
INTERNAL AFFAIRS COMMITTEE AGENDA

A Committee of the Chico City Council: Councilmembers Holcombe, Walker, and Nickell, Chair

Meeting of July 13, 2010 – 8:00 a.m. to 10:00 a.m.

Council Chamber Building, 421 Main Street, Conference Room 1

REGULAR AGENDA

- A. **Consideration of Amendments to the Chico Certified Farmers Market Franchise Agreement** -The Committee will review draft franchise language regarding the Chico Certified Farmer's Market Franchise Agreement including the changes discussed at the April 13, 2010 Committee meeting. The two proposed modifications are to extend the franchise area to include the surrounding sidewalk and to increase the notification period for franchise termination. (*Report - Lori Barker, City Attorney*)
- Recommendation:** Review the draft language and make a recommendation to the City Council on the requested franchise amendments.
- B. **Business from the Floor.** Members of the public may address the Committee at this time on any matter not already listed on the agenda, with comments being limited to three minutes. The Committee cannot take any action at this meeting on requests made under this section of the agenda.
- C. **Adjournment and Next Meeting.** The Committee will adjourn no later than 10:00 a.m. to its next regularly scheduled meeting on Tuesday, August 10, 2010, at 8:00 a.m. in Conference Room No. 1.

Distribution available in the office of the City Clerk

Prepared: 7/7/10
Posted: 7/7/10
Prior to: 5:00 pm

Chico City Clerk's Office
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TO: Internal Affairs Committee

FROM: Lori J. Barker, City Attorney, 896-7600

RE: Amendment to Certified Farmers Market Franchise

BACKGROUND:

The Chico Certified Farmers Market has had a franchise to use a portion of Municipal Parking Lot No. 1 for a farmers market since 1993.

The Farmers Market recently requested some changes to the terms of the franchise and the City Manager has recommended that the franchise be amended as follows:

1. The area subject to the franchise be extended to include the entire block, including the sidewalk area.
2. The time period for the City to provide notice of cancellation of the franchise be extended from 30 to 180 days before the expiration of a current term.

The Internal Affairs Committee considered these requests in April 2010. At that time, the Committee supported the extended notice time for cancellation of the franchise but expressed some concerns as to the extended franchise area, particularly in regard to ensuring that the sidewalks would remain available for use by the general public and vendors who held a valid City permit to sell food, beverages and cut flowers in the public right of way and requested that this item be brought back to the Committee with some draft language addressing those issues for further consideration.

In preparing the language for these amendments, it was noted that this would be the fifth amendment to the franchise, therefore, in order to consolidate the terms of the franchise into one document, the proposed amendments were incorporated into the attached draft which is a complete restatement of the current terms of the franchise with the addition of language addressing the changes requested above.

The substantive changes to the franchise are set forth in the attached draft as follows:

1. Exhibit A describing the franchise area (referenced in paragraph B) depicts the franchise area as consisting of the entire block with three distinct areas identified as the Farmers Market sales area, public parking area and sidewalks.
2. The change to the notice period for termination from 30 to 180 days is set forth in paragraph C.
3. The provisions governing the use of the franchise area are set forth in paragraph E, and have been modified to separately define how the franchisee may use the sales area, parking areas and sidewalks. These provisions require that the parking areas remain available for public parking and that the sidewalks are available for use by the general

public and by vendors with a valid permit from the City. The franchisee would be permitted to require those vendors to agree to comply with reasonable regulations designed to ensure that access to driveways is not impeded, sidewalks are not blocked, vendors park their vehicles outside the franchise area, and that vendors protect the franchisee from liability for actions of the vendors.

4. A provision is included at Paragraph F., which allows the Council to modify the area subject to the franchise to exclude the sidewalks upon 90 days notice to franchisee.

It should be noted that the days and times during which the franchise is operative include Wednesdays from 5:00 to 9:00 p.m., during the months of June through September. Although the Farmers Market has not utilized that provision of the franchise for a number of years, they indicated to staff that they would like to retain that provision in the franchise in order to preserve the option of operating a market on Wednesdays in the future.

RECOMMENDATION:

The Committee is requested to review the draft language and make a recommendation to the Council as to the proposed amendments to the franchise.



