

# Regular Meeting Agenda

## Visalia City Council

Mayor: Bob Link  
Vice Mayor: Amy Shuklian  
Council Member: Warren Gubler  
Council Member: Mike Lane  
Council Member: Steve Nelsen



---

Tuesday, February 22, 2011

Convention Center, 303 E. Acequia, Visalia CA 93291

Joint Meeting City Council/Planning Commission 4:00 p.m.

City Council Work Session 5:30 p.m.

Closed Session 6:00 p.m. (or immediately following Work Session)

Regular Session 7:00 p.m.

**4:00 p.m. CONVENE JOINT MEETING OF THE VISALIA CITY COUNCIL AND THE VISALIA PLANNING COMMISSION**

**PUBLIC COMMENTS** - *This is the time for citizens to comment on subject matters that are not on the agenda that are within the jurisdiction of the Visalia City Council. Each speaker will be allowed three minutes (timing lights mounted on the lectern will notify you with a flashing red light when your time has expired). Please begin your comments by stating and spelling your name and providing your street name and city.*

**WORK SESSION AND ACTION ITEMS (as described)**

*Public Comments related to Items that are listed on the Work Session agenda will be heard at the time that item is discussed.*

1. General Plan Update - Public Outreach Strategies
2. Discussion of proposed code changes to provide more flexibility
3. Consideration to develop a Telecommunications Ordinance
4. Update on High Speed Rail.

**5:30 p.m.** *Adjourn joint meeting of the Visalia City Council and Visalia Planning Commission and remain seated as the Visalia City Council*

**ITEMS OF INTEREST**

**CLOSED SESSION (immediately following Work Session)**

5. Conference with Real Property Negotiators (GC 54956.8)

Properties: (1) Portion of 28.26 acre property located on north side of Highway 198, east side of Kelsey Street (Road 88) (APN: 081-040-030); and (2) Portion of 16.38 acre property located on north side of State Highway 198, approximately 2000 feet east of Shirk Street (APN 085-010-096)

Negotiating Parties for City: Steve Salomon, Michael Olmos, Alex Peltzer

Negotiating Parties for Seller: Rick Telegan, BP Investors, LLC

Under negotiation: Authority to negotiate purchase, sale, and/or trade

6:00 p.m.

- 6. Conference with Legal Counsel – Anticipated Litigation - Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 2 potential cases
- 7. Conference with Labor Negotiators (G.C. §54957.6)  
Agency designated representatives: Steve Salomon, Eric Frost, Diane Davis  
Employee Organization: All employee groups

**CALL TO ORDER REGULAR SESSION**

**PLEDGE OF ALLEGIANCE**

**INVOCATION** - Pastor Brian Malison, Christ Lutheran Church

**SPECIAL PRESENTATIONS/RECOGNITION**

**PUBLIC COMMENTS** - *This is the time for citizens to comment on subject matters that are not on the agenda that are within the jurisdiction of the Visalia City Council.*

*This is also the time for citizens to comment on items listed on the Consent Calendar or to request an item from the Consent Calendar be pulled for discussion purposes. Comments related to Regular or Public Hearing Items that are listed on this agenda will be heard at the time that item is discussed or at the time the Public Hearing is opened for comment.*

7:00 p.m.

*In fairness to all who wish to speak tonight, each speaker from the public will be allowed three minutes (timing lights mounted on the lectern will notify you with a flashing red light when your time has expired). Please begin your comments by stating and spelling your name and providing your street name and city.*

**8. CONSENT CALENDAR** - *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 and then the item will be removed from the Consent Calendar to be discussed and voted upon by a separate motion.*

- a) Authorization to read ordinances by title only.
- b) Request to extend Exclusive Negotiations Agreement (ENA) with Mill Creek Professional Center, LLC, for six (6) months for the completion of pre-development due diligence and planning activities necessary for the negotiation of a development agreement for approval by the City Council for the phased sale and development of city-owned land situated between Acequia, Mineral King, Stevenson and Conyer Streets.
- c) Confirmation of the Council’s completion of the City Manager’s annual evaluation, and continuation of the City Manager’s contract with no changes to compensation or any other provisions of the agreement.

- d) Authorization for the City Manager to execute a lease of the Oval Park Service Building with Visalia Rescue Mission for a 54 month term; APN: 094-036-001
- e) Approval of the lease agreement for the food concession at the Visalia Transit Center between the City of Visalia and Maritza Allende, a sole proprietor, dba Chilito's Express
- f) Approval of a two-year contract with the Urban Tree Foundation in an amount not-to-exceed \$110,000 per year to provide services for grant writing, grant administration, construction management services, and consulting related to the City's Urban Forestry Program .
- g) Confirmation of the Historic Preservation Advisory Committee representative to the General Plan Update Review Committee (GPURC).
- h) Authorization to submit an application for up to \$5 million for a "Proposition 84 and 1E" California Department of Water Resources Flood Corridor Program Grant to develop storm runoff basins along the St. John's River, Lower Kaweah River, Mill Creek and the City's storm drain system. **(Resolution 2011-05 required)**
- i) Authorization to appropriate funds and purchase four (4) 35 foot and two (2) 29 foot Gillig Diesel / Electric Hybrid replacement fixed route buses from Gillig Corporation in the amount of \$600,000 each for a total not to exceed 3,960,000, pending continued availability of awarded federal grant funds.
- j) Authorization to record the final parcel map of Tentative Parcel Map No. 2007-13, located on the southeast corner of Watson Street and Laurel Avenue (2 Lots). (APN: 097-018-015)

**REGULAR ITEMS AND PUBLIC HEARINGS** - *Comments related to Regular Items and Public Hearing Items are limited to three minutes per speaker, for a maximum of 30 minutes per item, unless otherwise extended by the Mayor.*

9. Discussion regarding Options for Future Eight County Regional Representation
10. Receive and approve revised recommendations from the Council Recreation Park baseball subcommittee that revenues generated from the agreement with Top of the Third be deposited into a designated Capitol Improvement account, and that specific improvements be accomplished in the 2011 calendar year. *Postponed from 2/7/2011.*

#### **CLOSED SESSION REPORT (if any)**

##### **Upcoming Council Meetings**

- Monday, March 7, 2011, 4:00 p.m. Work Session, 7:00 p.m. Regular Session - City Hall Council Chambers 707 W. Acequia
- Monday, March 21, 2011, 4:00 Work Session, 7:00 p.m. Regular Session - City Hall Council Chambers 707 W. Acequia
- Monday, April 4, 2011, 4:00 Work Session, 7:00 p.m. Regular Session - City Hall Council Chambers 707 W. Acequia

*Note: Meeting dates/times are subject to change, check posted agenda for correct details.*

*In compliance with the American Disabilities Act, if you need special assistance to participate in meetings call (559) 713-4512 48-hours in advance of the meeting. For Hearing-Impaired - Call (559) 713-4900 (TDD) 48-hours in advance of the scheduled meeting time to request signing services.*

*Any written materials relating to an item on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the Office of the City Clerk, 425 E. Oak Street, Visalia, CA 93291, during normal business hours.*

*The City's newsletter, Inside City Hall, is published after all regular City Council meetings. To self-subscribe, go to [http://www.ci.visalia.ca.us/about/inside\\_city\\_hall\\_newsletter.asp](http://www.ci.visalia.ca.us/about/inside_city_hall_newsletter.asp). For more information, contact Community Relations Manager Nancy Loliva at [nloliva@ci.visalia.ca.us](mailto:nloliva@ci.visalia.ca.us).*

# Joint Meeting of the City Council and Planning Commission - Work Session Memorandum

**To:** City Council and Planning Commission  
**From:** Mike Olmos, Assistant City Manager (713-4332)  
**Subject:** **General Plan Update – Public Outreach Strategies**  
**Date:** February 22, 2011

---

## **SUMMARY**

The General Plan Update report was presented at the City Council Strategic Workshop on February 5, 2011. Concerns about the adequacy of the outreach efforts built into the current Work Program were raised by the Council and by members of the community. This report provides a discussion of these concerns, including a menu of possible modifications to the current outreach efforts, including:

- Town Hall-type meetings in various areas of the City;
- Subject-specific or open forums for various community groups;
- Open forums for individual or GPURC groups;
- Reconstituting the GPURC membership or reviewing member roles and responsibilities.

The items noted above could be considered individually or in combination with other changes to the Work Program (the current work program is attached). Also possible is a change to the consultant's contract to ensure for their participation at every GPURC meeting. Also open for consideration is providing enhanced announcements for upcoming General Plan Update activities.

### Current Work Program Outreach for Phase 2:

The consultant's work program for the General Plan Update will utilize the following outreach measures during the Growth Concepts (Alternatives) and Evaluation Phase:

- Distribution of Newsletters;
- Community public workshop (one for this Phase), tentatively scheduled for April;
- Two Special Community Meetings (to low-income, minority, or other neighborhoods);
- Presentations to Key Citizen Groups (such as Chamber of Commerce, Downtown Merchants);
- GPURC to conduct activities throughout the General Plan process and constituent organizations.

### Phase 1 Outreach Conducted:

The work program supporting the consultant contract currently calls for:

- Stakeholder interviews;
- Bi-lingual Newsletters / Surveys in newspaper and in City administrative buildings;
- Public workshop at Convention Center.

The outcome of the Community Visioning Phase was the set of 13 Emerging Themes that serves as the grand direction to chart the course for the General Plan Update.

## **IMPORTANCE OF PUBLIC OUTREACH IN THE G.P. UPDATE**

Strong public outreach and participation was voiced early on as a City Council top priority in the General Plan Update effort. The importance of public participation cannot be understated as the City has embarked on re-evaluating the City's vision for itself in terms of future growth and community development through the year 2030. Under conservative estimates, the City population in 2030 will see a gain of 80,000 new residents and 28,000 new housing units. The City must set its sights on a new vision for the community that preserves elements which contribute to the overall quality of life that Visalians have come to enjoy, but also addresses current issues facing the City and future needs in the long term.

The consideration of needs facing Visalia includes but is not limited to:

- Pursuit of higher densities to facilitate more sustainable and walkable communities centered around focal points such as schools, parks, and neighborhood shopping areas;
- Development of policies and regulations that manage greenhouse gas emission, climate change, air quality, and resource management;
- The appropriate inventory of commercial land necessary to maintain Visalia as a primary regional commercial draw in the southern San Joaquin Valley, as well as the appropriate location for future regional commercial;
- Establishment of transit corridors that may facilitate future light rail systems and connections to a future regional high speed rail station;
- Land use planning for the West Highway 198 Scenic Corridor area.

## **GREATER PUBLIC OUTREACH IN PHASE 2 (PREFERRED BUILDOUT SCENARIO)**

Throughout Phase 1, the consultant's efforts have been geared towards visioning and identifying issues as voiced by City officials, community stakeholders, and the public at-large.

The next major phase of the Update – Phase 2 – will revolve around the consideration of several different “Growth Concept” plans for the year 2030, with the goal of selecting a preferred scenario (likely containing a “hybrid” of ideas from the different plans). The Growth Concept plans will be presented to the GPURC in March, prior to being presented to the public through a Community Workshop. The final result of this Phase will be the emergence of a preferred plan, to be adopted by the City Council. This preferred plan will serve as the General Plan project framework for the Program EIR and for crafting new policies that will give final form to the new General Plan.

Public outreach and acceptance will assume a much larger role here than in the previous phase. This is primarily because the entire community will have their first look at buildout plans for the year 2030 that illustrate unique approaches to key policy issues facing the community at this time.

The growth concepts will also raise questions on the viability of carrying over existing General Plan policies or commonly-held community beliefs to the next General Plan, and whether new policies or a new vision is in the interest of the community.

This phase is anticipated to take between 6 to 12 months, and will conclude with the selection of a preferred buildout scenario by the City Council. The ensuing and final Phase 3 will be the drafting and circulation of the General Plan Update and accompanying City-wide Program EIR for comment and ultimate approval by the City Council.

## **General Plan Update Review Committee**

The General Plan Update Review Committee (GPURC) was established to provide oversight to the Update process, including providing input on the formation of new policies and measures, and assist with reviewing the General Plan Update and Program EIR contents. The Committee meets about once a month, though as work products are released or key issues prompt discussion it may prompt more frequent meetings.

The GPURC's composition was intentionally large (18 represented groups at formation; 22 currently) to ensure a wide range of interests in the community were represented and have a voice in the Update. Representatives are also charged with conveying information gained at the GPURC meetings back to the representative group for their review and input.

The City enjoins GPURC members to engage and foster more dialogue with their representative organizations / committees of the materials and background information, and inform them of upcoming workshop and key City Council dates. Some of the City committees represented in the GPURC, such as the Citizens Advisory Committee, accomplish this duty by including the General Plan Update as a reoccurring discussion item on that Committee's meeting agendas.

To date the GPURC has not played a heavy role in actively engaging the public at-large in the General Plan Update.

One or more of the following ideas could be implemented to better foster the GPURC's role in public outreach:

- Engage the consultant's participation at every GPURC meeting in a facilitator role to help engage Committee members and their constituents in dialogue on key issues.
- Adding one or more citizen-at-large members or youth / high school members to represent the public on the GPURC.
- Emphasize accountability between the GPURC group representatives and the respective constituents through increased staff one-on-one time or dedicating meeting time to discussing group comments or concerns.

## **Second Community Workshop**

The second Community Workshop for the General Plan Update is anticipated in April or May of this year and will focus on garnering input from the three growth concept plans. Similar to the first Workshop held in June 2010, small-group discussions will be a primary feature of the meeting to discuss the pros and cons of each concept plan. There may also be opportunities for the public to visit break-out stations and voice their opinion on key City policy issues such as park locations, preference on housing densities, and regional commercial locations.

## **ADDITIONAL OUTREACH**

The General Plan Update has provided a timely opportunity to have open public discussions about serious issues facing Visalia. While the GPURC has been comprised of several stakeholder groups that together represent a breadth of social, economic, recreational, and environmental interests, a large percentage of Visalia's population is not connected with the

General Plan Update, let alone the relevant issues which will affect residents' quality of life over the next 20 years.

The City is challenged with garnering input from a broad range of persons – young and old, students and retirees, homeowners and renters, Visalia natives and relative newcomers.

To ensure that all facets of the community are reached in the Update process, a number of outreach techniques could be employed if desired by the City Council:

- **Circulation of Newsletters to all City residences.** The span of the City's outreach efforts could be best enhanced by mailing General Plan Update Newsletters city-wide to all residences. To date, one bi-lingual newsletter and survey has been distributed to the community via insertion in four newspapers with local distribution. A City-wide mailing was planned, but due to postage exceeding available budget Newspaper insertion was carried out instead. A City-wide mailing may be the most comprehensive and balanced method to inform and engage all Visalia residents.
- **Town Hall-style meetings, held in each quadrant of the City.** Like the recent town hall meetings hosted by City Councilmembers, these meetings would provide opportunities for residents to speak out on issues as they see them affecting their portion of the community. Meetings would be held in school cafeterias or other meeting places that are central to each quadrant.
- **Special Community Meetings to Non-English Speaking Groups.** Meetings which are conducted in Spanish or Hmong languages can garner input from these populations whose voices may otherwise not be heard in an English language meeting. Perhaps just as important is that such meetings can garner community interest and buy-in from these non-English speaking groups.
- **Staffed information booths at community events (i.e. Farmers Market, Sports Park events).** With the warming weather and the onset of several outdoor community events, information booths can be set up at strategic locations where families are present. Booths would include visual displays of the three different growth scenarios, newsletters, and volunteers (City staff or GPURC members) to answer questions.
- **Facebook page, newspaper, and other media advertisements to advertise upcoming events and meetings.** The City already has a General plan Update website at <http://www.visaliageneralplanupdate.com> which provides a clearinghouse for published reports, work programs, and GPURC agendas / minutes. The internet and local media sources could be used to help generate a "buzz" about the General Plan Update process. A Facebook page could be a highly effective tool to reach younger and networking populations. One potential challenge however pertaining to a Facebook page would be managing offensive or critical comments left on the page.
- **Additional presentations to key citizen groups, including but not limited to social organizations, churches, merchant groups, etc.** The current work program provides for only two to three presentations in a single day to key citizen groups such as the Chamber of Commerce, Downtown Merchants, and the Rotary Club. However, several other service organizations and non-profit community groups could be exposed to the Update through additional presentations.



### **Smart Valley Places grant money awarded for public outreach**

The City was recently awarded a secured funding source to aid with public outreach associated with the General Plan Update. The grant is from US Department of Housing and Urban Development (HUD) and was awarded to a consortium of San Joaquin Valley cities under the Smart Valley Places grant program. Visalia was the recipient of \$215,000 payable for specific tasks in the General Plan Update, including public outreach, light rail transit corridor planning, and partial consultant funding.

Staff anticipates that this additional secured funding source can be used to fund outreach methods previously considered as cost-prohibitive, such as newsletter mailings to all residences in the City. The funding could be used to support any of the above outreach methods or other methods as directed by City Council.

