

**CITY COUNCIL AGENDA
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
DECEMBER 17, 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 Negotiators: John Lollis, Patrice Hildreth, 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: 280 North Fourth Street. Agency Negotiators: John Lollis, Patrice Hildreth, and Donnie Moore. Negotiating Parties: City of Porterville and CSET. Under Negotiation: Terms and Price.
 - 3-** Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APNs: 253-185-007, 261-140-024, 253-210-009, and 253-210-015. Agency Negotiator: John Lollis, Patrice Hildreth, and Brad Dunlap. Negotiating Parties: City of Porterville and County of Tulare. Under Negotiation: Terms and Price.

- 4- 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.
- 5- Government Code Section 54956.95 – Liability Claim: Claimant: Valerie Carter. Agency claimed against: City of Porterville.
- 6- Government Code Section 54956.95 – Liability Claim: Claimant: Larry Lopez, Jr. Agency claimed against: City of Porterville.
- 7- Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One Case.

6:30 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Council Member McCracken
Invocation

PRESENTATIONS

Miss Porterville and Her Court
Southern California Gas Company

AB 1234 REPORTS

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

- 1. Tulare County Local Agency Formation Committee (LAFCO) – December 4, 2013
- 2. Tulare County Association of Governments (TCAG) – December 9, 2013
- 3. Tulare County Economic Development Corporation – December 11, 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 – December 5, 2013
 - 2. Library & Literacy Commission – December 10, 2013
 - 3. Charter Review Committee – December 4, 2013
 - 4. Youth Commission – December 9, 2013
 - 5. Arts Commission
 - 6. Transactions and Use Tax (“Measure H”) Oversight Committee
 - 7. Ad Hoc Military Banner Committee
- II. Staff Informational Reports
 - 1. 2013 City Charter Review Committee Proposed Revised City Charter

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 December 10, 2013**
2. **Authorization to Purchase One (1) Hydraulic Dump Trailer**
Re: Considering authorization to purchase one hydraulic dump trailer from Jacobsen Trailer, Inc., of Fowler, California, for \$8,032.03.
3. **Authorization to Purchase Chase Park Restroom**
Re: Considering authorization to purchase a Structure Case pre-fabricated restroom for the Chase Avenue Park for \$99,573.
4. **Authorization to Purchase Farebox Collection Equipment**
Re: Considering authorization to negotiate for the purchase of farebox collection units, electronic tickets, spare parts and upgrades from GFI Genfare.
5. **Award of Contract – Mathew Street Shoulder Stabilization Project**
Re: Considering awarding contract in the amount of \$218,424.40 to MAC General Engineering of Porterville 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 Morton Avenue; and the re-striping of Mathew Street between Olive Avenue and Morton Avenue.
6. **Authorization to Amend Teeter & Associates Contract to Update the Porterville Animal Shelter and Dog Park Project**
Re: Considering approval of amendment to Teeter & Associates contract for the Porterville Animal Shelter and Dog Park project design in the amount of \$41,490.
7. **Intent to Set a Public Hearing for Adjustment of City Athletic Field Lighting Fee**
Re: Considering approval to schedule a Public Hearing for January 21, 2013, to adjust the City athletic fields lighting fee.
- 7a. **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

8. **Text Amendment to the Porterville Municipal Code Pertaining to Inconsistencies with the Development Ordinance**
Re: Considering adoption of a draft ordinance approving minor modifications the Development Ordinance and the Municipal Code relating to consistency references between the Porterville Development Ordinance and the Municipal Code.

9. Adoption of California Building and Fire Codes

Re: Considering approval of draft ordinances adopting the 2013 Editions of the California Building, Plumbing, Mechanical, Electrical, Fire, Green Building Standards, Residential, Administrative, Reference Standards, and Energy Codes.

10. Public Health Goal Report

Re: Informational item regarding the City of Porterville's Public Health Goal Report.

HEARINGS

11. Resolution of Necessity Pertaining to the Acquisition of a Portion of Property (1.051 acres) Located at APN #259-050-025, Owner Estate/Interest of Corridor Group LLC – for Proposed Improvements to Newcomb Street (Newcomb Shoulder Stabilization Project)

Re: Considering approval of Resolution of Necessity requiring the exercise of the Power of Eminent Domain pertaining to the acquisition of property for improvements to Newcomb Street in compliance with the requirements of Section 1245.210 et seq. of the Code of Civil Procedure of the State of California.

SCHEDULED MATTERS

12. Implementation of Porterville Development Ordinance

Re: Considering approval of a resolution formalizing transitional implementation of the adopted revisions to the Porterville Development Ordinance.

13. Medical Marijuana Regulations and Local Regulation – Update Concerning Status of State Law and Request for Direction

Re: Consideration of recent developments and case law regarding medical marijuana regulation.

14. Wall of Fame Placement Procedure

Re: Consideration of Wall of Fame placement procedure, including the recommendations of the Parks and Leisure Services Commission.

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 January 7, 2014.

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

Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda packet are available for public inspection during normal business hours at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, and on the City's website at www.ci.porterville.ca.us.

COUNCIL AGENDA: December 17, 2013

SUBJECT: 2013 CITY CHARTER REVIEW COMMITTEE PROPOSED REVISED
CITY CHARTER

SOURCE: Administration

COMMENT: Pursuant to the timeline established by the City Council, the Charter Review Committee has completed its examination and review of the City Charter, and submitted to the City Council its proposed amendments and revisions, which is attached for the Council's information and consideration. The City Council has, at its next regular meeting on January 7, 2014, scheduled the consideration of the Charter Review Committee's recommendations.

RECOMMENDATION: Information Only

ATTACHMENT: 2013 City Charter Review Committee Proposed Revised City Charter

C/M

Report No. II

**2013 CITY CHARTER REVIEW
ADVISORY COMMITTEE
PROPOSED REVISED CITY CHARTER**

The 2013 City Charter Review Advisory Committee hereby submits the following City Charter to the City of Porterville Council showing all revisions, amendments, and additions recommended by the Committee:

CITY CHARTER

Sec. 1. Name of city; perpetual succession.

The municipal corporation now existing and known as the "City of Porterville" shall remain and continue a body politic and corporate, as at present, in fact and in law, by the name of the "City of Porterville," and by such name shall have perpetual succession.

Sec. 1.1 City Motto

"In God We Trust" shall be designated as the official motto of the city of Porterville.

Sec. 2. Boundaries.

The boundaries of the City of Porterville shall continue as now established until changed in some manner authorized by law.

Sec. 3. Rights and liabilities of cities; prior contracts, liabilities, etc., continued in effect.

The City of Porterville shall remain vested with and continue to have, hold, and enjoy, all property, rights of property, and rights of action of every nature and description, now pertaining to said municipality, and is hereby declared to be the successor of the same. No right, liability, pending suit or prosecution on behalf of, or against, the city shall be affected by the adoption of this Charter. All contracts entered into by the city prior to the taking effect of this Charter shall continue in full force and effect.

Sec. 4. General powers of city; official seal.

The City of Porterville, by and through its Council and other officials, shall have and may exercise all powers necessary or appropriate to a municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution, and which it would be competent for this Charter to set forth particularly or specifically; and the specifications herein of any particular powers shall not be held to be exclusive or any limitation upon this general grant of power. General Powers of the city include, but are not limited to, the powers necessary or appropriate to promote the health, welfare and education of its inhabitants. The city shall have and use a common seal and the official seal hereinbefore adopted and now in use by said city shall continue to be the official seal of said city.

Sec. 4.1. Intergovernmental Powers.

The City may exercise and perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by agreement or otherwise, with any one or more states or any agency or *special district* of California; or any governmental jurisdiction, *including Indian Tribes*, or nonprofit corporation thereof, or the United States or any of its agencies or instrumentalities.

Sec. 4.2. Liberal interpretation.

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way any of the powers granted by this Charter.

Sec. 5. When elections to be held; special elections; procedure for elections for local improvements or levies of assessment or bonded indebtedness.

General municipal elections shall be held in said city at the same time as the ~~Primary~~ *general* election for ~~State~~ *Federal* Offices ~~for in~~ the State of California under and pursuant to the general laws of the State of California governing elections in charter cities, so far as the same may be applicable, and except as herein otherwise provided. All other municipal elections that may be held by authority of this Charter or of general law shall be known as special municipal elections, and shall be held, substantially as in this Charter provided for general municipal elections; providing, however, that special elections to authorize any municipal or local public improvement, or the levy of assessment therefor, or to create a municipal bonded indebtedness, shall be held in conformity with any general law of the state relative thereto under which any such proceeding is instituted by the council, in case such general law provides for the procedure and manner of holding elections thereunder.

Sec. 6. Initiative, referendum and recall.

Ordinances may be initiated, or the referendum exercised on ordinances passed by the council, under and in accordance with the Constitution and general laws of the state. Any elective officer may be recalled from office under and pursuant to the provisions of the Constitution and general laws, provided that a special election shall be held at the same time as the recall election, in accordance with the Constitution and general laws of the state, for the purpose of electing officers to fill the place or places of the officers sought to be recalled.

Sec. 7. Elective officers to be residents.

In order to be eligible to hold any elective office in the City of Porterville, a person must be a resident and elector therein, and shall have resided in said city for at least thirty days next preceding the filing of their nominating papers, or equivalent declaration or candidacy, and be an elector at the time of said filing.

Sec. 8. Elective officers.

The elective officers of the City of Porterville shall be five councilmen ~~members~~, who shall be elected from the city at large at a general municipal election therein.

Sec. 9. Legislative body; composition; election; term; compensation; ineligibility for other city office; president of council; vice-president; installation of newly elected officers; powers to be exercised by council.

The legislative body of the city shall consist of five persons elected at large, which body shall be known as the council.

The members of the council shall be elected by the qualified voters of the city at a general municipal election to be held in the said city at the same time as the ~~primary general~~ election for ~~state~~ *Federal* offices for the ~~Sstate~~ *State* of California. They shall hold office for the period of four (4) years from and after the ~~Monday next succeeding the day of their election date upon which they are installed in office in accordance with this section and/or until their successors are elected; and qualified; installed in office. provided the respective terms of any council member presently serving or elected at the time of the adoption of this amendment shall be extended one additional year to the even-numbered year following the expiration of their respective terms.~~

The members of the council shall each receive the sum of twenty dollars (\$20.00) for each council meeting actually attended; the mayor shall receive the sum of twenty-five dollars (\$25.00) for each meeting of the council actually attended, provided, however, that the members of the council shall not receive compensation for more than seven meetings in any one calendar month. In addition, the council shall be reimbursed for necessary expenses incurred for authorized city business.

The members of the council shall not be eligible to any other office or employment with the city.

The council shall reorganize at ~~its next~~ *the* meeting following each municipal election ~~wherein the newly-elected members are installed~~ and shall choose one of ~~their~~ *its* number to serve as president of the council to be known as mayor. At this time, the council shall also choose one of ~~their~~ *its* number to serve as vice-president, and he/she shall act as mayor pro tempore in case of the absence, sickness or other disability of the mayor. The mayor and mayor pro tempore shall serve a two year term, but either may be removed at any time by a ~~majority four fifths (4/5)~~ vote of the council. If the council removes the mayor prior to the expiration of his/her term pursuant to this provision, the council shall choose one of ~~their~~ *its* number to serve as mayor until the next organizational meeting.

~~The council shall meet at its usual meeting place on the first Monday after any municipal election, duly canvass the returns and declare the result thereof, and install the newly elected officers, if any. Where the canvass of the vote is to be completed by the city elections official, the canvass shall be completed no later than the fourth Friday after the election. Upon completion of the canvass, the elections official shall certify the results to the city council, which shall meet at its usual place of meeting no later than the fourth Friday after the election to declare the results and to install the newly elected officers. For a consolidated election, the city elections official, upon receipt of the results of the election from the elections official conducting the election, shall certify the results to the city council,~~

which shall meet at its usual place of meeting no later than the next regularly scheduled city council meeting following the presentation of the canvass of the returns, or at a special meeting called for this purpose, to declare the results and to install the newly elected officers.

All powers granted to and vested in the city of Porterville by law or by the provisions of this charter, shall, except as herein otherwise provided, be exercised by the council to be designated the "Council of the City of Porterville." The council shall be the governing body of the city and subject to the express limitations of this charter shall be vested with all powers necessary or convenient for a complete and adequate system of municipal government, consistent with the constitution of the state.

Sec. 9.1 Public Participation.

The council shall continue to encourage the organization of and communication with representative neighborhood groups throughout the city to encourage citizen participation, to seek advice and input and to provide information to the public relative to city matters and affairs.

Sec. 10. Time and place of council meetings; meetings to be open to public; council to adopt rules for conduct of its own proceedings.

The council shall provide by ordinance for the time and place of holding its meetings. Special meetings shall be called in accordance with the provisions of general law. There shall be at least one (1) regular meeting in each month. Any regular meeting may be adjourned to a date and hour certain, and such adjourned meeting shall be a regular meeting for all purposes.

Except for special meetings with the legislative bodies of other political subdivisions, or informational meetings held within ~~the~~ *a community in accordance with the Brown Act* where no action is to be taken, all meetings of the council shall be held ~~in the city hall~~ *at or on city-owned facilities*, unless by reason of fire, flood, or other disaster, or lack of seating capacity, the city ~~hall facilities~~ cannot be used for that purpose, and all meetings shall be open to the public. The council shall adopt rules for conducting its proceedings and may punish its members or other persons present at any meeting for disorderly conduct.

Sec. 11. Quorum; compelling attendance at meetings.

A majority of the council shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time and postpone the consideration of or action upon, pending business in like manner. Attendance at meetings of absent members of the council may be compelled in such manner and under such penalties as may be prescribed by ordinance.

Sec. 12. How council acts on legislative matters; resolutions; records of votes; requirement that all members vote; how ordinances headed; ordaining clause; ordaining clause of ordinances passed by initiative; when ordinances to be passed; publication; effective date of ordinances; certain matters required to be passed by ordinance; repeal of ordinances; revision of ordinances; ordinances to be signed by mayor and attested by clerk.

The council shall act in legislative matters by ordinance or resolution only. Other action of the council, unless herein otherwise provided, may be taken by resolution, motion, or order.

The ayes and noes shall be taken *and recorded* upon the passage of all ordinances, and resolutions, *or other actions* and entered upon the record of the proceedings of the council. ~~Upon the request of any member of the council, the ayes and noes shall be taken and recorded upon any vote.~~ All members present at any meeting must vote; provided that no such member of the council shall cast a vote when to do so would be contrary to the applicable provisions of state law, including the laws pertaining to conflict of interest.

No ordinance or resolution shall be passed without receiving the affirmative votes of at least three members of the council.

Each ordinance shall be headed by a brief title which shall indicate the purport thereof.

The ordaining clause of all ordinances adopted by the council shall be, "The Council of the City of Porterville do ordain as follows:"

The ordaining clause of all ordinances passed by the vote of the electors of the city, through the exercise of the initiative shall be, "The People of the City of Porterville do ordain as follows:"

No ordinance shall be passed by the council at any time other than at a regular meeting, *or and until its publication (or a summary thereof with notification that the full text is available on the City's website and at the City Clerk's office)* at least once in the official newspaper of the city at least three days before its final passage.

Except an ordinance calling or otherwise relating to an election, no ordinance passed by the council of the City of Porterville, except when otherwise specially required by the laws of the state, and except an ordinance for the immediate preservation of the public peace, health or safety, which contains a declaration of, and the facts constituting its urgency and is passed by a four-fifths (4/5) vote of the council, and no ordinance granting a franchise, shall go into effect before thirty (30) days from its final passage.

Except as otherwise provided by general law, or this Charter, no action providing for the granting of any franchise, or for the establishing or changing fire zones, or for the ~~imposing~~ *establishing* of any penalty, shall be taken except by ordinance.

No ordinance, or portion thereof, shall be repealed except by ordinance. No ordinance shall be revised, reenacted or amended by reference to its title only; but the ordinance to be revised or reenacted, or the section or sections thereof to be amended, or the new section or sections to be added thereto shall be set forth and adopted according to the method provided in this section for the enactment of ordinances, and such revision, re-enactment, amendment, or addition, shall be made by ordinance only.

All ordinances shall be signed by the mayor and attested by the city clerk.

Sec. 13. Legislative officers; administrative officers; other officers and commissions; consolidation of offices.

The legislative officers of the City of Porterville shall consist of five (5) members of the council, one of whom shall act as mayor. In addition, there shall be the following administrative officers who shall be appointed by the council: a city manager, a city attorney and a city clerk.

The council may, by ordinance provide for such other officers as deemed necessary and the council may further establish by ordinance commissions deemed by it to be necessary or proper to aid in the orderly administration of the City of Porterville.

All members of commissions and legislative committees shall be appointed by the council. The council may appoint members to other boards or committees. Administrative officers may appoint members to temporary administrative committees.

The council may, at any time, when in its judgment, the interest of the city so demands, by a four-fifths (4/5) vote thereof, consolidate by ordinance two or more city administrative offices and place the same in charge of one such officer.

Sec. 14. Official bonds; where filed.

When in this Charter not otherwise prescribed, the council shall determine which officers shall give bonds for the faithful performance of their official duties, and shall fix the amount of said bonds. Such officers before entering upon their official duties, shall execute a bond to the city in the penal sum required, which bond shall include any other office of which they may be ex-officio incumbent. Said bonds shall be approved by the council, filed with the city clerk, and paid for by the city; provided, however, that the bond of the city clerk when approved as aforesaid shall be filed with the ~~city treasurer~~ *City Manager or his/her designee*. Nothing in this section shall prevent the authorization or furnishing of a blanket bond to assure the honesty or faithful performance of any of its officers or employees.

Sec. 15. Oath of office.

Every officer and employee of the city, before entering upon the duties of his/her office shall take and subscribe the oath of offices as provided for in the Constitution of the state, and shall file the same forthwith with the city clerk.

Sec. 16. Vacancies in office; when offices declared vacant.

A vacancy in any legislative office, from whatever cause arising excluding any vacancy created due to a successful recall election, shall be filled by appointment by the council, such appointee to hold office until the next general municipal election, when a successor shall be chosen by the electors for the unexpired term; provided, that if the council fails to agree or for any other reason does not fill such vacancy within thirty days after the same occurs, then such vacancy shall be filled by the mayor; provided, however, that if for any reason the seats of a majority of the council shall become vacant, then the city clerk shall call a special election at once to fill the vacancies for the unexpired terms, and the same shall be conducted substantially in the manner provided for general municipal elections.

If any legislative officer of the city shall remove from the city or absent himself/herself therefrom for more than thirty (30) days consecutively without permission of the council, or for said period shall wilfully fail or refuse to perform the duties of his office, though able so to do, *or shall fail to attend three (3) consecutive regular city council meetings unless prevented from attending by sickness (but in no case for a period exceeding ninety (90) days)*, or shall fail to qualify, or shall resign, or be convicted of a felony or a crime of moral turpitude, or be adjudged mentally incompetent, his/her office shall thereupon become vacant.

Sec. 17. Appointment and removal of officers and employees; grounds of removal; hearing prior to removal.

Except as may be otherwise in this Charter provided, the affirmative vote of three (3) members of the council shall be required for the appointment of or the removal of any administrative officer for cause. "For cause" includes, but is not limited to, refusal to perform the duties of his/her office, being adjudged mentally incompetent, or being convicted of a felony or crime of moral turpitude. The administrative officer is entitled to a hearing before the council on the validity of the grounds providing the basis for removal for cause.

The council may remove any of its administrative officers at its pleasure, without cause stated or at hearing had, by the affirmative vote of four members cast in favor of such removal, and the determination of the council in such matters shall be final and conclusive.

Sec. 17-A. Retirement age for city employees. Repealed March 8, 1983.

Sec. 17A. Retirement age for city employees effective April 2, 1975. Repealed March 8, 1983.

Sec. 18. Compensation of appointive officers and employees; limitation as to least amount of compensation; fees abolished.

The council shall fix the compensation of all appointees and employees except officials and members of boards, commissions and committees serving gratuitously. Said compensation shall be fixed, increased or changed by resolution, adopted by a three-fifths (3/5) vote of the council.

The duties or the minimum compensation of any appointive official shall not be so established by the council as to in effect abolish the office.

The salary of any appointive official or employee of the city shall cease forthwith with his/her removal or resignation from office or employment, ~~and he/she shall only be entitled to compensation for that expired proportion of the month or term of service during which he/she shall have performed his/her duties.~~ (3-4-03); *provided, however, that the City Manager may be entitled, if authorized by the City Council, to severance pay in an amount not to exceed the equivalent of 12 months' salary, subject to any other restrictions set forth by State law.*

No officer or employee shall be allowed any fee, perquisite, emolument, or stipend, in addition to, or save as embraced in the salary or compensation fixed for such office by the council, if

a council appointee, or the manager if a manager appointee, and all fees received by such officers or employees in connection with his/her official duties shall be paid by him/her into the city treasury, and a written report made of same, provided, however, that rewards which have been publicly offered for the apprehension of criminals may be received by the officer or officers making the apprehension, after deducting therefrom any expense that the city may have sustained in the matter.

Sec. 19. Duties of the mayor generally.

The mayor shall be the executive head of the city. In case of riot, insurrection, extraordinary emergency, or other disaster, he/she shall be responsible for making a public declaration of a state of emergency and shall assume all other responsibilities required of him/her pursuant to the city's disaster plan.

In the name and on behalf of the city, he/she shall sign all contracts, deeds, bonds and other legal instruments in which the city is a party.

He/she shall represent the city at all ceremonial functions of a social or patriotic character when it is desirable or appropriate to have the city represented officially thereat.

In the absence of the mayor, for whatever reason, the vice president of the council shall assume the duties as mayor pro tempore.

Sec. 20. City attorney; qualification; duties; assistant attorney.

The city attorney shall be an attorney-at-law, admitted to practice as such before the supreme court of the state, and who has been in actual practice therein for at least three years next preceding his/her appointment. All other things being equal, an attorney who has had special training or experience in municipal corporation law shall be appointed to this office if practicable. The city attorney shall be legal advisor of the council, and all other city officials. He/she shall prosecute all violations of city ordinances and shall draft all contracts and other legal documents and instruments, required by the council or the city manager. He/she shall perform such other legal services as the council may direct and shall attend all meetings of the council unless excused therefrom by three members thereof or by the mayor.

When from any cause the city attorney is unable to perform the duties of his/her office, he/she may, with the consent of the council, appoint some other qualified attorney to temporarily act in his/her place and whenever in the judgment of the council, the interests of the city require it, it may employ assistant counsel.

The city attorney shall deliver all books, records, papers, documents and personal property of every description, owned by the city, to his/her successor in office, and the city shall provide a means of safe-guarding the same.

He/she shall possess such other powers, and perform such additional duties, not in conflict with this Charter as may be prescribed by ordinance.

Sec. 21. City manager; to become resident; powers and duties; bond.

The city manager shall be the administrative head of the city government. ~~The City Manager shall establish residency in the City of Porterville within a reasonable period of time within the discretion of the Council.~~ His/her powers and duties shall be as follows:

- (a) To see that all ordinances are enforced.
- (b) To appoint except as otherwise provided in this Charter, all heads of departments, subordinate officials and employees, and remove the same, except as otherwise herein provided, and have general supervision and control over the same.
- (c) Repealed. 4-6-71.
- (d) To see that all the provisions of all franchises, permits, and privileges granted by the city are fully observed, and report to the council any violation thereof.
- (e) To act, as purchasing agent for the city, should he/she be so appointed by the council.
- (f) To attend all meetings of the council unless excused therefrom by the council or mayor.
- (g) To examine or cause to be examined, without notice, the conduct of any officer or employee of the city.
- (h) To keep the council advised as to the needs of the city.
- (i) To devote his/her entire time to the interests of the city.
- (j), (k) Repealed. 4-6-71.
- (l) Repealed. 3-4-03.
- (m) To possess such other powers and perform such additional duties as are prescribed by this Charter, or may be prescribed by ordinance.
- (n) Repealed. 4-6-71.

Sec. 22. City manager pro tem.

In case of an illness, scheduled vacation or scheduled absence from the city of the city manager, for a period of up to thirty (30) days, the individual designated as the deputy city manager shall serve as city manager pro tem. In the event that a deputy city manager has not been designated or the deputy city manager is otherwise unable to serve, the city manager shall appoint one of the existing directors of the city departments to serve as city manager pro tem.

In the case of any other absence, excluding a vacancy of the city manager position, from the city of the city manager, or his/her temporary disability to act as such, the council shall appoint a city

manager pro tem, who shall possess the powers and discharge the duties of the city manager during such absence or disability only; provided, however, that a city manager pro tem shall have no authority to appoint or remove any city department director except with the unanimous formal approval of all of the members of the council. In the event that the city manager position is vacant, the council shall appoint a city manager or acting/interim city manager in accordance with Sections 13 and 17 of this Charter.

Sec. 23. City clerk; to be clerk of the council when so appointed; duties; to keep corporate seal.

The city clerk shall be clerk of the council when so appointed by the council.

It shall be the duty of the city clerk to attend all sessions of the council and keep a full and correct record of the proceedings of each of said bodies. The proceedings of the council shall be kept in a book marked "Minutes of the Council." He/she shall keep a book marked "Ordinances" into which he/she shall copy all city ordinances certifying that each such copy is a full and correct copy of the original ordinance, and stating that the same has been published as required by law. Said record copy, so certified, shall be prima facie evidence of the contents of the ordinance, and of its passage and publication and shall be admissible as such evidence in any court or proceedings. Such record shall not be filed but shall be returned to the custody of the city clerk. He/she shall also keep a book marked "Resolutions," into which he/she shall copy all resolutions passed by the council. Both the books containing ordinances and resolutions shall be adequately and comprehensively indexed. He/she shall conduct promptly, and keep a systematic record of all correspondence between the council and third parties relating to city business.

He/she shall be the keeper of the corporate seal of the city, and shall affix the same to instruments or writings requiring authentication. He/she shall safely keep all records, documents, ordinances, resolutions, books and such other papers and matters, as may be regularly delivered into his/her custody or required by law or ordinance to be filed with him/her.

Sec. 24. Director of finance; payment of demands; to check annual tax roll.

The city manager shall appoint the director of finance of the city, who shall serve as the general accountant of the city. He/she shall receive and preserve in his office all accounts, books, vouchers, documents and papers relating to the accounts of the city, its debts, revenues and other financial affairs. He/she shall keep an account of all moneys paid into and out of the treasury; and keep informed as to the exact condition of the treasury at all times.

Every demand upon the treasury, before its approval by the council, must be presented to the director of finance, who shall satisfy himself/herself whether the money is legally due, and its payment authorized by law. If satisfactory, he/she shall draw a warrant upon the treasury for the payment thereof. Every demand approved by the director of finance shall specify on its face the several items composing it, with the amounts and dates thereof. The approval of the council shall not be necessary to draw warrants for the payment of regular salaries of officials and employees of the city, or for payment of any obligation previously authorized by law, or by resolution or order of the council.

He/she shall render ~~each month~~ *on at least a quarterly basis*, a statement to the council showing the financial condition of the city, and annually a like statement covering all of the financial transactions of the city during the year previous.

After the annual tax roll has been completed, and before it is deposited with the collector, the director of finance shall make a check of the roll correcting any errors that may be found and endorse same with his/her approval.

Sec. 25. City treasurer; appointment; duties; bond. Repealed April 6, 1971.

Sec. 26. Repealed April 2, 1963.

Sec. 27. Chief of police; duties; appointment and removal of subordinates; to make rules and regulations. Repealed April 6, 1971.

Sec. 28. Fire chief; appointment; duties and powers. Repealed April 6, 1971.

Sec. 29. Collector; duties. Repealed April 6, 1971.

Sec. 30. City engineer; powers and duties. Repealed April 6, 1971.

Sec. 31. Office of purchasing agent authorized; duties of heads of offices to submit estimates to agent; duties generally; competitive bidding; preference to local merchants. Repealed April 6, 1971.

Sec. 32. Street superintendent. Repealed April 6, 1971.

Sec. 33. Qualifications of health officer; duties. Repealed April 6, 1971.

Sec. 34. Vacations. Repealed April 6, 1971.

Sec. 35. Additional duties of officers.

