

# 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

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Monday, May 16, 2011

**VISALIA CONVENTION CENTER - 303 E. Acequia, Visalia, CA 93291**

Work Session 4:00 p.m.; Closed Session 6:00 p.m. (or immediately following Work Session)  
Regular Session 7:00 p.m.

**4:00 p.m. 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)**

1. Adoption of Retiree Health Care Funding Policy. **Resolution 2011-17 required.**
- 4:30 p.m.  2. Presentation by Tulare County Association of Government (TCAG) representatives regarding the Santa Fe Trail connection from Visalia to Tulare.
3. *Item removed at request of staff*

*The time listed for each work session item is an estimate of the time the Council will address that portion of the agenda. Members of the public should be aware that the estimated times may vary. Any items not completed prior to Closed Session may be continued to the evening session at the discretion of the Council.*

### **ITEMS OF INTEREST**

**6:00 p.m. CLOSED SESSION (immediately following Work Session)**

4. Conference with Legal Counsel- Anticipated Litigation Significant exposure to litigation pursuant to subdivision (b) of (G.C. 54956.9) - 2 potential cases
5. *Item removed at request of staff*

7:00 p.m. **CALL TO ORDER REGULAR SESSION**

**PLEDGE OF ALLEGIANCE**

**INVOCATION** – Pastor Mark DiGirolamo, 1<sup>st</sup> Assembly of God

**PRESENTATIONS/RECOGNITION** - Proclaim week of May 16, 2011 National Small Business Week

**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.*

*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.*

6. **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) Authorization to submit a grant application in the amount of \$119,264 to the California Emergency Management (Cal EMA) for the purchase and installation of shelters, solar lighting equipment, and upgrade the Automated Vehicle Locator (AVL) equipment for the Visalia Transit system and approve funds to be appropriated when grant is awarded. **Resolution 2011-21 required.**
- c) Authorization to apply for a Public Transportation Modernization, Improvement, and Service Enhancement (Prop 1B) grant in the amount of \$2,467,387 to reimburse the Transit Division for Transit Operations and Maintenance Facility expansion. **Resolution 2011-22 required.**
- d) Authorization to award and enter a contract with Burns & McDonnell in the amount of \$99,000 or Energy Assurance Planning Services to be funded by the Local Energy Assurance Planning (LEAP) Grant.
- e) Award Energy Efficient Lighting Retrofit to Kertel Communications, Inc., dba Sebastian, (RFP #10-11-52) with change order to be funded by the City's EECBG grant.
- f) Award Energy Efficient HVAC Retrofit to ACCO Engineered Systems, Inc., (RFB 10-11-53) with change order to be funded by the City's EECBG grant.
- g) Approve the recommendation of the Parks and Recreation Commission to name the new neighborhood park located at Visalia Parkway and County Center Road (adjacent to Packwood Creek) the "Perry Family Park".

- h) Award a construction contract and authorize the City Manager to execute an agreement for RFB No. 10-11-62, Downtown One-way Street Conversions, in the amount of \$579,000 to the low bidder, R. J. Berry Jr., Inc., and authorize an additional appropriation of \$375,000 from Measure R Local to complete the construction phase of the Project. The project is bounded by Garden Street, Santa Fe Street, Center Avenue and Main Street.

**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.*

- 7. **PUBLIC HEARING** - Appeal of the Planning Commission actions taken on April 25, 2011, certifying the Final Environmental Impact report (FEIR), approving Conditional Use Permit 2007-17 and Variance 2007-06, for expansion of an existing 133,206 square foot Walmart store located at 1819 East Noble Avenue to up to 190,000 square feet. Appeal filed by Mark R Wolfe on behalf of the Visalia Smart Growth Coalition. **Resolutions 2011-23, 2011-24, and 2011-25 required.**

The Walmart EIR is located on-line at:

[http://www.ci.visalia.ca.us/depts/community\\_development/planning/walmart\\_eir.asp](http://www.ci.visalia.ca.us/depts/community_development/planning/walmart_eir.asp) )

The Planning Commission staff report and supporting documents can be found on-line at:

[http://www.ci.visalia.ca.us/government/committees/planning\\_commission/agenda\\_with\\_staff\\_reports/default.asp](http://www.ci.visalia.ca.us/government/committees/planning_commission/agenda_with_staff_reports/default.asp)

**CLOSED SESSION REPORT (if any)**

Buyer	Seller	APN Number	Address	Purpose	Closing Date	Project Manager
City of Visalia	Roye, Alice	081-020-042, 043, 083 (portion)	Plaza/Rd 80	Right of Way	4/29/2011	Fred Lampe

**Upcoming Council Meetings**

- Monday, June 6, 2011, 4:00 Work Session, 7:00 p.m. Regular Session - City Hall Council Chambers 707 W. Acequia
- Monday, June 20, 2011, 4:00 Work Session, 7:00 p.m. Regular Session - City Hall Council Chambers 707 W. Acequia
- Tuesday, June 21, 2011, 6:00 p.m., Joint Meeting City Council and VUSD Board of Trustees - Convention Center, 303 E. 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).*

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** May 16, 2011

**Agenda Item Number (Assigned by City Clerk):** 1

**Agenda Item Wording:** Retiree Health Funding Policy

**Deadline for Action:** None

**Submitting Department:** Administrative Services

**Contact Name and Phone Number:** Eric Frost, 713-4474

**Department Recommendation:** On April 18, 2011, the City Council received a recommendation on how to phase out retiree health care. After hearing public comment, Council directed staff to seek more input and to come back with a revised recommendation. Since the City Council meeting on April 18, 2011, staff has done the following:

- Collected and considered the attached letters
- Conducted a retiree input meeting on April 27, 2011
- Contacted several brokers to consider various health insurance options
- Revised the staff retiree health care recommendation based upon the Council criteria of:
  1. Contributions for retiree health care will be phased out.
  2. The phase out period must be less than 10 years.
  3. Those with more service may deserve a longer phase out period than those with less service.
  4. Those with disabilities may deserve some consideration.
  5. The change must help the City address its overall budget shortfall.

***The following has not changed:***

**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.

**That the City's policy for contributions towards retiree health care is:**

The City offers retirees health care at full cost after a phase in period.

The phase in period would be as follows:

1. In the 2012 Calendar Year, actively at work retirees may participate in the City's health plan at full cost beginning January 1, 2012. Actively at work retiree is defined as earning wage income in excess of \$50,000 in the previous calendar year. No retirement or non-earned income will be included in the wage income.

*Note: staff did consider an alternative of a longer phase in for this group but in the end did not recommend such a change because those individuals with wage income over \$50,000 a year are the group with the least need of a City contribution.*

***The following items have changed:***

2. The previous phase out recommendation was:

***April 18, 2011 Proposal***

Years of Service	Reduction of City Contribution as of 2012	Years to full cost	Full Cost Year
N/A	50%	3	2015
Cumulative City Contribution			\$ 2,000,000

2. The revised recommendation is that the City's contribution be phased out over several years from 2015 to 2019 based upon year of service with Visalia as follows:

Years of Service	Reduction of City Contribution as of 2012	Years to full cost	Full Cost Year
0-10	50%	3	2015
10-20	45%	5	2017
20-30	40%	6	2018
30+	35%	7	2019
Cumulative City Contribution			\$ 3,675,000

*Note: Staff considered a number of options which would have phased out the City's contribution over a shorter or longer period as shown in the tables below. The cumulative contribution amount estimates how much the City might contribute based upon the various scenarios. Staff's recommendation is the medium contribution option.*

***See attachment # 3 for detailed phase out schedule by years of service with Visalia.***

**High Contribution**

Years of Service	Reduction of City Contribution as of 2012	Years to full cost	Full Cost Year
0-10	50%	3	2015
10-20	40%	5	2017
20-30	35%	7	2019
30+	30%	9	2021
Cumulative City Contribution			\$ 4,450,000

**Low Contribution**

Years of Service	Reduction of City Contribution as of 2012	Years to full cost	Full Cost Year
0-10	50%	3	2015
10-20	45%	4	2016
20	35%	5	2017
Cumulative City Contribution			\$ 2,883,333

**Medium Contribution**

Years of Service	Reduction of City Contribution as of 2012	Years to full cost	Full Cost Year
0-10	50%	3	2015
10-20	45%	5	2017
20-30	40%	6	2018
30+	35%	7	2019
Cumulative City Contribution			\$ 3,675,000

**April 18, 2011 Proposal**

Years of Service	Reduction of City Contribution as of 2012	Years to full cost	Full Cost Year
N/A	50%	3	2015
Cumulative City Contribution			\$ 2,000,000

3. The definition for qualifying retirees of lesser income has been expanded to include those who have retired with a disability which then reduced their retirement income to less than the income limit. Thus, the new requirements for those of lesser income are proposed to be defined as:

1. Household income less than the Federal Social Security Earnings Limit;

And, either:

2. a. Retired with a CalPERS disability retirement; or

or

- b. Provided Visalia with 15 years of service and has reached Medicare Age.

These qualifying retirees will be offered the same health plan at the greater of 50% of the standard premium or the 2011 rate. After the first City contribution reduction, the remaining City contribution will be phased out over 10 years. The last year of a City contribution for those that served in excess of 30 years would end in 2029

***Note: By allowing those whose careers were shortened due to disability to not need the age nor years of service requirement, disabled workers of lesser incomes are given some assistance, if needed. It should also be noted that many types of disability income is tax free. For example, a public safety disability retirement is 50% of income, tax free. Further, some employees receive a Long-term disability income, tax free. Nevertheless, this provision would help those whose income falls below the earnings limit.***

4. In addition, Staff would recommend the following provisions, namely:

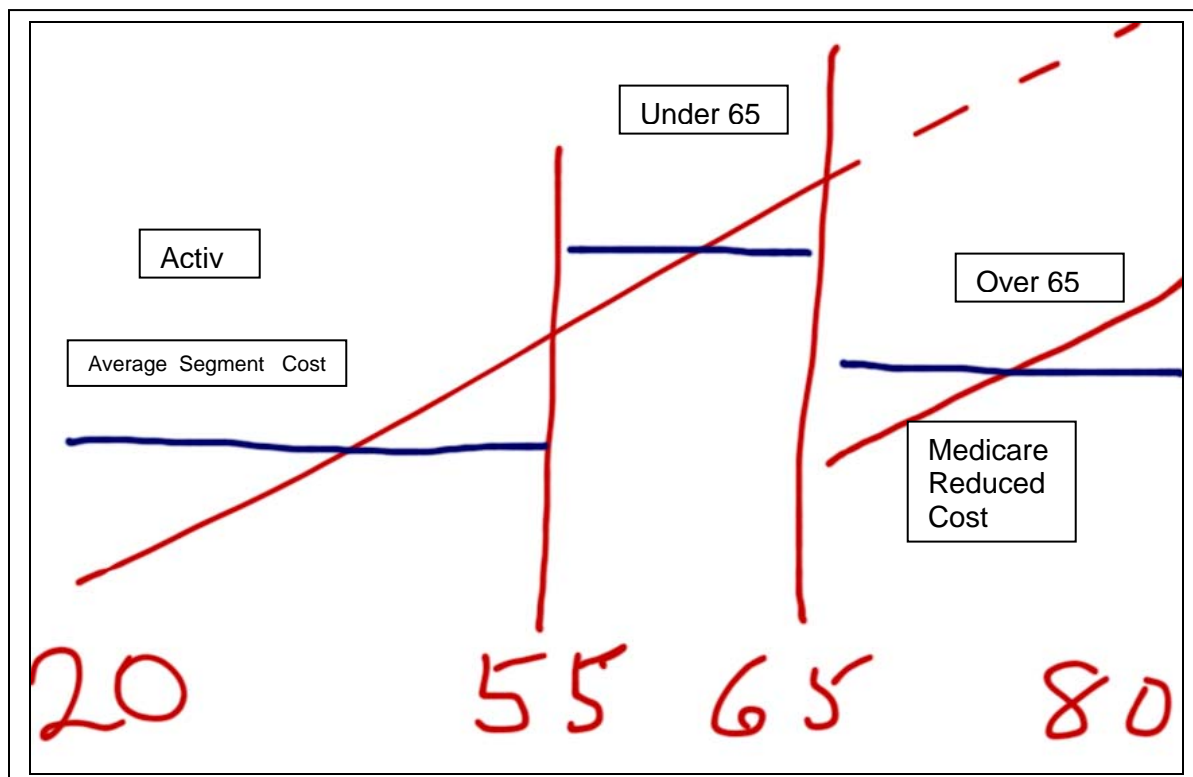
- a) Surviving spouses will follow the schedule of their deceased spouse;
- b) Participation in Medicare will be defined as participating in Parts A and B;
- c) For those retirees who were hired by the City of Visalia prior to mandatory participation in Medicare, April 1, 1986, who do not qualify themselves or through their spouse for what is today a no cost Part A benefit will be offered a reduced premium equal to the difference between what they are assessed and what qualifying Medicare retirees pay to participate in Part A Medicare.
- d) The City Manager and Department Heads are to follow this same schedule like all other employees. By State law, City Council members may not participate in retiree health care if elected after 1991.

**Discussion**

Much has been discussed and brought forward in regards to retiree health care during the last several weeks. With all these factors in mind, staff took a step back and asked a more fundamental question:

Regardless of how retiree health care is paid, what options are available to pay for health care and what are the best options?

Graph I  
Expected Lifetime Average Health Costs



The graph above, Graph I, Expected Lifetime Average Health Costs, explains expected costs over the life time of an individual. The top red line is the expected health costs of an individual, increasing with time

through out their life. The life timeline is divided into three segments – 20 to 55 (active work years), 55 to 65 (pre-Medicare retirement or Under (U 65) and 65-80+ (Medicare retirement or Over (O 65).

The blue, flat line in each age segment represents the average health cost for this segment of an individual's life. Notice that the average for the active work years represented by the blue line is lower than the other two blue line averages for U65 and O65. O65 has a broken cost line to represent that health costs start to be picked up by Medicare, moving their average cost line down. The O65's average cost line is less than the U65's cost line.

The question now is what is the best alternative to keep health care costs reasonable for each life span segment?

**Active Work Years.** This group has the lowest average cost and Employee MOUs include health benefits for this group. The City's pooled, self-funded program has provided the least costly alternative for this group at the current level of benefit.

**Retired Under 65.** Staff has tried to explore alternatives for this group. This group is the most difficult to find alternatives because no government program exists to buy down the health costs. Private insurers medically underwrite this group, frequently turning down many applications. This is proposed to change in 2014 with health care reform. However, for the moment, outside alternatives are not readily available.

Beyond providing City cash contributions, the real benefit that the City can offer to this group is access to the City's health plan. Currently, the City offers essentially two types of health plan: Rich plans that cover most medical costs and a high deductible health plan which provides major claim coverage. The difference in the total monthly cost between these plans is about \$200 a month for a couple.

One thing that the Council might be able to do for this group is to give access and offer two types of plans: A rich plan and a much higher deductible plan which offers lower premiums but is more major medical coverage plan.

Staff believes that the City's current high deductible plan could be further revised to make the plan more of a major medical plan, covering only the most expensive cases. Such a change might reduce the monthly premiums and would have a maximum out of pocket amount of increasing from \$2,500 to \$6,000 a year for an individual and \$5,000 to \$12,000 a year for a family. This change would lower out of pocket costs and give a more stark choice for retirees: pay higher premiums for more complete coverage or lower premiums for major medical coverage. The savings; however, may be as little as \$70 a month.

**Retired Over 65.** In contrast to the Under 65 group, the over 65 group has many options. For example, several plans cost approximately \$200 a month and will cover all costs not covered by Medicare. A complementary drug plan might cost \$100 a month. So, for \$300 a person, per month, a retiree could cover their costs fairly well. In contrast, the City's High Deductible plan for an individual would cost \$500 a month and the PPO or EPO costs about \$620 a month

Unlike the other two age segments, the major cost after Medicare for the Over 65 group is for prescription drugs. For every \$1 spent on medical care for the active workers, \$0.33 is spent on medication. For Under 65 individuals, the ratio is \$0.48. But for the Medicare retirees, the amount is \$2.33 for every \$1 spent on medical costs. This is mainly due to medical costs being greatly offset by Medicare coverage. Prescription drugs, however, are not. This is proposed to change in 2014 with health care reform. However, at present, the disparity exists.



What surprises staff is that the private sector options cost so much less than what the City's plan costs. The main difference is how medication is covered. The City has a maximum co-pay amount per prescription. Conversely, the prescription drug plans offer a convoluted scheme which requires a high copay (50%) for the approximately the first \$2,400 of drug costs, no coverage for the next \$2,100 of cost and a modest 5% co-pay thereafter. Thus, the more prescriptions an individual needs, the more costly is their health care costs.

As a result, the reasons why the City's plan is more expensive than Medicare Supplements might be:

- Better research by the patient to find the best buys on prescription drugs. For example, Costco and Walmart may have much better prices than the standard pharmacy.
- Self reduction of prescribed drug use. In other words, the individual might cut the dosage in half to prolong the prescription. Such actions are not under the doctor's directions but save money.
- Some use of non-network doctors. The City's plan pays for out-of-network doctors. Medicare and Medicare supplements do not.

The first behavior change is probably beneficial. However, the second item is not ideal. And the third point is a limitation which does save cost but limits choice. Nevertheless, if staff is to recommend a best practice to lower cost, it appears private plans working with Medicare are less costly than the current Medicare and City plan option.

**Best Health Plan Options.** The City's plan for Under Age 65 retirees is probably the best option. However, over age 65 retirees may be better served by a Medicare Supplement and a drug plan.

### **Council Choices**

Given this background, the City Council still is faced with a decision on what to do about retiree health care contribution. Staff has worked to come up with options which adjusts the April 18, 2011 proposal to take into account the various points raised by retirees and others. The revised proposal attempts to address these major points:

- **Years of Service** - Those having served longer with Visalia should receive a greater benefit than those who served less time.
- **Longer Phase Out** - Although the Council is trying to save money, a longer phase out of the City Contribution will help retirees find the best options for their particular situation.
- **Allowance for those with Disabilities** - Some consideration for those whose career was cut short because of a disability may be appropriate.
- Some clarification items

Staff has included these main points in the revised proposal by:

1. Years of Service with Visalia are now a factor in the proposed retiree phase out plan
2. The phase out is over more years; however, this option means lower City budgetary savings.
3. To address those with disabilities, the lesser income provision was altered to allow those retirees whose income may be diminished due to a shorter work life to qualify for the lesser income provision if their income is less than the earning's limit.