### **ATTACHMENT:**

- Work Program for General Plan Update

# City of Visalia

## **Memo**



To: City Council and Planning Commission  
From: Paul Scheibel, AICP, Planning Services Manager  
Chris Young, P.E., Community Development Director  
Date: February 22, 2011  
Re: Joint Work session Discussion Item- Discussion of proposed code changes to provide more flexibility

**RECOMMENDATION:** Staff recommends that the City Council and Planning Commission review the information provided in this report, along with any further discussion and testimony presented, and directs staff as appropriate.

**SUMMARY:** The subject of establishing a Zoning Administrator (ZA) function was among seven strategies to streamline the permitting process that was addressed at the City Council Strategic Workshop on February 5, 2010 (please see staff report, Attachment 1.) The strategies included:

1. Consider revising the Administrative Adjustment Ordinance to increase the maximum available adjustment from 10% to 20% for development standards related to setbacks, site area, lot width, and building height.
2. Consider amending the Administrative Adjustment Ordinance to add a category for encroachment of parking improvements into required landscape setback areas for commercial, professional office and industrial zone districts.
3. Consider alternatives for a Zoning Administrator to review and make decisions on minor land use permits, subject to appeal to the Planning Commission.
4. Consider revising our Building Code to remove our local requirement for fire sprinklers for new and re-occupation of existing non-residential buildings over 5,000 square feet, and instead utilize the state building code standard of 9,000 square feet.
5. Consider initiating a process to form a parking district for a portion of the Mooney Boulevard corridor and expand the Downtown Parking Districts to provide voluntary parking flexibility for site redevelopments and building re-occupancy.
6. Consider directing staff to prepare a draft ordinance to set a definition for "infill parcels" and provisions for 5,000 square foot residential lots as authorized in the current General Plan.
7. **Consider initiating a review of conditional uses in the Industrial Zone Districts to determine whether some uses can be re-classified as "permitted" uses (no CUP required).**

This report expands on the strategies presented on February 5, 2011, with a focus on their implementation, and with a closer examination of the Zoning Administrator (ZA) function. In directing that an Ordinance to incorporate the strategies into the Zoning Ordinance, including that of creating the Zoning Administrator function and/or position, the City Council is also requested to consider these as part of a **systematic umbrella of Zoning Amendments to enable greater latitude at the Site Plan Review (SPR) and**

**plan check level.** Upon direction, staff will work with the development community to further improve the permitting process to the maximum extent feasible.

Of key importance, staff recommends that Item 6 (review of Conditionally allowed uses for reclassification to Permitted uses) be expanded to include a **complete review and revamping of the current Zoning Ordinance Use Matrix by a select “blue ribbon panel. Staff believes this is a critical first step toward overall success in streamlining the permit process, particularly in identifying those remaining Conditionally allowed uses that should fall into the discretionary purview of a Zoning Administrator.**

**Timelines:** Staff estimates that Strategies 1,2,4,and 6 can be processed as Zoning and Municipal Code Amendments in 70 to 90 days, either as a contract project to an outside consultant, or as an added priority project in-house. In the latter case, Planning staff may need to adjust its exiting workflow priorities accordingly. **With respect to Strategies 3 and 6, staff recommends that the Council consider the magnitude of the initiative, the imperative to “do it right” the first time, and fully evaluate the potential unintended consequences as well as the desired benefits. And in doing so, allow sufficient time (most likely 100-180 days) to proceed in a very deliberate manner and which includes interactive participation by stakeholders and the full community.**

In the interim, staff would propose several incremental steps in this direction for which there appears to be little if any risk of unintended consequences or public controversy. These include establishing performance standards for businesses that include drive-thru’s in lieu of requiring a CUP, for allowing barbers/hair-stylists as stand alone businesses in the PA (Professional Office) zone, and eliminating the requirement for a CUP to accompany tentative parcel maps when the parcel map proposes lots without frontage to public roads (residential subdivisions proposing gated access and private streets would still require CUP approval).

**Finally, staff also recommends that the process for developing both the ZA and Use Matrix Ordinance amendments be preserved in-house on the premise that the authority for managing a project should generally rest with the entity (City Council, Planning Commission, and development services staffs) where responsibility for its ownership, implementation, and accountability ultimately occur.**

#### **BACKGROUND:**

Overview of the City of Visalia’s Permitting Process: The Zoning Ordinance Use Matrix organizes the range of uses covered by the City’s zoning regulations into Permitted (P), or Conditionally Allowed (C), organized by the various zoned districts throughout the City. Permitted uses are those allowed by right in certain zone districts. These are also referred to as Ministerial permits. Conditionally Allowed uses are those allowed, subject to approval of a Conditional Use Permit (CUP). These are also referred to as Discretionary permits. Uses that are neither Permitted nor Conditionally Allowed in a given zone district, are not allowed to operate within that zone district.

Projects that go to the Site Plan Review (SPR) Committee: Permitted uses are eligible to begin use without further zoning review unless the use also involves either of the following circumstances:

- New site development or new construction on an existing site

- Change of building use to a more intense use (e.g. retail space to restaurant)

In these cases, the Site Plan Review (SPR) Committee reviews the proposal to ensure the City's zoning and other Code requirements (such as parking, street dedications, utility sizing, etc.), and calculation of development impact fees is accurately reflective of that use and site. The SPR Committee exercises its responsibilities per ZO Section 17.28.020. The SPR Committee meets weekly, so the "turn around" time from project submittal to the next SPR Committee meeting is only six days. Formal written comments are normally provided to the project proponent within two to three weeks. There is no fee to the proponent for SPR Committee review.

Once a proposed use or site development plan has been reviewed and given "Revise and Proceed" status, construction permits [such as for new construction or tenant improvements (TI's)] can be submitted immediately.

Projects that Also Go to the Planning Commission and Potentially to the City Council:

There are circumstances where a Permitted (Ministerial) use must also navigate thru the Discretionary entitlement process to the Planning Commission, as is the case of all Conditionally Allowed uses (which require a CUP approval) and other discretionary permits such as subdivision maps, variances, zoning map or text amendments and General Plan amendments. This is the case where an aspect of the Permitted use proposal also requires a Variance to provide relief from a site deficiency (such as for parking) that exceeds the City Planner's authority to grant such a deviation from codified standards (usually up to 10% deviation from standard, although signage, parking and time extensions are specifically excluded from the City Planner's authority in this regard).

In addition, all SPR Committee approvals must be determined to be consistent with applicable General Plan policies. Under certain circumstances, a proposed use could call in to question its consistency with one or more key General Plan policies. In this case, the City Planner, acting on behalf of the SPR Committee and the City, can refer the question to the Planning Commission and ultimately the City Council for the determination of consistency with the General Plan (ZO Section 17.28.040). Such a referral is rare but remains a vital tool for ensuring all development promotes the City's health, safety, and order.

Beginning in mid-2005, the City Planning Division instituted the application completeness review process to make the scheduling process more certain and objective than it had been previously. The process features an objective, written checklist of criteria for determining an application's completeness, and a guarantee that a complete project application will be heard by the Planning Commission within 40 days. The system has resulted in greater certainty and consistency in the discretionary hearing process. However, the system is often criticized for perceived inflexibility, particularly in cases where the proponent requires an immediate assurance of approval and final conditions (such as with business recruitment competitions), or where the project includes a legislative action calling for a change in existing City policies (such as a zoning or General Plan amendment).

**DISCUSSION:**

The following sections address the strategies that were introduced to the City Council at the last Strategic Workshop. The Council and Commission are asked to use the following to foster further discussion leading to direction to staff to formally initiate Zoning Amendments as directed by the City Council. As noted before, these strategies can be incorporated most effectively in a comprehensive and mutually supporting umbrella

package of Amendments that would contribute to an overall streamlining of the permit process.

**Establishing a Zoning Administrator Function (Strategy No. 3) and Initiating a review of Conditionally allowed industrial uses to re-designate them to Permitted uses (Strategy No. 7):**

**Zoning Administrator:** A Zoning Administrator (ZA) function could simplify the entitlement process, and it could compress the normal Planning Commission public hearing timelines to below the 40-day City standard. The Zoning Administrator, acting in accordance with new Municipal Code authority, would provide a lower level entitlement process for uses that require some degree of Discretionary entitlement, but that may not warrant a full Planning Commission review in a nighttime public hearing setting.

**Overview of Other Jurisdictions:** According to the Planners Book of Lists [Annual publication of the Governors Office of Planning and Research (OPR)], **187 of the 538 (35%) cities and counties in California have a Zoning Administrator (ZA) function as part of their development entitlement process.** Their reasons and circumstances for doing so are as varied as the jurisdictions themselves. Ideally, their Zoning Ordinances are set up to facilitate the ZA process, such defining limits of authority and ensuring for consistency and accountability for decisions over time.

On the most streamlined end of the continuum, some jurisdictions use the ZA function to approve many or all uses, apply codified standards, or conditions with criteria already specified in the Zoning Ordinance, thus preserving the Planning Commission's role to general oversight of the development process, and to advise on Planning policy considerations (such as zoning and General Plan amendments).

On the other end of the continuum, some jurisdictions use the ZA process as one interim step of several to decide on only quantifiable or objective considerations regarding a project. Other entities or the Planning Commission itself must still make separate or subsequent decisions on environmental, architectural and/or site design, determination of impact fees and/or required improvement considerations before the project becomes fully entitled.

**Zoning Administrator Hearings:** Typically, the ZA presides over a staff-level public hearing conducted during normal business (daytime) hours. Just as with a Planning Commission or City Council public hearing, the applicant and members of the public are invited to participate in the hearing. The Zoning Administrator's decision is final if not appealed to the Planning Commission. The Zoning Administrator usually reserves the authority to refer an application directly to the Planning Commission in the case of particularly difficult or controversial projects.

**Key Considerations:** In establishing the scope of the ZA's discretionary authority, the City Council should also consider whether the ZA would also be authorized to:

- Impose special conditions of approval deemed necessary to mitigate a potential impact unique to the project or its setting.
- Process multi-segment applications that also require Planning Commission and/or City Council approvals (i.e. Zone Change, tentative subdivision maps, variances)
- Certify only Categorically Exempt (CE) CEQA determinations, or also certify Negative Declarations (ND) and Mitigated Negative declarations (MND)

- Approve Parcel Maps with Right of Way dedications and/or improvement requirements, and/or special conditions of approval.
- Uphold or override SPR requirements of City departments such as solid waste, traffic, transit, and fire and building code applications.

It is also incumbent that the City Council emplace the proper measures to ensure that the ZA operates in a business-like manner, and in the best interests of the City's longterm goals, objectives, and policies, including:

- Accepting that permit processing remains part of the City's regulatory powers and responsibilities;
- Exercise of independent judgment, free of undue influence for or against projects and/or project proponents;
- Clear boundaries of discretionary authority;
- Transparency, accountability and consistency for decisions;
- The limitations and trade-offs with respect to real or perceived public disclosure and input in the process; and,
- Managing outfall from public controversy for unpopular decisions.

It should be noted that the ZA's limited authority will likewise limit their ability to expedite some projects to the extent envisioned, or to grant relief from some project requirements or conditions that affect a project's physical and/or financial feasibility. **For example, the ZA having authority to approve an excessive noise generating project, should not have the authority to also waive noise mitigation requirements to the detriment of adjacent residences, even if the required mitigation measures made the project infeasible.**

**Revamping the Zoning Ordinance Use Matrix:** Staff recommends that the City Council **consider appointing a "blue ribbon" panel of no more than five persons, representing key stakeholders in the zoning and permit process.** Such a panel could comprise -A member from the City Council and Planning Commission, one person with expertise in industrial development projects, one person knowledgeable in commercial and office development projects, and one person representing the public at large (such as a member of the Citizen's Advisory Committee). As noted previously, an essential step in establishing the ZA function is to identify the uses that are candidates for "minor" discretionary review. This part of the process could proceed with a revamp of the Zoning Use Matrix on the whole.

**The Zoning Ordinance Use Matrix – Conditional, Permitted, and Uses That are Not Presently Allowed:** **The Zoning Ordinance Use Matrix was last adopted in whole by the City Council in 1996** as part of the follow-up to adoption of the 1991 General Plan Land Use Element (2020 Plan). The Matrix organizes the range of uses covered by the City's zoning regulations into Permitted (P), or Conditionally Allowed (C), organized by the various zoned districts throughout the City. **Over the intervening 15 years since the Zoning Use Matrix was adopted,** it has been amended incrementally from time to time- such as in conjunction with the Mooney Blvd. Corridor Amendments. However, **no comprehensive revamping of the Matrix has been undertaken even though the City, like all cities have seen dramatic changes in the nature, scope and desired locations and other aspects of numerous existing and new commercial and**

**industrial businesses**, such as warehouse-style retailers, cellular communication facilities, and highly specialized events, services and industries.

Consequently, many prospective businesses the City desires to facilitate, from entrepreneurial start-ups to larger job creating industries, often suffer time other costly delays and frustrations since their proposed business either specifically requires a CUP, or the proponent's desired location doesn't fit in the parameters of the current Zoning Use Matrix. **It is envisioned that a deliberate re-look and revamping of the Zoning Use Matrix along with empowering a person to function as the Zoning Administrator will substantially streamline the current discretionary entitlement process.**

**Strategy No. 2. Amending the Administrative Adjustment Ordinance to add a category for encroachment of parking improvements into required landscape setback areas for commercial, professional office and industrial zone districts.**

A common problem in site planning for new developments or expansions to existing developments is the placement of parking spaces in sufficient numbers to meet City parking standards. As landowners try to maximize the size of buildings on their properties, the placement of parking becomes difficult. The parking requirement may also force landowners to scale back the size of buildings to provide room for sufficient parking to meet City standards.

This amendment will add flexibility to the site plan process by allowing limited parking improvements to extend into required setback areas. A potential strategy would be to amend the Administrative Adjustment Ordinance to include authority for City Planner consideration and approval of limited encroachment of parking improvements into landscaped setback areas. As an example, the ordinance could be modified to allow the City Planner, upon making the required findings under the attached Administrative Adjustment Ordinance, to allow parking improvements to occupy up to 20% of the landscaped setback area, provided that at least 50% of the depth of the landscaped setback shall be maintained along the entire frontage. This encroachment would be managed through the Administrative Adjustment process and applied as allowed under the mandatory findings.

**Strategy No. 4: Revising our Building Code to remove our local requirement for fire sprinklers for new and re-occupation of existing non-residential buildings over 5,000 square feet, and instead utilize the state building code standard of 9,000 square feet.**

**This amendment will bring the City's code into conformance with those of the State minimum standards, thus making projects in Visalia more comparably competitive with those of other cities.** The California Building Code requires automatic fire sprinklers be installed in new non-residential buildings, and in existing buildings undergoing a change in Building Code occupancy classification, when the building is generally 9,000 square feet or larger. (Note: an example of a change in building occupancy category is an office being converted to a retail store). This requirement is the standard for cities and counties throughout California provided that cities and counties may enact local ordinances to establish a more stringent local rule. In Visalia, our local building code was modified in the mid-1990s to reduce the square footage threshold for fire sprinklers to 5,000 square feet. This local standard subjects

many more buildings in Visalia to the fire sprinkler requirement than would occur under the state threshold of 9,000 square feet.

While the increased fire safety benefit of the more stringent fire sprinkler requirement is acknowledged, Council noted that fire sprinklers substantial add additional construction costs for installation and water connection. Fire sprinkler costs average about \$3.00 per square foot of building size plus substantial costs for water line extension and service connection. **While the costs for installing sprinklers are a cost factor, the City Council heard credible testimony that often times adequate water mains are not available to the building location which very often becomes an insurmountable obstacle for an otherwise beneficial project.**

Also, in constructing new or re-occupying existing commercial, industrial or other non-residential buildings, businesses in Visalia currently must bear additional cost burdens to install locally mandated fire sprinklers for buildings over 5,000 square feet but less than 9,000 square feet. The requirement has caused many businesses to reduce the size of new buildings to less than 5,000 square feet and has created further reservations in re-occupying existing buildings in the 5,000 to 9,000 square foot category..

**Council considered removing the local 5,000 square foot threshold for fire sprinklers and in favor of returning to the state's 9,000 square foot threshold. This change would substantially reduce construction costs for non-residential buildings under the state threshold, improve cost feasibility for re-occupying existing buildings, and increase our community's competitiveness with nearby cities and the county.** When that change is made, businesses could choose to voluntarily install fire sprinklers in buildings under the state threshold if desired for increased fire safety and insurance cost benefits.

**Strategy No. 5. Initiating a process to form a parking district for a portion of the Mooney Boulevard corridor and expand the Downtown Parking Districts to provide voluntary parking flexibility for site redevelopments and building re-occupancy.**

The Council acknowledged that parking requirements can become problematic for businesses attempting to locate to new sites or expand on existing sites. Within downtown parking districts, developers of new buildings can voluntarily pay the in lieu parking fee to resolve parking issues. In outlying areas, the parking in lieu payment option is not available unless the parking districts are expanded or new districts formed.

