licenses and five (5) on-sale are permitted. Currently, seven (7) off-sale licenses, nine (9) on-sale licenses, and one Veteran's Club license exist within the census tract. The census tract is over-concentrated with both on-sale and off-sale licenses.

In Census Tract 38.01, three (3) off-sale licenses and two (2) on-sale licenses are permitted. Currently, four (4) off-sale licenses and one (1) on-sale license exist within the census tract. The census tract is over-concentrated with off-sale licenses and one (1) more off-sale license would be allowed.

The development is within 600 feet (but not less than 500 feet) of one sensitive use - the First Christian Church - approximately 550 feet to the north at the corner of Prospect Street and Mulberry Avenue. There is not a distance requirement in the Development Ordinance between an off-sale alcohol sales establishment and a sensitive use.

#### SURROUNDING LAND USES AND ZONING:

NORTH : City – RM-3 and PD (High Density Residential and Planned Development) Multi Family Condominium Apartments and the First Christian Church of Porterville  
EAST : City – CR (Retail Centers Zone) Commercial Uses – Retail, Restaurants, and Convenience Markets  
WEST: City – CR (Retail Centers Zone) Commercial Uses – Drive-through Coffee and vacant commercial buildings  
SOUTH: City – CR (Retail Centers Zone) Commercial Uses – Convenience Market, Offices, vacant land, Credit Union, Restaurant and retail beyond

GENERAL PLAN DESIGNATION AND ZONING: The subject site is designated Retail Centers on the two parcels nearest Henderson Avenue (1.23± acres total), and High Density Residential for the northern parcel (0.56± acres). The proposed General Plan Amendment and Zone Change are supported by staff due to the logical pattern continued by the proposed action. The intersection of Henderson Avenue and Prospect Street has long been a major commercial corner in the city, and commercial uses extend north and south of the intersection on all other corners at dimensions consistent with what is now proposed for the northeast corner. Approval of the General Plan Amendment and Zone Change would bring the current zoning of the subject parcels into consistency and compliance with the proposed use.

ENVIRONMENTAL: On October 30, 2012, the Environmental Coordinator made a preliminary determination that a Negative Declaration would be appropriate for the Project. The Initial Study has been transmitted to interested agencies, groups and individuals for review and comment. The review period ran for twenty (20) days from November 10, 2012, to November 30, 2012. As of the submittal of this report, no comments were received.

DATE FILED FOR PROJECT REVIEW PROCESS: June 1, 2012



RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving a Negative Declaration of environmental impact;
2. Adopt the draft resolution approving a General Plan Amendment to change APN 246-111-008 land use designation from High Density Residential to Retail Center;
3. Approve the draft ordinance approving Zone Change for APN 246-111-008 from High Density Residential Zone to Retail Center Zone, contingent upon General Plan Amendment;
4. Waive further reading of the draft ordinance, approving the Zone Change, and order it to print;
5. Adopt the draft resolution containing findings and conditions in support of approval of Conditional Use Permit for a Type 21 off-sale alcohol license within Census Tract 35.02 for the proposed Walgreens Pharmacy at the northeast corner of Henderson Avenue and Prospect Street contingent upon Zone Change and General Plan Amendment.

ATTACHMENTS:

1. Project Location Map
2. Site Plan
3. Elevation Plan
4. Census Tract Map
5. Draft Resolution adopting a Negative Declaration
6. Draft Resolution for General Plan Amendment
7. Draft Ordinance for Zone Change
8. Draft Resolution of Approval for Conditional Use Permit 2012-10



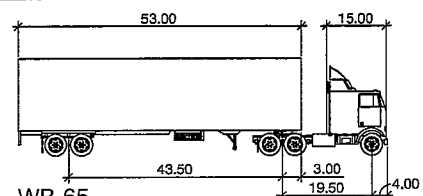


Attachment 1  
Project Location



# KEYNOTES

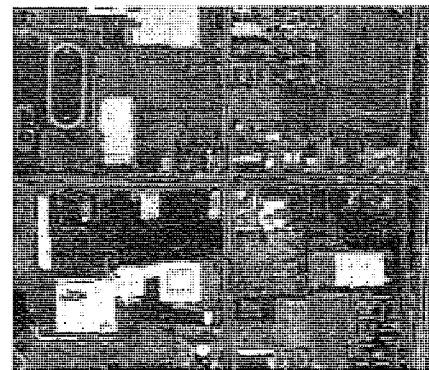
- 1 EXISTING PUBLIC CURB AND GUTTER TO REMAIN
- 2 PROPOSED 6" VERTICAL CURB
- 3 PROPOSED ACCESSIBLE PARKING STALL, ACCESSIBLE ISLE, BOLLARDS AND SIGN R-89
- 4 PROPOSED CURB RAMP
- 5 PROPOSED 10' SIDE WALK
- 6 PROPOSED 9' WIDE SIDEWALK
- 7 PROPOSED ACCESSIBLE PATH OF TRAVEL
- 8 PROPOSED TRASH AND TOTE ENCLOSURE
- 9 PROPOSED PYLON SIGN
- 10 PROPOSED WALK WITH FLUSH CURB
- 11 PROPOSED 6' WIDE PLANTER PENINSULA
- 12 PROPOSED BIKE RACK
- 13 PROPOSED STOP SIGN
- 14 PROPOSED PAVEMENT MARKINGS
- 15 WALGREENS TRANSFORMER LOCATION
- 16 PROPOSED FIRE LINE AND DDCV
- 17 WATER METER AND RP DEVICE
- 18 PROPOSED NEW CURB CUTS AND ACCESSIBLE DRIVE ENTRANCE
- 19 PROPOSED DRIVE-THRU PHARMACY
- 20 PROPOSED STORMWATER TREATMENT AREAS
- 21 ADJACENT BUILDING
- 22 CHAINLINK FENCE WITH VINYL SLATS
- 23 NEW PARKING LOT LIGHTING
- 24 CONNECTION TO STORM DRAIN IN STREET
- 25 FIRE HYDRANT
- 26 PROPOSED CURB AND SIDEWALK FOR CITY DEDICATION.
- 27 6" CMU WALL



**WB-65**  
 Tractor Width 8.00 Lock to Lock Time -6.00  
 Trailer Width 8.50 Steering Angle -28.40  
 Tractor Track 8.00 Articulating Angle -70.00  
 Trailer Track 8.50

## LEGEND

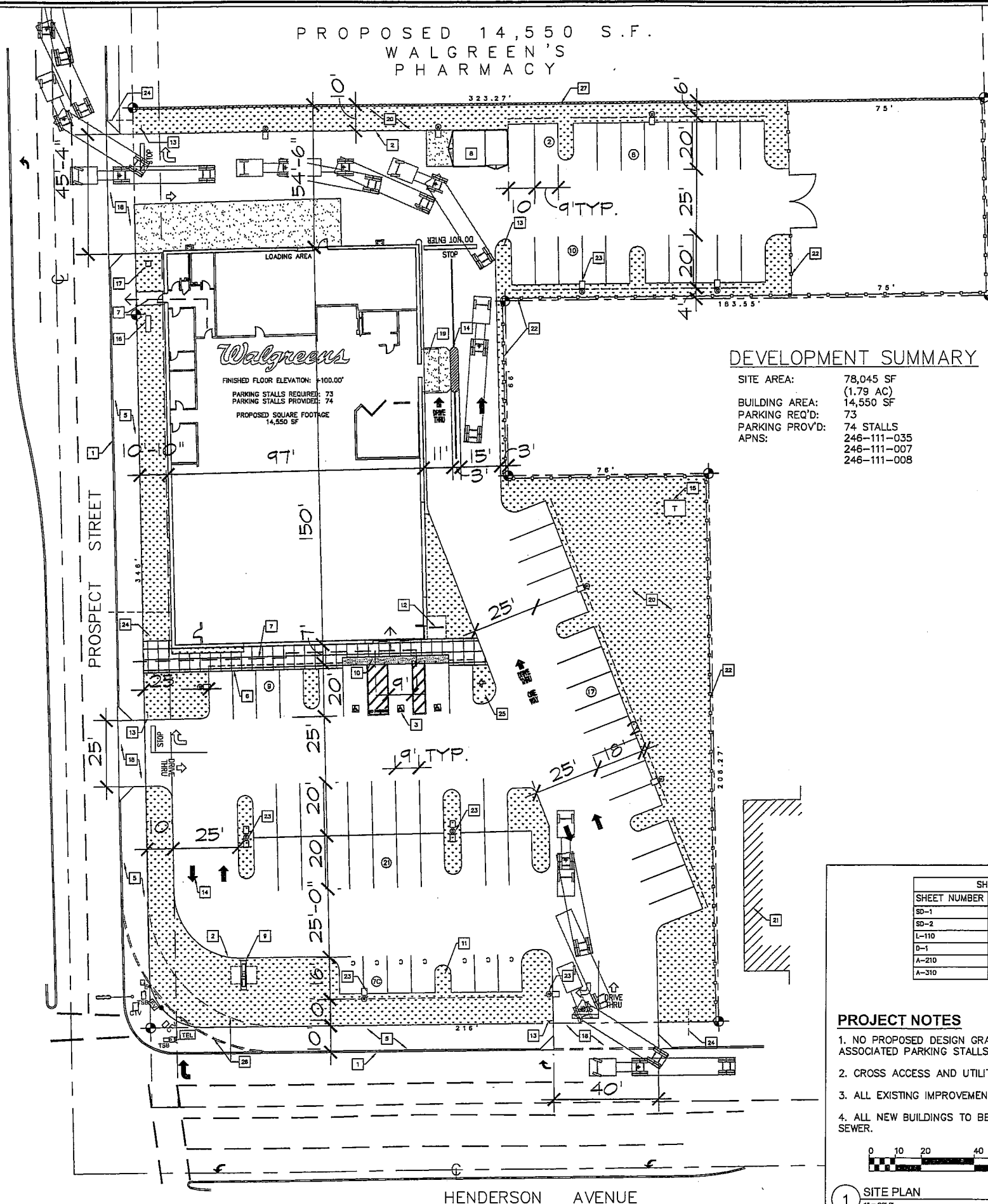
PROPERTY LINE	---
CURB, GUTTER & SIDEWALK	==
FENCE	---x---
6" BLOCK WALL	=====
POWER POLE	○-PP
WATER VALVE	⊕
FIRE HYDRANT	⊕
WATER METER	□
STORM DRAIN CATCH BASIN	○
SEWER CLEAN OUT	✱
CURB INLET OR CATCH BASIN	⊥
AC PAVEMENT	▨
PORTLAND CEMENT PAVEMENT	▩
NEW LANDSCAPE	▤



VICINITY MAP



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



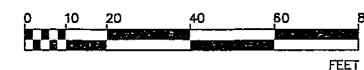
## DEVELOPMENT SUMMARY

SITE AREA: 78,045 SF  
 (1.79 AC)  
 BUILDING AREA: 14,550 SF  
 PARKING REQ'D: 73  
 PARKING PROV'D: 74 STALLS  
 APNS: 246-111-035  
 246-111-007  
 246-111-008

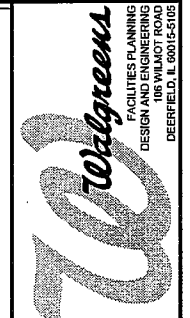
SHEET INDEX	
SHEET NUMBER	SHEET TITLE
SD-1	PRELIMINARY SITE PLAN
SD-2	ALTA AND TITLE SURVEY
L-110	PRELIMINARY LANDSCAPE PLAN
D-1	PRELIMINARY FLOOR PLAN
A-210	PRELIMINARY EXTERIOR ELEVATIONS
A-310	COLOR RENDERINGS

## PROJECT NOTES

1. NO PROPOSED DESIGN GRADES WITHIN THE PARKING FIELD AND ASSOCIATED PARKING STALLS EXCEED 5% SLOPE
2. CROSS ACCESS AND UTILITY EASEMENTS ARE EXISTING.
3. ALL EXISTING IMPROVEMENTS ON SITE ARE TO BE REMOVED.
4. ALL NEW BUILDINGS TO BE CONNECT TO PUBLIC WATER AND SEWER.



1 SITE PLAN  
 1" = 20'-0"



I HEREBY CERTIFY THAT THE PLAN AND SPECIFICATION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT OR ENGINEER UNDER THE LAWS OF THE STATE OF CALIFORNIA AS ATTACHED BY MY HAND AND SEAL.

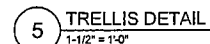
**Stantec**  
 Stantec Architecture Inc.  
 1303 N. McLeod Blvd., Suite 250  
 Pasadena, CA, U.S.A. 91104  
 Tel: 707.765.1660 Fax: 707.765.9908  
 www.stantec.com  
 JOB NUMBER: 2007512074

REVISIONS	
NO.	DESCRIPTION
1	DATE 9/22/12 BY ZM
2	DATE 9/24/12 BY DM

PRELIMINARY SITE PLAN	STORE NUMBER	WALGREENS
CADD PLOT:	DRAWN BY:	Z. MORGANO
	DATE:	6-1-2012
	REVIEWED:	D. MIGHELL
	NEC PROSPECT & HENDERSON	PORTERVILLE, CA
	SD-1	

ATTACHMENT  
 ITEM NO. 2





**FACILITIES PLANNING  
DESIGN AND ENGINEERING**  
106 WILMOT ROAD  
DARTFORD, CT 06424

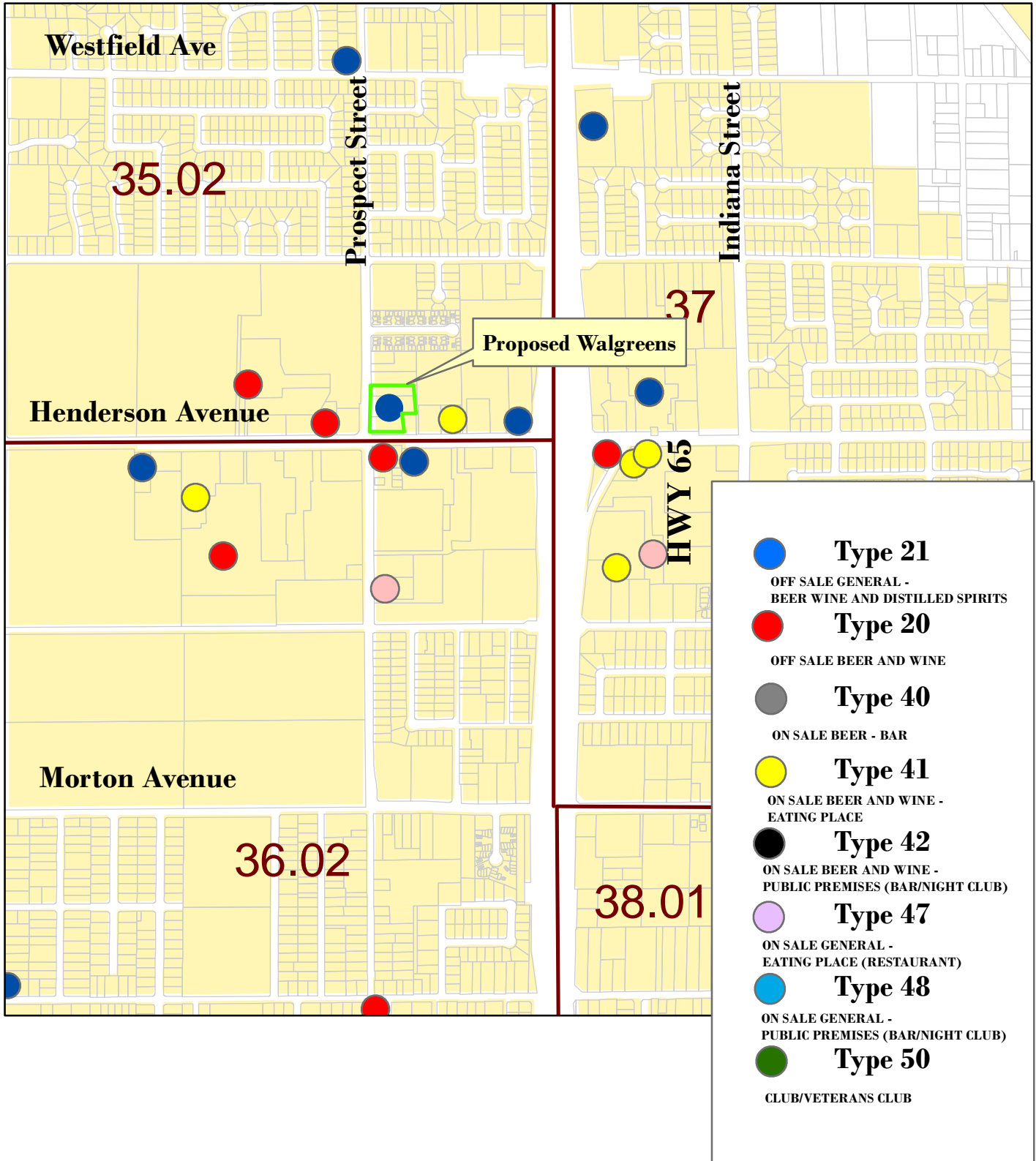


CADD PLOT: A310-210C11	STORE #TBD	<b>WALGREENS</b> PROSPECT & HENDERSON PORTERVILLE, CA
DRAWN BY: ZM DATE: 05/14/12 REVIEWED: D. MIGHIEL		

ATTACHMENT  
ITEM NO. 3



# City of Porterville Active Alcohol Licenses





RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A  
NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT  
FOR THE GENERAL PLAN AMENDMENT, ZONE CHANGE,  
AND CONDITIONAL USE PERMIT  
FOR A PROPOSED WALGREENS PHARMACY

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of December 4, 2012, conducted a public meeting to consider approval of the Negative Declaration which evaluates the environmental impacts of a General Plan amendment from High Density Residential to Retail Centers for a 0.56± acre parcel, a Zone Change from RM-3 (High Density Residential) to CR (Retail Centers) Zone for a 0.56± acre parcel, and a Conditional Use Permit for the proposed off-sale of alcohol at a project located on the east side of Prospect Street, north of Henderson Avenue; and

WHEREAS: The project proposes a General Plan amendment from High Density Residential to Retail Centers and a Zone Change from RM-3 (High Density Residential) to CR (Retail Centers) for a 0.56± acre parcel (APN 246-111-008). The subject site is being considered for development with the adjacent parcels to the south with contiguous ownership for development of a pharmacy; and

WHEREAS: The project parcels are developed as follows: APN 246-111-008 is occupied with a vacant single family residence, APN 246-111-007 is a vacant, undeveloped parcel, and APN 246-111-035 is developed with a commercial strip mall; and

WHEREAS: A lot merger shall be completed to join the three parcels under common ownership (APNs 246-111-007, 246-111-035, and 246-111-008) to meet the goals and objectives of the General Plan and to help ensure that subsequent development will not adversely impact the surrounding developed area; and

WHEREAS: A Conditional Use Permit is required and is being processed concurrently to permit off-sale wine, beer, and distilled spirits sales; and

WHEREAS: On October 30, 2012, the Environmental Coordinator made a preliminary determination that a Negative Declaration would be appropriate for the proposed project.

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

1. That a Negative Declaration was prepared for the project in accordance with the California Environmental Quality Act and was transmitted to interested agencies and made available for public review and comment. The review period ran for twenty (20) days, from November 10 through November 30, 2012.



2. That the proposed project will not result in adverse environmental impacts. The approved Negative Declaration was evaluated in light of the prepared environmental initial study. No comments were received during the review period.
3. That review of the environmental circumstances regarding this project indicates that no adverse impacts would accrue to wildlife resources from implementation of the project.
4. That the City Council is the decision-making body for the project.

BE IT FURTHER RESOLVED: That the City Council does hereby approve the Negative Declaration for the General Plan Amendment, Zone Change, and Conditional Use Permit for a proposed Walgreens Pharmacy at Henderson Avenue and Prospect Street (PRC 2012-010).

PASSED, APPROVED AND ADOPTED this 4<sup>th</sup> day of December 2012.

By: \_\_\_\_\_  
Virginia R. Gurrola, Mayor

ATTEST:  
John D. Lollis, City Clerk

By: \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A  
GENERAL PLAN AMENDMENT (2012-010-G)  
FOR A PROPOSED WALGREENS PHARMACY

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of December 4, 2012, conducted a public meeting to consider approval of a General Plan amendment from High Density Residential to Retail Centers for a 0.56± acre parcel, for the parcel located on the east side of Prospect Street, 300± feet north of Henderson Avenue (APN 246-111-008); and

WHEREAS: The subject site is being considered for development with the adjacent parcels to the south with contiguous ownership for development of a pharmacy; and

WHEREAS: The project parcels are developed as follows: APN 246-111-008 is occupied with a vacant single family residence, APN 246-111-007 is a vacant, undeveloped parcel, and APN 246-111-035 is developed with a commercial strip mall; and

WHEREAS: A lot merger shall be completed to join the three parcels under common ownership (APNs 246-111-007, 246-111-035, and 246-111-008) to meet the goals and objectives of the General Plan and to help ensure that subsequent development will not adversely impact the surrounding developed area; and

WHEREAS: On October 30, 2012, the Environmental Coordinator made a preliminary determination that a Negative Declaration would be appropriate for the proposed project.

WHEREAS: The proposed General Plan Amendment is supported by staff due to the logical pattern continued by the proposed action. Approval of the General Plan Amendment and Zone Change would bring the current zoning of the subject parcels into consistency and compliance with the proposed use.

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

1. The intersection of Henderson Avenue and Prospect Street has long been a major commercial corner in the city, and commercial uses extend north and south of the intersection on all other corners at dimensions consistent with what is now proposed for the northeast corner.
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 (APN 246-111-008) does not infringe on the goals of the General Plan to maintain transitions between types and intensities of land use.



3. 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 to Retail Centers on APN 246-111-008 for a proposed Walgreens Pharmacy at Henderson Avenue and Prospect Street (PRC 2012-010-G).

PASSED, APPROVED AND ADOPTED this 4<sup>th</sup> day of December 2012.

By: \_\_\_\_\_  
Virginia R. Gurrola, 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 2012-010-Z)  
FROM RM-3 (HIGH DENSITY RESIDENTIAL) TO CR (RETAIL CENTERS)  
FOR THAT .56± ACRE SITE LOCATED GENERALLY AT THE NORTHEAST CORNER  
OF HENDERSON AVENUE AND PROSPECT STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of December 4, 2012, conducted a public hearing to approve findings and consider Zone Change (PRC 2012-010), being a change of zone from RM-3 (High Density Residential) to CR (Retail Centers) for the parcel located on the east side of Prospect Street, 300± feet north of Henderson Avenue (APN 246-111-008); and

WHEREAS: The City Council of the City of Porterville determined that the proposed Zone Change (PRC 2012-010) is consistent with the guiding and implementation policies of the adopted 2030 General Plan; and

WHEREAS: That a Negative Declaration was prepared for the project in accordance with the California Environmental Quality Act and was transmitted to interested agencies and made available for public review and comment. The review period ran for twenty (20) days from November 10, 2012, to November 30, 2012. No comments were received; 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.
- b. Development of the site as proposed requires approval of a Conditional Use Permit and would be subject to the City's development standards.
- c. The General Plan designation for the subject area was approved by the City Council on December 4, 2012, modifying the General Plan designation from High Density Residential to Retail Centers for the subject parcel.
- d. The subject Zone Change will not create adverse environmental impacts on the adjacent neighborhood when standards of the Development Ordinance and General Plan are applied to the subsequent development project, which would include but not limited to a block wall between differing land uses, and approval of a Conditional Use Permit for alcohol sales.



- e. A lot merger shall be completed to join the property under common ownership (APNs 246-111-007, 246-111-035, and 246-111-008) to meet the goals and objectives of the General Plan and to help ensure that subsequent development will not adversely impact the surrounding residential area.

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 2012-010-Z, is hereby rezoned from RM-3 (High Density Residential) to CR (Retail Centers), pursuant to Section 3 below, for the parcel described herein as Assessors Parcel Number 246-111-008 located generally 300± feet north of Henderson Avenue on the east side of Prospect 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 RM-3 (High Density Residential) to CR (Retail Centers) for the parcel described above, more particularly shown on the attached map as Exhibit "A"; and

Section 3: This ordinance shall be in full force and effect concurrently with the recording of the lot merger under common ownership that merges the subject property with the adjacent easterly parcel under contiguous ownership (APNs 246-111-007, 246-111-035, and 246-111-008), which shall not be sooner than thirty (30) days from and after the ordinance's publication and passage.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of December, 2012.

By: \_\_\_\_\_  
Virginia R. Gurrola, Mayor

ATTEST:

John D. Lollis, City Clerk

By: \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN  
SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT PRC-2012-010-C  
TO ALLOW THE SALE OF BEER, WINE, AND DISTILLED SPIRITS UNDER AN OFF-  
SALE 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, wine and distilled spirits under a Type 21 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-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 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 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 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, wine and distilled spirits 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.



PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of December, 2012.

By: \_\_\_\_\_  
Virginia R. Gurrola, Mayor

ATTEST:  
John D. Lollis, City Clerk

By: \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk



## **601.08: EXPIRATION AND EXTENSION:**

- A. Expiration: The city council, in the granting of any permit, or the zoning administrator, in the granting of any application, permit modification, or adjustment, may specify the time within which the proposed use must be undertaken and actively and continuously pursued. The city council or zoning administrator may impose upon the permit a term of such period of time as is found to be consistent with the purposes of the use and necessary to safeguard the public safety, health and welfare. If no time period is otherwise specified, any permit granted under this chapter may be declared lapsed and of no further force and effect if it is not exercised or extended within two (2) years of its issuance.
1. A permit for the use of a building or a property is exercised when, if required, a valid city business license has been issued, and the permitted use has commenced on the property.
  2. A permit for the construction of a building or structure is exercised when a valid city building permit, if required, is issued, and construction has lawfully commenced.
- B. Extensions: The city council may approve a one year extension of any permit or approval granted under this chapter upon receipt of a written application with the required fee before the permit expires. (Ord. 1791, 8-21-2012)



COUNCIL AGENDA: NOVEMBER 5, 2013

**SUBJECT:** RESPONSE TO CALIFORNIA ATTORNEY GENERAL AND STATE CONTROLLER CONCERNING LETTER TO THE SAME ENTITIES FROM THE TULARE COUNTY INDIAN GAMING LOCAL COMMUNITY BENEFIT COMMITTEE

**SOURCE:** City Attorney

**COMMENT:** Over the past several years, the City and Tulare County have locked horns over the eligibility and nexus requirements for receipt of the 60% nexus grant funding permitted for grants awarded by this Committee from the Indian Gaming Local Distribution Fund. The City has maintained that that the Tule River Indian Tribe's Eagle Mountain Casino facilities located within the city limits made it eligible for awards under the nexus criteria. On this basis, the Committee awarded grant funds for projects in 2011 and 2012. However, in 2013 the Committee (via Senator Michael Rubio's office) requested and received an opinion from the Office of Legislative Counsel that has opined that these facilities and the Tribe's property interests within the city do not meet the eligibility criteria for 60% nexus funding. Due to this opinion, the Committee's legal counsel (Tulare County Counsel) sent a letter to the City in May 2013 requesting return of the funds awarded under this eligibility criteria in 2011 and 2012. However this letter has not been ratified by the Committee. Instead, the Committee has authorized sending a letter to the Attorney General and State Controller, and also authorized that any response from the City, and also the Tribe, be sent in conjunction with the Committee's letter.

The City believes that any request for return of the funding is improper under the law that governs the Committee and the grant distributions. The Committee bears the responsibility for making the grant eligibility determinations and awards. Furthermore, the funds for the 2011 and 2012 awarded projects have been expended.

**RECOMMENDATION:** That the City Council consider and approve the attached letter response.

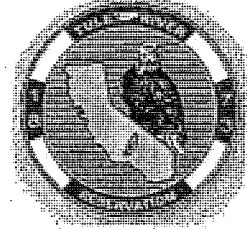
**ATTACHMENTS:** 1. Letter from the IGLCBC to the Attorney General and State Controller; and  
2. Proposed Companion Letter from the City of Porterville (with attachment)

ITEM NO. 10





# Tulare County Indian Gaming Local Community Benefit Committee



## Committee Members

Mike Ennis  
Mutually Selected

Joe Garcia  
Tulare County Representative

Kenneth McDarment  
Tule Tribe Representative

Nancy McDarment  
Tule Tribe Representative

Robin Skiles, *Chairman*  
Tulare County Representative

Vacant  
Mutually Selected

Vacant  
Mutually Selected

## Alternate Members

John Crivello  
Tulare County Representative

Vacant  
Mutually Selected

Rhoda Hunter  
Tule Tribe Representative

## Committee Staff

Jed Chernabaeff &  
John Hess  
2800 W. Burrell Ave.  
Visalia, CA 93291  
(559) 636-5005

State of California Department of Justice  
Office of the Attorney General  
Bureau of Gambling Control  
PO Box 168024  
Sacramento, CA 95816-8024

State of California  
Office of the State Controller  
Division of Accounting and Reporting  
PO Box 942850  
Sacramento, CA 94250

To whom it may concern:

The Tulare County Indian Gaming Local Community Benefit Committee has had the opportunity to award \$3.5 million in Special Distribution Fund monies since 2004. The Committee has worked with the Tule River Tribal Council to ensure these funds are spent on projects that benefit communities and the Tribe, and mitigate impacts from the Eagle Mountain Casino. The Committee and Tribal Council have intentionally awarded funds to projects that provide a wide range of services.

In Fiscal Years 2011 and 2012, the Committee awarded funds to the City of Porterville for public safety enhancements, including the following: improvements of the City's Police Department Firing Range Facility; hiring a Juvenile Diversion Officer, a Community Service Officer, and a Fire Prevention/Public Education Officer; coordinating programs and services in "at-risk" areas; and the purchase of a vehicle for the Police Department. The City of Porterville has indicated that, as of June 2013, all of these funds have been spent on these activities. All of these projects meet the eligibility requirements for funding, and each has provided much needed benefit to the community.

Based on an opinion of the California Office of Legislative Counsel (OLC) provided to Senator Michael Rubio's office at the request of the Committee dated February 4, 2013, the Tulare County Indian Gaming Local Community Benefit Committee has concluded that the Committee awarded funds to the City of Porterville from the 60% Nexus Test Criteria Amount of the Special Distribution Fund in Fiscal Years 2011 and 2012, but the City did not meet a sufficient number of the Nexus Test Criteria to qualify for this level of funding. On February 21, 2013, the Committee passed a resolution determining that the City of Porterville does not qualify for the 60% Nexus Test Criteria grants for Fiscal Year 2013. As a result, the Committee did not award any funds from the 60% Nexus Test Criteria amount to the City of Porterville in Fiscal Year 2013.

ATTACHMENT 1



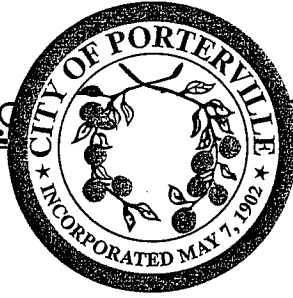
On May 9, 2013, Committee Legal Counsel sent a letter to the City of Porterville demanding the repayment of a portion of the 2011 and 2012 Committee grant awards, in the amount of \$217,313. This amount represents the difference between the actual amount awarded to Porterville and the amount that the City was eligible to receive under the 40% Discretionary Funding. Committee Legal Counsel has directed the City of Porterville that this money is to be repaid to the State of California, not the County of Tulare nor the Tulare County Indian Gaming Local Community Benefit Committee.

The Committee would like to bring this matter to your attention and seek any further direction that you may have at this time. The following documents are enclosed to provide further background information: the May 9, 2013 Demand Letter addressed to the City of Porterville; the February 4, 2013 Opinion from the OLC, and the February 21, 2013 Resolution of the Committee identifying the County of Tulare as the only eligible recipient of funds from the 60% Nexus Test Criteria amount. Should you have any questions regarding this matter, please contact Committee staff, Jed Chernabaeff or John Hess.

Sincerely,

  
Captain Robin Skiles,  
Committee Chairman





November 5, 2013

State of California Department of Justice  
Office of Attorney General  
Bureau of Gambling Control  
P.O. Box 168024  
Sacramento, CA 95816-8024

State of California  
Office of State Controller  
Division of Accounting and Reporting  
P.O. Box 942850  
Sacramento, CA 94250

**Re: Letter from the Tulare County Indian Gaming Local Community  
Benefit Committee to the Attorney General and State Controller  
Related to 2011 and 2012 Grant Awards to the City of Porterville**

To Whom It May Concern:

The City Council of the City of Porterville herewith submits its companion response to the above-referenced letter.

**BACKGROUND**

Over the past nine years, the City of Porterville and the County of Tulare have locked horns over the eligibility requirements for receipt of the 60% nexus grant funding permitted pursuant to Chapter 7.5 of the California Government Code (Grants of Indian Gaming Revenue to Local Governmental Agencies, Section 12710 et seq.) from the Tulare County Indian Gaming Local Community Benefit Committee (hereinafter "Committee"). Facilities for the Tule River Indian Tribe's Eagle Mountain Casino are located within the city limits, on property owned by the Tribe and part of a pending fee-to-trust application. These facilities include casino warehouse facilities and a transportation hub for casino customers and employees. The City has maintained that these facilities and properties, located wholly within the City limits, made it eligible for awards per the 60% nexus criteria. For fiscal years 2011 and 2012, the Committee found the City to be qualified and awarded funding to the City on that basis, the latter award happening in April 2012.



The Committee's legal counsel, Tulare County Counsel, did not agree with these Committee decisions. In June 2012, Tulare County Counsel withdrew its legal representation from the Committee for a period of approximately 11 months, until approximately May 2013. In October 2012, the Committee requested and then received in February 2013, via Senator Michael Rubio's office, an opinion from the Office of Legislative Counsel on the following: 1) the definition of "Indian lands" for the purposes of the applicable statutes; 2) the definition of a "casino;" 3) clarification concerning what "borders the Indian lands on all sides" means; and 4) a finding that the statutes do not prohibit a Committee from awarding a grant for a proposed project if the application does not identify the percentage of project costs attributable to the impacts caused by the casino. The Office of Legislative Counsel provided a disclaimer that it was not providing a legal opinion as to past actions and was not providing findings of fact. Utilizing this legal opinion, for the 2013 fiscal year grant awards, the Committee found that only the County met the geographic eligibility requirement and made the awards on that basis in May 2013.

On May 13, 2013, over one year after having been awarded the 2012 funding, the City of Porterville received a letter from Tulare County Counsel, providing that the LCBC was requesting return by the City of its 2011 and 2012 grant awards in the amount of \$217,313 plus interest, based on legal counsel's determination that the City did not meet the geographic eligibility requirements. This letter was then placed on the Committee's open session agenda several times for ratification by the Committee; however the Committee never approved the letter. In fact, a motion to ratify the letter failed unanimously on June 19, 2013, but the motion was later found to have been procedurally invalid and was deemed to have not occurred. That stated the Committee ultimately approved sending a notification and request for direction to the California Attorney General and State Controller, along with any response the City wished to provide, in lieu of making a direct reimbursement demand to the City or rescinding its prior grant approvals.

**THE COMMITTEE IS RESPONSIBLE FOR THE DECISIONS IT MAKES  
AND THE CITY HAS DETRIMENTALLY RELIED UPON THOSE  
DECISIONS**

It is improper for the Committee to demand that the City bear the consequences for the *Committee's decision* to award those funds. Pursuant to the applicable California Government Code Sections, the Committee is the entity responsible for making the eligibility determinations. Per Government Code Section 12715(b)(1), "This committee has the following additional responsibilities," which includes per Section 12715(b)(1)(B), "Assessing the eligibility of applications for grants from local jurisdictions impacted by tribal gaming operations." Pursuant to Section 12715(c)(1), "A nexus test based on the geographical proximity.... shall be *used by each county's Indian Gaming Local Community Benefit Committee....*" [Emphasis Added.] There is nothing in the statute, or any other covenant or condition, that transfers this responsibility to the agencies that apply for funding before the Committee. In fact this was noted in the 2011 California State Auditor's report concerning allocation and use of moneys from the Indian Gaming



Special Distribution Fund (at page 29). "Specifically, the law requires benefit committees in counties with tribes that pay into the distribution fund to conduct a nexus test... ." [See excerpt of Report, attached.] That the Committee may have taken action inconsistent with its own legal counsel's advice does not shift this responsibility.