As a result, staff revised its April 18, 2011 proposal to what has been presented today.

These several actions are expected to save the following amounts per year compared to the original proposal. This is each year, not cumulative savings.

	Original	Revised
FY 2011/12	\$0.6	\$0.4
FY 2012/13	\$1.4	\$1.0
FY 2014/15	\$2.0	\$1.6
FY 2019/20	\$2.0	\$2.0

The above actions would be consistent with, and in furtherance of, the City’s existing Administrative Policy 301. This policy provides City of Visalia retirees with access to the City’s health care plan, at a cost to be determined by the City. As noted above, access will continue to be provided, and the actions described above are intended to specify the cost of that access. A resolution enacting the above actions is attached and is recommended for adoption at this time in the event the City Council elects to proceed with these recommendations.

**Summary**

The Council asked that an alternative proposal be presented to Council that met the following requirements:

1. Contributions for retiree health care will be phased out.
2. The phase out period must be less than 10 years.
3. Those with more service may deserve a longer phase out period than those with less service.
4. Those with disabilities may deserve some consideration.
5. The change must help the City address its overall budget shortfall.

Staff believes that the proposal does meet these conditions, although the proposal is more costly than the April 18, 2011 proposal.

**Prior Council/Board Actions:**

**Committee/Commission Review and Actions:**

**Alternatives:** Any combination or phasing out period which the Council deems appropriate

**Attachments:**

- #1 Retiree Health Care Input Meeting, April 27, 2011 with comments
- #2 Retiree Comment Letters
- #3 April 18, 2011 Staff Report on Retiree Health Care
- #4 Potential Retiree Health Contribution Schedules

**Recommended Motion (and Alternative Motions if expected):** I move that City Council adopt the staff recommendations, namely:

**That the City's policy for contributions towards retiree health care is:**

The City offers retirees health care at full cost after a phase in period.

The phase in period would be as follows:

1. In the 2012 Calendar Year, actively at work retirees may participate in the City's health plan at full cost beginning January 1, 2012. Actively at work retiree is defined as earning wage income in excess of \$50,000 in the previous calendar year. No retirement or non-earned income will be included in the wage income.

2. The revised recommendation is that the City's contribution be phased out over several years from 2015 to 2019 based upon year of service with Visalia as follows:

Years of Service	Reduction of City Contribution as of 2012	Years to full cost	Full Cost Year
0-10	50%	3	2015
10-20	45%	5	2017
20-30	40%	6	2018
30+	35%	7	2019
Cumulative City Contribution			\$ 3,675,000

3. The definition for qualifying retirees of lesser income has been expanded to include those who have retired with a disability which then reduced their retirement income to less than the income limit. Thus, the new requirements for those of lesser income are proposed to be defined as:

1. Household income less than the Federal Social Security Earnings Limit;

And, either:

2. a. Retired with a CalPERS disability retirement; or

or

- b. Provided Visalia with 15 years of service and has reached Medicare Age.

These qualifying retirees will be offered the same health plan at the greater of 50% of the standard premium or the 2011 rate. After the first City contribution reduction, the remaining City contribution will be phased out over 10 years. The last year of a City contribution for those that served in excess of 30 years would end in 2029

4. In addition, Staff would recommend the following special provisions, namely:

- a) Surviving spouses will follow the schedule of their deceased spouse;
- b) Participation in Medicare will be defined as participating in Parts A and B;
- c) For those retirees who were hired by the City of Visalia prior to mandatory participation in Medicare, April 1, 1986, who do not qualify themselves or through their spouse for what is today a no cost Part A benefit will be offered a reduced premium equal to the difference between what they are assessed and what qualifying Medicare retirees pay to participate in Part A Medicare.
- d) The City Manager and Department Heads are to follow this same schedule like all other employees. By State law, City Council members may not participate in retiree health care if elected after 1991.

Copies of this report have been provided to all retirees on the City's health care.

## Attachment #1

Retiree Input Discussion – April 27, 2011 from 4 – 5:45 pm

The City held a meeting to gather input and look at alternatives to the April 18, 2011 proposal for retiree health care. The following is a recap of ideas or thoughts that came from the meeting. To begin with, staff reviewed the parameters Council gave at the April 18, 2011 Council meeting. The Council restrictions presented to the group were:

1. Contributions for retiree health care will be phased out.
2. The phase out period must be less than 10 years.
3. Those with more service may deserve a longer phase out period than those with less service.
4. Those with disabilities may deserve some consideration.
5. The change must help the City address its overall budget shortfall.

The comments or questions given in the meeting were:

1. Has the City sought reimbursement from the health care reform's early retiree reimbursement program?

**Yes. If the City qualifies for a payment from the Federal Government for having an early retiree health program, any monies from that reimbursement needs to be directed back to the program, as required by law.**

2. Has the City taken into account the effects of health care reform on the proposed rates for retirees?

**No. The proposed rates look at what current costs are. If the health care reform lowers costs to the City, the proposed rates to retirees would also be lowered because the City is pricing the City's health plan at cost.**

3. Are the proposed retiree rates on an absolute basis or relative basis? In other words, will new retirees start from the beginning of the phase in or start where ever the rates are when they retire?

**The proposed rates and phase in are on an absolute scale. If someone retires in the future, they would be eligible to whatever the scheduled rates were at the time.**

4. The City requires retirees to participate in Medicare. However, Medicare has several parts. Why do you require both parts A & B and not just part A which has no cost?

**When the City developed its self-insured health plan in 1982, Medicare only had parts A & B. The City continues to ask that individuals participate in parts A & B. The cost to participate in Medicare varies to how long an individual paid into the Medicare system. The costs are shown below.**

**2010**

**2011**

**Part A Premium Buy-In:** The amount of the premium you pay to buy Medicare Part A depends on the number of Social Security credits you have earned. If you have:

40 credits	\$ 0	\$ 0
30-39 credits	\$254 per month	\$248 per month
less than 30 credits	\$461 per month	\$450 per month

**Medical Insurance (Part B)**

Premium	\$110.50 per month	\$115.40 per month**
Deductible	\$155 per year	\$162 per year

After the patient has paid the deductible, Part B pays for 80 percent of covered services.

**Source:** <http://www.ssa.gov/pubs/10003.html>

- 5. Because retirees receive a government pension, we have part of our pension reduced and, if we are eligible for Social Security, that payment will also be reduced. We did not have a choice is this decision.

**The Federal government reduces Social Security payments by up to 60% for those that have a government pension earned while not paying Social Security, such as Visalia. A Social Security website states the following amount of the Social Security payment will be paid based upon the following number of years in the Social Security System:**

Years of substantial earnings	Percentage
30 or more	90 percent
29	85 percent
28	80 percent
27	75 percent
26	70 percent
25	65 percent
24	60 percent
23	55 percent
22	50 percent
21	45 percent
20 or less	40 percent

Source: <http://www.ssa.gov/pubs/10045.html>

- 6. There should be more tiers for the lower income qualifying retirees.

**The April 18, 2011 proposal recommended that retirees with:**

<b>2010</b>	<b>income less than the Federal Earnings Limit for Social Security;</b>
<b>2011</b>	<b>15 years of Visalia service; and,</b>
<b>2012</b>	<b>65 years of age</b>

**would qualify for a lesser income plan or 50% of the premium otherwise charged until the phase in period expired. At that time, the lesser income plan would be phased out over an additional 15 years.**

**By having only one tier, the benefit is excluded dramatically from those at the age. An additional tier, say \$5,000 above the lowest tier with a benefit of 75% of the stated premium might make the break less dramatic.**

7. Some people retired under the golden handshake programs in the 1990s. These people would have worked longer if they had known that years of service would make a difference in their retirement benefit.

**No response.**

8. The current health plan does not include dental coverage, which is provided for employees. Why not provide such a benefit?

**The cost of dental coverage is not included in the full cost rates for retirees. To pay for this benefit, another \$50 a month would be added to the plan's cost.**

9. The proposed plan needs a longer phase out for retirees to adjust.

**The revised proposal includes a longer phase out.**

10. Those with disabilities should have some additional consideration.

**The main concern for those on disabilities is that their income is less because they had to stop working earlier in their career. The April 18 proposal provided that lesser income retirees of more limited means would qualify for a rate at 50% of the otherwise available rate. If an individual is of very modest means, they will still qualify for the lesser income pricing if they have sufficient years of service.**

11. Some retirees took an early retirement incentive or were bought out to retiree, which then limited their years of service.

**This adds one more item to consider if Council decides to provide some additional benefit for those of longer service.**

12. Should deferred comp income, earned while at work, be considered when calculating whether or not someone qualifies as a lesser income employee.

**The lesser income provision intent was to help those retirees who are of the most modest means. The total household income was an attempt to determine the level of**

**income, regardless of source. As such, deferred comp would be included because it is just another type of income.**

13. If someone does not qualify now for the lesser income option, may they qualify later?

**The intent of the proposal is to allow individuals to qualify or not qualify each year.**

14. Only one number is used to qualify for the lesser income benefit. Would it be appropriate to adjust this number if there is more than one person in the household?

**This point, as well as the income limit, will be reviewed.**

15. Efforts should be made to keep the health plan costs affordable.

**Staff is examining options that might keep costs down.**

16. Shouldn't the City use a different number than the ones they did for setting at what point an actively at work individual is phased out immediately in the health contribution program and when someone qualifies for the lesser income program?

**Staff recommended used a threshold of \$50,000 in wages to determine if someone was actively working. The median household income in Visalia according to the most recent census data is \$53,975.**

**Source: [http://factfinder.census.gov/servlet/ADPTable?\\_bm=y&-geo\\_id=16000US0682954&-qr\\_name=ACS\\_2008\\_3YR\\_G00\\_DP3YR3&-ds\\_name=ACS\\_2008\\_3YR\\_G00\\_&-lang=en&-redoLog=false&-sse=on](http://factfinder.census.gov/servlet/ADPTable?_bm=y&-geo_id=16000US0682954&-qr_name=ACS_2008_3YR_G00_DP3YR3&-ds_name=ACS_2008_3YR_G00_&-lang=en&-redoLog=false&-sse=on)**

**Staff recommended using the Federal Earnings Limit for Social Security as the number when someone would qualify for the lesser income program. In 2011, this number is \$37,680. This rate was used because at this level of earnings, the Federal Government starts to decrease the Social Security Benefit an individual receives in the last year before they reach 65. After 65, there is no limit. Over time, this number will increase.**

**Staff did not recommend using the poverty rate because the rate is very low as shown in the table below for 2011:**



Persons in Family Unit	48 Contiguous States and D.C.	Alaska	Hawaii
1	\$10,890	\$13,600	\$12,540
2	\$14,710	\$18,380	\$16,930
3	\$18,530	\$23,160	\$21,320
4	\$22,350	\$27,940	\$25,710
5	\$26,170	\$32,720	\$30,100
6	\$29,990	\$37,500	\$34,490
7	\$33,810	\$42,280	\$38,880
8	\$37,630	\$47,060	\$43,270
Each additional person adds	\$3,820	\$4,780	\$4,390

Source: [http://en.wikipedia.org/wiki/Poverty\\_in\\_the\\_United\\_States](http://en.wikipedia.org/wiki/Poverty_in_the_United_States)

17. Will the City use gross or adjusted income for calculating if an individual qualifies for the lesser earnings plan?

**The tax form allows certain expenses to be deducted from gross income to come to an adjusted income basis. The deductions are for such things as qualifying moving expenses, tuition, health savings account payments and IRA deposits. Since the purpose of the lesser income plan is to help those most in need, including the deductions makes the decision less clear on which parties are in the most need. Staff recommends using gross income, line 22 on the standard 1040.**

18. The use of last year's tax statement to provide next year's benefit is a retroactive tax and a disincentive to work.

**Staff recommended using a form which are readily available and are already require substantial levels of honesty. Thus, this process was recommended.**

19. Disabled individuals had their careers shortened prematurely and should be given some relief.

**There are two types of relief that can be given to disabled individuals: 1) additional years of service credits; or, 2) age relief on qualifying for the lesser income benefit. It may be appropriate to provide 5 years additional credit for the those on lesser income and remove the age requirement for those with disabilities in order to qualify for the lesser income pricing.**

20. The City should freeze the cost for current retirees.

**The Council has decided that costs will need to increase for all retirees.**

21. Retirees are stuck because they may have pre-existing conditions and can not obtain insurance elsewhere.

**If a retiree has pre-existing conditions, then the City's insurance probably provides good value to the retiree.**

22. May retirees exit the City's plan and come back again? For example, the retiree may find employment which offers health care and want to discontinue the plan until that employment stops.

***The problem with letting individuals exit and re-enter the plan is that usually only the most ill remain, thus increasing the total cost of the plan. This phenomenon is called adverse selection.***

***With the current plan, there is an element of insurance among those in the plan. Everyone pays something into the plan but only a few, the most ill, maybe less than 20% of the pool, use most of the plan's resources. Without this insurance element, plan costs would increase even further.***

23. Would it make sense to have just a retiree plan?

***Staff spoke to a broker about this concept. She did not believe that she could get just a retiree plan. Further, the broker felt she could offer many options to the over 65 group. However, the under 65 group does not have many options. The under 65's best option besides the City's plan would be to get a plan as soon as they retired and keep that plan until they were 65.***

***Staff also believe that the City's current high deductible plan could be further revised to make the plan more of a catastrophic plan, covering only the most horrendous cases. Such a change would probably reduce the monthly premium by \$200 or so a month and would have a \$3,000 individual or \$6,000 family deductible with a maximum out of pocket amount of \$6,000 individual and \$12,000 family.***

24. I worked for 13 years until I was 69. How can I get at least 15 years of service.

***If more than one tier was provided, this might help this individual.***

25. Can the City consider less of an upfront increase.

***The reason for the upfront increase was that the City was trying to deal with a budget deficit. A smaller upfront amount increases the remaining deficit to be handled.***

26. Don't balance the City's budget on the back of retirees.

***The City's General fund budget has declined cumulatively over \$10 million so far with another \$2 million deficit expected this next year. The proposed changes will save the City \$1 million in the first full year of implementation and \$2 million annually after the program is phased out. Thus, the proposal is \$1 to \$2 million of a \$12 million deficit.***

27. Retirees should be grandfathered in.

***This issue has already been addressed.***

28. Those that are currently working should be given some relief.

***The proposal would require retirees currently earning wages over \$50,000 to pay the full cost of health care. The Council could consider a two year phasing to allow***

***working retirees an opportunity to reconsider their position. Such a program would cost the City approximately \$125,000.***

**29.** Please explain things

***The purpose of these reports is to further that discussion and explain options.***

Attachment #2

Retiree Health Care Letters

1

To: City of Visalia Council  
From: Pat Thomas  
Widow of Richard N. Thomas Assistant Fire Chief Visalia Fire Dept

Please consider my request for help regarding the rate increase for the City Health Insurance. Dick worked for the City 1950-1972 (22 yrs) he worked for lower wages with the promise of great retirement benefits he believed the City.

I receive \$ 767.06 per mo from PERS                      \$ 9204.72 per year  
Social Security which I worked for 1074.72        \$ 12888.00 per year  
Total \$ 22092.00

At present I pay \$338.11 for Ins. = \$4057.32 Per year  
Medicare \$ 96.50 per mo =                      \$1158.00 per year  
Total is \$5215.32 per year  
Income \$22092. per year  
Health Ins \$ 6368. per year        \$ 1300.00 for living expenses lights gas, food house expenses, taxes  
, house expense , etc

Thanks for your cooperation  
Pat Thomas age 78    7/8/1933  
2548 West Iris Ave  
Visalia, Ca 93277  
734-8369

2

Regarding Health Care Benefits for Retirees I am responding back to you. When I retired in 2001 I was under the belief that health benefits would continue as in the past. If I would have known differently I would have continued working longer. Health care benefits are a vital part of what it takes to continue living a quality life in today's world. To take this away or even increase this would cause a severe hardship on my wife and myself. We currently receive a retirement pension and social security around \$4,000 per month. With today's cost rising it barely gets us by. We currently pay in excess of \$6,000 per year in health care. I understand the city has loss of revenue issues but to penalize an individual for some 33 years of service to the City of Visalia and phase out a benefit that was to be ongoing doesn't seem fair. Here are a few suggestions that the city might want to consider to help find a solution to the problem. 1. Go to a six year phase out period. 2. Give employees with longer service additional credit for time served. Limit new employees to little or no benefits when hired. 3. Have existing employees pay more for benefits. I considered it a privilege to have worked for the city and thank you for listening to my concerns.

Sincerely,  
Chuck Woupio  
Recreation Supervisor

### 3

To whom it may concern:

May I first introduce myself, my name is Clyde Moore, I was an employee of the City of Visalia for 20 years. Having retired December the 31st 1988 , before the salary went up and when you retired it was at 1/2 pay. I barely make ends meet and if our insurance goes up and I have to pay \$1,000.00 a month for my medical; insurance it would be impossible for me to meet my obligations.

At the time I retired my insurance cost me less than \$100.00 a month and 57 years old. I was told that the City would contribute to my insurance and now that I am almost 80 years old this is quiet a surprise to find out that my insurance is about to go up to such an extent that *I will not be able to meet the monthly cost.*

*For the most part I enjoyed my employment with the City of Visalia which was 20 plus years and was proud to say that I was part of the best Police Department in California, but now I am not to sure that is right because it just doesn't seem fair that a person who spends all of his productive life working for a community and retires then gets abandoned when he is to old to get another job in order to pay his part of medical insurance premium.*

*If you have any advise or suggestions on how this 80 year old retiree ,that has had Cancer, High Blood pressure. Norotaphy, hearing loss and hammer toes can survive when he has to pay half of his income to pay his medical insurance premium I am open for suggestions.*

*It is my understanding that I make a little over the minimum requirement to qualify me for the lesser premium which would be about \$500.00 a month. If you could see your way clear to make some adjustments so I would qualify for the lesser amount I would greatly appreciate it.*

*Lastly, even though my income is probably more than some retired seniors and a lot less than some it is not right that a person has spent most of his/her lifetime working for a community then be abandoned in their later years and the individual not be able to do anything about it.I have not tried to get insurance any place else but I would imagine I would be hard pressed to find a company that would sell me insurance at the age of 80 years old and my past health record.*

Clyde Moore

### 4

I am 62, I am fully employed and I have me, my spouse and two children still on my retiree policy. In your memorandum you say "the Council had basic agreement around points 1 and 3". When the Council takes action on this matter, how much am I going to be expected to pay?