Lack of sufficient parking is a common problem in site development or re-occupation of developed properties. The parking in lieu program can provide relief in these cases through payment of a reasonable in lieu fee. The ability to pay for in lieu parking also provides developers flexibility and opportunity to increase the size of structures to be built. The current in lieu fee for the downtown parking districts is \$3691.95 per parking space. Parking in lieu fees are reserved solely for the City to purchase sites and create public parking inside the district boundaries.

Areas where parking has created the greatest issues are the areas in and around downtown and along Mooney Boulevard. With Council's direction, new parking districts or expanding the existing districts as needed will facilitate development projects that cannot provide their own on-site parking. This has been done successfully in the Oval



area for an in-fill project that featured a significant upgrade to a previously abandoned commercial site (the former Oval gas station at East 3<sup>rd</sup> Street and Court Street).

**Strategy No. 6. Direct staff to prepare an Ordinance amendment to set a definition for “infill parcels” and provisions for 5,000 square foot residential lots, as authorized in the current General Plan.**

General Plan Policy 4.1.18 includes the following provision:

*“The Zoning Ordinance shall be amended to include a definition of “infill parcels” and a process and criteria to permit the use of 5,000 square foot lots on these designated parcels.”*

**This policy is intended to serve as an incentive for infill development by allowing greater development density for undeveloped parcels in the City.** However, though the policy has been in the General Plan since the last update in 1991, it has not been implemented. In past years, Council has discussed methods to implement the policy, but efforts have not been successful.

With the financial challenges created by the recession, it is increasingly difficult to induce infill development. Implementation of this policy could provide an effective incentive for developers to utilize overlooked residentially zoned parcels.

As directed by Council, staff will prepare the ordinance to implement this policy. **The draft ordinance will be vetted with the building industry, Planning Commission, and community to ensure that this type of higher density development is done in a way that enhances residential neighborhoods.**

**ATTACHMENTS:**

1. Staff Report, Ordinance Strategies to Increase economic activity, February 4-5, 2011
2. Selected Zoning Ordinance extracts

# Joint City Council and Planning Commission Worksession Memorandum

**To:** City Council and Planning Commission

**From:** Chris Young, Community Development Department Director / City Engineer (713-4392)  
Paul Scheibel, Planning Services Manager (713-4369)  
Paul Bernal, Senior Planner (713-4025)

**Subject:** **Consideration to develop a Telecommunications Ordinance**

**Date:** February 22, 2011

---

## SUMMARY

During the November 1, 2010, City Council meeting, the Council upheld the Planning Commission's denial of CUP No. 2010-09, a request by Verizon Wireless to allow the installation of a 60-foot tall co-locatable wireless telecommunications tower on a partially developed 24-acre R-1-6 (Single-Family Residential 6,000 sq. ft. min site area) zoned site.

During the hearing, the Council heard from several residents opposing the proposed cell tower. The residents raised concerns about the aesthetic impacts, associated diminished property values, and potential adverse effects on the quality of their neighborhood. In addition, concerns were raised regarding the City's permitting process regarding review of cell towers. As a result, the Council directed staff to conduct a worksession exploring the details of a wireless telecommunication ordinance.

## RECOMMENDED ACTION

Staff is preparing a wireless telecommunication ordinance that addresses:

- Preferred zoning locations (i.e., commercial/industrial vs. residential) and/or sites considered suitable (i.e., City owned sites) for wireless telecommunication equipment.
- Design standards (height, setbacks, "stealth" technologies), spacing criteria, and co-location considerations.
- Submittal requirements for new wireless telecommunication facilities. Submittal requirements will include FCC Compliance documentation, radio frequency report, service network coverage and/or capacity map, Gap Coverage analysis, photo simulations, alternative site analysis, back-up generator noise data, etc.

Staff recommends the City Council / Planning Commission review the information provided in this report, along with any further discussion and testimony presented, and direct staff as appropriate. Items to be additionally considered by the Council / Commission include:

- Require master planning for proposed telecommunication cell towers on vacant sites **or** prohibit telecommunication cell towers on vacant sites.
- Conduct outreach with the stakeholders of the telecommunication industry for input on the expanding technologies used to provide wireless telecommunication service.
- Any other issues/requirements as determined by the Council / Commission.

The wireless telecommunication ordinance will be processed as a new code amendment in the Zoning Ordinance. The Planning Commission will hold a public hearing and will make recommendations to the City Council on the telecommunication ordinance. Council will also hold a public hearing and will make the final decision on the cell tower ordinance. This process will take 60-90 days following determination and authorization to proceed by the City Council.

Terminology: It should be noted that “wireless telecommunication facility” and “cellular phone tower” are used interchangeably in the report to denote cell towers and their related equipment.

**1996 Telecommunications Act:** The adoption of a city wireless communications ordinance must also be consistent with the limitations on local authority imposed by the 1996 Telecommunications Act. These limitations include:

- May not prohibit or have the effect of prohibiting the provision of personal wireless services (i.e., telecommunication equipment).
- May not discriminate among functionally equivalent services or service providers.
- Prohibit or inhibit any request to construct or modify personal wireless service facilities beyond a reasonable time period of time after the request is made.
- Regulate these facilities on the basis of environmental effects such as health risk of radio frequency emissions if the proposed facility complies with FCC guidelines.

Considering these limitations, staff will proceed with preparing the telecommunication ordinance that works within the limitations of the 1996 Telecommunications Act.

## **LOCAL HISTORY OF WIRELESS TELECOMMUNICATION ENTITLEMENTS**

Over the past six years (2005-2011) there were a total of 19 Site Plan Review (SPR) submittals for antenna panel replacement, installation of antenna’s on existing structures (i.e. water towers and lattice towers), co-location and new cell towers. Of these 19 SPR’s, five of these cell tower proposals required discretionary review because they were new towers and/or requested an increase in height beyond the height limit prescribed in the design district. Four of the five cell tower entitlements were approved.

It should be noted, on the SPR Committees agenda for February 9, 2011, there was an item on the agenda for a proposal to erect a new cell tower in the Key West Shopping Center.

Based on the number of CUP/Variance requests over this five plus year span, it does not appear that there has been a substantial increase in these applications. However, changing technologies in the cellular phone industry may lead to increasing demand on the existing coverage network which may result in a proliferation of applications for the construction of new cell towers.

Given the probability that the City will continue to see a need for additional towers, it may be time to amend the zoning ordinance to specifically address cell towers. City Council issues and topics related to zoning, location and proximity to residential areas, height, co-location on existing towers or structures, Federal Communication Commission (FCC) requirements, removal of obsolete or abandoned towers, visual attractiveness, development interface standards between residential/commercial designations, etc., may be discussed so that staff has a better understanding as to how the proposed wireless telecommunication ordinance could positively address the Council’s goals for “cell tower” locations.

## **WHAT ADOPTION OF A WIRELESS TELECOMMUNICATION ORDINANCE CAN DO FOR THE CITY**

A wireless telecommunication ordinance allows the City to establish requirements for cell towers including an emphasis on aesthetics and compatibility with surrounding properties. The wireless telecommunication ordinance will specifically address the following:

- Define the location and proximity of wireless telecommunication facilities to residential areas. The wireless telecommunication ordinance can prohibit these types of facilities in all residential zones, steer these facilities towards city owned property or toward zones more appropriate. The wireless telecommunication ordinance will define, in certain cases, the installation of a facility in a sensitive land use zone if the site is fully developed with a non-residential use (i.e., church, private school, hospital, etc.)
- The wireless telecommunication ordinance can codify design criteria for cellular phone towers such as requiring stealth tree towers, slim-line monopole designs, color and materials, security fencing, etc. Verizon Wireless will be installing a “stealth” cellular tower at the West Visalia Church site (southwest corner of Caldwell and Linwood). Verizon will be erecting a mono-pine tree cell tower in an effort to reduce the visual impact of the proposed cellular phone tower. The intent with “stealth” tree cell towers is to create the appearance of a natural landscape setting rather than installing the typical steel tower design. A photo simulation of the proposed mono-pine cellular phone tower is included and attached as Exhibit “C” of this staff report.
- The wireless telecommunication ordinance will define submittal requirements for new wireless telecommunication facilities. For example, the City of Glendale and the City of San Ramon require extensive material for newly proposed cellular phone towers. A review of their submittal requirements include FCC Compliance documentation, radio frequency report, service network coverage and/or capacity map, Gap Coverage analysis, photo simulations, alternative site analysis, back-up generator noise data, etc.
- The wireless telecommunication ordinance will require financial guarantees for the removal of cellular phone towers if they become abandoned, obsolete or the use permit expires. This will ensure that monies are secured for the removal of the cellular phone tower if it is no longer in use.

With these concepts in mind, staff is preparing a wireless telecommunication ordinance that includes information presented in this report, in addition to any other concerns that the Council / Commission may deem appropriate to discuss.

## **PREFERRED ZONING LOCATIONS**

The Council may want to consider prohibiting the location of wireless telecommunication facilities on properties zoned residential and identify zones that would be more appropriate for these types of facilities. It should be noted; expressly prohibiting cellular phone towers in residential zones may reduce the potential of creating aesthetic impacts, and potential adverse effects on the value and quality of residential neighborhoods. However, prohibiting cellular phone towers in residential zones would not allow cell towers to be located on residential zoned property that may be developed with a non-residential use (i.e. church campus site, convalescent hospital), which is common in Visalia and other valley communities.

Staff reviewed nine municipality’s wireless telecommunication ordinances and/or policy requirements. These are attached to illustrate various methods used to establish local controls on cellular phone towers.

Of the nine ordinances reviewed, the City's of Davis, Hanford, Palmdale, and Pinole expressly prohibited the location of wireless telecommunication facilities in all residential zones. The City's of Fresno, Glendale, Los Gatos, Tracy, and Tulare required Conditional Use Permits for wireless telecommunication facilities in residential zones.

Staff contacted planners for the City of Fresno and Tulare regarding their processing of cellular phone towers in residential zones. In both cases, the properties associated with the proposed cellular phone tower were developed with non-residential uses (i.e., church site and water well site).

In reviewing the nine wireless telecommunication ordinances, a majority of these ordinances identified properties zoned commercial, industrial, and quasi-public as the appropriate locations for wireless telecommunication facilities.

### **“STEERING” POTENTIAL CELLULAR PHONE TOWER LOCATIONS TO CITY PROPERTIES**

The wireless telecommunication ordinances for the City of Los Gatos and Tracy identify location preferences for wireless telecommunication facilities. Examples of desirable/preferred locations are co-location sites where an existing telecommunication structure exists, on a building roof or façade already containing approved antennas, commercial and industrial zoned property, any non-designated residential property; and **city owned properties such as parks, quasi-public facilities, and fire stations.**

Preferred city owned sites could be city hall sites, park sites, fire stations, water conservation plant, golf course, corp. yard, and quasi-public properties. Identify these types of properties in a telecommunications ordinance as desirable/preferred locations may reduce compatibility issues with surrounding development, and provide the City with a source of revenue.

For example, a city owned park site might be a preferred location for a cell tower. Larger park sites may provide the necessary foliage, which may be suitable for “stealth” cell tower designs (i.e., mono-pine/palm). In addition, revenue generated by the tower lease agreement may be used to provide maintenance and upkeep of the park site.

### **DESIGN CRITERIA (SETBACKS, HEIGHT, AND “STEALTH” TECHNOLOGIES) CONSIDERATIONS**

The adoption of a wireless telecommunication ordinance can establish development standards for newly proposed cellular phone towers. The wireless telecommunication ordinance can include establishing a minimum setback distance for wireless telecommunication facilities from properties zoned residential and from other existing wireless telecommunication facilities, requiring “stealth” towers, restricting height of towers and requiring co-location.

Setbacks: The City may want to consider implementing setback requirements for wireless telecommunication facilities that are clearly defined from residential zoned property **or**, the City may want to consider allowing some flexibility in setback requirements, which could include establishing setback requirements to match the height of a proposed wireless telecommunication facility.

For example, in the City of Davis, their wireless telecommunication ordinance requires a 500-foot separation from a cellular phone tower to property zoned residential. In addition, City of Davis generally requires that cellular phone towers not be permitted within 1,000 feet of an existing tower while the City of Los Gatos requires a minimum radius of three miles between wireless telecommunication facilities. Review of the other municipalities wireless

telecommunication ordinances also required that wireless telecommunication facilities, when located in commercial and industrial zones, comply with the setback requirements of the prescribed zone district.

Height: The City may want to consider establishing maximum height limits for cellular phone towers in addition to any other concerns that may deem appropriate to discuss regarding cellular phone tower height.

In reviewing other municipalities wireless telecommunication ordinances, a majority required that these structures comply with the height limits of the prescribed zone district in which the towers were located. For example, the City of Davis requires cellular phone towers to not exceed the maximum height for buildings in the zone district in which the pole is located by more than 12-feet. The City of Palmdale requires cellular phone towers to not exceed the maximum height for buildings in the zone district by more than 20-feet. The City of Fresno allows cell towers to be erected to a maximum height of 70-feet, and 80-feet if the cell tower is used for co-location. The City of Tulare establishes height requirements of 50-feet if the cellular phone tower is “non-camouflaged” and 70-feet if the cellular phone tower is “camouflaged”.

Stealth Technology: The City may consider requiring all newly proposed wireless telecommunication facilities be designed with “stealth” technologies, in addition to any other concerns that may deem appropriate to discuss regarding “stealth” cellular phone towers.

Many new cellular phone towers are being designed to reduce their visual impact on the surrounding environment. Stealth technology is being incorporated into cellular phone towers and includes cellular phone towers being designed as pine trees, palm trees, concealed in church towers or designed as flagpoles.

There is currently two examples in Visalia where the cell tower was designed with “stealth” technologies. One example is the cellular phone tower flagpole located at the Fortress of Truth Church (northwest corner of Linwood / Caldwell). The other “stealth” tower is located on the Nazarene Church’s site. This tower is designed as an architectural feature of the church campus.

## **CO-LOCATION CONSIDERATIONS**

The City may consider requiring co-location into a proposed ordinance in addition to any other concerns regarding co-location. Co-location provides telecommunication providers with an opportunity to mount their equipment onto existing poles. The benefit of allowing co-location may reduce the proliferation of additional telecommunication towers in the community. Co-location may also spread the capital cost, return revenues to the carrier erecting the pole, and reduce the cost for other carriers using the site rather than building their own facilities.

Staff encourages co-location when appropriate, and has been effective in certain cases. Examples of this include the water towers near Redwood High School and in the industrial park, the lattice towers located on Caldwell and Woodland Avenues, and the wireless telecommunication equipment located on top of the Marriot Hotel and Bank of the Sierra building.

Conversely, the City may want to consider restricting co-location in certain instances. For example, co-location may be discouraged if it requires extending the “**height**” of an existing telecommunication tower that is within close proximity to properties designated residential.

## **CONTENTS OF APPLICATIONS**

The City's current zoning ordinance and entitlement application do not require extensive information and materials with regards to cellular phone towers. Typical submittal materials include site plans and elevations. At times, staff has also requested photo-simulations, and service network coverage area maps. Codifying application material for wireless telecommunication facility proposals may provide applicants uniformity in standard processing of wireless communication facilities within the city. As previously stated, the City of Glendale and the City of San Ramon require extensive material for newly proposed cell towers.

A review of their application submittal requirements include FCC Compliance documentation, radio frequency report, service network coverage and/or capacity map, Gap Coverage analysis, photo simulations, alternative site analysis, back-up generator noise data, etc.

If the Council and Commission wants this issue to be further reviewed, than application requirements will be expanded to include the information previously discussed.

## **TERMINOLOGY**

The City may want to consider amending the zoning ordinance to include wireless telecommunication facility terms and definitions, in addition to any other concerns related to wireless telecommunication terminology.

During the discretionary review process of cellular phone towers, terms such as co-location, stealth facility, antenna panels, Electromagnetic Field (EMF), alternative site analysis, ect., are common parlance in describing these types of projects. The Visalia Zoning Ordinance does not provide definitions for these terms. The American Planning Association's "A Glossary of Zoning, Development and Planning Terms" provides a list of terms and definitions for cellular phone tower equipment used by the wireless cell phone industry. A list of terms and definitions are included and attached as Exhibit "A" of this staff report.

Staff has also researched several municipalities wireless telecommunication ordinances, and noted these ordinances include definitions for cellular phone towers, co-location, stealth facility, etc.

## **Attachments**

- Exhibit "A" – Wireless Telecommunication Definitions
- Exhibit "B" – Photo-simulations of proposed mono-pine cell tower
- APA Article, "Common Regulatory Issues in Siting Personal Wireless Services"

## EXHIBIT "A"

### Wireless Telecommunication Definitions

"Co-location": means the location of two or more wireless communication facilities on a single support structure. May also include other facilities such as water tanks, other communication towers, etc.

"Stealth Tower/Faculties": means artificial trees, clock towers, and similar nontraditional structures that are compatible with the existing setting or structures and camouflage or partially conceal the presence of antennas or towers.

"Antenna Panels": means any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunications signals or other commercial signals.