Besides the duties herein specified, all officers and boards shall perform such other appropriate duties as may be prescribed by ordinance or the general laws.

Sec. 36. Officers and employees to continue in office until successor elected or qualified.

Until the election or appointment and induction into office of the officers and employees in this Charter provided for, the present officers and employees shall without interruption, continue to perform the duties of their respective offices and employments for the compensation provided by existing ordinance or laws.

Sec. 37. Resignations from office; candidates for office not required to resign from other office prior to appointment or qualification; when resignation effective. Repealed April 6, 1971.

Sec. 38. Officers and boards having power to administer oaths and issue subpoenas; contempt proceedings. Repealed March 8, 1983.

Sec. 39. Fiscal year.

The fiscal year of the city shall commence on the first day of July of each year, or at such other time as may be fixed by ordinance.

Sec. 40. Taxation to conform to general laws of the state.

Except as otherwise herein provided the council shall, by ordinance, provide a system for the assessment, equalization, levy, and collection of taxes, which, as nearly as may be, shall conform to the system provided by the general laws of the state; ~~provided, that all sales for delinquent taxes shall be made to the City of Porterville.~~ Should the council fail to fix the tax rate within the time prescribed, then the tax rate of the previous year shall constitute the rate for the current year.

Sec. 41. Board of equalization. Repealed March 4, 2003.

Sec. 42. Annual tax levy to be affixed.

The council, not later than its second regular meeting in August, shall fix a rate of taxation sufficient to raise the amounts established by council action pursuant to Section 44. The council shall notify the County Assessor who shall thereupon compute and carry out the amount of tax so levied on each parcel of property contained in the assessment roll for the City.

Sec. 43. Limitation on tax levy. Repealed March 4, 2003.

Sec. 44. Limitation on special tax levies; enumeration of purposes for which special taxes may be levied.

The council shall have the power to levy and collect taxes, in addition to the taxes herein or by general law authorized to be levied and collected, sufficient to pay and maintain the sinking fund of the bonded indebtedness of the city; and for the following purposes:

(a) For the support and maintenance of the fire department, for fire protection purposes, at the rate of not more than three mills on each dollar of the assessed valuation of the real and personal property within the city;

(b) For the acquisition, construction and maintenance, as the case may be, of permanent public improvements, of real property, of public buildings and structures, and of public offices, including equipping and furnishing the same, at the rate of not more than two mills on each dollar thereof;

(c) For the maintenance and support of free public libraries and reading rooms in said city, at the rate of not more than two mills on each dollar thereof.

(d) For the maintenance and support of free public parks and playgrounds in said city, at the rate of not more than two mills on each dollar thereof;

(e) For music, entertainment, and promotion, at the rate of not more than one mill on each dollar thereof.

Sec. 45. Taxes and assessments to constitute a lien; foreclosure.

All taxes and assessments levied, together with any percentages imposed for delinquency and cost of collection, shall constitute liens on the property assessed; every tax upon the personal property shall be a lien upon the real property of the owner thereof. The liens provided for in this section shall attach as of the first Monday in March each year and may be enforced by actions to foreclose such liens in any court of competent jurisdiction, or by a sale of the property affected and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance; provided that when real estate is offered for sale for city taxes due thereon the same shall be sold to the city in like case and manner, and with like effect and right of redemption as it may be struck off and sold to the state when offered for sale for county taxes; and the council shall have power to provide by ordinance for the procedure to be followed in such sales to the city and redemption thereafter. *This section is cumulative to any rights and remedies the City may have under the general laws relating to the enforcement and collection of taxes and assessments.*

Sec. 46. Disposition of city money.

All moneys collected for the city by any officer or department thereof shall be paid into the treasury daily if possible, and at least once each week.

Sec. 47. Application of surplus bond money.

All moneys derived from the sale of bonds, including premiums and accrued interest, shall be applied to the purposes for which the bonds were voted. After such purposes have been fully completed and paid for, any remaining surplus shall be transferred to the bond and interest redemption fund.

Sec. 48. Payment of city money; expenditures and indebtedness; presentation of demands; warrants on treasury.

No money shall be expended and no indebtedness shall be incurred on behalf of the city, for any purpose, unless and until the same shall have been authorized by ordinance by four-fifths (4/5) a majority vote of the Council; provided that effective January 1, 2004, and following every Council election thereafter, the City Council may, by a four-fifths majority vote, adjust the amount of money that may be expended, or the indebtedness that may be incurred, on behalf of the City, without prior specific Council authorization.

The City Council, by ordinance approved by 4/5th resolution by a majority vote of the Council, shall establish the maximum amount of money to be expended and/or indebtedness incurred

on behalf of the City without first requiring specific Council authorization, except as otherwise provided for in this Charter; provided further that said maximum amount once established by ordinance resolution shall not be adjusted until after each general Council election, ~~commencing with the first such election occurring after January 1, 2004, and then only by a 4/5th majority vote.~~

No indebtedness shall be incurred on behalf of the city, for any purpose, unless and until the same shall have been authorized by resolution by a four-fifths (4/5) vote of the Council; provided that following every Council election, the City Council may, by a four-fifths majority vote, adjust the amount of indebtedness that may be incurred, on behalf of the City, without prior specific Council authorization.

The City Council, by resolution approved by a four-fifths vote of the Council, shall establish the maximum amount of indebtedness to be incurred on behalf of the City without first requiring specific Council authorization, except as otherwise provided for in this Charter; provided further that said maximum amount once established shall not be adjusted until after each general Council election, and then only by resolution by a four-fifths majority vote.

Indebtedness evidenced by general obligation bonds shall be incurred by the City only if approved by the City Council and authorized by the voters as required by the Constitution and general laws of the State.

All demands against the city shall, before being paid, be presented to and approved by the proper board, commission or officer, as herein provided. Demands for which no appropriation has been made shall be presented to the city manager, provided, that any person dissatisfied with the refusal of the city manager to approve any demand, in whole or in part, may present the same to the council, and the approval of such demand by the council shall have the same effect as its approval by the city manager; and provided further, that if the council shall provide for other boards or commissions, it may make provision for the presentation to and approval by any such board or commission of demands for liabilities incurred by them.

The council may provide for a revolving cash fund as authorized by ordinance by four-fifths majority vote of the Council; provided that effective January 1, 2004, and following every Council election thereafter, the City Council may, by a four-fifths majority vote, adjust the revolving cash fund. The amount shall be paid to the city manager, and used by him/her for the payment in cash, of expenditures provided for in the budgets that cannot conveniently be paid otherwise. He or she shall account to the council for all payments by him or her out of said fund when making demand for the replenishment of the same, and at such other times as the council may require, and they shall thereupon be charged against the proper appropriations.

All demands approved by the proper board, commission or officer shall be presented to the director of finance, who shall examine the same, and if the amount thereof is legally due and there remains on his books an unexhausted balance or an appropriation against which the same may be charged, he/she shall approve such demand and draw and sign his warrant on the treasurer therefor, payable out of the proper fund. Objections of the director of finance to any demand may be overruled by the council, and the director of finance shall thereupon draw his warrant as directed by the

council. Such warrants, when presented to the treasurer, shall be paid by him/her out of the fund therein designated, if there be sufficient money in such fund for that purpose. A warrant not paid for lack of funds shall be registered, and all registered warrants shall be paid in the order of registration when funds are available therefor; all such registered warrants shall bear interest at the rate of six percent (6%) per annum. The director of finance shall draw his/her warrants for payment of municipal or other bonds payable out of the funds in the treasury upon presentation and surrender of the proper bonds or coupons without approval of anybody or officer. The council may make further regulations by ordinance regarding the presentation, approval and payment of demands against the city.

Sec. 49. *Monthly Quarterly financial reports required.*

All officers required by this Charter or by ordinance to submit ~~monthly~~ *quarterly* financial reports to the council, shall submit the same in duplicate, and upon their approval by the council, one of each of such duplicate reports shall be posted forthwith in the office of the city clerk in such manner as to be readily accessible to the public, and shall remain so posted until the approval by the council of the next succeeding financial report when the same procedure shall be followed in relation thereto. The council, in addition to such posting, may, in its discretion, cause any of such reports to be published at any time.

Sec. 50. *Approving illegal claims to forfeit office.*

Every officer who shall wilfully approve, allow or pay, any demand on the treasury not authorized by law, shall be liable to the city individually and on his/her official bond for the amount of the demand so approved, allowed, or paid, and shall forfeit his/her office and be forever disbarred from holding any position in the service of the city.

Sec. 51. *Annual budget contents; publication.*

Not later than thirty days before the end of the city's fiscal year, the city manager shall submit to the council an estimate of the expenditures and revenues of the city departments for the ensuing year. This estimate shall be compiled from detailed information obtained from the several departments on uniform blanks to be furnished by the manager.

Sufficient copies of such estimate shall be prepared and submitted that there may be copies on file in the office of the council for inspection by the public, unless the council shall publish the same in a newspaper.

After duly considering the estimate and making such corrections or modifications thereto as shall seem advisable to it, the council shall by resolution adopt a general budget and such resolution shall operate as an appropriation of funds to the amounts and for the purposes set forth in the budget so adopted. At any meeting after the adoption of the budget, the council, by a vote of three (3) members, may amend or supplement so as to authorize the transfer of unused balances for one purpose to another purpose or to appropriate available revenues not included in the budget.

Sec. 51A. *General reserve fund; purposes. Repealed April 6, 1971.*

Sec. 52. *Uniform accounts and reports. Repealed April 6, 1971.*

Sec. 53. Written Investment Policy.

The city manager shall recommend and the city council by resolution shall adopt a policy to govern the investment of all city monies, which policy shall be consistent with applicable state law and shall, at a minimum, provide for the investment of all monies in such a manner as to assure the preservation and safety of principal and the integrity of record keeping; identify the types of allowable investments; and provide for the safekeeping of securities.

Sec. 54. Applicability of general laws.

All general laws of the state applicable to municipal corporations now or hereafter enacted, and which are not in conflict with the provisions of this Charter or the ordinance of the city hereafter enacted shall be applicable to the city. The council may adopt and enforce ordinances which in relation to municipal affairs, shall control as against general laws of the state.

Sec. 55. Repealed April 2, 1963.

Sec. 56. Public library.

The free public library of the City of Porterville shall be established, conducted, carried on, managed and operated in accordance with rules, regulations and ordinances passed and adopted by the council of the City of Porterville.

Sec. 57. Park commission; composition; term; powers and duties; authority to accept donations, legacies or bequests. Repealed April 6, 1971.

Sec. 58. Pensions.

The council shall have and is hereby granted full power and authority to establish, regulate, maintain, revise and amend, a retirement, disability, death benefit and pension system, or either or any of them, for its elective and appointive officers and employees of the City of Porterville and their dependents. Authority and power is hereby vested in the City of Porterville, its council, its officers, agents and employees to do and perform any act or exercise any authority granted, permitted or required whereby the City of Porterville may fully participate in a retirement, disability, death benefit and pension system for its employees.

A system for retirement, disability death benefit and pension rights for employees and their dependents authorized by this section when established by the council, shall not be terminated without securing the approval of a majority of the electors of the City of Porterville at an election held therefor.

The city shall levy and collect taxes sufficient to pay all costs and expenses required to be paid by the City of Porterville to enable the City of Porterville to participate in any such retirement, disability, death benefit or pension system established, set up or maintained by, for or on behalf of the City of Porterville and the limitations of section forty-three of the Charter of the City of Porterville, with respect to levying and collecting of municipal taxes, shall not apply to any tax authorized by this article.

Sec. 59. ~~Employment~~ Hiring of certified public accountant to audit city books.

The city council shall ~~employ~~ *contract with* a certified public accountant annually to investigate the accounts and transactions of all city officers and employees having the collection, custody or distribution of public money or property, or the power to approve, allow or audit demands on the city treasury.

Sec. 60. Financial interests prohibited.

City officers and employees are prohibited from having a financial interest in any contract, sales or purchases in accordance with applicable State law.

Sec. 61. Competitive bidding for contract work for erection, improvement and repair of public buildings, etc., where the amount is in excess of two thousand five hundred dollars.

~~When a required expenditure exceeds five thousand dollars~~ *When the City determines to contract for work for a public project, and the cost estimate for said work exceeds five thousand dollars,* it shall be contracted for and let to the lowest responsible bidder after notice.

As used in this section public project means a project for the erection, improvement and repair of public buildings and works; work in or about streams, embankments, or other work for protection against overflow; street sewer work except maintenance or repair; furnishing supplies or materials for any such project, including maintenance or repair of streets, sewers or water lines.

The council may reject any or all bids presented and may, at its discretion, readvertise for other bids, or, the council may, after rejecting bids, determine and declare by a four-fifths (4/5) vote of all of its members that the work in question may be more economically or satisfactorily performed by day labor, or the labor or materials purchased at a lower price in the open market and after the adoption of a resolution to this effect it may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section.

The notice inviting sealed bids shall set a date for the opening of bids; the first publication shall be at least ten (10) days before the date of the opening of the bids; shall be published at least twice not less than five (5) days apart in the official newspaper selected by the council.

In case of a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster, *or in the case of circumstances resulting in an ~~serious~~ imminent threat to public health and/or safety*, the council may, by resolution passed by a vote of four-fifths (4/5) of its members, determine and declare that the public interest or necessity demands the immediate expenditure of public money to safeguard life, health, or property, and thereupon they may proceed without advertising for bids or receiving the same, to expend, or enter into a contract involving the expenditure of any money required in such emergency, on hand in the city treasury and available for such purpose. (4-10-61)

The City reserves the right to perform any public project or make or repair any public property or improvement using its own forces, regardless of cost.

[SEPARATE STAND ALONE MEASURE TO BE SUBMITTED TO VOTERS:]

Sec. 61. *Competitive bidding for contract work for erection, improvement and repair of public buildings, etc., where the estimated contract cost is in excess of fifty thousand dollars.*

When the City determines to contract for work for a public project, and the cost estimate for said work exceeds fifty thousand dollars, it shall be contracted for and let to the lowest responsible bidder after notice.

As used in this section public project means a project for the erection, improvement and repair of public buildings and works; work in or about streams, embankments, or other work for protection against overflow; street sewer work except maintenance or repair; furnishing supplies or materials for any such project, including maintenance or repair of streets, sewers or water lines.

The council may reject any or all bids presented and may, at its discretion, readvertise for other bids, or, the council may, after rejecting bids, determine and declare by a four-fifths (4/5) vote of all of its members that the work in question may be more economically or satisfactorily performed by day labor, or the labor or materials purchased at a lower price in the open market and after the adoption of a resolution to this effect it may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section.

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In case of a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster, or in the case of circumstances resulting in an imminent threat to public health and/or safety, the council may, by resolution passed by a vote of four-fifths (4/5) of its members, determine and declare that the public interest or necessity demands the immediate expenditure of public money to safeguard life, health, or property, and thereupon they may proceed without advertising for bids or receiving the same, to expend, or enter into a contract involving the expenditure of any money required in such emergency, on hand in the city treasury and available for such purpose.

The City reserves the right to perform any public project or make or repair any public property or improvement using its own forces, regardless of cost.

Sec. 62. **Public improvements.**

The improvement widening and opening of streets, the planting, care, and maintenance of trees, and the making of any other public improvement or undertaking of any public project may be done and assessments therefor may be levied in conformity with and under the authority conferred by

general laws; provided, however, that the council may by ordinance adopt a procedure for the *construction and/or* improvement and repair of streets, alleys or other public places *or facilities*; the laying of pipes, or conduits or for the planting, care or maintenance of trees, or for the removal of dirt, rubbish, weeds and other rank growth and materials which may injure or endanger neighboring property or the health or the welfare of inhabitants of the vicinity, from buildings, lots and grounds and the sidewalks opposite thereto and for making and enforcing assessments against property benefitted or affected thereby, or from which such removal is made, for the cost of such improvements or removal and may make such assessments a lien on such property superior to all other claims or liens thereon, except state, county and municipal taxes, but no such ordinance shall prevent the council from proceeding under general laws for said purposes.

Sec. 63. Franchises; limitation on renewals.

Every franchise or privilege to construct, maintain, or operate, any means or method of transportation in or over any street, lane, alley or other public place within the city or to lay pipes or conduits, or erect poles or wires or other structures in or across any such public way or place, for the transmission of gas, electricity, or other commodity, or for the use of public property or places now or hereafter owned by the city, shall be granted under and in pursuance of the general franchises; provided, no new franchise or the renewal of any existing franchises shall be granted except upon the condition that at least two percent of the gross annual receipts derived from the use of such franchise shall be paid to the city. In all cases the applicant for a franchise shall advance the cost of advertising the same.

Every such franchise shall require the grantee thereof to agree to a joint use of its property with others, wherever practicable, and nothing herein shall be construed as prohibiting the council from requiring other conditions in granting the same not inconsistent with the constitution and general laws. No franchise or privilege so granted shall be sold, leased, assigned or otherwise alienated, without the express consent of the council given by ordinance and subject to referendum.

Sec. 64. When franchise required.

No person, firm, or corporation shall exercise any franchise or privilege, except to the extent he or it may be entitled to do so by the constitution of the state, or of the United States, in, upon, under, over, or along any street, public way, or public place in the city without having first obtained a grant therefor as provided in this Charter and by general law.

Sec. 65. Newspaper advertising and printing.

The council shall advertise annually for the submission of sealed proposals or bids from newspapers of general circulation in the city, for the publication of all ordinances and other legal notices required to be published. The newspaper to whom such contract is awarded shall be known and designated as the official newspaper. The rates for publishing public notices shall not exceed the customary rates charged for publishing legal notices of a private character.

Contracts for legal advertising shall be awarded to the lowest responsible bidder, provided no contract for legal advertising shall be awarded to any newspaper except a daily newspaper of general circulation, as defined by the Government code.

Sec. 66. Public Records. Delivery and safekeeping of documents.

The public shall have access to public records kept and maintained by the city in accordance with the law.

Sec. 67. Interference with performance of duties of city manager; interference by city manager in elections.

~~No member of the council shall in any manner attempt to influence or coerce the city manager in the making of any appointment or the purchase of supplies in accordance with applicable state and federal law.~~

~~The council shall deal with the administrative functions of the city through the city manager. The Council shall only have direct contact with the directors of the city's departments for the purpose of asking questions.~~

Neither the City Council nor any of its members shall order or request the appointment of any person to an office or employment or his/her removal therefrom, by the City Manager, or by any of the department heads or any other employees in the administrative service of the City. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service and powers under the City Manager solely through the City Manager, and neither the City Council nor any member shall give orders to any subordinates of the City Manager, either publicly or privately.

Any City Council member violating the provisions of this section, or voting for a resolution or ordinance in violation of this section shall be guilty of a misdemeanor and, upon conviction, shall cease to be a Council Member. Additionally, any City Council member violating this section may be subject to civil remedies as specified in Section 74.

[Note – the remainder of section 67 was moved to proposed new section 67.1]

Section 67.1 Political Activities by Legislative and Administrative Officers, Employees

Political activities of and campaign contributions by the city's legislative officers, administrative officers, and employees shall be governed in accordance with applicable state and federal law. All legislative and administrative officers and all city employees are prohibited from engaging in political activities during working hours. City officers and employees are prohibited from engaging in political activities at their work place.

Furthermore, city officers and employees are prohibited from engaging in political activities on city properties, provided this prohibition does not pertain to property that is otherwise open to the public for the purpose of engaging in political activities.

Sec. 68. Leases of city property.

In every lease of city property the basic amount of rental shall be fixed by the council.

All indentures of lease shall provide that the council may terminate the same at its pleasure and repossess the premises therein described, upon ~~three months' notice thereof~~ *written advance*

notice equivalent to either 30 days or a maximum of five percent (5%) of the total lease term period as specified in the lease, but not including option periods, and upon paying to the lessee the market value of any improvements made or put upon said premises by the lessee. The market value of such improvements shall be determined by a board of appraisers consisting of one appraiser appointed by the council, and a lessee appraiser appointed by the lessee.

In the event of their failure to agree upon the market value of the improvements within thirty days from and after their appointment, said two appraisers may appoint a third appraiser as a member of said board, and the determination of the majority of said board of appraisers, as to the market value of the improvements, shall be final and conclusive and binding on all concerned. Should the two appraisers by the council and the lessee respectively, fail for forty days from and after their appointment to agree upon the market value of the improvements or to appoint a third appraiser, then upon the petition in writing of either party to any such lease, a judge of the superior court of Tulare County is hereby empowered to appoint the third appraiser upon such board; provided, however that the council shall not terminate any such lease or repossess any such premises except for a public use and purpose; provided, further, that no lease of city property shall be made for a maximum term of more than fifty years.

For any month-to-month lease of city property, the above notice requirements shall not be required, and responsibility for improvements and any associated reimbursement may be negotiated and set forth in the terms of the lease.

Sec. 69. Inventory of city property.

At the time for preparing and submitting the budget, as prescribed by this Charter, a complete inventory of all personal property belonging to the city shall be prepared and filed with the city clerk, and such inventory shall be submitted to the council by the city manager at the time of the submission of the annual budget. Such inventory shall be prepared under the direction of the city manager, and all chief officials and department heads of the city shall be responsible for making and transmitting to the city manager a full and correct inventory of all city personal property in their possession or under their control.

Sec. 70. Equipment. Repealed April 6, 1971.

Sec. 71. Zoning authorized.

The council of the City of Porterville shall have the power to establish such zoning systems within the city as may in its judgment be most beneficial, and in such zoning systems may prohibit the erection or maintenance of any class or classes of buildings within certain areas, and may classify, and reclassify the zones established. The council may also prescribe the character of materials and methods of construction of buildings erected within any zone area, and may establish setback lines as it may consider necessary and proper.

Sec. 72. Suspension of employees from office and fines. Repealed March 8, 1983.

Sec. 73. Natural or other disasters.

The city shall have in place a disaster plan, consistent with County, State and Federal policies, to be implemented in the event of an emergency or disaster.

Sec. 74 Violations.

This section shall apply only if a penalty/violation is not otherwise explicitly provided for in the Charter. A violation of any provision of this Charter shall be a misdemeanor with maximum fines and imprisonment as allowed by law, except that such violation may be prosecuted as an infraction, at the discretion of the City Council.

Any violation of this Charter may be prosecuted in the name of the People of the State of California or may be redressed by the City through any legal or equitable remedies; including but not limited to civil action and/or injunction, or administrative citation in accordance with adopted City ordinances. To the fullest extent allowed by law, civil remedies may be utilized in addition to or as an alternative to criminal enforcement.

The City shall be authorized to recover its full costs, including reasonable attorneys' fees, for the enforcement of any violation of this Charter or Municipal Code. The City Council is authorized to adopt any necessary or appropriate ordinances to implement this section of the Charter.

Respectfully Submitted on December 17, 2013:

A handwritten signature in black ink, appearing to read "Allan Bailey", written over a horizontal line.

**Allan M. Bailey, Chair
2013 City Charter Review Committee**

**SPECIAL CITY COUNCIL MEETING MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
DECEMBER 10, 2013, 5:15 P.M.**

Call to Order at 5:15 p.m.

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

The Council adjourned 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 Member McCracken, Vice Chair Ward, Agency Member Shelton, Agency Member Gurrola, Chair Hamilton

ORAL COMMUNICATIONS

None

JOINT CITY COUNCIL/AGENCY CLOSED SESSION:

- A. Closed Session Pursuant to:
1- 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 adjourned to a Meeting of the Porterville City Council.

**RECONVENE OPEN SESSION AND
REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION**

The Council reconvened Open Session at 5:21 p.m. after which time it was reported that no reportable action had been taken during Closed Session.

ORAL COMMUNICATIONS

None

SCHEDULED MATTERS

1. PROGRAM SUPPLEMENTS TO THE LOCAL AGENCY-STATE MASTER AGREEMENT: FOUR CNG REFUSE TRUCKS, ONE PM10 CNG STREET SWEEPER AND ONE CNG THREE AXLE DUMP TRUCK

Recommendation: That the City Council:

1. Approve the program supplements by passing resolutions authorizing the Mayor to sign the subject program supplements; and
2. Direct staff to return the signed program supplements to CalTrans.

City Manager Lollis presented the item. Presentation of the staff report was waived by Council.

COUNCIL ACTION: MOVED by Council Member Gurrola, **SECONDED** by Vice Mayor Ward that the Council approve the program supplements by passing resolutions authorizing the Mayor to sign the subject program supplements; and direct staff to return the signed program supplements to CalTrans. The motion carried unanimously.

Resolutions 83-2013
84-2013, 85-2013

Disposition: Approved.

2. **APPROVAL FOR COMMUNITY CIVIC EVENT – PORTERVILLE IGLESIA DEL NAZARENO – MOTHERS UNITED AGAINST GANG VIOLENCE 2ND ANNUAL CANDLELIGHT VIGIL FOR VICTIMS OF CRIME – DECEMBER 12, 2013**

Recommendation: That the City Council approve the proposed Community Civic Event Application and Agreement submitted by Porterville Iglesia del Nazareno and Mothers United Against Gang Violence, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit 'A' of the Community Civic Event Application.

City Manager Lollis presented the item. The staff report was waived by Council.

COUNCIL ACTION: MOVED by Council Member McCracken, **SECONDED** by Council Member Gurrola that the Council approve the proposed Community Civic Event Application and Agreement submitted by Porterville Iglesia del Nazareno and Mothers United Against Gang Violence, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit 'A' of the Community Civic Event Application .

M.O. 01-121013

Disposition: Approved.

ORAL COMMUNICATIONS

None

OTHER MATTERS

- City Manager Lollis acknowledged Transit Manager Richard Tree for his outstanding efforts regarding the technology upgrades and Ribbon Cutting Ceremony at the City's Transit Center.

ADJOURNMENT

The Council adjourned at 5:29 p.m. to the meeting of December 17, 2013.

Patrice Hildreth, Chief Deputy City Clerk

SEAL

Cameron J. Hamilton, Mayor

COUNCIL AGENDA: DECEMBER 17, 2013

SUBJECT: AUTHORIZATION TO PURCHASE ONE (1) HYDRAULIC DUMP TRAILER

SOURCE: Finance Department – Purchasing Division

COMMENT: The Parks and Leisure Services Department has been using a 1996 trailer to haul temporary fencing, dirt, bark, barricades, tree branches, and miscellaneous equipment. The trailer is now 17 years old and needs to be replaced. Staff has assessed the needs of the department and requests approval from Council to purchase a new hydraulic dump trailer. The new trailer will be slightly larger than the old one, with a higher GVW (gross vehicle weight) rating, capable of larger and heavier loads. The hydraulic portion will ease the unloading of certain types of loads. The front of the box will rise hydraulically and, with a dual purpose rear gate, allow the spreading of material while unloading. The new trailer will also include ramps to load equipment into the cargo area of the trailer.

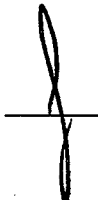
Staff has obtained the following quotes for a hydraulic dump trailer with the required specifications:

<u>Vendor</u>	<u>Amount</u>
Jacobsen Trailer Inc Fowler, CA	\$8,032.03
The Trailer Specialist Lockeford, CA	\$8,402.88
Big Tex Trailers West Anaheim, CA	\$8,816.13
Bonander Auto, Truck & Trailer Group, Bakersfield, CA	\$8,910.35

Staff reviewed the quotes and found the lowest quote responsive to the specifications. The trailer is listed in the proposed equipment replacement schedule approved by Council with the FY 2013-2014 budget. Funds for the purchase of the hydraulic dump trailer are available in the Parks and Leisure Services Department Equipment Replacement Funds.

RECOMMENDATION: That the City Council authorize the purchase of a hydraulic dump trailer from Jacobsen Trailer Inc and authorize payment for said equipment upon satisfactory delivery.

ATTACHMENTS: Vendor Quotes

Dir MB Appropriated/Funded MB CM 

Item No. 2

Jacobsen TRAILER INC.