John Stevens

Answer: \$2,174 a month

### 5

I worked for the city from 1951 to 1986 as a fireman. When I retired I was told that I could keep the city's insurance for a reasonable cost which was to be the same as active employees were paying for their dependents. From 1986 to 2002, the city council accepted this as part of our retirement. The city council included in the budget the cost of the retirees' health insurance. This indicated that this unwritten agreement that the city made to the retirees.

My yearly income from the PERS is \$25,100.40. I will be unable to continue with the city's insurance after this year because of the increase the council will impose on me. At my age it is almost impossible to get secondary coverage through a private company without it being excessively expensive.

I feel that this city manager and city council have reneged on an unwritten agreement that earlier councils accepted to honor the work put in by dedicated city employees.

Lou Bollinger

6

Hello Eric;

When the City's Retirees Supplement Insurance Premium goes up, this will really effect me drastically. I will barely survive with the cost of everything like gasoline, grocery, utilities, taxes, hair cut and personal items and many more. Not to mention, caring for my felines (they are my family and keeps me going & happy). Our annual cost of living from P E R S is only 2%, which is next to nothing and from S S A received zero raises for the last two years. . . verse a 400 - 500 % increase insurance premium. I am willing to pay my fair share of the insurance coverage. This increase is really outrages and needs a lot of consideration. I know I have mentioned and other retirees have said it many, many times that we are all on fixed income and do not get a large raises. The full time employees should have to pay more and they do get larger salaries and raises. Most of us retirees and seniors are on SSA Medicare plan and this is our primary insurance and pays 80% of our bills. Anthem, Blue Cross is our Secondary Insurance and pays 20%. Our concern is why the large increased for our secondary coverage? Having to pay little increase, I can live with this. Is there such a thing that we can be in a another group ? Knowing the above is not new news to you and you've heard it a million times. Your reasonable consideration and your staff will be greatly appreciated. Thank you

Judy Yamashita

7

April 23, 2011

Mr. Frost,

I feel that my association with the City of Visalia reminds me of a children's book that I read many years ago. The title of the book was, "Fortunately/Unfortunately." Let me explain.

Fortunately for me, I was hired by the City of Visalia Police Department when I was 55 years old. I had already put in my quarters for Social Security.

Unfortunately, the City had made an agreement years before that if an employee receives a pension, then his/her Social Security would be drastically reduced and that is what has happened to me. While I was working, I received \$700 a month from Social Security. Now that I am retired and receiving a pension, my Social Security is just \$326 a month and my pension is \$1155.96. My husband receives just Social Security and that is \$1,200 a month. By the time that insurance is taken out with your new plan, that doesn't leave a whole lot to live on.

Fortunately, I worked for the City of Visalia for 13 years and retired when I was 69.

Unfortunately, now you say that an employee must have worked for the City of Visalia for 15 years in order to get a reduced rate on the insurance. My how the rules change and always not in the employees' favor.

Fortunately while I worked, we had great benefits and were led to believe that these would continue into our retirement years.

Unfortunately, the rules changed again and now you are pricing us out and at our age (75), we cannot start over. What we had counted on is now going away because there is no way that we can afford it. My husband has dementia and I'm sure it will be very difficult to find an insurance company that will want to take us on. Not only do we have to deal daily with the dementia, but now we are unsure of what we will be able to do insurance wise.

Fortunately we own our own home.

Unfortunately, taxes keep going up and up each year and on a fixed income (much of which will be taken away with insurance) what would happen if we didn't pay our taxes. Again, you make the rules and we just have to abide by them.

You have turned our retirement years into a nightmare. Thanks.

Joan Grant  
5749 W. La Vida Drive  
Visalia, CA 93277

## 8

I retired in 1994 after twenty years with the City. At the time of my retirement, I was assured by the risk management personnel and others that I would be entitled to receive the city health benefits for the price current employees were paid. Fortunately for me I had worked enough under Social Security to be eligible for Medicare. However, since I received a retirement from PERS I am penalized in the amount by half that I am entitled to under Social Security which after paying my Medicare amounts to \$172 per month. My retirement is \$1100 per month and as you can see the proposed rate increase will take all of my income.

I guess the bottom line is I feel like such chump for working all those hours for years without extra compensation during the 20 years I was employed and believing that I would be secure in having the benefits promised to us all those year.

There are a lot of retirees that this will impact immensely at a time when they are struggling financially and to have their promised health benefits priced so high they will not be able to afford them is very cruel

I realize that the retirees are of little value or importance to the current staff or council and it is an indication that the current employees are of little value. The reason Visalia is the city that it is now is due to the hard work and dedication of past and current employees.

Barbara Phillips

## 9

This letter is on my personal behalf, although I know there are many more like me out there in the retiree population.

After nearly 30 years working for the City, I retired. At the time I retired I understood that I would be eligible for city health benefits, not for free, but for an amount which the employees paid for "dependents". As far as I know the "dependent rate" has remained unchanged for many, many years..why is that? Why is it that a family of 8, pays the same of a family of 2 or 3? However, my retiree premium has continued to increase several times over, and now the city is telling us that it will now double or triple or more in some cases.

With my mortgage payments, taxes, and current insurance rate of nearly \$470.00 per month, I barely make it each month. Fortunately I had worked in the private sector for a few years, before I devoted my life the City. Because of that, I receive a mere \$276.00 a month in social security( because your PERS retirement is used to reduced your social security) which will undoubtedly be reduced to nothing after I reach the age for medicate in a month or so. When I do reach Medicare age, the Medicare will become primary and the city's insurance will be secondary to what ever medicate will pay. But I've be advised by the city's agent my new secondary premium will be reduced to \$433.00...Unbelievable isn't it?? And for secondary insurance, I'm now being told that my secondary coverage will be doubled in 2012 and again in 2013, until this small group of retirees bear all the costs of this group, die off, or can no longer after to use the City's insurance..Oh..isn't that the real point of this exercise? To price out this pesty group?

It doesn't matter that I gave basically my life to the city during those 30 years, working like a fool to do what is right for my employer, And a fool I was. I realize now, what I didn't realized then, that the city does not care that you helped make this city what it is today, or that your family needed you at home when you were working those hours long into the night, (without compensation for overtime) for council work sessions or budget sessions. Nor does it matter that retirees were told, whether written down in black and white or not, that they would have insurance at dependent rates. The city as it is now, places little or no value on people and even less value of people who retired after 15, 20, or 30 years.

The proposed rate increases is devastating to me, and I'm sure other of my fellow retirees. You should remember, it is through the efforts of past and current employees that the City has been able to maintain millions of dollars in reserves.

Thank you for your time.

Shirley Setser

## 10

DATE: 04/25/2011

TO: Eric Frost, Administrative Services Director  
FROM: Cheryl West, City of Visalia Retiree  
SUBJECT: Retiree Health Care Cost Increase Proposal

I want to thank the City Council for delaying their decision on Retiree Health Care and allowing more consideration and in-put on this matter.

Previous to the last few years, retirees did not receive the improved retirement plans that now exist. Formerly when retirement decisions were made, health care costs were not a major factor because the city had always committed to and financially supported retiree health care.



Recent years have seen health care cost increase tremendously and those retirees of years earlier are already suffering from those unforeseen expenses as well as inflation. With the implementation of the proposed plan to eliminate any help from the city toward retiree health care expense, many retirees, I fear, will be poverty stricken. Most of these retirees would not have made the decision to retire when they did if they had known what was coming, I certainly would not have.

The city requires retirees to go on Medicare when becoming eligible. However, many retirees are not eligible to draw any social security because of a decision by the City many years ago to not pay into the system. Therefore, many retirees receive no Social Security but must pay (currently) an additional \$350.00 quarterly for their Medicare coverage. This Medicare expense added to the City's proposed increase of health care expense is unaffordable for those retirees who retired some years ago, under the old plans, which pay and buy very little in today's economy.

Please help us to sustain our living and not increase our health care to this degree. We worked many years to achieve a relatively modest retirement, please do not put us in the Welfare category.

It was comforting to know that according to the recent Visalia Times Delta Poll, 79% of the respondents believed the City should not renege on their promise to pay for part of City Retiree Health Care.

Thank you in advance for your consideration.

## 11

I worked for the City of Visalia for a little over 21 years. During that time I saw minimal changes in the billing costs for the retiree health insurance premiums. One of my responsibilities was the accounts receivable billing which included the retiree health insurance.

For more than 18 years the insurance premiums did not change in cost. In 1984, the cost for a retiree under the age of 65 was \$57.42 and dependent coverage was also \$57.42 and was NOT tiered. Once you acquired 65 years of age it dropped to a whopping \$21.68 each for a retiree and \$21.68 for their dependents. There was a time in the beginning that it didn't matter if you paid your premium or not, your coverage was not cancelled. You could continue to receive benefits amounting to thousands of dollars whether you paid your premiums or not. The concept of tiering coverage was not even considered back then. I find it amusing that the City is now trying to balance their past "bad business practices" on the backs of those of us who would be cancelled very quickly if we did not pay our premiums.

My husband and I just refinanced our home in order to plan and prepare for what is probably going to be massive increases in our health insurance premiums. My family consists of myself, my husband, and our little girl who is 12 and has special needs. If you price us out of OUR health insurance you are saying we have no value.

I have always tried to do the fair and right thing in most circumstances and am saddened to think that the City can't do the same for those of us who gave our best to it.

My family can not afford huge increases with today's economy and because of health issues can not get other coverage either. I understand the need to make increases but wonder why the increase has to be so much at one time.

Joyce and John Chambers, Heaven Thompson

12

April 24, 2011

To: Steve Solomon, Visalia City Manager  
Eric Frost, Administrative Services Director  
Members of Visalia City Council

Subject: Retiree Health Insurance

With regard to the proposed increase in my health insurance premium I would like for you to take a minute and read this. I retired in 2004 after 35 years in law enforcement. My wife, Maureen, also retired in 2004 after 23 years as the founder and executive director of a children's non-profit wish granting organization, Wish Upon A Star. We went from two full time incomes to just my retirement income. Because of this reduction in income, retirement was not something Maureen and I took lightly. We spent several years going over the pros and cons and gathering as much information as we could. We attended City retirement work shops and consulted with City HR as well as PERS several times before making our final decision.

One of our primary concerns regarding retirement was health care. While nobody at the City could give us definitive numbers on projected premiums, I was told to expect a \$20 to \$40 monthly increase annually. This has turned out to be about right because we went from paying somewhere around \$226 per month in 2004 to \$468 per month this year. Now here we are seven years older living on a modest fixed income being told our premiums are going soar by a staggering \$567 per month next year, an additional \$189 per month next year and no further health care the year after.. And remember, these projected increases may go even higher if our insurance provider raises their rates which we all know will happen.

When these rate increases kick in my health care premium will account for approximately 24% of my net income. I would like to ask Councilman Nelsen, since he said his premium went up a whopping \$81 a month, if he pays 24% of his net income for health insurance. How would he like his premiums to go up \$756 per month? I would also like to address Councilman Lane's comment about everyone having to take a haircut. This isn't a haircut; it's a scalping of monumental proportion. A haircut grows back. Is the City going to roll back our premiums when the financial crisis is over?

In a letter from Mr. Frost dated 4-9-11, he stated that these changes will be *difficult*. These changes aren't *difficult*, they are catastrophic and could be life changing in many cases. In our case, a year into retirement it became necessary for us to move Maureen's parents from California into a small home next to ours due to their declining health. As a result of this new development, which wasn't planned for when we retired, we had to assume another mortgage which taxed us financially but was doable as long as we cut back and watched our spending. Also, we have a son and granddaughter who have needed some financial assistance from us

(our son because of a divorce and job change and our granddaughter so she can continue her college education) which has taxed us even more. The point I'm trying to make is that we already deal with *difficult* on a daily basis. What the City is proposing is a major financial and emotional hardship.

Aside from the obvious financial hardship this is very difficult emotionally. I am having trouble sleeping and find myself constantly worrying about our future and how we'll make ends meet. I already work one part time job but maybe I'll need a second one and Maureen, whose mother passed away last year, is already a full time care taker for her 88 year old father. I'm not adverse to hard work; I've been working since I was 8 years old. But, to be devalued and treated with such little respect by those I worked so hard and long for just because I'm retired is emotionally devastating. I honestly don't know where I'm going to get another \$600 to \$800 per month. So much for quality of life.

I appreciate the City's financial position, but isn't there another way to approach this problem rather on the backs of those who are on fixed incomes, too old for the higher paying jobs or medically incapable of working? Why the rush to jamb this through in the next three years when the majority of retirees are either already at Medicare age or a couple of years from it? Can't these increases be made in smaller incremental steps over a few more years which would give most of us time to reach 65 without incurring a financial hardship? Also, can't the current City employees pay a little more so we can pay a little less than what's projected?

In closing I'd like to point out that Maureen and I have never lived beyond our means. We watch our money and try to conserve wherever we can. We lived in the same house in Visalia almost 25 years. We've had one extended vacation in the last 20 years which we had to cut short when Maureen's father became ill. I drive an 18 year old pickup and Maureen's car is 10 years old. We both had careers centered on making things safer and/or better for our community and others. We did this without reservation or complaint and never asked for anything except a fair salary for a fair days work and to be treated with dignity and respect. Those virtues should hold true for retirees also.

I'm sure this has probably fallen on deaf ears because this basically boils down to money versus a group of people who are of no further value to the City. In the eyes of the City, retirees are about as valuable and wanted as a used condom. We were vital while providing a useful service but now that we're used up we're getting tossed in the toilet without a second thought.

Warren Logan, Sgt.  
Visalia Police Department, Retired

13

Dear Mr. Frost,

I am a retiree and current part-time City employee. James Thompson stated our predicament eloquently and factually in his letter to the Editor of the Visalia Times Delta.

It appears to me that my generation is headed for demise as depicted in the film *Soylent Green* (1973).

Moral, as well as, fiscal responsibility should be shown by all levels of our government. Increases-we expected. Devastation-we did not!

Please allocate a reasonable graduated health care cost increase to all City employees. Lessen the impact of phase out of retirees who can least afford it.

Respectfully,

Sharon Billups

14

#### HOW NOT TO GET RE-ELECTED/APPOINTED

1. Make promises you have no intention of keeping and agreements you have no intention of honoring. Registered voters call this LIARS TELLING LIES.

2. Cut Retiree Health Benefits so you can justify throwing even more money into the hole known as "Visalia Rawhide Baseball Team". Have any of you even been to a game that wasn't political P.R. or a photo op? Keep supporting players who don't live in Visalia, spend in Visalia or vote in Visalia. Brilliant!

Charleen Lehman

15

**Mr. Frost,**

**I am a 66-year-old surviving spouse of a Visalia Fire Department employee. My husband Jack Young died shortly after retirement at the age of 56. He always regarded health insurance an important part of his income. For many years, the department gave up raises in our income, overtime, and other essentials so that they could negotiate a good health care plan for our family. He spent thirty years being a servant to this City and he died of a primary brain tumor. A disease directly related to being exposed to toxic material. Now that He is gone and I am older and need the health care, and have a fixed income, it is becoming more and more difficult to survive.**

**I am self-employed, and I can only work three days a week and that just about covers the 305.00 monthly premiums for the City plan (as my supplement) plus Medicare cost, and the 90.00 a month for long term health insurance. That is 505.00 a month for health insurance.**

**I understand the City's budget issues, but as you know, we have no control over your budget. Nor do we have control over how you distribute our taxpayer dollars.**

**With the rise of gas, food and all the other essentials of life, our senior lifestyle is declining rapidly. Now that the City Council has made the decision to PHASE US OUT, I would like to express my huge disappointment in the City of Visalia. The seniors of this City are a huge asset to the community. Not having promises fulfilled is not a very good role model to today's employees. Their future with the City is at great risk.**

**Surviving spouse,**

**Carolyn Young**

**16**

Visalia City Council:  
E Frost: C Dunn:

Re: Retirees Health Plan

My husband Rick M. Smith is a City of Visalia Retiree after 36 years of dedicated work to the City. For the same period of time, I, his spouse of 37 years have worked as an independent Medical Administrator for multiple physicians and physician groups in Visalia and Tulare. Rick suffered his second heart attack on October 13, 2008 and retired from the City on October 31, 2008, partly due to the health issue, partly because he was approaching his planned years of services vs age requirements to reach a retirement goal with benefits that would fulfill our retirement needs. We had no delusions of a grand lifestyle filled with luxury. We have college educated 3 sons without financial help and after that expense we expected to retire in average comfort and enjoy the remainder of our life without constant financial struggle which we had planned diligently to achieve.

A letter came from the City a few weeks ago that stated "due to economic hard times"....! Rick and I take issue with this. Working as a Medical Administrator, it is my job to develop medical practices from inception to independence, sometimes longer. A part of my job includes negotiating contacts between insurance companies and physicians or physician groups. Another job duty is to negotiate contracts for group coverage for the physicians and their employees. This not only requires a great deal of meticulous planning but cost predictions, budget analysis and very often, plans for revenue generation. It is my job to care for and balance millions upon millions of dollars each year and to achieve this I depend on past economic history, future projections with current performance. Because of years in this business I very much can identify with the position the City is in however, the comparison stops there. The City is not in this position of cutting benefits to their retirees because of "economic hard times", this stems clearly from inadequate planning. Sadly what appears to be inadequate planning is about to greatly impact the lives, quality of live and health care for many dedicated employees.

Early in Rick's employment with the City of Visalia the City had considered dropping out of the Medicare/Social Security System and of great concern with that move would be the loss of access to health care options with Medicare in later years should the employee stay with the City their entire career as Rick did. The City position was that with enough years of service the pension and benefit package would compensate for not being eligible for Medicare and that included the medical benefits. This, in light of the recent council position has proven to be a huge problem since these retirees are excluded from Medicare health coverage due to the City position years ago.

It has been stated that the medical coverage benefit was not in writing for retirees, however I believe the precedence is set by previous action. Who paid for the retirees with 30 plus years of service in the past? Virgil Brown? Ernie Vierra? Paul Greer? Ray Forsyth? They received what was promised (if not written) and was the example for the path other chose to follow. In our situation, this path grew into many years of dedicated service, by choice. Rick was dedicated to his job, his department and to the position. What that dedication meant in our situation was not just merely doing a job, but a job that included over seeing the waste water management system. This meant many, many missed family occasions. I am not speaking of a birthday or two but missed Thanksgivings, Christmas Eves, Christmas Days plus the other events that were all due to either rain or ditch water control. No complaints, until now, all done by choice. Doing what was best for the City. Running crews in the middle of the night during rain, working in the flooded streets in the dark, unending hours dictated by the rainfall. Events missed, dangerous work in hazardous conditions. It is not all about taking benefits from the City but rather about having earned these benefits taken away at a critical time in a person's life. It is not common for most after that many years of service to be at a time when a retiree is able to return to the work force and earn enough per month to pay for health insurance, potentially one of the biggest expenses at a retiree's age which gets us back to the "economic hard times".