"Personal Communication Service": means a wireless service and an extension of existing telephone use utilizing digital technology in place of wires to transmit and receive phone calls. The system is supported by an infrastructure of small and moderately sized neighborhood antenna sites arranged in a geographical pattern.

"EMF": Acronym for Electromagnetic Field means: The field of force associated with electric charge in motion, having both electric and magnetic components and containing a definite amount of electromagnetic energy.

"Coverage Area": means the geographic area served by a wireless system.

"Bandwidth": Describes the transmission capacity of a medium in terms of a range of frequencies. A greater bandwidth indicates the ability to transmit a greater amount of data over a given period of time.

"Cell Site": means the transmission and reception equipment, including the base station antenna, that connects a cellular phone to the network.

"Alternative Site Analysis": means a geographic and/or narrative study that describes one or more alternative locations for a proposed cell tower site.



# ***City of Visalia***

## ***Memo***



To: City Council and Planning Commission  
From: Mike Olmos, Assistant City Manager  
Date: February 22, 2011 Joint Session  
Re: Update on High Speed Rail

---

Over the past several years, the City of Visalia has taken a leadership role in regional coordination on the High Speed Rail (HSR) and local train station efforts. While the City Council has not taken a formal position on the state-wide HSR program, Council has strongly supported the designation of a high speed train stop in our region if the state-wide system gets built. This briefing paper will provide an overview of the project, its current status, potential benefits to our region, and challenges and opportunities emerging from the HSR project.

### **Current Status**

The High Speed Rail project has made significant progress and is poised to start construction in 2012. The first segment of the rail system to be constructed has been selected by the High Speed Rail Authority (HSRA) Board of Directors to be the Fresno to Bakersfield segment. Federal and state funding is in place to construct the first segment. First phase construction will include partial funding for station planning for high speed train stations in Fresno, Bakersfield, and the Tulare-Kings Regional station east of Hanford.

The project level Environmental Impact Report for the first segment is being completed and is anticipated to be released for public review and comment in the next 90 days. The EIR process must be completed in 2011 to allow construction to commence in 2012. Construction of the first segment is scheduled to be completed by 2017.

The Tulare-Kings Region is well positioned to have one of the first stations designed and constructed in the High Speed Rail system. This station is intended to serve the growing population in Tulare County and Kings County, which is projected by the State Department of Finance to be near 1 million residents by 2030.

The High Speed Rail Authority has made it clear that station planning and construction efforts will be conducted as partnerships involving the HSRA and local governments. With this directive in mind, local governments in the Tulare-Kings region should collaborate on ways to fund a portion of station planning/design in support of the City of Hanford. In addition, cities and other stakeholders in our region must work jointly

with the HSRA design team in station site selection and configuration to ensure that the new station is conveniently accessible to outlying population centers.

If cities and other local governments in our region do not move forward collectively and aggressively, the high speed train station may become a lost opportunity. Again, the HSRA has stressed that communities and regions with designated stations must work closely with the HSRA in station planning, including funding of these efforts. Areas that do not step forward aggressively in the station design stage will have their stations delayed, or potentially lost if insufficient local support is evident.

## **Overview**

The High Speed Rail project will be among the most ambitious, visionary, and expensive public works project built in the State of California and the United States. As envisioned, the project will ultimately provide an electrically powered high speed train system initially running from San Francisco to Los Angeles/Anaheim via the Central Valley. Later rail segments will connect the system to Sacramento and San Diego. High speed trains will be designed to travel the route at speeds up to 220 miles per hour, enabling express trains to travel between San Francisco and Los Angeles in under 2 hours and 40 minutes.

The planned state-wide HSR system will create 800 miles of HSR track. The system will be fully separated from streets, highways, and other physical obstructions by placing track alignments at ground level, on elevated structures, and below ground as needed to avoid conflicts. By separating track systems from obstructions, train speeds can be maximized, and safety maintained. In addition, high speed train stations will be located to connect effectively with other transportation modes.

Initially, 24 stations were planned for the HSR state-wide system, primarily located in heavily urbanized communities along the system and at selected locations in the Central Valley. Stations were initially designated for Bakersfield and Fresno, but not in the Tulare/Kings region. This would have resulted in a 113 mile segment between Fresno and Bakersfield without a station, the longest unserved segment in the HSR system. Through diligent efforts by the Visalia City Council, and with support from other cities and TCAG, the City was able to convince the High Speed Rail Authority that population growth in Tulare and Kings Counties would warrant a station in our region. As a result of this effort, HSR station designations have been expanded to include the Tulare-Kings Regional Station to be located east of Hanford near the juncture of Highway 43 and Highway 198.

There are many significant benefits associated with the high speed train system in California. These benefits include:

- Development of an efficient and convenient transportation alternative to automobile and air travel to move travelers around major population centers in our state.

- Improved air quality by reducing auto vehicle trips and utilizing electricity as an increasingly sustainable and environmentally superior power source.
- Congestion relief for California's highways and airports.
- Creation of tens of thousands of jobs in design, construction, and operation of the train system and equipment. The project will spur emergence of high speed rail as a growth industry in California as we develop technology, services, and train sets and related equipment. California HSR technology, products, and services can be offered to other areas of the country and the world.
- HSR station planning will promote higher density transit oriented development (TOD) by encouraging population growth to cluster near stations to take advantage of transit opportunities. As the state grows in population, TOD will play a larger role in urbanized areas, and its reliance on transit will increase the effectiveness of regional bus and light rail systems and high speed rail. Indirect job growth will occur as a result of TOD development, and goods/services growth around HSR stations.
- For the Tulare/Kings region, HSR will provide an important opportunity to better connect our remote area to the urbanized areas of our state. This will increase accessibility to outlying education, medical, business, entertainment and other opportunities, and better enable these services to be enhanced locally.

At completion, the high speed train system in California will be the first modern HSR system in the United States. While these systems are new in the U.S., there are many examples of HSR systems now operating effectively in many countries around the world, including Japan, China, France, Spain to name a few. European and Asian countries have been very aggressive in developing high speed train systems for several decades. The California system is based in large part on the experiences and technology emerging from systems developed in those countries.

A project of this scope and cost cannot avoid controversy and opposing opinion. There are many individuals and organizations who believe that high speed rail is not an appropriate venture for California. Opponents cite the high costs of the project, impacts to agriculture and urban neighborhoods, questionable ridership projections, questionable operational cost feasibility, preferred reliance upon existing highway systems, lack of private sector interest and other reasons why the high speed train system should not proceed. Despite the many criticisms of the HSR project, there is much support for High Speed Rail as a long term transportation alternative for California, and the HSR project continues to gradually move forward toward completion of design and environmental review and initiation of construction.

### **Costs and Funding**

The most current High Speed Rail Authority cost estimate for the entire completed state-wide system is \$43 billion. The project is intended to be constructed in segments based on engineering considerations and funding availability.

In the November 2008 general election California voters passed a general obligation

bond measure to provide \$9.95 billion for the State's portion of funding for the HSR system. Federal matching funds are also expected to finance a significant portion of the construction cost. In addition, the High Speed Rail Authority anticipates that infusion of state and federal dollars will attract private sector investment in the form of potential private/public partnerships for different aspects of the project including debt financing, vendor participation, and system operations.

Over the past year, the federal government has committed approximately \$4.5 billion in America Recovery and Reinvestment Act (ARRA) funding for the first segment of the High Speed Train system. Including state matching funds, currently a total of about \$5.5 billion is available for first phase construction.

Earlier this month, the HSRA announced that the first segment funding pool will include state funds for station area planning. The Authority can enter into local agreements to provide up to 40% of the cost for locally led station area planning studies, not to exceed \$200,000. State planning funds can be augmented by any available federal or local funds for station area planning.

Most recently, in early February, the Obama Administration announced plans to invest \$53 billion in high speed rail development over the coming 6 years. If these funds come to fruition, California will be in an excellent position to attract significant federal funding support for our high speed rail system. California's HSR system planning is far ahead of high speed rail system development in other states and construction of California's first segment is expected to commence next year. With significant progress in HSR development already achieved, California should be a prime candidate for further federal support.

### **Future Tulare Kings Regional Station**

Visalia worked very hard to help secure a station designation for our region. Several years ago, during the initial HSR track alignment alternatives analysis, there was potential for the HSR rail system to be located along the existing Union Pacific Railroad (UPRR) track alignment parallel to Highway 99 in the Fresno-Bakersfield segment. If that alignment had been selected, a station location might have been selected close to Visalia. However, the UPRR alignment was eventually dropped in favor of an HSR alignment along the existing Burlington Northern-Santa Fe (BNSF) track alignment through Kings County. As a result, the future Tulare-Kings Regional Station site was located a short distance east of Hanford.

The station location near Hanford is not ideally situated with respect to population concentrations in the Tulare-Kings Region. Most of the population resides along the east side of the San Joaquin Valley in Tulare County. However, the proposed station location is reasonably convenient for Visalia and Tulare residents, which comprise the largest population concentration in the region.

The proposed Tulare-Kings Regional Station will be very close to the juncture of

Highway 43 and Highway 198. The site is accessible to Visalia and other East Valley residents via Highway 198. The highway is currently being widened from 2 to 4 lanes. The widened highway will provide a direct, convenient route to the future station for Visalia residents. The distance from Mooney Boulevard in Visalia along Highway 198 to State Highway 43, near the proposed HSR station site, is 16 miles.

The proposed station site is also located near the Cross Valley Railroad Line. This existing rail alignment is currently used for freight rail shipping. In the future it could also carry light rail passenger service.

### **Kings County Issues**

To date, local governments and agricultural interests in Kings County have not embraced the high speed rail alignment through their county, nor the proposed station east of Hanford. During the HSR alignment selection phase in 2010, representatives of the Kings County Farm Bureau and Nisei Farmers League expressed opposition to the HSR alignment in Kings County due to perceived impacts upon agriculture. The concerns of agriculture led to actions by the Kings County Board of Supervisors and Hanford City Council to formally oppose the high speed rail alignment through Kings County.

The HSRA considered the concerns of Kings County local governments and the agricultural industry during the alignment selection. Subsequently, the HSRA Board determined that the concerns of agriculture could be reasonably addressed in the final alignment selection phase and the BNSF alignment through Kings County (including the Tulare-Kings Regional Station site) was confirmed.

With the HSR track alignment through Kings County now being approved by the HSRA, acceptance of the station site by the City of Hanford and Kings County and their cooperation in planning for a future regional station are critical to successful delivery of the station for the region. Outreach to Hanford and the Kings County Association of Governments is underway which will hopefully lead to a regional partnership for station planning.

### **Conclusion**

Visalia has made a considerable effort for several years in trying to bring the benefits of high speed rail to the Tulare County and Kings County area. This investment has been rewarded by the designation of a future Tulare-Kings Regional Station location and the impending construction of the first rail segment in our area. However, much work remains to be done to secure our high speed rail connection. Our region cannot become complacent. Collaboration with Hanford and Kings County is critical at this juncture to establish a regional partnership for station planning. This will be the next major step in bringing high speed rail to the region.



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** February 22, 2011

**Agenda Item Number (Assigned by City Clerk):** 8b

**Agenda Item Wording:** Request to extend Exclusive Negotiations Agreement (ENA) with Mill Creek Professional Center, LLC, for six (6) months for the completion of pre-development due diligence and planning activities necessary for the negotiation of a Development Agreement for approval by the City Council for the phased sale and development of city-owned land situated between Acequia, Mineral King, Stevenson and Conyer Streets.

**Deadline for Action:** February 22, 2011

**Submitting Department:** Housing & Economic Development

**Contact Name and Phone Number:** Ricardo Noguera, Housing & Economic Development Director (x4190)

**Department Recommendation:** Authorize the City Manager to extend the recently expired (January 31, 2011) Exclusive Negotiations Agreement (ENA) for a second six (6) month term; until August 21, 2011.

**Summary/background:** Over the past few years, the City has sought a pro-active approach to creating an office environment conducive to the growth of Downtown's most influential use: medical-related activities. The hospital has continued to implement its' master plan with the addition of a state-of-the-art hospital expansion (100,000 square feet) and a five-story administrative building. In working in collaboration with the hospital, the City has sought to relocate City Hall West and police administrative functions to a new East Downtown site. The relocation of such activities (does not include the existing Fire Station) will free up almost two square blocks to support medical-related office uses.

On August 20, 2008 the City released an Request For Proposal (RFP) for the acquisition and development of medical offices, parking structure and a possible mixed-use building (retail/residential). On February 9, 2009 Council authorized staff to commence negotiations on an Exclusive Negotiations Agreement (ENA) with Mill Creek Professional Center, LLC for completion of pre-development due diligence and planning activities necessary for the negotiation of a Development Agreement for a phased development of city-owned property bounded by Acequia Avenue (north); Mineral King (south); Stevenson Avenue (east); and Conyers Street (west).

**For action by:**

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): \_\_\_\_\_

**Review:**

**Dept. Head** \_\_\_\_\_  
(Initials & date required)

**Finance** \_\_\_\_\_  
**City Atty** \_\_\_\_\_  
(Initials & date required or N/A)

**City Mgr** \_\_\_\_\_  
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

**Project Status:** The October 5, 2009 ENA calls for several deliverables on the part of the development team and the City. It also contains a 270-day time period which allows for either party to terminate or extend the ENA if they choose to do so. Key deliverables include:

#### Development Team Requirements

1. Completion of a site plan with a multi-phased development scheme. Since the October 5<sup>th</sup> approval date, a conceptual site plan has been prepared but this should not be construed as a formal site plan. The development team has also proposed to commence development south of Mill Creek with potentially a two to three story office building totaling between 30 to 45,000 square feet. The actual size will be based on market conditions and the ability of the development team to secure investors and/or tenants.
2. Completion of designs, elevations and other documentation identifying improvements and facilities for Phase I development. This has not been provided by the development team to date.
3. Analysis of parking requirements for the development, including proposed use of parking in-lieu. Although there have been discussions regarding development of surface parking south of the creek and possible leasing of existing parking north of the creek, there has been no formal analysis provided to date.

#### City's Requirements

1. Timely review and comment on all plans submitted by the Development team. To date only conceptual plans have been submitted for discussion purposes therefore the City is unable to provide a thorough analysis on plans.
2. The development agreement has yet to be drafted since the deliverables above required from the developer have yet to be fulfilled.
3. Completion of an appraisal. The City has completed an appraisal on the property and furnished the development team with a copy.

**Downturn in the Economy Slowing Progress:** This is the second six month extension request for this developer. The last extension approved by Council on June 21, 2010 was granted as a result in the slow down of the economy. Unfortunately, the market has not improved over the past six months. Additionally, the developer was pursuing a medical-related development scheme which was abandoned following Kaweah Delta Healthcare District's planned expansion of its' center at the Cypress Campus off of Akers Street. The developer had planned to recruit medical professionals who would more likely seek to locate in close proximity to the hospital facility. The developer is now seeking to broaden the marketing approach for a new facility to include general office uses as well as financial, real estate, legal, insurance, etc.. This new marketing approach combined with abit of an upswing in the market may hopefully enable the developer to secure sufficient level of interests from office users to move forward with a development agreement over the next six months.

#### **Prior Council/Board Actions:**

- On June 25, 2007, Council considered a proposal by the development team and opted to release an RFP instead of negotiating at that time;
- In October 2007, Council authorized the release of an RFP for a city-owned parcel at the southeast corner of Acequia and Conyer streets;
- On July 14, 2008, council authorized the release of an RFP for  $\frac{3}{4}$ 's of the block bounded by Acequia, Stevenson, Conyer and Mineral King Streets;
- On February 9, 2009, Council selected Mill Creek Professional, LLC as the preferred developer to commence negotiations for an Exclusive Negotiations Agreement;



- On October 5, 2009, Council approved an Exclusive Negotiations Agreement with Mill Creek Professional, LLC
- On June 21, 2010, Council approved a six-month extension of the ENA with Mill Creek Professional, LLC (expired January 31, 2011)

**Committee/Commission Review and Actions:** None

**Alternatives:** None presently recommended.

**Attachments:**

- Aerial of proposed development site
- Letter dated January 24, 2011

**Recommended Motion (and Alternative Motions if expected):** : Authorize the City Manager to extend the recently expired Exclusive Negotiations Agreement (ENA) for a second six (6) months; August 21, 2011.

***Environmental Assessment Status***

**CEQA Review:**

**NEPA Review:** Will be required for purchase of properties.

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

Copies of this report have been provided to:

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** February 22, 2010

**Agenda Item Number (Assigned by City Clerk):** 8c

**Agenda Item Wording:** Confirmation of the Council's completion of the City Manager's annual evaluation, and confirmation of continuation of the City Manager's contract with no changes to compensation or any other provisions of the agreement.

**Deadline for Action:** N/A

**Submitting Department:** Administration

**Contact Name and Phone Number:** Bob Link, 799-6367

**Department Recommendation:** It is recommended that the Council confirm the completion of the City Manager's annual performance evaluation, and also confirmation of continuation of the City Manager's contract with no changes to compensation or any other provisions of the agreement.