Quotation

1128 E. South Ave.
Fowler, CA 93625
Phone: 559-834-5971
Fax: 559-834-2745

Quote Number:
4054

Quote Date:
Dec 5, 2013

Quoted to:

CITY OF PORTERVILLE
ATTN: PURCHASING DIVISION
291 N. MAIN STREET
PORTERVILLE, CA 93257

Date _____

Customer Signature _____

Salesman _____

Page:
1

Customer ID	Good Thru	Payment Terms	Sales Rep
CITY OF PORTERVILLE	1/4/14		

Quantity	Item	Description	Unit Price	Extension
1.00		10LX-12, BIG TEX DUMP TRAILER, 10,000# GVWR, 2 5/16" BALL COUPLER, ELECTRIC BRAKES, 2 5/16" BALL COUPLER, 2' SIDES, 'SPREADER GATE, LED LIGHTS, LOCKING TOOL BOX.	6,803.00	6,803.00
1.00		TARP ROLLER	190.00	190.00
1.00		TARP	85.00	85.00
1.00		SPARE TIRE	140.00	140.00
1.00	LABOR	LABOR TO INSTALL ROLLER AND TARP.	85.00	85.00
4.00	TIRE FEE	TIRE RECYCLING FEE	1.75	7.00
1.00		SHIPPING TO PORTERVILLE, CA	100.00	100.00
		DMV EXEMPT		
		COLOR: BLACK		
		TRAILER IN STOCK AND READY. NEED PO AND SIGNED QUOTE TO HOLD / START WORK.		
		READY IN 1 WEEK AFTER PO RECEIVED.		
		RUSSELL 782-7517		
			Subtotal	7,410.00
			Sales Tax	622.03
			Total	8,032.03

BIG TEX TRAILERS WEST

725 South Beach Blvd. Anaheim, CA 92804

ph: (714) 828-9900 fax (714) 828-8896

bigtexwest@gmail.com www.bigtexwest.com

QUOTATION

Customer Name:

City of Porterville

Date:

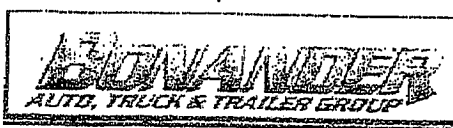
12/4/2013

Contact/Number:

Fax:

[illegible]

Quotations are valid for 90 days. Certain options may require additional features which may be may be advised upon later and additional charges accrued. All deposits are non-refundable and a minimum of 30 percent is required on any special order.



Dealer Quote

3900 Rosedale Hwy.
Bakersfield, CA 93308
661-322-3222 Phone
661-322-2215 Fax
661-496-1094 Cell

Date: 12/4/13

Customer: City of Porterville

PRICE:	\$7,695.00
Tarp Kit	\$250.00
Spare	\$165
Doc	\$65.00
License	\$39.00
Tire Fee	\$7.00
Sales Tax:	\$689.35
Total Quote:	<u>\$8910.35</u>
VIN #: TBD	

F.O.B. PORTERVILLE

Contact: Justin Walker

Make: 101x-12 Big Tex

Notes: Quote valid for 30 Days

COUNCIL AGENDA: DECEMBER 17, 2013

SUBJECT: AUTHORIZATION TO PURCHASE CHASE PARK RESTROOM

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: Parks and Leisure Services was awarded a \$2,150,000 Prop 84 Statewide Parks 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.

The preliminary construction cost estimate for a pre-fabricated, three stall unisex restroom, with a chase and storage room, was \$170,000. The following quotes for the restroom were received:

Structure Cast	\$99,573
Forcum/Mackey	\$153,115
CorWorth	\$157,456

The November 19, 2013, award of contract for Chase Park staff report included a summary of expenditures and pending allocations needed to complete the project. Included in the summary was the purchase of a restroom from an authorized purchasing program through the National School Boards Association. A bid from Structure Cast, which was received after the staff report came in, was \$53,542 lower than the previous low bid. Staff have reviewed the specifications and recommend the restroom be purchased from Structure Cast.

RECOMMENDATION: That the City Council authorize the purchase of the Structure Cast pre-fabricated restroom for the Chase Avenue Park.

M Director MB Appropriated/Funded

J City Manager

ITEM NO.: 3

COUNCIL AGENDA: DECEMBER 17, 2013

SUBJECT: AUTHORIZATION TO PURCHASE FAREBOX COLLECTION EQUIPMENT

SOURCE: Public Works Department - Transit

COMMENT: On August 21, 2012, staff received authorization from City Council to solicit a Request for Proposals to purchase various automatic farebox equipment for a base period of three years. The solicitation was later cancelled when staff determined that the City's current transit farebox collection system is proprietary. GFI Genfare was determined to be the only vendor capable of providing farebox equipment that is compatible with the City's current farebox collection system.

On October 2, 2012, staff received authorization from City Council to begin negotiations directly with GFI Genfare for the purchase of three farebox collection units, various spare parts and smart card upgrades needed to retrofit three new demand response vehicles delivered during fiscal year 2012/2013.

The City is now expecting delivery of four additional transit buses, two this month and two next fiscal year. Due to the expansion of transit services, staff will not be retiring any vehicles once the new vehicles arrive, therefore additional farebox collection units are required before these new vehicles can be added to active service.

Staff recommends, based on the continued use of highly specialized equipment and the substantial duplication of costs that will not be recovered through open competition, authorization to negotiate directly with GFI Genfare for the purchase of farebox collection equipment.

Staff received the attached sales quotation from GFI Genfare, \$42,677.93, for the purchase of two farebox collection units and all parts required before the two transit buses can be added to active service. Appropriate funds have been budgeted in the 2013/2014 fiscal budget and these expenses are 80% reimbursable through federal transit grants with a 20% local match covered by local transportation funds.

Dir Bra Appropriated/Funded MP CM J

Item No. 4

RECOMMENDATION: That the City Council:

- 1) Authorize staff to purchase farebox collection equipment from GFI Genfare at a cost not to exceed \$42,677.93; and
- 2) Authorize payment upon satisfactory delivery of the equipment.

ATTACHMENT: GFI Genfare Sales Quotation

P:\pubworks\General\Council\Transit - Authorization to Purchase Farebox Collection Equipment - 2013-12-17.doc



Genfare
A Division of SPX Corporation
751 Pratt Boulevard
Elk Grove Village, IL 60007
Ph: (847) 593-8855
Fax: (847) 593-8870

Page 1 of 2

Sales Quotation

Sold-To-Party

City of Porterville
291 N Main St
Porterville CA 93257

Ship-To-Party

City of Porterville
555 N. Prospect
Porterville CA 93257

Information

Sales Quote No. 5004551
Document Date 11/25/2013
Customer No. 557
Currency USD
Contact Name Richard Tree
Phone 559-782-7448
FAX 559-781-6437
EMAIL richardtree@portervilletransit.com
Validity Start Date 11/25/2013
Validity End Date 12/31/2013
Req Delivery Date 11/25/2013

End User

City of Porterville
291 N Main St
Porterville CA 93257

(2) 36 INCH Fast Fare Farebox with QR code reader, Magnetic TRiM and Smart Card reader.

Item	Material	Quantity	Price	Amount
10	ITEM Fast Fare Farebox	2 EA	15,500.00 USD	31,000.00
		Tax	1,317.50 USD	2,635.00
20	FREIGHT Freight	1 EA	375.00 USD	375.00
30	D28496-0001 S/A MODULE, CONTROLLER PCB	1 EA	1,209.99 USD	1,209.99
		Tax	102.85 USD	102.85
40	D26299-0002 VALIDATOR, BILL (BV08) w/ CC TALK	1 EA	720.00 USD	720.00
		Tax	61.20 USD	61.20
50	ITEM D28667-0002	1 EA	362.70 USD	362.70
		Tax	30.83 USD	30.83

Signature: _____

Date: 11/25/2013

Sales Representative:

Mark Mahon

Phone: 847-871-1115

Email:

mark.mahon@spx.com

Genfare Price Quotation Summary Terms & Conditions: All prices are valid for 30 days unless otherwise noted above. Delivery will be made within 120 days ARO unless other dates are quoted above. Payment terms are Net 30 days after delivery and based on Genfare customer credit acceptance. Notwithstanding any modifications negotiated with the customer, warranty is (1) year from installation date or (14) months from shipment for new system equipment, whichever comes first. All warranty items must be directed to Genfare for acceptance and disposition, not through OEM Bus Manufacturing Companies. The complete terms of the Genfare warranty are listed at www.genfare.com. Prices do not include any state or local taxes unless specifically listed. Tax is based on shipment and/or invoice date not quote and/or purchase order date. Quotation is FOB Elk Grove Village, IL and freight charges are not included. All price quotations are submitted in accordance with standard Genfare terms and conditions which are available on request.



Genfare
A Division of SPX Corporation
751 Pratt Boulevard
Elk Grove Village, IL 60007
Ph: (847) 593-8855
Fax: (847) 593-8870

Page 2 of 2

Sales Quotation

Sold-To-Party

City of Porterville
291 N Main St
Porterville CA 93257

Ship-To-Party

City of Porterville
555 N. Prospect
Porterville CA 93257

Information

Sales Quote No. 5004551
Document Date 11/25/2013
Customer No. 557
Currency USD
Contact Name Richard Tree
Phone 559-782-7448
FAX 559-781-6437
EMAIL richardtree@portervilletransit.com
Validity Start Date 11/25/2013
Validity End Date 12/31/2013
Req Delivery Date 11/25/2013

End User

City of Porterville
291 N Main St
Porterville CA 93257

Item	Material	Quantity	Price	Amount
60	C28602-0019 S/A, COIN VALIDATOR CC TALK NRI	1 EA	345.27 USD	345.27
	Tax	29.35 USD	1 EA	29.35
70	D23696-0004 BILL TRANSPORT ASSEMBLY	1 EA	580.92 USD	580.92
	Tax	49.37 USD	1 EA	49.37
80	D22192-0007 S/A TRIM, MAGNETIC-FAST FARE FAREBOX	1 EA	4,095.00 USD	4,095.00
	Tax	348.09 USD	1 EA	348.09
90	D20941-0002 S/A CASHBOX,S.S.,S-SHORT,DUAL W/CBID	1 EA	675.00 USD	675.00
	Tax	57.36 USD	1 EA	57.36
Final amount:				42,677.93

Signature: _____

Date: 11/25/2013

Sales Representative:

Mark Mahon

Phone: 847-871-1115

Email:

mark.mahon@spx.com

Genfare Price Quotation Summary Terms & Conditions: All prices are valid for 30 days unless otherwise noted above. Delivery will be made within 120 days ARO unless other dates are quoted above. Payment terms are Net 30 days after delivery and based on Genfare customer credit acceptance. Notwithstanding any modifications negotiated with the customer, warranty is (1) year from installation date or (14) months from shipment for new system equipment, whichever comes first. All warranty items must be directed to Genfare for acceptance and disposition, not through OEM Bus Manufacturing Companies. The complete terms of the Genfare warranty are listed at www.genfare.com. Prices do not include any state or local taxes unless specifically listed. Tax is based on shipment and/or invoice date not quote and/or purchase order date. Quotation is FOB Elk Grove Village, IL and freight charges are not included. All price quotations are submitted in accordance with standard Genfare terms and conditions which are available on request.

COUNCIL AGENDA: DECEMBER 17, 2013

SUBJECT: AWARD OF CONTRACT - MATHEW STREET SHOULDER STABILIZATION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On December 4, 2013, staff received six (6) 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.

The bids are as follows:

	<u>Contractor</u>	<u>Amount</u>
1.	MAC General Engineering Porterville, CA	\$218,424.40
2.	Bush Engineering Hanford, CA	\$230,996.00
3.	Central Valley Asphalt Lindsay, CA	\$264,096.49
4.	Seal Rite Paving & Grading Fresno, CA	\$268,177.00
5.	American Paving Fresno, CA	\$304,886.90
6.	V. Lopez & Sons Santa Maria, CA	\$326,535.70

The Estimate of Probable Cost for construction is \$233,115. The low bid is 6.3% under the estimate. An additional \$21,842.44 is necessary for the construction contingency (10%) and it is anticipated that an additional \$15,289.70 (7%) is needed for construction management, quality control, and inspection services for a total estimated project cost of \$255,556.54.

Dir Bee Appropriated/Funded MB CM J

Item No. 5

A 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:

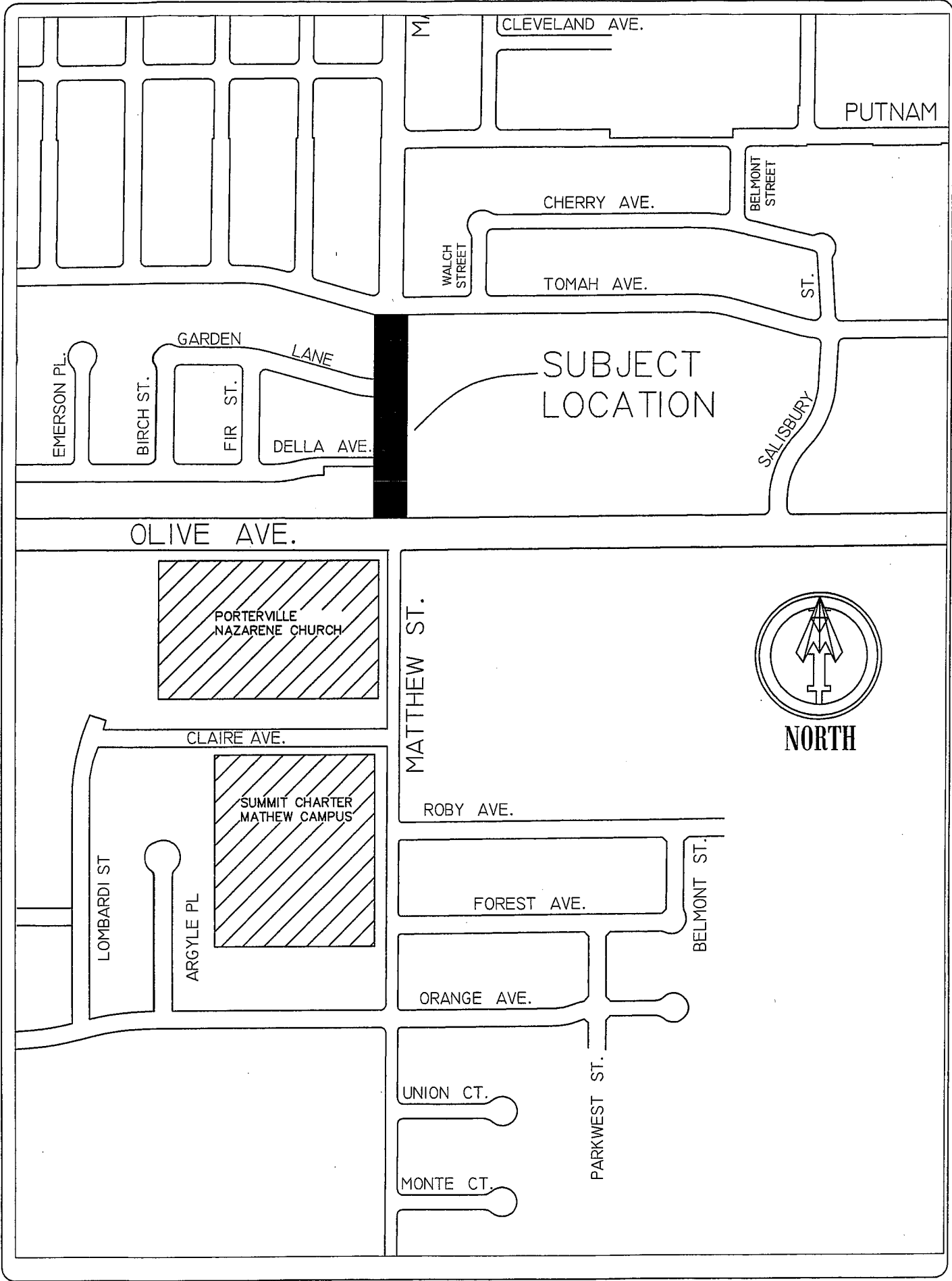
CALTRANS CONSTRUCTION E-76 (FINAL) FUNDING SUMMARY:

Congestion Mitigation & Air Quality Grant (CMAQ):	\$ 58,988
Measure R Alternative Transportation Fund:	\$102,900
Local Transportation Fund:	<u>\$115,000</u>
Total	\$276,888

RECOMMENDATION: That City Council direct staff to:

1. Award the Mathew Street Shoulder Stabilization Project to MAC General Engineering in the amount of \$218,424.40; and
2. Authorize a 10% contingency to cover unforeseen construction costs and 7% for Construction Management, Quality Control and Inspection.

ATTACHMENT: Locator Map



COUNCIL AGENDA: DECEMBER 17, 2013

SUBJECT: AUTHORIZATION TO AMEND TEETER & ASSOCIATES CONTRACT TO UPDATE THE PORTERVILLE ANIMAL SHELTER AND DOG PARK PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The purpose of this staff report to is get Council's authorization to amend Teeter & Associates existing contract to the Porterville Animal Shelter and Dog Park project in the amount of \$41,490. The amendment will direct Teeter & Associates to reposition the entire facility approximately 20' north to avoid an existing elderberry bush, correct any plan sheets affected by the building shift and modify the plans as needed to meet 2010 Building Code requirements.

Staff recently met with Teeter & Associates to discuss updating the Porterville Animal Shelter and Dog Park project plans and specifications to the 2013 Building Code. Unfortunately, a number of issues, such as the availability of the necessary software to confirm the building efficiency, is questionable until at least the end of summer 2014.

The addendum, if approved by Council, includes updating the plans and specifications to meet the 2010 Building Code, make application for a building permit by December 30, 2013, complete all internal reviews and provide comment back to Teeter & Associates in time to begin construction by June 30, 2014, to meet the intent of the 2010 Building Code. Approximately \$700,000 in Building Construction Fund, combined with \$625,000 from County PTAF settlement is the funding source for the Porterville Animal Shelter and Dog Park project.

RECOMMENDATION: That the City Council:

1. Direct the Public Works Director to amend Teeter & Associates contract for the Porterville Animal Shelter and Dog Park project design in the amount of \$41,490.

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Dir ~~BE~~ Appropriated/Funded ME CM J

Item No. 6

COUNCIL AGENDA: DECEMBER 17, 2013

SUBJECT: INTENT TO SET A PUBLIC HEARING FOR ADJUSTMENT OF CITY ATHLETIC FIELD LIGHTING FEE

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The current fee structure of \$15 per night for City athletic field lighting usage was adopted in 1994. Due to the length of time the current fee has been in place, along with the timing of the new softball diamond lights being installed at the Sports Complex, staff thought it would be a good time to evaluate the current athletic field lighting fee. Porterville is the only agency of those surveyed whose lighting fee is not set by the hour.

The Parks and Leisure Services Commission discussed the item at their November 7, 2013, and December 5, 2013, Commission meetings. All current organizations that use a City athletic field were notified of the Parks and Leisure Services meetings that included discussion of this topic. They will also be notified of the date of the Public Hearing.

The Parks and Leisure Services Commission and staff recommend a three year fee schedule to allow for leagues to adjust their budgets accordingly, similar to when the parking fee plan at the Sports Complex was implemented. The recommended fee schedule for youth is \$6 per hour year one, \$8 per hour year two, and \$10 per hour year three. To follow past Council direction regarding cost recovery being more for adult programs than youth, staff recommends \$10 per hour year one, \$12 per our year two, and \$14 per hour year three for adult program usage. All athletic field light users currently pay \$15 per night. The average amount of time a user utilizes the lights is three hours. At the proposed rate, the cost during year one would be \$18 (or \$3 more per use) for youth programs, and \$15 more for adult programs that last an average of three hours.

SCE rate plans fluctuate as does the hourly rate. Staff will revisit the athletic field lighting fee for evaluation after year three.

RECOMMENDATION: That the City Council set a Public Hearing for January 21, 2014, to allow for public comments and to consider adjusting the City athletic fields lighting fee.

DJ Director MB Appropriated/Funded

[Signature] City Manager

ITEM NO. 7

COUNCIL AGENDA: December 17, 2013

SUBJECT: REVIEW OF LOCAL EMERGENCY STATUS

SOURCE: Administration

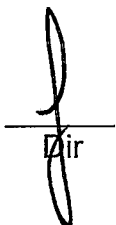
COMMENT: In accordance with the City Council's Resolution of Local Emergency adopted on December 21, 2010, and pursuant to Article 14, Section 8630 of the California Emergency Services Act, the Council must review the status of its local emergency at every regularly scheduled meeting and make a determination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

Since its last review on December 3, 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.

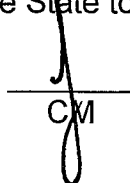
At its meeting on October 16, 2012, the Council awarded a contract in the amount of \$95,391.71 to Greg Bartlett Construction (Porterville), beginning CEMA repairs to Plano Street (south of Thurman Avenue), El Granito Street (near Zalud Park), E. Grand Avenue (at Henrahan Street), and W. Grand Avenue (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.


Dir


App/Fund


CM

Item No. 7A

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

CITY COUNCIL AGENDA: DECEMBER 17, 2013

PUBLIC HEARING

SUBJECT: TEXT AMENDMENT TO THE PORTERVILLE MUNICIPAL CODE
PERTAINING TO CONSISTENCIES WITH THE DEVELOPMENT ORDINANCE



SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

BACKGROUND: In the November 19, 2013, staff report regarding the proposed Development Ordinance Amendment, staff identified the need to follow up with minor modifications to the Municipal Code relating to consistency references between the Porterville Development Ordinance and the Municipal Code (Code), as well as the possibility of minor modifications to the Development Ordinance.

COMMENT: Staff has reviewed the Code for inconsistencies between the Code and the Development Ordinance. Specific references to outdated land use classifications occur in §3-27 Projecting Signs and §17-11.7 Parking of Commercial Vehicles in Residential Districts. Also, in §3-27 Projecting Signs, an inconsistency occurs in the description of the required clearance above pavement or finished grade, which should be eight feet (8'), rather than ten feet (10').

In addition to the outdated land use classifications, the use of "Zoning Ordinance" occurs eight (8) times throughout the municipal code: §3-27 Projecting Signs, §7-29 Building Relocation; Inspection; Compliance with Building Regulations, §7-77 Construction of Article; Effect on Zoning Ordinance, §12-1.6 Storage, Operations and Use of Liquefied Petroleum Gases, §12-3.4 Nuisance; Authority to Abate, §12-3.6 Form and Manner of Notice, §18-56 Definitions, and §20-40.1 When Construction of Curbs, Gutters and Sidewalks Required. Staff is recommending for consistency, the use of language to be "Development Ordinance."

With the adoption of the 2013 Building Code, Section 300.04 Green Building Standards requires additional revision. When the Development Ordinance was initially adopted in 2010, standards were adopted for projects meeting certain size thresholds to comply with the Leadership in Energy and Environmental Design (LEED) standards. The Development Ordinance recently adopted standards for those certain projects to comply with the California Green Building Standards Code (CALGreen) to exceed energy efficiency by an additional fifteen (15) percent. However, the most recent Building Code incorporated the CALGreen standards with an additional efficiency of thirty (30) percent. As the Building Code now exceeds the efficiency standards envisioned by the General Plan and Development Ordinance, staff recommends removing the additional requirements for Green Building Standards.

DD  Appropriated/Funded N/A CM 

Item No. 8

At the final meeting between staff and the Porterville Development Ordinance Committee on October 28, 2013, some language was proposed that inadvertently did not make it into the final version presented to Council. The first modification is to Landscape Buffer for Open Parking Adjacent to Right-Of-Way §304.10(i)(5)b *Non-residential Districts*. The Committee agreed to a reduction in buffer area from a minimum width of ten (10) feet down to six (6) feet clear of vehicle overhang. The second item is to add flexibility to §304.10(i)(7) Trees. The current language reads: "Trees shall be planted to result in fifty (50) percent shading of parking lot surface areas within fifteen (15) years." The Committee requested adding language similar to that used by the San Joaquin Valley Air Pollution Control District: *or provide a tree in landscaped islands between every six parking spaces*. This would be a prescriptive requirement and would avoid the need to prepare calculations unless the applicant selects that option.

- RECOMMENDATION: That the City Council:
1. Approve the proposed amendments to the Municipal Code and give first reading to the draft ordinance; and
 2. Waive further reading and order the Ordinance to print.

- ATTACHMENTS:
1. Proposed amendments to the Municipal Code
 2. Draft Ordinance for the Municipal Code

3-27: PROJECTING SIGNS:

- A. General: Projecting signs shall be constructed of materials compliant with title 24 of the California building code, except as specified in subsection 3-24B4 of this article.
- B. Design: Projecting signs shall be designed in accordance with the requirements specified in section 3-24 of this article.
- C. Residential Districts: In any residentially zoned district, with the exception of newspaper and mail receptacles, no sign or advertising structure shall extend or project over any public sidewalk, street, alley, or other public property unless exempted under the zoning-development ordinance.
- D. Projections Over Travelways Or Walkways: Signs or advertising structures projecting more than six inches (6") from the face of a building, or any other supporting structure, over travelways or walkways on private property used or intended to be used by the general public, shall have a minimum clearance of eight feet (8') above the pavement or finished grade. Such signs may not project greater than forty eight inches (48").
- E. Wall Signs; Other Signs Projecting Into Alley: No wall sign shall have a projection over public property or beyond a building line greater than the distances set forth in this sign code, nor extend above any adjacent parapet or roof of the supporting building. No sign or sign structure shall project into any public alley whatsoever, below a height of eight feet (8') above grade, nor more than eight inches (8") when over eight feet (8').
- F. Clearance Above Pavement Or Finished Grade: Signs or advertising structures projecting more than six inches (6") from the face of a building or any other supporting structure, over a public sidewalk or any other public property, shall have a minimum clearance of ten feet (10') eight feet (8') above the pavement or finished grade.
- G. Horizontal Dimensions: No sign or advertising structure shall exceed a horizontal dimension of more than thirty inches (30") when projecting from the face of any building or any other supporting structure, whether privately or publicly owned. When the sign projects over a public sidewalk or any other public property, and is suspended from or supported by a rod, anchor, or other hardware, the overall horizontal dimension may not exceed thirty-six inches (36"). When the sign projects over a public sidewalk or any other public property, and when said sign is placed on or suspended from an awning, canopy, or marquee, the overall horizontal dimension must not exceed forty-eight inches (48").
- H. Restrictions In Certain Districts: Signs or advertising structures in any residential, P-O, and ~~C-1~~ CN zoned districts may not be attached to the roof of a building, nor shall it exceed the height of the lowest roof line of the building to which it is attached.
- I. Clearance:
 - 1. No sign or sign structure shall be erected in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit or standpipe. No sign shall obstruct any window to such an extent that any light or ventilation is reduced to a point below that required by any law or ordinance.
 - 2. Signs shall be so located as to maintain all required clearances from overhead power and service lines.

17-11.7: PARKING OF COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS:

A. Prohibited; Violation: Except as noted below, no person shall park any commercial vehicle having a manufacturer's gross vehicle weight rating of ten thousand (10,000) pounds or more, in whole or in part, on any roadway adjacent to any property zoned ~~R-1, R-2, R-3, R-4, O-A, RS-2,~~ RM-1, RM-2, RM-3, PS or P-O in the city of Porterville. Such violation shall be an infraction.

B. Exceptions:

1. While loading or unloading property. This exception shall apply only while such work is actually in progress and those in control of the vehicle are on the scene.
2. While parked in connection with, and in aid of, the performance of a service to or on a property in the block in which such vehicle is parked. This exemption shall apply only while such work is actually in progress and those in control of the vehicle are on the scene.
3. When the vehicle has experienced mechanical failure along an authorized route of travel for such vehicles and only while repair or towing services are actually en route to, or repairing/towing said vehicle. This exemption shall apply only while the person in control of the vehicle is on the scene.

7-29: BUILDING RELOCATION; INSPECTION; COMPLIANCE WITH BUILDING REGULATIONS:

Prior to filing the application for the permit required in section 7-26 of this article, the building inspector shall inspect the building to determine the general condition and shall, upon completion of such investigation, set forth the requirements necessary to secure compliance with the building ordinance, the ~~zoning development~~ ordinance, the provisions of this code and all other applicable ordinances and laws of the city.

7-77: CONSTRUCTION OF ARTICLE; EFFECT ON ~~ZONING DEVELOPMENT~~ ORDINANCE:

This article shall not, nor shall it be construed to, limit any ~~zoning development~~ ordinance of the city of Porterville now in effect or hereafter adopted.