Lori J. Barker, City Attorney

DISTRIBUTION:

City Clerk (16)
Chico Certified Farmers Market

ATTACHMENTS:

Draft franchise terms

-DRAFT-

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CHICO GRANTING A FRANCHISE FOR THE USE OF
A PORTION OF CITY STREETS, SIDEWALKS OR
OTHER CITY PROPERTY - CHICO CERTIFIED FARMERS
MARKET, MUNICIPAL PARKING LOT NO. 1

Whereas, the City Council granted the Chico Certified Farmers Market a franchise for the exclusive use of a portion of Municipal Parking Lot No. 1, pursuant to Ordinance No. 1946, in 1993; and

Whereas, that franchise was subsequently amended by Ordinance No.s 1993, 2124, 2171 and 2297; and

Whereas, the Chico Certified Farmers Market has requested further amendments to the terms of that franchise; and

Whereas, the City Council and Chico Certified Farmers Market desire to incorporate these further amendments into a complete restatement of the terms of the franchise in their entirety:

Be it ordained by the City Council as follows:

Section 1. City of Chico Ordinance No.s 1946, 1993, 2124, 2171 and 2297, are hereby repealed.

Section 2. Pursuant to Chapter 14.60 of the Chico Municipal Code, a franchise is hereby granted to the Chico Certified Farmers Market as follows:

- A. Findings: The City Council hereby finds that the applicant is a nonprofit organization providing a service of general benefit to the Chico community, and that this franchise would serve the public interest.
- B. Location. Unless modified as set forth below, this franchise is granted for the use of Municipal Parking Lot No. 1 and the adjacent sidewalk, as depicted on Exhibit "A" attached hereto.
- C. Term. The initial term of this franchise shall commence on the date this ordinance becomes effective and shall terminate on the next succeeding December 31. At the end of the initial term, the term of this franchise shall be automatically extended for successive one-year periods commencing on January 1st and ending on December 31st of each year thereafter, unless and until this Council serves the Franchisee with notice of its intent to terminate this franchise at least 180 days prior to the beginning of the next successive term, in which case this franchise will terminate at the end of the term during which the notice is given.
- D. Days and Times. This franchise is valid on Saturdays throughout each year between the hours of 7:00 a.m. and 1:00 p.m., and on Wednesdays, June 1 through September 30, between the hours of 5:00 p.m. and 9:00 p.m.
- E. Use of franchise area. During the hours of the franchise, Franchisee shall use the franchise area as follows:
1. Sales area. The sales area shall be used for the sale of food, beverages, farm produce, farm products, nursery stock, Chico Certified Farmers market promotional products and home produced crafts.

2. Parking area. Franchisee shall keep that portion of the parking lot depicted on Exhibit "A" as the public parking area open at all times for use by the general public. Franchisee shall not restrict use of the parking areas to use by customers of the farmers market and Franchisee shall not permit any vending to occur within the parking area.
3. Sidewalks. Franchisee shall keep the sidewalks open at all times for use by the general public who shall be permitted to use the sidewalks for all purposes not otherwise prohibited by law. Franchisee shall also allow any vendor with a current permit issued by the City pursuant to Chapter 14.60 for the sale of food, beverages or cut flowers, to use the sidewalks subject to the franchise for sales consistent with that permit. Franchisee may require as a condition of the use of the sidewalks by such vendors that each vendor have a written agreement with Franchisee in which the vendor agrees to comply with reasonable regulations adopted by Franchisee which are designed to: ensure that access to driveways into the parking areas is not impeded; sidewalks are not blocked to pedestrian passage; vendors will park their vehicles outside of the franchise parking area; and that each vendor will protect the Franchisee from liability for actions of that vendor.

F. Modification to Franchise area. The City Council may, at any time, provide notice to Franchisee that the area subject to the franchise will be modified from the area reflected in Exhibit "A" as the franchise area to the area reflected in Exhibit "B" as the franchise area. Such modification of the franchise area shall take effect 90 days

after notice of that modification is provided by the City to Franchisee. Upon such effective date, paragraph E.3., above, shall become inoperative.