**Summary/background:**

The City Council's agreement with the City Manager calls for an annual employment evaluation. The City Council completed this evaluation at their Closed Session on February 8, 2010. As with all performance evaluations, the details of the evaluation are confidential.

The current contract, which was adopted by the City Council in 2008 and amended in 2009 to remove the agreed upon salary increase, calls for the City Manager to serve for an indefinite term at the will of the City Council. The Council, by this action, is confirming their decision to continue the agreement. The agreement calls for an annual salary of \$181,334 which will remain the same for 2011/12 FY. The other provisions of the contract will also remain the same. (See attached).

**Prior Council/Board Actions:**

September, 2008 – Adopted current amended employment agreement with the City Manager  
April, 2009 – Amended the agreement to remove the agreed upon salary increase.

**Attachments:** Amended contracts

**For action by:**

City Council  
 Redev. Agency Bd.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): \_\_\_\_\_

**Review:**

**Dept. Head** LBC  
(Initials & date required)

**Finance** \_\_\_\_\_  
**City Atty** \_\_\_\_\_  
(Initials & date required  
or N/A)

**City Mgr** \_\_\_\_\_  
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

**Recommended Motion (and Alternative Motions if expected):** I move to confirm the completion of the City Manager's annual employment agreement and the Council's intent to continue the City Manager's employment contract with no changes in compensation or other provisions of the contract.

**City of Visalia**  
**Agenda Item Transmittal**

**Meeting Date:** February 22, 2011

**Agenda Item Number (Assigned by City Clerk):** 8d

**Agenda Item Wording:** AUTHORIZE THE CITY MANAGER TO EXECUTE A LEASE OF THE OVAL PARK SERVICE BUILDING WITH VISALIA RESCUE MISSION FOR A 54 MONTH TERM; ASSESSOR PARCEL NO. 094-036-001.

**Deadline for Action:** None

**Submitting Department:** Housing and Economic Development

**Contact Name and Phone Number:** Ricardo Noguera, Housing & Economic Development Director (x4190); Tracy Robertshaw, Code Enforcement Officer (x4187) Vince Elizondo, Parks and Recreation Director (x4367)

**Department Recommendation:** Authorize the City Manager to execute a lease for the Oval Park Service Building with the Visalia Rescue Mission to utilize the building for health, education and social service programs and activities for the local community for a period of 54 months.

**Recent Council Decision:** On February 7, 2011, Council authorized staff to negotiate the terms of a lease agreement with Visalia Rescue Mission. Representatives from the Housing and Economic Development Department and the Parks and Recreation Department have met with the City Attorney and Visalia Rescue Mission officials to finalize details in the lease agreement.

**Visalia Rescue Missions Role:** As part of its lease agreement with the City, VRM will develop, with input from the City, a variety of activities which can function in the building and park. In consideration for the lease of the building, VRM will undertake a project of improvements to the building to make it suitable for the proposed uses and will upgrade the building to meet current building codes; will cover costs for utilities, provide up to \$3,000/year for maintenance and repairs, maintain insurance, and hire an Activities Coordinator who will oversee the delivery of programs and services for area residents Monday through Saturday from morning to evening. The Activities Coordinator will reach out to local business and other non-profits to establish leisure and recreational activities that will benefit the community. There is also the opportunity for VRM to coordinate with community groups and local businesses to host musical events in the park as well as the farmers market. Changes in the neighborhood and park will not occur immediately. It will require a dedicated partnership between VRM, the City, area residents and businesses. VRM is prepared to conduct the necessary rehabilitation of the building at their cost to assure that it is compliant with the American with Disabilities Act and begin establishing programs and services to support area residents.

**For action by:**

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.):5\_\_

**Review:**

**Dept. Head** \_\_\_\_\_  
(Initials & date required)

**Finance** \_\_\_\_\_  
**City Atty** \_\_\_\_\_  
(Initials & date required or N/A)

**City Mgr** \_\_\_\_\_  
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

**The City's Role.** The Parks and Recreation Department will be responsible for overseeing the lease agreement with VRM and meeting with their representatives on an ongoing basis. VRM will develop programs and services for review by the City. VMR will have conducted an independent audit of its activities under the lease, and will provide quarterly and annual reports to the City on the programs and services provided to the local community.

**Proposed Process Moving Forward**

Staff proposes the following as it relates to VRM and the Oval Park Service Building:

- Execute a lease agreement with VRM for a fifty four (54) month period;
- Housing and Economic Development Staff and VRM conduct outreach to key stakeholders in the neighborhood to ascertain their concerns/issues;
- VRM hires an architect to coordinate preparation of plans for the building. The agency will be responsible for obtaining the proper permits from the City.
- VRM hires a general contractor to complete renovations to the building;
- While plans are being drafted and construction taking place, VRM develops an Activity Program Guide for programs and services to function in the building and park; and meet with the Parks and Recreation Department staff for their input.

**Prior Council/Board Actions:**

- January 22, 2008- Approved contracts with Caltrans for the Environmental Justice Planning Grant
- August 18, 2008- Awarded contract for traffic study to TPG Consultants
- August 16, 2010- Awarded contract for traffic design improvements to Omni Means
- February 7, 2011-Authorized City Staff to negotiate a lease agreement.

**Committee/Commission Review and Actions:**

N/A

**Attachments:**

- Lease Agreement for Oval Park Service Building

**Recommended Motion (and Alternative Motions if expected):** Authorize the City Manager to execute a lease the Oval Park Service Building to the Visalia Rescue Mission for a period of 54 months.

***Environmental Assessment Status***

**CEQA Review: n/a**

**NEPA Review: n/a**

**Lease Agreement Between  
Visalia Rescue Mission, Inc. and the City Of Visalia for the  
Lincoln Oval Park Service Building**

**THIS LEASE AGREEMENT** (hereinafter "Agreement") is made and effective \_\_\_\_\_, 2011, by and between the CITY OF VISALIA, a Municipal Corporation and charter law city of the State of California (hereinafter "CITY"), and VISALIA RESCUE MISSION, INC. a Non-Profit Public Benefit Corporation (hereinafter "VRM"). CITY and VRM may be individually referred to herein as a "Party" and may be collectively referred to herein as the "Parties."

**R E C I T A L S**

**WHEREAS**, CITY owns the building and appurtenances located within the boundaries of the CITY'S Lincoln Oval Park (hereinafter the "Park"); and

**WHEREAS**, the building in the Park is located at 808 North Court Street, and is known as the Oval Park Service Center Building (hereafter "Center"); and

**WHEREAS**, since the early 1980s, the Center was operated for the purpose of providing a location for the neighborhood residents to pay public utility bills; and

**WHEREAS**, since 2006, the Center has remained vacant; and

**WHEREAS**, VRM desires to lease the Center in order to provide a variety of support services and programs for the local community; and

**WHEREAS**, the purpose of this Agreement is to document the terms and conditions under which VRM will lease the Center.

**NOW, THEREFORE**, for the consideration described herein and performance of the covenants to be performed by the CITY and VRM pursuant to this agreement, CITY agrees to lease the Center to VRM, and VRM agrees to lease the Center from the CITY, on the terms and conditions set forth as follows:

1. PREMISES. Except as otherwise provided in this Agreement, reference to the "Leased Premises" shall be to the Center, identified herein as the building located in the Park with a street address of 808 North Court Street. The Leased Premises shall consist of the Center building and appurtenances thereto, including any improvements now or hereafter located on or within the Leased Premises, without regard as to whether ownership of the improvements is in the CITY or VRM.
2. TERM OF AGREEMENT. The term of this Agreement shall be 54 months, commencing on \_\_\_\_\_, 2011 and ending on \_\_\_\_\_, 2015, unless earlier terminated as provided herein.
3. TERMINATION.

- a. Either Party shall have the right to terminate this Agreement on the anniversary date of the commencement of this Agreement by giving thirty (30) days notice in accordance with the notice provisions of Section 12 herein.
  - b. Either Party shall have the right to terminate this Agreement based on the other's failure to comply with the terms, covenants and requirements contained herein. Prior to termination, the non-breaching Party shall provide written notice in accordance with the notice provisions of Section 12 herein to the other Party identifying the breach and providing for thirty (30) calendar days for the breaching party to cure. If the breaching Party has not cured the breach within thirty (30) calendar days from the date notice was completed pursuant to the notice provisions of Section 12, the non-breaching Party may terminate the Agreement by providing the breaching Party with written notice of termination in accordance with the notice provisions of Section 12 herein, and therein specifying the effective date of the termination.
  - c. If the Center shall be partly or completely destroyed by fire or other casualty, the CITY shall not be required to repair same and may elect not to rebuild the Center, or any portion thereof, and may terminate this Agreement by delivering notice of such election to VRM in accordance with the notice provisions of Section 12 within six (6) months of the occurrence of such destruction.
  - d. Upon the termination of this Agreement, VRM shall surrender possession of the Center to the CITY and shall, at the time of surrender, leave the Center in as good order and condition as said Center was at the inception of this Agreement, ordinary wear and tear, and damage by the elements, fire, earthquake, flood, act of God, or public calamity, excepted. Upon surrender of the Center, VRM shall not be entitled to relocation expenses under any circumstances.
4. PARK GROUNDS AND FACILITIES. CITY hereby permits VRM to use the Park grounds surrounding the Center in furtherance of the services and programs it will conduct at the Center pursuant to the terms and conditions set forth in Section 6 of this Agreement. VRM'S use of the Park shall be non-exclusive, shall be coordinated with the Parks and Recreation Department, and shall be consistent with the rights, responsibilities and obligations of the general public for the use of the Park. Maintenance of the Park shall be the sole responsibility of the CITY. CITY'S obligation to maintain the Park shall include maintenance of the flower beds adjacent to the Center.
5. IMPROVEMENTS TO CENTER.
- a. CITY and VRM agree that in consideration for CITY'S lease of the Center to VRM, VRM shall undertake a project of improvements to the Center, to be paid for from funds provided by VRM, including but not limited to those improvements necessary to reconfigure the interior of the Center in a manner suitable for the services and programs required by Section 6 of this Agreement. The improvements to be undertaken by VRM shall be hereinafter referred to as the "Center Improvements."

- b. CITY and VRM shall meet and confer to determine the specific features of the Center Improvements to be made, and a specific timeframe for construction of such improvements. VRM shall provide the CITY with an opportunity to review the proposed plans for the Center Improvements by appropriate CITY staff. The City, in its sole discretion, shall determine whether or not the proposed Center Improvements, or any part of them, will be required to be submitted to the competitive bidding. No Center Improvements shall be undertaken without the express written approval of CITY, which approval shall not be unreasonably withheld by CITY.
- c. If the CITY determines that the Center Improvements, or any part of them, will be required to be submitted to the competitive bidding process, the Parties shall solicit a qualified contractor for the Center Improvements project through the CITY'S competitive bidding process. Upon selection of a qualified bidder by the parties, VRM shall contract directly with the qualified bidder selected by the Parties for the completion of the Center Improvements.
- d. VRM shall require all contractors who perform work on the Center to provide evidence of general liability insurance and workers compensation insurance in a manner that is consistent with CITY policy regarding contracts for work on CITY owned property, as shall be determined by CITY.
- e. CITY and VRM agree that all reasonable efforts will be made to complete the Center Improvements in accordance with the agreed upon schedule. The Center Improvements shall meet all building code requirements, and shall include all acts necessary to conform the Center to all requirements of the Americans with Disability Act. VRM shall be responsible for submitting all plans necessary to obtain the necessary building permits for the Center Improvements. To the extent necessary and reasonable, CITY shall cooperate with VRM should VRM be required to obtain any other permits or approvals for the Center Improvements.
- f. Upon expiration of the term of this Agreement, unless expressly reserved to VRM by the Parties prior to installation, the Center Improvements constructed by VRM shall become the sole property of the CITY.
- g. If the CITY terminates the agreement prior to the end of the term pursuant to Section 3(a) herein, VRM shall be entitled to reimbursement of a prorated share of the cost of the Center Improvements. The prorated share of the Center Improvements to which VRM shall be entitled shall be determined by dividing the period of time VRM occupied the Center by the total term of this Agreement, and then by multiplying that number and the total cost of the agreed to Center Improvements.

6. VRM USE OF CENTER. VRM covenants and agrees to:

- a. Use the Center, and as deemed necessary by VRM maintain staff at the Center, to provide health, education, and social support services and programs to the local community as agreed to by VRM and CITY, and as further described herein. Prior to completion of the Center Improvements, VRM shall submit for approval by CITY a statement of



operations for the Center, which addresses, among other things, hours of operation, staffing of the Center, security for the Center, 24-hour emergency contact, and other items pertinent to VRM'S use of the Center as required in this Agreement (hereinafter "Operational Statement"). VRM may amend the Operational Statement from time to time as circumstances dictate, subject to the review and approval by City, which approval shall not be unreasonably withheld.

- b. During the term of this Agreement, VRM agrees to pay for all routine maintenance and repairs to the Center, in an amount not to exceed Three Thousand Dollars (\$3,000.00) per year (hereinafter "Annual Maintenance Obligation"). What constitutes routine maintenance and repairs shall be determined at the sole discretion of the City, and shall include, but not be limited to, the repair and/or replacement of electrical, heating and cooling systems, plumbing fixtures, exterior paint, the lights and security system around the perimeter of the building, and other necessary maintenance activities which are the result of normal wear and tear to the Center. All Annual Maintenance Obligation acts shall be itemized and included in the quarterly reports required by this Agreement. Any necessary maintenance improvements or repairs which will cause VRM to exceed its Annual Maintenance Obligation shall be the responsibility of and approved by the CITY. VRM is required to obtain written CITY approval prior to conducting any structural changes to the building. Any additional tenant improvements that VRM might wish to undertake which are not related to maintenance of the building, including but not limited to paint, window treatments, and decorations, shall not be applied toward the Annual Maintenance Obligation.
- c. VRM shall establish a regular schedule of health, education or social services and programs which it will provide for the local community at the Center. Prior to implementation of any service or program, it shall be submitted to the CITY for review and approval, which approval shall not be unreasonably withheld. VRM may submit general categories of services (eg.-use of Center for aerobics classes) for pre-approval to avoid the need for multiple approvals for like services. VRM shall be entitled to maintain and enhance its current partnerships and programs, and to collaborate with new agencies, to provide additional or varied services and programs. VRM shall be entitled to hire subcontractors to provide services and programs. Services and programs shall not include disbursement of any donated items (food or otherwise) to the public.
- d. Conduct and pay for routine cleaning of the Center, including, janitorial services which include but are not limited to, cleaning of restrooms, floors, windows and trash disposal. VRM shall also establish and pay for all public utilities provided to the Center, including but not limited to phone, water, gas, electricity, alarm contract, pest control, fire extinguisher maintenance and garbage removal service. These items shall not be included within the Annual Maintenance Obligation.
- e. Prepare a quarterly report for the CITY. This report shall include a description of the services and programs provided during that quarter, and shall include average daily and monthly attendance information for the quarter and any other information the VRM board deems necessary.

This report shall be provided to the Community Services Department Director at 345 North Jacob Street, Visalia, CA 93291. This report shall be submitted by the end of August, November, February and May during the Term of this Agreement.

- f. Perform an annual independent audit of all VRM activities in conjunction with all VRM services and program undertaken at the Center. Provide a certified copy of the audit to the CITY.
- g. Prepare and present to City Council an annual report summarizing the programs and services provided at the Center, on or near the anniversary date of this Agreement.
- h. Attend the North Visalia Advisory Committee meetings which are held the second Thursday of each month.

7. INSPECTIONS.

- a. At the commencement of this Agreement, VRM and CITY shall perform a walk-through of the Center to determine condition of facility at inception of this Agreement.
- b. On or before April 1 of each year, VRM and CITY shall conduct an inspection of the Center to confirm that the Center has been maintained at the minimum standards set forth herein, and that the Center is in a condition comparable to the inspection performed at the inception of this Agreement. This annual inspection shall also assist in determining future Annual Maintenance Obligation needs.
- c. CITY shall have access to inspect the Center during VRM'S approved hours of operation. CITY shall have access to inspect the Center at all other times by providing 24 hours notice to VRM.

8. INSURANCE.

- a. Required Policies: VRM agrees to immediately secure and maintain during the Term of this Agreement, and prior to commencement of any work hereunder, insurance coverage as follows:
  - 1.) Worker's Compensation as required by law..
  - 2.) Commercial General Liability and Property Damage: Commercial general liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include products/completed operations liability, owners and contractor's protective, blanket contractual liability, personal injury liability, and broad form property damage coverage.
  - 3.) Commercial Automobile Public Liability and Property Damage: Automobile Public Liability and Property Damage Insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence.