12-1.6: STORAGE, OPERATION AND USE OF LIQUEFIED PETROLEUM GASES:

Nothing contained in the referenced edition of the fire code shall be construed as to exempt any person, firm or corporation from complying with all applicable regulations and restrictions of the ~~zoning development~~ ordinance of the city of Porterville regarding the storage, operation and use of liquefied petroleum gases (LPG). LPG may be used as a second fuel for emergency generators as permitted by the fire code. LPG will also be permitted for fueling mobile equipment.

12-3.4: NUISANCE; AUTHORITY TO ABATE:

A. Each of the following conditions is declared to constitute a public nuisance, and whenever an enforcement officer shall determine that any of the conditions exist upon any premises, he/she may require or provide for the abatement thereof pursuant to this article and make the costs of abatement a lien on the subject real property:

1. The existence of weeds on the premises, or public sidewalks, curbs and gutters, streets or alleys in front of, adjacent to or behind said premises;
2. The existence of any accumulation of wastepaper, hay, grass, straw, weeds, litter, debris or combustible trash upon any roof or in any building, entranceway, court, yard, vacant lot or open space; or of any weeds, grass, vines or other growth, when the same endangers property or is liable to be fired;
3. The existence of any garbage or rubbish upon the premises contrary to the provisions of section 13-4 of this code;
4. The existence of any vines or climbing plants growing into or over any street, tree or any public hydrant, pole or electrolier; or the existence of any shrub, plant or vine growing on, around or in front of any hydrant, alarm box, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes, in such a way as to obscure the view thereof or impair the access thereto by the fire department;
5. The existence of an excessive amount of tires on property that does not conform with commercial use as set by the zoning development ordinance of the city of Porterville;
6. Any other condition or use of property which is in fact a fire hazard or which results or can result in the impairment of the ability of the fire department to respond to and suppress fires.

12-3.6: FORM AND MANNER OF NOTICE:

A. The notice required pursuant to section 12-3.5 of this article shall be substantially in the following form:

APN. NO.

TO THE PROPERTY OWNER:

NOTICE IS HEREBY GIVEN, that on (date), (year), pursuant to Section 12-3.5 of the Municipal Code of the City of Porterville, the Chief of the Fire Department of the City of Porterville declares that the following conditions set forth in Section 12-3.4 of said Municipal Code constitute a public nuisance and that such a nuisance must be abated by the destruction or removal of said conditions:

A. The existence of weeds on the premises or public sidewalks, curbs and gutters, streets or alleys in front of, adjacent to or behind said premises.

B. The existence of any accumulation of wastepaper, hay, grass, straw, weeds, litter, debris, tires, or combustible trash upon any roof or in any building, entrance way, court, yard, vacant lot or open space, or of any weeds, grass, vines or other growth when the same endangers property or is liable to be fired.

C. The existence of any garbage or rubbish upon the premises contrary to the provisions of Section 13-4 of the Municipal Code.

D. The existence of any vines or climbing plants growing into or over the street, tree or any public hydrant, pole or electrolier; or the existence of any shrub, plant or vine growing on, around or in front of any hydrant, alarm box, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes, in such a way as to obscure the view thereof or impair the access thereto by the Porterville Fire Department.

E. The existence of an excessive amount of tires on property that does not conform with commercial use as set by the Zoning development ordinance of the city of Porterville.

F. Any other condition or use of property which is in fact a fire hazard or which results, or can result, in the impairment of the ability of the Porterville Fire Department to respond to and suppress fires.

Destruction and/or removal of said conditions must be completed and maintained by (date), (year) in accordance with the attached Fire Prevention Bureau "Abatement Standards."

Failure to abate said conditions by the date specified above, shall result in the City acquiring jurisdiction to abate the conditions at the owner's expense pursuant to Section 12-3.9 of the Municipal Code.

All property owners who wish to object to the proposed removal of weeds, rubbish, refuse, tires and dirt are hereby notified that they have the right to attend a meeting with a representative of the Porterville Fire Department to be held at Porterville Fire Station No. 1, 40 West Cleveland Avenue, Porterville, California, on (date), (year) at (time). Sufficient cause must be shown why said conditions should not be abated.

Charges. Property owners or responsible persons who through their inaction have caused the City of Porterville to have their nuisance abated, are deemed to have committed a misdemeanor or infraction pursuant to Section 12-3.14 and, upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment of not more than six (6) months in the City or county jail, or by both such fine and imprisonment. The property owner or responsible person shall be liable for actual costs of abating such nuisance as defined herein.

Any costs incurred for such abatement will constitute a special assessment on the property. The cost of abating such nuisances shall include a charge of \$__ per parcel to cover the costs of administering this Article. MUNICIPAL CODE SECTION 12-3.11 PROVIDES THAT AFTER THE ASSESSMENT IS MADE AND CONFIRMED, IT IS A LIEN ON THE PROPERTY.

Any property owner, or other responsible person, who, after notification by the Enforcement Officer, fails to abate a condition as set forth in Section 12-3.4 shall become liable for the expenses of fighting any fire which may occur which is determined to have been caused by or attributed to said conditions. Such expenses shall become a lien upon the property.

THE FAILURE OF ANY OWNER OR OTHER PERSON TO RECEIVE THIS NOTICE SHALL NOT AFFECT THE ENFORCEMENT OF THIS ORDINANCE.

18-56: DEFINITIONS:

ARCADE: Shall have the meaning ascribed by the Porterville ~~zoning~~ development ordinance.

CHILD OR CHILDREN: Any person under the age of eighteen (18) years of age.

CHILDCARE AND DEVELOPMENT FACILITY: Shall have the meaning ascribed by California Education Code section 8208.

LOITERING: Remaining or wandering in a public or private place for the apparent purpose of observing any minor or minors, or with the apparent purpose or intent of engaging or soliciting any person to engage in any sexual act of any kind, or after having been told to leave by the owner or any authorized official of such place or facility.

PLAYGROUND: Shall have the meaning ascribed by the Porterville ~~zoning~~ development ordinance.

PUBLIC BUILDING REGULARLY FREQUENTED BY CHILDREN: Shall have the meaning ascribed by section 15-43 of this code.

PUBLIC PARK OR RECREATION AREAS: Shall have the meaning ascribed by section 15-43 of this code.

SEX OFFENDER: An individual who is currently required by law to register with a governmental entity as a sex offender.

20-40.1: WHEN CONSTRUCTION OF CURBS, GUTTERS AND SIDEWALKS REQUIRED:

Any owner, lessee, agent, licensee, or other person, corporation, association or firm who is:

Constructing or arranging for the construction of a building, dwelling, or any other improvement; or

Arranging for the remodeling, improving, modifying or otherwise altering in any manner whatsoever, an existing building, dwelling, or other improvement; upon any lot or parcel of real property in the city of Porterville shall provide, subject to the provisions of this article and chapter and to the ordinances and regulations of the city of Porterville that may now be, or hereafter be, in effect, for the construction of concrete curbs, gutters, and sidewalks unless in accordance with city specifications therefor, they already exist in a satisfactory condition along all street frontages adjoining the lot or lots, parcel or parcels of land on which the building, dwelling, or other improvement is to be constructed or remodeled or modified. In lieu of installation of concrete improvements, payment for said concrete improvements shall be provided to the city upon development of the property as specified above, if said concrete improvements have been installed by the city. In the event the construction of improvement is being made upon a portion of an undeveloped parcel and the portion to be developed does not exceed fifty percent (50%) of the entire undeveloped parcel, and the concrete improvements have not already been installed by the city, the curbs, gutters, and sidewalks shall be provided on the street frontage so that said curbs, gutters, and

sidewalks will extend the length of the building or improvement and to include side yard requirements as set forth in the zoning development ordinance. In determining whether the developed portion exceeds fifty percent (50%) of the entire portion there shall be considered the portion of the parcel on which the building or other improvement rests, together with all yard and open area requirements required by the zoning development ordinance.

21-Article 300.04: ~~GREEN BUILDING STANDARDS RESERVED~~

~~(a) **Applicability.** All applicable projects are subject to compliance with the California Green Building Standards Code (CALGreen). Projects meeting the following thresholds shall exceed energy efficiency by an additional fifteen (15) percent:~~

- ~~(1) City buildings of five thousand (5,000) square feet or more of new gross floor area;~~
- ~~(2) Nonresidential buildings of twenty-five thousand (25,000) square feet or more of new gross floor area;~~
- ~~(3) Tenant improvements of twenty-five thousand (25,000) square feet or more of gross floor area that involve mechanical, electrical, and plumbing work; and~~
- ~~(4) Mixed-use projects and multi-family residential projects that include a residential building that has four (4) stories in height, or more, of new construction.~~

21-Article 304.10: PARKING AREA DESIGN AND DEVELOPMENT STANDARDS

I. Landscaping: Landscaping of parking areas shall be provided and maintained according to the general standards of article 303, "Landscaping," of this chapter, as well as the standards of this subsection. The provisions of this subsection apply to all uses except single-family dwellings and duplexes.

1. Landscape Area Required: A minimum of ten percent (10%) of any parking lot area shall be landscaped. For the purpose of calculating required parking lot landscaping, parking lot areas are deemed to include parking and loading spaces as well as aisles, vehicle entry and exit areas, and any adjacent paved areas. Parking lot area does not include enclosed vehicle storage areas.
2. Minimum Planter Dimension: No landscape planter that is to be counted toward the required landscape area shall be smaller than twenty-five (25) square feet in area, or four feet (4') in any horizontal dimension, excluding curbing.
3. Layout: Landscaped areas shall be well distributed throughout the parking lot area. Parking lot landscaping may be provided in any combination of:
 - a. Landscaped planting strips at least four feet (4') wide between rows of parking stalls;
 - b. Landscaped planting strips between parking areas and adjacent buildings or internal pedestrian walkways;
 - c. Landscaped islands located between parking stalls or at the ends of rows of parking stalls; and

- d. On site landscaping at the parking lot perimeter.
- 4. Required Landscaped Islands: A landscaped island at least six feet (6') in all interior dimensions and containing at least one 15-gallon size tree shall be provided at each end of each interior row of parking stalls and between all consecutive parking stalls in the following ratios:
 - a. Between every eight (8) stalls in any nonresidential development;
 - b. Between every six (6) consecutive stalls in a residential development or in a mixed use development in which residential units overlook on site parking areas.
- 5. Landscaped Buffer For Open Parking Adjacent To Right Of Way: A landscaped buffer area shall be provided between any surface parking area and any property line adjacent to a public street. The landscaped buffer shall have a minimum width as listed below unless a different dimension is specified in the base district standards applicable to a site.
 - a. Residential districts: Five feet (5'). Landscaped parkways or strips between the property line and the sidewalk count toward this requirement.
 - b. Nonresidential districts: ~~Ten feet (10')~~ Six feet (6') clear of vehicle overhang.
- 6. Landscaped Buffer For Open Parking Abutting Interior Lot Line: A landscaped area at least three feet (3') wide shall be provided between the outside edge of any surface parking area and any adjacent lot for the length of the parking area.
- 7. Trees: Trees shall be planted to result in fifty percent (50%) shading of parking lot surface areas within fifteen (15) years. In lieu of calculating shading, the applicant may provide a tree in landscaped islands between every six (6) stalls consistent with §304.10(I)(4).
 - a. Distribution: Trees shall be distributed relatively evenly throughout the parking area.
 - b. Species: Required trees for parking lots shall be selected from a list of recommended trees maintained by the community development department.
 - c. Minimum Planter Size: Any planting area for a tree shall have a minimum interior dimension of five feet (5'). Additional space may be required for some tree species.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING THE PORTERVILLE MUNICIPAL CODE
FOR CONSISTENCY WITH THE DEVELOPMENT ORDINANCE
AND AMENDING LANDSCAPE REQUIREMENTS IN PARKING LOTS

WHEREAS, on November 19, 2013, the City Council adopted amendments to the Porterville Development Ordinance (Chapter 21 of the Municipal Code), with the understanding that a review of the Municipal Code for consistency would be further evaluated; and

WHEREAS, review of the Municipal Code in light of the amendments to Chapter 21 necessitated changes to the Municipal Code for consistency; and

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of December 17, 2013, conducted a public hearing pursuant to Planning and Zoning Law of the State of California and the Porterville Development Ordinance of the City of Porterville; and

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

SECTION 1: The following sections of the Porterville Municipal Code are hereby amended to read as follows:

1. 3-27: PROJECTING SIGNS:

- A. General: Projecting signs shall be constructed of materials compliant with title 24 of the California building code, except as specified in subsection 3-24B4 of this article.
- B. Design: Projecting signs shall be designed in accordance with the requirements specified in section 3-24 of this article.
- C. Residential Districts: In any residentially zoned district, with the exception of newspaper and mail receptacles, no sign or advertising structure shall extend or project over any public sidewalk, street, alley, or other public property unless exempted under the development ordinance.
- D. Projections Over Travelways Or Walkways: Signs or advertising structures projecting more than six inches (6") from the face of a building, or any other supporting structure, over travelways or walkways on private property used or intended to be used by the general public, shall have a minimum clearance of eight feet (8') above the pavement or finished grade. Such signs may not project greater than forty eight inches (48").
- E. Wall Signs; Other Signs Projecting Into Alley: No wall sign shall have a projection over public property or beyond a building line greater than the distances set forth in this sign code, nor extend above any adjacent parapet or

roof of the supporting building. No sign or sign structure shall project into any public alley whatsoever, below a height of eight feet (8') above grade, nor more than eight inches (8") when over eight feet (8').

- F. Clearance Above Pavement Or Finished Grade: Signs or advertising structures projecting more than six inches (6") from the face of a building or any other supporting structure, over a public sidewalk or any other public property, shall have a minimum clearance of eight feet (8') above the pavement or finished grade.
- G. Horizontal Dimensions: No sign or advertising structure shall exceed a horizontal dimension of more than thirty inches (30") when projecting from the face of any building or any other supporting structure, whether privately or publicly owned. When the sign projects over a public sidewalk or any other public property, and is suspended from or supported by a rod, anchor, or other hardware, the overall horizontal dimension may not exceed thirty-six inches (36"). When the sign projects over a public sidewalk or any other public property, and when said sign is placed on or suspended from an awning, canopy, or marquee, the overall horizontal dimension must not exceed forty-eight inches (48").
- H. Restrictions In Certain Districts: Signs or advertising structures in any residential, P-O, and CN zoned districts may not be attached to the roof of a building, nor shall it exceed the height of the lowest roof line of the building to which it is attached.
- I. Clearance:
 - 1. No sign or sign structure shall be erected in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit or standpipe. No sign shall obstruct any window to such an extent that any light or ventilation is reduced to a point below that required by any law or ordinance.
 - 2. Signs shall be so located as to maintain all required clearances from overhead power and service lines.

2. 17-11.7: PARKING OF COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS:

- A. Prohibited; Violation: Except as noted below, no person shall park any commercial vehicle having a manufacturer's gross vehicle weight rating of ten thousand (10,000) pounds or more, in whole or in part, on any roadway adjacent to any property zoned RS-2, RM-1, RM-2, RM-3, PS or P-O in the city of Porterville. Such violation shall be an infraction.
- B. Exceptions:
 - 1. While loading or unloading property. This exception shall apply only while such work is actually in progress and those in control of the vehicle are on the scene.
 - 2. While parked in connection with, and in aid of, the performance of a service to or on a property in the block in which such vehicle is parked. This exemption shall apply only while such work is actually in progress and those in control of the vehicle are on the scene.

3. When the vehicle has experienced mechanical failure along an authorized route of travel for such vehicles and only while repair or towing services are actually en route to, or repairing/towing said vehicle. This exemption shall apply only while the person in control of the vehicle is on the scene.

3. 7-29: BUILDING RELOCATION; INSPECTION; COMPLIANCE WITH BUILDING REGULATIONS:

Prior to filing the application for the permit required in section 7-26 of this article, the building inspector shall inspect the building to determine the general condition and shall, upon completion of such investigation, set forth the requirements necessary to secure compliance with the building ordinance, the development ordinance, the provisions of this code and all other applicable ordinances and laws of the city.

4. 7-77: CONSTRUCTION OF ARTICLE; EFFECT ON DEVELOPMENT ORDINANCE:

This article shall not, nor shall it be construed to, limit any development ordinance of the city of Porterville now in effect or hereafter adopted.

5. 12-1.6: STORAGE, OPERATION AND USE OF LIQUEFIED PETROLEUM GASES:

Nothing contained in the referenced edition of the fire code shall be construed as to exempt any person, firm or corporation from complying with all applicable regulations and restrictions of the development ordinance of the city of Porterville regarding the storage, operation and use of liquefied petroleum gases (LPG). LPG may be used as a second fuel for emergency generators as permitted by the fire code. LPG will also be permitted for fueling mobile equipment.

6. 12-3.4: NUISANCE; AUTHORITY TO ABATE:

- A. Each of the following conditions is declared to constitute a public nuisance, and whenever an enforcement officer shall determine that any of the conditions exist upon any premises, he/she may require or provide for the abatement thereof pursuant to this article and make the costs of abatement a lien on the subject real property:
 1. The existence of weeds on the premises, or public sidewalks, curbs and gutters, streets or alleys in front of, adjacent to or behind said premises;
 2. The existence of any accumulation of wastepaper, hay, grass, straw, weeds, litter, debris or combustible trash upon any roof or in any building, entranceway, court, yard, vacant lot or open space; or of any weeds, grass, vines or other growth, when the same endangers property or is liable to be fired;
 3. The existence of any garbage or rubbish upon the premises contrary to the provisions of section 13-4 of this code;
 4. The existence of any vines or climbing plants growing into or over any street, tree or any public hydrant, pole or electrolier; or the existence of any shrub, plant or vine growing on, around or in front of any hydrant, alarm box, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection

- purposes, in such a way as to obscure the view thereof or impair the access thereto by the fire department;
5. The existence of an excessive amount of tires on property that does not conform with commercial use as set by the development ordinance of the city of Porterville;
 6. Any other condition or use of property which is in fact a fire hazard or which results or can result in the impairment of the ability of the fire department to respond to and suppress fires.

7. 12-3.6: FORM AND MANNER OF NOTICE:

The notice required pursuant to section 12-3.5 of this article shall be substantially in the following form:

APN. NO.

TO THE PROPERTY OWNER:

NOTICE IS HEREBY GIVEN, that on (date), (year), pursuant to Section 12-3.5 of the Municipal Code of the City of Porterville, the Chief of the Fire Department of the City of Porterville declares that the following conditions set forth in Section 12-3.4 of said Municipal Code constitute a public nuisance and that such a nuisance must be abated by the destruction or removal of said conditions:

- A. The existence of weeds on the premises or public sidewalks, curbs and gutters, streets or alleys in front of, adjacent to or behind said premises.*
- B. The existence of any accumulation of wastepaper, hay, grass, straw, weeds, litter, debris, tires, or combustible trash upon any roof or in any building, entrance way, court, yard, vacant lot or open space, or of any weeds, grass, vines or other growth when the same endangers property or is liable to be fired.*
- C. The existence of any garbage or rubbish upon the premises contrary to the provisions of Section 13-4 of the Municipal Code.*
- D. The existence of any vines or climbing plants growing into or over the street, tree or any public hydrant, pole or electroliner; or the existence of any shrub, plant or vine growing on, around or in front of any hydrant, alarm box, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes, in such a way as to obscure the view thereof or impair the access thereto by the Porterville Fire Department.*
- E. The existence of an excessive amount of tires on property that does not conform with commercial use as set by the Development Ordinance of the City of Porterville.*
- F. Any other condition or use of property which is in fact a fire hazard or which results, or can result, in the impairment of the ability of the Porterville Fire Department to respond to and suppress fires.*

Destruction and/or removal of said conditions must be completed and maintained by (date), (year) in accordance with the attached Fire Prevention Bureau "Abatement Standards."

Failure to abate said conditions by the date specified above, shall result in the City acquiring jurisdiction to abate the conditions at the owner's expense pursuant to Section 12-3.9 of the Municipal Code.

All property owners who wish to object to the proposed removal of weeds, rubbish, refuse, tires and dirt are hereby notified that they have the right to attend a meeting with a representative of the Porterville Fire Department to be held at Porterville Fire Station No. 1, 40 West Cleveland Avenue, Porterville, California, on (date), (year) at (time). Sufficient cause must be shown why said conditions should not be abated.

Charges. Property owners or responsible persons who through their inaction have caused the City of Porterville to have their nuisance abated, are deemed to have committed a misdemeanor or infraction pursuant to Section 12-3.14 and, upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment of not more than six (6) months in the City or county jail, or by both such fine and imprisonment. The property owner or responsible person shall be liable for actual costs of abating such nuisance as defined herein.

Any costs incurred for such abatement will constitute a special assessment on the property. The cost of abating such nuisances shall include a charge of \$___ per parcel to cover the costs of administering this Article. MUNICIPAL CODE SECTION 12-3.11 PROVIDES THAT AFTER THE ASSESSMENT IS MADE AND CONFIRMED, IT IS A LIEN ON THE PROPERTY.

Any property owner, or other responsible person, who, after notification by the Enforcement Officer, fails to abate a condition as set forth in Section 12-3.4 shall become liable for the expenses of fighting any fire which may occur which is determined to have been caused by or attributed to said conditions. Such expenses shall become a lien upon the property.

THE FAILURE OF ANY OWNER OR OTHER PERSON TO RECEIVE THIS NOTICE SHALL NOT AFFECT THE ENFORCEMENT OF THIS ORDINANCE.

8. 18-56: DEFINITIONS:

ARCADE: Shall have the meaning ascribed by the Porterville development ordinance.

CHILD OR CHILDREN: Any person under the age of eighteen (18) years of age.

CHILDCARE AND DEVELOPMENT FACILITY: Shall have the meaning ascribed by California Education Code section 8208.

LOITERING: Remaining or wandering in a public or private place for the apparent purpose of observing any minor or minors, or with the apparent purpose or intent of engaging or soliciting any person to engage in any sexual act of any kind, or after having been told to leave by the owner or any authorized official of such place or facility.

PLAYGROUND: Shall have the meaning ascribed by the Porterville development ordinance.

PUBLIC BUILDING REGULARLY FREQUENTED BY CHILDREN: Shall have the meaning ascribed by section 15-43 of this code.

PUBLIC PARK OR RECREATION AREAS: Shall have the meaning ascribed by section 15-43 of this code.

SEX OFFENDER: An individual who is currently required by law to register with a governmental entity as a sex offender.

9. 20-40.1: WHEN CONSTRUCTION OF CURBS, GUTTERS AND SIDEWALKS REQUIRED:

Any owner, lessee, agent, licensee, or other person, corporation, association or firm who is:

Constructing or arranging for the construction of a building, dwelling, or any other improvement; or

Arranging for the remodeling, improving, modifying or otherwise altering in any manner whatsoever, an existing building, dwelling, or other improvement; upon any lot or parcel of real property in the city of Porterville shall provide, subject to the provisions of this article and chapter and to the ordinances and regulations of the city of Porterville that may now be, or hereafter be, in effect, for the construction of concrete curbs, gutters, and sidewalks unless in accordance with city specifications therefor, they already exist in a satisfactory condition along all street frontages adjoining the lot or lots, parcel or parcels of land on which the building, dwelling, or other improvement is to be constructed or remodeled or modified. In lieu of installation of concrete improvements, payment for said concrete improvements shall be provided to the city upon development of the property as specified above, if said concrete improvements have been installed by the city. In the event the construction of improvement is being made upon a portion of an undeveloped parcel and the portion to be developed does not exceed fifty percent (50%) of the entire undeveloped parcel, and the concrete improvements have not already been installed by the city, the curbs, gutters, and sidewalks shall be provided on the street frontage so that said curbs, gutters, and sidewalks will extend the length of the building or improvement and to include side yard requirements as set forth in the development ordinance. In determining whether the developed portion exceeds fifty percent (50%) of the entire portion there shall be considered the portion of the parcel on which the building or other improvement rests, together with all yard and open area requirements required by the development ordinance.

10. 21-Article 300.04: RESERVED

11. 21-Article 304.10(I): PARKING AREA DESIGN AND DEVELOPMENT STANDARDS

- I. Landscaping: Landscaping of parking areas shall be provided and maintained according to the general standards of article 303, "Landscaping," of this chapter, as well as the standards of this subsection. The provisions of this subsection apply to all uses except single-family dwellings and duplexes.
 1. Landscape Area Required: A minimum of ten percent (10%) of any parking lot area shall be landscaped. For the purpose of calculating required parking lot landscaping, parking lot areas are deemed to include parking and loading spaces as well as aisles, vehicle entry and exit areas, and any adjacent paved areas. Parking lot area does not include enclosed vehicle storage areas.
 2. Minimum Planter Dimension: No landscape planter that is to be counted toward the required landscape area shall be smaller than twenty-five (25) square feet in area, or four feet (4') in any horizontal dimension, excluding curbing.
 3. Layout: Landscaped areas shall be well distributed throughout the parking lot area. Parking lot landscaping may be provided in any combination of:
 - a. Landscaped planting strips at least four feet (4') wide between rows of parking stalls;
 - b. Landscaped planting strips between parking areas and adjacent buildings or internal pedestrian walkways;
 - c. Landscaped islands located between parking stalls or at the ends of rows of parking stalls; and
 - d. On site landscaping at the parking lot perimeter.
 4. Required Landscaped Islands: A landscaped island at least six feet (6') in all interior dimensions and containing at least one 15-gallon size tree shall be provided at each end of each interior row of parking stalls and between all consecutive parking stalls in the following ratios:
 - a. Between every eight (8) stalls in any nonresidential development;
 - b. Between every six (6) consecutive stalls in a residential development or in a mixed use development in which residential units overlook on site parking areas.
 5. Landscaped Buffer For Open Parking Adjacent To Right Of Way: A landscaped buffer area shall be provided between any surface parking area and any property line adjacent to a public street. The landscaped buffer shall have a minimum width as listed below unless a different dimension is specified in the base district standards applicable to a site.
 - a. Residential districts: Five feet (5'). Landscaped parkways or strips between the property line and the sidewalk count toward this requirement.
 - b. Nonresidential districts: Six feet (6') clear of vehicle overhang.
 6. Landscaped Buffer For Open Parking Abutting Interior Lot Line: A landscaped area at least three feet (3') wide shall be provided between the outside edge of any surface parking area and any adjacent lot for the length of the parking area.

7. Trees: Trees shall be planted to result in fifty percent (50%) shading of parking lot surface areas within fifteen (15) years. In lieu of calculating shading, the applicant may provide a tree in landscaped islands between every six (6) stalls consistent with §304.10(I)(4).
- a. Distribution: Trees shall be distributed relatively evenly throughout the parking area.
 - b. Species: Required trees for parking lots shall be selected from a list of recommended trees maintained by the community development department.
 - c. Minimum Planter Size: Any planting area for a tree shall have a minimum interior dimension of five feet (5'). Additional space may be required for some tree species.

SECTION 2: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED, AND ADOPTED this 17th day of December 2013.

By: _____
Cameron J. Hamilton, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

PUBLIC HEARING

SUBJECT: ADOPTION OF CALIFORNIA BUILDING AND FIRE CODES

SOURCES: Public Works Department - Building Division - Fire Department

COMMENT: The various building codes in use by jurisdictions in California are updated periodically to reflect the latest materials and construction techniques available to the construction industry.

The last published building and fire codes, specifically the California Building and Fire Codes, were updated in 2010. The State of California has since adopted the 2013 International Codes as the State Codes for Building, Plumbing, Mechanical, Electrical, Energy, and Fire.

In addition to these Codes, the State of California has also mandated the adoption of the 2013 Green Building Standards Code, the 2013 Residential Code, and the 2013 Referenced Standards Code. The 2013 Codes become State mandated as of January 1, 2014. Failure to approve these codes would result in the City being unable to issue building permits.

Each California Code will be adopted by ordinance, and shall repeal the State Code previously in effect.

RECOMMENDATION: That City Council:

1. Conduct a Public Hearing to receive input regarding the adoption of the 2013 Editions of the California Building, Plumbing, Mechanical, Electrical, Fire, Green Building Standards, Residential, Administrative, Reference Standards, and Energy Codes; and
2. Adopt the attached Ordinances, give First Readings, waive further readings and order the Ordinances to print.