G. Special Conditions.

1. All activity pursuant to this franchise shall be in compliance with Chapter 14.60 of the Chico Municipal Code.
2. Franchisee shall obtain all necessary permits which are required to operate a farmers market.
3. The use of Municipal Park Lot No. 1 as provided for herein shall be implemented by the installation or barricades at each end of the two center aisles of Municipal Parking Lot No. 1. The responsibility for providing, placing and removing the barricades shall be borne by Franchisee at Franchisee's sole cost and expense. All such responsibilities shall be carried out in accordance with written procedures which shall be prepared by Franchisee and approved by City's General Services Director. At the conclusion of each parking lot use, Franchisee shall cause such barricades to be removed from Municipal Parking Lot No. 1 and shall restore the parking lot to the same condition as it was at the commencement of such use including, but not limited to, cleanup and trash removal, all at Franchisee's sole cost and expense.
4. At all times the use of Municipal Parking Lot No. 1 is in effect, Franchisee, by and through the use of barricades, shall exclude from the sales area portion of the Franchise Area all motor vehicles except emergency vehicles, including

police vehicles, fire department vehicles, and ambulances; maintenance vehicles operated by City, other public agencies and private utility companies; and private vehicles operated by merchants selling produce in the market.

Provided, however, that any motor vehicles which were parking in Municipal Parking Lot No. 1 prior to commencement of each use will not be prohibited egress from such barricaded portion of Municipal Parking Lot No. 1.

- H. Indemnity. Franchisee shall hold City, its boards and commissions and members thereof, its officers, employees, and agents harmless and free from any and all liability arising out of or relating to this franchise, the barricades installed at each end of the two center aisles of Municipal Parking Lot No. 1 and/or the use of the franchise area pursuant to this franchise. Should City or any of its boards, commission or members thereof, its officers, employees, or agents be named in any suit, or should any claim be made against it or any of them by suit or otherwise, whether the same be groundless or not, arising out of or relating to this franchise, the barricades, and/or the use of the franchise area pursuant to this franchise, Franchisee shall defend City, its boards, commission and members thereof, its officers, employees, and agents, and shall indemnify them for any judgment rendered against them or any sums paid out in settlement or otherwise.
- I. Liability Insurance Requirement. Franchisee shall obtain comprehensive general liability insurance from one or more insurance companies licensed to do business in the State of California with a Best Guide rating of "B" or better which provides coverage for bodily injury, personal injury and property damage liability in the

amount of at least \$1,000,000 combined single limit for each occurrence. Said insurance coverage shall be evidenced by a certificate of insurance with policy endorsements and shall be executed by an authorized official of the insurer(s). In addition to the limits of coverage provided hereinabove, the policy endorsements attached to the certificate shall also provide that:

1. "The City of Chico, its officers, boards and commissions, and members thereof, its employees and agents are covered as additional insured as respects to any liability arising out of the activities of the named insured."
2. "The insurance coverages afforded by this policy shall be primary insurance as respects to the City of Chico, its officers, officials and employees. Any insurance or self-insurance maintained by the City of Chico, its officers, officials or employees shall be in excess of the insurance afforded to the named insured by this policy and shall not contribute to it."
3. An unqualified statement that "The insurer will provide to the City at least thirty (30) days prior to notice of cancellation or material change in coverage."

J. Franchise Fee. In lieu of the Downtown Parking and Business Improvement Area (DPBIA) additional license tax, the Chico Certified Farmers Market shall pay an initial franchise fee of \$100, which shall be deposited into the DPBIA account, for operation of the market for which this franchise has been granted. Such franchise fee shall be due and payable annually on July 1, and shall be based on four full time equivalent (FTE) employees as defined in section 3.34.010 of the Chico Municipal Code. the Chico Certified Farmers Market shall submit an annual report

by January 15 of each year which sets forth, on a weekly basis for the prior calendar year, the number of vendors participating in the market and the average hours worked by each vendor and the vendors' employees. Upon review and approval of the report, the City's Finance Director shall calculate the number of FTE employees and adjust the annual franchise fee if there is an increase or decrease in the number of FTE employees used to establish the franchise fee. The report to be submitted in January 2011, shall include, and the fee to be calculated thereon shall be based on, the number of vendors participating in the market and the average hours worked by each vendor and the vendors' employees during the entire calendar of 2010, notwithstanding that the effective date of this franchise occurred after January 1, 2010.