The City has always supported the Committee's decision to seek what it believes was needed legal clarification as to the eligibility requirements; however the City understood and the Committee meeting records reflect that this advice was intended to guide the Committee's *future* grant approvals. The City has detrimentally relied upon the Committee's decisions in 2011 and 2012, and to utilize an opinion obtained six months after the funds were awarded to the City as the basis for requiring reimbursement violates the principles of promissory/equitable estoppel. "The vital principle is that he who by his language or conduct leads another to do what he would not otherwise have done shall not subject such person to loss or injury by disappointing the expectations upon which he acted. Such a change in position is sternly forbidden." [*City of Long Beach v. Mansell* (1970) 3 Cal.3d 462 at 488 (quoting *Seymour v. Oelrichs* (1909) 156 Cal.782).]

### THE CITY HAS EXPENDED THE AWARDED FUNDS

For the past nine years the City has advocated before the Committee for the funding of its projects, and it believed that it could meet the 60% criteria test based on the casino operations located on Tribe-owned lands within the City. As noted, for the 2011 and 2012 fiscal year award cycles, the City was successful in obtaining funding under these criteria. Those funds went to projects that were eligible as determined by the Committee.

Forcing the return of the funds by the City after the funds have been utilized would be inappropriate, since this remedy is not provided for in the applicable statutes. The violations that are addressed are contained in Government Code Sections 12715(h) and 12715(i), which concerns use of grant funds by a local jurisdiction for an unrelated purpose or improper (as defined) purpose. Even under these provisions, the statutory remedy requires termination of the grant and return of any *unexpended* funds, and in the City's case the funds have been fully expended.

The State Auditor identified this issue in its 2011 Report, and noted (at page 30) that the legislative remedy is as follows:

Likewise, if a grant recipient uses grant funds for an unrelated purpose, the grant terminates immediately and the amount of the grant *not yet spent* reverts back to the distribution fund. Although the law contains no such express requirement for nexus funds that are not awarded as the law directs, we believe it is reasonable to expect that funds not used for the purpose authorized by the Legislature should return to the fund from which they were appropriated. *Therefore, Legislature should clarify the law if it wishes to require that nexus set-aside funds revert back to the distribution fund when benefit committees are not able, or choose not, to award the full nexus set-aside to the appropriate cities and counties.* [Emphasis Added.]



Currently, there is no remedy in the statutes addressing projects that are later found to not meet all of the eligibility criteria, and additional legislation may be in order to address this issue.

Finally, if the Committee is going to require the City to return these funds, it should take steps to require other agencies to return funds if it granted funds to other potentially improper purposes. Numerous problems were identified per the aforementioned State Auditor's Report in the jurisdictions it reviewed related to proper justification of projects related to casino impacts. For example, as was noted in the Report (pages 23-24), the Riverside County Fire Department received almost \$906,000 for equipment for wildland fire response, without tracking incidences that were related to the casino. In prior years Tulare County has applied for and received funding for similar reasons without showing direct impacts from the casino. In fact, there are likely applications from all of the various parties over the past years that may not have met the standards outlined in the State Auditors Report; yet the City is the only entity wherein the Committee has considered requesting reimbursement.

### CONCLUSION

It was the City's responsibility to advocate for funding for its projects, and the Committee bears the responsibility for its determinations as to eligibility and the appropriateness of the applications before it. This includes the responsibility for making the assessments on the proper nexus percentages. While the City understands that there has been a difference of opinion between the Committee and its legal counsel concerning whether the City should be considered for the 60% nexus funding, the Committee ultimately made the decision to make the awards to the City, and it is inappropriate for the Committee to now hold the City responsible for its own decisions, particularly under the current applicable law.

That stated, the City understands that its issues with Tulare County and this Committee underscore the need for further legislative clarification. The City will continue to abide by the decisions of the Committee and the letter and spirit of the laws that govern it, as it always has.

Thank you.

Very truly yours,

Cameron J. Hamilton  
Mayor, City of Porterville

cc: John Lollis, City Manager  
Julia M. Lew, City Attorney  
Tulare County Local Indian Gaming Community Benefit Committee



Elaine M. Howle  
State Auditor  
Doug Cordiner  
Chief Deputy

# CALIFORNIA STATE AUDITOR

## Bureau of State Audits

555 Capitol Mall, Suite 300

Sacramento, CA 95814

916.445.0255

916.327.0019 fax

www.bsa.ca.gov

February 15, 2011

2010-036

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As required by Chapter 858, Statutes of 2003, the California State Auditor presents this audit report concerning the allocation and use of moneys from the Indian Gaming Special Distribution Fund (distribution fund).

This report, our second review of the allocation and expenditure of grants from the distribution fund, concludes that Indian Gaming Local Community Benefit Committees (benefit committees) continue to have difficulty complying with grant requirements and related laws. Our review of a sample of 20 grants totaling \$5.7 million revealed that in 10 instances the grant recipient either could not provide evidence of, or could not quantify, the impact of the casino. As a result, they were unable to prove that the funding was in proportion to the impact of a casino, as required by law. In three other cases, benefit committees awarded grants that were unrelated or disproportionally related to casino impacts, and the Yolo County benefit committee awarded the entirety of its nearly \$336,000 allocation to an ineligible entity. Further, in three of the counties we reviewed, benefit committees did not award some cities and counties the minimum amounts the law set aside for them.

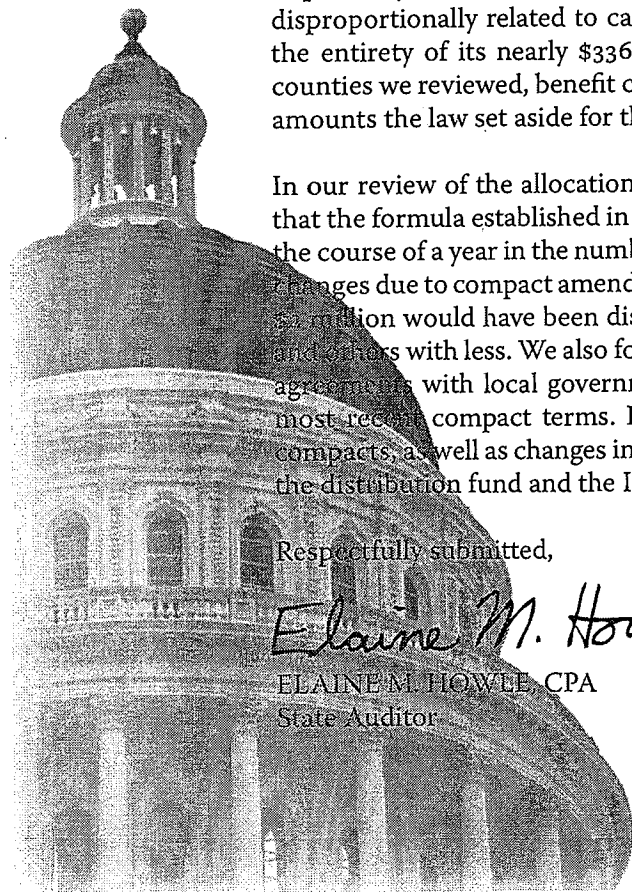
In our review of the allocation of funds to counties by the State Controller's Office, we found that the formula established in law does not take into account the possibility of a change during the course of a year in the number of devices operated by a tribe. Had the law taken into account changes due to compact amendments that took effect during fiscal year 2007-08, approximately \$4 million would have been distributed differently, providing some counties with more money and others with less. We also found that many tribes with compact amendments are negotiating agreements with local governments to directly fund mitigation projects, as required by their most recent compact terms. Finally, changes in contribution requirements due to amended compacts, as well as changes in the number of licenses, have altered the revenue streams of both the distribution fund and the Indian Gaming Revenue Sharing Trust Fund.

Respectfully submitted,



Elaine M. Howle

ELAINE M. HOWLE, CPA  
State Auditor





## Summary

### Results in Brief

In this review, our second examination of the allocation and expenditure of grants from the Indian Gaming Special Distribution Fund (distribution fund), we found that the Indian Gaming Local Community Benefit Committees (benefit committees) responsible for distributing these funds within the counties continue to have difficulty in complying with distribution fund grant requirements and with related laws. The distribution fund uses money contributed by some tribal casinos, required under agreements known as gaming compacts between the tribe and the State, to mitigate the impact of tribal gaming on local governments in the State. As of September 2010 California had compacts with 67 of California's federally recognized tribes, 57 of which operated a total of 58 tribal casinos in 26 counties.

In fiscal year 2008–09, the Legislature appropriated \$30 million from the distribution fund to local governments for mitigation projects. This amount was divided among 25 counties, which issued 185 grants. Our review of a sample of 20 of these grants awarded to local governments in seven counties revealed that for 10 of the grants, which together totaled \$3.2 million, the local government either could not provide evidence of, or could not quantify, the impact of a local casino. As a result, for projects that both mitigated an adverse impact of a casino and provided other local benefits, neither we nor the county could determine whether the share provided from the distribution fund grants was proportional to the casino's impact, as required by state law.

These grants may have been approved because some county benefit committees obtained the tribes' sponsorship for the proposals before selecting them for funding. Requiring the benefit committee to select projects for grant funding before obtaining tribal sponsorship would have several inherent benefits. Not only does the consideration of each grant application by the benefit committee in a public meeting allow for discussion and public comment on each application's relative merits, but it also presents the opportunity for an applicant to provide additional information and clarification on the application.

In three of the counties we reviewed, five local governments did not receive as much grant money as was set aside for them in law by the nexus test—a test of geographical proximity that defines the minimum grant amounts certain local governments should receive. In total, more than \$1.2 million set aside for these local governments went instead to other cities and counties. The county representatives described several reasons for this situation. Santa Barbara County misinterpreted the law, leading it to miscalculate the nexus amounts,

### Audit Highlights...

*Our audit of the Indian Gaming Special Distribution Fund (distribution fund) revealed the following:*

- » *The Legislature allocated \$30 million from the distribution fund to local governments for mitigation projects in fiscal year 2008–09, which was divided among 25 counties that issued 185 grants.*
- » *We reviewed 20 grants and found that for 10, the local government either could not provide evidence of, or could not quantify, the impact of a local casino.*
- » *In three of the counties we reviewed, five local governments did not receive as much grant money—\$1.2 million—as was set aside for them in law.*
- » *Members of the Indian Gaming Local Community Benefit Committees do not always make the required financial disclosures.*
- » *Amended compacts have resulted in less revenue for the distribution fund yet have increased the revenue available to the State's General Fund. In addition, they have resulted in agreements for tribes to mitigate casino impacts on local governments.*
- » *Due to newly amended compacts, some tribes ceased making contributions to the distribution fund partway through the 2007–08 fiscal year, a situation unanticipated by the law that affected how almost \$2 million was distributed.*



and the benefit committee decided to further reduce the amount. In Riverside County, one city that was eligible for grant funds did not apply for a grant, and the tribes did not fully sponsor other grants. Finally, Amador County was unable to explain why it awarded the amounts it chose. Only Riverside County informed local governments of the amounts set aside for them based on the nexus test. We also found that a poor understanding of the law's requirements resulted in one grant benefiting an ineligible entity. The benefit committee in Yolo County provided roughly \$336,000 to a school district, which is an ineligible entity under state law.

Our review also revealed that members of benefit committees do not always make the financial disclosures required by state law. Although each member is required to file a statement of economic interests that helps to identify conflicts of interest that he or she might have, our review found that 12 of the 49 committee members in four of the seven counties whose grants we reviewed failed to file their statements. Further, two members filed statements more than a year late. Several factors contributed to these omissions, including the failure of some benefit committees to establish conflict-of-interest codes that include each of the elements required by state law as well as the failure of filing officers who collect such forms to follow guidelines for administering the process.

During our review, we calculated the current balances of the distribution fund and the Indian Gaming Revenue Sharing Trust Fund (trust fund), from which the California Gambling Control Commission distributes funds to tribes that operate few gaming devices or that do not have gaming compacts with the State. We also summarized the revenue and expenditures of each of these funds. Changes in contribution requirements due to amended compacts, as well as changes in the number of licenses, have altered the revenue streams of both funds.

Although the amended compacts have resulted in less revenue for the distribution fund, they have increased the revenue available to the State's General Fund, which the Legislature might need to consider as an alternative source for funding grants and services related to casino impacts in the future. Additionally, the new or amended compacts allow tribes to work directly with local governments to address casino impacts. Eight of the tribes with new or amended compacts that we contacted have entered into written agreements with local cities and counties, and these tribes have agreed to contribute to mitigation projects and to reimburse the local governments for services provided to the casinos.

We also reviewed the fiscal year 2008–09 allocation by the State Controller's Office (Controller) from the distribution fund to counties. We found that the Controller used the formula established



in law but that, due to newly amended compacts, some tribes ceased making contributions to the distribution fund partway through fiscal year 2007–08—a situation that the law did not anticipate. Had the allocation taken into account the fact that these tribes did not contribute throughout the year, approximately \$2 million would have been distributed differently, providing some counties with more money and others with less.

### Recommendations

The Legislature should consider amending the law to require that counties forfeit equivalent amounts of future money from the distribution fund if their benefit committees approve grant applications that fail to provide evidence that projects are funded in proportion to casinos' impacts. To make certain that the projects' eligibility, merit, and relevance are discussed in a public forum during the projects' selection, the Legislature should also clarify that benefit committees should meet to consider applications before submitting them for tribal sponsorship.

Alternatively, the Legislature could emphasize local priorities by amending the law to allow benefit committees to approve any applications that are submitted to them for public debate and committee approval before tribal sponsorship, regardless of the proportionality of a casino impact.

To provide an incentive for benefit committees to award cities and counties the amounts that the Legislature has appropriated to them for mitigating casino impacts, the Legislature should require that grant funds allocated for each city and county according to the nexus test revert to the distribution fund if they are not awarded to that city or county.

The Legislature should amend the law for allocating distribution funds to counties to include provisions for prorating a county's distribution fund allocation based on the percentage of the year that each gaming device in the county is required to contribute to the fund. Such an amendment would ensure a more proportionate distribution when the number of contributing gaming devices changes during the course of the year.

To help ensure that they meet the grant requirements established in the law, counties should take the following actions:

- Ensure that eligible cities and counties receive the proportional share of funding they are set aside according to the nexus test by making the governments aware of available distribution fund grants and of the minimum grant amounts that are set aside for them under the nexus test.



- Require benefit committee filing officers to avail themselves of the free training provided by the Fair Political Practices Commission (FPPC) so that they are aware of and follow their responsibilities under the Political Reform Act of 1974. Counties should also adhere to FPPC guidelines for notifying committee members of the need to submit statements of economic interests.
- Ensure that benefit committees' conflict-of-interest codes comply with state law.
- Require that the county auditor review each grant application to ensure a rigorous analysis of a casino's impact and of the proportion of funding for the project provided by the grant. Benefit committees should consider a grant application only when the county auditor certifies that the applicant has quantified the impact of the casino and verifies that the grant funds requested will be proportional to the casino's impact.
- Review the law for changes that may affect applicants' eligibility for distribution fund grants before awarding the grants so that ineligible entities do not receive grants.
- Encourage eligible local governments to submit multiple applications so that the benefit committees can choose appropriate projects while ensuring that local governments are awarded the amount defined in law.

### Agency Comments

Two of the seven counties we visited—Riverside and Amador—disagreed with various determinations we made regarding the relationship of casino impacts to the grants their benefit committees awarded. Two of the counties—Humboldt and San Diego—either objected to, or indicated a concern with, involving the county auditor in the process of reviewing applications. Three of the seven counties—Shasta, Humboldt, and Santa Barbara—indicated that they had altered, or were planning to alter, their practices to implement our recommendations related to conflict-of-interest codes or the filing of statements of economic interest. Humboldt also indicated that it believes grant funds are inadequate to address casino impacts, and Amador suggested that the current grant requirements are rigid, unresponsive, and overly prescriptive.



# Introduction

## Background

In the 11 years since the passage of Proposition 1A and the signing of the initial tribal-state gaming compacts—agreements that authorized gaming on tribal lands within California—Indian gaming has experienced extensive growth. During this time, additional compacts have been signed, existing compacts have been amended, and various court decisions have changed the landscape of Indian gaming. According to the California Gambling Control Commission (gambling commission), as of June 2010, Indian tribes operated almost 65,000 class III gaming devices. Class III gaming devices include slot machines. According to the National Indian Gaming Commission, revenues from Indian gaming in California and Northern Nevada grew from \$2.9 billion in federal fiscal year 2001 to \$7 billion in federal fiscal year 2009.

## Federal Indian Gaming Regulatory Act

Unless authorized by an act of Congress, the jurisdiction of state governments and the application of state laws do not extend to Indian lands. Therefore, the provisions of the compacts authorized by the 1988 federal Indian Gaming Regulatory Act (IGRA) generally regulate the relationships between the State and tribal casinos. Congress enacted the IGRA to provide “a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments” and “to shield [tribal gaming] from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation.”

The IGRA establishes three classes of gaming activity, as described in the text box. Each class is subject to differing levels of jurisdiction from three parties, namely the tribe, the State, and the federal government. The tribes themselves have exclusive jurisdiction over class I gaming, which is not subject to regulation by the IGRA. Tribes also have jurisdiction over class II gaming, but this activity is subject to the IGRA. Our audit is limited to class III gaming devices. Under the IGRA, a tribe may conduct class III gaming on Indian lands only in a state that permits such gaming. Moreover, the tribe must negotiate a compact with the state governing the conduct of gaming activities, the U.S. Department of the Interior must approve the compact, and the tribe must adopt an ordinance

### Classes of Gaming

**Class I:** Social games played solely for prizes of minimal value or traditional gaming connected to tribal ceremonies or celebrations.

**Class II:** Bingo and card games that meet certain criteria.

**Class III:** All other forms of gaming such as lotteries, certain card games, and slot machines that classes I and II do not include.

Sources: United State Code, Title 25, Section 2703, and the California Constitution, Article IV, Section 19.



or resolution approved by the chair of the National Indian Gaming Commission. The compact will then take effect only when notice of approval by the U.S. Department of the Interior has been published in the *Federal Register*. The IGRA permits the compacts to include provisions regarding the assessment of fees by the State in amounts necessary to defray the costs of regulating gaming activities.

### **Tribal-State Gaming Compacts in California**

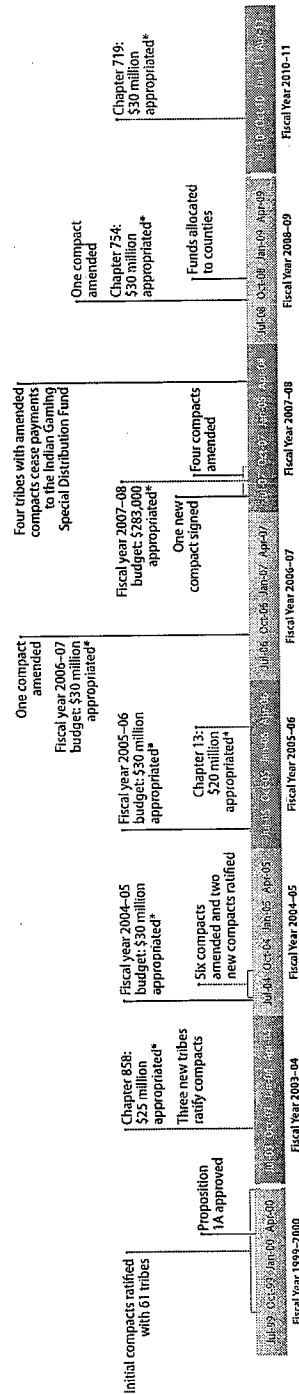
In the State's March 2000 primary election, Proposition 1A received voter approval. Proposition 1A amended the California Constitution to give the governor the authority to negotiate and enter into compacts, subject to ratification by the Legislature. The proposition also gave federally recognized Indian tribes the authority—consistent with the IGRA—to operate slot machines, lottery games, and certain types of card games on Indian lands in California.

In 1999, anticipating voter approval of Proposition 1A, the governor negotiated and the Legislature approved legislation ratifying compacts with many tribes. State law ratifying these compacts, which are identical in most respects, affirms that any future compact entered into by the State that is identical to the original compacts in all material respects is ratified unless the Legislature objects within 30 days of the governor submitting the compact to it. The State eventually entered into 61 of these tribal-state gaming compacts (1999-model compacts). The 1999-model compacts later received final federal approval as required by the IGRA, and they are effective until December 31, 2020. In consideration for the State's willingness to enter into these compacts, the tribes agreed to provide to the State, on a sovereign-to-sovereign basis, a portion of their revenues from gaming devices in the form of license and operation fees. These fees provide money for two funds: the Indian Gaming Revenue Sharing Trust Fund (trust fund), which distributes money to tribes that do not have compacts or that have compacts and operate fewer than 350 gaming devices, and the Indian Gaming Special Distribution Fund (distribution fund), which finances various state and local government activities.

Between 2003 and 2010, the governor negotiated, the Legislature ratified, and the federal government approved six additional compacts and amendments to 12 of the original compacts (post-1999-model compacts). A time line of these events is presented in Figure 1. As Table 1 on page 8 shows, the provisions in the 1999-model compacts related to contributions to state-administered funds are significantly different from the provisions in the post-1999-model compacts.



**Figure 1**  
Time Line of Events Related to Indian Gaming in California



Sources: Tribal-state gaming compacts; budget acts for fiscal years 2004-05, 2005-06, and 2006-07; Chapter 858, Statutes of 2003; Chapter 13, Statutes of 2006; Chapter 754, Statutes of 2008; and Chapter 719, Statutes of 2010.

\* Appropriations are for local mitigation grants.



**Table 1**  
Summary of Revenue Provisions for Ratified and New Tribal-State Gaming Compacts

	ORIGINAL COMPACTS			POST-1999-MODEL COMPACTS				
	1999-MODEL COMPACTS	2003 COMPACTS	2004 COMPACTS	2004 AMENDMENTS	2006 AMENDMENTS	2007 COMPACT	2007 AMENDMENTS	2008 AMENDMENTS
Number of class III devices allowed per compact	Up to 2,000 devices	From 350-3,000 devices per tribe	From 1,300-2,000 devices per tribe	Unlimited number of devices	Up to 1,000 devices	Up to 50 devices	From 5,000-7,500 devices per tribe	Up to 5,000 devices
Contributions to the Indian Gaming Revenue Sharing Trust Fund	Payments on a per-device basis	None	Payments on a per-device basis and contingent upon net win	Payments of \$2 million annually per tribe or payment based on a per device fee	Payments on a per-device basis and contingent upon net win	None	Payments of \$2 million annually per tribe	Payments of \$4.6 million annually per tribe
Contributions to the Indian Gaming Special Distribution Fund	Payments based on percentage of net win from devices operated as of September 1999	None	None	None	None	None	None	None
Contributions to the General Fund	None	Payments of 5 percent of net win	Payments based on total number of devices in operation and percentage of net win	Payments based on total number of devices in operation or percentage of net win	Payments based on percentage of net win	Payments based on percentage of net win	Payments of 5 percent of net win from devices in excess of 2,000 and 25 percent of net win from devices in excess of 5,000	Payments of 20 percent to 25 percent of net win
				Payments of \$5.75 million to \$9.5 million for assemblies			Payments of \$2.4 million to \$4.5 million annually	

Sources: Tribal-state gaming compacts.



As of September 2010 California had compacts with 67 of California's federally recognized tribes, 57 of which operate a total of 58 tribal casinos. Figure 2 on the following page shows the locations of casinos with class III gaming devices operated by federally recognized Indian tribes. The Appendix lists the tribes with compacts and indicates the maximum number of gaming devices each tribe is allowed to operate.

### California Gambling Control Commission

California's 1997 Gambling Control Act created the gambling commission to serve as the State's regulatory body over gambling activities, including Indian gaming. This commission has jurisdiction over the operation, concentration, and supervision of gambling establishments. Various aspects of the gambling commission's oversight authority are provided by different sources, namely state law, executive orders, and compact provisions. Five commissioners appointed by the governor oversee and make policy decisions for the gambling commission. The gambling commission performs audits and collects trust fund deposits based on quarterly license fees. It also acts as the trustee of the trust fund and administers the distribution fund.

### Indian Gaming Special Distribution Fund

The 1999-model compacts call for each tribe that operates more than 200 grandfathered devices—those in operation as of September 1, 1999, before the compacts were ratified—to deposit a percentage of its average net wins into the distribution fund that state law established in the State Treasury. Generally, the net win of a device is its gross revenue—the amount players pay into the device—less the amount paid out to winners. As Table 2 indicates, the percentage of average net wins for grandfathered devices deposited into the distribution fund ranges from 7 percent to 13 percent, depending on how many devices the tribe operated on September 1, 1999.

**Table 2**  
**Indian Gaming Special Distribution Fund Tiered Payment Schedule for 1999 Tribal-State Gaming Compacts**

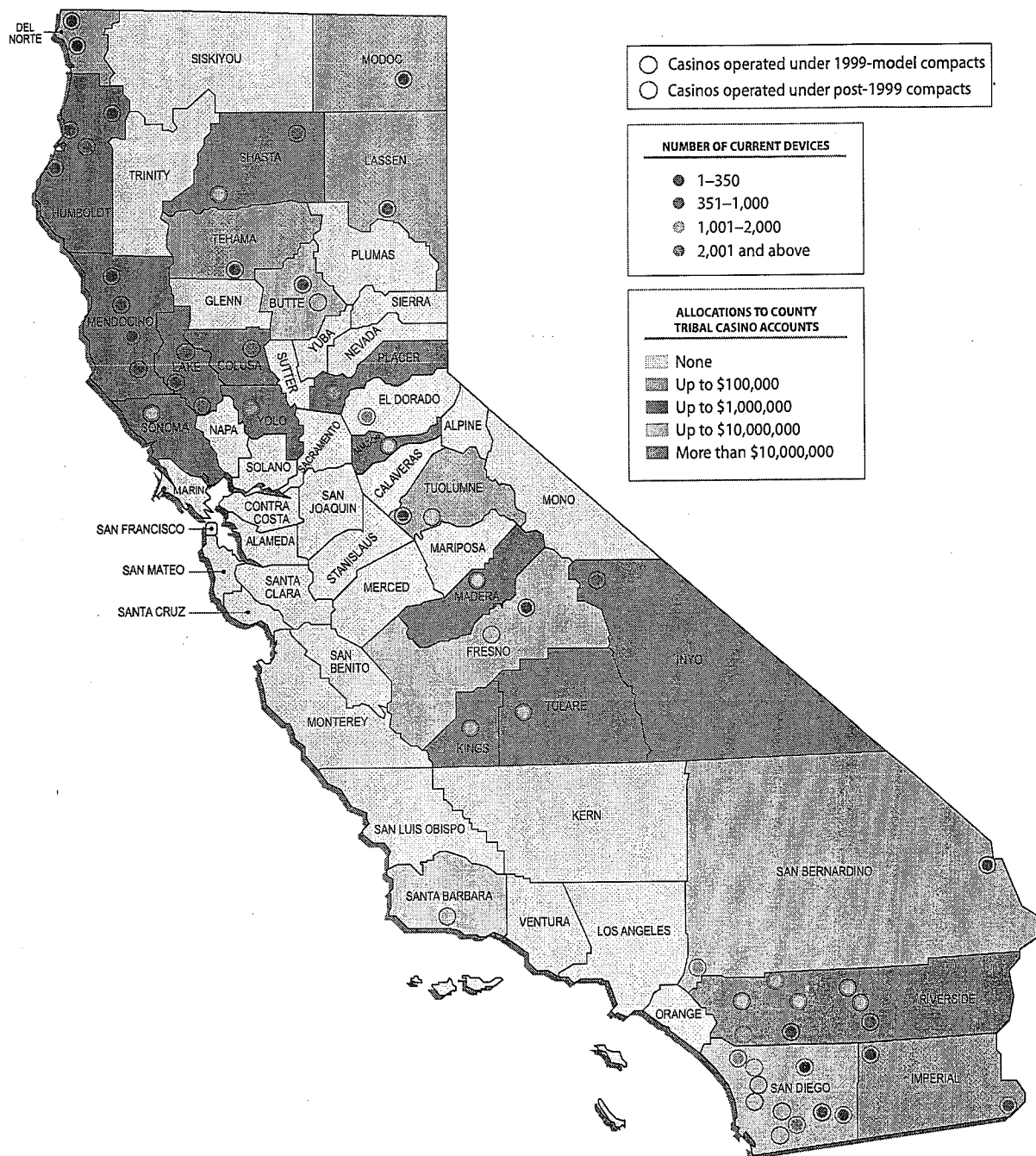
NUMBER OF DEVICES IN OPERATION AS OF SEPTEMBER 1, 1999	PERCENTAGE OF AVERAGE GAMING DEVICE NET WINS
201–500	7%
501–1,000	10%
1,001+	13%

Source: Tribal-state gaming compacts ratified in 1999.

Note: Tribes with 200 or fewer devices in operation as of September 1, 1999, do not pay into the Indian Gaming Special Distribution Fund.



**Figure 2**  
**Location of Indian Casinos Operating Class III Gaming Devices in California**



Sources: California Gambling Control Commission documents, tribal-state gaming compacts, and State Controller's Office allocations.

\* This circle represents two casinos in Riverside County, which are operated by the same tribe, that have 1,994 devices combined. Individual numbers of devices for each casino were not available.



The California Government Code (Government Code) specifies that the money deposited into the distribution fund is available for appropriation by the Legislature to address four needs, prioritized as follows:

1. Supporting the trust fund to ensure that it can distribute \$1.1 million annually to each tribe that does not have a compact or that has a compact and operates fewer than 350 devices. In fiscal year 2008–09, the Legislature appropriated a total of \$50 million for this purpose.
2. Funding problem-gambling prevention programs managed by the Department of Alcohol and Drug Programs (Alcohol and Drug Programs). The Legislature appropriated a total of \$4.3 million for this purpose in fiscal year 2008–09. In addition, the Legislature appropriated \$4 million to Alcohol and Drug Programs from this fund for local assistance.
3. Paying the operating costs for the Indian gaming regulatory functions of the gambling commission and of the Department of Justice (Justice). In fiscal year 2008–09, the Legislature appropriated a total of \$24.9 million for this purpose.
4. Supporting local governments impacted by tribal gambling. The Legislature appropriated a total of \$30 million for this purpose in fiscal year 2008–09.

#### ***Indian Gaming Revenue Sharing Trust Fund***

The terms of the 1999-model compacts require tribes that acquire licenses for gaming devices to contribute to the trust fund, which state law established in the State Treasury. For each license it acquires, a tribe operating under a 1999-model compact must pay into the trust fund a nonrefundable one-time prepayment fee of \$1,250. The compacts also require tribes to pay license fees each quarter. As Table 3 on the following page indicates, to calculate a tribe's quarterly license fee, the compacts use a graduated rate schedule based on the tribe's number of licensed gaming devices. In May 2001 the gambling commission made its first distribution to tribes without compacts and to tribes with compacts that operate fewer than 350 gaming devices, and since that time it has attempted to distribute \$1.1 million annually to each of these tribes. However, trust fund revenues have never provided sufficient money for the gambling commission to make the full annual distributions. Therefore, since fiscal year 2003–04, the gambling commission has transferred amounts from the distribution fund to supplement the yearly distributions.



**Table 3****Indian Gaming Revenue Sharing Trust Fund Tiered Payment Schedule for 1999 Tribal-State Gaming Compacts**

NUMBER OF LICENSED GAMING DEVICES	FEE PER DEVICE PER YEAR
0-350	\$0
351-750	\$100
751-1,250	\$150
1,251-2,000	\$200

Source: Tribal-state gaming compacts ratified in 1999.

Note: The first 350 devices operated by a tribe do not require licenses. Devices operated prior to September 1, 1999, do not require licenses.

***Problem-Gambling Prevention Program***

The Office of Problem and Pathological Gambling, which is administered by Alcohol and Drug Programs, is the second priority for the use of distribution fund money. This office spent \$3.9 million in fiscal year 2008–09. A deputy director at Alcohol and Drug Programs stated that it allocated roughly \$1.6 million of its appropriation for conducting public awareness campaigns and for operating toll-free crisis management telephone lines; \$1 million for treatment support services, such as establishing a Web-based data repository and billing system, training new providers to treat problem-gambling behaviors, and continuing research to determine behavioral treatment efficacy; \$750,000 for educating organizations and individuals on the signs of problem-gambling behaviors; \$200,000 for research into youth gambling behaviors; and the remainder for assessing prevention services needs, developing and enhancing policies and procedures, convening an advisory group, producing publications, and administering and monitoring the program. In addition, Alcohol and Drug Programs received \$4 million from the distribution fund for local assistance, with which it implemented a stepped-care multimodal treatment program, including interventions as well as outpatient, intensive outpatient, and residential care.

***Regulatory Activities of the Gambling Commission and Justice***

The gambling commission spent \$7.9 million and Justice spent \$14.9 million in fiscal year 2008–09 for regulatory activities related to Indian gaming. The gambling commission stated that its responsibilities related to tribal gaming include oversight of class III gaming operations; distribution of tribal gaming revenues to various state funds and to authorized, federally recognized, noncompact tribes; monitoring tribal gaming through periodic background checks



of tribal key employees, vendors, and financial sources; validation of gaming operation standards through testing, auditing, and review; and fiscal auditing of tribal payments to the State pursuant to compact provisions.

Justice stated that it uses its distribution fund allocation to support the regulatory activities related to Indian gaming for three of its divisions: the Bureau of Gambling Control in the Division of Law Enforcement, the Division of Public Rights, and the Hawkins Data Center. For example, the Indian Gaming Law Section of the Division of Public Rights monitors Indian gaming practices, and it consults and advises the governor on compact negotiations and Indian law issues. The Bureau of Gambling Control works with other state gaming agencies and tribal gaming agencies to regulate gaming on tribal lands.

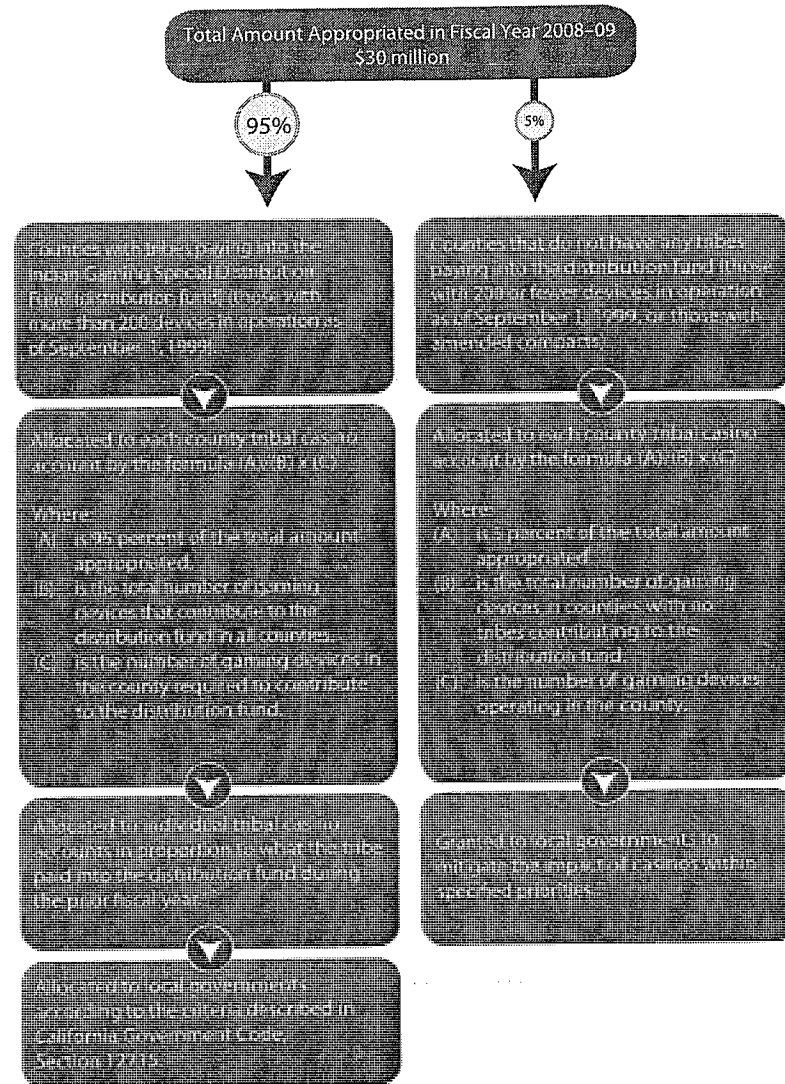
#### ***Local Governments Affected by Tribal Gambling***

The Government Code's fourth priority for distribution fund money is supporting local government agencies impacted by tribal gaming. When funds are appropriated from the distribution fund for mitigation grants, the State Controller's Office (Controller), in consultation with the gambling commission, divides these funds among eligible counties to use for mitigation projects according to a methodology established in state law. As Figure 3 on the following page shows, the Government Code defines a method for dividing these funds between counties with tribes that contribute to the fund and counties that have casinos but that do not have tribes that contribute to the fund. The Government Code also describes how funds are allocated to the county tribal casino account for each county. For counties in which tribes pay into the distribution fund, the money is further allocated into an individual tribal casino account for each tribe based on the amount that the tribe paid into the distribution fund in the previous fiscal year.