Back to my job which uses actuaries and graphing to negotiate these contracts. Can I tell you what insurance will cost a physician group in 2012? Very close. In 2015? Again within a small margin. Was the City not exposed to this information? Did they not bother to plan or research what these benefits would cost the City in future years? Did the City expect the economic growth to continue forever? Surely not, history proves that. Where are those numbers? Have economic trends not repeated themselves? Was the City not able to utilize this common information? Rick was required to do a budget for his department each year he was with the City. Those numbers were compiled by past and future needs equated with past and future predictions. This was a deliberately accurate prediction of future expenses. What happened with the City planning? Why, when poor planning aka "economic hard times" reared its ugly head did the cutting of health coverage for the retirees become the target? Perhaps limiting retirees who have not fulfilled a certain requirement to obtain this benefit, but to the employees who have made the City of Visalia their career under the standard of past benefit packages? Had this been my job performance, I would have been terminated. Had I negatively influenced even one physician or group by not forming a projected budget or falling short monetarily of not generating revenue plans to cover those costs I would be out of work! No questions asked. How is the City not in the same position? How is the City not

responsible and accountable? Again why the retirees' health plan? What do other Cities do for their retirees regarding health coverage? What is promised?

What is the tipping point for most of the retirees? We are there. We did exceptional planning and projecting of retirement expenses, but at \$500.00 per month, (excluding dental coverage) we are there. Where does a person of this age earn, for example \$2300.00 before tax dollars to fund \$1600.00 per month in after tax dollars for health insurance per month, every month? It seems you have raised some very perplexing questions by going after earned benefits to help the Cities budget woes.

Steve Nelson, I continue to hear you say "in the private sector"... please Steve, compare apples to apples. If this is not the benefit picture in the private sector please realize this is exactly why some careers are not played out in the private sector by choice. Your experience in the private sector with health benefit costs HAS ABSOLUTELY NOTHING to do with group coverage for groups as large as the City of Visalia or Tulare County or VUSD. Surely you can understand this is a huge part of the rational of working outside of the private sector.

In conclusion, I think the City is doing a huge injustice to these people who have served the City under a different premise for a career. It is also difficult to solicit information on this issue per the letter dated April 19, 2011 and expect the retirees to contribute advise on item #5. How, by any stretch is this an item the retirees should be asked to contribute to or solve? If they may disagree with health care for retirees being phased out, they must come up with an answer to the shortfall. Perhaps better planning? Maybe no more multi million dollar bridges or baseball parks? Certainly not at the expense of the retirees, whatever the answer! Very hard solutions to find because the search for these answers began far too late in the game.

Best of luck to all of us on both sides. We do not under value the horrific position the City has gotten into by this ill planning but the answer has nothing to do with cutting from the retiree group. Unfortunately I have seen repeatedly in my profession the devastating effects of elderly without insurance coverage. Loss of health options, loss of health care results in loss of health as well as loss of homes, assets etc, used up for medical care or attached by the State for providing health care to those without insurance. The cruel reality is that this group of retirees will not be able to provide their own coverage at the costs predicted. Most live on a pension from the City of Visalia not from a large corporation with a huge monthly compensation. These are retired public servants who are being cut short of what they were promised and those before them received who will pay the cost with huge negative life challenges. Our hope is that the council will move ahead slowly and with wisdom. Please take time to examine what life will be like for these men and women who have given their years of service to the City of Visalia and despite what they worked for, will be unable to afford medical insurance and most likely are going to be forced to find themselves without medical coverage in their most aged years.

Good luck and best wishes,

Richard M. & Sandy Smith

17

Mayor Bob Link  
Vice Mayor Amy Shuklian  
Council members E Warren Gubler, Mike Lane, Steven Nelson

Since January 2003, the City of Visalia Retirees has helped the City address its overall budget with increased contributions to the Retirees Health Care. For me, this is now \$223.24 increase per month. My retiree pension increased approximately 2% per year, not covering the increase in Contribution to the Retirees Health Care cost.

At the time of my retirement, guidelines were in place, turn 50 years of age with 10 years of service and you may retire with Retiree Health Care, the cost of contribution the same for each retiree.

Over the last few years these guidelines have changed, again these guidelines have not helped me with the dramatic increases in my Retirees Health Care cost. How does a City of Visalia retiree adjust when the guidelines and contributions amounts dramatically change?

Active City employees since the year 2000 have enjoyed increased salary adjustments and active UNION representation. Of the 238 Retirees currently on the retiree health plan, approximately 89 retirees retired on or before 1999. Why not "grandfather" employees with the guidelines that were in place when they retired and extend a much longer phased out period? A much longer phased out period will also help active employees plan for their retirement years, something current Retirees were not given.

At age 65, most City of Visalia Retirees are enrolled in Medicare and City of Visalia is considered a secondary insurance coverage. Medicare normally covers 80% and the secondary insurance covers 20% of the approved medical health expense. My questions to you, is this considered when setting the Retiree Health Care cost?

Speaking with many Retirees from other walks of life, YES their health insurance costs have increased too, but not as dramatically and quickly as proposed by the Administrative Services Director.

Currently 238 retirees are on the City of Visalia Retirees Health Plan. These retirees were hard working City employees, We were a "City Family" and contributed to a better, greener, healthier City where others would like to live and we remember promises made. Please reconsider the Retiree Health Funding Policy. Thank you

Sandra Dauer  
City of Visalia Retiree

18

My name is Donnie Owsley and i am responding to the letter that I received from you yesterday. Needless to say I am pretty upset. I gave the city 33 years of my life .I was told many years ago that i and my wife would have insurance coverage for the rest of our lives. Well the insurance premium got so high in cost that i finally had to drop her off of my insurance. You people that sit behind those desks really need to get your heads together to cut costs such as does the city of Visalia need to support a baseball club, do we need all of those elaborate parks that you are building and supporting. These are hard times



people but why take it out on the very people that made the city what it is today. Just remember that we all get old and will need medical care at some point, and it don't get any easier when you are on a fixed income.

Thanks from Donnie

## 19

Charlotte, this email is in response to the Memorandum of April 19, 2011, employee health care. Having searched the internet I find there are a number of different options regarding the deductibles and co-pays. I would like the city to offer as many different options as possible. I would also like to see the increases spread out and not front-loaded so folks can have a better chance of keeping their insurance. If you have any questions, please contact me. Jim

Jim Nelson

## 20

Eric,

I have in my possession a memorandum dated May 13, 2004, to "City of Visalia Employees of Retirement Age and PERS Eligible", from "Eric Frost, Administrative Services Director" with the subject "Retirement Presentation, May 18, 2004 at 9am and 2:30 pm in the Council Chambers at City Hall West".

This memorandum states the purpose of this meeting was to have a PERS representative present information on PERS retirement benefits and to answer questions about the "Air Time" purchase program. It also states that Charlotte Dunn, the City's Insurance and Benefit Manager, will answer questions about the "City's health insurance and other programs".

At the meeting I attended, I asked the specific question about City employees such as myself who were not eligible for Medicare and was told in this public setting that the City was aware of our circumstances and that the City would allow us to stay on the City's health insurance program, as the primary insurance, even when we reached age sixty-five.

So at this time I must ask again, if the City claims this was never the policy or practice, why would your representative, the "City's Insurance and Benefit Manager" (who should know more about the City health insurance than anyone) say at a meeting you invited me to, that this was the City policy or practice? I cannot imagine that the Insurance and Benefit Manager would simply blurt out a response to a question like this without proper knowledge of the subject or direction from her department head. In an informal meeting at the service counter in CHW at a later date, this same manager confirmed once again that this was the case.

With this being the background of my question at yesterday's meeting, this is why I ask for special consideration for retirees in my predicament. With the updated City policy of requiring all retirees to enroll in Medicare as their primary provider at age sixty-five, this would force retirees such as myself to buy our way on to Medicare and pay for a secondary insurance program as well, basically making us pay for two insurance programs. At today's costs and the certainly higher costs in the future, this will cause a great financial hardship.

Chriss Phipps

## 21

To the Visalia City Council and City Administrative Officers,

I retired from the Visalia Police Department in 1987. I was told, as part of my exit process, I could elect to continue my health insurance coverage for the then-current premium amount of +/- \$54 per month for myself and my dependents. I was advised that this was the employee portion of the premium: I was to pay my share (inferring that the City would pay theirs). I was cautioned to never let it lapse as I would not be able to re-join the group if the insurance ever lapsed. This information was provided by an employee of the Risk Management department as part of explaining my retirement benefits to me.

For all these years I have paid the premiums for my coverage as they were charged by the City. The premium amounts have increased over the years and I continued to pay what was asked, my portion. To my way of thinking this continued my performance within the general meaning of the promise made to me when I retired, i.e., the City and I would continue to share the cost of health insurance premiums.

My premiums are now \$499 per month. Under the plan advanced for several years now by the Administrative department my premiums will increase to approximately \$1,250 at the end of 4 years. With Medi-Care, my total estimated monthly out-of-pocket cost will then be \$1,383. This represents 67% of my monthly income. This plan, advanced in a most single-minded manner, will leave me unable to make my house payment.

Emotionally, the concept that retirees have been singled-out, to the exclusion of all other categories of COV employees, excites my deepest anger and resentment. It feels like the City curing itself at the expense of the only group that lacks protection by a negotiated contract. That's an interesting juxtaposition against the lead sentence that appears on the City Manager's homepage:

*"Never doubt that a small group of thoughtful, committed citizens can change the world: Indeed it's the only thing that ever has." Margaret Mead*

Yes, this "...small group of thoughtful, committed citizens" is determined to change the world for those of us who are retired from service to the City in despite of the promises made when each of us retired. 'Well, you should have gotten it in writing', says the Court. But both entities, retirees and the City,

performed as though bound by that promise. How can this exception to the Statue of Frauds not matter? Because it stands to require members of staff to re-think, and perhaps fall back from, an entrenched position? Is there really no other way to manage the problem than by devastating the retirees? The City has only ever offered this "solution" and has not waived from it: How has this one and only plan become somehow annointed? The answer to these questions seems to be simple: It's expedient.

After nearly 25 years of service to the City, I have become so much costly baggage; I am expendable. This is wrong on many levels and need not be if the City was willing to re-think and perhaps re-tool its plan. Ah, but you have to support staff! You can't be seen to back down! It sets a dangerous precedence!

For pete's sake, can we all act like grown-ups interested in a genuine solution that accomplishes what needs to be done without leaving people unable to support themselves?

I can't write any further; it is too upsetting to me.

Richard L. Brown  
COV retiree

22

To: Eric Frost.  
From: Duke Hettick.  
Subject: Health insurance.

04-29-11

Mr. Frost, this is a very hard letter for me to write. You and Mr. Solomon are not my most favorite people. However I do feel compelled to let you and the council know my feelings on the matter.

When you made the decision to get rid of me after an on duty injury that according to you folks left me to DISABLED to continue being a Police Officer for the city of Visalia. I was forced to find part time employment where I could. Do to my age and the perception (thanks to you) that I was to disabled to work as a Police Officer I was unable to go back to work full time in the one job I have ever loved. My career was gone.

Having gone to work for the city in the early 80s I was along with all employees at the time promised to be taken care of regarding health insurance. This was done by both Roy Springmeyer and Ray Forsyth. I along with everyone else at the Police Department was told how this was a family and we take care of each other. Obviously things and times have changed.

I understand that in these times of financial crisis everyone has to be more frugal with their money. I am only one person but if these health insurance hikes and ultimately our being dropped all together are implemented I am not sure how I will be able to survive. As I said I have had to find work where I could. I am working two part time jobs now. That along with the retirement you forced me into just keeps me afloat. If the health insurance ends up the way you would like it to, I am not sure what I will do.

This is such a hardship on me, I can not imagine how bad it is now and how hard it is going to be on some of the older retirees.

Please reconsider the decision on the health insurance issue and do the right thing.

Duke Hettick.

*Phyllis A. Coring  
1606 W. Myrtle Avenue  
Visalia, California 93277*

April 29, 2011

Eric Frost  
City of Visalia  
707 W. Acequia Ave.  
Visalia, CA 93291

RE: Retiree Health Insurance

Attached are two suggested approaches to phasing out the City Retiree Health Insurance. I believe that each of the approaches conforms to the parameters you indicated that City Council set for modifying the original staff proposal.

In addition, I believe the following provisions should be included in the resolution.

1. *The premium cost for retiree health insurance for new employees hired after the effective date of the resolution shall be 100% of cost.*

This is important for two reasons:

- New employee would know, definitively, that there would be no city subsidy for retiree health insurance and therefore have no expectations to the contrary.
- Since City practice provides no minimum period of employment to qualify for what was once a lifetime benefit, a new employee coming from another CalPERS agency could work for the city for a short period and enter into the retiree health insurance phase out, becoming an additional financial liability to the already failing system.

A better solution would be to not provide new hires with access to the retiree health program, even if they pay full cost, as adding more bodies into the system will cause costs to rise, especially those of retirement age. I imagine that might necessitate a policy amendment, however.

2. *The premium cost for retirees hired prior to April 1, 1986 and having a minimum of 20 years of service with the City shall be reduced by the amount of Medicare Part A premium. This premium reduction would apply to only persons who do not have access to Medicare Part A without cost, either through Medicare service credits or through a qualifying spouse.*

Starting April, 1986, the Federal Government required agencies to pay Medicare for new hires and therefore the City paid 1.45% of their salary toward Medicare (as did the new employees). The City offered retiree health coverage at the time.

The City's current position that the city always required retirees to be enrolled in Medicare, would have us believe that in 1986, the City started paying an additional 1.45% in benefit to new employees, while simultaneously denying access to retiree health insurance to existing employees, since they had no way to earn Medicare credits and would not be eligible for Medicare Part A unless

they could qualify through their spouse or unless they had worked for a previous employer paying into Medicare for at least 10 years. Existing employees, knowing that the City was starting to pay an additional 1.45% of benefit to new employees, naturally asked how they would be affected and were told that there was no problem because they would stay on city insurance after 65.

This provision would not be costly to the City, but if not addressed is a significant impact to the individual. The 2011 Part A premium is \$248 for persons with 30-39 quarters (service credits) and \$450 for persons with less than 30 quarters. There cannot be many persons who would currently qualify for this proposed premium reduction and it is possible that by the time the person reaches age 65 they may have been able to earn sufficient Medicare quarters to be eligible for Part A. Persons who would qualify for the proposed premium reduction are those who were long term employees and who started working for the City at a young age. It should be noted that for 25 years, the City has been saving 1.45% of salary for employees hired prior to April, 1986 by not paying Medicare contributions for those employees and those savings are considerable.

#### Other Issues

From the input provided at the meeting on April 27, it is obvious that there is considerable concern for persons on disability retirement. Perhaps the provision for lower income retirees could apply to persons on disability retirement who have not yet reached age 65. This will be a continuing issue for the city to address, as there will continue to be disability retirements and disability retirements could even increase as employees begin to work to an older age. It would seem the most impacted are miscellaneous employees who would not have an industrial disability retirement and whose work career was unfortunately cut short.

It is very disappointing that the retiree health insurance program that was counted on to be an important part of retirement planning for so many is being phased out. I believe the City could have taken steps to make the program more sustainable but rather chose to continue practices that were certain to bring failure, such as providing the benefit to retirees with no minimum term of service and subsidizing dependent coverage at as much twice or more than the rate of subsidy provided to former employees, which encourages spouses to use City insurance, rather than accessing their own employer's programs. Bringing this program to an end is a short term solution to only a fraction of the overall issue of employee related costs.

I look forward to your revised report and opportunity to provide comment throughout the process.



Phyllis A. Coring

Attachment

## Two Approaches to Phase Out of City Retiree Health Insurance Subsidy

### (Example based on PPO Plan for One Person Covered)

Approach # 1 -- This approach would reduce the initial percentage of premium increase based on years of service and also extend the phase out based on years of service.

	Percentage increase*	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
City Proposal (0 ≤ 10)											
10 ≤ 20	50%	280.69	532.77	616.79	700.82	784.64					
20 ≤ 30	40%	280.69	482.31	542.78	603.25	663.72	724.19	784.66			
30 ≤ 40	30%	280.69	431.93	482.35	532.77	583.19	633.61	684.03	734.45	784.87	
40 ≤ 50	20%	280.69	381.52	431.91	482.3	532.69	583.08	633.47	683.86	734.25	784.64

\*Initial premium increase based on years of service

Approach #2 - This approach would evenly distribute the increase in premium by year (therefore reducing the initial spike in premium) and also extend the phase out based on years of service.

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
0 ≤ 10										
10 ≤ 20	280.69	406.73	532.77	658.81	784.85					
20 ≤ 30	280.69	364.72	448.74	532.77	616.79	700.82	784.84			
30 ≤ 40	280.69	343.71	406.73	469.75	532.77	595.78	658.80	721.82	784.84	
40 ≤ 50	280.69	336.71	392.72	448.74	504.76	560.77	616.79	672.81	728.82	784.84

## 25

Eric:

To say I am a little disappointed in the way the retiree health care has been handled to this point would be an understatement. To retire and 4 months later be told the city in 4 years, (current proposal) would no longer contribute to my retiree health care was an unexpected financial shock. Had I known this was a strong possibility I would have re-evaluated my retirement plans to cover this unforeseen financial burden. I probably would have continued working another 3 years to maximize my pension. I've spoken with some current employees about the health care changes and all have stated they are not going to retire when they had hoped. At least they have that choice, now knowing what the future holds. These employees will thus create a further financial dilemma for the city. I realize the city is in financial crisis but it doesn't seem fair that the retirees absorb such a large part of the financial burden. As you recall, in 2008 I paid over \$3600.00 (my portion unused sick leave) to assist me in reaching Medicare eligibility at 65 years of age. This too was an unexpected expense.

Speaking for myself, I feel years of service should be a major factor in determining cost of health care for retirees. It would be nice to think many years of dedicated service would have meaning and a retiree would feel appreciated for making this city a better place. Having a longer phase out and/or reduced percentage premium costs directly correlated to years of service. Additionally, some type of grandfather clause to assist recent retirees under 65. Hopefully your meeting with Judy was productive, as far as offering other more affordable health care plans. Have you looked into what CalPERS might offer the city in a health care package for retirees?