- 4.) Board of Directors Insurance: Board of Directors Insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence
  - b. Additional Insured: The General Liability/Property Damage & Automobile Liability/Property Damage policies shall:
    - 1.) Name CITY, its appointed and elected officials, officers, employees and agents as additional insureds;
    - 2.) Be primary with respect to any insurance or self-insurance programs maintained by CITY;
    - 3.) Shall apply separately to each insured against whom claims are made or suit is brought, except with respect to limits of the insurer's liability;
    - 4.) Contain standard cross-liability provisions.
  - c. Each required policy shall provide that such insurance shall not be materially changed, terminated or allowed to expire except on thirty (30) days prior written notice to CITY.
  - d. Each required policy shall be endorsed to include a waiver of subrogation against the CITY, its officers, officials, agents and employees.
  - e. This insurance shall be maintained during the Term of this Agreement until the Term expires, if an occurrence policy form is used. If a claims-made policy is used, coverage shall be maintained during the Agreement Term and for a period extending five (5) years beyond the Agreement Term. VRM shall replace such certificates for policies expiring prior to the expiration of the Term of this Agreement and shall continue to furnish certificates five (5) years beyond the Agreement Term, when VRM utilizes claims-made form(s).
  - f. If VRM for any reason fails to maintain insurance coverage which is required pursuant to this Agreement; the same shall be deemed a material breach of this Agreement.
9. INDEMNIFICATION. Both Parties agree to indemnify and save harmless each agencies officers, officials, agents, employees and assigns from and against any and all claims, demands, suits, loss, damage, injury and liability, including cost and expenses incurred in connection therewith, resulting from, arising out of, or in any way connected with the performance of this Agreement, including delivery and unloading of supplies and equipment, regardless of the passive, concurrent negligence on the part of each party or anyone acting under its direction or control or on its behalf. It is further the intent of the Parties that this indemnification requirement is not intended to relive the Parties from liability for the active negligence, its officers, appointed and elected officials, agents and employees. This hold harmless clause is in no way an admission of liability on the part of either Party, or any of its officers, officials, agents or employees.

This indemnity and hold harmless provision, insofar as it may be adjudged to be against public policy, shall be void and unenforceable only to the minimum extent necessary so that the remaining terms of this indemnity and hold harmless provision may be within public policy and enforceable.

10. NO PARTNERSHIP OR JOINT VENTURE. Nothing in this Agreement shall be construed to render CITY in any way or purpose a partner, joint venture, or associate in any relationship with VRM other than that of lessor and lessee, nor shall this Agreement be construed to authorize either party to act as agent for the other Party. Further, VRM represents it is a non-profit corporation, governed by a board of directors, and administered by a Director hired by the Board, and agrees that all employees, agents, subcontractors, independent contractors hired in furtherance of the programs and activities of VRM are hired by VRM and not by CITY and are not employees, agents, or subcontractors of CITY.
11. NON-DISCRIMINATION. VRM shall not discriminate in provision of programs and services hereunder on the basis of race, color, national origin, ancestry, gender, disability, religion, or political affiliation.
12. NOTICES. Any notice, demand, or communication required or permitted to be given by the terms of this Agreement, or by any law, may be given by either party by depositing said notice, demand, or communication in the U.S. Mail, postage prepaid, addressed to the other at the party's address or any new address provided by such party in writing to the other. Service of said notice, demand, or communication shall be complete five (5) calendar days after deposit of said notice, demand, or communication in the mail.

Notices and communication concerning this Agreement shall be sent to the following addresses:

CITY

City of Visalia  
425 E Oak  
Visalia, California 93291  
Attn: City Clerk

VRM

VRM, Inc  
500 E. Race  
Visalia, CA 93291  
Attn: Danny Little

Either party may, by notice to the other party, change the address specified above. Service of notice of change of address shall be complete when received at the designated address.

13. MISCELLANEOUS PROVISIONS.
  - a. Authority: CITY and VRM and its respective signatories represent that the signatory holds the position set forth below his/her signature and that the signatory is authorized to execute this Agreement and to bind said party hereto.
  - b. Assignment: Neither this Agreement nor any of the rights hereunder may be assigned without prior written consent of CITY.
  - c. Interpretation/Headings: The headings/captions are for convenience and reference only and are not intended to define or limit the scope of any

provision and shall have no effect on the Agreement's interpretation. When required by the context of this Agreement, the singular shall include the plural.

- d. Integration/Amendment: This Agreement, and VRM' Proposal represents the complete and entire understanding between the parties as to those matters contained herein. This Agreement may only be modified or amended in writing and signed by both parties.
- e. Severability: If any term, condition, covenant, provision or part thereof of this Agreement is, or is declared, invalid, void or unenforceable for any reason, the remainder of the Agreement shall continue in full force and effect.
- f. Governing Law: The laws of the State of California shall govern the interpretation and enforcement of this Agreement and any legal actions arising out of the terms of this Agreement shall be brought in Tulare County.
- g. Attorney's Fees/Costs: In the event of legal action arising from this Agreement, the non-prevailing party agrees to pay the prevailing party reasonable attorney's fees and costs.
- h. Contract Enforcement: The City Manager of City shall be responsible for the enforcement of this Agreement on behalf of City and shall be assisted therein by those officers and employees of City having duties in connection with the administration thereof.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

- i. Cumulative Rights and Remedies: Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies.

**IN WITNESS WHEREOF**, the Parties hereto have entered into this Agreement on the date first written above.

CITY OF VISALIA

VRM, Inc.

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
Chief Executive Officer

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

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

\_\_\_\_\_  
Risk Manager

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** February 22, 2011

**Agenda Item Number (Assigned by City Clerk):** 8e

**Agenda Item Wording:** Approval of the lease agreement for the food concession at the Visalia Transit Center between the City of Visalia and Maritza Allende, a sole proprietor, dba Chilito's Express.

**Deadline for Action:** February 22, 2011

**Submitting Department:** Administration Department – Transit Division

**Contact Name and Phone Number:**  
Monty Cox, Transit Manager 713-4591

**Department Recommendation:** Staff is recommending that City Council approve the lease agreement for the food concession at the Visalia Transit Center between the City of Visalia and Maritza Allende, a sole proprietor, dba Chilito's Express.

**Summary:** Staff conducted a Request for Proposals (RFP) process to solicit proposals from interested parties to operate a food concession at the Visalia Transit Center. Staff conducted extensive outreach to all restaurant and concession owners in the Tulare County area and received many inquiries; however, in the end only received one proposal from the Chilito's Express owner which currently operates the concession. The Allende family actually operates the concession currently on behalf of the current owner of the business, Fulgencio Ramirez of Visalia. Mr. Ramirez requested to cancel his lease arrangement at the end of the initial three-year term. The Allende family has completed all the required licensing and permit requirements to enter a new lease arrangement with the City.

The Lease details include the following:

1. The Space at the Transit Center for this concession is approximately 165.3 square feet.
2. The term of the lease is for three years with two one-year options thereafter.
3. The Rent for the space is set at \$750 per month for the first year and will increase \$25 per month at the beginning of each year thereafter.
4. The Menu includes mostly Mexican food, but also includes hot dogs and hamburgers, most items are under \$5.
5. The hours are determined by the vendor and typically stay within the hours of the facility.

**For action by:**

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

**For placement on which agenda:**

- Work Session
- Closed Session

**Regular Session:**

- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): \_\_\_\_\_

**Review:**

**Dept. Head LBC 21411  
(Initials & date required)**

**Finance \_\_\_\_\_  
City Atty \_\_\_\_\_  
(Initials & date required  
or N/A)**

**City Mgr \_\_\_\_\_  
(Initials Required)**

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Maritza Allende provided several business references, all of which were contacted and provided positive responses and indicated they would recommend the City enter this agreement. In addition, the Transit staff have been working with Maritza Allende's family for the last year or so since they began working for the previous food vendor and we have not had any problems or received any complaints.

**Prior Council/Board Actions**

**Committee/Commission Review and Actions:** None

**Alternatives:** Do not lease food concession space to Chilito's Express.  
Reissue the RFP.

**Attachments:** Copy of the agreement

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected)** I move that the City Council approve the lease agreement for the food concession at the Visalia Transit Center between the City of Visalia and Maritza Allende, dba Chilito's Express.

***Financial Impact***

**Funding Source:**  
Account Number: 4511-\_\_\_\_-45451 (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$9,000 per year
Amount Budgeted: \$	Lost Revenue: \$
New funding required:\$	New Personnel:\$
Council Policy Change: Yes____	No____

Copies of this report have been provided to:



**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

# City of Visalia Agenda Item Transmittal

**Meeting Date:** February 22, 2011

**Agenda Item Number (Assigned by City Clerk):** 8f

**Agenda Item Wording:** Approval of a two-year contract with the Urban Tree Foundation in an amount not-to-exceed \$110,000 per year to provide services for grant writing, grant administration, construction management services, and consulting related to the City's Urban Forestry Program .

**Deadline for Action:** February 22, 2011

**Submitting Department:** Parks & Recreation Department

**Contact Name and Phone Number:** Parks & Urban Forestry Manager Jim Bean, 713-4564, or Director of Parks & Recreation Vincent Elizondo, 713-4367

**Department Recommendation:**

Approval of a two-year contract with the Urban Tree Foundation in an amount not to exceed \$110,000 per year to provide services for grant writing, grant administration, construction management services, and consulting related to the City's Urban Forestry Program.

**Background Summary:** Mr. Brian Kempf is the Director of the Urban Tree Foundation (UTF). For the past ten years, the Urban Tree Foundation has provided consulting services for the City's Urban Forestry program. This City is once again proposing to renew an agreement with the Urban Tree Foundation.

The Urban Tree Foundation are acknowledged experts in this field of landscaping. Mr. Brian Kempf is the author of the state standards for nursery tree stock, has written numerous articles on trees, advises other Cities on their street tree projects, and has received state-wide awards.

The Urban Tree Foundation will provide the following services under the terms of the proposed agreement:

- As requested, assist in Review of Landscape Plans for Development Projects.
- Advise various City departments, including Parks & Recreation, Public Works, and Community Development on matters related to urban forestry and street landscapes.
- Continue to write grants (as funds become available) to obtain funding for projects related to urban forestry and waterways.

**For action by:**

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 1

**Review:**

**Dept. Head** \_\_\_\_\_  
(Initials & date required)

**Finance** \_\_\_\_\_  
**City Atty** \_\_\_\_\_  
(Initials & date required or N/A)

**City Mgr** \_\_\_\_\_  
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

- As requested by various departments, provide training on topics related to urban forestry and tree care.
- Provide project management for the Environmental Enhancement and Mitigation Grant (s).
- Provide project management services for the Prop. 50 St. John's River Walk expansion project grant.
- Manage the implementation of the Prop. 84 Urban Forestry Grants.
- Perform the duties of a construction manager regarding the installation of irrigation and landscaping for Land and Water Conservation Fund Grant projects along the various Mill Creek Trails.
- Provide project management services for the Transportation Enhancement Mitigation Grants.

The contract is funded through a variety of sources. Approximately 95% of the funding for this contract comes from reimbursements from various grants that the Urban Tree Foundation has written on behalf of the City. The Urban Tree Foundation acts as the construction manager on behalf of the City to assure these projects are completed timely to City standards. The Community Development and Planning divisions also use the Urban Tree Foundation services, which are paid from development fees.

While the UTF contract amount has been \$110,000 for the past two years, the actual amount paid out to the UTF has been in the \$85,000 range for both years.

The actual amount of general fund monies used to support the UTF is very minimal. Based on the past two years, the City has expended roughly \$8,000 per year from the general fund to pay for grant writing services provided by the UTF. In return, the City has benefited from grants totaling several million dollars over the past few years.

The Urban Tree Foundation contract rate has been \$65.00 per hour for the past two years and the new contract extends that rate. The hourly rate covers the expenses for all UTF personnel that support the mission of the UTF. Under the new contract, the Urban Tree Foundation will be completing work on several Environmental Enhancement and Mitigation Grant programs. Mr. Kemp's time for this program is monitored and the City is reimbursed for expenses through the various grants.

The Urban Tree Foundation is an asset to the community. They work closely with community groups such as; Community Services Employment Training Incorporated (CSET) which offers programs to teenagers to keep them off the streets and provide them with trade skills to take with them as they mature. They have completed several projects during the last two years including the Willow Creek Ponding Basin, St. John's Median, Mill Creek Riparian areas and St. John's River at McAuliff

**Prior Council Actions:** Approved a two-year contract with the Urban Tree Foundation in 2009 which terminates in 2011.

**Committee/Commission Review and Actions:**

**Attachments:** Professional Services Agreement & Exhibits A and B.

**Recommended Motion (and Alternative Motions if expected):** Approval of a two-year contract with the Urban Tree Foundation in an amount not to exceed \$110,000 per year to provide services for grant writing, grant administration, construction management services, and consulting related to the City's Urban Forestry Program.

# 2011-13 Urban Tree Foundation Professional Services Contract

## EXHIBIT A Scope of Work

*All work to be completed upon request of the City of Visalia.*

### **Project 1. Assist in Review of Landscape Plans for Development Projects**

- Upon request, assist Planning Staff in the review of landscape plans for development projects, in particular advising on tree selection, location, and irrigation systems.
- Upon request, assist Planning Staff in explaining suggested changes to submitted landscape plans to developers and/or their staff consultants.
- Upon request, hold regular office hours at City of Visalia offices

*Hours: As requested by COV*

*Completion Date: December 2013*

### **Project 2. Advise the City of Visalia on Matters Related to Urban Forestry**

- Upon request, advise various City departments (not contractors) and perform duties as requested relating to City-wide urban forestry issues, including, but not limited to, street tree species, spacing, maintenance, policy issues relating to urban forestry, possible grant funding sources, the Oak Tree Ordinance, Landscape Standards, and strategies for creating an effective and healthy urban forest.
- Upon request, give presentations to community groups regarding urban forestry issues.

*Hours: As requested by COV*

*Completion Date: December 2013*

### **Project 3. Grant Application Writing**

- Upon request, and as agreed upon, submit grant applications related to enhancing the urban forest which includes the acquisition of property, site planning, and landscaping various public right-of-way areas including City parks, and waterways.

*Hours: As requested by COV*

*Completion Date: December 2013*

### **Project 4. Tree Care & Maintenance Training**

- As requested by the Parks & Urban Forestry Manager, provide training related to Urban Forestry

*Hours: Not to exceed 10 hours per year*

*Completion Date: December 2012*

### **Project 5. Provide Construction Management Services for: Prop 50 St. John's Riverwalk**

- Upon request, develop and/or coordinate plans for installation of trees and irrigation
- Upon request, oversee tree well construction, tree plantings, and watering/irrigation
- Upon request, manage and oversee implementation of grant.

*Hours: Not to exceed grant limitations*

*Completion Date: December 2013*

**Project 6. Provide Construction Management Services for: EEM grant**

- Upon request, develop and/or coordinate plans for installation of trees and irrigation
- Upon request, oversee tree well construction, tree plantings, and watering/irrigation
- Upon request, manage and oversee implementation of grant.

*Hours: Not to exceed grant limitations*

*Completion Date: December 2013*

**Project 7. Provide Construction Management Services for: Green Trees for the Golden State grant**

- Upon request, develop and/or coordinate plans for installation of trees and irrigation
- Upon request, oversee tree well construction, tree plantings, and watering/irrigation
- Upon request, manage and oversee implementation of grants.

*Hours: Not to exceed grant limitations*

*Completion Date: December 2011*

**Project 8. Provide Construction Management Services for: TEA/TE grants**

- Upon request, develop and/or coordinate plans for installation of trees and irrigation
- Upon request, oversee tree well construction, tree plantings, and watering/irrigation
- Upon request, manage and oversee implementation of grant.

*Hours: Not to exceed grant limitations*

*Completion Date: December 2013*

**Project 9. Provide Construction Management Services for future grants applied for and award but are not listed in this contract.**

- Upon request, develop and/or coordinate plans for installation of trees and irrigation
- Upon request, oversee tree well construction, tree plantings, and watering/irrigation
- Upon request, manage and oversee implementation of grant.

*Hours: Not to exceed grant limitations*

*Completion Date: December 2013*

# 2011-13 Urban Tree Foundation Professional Services Contract

## EXHIBIT B

For each project, the Consultant's project fee is \$65.00 per hour for time actually spent.

### Projects 1 through 5.

- Total cost to the City of Visalia not to exceed \$110,000 per year or a maximum of \$220,000 for the term of this two-year agreement.

### *Schedule of Fee for Professional Services*

A. Hourly Rate	\$ 65.00 per hour
B. Unit Rate for Tree Planting	\$ 30.00 per tree

*Note: The Urban Tree Foundation is paid \$30.00 per tree that is planted under the Green Tree Grants.*

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** February 22, 2011

**Agenda Item Number (Assigned by City Clerk):** 8g

**Agenda Item Wording:** Confirmation of the Historic Preservation Advisory Committee representative to the General Plan Update Review Committee (GPURC).

**Deadline for Action:** None

**Submitting Department:** Community Development Department/  
Planning Division

**Contact Name and Phone Number:**

Brandon Smith, AICP, Senior Planner	713-4636
Paul Scheibel, AICP, Planning Services Manager	713-4369
Chris Young, Community Development Director	713-4392

**Department Recommendation:** It is recommended that the Visalia City Council affirm Historic Preservation Advisory Committee (HPAC) member Steven Cullen as the Committee's representative to serve on the GPURC.