The \$30 million allocated to local governments in fiscal year 2008–09 was divided among 25 counties that issued 185 grants. The amounts received by these counties varied considerably. For example, Modoc County received the least of any county and elected not to spend the funds it was allocated, so the money reverted to the distribution fund as required by law. Riverside County received the most funds—more than 47 percent of the \$30 million—and it distributed the funds in 60 grants averaging more than \$235,000 each. Figure 4 on page 15 summarizes the purposes for which counties reported spending their distribution fund allocations for fiscal year 2008–09.



**Figure 3**  
**Allocation of Funding From the Indian Gaming Special Distribution Fund to Local Governments**



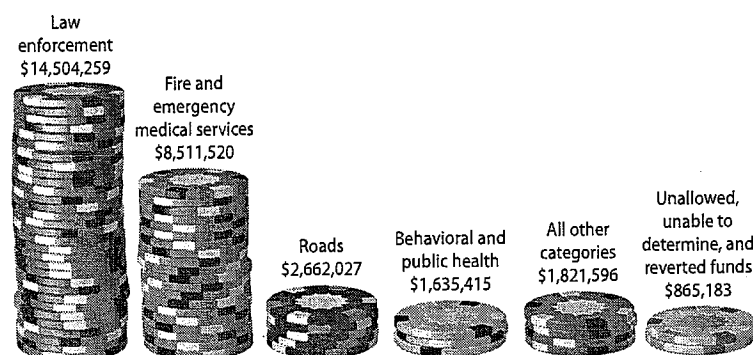
Sources: California Government Code, sections 12714 and 12715, and Chapter 754, Statutes of 2008.

State law creates, in each county in which Indian gaming occurs, an Indian Gaming Local Community Benefit Committee (benefit committee) that awards grants from the distribution fund. Generally, each county's benefit committee consists of two county representatives selected by the county board of supervisors, three elected representatives selected by the county board of supervisors from cities located within four miles of a tribal casino, and two representatives selected on the recommendation of a majority of the county's tribes paying into the distribution fund. In a county in which only one city is



located within four miles of a tribal casino that is in an unincorporated part of the county, only one elected representative of that city sits on the benefit committee. In counties that do not have a tribal casino within four miles of a city, the county board of supervisors and the tribes in the county mutually select additional members of the benefit committee in lieu of city members. San Diego County's benefit committee consists of two representatives of the county selected by the county board of supervisors, one elected representative selected by the board of supervisors from the city located within four miles of a tribal casino, three representatives selected on the recommendation of a majority of the county's tribes paying into the distribution fund, and the sheriff of San Diego County.

**Figure 4**  
**Total Mitigation Expenditures From the Indian Gaming Special Distribution Fund**  
**by Category, as Described in County Annual Reports for Fiscal Year 2008–09**



Source: Fiscal year 2008–09 annual reports submitted by counties.

As the text box delineates, each benefit committee is responsible for establishing procedures for local governments within the county to apply for grants and for selecting eligible applications for the distribution of grant funds. To allocate funds correctly to local governments in counties that have a tribe paying into the distribution fund, benefit committees must determine the geographical proximity of cities and the county, using a set of criteria known as the nexus test established in the Government Code. Figure 5 on page 17 shows the nexus test criteria and the required allocation of funds, in which 60 percent of the funds are allocated using the nexus test and the remainder are awarded as discretionary grants, allowing the benefit committees to choose which local governments receive the money. These criteria are intended to provide a fair and proportionate system for awarding grants to local governments impacted by tribal gaming.

#### Responsibilities of Indian Gaming Local Community Benefit Committees

- Awarding grants.
- Ensuring that funds are allocated according to priorities established by law.
- Establishing all application policies and procedures for grants from the Individual Tribal Casino Account or County Tribal Casino Account.
- Assessing the eligibility of applications for grants from local jurisdictions impacted by tribal gaming operations.
- Determining the amount of reimbursement to the county for administering the grant program (not to exceed 2 percent of the total county allocation).

Source: California Government Code, Section 12715.



After the benefit committees award grants and the grants receive affirmative sponsorship of the tribes from whose individual tribal

#### Priority Uses of Indian Gaming Special Distribution Fund Grants

- Law enforcement
- Fire services
- Emergency medical services
- Environmental impacts
- Water supplies
- Waste disposal
- Behavioral health
- Planning and adjacent land uses
- Public health
- Roads
- Recreation and youth programs
- Child care programs

Source: California Government Code, Section 12715.

casino accounts the funds are distributed, the benefit committees submit lists of the approved grants to the Controller, which releases the funds directly to the local government entities awarded the grants. Although multiyear grants are allowed, any money that counties do not grant by the end of the fiscal year reverts to the distribution fund. Grants are administered by the county, which can be reimbursed for up to 2 percent of the funds for demonstrated administrative expenses. The Government Code defines 12 priorities for the award of grants, as shown in the text box. For example, grant funds can be used to help pay for the cost of maintaining roads that experience an increase in traffic due to casino patrons, for the proportion of staffing costs related to the additional workload firefighters experience because of the need to respond to emergencies at the casinos, or for additional police officers needed because the presence of casino patrons increases the number of individuals in their jurisdiction.

#### Prior Report and Legislative Action

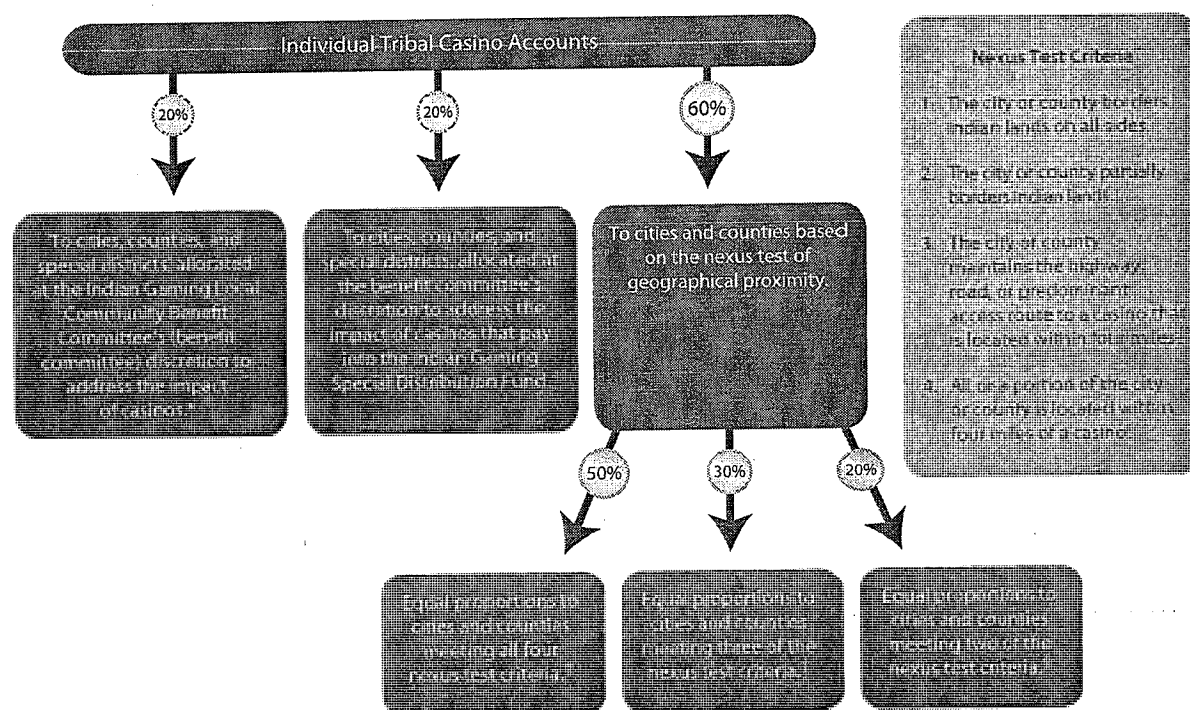
In July 2007, as required by the Government Code, Section 12717, we issued a report on the Indian Gaming Special Distribution Fund. Titled *Indian Gaming Special Distribution Fund: Local Governments Do Not Always Use It to Mitigate the Impacts of Casinos, and Its Viability Will Be Adversely Affected by Compact Amendments* (report 2006-036), this report included a finding that some projects funded by the distribution fund were not related to an impact from a casino. Specifically, 15 of the 30 grants reviewed for that report either did not address a casino impact or were primarily unrelated to casino impacts. Although the intent of the law was to support local government agencies impacted by tribal gaming, the law did not contain specific requirements that local governments use the funds only for projects addressing casino impacts.

The 2007 report also found that counties and benefit committees needed to improve their administration of distribution fund grants. For example, the report cited several instances in which local governments did not use the interest they earned on unspent distribution fund money to pay for casino mitigation projects. Several local governments asserted that state law authorized the



use of interest earned on the grants for general purposes. However, the report concluded that because these are grant funds, local governments should use the interest the funds produce for the purposes established in the compacts and in state law. Moreover, 11 of the benefit committee members in the counties sampled for the 2007 report failed to file required statements of economic interests. In addition, the audit revealed that only nine of the 24 counties receiving grant funds submitted annual reports to all of the required legislative committees and the gambling commission on the projects financed by the distribution fund.

**Figure 5**  
Allocation of Funds From Individual Tribal Casino Accounts



Source: California Government Code, Section 12715.

\* These grants are generally limited to service-oriented and one-time large capital projects, but in some instances may be awarded for other projects.

† These funds must be made available in equal proportions to cities and counties meeting a different number of nexus test criteria if no local governments meet the required number of criteria.

Our July 2007 report prompted several actions. The former governor eliminated \$30 million from the fiscal year 2007–08 appropriation from the distribution fund, citing concerns raised in the report and indicating that he would support restoring the appropriation if counties and benefit committees addressed those concerns. Further, in September 2008, Chapter 754,



Statutes of 2008 (Chapter 754), enacted as an urgency measure, implemented several of our recommendations. Specifically, Chapter 754 requires that benefit committees select only grant applications that mitigate casino impacts and only provide funds in proportion to the impact in cases when a project's benefits exceed the impacts. Chapter 754 also clarifies that school districts are not eligible for funding, requires that all grant funds be deposited in interest-bearing accounts, and states that the interest must be used to mitigate casino impacts. Finally, Chapter 754 requires counties to provide their annual reports if they are to remain eligible for distribution fund money the following year.

### Recent Court Decisions

Federal courts issued two decisions in the past year that have had significant implications for Indian gaming in the State. One case concerned the limit on the number of gaming device licenses set by the State under the 1999-model compacts. The other case called into question a provision that the State sought to negotiate into an amended compact.

In its August 2010 decision in *Cachil Dehe Band of Wintun Indians of the Colusa Indian Community v. California*,<sup>1</sup> the Ninth Circuit of the U.S. Court of Appeals (Ninth Circuit) held that the State had misinterpreted the section of the 1999-model compacts for determining the number of gaming devices that California tribes are permitted to license. Two tribes claimed that the compacts permitted more licenses than the State had determined were allowed. The Ninth Circuit held that the limit on licenses exceeds the number recognized by the State, and the court upheld a lower court's order that the State conduct a license draw open to 1999-model compact tribes for the additional licenses. At the time of the ruling, the State had already conducted the ordered license draw in October 2009 as required by the lower court's ruling and had issued 1,878 additional licenses.

In *Rincon Band of Luiseno Mission Indians of the Rincon Reservation v. Schwarzenegger*,<sup>2</sup> a case decided in April 2010, the Ninth Circuit found that the State had negotiated with the Rincon Band of Luiseno Mission Indians (Rincon tribe) in bad faith by conditioning its agreement to expand the Rincon tribe's class III gaming rights on the tribe's agreement to pay a percentage of its revenues to the State's General Fund. The court ruled that the State's repeated insistence that the tribe pay a percentage of its net revenues to the General Fund was an attempt by the State to

<sup>1</sup> 681 F.3d 1066.

<sup>2</sup> 602 F.3d 1019.



impose a tax on the tribe in violation of the IGRA. The State has appealed the decision to the U.S. Supreme Court, which, as of November 2010, has not yet decided whether it will hear the case.

### Scope and Methodology

Section 12717 of the Government Code requires the Bureau of State Audits to conduct an audit every three years regarding the allocation and uses of moneys from the distribution fund by the recipients of the grant money and report its findings to the Legislature and all other appropriate entities.

To determine if distribution fund money is allocated appropriately to each county, we reviewed the Controller's calculation of the amounts for each county.

Using factors that included the amounts of funding received and geographic location, we selected seven counties—Amador, Humboldt, Riverside, San Diego, Santa Barbara, Shasta, and Yolo—to evaluate the uses of distribution fund grants. We reviewed the composition of the benefit committees for these counties to ensure that their membership met the requirements of state law, and we requested copies of members' conflict-of-interest filings. We are referring several concerns we identified related to conflict-of-interest filings to the Fair Political Practices Commission, the entity responsible for enforcing these requirements. To assess whether grant funds are being awarded appropriately at the county level, we reviewed county and benefit committee policies and procedures, and we interviewed county staff regarding the awarding of distribution fund grants. We also reviewed the eligibility of local governments to receive funds in each sample county and assessed whether the benefit committees awarded funds appropriately according to the criteria in state law.

To evaluate whether grants awarded in the counties we selected had reasonable relationships to casinos' impacts and satisfied the requirements in state law, we obtained annual reports for fiscal year 2008–09 grants, which were the most recent grants available at the time of our audit. We then selected between one and four grants in each county we visited, using such criteria as the amount of the grant, the purpose of the project funded, and the description of the project. We prioritized our selection of some grants according to whether the grants' descriptions appeared questionable. We then reviewed grant applications describing the selected projects and their relationships to casinos' impacts, interviewed grantee staff, and obtained supporting documentation about those impacts. We reviewed evidence of the impacts that the projects were designed to mitigate; the proportionality of the grant



funding to the casinos' impacts; the amounts, appropriateness, and reasonableness of grant funds spent; and the use of any interest earned on these grant funds.

Some grantees provided us hard-copy documentation from various electronic systems, such as accounting or time-keeping information. We performed limited work to assure ourselves of the nature of the information. However, because we were assessing the funding decisions made by, and the information available to, the benefit committees rather than evaluating the operations of the grantees, we did not perform standard data reliability procedures to provide assurance of the accuracy or completeness of this information.

To determine the ability of the distribution fund to continue to fund the programs that depend on it, we compared distribution fund revenue and expenditures. Using these figures, we projected the distribution fund balance from fiscal years 2011–12 through 2014–15. Because one of the major expenditures for the distribution fund is to cover shortfalls in the trust fund to ensure that payments mandated by state law can be made to tribes that do not have compacts or that have compacts but operate fewer than 350 gaming devices, we also reviewed trust fund activity from fiscal years 2000–01 through 2009–10 to identify changes in revenue and expenditures.

Finally, as part of our review of the distribution fund balance and the cause of changes in the revenue it receives, we obtained all post-1999-model compacts. Although these compacts remove requirements to contribute to the distribution fund, they do require that tribes negotiate agreements with local governments to mitigate casino impacts after subsequent casino construction or expansion. To determine the extent to which such local agreements exist, we contacted all tribes with post-1999-model compacts that have casinos or that have filed environmental impact reports. We inquired as to whether these tribes had negotiated any agreements; if so, we obtained copies of the agreements to confirm that the local agreements provided for the mitigation of casino impacts.



## Chapter 1

### BENEFIT COMMITTEES EXERCISED POOR JUDGMENT IN AWARDING SOME GRANTS, AND GRANT ADMINISTRATION NEEDS IMPROVEMENT

#### Chapter Summary

Indian Gaming Local Community Benefit Committees (benefit committees) have had difficulty in complying with Indian Gaming Special Distribution Fund (distribution fund) grant requirements and with related laws. Our review of a sample of 20 grants awarded in seven counties in the State revealed that three were unrelated or not proportionally related to any adverse impacts that the respective Indian casinos may have on their surrounding areas. For 10 other grants, the grantees were unable to quantify or provide evidence of the casinos' impacts. Additionally, some counties failed to award local governmental entities within a certain geographical proximity to their respective casinos the minimum amounts that the law sets aside for those entities. One county awarded a distribution fund grant to an ineligible applicant, leaving fewer funds for distribution to eligible entities and projects. Further, some members on the benefit committees in four of the seven counties we reviewed failed to file required statements of economic interests.

#### Some Local Governments Could Not Quantify the Impacts of Casinos, and Some Grants Were Not Proportional or Were Unrelated to the Casinos' Impacts

State law requires that distribution funds be used only to mitigate impacts from casinos on local jurisdictions and that the grant expenditures be proportional to the casinos' impacts. However, the benefit committees in six of the seven counties we reviewed granted more than \$3.2 million to local governments that could not demonstrate or quantify the impacts from the local casinos, and Yolo County granted all of its funds—almost \$336,000—to an entity that was not eligible to receive them. Additionally, we found that three grants, totaling almost \$400,000, were unrelated or not proportionally related to any adverse impact an Indian casino might have to the surrounding area.

Our review of 20 grants distributed by benefit committees in seven counties found that at least one recipient in each of six of the counties either was unable to quantify the impacts of the respective casino or used the funds for a project that did not mitigate a casino impact. The seventh county, Yolo, issued one grant for

*Benefit committees in six of the seven counties we reviewed granted more than \$3.2 million to local governments that could not demonstrate or quantify the impacts from the local casinos, and Yolo County granted all of its funds—almost \$336,000—to an entity that was not eligible to receive them.*



almost \$336,000 to an ineligible recipient. As Table 4 shows, grants totaling more than \$3.2 million—56 percent of the \$5.7 million total amount of the grants reviewed—went to recipients who were unable to demonstrate the impacts of local casinos. Because the recipients could not quantify the impacts of the casinos, we could not determine whether the amounts spent on the recipients' projects were proportional to the impacts of the casinos.

**Table 4**  
Appropriateness of Grants Awarded by Indian Gaming Local Community Benefit Committees

COUNTY	SOLELY RELATED TO, OR PROPORTIONAL TO, CASINO IMPACT	GRANTEE UNABLE TO QUANTIFY CASINO IMPACT	FUNDS AWARDED DO NOT MITIGATE, OR ARE GREATER THAN THE PROPORTION OF, THE CASINO'S IMPACT	ENTITY INELIGIBLE TO RECEIVE GRANT
Amador	1 Grant \$88,200	3 Grants \$102,794		
Humboldt	2 Grants \$70,102	1 Grant \$25,000		
Riverside	1 Grant \$441,000	1 Grant \$905,627	2 Grants \$135,000	
San Diego		3 Grants \$1,787,910		
Santa Barbara	2 Grants \$1,163,403	1 Grant \$173,287		
Shasta		7 Grants \$228,000	1 Grant \$258,515	
Total	6 Grants \$1,762,706	10 Grants \$3,226,018	3 Grants \$393,515	1 Grant \$335,854

Source: Bureau of State Audits' review of fiscal year 2008–09 Indian Gaming Special Distribution Fund grants.

Although many local governments had difficulty in quantifying the impacts of their local casinos, six of the 20 grants we reviewed were related solely to or were proportional to casinos' impacts. Santa Barbara County's fire department and the Blue Lake Fire Protection District in Humboldt County, for example, received distribution fund grants for fire services. Both fire departments tracked casino-related emergency calls and were able to demonstrate that the amount of funds they received was proportional to the services they provided to the local casinos.

During the fieldwork portion of our audit, we initially determined that the Amador County Sheriff's Department (sheriff's department) was unable to quantify the impact of the casino for a grant it received. The sheriff's department provided information that quantified the number of incidents the sheriff's department indicated were casino-related and showed a



proportional relationship to the amount of grant funding received. However, according to the undersheriff, although the sheriff's department uses an indicator in its electronic case files to indicate which incidents were casino-related, it is the sheriff's policy to avoid mention of the casino in the description of the case unless being at the casino was relevant to the facts of the incident or the incident occurred at the casino. Without more detailed information on the incident's relationship to the casino, we could not determine if the casino contributed to causing these incidents. However, based on a suggestion provided to us during the agency review period that we only consider those incidents occurring at the casino, we concluded a sufficient number of incidents occurred at the location of the casino for us to consider that the impact was proportional to the grant funding.

We found that most of the local governments we reviewed that received distribution fund grants identified impacts of their local casinos, although many of those same governments could not demonstrate or quantify the proportion of the impacts. For instance, the city of El Cajon in San Diego County received a \$95,000 distribution fund grant. The city intends to use the money to resurface streets that have been affected by bus traffic from the terminals that provide transportation to and from five local casinos. The El Cajon Transit Center provides bus service for one casino, while the casino bus terminal across the street provides transportation to four other casinos. In its application, the city identified three streets surrounding the two terminals that needed repair. We visited the casino bus terminal and observed severe damage to the road where casino buses enter and exit the casino bus terminal. The city estimated that 90 percent, 75 percent, and 10 percent, respectively, of the total cost of resurfacing the three streets is attributable to casinos. However, according to the deputy city manager, El Cajon did not undertake any traffic counts on the affected streets. Thus, we were unable to confirm that the given impact estimates are proportional to the casino buses rather than to city buses and regular city traffic.

In Riverside County, a mitigation project undertaken by the county fire department received almost \$906,000 for equipment for wildland fire response. According to data provided by the fire chief, 34 percent of the wildland fires in the county in 2009 occurred within the local casino's area of influence. The fire department defined the casino's area of influence as a large portion of the county that includes several communities. The fire chief confirmed that the casino has not necessarily led to an increase in actual fires; instead, it has caused an increase in fire potential. We realize that the number of fires can vary from year to year for many reasons; however, because the fire department has not tracked the incidences related to the casino, we were unable to determine if

*According to the deputy city manager, El Cajon did not undertake any traffic counts on the affected streets. Thus, we were unable to confirm that the given impact estimates are proportional to the casino buses rather than to city buses and regular city traffic.*



the amount of grant funds awarded was necessary to mitigate the casino's impact. This situation highlights the difficulty of assessing grants that may reduce potential risk associated with a casino in contrast to evaluating those grants that mitigate an identified and quantifiable impact.

In another instance, San Diego County's benefit committee awarded a \$1.4 million grant to San Diego County that was administered by the San Diego County Regional Fire Authority. The county then entered into an agreement with the San Miguel Consolidated Fire Protection District (San Miguel). According to the county fire services coordinator, San Miguel will use the funds to construct a regional fire and public utilities training center that will be owned by the Heartland Fire Training Authority, a joint powers authority. The county fire services coordinator informed us that the county applied for the funds because it wanted to obtain additional funds for San Miguel to use for a regional training facility that expands training opportunities beyond existing sites that are at capacity. He also stated that this will provide a regional facility for consistent training for career and volunteer firefighters on specialized subjects that are used in responding to a critical incident.

Information provided by the county at our request described impacts from the casino experienced by the local governments within the county. However, the county did not supply information necessary for determining the proportion of the total workload that related to the county's casinos, nor did it reasonably consider the other benefits that this grant provides for the portion of the workload that is unrelated to casinos. In addition, although the county asserted that the grant was for its benefit and provided a copy of an agreement with San Miguel to administer the grant, the county described itself on the application for funds as a *pass-through*. Although San Diego County was eligible for grants from funds allocated using the nexus test—described in the Introduction—San Miguel was not, and the \$1.4 million granted was greater than the total amount of discretionary funding available to local governments in the county. Finally, according to the fire services coordinator, the county paid an additional \$400,000 in September 2010 to become a partner in the regional training center, despite the fact that it had previously provided the \$1.4 million grant to support the construction of the training center. However, the fire services coordinator later contradicted his statement and explained that although \$400,000 has been authorized, the county is not yet a partner.

*Although San Miguel Consolidated Fire Protection District (San Miguel) was not eligible for grants from funds allocated using the nexus test, San Diego County—which was eligible for such grants and did receive \$1.4 million—passed the funds on to San Miguel through an agreement.*

During our prior audit of distribution fund grants, we reviewed a \$700,000 grant that San Miguel applied for independently of the county, and subsequently received for the purpose of building a tower for firefighters to use in training to put out fires in large



structures. At that time, San Miguel stated that this project was necessary because the casino was one of only a few large structures within its jurisdiction. However, when we followed up on the expenditure of that grant during the course of this audit, San Miguel's deputy chief stated that the \$700,000 was used for planning and architectural costs for the creation of a larger comprehensive training facility, rather than to build the tower. Despite San Miguel's receiving more than \$2 million in distribution fund grants thus far for the training facility, the deputy chief stated that because the training tower is the final aspect of the center to be built, additional funds will be required to pay for its construction.

We also found that three grants, totaling almost \$400,000, were unrelated or not proportionally related to any adverse casino impact. For example, the city of Redding's water utility received a distribution fund grant in the amount of roughly \$259,000 for water system improvements. According to the application, a pump station in the city needed replacement because the below-ground installation was subject to moisture damage and because a recent roadway expansion had encroached upon the facility. Although repair of the pump station would benefit the local casino, the city's need for the improvements did not relate directly to the impact caused by the casino as called for in the law.

*Three grants totaling almost \$400,000 were unrelated or not proportionally related to any adverse casino impact.*

### **County Procedures for Reviewing Grant Applications Should Be Improved**

When we reviewed the procedures and practices established for grant selection in the seven counties in our sample, we found that the benefit committees in six of the counties approved grant applications only after local tribes reviewed and selected the applications they wished to sponsor. In essence, the tribes made the grant selection and the benefit committees signed off on the selections. In fact, in two counties, applications were submitted directly to the local tribes. The tribes subsequently provided the benefit committees with a list of sponsored applications that matched the total amount of funding available, and the committees were unable to provide documentation of any discussion or public debate about the applications. Because the benefit committees in these counties were not involved in the initial review process, we question what influence they have over the ultimate selection of applications and their ability to ensure that the proposed projects mitigate casino impacts. Although the law contains no explicit direction requiring benefit committees to select grants before obtaining tribal sponsorship, using their current process these benefit committees are only technically fulfilling their duty to select grants, and are not selecting grants prior to tribal sponsorship as the law intended.



In contrast, San Diego County's benefit committee established detailed policies and procedures to ensure that the committee is involved in the process of selecting grants for mitigation projects. The committee first reviews all applications for eligibility before allowing the applicants to make brief presentations to the committee. It then forwards the applications to the tribe for review, after which the committee further discusses grant selections. The county's procedures account for potential disagreement and allow for further tribe and committee consideration. San Diego's process also promotes collaboration between the committee and the tribe, and it ensures public involvement and participation even though the justification for some projects may have weaknesses. Shasta County's process, as described by an administrative analyst, also promotes such collaboration. Although applications are forwarded to the tribe for sponsorship prior to the benefit committee meeting, the applications are provided to all committee members and are discussed at the meeting, regardless of whether they are sponsored by the tribe. This process gives committee members an opportunity to discuss the applications that were not sponsored by the tribes, and ultimately all committee members agree on which applications will be approved.

When we reviewed the procedures used by other benefit committees to select grants, we found that applications are generally provided first to the tribes, whose sponsorship of applications appears to leave little or no opportunity for some committees to provide input on which grants receive funding or to hold public discussion of the relative merits of all applications. As a result, those applications not sponsored by the tribe are not reviewed by the committee. The benefit committees subsequently granted the funds to recipients that could not always demonstrate casinos' impacts. According to our review of minutes from benefit committee meetings, the full benefit committees appear not to have discussed, reviewed, or considered those applications not sponsored by the tribes that may or may not have been able to demonstrate measurable impacts from casinos. According to its county counsel, Amador County's process differs in that the applications are submitted directly to the chief executive officer of the local casino but are then reviewed by the benefit committee for selection prior to receiving tribal sponsorship. Although the grant application also describes this process, the county did not provide any meeting minutes or written procedures demonstrating how the applications were reviewed and processed.

*Benefit committees must select only grant applications that mitigate impacts from casinos on local jurisdictions.*

The law establishing the distribution fund directs the benefit committees to consider the impact of casinos when selecting grants. Specifically, the law states that the benefit committees shall select only grant applications that mitigate impacts from casinos on local jurisdictions. Additionally, the law requires that



if a local jurisdiction approves an expenditure that mitigates a casino's impact and that also provides other benefits to the local jurisdiction, the grant selected shall finance only the proportionate share of the expenditure that mitigates the impact from the casino. These requirements encourage the distribution of grant funds in amounts that are sufficient for addressing a casino's impact and allow funds to be used to mitigate several impacts, rather than funding in their entirety expensive mitigation projects that are only partially related to a casino.

Our review of the laws related to grant selection suggests that they intend benefit committees to select grants before obtaining tribal sponsorship of the grants. Our concern regarding the processes being used by the various counties is not intended to suggest that tribal sponsorship is irrelevant or that it cannot add value to the process. Not only is tribal involvement required both by compacts and by state law, but it is also an important aspect of the process. Tribes are involved in selecting the grants, through their membership on the benefit committees, and in evaluating the impact of the casinos on local government, through the sponsorship requirements. However, requiring the benefit committee to select grants before obtaining tribal sponsorship has several inherent benefits. Not only does the consideration of each grant application by the benefit committee in a public meeting allow for discussion and public comment on each application's relative merits, but it also presents the opportunity for an applicant to provide additional information and clarification on the application.

Further, delegating these responsibilities to the tribes appears to encourage the belief among participants that these are tribal funds and that the tribes decide who should receive distribution fund grants. In fact, after being approached by the tribe, the city of Desert Hot Springs applied for a grant that, according to a management analyst in the police department that administered the grant, was to provide child care for casino employees. In this case, a representative from the city of Desert Hot Springs stated that it used the funds to provide children's science fairs and camps instead of the services described in its grant application. The city notified the tribe of how city residents would benefit, and the city requested the tribe's assistance to ensure that city residents employed by the casino would be notified. In another instance, Yolo County approved grant funding to a local school district, which is an ineligible entity, because the tribe expressed a desire for the funds to be awarded to the school district. We discuss this grant in more detail in a later section of this report.



*Grant recipients failed to provide evidence that quantified the casinos' impacts and thus, recipients may be receiving far more or far less funding than is necessary to mitigate particular impacts.*

Although many local governments could not quantify their respective casinos' impacts, we acknowledge that these and other purchases are beneficial to the local governments. The grants that we reviewed were used to purchase a new fire truck, improve police departments' communications systems, allow better law enforcement coverage, provide hot lunches for senior citizens, and fund shortfalls to ensure that existing services and programs, such as a science camp for local students and fire protection services, could continue. Many of the applications for these grants provided logical arguments regarding how the grant recipients might be affected by the casinos. However, these grant recipients failed to provide evidence that quantified the casinos' impacts. Without such evidence, recipients may be receiving far more or far less funding than is necessary to mitigate particular impacts. If distribution funds are used for a project that does not bear a relationship to the impact of a casino, other local governments in the area are unable to fund mitigation projects. Further, the true impact of the casino is not clear. If benefit committees were able to communicate in their annual reports the number of applications with quantifiable casino impacts that the committees were unable to fund, the Legislature might better understand the local governments' need for funding to mitigate these impacts.

In addition, a more rigorous review of grant applications may be in order, given the proportion of grants we reviewed that did not quantify the impact of a casino. Specifically, such a review should focus on the evidence the grant application provides of the casino's impact and on the relationship between the increased workload due to the impact and the proportion of the grantee's overall funding that is provided by the grant. Such a review would ideally be conducted by an individual with some degree of independence and impartiality. Because counties are already reimbursed for up to 2 percent of the amount awarded to administer grants, they may be better served by using these funds to reimburse the county auditor or controller—positions that require a degree of independence and skill in assessing quantifiable subjects—to review the grant applications and certify those that quantify the casino's impact and fund projects in proportion to the casino's impact.

#### **Some Cities and Counties Did Not Receive the Amounts That the Law Set Aside for Them**

We found that in some cases benefit committees awarded cities and counties less money than the law set aside for them. The nexus tests—tests of geographical proximity established in law—determine the minimum amount that certain cities and counties should receive from the individual tribal casino accounts in each county (nexus set-aside). Five of the seven counties we sampled



were required to perform a nexus test, but four cities in three of these counties, and two separate set-asides for one of the counties, did not receive the full amount the nexus test set aside for them. Because some cities and counties did not receive their full nexus set-aside, they may not have been able to fully mitigate the impact of neighboring casinos.

California courts define an appropriation as an authorization by the Legislature for the expenditure of a certain amount of money for a specific purpose. The purpose of the fiscal year 2008–09 appropriation for distribution fund grants was for grants described in Section 12715 of the California Government Code (Government Code), which includes several requirements. One of these requirements is the nexus test. Specifically, the law requires benefit committees in counties with tribes that pay into the distribution fund to conduct a nexus test based on the criteria shown in Figure 5 on page 17 in the Introduction. Sixty percent of the distribution fund money in each individual tribal casino account in those counties is appropriated for the benefit committee to allocate to cities and counties through the nexus test, which uses various criteria to determine a local government's proximity to a casino and sets aside minimum amounts for those cities and counties that meet a certain number of the nexus criteria. This process should guarantee that cities and counties close to a casino receive the majority of the funds in a particular county. However, we found that benefit committees in several counties did not award cities and counties the full amount that the law set aside for their nexus grants.

In total, we identified five local governments that received \$1.2 million less than the nexus test set aside for them. For example, in Santa Barbara County, the nexus set-aside for the city of Solvang (Solvang) was \$397,000, but Solvang was awarded only \$173,000. Similarly, in Amador County, the nexus set-aside for the city of Sutter Creek was \$65,000, but the city was awarded only \$31,000. Finally, in Riverside County, nexus set-asides for two cities and two different nexus set-asides from different casinos for the county totaled \$3.5 million, but the funds awarded to those entities from these individual tribal casino accounts totaled \$2.5 million. In all but one case, cities and counties received some level of funding; however, the amounts were less than the nexus set-asides and the money was instead awarded to other cities and counties.

The counties described several reasons for not awarding cities and counties the full amount of their nexus set-asides. In Riverside, according to a county representative, the Indian tribes did not sponsor the full amount of the applications in two instances related to the county and one related to the city of Temecula. In a fourth case, according to a city representative, it appears that the city of Palm Desert did not apply for a grant. In another instance,

*We identified five local governments that received \$1.2 million less than the nexus test set aside for them.*



*One county indicated that they were unaware of how to correctly compute the full amount of the nexus set-aside because of an oversight when reviewing the law.*

according to a county representative, Amador County—because of contradicting documentation and no direct knowledge of county deliberations or decisions—could not explain how the nexus determinations were made or why projects were funded in the amounts granted. In the third county, Santa Barbara, the assistant to the county executive officer stated that the benefit committee chose to partially fund Solvang's grant after weighing the perceived benefit of the project as well as the casino's impact on other local jurisdictions in the county. Furthermore, according to the assistant to the county executive officer, they were unaware of how to correctly compute the full amount of the nexus set-aside for Solvang because of an oversight when reviewing the law. Although Riverside informed cities and county departments of the amounts of the nexus set-asides, neither Amador nor Santa Barbara could provide us with documentation of such notification. If cities and counties are not aware of the amounts of their nexus set-asides, they may not apply for the full amount of grant funding or raise an objection if they are not awarded the full amount. This lack of awareness likely reduces pressure on benefit committees to award funds according to the nexus test.