Currently the state contributes \$542 monthly to retiree's health care with a choice of 13 different plans. Future city employees should be told they will have to pay 100% of their retirement health care.

I know you have a daunting task ahead of you but I am hoping and counting on you to come up with a more amenable phase out plan for retirees. If you have any questions please e-mail me or call. Thanking you in advance for your hard work and help.

Randy George

## 26

Dear Mr. Frost,

My name is Kimberley Siler, daughter of James & Betty Siler. My father, James Siler, was employed through the City of Visalia, as a firefighter for 31 years. For 31 years he served his community, working to keep the people and businesses safe from harm. I don't know what firefighters are paid today, but I remember a number of firefighters having to take second and third jobs to make sure that their families were taken care of. My father was no different. I know that my parents worked hard to save enough money to pay the bills, make sure that there was food on the table, and the vacations that we would take, as special and memorable as they were, were never extravagant.

When my mother recently told me of the City's plans to change the cost of their Health Benefits for the retirees, I thought she misunderstood the letter that was sent out to her and my father. I truly believed that she was wrong when she stated that the city was planning on raising the price of the healthcare plan. I explained to her that healthcare costs were going up for everyone and that my insurance rates had risen over the past two years as well. It was not the City of Visalia that was raising the rates, but the insurance as a whole was increasing. Then she showed me the letters. I was amazed and saddened at what I read.

First, I want to make it clear that I apologized to my mother for doubting what she said.



Second, I understand that we are all in economically challenging times.

Third, to change this program at this time and in this manner is ethically wrong. If there is an issue with paying for the healthcare program that Visalia provides, I understand. But, as I see it, and I am happy to pass this along for others to comment on, my father and the other city employees held an understood contract with the city. They worked the required, if not more, years, often placed themselves in harm's way for the safety of others, and provided the services that were required of their positions. They did all of this with the understanding that once they reached the specified "goal" (which was pre-determined by the City of Visalia) they would be given the ability to retire with a pre-determined retirement package which included a specified amount of money and health coverage (again, all requirements were created by the City of Visalia).

I fully understand that there is a need to find revenue saving avenues to balance the city's budget. But there must be other ways to handle this situation without hurting the people that have served the City of Visalia, which this potential change could do. One option could be that with the new employees that are coming, new rules could be set. Whether the rules show that these individuals must pay a higher percent of the health insurance cost, or family members placed on the insurance would be the responsibility of the employee are both ways to begin cutting down on the cost. Another option, and please do not be offended by the suggestion, but the town council members that are receiving their monthly stipend to participate as part of the council, along with health insurance (as shown on the City Website) could continue as town council, but without the stipend and without the insurance as a purely voluntary council, which would save the town anywhere from \$160,000 - \$180,000 per year. I understand that as a council you deserve these benefits, but as an economically challenging time, this would be to the benefit of the city. It is our policy that our town's mayor and town council do not accept any payment nor do they receive health insurance through our town. I would imagine that the health insurance would or could be available through the council's individual businesses or workplace.

The truth of the matter is that there was an understood contract between the employees of the City of Visalia and the City which created the understood contract and all of the specifications within that understood contract. As the issue was brought to my attention due to my parent's involvement, another thought came to mind. Why is there not a secondary to Medicare option available? At this point, my parents are over 65, Medicare is their primary insurance, and their interest is in holding a secondary insurance to cover the 20% that Medicare does not cover. After looking at a number of insurance companies that carry this type of insurance, it seems that the City of Visalia could benefit from managing this type of insurance program, within the program that you already maintain. The cost differential could make a great difference to the town, and then my parents (and others like them) would not be in the position of having to look for other insurance which will be difficult to switch to since this will be seen as a voluntary change on their part.

Again, I cannot stress enough that I do understand the need to find changes to save money within the City of Visalia. Every town and city across our nation is looking for ways to decrease costs and increase revenues, mine is no different. And as I am about 1,000 miles away from Visalia, it is difficult to attend the town council meetings and hear what is really happening. I would welcome any insight into the situation that might help me to see what options have been discussed, and why they would not work any better than the direction that you are choosing to go.

In closing, I would strongly urge you to review the decisions that you are making, and the impact that these decisions will have upon the many people that have worked for the City of Visalia, dedicating their knowledge and time to providing the services that helped Visalia to become what it is today.

Thank you,  
Kimberley Siler  
[Kim31Lynn@hotmail.com](mailto:Kim31Lynn@hotmail.com)

20 Quartz Ct.  
Pagosa Springs, CO 81147  
(970) 903-0221

**27 From Mike Stow (Mr. Stow revised his recommendation to include**

current employees also.)

Comprehensive Retiree Health Insurance Policy  
May 2011

- I.** Retired Employees and eligible beneficiaries hired before 1/1/2012 will have defined access to City of Visalia Medical and Vision Insurance under the following conditions.
- II.** Eligibility
  - A.** Minimum of 5 years of full time employment with the City of Visalia and receiving a Service CalPERS retirement or,
  - B.** Received a Disability CalPERS retirement or,
  - C.** Are an eligible City of Visalia Health Insured person at the time of their qualifying Visalia employee's Line of Duty Death.
- III.** Terms of Defined Access Coverage
  - A.** 1.5 years of access coverage for each year of full time employment with the City of Visalia.
  - B.** Or if a recipient of a Non-Industrial Disability Retirement, 3 times the number of years employed with Visalia.
  - C.** Or if a recipient of an Industrial Disability Retirement, they will have 50 year access coverage excluding adult children.
  - D.** Or if a employee dies as a result of a line of duty incident the surviving spouse beneficiary will have lifetime access. Coverage for surviving children shall continue to their 25<sup>th</sup> birthday.
- IV.** Percentage of Premium paid by eligible Service retiree or survivor. See formula in italics below. Line of Duty Death Survivor rate is 25%. Industrial Disability rate is 35%. Non-Industrial rate based on III B computation.

*100% of the Health/Vision Plan Premium, minus the number of full time years employed with the City of Visalia, rounded, then multiplied by 2.5 equals the retiree percentage.*

**Service Retirement Examples**

<b>Years Employed</b>	<b>% of Employee Premium</b>	<b>Term of Access</b>
5	87.5%	7.5 years
7	82.5%	10.5 years
10	75%	15 years
13	67.5%	19.5 years
15	62.5%	22.5 years
20	50%	30 years
25	37%	37.5 years
30	25%	45 years
35	12.5%	52.5 years

- V.** Effective Dates for these Policy Changes
  - A.** January 1, 2012 - Current and Future Service (but now hired) Retirees less than 65 years.
  - B.** January 1, 2013 - Current Disability and Future Disability (but now hired) Retirees less than 65 years old. Employee premium contribution frozen for 1 year.
  - C.** January 1, 2014 – Current and Future Service Retirees 65 years old plus. Employee premium contribution frozen for 2 years.
  - D.** January 1, 2015 - Current Disability Retirees 65 years old plus. Employee premium contribution frozen until 2015.

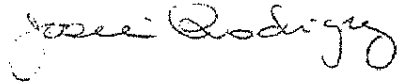
Dear Mr. Eric Frost, Administrative Services Director:

I am writing in regard to a letter sent to Gus Aiello about a Retiree Health Care General meeting to be held on April 27, 2011. Please consider Gus Aiello under the 4<sup>th</sup> restriction – “those with disabilities may deserve some consideration.” We were pleased to hear that the Council requested more information regarding the disabled. While reading your prior correspondence about medical benefits, Gus did not appear to fall in the given categories. Council should consider special circumstances. I commend the Council in considering the disabled as opposed to just disposing of the ‘sick, lame and lazy;’ as it has been suggested that some City of Visalia leaders are practicing within your organization.

Gus was in an unfortunate accident during the prime of his life; an accident caused by a drunk driver. This accident changed his life and he can no longer provide for his family. If he could have continued to work, he would have loved to, but he was forced into retirement. Since he will never be able to work again, it would be difficult to keep up with the changes you are proposing regarding health care and Gus doesn't fit into categories over 65 and under 65 with 15 years of service etc. PLEASE consider disability, since due to his age; he will live a longer than average time on a fixed income. Therefore, he and his family, namely the children, need health benefits. He will never be able to earn decent wages for them-not by choice- to purchase health benefits and since he is unable to work again, he cannot seek employment which would provide benefits. There must be a provision for this group of disabled retirees; they are already at a disadvantage and the City, especially because it is a public agency, has a social responsibility to this population. Additionally, Human Resources had reassured Gus and his

wife that health benefits would be provided for life, to the entire family. Therefore, he trusted that his family would be secure, in return for being a dedicated employee to the City of Visalia, even though he would no longer be able to provide for them. I ask Council and especially Mr. Frost, who lost his father at a young age, to have compassion on this family and the innocent children. Health costs are so much higher today than in the past, even after adjusting for COLAS. Again, this is a unique group not addressed in your prior memos and should have special consideration since there are no other options for them, or for this family. We worry so much about their medical care.

Thank you.

A handwritten signature in cursive script that reads "Josie Rodriguez".

Josie Rodriguez, a concerned grandmother and Gus's mother-in-law

# Attachment #3

## City of Visalia Agenda Item Transmittal

### UPDATED STAFF REPORT

**Meeting Date:** April 18, 2011

**Agenda Item Number (Assigned by City Clerk):** 1

**Agenda Item Wording:** Retiree Health Funding Policy

**Deadline for Action:** None

**Submitting Department:** Administrative Services

**Contact Name and Phone Number:** Eric Frost, 713-4474

#### **Department Recommendation:**

That the City Council state the City's financial contribution to retiree health care premiums starting with the 2012 calendar year, as follows:

- Continue to provide all retirees with access to the City's employee health plan, at a cost to the retiree as set forth below.
- Full cost of the retiree health care will be determined on a three-tier basis of single, two party, and family divided into under age 65 retirees and over age 65 retiree groups, as recommended by the City's actuaries;
- Eventually, the City will offer retirees access to the City's health plan at full cost to the retiree. A phase-out of the City's contribution will occur as follows:
  1. In the 2012 Calendar Year, actively at-work retirees may participate in the City's health plan at full cost. Actively at-work retiree is defined as earning wage income in excess of \$50,000 in the previous calendar year. No retirement or non-earned income will be included in the wage income.
  2. The City contribution would be phased out over a four-year period as follows:
    - 50% of the difference between the 2011 premium and the full cost of the 2012 health care cost will be added to the 2012 premium;

**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.

- The remaining difference between the 2012 premium's full cost and the retirees' 2012 health care contribution will be phased out over 3 years until the 2015 retirees' health care contribution is at full cost.

3. For qualifying retirees of lesser income defined as:

- Having provided the City with 15 years of service;
- Having reached Medicare Age; and,
- Having household income less than the Federal Social Security Earnings limit

These qualifying retirees will be offered the same health plan at 50% of the standard premium until calendar year 2015. The remaining City contribution will be phased out over 10 years, from 2015 until 2025.

These several actions are expected to save \$625,000 in FY 2011/12, \$1.4 million in FY 2012/13 and \$2.0 million by FY 2014/15.

The above actions would be consistent with, and in furtherance of, the City's existing Administrative Policy 301. This policy provides City of Visalia retirees with access to the City's health care plan, at a cost to be determined by the City. As noted above, access will continue to be provided, and the actions described above are intended to specify the cost of that access. A resolution enacting the above actions is attached and is recommended for adoption at this time in the event the City Council elects to proceed with these recommendations.

#### Discussion

Since the 2007/08 fiscal year, the City of Visalia has faced dramatically declining revenues. The City General Fund has seen its revenues decline from \$62 million to \$52 million. The City's ability to provide basic services has greatly declined. Positions have been kept vacant, departmental reorganizations have occurred, services have been outsourced, furloughs have been implemented, employee wage concessions have been implemented, and operational budgets have been sliced.

The 2011/12 Fiscal Year promises additional challenges. The projected deficit without actions by the State of California or the Federal Government is \$1.4 million. Actions that might be taken buy the State to balance its budget may result in further financial "hits" to the City. Over the next three years, the City will need to increase pension contributions by over \$3 million to keep current retiree and employee pension plans sound. This additional contribution is expected to continue for 20 years. As a result, at the March 21, 2011 City Council meeting, staff discussed the need to reduce costs in all funds. In particular, the Measure T Police fund is incapable of funding the plan's original goal of 28 officers. Two officer positions are currently vacant, but an additional 4 officers' positions would need to be kept vacant to bring expenses to the current level of Measure T sales tax. This does not address the \$1.4 million General Fund deficit.

With this backdrop, Council directed staff to return to Council with options to phase out the City's contribution for retiree health care. While Visalia's retirees will still have access to the City's health plan, the intent of this funding phase out proposal is to provide retirees access to the City's health plan at the City's full cost.

Even at full cost, the City's PPO plan remains less expensive than the comparable plan offered by PERS with the City plan costing as much as \$452 a month less than the PERS plan for a retiree over age 65's family.

The recommendation does the following:

1. Continues to provide retirees access to the City's health plan but at full cost. Policy 301 states that the City determines what the cost will be to the retirees. Council would be restating that the price shall be cost. Development of future rates would be handled by staff as directed by this policy unless the Council directed staff to bring the matter back to Council.
2. The City would move from a two-tier to three-tier pricing policy which is more common among health plans. Tiered pricing would be by under age 65 retirees and over age 65 retirees. Some anticipated that the cost to employees over 65 would drop more dramatically once the retiree was eligible for Medicare. Although medical costs do drop, this is mostly offset by increased costs for prescription drugs.

Nevertheless, Medicare age retirees' costs are much less than retirees not on Medicare. The City's health plan document requires that retirees participate in Medicare if they can. Since the plan started, retirees have been asked to participate in Part A and B of Medicare. All U.S. citizens can participate in Medicare. For those with sufficient work quarters, part A is without cost. Otherwise there is a premium for those who do not have enough work quarters. The proposed pricing takes into account the health care costs being paid by Medicare.

3. A phase out process would be implemented over 4 years providing:
  - a. Retirees currently earning wages in excess of \$50,000 would pay the full cost of the health plan in the 2012 year. This action is expected to save about \$125,000 in fiscal year 2011/12 and \$250,000 in calendar 2012.

The retirees would be asked to certify under penalty of perjury that in the preceeding year they did not have earned income in excess of \$50,000. The City could also ask for a copy of the participants 1040 form to verify earnings in order for the individual to receive the lower cost premiums.

- b. Retirees not earning \$50,000 in earned wages would increase their premium contributions by 50% of the difference between full cost and current contribution levels with the 2012 premiums. This action will reduce the City's cost by \$500,000 in fiscal year 2011/12 and \$1 million for calendar year 2012. Thereafter, the City's subsidy will decrease by additional \$300,000 a year until 2015 at which time the premium paid by retirees would be the City's cost.
  - c. For lesser income retirees who have:
    - provided the City with 15 years of service;
    - reached Medicare age and;
    - have a household income less than the Federal Social Security Earnings limit,

staff recommends that their rates increase by ½ of the general retiree group's rates until 2015. Thereafter, the program would be phased out

over 10 years. The cost of this program is about \$200,000 in 2012 and will reduce to nothing over the life of the program.

Staff recommends this approach despite the length of the proposal because this recommendation will help the most at-risk City of Visalia retirees who probably retired under the less generous retirement formulas given to workers prior to the earlier part of the last decade.

If Council adopts these recommendations, the contribution rates, without a general rate increase, would be as shown on Table I, Potential Monthly Retiree Health Care Rates.

The changes will be difficult; however, any choice to reduce costs will be difficult somewhere and the choice is being forced upon the City due to the continued economically difficult times. For example, the increased pension assessments, which benefit current employees and retirees, will cost the City \$1 million a year more than can be saved in retiree health care.

To offset these difficult times, the City has developed a high-deductible health plan which provides coverage for major medical costs. The City also now offers Health Savings Accounts to both retirees under age 65 and active employees. The phase-out recommendation is designed to cushion the impact for current retirees. Current employees may be able to work with the City to find additional ways to reduce plan costs.

Again, these recommendations are drastic. But, the challenges are great because:

- The City has faced an unparalleled number of years of declining revenues which has led the City to have layoffs, reduce employee compensation, reduce positions and implement numerous other cost savings;
- The City faces the very real possibility of further position reductions, including public safety reductions in Measure T and;
- The City faces dramatically higher employee and retiree pension costs partly due to enhanced benefits granted to employees in the last 10 years.

Full Implementation Rate Schedule for All Plans\*  
Table 1



Monthly Retiree Health Rates on Three Tier Basis					
(Does Not include any potential general rate increase)					
	2011	2012	2013	2014	2015
<b>Retiree Under 65</b>					
<b>EPO</b>					
Single	280.69	540.77	627.47	714.16	800.86
Two	468.74	1,035.22	1,224.05	1,412.87	1,601.70
Family	468.74	1,343.55	1,635.15	1,926.75	2,218.36
<b>PPO</b>					
Single	280.69	532.77	616.79	700.82	784.84
Two	468.74	1,019.20	1,202.69	1,386.18	1,569.67
Family	468.74	1,321.37	1,605.57	1,889.78	2,173.99
<b>HD</b>					
Single	114.59	375.07	461.90	548.73	635.56
Two	229.69	750.40	923.97	1,097.55	1,271.12
Family	229.69	995.10	1,250.23	1,505.37	1,760.50
<b>Retiree Over 65</b>					
<b>EPO</b>					
Single	244.95	437.23	501.33	565.42	629.52
Two	397.26	828.14	971.77	1,115.39	1,259.02
Family	397.26	1,070.50	1,294.92	1,519.33	1,743.75
<b>PPO</b>					
Single	244.95	430.94	492.93	554.93	616.93
Two	397.26	815.55	954.98	1,094.41	1,233.84
Family	397.26	1,053.07	1,271.67	1,490.27	1,708.87
<b>HD</b>					
Single	78.85	289.22	359.34	429.46	499.58
Two	158.21	578.69	718.85	859.01	999.17
Family	158.21	771.03	975.30	1,179.57	1,383.85
* Note: Rates do not include any potential general rate increase.					

**\*Prior Council/Board Actions:**

**Committee/Commission Review and Actions:**

**Alternatives:** Any combination or phasing in period which the Council deems appropriate

**Attachments:** Questions and comments presented until Thursday, April 14, 2011

**Recommended Motion (and Alternative Motions if expected):** I move that City Council adopt resolution 2011- 17 (with the following modifications, if appropriate).