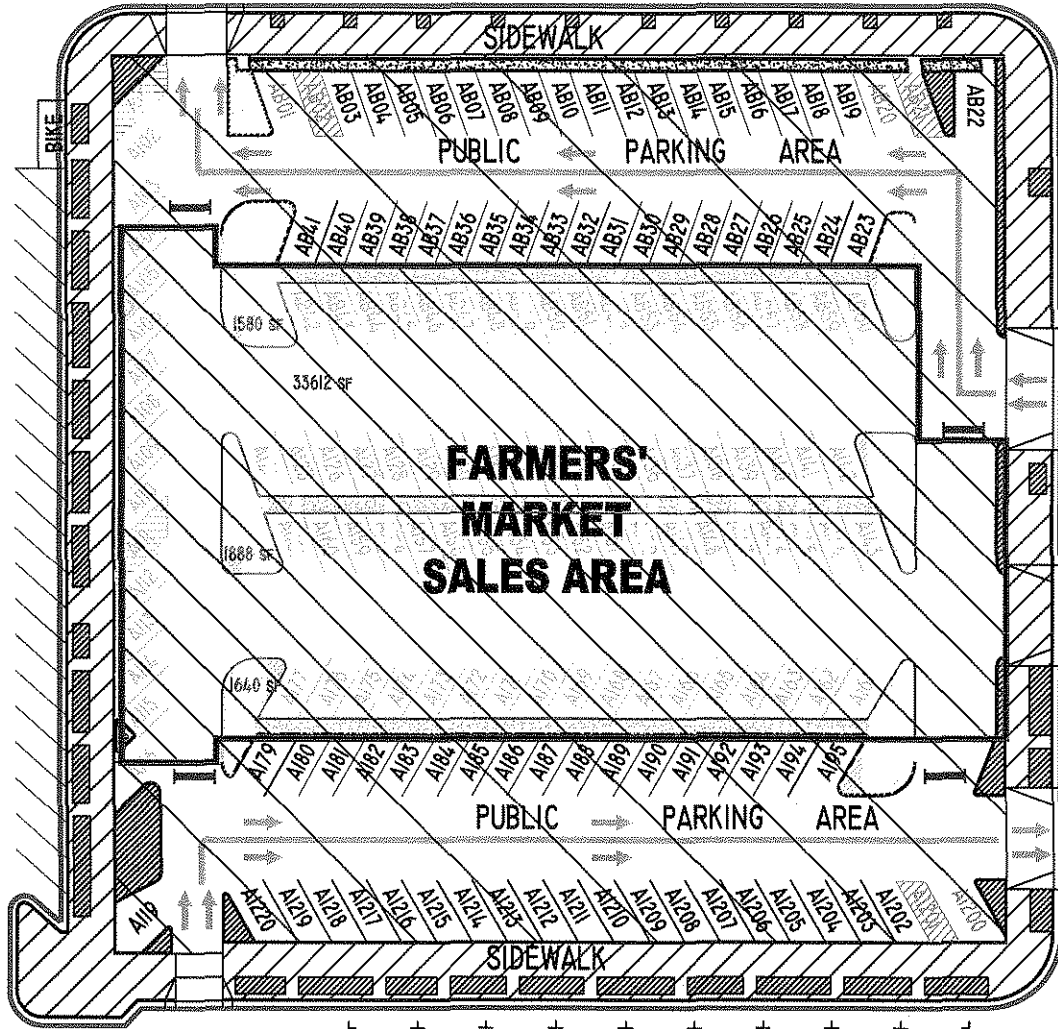
The foregoing ordinance was adopted by the City Council of the City of Chico at its regular meeting held on _____, by the following vote:

AR003
N.T.S.