While benefit committees should award grants only for purposes that mitigate the impacts of casinos, awarding to a local government entity the money set aside at the direction of the Legislature for a different specific local government entity means that the money is not being spent for the purpose, and in the amount, authorized by the Legislature. Throughout Government Code, Section 12715—the section of law describing the use and allocation of distribution fund grants—the Legislature generally requires that funds not spent for authorized purposes revert back to the distribution fund. For example, funds not awarded from a county tribal casino account or an individual tribal casino account by the end of each fiscal year are required to revert back to the distribution fund. Likewise, if a grant recipient uses grant funds for an unrelated purpose, the grant terminates immediately and the amount of the grant not yet spent reverts back to the distribution fund. Although the law contains no such express requirement for nexus funds that are not awarded as the law directs, we believe it is reasonable to expect that funds not used for the purpose authorized by the Legislature should return to the fund from which they were appropriated. Therefore, the Legislature should clarify the law if it wishes to require that nexus set-aside funds revert back to the distribution fund when benefit committees are not able, or choose not, to award the full nexus set-aside to the appropriate cities and counties.



### **One Grant Benefited a School District That Was Ineligible for Funding**

Our review also identified a concern with the eligibility of the grant recipient in one case. In Yolo County, the benefit committee awarded a \$336,000 grant to the Esparto Unified School District despite a state law excluding school districts from the local jurisdictions allowed to receive funds. The awarding of this grant appears to have several causes. Although he was not filling the role at that time, Yolo County's county-tribe coordinator told us that he was unaware that school districts were ineligible by law for mitigation grants. He also told us that the county did not solicit grant applications and that it simply discussed possible grants with the tribe in advance of the benefit committee's meeting to select the grant. According to internal county e-mail messages, the tribe expressed a desire to award the grant to the Esparto Unified School District. The proposal memo written by the county-tribe coordinator stated that the grant funds would be used to restore programs to which cuts would be made, such as computer education, Academic Decathlon, athletics, and student transportation. Because school districts are not eligible to receive distribution fund grants, the benefit committee's award of a grant to supplant educational funding violates the law.

*In Yolo County, the benefit committee awarded a \$336,000 grant to a school district despite a state law excluding school districts from local jurisdictions allowed to receive funds.*

Although we recognize that there are many potential impacts from tribal casinos that local government agencies can mitigate with distribution fund grants, the Legislature has defined which entities are eligible for funding and has established specific purposes for the money distributed by this fund. Providing money to school districts may be a laudable goal; however, state law specifically excludes school districts from the definition of local government agencies eligible to receive distribution funds. Because local governments are unable to impose taxes and fees on tribes, the distribution fund grants offset the increased burden placed on local governments by casino operations, and the requirements established for the granting of these funds help direct the money to those local governments most affected by casino operations. If entities other than the intended local governments are receiving these funds, there is less money available to fund grants for the intended purpose of mitigating casinos' impacts in eligible local governments.

### **Some Benefit Committee Members Failed to Meet Financial Disclosure Requirements**

We found that many county benefit committee members failed to provide timely, accurate statements of economic interests, as required by state law. Four of the counties we reviewed could not provide some required statements of economic interests for members serving on



*We identified several concerns related to the statements of economic interests including two that were filed more than one year after the filing deadline.*

benefit committees in fiscal year 2008–09. The Political Reform Act of 1974 (political reform act) requires specified state and local officials and employees with decision-making authority to file statements of economic interests that are intended to identify conflicts of interest that an individual might have. The political reform act also requires local government agencies to adopt a conflict-of-interest code, and the act describes various provisions that the code must include. Some counties we reviewed have adopted codes that fail to meet all the required provisions, leaving benefit committee members and county officials unaware of their responsibilities to identify potential conflicts of interest. If benefit committees cannot identify potential conflicts, they increase the risk that their decisions and awards could subsequently be called into question or criticized.

As Table 5 indicates, we identified several concerns related to the statements of economic interests. We received 37 of the 49 required statements of economic interests that we requested for the benefit committee members in the seven counties we reviewed. However, two of the statements we received were filed more than one year after the filing deadline. In addition, 15 benefit committee members filed statements of economic interests because they held other positions that required the statements, but the members did not include their respective benefit committee on their statements when listing the agencies for which they were filing.

We also found that in two counties the benefit committees' conflict-of-interest codes did not meet the requirements of the political reform act. In Santa Barbara County, the code did not identify the committee members as designated individuals required to file statements of economic interests. In Shasta County, the code did not specify any of the provisions required by the political reform act, such as requiring committee members to file statements of economic interests, specifying when members must file, or identifying which financial interests they need to disclose. The benefit committee in Amador County provided a document with a conflict-of-interest code that meets the requirements of the political reform act; however, according to the Amador County clerk of the board, it was on the benefit committee's agenda for a meeting held less than a month before the 2009 filing deadline for statements of economic interests but there is no record that the code received approval.



**Table 5**  
**Summary of the Indian Gaming Local Community Benefit Committees' Conflict-of-Interest Codes and Statements of Economic Interests by County**

COUNTY	CONFLICT-OF-INTEREST CODE APPROPRIATELY REQUIRES BENEFIT COMMITTEE MEMBERS TO FILE STATEMENTS OF ECONOMIC INTERESTS	NUMBER WHO FAILED TO FILE	NUMBER OF STATEMENTS OF ECONOMIC INTERESTS FILED	ISSUES WITH STATEMENTS OF ECONOMIC INTERESTS FILED	
				NUMBER WHO FILED MORE THAN 90 DAYS LATE*	NUMBER WHO FAILED TO INDICATE STATEMENTS APPLIED TO BENEFIT COMMITTEE
Amador	Yes	0	7	2	15
Humboldt	Yes	2	1	0	2
Riverside	Yes	0	7	2	1
San Diego	Yes	0	7	0	0
Santa Barbara	No	3	4	0	8
Shasta	No	2	5	0	2
Yolo	Yes	0	2	0	2
<b>Totals</b>		<b>12</b>	<b>37</b>	<b>2</b>	<b>15</b>

Source: Bureau of State Audits' interviews with county officials and review of Indian Gaming Local Community Benefit Committees' conflict-of-interest codes.

\* We used 90 days as the threshold for late filing because this is the deadline after which filing officers are to refer nonfilers to the Fair Political Practices Commission.

The political reform act, which seeks to bar public officials from using their positions to influence government actions in which they may have a financial interest, establishes various requirements related to conflicts of interest. For example, it requires each employee position designated by an agency to file with that agency a statement of economic interests disclosing annually, and within 30 days of assuming or leaving office, his or her reportable investments, business positions, interests in real property, and income. The statements require filers with no reportable financial interests to declare that fact on the cover page. Additionally, the statements require filers to list the agency or agencies to which the statement applies. The political reform act also requires local government agencies, of which benefit committees are a type, to adopt conflict-of-interest codes. The codes must designate the employee positions that must file statements of economic interests.

County officials cited various reasons for their shortcomings in this area. For example, the filing officer for Shasta County said she was unaware of the requirement for committee members to file, and a county administrator in Santa Barbara County believed the members filed directly with the county elections board due to their other responsibilities. However, because the benefit committee members were not designated individuals under the conflict-of-interest code, the elections board was not



aware that members were to file statements with the board. Santa Barbara County has since added the benefit committee to its conflict-of-interest code for county departments.

In Humboldt and Yolo counties, the filing officers did not follow Fair Political Practices Commission (FPPC) guidelines. For example, according to the former benefit committee filing officer in Yolo County, the individual holding the filing officer position for the benefit committee changed several times in a short period, and the former filing officer did not receive instruction on this part of her duties. The former filing officer stated that she did not take the steps recommended by the FPPC to ensure that designated individuals filed statements on time or at all. These steps include notifying benefit committee members about the deadline to file statements of economic interests or following up when the deadline had passed without a member filing a statement. The Amador County filing officer was unable to provide any details about efforts to collect statements from benefit committee members who failed to file on time.

The failure to follow the provisions of the political reform act and to provide accurate statements of economic interests is troubling for several reasons. When designated individuals do not file statements of economic interests, benefit committees may be unaware of conflicts of interest. In addition, the failure to provide accurate statements in a timely manner not only may be perceived by the public as an effort to conceal conflicts of interest, but may also prohibit public review of the documents, which is a key aspect of oversight. Finally, if benefit committees cannot identify potential conflicts, they increase the risk that their decisions and awards may subsequently be questioned or criticized.

### Recommendations

The Legislature should consider amending the law to prohibit projects that are unrelated to casino impacts or are not proportionally related to casino impacts. The amendment should require that counties forfeit equivalent amounts of future money from the distribution fund if their benefit committees approve grant applications that fail to provide evidence that projects are funded in proportion to casinos' impacts. To make certain that the projects' eligibility, merit, and relevance are discussed in a public forum during the projects' selection, the Legislature should also clarify that benefit committees should meet to consider applications before submitting them for tribal sponsorship.



Alternatively, the Legislature could emphasize local priorities by amending the law to allow benefit committees to approve any applications that are submitted to them for public debate and committee approval before tribal sponsorship, regardless of the proportionality of a casino's impact.

To provide an incentive for benefit committees to award cities and counties the amounts that the Legislature has appropriated to them for mitigating casino impacts, the Legislature should require that grant funds allocated for each city and county according to the nexus test revert to the distribution fund if they are not awarded to that city or county.

To help ensure that they meet the grant requirements established in the Government Code, counties should take the following steps:

- Require that the county auditor review each grant application to ensure a rigorous analysis of a casino's impact and of the proportion of funding for the project provided by the grant. Benefit committees should consider a grant application only when the county auditor certifies that the applicant has quantified the impact of the casino and verifies that the grant funds requested will be proportional to the casino's impact.
- Review the law for changes that may affect applicants' eligibility for distribution fund grants before awarding the grants so that ineligible entities do not receive grants.
- More rigorously review applications that are to be administered and spent by an entity other than the local government that applies for the funds. Specifically, benefit committees should require that each grant application clearly show how the grant will mitigate the impact of the casino on the applicant agency.
- Ensure that eligible cities and counties receive the proportional share of funding they are set aside according to the nexus test by making the governments aware of available distribution fund grants and of the minimum grant amounts that are set aside for them under the nexus test.
- Encourage eligible local governments to submit multiple applications so that the benefit committees can choose appropriate projects while ensuring that local governments are awarded the amount defined in law.
- Require benefit committee filing officers to avail themselves of the free training provided by the FPPC so that the filing officers are aware of and meet their responsibilities under the



political reform act. Counties should also adhere to FPPC guidelines for notifying filers of the need to submit statements of economic interests.

- Ensure that benefit committees' conflict-of-interest codes comply with the political reform act by reviewing the act and their codes, and changing the codes as necessary to meet the act's requirements.



COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: INTERIM FINANCIAL STATUS REPORTS

SOURCE: Finance Department

COMMENT: The City Charter requires financial status reports to be provided to City Council on a monthly basis. Council Minute Order #10-011607 approved the recommended change in submittal of the Interim Financial Status Reports and established the requirement and parameters for the presentation of the reports.

In accordance with Council Minute Order #10-011607, the interim financial status reports for the 1st fiscal quarter ended September 30, 2013, are submitted.

RECOMMENDATION: That the City Council accept the interim financial status reports as presented.

ATTACHMENTS: Interim financial reports

D.D. ME Appropriated/Funded ME C.M. J

Item No. 11



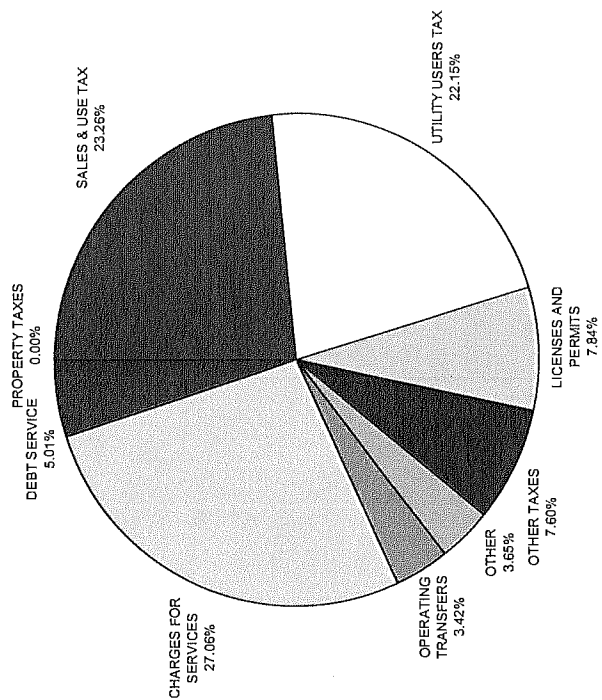
CITY OF PORTERVILLE

REVENUE STATUS REPORT - GENERAL FUND  
FOR THE QUARTER ENDED  
SEPTEMBER 30, 2013 AND SEPTEMBER 30, 2012

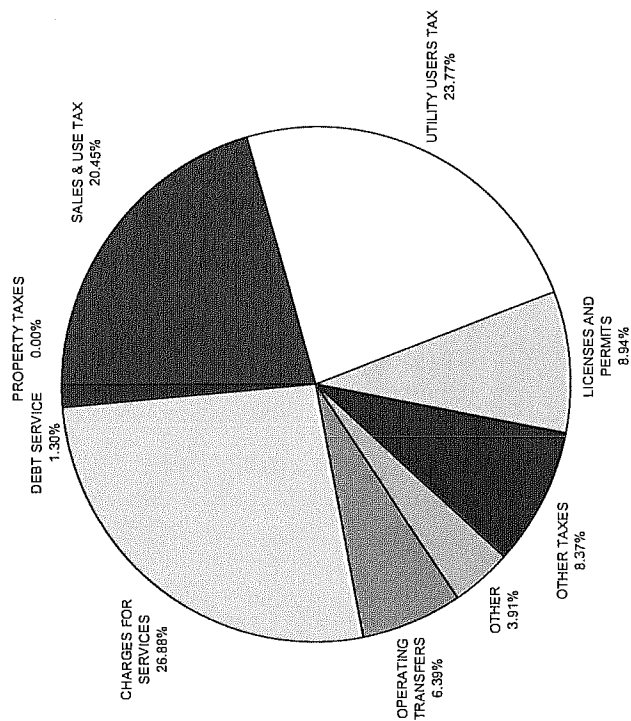
REVENUE SOURCE	2013-2014 ESTIMATED REVENUE	2013-2014 YEAR-TO-DATE REVENUE	% OF ESTIMATE	2012-2013 ESTIMATED REVENUE	2012-2013 YEAR-TO-DATE REVENUE	% OF ESTIMATE
PROPERTY TAXES	\$ 6,980,762	\$		\$ 6,691,568	\$	
OTHER TAXES:						
SALES AND USE TAX	4,032,651	683,327	16.94%	3,771,619	779,991	20.68%
UTILITY USERS TAX	4,000,000	815,209	20.38%	3,950,000	773,690	19.59%
TRANSIENT OCCUPANCY TAX	315,000			310,000	10,579	3.41%
PROPERTY TRANSFER TAX	50,000	13,386	26.77%	45,000	4,651	10.34%
FRANCHISE TAX	1,471,134	250,291	17.01%	1,471,134	250,291	17.01%
SALES TAX - PUBLIC SAFETY	150,000	17,995	12.00%	130,000	32,294	24.84%
LICENSES AND PERMITS:						
BUSINESS LICENSES	411,200	196,297	47.74%	406,200	189,324	46.61%
CONSTRUCTION PERMITS	310,800	110,382	35.52%	339,505	84,345	24.84%
REVENUE FROM AGENCIES-TAXES:						
MOTOR VEHICLE IN-LIEU TAX	29,379	23,542				
OTHER TAXES	28,000			30,000		
REVENUE FROM AGENCIES-GRANTS	1,907,522	27,461	1.44%	68,872	19,253	27.95%
USE OF MONEY AND PROPERTY	227,277	69,974	30.79%	225,078	69,900	31.06%
FINES AND FORFEITURES	65,000	11,049	17.00%	53,000	8,349	15.75%
CHARGES FOR SERVICES:						
PLANNING AND ENGINEERING	96,100	14,870	15.47%	78,523	31,835	40.54%
POLICE	374,000	51,621	13.80%	316,000	61,173	19.36%
FIRE	28,000	20,626	73.66%	55,000	23,951	43.55%
LIBRARY	40,000	12,579	31.45%	40,000	11,351	28.38%
RECREATIONAL	1,751,922	373,483	21.32%	1,671,741	356,596	21.33%
INTERDEPARTMENTAL	1,600,000	445,980	27.87%	1,600,000	458,015	28.63%
OTHER	8,748	2,674	30.57%	8,018	2,224	27.74%
OTHER REVENUES	67,000	25,582	38.18%	70,300	30,010	42.69%
SUBTOTALS	\$ 23,944,495	\$ 3,166,327	13.22%	\$ 21,331,558	\$ 3,197,823	14.99%
OPERATING TRANSFERS	1,138,309	219,000	19.24%	629,982	119,516	18.97%
DEBT SERVICE TRANSFERS	170,890	44,463	26.02%	572,300	174,917	30.56%
TOTALS	\$ 25,253,694	\$ 3,429,790	13.58%	\$ 22,533,840	\$ 3,492,256	15.50%



**CITY OF PORTERVILLE**  
**GENERAL FUND REVENUES**  
**Quarter Ended September 30, 2012**



**CITY OF PORTERVILLE**  
**GENERAL FUND REVENUES**  
**Quarter Ended September 30, 2013**





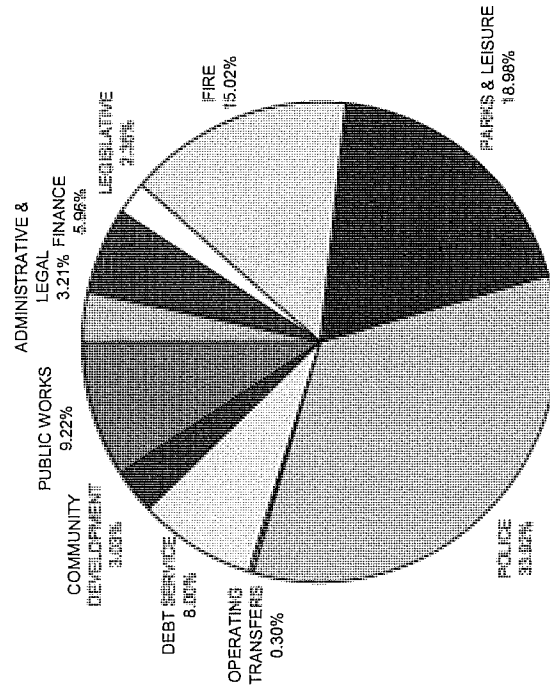
CITY OF PORTERVILLE

EXPENDITURE STATUS REPORT - GENERAL FUND  
FOR THE QUARTER ENDED  
SEPTEMBER 30, 2013 AND SEPTEMBER 30, 2012

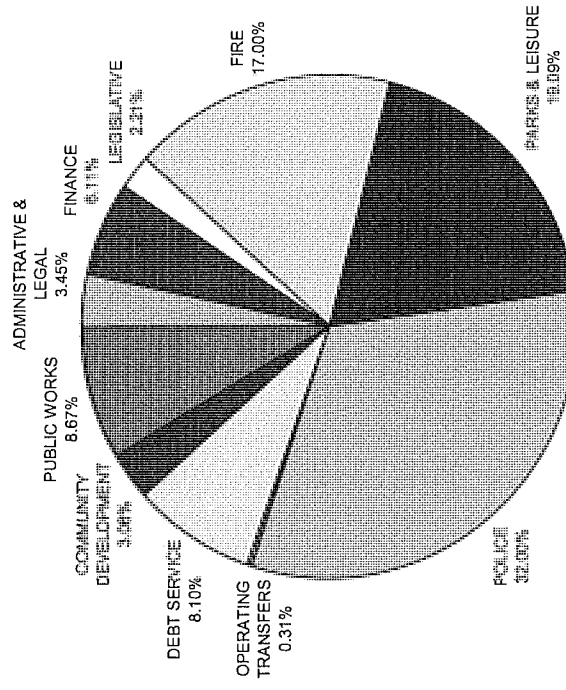
	2013-2014 AMENDED APPROP	2013-2014 YEAR-TO-DATE EXPEND	% OF APPROP	2012-2013 AMENDED APPROP	2012-2013 YEAR-TO-DATE EXPEND	% OF APPROP
LEGISLATIVE:						
CITY COUNCIL	\$ 123,517	\$ 26,966	21.8%	\$ 114,203	\$ 20,200	17.7%
COMMUNITY PROMOTION	202,814	109,181	53.8%	205,012	103,714	50.6%
ADMINISTRATIVE & LEGAL:						
CITY MANAGER	249,942	60,416	24.2%	238,777	61,235	25.6%
CITY CLERK	168,151	33,289	19.8%	184,315	34,048	18.5%
HUMAN RESOURCES	248,575	65,537	26.4%	274,333	69,653	25.4%
CITY ATTORNEY	180,000	26,976	15.0%	236,592	28,005	11.8%
FINANCE:						
FINANCE & ACCOUNTING	775,835	193,431	24.9%	746,234	179,253	24.0%
INFORMATION SERVICES	404,265	94,643	23.4%	394,977	72,565	18.4%
ADMINISTRATIVE SERVICES	372,904	57,409	15.4%	371,668	90,402	24.3%
POLICE PROTECTION	8,777,899	1,966,656	22.4%	8,604,113	1,790,621	20.8%
FIRE PROTECTION	3,676,331	870,749	23.7%	3,745,606	951,689	25.4%
COMMUNITY DEVELOPMENT:						
PLANNING & ZONING	516,294	117,962	22.8%	516,294	109,194	21.1%
ECONOMIC DEVELOPMENT	294,233	57,864	19.7%	294,233	62,169	21.1%
PUBLIC WORKS:						
ENGINEERING & BUILDING	1,010,225	211,666	21.0%	979,744	235,230	24.0%
STREET MAINTENANCE	406,971	78,316	19.2%	407,039	84,421	20.7%
SIGNALS, SIGNING & STRIPING	356,382	124,035	34.8%	383,617	63,804	16.6%
STREET LIGHTING	479,226	80,982	16.9%	482,171	79,574	16.5%
STORM DRAINS	89,138	31,736	35.6%	88,125	13,736	15.6%
PARKING LOTS	47,144	7,846	16.6%	47,079	8,201	17.4%
PARKS & LEISURE:						
PARK MAINTENANCE & OPERATION	1,658,678	457,194	27.6%	1,755,736	402,572	22.9%
STREET TREES & PARKWAYS	187,395	36,119	19.3%	194,999	58,942	30.2%
COMMUNITY CENTERS	215,986	44,519	20.6%	232,169	54,686	23.6%
LEISURE SERVICES	199,157	50,738	25.5%	216,183	45,135	20.9%
LEISURE SERVICES - SPECIAL PROG	1,586,600	294,531	18.6%	1,510,704	289,049	19.1%
SWIMMING POOL	158,971	69,486	43.7%	165,211	70,032	42.4%
LIBRARY OPERATIONS	678,355	147,816	21.8%	679,076	148,069	21.8%
SPECIAL PROJECTS				20,272		
SUB TOTALS	23,064,988	5,316,064	23.0%	23,088,482	5,126,198	22.2%
OPERATING TRANSFERS	79,000	17,250	21.8%	79,000	17,250	21.8%
DEBT SERVICE	1,202,422	463,948	38.6%	1,828,329	453,103	24.8%
	\$ 24,346,410	\$ 5,797,261	23.8%	\$ 24,995,811	\$ 5,596,551	22.4%



**CITY OF PORTERVILLE  
GENERAL FUND EXPENDITURES  
Quarter Ended September 30, 2013**



**CITY OF PORTERVILLE  
GENERAL FUND EXPENDITURES  
Quarter Ended September 30, 2012**





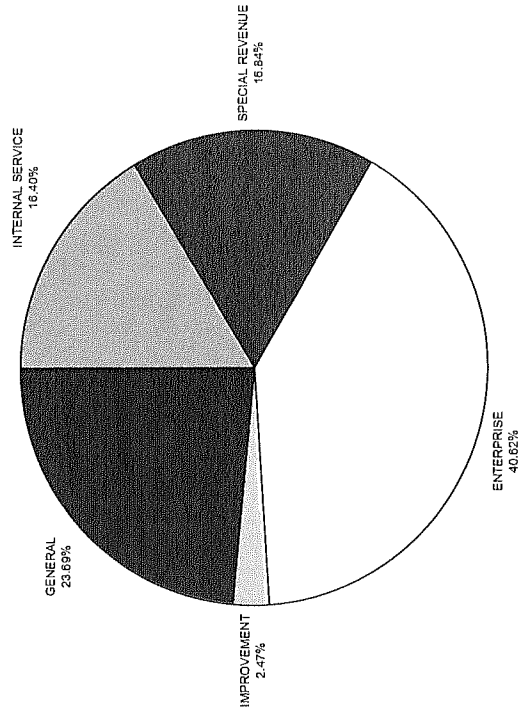
CITY OF PORTERVILLE

REVENUE STATUS REPORT - ALL OTHER FUNDS  
FOR THE QUARTER ENDED  
SEPTEMBER 30, 2013 AND SEPTEMBER 30, 2012

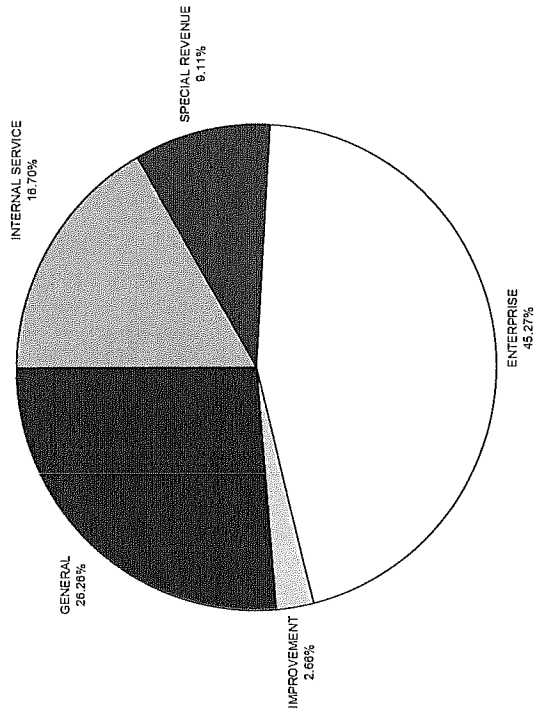
REVENUE SOURCE	2013-2014		2013-2014		% OF ESTIMATE	2012-2013		2012-2013		% OF ESTIMATE
	ESTIMATED REVENUE	YEAR-TO-DATE REVENUE	ESTIMATED REVENUE	YEAR-TO-DATE REVENUE		ESTIMATED REVENUE	YEAR-TO-DATE REVENUE			
MEASURE H SALES TAX	\$	2,974,507	\$	572,824	19.3%	\$	2,919,298	\$	534,063	18.3%
SPECIAL GAS TAX		2,083,576		164,831	7.9%		3,184,160		636,080	20.0%
LOCAL TRANSPORTATION FUNDS (LTF)		6,250,900		5,811	0.1%		4,195,232		902,004	21.5%
TRAFFIC SAFETY FUND		150,300		50,556	33.6%		150,500		26,281	17.5%
ZALUD ESTATE		6,300		740	11.7%		7,000		1,939	27.7%
COMMUNITY DEVELOPMENT BLOCK GRANT		1,039,716		101,570	9.8%		1,845,059		80,176	4.3%
TRANSIT		6,265,851		104,221	1.7%		6,691,898		88,191	1.3%
SPECIAL SAFETY GRANTS		176,800		170,610	96.5%		378,755		16,245	4.3%
SEWER OPERATING		6,697,754		1,708,173	25.5%		6,622,454		1,712,580	25.9%
REFUSE REMOVAL		5,590,000		1,369,520	24.5%		5,550,000		1,352,484	24.4%
AIRPORT OPERATIONS		1,556,271		585,192	37.6%		1,386,136		537,146	38.8%
GOLF COURSE		225,400		50,736	22.5%		242,500		53,414	22.0%
WATER OPERATING		4,887,000		1,639,679	33.6%		4,845,000		1,737,719	35.9%
RISK MANAGEMENT		4,742,076		1,197,371	25.2%		4,703,666		1,527,647	32.5%
EQUIPMENT MAINTENANCE		2,811,000		816,089	29.0%		2,681,250		685,819	25.6%
LANDSCAPE MAINTENANCE DISTRICT		260,000					260,000		261	0.1%
WATER REPLACEMENT		382,946		99,551	26.0%		406,991		98,402	24.2%
SOLID WASTE RESERVE		1,564,646		68,955	4.4%		1,620,718		70,791	4.4%
SEWER REVOLVING		238,614		51,451	21.6%		245,511		50,198	20.4%
TRANSPORTATION DEVELOPMENT		205,000		11,823	5.8%		108,000		49,132	45.5%
PARK DEVELOPMENT		20,000		6,755	33.8%		20,000		8,388	41.9%
TREATMENT PLANT RESERVE		535,340		101,080	18.9%		622,328		113,411	18.2%
STORM DRAIN DEVELOPMENT		115,000		12,574	10.9%		85,000		18,624	21.9%
BUILDING CONSTRUCTION		6,000		1,506	25.1%		10,000		1,862	18.6%
TOTALS	\$	48,784,997	\$	8,891,618	18.2%	\$	48,781,456	\$	10,302,856	21.1%



CITY OF PORTERVILLE  
REVENUE BY FUND TYPE  
Quarter Ended September 30, 2012



CITY OF PORTERVILLE  
REVENUE BY FUND TYPE  
Quarter Ended September 30, 2013





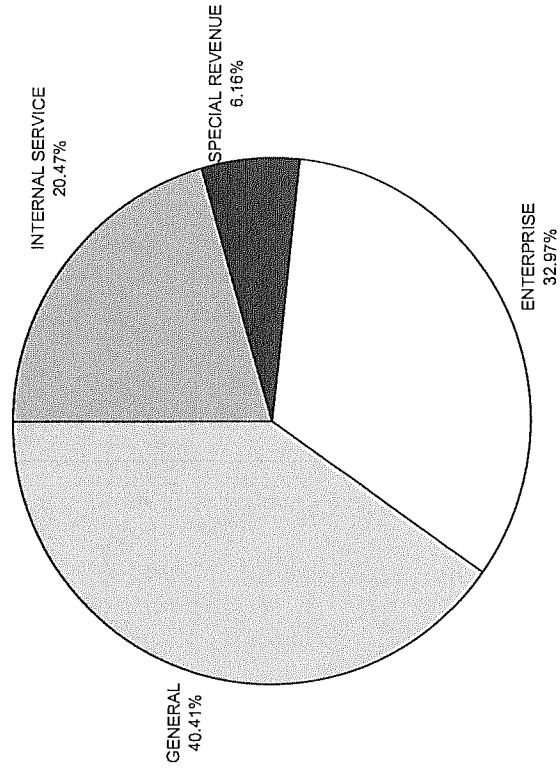
CITY OF PORTERVILLE

EXPENDITURE STATUS REPORT - ALL OTHER FUNDS  
FOR THE QUARTER ENDED  
SEPTEMBER 30, 2013 AND SEPTEMBER 30, 2012

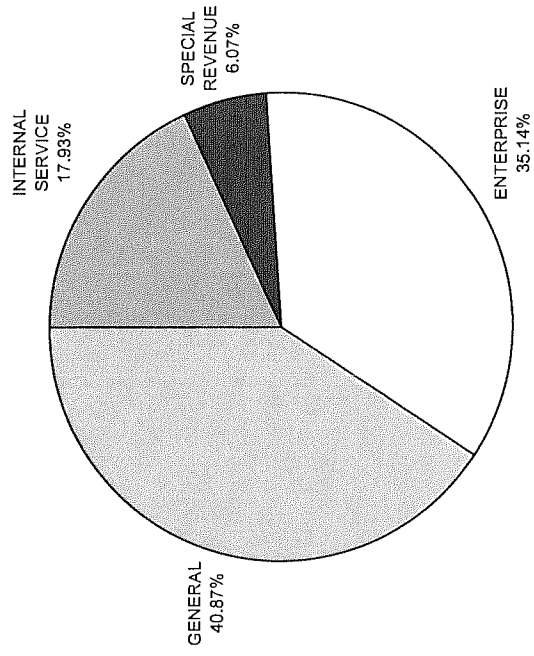
	2013-2014 AMENDED APPROP	2013-2014 YEAR-TO-DATE EXPEND	% OF APPROP	2012-2013 AMENDED APPROP	2012-2013 YEAR-TO-DATE EXPEND	% OF ACTUAL
MEASURE H SALES TAX	\$ 2,780,540	\$ 636,106	22.9%	\$ 2,772,476	\$ 622,622	22.5%
ZALUD ESTATE	29,235	6,236	21.3%	29,435	4,286	14.6%
COMMUNITY DEVELOPMENT BLOCK GRANT	499,138	35,278	7.1%	502,461	35,448	7.1%
TRANSIT	3,644,232	595,624	16.3%	4,178,019	375,768	9.0%
SPECIAL SAFETY GRANTS	269,080	90,990	33.8%	417,825	95,378	22.8%
SEWER OPERATING	5,993,712	1,264,017	21.1%	5,951,222	1,163,901	19.6%
REFUSE REMOVAL	5,392,910	1,147,293	21.3%	5,335,522	1,140,900	21.4%
AIRPORT	1,318,522	486,706	36.9%	1,316,618	402,588	30.6%
GOLF COURSE	355,513	85,638	24.1%	353,849	82,115	23.2%
WATER OPERATING	4,300,615	985,480	22.9%	4,280,371	1,012,744	23.7%
RISK MANAGEMENT	5,985,699	1,618,220	27.0%	5,917,818	2,007,608	33.9%
EQUIPMENT MAINTENANCE	2,791,933	713,752	25.6%	2,631,898	588,768	22.4%
LANDSCAPE MAINTENANCE DISTRICT	170,080	27,415	16.1%	223,811	27,540	12.3%
TOTALS	\$ 33,531,209	\$ 7,692,757	22.9%	\$ 33,911,325	\$ 7,559,668	22.3%



**CITY OF PORTERVILLE**  
**EXPENDITURES BY FUND TYPE**  
Quarter Ended September 30, 2012



**CITY OF PORTERVILLE**  
**EXPENDITURES BY FUND TYPE**  
Quarter Ended September 30, 2013





CITY OF PORTERVILLE  
INTERIM PERFORMANCE REPORT - MEASURE H  
For the Quarter Ended September 30, 2013 and September 30, 2012

	<u>FY 2013-14</u>	<u>FY 2012-13</u>
REVENUES		
Sales Tax - Measure H	\$ 564,631	525,100
Interest	8,193	8,963
Police Services	-	-
TOTAL REVENUES	<u>572,824</u>	<u>534,063</u>
EXPENDITURES		
Police Department	325,227	325,632
Fire Department	225,871	217,883
Library & Literacy	85,008	79,107
TOTAL EXPENDITURES	<u>636,106</u>	<u>622,622</u>
CAPITAL PROJECTS		
Public Safety Station	<u>10,512</u>	<u>78,307</u>
REVENUE OVER/(UNDER) EXPENDITURES	\$ <u>(73,794)</u>	\$ <u>(166,867)</u>



**CITY OF PORTERVILLE**  
**INTERIM PERFORMANCE REPORT - ENTERPRISE FUNDS**  
**For the Quarter Ended September 30, 2013 and September 30, 2012**

FUND	REVENUES	EXPENSES	9/30/2013		9/30/2012	
			NET PROFIT (LOSS)		NET PROFIT (LOSS)	
Zalud Estate	\$ 740	\$ (6,236)	\$	(5,496)	\$	(2,347)
Sewer Operating	1,708,173	(1,264,017)		444,156		548,679
Solid Waste	1,369,520	(1,147,293)		222,227		211,585
Airport	585,192	(486,706)		98,486		134,558
Golf	50,736	(85,638)		(34,903)		(28,701)
Water Operating	1,639,679	(985,480)		654,198		724,976

NOTE: The Transit Fund is not included as it does not contain any retained earnings



COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: QUARTERLY PORTFOLIO SUMMARY

SOURCE: Finance Department

COMMENT: This report reflects the investment portfolio of the City of Porterville as of September 30, 2013, and is in compliance with California Government Code Section 27000, etc., Section 53600, etc., and the City of Porterville's Statement of Investment Policy. Investments are selected based on the statutory objectives of safety, liquidity and yield.