***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:

Staff has endeavored to provide a draft of the staff report to employee bargaining groups and all retirees. Since it was released, relatively minor modifications have been made for clarity, but have not substantially change the information in the report.

## Summation of questions and comments received up to Thursday, April 14, 2011

- The City has provided health benefits at a reasonable rate for many years. The implied agreement to City employees was that this practice would continue.

**Response:** The Council has the right to set the City's health care rate for retirees.

- Those that retired under a disability have typically retired with a smaller pension. Shouldn't the City do something for us?

**Response:** The Council could treat those that retired under a disability like qualifying retirees, providing a longer phase out period. The number that would be affected would be small, particularly if the disabled retiree had to meet the 15 years of service and less than Federal Social Security earnings amount, costing the City something like \$25,000 to \$50,000 a year.

- The proposed change is too abrupt.

**Response:** Council may lengthen out the health contribution phase out period. The current proposal is to reduce the subsidy by one-half in 2012. This change greatly addresses the City's budget shortfall. The Council many wish to extend the phase out period after that from 3 years to something much longer. This contribution, about \$1 million a year, would then be carried fully or partly by the City for whatever period the Council so determined.

- Long time employees worked for the City for many years. They should be given something better than the proposed rate schedule. Can't we be left alone?

**Response:** If the Council wanted to provide a contribution for long time employees, they could establish a required number of years of service and credit those retirees with a set credit or a declining credit over time. More than ½ of the retirees in the health plan have over 15 years of service. For example, if 15 years of service were required to receive such a credit, for each \$100 a month credit, the City would pay approximately \$150,000 year.

- Retirees have not had time to prepare for increased insurance costs. Most retirees do not have options so they can save more money for health care costs in the future.

**Response:** The proposed longer phase out of City health care contribution for lesser income retirees is designed to help those most impacted by the proposal. The Council could remove the age 65 requirement which would add another 10 or so retirees to the qualifying retiree program for lesser income, costing the City approximately \$120,000 in 2012 and declining there after.

- If the City acts upon the proposed health insurance premiums, the health plans would be unaffordable.

**Response:** Health care is expensive. The City has tried to control costs and still provides a plan that costs less than comparable PERS plans. Further, the City has tried to provide alternatives such as the high deductible health plan. If Council directed, staff could seek additional alternatives but benefits would also be less.

- What happens to surviving spouses of retirees?

**Response:** Surviving Spouses will follow the tiered rate of retirees.

- The City has represented to some employees in writing that there was retiree health care benefits.

**Response:** In some employment agreements, the City has stated the City's retiree health care as follows:

Medical and vision insurance is afforded with surviving spouse benefits based upon established retiree contribution schedules. Dental not included. Different contribution rates depending upon plan.

- It appears the City has not being honest with its retirees. The City is changing the cost of retiree benefits after retirees have left the City's employ.

**Response:** The City's policy states that the City determines the premium. Legally, it has been established that the Council set health care rates. Now, the Council is weighing the value of providing this benefit against services the City provides because the City has fewer resources today than in the past.

Attachment #3

<i>Originally Proposed and Less than 10 years Service</i>						<i>Proposed, more than 10 less than 20 years of service</i>							
	2011	2012	2013	2014	2015		2011	2012	2013	2014	2015	2016	2017
<b>Retiree Under 65 EPO</b>						<b>Retiree Under 65 EPO</b>							
Single	280.69	540.77	627.47	714.16	800.86	Single	280.69	514.76	571.98	629.20	686.42	743.64	800.86
Two	468.74	1,035.22	1,224.05	1,412.87	1,601.70	Two	468.74	978.57	1,103.20	1,227.82	1,352.45	1,477.07	1,601.70
Family	468.74	1,343.55	1,635.15	1,926.75	2,218.36	Family	468.74	1,256.07	1,448.52	1,640.98	1,833.44	2,025.90	2,218.36
<b>PPO</b>						<b>PPO</b>							
Single	280.69	532.77	616.79	700.82	784.84	Single	280.69	507.56	563.01	618.47	673.93	729.38	784.84
Two	468.74	1,019.20	1,202.69	1,386.18	1,569.67	Two	468.74	964.16	1,085.26	1,206.36	1,327.46	1,448.56	1,569.67
Family	468.74	1,321.37	1,605.57	1,889.78	2,173.99	Family	468.74	1,236.10	1,423.68	1,611.26	1,798.84	1,986.41	2,173.99
<b>HD</b>						<b>HD</b>							
Single	114.59	375.07	461.90	548.73	635.56	Single	114.59	349.03	406.33	463.64	520.95	578.25	635.56
Two	229.69	750.40	923.97	1,097.55	1,271.12	Two	229.69	698.33	812.89	927.45	1,042.00	1,156.56	1,271.12
Family	229.69	995.10	1,250.23	1,505.37	1,760.50	Family	229.69	918.55	1,086.94	1,255.33	1,423.72	1,592.11	1,760.50
<b>Retiree Over 65 EPO</b>						<b>Retiree Over 65 EPO</b>							
Single	244.95	437.23	501.33	565.42	629.52	Single	244.95	418.00	460.31	502.61	544.91	587.21	629.52
Two	397.26	828.14	971.77	1,115.39	1,259.02	Two	397.26	785.05	879.85	974.64	1,069.43	1,164.23	1,259.02
Family	397.26	1,070.50	1,294.92	1,519.33	1,743.75	Family	397.26	1,003.18	1,151.29	1,299.41	1,447.52	1,595.63	1,743.75
<b>PPO</b>						<b>PPO</b>							
Single	244.95	430.94	492.93	554.93	616.93	Single	244.95	412.34	453.26	494.17	535.09	576.01	616.93
Two	397.26	815.55	954.98	1,094.41	1,233.84	Two	397.26	773.72	865.75	957.77	1,049.79	1,141.82	1,233.84
Family	397.26	1,053.07	1,271.67	1,490.27	1,708.87	Family	397.26	987.49	1,131.76	1,276.04	1,420.32	1,564.60	1,708.87
<b>HD</b>						<b>HD</b>							
Single	78.85	289.22	359.34	429.46	499.58	Single	78.85	268.18	314.46	360.74	407.02	453.30	499.58
Two	158.21	578.69	718.85	859.01	999.17	Two	158.21	536.64	629.15	721.65	814.16	906.66	999.17
Family	158.21	771.03	975.30	1,179.57	1,383.85	Family	158.21	709.75	844.57	979.39	1,114.21	1,249.03	1,383.85
* Note: Rates do not include any potential general rate increase.						* Note: Rates do not include any potential general rate increase.							

Proposed, more than 20 less than 30 years of service									Proposed, more than 30 years of service									
	2011	2012	2013	2014	2015	2016	2017	2018		2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>Retiree Under 65 EPO</b>									<b>Retiree Under 65 EPO</b>									
Single	280.69	488.76	540.77	592.79	644.81	696.82	748.84	800.86	Single	280.69	462.75	511.05	559.35	607.65	655.95	704.25	752.55	800.86
Two	468.74	921.92	1,035.22	1,148.51	1,261.81	1,375.11	1,488.40	1,601.70	Two	468.74	865.28	970.48	1,075.68	1,180.89	1,286.09	1,391.29	1,496.49	1,601.70
Family	468.74	1,168.59	1,343.55	1,518.51	1,693.47	1,868.43	2,043.39	2,218.36	Family	468.74	1,081.11	1,243.57	1,406.03	1,568.50	1,730.96	1,893.43	2,055.89	2,218.36
<b>PPO</b>									<b>PPO</b>									
Single	280.69	482.35	532.77	583.18	633.60	684.01	734.43	784.84	Single	280.69	457.14	503.96	550.77	597.58	644.40	691.21	738.03	784.84
Two	468.74	909.11	1,019.20	1,129.30	1,239.39	1,349.48	1,459.57	1,569.67	Two	468.74	854.06	956.29	1,058.52	1,160.75	1,262.98	1,365.21	1,467.44	1,569.67
Family	468.74	1,150.84	1,321.37	1,491.89	1,662.42	1,832.94	2,003.47	2,173.99	Family	468.74	1,065.58	1,223.92	1,382.27	1,540.61	1,698.96	1,857.30	2,015.65	2,173.99
<b>HD</b>									<b>HD</b>									
Single	114.59	322.98	375.07	427.17	479.27	531.36	583.46	635.56	Single	114.59	296.93	345.30	393.68	442.06	490.43	538.81	587.18	635.56
Two	229.69	646.26	750.40	854.55	958.69	1,062.83	1,166.97	1,271.12	Two	229.69	594.19	690.89	787.60	884.30	981.00	1,077.71	1,174.41	1,271.12
Family	229.69	842.01	995.10	1,148.18	1,301.26	1,454.34	1,607.42	1,760.50	Family	229.69	765.47	907.62	1,049.77	1,191.91	1,334.06	1,476.21	1,618.35	1,760.50
<b>Retiree Over 65 EPO</b>									<b>Retiree Over 65 EPO</b>									
Single	244.95	398.78	437.23	475.69	514.15	552.60	591.06	629.52	Single	244.95	379.55	415.26	450.97	486.68	522.39	558.10	593.81	629.52
Two	397.26	741.96	828.14	914.32	1,000.49	1,086.67	1,172.84	1,259.02	Two	397.26	698.88	778.90	858.92	938.94	1,018.96	1,098.98	1,179.00	1,259.02
Family	397.26	935.85	1,070.50	1,205.15	1,339.80	1,474.45	1,609.10	1,743.75	Family	397.26	868.53	993.56	1,118.59	1,243.62	1,368.65	1,493.69	1,618.72	1,743.75
<b>PPO</b>									<b>PPO</b>									
Single	244.95	393.74	430.94	468.14	505.33	542.53	579.73	616.93	Single	244.95	375.14	409.68	444.22	478.76	513.30	547.85	582.39	616.93
Two	397.26	731.89	815.55	899.21	982.87	1,066.53	1,150.18	1,233.84	Two	397.26	690.06	767.75	845.43	923.11	1,000.79	1,078.48	1,156.16	1,233.84
Family	397.26	921.91	1,053.07	1,184.23	1,315.39	1,446.55	1,577.71	1,708.87	Family	397.26	856.32	978.12	1,099.91	1,221.70	1,343.50	1,465.29	1,587.08	1,708.87
<b>HD</b>									<b>HD</b>									
Single	78.85	247.14	289.22	331.29	373.36	415.44	457.51	499.58	Single	78.85	226.11	265.17	304.24	343.31	382.38	421.45	460.51	499.58
Two	158.21	494.59	578.69	662.78	746.88	830.97	915.07	999.17	Two	158.21	452.54	530.63	608.72	686.81	764.90	842.99	921.08	999.17
Family	158.21	648.47	771.03	893.59	1,016.16	1,138.72	1,261.28	1,383.85	Family	158.21	587.18	700.99	814.80	928.61	1,042.42	1,156.23	1,270.04	1,383.85
* Note: Rates do not include any potential general rate increase.									* Note: Rates do not include any potential general rate increase.									

City of Visalia  
Resolution 2011 - \_\_\_\_

Whereas, the City of Visalia maintains a health plan for the benefit of its employees; and,

Whereas, the City of Visalia has adopted a policy by which retirees may participate in the City's health plan, namely Administrative Policy 301 which states that "retirees and their dependents are eligible for medical and vision benefits at a cost determined each year by the City"; and,

Whereas, consistent with Administrative Policy 301, the City Council of the City of Visalia has from time to time determined the cost of participation in the City's health plan for City of Visalia retirees; and

Whereas, in setting the cost of participation for retirees, the City Council has in the past subsidized the cost to retirees of participation in the City's health plan by setting the cost at a level that is less than the full cost of the plan; and

Whereas, also consistent with Administrative Policy 301, the City Council finds it appropriate to specify the cost of participation in the City's health plan for City of Visalia retirees on an ongoing basis in a manner that decreases and ultimately phases out the amount of subsidy provided by the City; and

Therefore the City Council of the City Visalia establishes the following provisions for determining the cost of participation in the City of Visalia health plan for City of Visalia retirees:

- All retirees will continue to be eligible for participating in the City's health plan, provided they pay the cost of participation as determined hereby.
- The full cost of retiree health care will be determined on a three tier basis of single, two party and family, each divided into retirees under the age of 65 and retirees over age of 65, as recommended by the City's actuaries;
- A transition to requiring payment of full cost for participation in the City's health plan for retirees will occur as follows:
  1. In the 2012 Calendar Year, actively at work retirees may participate in the City's health plan at full cost. "Actively at work" retiree is defined as earning wage income in excess of \$50,000 in Calendar Year 2011. No retirement or non-earned income will be included in the wage income.
  2. The transition to payment of full cost of participation by retirees will occur over several years based upon the retiree's years of service with the City of Visalia as follows:
    - ***For those retirees who have worked less than 10 years for the City of Visalia***, 50% of the difference between the 2011 premium

and the full cost of the 2012 health care cost will be added to the 2012 premium;

- The remaining difference between the 2012 premium's full cost and the retirees' 2012 health care contribution will be phased out over 3 years until the 2015 retirees' health care contribution is at full cost.
- **For those retirees who have worked 10 years but less than 20 years for the City of Visalia**, 45% of the difference between the 2011 premium and the full cost of the 2012 health care cost will be added to the 2012 premium;
  - The remaining difference between the 2012 premium's full cost and the retirees' 2012 health care contribution will be phased out over 5 years until the 2017 retirees' health care contribution is at full cost.
- **For those retirees who have worked 20 years but less than 30 years for the City of Visalia**, 40% of the difference between the 2011 premium and the full cost of the 2012 health care cost will be added to the 2012 premium;
  - The remaining difference between the 2012 premium's full cost and the retirees' 2012 health care contribution will be phased out over 6 years until the 2018 retirees' health care contribution is at full cost.
- **For those retirees who have worked more than 30 years for the City of Visalia**, 35% of the difference between the 2011 premium and the full cost of the 2012 health care cost will be added to the 2012 premium;
  - The remaining difference between the 2012 premium's full cost and the retirees' 2012 health care contribution will be phased out over 6 years until the 2018 retirees' health care contribution is at full cost.

3. Qualifying retirees of lesser income will be offered the ability to participate in the same health plan at 50% of the full cost for the respective group until their years of service group reaches full cost. From their years of service group's full cost year, the remaining City contribution will be phased out over 10 years. "Qualifying retirees" shall be defined as:

- Household income less than the Federal Social Security Earnings Limit;
- And either:
  - A CalPERS disability retirement; or



- 15 years of service and having attained Medicare Age.
- The following special provision actions are also taken, namely:
  - Surviving spouses will follow the schedule of their deceased spouse;
  - Participation in Medicare is defined as participating in Part A and B; and,
  - For those retirees who were hired by the City of Visalia prior to April 1, 1986 when participation in Medicare became mandatory who do not qualify themselves or through their spouse for what is in 2011 no cost Part A benefit will be offered a reduced premium by the difference between what they are assessed and what qualifying Medicare retirees pay to participate in Part A Medicare.
  - The City Manager and Department Heads are to follow this same schedule like all other employees. By State law, City Council members may not participate in retiree health care if elected after 1991.

Letters Received after 5/10/11

**A**

To: Eric Frost

From: Shirley Pullen

This letter is to express my disappointment at how the City is treating its retirees and the phasing out of its health care plan for retirees. I understand that health care costs have risen but to put the full cost of health onto a retiree, after a four year period, completely disregards what was promised at retirement. How does the council expect people making \$2500 (+/-) a month to live and still have health insurance? They can't. With the costs that The City is forcing on retirees most people will have to drop the City's Health Care, and just have Medicare, because that is all they will be able to afford. After nearly 20 years of service, and being offered the "Golden Hand Shake" to save the City money, I along with many other employees took the offer because the City had promised that health care would continue to be part of the retirees benefits. The City had promised to pay part of the costs for retirees which seems reasonable because Medicare pays most of the costs when a retiree reaches 65 years old. The costs that the City has to pay out is lessened. Why is there such a big cost to the City when retirees have Medicare and the City is the secondary payee? It doesn't make any sense. Because of all the finagling done by the City it seems that the City has decided to pull the plug on grandma after all.

**B**

May 11, 2011

Honorable Council Members,

Attached are two approaches to phasing out retiree health insurance subsidy that I submitted after attending the April 27 meeting with Eric Frost and fellow retirees. I took great care to propose alternatives that met the criteria that Eric said Council set for consideration of a modification of the original staff proposal.

Alternative #1 reduces the amount of premium increase by year of service and also extends the phase out based on years of service.

Alternative #2 evenly distributes the increase in premium by year (therefore reducing the initial spike in premium) and also extends the phase out based on

years of service.

In each alternative, the last year of city subsidy is 2019 (within the less than 10 year limit set by Council). Each alternative saves the city money per year.

The current revised staff recommendation utilizes a system similar to my Alternative #1, however reduces the phase out by a year and increases the percentage of premium increase over what I had proposed.

I request that City Council adopt either of the attached alternatives in this proposal. Apparently Council is committed to ending retiree health insurance subsidy. Each of these alternatives achieves that goal within the timeline established by Council and accomplishes the goal in a smoother transition than what is proposed by staff.

#### Other Issues

The modified staff proposal includes a provision to address the issue faced by a small number of retirees that are not eligible for Medicare Part A. I appreciate that this provision is included in the recommendation.

I appreciate the opportunity to provide comment on this important issue.

Sincerely,

Phyllis Coring

## Two Approaches to Phase Out of City Retiree Health Insurance Subsidy

(Example based on PPO Plan for One Person Covered)

Approach # 1 -- This approach would reduce the initial percentage of premium increase based on years of service and also extend the phase out based on years of service.

	Percentage increase*	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
City Proposal (0 ≤ 10)	50%	280.69	532.77	616.79	700.82	784.64					
10 ≤ 20	40%	280.69	482.31	542.78	603.25	663.72	724.19	784.66			
20 ≤ 30	30%	280.69	431.93	482.35	532.77	583.19	633.61	684.03	734.45	784.87	
30 +	20%	280.69	381.52	431.91	482.3	532.69	583.08	633.47	683.86	734.25	784.64

\*initial premium increase based on years of service

Approach #2 - This approach would evenly distribute the increase in premium by year (therefore reducing the initial spike in premium) and also extend the phase out based on years of service.