**Historic Preservation Advisory Committee:** On August 2, 2010, the City Council affirmed HPAC members Jay Hohlbauch and Steven Cullen to serve on the GPURC, wherein one would serve as a seated member and the other as an alternate member. At that time no decision had been made by HPAC as to who would serve as the regular representative, though Jay has since stepped up as the Committee's representative. Mr. Hohlbauch has since been unable to attend most meetings due to long commutes, and will term out from the HPAC in June 2011. During a recent meeting, the HPAC decided that Mr. Cullen will serve as the seated representative for HPAC. Mr. Cullen was appointed as an alternate to the HPAC in November 2008 and became a seated member in January 2010. He is currently serving his first term. Mr. Hohlbauch will continue to serve as an alternate with the GPURC through June 2011.

**GPURC Formation:** On November 3, 2008, the City Council authorized the formation of a GPURC, and expanded the Committee's composition to include representation from several key stakeholders. There are currently twenty-four persons on the Committee representing twenty-two community-based groups (see attached Exhibit "A" for roster) including the City's Environmental Committee. The GPURC held its first meeting on March 25, 2009, and has met approximately once a month since then. It has recently overseen the completion of Phase I (Background Studies) of the General Plan Update process and will embark on Phase II (comparison of various plan alternatives) in upcoming months.

**For action by:**

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.):   1  

**Review:**

**Dept. Head** \_\_\_\_\_  
**(Initials & date required)**

**Finance**   N/A    
**City Atty**   N/A    
**(Initials & date required or N/A)**

**City Mgr** \_\_\_\_\_  
**(Initials Required)**

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.



**Prior Council/Board Actions:** On August 2, 2010, the City Council affirmed HPAC members Jay Hohlbauch and Steven Cullen to serve on the GPURC, wherein one would serve as a seated member and the other as an alternate member.

**Alternatives:** The Visalia City Council may affirm Historic Preservation Advisory Committee (HPAC) member Steven Cullen to serve on the General Plan Update Review Committee;

**Attachments:** Exhibit "A" – General Plan Update Review Committee Roster

**Recommended Motion (and Alternative Motions if expected):**

- I move to authorize Steven Cullen to serve on the GPURC representing the Historic Preservation Advisory Committee;

***Environmental Assessment Status***

**CEQA Review: NA**

**NEPA Review: NA**

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

## Exhibit "A"

### General Plan Update Review Committee Committee Roster – February 2011

<u>AUTHORIZED GROUP</u>	<u>DESIGNATED REPRESENTATIVE</u>
Visalia City Council	Bob Link
Visalia City Council	Michael Lane
Citizens Advisory Committee	Dirk Holkeboer
College of the Sequoias	Eric Mittlestead
Downtown Visalians	Michael Kreps
Environmental Committee	Tyson Carroll
Hispanic Chamber of Commerce	<b>[vacant]</b>
Historic Preservation Advisory Committee	<b>Steven Cullen</b>
Kaweah Delta Hospital	Dena Cochran
Kaweah Delta Hospital Board of Directors	Carl Anderson (Jody Graves, alt.)
Mooney Boulevard Merchant's Organization	Don Wright
North Visalia Neighborhood Advisory Committee	Bill Huott (Rob Cox, alt.)
Parks & Recreation Commission	Carla Calhoun
Planning Commission	Larry Segrue
Planning Commission	Vincent Salinas
Tulare / Kings Home Builders Association	Mike Knopf
Tulare County Affordable Housing	Ken Kugler
Tulare County Association of Realtors	Brad Maaske
Tulare County Farm Bureau	Brian Blain
Visalia Chamber of Commerce	Josh McDonnell
Visalia Community Forum	Darlene Mata
Visalia Economic Development Council	Jim Robinson
Visalia Unified School District	Clarise Dilbeck (Nathan Deforest, alt.)
Waterways and Trails Committee	Bob Brown (Ben Filiponi, alt.)

## City of Visalia Agenda Item Transmittal

**Meeting Date:** February 22, 2011

**Agenda Item Number (Assigned by City Clerk):** 8h

**Agenda Item Wording:** Authorization to submit an application for up to \$5 million for a "Proposition 84 and 1E" California Department of Water Resources Flood Corridor Program Grant to develop storm runoff basins along the Lower Kaweah River, Mill Creek and the City's storm drain system. (**Resolution 2011-05 required**)

**Deadline for Action:** Deadline for grant application is Feb. 25, 2011.

**Submitting Department:** Administration

**Contact Name and Phone Number:**

Nancy Loliva, Community Relations Manager, 713-4535  
Adam Ennis, Assistant Director – Engineering, 713-4323

**Recommendation:** Authorization to submit an application for up to \$5 million for a "Proposition 84 and 1E" California Department of Water Resources Flood Corridor Program Grant to develop storm runoff basins along the Lower Kaweah River, Mill Creek and the City's storm drain system. (**Resolution 2011-05 required**)

**Summary:** The California Department of Water Resources is accepting applications for a grant of up to \$5 million for Flood Corridor Program projects. The grants are intended to fund projects which implement primarily non-structural projects that significantly reduce flood risk or potential flood damages and also implement wildlife habitat protection/enhancement or agricultural land preservation, or both.

City staff, CSET, the Urban Tree Foundation and the Kaweah Delta Water Conservation District has investigated approximately 15 possible sites for these types of projects. Based on the limited time frame to apply for the grant and the possibility of non-willing property owners, the project selection was limited to up to five different sites. City staff is intending to apply for up to five locations to develop storm runoff basins along the Lower Kaweah River, Mill Creek and the City's storm drain system. The basins included in the grant are: People's Basin; one basin immediately west of Oakes Basin; Goshen Ocean; and Jennings Ditch.

The projects selected would allow for basins with enough volume to reduce peak river/creek flows during storms and allow the City more capacity in the creeks for City storm runoff. These projects would not significantly reduce the 100-year flood potential indicated by the revised FEMA flood maps. Projects to significantly reduce the 100 year flood plain would require much larger projects and more funding than is provided through this grant program. The grant application is due February 25, 2011.

**For action by:**

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

**For placement on:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 1

**Review:**

**Dept. Head** \_\_\_\_\_  
(Initials & date required)

**Finance** \_\_\_\_\_  
**City Atty** \_\_\_\_\_  
(Initials & date required  
or N/A)

**City Mgr** \_\_\_\_\_  
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

**Background Information:** Grant funds from Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, and Proposition 1E the Disaster Preparedness and Flood Prevention Bond Act of 2006 are available upon competitive selection to local public agencies and nonprofit organizations from the Department of Water Resources. In addition to implementing primarily non-structural methods to achieve a significant reduction in flood risk or potential flood damages, projects must also include elements that provide for (1) agricultural land preservation or (2) wildlife habitat protection or enhancement, or both. Fundable Activities include:

- Non-structural flood risk reduction projects within flood corridors;
- Setting back or removing existing flood control levees, or strengthening or modifying existing levees in conjunction with levee setbacks;
- Preserving or enhancing wildlife values of real property through permanent enforceable land use restrictions, title restrictions, and/or restoration of habitat compatible with seasonal flooding;
- Repairing breaches in flood control systems, water diversion facilities, or flood control facilities

**Attachments:**

- Resolution

**Recommended Motion (and Alternative Motions if expected):**

I move to adopt Resolution 2011-05 and to authorize application of a "Proposition 84" California Department of Water Resources Flood Corridor Program Grant to develop storm runoff basins along the Lower Kaweah River, Mill Creek and the City's storm drain system.

***Environmental Assessment Status***

**CEQA Review:**

**NEPA Review:**

**Tracking Information:** (*Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date*)

Resolution No: \_\_\_\_\_

RESOLUTION OF THE VISALIA CITY COUNCIL  
APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE FLOOD CORRIDOR  
PROGRAM UNDER THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD  
CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006 (Proposition 84) and  
THE DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006  
(Proposition 1E)

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above; and

WHEREAS, the Department of Water Resources has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

WHEREAS, said procedures established by the Department of Water Resources require a resolution certifying the approval of application(s) by the Applicants governing board before submission of application(s) to the State; and

WHEREAS, the Applicant, if selected, will enter into an agreement with the State of California to carry out the project

NOW, THEREFORE, BE IT RESOLVED that the Visalia City Council:

1. Approves the filing of an application for up to \$5 million for a "Proposition 84" California Department of Water Resources Flood Corridor Program Grant to develop storm runoff basins along the Lower Kaweah River, Mill Creek and the City's storm drain system.

2. Certifies that Applicant understands the assurances and certification in the application; and,

3. Certifies that Applicant or title holder will have sufficient funds to operate and maintain the project(s) consistent with the land tenure requirements; or will secure the resources to do so; and,

4. Certifies that it will comply with all provisions of Section 1771.5 of the California Labor Code; and,

5. If applicable, certifies that the project will comply with any laws and regulations including, but not limited to, the *California Environmental Quality Act* (CEQA), legal requirements for building codes, health and safety codes, disabled access laws, and, that prior to commencement of construction all applicable permits will have been obtained; and,

6. Appoints the City Manager, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned project(s).

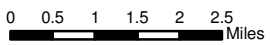
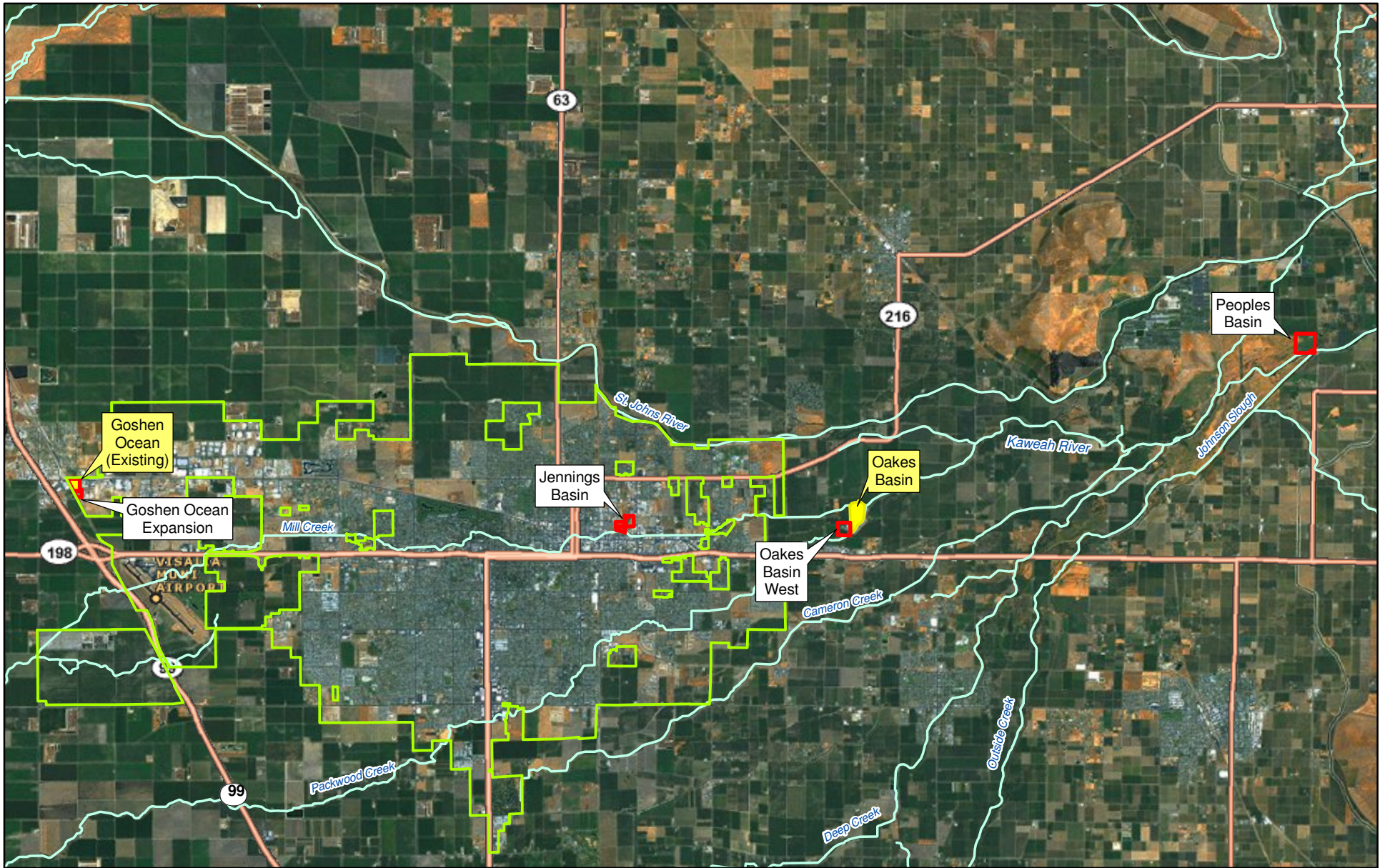
Approved and adopted the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_. I, the undersigned, hereby certify that the foregoing Resolution Number \_\_\_\_\_ was duly adopted by the Visalia City Council

Following Roll Call Vote: Ayes: \_\_\_\_\_

Nos: \_\_\_\_\_

Absent: \_\_\_\_\_

\_\_\_\_\_  
Clerk/Secretary for the Governing Board



EST. 1988  
**PROVOST & PRITCHARD**  
 CONSULTING GROUP  
 An Employee Owned Company

130 N. Garden Street  
 Visalia, CA 93291  
 (559) 636-1166

**Legend**

- Visalia
- Project Parcels
- Stream/River

**City of Visalia**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** February 22, 2011

**Agenda Item Number (Assigned by City Clerk):** 8i

**Agenda Item Wording:** Authorization to appropriate funds and purchase two (2) 29 foot and four (4) 35 foot low floor Electric Hybrid replacement fixed route buses from Gillig Corporation in the amount up to \$660,000 each for a total not to exceed \$3,960,000, pending continued availability of awarded federal grant funds.

**Deadline for Action:** February 22, 2011

**Submitting Department:** Administration Department – Transit Division

**Contact Name and Phone Number:** Monty Cox, X4591

**Department Recommendation**

Authorization to appropriate funds and purchase two (2) 29 foot and four (4) 35 foot low floor Electric Hybrid replacement fixed route buses from Gillig Corporation in the amount up to \$660,000 each for a total not to exceed \$3,960,000, pending continued availability of awarded federal grant funds.

**Summary**

Staff is requesting authorization from Council to Purchase six (6) low floor hybrid electric buses from the Gillig Corporation for use in the City of Visalia bus operations, primarily in the internal Sequoia Shuttle operation, as part of the Cooperative agreement with the National Park Service (NPS). The City will be able to use these buses in the Visalia Transit operation or the Sequoia Shuttle depending on the City's priorities. The agreement with the NPS calls for the City to lease buses to the NPS and operate them per an annual Task Agreement previously approved by Council. It is proposed that the City use these buses to replace five used Eldorado buses the City purchased and has been leasing to the NPS since the service began in 2007.

The City has applied for several grants over the last few years to assist in funding the various transit services including Visalia Transit fixed routes services and both the internal and external Sequoia Shuttle. There are two grants that were awarded that will be used to purchase these buses, a Clean Fuels Formula Grant (\$2,739,000) and a Paul S. Sarbanes Transit in Parks Grant (\$660,000) with a local match requirement of \$561,000 that will come from lease revenue included in the reimbursement from the NPS under the Task Agreement. Due to the current

**For action by:**

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

**For placement on which agenda:**

- Work Session
- Closed Session

**Regular Session:**

- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): \_\_\_\_\_

**Review:**

**Dept. Head  
(Initials & date required)**

**Finance \_\_\_\_\_  
City Atty \_\_\_\_\_  
(Initials & date required  
or N/A)**

**City Mgr \_\_\_\_\_  
(Initials Required)**

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.



federal economic conditions, staff has included an option to cancel the order up to 7 months after the order is placed, should federal funding be withdrawn.

**Discussion:**

The City of Visalia and the officials at the Sequoia Kings Canyon National Park (NPS) have agreed to operate the Sequoia Shuttle the same as during the previous four seasons. In 2007 the City and NPS entered a multi-year Cooperative Agreement that will remain in effect as long as the City and the NPS mutually agree to continue the service. Each year the National Parks will negotiate a new Task Agreement. The current Task Agreement, which includes specific details and expectations regarding the operation of the internal shuttle, also includes provisions for the lease of vehicles to be operated within the park. The NPS will reimburse the City of Visalia for the operations as well as the lease of the vehicles. These buses are designed as 12 year buses under year-long operations, so it is expected that they will be able to last well beyond that under the seasonal shuttle service. This will also make it possible to use these buses in regular transit service should the need arise and needs change within the next 12 to 15 years.

**Prior Council/Board Actions:**

Council authorized the Task Agreement with the NPS on 1/18/11.

**Committee/Commission Review and Actions:** None

**Alternatives:** None recommended

**Attachments:** None

**Recommended Motion (and Alternative Motions if expected):**

I move that the City Council authorize staff to appropriate funds and purchase two (2) 29 foot and four (4) 35 foot low floor Electric Hybrid replacement fixed route buses from Gillig Corporation in the amount up to \$660,000 each for a total not to exceed \$3,960,000, pending continued availability of awarded federal grant funds.