Items identified in the summary include the portfolio composition, weighted average rate of earnings, weighted average days to maturity, and the percentage of liquid holdings.

RECOMMENDATION: That the City Council accept the quarterly Portfolio Summary.

ATTACHMENT: Quarterly Portfolio Summary

D.D. MB Appropriated/Funded MB C.M. J

Item No. 12



**CITY OF PORTERVILLE**  
**PORTFOLIO SUMMARY AS OF SEPTEMBER 30, 2013**

INVESTMENT OR CUSIP NUMBER	INSTITUTION	PURCHASE PRICE	MARKET VALUE	COUPON INTEREST RATE	PURCHASE DATE	MATURITY DATE	DAYS TO MATURITY
1006	LOCAL AGENCY INVESTMENT FUND \$	7,730,299	\$ 7,730,299	0.260%	DAILY	DAILY	1
1007	CSJVRMA INVESTMENT FUND	6,333,635	6,464,524	1.230%	DAILY	DAILY	30
866	TULARE COUNTY INVESTMENT POOL	8,499,920	8,499,920	1.180%	DAILY	DAILY	30
	PROSPECT-HENDERSON PARTNERS, L	2,620,221	2,620,221	2.850%	12/29/2009	10/27/2020	2,584
	TULARE COUNTY JUNIOR LIVESTOCK SHOW AND COMMUNITY FAIR	1,563,192	1,563,192	3.000%	9/30/2010	7/15/2021	2,845
3136FPEW3	FEDERAL NATL MTG ASSN	1,000,000	1,014,940	1.500%	9/16/2010	12/16/2014	442
313379XM6	FEDERAL HOME LOAN BANKS	1,000,000	991,440	1.100%	7/10/2012	7/10/2017	1,379
313382FP3	FEDERAL HOME LOAN BANKS	1,000,000	970,180	1.000%	3/20/2013	3/20/2018	1,632
3134G4DQ8	FEDERAL HOM LN MTG CORP	1,000,000	1,001,500	2.000%	7/30/2013	7/30/2015	668
3136G1RN1	FEDERAL NATL MTG ASSN	1,000,000	997,980	1.800%	8/21/2013	8/21/2018	1,786
3136G1PH6	FEDERAL NATL MTG ASSN	1,000,000	999,440	1.000%	6/27/2013	12/27/2016	1,184
3134G46D5	FEDERAL HOME LN MTG CORP	1,000,000	977,980	1.200%	6/12/2013	6/12/2018	1,716
313388G21	FEDERAL HOME LOAN BANKS	1,000,000	981,790	1.200%	6/20/2013	6/20/2018	1,724
3134G47G7	FEDERAL HOME LN MTG CORP	2,000,000	1,972,520	1.400%	6/26/2013	6/26/2018	1,730
3136G1PR4	FEDERAL NATL MTG ASSN	1,000,000	1,000,230	1.750%	7/16/2013	7/16/2018	1,750
313383N98	FEDERAL HOME LOAN BANKS	1,000,000	1,000,770	1.800%	7/18/2013	7/18/2018	1,752
36962G5B6	GENERAL ELECTRIC CAP CORP	1,000,000	1,003,170	0.901%	1/27/2012	4/7/2014	189
36962G5Q3	GENERAL ELECTRIC CAP CORP	1,000,000	1,005,300	1.015%	1/30/2012	1/30/2015	487
36962G5D2	GENERAL ELECTRIC CAP CORP	1,000,000	1,009,540	1.136%	4/27/2012	5/9/2016	952
4812VUL2	JP MORGAN CHASE BANK NA	1,000,000	987,210	1.000%	4/27/2012	4/27/2017	1,305
4042K1U68	HSBC USA INC	1,000,000	968,490	2.200%	7/5/2012	7/5/2017	1,374
89233P6S0	TOYOTA MOTORS CRD CORP	1,000,000	985,670	1.250%	3/13/2013	10/5/2017	1,466
00206RBM3	AT&T INC	1,004,830	976,170	1.400%	1/22/2013	12/1/2017	1,523
94974BFG0	WELLS FARGO CO	1,006,910	981,020	1.500%	1/22/2013	1/16/2018	1,569
36185AM47	CERTIFICATE OF DEPOSIT	97,000	98,399	3.450%	4/3/2009	4/3/2014	185
02587DKB3	CERTIFICATE OF DEPOSIT	240,000	243,991	1.750%	12/22/2011	12/22/2015	813
9819961J0	CERTIFICATE OF DEPOSIT	200,000	201,024	2.000%	9/14/2011	9/14/2016	1,080
36160WH51	CERTIFICATE OF DEPOSIT	240,000	244,982	2.100%	12/16/2011	12/16/2016	1,173
33764JRP2	CERTIFICATE OF DEPOSIT	240,000	237,994	1.100%	1/25/2013	1/25/2017	1,213
17284A2U1	CERTIFICATE OF DEPOSIT	240,000	241,601	1.500%	7/18/2012	7/18/2017	1,387
795450PA7	CERTIFICATE OF DEPOSIT	240,000	241,286	1.700%	8/22/2012	8/22/2017	1,422
06740KFX0	CERTIFICATE OF DEPOSIT	247,000	249,512	1.900%	1/19/2012	1/19/2017	1,207
856284C77	CERTIFICATE OF DEPOSIT	247,000	252,019	2.050%	1/27/2012	1/27/2017	1,215
05568PZ26	CERTIFICATE OF DEPOSIT	248,000	249,061	1.000%	9/21/2012	9/21/2015	721
20451PBT2	CERTIFICATE OF DEPOSIT	247,000	245,402	1.800%	7/31/2013	7/31/2018	1,765
38143A2U8	CERTIFICATE OF DEPOSIT	250,000	248,052	1.050%	12/27/2012	12/27/2016	1,184
1168	CERTIFICATE OF DEPOSIT	99,000	99,000	2.000%	7/25/2010	1/25/2014	117
1192	CERTIFICATE OF DEPOSIT	99,000	99,000	1.490%	9/18/2012	9/18/2017	1,449
1195	CERTIFICATE OF DEPOSIT	99,000	99,000	1.350%	11/5/2012	11/5/2017	1,497
1198	CERTIFICATE OF DEPOSIT	99,000	99,000	1.250%	1/9/2013	1/9/2018	1,562
1200	CERTIFICATE OF DEPOSIT	99,000	99,000	1.580%	2/26/2013	2/26/2018	1,610
1204	CERTIFICATE OF DEPOSIT	250,000	250,000	1.500%	4/9/2013	4/9/2018	1,652
1208	CERTIFICATE OF DEPOSIT	122,408	122,408	1.100%	5/9/2013	5/9/2018	1,682
1209	CERTIFICATE OF DEPOSIT	99,000	99,000	1.050%	5/16/2013	5/16/2018	1,689
1224	CERTIFICATE OF DEPOSIT	99,000	99,000	5.020%	10/14/2008	10/14/2013	14
1225	CERTIFICATE OF DEPOSIT	98,995	98,995	1.000%	10/16/2008	10/16/2013	16
1227	CERTIFICATE OF DEPOSIT	100,000	100,000	5.170%	10/30/2008	9/30/2013	0
1228	CERTIFICATE OF DEPOSIT	99,000	99,000	5.150%	10/30/2008	10/30/2013	30
1229	CERTIFICATE OF DEPOSIT	123,631	123,631	5.122%	11/17/2008	11/17/2013	48
1230	CERTIFICATE OF DEPOSIT	99,000	99,000	4.890%	12/11/2008	12/11/2013	72
1239	CERTIFICATE OF DEPOSIT	250,000	250,000	3.110%	10/2/2009	10/2/2013	2
1241	CERTIFICATE OF DEPOSIT	250,000	250,000	3.250%	11/5/2009	11/5/2013	36
1242	CERTIFICATE OF DEPOSIT	250,000	250,000	3.050%	11/24/2009	11/25/2013	56
1243	CERTIFICATE OF DEPOSIT	250,000	250,000	1.500%	6/19/2012	6/19/2016	993
1244	CERTIFICATE OF DEPOSIT	100,000	100,000	3.400%	1/13/2010	1/13/2015	470
1246	CERTIFICATE OF DEPOSIT	100,000	100,000	3.250%	4/6/2010	4/6/2015	553
1248	CERTIFICATE OF DEPOSIT	100,002	100,002	1.260%	5/8/2012	5/8/2015	585
1249	CERTIFICATE OF DEPOSIT	100,000	100,000	3.460%	6/3/2010	4/3/2015	550
1250	CERTIFICATE OF DEPOSIT	98,885	98,885	3.460%	6/9/2010	4/9/2015	556
1252	CERTIFICATE OF DEPOSIT	100,000	100,000	2.970%	7/2/2010	10/2/2013	2



INVESTMENT OR CUSIP NUMBER	INSTITUTION	PURCHASE PRICE	MARKET VALUE	COUPON INTEREST RATE	PURCHASE DATE	MATURITY DATE	DAYS TO MATURITY
1253	CERTIFICATE OF DEPOSIT	247,000	247,000	3.190%	8/2/2010	8/2/2015	671
1254	CERTIFICATE OF DEPOSIT	100,000	100,000	2.960%	9/3/2010	9/3/2014	338
1256	CERTIFICATE OF DEPOSIT	250,000	250,000	1.880%	6/9/2011	6/19/2014	262
1257	CERTIFICATE OF DEPOSIT	100,000	100,000	1.240%	10/27/2011	10/27/2013	27
1258	CERTIFICATE OF DEPOSIT	150,000	150,000	1.650%	1/13/2013	1/13/2016	835
1259	CERTIFICATE OF DEPOSIT	249,000	249,000	1.800%	2/2/2012	2/2/2017	1,221
1260	CERTIFICATE OF DEPOSIT	250,000	250,000	1.840%	4/4/2012	4/4/2017	1,282
1261	CERTIFICATE OF DEPOSIT	250,000	250,000	1.500%	7/13/2012	1/13/2016	835
1262	CERTIFICATE OF DEPOSIT	250,000	250,000	1.440%	9/5/2012	9/5/2017	1,436
1262	CERTIFICATE OF DEPOSIT	250,000	250,000	1.540%	12/12/2012	12/12/2017	1,534
1263	CERTIFICATE OF DEPOSIT	250,000	250,000	1.250%	2/1/2013	3/1/2017	1,248
1264	CERTIFICATE OF DEPOSIT	150,000	150,000	1.250%	2/14/2013	2/14/2018	1,598
1264	CERTIFICATE OF DEPOSIT	100,000	100,000	1.300%	1/28/2013	1/28/2018	1,581
1265	CERTIFICATE OF DEPOSIT	100,000	100,000	1.300%	1/30/2013	1/30/2018	1,583
1266	CERTIFICATE OF DEPOSIT	250,000	250,000	1.250%	5/8/2013	5/8/2018	1,681
1277	CERTIFICATE OF DEPOSIT	250,000	250,000	1.600%	6/25/2013	6/25/2018	1,729
1278	CERTIFICATE OF DEPOSIT	250,000	250,000	1.000%	4/29/2013	4/29/2016	942
1279	CERTIFICATE OF DEPOSIT	250,000	250,000	1.300%	4/25/2013	4/25/2018	1,668
1280	CERTIFICATE OF DEPOSIT	250,000	250,000	1.300%	5/21/2013	5/21/2018	1,694
1281	CERTIFICATE OF DEPOSIT	250,000	250,000	1.390%	5/14/2013	5/14/2018	1,687
1282	CERTIFICATE OF DEPOSIT	250,000	250,000	1.300%	6/21/2013	6/21/2018	1,725
1283	CERTIFICATE OF DEPOSIT	250,000	250,000	1.250%	5/9/2013	5/9/2018	1,682
1284	CERTIFICATE OF DEPOSIT	250,000	250,000	1.250%	4/22/2013	4/22/2018	1,665
1285	CERTIFICATE OF DEPOSIT	250,000	250,000	1.500%	4/29/2013	4/29/2018	1,672
1286	CERTIFICATE OF DEPOSIT	250,000	250,000	1.600%	7/19/2013	7/19/2018	1,753
1286	CERTIFICATE OF DEPOSIT	250,000	250,000	1.590%	7/24/2013	7/24/2018	1,758
1287	CERTIFICATE OF DEPOSIT	250,000	250,000	1.980%	9/18/2013	9/18/2018	1,814
TOTALS		\$ 58,625,928	\$ 58,587,740				

WEIGHTED AVERAGE RATE OF EARNINGS					% OF LIQUID PORTFOLIO HOLDINGS	WEIGHTED AVERAGE DAYS TO MATURITY
ONE YEAR HISTORY				CURRENT		
9/30/2012	12/31/2012	3/31/2013	6/30/2013	9/30/2013		
1.569%	1.415%	1.419%	1.215%	1.400%	38.488%	877

**Comments:**

Portfolio holdings as of September 30, 2013, are in compliance with the current Investment Policy. With 38.488% of the portfolio being held in liquid instruments, the cash needs of the City will be met. The next portfolio report will be calculated for the fourth calendar quarter ending December 31, 2013, and will be presented during the February 4, 2014 Council meeting.



CITY COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: REQUEST FOR STREET CLOSURE - MYERS' NINETEENTH ANNUAL CHRISTMAS TREE MEMORIAL SERVICE

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: Richard Mendivil, Director of Myers Funeral Service and Crematory, has requested an assemblies permit for December 10, 2013, in order to hold the lighting ceremony for Myers' Nineteenth Annual Christmas Tree Memorial Service. The ceremony will be held in front of Myers Chapel on "E" Street at 7:00 p.m. Approximately five hundred people attended the ceremony last year, and Mr. Mendivil has requested an assemblies permit for 500 people again this year.

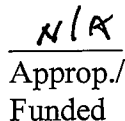
In conjunction with this ceremony, Mr. Mendivil is also requesting that Council approve the closure of "E" Street, between Putnam and Cleveland Avenues, from 5:00 p.m. to 9:00 p.m. on December 10, 2013 for the safety of those attending.

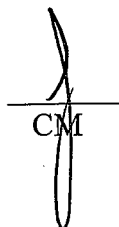
The Police Department has approved the Assemblies Permit, which is attached for the Council's reference, along with a copy of the required Certificate of Liability Insurance.

RECOMMENDATION: That the City Council approve the closure of "E" Street, between Putnam and Cleveland, on December 10, 2013, from 5:00 p.m. to 9:00 p.m. subject to the conditions specified.

ATTACHMENTS: 1. Richard Mendivil Letter received October 14, 2013  
2. Application for Assemblies Permit - Richard Mendivil  
3. Insurance Certificate

  
DIR

  
Approp./  
Funded

  
CM

Item No. 13



# Myers Funeral Service & Crematory

248 NORTH "E" STREET  
PORTERVILLE, CALIFORNIA 93257

(559) 784-5454



SELECTED  
Independent  
FUNERAL HOMES®

**RECEIVED**

OCT 14 2013

CITY OF PORTERVILLE  
ADMINISTRATIVE SERVICES

To: Porterville City Council

We respectfully request that "E" Street be blocked off at Putnam and Cleveland Avenues the evening of Tuesday, December 10, 2013 from approximately 5:00 to 9:00 P. M., for the protection and safety of those who will be attending the Nineteenth Annual Myers Christmas Memorial Tree Lighting. The response from the community has been well received, and we expect approximately 500 people from the local community and outlying areas in attendance.

The original purpose in beginning this tradition was to give back to the community in the way of service. It allows families to place ornaments on the trees prior to the service, commemorating their loved ones.

A memorial service is planned for the evening of December 10th at 7:00 P. M. at Myers Funeral Service, when the community will be invited to attend and celebrate the season by remembering loved ones. At the conclusion of the service, the trees will be lit and remain lit through Christmas.

Find enclosed an "Assemblies Permit" signed by Captain Daniel Haynes of the Porterville Police Department, along with a Certificate of Liability Insurance.

Thank you for your consideration of this request.

Sincerely,

Richard Mendivil  
Funeral Director

RM:dm  
Encl.



OCT 8 2013

ORDINANCE NUMBER 927  
Section 18-7.2

Received

Application for ASSEMBLIES or MEETINGS on public streets, sidewalks or parks,  
within the City of Porterville.

This application MUST BE FILED WITHIN FOUR (4) DAYS PRIOR to the date of the  
assembly or meeting.

- A. Myers Funeral Service & Crematory 559-784-5454 NO DIANE  
(Name/Address) (Telephone)
- B. 248 North "E" Street, Porterville, CA 93257  
(Name & Address of Organization) (Telephone)  
Richard Mendivil, Funeral Director 559-784-5454  
(Authorized Head of Organization) (Telephone)
- C. Name of Event Chairman Richard Mendivil
- D. Purpose of event: Lighting of Memorial Trees and Service (19th Year)
- E. Date & Time of Event Tuesday, December 10, 2013 from 7:00 to 9:00 PM
- F. Number of persons approximately 500
- G. Location of the assembly area of event Myers Funeral Service front lawn  
at 248 North "E" Street, Porterville
- H. Security Guards required? [ ] yes [X] no If so, how many? \_\_\_\_\_
- I. Plans for the assembly & dispersement of the event. Indicate times  
thereof 5:00 PM - 9:00 PM
- J. Other information \_\_\_\_\_

I HEREBY AGREE TO ABIDE BY ALL PROVISIONS SET FORTH IN CITY ORDINANCE 927,  
SECTION 18-7.2 AND ALL OTHER APPLICABLE ORDINANCES OF THE CITY OF  
PORTERVILLE.

Legal signature of applicant

Richard MendivilDate 10/07/2013Telephone 559-784-5454

Application Approved [X] Denied [ ]

Chief of PoliceATTACHMENT

10/96

notified  
10/8



**CITY OF PORTERVILLE**  
**Assemblies Application**

**Annual Memorial Tree Lighting, December 10, 2013**

Proposed Conditions/Requirements of Police Department

- All street closures in the city require City Council approval.
- Ensure that participants do not interfere with the normal flow of pedestrian/vehicle traffic in the area of the event.
- Event organizers shall contact Sergeant R. Carrillo no less than 15 days prior to the event to discuss traffic/pedestrian related concerns. Sergeant Carrillo can be reached at 559-782-7408 or 559-782-7400.

Dan Haynes, Captain  
Police Department- Services Division





# CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)  
10/07/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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

<b>PRODUCER</b> FEDERATED MUTUAL INSURANCE COMPANY HOME OFFICE: P.O. BOX 328 OWATONNA, MN 55060		<b>CONTACT NAME:</b> CLIENT CONTACT CENTER <b>PHONE (A/C, No, Ext):</b> 888-333-4949 <b>FAX (A/C, No):</b> 507-446-4664 <b>E-MAIL ADDRESS:</b> CLIENTCONTACTCENTER@FEDINS.COM	
		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> FEDERATED MUTUAL INSURANCE COMPANY <b>NAIC #</b> 13935	
<b>INSURED</b> MYERS FUNERAL SERVICE & CREMATORY 248 N E ST PORTERVILLE, CA 93257-3530		<b>249-988-7</b> <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	

## COVERAGES

CERTIFICATE NUMBER: 3

REVISION NUMBER: 0

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b>			9179934	04/01/2013	04/01/2014	EACH OCCURRENCE
	<input type="checkbox"/> COMMERCIAL GENERAL LIABILITY						\$1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)
	<input checked="" type="checkbox"/> BUSINESS OWNER'S LIABILITY						\$50,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						MED EXP (Any one person)
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						\$5,000
A	<b>AUTOMOBILE LIABILITY</b>			9179935	04/01/2013	04/01/2014	PERSONAL & ADV INJURY
	<input checked="" type="checkbox"/> ANY AUTO						\$1,000,000
	<input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS						GENERAL AGGREGATE
	<input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						\$2,000,000
							PRODUCTS - COMP/OP AGG
							\$2,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR			9179936	04/01/2013	04/01/2014	EACH OCCURRENCE
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						\$2,000,000
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION						AGGREGATE
							\$2,000,000
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>						
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N					
	If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 DECEMBER 10, 2013 CHRISTMAS TREE LIGHTING CEREMONY

## CERTIFICATE HOLDER

 249-988-7  
 CITY OF PORTERVILLE  
 291 N MAIN ST  
 PORTERVILLE, CA 93257-3737

30

## CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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CITY COUNCIL AGENDA: NOVEMBER 5, 2013

CONSENT CALENDAR

SUBJECT: CONSIDERATION OF STREET CLOSURE FOR PROJECT HOMELESS CONNECT OUTREACH EVENT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The Project Homeless Connect annual outreach event is scheduled for Thursday, November 7, 2013, beginning at 8:00 a.m. and ending at 1:00 p.m. on "B" Street, near the corner of Olive Avenue. In support of this event, it is being requested that City Council approve the temporary closure of half a block of "B" Street between Olive Avenue and Vine Avenue between 7:00 a.m. and 3:00 p.m. Route 4 of the City Transit will need to be rerouted due to the street closure. However, according to Richard Tree, Transit Manager, this should not cause any problems with the route or the bus stop it services on "B" Street. Route 4 will simply use "C" Street to Vine Street and continue on its normal route.

RECOMMENDATION: That the City Council:

1. Authorize the temporary closure of "B" Street between Olive Avenue and Vine Avenue on Thursday, November 7, 2013, in support of the planned Project Homeless Connect outreach event, and;
2. Authorize the temporary rerouting of Route 4 to use "C" Street to Vine Street and continue on its normal route.

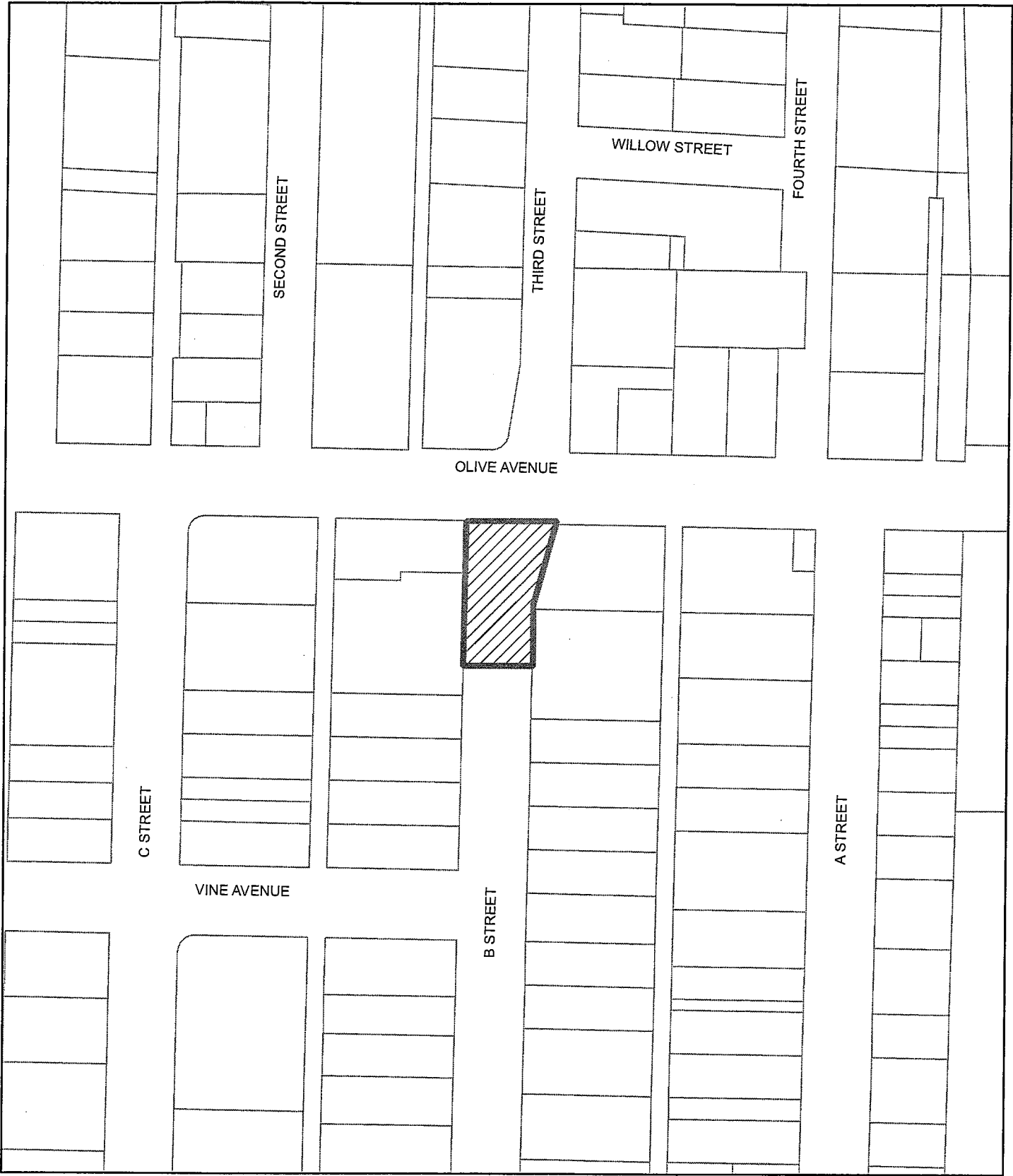
ATTACHMENT: Locator Map

DD 800 APPROPRIATED/FUNDED N/A CM J

ITEM NO. 14



# Project Homeless Connect - Request for Street Closure



Project Location - B street  
Between Olive Ave and Vine Ave





COUNCIL AGENDA: NOVEMEBER 5, 2013

SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT - PORTERVILLE  
CHAMBER OF COMMERCE AND ROTARY CLUB OF PORTERVILLE -  
CHILDREN'S CHRISTMAS PARADE – DECEMBER 5, 2013

SOURCE: Finance Department

COMMENT: The Porterville Chamber of Commerce and Rotary Club of Porterville are requesting approval to hold the annual Children's Christmas Parade along Main Street on Thursday, December 5, 2013 from 5:00 p.m. to 9:00 p.m. This application is being submitted under the Community Civic Event Ordinance No. 1326, as amended. The following closures are requested:

STREETS (5:00 p.m. - 9:00 p.m.):

Main Street from Danner Avenue to Olive Avenue;  
Olive Avenue from Hockett Street to Second Street;  
Morton Avenue from Hockett Street to Second Street;  
Harrison Avenue from Hockett Street to Second Street;  
Thurman Avenue from Hockett Street to Second Street;  
Putnam Avenue from Hockett Street to Second Street;  
Mill Avenue from Hockett Street to Second Street;  
Cleveland Avenue from Hockett Street to Second Street;  
(not blocking street for fire access.)  
Oak Avenue from Hockett Street to Second Street;  
Garden Avenue from Main Street to Second Street;  
Second Street from Olive Avenue to Oak Avenue;  
School Avenue, Belleview Avenue, North Avenue and Doris  
Avenue from Main Street to Second Street and Sunnyside.

SIDEWALKS (5:00 p.m. - 9:00 p.m.):

Main Street from Danner Avenue to Olive Avenue and  
Olive Avenue from Main Street to Second Street.

PARKING SPACES (6:00 a.m. - 9:00 p.m.):

Main Street in front of Chamber of Commerce

PARKING SPACES (3:00 p.m. - 9:00 p.m.):

Main Street, north end, in front of City hall

This application has been routed according to the ordinance regulations and has been reviewed by all departments involved. The requirements are listed on the attached copy of the Application, Agreement, Exhibit A and Exhibit B.

DD MB Appropriated/Funded MB CM J Item No. 15



The closure of Main Street at 5:00 p.m. will require the early closure of the Fixed Route Transit System at 4:30 p.m., instead of the usual 7:00 p.m., on December 5, 2013. Staff is requesting that Council authorize the change in schedule for the Fixed Route system only.

Early closure of the parking spaces in front of City Hall is requested from 3:00 p.m. to 5:00 p.m. for placement of the announcer's stand. This will adversely affect City Hall patrons. This conflict is resolved by placing the announcer's stand at the north end of City Hall along Main Street.

RECOMMENDATION: That 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 5, 2013;
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.

ATTACHMENTS: Community Civic Event Application and Agreement, Exhibit A, Exhibit B, Outside Amplifier Permit, Street Map and Certificate of Insurance.



# CITY OF PORTERVILLE

291 N. Main Street, Porterville, CA 93257  
559-782-7451 Fax: 784-4569 www.ci.porterville.ca.us



(Incomplete applications can delay permit process)

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

DO YOU HAVE? Event Flyer? Yes E-mail address? Website?  
Application date: 10/2/13 September 25, 2013 Event date: December 5, 2013  
Event time: 5-9 pm street & sidewalk closure  
7-9 pm parade 6 am parking in front of chamber  
Name of Event: Children's Christmas Parade 3pm parking spaces in front of City Hall

Sponsoring organization: Rotary Club of Porterville  
Porterville Chamber of Commerce Phone # 784-7502  
Address: City of Porterville  
93 N. Main St.  
Authorized representative: Donnette Carter Phone # 784-7502  
Address: 93 N. Main St Porterville, CA 93257  
Event chairperson: \_\_\_\_\_ Phone # \_\_\_\_\_

Location of event Main St. from Tanner to Olive, side streets for assembly  
and disbursement (Location map must be attached)

Type of event: Children's Christmas Parade

Non-profit organization status: on file BL# 00462, ROTARY  
(IRS Determination) BL# 0248 P. CHAMBER OF COMM.

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

Barricades (quantity): ✓ Street sweeping Yes ✓ No \_\_\_\_\_  
Police protection Yes ✓ No \_\_\_\_\_ Refuse pickup Yes ✓ No \_\_\_\_\_  
Other: \_\_\_\_\_

Parks facility application required: Yes \_\_\_\_\_ No ✓ Attached \_\_\_\_\_  
Assembly permit required: Yes \_\_\_\_\_ No ✓ Attached \_\_\_\_\_

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

Appr. Deny

_____	_____	Bus. Lic. Spvr.	_____
_____	_____	Pub. Works Dir.	_____
_____	_____	Comm. Dev. Dir.	_____
_____	_____	Field Svcs. Mgr.	_____
_____	_____	Fire Chief	_____
_____	_____	Parks Dir.	_____
_____	_____	Police Chief	_____
_____	_____	Admin. Svcs. Dir.	_____



# CITY OF PORTERVILLE

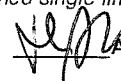
## APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

### ***What constitutes a Community Civic Event?***

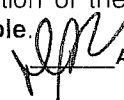
A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures. This application must be submitted NO LESS THAN 30 DAYS PRIOR to the date of the event in order to obtain City Council approval.

**All City Code requirements** are described in ordinance 15-20 (e) 1-23 and as amended in ordinance 1613. For a full description please visit our City of Porterville website at [www.ci.porterville.ca.us/govt/CityClerk/](http://www.ci.porterville.ca.us/govt/CityClerk/), Porterville Municipal Codes. For questions or concerns please call 559-782-7451 or 559-782-7457. Any person who violates the provisions in this code, shall be deemed guilty of either a misdemeanor or an infraction, with penalties of one hundred (\$100) for the first violation.

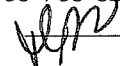
**Liability insurance:** The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. **The City of Porterville and Successor Agency to the Porterville Redevelopment Agency shall be named as additional insured.** A Certificate of Liability Insurance and Additional Insured Endorsement sample forms are enclosed for your convenience. **This original certificate and endorsement shall be submitted to the Finance Department prior to the City of Porterville Council's approval.** *The council shall condition the granting of a CCE permit upon the sponsoring entity's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the city, its officers, and its employees against all claims arising out of, or in connection with, the issuance of the CCE permit or the operation of the permittee or its agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than one million dollars (\$1,000,000.00) per occurrence of bodily injury and property damage, combined single limit. (Ordinance 15-20(e) 18)*

 Authorized Representative Initials

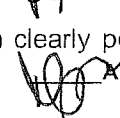
**Alcohol liability insurance:** Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include **full liquor liability** in an amount not less than one million dollars (\$1,000,000) per occurrence. The City of Porterville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

 Authorized Representative Initials

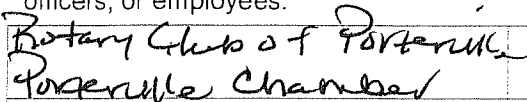
**Health permit:** Organization/Applicant **will obtain or ensure** that all participants obtain a 'Temporary Food Facilities' permit(s) from the Tulare County Public Health Department, if any food is to be served in connection with this Community Civic Event. To contact the Tulare County Environmental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

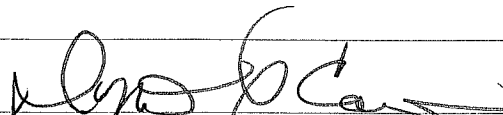
 Authorized Representative Initials

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

 Authorized Representative Initials

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

  
Rotary Club of Porterville  
Porterville Chamber  
(Name of Organization)

  
(Signature)

9/25/13  
(Date)



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

Location: Main St. Event date: Dec 5, 2013 Event time: 5pm - 9pm

will be submitted later by the Chamber

[illegible]

The nonprofit sponsor shall collect said fee and remit the fee to the city within five (5) working days following the CCE. Said remittance shall be accompanied by a complete list of participants and consecutively numbered receipts written in triplicate, containing the name, address and telephone number of the licensee, and the licensee's California seller's permit number. Said receipts shall be furnished by the city. One copy of the receipt shall be furnished to the licensee, one copy filed with the finance department of the city, and one copy retained by the CCE sponsor for a period of three (3) years for audit purposes.



# CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Children's' Christmas Parade

Sponsoring organization: Rotary Club of Porterville, Porterville Chamber of Commerce  
City of Porterville

Event date: December 5, 2013 Hours: 5pm - 9pm streets & sidewalk  
6am parking spaces in front of chamber  
3pm parking spaces in front of city Hall

**ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:**

**Closed**

<u>Street Name</u>	<u>From</u>	<u>To</u>	<u>Activity</u>
Main St	Danner Ave	Olive Ave	Parade Route & Assembly
Olive Ave	Hockett St.	Second St	Parade Route
Morton Harrison Thurman, Cleveland Ransom, Mill, Oak	Hockett St.	Second St.	Adjacent to Parade Route
Garden Ave	Main St.	Second St.	Adjacent to Parade Route
School, Bellevue, North & Doris	Main St.	Second to Division one out Division & Sunnyside on west	Parade Assembly
Second St.	Olive Ave	Oak Ave	Parade Disbursement
<u>Sidewalks</u>	<u>From</u>	<u>To</u>	<u>Activity</u>
Main St.	Danner Ave	Olive Ave	View Parade and
Olive Ave	Main St.	Second St	Assembly Area
<u>Parking lots and spaces</u>	<u>Location</u>		<u>Activity</u>
Main St (7 spaces)	Chamber of Commerce	93 N. Main St.	Judges' Stand
Main St. (5 northerly spaces)	City Hall	291 W. Main St.	Announcer's Stand



REQUIREMENTS FOR COMMUNITY CIVIC EVENT

PORTERVILLE CHAMBER OF COMMERCE  
ROTARY CLUB OF PORTERVILLE

CHILDREN'S CHRISTMAS PARADE

DECEMBER 5, 2013

Finance Director:  
*M. Bemis*

Public Works Director:  
*B. Rodriguez*

Community Development Director:      No comments.  
*B. Dunlap*

Field Services Manager:                      City crews will provide street closures and  
*B. Styles*    clean up.

Fire Chief:  
*G. Irish*

Parks and Leisure Services Director:      Keep public out of Main Street planters.  
*D. Moore*

Police Captain:                                  See list of Conditions/Requirements for  
*D. Haynes*    Children's Christmas Parade in Exhibit B.

Administrative Services Director:          See Exhibit A, page 2.  
*P. Hildreth*



## REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsors: Porterville Chamber of Commerce, Rotary Club of Porterville  
Event: Children's Christmas Parade  
Event Chairman: Donnette Carter  
Location: Main Street  
Date of Event: December 5, 2013  
Time of Event: 5:00 p.m. to 9:00 p.m.