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
0 ≤ 10	280.69	406.73	532.77	658.81	784.85					
10 ≤ 20	280.69	364.72	448.74	532.77	616.79	700.82	784.84			
20 ≤ 30	280.69	343.71	406.73	469.75	532.77	595.78	658.80	721.82	784.84	
30 +	280.69	336.71	392.72	448.74	504.76	560.77	616.79	672.81	728.82	784.84

## C

Eric

I hope you and the family are well. We were down in Visalia a couple of weeks ago to visit our new grandson. All is well with them and all and we are still able to get down there every couple of months.

I know a lot is going on but I wanted to share a few thoughts regarding the Retiree Health Policy. I won't re-state what you have heard over and over again and I appreciate some of the recommended changes that will be coming before you next week. However the phase out period includes all retirees with the exception of those that exceed wage earnings of \$50,000. I can only conclude that the City and the decision makers are assuming that we can afford the increase all at once without knowing our individual circumstances. In my case my full cost will triple my cost effective January of 2012 which does create a hardship and I believe in not fare because I am able and willing to continue working. The staff report states that years of service will now be a factor which is not true for retirees who exceed the 50,000 income. Again I believe this is unfair and for someone who served for 30yrs I feel I have earned the right to follow the same phase out as ALL retirees. In addition If I retire sometime in 2012 what happens then? Do I continue to pay the full cost or do I fall within the phase out scale that is being recommended?

I know these are tough times and difficult decisions are required. I also know that the retirees have contributed greatly to the city and deserve to be treated with dignity and respect. If I recall correctly one of the cities values is PRIDE In OUR PEOPLE AND PRODUCT. I would hope that would still be the case once we retiree for personal or professional reasons.

I wish you the best .

## D

Mayor Bob Link  
Vice Mayor Amy Shuklian  
Council members E Warren Gubler, Mike Lane, Steven Nelson  
Eric Frost  
Charlotte Dunn

On May 09, 2011 I received the City of Visalia Retiree Health Funding Policy packet, including the May 16, 2011 Draft Agenda Item, Retiree meeting comments, comment letters, and potential retiree health contribution schedules. I appreciate the staff time and additional research that occurred to prepare these documents.

My comments and questions:

1. Council criteria, phase out period must be less than 10 years, why not make the phase out period to 9 years? The Retirees need this longer phase out period.
2. One Page 4, item 4 recommends "City Council can no longer participate in retiree health" however on Page 9 this line has been dropped? Currently, do City Council members participate in the City health plan and than the retiree health plan? Why?
4. Of the 238 Retirees on the Health Plan, how many qualify because of Household income less than the Federal Social Security Earning Limits? How much is the limit?
5. Of the 238 Retirees on the Health Plan, how many qualify because of CalPERS disability retirement?
6. Attachment #3 Potential Retiree Health Contribution Schedules I suggest the Council should read these are "monthly contributions"
7. Why not have attachment #4 that really shows what these increases mean to the retiree?  
In my case as a single household, currently I pay \$280.69 per month and equals \$3,368.28 per year.  
Under the proposed contributions for 2012, I would pay \$514.76 per month and equals \$6,177.12 per year. This is an increase of \$2,808.84. The proposed contributions for a married couple and/ with a family are also dramatic.
9. Are you asking the active employees, administration staff, and City Council members to take at least a \$2,808.84 loss in income to help address the overall budget shortfall?
9. I ask that you all read every word of the Retirees comments, letters, and look in the Retirees eyes to see the pain and suffering before you make a final recommendation.

Thank You  
Sandra K Dauer  
City of Visalia Retiree

**E**

**From:** "[owsl6@aol.com](mailto:owsl6@aol.com)" <[owsl6@aol.com](mailto:owsl6@aol.com)>  
**Date:** May 11, 2011 6:03:49 PM PDT  
**To:** Charlotte Dunn <[CDunn@ci.visalia.ca.us](mailto:CDunn@ci.visalia.ca.us)>  
**Subject: ouestion and a answer to your letter**

Dear mister Frost and charlotte Dunn, I have a ouestion about why do the rates for retirees have to be so high when social security pays 80% of the costs you are responsible for just

20% which make you the secondary insurance carrier. I just dont see the the great cost there for the city of visalia. yes you have my permisson to put my blog into the times delta.

Thanks and May God bless all of you and us old folks

Donnie Owsley

# City of Visalia Agenda Item Transmittal

**Meeting Date:** 5/16/2011

**Agenda Item Number (Assigned by City Clerk):** 2

**Agenda Item Wording:** Santa Fe Trail Connection from Visalia to Tulare Update

**Deadline for Action:** none

**Submitting Department:** Community Development

**Contact Name and Phone Number:**

Adam Ennis, Assistant Community Development Director, 713-4323  
Chris Tavarez, Management Analyst, 713-4540

**Recommendation**

Staff recommends that Council receive the presentation by Tulare County Association of Government (TCAG) representatives, of the Santa Fe Trail Connection project from Visalia to Tulare. Council questions, comments and direction to staff are invited.

**Summary**

Ted Smalley, Executive Director of TCAG and Mike Sherrod of RRM Design, will present an update on the Measure R Santa Fe Trail Connection Project from Visalia to Tulare. Upon the adoption of Measure R, in 2007, and at the direction of the TCAG Board, TCAG Staff took the lead on this project in order to coordinate regional efforts from the County, City of Tulare and City of Visalia to help make the trail become a reality. This historic regional trail would be the first of its kind in the County and would help preserve a corridor for future light rail or a dedicated bus route.

**Department Discussion**

**Background**

Visalia City staff has been involved for several years in preliminary discussions with the County, City of Tulare and TCAG regarding the planning and preliminary implementation strategy for this regional connectivity trail. In March 2011, the County Board of Supervisors certified the Environmental Impact Report (EIR) and approved preliminary design of the project; federal environmental approval was granted in April 2011. Measure R funding is expected to be leveraged for additional state and federal funding needed to cover the costs of construction. Staff will continue to work with TCAG for necessary right of way acquisition within the City's

**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 AE 5/6/11  
(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.

urban development area and design of construction plans in an effort to begin construction within a few years.

Next steps expected for the City to undertake are:

- Work with TCAG on trail design elements
- Staff participation in Trail Management Entity to draft agreement for Operations and Maintenance
- Assist in Segment 1a easement recordation (section within Visalia's Urban Development Boundary)

Regional Connection

City of Visalia staff is currently working on a portion of trail that will connect to this project on the north. The City of Visalia led section will extend into the City from Avenue 272 north to Tulare Avenue and is expected to be awarded for construction by November 2011. The City of Tulare has a Santa Fe Trail project that will connect to this regional project on the south end and extend into the City of Tulare.

**Prior Council/Board Actions:**

None

**Committee/Commission Review and Actions:**

None

**Alternatives:**

None

**Attachments:**

TCAG Presentation - Santa Fe Trail Connection Update

**Recommended Motion (and Alternative Motions if expected):**  
Receive the presentation by TCAG; ask questions, comment and provide direction to staff as appropriate.

***Environmental Assessment Status***

**CEQA Review: N/A**

**NEPA Review: N/A**

**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)*  
none

Copies of this report have been provided to: **n/a**





## Santa Fe Trail Connection Update



## Santa Fe Trail Genesis

- The Santa Fe Trail Preserves historic rail corridor for future regional light rail or dedicated bus route
- It is identified as highest priority in County's Regional Bicycle Transportation Plan
- It closes multi-use trail gap between Tulare and Visalia
- It improves regional alternative transportation infrastructure
- Funded by Measure R, and State and Federal grants



## TCAG Takes the Lead

- 2007 - Tulare and Visalia agree to assume maintenance of the completed trail system
- TCAG assigned as Lead Agency for Environmental Clearance, Design and Construction
- 2008 – Outreach with adjacent landowners and key stakeholders begins and continues through January 2011

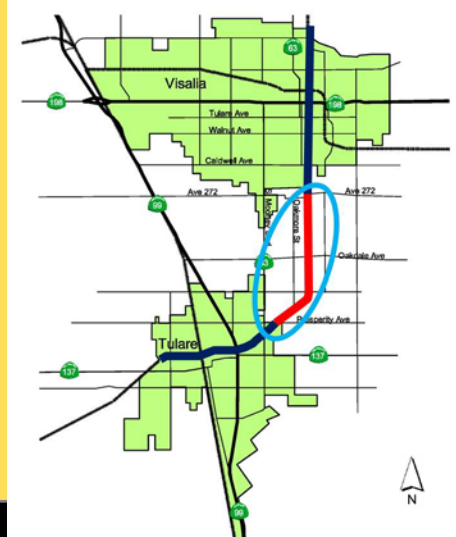


## TCAG Takes the Lead

- 2009 thru Feb 2011 Preliminary Design and Environmental Analysis conducted
- March 2011 – County certifies Environmental Impact Report (EIR) Certified and adopts Mitigation and Monitoring Report
- March 2011 – County approves Preliminary Design
- April 2011 – Federal Government grants Categorical Exclusion (CE) for trail



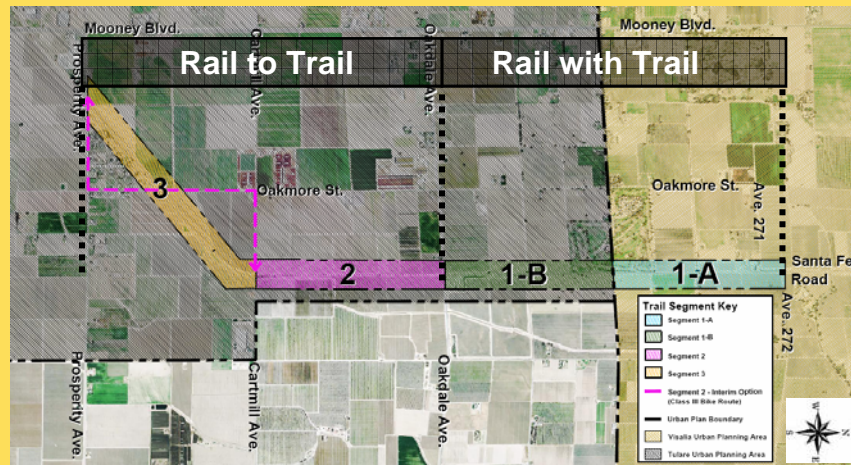
# Project Overview



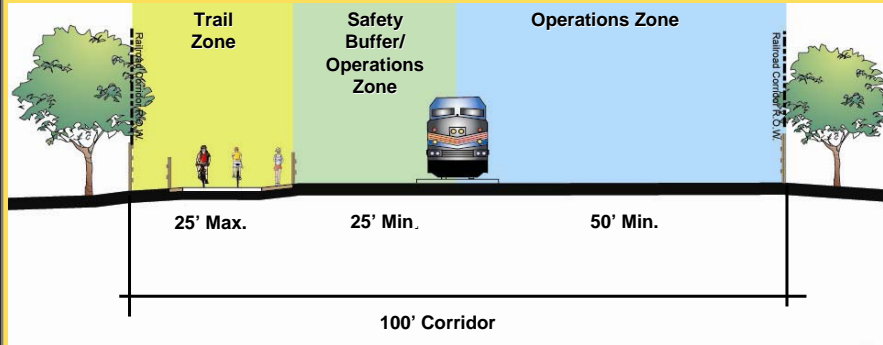
- The Santa Fe Trail Connection would connect to Visalia and Tulare's portions of the Santa Fe Trail



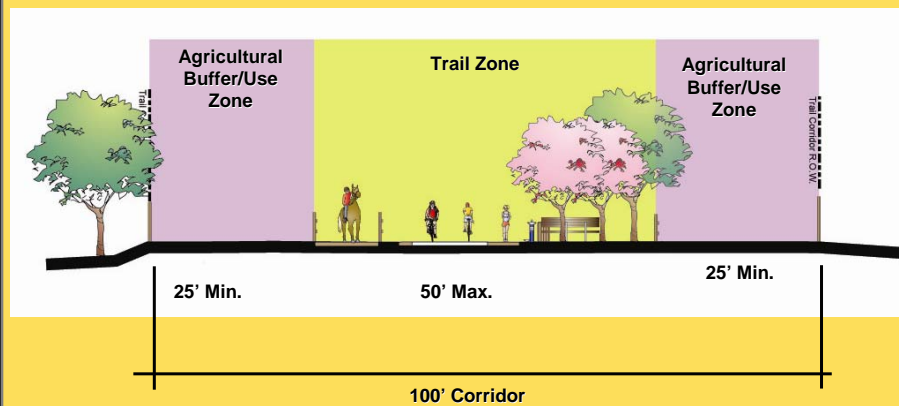
# Design Overview



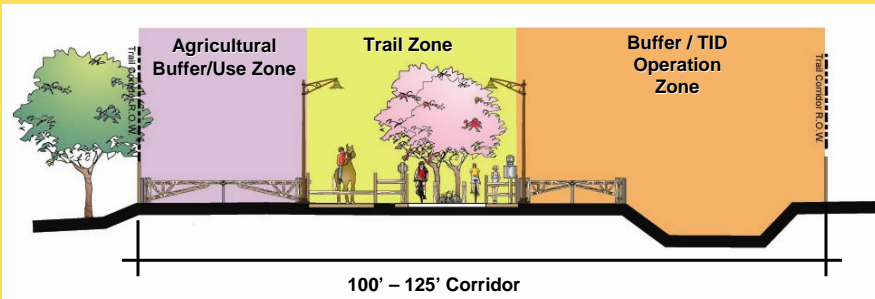
# Segment 1-A and 1-B Rail with Trail



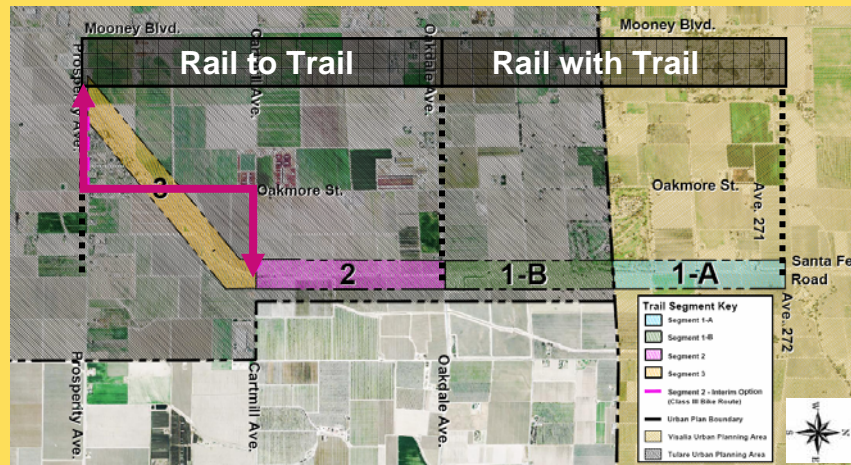
# Segment 2 Rail to Trail



# Segment 3 Rail to Trail



# Design Overview



## TCAG's Next Steps

- Begin ROW engineering and construction documentation efforts starting in June 2011
- Establish trail management entity in consultation with County, Tulare and Visalia
- Begin construction of Segment 1 and 2 in March or April 2013 and complete by summer 2014



## Visalia's Next Steps

- Work with TCAG to refine trail design elements
- Assign staff to participate in the development of the Trail Management Entity
- Begin easement recordation process for Segment 1a
- TCAG will reimburse 100% of all costs associated with property acquisitions and easements



## City of Visalia Agenda Item Transmittal

**Meeting Date:** May 16, 2011

**Agenda Item Number (Assigned by City Clerk):** 6b

**Agenda Item Wording:** Authorization to submit a grant application in the amount of \$119,264 to the California Emergency Management (Cal EMA) for the purchase and installation of shelters, solar lighting equipment, and upgrade the Automated Vehicle Locator (AVL) equipment for the Visalia Transit system and approve funds to be appropriated when grant is awarded.  
**Resolution No. 2011-21 required.**

**Deadline for Action:** May 16, 2011.

**Submitting Department:** Administration – Transit Division

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

**Department Recommendation:** Authorization to submit a grant application in the amount of \$119,264 to the California Emergency Management (Cal EMA) for the purchase and installation of shelters, solar lighting equipment, and upgrade the Automated Vehicle Locator (AVL) equipment for the Visalia Transit system and approve funds to be appropriated when grant is awarded.

**Summary:** The Transit Division is requesting authorization to submit an application to Cal EMA. The grant program is part of the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond (Prop 1B) to provide funding for transit system safety & security projects. If awarded, the grant funds will be used to purchase and install bus shelters and solar lighting at the busiest bus stops in the Visalia Urbanized Area which includes Goshen and the cities of Farmersville and Exeter. The funds will also be used to upgrade the Automated Vehicle Locator system on the older buses. This is an ongoing effort the transit division has been pursuing for the last three years. In FY 07/08, Transit received \$154,456, in FY 08/09 \$119,158, and in 09/10 \$119,264.

**Background:** The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by voters as Prop 1B on November 7, 2006, includes just under \$20 billion for various programs such as Corridor Improvement, State Route 99, Ports, School bus, State Highways, Infrastructure, Safety and Security, Seismic Retrofit, Railroad Crossing, Local Streets and Roads, and a program of funding in the amount of \$1 Billion to be made available for Transit System Safety, Security and Disaster Response Account. The City of Visalia's allocation

**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**   RN    
**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.

is \$119,264 for fiscal year 2010-2011 and must be expended within three years after grant award.

If awarded the grant funds will be used to purchase and install bus shelters and solar lighting at the busiest bus stops. This is an ongoing effort to update all existing shelter locations and add to new locations where customers wait in the dark during evening service. Currently there are two types of solar lighting available, one that attaches to the shelter and one that is mounted on a pole for stops that do not have a shelter.

The solar lighting, positioned at bus stops, will protect passengers by deterring crime and making customers feel safer riding the bus. It will also reduce or eliminate vandalism and increase the life of existing bus stop equipment. Providing safety measures to passengers potentially can increase ridership. This grant opportunity is part of a continuous effort to secure our transit infrastructure.

The Transit Division applied for and was awarded funds to purchase solar lighting and bus shelters in fiscal years 2007-2008, 2008-2009, and 2009-2010. An estimated fifteen (15) bus shelters with solar lighting and 10 stand alone solar lights will be purchased with the funds received.

If awarded, funds will also be used to upgrade the current AVL system. All Visalia Transit buses have an AVL system for tracking buses on each route. The AVL upgrade is needed as the older system has a continuous alarm issue that causes it not to operate correctly. This system enables the Green Line staff to track buses and know if there is an issue when the alarm feature is used. This system is a great safety feature for drivers and passengers.