ATTACHMENTS: Draft Ordinance – Building and Energy Code
Draft Ordinance - Mechanical Code
Draft Ordinance - Plumbing Code
Draft Ordinance - Electrical Code
Draft Ordinance - Fire Code
Draft Ordinance – Green Building Code

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Dir BW Appropriated/Funded N/A CM J

Item No. 9

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING SECTIONS 7-1, 7-2, 7-3.4, AND ARTICLE VIII OF THE
MUNICIPAL CODE OF THE CITY OF PORTERVILLE
AND ADOPTING BY REFERENCE
THE 2013 EDITION OF THE CALIFORNIA BUILDING CODE
ALONG WITH DESIGNATED APPENDICES PUBLISHED BY
THE CALIFORNIA BUILDING STANDARDS COMMISSION;
THE 2013 EDITION OF THE CALIFORNIA EXISTING BUILDING CODE
PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, INC.;
THE 2013 CALIFORNIA RESIDENTIAL CODE
AND THE 2013 CALIFORNIA ENERGY CODE PUBLISHED
BY THE CALIFORNIA BUILDING STANDARDS COMMISSION

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

A. The following sections of the Municipal Code of the City of Porterville are
hereby amended to read as follows:

SECTION 7-1 Adoption of the 2013 Edition of the California Administrative Code
Title 24 Part 1; 2013 California Building Code Part 2, Volumes 1 and 2; the 2013
California Residential Code Title 24 Part 2.5; the 2013 Edition of the California Existing
Building Code Title 24 Part 10; and the 2013 Energy Code Title 24 Part 6.

That certain code in book form to which more particular reference is herein
made, regulating the construction, erection, alteration, repair, removal, demolition,
conversion, equipment, use, height, area and maintenance of buildings in the City of
Porterville, together with the amendments thereof, herein specifically set forth, together
with the penalty for violation herein set forth to be known as the Building Code compiled
by and adopted by the International Code Council, Inc., together with the following
appendix: Chapters I, J, K; the entire Chapter of the 2013 California Historical Building
Code Part 8 with Appendix A and the 2013 Reference Standards Code Part 12; the
2013 California Residential Code Part 2.5 in its entirety; the 2013 California Existing

Building Code Part 10 in its entirety; and the 2013 Energy Code Part 6 in its entirety, thereto is hereby adopted and enacted by the Council of the City of Porterville, to all intents and purposes and to the same effect as if each and every sentence, paragraph, word and clause in said code mentioned are referred to herein or therein were fully and specifically set forth herein, with the exception of the penalty provision thereof.

SECTION 7-2 COPIES OF BUILDING CODE FILED IN BUILDING OFFICIAL'S OFFICE:

Reference is hereby made to one (1) copy of said California Building Code, 2013 Edition, compiled by and adopted by the International Conference of Building Officials, heretofore filed in the office of the Building Official of the City of Porterville and said California Building Code is by reference adopted herein as provided by law.

SECTION 7-3 BUILDING CODE AMENDMENTS

There is hereby adopted by the Council of the City of Porterville for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the California Building Code, published by the International Code Council, Inc., being particularly the 2013 edition thereof together with the following appendices thereto, and the California Building Code Standards are hereby amended and changed as follows:

1. Section 901.5 shall read as follows: When required, the test shall be conducted in the presence of the fire official.
2. Section 901.6.1 Exception shall read as follows: When approved by the fire official, on-site monitoring at a constantly attended location shall be permitted provided that the notifications to the fire department will be equal to those provided by an approved supervising station.
3. Section 903.3.1.2 of Chapter 9, shall read as follows: NFPA 13R Sprinkler Systems. Where allowed in buildings of Group R, up to and including two stories in height, automatic sprinkler systems may be installed throughout, in accordance with NFPA 13R when allowed by the Fire Authority.

SECTION 7-3.4. PENALTY FOR VIOLATION:

It shall be unlawful for any person, firm or corporation to enlarge, alter, repair, move, improve, remove, convert, or equip, use, occupy or maintain any building or structure in the City of Porterville, or cause the same to be done contrary to, or in violation of, the provisions of this article or of the building code above adopted by reference, together with the amendments thereto; and any person, firm or corporation violating any of the provisions of this article or of said building code, as amended, shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violations of the provisions of this article or of the California Building Code, 2013 Edition, is committed or permitted; and upon conviction of any such violation, such person shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the City or County jail for a period of not exceeding six (6) months or both such fine and imprisonment.

ARTICLE VIII. SWIMMING POOLS

Article VIII of the Municipal Code of the City of Porterville to be deleted.

B. That Ordinance No. 1770 and Ordinance No. 765 of the City of Porterville are hereby repealed.

C. This Ordinance shall be in full force and in effect on January 1, 2014.

PASSED, ADOPTED AND APPROVED this 17th day of December, 2013.

ATTEST:
John D. Lollis, City Clerk

Cameron J. Hamilton, Mayor

By: Patrice Hildreth, Chief Deputy City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING SECTION 7-4 OF THE MUNICIPAL CODE OF
THE CITY OF PORTERVILLE ADOPTING BY REFERENCE
THE 2013 EDITION OF THE CALIFORNIA MECHANICAL CODE
PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, INC.

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

A. The following section of the Municipal Code of the City of Porterville is
hereby amended to read as follows:

SECTION 7-4 Adoption of the 2013 Edition of the California Mechanical
Code, Title 24, Part 4 and Appendix B, and Appendix D.

That certain code in book form to which more particular reference is hereinafter
made regulating the installation and maintenance of heating, ventilating, cooling, and
refrigeration systems, to be known and referred to as the California Mechanical Code is
hereby adopted and enacted by the Council of the City of Porterville as an ordinance of
the City of Porterville, to all intents and purposes and to the same effect as if each and
every sentence, comma, paragraph, word, phrase, and clause in said code mentioned
or referred to therein or herein were and each thereof was fully and specifically set forth
herein.

Reference is hereby made to one (1) copy of the 2013 Edition of the California
Mechanical Code published by the California Building Standards Commission filed with
the Building Official of the City of Porterville and said code is by reference adopted
herein as provided by law.

B. That Ordinance No.1771 of the Municipal Code of the City of Porterville is
hereby repealed.

C. This Ordinance shall be in full force and in effect on January 1, 2014.

PASSED, ADOPTED AND APPROVED this 17th day of December, 2013.

Cameron J. Hamilton, 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
AMENDING SECTION 7-6 OF THE MUNICIPAL CODE OF
THE CITY OF PORTERVILLE ADOPTING BY REFERENCE
THE 2013 EDITION OF THE CALIFORNIA PLUMBING CODE
PUBLISHED BY THE CALIFORNIA BUILDING STANDARDS COMMISSION

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

A. That Section 7-6 of the Municipal Code of the City of Porterville is amended
to read as follows:

SECTION 7-6. Adoption of the 2013 Edition of the California Plumbing Code
Title 24 Part 5.

That certain code in book form to which more particular reference is hereinafter
made, regulating the business of plumbing, and the installation of plumbing fixtures and
appliances, to be known and referred to as the California Plumbing Code, is hereby
adopted and enacted by the Council of the City of Porterville as an ordinance of the City
of Porterville, to all intents and purposes and to the same effect as if each and every
sentence, comma, paragraph, word, phrase, and clause in said code mentioned or
referred to therein or herein were and each thereof was fully and specifically set forth
herein.

Reference is hereby made to one (1) copy of the 2013 Edition of the California
Plumbing Code, published by the California Building Standards Commission filed with
the Building Official of the City of Porterville and said code is by reference adopted
herein as provided by law.

B. That Ordinance No. 1772 of the Municipal Code of the City of Porterville is

hereby repealed.

C. This Ordinance shall be in full force and in effect on January 1, 2014.

PASSED, ADOPTED AND APPROVED this 17th day of December, 2013.

Cameron J. Hamilton, 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
AMENDING SECTION 7-9 AND DELETING SECTION 7-10 OF THE
MUNICIPAL CODE OF THE CITY OF PORTERVILLE
AND ADOPTING BY REFERENCE
THE 2013 EDITION OF THE CALIFORNIA ELECTRICAL CODE
PUBLISHED BY THE CALIFORNIA BUILDING STANDARDS COMMISSION

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

A. That Section 7-9 of the Municipal Code of the City of Porterville is hereby
amended to read as follows:

SECTION 7-9 Adoption of the 2013 Edition of the California Electrical Code Title 24
Part 3.

Reference is hereby made to one (1) copy of the 2013 Edition of the California
Electrical Code, published by the California Building Standards Commission filed in the office
of the Building Official of the City of Porterville, and such code, to wit: the 2013 Edition of the
California Electrical Code published by the California Building Standards Commission, as
aforesaid now on file with the Building Official of the City of Porterville, is hereby adopted by
reference as the Electrical Code of the City.

B. That Ordinance No. 1773 of the Municipal Code of the City of Porterville is
hereby repealed.

C. This Ordinance shall be in full force and in effect on January 1, 2014.

PASSED, ADOPTED AND APPROVED this 17th day of December, 2013.

ATTEST:
John D. Lollis, City Clerk

Cameron J. Hamilton, Mayor

By: Patrice Hildreth, Chief Deputy City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 12 OF THE CODE OF THE CITY OF PORTERVILLE ADOPTING BY REFERENCE EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE 2010 EDITION OF THE CALIFORNIA FIRE CODE ALONG WITH DESIGNATED APPENDICES, AND THE 2013 EDITION OF THE CALIFORNIA FIRE CODE PUBLISHED BY THE CALIFORNIA BUILDING STANDARDS COMMISSION.

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS FOLLOWS:

A. That Chapter 12, Fire Prevention, Section 12.1.1, of the Municipal Code of the City of Porterville is hereby amended to read as follows:

SECTION 12-1.1: CALIFORNIA FIRE CODE ADOPTED; FILING OF COPIES:

There is hereby adopted by the Council of the City of Porterville for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the California Fire Code, published by the California Building Standards Commission being particularly the 2013 Edition thereof together with the following appendices thereto, and the California Fire Code Standards are hereby amended and changed as follows:

Adoption of Appendices; Appendix Chapter 1, Chapter 4, Appendix A, Appendix B, Appendix C, Appendix D as amended by this Code, Appendix F.

1. Sections 307, 307.1, 307.11, 307.2, 307.2.1, 307.3, 307.4, 307.4.1, 307.4.2, 307.4.3, 307.5, of Chapter 3 are hereby deleted.
2. Section 508.1 Exceptions 1, 2, of Chapter 5 are hereby deleted.
3. Section 903.3.1.2 of Chapter 9, shall read as follows: NFPA 13R Sprinkler Systems. Where allowed in buildings of Group R, up to and including two stories in height, automatic sprinkler systems may be installed throughout, in accordance with

NFPA 13R when allowed by the Fire Authority.

4. Sections 105.1.1 of Appendix Chapter 1, is amended to read as follows:
105.1.1 Permits. Where required by this code, permits may be applied for and obtained from the fire code official.

5. Section D 103.6 of Appendix D, is amended to read as follows: D 103.6 Signs. Where required by the fire code official, fire apparatus access roads shall be marked with permanent FIRE LANE signs complying with California Vehicle Code Section 22500.1.

6. Section D106 of Appendix D is hereby deleted.

7. The exception to Section D104.2 of Appendix D is deleted.

8. Exceptions 1 & 2 of Section D107.1 of Appendix D are deleted.

9. The exception of Section B105.2 of Appendix B shall be amended as follows: Exception: A reduction in required fire-flow of up to 50 percent, as approved, is allowed when the building is provided with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.

10. Section 106.6.30 of Appendix 1 is deleted.

One copy has been and now is filed in the office of the fire marshal of the City of Porterville and the same hereby adopted with the amendments herein set forth and incorporated as fully as if at length herein and provisions thereto shall be controlling within the limits of the City of Porterville. (Ord. 715 § 1; Ord. 880 § A, 5-16-1967; Ord. 1083 § A, 11-4-1975; Ord. 1121 § A, 4-18-1978; Ord. 1209 § A, 8-5-1980; Ord. 1302 § A, 3-6-1984; Ord. 1376 § A, 1-6-1987; Ord. 1387 § A, 8-18-1987; Ord. 1426 § A, 11-21-1989; Ord. 1520 § A, 11-21-1995; 1568 § A, 1-19-1999; Ord. 1574 § A, 5-18-1999; Ord.

1620 § A, 10-1-2002)

B. Section 7-9 of the Municipal Code of the City of Porterville is hereby amended as follows:

1. Section 901.5 of Chapter 9 is amended to read as follows: Fire protection systems shall be tested in accordance with the requirements of this code and the California Fire Code. When required, the test shall be conducted in the presence of the fire official.

2. Exception to Section 901.6.3 of Chapter 9 is amended to read as follows: When approved by the fire official, on-site monitoring at a constantly attended location shall be permitted provided that notifications to the fire department will be equal to those provided by an approved supervising station.

3. Section 903.1.1.2 of Chapter 9 shall read as follows: NFPA 13R Sprinkler Systems. Where allowed in buildings of Group R, up to and including two stories in height, automatic sprinkler systems may be installed throughout, in accordance with NFPA 13R when allowed by the Fire Authority.

C. That Ordinance No. 1774 of the Municipal Code of the City of Porterville is hereby repealed.

D. This Ordinance shall be in full force and in effect on January 1, 2014.

PASSED, ADOPTED AND APPROVED this 17th day of December, 2013.

ATTEST:
John D. Lollis, City Clerk

Cameron J. Hamilton, Mayor

By: Patrice Hildreth, Chief Deputy City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING SECTION 7-4 OF THE MUNICIPAL CODE OF
THE CITY OF PORTERVILLE ADOPTING BY REFERENCE
THE 2013 EDITION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE
PUBLISHED BY THE CALIFORNIA BUILDING STANDARDS COMMISSION

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

A. The following section of the Municipal Code of the City of Porterville is
hereby amended to read as follows:

SECTION 7-4 Adoption of the 2013 Edition of the California Green
Building Standards Code, Title 24, Part 11 and the mandatory portions of Appendix A4
and Appendix A5 with the voluntary portions of said Appendices remaining voluntary.

That certain code in book form to which more particular reference is hereinafter
made encouraging sustainable construction practices, to be known and referred to as
the California Green Building Standards Code is hereby adopted and enacted by the
Council of the City of Porterville as an ordinance of the City of Porterville, to all intents
and purposes and to the same effect as if each and every sentence, comma,
paragraph, word, phrase, and clause in said code mentioned or referred to therein or
herein were and each thereof was fully and specifically set forth herein.

Reference is hereby made to one (1) copy of the 2013 Edition of the California
Green Building Standards Code published by the California Building Standards
Commission filed with the Building Official of the City of Porterville and said code is by
reference adopted herein as provided by law.

B. That Ordinance No. 1775 of the Municipal Code of the City of Porterville is hereby
repealed.

C. This Ordinance shall be in full force and in effect on January 1, 2014.

PASSED, ADOPTED AND APPROVED this 17th day of December, 2013.

Cameron J. Hamilton, Mayor

ATTEST:
John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk

CITY COUNCIL AGENDA: DECEMBER 17, 2013

PUBLIC HEARING

SUBJECT: PUBLIC HEALTH GOAL REPORT

SOURCE: Public Works Department - Field Services Division

COMMENT: SB 1307 added new provisions to the California Health and Safety Code specifying that larger (>10,000 service connections) water utilities prepare a special report if their water quality measurements have exceeded any Public Health Goals (PHGs). Established by the Cal-EPA's Office of Environmental Health Hazard Assessment (OEHHA), PHGs are non-enforceable standards, and no action to meet them is mandated. The law also requires that where OEHHA has not adopted a PHG for a constituent, the water suppliers are to use the maximum contaminant level goals (MCLGs) adopted by US EPA. A public hearing is required for the purpose of accepting and responding to public comment on the report.

The attached report is intended to provide information to the public in addition to the Consumer Confidence Report mailed to each customer in June. The City of Porterville's water system complies with all of the health-based drinking water standards and maximum contaminant levels (MCLs) required by the California Department of Health Services and the US EPA.

RECOMMENDATION: That City Council conduct a public hearing to solicit comments on the Public Health Goal Report.

ATTACHMENT: City of Porterville Public Health Goal Report

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Dir Bor Appropriated/Funded N/A CM J

Item No. 10

CITY OF PORTERVILLE PUBLIC HEALTH GOAL REPORT

The California Health and Safety Code Section 116470(b), (c) and (f) specifies that on July 1, 1998, and every three years thereafter, public water systems serving more than 10,000 service connections shall prepare a report intended to inform the public concerning any Public Health Goal (PHG) that is exceeded.

PHGs are set by the California Office of Environmental Health Hazard Assessment (OEHHA) which is part of Cal-EPA and are based solely on public health risk considerations. None of the practical risk-management factors that are considered by the USEPA or the California Department of Health Services (CDHS) in setting drinking water standards (MCLs) are considered in setting PHGs. These factors include analytical detection capability, treatment technology available, benefits and costs. The PHGs are not enforceable and are not required to be met by any public water system. MCLGs are the federal equivalent to PHGs.

The following constituent was detected in the city of Porterville drinking water sources at levels above the PHG, or if no PHG, above the MCLG:

Tetrachloroethylene (PCE): The PHG for PCE is 0.06 ppb, with a MCL of 5 ppb. Detection levels in 6 wells range from 0 to 3.8 ppb. **These levels were below the MCL at all times.** The category of health risk associated with PCE is that people who drink water containing PCE **above** the MCL throughout their lifetime could experience liver problems and may have an increased risk of getting cancer. CDHS says that "Drinking water which meets the MCL is associated with little to none of this risk and should be considered safe with respect to PCE." The numerical health risk for a PHG of .06 ppb is 1 in 1,000,000. The numerical health risk for a MCL of 5 ppb is 8 in 100,000.

Definitions:

Public Health Goals (PHG): The level of a contaminant in drinking water below which there is no known or expected risk to health. PHGs are set by the California Environmental Protection Agency.

Maximum Contaminant Level Goal (MCLG): The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs are set by the U. S. Environmental Protection Agency.

Maximum Contaminant Level (MCL): The highest level of a contaminant that is allowed in drinking water. Primary MCLs are set as close to the PHGs (or MCLGs) as is economically and technologically possible. Secondary MCLs are set to protect the odor, taste, and appearance of drinking water.

Action Level: The concentration of which, if exceeded, triggers treatment or other requirements which a water system must follow.

ppb: Parts per billion

COUNCIL AGENDA: DECEMBER 17, 2013

HEARING

SUBJECT: RESOLUTION OF NECESSITY PERTAINING TO THE ACQUISITION OF A PORTION OF PROPERTY (1.051 acres) LOCATED AT APN #259-050-025, OWNER ESTATE/INTEREST OF CORRIDOR GROUP LLC - FOR PROPOSED IMPROVEMENTS TO NEWCOMB STREET (NEWCOMB SHOULDER STABILIZATION PROJECT)

SOURCE: City Attorney's Office

COMMENT: Staff has sent several communications to the owner/representative of the subject property, Corridor Group LLC, to acquire the above-referenced portion of property (approximately 1.051 acres of property, currently utilized for agricultural purposes). This portion of the property needs to be acquired in order to make improvements to Newcomb Street as part of the Newcomb Shoulder Stabilization Project. The City and property owner have not been able to reach an agreement.

Staff is asking City Council to adopt a Resolution of Necessity, as the plans for the proposed project are complete and the City wishes to commence construction work. The City Attorney has prepared the attached Resolution of Necessity as authorized and for adoption by City Council. The statutory offer and summary of the basis for just compensation, pursuant to Government Code Sections 7267.1 and 7267.2(a) and prepared by City and/or its agent, have been sent to the owners. The City Attorney has also notified the above owners, in writing via certified mail, and more than 15 days prior to the Council meeting, that this matter would be scheduled for this meeting's agenda. As of today, no written request to be heard has been received by the City from the property owners. In adopting a Resolution of Necessity, the City Council must find that the public interest and necessity require the project, that the project is planned or located in the manner that will be most compatible with the greatest public good and least private injury, and that the property sought to be acquired is necessary for the project. Passage of the Resolution requires a two-thirds vote of all members of the City Council.

RECOMMENDATION: That City Council:

1. Hear testimony from the owners and/or their representative(s), if they appear at the hearing and request to be heard;
2. Adopt the attached Resolution of Necessity; and
3. Authorize the City Attorney to take all appropriate action necessary to acquire said property on behalf of the City of Porterville.

Attachment: Resolution of Necessity and Attachments

ITEM NO. 11

CITY COUNCIL, CITY OF PORTERVILLE
COUNTY OF TULARE, STATE OF CALIFORNIA

RESOLUTION NO. _____ - 2013

RESOLUTION OF NECESSITY REQUIRING THE EXERCISE OF
THE POWER OF EMINENT DOMAIN PERTAINING TO THE ACQUISITION OF
PROPERTY FOR USE BY THE CITY OF PORTERVILLE FOR IMPROVEMENTS TO
NEWCOMB STREET FOR THE NEWCOMB SHOULDER STABILIZATION PROJECT
IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 1245.210 ET SEQ. OF
THE CODE OF CIVIL PROCEDURE OF THE STATE OF CALIFORNIA

WHEREAS, the City of Porterville intends to undertake a project to make
improvements to a section of Newcomb Street and complete related work; and

WHEREAS, after notice and opportunity have been given to the property
owner(s) at issue, the City Council of the City of Porterville hereby finds and determines
as follows:

1. The City of Porterville intends to construct the aforementioned Project, a
public use, together with related improvements to carry out and make effective the
principal purpose pursuant to Code of Civil Procedure Section 1240.120(a), and in
connection therewith, acquire interest in certain real property. Said public use is a
function of the City of Porterville.

2. The City of Porterville is authorized to acquire the portion of the parcel
described in Appendix 1 herein and exercise the power of eminent domain for the public
use set forth herein in accordance with the California Constitution and the California
Eminent Domain Law, Code of Civil Procedure Section 1230.010 et seq. and pursuant
to Government Code Section 37350.5, Streets and Highways Code Section 5100 et
seq., and Sections 3 and 4 of the Charter of the City of Porterville.

3. The property to be acquired will affect a portion of a parcel generally
located at the southwest corner of Olive Avenue and Newcomb Street and consisting of
the property more particularly described in Appendix 1, attached hereto and
incorporated herein by reference together with a map thereof.

4. On November 19, 2013, there was mailed a Notice of City of Porterville's Intent to Adopt a Resolution of Necessity for acquisition by eminent domain of the real property described in Appendix 1 herein, which Notice of Intent is attached hereto as Appendix 2 and is incorporated herein by this reference. Said Notice of Hearing was mailed to all persons whose names appear on the last equalized County Assessment Roll as having an interest in the property described in Appendix 1. Said Notice advised said persons of their right to be heard on the matters referred to therein on the date and at the time and place stated therein. Said persons received the Notice of Intent.

5. The hearing set out in said Notice was held on December 17, 2013, at the time and place stated therein, and all interested parties were given an opportunity to be heard. The hearing was closed.

Based upon the evidence presented, this City Council by vote of two-thirds or more of its members, further finds, determines, declares, and resolves each of the following:

- a. The public interest and necessity require the proposed project.
- b. The proposed project serves a public purpose and is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- c. The property described herein in Appendix 1 is necessary for the proposed project.
- d. The offer required by Section 7267.2(a) of the Government Code, and the summary of the basis for the amount established as just compensation, attached hereto in Appendix 2, was made to the owner or owners of record.
- e. All conditions and statutory requirements necessary to exercise the power of eminent domain ("the right to take") to acquire the

property described herein have been complied with by the City of Porterville.

- f. A portion of the property described in Appendix 1 may be acquired for a more necessary public use pursuant to Code of Civil Procedure Section 1240.610. The City Council further finds and determines that insofar as and to the extent that said parcel has heretofore been dedicated to a public use for telephone and/or electric utility purposes, the acquisition and use of said parcel by the City of Porterville for the public use described above is for a more necessary public use than the use to which the property has already been appropriated.

6. The City Attorney is hereby AUTHORIZED and EMPOWERED:

- a. To acquire in the name of the City of Porterville, by condemnation, the property described in Appendix 1, attached hereto and incorporated herein by this reference in accordance with the provisions of the California Eminent Domain Law and the Constitution of California;
- b. To acquire the property in fee simple unless a lesser estate is described in Appendix 1, herein;
- c. To prepare or have prepared and to prosecute or to retain counsel to prosecute in the name of the City of Porterville such proceedings in the proper court as are necessary for such acquisition;
- d. To deposit the probable amount of compensation, based on an appraisal, and to apply to said court for an order permitting the City of Porterville to take immediate possession and use of said property for said public uses and purposes.

This Resolution was passed by the City Council members of the City of Porterville at a regularly scheduled meeting thereof on the 17th day of December, 2013, by the following vote:

AYES:

NOES:

ABSENT:

Mayor Cameron Hamilton, City of Porterville

ATTEST:

John Lollis, City Clerk,
City of Porterville

By: Patrice Hildreth, Chief Deputy City Clerk

APPENDIX 1

LEGAL DESCRIPTION

Exhibit "A"

That portion of the north half of the Northeast quarter of Section 33, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the Official Plat thereof, more particularly described as:

COMMENCING AT the Northeast quarter of said Section 33,

THENCE, South $89^{\circ}35'05''$ West, along the north line of said Northeast quarter, a distance of 63.25 feet;

THENCE, leaving said north line, South $00^{\circ}24'55''$ East, a distance of 80.00 feet to a point on the southerly right of way line of Olive Avenue as described in a State of California Superior Court Judgment in Condemnation, recorded May 13, 1977, as Instrument No. 24828, in Book 3416, page 722, Tulare County Official Records, said point also being the **POINT OF BEGINNING**;

THENCE, South $45^{\circ}03'34''$ East, 28.46 feet to a point on a line parallel with and distant 42.00 feet westerly, measured at right angles, from the east line of said Northeast quarter;

THENCE, South $00^{\circ}17'48''$ West, along said parallel line, 1,223.40 feet to a point on the south line of the north half of said Northeast quarter;

THENCE, North $89^{\circ}47'26''$ East, along said south line, 42.00 feet to a point on the east line of said Northeast quarter;

THENCE, North $00^{\circ}17'48''$ East, along the east line of said Northeast quarter, 1,031.98 feet to an angle point in the westerly right of way line of Newcomb Street situated North of the Hubbs & Minor Ditch per said State of California Superior Court Judgment in Condemnation, recorded May 13, 1977, as Instrument No. 24828, in Book 3416, page 722, Tulare County Official Records;

THENCE, North $23^{\circ}31'13''$ West, a distance of 99.06 feet to a point in the west line of the East 40 feet of said Northeast quarter situated North of the Hubbs & Minor Ditch;

THENCE, North $00^{\circ}17'48''$ East, along the west line of the East 40.00 feet of said Northeast quarter, 120.71 feet to a point on said southerly right of way line of Olive Avenue;

THENCE, South $89^{\circ}35'05''$ West, along said southerly right of way line, 22.25 feet to the **POINT OF BEGINNING**.

The above described parcel contains 45,791 square feet or 1.051 acres more or less.

BASIS OF BEARINGS being the north line of the Northeast quarter of Section 33, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, taken as North 89°35'05" East, as shown on Record of Survey filed in Book 21 of Licensed Surveys, at page 68 in the Office of the Tulare County Recorder.