E. 2ND STREET





WALL STREET

FLUME STREET



E. 3RD STREET

2010 CCFM FRANCHISE

-  BARRICADE
-  TRAFFIC FLOW DIRECTION
-  UNAVAILABLE PARKING SPACES
-  BOUNDARY OF FRANCHISE AREA

REVISION	BY	DATE

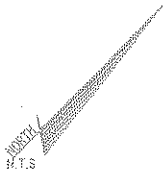
CITY OF CHICO

DEPARTMENT OF PUBLIC WORKS

DRAWN BY: WW DATE: 5/11/2004
 CHECKED BY: BKM SCALE: NONE
 APPROVED _____
 ASST. DIR. OF PUBLIC WORKS

FARMERS MARKET
 MUNICIPAL PARKING LOT I

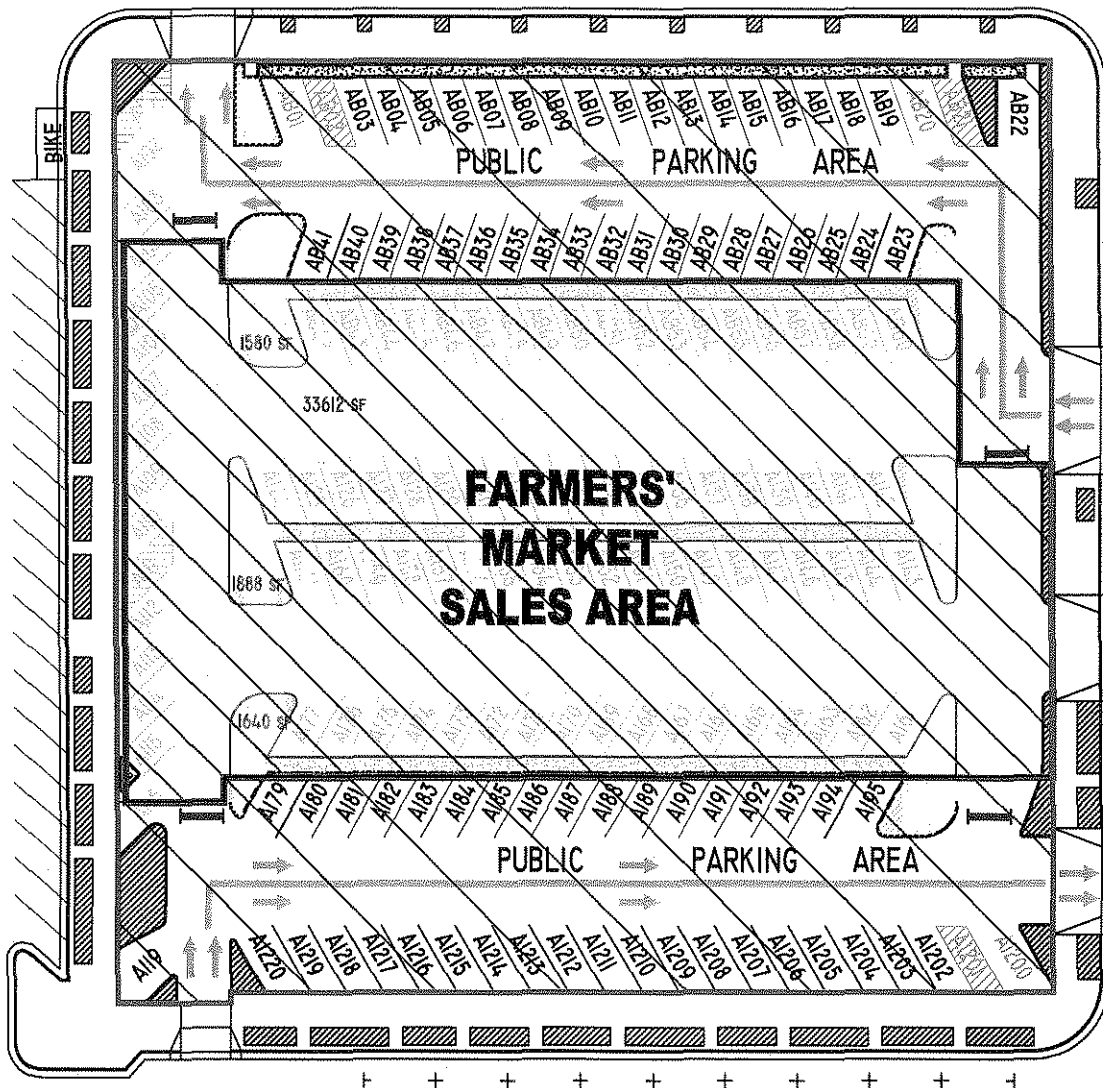
EXHIBIT
"A"
 SHEET I OF I



E. 2ND STREET





WALL STREET

FLUME STREET



E. 3RD STREET

2010 CCFM FRANCHISE

-  BARRICADE
-  TRAFFIC FLOW DIRECTION
-  UNAVAILABLE PARKING SPACES
-  BOUNDARY OF FRANCHISE AREA

REVISION	BY	DATE

CITY OF CHICO		DEPARTMENT OF PUBLIC WORKS	
DRAWN BY: WW	DATE: 5/11/2004	FARMERS MARKET MUNICIPAL PARKING LOT I	
CHECKED BY: BKM	SCALE: NONE		
APPROVED _____	ASST. DIR. OF PUBLIC WORKS		
		EXHIBIT "B"	SHEET 1 OF 1