### RISK MANAGEMENT: Conditions of Approval

That the Porterville Chamber of Commerce and Rotary Club of Porterville provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than \$1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville and the Successor Agency to the Porterville Redevelopment Agency, its Officers, Employees, Agents and Volunteers as Additional Insured against all claims arising from, or in connection with, the Permittee's operation and sponsorship of the aforementioned Community Civic Event.

- a. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than \$1,000.
- a. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less than A: VII, and the insurance company must be an 'admitted' insurer in the State of California.



## **CITY OF PORTERVILLE Community Civic Event Application**

ANNUAL CHILDREN'S CHRISTMAS PARADE / DECEMBER 5, 2013

### Conditions/Requirements for Children's Christmas Parade

- City Council approval is required for any/all street closures.
- Ensure highly visible and adequate barricades/barriers are used to warn motorists of non-access to closed streets and prevent vehicle access to those designated areas.
- Children's Christmas Parade Committee should meet with street vendors to coordinate rules regarding their activities, such as:
  - Staying off the parade route (street area) and avoid crossing in front of floats or groups.
  - Shall not sell silly string, snap caps or party poppers.
  - Ensure each vendor has properly obtained a City business license.
- Food vendors should be situated where they will not block the sidewalk.
- Food vendors should provide inspection certificates from the Tulare County Health Department to members of the Children's Christmas Parade Committee, to ensure safe food products.
- Throwing candy from vehicles, floats, or any parade entry is prohibited. This results in children scampering to catch or find candy in a crowded environment, and causes others to run out into the street. This practice creates significant and unnecessary risk for parade goers. All registered parade entrants should be informed of this prohibition and efforts taken to cease this practice.
- An Outside Amplifier Permit has been requested and approved. However, event organizers should not allow amplification to be so loud as to unreasonably disturb the peace and good order of any residents or business establishments in the surrounding area.
- Event organizers shall establish contact with Sergeant Rick Carrillo (Porterville Police Department/Traffic Unit) no less than 30 days in advance of the event in order to coordinate efforts related to the posting of the parade route and advance enforcement. Sergeant Carrillo can be contacted at 559-782-7408 or 559-782-7400.

Dan Haynes, Captain  
Porterville Police Department



CITY OF PORTERVILLE  
OUTSIDE AMPLIFIER PERMIT  
(City Ordinances #18-9 & 18-14)



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

- 1 Name and home address of the applicant: DOLORETE CAGEL
- 2 Address where amplification equipment is to be used: MAIN STREET
- 3 Names and addresses of all persons who will use or operate the amplification equipment: VIAJECUS -  
ROTARY CLUB AND CHAMBER OF COMMERCE.
- 4 Type of event for which amplification equipment will be used: CHILDREN'S CHRISTMAS  
PARADE.
- 5 Dates and hours of operation of amplification equipment: DECEMBER 5, 2013  
1700 - 2200 HRS.
- 6 A general description of the sound amplifying equipment to be used: PIA SYSTEMS,  
MUSICAL DEVICES ON FLOATS.

Section 18-9

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

The operation of any such instrument, phonograph, jukebox, machine or device in such manner as to be plainly audible at a distance of one hundred feet (100') from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section. (Ord. Code § 6311)

Section 18-14

It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or operated, or connected any or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loudspeaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code § 6312)

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

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

[Signature]  
Signature of Applicant

10/14/13  
Date

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

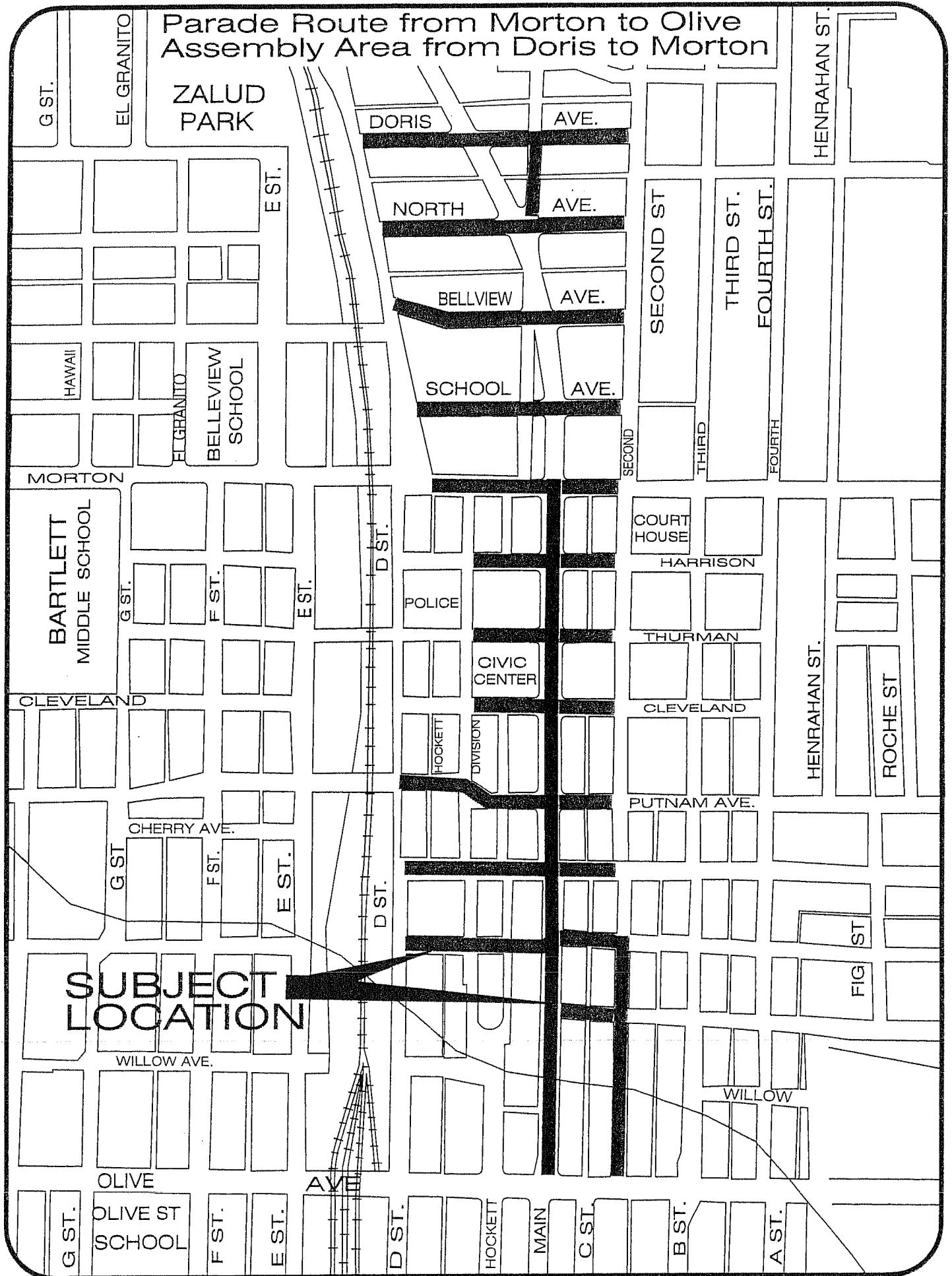
[Signature]  
City of Porterville, Chief of Police, Designee

10-14-13  
Date



# Children's Christmas Parade

Parade Route from Morton to Olive  
Assembly Area from Doris to Morton







# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
10/16/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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

PRODUCER LOCKTON COMPANIES, LLC - K CHICAGO 525 W. Monroe, Suite 600 CHICAGO, IL 60661 (312) 669-6900	CONTACT NAME: Lockton Companies, LLC	
	PHONE (A/C, No, Ext): 1-800-921-3172 FAX (A/C, No): 1-312-681-6769	
	E-MAIL ADDRESS: Rotary@lockton.com	
INSURED All Active US Rotary Clubs & Districts Attn: Risk Management Division 1560 Sherman Ave. Evanston, IL 60201-3698	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: ACE American Insurance Company	22667
	INSURER B: ACE Property & Casualty Insurance Co.	20699
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Liquor Liability <input type="checkbox"/> Included GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		N	PMI G23861355 005	7/1/2013	7/1/2014	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ XXXXXXXX PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		N	PMI G23861355 005	7/1/2013	7/1/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$		N	M00534092 005	7/1/2013	7/1/2014	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 10,000,000 \$ XXXXXXXX
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	NOT APPLICABLE			WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ XXXXXXXX E.L. DISEASE - EA EMPLOYEE \$ XXXXXXXX E.L. DISEASE - POLICY LIMIT \$ XXXXXXXX

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

The Certificate Holder is included as Additional Insured where required by written and signed contract or permit subject to the terms and conditions of the General Liability policy, but only to the extent bodily injury or property damage is caused in whole or in part by the acts or omissions of the insured.

## CERTIFICATE HOLDER

## CANCELLATION

The City of Porterville  
and Successor Agency to the Porterville Redevelopment Agency  
291 N Main St.  
Porterville, CA 93257

RE: Rotary Club of Porterville, Children's Christmas Parade on December 5, 2013

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

AUTHORIZED REPRESENTATIVE

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POLICY NUMBER: PMI G23861355 005  
ENDORSEMENT NUMBER: 8

COMMERCIAL GENERAL LIABILITY  
CG 20 26 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

**Name Of Additional Insured Person(s) Or Organization(s):**

**Where required by written contract provided that such was executed prior to the date of loss.**

The City of Porterville  
and Successor Agency to the Porterville Redevelopment Agency  
291 N Main St.  
Porterville, CA 93257

RE: Rotary Club of Porterville, Children's Christmas Parade on December 5, 2013

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
  2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.



CITY COUNCIL AGENDA – NOVEMBER 5, 2013

SUBJECT: APPROVAL OF PROPOSED PROCLAMATION – SIERRA VIEW DISTRICT HOSPITAL VOLUNTEER LEAGUE DAY

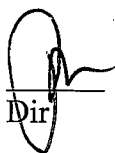
SOURCE: ADMINISTRATIVE SERVICES/CITY CLERK DIVISION

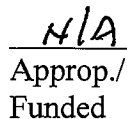
COMMENT: At its meeting of October 1, 2013, the Council amended the process by which proclamations are approved. The new process requires that all proclamations must be sponsored by one Council Member, after which the request is then placed on the Council's agenda for consideration and approval by a majority of the Council.

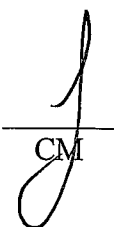
Sierra View District Hospital has requested that the Council consider approval of a proclamation to recognize the 50<sup>th</sup> Anniversary of the Sierra View District Hospital Volunteer League. They have requested that the Mayor or a council representative present the proclamation to the volunteers at a luncheon on Tuesday, November 12, 2013, at 11:00 a.m. Mayor Hamilton is sponsoring this proclamation request. If approved, the proclamation will be presented at the event, which is to take place at Sierra View District Hospital.

RECOMMENDATION: That the City Council consider the approval of the proposed Proclamation designating November 12, 2013, as Sierra View District Hospital Volunteer League Day.

ATTACHMENT: Proposed Proclamation

  
Dir

  
Approp./  
Funded

  
CM

Item No. 16



## DRAFT PROCLAMATION

- WHEREAS: The Sierra View District Hospital Volunteer League, Inc. (SVDHVL) was established in 1963 and today, 50 years later, has grown exponentially to a 105 member organization committed to promoting and advancing the mission and vision of Sierra View District Hospital. The Volunteer League represents a diverse group of individuals comprised of multiple generations; and
- WHEREAS: The Volunteer League helps ensure the welfare of our patients through support of our staff by transporting patients, delivering correspondence, managing the Gift Shop, and providing real-time information to families regarding their loved ones. SVDH volunteers touch lives daily through kind words, hearts of concern, and lending encouragement with smiles and a warm cup of coffee; and
- WHEREAS: The Volunteers are at center stage, discovering the power of a positive, caring and compassionate patient experience at SVDH. Motivated by the satisfaction of helping others, they serve as ambassadors of SVDH's mission and vision collectively serving to prevent illness, heal the sick, and help the suffering, through compassionate care; and
- WHEREAS: The Volunteer League, through proceeds from the beloved Gift Shop, has purchased nursery cribs, hepa-filters, wheelchairs, guest sleeper chairs, infant car seats just to name a few. Volunteers knit baby caps for our newborns, provide blankets, memory boxes, and stuffed animals. The League has also been instrumental in providing scholarships to SVDH staff continuing their education in the healthcare industry; and
- WHEREAS: The giving of oneself in service to extend goodwill to others is a noble act to society. Over the last 50 years members of the league has generously given over five-hundred thousand hours of their time to make a difference in the lives of others; and
- WHEREAS: The Volunteer League is a great treasure of Sierra View District Hospital and the Porterville Community. We are immensely grateful for the selfless dedication and hours of service as the Volunteer League.

NOW, THEREFORE, I, CAMERON HAMILTON, Mayor of the City of Porterville, on behalf of the Porterville City Council, do hereby proclaim Tuesday, November 12<sup>th</sup>, 2013, as,

“SIERRA VIEW DISTRICT HOSPITAL VOLUNTEER LEAGUE DAY”

in the City of Porterville, and encourage all citizens to embrace the spirit of volunteerism demonstrated by the Sierra View District Hospital Volunteer League and urge my fellow citizens to follow in their steps in leaving a legacy of service.

PROCLAIMED this 12th day of November, 2013.



COUNCIL AGENDA: November 5, 2013

SUBJECT: REVIEW OF LOCAL EMERGENCY STATUS

SOURCE: Administration

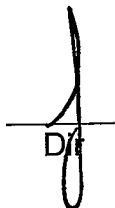
COMMENT: In accordance with the City Council's Resolution of Local Emergency adopted on December 21, 2010, and pursuant to Article 14, Section 8630 of the California Emergency Services Act, the Council must review the status of its local emergency at every regularly scheduled meeting and make a determination whether to continue or terminate the local emergency declaration.

Since its last review on October 15, 2013, City staff has continued its coordination with both State and Federal representatives in having made claims for reimbursement for public areas reported as suffering flood damage. An estimated total of \$361,750 in damage repair projects were defined and accepted by both State (CEMA) and Federal (FEMA) emergency agencies, which after final FEMA administrative review, a total of approximately \$270,000 was approved. Although all repair projects were originally to be completed by no later than July 2012, the City received a one (1)-year extension to July 2013.

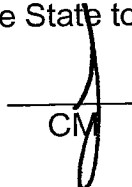
At its meeting on October 16, 2012, the Council awarded a contract in the amount of \$95,391.71 to Greg Bartlett Construction (Porterville), beginning CEMA repairs to Plano Street (south of Thurman Avenue), El Granito Street (near Zalud Park), E. Grand Avenue (at Henrahan Street), and W. Grand Avenue (at Hawaii Street). At its meeting on December 18, 2012, the Council accepted the completion of these identified CEMA repairs, including \$90,295.53 in final construction costs.

At its meeting on March 5, 2013, the Council awarded a contract in the amount of \$29,997.25, also to Greg Bartlett Construction (Porterville), for CEMA repairs of West Street and related storm drain improvements between Scranton and Tea Pot Dome Avenues. At its meeting on May 7, 2013, the Council accepted the completion of these identified CEMA repairs, including \$19,392.25 in final construction costs.

At its meeting on April 2, 2013, the Council awarded a contract in the amount of \$138,350 to Intermountain Slurry Seal, Inc. (Reno, Nevada), for the CEMA repair of Henderson Avenue between Patsy and Balmoral Streets. At its meeting on August 6, 2013, the Council accepted the completion of the identified CEMA repairs, which staff continues to work with the State to finalize repair reimbursements.

  
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Item No. 17



**RECOMMENDATION:**

That the Council:

1. Receive the status report and review of the designated local emergency; and
2. Pursuant to the requirements of Article 14, Section 8630 of the California Emergency Services Act, determine that a need exists to continue said local emergency designation.

**ATTACHMENT:** None



COUNCIL AGENDA: NOVEMBER 5, 2013

PUBLIC HEARING

SUBJECT: CHANGE IN ZONE FROM D-PO (DOWNTOWN PROFESSIONAL OFFICE) TO DR-D (DOWNTOWN RETAIL - D STREET CORRIDOR) AT 73 WEST CLEVELAND AVENUE (PRC 2013-035-Z)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: On September 11, 2013, the Project Review Committee considered a request to rezone Assessor's Parcel Number 252-186-003, located southeast of the corner of Cleveland Avenue and 'D' Street from D-PO (Downtown Professional Office) to DR-D (Downtown Retail- D Street Corridor)- (Attachment 1). The subject parcel is generally the northwest corner of the block bounded by D Street to the west, Cleveland Avenue to the north, Hockett Street to the east and Putnam Avenue to the south.

The subject site is approximately 16,500 square feet in size, and is currently designated as "Downtown Retail" in the City's General Plan land use diagram (Attachment 2). The Downtown Retail designation is a broadly applied category, and extends throughout much of downtown, including the blocks immediately south and east of the subject site. The proposed change in zone from D-PO (Downtown Professional Office) to DR-D (Downtown Retail- D Street Corridor) is consistent with the current General Plan designation.

Surrounding zoning in the downtown area is a mixture of D-PO (Downtown Professional Office), D-PS (Public and Semi-public), DR-N (Retail- North of Olive) and DR-D (Retail- D Street Corridor)- (Attachment 3). The DR-N and DR-D provide for similar types of retail uses, but those uses in DR-N are intended to develop closer to the street frontage, and focus on Main Street, while the DR-D zone provides for a mix of medium scale and service uses with more elaborate landscaping and yards, reminiscent of the existing structures which were once homes and over the years have become service retail or offices. The proposed new zoning of the subject area is DR-D (Retail- D Street Corridor)- (Attachment 4).

The application was submitted for only the property owned by the applicant. However, in order to provide a logical boundary of the DR-D zone district, the southwest corner of the block must also be included; this results in an overall area of zone change of approximately 30,500 square feet. The owner of the parcel directly south of the subject parcel has been contacted and received notice of the proposed rezone. No comments have been received to date. The current use of the adjacent property is a legal, non-conforming use, incompatible with the current

DD  ACTING

APPROPRIATED/FUNDED N/A

CM 

ITEM NO. 18



zoning of D-PO. While the use would remain inconsistent with the proposed zoning, the commercial focus of the DR-D zone would bring the use closer to compliance. The existing business on that site may continue to operate and the proposed zone change would not impact their existing operation.

No physical development of the site is proposed at this time. At such time as future development is proposed, that project would be subject to additional review by the Project Review Committee, and, depending on the extent and type of application, may also be subject to approval by the City Council.

**ENVIRONMENTAL REVIEW:** The proposed Zone Change is consistent with the City's General Plan. The General Plan land use diagram identifies the subject site as Downtown Retail. As such, the General Plan Final Environmental Impact Report evaluated any future use of the site as Retail. The California Code of Regulations (CEQA Guidelines), Section 15168(c), addresses the proposed action in this situation as a "later activity". The Environmental Coordinator made a determination on the basis of substantial evidence that the Porterville General Plan Final Environmental Impact Report is appropriate in addressing the environmental circumstances of the proposed use, therefore, no Subsequent or Supplemental EIR as described in Sections 15162 and 15163 of the CEQA Guidelines would be required. Future physical development of the site may require additional environmental review, which would be determined through the Project Review Committee process.

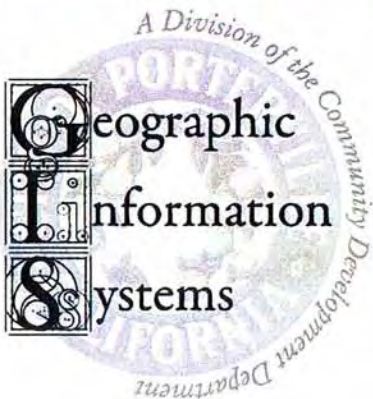
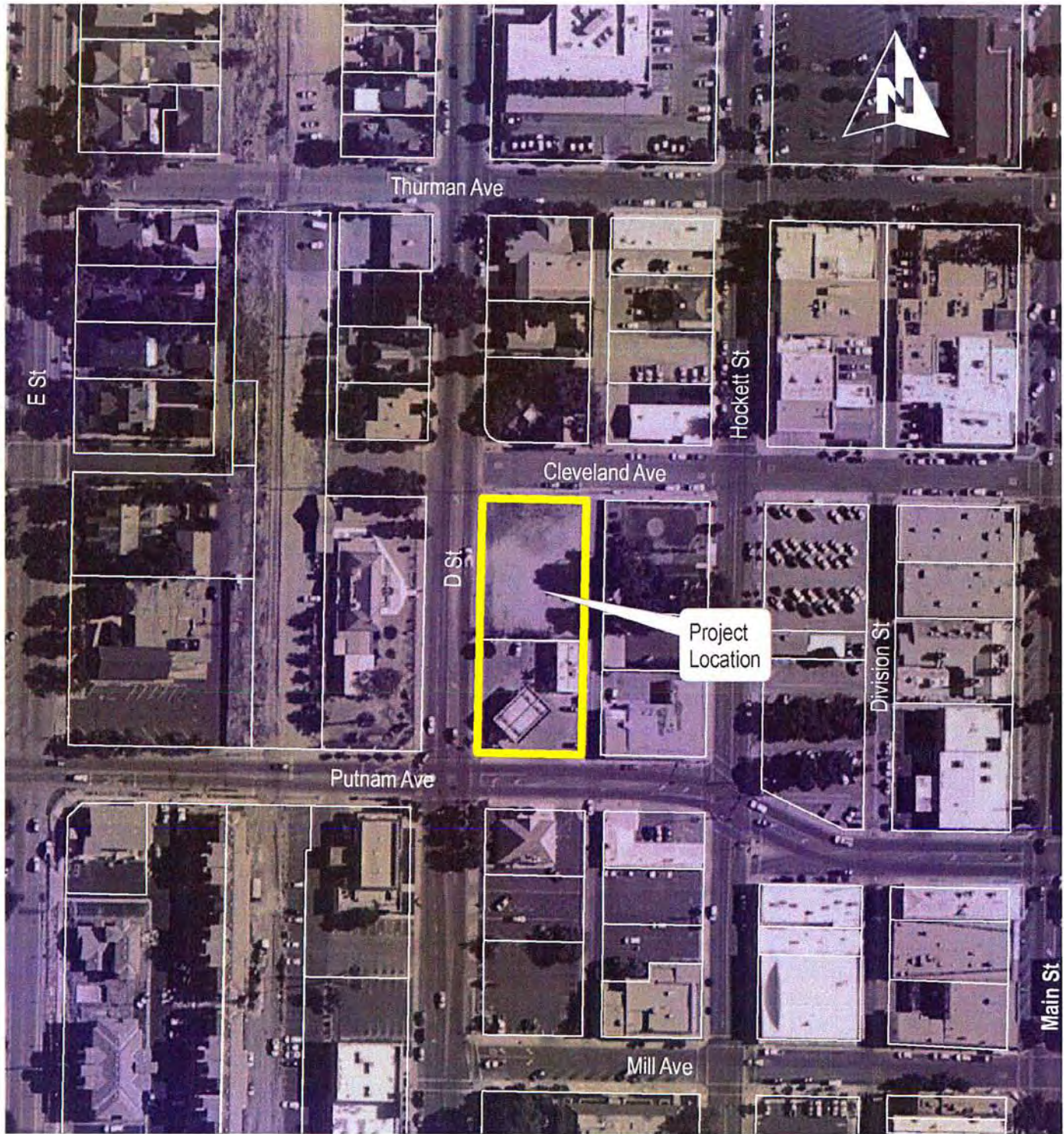
**RECOMMENDATION:** That the City Council:

1. Approve the draft ordinance adopting Zone Change 2013-035-Z; and
2. Waive further reading of the draft ordinance, approving the Zone Change and order it to print.

**ATTACHMENTS:**

1. Locator Map of 73 W. Cleveland Avenue
2. General Plan land use diagram
3. Zoning Map
4. Proposed Zoning Map
5. Draft Ordinance

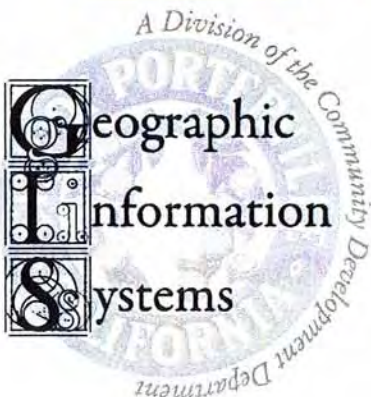
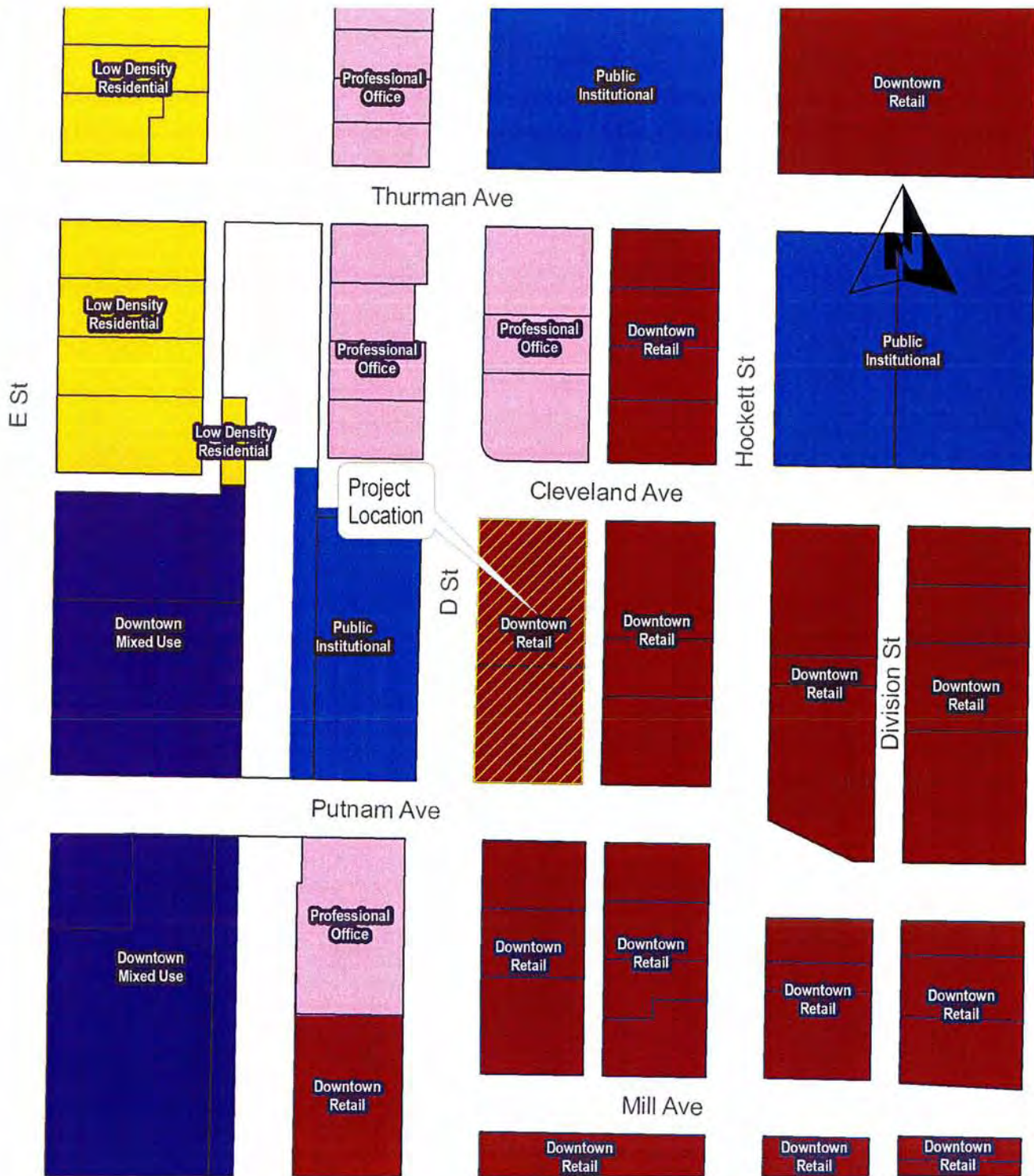




PRC 2013-035  
Zone Change from D-PO to DR-D  
Locator Map  
1" = 150 ft

ATTACHMENT  
ITEM NO. |



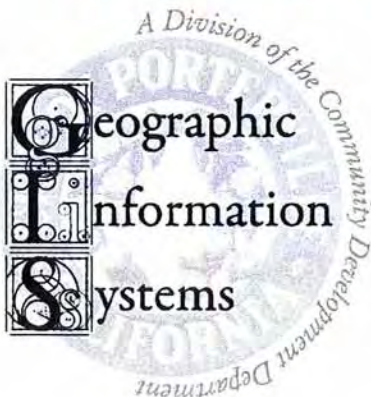
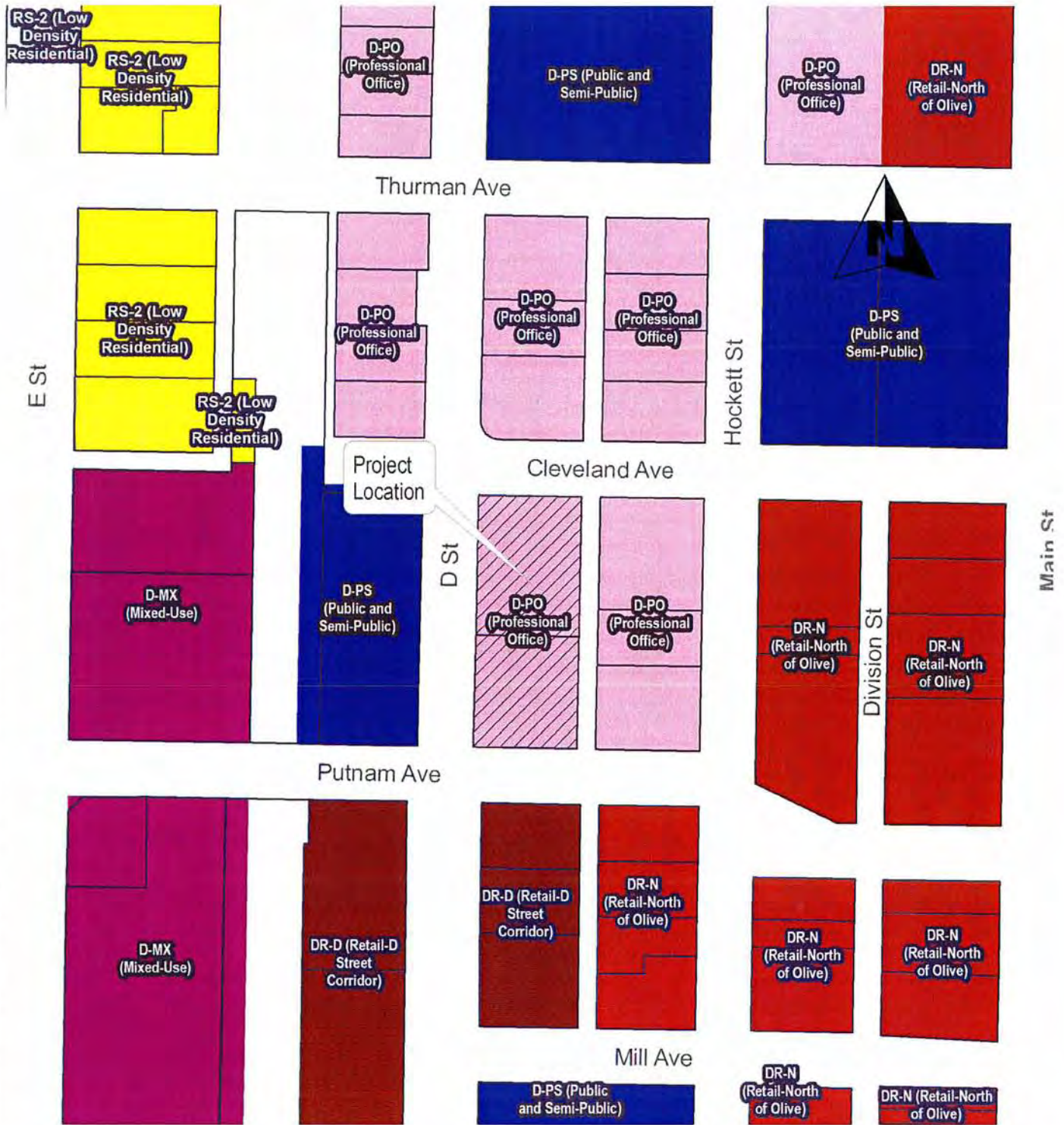


PRC 2013-035  
Zone Change from D-PO to DR-D  
General Plan Land Use Map

1" = 150 ft.

ATTACHMENT  
ITEM NO. 2

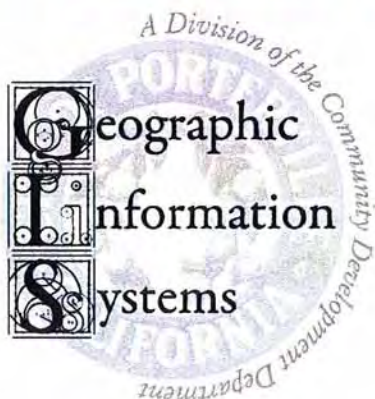
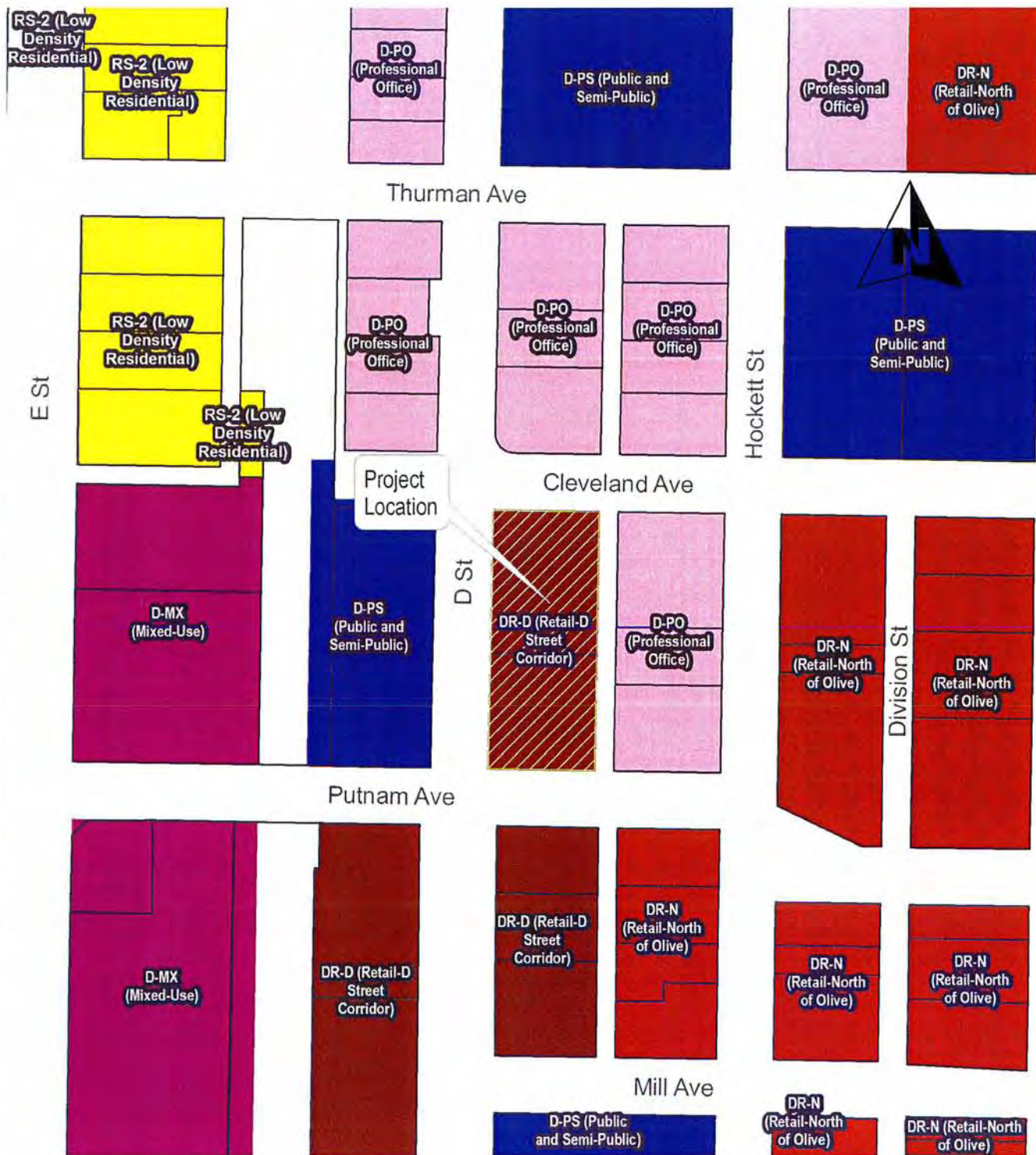




PRC 2013-035  
Zone Change from D-PO to DR-D  
Zoning Map  
1" = 150 ft.