END OF DESCRIPTION

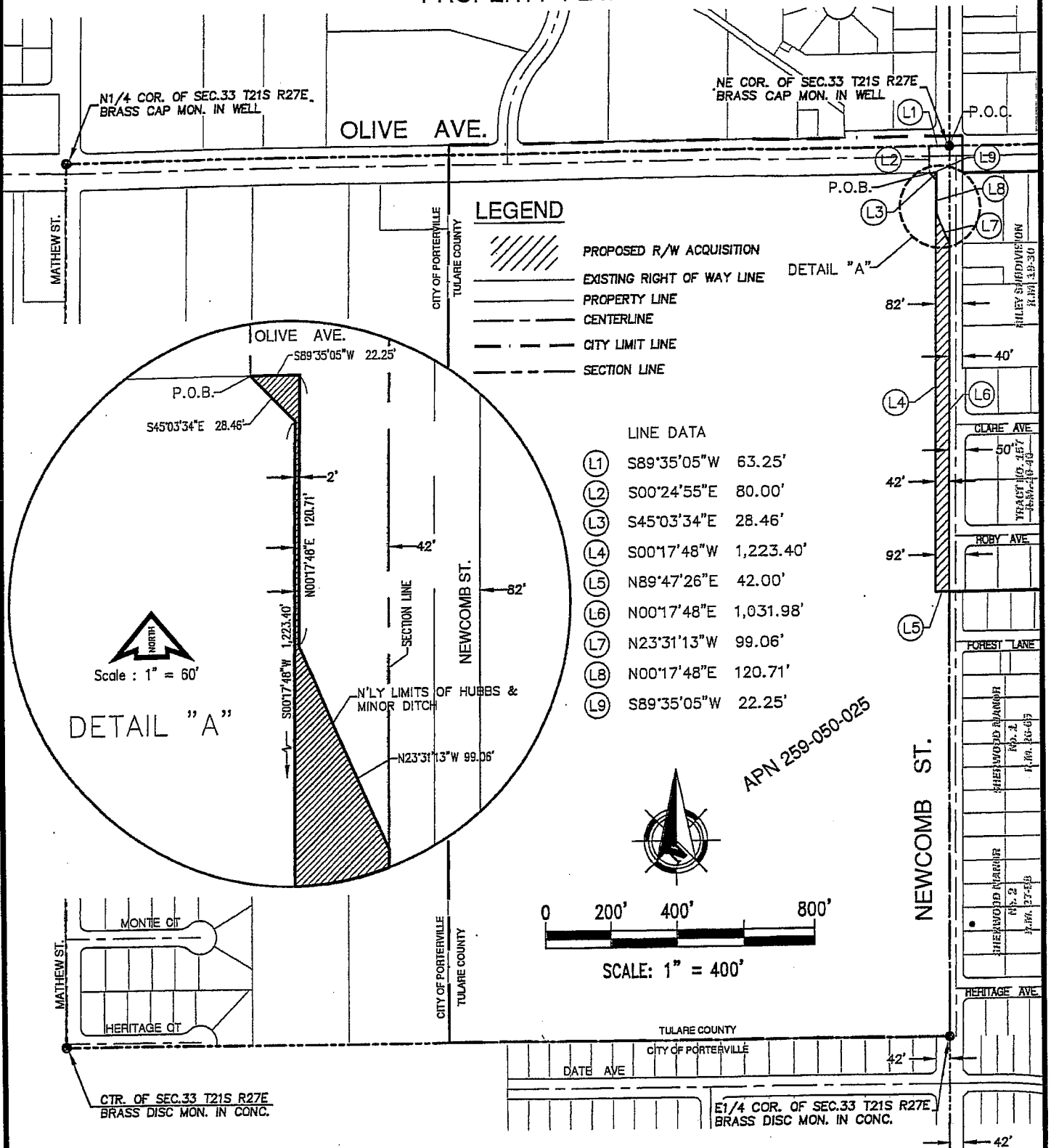
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: _____
Licensed Land Surveyor

Date: _____

PROPERTY PLAT

EXHIBIT "B "



City of Porterville

291 N. MAIN ST.
PORTERVILLE, CA 93257
(559) 782-7462

A Portion of the North half of the Northeast quarter of Section 33, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California.

OWNER:	Warren Moe / Dorothy Jue
APN:	259-050-025
AREA:	45,791 S.F
ACRES:	1.051 AC.
DRAWN BY:	DC
CHECK BY:	DB

APPENDIX 2

WALTER McCORMICK (1926 - 2005)
S.L. KABOT
NANCY A. JENNER
JULIA M. LEW
CHAD M. LEW

MICHAEL J. MAURER

LAW OFFICES OF
MCCORMICK KABOT JENNER & LEW
A PROFESSIONAL CORPORATION
1220 WEST MAIN STREET
VISALIA, CALIFORNIA 93291

TELEPHONE
(559) 734-6729

FACSIMILE
(559) 734-8762

INTERNET
WWW.MKJW.COM

November 19, 2013

Corridor Group LLC
c/o Lisa Moe
P.O. Box 5233
Sherman Oaks, CA 91413

Corridor Group LLC
c/o D. Moe
6750 Balboa Blvd.
Van Nuys, CA 91406

RE: **Notice of City of Porterville's Intent to Adopt a Resolution of Necessity to Acquire Property by Eminent Domain [CA Code of Civil Procedure 1245.235]** Site Address: SW corner Olive Avenue & Newcomb Street, Porterville CA, Assessor's Parcel Number 259-050-025 (portion – approximately 1.051 acres)

Dear Property Owners:

1. **Notice of Intent of City Council to Adopt a Resolution of Necessity.** The City Council intends to consider the adoption of a Resolution of Necessity on December 17, 2013 that, if adopted, will authorize the City of Porterville to acquire the property described herein by eminent domain for the purpose of constructing improvements to portions of Newcomb Street as part of the Newcomb Shoulder Stabilization Project. A description of the property being considered for acquisition is included in the attachment marked Appendix A.
2. **Notice of Your Right to Appear and Be Heard.** Please take notice that the City Council of the City of Porterville, at a regular meeting to be held on Tuesday, December 17, 2013 at 6:30 p.m., or as soon thereafter as the matter may be heard, at Porterville City Hall, 291 N. Main Street, Porterville, California, will hold a hearing on whether such a Resolution of Necessity should be

adopted, as required by California Code of Civil Procedure section 1245.235 for the commencement of an eminent domain proceeding to acquire real property. You have a right to appear and be heard before the City Council at the above scheduled hearing on the following matters and issues, and to have the City Council give judicious consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:

- a. Whether the public interest and necessity require the proposed project;
- b. Whether the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c. Whether the property sought to be acquired by eminent domain and described in the Resolution of Necessity is necessary for the proposed project;
- d. Whether the offer required by Government Code section 7267.2(a), together with the accompanying statement and summary basis for the amount established as just compensation, was actually made to you and whether said offer and statement/summary were in a form and contained all of the factual information required by Government Code section 7267.2(a). Said offer is attached hereto as Appendix A.
- e. Whether City Council has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the "right to take") to acquire the property described herein, including relocation assistance, as well as any other matter regarding the right to take said property by eminent domain; and
- f. Whether City Council has statutory authority to acquire the property by eminent domain.

A copy of the proposed Resolution of Necessity will be available, upon your request, for inspection at the office of the Clerk of City Council at Porterville City Hall, 291 N. Main Street, Porterville, California five (5) days after this Notice was mailed and prior to the hearing at the place of the hearing.

Your name appears on the last equalized Tulare County assessment roll and as Owner (in our preliminary title report) of the property required for the proposed project.

The statutes that authorize the City to acquire the property by eminent domain for this proposed project are Streets and Highways Code § 10102 (street right of way) and Streets and Highways Code §§5100 *et seq.* (Street Improvement Act acquisitions).

3. Failure to File a Written Request to Be Heard within Fifteen (15) Days After the Notice Was Mailed Will Result in Waiver of the Right to Appear and Be Heard. If you desire to be heard, please be advised that you must file a written request with the clerk of the governing board within fifteen (15) days after this Notice was mailed. You must file your request to be heard at: Porterville City Hall, 291 N. Main Street, Porterville, California.

Should you elect to mail your request to the clerk of the City Council, it must be actually received by the clerk for filing within fifteen (15) days after this Notice was mailed. The date of mailing appears on this Notice.

California Code of Civil Procedure section 1245.235(b)(3) provides that "failure to file a written request to appear and be heard within fifteen (15) days after the Notice was mailed will result in waiver of the right to appear and be heard" on the above matters and issues that are the subject of the hearing.

If you elect not to appear and be heard in regard to compensation, your nonappearance will not be a waiver of your right to claim greater compensation in a court of law. The amount to be paid for the property will not be considered by the board at this hearing.

If you elect not to appear and not to be heard, your failure will be a waiver of your right to later challenge the right of the City to take the property by eminent domain.

The amount of the compensation to be paid for the acquisition of the property is not a matter or issue being heard by City Council at this time. Your nonappearance at this noticed hearing will not prevent you from claiming greater compensation, in and as determined by a Court of Law in accordance with the laws of the State of California. This Notice is not intended to foreclose future negotiations between you and the representatives of the City on the amount of compensation to be paid for your property. If you elect not to appear and not to be heard, you will only be foreclosed from raising in a Court of law the issues that are the subject of this noticed hearing and that are concerned with the right to take the property by eminent domain.

If City Council elects to adopt the Resolution of Necessity, then within six months of the adoption of the Resolution, the City will commence eminent domain proceedings in Superior Court. In that proceeding, the Court will determine the

amount of compensation to which you are entitled.

Dated and mailed on November 19, 2013.

McCormick Kabot Jenner & Lew

By: 

Julia M. Lew
City Attorney
City of Porterville

CC: Baldo Rodriguez, Porterville Public Works Director
Jenni Byers, Porterville Project Manager
John Lollis, Porterville City Manager

Enclosures: Appendix A

Appendix "A"

Paragon Partners Ltd.

VIA CERTIFIED MAIL
RETURN RECEIPT

August 12, 2013

Corridor Group LLC
P.O. Box 5233
Sherman Oaks, CA 91413

**RE: Offer to Purchase Real Property Pursuant to
Government Code §7267.1 and § 7267.2(a)
Site Address: SW corner Olive Avenue & Newcomb Street, Porterville, CA
Assessor's Parcel Number: 259-050-025
Federal-Aid Project No. CML-5122**

Dear Corridor Group LLC:

The City of Porterville (City) is proposing to construct improvements to portions of Newcomb Street as part of the Newcomb Shoulder Stabilization Project. The proposed project will require the acquisition of a fee interest in a portion of the above referenced parcel, more particularly described in the enclosed Legal Description and shown on the enclosed Plat/Drawing (the Property). Paragon Partners Ltd. has been retained by the City to acquire those property rights.

California law requires that, before making an offer for the acquisition of real property for the Newcomb Shoulder Stabilization Project, the City must obtain an appraisal to determine the fair market value of the Property to determine an amount which it believes to be just compensation for that Property and must make an offer to the owner for an amount not less than the just compensation so determined. The City has appraised the Property to determine its fair market value, as defined in California Code of Civil Procedure section 1263.320. The Property was appraised in accordance with commonly accepted appraisal standards and included consideration of the highest and best use of the land, the land's current use and any improvements located thereon. The appraisal has been completed and reviewed, and the City has determined an amount which constitutes just compensation for the Property.

The City hereby offers you the sum total of **\$30,500.00** for the acquisition of 100% of the interest(s) in the Property. The enclosed Appraisal Summary Statement outlines the basis for this offer.

In accordance with California Code of Civil Procedure § 1263.025(a), the City hereby offers to reimburse you for the reasonable costs, not to exceed \$5,000, of an independent appraisal should you desire that such appraisal be conducted. Any independent appraisal shall be conducted by an appraiser licensed by the Office of Real Estate Appraisers.

5762 Bolsa Avenue, Suite 201, Huntington Beach, CA 92649
714-379-3376 • 714-373-1234 FAX

The amount of the offer to purchase the Property is based on the assumption that no hazardous substance, product, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 United States Code section 9601 et seq., exists on the Property. Please be advised that the amount offered is subject to an environmental site inspection of the Property, and the cost to remediate any identified problems may affect the valuation of the Property.

This offer is to purchase all of the interest in the Property, free of all liens and other encumbrances, except as may be agreed to in writing by the City and is conditioned on the City Council's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity.

This offer is also contingent upon the owner's presentation of conclusive evidence of title, as no final determination has been made as to the ownership of the Property. If more than one person has an interest in the Property that the City is seeking to acquire, all such parties must accept this offer. If the owner of the Property is organized as a Limited Liability Company the appropriate member or manager must accept this offer.

Upon Paragon Partners, Ltd. receiving the signed Purchase Contract and Grant Deed, the City will execute the Purchase Contract after the City Council's approval of the purchase, and will deposit the full amount of the offer with an escrow company with instructions to proceed with the closing on the purchase of the Property with payment to be made to you or any holder of any encumbrance on your property. The City will pay all the escrow fees, including but not limited to, reimbursing you for expenses incurred for recording fees, transfer taxes, and similar expenses incidental to conveying the Property to the City, penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the Property, and the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the City or the effective date of possession of the Property, whichever is the earlier.

When property is sold to the City, there is the same obligation as in a private transaction for the owner to pay in escrow the amounts needed to remove liens and encumbrances, if any. In the event that there are liens and encumbrances, the escrow agent, on behalf of the owner, shall either:

- Pay to owners of liens and encumbrances, out of the approved compensation paid by the City, the amount needed to terminate leases or cancel trust deeds, mortgages, or other liens affecting the property acquired, or
- Arrange for holders of leases, trust deeds, mortgages, or other liens to quitclaim their interest, if any, to the Property being acquired. When an owner sells his/her property to the City, the owner's obligation to pay current and past due property taxes is the same as if the owner were selling to a private individual. However, you, as an owner, will not be required to pay recording fees, transfer taxes, or the *pro rata* portion of real property taxes which are allocable to any period after the passage of title or possession to the City.

If you agree to and accept the City's above described offer and conditions, please complete the following four items as soon as possible. We will contact you within ten (10) days after the receipt of this Offer to Purchase to follow up and answer any questions regarding the written offer and to discuss setting up a day and time to meet with you in person to discuss the purchase of the Property.

1. Sign the enclosed Purchase Agreement.
2. Sign the Grant Deed before a Notary Public - a Notary Public is available to witness your signature free of charge at Porterville's City Hall.
3. Please complete IRS Form W-9, "Request for Taxpayer Identification".
4. Return each of the above-mentioned documents to Paragon Partners, Ltd. in the enclosed envelope. The other materials (Appraisal Summary, Map, Title Report, etc.), are included for your information and files.

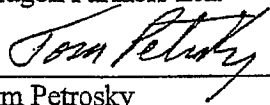
If the City and the property owner(s) are unable to come to an agreement for the purchase of the Property, it may be necessary for the City to commence an eminent domain proceeding. However, we look forward to working with you toward a friendly negotiation and timely completion of this purchase of the Property.

In addition to making this Offer to Purchase, please be advised that the City of Porterville is anxious to begin the proposed street improvement project as soon as possible. Therefore, the City, having made an offer to purchase the Property, is requesting your permission to begin working within the proposed new street area immediately by means of a Right of Entry. You will find copies of this proposed Right of Entry form for your consideration. If this is acceptable to you, please sign duplicate (2) originals of the Right of Entry and return both to this office as soon as possible. A fully executed original will be returned to you.

If you for any reason elect not to accept the City's offer, please be advised that this letter, the offer made herein, the enclosed summary statements, and all matters stated herein are made under the provisions of California Evidence Code §§ 1152 and 1154, and shall not be admissible in any eminent domain proceeding, or any other action, for any purpose prohibited under these sections.

If you have any questions regarding this Street Improvement Project, the Offer to Purchase, the Purchase Contract, the Right of Entry or any of the steps in the acquisition process, please feel free to contact Robyn Quinlan in our office at 714-379-3376, ext. 272 or by e-mail at: rquinlan@paragon-partners.com.

Sincerely,
Paragon Partners Ltd.



Tom Petrosky
Agent for the City of Porterville

Enclosures: Appraisal Summary Statement
Copy of Title Report
Eminent Domain Information Pamphlet
Purchase Contract
Grant Deed with Exhibit "A" Legal Description and Exhibit "B" Plat
IRS Form W-9
Acknowledgment of Receipt
Right of Entry (2)

BASIC PROPERTY DATA

Assessor's Parcel No.:	259-050-025
Property Location:	Southwest corner of Newcomb St. and Olive Ave. City of Porterville, Tulare County, California
Property Owner:	Corridor Group LLC
Total Larger Parcel Size:	86.43 acres
Applicable Zoning:	AE-20 exclusive agricultural zone by the County of Tulare
Current Use:	Farming of field crops and roadside produce stand
Highest and Best Use:	The highest and best use of the land as though vacant is to farm the land with field crops until such time as market conditions improve significantly and opportunities for urban development are better. The highest and best use of the property as improved is to maintain the existing irrigation system and produce stand improvements to generate some interim income to the property.
Property to be Acquired in Fee:	1.051 acres
Entire Property:	Yes: <input type="checkbox"/> Portion: <input checked="" type="checkbox"/>
Including Access Rights:	Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>
Date of Value:	August 2, 2013
Acquiring Agency:	City of Porterville
Total Just Compensation:	\$30,500

STATUTORY BASIS OF VALUATION

The market value for the property to be acquired is based upon an appraisal prepared in accordance with accepted appraisal principles and procedures.

California Code of Civil Procedure Section 1263.320 defines Fair Market Value as follows:

- a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.
- b) The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

VALUATION SUMMARY – Fee Acquisition

Value of Larger Parcel:		
Land Value (\$11,000 per acre)	\$950,730	
Improvement Value	<u>+ \$0</u>	
Total Value		\$950,730

Value of Property to be Acquired:		
Land Value (\$11,000 per acre)	\$11,561	
Improvement Value	<u>+ \$0</u>	
Total Value		\$11,561

Value of Remainder as Part of the Whole Before Acquisition:		
Land Value	\$939,169	
Improvement Value	<u>+ \$0</u>	
Total Value		\$939,169

Value of Remainder as a Separate Parcel Without Benefits:		
Property Value	\$939,169	
Incurable Damages	- \$0	
Cost to Cure Damages	<u>- \$18,665</u>	
Total Value		\$920,504

Damages Described: Replace irrigation pipeline, valves, and weirs.

Value of Remainder as a Separate Parcel With Benefits:		
Property Value Before	\$920,504	
Benefits	<u>+ \$0</u>	
Total Value		\$920,504

Benefits Described: None.

Net Damages:		
Total Severance Damages	\$18,665	
Total Benefits	<u>- \$0</u>	
Net Damages		\$18,655

Just Compensation:		
Value of Property to be Acquired	\$11,561	
Net Damages	<u>+ \$18,655</u>	
Total Compensation for Fee Acquisition		\$30,226
	Rounded to	<u>\$30,500</u>

LIST OF PRINCIPAL TRANSACTIONS

Land Sales:

Location: North side of Henderson Ave., west of Friant-Kern Canal,
Porterville
APN: 240-050-003
Sale Date: May 24, 2012
Parcel Size: 45.58 acres
Sale Price: \$649,000
Price per Acre: \$14,239

Location: North side of Scranton Ave., west of Newcomb St., Porterville
APN: 302-080-065 and -066
Sale Date: July 20, 2012
Parcel Size: 73.61 acres
Sale Price: \$1,729,130
Price per Acre: \$23,490


Location: Northeast corner of Reid Ave. and Jaye St., Porterville
APN: 255-220-019, -023, -025 and 255-230-009
Sale Date: August 28, 2012
Parcel Size: 36.55 acres
Sale Price: \$295,000
Price per Acre: \$8,071

Location: Northwest corner of Teapot Dome Ave. and Indiana St.,
Porterville
APN: 268-130-011 and -012
Sale Date: November 19, 2012
Parcel Size: 28.58 acres
Sale Price: \$390,000
Price per Acre: \$13,646

Location: South side of Poplar Ave., east of Road 208, Porterville
APN: 302-060-030
Sale Date: July 8, 2013
Parcel Size: 34.98 acres
Sale Price: \$465,000
Price per Acre: \$13,293

The above is a summary of my appraisal prepared at the request of and to be used by the City of Porterville to comply with California Code of Civil Procedures Section 1255.010. My appraisal, that is the basis for this summary, was made in accordance with accepted appraisal principles, consistent with California Valuation Law.

By:



Keith J. Hopper, MAI, R/W-AC
CA #AG002559 (expires 10/4/2012)

August 7, 2013

Date

SUMMARY STATEMENT RELATED TO PURCHASE OF REAL PROPERTY INTEREST

The City of Porterville (City) is currently undertaking the *Newcomb Street Shoulder Stabilization Project*, which is designed to provide shoulder stabilization along the west side of Newcomb Street between Olive Avenue and Roby Avenue where the road is not yet fully developed and dirt shoulders exist. Your property located at the southwest corner of Newcomb Street and Olive Avenue, in Porterville, California is within the project area, and is also identified by the Tulare County assessor as Assessor's Parcel No. 259-050-025.

Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the California Relocation Assistance and Real Property Acquisition Guidelines require that each owner from whom the City purchases real property or an interest therein or each tenant owning improvements on said property be provided with a summary of the appraisal of the real property or interest therein, as well as the following information:

1. You are entitled to receive full payment prior to vacating the real property being purchased unless you have heretofore waived such entitlement. You are not required to pay recording fees, transfer taxes, or the pro rata portion of real property taxes which are allocable to any period subsequent to the passage of title or possession.
2. The City will offer to purchase any remnant(s) considered by the City to be an uneconomic unit(s) which is/are owned by you or, if applicable, occupied by you as a tenant and which is/are contiguous to the land being conveyed.
3. All buildings, structures and other improvements affixed to the land described in the referenced document(s) covering this transaction and owned by the grantor(s) herein or, if applicable, owned by you as a tenant, are being conveyed unless other disposition of these improvements has been made. The interest acquired is in fee title and comprises 1.051 acres.
4. The market value of the property being purchased is based upon a market value appraisal which is summarized on the attached Appraisal Summary Statement and such amount:
 - a. Represents the full amount of the appraisal of just compensation for the property to be purchased;
 - b. Is not less than the approved appraisal of the fair market value of the property as improved;
 - c. Disregards any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired or by the likelihood that the property would be acquired for such public improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant; and
 - d. Does not reflect any consideration of or allowance for any relocation assistance and payments or other benefits which the owner is entitled to receive under an agreement with the City.
5. Pursuant to Civil Code of Procedure Section 1263.025 should you elect to obtain an independent appraisal, the City will pay for the actual reasonable costs up to \$5,000 subject to the following conditions:
 - a. You, not the City, must order the appraisal. Should you enter into a contract with the selected appraiser, the City will not be a party to the contract;
 - b. The selected appraiser must be licensed with the California Office of Real Estate Appraisers (OREA); and
 - c. Appraisal cost reimbursement requests must be made in writing and submitted to Jenni Byers, City of Porterville, 291 N. Main St., Porterville, CA 93257, within 90 days of the earliest of the following dates: (1) the date the selected appraiser requests payment from you for the appraisal; or, (2) the date upon which you, or someone on your behalf, remitted full payment to the selected appraiser for the appraisal.

Copies of the contract (if a contract was made), appraisal report, and invoice for completed work by the appraiser must be provided to the City concurrent with submission of the appraisal cost reimbursement request. The costs must be reasonable and justifiable.

6. The owner of a business conducted on a property to be acquired, or conducted on the remaining property which will be affected by the purchase of the required property, may be entitled to compensation for the loss of goodwill. Entitlement is contingent upon the ability to prove such loss in accordance with the provisions of Sections 1263.510 and 1263.520 of the Code of Civil Procedure.
7. If you ultimately elect to reject the City's offer for your property, you are entitled to have the amount of compensation determined by a court of law in accordance with the laws of the State of California.
8. You are entitled to receive all benefits that are available through donation to the City of all or part of your interest in the real property sought to be acquired by the City as set out in Streets and Highways Code Sections 104.2 and 104.12.



CHICAGO TITLE COMPANY

PRELIMINARY REPORT

*In response to the application for a policy of title insurance referenced herein, **Chicago Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.*

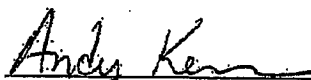
The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Chicago Title Insurance Company, a Nebraska corporation.

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.


Countersigned



Chicago Title Company

BY



President

ATTEST



Secretary



Chicago Title Company

ISSUING OFFICE: 2540 W. Shaw Lane, Suite 112 • Fresno, CA 93711
559 492-4251 • FAX 559 448-8526

PRELIMINARY REPORT

Amended

Title Officer: Laura Marquez

Title No.: 12-42313176-A-LM

Locate No.: CACTI7754-7754-4423-0042313176

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

ATTN: Susan Duke

PROPERTY ADDRESS: 259-050-025, Porterville, California

EFFECTIVE DATE: November 28, 2012, 07:30 A.M.

The form of policy or policies of title insurance contemplated by this report is:

CLTA Standard Coverage Policy - 1990

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A Fee

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Corridor Group LLC

3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

SP\CT 11/18/2012

LEGAL DESCRIPTION

EXHIBIT "A"

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

The Northeast Quarter of Section 33, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the Official Plat thereof.

EXCEPTING THEREFROM, the West 69 1/3 acres thereof.

ALSO EXCEPTING THEREFROM, that portion described in the Judgment of Condemnation recorded May 13, 1977, Instrument No. 24828, in Book 34:16, Page 722, Official Records.

ALSO EXCEPTING THEREFROM, the East 42 feet of the South half of the Northeast quarter of said Section 33, conveyed in fee for Public Street and Underground Utilities Purposes to the City of Porterville, a municipal corporation, in the Deed and Resolution recorded 01/12/2012, as Document No. 2012-0001734, described as follows:

APN: 259-050-025-000

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. **Property taxes**, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2012-2013, Assessor's Parcel Number 259-050-025-000.

Code Area Number: 061-000
1st Installment: \$776.11 Open
2nd Installment: \$776.11 Open
Land: \$95,055.00
Improvements: \$0.00
Exemption: \$0.00
Personal Property: \$0.00

2. **The lien of supplemental taxes**, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California.

3. **Rights of the public** as to any portion of the land lying within the area commonly known as Avenue 152 and Road 232.

4. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Ewill A. Gilliam
Purpose: Ditch purposes
Recorded: Book 236, Page 248, of Deeds
Affects: As set forth in said document

5. **An easement** for road and highway purposes over the North 30 feet of the Northeast quarter of said Section 33, excepting the West 69 1/3 acres, as condemned by Final Decree of Condemnation in the Tulare County Superior Court, Case No. 36330, a certified copy of which was recorded January 15, 1948, in Book 1278, Page 427, Official Records.

6. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Southern California Edison Company, a corporation
Purpose: Poles and pole lines
Recorded: November 18, 1953, Book 1709, Page 186, of Official Records
Affects: As set forth in said document

Reference is made to said document for full particulars.

7. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Southern California Edison Company, a corporation
Purpose: Poles and pole lines
Recorded: May 9, 1956, Book 1921, Page 413, of Official Records
Affects: As set forth in said document

8. **Covenants and restrictions** imposed by a Land Conservation Contract executed pursuant to Section 51200 et seq. California Government Code.

Dated: None Shown
Executed by: Dorothy Jue Moe and the County of Tulare
Recorded: February 11, 1976, Instrument No. 5974, Book 3298, Page 570, of Official Records
Affects: Said land with other property

Matters contained in that certain document entitled "Notice of Implementation Under Williamson Act" dated December 1, 2011, executed by County of Tulare recorded December 5, 2011, Instrument No. 2011-0075369, of Official Records, which document, among other things, contains or provides for: Implementation of AB 1265 (Formerly SB 863) for Calendar Year 2011.

Reference is hereby made to said document for full particulars.

9. **An unrecorded lease** with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document

Entitled: Judgment in Condemnation
Lessor: Not shown
Lessee: John DePaoli and Josephine Depaoli, husband and wife
Recorded: May 13, 1977, Instrument No. 24828, Book 3416, Page 722, of Official Records

The present ownership of the leasehold created by said lease and other matters affecting the interest of the lessee are not shown herein.

10. **As of this report date**, we find no open deeds of trust of record. Please verify with escrow personnel and/or agents whether or not we have overlooked something and advise the title department accordingly prior to close of escrow.

- 11. Before issuing its policy of title insurance, this Company will require for review, the following documents from the Limited Liability Company named below.**

Limited Liability Company: Corridor Group, LLC

- (a) A copy of its operating agreement and any and all amendments, supplements and/or modifications thereto, certified by the appropriate manager or member.
- (b) Confirmation that its Articles of Organization (LLC-1), and Certificate of Amendment (LLC-2), any restated Articles of Organization (LLC-10) and/or Certificate of Correction (LLC-11) have been filed with the Secretary of State.
- (c) If the Limited Liability Company is member-managed a full and complete current list of members certified by the appropriate manager or member.
- (d) If the Limited Liability Company was formed in a foreign jurisdiction, evidence satisfactory to the Company, that it was validly formed, is in good standing and authorized to do business in the state of origin.
- (e) If the Limited Liability Company was formed in a foreign jurisdiction, evidence satisfactory to the Company, that it has complied with California "doing business" laws, if applicable.