***Environmental Assessment Status***

**CEQA Review:**

**NEPA Review:**

***Financial Impact***

**Funding Source:**

Account Number: 4511-00000-720000-0-9223

**Budget Recap:**

Total Estimated cost: \$ 3,960,000

Amount Budgeted: \$ 3,960,000

New funding required: \$ 0

Council Policy Change: Yes\_\_\_\_ No X

New Revenue: \$ 0

\*Lost Revenue: \$

New Personnel: \$

**Tracking Information:** (*Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date*)

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** February 22, 2011

**Agenda Item Number (Assigned by City Clerk):** 8j

**Agenda Item Wording:** Authorization to record the final parcel map of Tentative Parcel Map No. 2007-13, located on the southeast corner of Watson Street and Laurel Avenue (2 Lots). (APN: 097-018-015)

**Deadline for Action:** N/A

**Submitting Department:** Community Development Department/  
Engineering Division

**Contact Name and Phone Number:**

Chris Young, Community Dev. Director - 713-4392  
Adrian Rubalcaba, Assistant Engineer - 713-4271

**Recommendation:** Staff recommends that City Council authorize the recordation of the final parcel map of Tentative Parcel Map 2007-13 located on the southeast corner of Watson Street and Laurel Avenue (2 Lots).

**Summary/Background:** The final parcel map is creating two equal residential lots on an 11,152 square foot parcel in the R-1-6 zone. Variance No. 2007-16 was approved by Planning Commission on October 22, 2007 allowing a variance from the minimum lot area of 6,000 square feet in the R-1-6 Zone. A cash payment of \$10,434.75, distributed to applicable City accounts was received by the City. The cash payment covers various Development Impact Fees, outstanding plan check and inspection fees. The plan check and inspection fees are estimated at the beginning of the final map process and are not confirmed until the subdivision agreement is finalized. Differences are due in cash at the time of City Council approval of the final map.

**Prior Council/Board Actions:** N/A

**Committee/Commission Review and Actions:** Tentative Parcel Map 2007-13 and Variance No. 2007-16 was approved by the Planning Commission on October 22, 2007.

**Alternatives:** N/A

**Attachments:** Location Map, Final Parcel Map, & Ownership Disclosure

**For action by:**

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 1

**Review:**

**Dept. Head** \_\_\_\_\_  
(Initials & date required)

**Finance** \_\_\_\_\_  
**City Atty** \_\_\_\_\_  
(Initials & date required or N/A)

**City Mgr** \_\_\_\_\_  
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

**Recommended Motion (and Alternative Motions if expected):**

"I move to authorize recordation of the final parcel map of Tentative Parcel Map 2007-13."

***Environmental Assessment Status***

**CEQA Review:**

**NEPA Review:**

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

Copies of this report have been provided to:



## City of Visalia Agenda Item Transmittal

**Meeting Date:** February 22, 2011

**Agenda Item Number (Assigned by City Clerk):** 9

**Agenda Item Wording:** Discussion regarding Options for Future Eight County Regional Representation

**Deadline for Action:** None

**Submitting Department:** Administration

**Contact Name and Phone Number:** Mike Olmos 713-4332

**Department Recommendation:** Consider the presentation by Ted Smalley, Executive Director of the Tulare County Association of Governments (TCAG), regarding options for governmental representation for the eight counties in the San Joaquin Valley (San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and Kern); provide comments and, if appropriate, identify a preferred option(s) for Valley governmental representation.

**Summary/background:** The eight counties in the Valley are each represented by a regional council of governments (for Tulare County, TCAG serves this function). While these regional councils primarily function as transportation agencies, they can perform other duties of a regional nature (as an example, TCAG provides administrative responsibilities for our Local Agency Formation Commission).

Since 1992, the eight regional councils have been required by State law to coordinate transportation planning for the entire Valley. Currently, this coordination is accomplished through the San Joaquin Valley Policy Council, which is comprised of two members from each regional council and a member from the Air Pollution Control District.

The Policy Council has also served as the regional "voice" for the Valley in State and Federal forums in which regional transportation issues and funding opportunities/decisions are discussed. While to date the Regional Council has performed this function adequately, the Regional Council has initiated discussions regarding ways that Valley representation can be improved to provide a stronger collective voice for the eight counties in regional and State issues, and to potentially have more influence in obtaining State and Federal funding for transportation and other purposes. These discussions include consideration of options to revise the institutional structure of the eight regional councils and Policy Council to potentially achieve a more influential Valley-wide organization.

**For action by:**

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.):20

**Review:**

**Dept. Head** \_\_\_\_\_  
(Initials & date required)

**Finance** \_\_\_\_\_  
**City Atty** \_\_\_\_\_  
(Initials & date required or N/A)

**City Mgr** \_\_\_\_\_  
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Mr. Smalley will brief the Council on the discussions that have occurred to date and present the various options being considered. These options include leaving the current structure of eight independent Regional Councils and a Valley Policy Council in place. Following the presentation, Council is requested to provide feedback to Mr. Smalley and City staff, and, if appropriate, indicate a preferred option(s) for regional representation.

**Prior Council/Board Actions:** NA

**Committee/Commission Review and Actions:** NA

**Alternatives:** NA

**Attachments:**

1. Powerpoint: Improving Regional Council Coordination and Effectiveness
2. White Paper: Improving Regional Council Coordination and Effectiveness – Options for Central California (prepared by Kern Council of Governments)
3. Institutional Arrangements Whitepaper (prepared by MintierHarnish, Planning Consultants)

**Recommended Motion (and Alternative Motions if expected):** Following discussion, provide feedback and indicate a preferred option(s) for regional governmental representation as appropriate.

***Environmental Assessment Status***

**CEQA Review:** NA

**NEPA Review:** NA

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

Copies of this report have been provided to: Ted Smalley, TCAG Executive Director



**City of Visalia**  
**Agenda Item Transmittal**

**Meeting Date:** February 22, 2011

**Agenda Item Number (Assigned by City Clerk):** 10

**Agenda Item wording:** The Recreation Park baseball sub-committee is recommending the City Manager be authorized to amend the existing agreement with Top of the Third, Inc. to include the following:

1. Future revenues generated from the revenue sharing program above the 2010 baseline amount of \$84,527 will be utilized annually to reimburse Top of the Third, Inc. for the up front costs of the new 150 seat family seating deck which will be constructed in 2011. The term of this arrangement will expire after the 2016 baseball season and the maximum reimbursement for the additional 150 seat family seating will not exceed \$120,000.
2. That the City will partner with Top of the Third, Inc. to establish new player batting cages in 2011 with the City paying for the first \$25,000 of the project and the City and Top of the Third, Inc. sharing costs 50% each above-and-beyond the \$25,000 amount.
3. The City will work with Top of the Third, Inc. on a case-by-case basis regarding future CIP needs related to player safety only (i.e. athletic lights) for the remainder of the current agreement.

**Deadline for Action:** N/A

**Submitting Department:** Recreation Park Ballpark Sub-Committee

**Contact Name and Phone Number:** Mayor Bob Link and Council Member Mike Lane

**Recommendation:**

The Recreation Park baseball sub-committee is recommending the following:

1. Future revenues generated from the revenue sharing program above the 2010 baseline amount of \$84,527 will be utilized annually to reimburse Top of the Third, Inc. for the up front costs of the new 150 seat family seating deck which will be constructed in 2011. The term of this arrangement will expire after the 2016 baseball season and the maximum reimbursement for the additional 150 seat family seating will not exceed \$120,000.

**For action by:**

- City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

**For placement on which agenda:**

- Work Session  
 Closed Session

**Regular Session:**

- Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 20

**Review:**

**Dept. Head** \_\_\_\_\_  
(Initials & date required)

**Finance** \_\_\_\_\_  
**City Atty** \_\_\_\_\_  
(Initials & date required  
or N/A)

**City Mgr** \_\_\_\_\_  
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

2. That the City will partner with Top of the Third, Inc. to establish new player batting cages in 2011 with the City paying for the first \$25,000 of the project and the City and Top of the Third, Inc. sharing costs 50% each above-and-beyond the \$25,000 amount.
3. The City will work with Top of the Third, Inc. on a case-by-case basis regarding future CIP needs related to player safety only (i.e. athletic lights) for the remainder of the current agreement.

### **Background Information:**

On January 18, 2011, Tom Seidler, Top of the Third, Inc. provided the annual operation and maintenance report to the City Council regarding the Visalia Rawhide baseball club at Recreation Park.

As a result of the annual report, and questions on how to finance future ballpark improvements, the Mayor recommended that the ballpark sub-committee be revived and meet within the next two weeks. The sub-committee would evaluate future ballpark needs and CIP projects and return to the City Council with some recommendations on how to finance these projects.

The Council sub-committee (Link and Lane) met with Mr. Seidler, the Parks and Recreation Director, and the City Manager to discuss the feasibility of future CIP projects at the ballpark and potential methods in which to finance these projects. The CIP projects come in two forms: 1) player safety and development projects; and 2) fan facilities and amenities. Those topics are outlined below.

The issues reviewed by the sub-committee were originally presented to the Council as part of the annual report on January 18, 2011.

This item was scheduled to be heard on February 7, 2011, but was tabled until February 22, 2011 so the full Council could participate in the discussion (Council member Lane was unable to attend the meeting of February 7, 2011). Due to financial concerns, the recommendations from the sub-committee for the February 22, 2011 meeting are more modest than the original recommendations scheduled for consideration at the February 7, 2011 meeting.

### **Gould Evans Associates, LC Annual Report On Player Safety:**

Minor League Baseball requires that a playing facility comply with certain minimum baseball playing standards. This is done to assist in the effort to protect players from potential injuries. In many cases, top prospects that come to Visalia have signed contracts worth millions of dollars and the parent club has a strong vested interest to protect their players from getting injured.

On a bi-annual basis, Gould Evans Associates, LC prepares a report on various ballparks throughout the country. In September 2009 the firm presented the City of Visalia with its findings from their 2009 facility audit. In their last report, Gould Evans cited eight areas as major areas of concern. The City continues to work with the Rawhide to try and alleviate all of these areas of concern. The most significant player safety and development issues right now continue to be improvement of the batting cages (\$40,000 est.) and the renovation of the athletic field lighting system (\$350,000 est.).

These improvements are necessary to comply with Class A professional baseball requirements and must be made at some point to meet the City's obligations under the current lease agreement.

### **New Fan Facilities and Amenities:**

In the short-term, the project being recommended by the Rawhide for fan comfort is the construction of a new raised family seating deck area in the "Kids Zone" beyond the right field fence area. This will increase fan capacity by 150 people. Currently, Recreation Park has a seating capacity of 2,500 which is the smallest ballpark of the 60 Class A ballparks in the country. The estimated cost of this new structure would be roughly \$120,000.

### **Priorities, Timeline, and Financing:**

The sub-committee determined that the short term priorities for the ballpark would be to improve the batting cages for the players and to establish the new family seating deck.

The batting cages would replace the current cages which are very old and outdated. These cages would be located adjacent to the team clubhouses. The new estimated cost for the player batting cages is roughly \$40,000.

The new family seating deck would seat 150 more people and tickets would be sold for this seating area. The "Kids Zone" currently does not have any raised or formal seating areas. Since this is an alcohol free zone, it's proving to be a popular area for families. This amenity has the opportunity to increase revenues for both Top of the Third and the City through the revenue sharing program. The estimated cost for the structure is \$120,000.

The next priority would be to renovate the field lights in either 2013 or 2014. The new lights would be the latest in "green" athletic lighting technology and would reduce the overall electric consumption; creating savings that could pay for the new lights over time.

To finance the batting cages, the sub-committee is recommending that the City of Visalia pay for the first \$25,000 of the project. Any costs above-and-beyond the \$25,000 baseline would be jointly shared by Top of the Third, Inc. and the City of Visalia. The estimated total cost of the batting cages is roughly \$40,000.

To finance the new family seating deck, the sub-committee is recommending that Top of the Third, Inc. pay for all of the initial costs to establish the new fan amenity prior to or during the 2011 baseball season. The estimated \$120,000 to build the structure would be paid back to Top of the Third, Inc. from future funding from the revenue sharing program beginning in 2011. Additional funds above-and-beyond the 2010 base amount of \$84,527 will be used on an annual basis to reimburse Top of the Third, Inc. The goal is to reimburse Top of the Third, Inc. for the costs of the new family seating deck before the current agreement terminates in 5 ½ years (December 2016). The maximum reimbursement for the additional 150 seat family seating area will not exceed \$120,000; and if the reimbursement funding falls short, then Top of the Third, Inc. will absorb those costs.

The committee is also recommending that future CIP considerations be handled on a case-by-case basis with an emphasis on player safety concerns. The most significant future CIP project looming for the City is the need to renovate the athletic lighting system. This issue can be addressed through the City's formal 2012-14 budget period --- and depending on the future fiscal health of the City.

### **Revenue Sharing:**

As outlined in the annual report submitted to the Council on January 18, 2011, the revenue sharing program generated \$84,257 in 2010 and is expected to generate roughly \$112,000 in 2011. The addition of the new 150 seat family seating deck should assist in generating new revenues.

The annual report submitted to the City Council on January 18, 2011, provided a detailed account of the projected annual revenue through the revenue sharing program. That information is outlined below:

**Revenue Sharing** to the City is based on total annual gross receipts of the Rawhide. Examples include all ticket sales; all food and beverage concessions (including alcohol sales); advertising revenue; Rawhide team store revenues, etc. The City receives 5% of total annual gross receipts that exceed \$1 million but are less than \$1.5 million; 7.5% of the amount that exceeds \$1.5 million and is less than \$2 million; and 10% of all revenues that exceed \$2 million.

In 2010, the Rawhide generated \$174,940 in advertising and sponsorships; \$548,861 in ticket sales; and \$529,757 in food, beverage, and souvenir sales for a total Rawhide revenue amount of \$1,253,558. In accordance with the contract, the Rawhide is subject to a 5% tax rate for revenue generated over \$1 million dollars (\$253,558) for a revenue sharing amount of \$12,678.00.

The **Ticket Tax** for 2010 was based on the following formula: \$2 per premium ticket (\$20.00), \$1 per regular priced ticket (\$7.00 to \$15.00 range), and .50 cents for Pasture Lawn (berm) seating (\$5.00 to \$6.00). This ticket tax is for actual tickets sold, and shall not be paid on “complimentary” tickets or traded tickets. Complimentary or traded tickets are limited to no more than 15% of total tickets issued.

The Rawhide exceeded the 15% limitation by 1,626 tickets in 2010 and were notified of this in early January 2010 as part of the annual reconciliation process. The Rawhide could be liable for an additional \$813.00 in additional revenue sharing monies --- but counter with the explanation that complimentary tickets are traded for services to improve and maintain the stadium. (Exhibit A attached to this report outlines the services received in trade exceeding \$47,000 for complimentary tickets.) Since the City ultimately pays for these expenses, the value to the City far exceeds the potential \$813 in additional revenues. However, in future years, the Rawhide will comply with the 15% limitation.

In 2010, the Rawhide sold 11,747 Hall of Fame tickets at \$2 each; 36,572 standard tickets at \$1 each; and 10,066 Pasture Lawn (berm) seats at .50 cents each for a grand total of \$65,099.00. The Rawhide also distributed 9,800 tickets as required by Major League baseball for players and scouts; 22,580 tickets were given out for charitable fundraisers and donations; and 17,916 tickets were given in trade and/or complimentary. The total for all of these ticket categories equals 108,681 total tickets.

	<b>2010</b>	<b>2011 est.</b>
Rawhide Revenues	\$1,253,558	\$1,320,000
Attendance	108,681	115,000
Revenue Sharing To City	\$12,678	\$16,000
Ticket Tax to City	\$65,099	\$72,000
Other Events	\$6,750	\$12,000
Leasable Space	\$0,000	\$12,000
<b>Total City Revenue</b>	<b>\$ 84,527</b>	<b>\$ 112,000</b>

**Current Annual General Fund Support:**

The annual report submitted to the City Council on January 18, 2011, provided a detailed account of the general fund support to the Visalia Rawhide. The following summarizes that information, plus some additional information regarding the total general fund subsidy to support the ballpark operation:

<b>O &amp; M Support</b>	<b>2010</b>
Field Maintenance	\$ 40,000
Facility Maintenance	\$ 25,000
CPI Adjustment (Maint.)	\$ 3,262
Utility Billing (In Season)	\$ 35,005
Utility Billing Credit	\$ 27,086
Add'l Maintenance	\$ 60,032
CIP – New LF Fence	\$ 28,145
Non-Season Utilities	\$ 33,033
<b>Total GF Subsidy</b>	<b>\$251,563</b>

**Attachment:**

- Exhibit A Traded services for complimentary tickets documentation.
- Exhibit B “2011 Annual Operation & Maintenance Report” presented to the Council on January 17, 2011