ATTACHMENT  
ITEM NO. 3





# PRC 2013-035 Zone Change from D-PO to DR-D Proposed Zoning Map

1" = 150 ft.

ATTACHMENT  
ITEM NO. 4



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
APPROVING ZONE CHANGE (PRC 2013-035-Z)  
FROM D-PO (DOWNTOWN PROFESSIONAL OFFICE)  
TO DR-D (DOWNTOWN RETAIL - D STREET CORRIDOR)  
FOR THAT .38± ACRE SITE LOCATED AT THE  
SOUTHEAST CORNER OF CLEVELAND AVENUE AND D STREET

WHEREAS: On September 11, 2013, the Project Review Committee considered a request to rezone Assessor's Parcel Number 252-186-003, located at the southeast corner of Cleveland Avenue and D Street from D-PO (Downtown Professional Office) to DR-D (Downtown Retail- D Street Corridor). No physical development of the site is proposed at this time and the committee voiced no concerns with the request; and

WHEREAS: On September 23, 2013, the applicant submitted an application for Zone Change for the subject parcel. The application materials were reviewed and deemed complete; and

WHEREAS: Notice was duly made of a public hearing to consider the proposed rezone; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of November 5, 2013, conducted a public hearing to approve findings and consider Zone Change PRC 2013-035, being a change of zone from D-PO (Downtown Professional Office) to DR-D (Downtown Retail- D Street Corridor) for the parcel located at the southeast corner of Cleveland Avenue and D Street (APN 252-186-003); and

WHEREAS: The City Council of the City of Porterville determined that the proposed Zone Change (PRC 2013-035) is consistent with the guiding and implementation policies of the adopted 2030 General Plan; and

WHEREAS: The subject parcel was considered Downtown Retail in the 2030 General Plan. The General Plan Environmental Impact Report (EIR) identifies the land use for the parcel as retail, and the rezoning of the parcel would bring said parcel into compliance with the General Plan. Pursuant to Section 15162, no further environmental review is required to rezone the parcel as proposed; 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 General Plan policies.

Specifically, the project promotes a sustainable, balanced land use pattern that responds to the needs of a re-emergent economy, while also encouraging Downtown growth (LU-G-1 and LU-G-2). By providing a vacant, buildable site



in the downtown area, the project accommodates potential future interest for business owners who choose to construct a building specific to their enterprise.

- b. Future development of the site consistent with the DR-D zoning would require subsequent review at the staff level, through the Project Review Committee process. Development would be subject to the standards of the Development Ordinance as well as the Downtown Porterville Design Guidelines (adopted in 2010 by Resolution 48-2010). In the event the proposed use would require discretionary approval, the application would be brought before the City Council for consideration.
- c. The land use designation for the subject area was approved with the initial adoption of the General Plan in 2010 as Downtown Retail. The proposed project is consistent with that land use designation.
- d. The subject Zone Change will not create adverse environmental impacts on the adjacent neighborhood when standards of the Development Ordinance and General Plan are applied to any subsequent development project. Pedestrian orientation standards and other design and development standards of the General Plan and Development Ordinance were established specifically to limit environmental impacts. In the event that a proposed project may have an adverse impact on the environment, additional analysis and evaluation would be required.

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 2013-035-Z, is hereby rezoned from D-PO (Downtown Professional Office) to DR-D (Downtown Retail- D Street Corridor), pursuant to Section 3 below, for the parcel described herein as Assessor's Parcel Number 252-186-003 located southeast of the corner of Cleveland Avenue and D 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 D-PO (Downtown Professional Office) to DR-D (Downtown Retail- D Street Corridor) for the parcel 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.



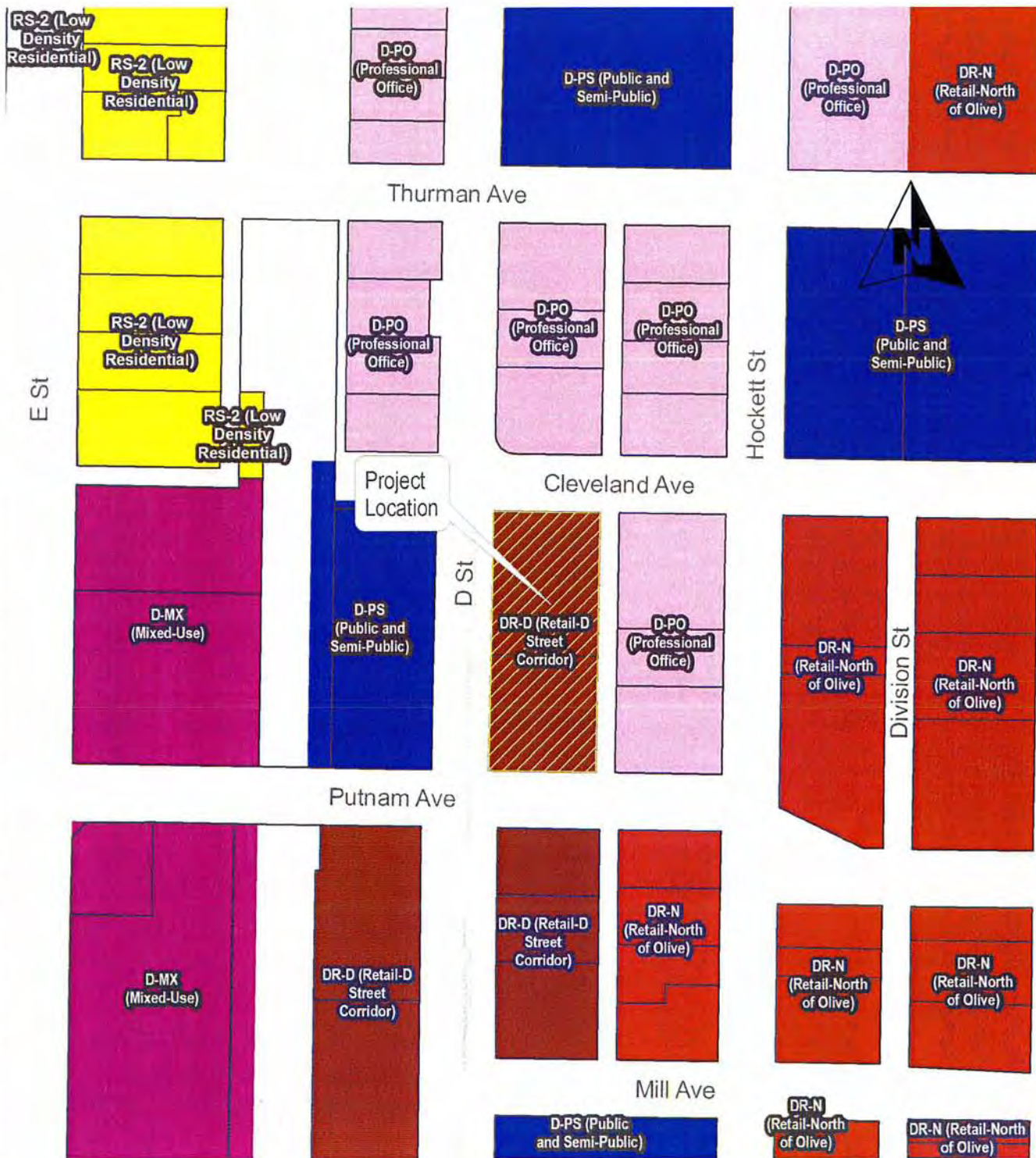
PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of November, 2013.

By: \_\_\_\_\_  
Cameron J. Hamilton, Mayor

ATTEST:  
John D. Lollis, City Clerk

By: \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk





Geographic  
Information  
Systems

A Division of the Community Development Department

# PRC 2013-035 Zone Change from D-PO to DR-D Proposed Zoning Map 1" = 150 ft.



COUNCIL AGENDA – NOVEMBER 5, 2013

SUBJECT: SECOND READING – ORDINANCE 1798, APPROVING ZONE CHANGE  
(PRC 2013-014-Z)

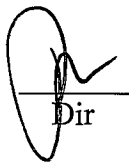
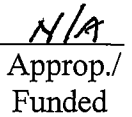
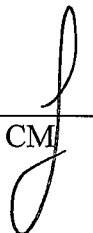
SOURCE: ADMINISTRATIVE SERVICES/CITY CLERK DIVISION

COMMENT: Ordinance No. 1798, An Ordinance of the City Council of the City of Porterville Approving Zone Change (PRC2013-014-Z) From CG (General and Service Commercial) to IG (General Industrial) for that 10.21± Acre Site Located Generally at the Northwest Corner of North Grand Avenue and North Main Street, was given first reading on October 15, 2013, and has been printed.

RECOMMENDATION: That the Council give Second Reading to Ordinance No. 1798, waive further reading, and adopt said Ordinance.

ATTACHMENT: Ordinance No. 1798

Item No. 19

		
Dir	Approp./ Funded	CM



ORDINANCE NO. 1798

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
APPROVING ZONE CHANGE (PRC 2013-014-Z) FROM CG (GENERAL AND SERVICE  
COMMERCIAL) TO IG (GENERAL INDUSTRIAL) FOR THAT 10.21± ACRE SITE  
LOCATED GENERALLY AT THE NORTHWEST CORNER OF NORTH GRAND AVENUE  
AND NORTH MAIN STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of October 15, 2013, conducted a public hearing to approve findings and consider Zone Change (PRC 2013-014-Z), being a change of zone from CG (General and Service Commercial) to IG (General Industrial) for two parcels; the primary parcel of 10.05± acres (APN 243-190-016) and a smaller parcel of 6805± square feet (APN 255-250-012) located at the northwest corner of North Grand Avenue and North Main Street; and

WHEREAS: The City Council of the City of Porterville determined that the proposed Zone Change (PRC 2013-014-Z) is consistent with the guiding and implementation policies of the adopted 2030 General Plan; 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 30 days from September 13, 2013, to October 14, 2013. One comment letter was received on the Initial Study. The San Joaquin Valley Air Pollution Control District wrote to concur with the findings of the Mitigated Negative Declaration, and ask that the applicant be reminded that the proposed project is subject to District Rule 9510, which applies to development projects of this scale. No other comments were received; 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 General Plan policies.

Specifically, the project promotes a sustainable, balanced land use pattern that responds to the needs of a re-emergent economy, while also encouraging industrial growth (LU-G-1 and LU-G-3). Additionally, by inviting solar energy with the proposed project, the City is promoting sustainability for other future project which could benefit from the available clean energy.

- b. Development of the site as proposed has been reviewed by the Project Review Committee, which has provided direction consistent with the City's development standards.
- c. The General Plan designation for the subject area was approved by the City Council on October 15, 2013, modifying the General Plan designation from General and Service Commercial to Industrial for the subject site.
- d. The subject Zone Change will not create adverse environmental impacts on the adjacent neighborhood when mitigation measures as defined in the mitigation



monitoring report are met, 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 2013-014-Z, is hereby rezoned from CG (General and Service Commercial) to IG (General Industrial), pursuant to Section 3 below, for the parcels described herein as Assessor's Parcel Numbers 243-190-016 and 255-250-012 located at the northwest corner of North Grand Avenue and North Main 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 CG (General and Service Commercial) to IG (General Industrial) for the parcels 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.

PASSED, APPROVED AND ADOPTED this 5<sup>th</sup> day of November, 2013.

By: \_\_\_\_\_  
Cameron J. Hamilton, Mayor

ATTEST:  
John D. Lollis, City Clerk

By: \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk



COUNCIL AGENDA – NOVEMBER 5, 2013

SUBJECT: SECOND READING – ORDINANCE 1799, AMENDING CHAPTER 12,  
ARTICLE II: FIREWORKS

SOURCE: ADMINISTRATIVE SERVICES/CITY CLERK DIVISION

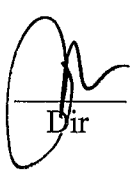
COMMENT: Ordinance No. 1799, An Ordinance of the City Council of the City of Porterville Amending the Municipal Code, Chapter 12, Article II: Fireworks Related to Application Process, Regulations, and Penalties, was given first reading on October 15, 2013, and has been printed.

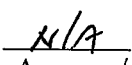
While preparing for publication of the ordinance, staff noticed the need to correct wording in the title of the ordinance. The minor changes are non-substantive, and therefore do not warrant another first reading.

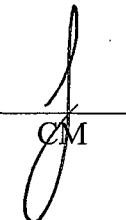
RECOMMENDATION: That the Council give Second Reading to Ordinance No. 1799, waive further reading, and adopt said Ordinance.

ATTACHMENT: Ordinance No. 1799

Item No. 20

  
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Funded

  
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ORDINANCE NO. 1799

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
AMENDING THE MUNICIPAL CODE, CHAPTER 12, ARTICLE II: FIREWORKS  
RELATED TO APPLICATION PROCESS, REGULATIONS, AND PENALTIES

WHEREAS: The City allows sale and discharge of "safe and sane" fireworks within the City limit in honor of the Independence Day holiday (June 28 through July 4, annually); and

WHEREAS: The fireworks stakeholders group, comprised of locally represented non-profit groups, had requested a meeting to voice concerns related to the application timeframes and regulations; and

WHEREAS: The group noted that additional time after the annual lottery is held, and before fireworks sales were authorized, would allow for additional planning and coordination of volunteer efforts; and

WHEREAS: The group requested additional flexibility regarding regulations on canopies for use as shade structures adjacent to the sales stand. Additionally, the stakeholder group requested that in lieu of the annual safety meeting, a poster identifying fireworks safety regulations be located inside each stand; and

WHEREAS: Clarification of the actions meriting assessment of penalties was needed for enforcement purposes; and

WHEREAS: A public hearing was held before the City Council on October 15, 2013, pursuant to the Municipal Code of the City.

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

SECTION 1. Purpose: The purpose of this ordinance is to address issues that have arisen since the writing of the ordinance. It is also the intent to address grammatical issues that have been discovered.

SECTION 2. Chapter 12, Article II, Section 2.1: DEFINITIONS is amended as follows:

Paragraph 7, Line 2: SAFE AND SANE FIREWORKS: Shall mean any fireworks which do not fall within the definition of "dangerous fireworks" or "exempt fireworks" per Health and Safety Code Section 12529. The California State Fire Marshal's seal of registration shall be applied to all classified fireworks and pyrotechnic devices by a licensed manufacturer, importer, exporter or wholesaler and shall indicate the classification assigned by the State Fire Marshal.



SECTION 3. Chapter 12, Article II, Section 12-2.4 NUMBER OF PERMITS LIMITED/PRE-APPLICATION is amended as follows:

The maximum number of permits to sell "safe and sane" fireworks which may be issued pursuant to this article during any one calendar year shall not exceed one permit for each four thousand (4,000) residents of the city, or major fraction thereof, based on the most recent population figure as determined by the federal decennial census and updated annually by the California State Department of Finance. If the number of pre-applications received up to and including the last day for making applications pursuant to this article exceeds the number of permits to be issued for the city, the fire chief shall thereafter supervise a public drawing to determine an order of priority for each pre-application. Pre-applications can be obtained at the Fire Department or online at the City of Porterville's web site between January 1 and the last business day of January. All applicants will be assigned a number in the order in which the pre-application is received. The drawing will be held between the 16<sup>th</sup> and 28<sup>th</sup> of February each year.

SECTION 4. Chapter 12, Article II, Section 12-2.5 SALES OF "SAFE AND SANE" FIREWORKS; APPLICATIONS FOR PERMITS is amended as follows:

- A. Any eligible organization desiring to sell "safe and sane" fireworks in the City of Porterville shall obtain a permit application from the fire department. Permit applications shall be obtained during the period commencing the first business day of March and ending the last business day in March.
- C. Completed applications shall be returned to the fire department no later than five o'clock (5:00) P.M. on the last business day of March each year. Any eligible organization making an application for such permit to sell "safe and sane" fireworks that fails to return the completed application prior to five o'clock (5:00) P.M. on the last regular business day in March shall not be issued a permit to sell "safe and sane" fireworks.

SECTION 5. Chapter 12, Article II, Section 12-2.6 PERMIT ISSUANCE BASED ON DRAWING SELECTIONS is amended as follows:

- B. These forms must be returned to the fire department by the last business day of March.

SECTION 6. Chapter 12, Article II, Section 12-2.11 REGULATIONS is amended as follows:

No person other than a member (or their spouse) of the organization or a volunteer who is associated with the organization having a permit shall be permitted to sell or otherwise participate in the sale of fireworks. All fireworks stands shall have the safety regulations posted inside the stand in an approved location. The size of the safety poster will be approved and provided by the fire department. A maximum of one member for every four (4) linear feet of stand is permitted within the stand at any one time, (i.e., if the stand is 32 feet long, 32 divided by 4 equals 8 members allowed in the stand) and all persons selling fireworks must be at least eighteen (18) years old.



SECTION 7. Chapter 12, Article II, Section 12-2.12 FIREWORKS STANDS; REQUIREMENTS is amended as follows:

A. No fireworks stand shall be located within twenty-five feet (25') of any other building or within one hundred feet (100') of a gasoline pump, or within one hundred feet (100') of another fireworks stand, when measured closest point to closest point. Canopies within ten feet (10') of a stand shall be considered an extension of the stand for measurement of setback distances. Minimum setback from the street curbing, alley, or driveway shall be ten feet (10'). Stands shall not cover or impede any public rights of way.

B. Canopies within twenty-five feet of a stand must be labeled by the manufacturer as fire-resistive. The total allowable canopy area within twenty-five feet of a stand shall be no larger than 200 square feet.

SECTION 8. Chapter 12, Article II, Section 12-2.20 VIOLATIONS; PENALTIES of the Porterville Municipal Code is amended as follows:

Fines for the manufacture, possession, sale, delivery, use, or discharge of dangerous fireworks within the City of Porterville shall be one thousand five hundred dollars (\$1,500.00).

SECTION 9. This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED AND ADOPTED this 5<sup>th</sup> day of November, 2013.

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Cameron J. Hamilton, Mayor

ATTEST:

John D. Lollis, City Clerk

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Patrice Hildreth, Chief Deputy City Clerk



COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: REQUEST FOR DIRECTION RELATED TO USE OF CARGO/SHIPPING CONTAINERS FOR STORAGE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION



COMMENT: Over the years, the use of cargo containers, also known as shipping containers or seatrains, has increased to solve the storage needs of businesses. Cargo containers are placed around the City, typically in parking lots and drive aisles, presumably for seasonal storage for commercial uses. However, they are being kept year-round, which indicates they are likely being used to meet ongoing storage needs. A review of the policies in place for cargo containers has prompted this request for direction from the City Council.

When used for short time periods, such as the holiday season, cargo containers have been considered temporary structures and would be considered through a temporary structure permit approved by the City Council as represented in the Council's recent approval of Walmart's request. More often, staff is seeing cargo containers brought to a site for a permanent solution to a lack of on-site storage within the building. Ideally, a business or land use would expand the permanent structure to accommodate the growing need. At best, use of a cargo container on a permanent basis could be achieved by classifying the container as an accessory structure. However, the Porterville Development Ordinance, Section 301.01 discusses accessory structures, stating that they are also subject to the development and size regulations found in Chapter 300, General Site Regulations, and requires that they "shall be designed to be of similar/compatible architecture and materials as the main buildings". This requirement effectively precludes the use of cargo containers as a permanent accessory structure.

Cargo containers are not intended for permanent use on a site, and are, therefore, addressed in Chapter 7-3.3 of the Municipal Code as a temporary structure (Attachment 1). In 2005, the City Council approved Resolution 29-2005 (Attachment 2), interpreting ambiguity regarding temporary, mobile, and permanent development. Many factors were considered with this resolution, and one specifically pertained to the use of cargo/shipping containers for temporary use.

In that resolution, the Council determined that cargo containers are not a permanent commercial building, and that approval of a temporary building would require Council approval. Statement 7 of the resolution states:

**Temporary Building Permits- Effect on Standards for Existing Conforming Development:** Temporary buildings may be approved only with clear time limits, and with a finding by City Council that the development is to accommodate a time of business stress or emergency or a construction project. For this reason, the City Council may authorize

DD  Appropriated/Funded N/A CM 

Item No. 21



such uses in circumstances that would cause an existing, conforming development to become non-conforming for the duration of the use. For example, a temporary modular building could be authorized to occupy required parking spaces in a commercial development. It is the intent of City Council to weigh such modifications against both the need and duration of the temporary building. Except in extraordinary cases, the City Council would not expect to authorize a permit that creates a non-conforming circumstance for a period longer than 90 days.

Consistent with this resolution, a few stores have requested Council approval to use cargo containers during the holiday season, which is typically October through December, to accommodate additional storage needs associated with increased sales. Although few in number, the Council has historically approved these requests as they are received.

The City Council, as well as staff, makes a concerted effort to work together with members of the retail community to find ways to accommodate seasonal storage needs as well as the City's desire to maintain a well-kept and neat appearance. While some retailers do follow proper protocol in requesting approval to use containers, there are many who do not. This creates an inequity among the retail community and results in negative impacts to existing, permanent commercial uses. It is important to note that the unapproved use of cargo containers is not limited to commercial uses; containers can be seen on residential and vacant sites as well. Even Departments of the City use cargo containers for long term functions in certain applications, including the Corporation Yard, at the Sports Park, and elsewhere for storage. The photographs attached to the report provide insight into the prevalence of cargo container usage.

Whether the initial use of the containers is authorized or not, sometimes the containers become "permanent" features of a site, and the problem seems to grow with each passing year. Without proper review, placement of cargo containers could affect parking availability, development aesthetics, on-site and off-site vehicular circulation, setback requirements, or site accessibility. In certain cases, the primary use could become out of compliance with the Development Ordinance and Municipal Code through loss of parking or a loading zone, or blocking of fire lanes.

In an effort to maintain a business-friendly focus and encourage equal treatment toward all retailers, staff requests direction from Council using one or more of the following options:

1. Maintain existing standards and the original resolution of ambiguity and continue to implement as originally approved in 2005.
2. Modify existing temporary structures standards to include additional specifics related to use of cargo containers.
3. Modify Resolution 29-2005 to allow approval at staff level where certain criteria are met related to number of containers, time frames, location of



containers, and site specific concerns related to the permanent use. Staff recommends those criteria be a single container, not longer than 100 days where the container can be located in such an area that it does not impact parking, loading, circulation, or accessibility. Defined timeframes longer than 100 days could be allowed if the container is screened or architecturally compatible with the main building.

4. Allow the unrestricted use of cargo containers provided they do not result in a deficiency in any local, state or federal regulation.

RECOMMENDATION: That the City Council provide direction to staff for use of cargo/shipping containers for storage.

ATTACHMENTS:

1. Chapter 7-3.3 of the Porterville Municipal Code
2. Resolution 29-2005
3. Photographs of examples of cargo container usage and placement in Porterville.



### **7-3.3: TEMPORARY STRUCTURES:**

- A. For purposes of this article the word "structure" shall include any building, tent, canopy, or any other type of construction approved by the city council.
- B. Upon written application to the city council, the city council is hereby empowered to issue a permit enabling an applicant in time of stress or emergency or in conjunction with development of residential, commercial, or industrial projects, to erect, construct, maintain and utilize a temporary structure within the city of Porterville.
- C. Said permit so issued shall provide the type of construction to be permitted; the location of said structure; the size of said structure; the period of time that said structure may be utilized; and provisions that said structure shall be demolished at the termination of said permit and all other requirements and conditions deemed necessary or expedient by the city council.
- D. In the event the applicant fails to satisfy all conditions set forth by the city council in the permit, the right to construct, maintain and utilize the temporary structure may be terminated immediately by action of the city council; and, in addition thereto, a violation of the conditions of said permit is hereby declared to be unlawful.
- E. Nothing herein shall permit an applicant to make use of any structure in violation of any zoning law, ordinance or regulation of the city. (Ord. 1066 § A, 12-3-1974; Ord. 1148 § A, 7-18-1978; Ord. 1212 § A, 8-5-1980; Ord. 1295 § A, 2-7-1984; Ord. 1371 § A, 1-6-1987; Ord. 1422 § A, 11-21-1989; Ord. 1476 § 1, 7-21-1992)



RESOLUTION NO. 29-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
ADOPTING INTERPRETATIONS OF AMBIGUITY AND  
STATEMENTS OF CITY COUNCIL INTENT WITH REGARD TO  
TEMPORARY, MOBILE AND PERMANENT DEVELOPMENT

WHEREAS: On October 12, 2004, and March 1, 2005, the City Council considered the status of a variety of non-standard building types including temporary buildings, long-term street vending, drive-through restaurant kiosks, etc.; and

WHEREAS: The City Council has determined that the City Code and the Zoning Ordinance allow for potential ambiguity in the interpretation of such issues as the appropriate application of the City Code provisions for Temporary Building Permits, the Zoning Ordinance provisions for a Conditional Use Permit for Street Vending for more than five days at a single location, and the appropriate development standards to apply to each; and

WHEREAS: The City Council intends to provide guidance to City Staff and the development community with regard to the approved interpretation of such ambiguity in the City Code and Zoning Ordinance and to give an indication as to the likely standards of review and intent of City Council in considering future development proposals.

NOW THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby adopt statements of interpretation of ambiguity and statements of City Council intent as follows:

- 1) **Permanent Commercial Buildings:** In order to be considered a "permanent" commercial building, subject only to securing a building permit, a structure must be affixed to the ground through a foundation, foundation system or other similar means, except as described below. By this standard, shipping containers, catering trucks, and trailers would not be considered "permanent" commercial buildings. Modular buildings, sheds, pre-fabricated buildings, etc., may be considered to be permanent buildings provided they are affixed to foundations. Full development standards as required by City Code would apply in such cases.
- 2) **Permanent Commercial Buildings – Exception for Food Vending Booths:** Food vending booths, food or coffee kiosks, "hot-dog" stands etc. without a foundation may be considered to be "permanent" provided the following conditions are met.
  - a) The type and location of the use is permitted by the Zoning Ordinance.

ATTACHMENT  
ITEM NO. 2



- b) The type, location, and intensity of the use are included in all calculations of site improvement requirements, including parking calculations, etc.
  - c) The development is clearly accessory to the primary use of the site, and its hours of operation are limited to those of the primary use.
  - d) The development fully complies with adopted building codes, including fire protection and the requirements of State and Local Public Health authorities.
- 3) **Permanent Commercial Buildings – Exception for Approved Temporary Buildings:** Modular and similar buildings, whether on permanent foundations or not, may be approved by the City Council as temporary buildings. Site development standards for such cases shall be determined as described below.
- 4) **Non-Standard Development as Accessory Use:** Except for on-farm produce stands, non-standard development will only be approved as an accessory to standard, permanent development on the same site, or on an adjacent related site. This will help to ensure that minimum site improvements are provided for commercial uses.
- 5) **Time Limits Required for Non-Standard Development:** Non-standard development may be approved by the City Council as either a “Temporary Building” or a “Street Vendor” as appropriate. In all such cases, approval will be for a limited period of time. The approval period will not typically exceed the reasonable period of time necessary to secure a permanent replacement. In some cases, a reasonable period of time may be granted to allow for market testing, “proof-of-concept”, etc. Site improvement standards for such development shall be determined by the City Council on a case-by-case basis using guidelines as established below.
- 6) **Development Standards – Non-Standard Development:** All non-standard development requires approval by the City Council with appropriate Conditions of Approval. Such development may require site improvements that differ from those required for permanent development. Staff reports for such proposals should identify both the proposed site improvements and the improvements that would be required for similar, permanent development.

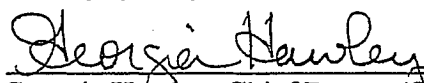


- 7) **Temporary Building Permits – Effect on Standards for Existing Conforming Development:** Temporary buildings may be approved only with clear time limits, and with a finding by City Council that the development is to accommodate a time of business stress or emergency or a construction project. For this reason, the City Council may authorize such uses in circumstances that would cause an existing, conforming development to become non-conforming for the duration of the use. For example, a temporary modular building could be authorized to occupy required parking spaces in a commercial development. It is the intent of City Council to weigh such modifications against both the need and duration of the temporary building. Except in extra-ordinary cases, the City Council would not expect to authorize a permit that creates a non-conforming circumstance for a period longer than 90 days.
- 8) **Conditional Use Permits for “Street Vending” – Effect on Standards for Existing Conforming Development -** Conditional Use Permits for “Street Vending” for periods longer than five days do not require a finding of business stress or emergency. For that reason, such uses will not be permitted to cause an existing conforming development to become non-conforming.
- 9) **Standards of Review – Non-standard Development:** It is the intent of City Council to consider the impact that proposed Temporary Building Permits and Conditional Use Permits for longer term street vending will have on other similar businesses. Such uses are intended to offer flexibility under unusual circumstances and will not be encouraged as a means to compete with businesses in permanent buildings by avoiding development standards that would otherwise apply.
- 10) **Compliance with Zoning Ordinance and City Code – Non-Standard Development:** None of the above shall be construed to permit non-standard development to violate the Zoning Ordinance or other provisions of City Code. No use may be authorized by a Temporary Building Permit or as a Conditional Use Permit for street vending that is not permitted by the underlying Zoning Classification. Such restriction includes limitations on outdoor sales where applicable.

  
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By   
Georgia Hawley, Chief Deputy City Clerk



STATE OF CALIFORNIA    )  
CITY OF PORTERVILLE    )     SS  
COUNTY OF TULARE     )

I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 1<sup>st</sup> day of March, 2005.

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

Council:	WEST	IRISH	HAMILTON	STADTHERR	MARTINEZ
AYES:	X	X	X		X
NOES:					
ABSTAIN:					
ABSENT:				X	

JOHN LONGLEY, City Clerk



by Patrice Hildreth, Deputy City Clerk





**ATTACHMENT 3**























COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: CONSOLIDATED WASTE MANAGEMENT AUTHORITY (CWMA)  
MEMBERSHIP

SOURCE: Public Works Department – Field Services Division

COMMENT: The CWMA Board of Directors met October 20, 2011, and received a letter from the City of Porterville City Council requesting that the CWMA Board of Directors consider an alternative member contribution structure that would recognize consumption rates and incentivize diversion and recycling efforts. CWMA staff presented a report on alternative membership contribution structures, including a tonnage based methodology. The CWMA Board agreed to the Council's request to modify the membership contribution methodology, and Council approved that the City remain members of the CWMA for 2012/2013.

On June 28, 2012, the CWMA Board approved the 2012/2013 budget with a 10% reduction in membership contributions, with the City's membership dues being further reduced to \$44,835.

Based on the three-year tonnage calculations, and an additional 10% reduction in membership contributions, the City's membership dues for 2013/2014 were \$40,756, and at the December 18, 2012 meeting, Council approved remaining members of the CWMA for 2013/2014.

With dues continuing to be based on tonnage calculations and in the final year of the additional 10% reduction, the City's membership dues for 2014/2015 are calculated to be \$36,698.

By remaining members of the CWMA, the City saves the additional staff time required to track regulatory issues, prepare the annual State report and interact with the State regarding program implementation. Program development and implementation are important compliance components of the State's review of a jurisdiction. The CWMA administrator networks with CalRecycle, industry representatives, and other agencies to research new opportunities for recycling and reusing materials.

The CWMA oversees the countywide programs that the members participate in, such as C&D recycling, battery recycling, and waste to energy diversion. The CWMA also provides sample ordinance development, education and outreach materials, and helps subsidize the County's Household Hazardous Waste (HHW) program. If the City withdraws from the CWMA, it may be responsible for the cost of its HHW program and mobile collection events that are currently funded by the County and subsidized by the CWMA.

Dir BSA Appropriated/Funded MLB CM J

Item No. 22



The CWMA provides additional assistance on items such as mandatory commercial recycling, sharps disposal, and addressing the implementation of new programs to meet the State's anticipated goal of 75% diversion by 2020. The CWMA administrator is also available to assist with site visits to local businesses to assess recycling needs and help them meet their diversion requirements.

Funded by the Solid Waste Operating Funds, should the City of Porterville leave the CWMA, the City will save approximately \$36,698 in membership dues and will receive an additional \$15,000 in bottle bill funds for a total of \$51,698. However, if the City leaves the CWMA, staff estimates that the total annual costs to perform all of the duties expected by the State could be as high as \$76,183. The estimated difference between staying and leaving the CWMA is **\$24,485** in additional expenses (\$76,183 - \$51,698).

Staff Expense	\$33,634
County cost for 2 HHW mobile events	\$26,049
Disposal cost for City collected HHW	\$ 9,500
Promotional material for all required programs	<u>\$ 7,000</u>
	\$76,183

The CWMA is currently working on acquiring sharps collection kiosks for local pharmacies at a cost of \$1,000 each. If the City were to leave the CWMA, a one time cost of \$12,000 to purchase these kiosks could also be incurred by the City. It is staff's recommendation that the City remain members of the CWMA for Fiscal Year 2014/2015.

If Council decides to withdraw from the CWMA, notifications to the CWMA must be made by December 31, 2013, in order to meet the 180-day notification requirement of the CWMA by-laws, though the City would maintain its membership through June 30, 2014.

RECOMMENDATION: That City Council approve the City of Porterville remaining a member of the CWMA for FY 2014/2015.

ATTACHMENT: "Amended and Restated Joint Powers Agreement" Consolidated Waste Management Authority



1  
2 **"AMENDED AND RESTATED JOINT POWERS AGREEMENT"**  
3 **CONSOLIDATED WASTE MANAGEMENT AUTHORITY**  
4

5  
6 **THIS AGREEMENT** is entered into as of April 27, 2006, between  
7 the CITIES OF VISALIA, PORTERVILLE, LINDSAY, DINUBA, TULARE (including  
8 its Board of Public Utilities Commissioners), EXETER, FARMERSVILLE, and the  
9 COUNTY of TULARE (COUNTY) hereinafter collectively referred to as Members,  
10 with reference to the following:

- 11 A. On December 8, 1999 the CITIES OF VISALIA, PORTERVILLE,  
12 LINDSAY, DINUBA, and TULARE entered into a Joint Powers  
13 Agreement forming the Consolidated Waste Management Authority  
14 (CWMA).
- 15 B. On November 26, 2002 Cities of EXETER, FARMERSVILLE and  
16 WOODLAKE joined the CWMA as equal members.
- 17 C. On December 15, 2005, the City of Woodlake submitted their desire to  
18 withdraw from the CWMA and on January 26, 2006 was formally  
19 accepted by CWMA by approval of Resolution No. 2006-01.
- 20 D. On the November 17, 2005, CWMA Board approved Resolution No.  
21 2005-04 accepting the COUNTY'S desire to join the CWMA, subject to  
22 the terms and conditions set forth below.
- 23 E. The Members intend by this Agreement to create a Joint Powers  
24 Authority ("the Authority") to act as a regional agency and independent  
25 public agency to comprehensively plan, develop, operate and manage  
26 the, transformation, diversion, recycling, processing and disposal of  
27 solid waste within the Members' jurisdictions;



1 F. The Members further intend by this Agreement to provide for the  
2 funding reasonably anticipated to be necessary for the above  
3 purposes.

4 G. Members are authorized to enter into this Agreement pursuant to  
5 Government Code §6500 et seq. and Public Resources Code §40970  
6 et seq.