After review of the requested documents, the Company reserves the right to add additional items or make additional requirements prior to the issuance of any policy of title insurance.

END OF ITEMS

Note 1. The current owner does NOT qualify for the \$20.00 discount pursuant to the coordinated stipulated judgments entered in actions filed by both the Attorney General and private class action plaintiffs for the herein described property.

Note 2. Note: This property does not meet the criteria for an Alta Homeowners Policy to be issued.

The prospective buyer must sign an escrow instruction acknowledging that a CLTA Owners Policy will be issued in lieu of the ALTA Homeowners Policy.

Note 3. **This Company will require** the following documents for review prior to the issuance of any title assurance predicated upon a conveyance or encumbrance by the corporation named below.

- Corporation: City of Porterville, a Municipal Corporation,
- (a) A copy of the corporation By-Laws and Articles of Incorporation.
- (b) An original or certified copy of the Resolution authorizing the transaction contemplated herein.
- (c) If the Articles and/or By-Laws require approval by a "parent" organization, a copy of the Articles and By-Laws of the parent.

The right is reserved to add requirements or additional items after completion of such review.

Note 4. The only deeds affecting said land, which recorded within twenty-four (24) months of the date of this report, as are follows:

Grantor: Corridor Group LLC, a California Limited Liability Company
Grantee: City of Porterville, a Municipal Corporation
Recorded: January 12, 2012, Instrument No. 2012-0001734, of Official Records

Note 5. ***IMPORTANT RECORDING NOTE***

For Kings County, please send all original documents for recording to the following office:

Chicago Title Company
1460 W. 7th Street, Ste 102
Hanford, CA 93230
Attn: Recording Desk
Phone: (559) 584-3381

For Tulare County, please send all original documents for recording to the following office:

Chicago Title Company
1750 W. Walnut Ave, Ste A
Visalia, CA 93277
Attn: Recording Desk
Phone: (559) 636-4300

Please direct all other title communication and copies of documents, including recording release instructions, policy write-up instructions, lenders instructions and settlement statements, to the Title Only Department of the issuing office.

Note 6. Escrow information note: Arb No. 259-5-X-25

- Note 7.** If a county recorder, title insurance company, escrow company, real estate broker, real estate agent or association provides a copy of a declaration, governing document or deed to any person, California law requires that the document provided shall include a statement regarding any unlawful restrictions. Said statement is to be in at least 14-point bold face type and may be stamped on the first page of any document provided or included as a cover page attached to the requested document. Should a party to this transaction request a copy of any document reported herein that fits this category, the statement is to be included in the manner described.
- Note 8.** Please contact Escrow Office for Wire Instructions.
- Note 9.** Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of an agent, an authorized employee of the insured lender, or by using Bancserv or other approved third-party service. If the above requirements cannot be met, please call the company at the number provided in this report.

END OF NOTES

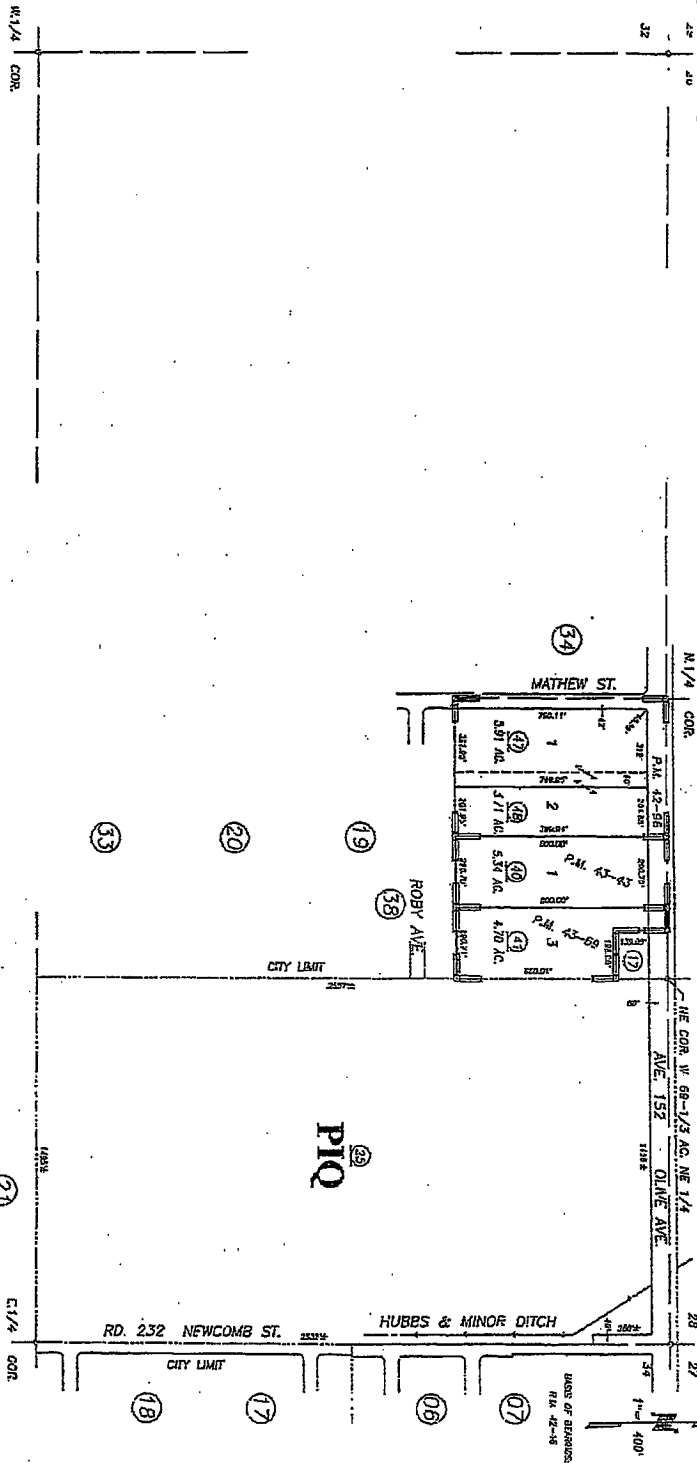
This Map is being furnished as a convenience to locate the herein described land in relation to adjoining streets and other lands. The Company does not guarantee dimensions, distances, bearings, or acreage stated thereon, nor is it intended to illustrate legal building sites or supersede City or County ordinances, i.e. zoning and building codes, etc. Official information concerning the use of any parcel should be obtained from local government agencies.

N1/2 SEC. 33, T.21S., R.27E., M.D.B.&M.

Tax Area Codes

259-05

004-060
004-117
061-000



PARCEL MAP 4192, R.M. 42-86
FOR PARCEL MAP 4239, P.M. 43-43
PARCEL MAP 4265, P.M. 43-69

VICINITY OF PORTERVILLE
ASSESSOR'S MAPS BK. 259, PG. 05
COUNTY OF TULARE, CALIFORNIA, U.S.A.

NOTE: Assessor's Parcel Numbers Shown in Circles (123) REVISION DATE TECH

ATTACHMENT ONE

AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL TITLE INSURANCE POLICY (6-1-87) EXCLUSIONS

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
 - land use
 - improvements on the land
 - land division
 - environmental protection

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at policy date.

This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.

2. The right to take the land by condemning it, unless:
 - a notice of exercising the right appears in the public records on the Policy Date
 - the taking happened prior to the Policy Date and is binding on you if you bought the land without knowledge of the taking

In addition to the Exclusions, you are not insured against loss, costs, attorneys' fees, and the expenses resulting from:

1. Any rights, interests, or claims of parties in possession of the land not shown by the public records.
2. Any easements or liens not shown by the public records. This does not limit the lien coverage in Item 8 of Covered Title Risks.

3. Title Risks:

- that are created, allowed, or agreed to by you
- that are known to you, but not to us, on the Policy Date - unless they appeared in the public records
- that result in no loss to you
- that first affect your title after the Policy Date - this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks

4. Failure to pay value for your title.

5. Lack of a right:

- to any land outside the area specifically described and referred to in Item 3 of Schedule A
- or
- in streets, alleys, or waterways that touch your land

This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

3. Any facts about the land which a correct survey would disclose and which are not shown by the public records. This does not limit the forced removal coverage in Item 12 of Covered Title Risks.

4. Any water rights or claims or title to water in or under the land, whether or not shown by the public records.

**ATTACHMENT ONE
(CONTINUED)**

**CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
 - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

**SCHEDULE B, PART I
EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

PART I

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**ATTACHMENT ONE
(CONTINUED)**

**FORMERLY AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10-17-92)
WITH A.L.T.A. ENDORSEMENT-FORM 1 COVERAGE
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
(a) created, suffered, assumed or agreed to by the insured claimant;
(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
(c) resulting in no loss or damage to the insured claimant;
(d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or
(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
(i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
(ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
(iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
(a) to timely record the instrument of transfer; or
(b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage.

In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**ATTACHMENT ONE
(CONTINUED)**

**2006 AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (06-17-06)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed, or agreed to by the Insured Claimant;
(b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
(c) resulting in no loss or damage to the Insured Claimant;
(d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
(e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage.
In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records;
(b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.

**ATTACHMENT ONE
(CONTINUED)**

**FORMERLY AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (10-17-92)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims, or other matters:
(a) created, suffered, assumed or agreed to by the insured claimant;
(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
(c) resulting in no loss or damage to the insured claimant;
(d) attaching or created subsequent to Date of Policy; or
(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
(i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
(ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
(a) to timely record the instrument of transfer; or
(b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage.

In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

**ATTACHMENT ONE
(CONTINUED)**

**2006 AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (06-17-06)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed, or agreed to by the Insured Claimant;
(b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
(c) resulting in no loss or damage to the Insured Claimant;
(d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
(e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is (a) a fraudulent conveyance or fraudulent transfer; or (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage.

In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.

**ATTACHMENT ONE
(CONTINUED)**

**CLTA HOMEBOWNER'S POLICY OF TITLE INSURANCE (10-22-03)
ALTA HOMEBOWNER'S POLICY OF TITLE INSURANCE (10-22-03)
EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
 - a. building
 - b. zoning
 - c. Land use
 - d. improvements on Land
 - e. Land division
 - f. environmental protection

This Exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.

This Exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.

2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
 - a. notice of exercising the right appears in the Public Records at the Policy Date; or

- b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.

4. Risks;

- a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8, 22, 23, 24 or 25.

5. Failure to pay value for Your Title.

6. Lack of a right:

- a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 14, 15, 16 and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 14:	1.00% of Policy Amount or \$ 2,500.00 (whichever is less)	\$ 10,000.00
Covered Risk 15:	1.00% of Policy Amount or \$ 5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 16:	1.00% of Policy Amount or \$ 5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 18:	1.00% of Policy Amount or \$ 2,500.00 (whichever is less)	\$ 5,000.00

**ATTACHMENT ONE
(CONTINUED)**

**CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (02-03-10)
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE (02-03-10)
EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
 - a. building;
 - b. zoning;
 - c. land use;
 - d. improvements on the Land;
 - e. land division; and
 - f. environmental protection.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
4. Risks:
 - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.
5. Failure to pay value for Your Title.
6. Lack of a right:
 - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the Land.This Exclusion does not limit the coverage described in Covered Risk 11 or 21.
7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19 and 21, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16:	<u>1.00% of Policy Amount Shown in Schedule A</u> or <u>\$ 2,500.00</u> (whichever is less)	<u>\$ 10,000.00</u>
Covered Risk 18:	<u>1.00% of Policy Amount Shown in Schedule A</u> or <u>\$ 5,000.00</u> (whichever is less)	<u>\$ 25,000.00</u>
Covered Risk 19:	<u>1.00% of Policy Amount Shown in Schedule A</u> or <u>\$ 5,000.00</u> (whichever is less)	<u>\$ 25,000.00</u>
Covered Risk 21:	<u>1.00% of Policy Amount Shown in Schedule A</u> or <u>\$ 2,500.00</u> (whichever is less)	<u>\$ 5,000.00</u>

**ATTACHMENT ONE
(CONTINUED)**

**ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvements now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or areas of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without Knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
(a) created, suffered, assumed or agreed to by the Insured Claimant;
(b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
(c) resulting in no loss damage to the Insured Claimant;
(d) attaching or created subsequent to Date of Policy (this paragraph does not limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26); or
(e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, except as provided in Covered Risk 27, or any consumer credit protection or truth in lending law.
6. Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8(e) and 26.
7. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Covered Risk 8.
8. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting the title, the existence of which are Known to the Insured at:
(a) The time of the advance; or
(b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification. This exclusion does not limit the coverage provided in Covered Risk 8.
9. The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

**ATTACHMENT ONE
(CONTINUED)**

**ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (07/26/10)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.
6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.
9. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 27(b) of this policy.

Notice

You may be entitled to receive a \$20.00 discount on escrow services if you purchased, sold or refinanced residential property in California between May 19, 1995 and November 1, 2002. If you had more than one qualifying transaction, you may be entitled to multiple discounts.

If your previous transaction involved the same property that is the subject of your current transaction, you do not have to do anything; the Company will provide the discount, provided you are paying for escrow or title services in this transaction.

If your previous transaction involved property different from the property that is subject of your current transaction, you must - prior to the close of the current transaction - inform the Company of the earlier transaction, provide the address of the property involved in the previous transaction, and the date or approximate date that the escrow closed to be eligible for the discount.

Unless you inform the Company of the prior transaction on property that is not the subject of this transaction, the Company has no obligation to conduct an investigation to determine if you qualify for a discount. If you provide the Company information concerning a prior transaction, the Company is required to determine if you qualify for a discount which is subject to other terms and conditions.

Effective through November 1, 2014

Fidelity National Financial, Inc.
Privacy Statement

Fidelity National Financial, Inc. and its subsidiaries ("FNF") respect the privacy and security of your non-public personal information ("Personal Information") and protecting your Personal Information is one of our top priorities. This Privacy Statement explains FNF's privacy practices, including how we use the Personal Information we receive from you and from other specified sources, and to whom it may be disclosed. FNF follows the privacy practices described in this Privacy Statement and, depending on the business performed, FNF companies may share information as described herein.

Personal Information Collected

We may collect Personal Information about you from the following sources:

- Information we receive from you on applications or other forms, such as your name, address, social security number, tax identification number, asset information, and income information;
- Information we receive from you through our Internet websites, such as your name, address, email address, Internet Protocol address, the website links you used to get to our websites, and your activity while using or reviewing our websites;
- Information about your transactions with or services performed by us, our affiliates, or others, such as information concerning your policy, premiums, payment history, information about your home or other real property, information from lenders and other third parties involved in such transaction, account balances, and credit card information; and
- Information we receive from consumer or other reporting agencies and publicly recorded documents.

Disclosure of Personal Information

We may provide your Personal Information (excluding information we receive from consumer or other credit reporting agencies) to various individuals and companies, as permitted by law, without obtaining your prior authorization. Such laws do not allow consumers to restrict these disclosures. Disclosures may include, without limitation, the following:

- To insurance agents, brokers, representatives, support organizations, or others to provide you with services you have requested, and to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure in connection with an insurance transaction;
- To third-party contractors or service providers for the purpose of determining your eligibility for an insurance benefit or payment and/or providing you with services you have requested;
- To an insurance regulatory authority, or a law enforcement or other governmental authority, in a civil action, in connection with a subpoena or a governmental investigation;
- To companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements and/or
- To lenders, lien holders, judgment creditors, or other parties claiming an encumbrance or an interest in title whose claim or interest must be determined, settled, paid or released prior to a title or escrow closing.

We may also disclose your Personal Information to others when we believe, in good faith, that such disclosure is reasonably necessary to comply with the law or to protect the safety of our customers, employees, or property and/or to comply with a judicial proceeding, court order or legal process.

Effective Date: 5/1/2008

Disclosure to Affiliated Companies - We are permitted by law to share your name, address and facts about your transaction with other FNF companies, such as insurance companies, agents, and other real estate service providers to provide you with services you have requested, for marketing or product development research, or to market products or services to you. We do not, however, disclose information we collect from consumer or credit reporting agencies with our affiliates or others without your consent, in conformity with applicable law, unless such disclosure is otherwise permitted by law.

Disclosure to Nonaffiliated Third Parties - We do not disclose Personal Information about our customers or former customers to nonaffiliated third parties, except as outlined herein or as otherwise permitted by law.

Confidentiality and Security of Personal Information

We restrict access to Personal Information about you to those employees who need to know that information to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard Personal Information.

Access To Personal Information/

Requests for Correction, Amendment, or Deletion of Personal Information

As required by applicable law, we will afford you the right to access your Personal Information, under certain circumstances to find out to whom your Personal Information has been disclosed, and request correction or deletion of your Personal Information. However, FNF's current policy is to maintain customers' Personal Information for no less than your state's required record retention requirements for the purpose of handling future coverage claims.

For your protection, all requests made under this section must be in writing and must include your notarized signature to establish your identity. Where permitted by law, we may charge a reasonable fee to cover the costs incurred in responding to such requests. Please send requests to:

Chief Privacy Officer
Fidelity National Financial, Inc.
601 Riverside Avenue
Jacksonville, FL 32204

Changes to this Privacy Statement

This Privacy Statement may be amended from time to time consistent with applicable privacy laws. When we amend this Privacy Statement, we will post a notice of such changes on our website. The effective date of this Privacy Statement, as stated above, indicates the last time this Privacy Statement was revised or materially changed.

Notice of Available Discounts

Pursuant to Section 2355.3 in Title 10 of the California Code of Regulations Fidelity National Financial, Inc. and its subsidiaries ("FNF") must deliver a notice of each discount available under our current rate filing along with the delivery of escrow instructions, a preliminary report or commitment. Please be aware that the provision of this notice does not constitute a waiver of the consumer's right to be charged the filed rate. As such, your transaction may not qualify for the below discounts.

You are encouraged to discuss the applicability of one or more of the below discounts with a Company representative. These discounts are generally described below; consult the rate manual for a full description of the terms, conditions and requirements for such discount. These discounts only apply to transactions involving services rendered by the FNF Family of Companies. This notice only applies to transactions involving property improved with a one-to-four family residential dwelling.

FNF Underwritten Title Company
CTC – Chicago Title Company

FNF Underwriter
CTIC – Chicago Title Insurance Company

Available Discounts

CREDIT FOR PRELIMINARY REPORTS AND/OR COMMITMENTS ON SUBSEQUENT POLICIES (CTIC)

Where no major change in the title has occurred since the issuance of the original report or commitment, the order may be reopened within 12 or 36 months and all or a portion of the charge previously paid for the report or commitment may be credited on a subsequent policy charge.

FEE REDUCTION SETTLEMENT PROGRAM (CTC and CTIC)

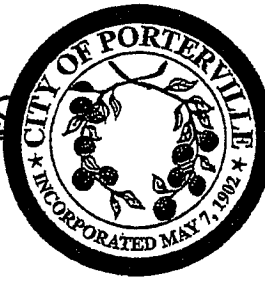
Eligible customers shall receive a \$20.00 reduction in their title and/or escrow fees charged by the Company for each eligible transaction in accordance with the terms of the Final Judgments entered in *The People of the State of California et al. v. Fidelity National Title Insurance Company et al.*, Sacramento Superior Court Case No. 99AS02793, and related cases.

DISASTER LOANS (CTIC)

The charge for a Lender's Policy (Standard or Extended coverage) covering the financing or refinancing by an owner of record, within 24 months of the date of a declaration of a disaster area by the government of the United States or the State of California on any land located in said area, which was partially or totally destroyed in the disaster, will be 50% of the appropriate title insurance rate.

CHURCHES OR CHARITABLE NON-PROFIT ORGANIZATIONS (CTIC)

On properties used as a church or for charitable purposes within the scope of the normal activities of such entities, provided said charge is normally the church's obligation the charge for an owner's policy shall be 50% or 70% of the appropriate title insurance rate, depending on the type of coverage selected. The charge for a lender's policy shall be 32% or 50% of the appropriate title insurance rate, depending on the type of coverage selected.



July 26, 2013

Community Development
Department

Corridor Group, LLC
c/o D. Moe
6750 Balboa Blvd.
Van Nuys, CA 91406

Re: NOTICE OF DECISION TO APPRAISE
Newcomb Shoulder Stabilization Project
APN 259-050-025

Dear Property Owner,


As part of the Newcomb Shoulder Stabilization Project, the City of Porterville ("City"), has previously identified the above referenced real property as being within the proposed project area. This letter is not an offer to purchase the property. However, it is a notice to advise you that the City intends to appraise the property to determine its current fair market value.

As the property is in a Williamson Act contract the Department of Conservation requires the City to notify you that if an agreement cannot be reached the City can proceed with eminent domain. Attached you will find an informational pamphlet regarding the eminent domain process and property owner's rights.

The City has retained Paragon Partners Ltd as a consultant to provide professional real estate related services that include the appraisal of the above-mentioned real property. Regarding the appraisal of your property, Keith Hopper of Hopper Company has been selected to conduct the appraisal and can be reached at (559) 733-1248. You or your representative are invited but are not required to accompany the appraiser during the inspection. Mr. Hopper will be contacting you to make an appointment to inspect the property.

Thank you for your cooperation in this matter. If you have any questions, please do not hesitate to contact Richard Adler of Paragon Partners Ltd. at (714) 379-3376, ext 249.

Sincerely,


Jenni Byers
Project Manager

cc: Richard Adler - Paragon Partners Ltd.
Keith Hopper - Hopper Company



EMINENT DOMAIN Information Pamphlet

CITY OF PORTERVILLE
Community Development Department
291 North Main Street
Porterville, CA 93257

EMINENT DOMAIN – Information Pamphlet

I. Introduction

Eminent domain is the power of the government to purchase private property for a "public use" so long as the property owner is paid "just compensation." Whenever possible, the City of Porterville tries to avoid use of the eminent domain power, exercising it only when it is necessary for a public project. The decision to acquire private property for a public project is made by the City only after a thorough review of the project, which often includes public hearings.

This pamphlet provides general information about the eminent domain process and the rights of the property owner in that process.¹

- **What is a "public use"?**

A "public use" is a use that confers public benefits, like the provision of public services or the promotion of public health, safety, and welfare. Public uses include a wide variety of projects such as street improvements, construction of water pipelines or storage facilities, construction of civic buildings, redevelopment of blighted areas, and levee improvements to increase flood protection. Some public uses are for private entities, such as universities, hospitals and public utilities, which serve the public.

- **What is "just compensation"?**

Just compensation is the **fair market value** of the property being acquired by the government. The state law definition of fair market value is "the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available."

II. The Eminent Domain Process and the Property Owner's Rights

The eminent domain process begins with a public use project. When selecting a project location, the goal is to render the greatest public good and the least private injury or inconvenience. If it is determined that all or a portion of your property may be necessary for a public use project, the City will begin the appraisal process to determine the property's fair market value.

¹ This pamphlet reflects the current law as of January 1, 2008. However, the information in this pamphlet is not, nor should it be construed as, legal advice. You should consult with qualified legal counsel regarding your specific situation rather than relying on this pamphlet as legal advice.

- **How is the fair market value of my property determined?**

The City will retain an independent, accredited appraiser familiar with local property values to appraise your property. The appraiser will invite you to accompany him or her during an inspection of your property. You may give the appraiser any information about improvements and any special features that you believe may affect the value of your property. It is in your best interest to provide the appraiser with all the useful information you can in order to ensure that nothing of value will be overlooked. If you are unable to meet with the appraiser, you may wish to have a person who is familiar with your property meet with the appraiser instead.

After the inspection, the appraiser will complete an appraisal that will include the appraiser's determination of your property's fair market value and the information upon which the fair market value is based. The appraiser will provide the City with the appraisal. The City will then make a written offer to purchase the property. The offer will also include a summary of the appraisal. The offer will be for no less than the amount of the appraisal.

- **What factors does the appraiser consider in determining fair market value?**

Each parcel of real property is different and, therefore, no single formula can be used to appraise all properties. Among the factors an appraiser typically considers in estimating fair market value are:

- The location of the property;
- The age and condition of improvements on the property;
- How the property has been used;
- Whether there are any lease agreements relating to the property;
- Whether there are any environmental issues, such as contaminated soil;
- Applicable current and potential future zoning and land use requirements;
- How the property compares with similar properties in the area that have been sold recently;
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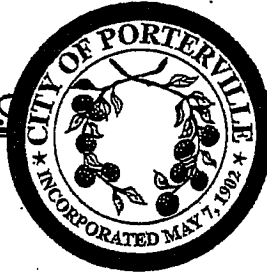
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You also have the right to ask the court to require the City to increase the amount deposited with the State Treasurer if you believe the amount the City has deposited less than the "probable amount of compensation."

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Yes. Provided you have not withdrawn the amount deposited, you can challenge in court the City's right to acquire or condemn the property.



July 26, 2013

Community Development
Department

Corridor Group, LLC
c/o Lisa Moe
P.O. Box 5233
Sherman Oaks, CA 91413

Re: NOTICE OF DECISION TO APPRAISE
Newcomb Shoulder Stabilization Project
APN 259-050-025

Dear Property Owner,

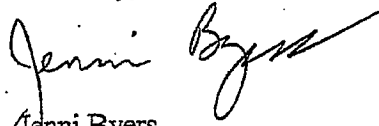
As part of the Newcomb Shoulder Stabilization Project, the City of Porterville ("City"), has previously identified the above referenced real property as being within the proposed project area. This letter is not an offer to purchase the property. However, it is a notice to advise you that the City intends to appraise the property to determine its current fair market value.

As the property is in a Williamson Act contract the Department of Conservation requires the City to notify you that if an agreement cannot be reached the City can proceed with eminent domain. Attached you will find an informational pamphlet regarding the eminent domain process and property owner's rights.

The City has retained Paragon Partners Ltd as a consultant to provide professional real estate related services that include the appraisal of the above-mentioned real property. Regarding the appraisal of your property, Keith Hopper of Hopper Company has been selected to conduct the appraisal and can be reached at (559) 733-1248. You or your representative are invited but are not required to accompany the appraiser during the inspection. Mr. Hopper will be contacting you to make an appointment to inspect the property.

Thank you for your cooperation in this matter. If you have any questions, please do not hesitate to contact Richard Adler of Paragon Partners Ltd. at (714) 379-3376, ext 249.

Sincerely,


Jenni Byers
Project Manager

cc: Richard Adler - Paragon Partners Ltd.
Keith Hopper - Hopper Company



EMINENT DOMAIN Information Pamphlet

CITY OF PORTERVILLE
Community Development Department
291 North Main Street
Porterville, CA 93257

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EMINENT DOMAIN – Information Pamphlet

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- **Can I rent the property from the City?**

If the City agrees to allow you or your tenants to remain on the property after the City acquires possession, you or the tenants will be required to pay a fair rent to the City. Generally, such rent will not be more than that charged as rent for the use of a property similar to yours in a similar area.

- **Can I withdraw the amount deposited with the State Treasurer before the eminent domain action is completed, even if I don't agree that the amount reflects the fair market value of my property?**

Yes. Subject to the rights of any other persons having a property interest (such as a lender, tenant, or co-owner), you may withdraw the amount deposited with the State Treasurer before the eminent domain action is completed. If you withdraw the amount on deposit, you may still seek a higher fair market value during the eminent domain proceedings, but you may not contest the right of the City to acquire the property, meaning you cannot contest that the acquisition of your property is for a public purpose or is otherwise improper.

You also have the right to ask the court to require the City to increase the amount deposited with the State Treasurer if you believe the amount the City has deposited less than the "probable amount of compensation."

- **Can I contest the condemning agency's acquisition of the property?**

Yes. Provided you have not withdrawn the amount deposited, you can challenge in court the City's right to acquire or condemn the property.

GRANTOR(S): Corridor Group LLC
PROJECT: Newcomb Shoulder Stabilization
ADDRESS: SW corner Olive Avenue & Newcomb
Street
APN: 259-050-025
PARCEL: (See attached Exhibits A and B)
FEDERAL-AID PROJECT NO.: CML-5122
DATE: _____
ESCROW: _____

PURCHASE CONTRACT

This Purchase Contract ("Agreement") is between the City of Porterville, a municipal corporation ("City") and Corridor Group LLC ("Grantor")

It is mutually agreed as follows:

1. Grantor agrees to sell to City, and City agrees to purchase from Grantor, on the terms and conditions set forth in this Agreement, the fee interest in and to that certain portion of the real property more fully described in the legal description attached hereto as Exhibit "A" and shown on the plat/drawing attached hereto as Exhibit "B", both incorporated herein by reference, and improvements located thereon (together, the "Property"), for the purpose of widening and improving Newcomb Street. Grantor hereby states that Grantor has full title except as hereinafter mentioned and has full authority to sign this Agreement and to convey the rights described herein.
2. The parties hereto have set forth the whole of their agreement. The performance of this Agreement constitute the entire consideration for the Property and shall relieve the City of all further obligation on this account, or on account of the location, grade, or construction of the proposed public improvement.
3. Upon approval by the City Council, the City shall:
 - A. Pay the undersigned Grantor the sum of **THIRTY THOUSAND FIVE HUNDRED DOLLARS (\$30,500.00)** for the Property immediately upon title to said Property vesting in the City, free and clear of all liens, encumbrances, assessments, easements, and leases (recorded and/or unrecorded).
 - B. Pay all the escrow and recording fees incurred in this transaction and, if title insurance is desired by the City, then the City will pay the premium charged therefore. Grantor hereby authorizes the City to prepare escrow instructions for review by Grantor and filing with the escrow agent after such review and approval by Grantor.
 - C. Have the authority to deduct and pay from the amount shown in Clause 3. A above any amount necessary to pay reconveyance fees and trustee's fees for any full reconveyance of Deed(s) of Trust, and to satisfy any bond demands and/or

delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid non-delinquent assessments, which have become a lien at the close of escrow. Current taxes shall be prorated as of the date of possession or the date of conveyance is recorded, whichever occurs first. However, if an Order of Immediate Possession has been obtained, then the date of proration of taxes shall be as of the effective date of said Order.

4. Grantor grants the City, its permittees, contractors, agents or assigns, a right to enter, upon, over, across, and under Grantor's property described in Exhibit "A" and shown on Exhibit "B" both attached hereto and Grantor's property lying adjacent to the property described in Exhibit "A" and shown on Exhibit "B" during the period of construction for the purpose of constructing the public improvement and accomplishing all necessary incidents, thereto, including, but not limited to, the repair, replacement, restoration, removal, and /or disposal of existing improvements.
 - A. Any actual damage or substantial interference with the possession or use of the adjacent land caused by City, its permittees, contractors, agents or assigns shall be cured by same. In addition, the City of Porterville agrees to indemnify the Grantor and hold said Grantor harmless from any loss of, or damage to any property or injury or death of any person whomsoever arising out of or connected with their performance of any work authorized under this Agreement or the public improvements constructed pursuant to this Agreement.
 - B. It is agreed and confirmed by the parties hereto that, notwithstanding other provisions in this Agreement, the right of possession and use of the Property by the City (including, but not limited to, the right to construct and install new improvements and to replace, repair, restore, remove, and /or dispose of existing improvements) shall commence upon execution of this Agreement and shall terminate upon completion of construction of the project, and that the amount shown in Clause 3.A. herein includes, but is not limited to, full payment for such possession and use, excluding any damages or amounts that City may be liable for pursuant to Clause 4.A., which section shall not be affected by this Clause 4.B.
5. The sum set forth in Clause 3.A. above included payment for the following: fee title to 1.051 acres of land (45,791 square feet) and any and all landscaping and improvements thereon, and all rights of possession and use provided for herein.
6. This Agreement shall not and does not create any new or additional restriction on Grantor's use of its Property.
7. It is understood that City, at City's sole expense, shall be responsible for construction of new public street improvements within the Property described in Exhibit "A" and shown on Exhibit "B" both attached hereto. Grantor shall not be responsible for payment or reimbursement of such costs upon future development of Grantor's land lying adjacent to the Property.

8. It is understood that once this Agreement is executed it must be approved by the City Council to complete the transaction. Delivery of this Agreement and the accompanying Grant Deed is conditioned upon the City Council's approval of said documents.
9. NO OTHER OBLIGATION OTHER THAN THOSE SPECIFICALLY SET FORTH HEREIN WILL BE RECOGNIZED. CITY'S INDEMNITY OBLIGATION SHALL SURVIVE THE CLOSING OF THIS TRANSACTION AND/OR THE TERMINATION HEREOF.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year shown.

GRANTOR:

CORRIDOR GROUP LLC

By: _____

Date: _____

CITY OF PORTERVILLE, a municipal corporation

By: _____
For City of Porterville

Date: _____

By: _____

Witness/Received:

By: _____

Date: _____

By: _____
Acquisition Agent

Date: _____

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL THIS
DEED AND TAX STATEMENTS TO:**

City of Porterville
291 N. Main St.
Porterville, CA 93257

**NO FEE PURSUANT TO GOVERNMENT
SECTION 27383**

Space above this line for Recorder's Use

GRANT DEED

Atlas Sheet	Section	Township	Range	Street/Avenue
G 4	33	T 21 S	R 27 E	Newcomb St.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, CORRIDOR GROUP LLC, a California limited liability company, hereby Grants to the CITY OF PORTERVILLE, a Municipal Corporation, all that real property for **public street and underground utilities** in the County of Tulare, State of California, described as:

See Exhibit "A" and shown on Exhibit "B" attached hereto and made a part hereof by reference, consisting of three pages.

The grantor further understands that the present intention of the grantee is to construct and maintain a public street and underground utilities on the lands hereby conveyed in fee and the grantor, for the grantor and the grantor's successors and assigns, hereby waives any claims for any and all damages to grantor's remaining property contiguous to the property hereby conveyed by reason of the location, construction, landscaping or maintenance of said street.
(As used above, the term "grantor" shall include the plural as well as the singular number.)

Dated this _____ day of _____, 20

Corridor Group LLC, a California
limited liability company

D. Moe, Managing Member

STATE OF CALIFORNIA

County of _____

} ss

CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

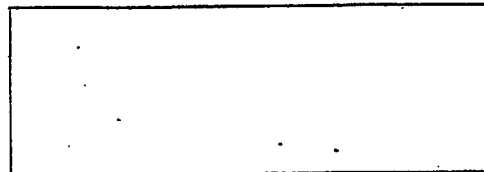
On this the _____ day of _____, 20____, before me, _____
Name, Title of Officer-E.G., "Jane Doe, Notary Public"

personally appeared _____
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



(for notary seal or stamp)

(Notary Public's signature in and for said County and State)

LEGAL DESCRIPTION

Exhibit "A"

That portion of the north half of the Northeast quarter of Section 33, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the Official Plat thereof, more particularly described as:

COMMENCING AT the Northeast quarter of said Section 33,

THENCE, South $89^{\circ}35'05''$ West, along the north line of said Northeast quarter, a distance of 63.25 feet;

THENCE, leaving said north line, South $00^{\circ}24'55''$ East, a distance of 80.00 feet to a point on the southerly right of way line of Olive Avenue as described in a State of California Superior Court Judgment in Condemnation, recorded May 13, 1977, as Instrument No. 24828, in Book 3416, page 722, Tulare County Official Records, said point also being the **POINT OF BEGINNING**;

THENCE, South $45^{\circ}03'34''$ East, 28.46 feet to a point on the west line of the East 42 feet of said Northeast quarter;

THENCE, South $00^{\circ}17'48''$ West, along said west line, 1,223.40 feet to a point on the south line of the north half of said Northeast quarter, said point being the Northwest corner of the land conveyed to the City of Porterville by Deed recorded January 12, 2012 as Document No. 2012-0001734 of the Official Records of Tulare County;

THENCE, North $89^{\circ}47'26''$ East, along the north line of said land conveyed to the City of Porterville, 42.00 feet to a point on the east line of said Northeast quarter;

THENCE, North $00^{\circ}17'48''$ East, along the east line of said Northeast quarter, 1,031.98 feet to an angle point in the westerly right of way line of Newcomb Street situated North of the Hubbs & Minor Ditch per said State of California Superior Court Judgment in Condemnation, recorded May 13, 1977, as Instrument No. 24828, in Book 3416, page 722, Tulare County Official Records;

THENCE, North $23^{\circ}31'13''$ West, along the North side of the Hubbs & Minor Ditch, a distance of 99.06 feet to a point in the west line of the East 40 feet of said Northeast quarter;

THENCE, North $00^{\circ}17'48''$ East, along the west line of the East 40.00 feet of said Northeast quarter, 120.71 feet to a point on said southerly right of way line of Olive Avenue;

THENCE, South $89^{\circ}35'05''$ West, along said southerly right of way line, 22.25 feet to the **POINT OF BEGINNING**.

The above described parcel contains 45,791 square feet or 1.051 acres more or less.

BASIS OF BEARINGS being the north line of the Northeast quarter of Section 33, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, taken as North 89°35'05" East, as shown on Record of Survey filed in Book 21 of Licensed Surveys, at page 68 in the Office of the Tulare County Recorder.

END OF DESCRIPTION

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

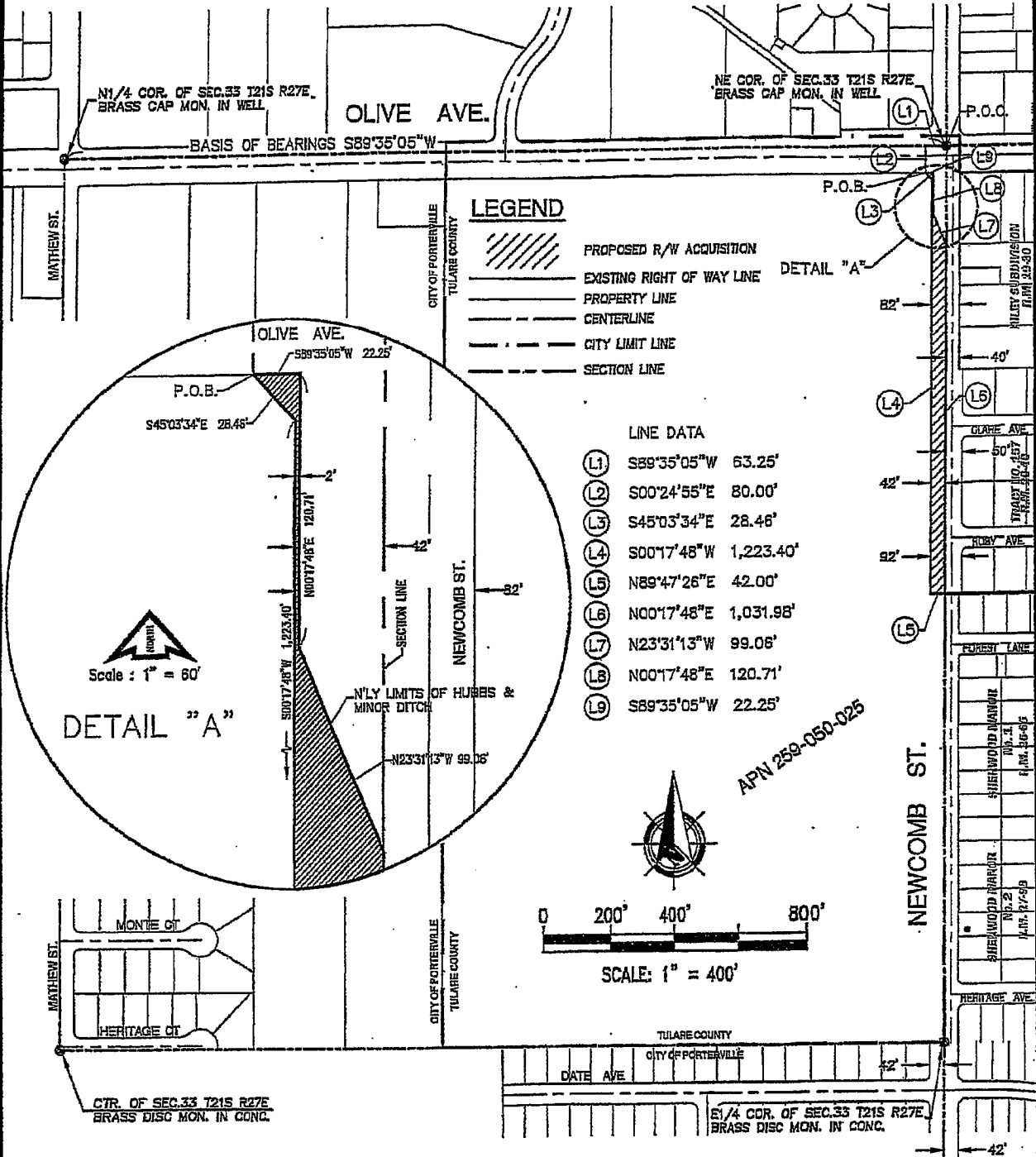
Signature: Michael K. Reed
Licensed Land Surveyor

Date: 10-19-2012



PROPERTY PLAT

EXHIBIT "B"



City of Porterville

291 N. MAIN ST.
PORTERVILLE, CA 93257
(559) 782-7462

A Portion of the North half of the Northeast quarter of Section 33, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California.

OWNER:	Warren Moe / Dorothy Jue
APN:	259-050-025
AREA:	45,791 S.F.
ACRES:	1.051 AC
DRAWN BY:	DC
CHECK BY:	DB

Paragon Partners Ltd.

Acknowledgment of Receipt

Please sign and return to Paragon Partners Ltd. in the enclosed self-addressed, stamped envelope.

Acknowledgment of Receipt does not constitute acceptance.

I/We acknowledge receipt of the Offer to acquire the real property described as APN 259-050-025 and the related materials sent to me/us by Paragon Partners Ltd. on behalf of the City of Porterville.

Name of Recipient

Signature of Recipient

Date

(_____)_____
Phone

(_____)_____
Cell

E-mail (optional)

- ☐ The mailing address is correct as sent.
- ☐ Please update the mailing address as follows:

Engineering Division
City of Porterville
291 North Main Street
Porterville, CA 93257

APN: 259-050-025

ADDRESS: SW corner Olive Avenue & Newcomb Street, Porterville, CA

PROJECT: Newcomb Shoulder Stabilization Project

FEDERAL AID PROJECT No.: CML-5122

RIGHT OF ENTRY
from
Corridor Group LLC

Owner grants to the City of Porterville ("City"), its permittees, contractors, agents or assigns, a right to enter upon, over, across and under Grantor's property, shown on attached Exhibits "A" and "B", during the period of construction for the purpose of constructing public improvements and accomplishing all necessary incidents thereto, including, but not limited to, the repair, replacement, restoration, removal, and/or disposal of existing improvements.

It is understood that this permission is not a waiver in any way of the right of fair compensation for such land or of any remedy authorized by law to secure payment therefore.

This permission is granted in consideration of the location, improvement and construction of such public improvements and appurtenances which are required by the City, with the understanding that the City will hereinafter, without unnecessary delay, negotiate with the undersigned, and any other person having any right, title or interest in said property, based on an appraisal by a licensed appraiser, to agree upon terms of compensation and that, if any agreement cannot be reached the City will commence eminent domain proceedings, including deposit of funds to support an Order of Possession, to have such compensation determined.

Any actual damage or substantial interference with the possession or use of the adjacent land caused by City, its permittees, contractors, agents or assigns shall be cured by same. In addition, the City of Porterville agrees to indemnify the Owner and hold said Owner harmless from any loss of, or damage to any property or injury or death of any person whomsoever arising out of or connected with their performance of any work authorized under this agreement.

IN WITNESS WHEREOF, the parties have executed this agreement on this _____ day of _____, 2013.

CITY OF PORTERVILLE, a
Municipal Corporation

Corridor Group LLC

By _____
Public Works Director

CITY COUNCIL AGENDA: DECEMBER 17, 2013

SUBJECT: IMPLEMENTATION OF PORTERVILLE DEVELOPMENT ORDINANCE


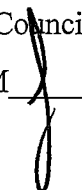
SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT: On November 19, 2013, the City Council adopted comprehensive amendments to the Porterville Development Ordinance (Code) adopted in 2010. Following the initial (Code) adoption, the City Council adopted Resolution 119-2010, outlining transitional implementation provisions to allow for projects that had been previously reviewed and approved to move through the permitting process under the prior Code. Staff is now seeking direction from the Council on approving transitional implementation of projects following the recent substantive changes. The new ordinance becomes effective on January 3, 2014, for all new projects; however, some consideration must be given to projects currently in review.

Staff is recommending that the following implementation strategies for previously approved projects be approved with minor changes from Council's prior action as follows:

1. Approved projects with entitlements that have set timelines for expiration (such as conditional use permits) until they are constructed or their timelines expire. A formal extension may be granted by the City Council, but shall not exceed two years from the effective date of the ordinance (January 3, 2014).
2. Approved projects with entitlements that do not have set timelines for expiration (such as Zoning Administrator Adjustment approvals) *shall not exceed* two years from the effective date of the ordinance revisions.
3. Projects without entitlements, *that have been reviewed and commented on*, by the Project Review Committee (PRC) prior to January 3, 2014, *shall not exceed two years from the date of the PRC letter*.
4. Building permits for new homes on lots in previously approved subdivisions *with homes that are already under construction*.
5. Building permits for new homes on lots in previously approved subdivisions with master residential permits that proposed specific home designs for the subdivision.

As envisioned, the Zoning Administrator would resolve ambiguities between the prior or current ordinance applicability for specific cases, with appeals to the City Council available upon request. In any of the cases listed above, the owner/applicant may voluntarily choose to be subject to the new development ordinance. In no case shall the provisions of both ordinances apply at the same time for any project. Following Council direction, staff will contact the

DD  Appropriated/Funded N/A CM 

Item No. 12

owners/developers of current and new project proposals to notify them of these deadlines.

RECOMMENDATION: That the City Council adopt the draft Resolution formalizing transitional implementation of the adopted revisions to the Porterville Development Ordinance.

ATTACHMENTS: Draft Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE APPROVING TIMELINES FOR TRANSITIONAL IMPLEMENTATION OF
THE PORTERVILLE DEVELOPMENT ORDINANCE

WHEREAS: On November 19, 2013, the City Council adopted a comprehensive amendment to the development ordinance; and

WHEREAS: The new development ordinance becomes effective on January 3, 2014; and

WHEREAS: In order to transition between the current development ordinance and the new development ordinance, some consideration must be given to previously approved and current projects; and

WHEREAS: The intent of this resolution is not to interfere with timelines established through the Subdivision Map Act or by other legislative means.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of Porterville does hereby provide the following criteria for transitional implementation of the adopted Porterville Development Ordinance:

1. The following projects are subject to the prior development ordinance:
 - a. Approved projects with entitlements that have set timelines for expiration (such as conditional use permits) until they are constructed or their timelines expire. A formal extension may be granted by the City Council, but shall not exceed two years from the effective date of the ordinance (January 3, 2014).
 - b. Approved projects with entitlements that do not have set timelines for expiration (such as Development Agreements or Zoning Administrator Adjustment approvals) shall not exceed two years from the effective date of the ordinance revisions.
 - c. Projects without entitlements, that have been reviewed and commented on by the Project Review Committee (PRC) prior to January 3, 2014, shall not exceed two years from the date of the PRC letter.
 - d. Building permits for new homes on lots in previously approved subdivisions with homes that are already under construction.
 - e. Building permits for new homes on lots in previously approved subdivisions with master residential permits that proposed specific home designs for the subdivision.
2. The Zoning Administrator shall resolve ambiguities between the prior or current ordinance applicability for specific cases. Zoning Administrator decisions are appealable

ATTACHMENT NO. 1

to the City Council. In any of the cases listed above, the owner/applicant may voluntarily choose to be subject to the new development ordinance. In no case shall the provisions of both ordinances apply at the same time for any project.

PASSED, APPROVED AND ADOPTED this 17th day of December, 2013.

Cameron J. Hamilton, Mayor

ATTEST:

John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk

ATTACHMENT NO. 1

TITLE: MEDICAL MARIJUANA REGULATIONS AND LOCAL REGULATION –
UPDATE CONCERNING STATUS OF STATE LAW AND REQUEST FOR
DIRECTION

SOURCE: CITY ATTORNEY

COMMENT: As we discussed earlier this year, on May 6, 2013, the Supreme Court issued its opinion in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. et al.*, California Supreme Court Case No. S198638. The Court found that California's medical marijuana statutes **do not** preempt a local ban on facilities that collectively cultivate or distribute medical marijuana.

The City of Riverside specifically declared, by virtue of its zoning ordinances, that a "medical marijuana dispensary" is a prohibited use within the City and may be abated as a public nuisance. The City also bans and declares as nuisances any uses prohibited by federal or state law. In its Opinion the Supreme Court undertook a comprehensive review of the landmark cases addressing preemption and medical marijuana, and found that, contrary to defendant's allegations, the CUA/MMP do not confer on qualified patients and their caregivers the unfettered right to cultivate or dispense marijuana anywhere they choose. No part of the CUA/MMP explicitly guarantees the availability of locations where such activities may occur, restricts localities otherwise broad authority to regulate zone and land use planning within its borders, or requires local zoning and licensing laws to accommodate cooperative or collective cultivation or distribution. Rather than relying on portions of the MMP (specifically Health and Safety Code Sec. 11362.768), which have been argued by cities to expressly allow regulations and bans on such facilities, the Court instead relied on preexisting local police powers recognized by the California Constitution (Cal. Const. Art. XI, Sec. 7). The Court also noted that while some communities may be well-suited to accommodating the uses, others may come to a reasonable decision that such facilities, even if carefully sited, managed, and monitored would still present an unacceptable local risk and/or burden given the potential for increased crime, blight or drug abuse.

On November 26, 2013, the California Appellate Court (3rd District) took this analysis a step further in *Maral v. City of Live Oak*, C071822 (Cal.App. 11-26-1013). In this case, the Court upheld Live Oak's ordinance prohibiting the cultivation of marijuana for any purpose within the City, finding that a complete prohibition of cultivation also falls within a city's police powers, as set forth in the above *Inland Empire* case. It appears that Live Oak may be the first city to completely ban cultivation (by virtue of the contentions of the plaintiffs in the case). It is possible

this case will be appealed to the California Supreme Court. Live Oak also has a regulation that requires zoning clearance and compliance with additional conditions for cultivation in the event the prohibition is found invalid.

Prior to the issuance of these decisions, the City of Porterville had been developing regulations requiring and regulating indoor cultivation, restricting collective cultivation, and contemplating a registration component. City staff had also met several times with medical marijuana advocates who had concerns over indoor cultivation requirements but had been more amenable to registration and outdoor screening requirements. As the Council is aware, earlier this year Tulare County adopted a moratorium prohibiting the establishment of new or the expansion of existing collectives, cooperatives, and dispensaries until 2015. In October the Board of Supervisors voted to move ahead with a proposal to ban storefront and mobile dispensaries and collective grow sites, and restrict individual grow sites to indoor structures that are connected to the main structure. Recent efforts by State legislators to develop varying regulations covering medical or nonmedical cultivation and use of marijuana have been unsuccessful, but it is expected that a new bill will be introduced in the new legislative session. Additionally, at least one initiative has obtained the requisite signatures for placement on the November 2014 ballot.

This office, and the Community Development and Public Safety Departments, request direction from the City Council in light of the most recent developments and case law. The options include but are not limited to:

- 1) proposing a complete ban on cultivation for any purpose within the City limits (with or without a regulatory alternative in the event such a ban were to be found invalid),
- 2) proposing regulations that ban distribution and require cultivation to occur indoors (with other limitations), or
- 3) allowing but restricting outdoor cultivation

With direction as to how the Council wishes to proceed, staff intends to introduce draft regulations at the City Council Meeting on January 21, 2014.

RECOMMENDATION: That the City Council provide additional direction in light of the recent developments.

COUNCIL AGENDA: DECEMBER 17, 2013

SUBJECT: WALL OF FAME PLACEMENT PROCEDURE

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT:

Since 2007, the established process for determining who should be included on the Wall of Fame was for the City Council Members to annually submit and review nominations for potential honorees and select those to be honored. This honor was awarded posthumously to individuals who made significant contributions to the betterment of the Porterville community. Nominations were to be submitted by City Council Members and were required to identify a sponsor who would be responsible for providing the photograph, picture frame, biography, and name plate for placement on the wall.

The Parks and Leisure Services Commission submitted the following recommendations from their November 7, 2013, meeting to the City Council on November 19, 2013:

1. The Wall of Fame honoree does not have to be deceased.
2. Each City Council member may nominate no more than one honoree annually.
3. Honoree photos are to be displayed permanently. Display frames are to be added when more photo space is needed.
4. Consolidate the bios of the honorees into a book to be displayed at the Wall of Fame in order to create more space for honoree photos.
5. Honorees must have lived in Porterville for a period of time to be determined by the City Council.

The City Council then directed the Parks and Leisure Services Commission to further review the current Wall of Fame placement procedure and bring back recommendations for the City Council to consider on amending the current procedure.

The Parks and Leisure Services Commission revisited the Wall of Fame placement procedure on December 5, 2013. The Commission voted to again recommend items #1-4 above.

An amendment to item #5 was made to read, "Honorees must have contributed to Porterville for a period of time to be determined by the City Council." The Commission discussed establishing criteria, but believed each honoree should be viewed separately. They felt no

203 Director

11/4 Appropriated/Funded

J City Manager

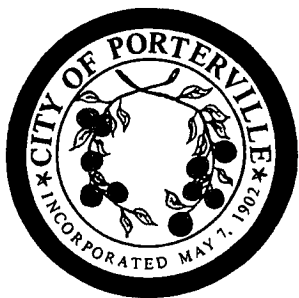
ITEM NO.: 14

set criteria would be equitable for everyone. The Commission also thought the discussion was moving too far away from one of the initial main topics which was how to accommodate all future honorees on the wall simultaneously.

RECOMMENDATION: That the City Council consider the Wall of Fame placement procedure, including the recommendations of the Parks and Leisure Services Commission, and give staff direction.

ATTACHMENTS:

1. Wall of Fame Nomination Form
2. Wall of Fame Placement Procedure



HERITAGE COMMUNITY CENTER "WALL OF FAME" NOMINATION/PLACEMENT REQUEST

Based on a history of service to the Community and in recognition of significant efforts on behalf of the residents of Porterville, I/we request the Porterville City Council posthumously honor the person listed below with inclusion on the City's Wall of Fame located at the Heritage Community Center.

All nominations will be considered and Wall of Fame placements made in accordance with the Placement Procedure stated on the reverse.

Name of Nominee: _____

Description of Nominee's Community Involvement/Service Activities:

—
—
—
—
—
—
—
—
—
—

Sponsor's Name(s): _____

Telephone: _____

Address: _____

City/State/Zip: _____

Relationship to Nominee: _____

Nomination Submitted by:

Mayor/City Council Member Signature

Date

HERITAGE COMMUNITY CENTER "WALL OF FAME" PLACEMENT PROCEDURE

The "Wall of Fame" is a portion of the hallway wall within the Porterville Heritage Center, located at 256 E. Orange Avenue. Those who are honored on the "Wall of Fame" are posthumously recognized for their significant efforts and service to the Porterville Community. The City Council will determine the appropriateness of each nomination for placement on the "Wall of Fame". Recognition shall consist of a framed five by seven inch portrait, a brief biography, and bronze engraved name plate of common and similar style to the "Mayor's Wall of Honor" within City Hall. Honorees will also be featured on the City's website.

Only the Mayor and members of the City Council may submit nominations for this honor. The nomination shall be in writing to the City Clerk stating the type and duration of services the nominated individual provided to the Porterville Community prior to their passing. A nomination shall identify a sponsoring contact person willing to assume responsibility for supplying the framed portrait and nameplate, and who shall be responsible for all cost of such. All nominations will be retained by the City Clerk and placed on the agenda for consideration by the City Council at their first regular meeting held in each calendar year.

The City Council shall make the sole determination regarding the worthiness of the nominated individual's service to the heritage of the community in regards to the honor of being included for placement on the "Wall of Fame." The honor of recognition on the "Wall of Fame" shall be for an indefinite period of time. A perpetual plaque will be displayed with name plates to recognize the Honorees whose pictures may have to be removed due to limited space in the future. The City Council may at its discretion consider at any time the removal of the honor and return of the portrait to the sponsor.