7 H. The Members intend that the Authority be the responsible party for  
8 compliance with Article 1 (Commencing with Section 41780) of Chapter  
9 6 of the Public Resources Code.

10 I. The City of Tulare by charter has a Board of Public Utilities  
11 Commissioners to which responsibility has been delegated for solid  
12 waste management, and which must thereby also be a signatory to this  
13 Agreement.

14 **ACCORDINGLY, IT IS AGREED:**

15 **1. CREATION OF SEPARATE AGENCY:** There is hereby created a  
16 regional agency which is an agency separate from the parties to the Agreement,  
17 and which is responsible for the administration of the Agreement, to be known as  
18 "Consolidated Waste Management Authority" (CWMA). Within thirty (30) days of  
19 the effective date of this Agreement, the parties shall cause a notice of this  
20 Agreement to be prepared and filed with the office of the California Secretary of  
21 State as required by Government Code §6503.5.

22 **2. DEFINITIONS:** Unless otherwise required by the context, the following  
23 terms shall have the following meanings:

24 a. "Act" shall mean the California Integrated Waste Management Act of  
25 1989 (California Public Resources Code Sections 40000 et seq.) and



1 all regulations adopted under that legislation, as that legislation and  
2 those regulations may be amended from time to time.

3 b. "Authority" shall mean the Consolidated Waste Management Authority,  
4 which is the public and separate authority created by this Agreement;

5 c. "Board" or "Board of Directors" shall mean the Board of Directors of  
6 CWMA as provided in this Agreement to govern and administer the  
7 Authority.

8 d. "Member" shall mean any of the signatories of this Agreement and  
9 "Members" shall mean all of the signatories to this Agreement.

10 e. "Solid Waste" shall mean all putrescible and nonputrescible solid,  
11 semi-solid and liquid wastes, including garbage, trash, refuse, paper,  
12 rubbish, ashes, industrial wastes, demolition and construction wastes,  
13 abandoned vehicles and parts thereof, discarded home and industrial  
14 appliances, dewatered, treated, or chemically fixed sewage sludge  
15 which is not hazardous waste, manure, vegetable or animal solid and  
16 semisolid wastes, and other discarded solid and semisolid wastes,  
17 including special wastes as defined in Public Resources Code §41450,  
18 but not including hazardous wastes, low-level radioactive waste, or  
19 medical waste, as more particularly defined in Public Resources Code  
20 §40191 as it may be amended from time to time.

21 f. "Solid waste landfill" or "solid waste disposal site" shall mean a  
22 disposal facility that accepts, or has accepted, solid waste for land  
23 disposal as more particularly defined in Public Resources Code  
24 §40122 as it may be amended from time to time.



1 g. "SRRE" shall mean a Source Reduction and Recycling Element as  
2 required by the Act as that element may be amended from time to  
3 time.

4 h. "NDFE" shall mean a Non-Disposal Facility Element as required by the  
5 Act as that element may be amended from time to time.

6 i. "HHWE" shall mean Household Hazardous Waste Element as required  
7 by the Act as that element may be amended from time to time.

8 j. "Transfer facility" shall mean a facility, together with necessary  
9 accessory facilities, used for the receiving, processing, recycling and  
10 transportation of solid waste, and the recovery of materials from solid  
11 waste, as more particularly defined in Public Resources Code §40200  
12 as it may be amended from time to time.

13 k. "CIWMP" shall mean County Integrated Waste Management Plan as  
14 required by the Act as that plan may be amended from time to time.

15 **3. PURPOSE:** The purpose of the Authority is to provide for the joint  
16 exercise of certain powers common to the Members and for the exercise of such  
17 additional powers as are conferred by law in order to meet the requirements of the  
18 Act. The Members are each empowered by the laws of the State of California to  
19 exercise the powers specified in this Agreement and to comply with the provisions  
20 of the Act and other laws. These common powers shall be exercised for the benefit  
21 of any one or more of the Members or otherwise in the manner set forth in this  
22 Agreement.

23 The Members will be responsible for implementation of their programs and  
24 enter this agreement with the intent to operate the Authority in compliance with the  
25 requirements of the Act with a minimum level of staff, addressing those operations



1 and programs that can be most cost-effectively handled at the regional level by  
2 maximizing local resources, private sector participation and contract services. The  
3 duties and responsibilities of each Member are described in the County Integrated  
4 Waste Management Plan (CIWMP) which is hereby incorporated in this agreement.  
5 The Authority is formed with the sole purpose and intent of jointly measuring  
6 disposal reduction by the member agencies and of facilitating the development of  
7 joint programs and projects that provide economies of scale. The members will  
8 exercise independent power within their own jurisdiction, to including but not limited  
9 to, the establishment or approval of fees, the collection of solid waste, landfills and  
10 the administration of landfills and transfer stations.

11 **4. POWERS:** The Authority is hereby authorized, in its own name, to  
12 exercise any power common to the parties as to solid waste management within  
13 the boundaries of the Member jurisdictions, and to thereby perform all acts  
14 necessary to accomplish its purpose as stated in this Agreement, except as may  
15 be otherwise provided in this Agreement, including, but not limited to, the following:

- 16 a. To make and/or assume contracts;
- 17 b. To employ agents, employees, consultants and such other persons or  
18 firms as it may deem necessary;
- 19 c. To acquire by condemnation or otherwise land and/or facilities not  
20 owned by any member to construct, manage, maintain or operate any  
21 building, works or improvements, including systems, plants, Disposal  
22 Sites, Transfer Facilities or other facilities for the purposes of  
23 collection, disposal, treatment, transformation, diversion, or recycling of  
24 solid waste;



- 1 d. To incur debts, liabilities or obligations, subject to the limitations  
2 provided in this Agreement;
- 3 e. To sue and be sued in its own name;
- 4 f. To apply for and accept grants, advances and contributions;
- 5 g. To set processing, disposal fees and other rates, and to levy and  
6 collect fees and charges, including tipping fees and gate fees as  
7 provide by this Agreement, or as permitted by law for Authority owned  
8 and/or operated facilities.
- 9 h. To adopt ordinances and resolutions as authorized by law;
- 10 i. To issue bonds in any manner authorized by law;
- 11 j. To adopt an annual budget;
- 12 k. To exercise the authority otherwise vested in any party to this  
13 Agreement to apply for State or Federal funding to defray any of the  
14 costs of operation of the Authority;
- 15 l. To take such actions as are deemed necessary to address  
16 transformation, reduction, recycling and diversion goals for solid waste  
17 as mandated by the Act, or as deemed desirable by the Authority;
- 18 m. To require appropriate reports from agencies, organizations and  
19 businesses which collect recyclables and;
- 20 n. To license, franchise, permit and/or contract with qualified persons,  
21 including, but not limited to, independent haulers or any Member of the  
22 Authority, and to provide any service required by the Authority to  
23 accomplish its purpose.

24 The Authority shall have no responsibility for the operation of the Tulare  
25 County Solid Waste Enterprise Fund to include, but not be limited to, the operation



1 of the Tulare County landfills and transfer stations, the establishment of reserves or  
2 for the setting of tipping or gate fees.

3 **5. OBLIGATIONS OF AUTHORITY:** No debt, liability or obligation of the  
4 Authority shall constitute a debt, liability or obligation of any of the Members,  
5 except as otherwise provided in this Agreement.

6 **6. DESIGNATION OF ADMINISTERING AGENCY:** The powers of the  
7 Authority provided in this Agreement shall be exercised in the manner provided by  
8 law for the exercise of such powers by the Members.

9 **7. ORGANIZATION:**

10 a. **GOVERNING BOARD:** The Authority shall be governed by a Board of  
11 Directors which shall be composed of one (1) sitting member of each  
12 of the city councils, or in the case of the City of Tulare, a member of its  
13 Board of Public Utilities, and one (1) sitting member of the Tulare  
14 County Board of Supervisors. In addition, each of the parties may  
15 designate an alternate Member of the Board who may participate as a  
16 Member of the Board only when the principal Member is absent. An  
17 alternate Member of the Board shall be a member of the legislative  
18 body of the member which he or she represents. Directors and  
19 alternates shall serve without compensation, except that they may be  
20 reimbursed for reasonable out-of-pocket expenses associated with  
21 their service on the Board as authorized by the Board.

22 b. **TERM:** The Members from the city councils and the COUNTY and the  
23 alternates shall serve at the pleasure of the legislative body which  
24 appointed them.



- 1 c. MEETINGS: Regular meetings of the Board shall be held at least  
2 quarterly, on such dates and times and at such locations as the Board  
3 shall fix by resolution. Special meetings of the Board shall be called in  
4 accordance with Government Code §54596. All meetings shall comply  
5 with the provisions of the Ralph M. Brown Act (Government Code  
6 §54950 et seq.)
- 7 d. QUORUM: Five (5) Members of the Board shall constitute a quorum in  
8 order to conduct business.
- 9 e. VOTING: A simple majority of the quorum shall be required for the  
10 adoption of a resolution, ordinance or other action of the Board, except  
11 that: (a) a majority vote of less than a quorum may vote to adjourn; (b)  
12 any of the following actions shall require a vote of two-thirds (2/3) of  
13 the authorized members of the board (as opposed to a quorum):
- 14 (1) Adoption of an annual budget;
  - 15 (2) Any modification of the annual budget;
  - 16 (3) Contracts up to \$25,000 and for terms of up to two (2) years, which  
17 are otherwise not subject to a four fifths (4/5) vote as hereinafter  
18 provided;
  - 19 (4) Admission of additional members;
  - 20 (5) Appointment, employment, or dismissal of an employee, including  
21 any independent contractor who functions as an employee.
  - 22 (6) Obtain reimbursement from any member for failure to implement  
23 programs identified in their SRRE, NDFE and HHWE;
  - 24 (7) Compromise or payment of any claim against the Authority;
  - 25 (8) To acquire by condemnation property not owned by the Members;



1 (c) A four-fifths (4/5) vote of the Board (as opposed to a quorum) is  
2 required for the following actions:

3 (1) The acquisition or lease of real property or equipment in excess of  
4 1 year lease term.

5 (2) Contracts in excess of \$25,000 or a 2 year term;

6 And (d) unanimous vote of the Board (as opposed to a quorum) is  
7 required for the:

8 (1) The issuance, execution or delivery of bonds;

9 (2) The formation of an assessment district or other similar financing  
10 mechanism.

11 f. MINUTES: The Board shall cause minutes of all meetings to be  
12 prepared, and shall cause a copy of the minutes to be delivered to  
13 each member of the Board, and filed with the governing body of each  
14 party, as soon as practicable after each meeting.

15 g. RULES: The Board shall adopt such other bylaws, rules and  
16 regulations for the conduct of its business as it shall deem necessary  
17 or desirable consistent with the provisions of this Agreement.

18 h. OFFICERS: The officers of the Authority shall be a Chairperson, Vice-  
19 Chairperson, Secretary, Treasurer, Auditor, and such other officers as  
20 the Board shall designate. The election of officers will take place at the  
21 first meeting of a new fiscal year. The Authority may employ or contract  
22 for the services of a Treasurer and Auditor. The Treasurer is  
23 designated as the depository for the Authority. The Treasurer shall be  
24 formally designated by a resolution adopted by the Board of Directors



1                   stating the effective date of the appointment and the term of the  
2                   appointment.

- 3                   i. **BONDING:** The Board shall designate the public office or officers or  
4                   person or persons who have charge of, handle, or have access to any  
5                   property of the Authority, and shall require such public officer or  
6                   officers or person or persons to file an official bond in an appropriate  
7                   amount to be fixed by the Board.

8                   **8. ACCOUNTABILITY, REPORTS AND AUDITS:** There shall be strict  
9                   accountability of all funds, and the Auditor shall report any and all receipts and  
10                  disbursements to the Board with such frequency as shall reasonably be required by  
11                  the Board. In addition, the Auditor shall either make or contract with a certified  
12                  public accountant to make an annual audit of the accounts and records of the  
13                  Authority as required by Government Code §6505. In each case, the minimum  
14                  requirements of the audit shall be those prescribed by the State Controller for  
15                  special districts pursuant to Government Code §26909, and shall conform to  
16                  generally accepted accounting principles. The auditor shall be formally designated  
17                  by a resolution adopted by the Board of Directors stating the effective date of the  
18                  appointment and the term of the appointment.

19                  **9. OPERATING BUDGET:** The Board shall approve an operating budget  
20                  as required to conduct its business in a manner consistent with the purposes of the  
21                  Authority. In addition to normal operating requirements, the budget shall address  
22                  the capital costs of developing future solid waste facilities.

23                  **10. CONTRIBUTIONS:** The Authority shall have the power to establish a  
24                  joint operating fund. The fund shall be used to pay all administrative, operating and  
25                  other expenses incurred by the Authority. Funding shall be from Member



1 contributions as determined by the Authority and other sources. No Member shall  
2 be obligated to make any contributions of funds to the Authority for facilities to be  
3 established in accordance with this Agreement or pay any other amounts on behalf  
4 of the Authority without that Member's consent evidenced by a written instrument  
5 signed by a duly authorized representative of the Member.

6 **11. ISSUANCE OF BONDS:** If the Board should decide by a unanimous  
7 vote that it will be necessary to acquire, construct, improve and finance a project  
8 for the purposes of the disposal, treatment, transformation, diversion or recycling of  
9 solid waste, the Authority may issue bonds, including revenue bonds for that  
10 purpose as authorized by Government Code §6540 et seq.

11 **12. ASSESSMENTS FOR EXTRAORDINARY COSTS:** In the event the  
12 Authority should experience an unanticipated need to pay for extra-ordinary costs,  
13 or to pay for any and all costs of litigation or indemnification as provided in this  
14 Agreement, and to the extent that such costs cannot otherwise be reasonably  
15 funded through use of reserves on hand or through the other revenue sources  
16 authorized by this Agreement, the Board may allocate the additional costs, whether  
17 actually incurred or estimated to be necessary, among the Members in proportion  
18 to the population contained within the boundaries then current of the Members as  
19 last determined by the California Department of Finance. The Members agree that  
20 they will then contribute their proportionate share of the additional costs within a  
21 reasonable period of time as determined by the Board.

22 **13. INVESTMENT OF SURPLUS FUNDS:** The Authority may invest any  
23 money in the treasury that is not required for its immediate necessities in the same  
24 manner, and upon the same conditions, as any local agency may do pursuant to  
25 Government Code §53601.



1                   **14. FISCAL YEAR:** The fiscal year for the Authority shall extend from July  
2                   1 to June 30 of each year.

3                   **15. CONTRACT FOR STAFFING:** The Authority shall employ or contract  
4                   for the services of legal counsel who shall advise the Authority on legal matters.  
5                   The Authority may also employ its own Executive Director and administrative staff,  
6                   or it may contract with any Member for that purpose.

7                   **16. RESTRICTIONS ON OPERATIONS:** The Authority may not regulate  
8                   tipping or gate fees for authority-owned facilities that are different for any one party  
9                   to this agreement (or its residents) than any other party (or its residents) without  
10                  the consent of the affected members.

11                  Under no circumstances shall the Authority assume responsibility for  
12                  hazardous waste disposal sites as defined by Health and Safety Code §25117.1.

13                  **17. CIVIL PENALTIES:** Any civil penalties which are imposed pursuant to  
14                  the Act by the California Integrated Waste Management Board will be paid by the  
15                  Authority. In the event that a Member or Members fails to implement the programs  
16                  identified in the CIWMP or fulfill its obligations under this Agreement, the Authority  
17                  may request reimbursement for any civil penalties assessed by the California  
18                  Integrated Waste Management Board as a result of this action, from the offending  
19                  Member or Members.

20                  If it is determined that a Member has failed to fulfill its obligation under this  
21                  Agreement, which failure results in the imposition of penalties by the California  
22                  Integrated Waste Management Board, such member shall be obligated to pay all  
23                  incurred penalties and costs of enforcement including but not limited to attorney's  
24                  fees and costs.



1                   **18. WITHDRAWAL:** Any Member may withdraw from the Authority by  
2                   filing with the Authority a written notice to withdraw one hundred eighty (180) days  
3                   prior to the date of withdrawal. The withdrawal of the Member shall have no effect  
4                   on the continuance of this Agreement among the remaining Members. The  
5                   withdrawing Member shall remain responsible for its proportionate share of the  
6                   then Fiscal Year's operating budget. Except upon vote by the Board to terminate  
7                   the Authority, any Member that withdraws as provided herein shall be  
8                   proportionately liable for all the outstanding obligations or debts incurred by the  
9                   Authority, including remaining unfunded capital expenditures incurred or approved  
10                  prior to the date of written notice of withdrawal of such Member. The assets  
11                  contributed by the withdrawing member or the value of the assets at the date of  
12                  withdrawal will be returned to the withdrawing member.

13                  **19. TERM AND TERMINATION:** This Agreement shall become effective,  
14                  and the Authority shall come into existence, on the date that the last of the named  
15                  parties executes the Agreement. The Agreement, and the Authority, shall thereafter  
16                  continue in full force and effect until the governing bodies of the parties  
17                  unanimously elect to terminate the Agreement.

18                  Upon effective election to terminate this Agreement, the Board shall  
19                  continue to act as a board to wind up and settle the affairs of the Authority. The  
20                  Board shall adequately provide for the known debts, liabilities and obligations of the  
21                  Authority, and shall then distribute the assets of the Authority among the Members,  
22                  as follows:

- 23                  a. The assets contributed by each Member, or the value thereof as of the  
24                  date of termination shall be distributed to that entity.



1           b. The remaining assets shall then be distributed in proportion to the  
2           population contained within the boundaries then current of the  
3           Members as last determined by the California Department of Finance.

4           The distribution of assets shall be made in-kind to the extent possible by  
5           returning to each Member those assets contributed by such parties to the Authority;  
6           however, no party shall be required to accept transfer of an asset in kind,

7           Notwithstanding any other provision by the Board for payment of all known  
8           debts, liabilities and obligations of the Authority, each of the Members shall remain  
9           liable for any and all such debts, liabilities, and obligations in proportion to the  
10          population contained within the boundaries of the last determined by the California  
11          Department of Finance as of the effective date of termination of the Agreement.

12          Upon termination of the Authority, each Member shall continue to assume  
13          its full responsibility to comply with the requirements of Part 2 of Division 30  
14          (commencing with Section 40900) of the Public Resources Code, including, but not  
15          limited to, Article 1 (commencing with Section 41780); shall continue to implement  
16          any source reduction, recycling, and composting programs included in their  
17          SRREs, NDFEs, and HHWEs which may be amended from time to time and are  
18          subject to revision approved by the California Integrated Waste Management  
19          Board; and shall report and track its own disposal and diversion programs as  
20          required by law.

21          **20. INDEMNIFICATION/CONTRIBUTION:** The Authority shall hold  
22          harmless, defend and indemnify the Members, and their agents, officers and  
23          employees from and against any liability, claims, actions, costs, damages or losses  
24          of any kind, including death or injury to any person and/or damage to property  
25          (including property owned by any Member), arising out of the activities of the



1 Authority, or its agents, officers and employees under this Agreement. The  
2 foregoing indemnification obligations shall continue beyond the term of this  
3 Agreement as to any acts or omissions occurring before or under this Agreement  
4 or any extension of this Agreement.

5 To the extent that the Authority is unable or unwilling to hold harmless,  
6 defend and indemnify any party to this Agreement as provided in this Section, such  
7 party shall be entitled to contribution from each of the other parties in proportion to  
8 the population contained within the boundaries of the Member as last determined  
9 by the California Department of Finance as of the date that the obligation of the  
10 Authority for such indemnification is liquidated.

11 **21. INSURANCE:** The Authority shall obtain general liability and  
12 environmental insurance containing liability in such amounts as the Board shall  
13 determine will be necessary to adequately insure against the risks of liability that  
14 may be incurred by the Authority. The Members, their officers, directors and  
15 employees, shall be named as additional insureds.

16 **22. CLAIMS:** All claims against the Authority, including, but not limited to,  
17 claims by public officers and employees for fees, salaries, wages, mileage, or any  
18 other expenses, shall be filed within the time and in the manner specified in  
19 Chapter 2 (commencing with Section 910) of Part 3, Division 3.6 of Title 1 of the  
20 Government Code.

21 **23. ENTIRE AGREEMENT REPRESENTED:** This Agreement represents  
22 the entire agreement among the parties as to its subject matter and no prior oral or  
23 written understanding shall be of any force or effect. No part of this Agreement may  
24 be modified without the written consent of all of the parties.



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

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

7                                   **Consolidated Waste Management Authority**  
8   707 W. Acequia  
9   Visalia CA 93291  
10    (559) 738-3318  
11    FAX: (559) 730-7043

12  
13                   **MEMBERS:**

14  
15  
16                   City of Dinuba  
17                   405 E. El Monte Way  
18                   Dinuba, CA 93618  
19                   (Fax No.: (559) 591-5902 / Confirming No.: (559) 591-5906)

20  
21  
22                   City of Lindsay  
23                   P.O. Box 369  
24                   Lindsay CA 93247  
25                   (Fax No.: (559) 562-5748 / Confirming No.: (559) 562-5945)

26  
27  
28                   City of Porterville  
29                   291 N. Main Street  
30                   Porterville, CA 93257  
31                   (Fax No.: (559) 781-6437 / Confirming No.: (559) 782-7460)

32  
33  
34                   City of Tulare  
35                   411 E. Kern Ave.  
36                   Tulare CA 93274  
37                   (Fax No.: (559) 685-2398 / Confirming No.: (559) 684-4200)

38  
39  
40                   City of Visalia  
41                   707 W. Acequia  
42                   Visalia CA 93277  
43                   (Fax No.: (559) 730-7043 / Confirming No.: (559) 738-3318)

44



1 City of Exeter  
2 P.O. Box 237  
3 Exeter, CA 93221  
4 (Fax No.: (559) 562-3516 / Confirming No.: (559) 592-3318  
5  
6

7  
8 City of Farmersville  
9 909 W. Visalia Rd.  
10 Farmersville, CA 93223  
11 (Fax No.: (559) 747-6724 / Confirming No.: (559) 747-0458  
12

13  
14 City of Woodlake (member until June 30, 2006)  
15 350 N. Valencia Blvd.  
16 Woodlake, CA 93286  
17 (Fax No.: (559) 564-8776 / Confirming No.: (559) 564-2317  
18

19  
20 County of Tulare  
21 2800 Burrel  
22 Visalia, CA 93291  
23 (Fax No.: (559) 733-6318 / Confirming No.: Fax (559) 733-6531  
24

25  
26 Notice delivered personally or sent by facsimile transmission is deemed to  
27 be received upon receipt. Notice sent by first class mail shall be deemed received  
28 on the fourth day after the date of mailing. Any party may change the above  
29 address by giving written notice pursuant to this Section.

30 **26. CONSTRUCTION:** This Agreement reflects the contributions of all  
31 parties and accordingly the provisions of Civil Code section 1654 shall not apply to  
32 address and interpret any uncertainty.

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

36 **28. WAIVERS:** The failure of any party to insist on strict compliance with  
37 any provision of this Agreement shall not be considered a waiver of any right to do  
38 so, whether for that breach or any subsequent breach.



1                   **29. EXHIBITS AND RECITALS:** The recitals and the Exhibits to this

2 Agreement are fully incorporated into and are integral parts of this Agreement.

3                   **30. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This

4 Agreement is subject to all applicable laws and regulations. If any provision of this

5 Agreement is found by any court or other legal authority, or is agreed by the

6 parties, to be in conflict with any code or regulation governing its subject, the

7 conflicting provision shall be considered null and void. If the effect of nullifying any

8 conflicting provision is such that a material benefit of the Agreement to any party is

9 lost, the Agreement may be terminated at the option of the affected party. In all

10 other cases the remainder of the Agreement shall continue in full force and effect.

11                   **31. FURTHER ASSURANCES:** Each party agrees to execute any

12 additional documents and to perform any further acts which may be reasonably

13 required to effect the purposes of this Agreement.

14                   **32. COUNTERPARTS:** This Agreement may be signed in one or more

15 counterparts, each of which shall be deemed an original, but all of which together

16 shall constitute one and the same instrument.

17                   **THE PARTIES,** having read and considered the above provisions, indicate

18 their agreement by their authorized signatures below.

19 /

20 /

21 Dated: \_\_\_\_\_

CITY OF DINUBA

22  
23  
24 By \_\_\_\_\_  
25 Mayor  
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28 \_\_\_\_\_  
29 ATTEST  
30 Clerk of the City of Dinuba  
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Dated: \_\_\_\_\_

CITY OF LINDSAY

By Ed Manning  
Mayor

[Signature]  
ATTEST  
Clerk of the City of Lindsay

Dated: 3/28/06

CITY OF PORTERVILLE

By \_\_\_\_\_  
Mayor

\_\_\_\_\_  
ATTEST  
Clerk of the City of Porterville

Dated: \_\_\_\_\_

CITY OF TULARE

By \_\_\_\_\_  
Mayor

\_\_\_\_\_  
ATTEST  
Clerk of the City of Tulare

Dated: \_\_\_\_\_  
UTILITIES

CITY OF TULARE BOARD OF PUBLIC

By \_\_\_\_\_

\_\_\_\_\_  
ATTEST  
Secretary of the Board



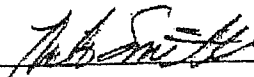
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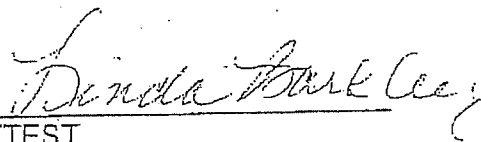
CITY OF DINUBA Signature page

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

Dated: 4-11-06

CITY OF DINUBA

By   
Mayor

  
ATTEST  
Clerk of the City of Dinuba



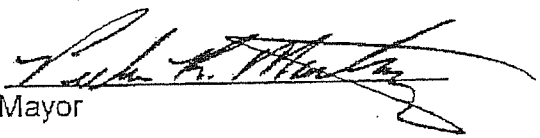
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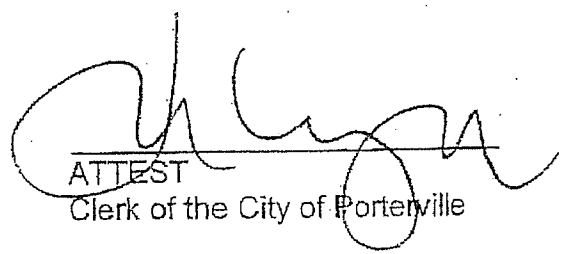
CITY OF PORTERVILLE Signature page

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

Dated: April 4, 2006

CITY OF PORTERVILLE

By   
Mayor

  
ATTEST  
Clerk of the City of Porterville



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CITY OF TULARE Signature page

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

Dated: 4/20/06

CITY OF TULARE

By Wayne Hinner  
President, Board of Public Utilities  
Commissioners

[Signature]  
ATTEST  
Secretary, Board of Public Utilities  
Commissioners



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CITY OF VISALIA Signature page

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

Dated: 4-17-06

CITY OF VISALIA

By *Jesus J. Ramirez*  
Mayor

*[Signature]*  
ATTEST *Chief Deputy City*  
Clerk of the City of Visalia

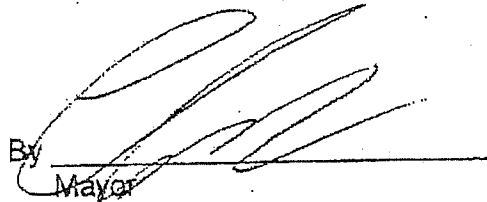



CITY OF EXETER

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

Dated: 4/25/06

CITY OF EXETER

By   
Mayor

  
ATTEST  
Clerk of the City of Exeter




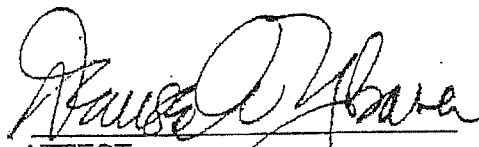
COUNTY OF TULARE

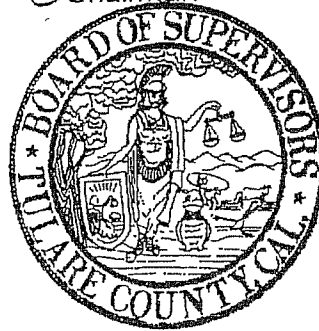
THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

Dated: April 18, 2006

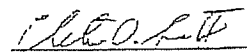
COUNTY OF TULARE

By   
J. Steven Worthley,  
Chairman

  
ATTEST  
Clerk of the Board



Approved to Form  
County Counsel

  
Deputy 4-18-06



1  
2  
3 CITY OF FARMERSVILLE Signature page

4  
5 THE PARTIES, having read and considered the above provisions, indicate their  
6 agreement by their authorized signatures below.

7  
8  
9 Dated: 4/21/06

CITY OF FARMERSVILLE

10  
11  
12  
13  
14 By Michael Santana  
15 Michael Santana, Mayor  
16

17  
18  
19  
20 Rosemary Silva  
21  
22 ATTEST  
23 Rosemary Silva, Clerk of the City of Farmersville  
24  
25



**COUNCIL AGENDA: NOVEMBER 5, 2013**

**SUBJECT:** APPROVAL OF PORTERVILLE GOLF COURSE TWILIGHT RATE

**SOURCE:** PARKS AND LEISURE SERVICES DEPARTMENT

**COMMENT:** On March 19, 2013, the City Council approved a nine hole twilight rate of \$5 green fees and \$9 cart fee beginning at 3:00 p.m. Tuesday-Sunday during the months of daylight savings. Due to the popularity and increase of play with the twilight rate, Porterville Golf Course Professional, Casey Butler, is now requesting the rate be implemented year around.

Mr. Butler is proposing that the rate go into effect after 2:00 p.m. during the months of non-daylight savings time. Current fees are \$12 for nine holes and \$5 for each additional nine. The cart fee is \$11 for nine holes and \$20 for eighteen holes. The current contract with Mr. Butler states that the City agrees to pay him 21% of all green fees and 25% of golf cart fees collected. The golf course is open Tuesday-Sunday.

The twilight rate commenced April 2013. Attached is a comparison of April through September 2012-13. Foot traffic is calculated by the amount of players per round, including repeat play. Twilight players fall under the repeat 9.

The repeat 9 play increased every month since the inception of the twilight rate. Revenue numbers show a year-to-date increase of \$5,278 over the six months that were evaluated.

The Parks and Leisure Services Commission and staff recommend the implementation of the twilight rate during non-daylight savings time.

**RECOMMENDATION:** That the City Council approve the proposed nine hole twilight rate of \$5 green fee and \$9 cart fee beginning at 2:00 p.m. Tuesday-Sunday during the months of non-daylight savings time.

**ATTACHMENT:** Golf Course Attendance/Revenue Report

DS Director MB Appropriated/Funded

J City Manager

**ITEM NO.:** 23



	Apr-12	Apr-13	May-12	May-13	Jun-12	Jun-13
9-hole	571	446	660	429	623	435
18-hole	55	111	71	63	59	65
repeat 9	35	564	47	808	18	605
monthly tickets	70	75	89	71	82	58
9 hole cart	227	218	291	204	63	69
18 hole cart	43	72	59	50	320	232
repeat cart	19	231	28	282	28	267
Golfers	661	1121	778	1300	700	1105
<b>Total</b>	<b>\$18,324.00</b>	<b>\$24,519.00</b>	<b>\$22,325.00</b>	<b>\$22,261.00</b>	<b>\$21,261.00</b>	<b>\$21,403.00</b>
	Jul-12	Jul-13	Aug-12	Aug-13		
9-hole	587	315	505	411		
18-hole	53	51	52	52		
repeat 9	20	431	37	560		
monthly tickets	68	58	73	65		
9 hole cart	305	195	272	225		
18 hole cart	56	47	53	53		
repeat cart	25	180	27	210		
Golfers	660	797	594	1023		
<b>Total</b>	<b>\$19,220.00</b>	<b>\$16,511.00</b>	<b>\$17,961.00</b>	<b>\$19,674.50</b>		



COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: BID RESULTS FOR MATHEW STREET SHOULDER STABILIZATION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On October 24, 2013, staff received three (3) bids for the Mathew Street Shoulder Stabilization Project. The proposed project consists of the installation of curb and gutter, sidewalk, driveways, asphalt concrete paving, and other appurtenant construction along Mathew Street between Olive Avenue and Tomah Avenue. Re-striping Mathew Street between Olive Avenue and Morton Avenue is also a component of the project. Unfortunately, two (2) of the bids were not in compliance with the specifications for this federally funded project and must be deemed non-responsive. The bids are as follows:

	<u>Contractor</u>	<u>Amount</u>
1.	Seal Rite Paving & Grading Fresno, CA	\$246,577.00*
2.	Serna Construction Fresno, CA	\$279,951.00*
3.	Lee's Paving Visalia, CA	\$316,527.70

\*Non-Responsive Bid

The Estimate of Probable Cost for construction is \$233,115. The lowest responsive bid is 35.8% over the estimate. An additional \$31,652.77 is necessary for the construction contingency (10%) and it is anticipated that an additional \$15,826.38 (5%) is needed for construction management, quality control, and inspection services for a total estimated project cost of \$364,006.85. Pursuant to current policy adopted by City Council during the September 4, 2012, meeting, the low responsive bid would normally be rejected (exceeding 10% of the Engineer's Estimate of Probable Cost).

Dir MR  
RPWD Appropriated/Funded MB CM J

Item No. 24



However, the Congestion Mitigation Air Quality (CMAQ) Grant will fund 88.53% of "participating" construction items specific to shoulder stabilization (i.e., curbs, gutters, sidewalks, ADA ramps and minor paveout). The Mathew Street project requires full reconstruction within the project limits and a high percentage of the work is considered "non-participating". Measure R Alternative Transportation Funds and Local Transportation Funds are the funding sources for the "non-participating" items of work and the 11.53% grant match. Below is a summary of available funding based on funding authority documents (E-76) from Caltrans:

**CALTRANS CONSTRUCTION E-76 (FINAL) FUNDING SUMMARY:**

Congestion Mitigation & Air Quality Grant (CMAQ):	\$ 58,988
Measure R Alternative Transportation Fund:	\$102,900
Local Transportation Fund:	<u>\$115,000</u>
<b>Total</b>	<b>\$276,888</b>

The question before the Council is whether to award or reject awarding a contract to the lowest responsible bidder. The pros of awarding a contract or rejecting all bids are listed below:

**PROS TO AWARDING CONTRACT:**

- *Under Caltrans & FHWA rules, the awarding agency (City) must invoice for construction reimbursement dollars within 6 months of receiving the E-76. Failure to invoice within 6 months of receiving an E-76 may jeopardize the CMAQ grant. Staff is inquiring with Caltrans for a construction billing extension and hope to announce a decision during this meeting.*

*This rule can be satisfied if a contract is awarded to the lowest responsible bidder during tonight's Council meeting. Invoicing within the 6 month time period becomes questionable if an award is not made during tonight's Council meeting because re-advertising the project will force the project to begin in early to late spring.*

- *Save on re-advertisement costs.*
- *The contract documents are geared towards a winter school break completion date. The contractor will be penalized significantly if the project is not completed during this "end of year" school break.*



### **PROS TO REJECTING ALL BIDS:**

- *Potential construction cost savings if re-bid. This may be the case if the two low bidders resubmit their bids and provide proper Disadvantaged Business Enterprise (DBE) documentation.*
- *Appropriation of an additional \$90,000 to \$100,000 of unallocated Local Transportation funds will be necessary to finance the lowest responsible bidder. Rejection of all bids and rebidding the project may negate this budget appropriation.*

Although the possibility exists that the City will receive favorable bids if we re-advertise, there are no guarantees that the City will receive less costly bids. The fact of the matter is that construction bids are climbing to pre-2008 levels throughout the valley.

**RECOMMENDATION:** That City Council direct staff to:

1. Award the Mathew Street Shoulder Stabilization Project to Lee's Paving in the amount of \$316,527.70, inclusive of a 10% contingency to cover unforeseen construction costs and 5% for construction management, quality control and inspection and direct the Finance Director to prepare a budget adjustment to the project in the amount of \$100,000; or
2. Reject all bids and authorize the City Engineer to advertise for new bids with the full understanding that the CMAQ Grant may not be available to pay for the concrete improvements associated with the project.

**ATTACHMENT:** Locator Map