**Funding:** The Transit Division currently has \$56,000 budgeted in safety & security funds and \$14,000 in Local Transportation Funds (LTF) for bus shelters. If the grant is awarded to the City, Council would need to appropriate \$36,764 more towards the shelter project and \$26,500 for the new AVL upgrade project. The LTF funds currently appropriated would be released back into the Transit Fund. Both projects will then be 100% funded with safety & security funds, totaling \$119,264.

**Prior Council/Board Actions:** None

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

**Alternatives:** None

**Attachments:** Resolution No. 2011-21

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** I move that the City Council authorize staff to submit a grant application in the amount of \$119,264 to the California Emergency Management Agency for the purchase and installation of shelters, solar lighting equipment, and upgrade the Automated Vehicle Locator (AVL) equipment for the Visalia Transit system and approve funds to be appropriated when grant is awarded.  
**Resolution No. 2011-21 required.**



**Financial Impact**

**Funding Source:**

Account Number: 4511-0-72-0-9640 = \$92,764  
4511-0-72-0-9222 = \$26,500

**Budget Recap:**

Total Estimated cost: \$ 119,264	New Revenue: \$ 0
Amount Budgeted: \$ 0	Lost Revenue: \$
New funding required: \$119,264	New Personnel: \$
Council Policy Change: Yes _____ No <u>X</u>	

**Environmental Assessment Status**

**CEQA Review:**

Required? No  
Review and Action: Prior:  
Require:

**NEPA Review:**

Required? No  
Review and Action: Prior:  
Require:

**Tracking Information:** *Record a Notice of Completion with the County Recorder*

Copies of this report have been provided to:

## RESOLUTION NO. 2011-21

A resolution of the City Council of the City of Visalia authorizing the Transit Division to accept a grant from the Governor's Office of Homeland Security for lighting equipment at the Visalia City Coach bus stops.

**WHEREAS**, the California Emergency Management awarded a grant to the City of Visalia, FY10-11 Prop.1B-6361-0002; and

**WHEREAS**, the California Emergency Management is administering these funds in the State of California; and

**WHEREAS**, the City of Visalia was named in the California Emergency Management as the subawardee for the purchase of capital projects within the grant guidelines; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Manager, or his/her designee, is hereby authorized and empowered to execute in the name of the City of Visalia an agreement with the California Emergency Management and all other necessary documents to implement and carry out the purposes of this resolution.

Passed, approved, and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Signatures of Governing Body Members:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** May 16, 2011

**Agenda Item Number (Assigned by City Clerk):** 6c

**Agenda Item Wording:** Authorization for staff to apply for a Public Transportation Modernization, Improvement, and Service Enhancement (Prop 1B) grant in the amount of \$2,467,387 to reimburse the Transit Division for the Transit Operations & Maintenance Facility expansion for fiscal years 2011 through 2013.

**Resolution No. 2011-22 Required.**

**Deadline for Action:** May 16, 2011

**Submitting Department:** Administration – Transit Division

**Contact Name and Phone Number:** Monty Cox, 713-4591;  
and Leslie Caviglia, 713-4317

**Department Recommendation:**

It is recommended that the Council authorize staff to apply for a Public Transportation Modernization, Improvement, and Service Enhancement (Prop 1B) grant of \$2,467,387 for the reimbursement of the Transit Operations & Maintenance Facility expansion for fiscal years 2011 through 2013.

**Summary/background:**

The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by voters as Prop 1B on November 7, 2006, includes just under \$20 billion for various programs such as Corridor Improvement, State Route 99, Ports, School bus, State Highways, Infrastructure, Safety and Security, Seismic Retrofit, Railroad Crossing, Local Streets and Roads, and a program of funding in the amount of \$4 Billion to be made available for Public Transportation projects. These transit funds are appropriated through the California Department of Transportation (Caltrans). The State has allocated over \$8 million from the transit portion of the bonds to Tulare County for fiscal years 2011 through 2013. The City of Visalia's allocation is \$2,467,387 for the three fiscal years and must be encumbered within three years of this allocation and expended within three years after encumbrance. This is also in line with the approved expenditure plan by Caltrans. This plan also includes funds previously received in FY 07-08 (\$1,097,789); FY 08-09 (\$671,684); as well as funds yet to receive for FY 09-10 (\$674,665). Prop 1B grants are administered through the Tulare County Association of Governments (TCAG).

**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** \_\_\_\_\_

**Finance** \_\_\_\_\_  
**City Atty**   N/A    
**City Mgr** \_\_\_\_\_

Due to the State's budget, there is concern that future state appropriations of these funds could be in jeopardy; therefore, TCAG has requested that agencies submit applications for all three years by June 1 in order to maximize our potential for receiving these funds.

These funds do not require a match. There are five categories for eligible projects:

1. Rehabilitation, safety, or modernization improvements
2. Capital service enhancements or expansions
3. New capital projects
4. Bus rapid transit improvements
5. Rolling stock procurement, rehabilitation or replacement

Staff recommends the City of Visalia use the three-year allocation of funds to cover the expenses for the construction of the Transit Operations & Maintenance Facility expansion and reimburse the Local Transportation Fund (LTF) which has been used to pay for expenses during the waiting period for bonds to sell.

The Transit Division has received \$1,097,789 in FY 07-08 for the purchase of land to construct the expansion of the Transit Center. In FY 08-09 \$671,684 funds were received for the construction of the Transit Operations & Maintenance Facility. We are waiting the sale of bonds for FY 09-10 funds of \$674,665 to cover expenses associated with the Transit Operations & Maintenance Facility expansion. Another \$2,900,000 of Prop 1B funds are programmed in the expenditure plan through FY 2016-2017 for bus purchases.

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

**Committee/Commission Review and Actions:** N/A

**Alternatives:**

Not apply

**Attachments:**

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

I move to authorize staff to apply for a Public Transportation Modernization, Improvement, and Service Enhancement (Prop 1B) grant of \$2,467,387 to reimburse the Transit Division for the Transit Operations & Maintenance Facility expansion for fiscal years 2011 through 2013.

**Resolution No. 2011-22 required.**

**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:

**Attachment I**

**RESOLUTION # 2011-22**

**Authorization for the Execution of THE  
CERTIFICATIONS AND ASSURANCES  
FOR THE PUBLIC TRANSPORTATION MODERNIZATION,  
IMPROVEMENT, AND SERVICE ENHANCEMENT ACCOUNT BOND  
PROGRAM**

**WHEREAS**, the City of Visalia is an eligible project sponsor and may receive state funding from the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) now or sometime in the future for transit projects; and

**WHEREAS**, the statutes related to state-funded transit projects require a local or regional implementing agency to abide by various regulations; and

**WHEREAS**, Senate Bill 88 (2007) named the Department of Transportation (Department) as the administrative agency for the PTMISEA; and

**WHEREAS**, the Department has developed guidelines for the purpose of administering and distributing PTMISEA funds to eligible project sponsors (local agencies); and

**WHEREAS**, the City of Visalia wishes to delegate authorization to execute these documents and any amendments thereto to the Transit Manager.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Visalia Council that the fund recipient agrees to comply with all conditions and requirements set forth in the Certification and Assurances document and applicable statutes, regulations and guidelines for all PTMISEA funded transit projects.

**NOW THEREFORE, BE IT FURTHER RESOLVED** that the Transit Manager be authorized to execute all required documents of the PTMISEA program and any Amendments thereto with the California Department of Transportation.

**Agency Board Designee:**

**BY:** \_\_\_\_\_

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** May 16, 2011

**Agenda Item Number (Assigned by City Clerk):** 6d

**Agenda Item Wording:** Award a contract to Burns & McDonnell in the amount of \$99,000 for "Energy Assurance Planning Services" (RFP #10-11-29) to be funded by the Local Energy Assurance Planning (LEAP) Grant.

**Deadline for Action:** May 16, 2011

**Submitting Department:** Fire Department

**Contact Name and Phone Number:** Mark Nelson, Fire Chief (4220); Karl Kassner, Administrative Services Officer (4545); Nancy Renovato, Senior Administrative Analyst (4513)

**Department Recommendation:** Staff recommends that the City Council authorize the City Manager to award RFP #10-11-29 and enter into an agreement with Burns & McDonnell for the development of an Energy Assurance Plan funded by the LEAP Grant.

**Summary/Background:** The City received a Local energy Assurance Planning (LEAP) grant, consisting of \$99,000 as part of the American Recovery and Reinvestment Act of 2009 (ARRA). ARRA's goal is to facilitate recovery from disruptions to the energy supply and enhance reliability and quicker repair of outages. The LEAP initiative focuses on developing new or refining existing plans that allow cities to have a well developed, standardized energy assurance plan that they can rely on during energy emergencies and supply disruptions.

Although the City already has an Emergency Operations Plan (EOP) in place, the plan does not include an energy assurance component. Staff considers that by developing and adding this component to the existing plan, the City will be at an advantage to better address energy supply disruption risks and vulnerabilities that will lessen the impact in emergency situations. Additionally, staff anticipates that by being part of the plan development, the City will be in a key position for obtaining future grants for this project.

When staff first developed the concept for the grant application, it was contemplated that a contract employee would be hired to conduct the planning and implementation phases of the plan; however, once the grant was awarded, staff considered that it would be more prudent to work with other cities that are developing a similar plan. On October 19, 2009, the City Council authorized staff to submit a change to the U.S. Department of Energy to include using a consultant rather than a contract employee to conduct the planning efforts. Since then, staff has completed the bidding process and is ready to award a contract.

**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.

Staff recommends that a contract in the amount of \$99,000 be awarded to Burns & McDonnell to execute the LEAP effort. Burns & McDonnell has extensive experience with Municipal Utility Systems; qualifications include:

- Currently providing consultant services to the City of Chula Vista, CA to execute their LEAP effort.
- A proven track record of successful projects with more than 60 years of expertise in the planning, design and construction of central energy plants and more than 100 years of experience with municipal utility systems.
- Extensive experience in the development and implementation of all form of renewal energy systems.
- Industry leader in financial planning investment analysis of district energy systems.

Proposed scope of work: (Attachment A)

- Phase 1 Kick Off Meeting & Critical Facilities Survey
- Phase 2 Technical Analysis & Strategy Formulation
- Phase 3 Energy Assurance Plan Formulation

Based on the firm's qualifications & proposal, staff recommends that Burns & McDonnell be retained for the development of an Energy Assurance Plan for the City of Visalia.

**Prior Council/Board Actions:**

October 19, 2009 – Council authorized staff to submit an application for the Local Energy Assurance Grant

April 26, 2010 – Council authorized staff to submit a change to the US Dept. of Energy to use a consultant to conduct planning efforts for an energy assurance plan.

**Recommended Motion (and Alternative Motions if expected):** I move to award a contract to Burns & McDonnell in the amount of \$99,000 for "Energy Assurance Planning Services" (RFP #10-11-29) to be funded by the Local Energy Assurance Planning (LEAP) Grant.

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:**

Attachment A (Fee Structure & Schedule)

**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:



ATTACHMENT A



January 21, 2011

City of Visalia  
Purchasing Division  
707 W Acquia  
Visalia, CA 93291

Re: Request for Proposal #10-11-29 Energy Assurance Planning Services

Dear Selection Board Members,

Burns & McDonnell is pleased to submit the following fee structure and schedule for energy assurance planning services for the City of Visalia.

Burns & McDonnell proposes a Lump Sum fee of **Ninety Nine Thousand US Dollars (\$99,000)** for the scope of services identified in the Burns & McDonnell proposal submitted under separate cover. The services are based on the attached rate sheet and include all expenses. Expenses included are reproduction, communication and travel for the Burns & McDonnell team to make one site visit for the Kick-Off meeting and to conduct a technical survey of critical facilities. The fee will be invoiced monthly based on the percent of work completed. The fee breakdown is indicated on the following phasing of project tasks:

**Phases:**

1. **Phase 1 - Kick Off Meeting & Critical Facilities Survey** (20%)
  - a. Attend the Kick-Off meeting with City personnel [Note: the prioritized list of critical facilities should be available for review prior to the meeting]
  - b. Survey the critical facilities to gather pertinent information

**Work Products:** Meeting Minutes, Draft DOE ARRA reports as required

2. **Phase 2 Technical Analysis & Strategy Formulation** (50%)
  - a. Conduct technical analysis of survey results
  - b. Formulate a short-term energy assurance strategy, associated projects and cost estimates
  - c. Formulate a long-term energy assurance strategy and concept for implementation
  - d. Provide consultative support to Visalia staff for associated tasks

**Work Products:** Draft DOE ARRA reports as required

3. **Phase 3 - Energy Assurance Plan Formulation** (30%)
  - a. Formulate the draft Energy Assurance Plan (EAP)
  - b. Revise draft EAP to address Visalia comments
  - c. Provide consultative support to Visalia staff for implementation

**Work Products:** Draft DOE ARRA grant report, Draft Energy Assurance Plan, Final Energy Assurance Plan

9400 Ward Parkway • Kansas City, Missouri 64114  
Tel: 816-822-7030 • Fax: 816-822-3517 • www.burnsmcd.com



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January 21, 2011  
Page 2

We are excited about the opportunity to demonstrate our Team's expertise working with the City of Visalia, its partners and stakeholders to develop a successful Local Energy Assurance Plan. We thank you for the opportunity to submit our proposal and we look forward to an interview and discussing this important project in more detail.

Thank you for your consideration.

Roderick Schwass, MBA, LEED AP  
Project Director

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** May 16, 2011

**Agenda Item Number (Assigned by City Clerk):** 6e

**Agenda Item Wording:** Award Energy Efficient Lighting Retrofit to Kertel Communications, Inc., dba Sebastian, (RFP #10-11-52) with change order to be funded by the City's EECBG grant.

**Deadline for Action:** May 16, 2011

**Submitting Department:** Administration Department, Natural Resource Conservation Division

**Contact Name and Phone Number:**

Kim Loeb, Natural Resource Conservation Manager, 713-4530  
Leslie Caviglia, Deputy City Manager, 713-4317

**Department Recommendation:**

Staff recommends that the City Council award RFB 10-11-52 to Kertel Communications, Inc., dba Sebastian and authorize the City Manager to enter into an agreement with Sebastian to implement energy efficient lighting retrofits at City facilities, with a change order, funded by the City's EECBG grant.

**Summary:**

The City received an Energy Efficiency and Conservation Block Grant (EECBG), which consists of \$1.15 million of ARRA stimulus funds. The City Council approved retrofit of existing buildings with energy efficient lighting and heating, ventilating and air conditioning (HVAC) as one of the priority projects when it authorized staff to apply for EECBG funds at its June 15, 2009, meeting.

The City published Request for Bid (RFB) 10-11-52 on March 10, 2011, for Energy Efficient Lighting Retrofits at the West and East Parking Structures, various City Parking Lots, and the City Corporation Yard, and alternate projects including the Convention Center Parking Lots, Convention Center Pedestrian Courtyard, and the Convention Center Exhibit Hall. The bid closed on March 30, 2011. Four bids were received. Sebastian of Fresno, California, submitted the lowest bid at \$500,084.

The submitted bids came in significantly higher than the engineer's estimate, especially for retrofit of City parking lot lighting with LEDs. Therefore, staff recommends the City Council award the project with an immediate change order to conduct the Convention Center Exhibit Hall lighting retrofit instead of at the various City Parking Lots and Corporation Yard. This change is acceptable to Sebastian. The revised project cost is \$458,156.

**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.

**Background:**

In addition to the EECBG grant program, the City is a participant in the Energy Technology Assistance Program (ETAP), an incentive program funded through the State Energy Program with ARRA stimulus funds. ETAP program provides incentives for retrofit of parking lot and parking structure lighting with specified energy efficient bi-level lighting. Energy Solutions, the ETAP administrator, conducted a focused audit of City parking lots and structures. The audit report was completed in December 2010. Southern California Edison conducted a limited audit in 2008, which identified lighting retrofits the City could implement including the Convention Center Exhibit Hall.

Staff developed a lighting retrofit scope of work based on these two audits at the following City facilities. The bid was based on the Base Projects.

**Base Projects**

- 1. West Parking Structure
- 2. East Parking Structure
- 3. City Maintenance Yard (Corporation Yard)
- 4. Parking Lots

**Alternate Projects**

- A. Convention Center Parking Lots
- B. Convention Center Pedestrian Courtyard
- C. Convention Center Exhibit Hall

Taylor Teter Partnership, with offices in Visalia and Fresno, California, was contracted for electrical engineering services through the City’s informal Request for Proposal (RFP) process. Taylor Teter Partnership prepared plans and specifications for the Energy Efficient Lighting Retrofit RFB, paid for using EECBG grant funds.

RFB 10-11-52 was issued on March 10, 2011. The RFB was mailed to potential bidders and bidders exchanges, was posted to the on-line Bid Net system; and it was published in the Visalia Times-Delta on March 10 and 16, 2011. A non-mandatory pre-bid meeting and job walk-through was conducted on March 23, 2011.

The bid results were as follows:

	<i>Contractor</i>	<i>Base Bid</i>
1.	Sebastian (Fresno, CA)	\$ 500,084
2.	American Inc. (Visalia, CA)	\$ 526,917
3.	A-C Electric Company (Visalia, CA)	\$ 528,600

Because this is a federally funded EECBG grant project, the City cannot consider local preference (e.g., 5% local preference).

Based on the engineer’s estimate and the ETAP audit report, staff had anticipated that all of the Base Projects, and most if not all of the Alternate Projects, could be funded within the project budget. However, all of the bids came in much higher. For this reason, staff has evaluated the projects and recommends the following change to the scope of work to include retrofits at the following facilities:

- West Parking Structure

- East Parking Structure
- Convention Center Exhibit Hall

The revised total cost is \$458,156. Sebastian is agreeable to this change.

Staff's initial estimate is that these retrofits will save the City approximately \$46,900 in annual electrical costs. Additionally, the parking structure retrofits are eligible for approximately \$62,100 in ETAP incentives and all the retrofits are eligible for approximately \$44,000 in incentives from Southern California Edison. The incentives not needed for the project costs and half of the first three years of energy efficiency savings will be placed in the revolving Conservation Fund, as approved by Council on April 20, 2009. The Conservation Fund will be used for other energy efficiency and conservation projects.

This project will be funded through the City's EECEBG grant and incentives. No City General Fund dollars or other City discretionary funds will be used. This project must be awarded at the May 16, 2011, City Council meeting to meet the EECEBG grant deadline.

**Prior Council/Board Actions:**

April 20, 2009 – Authorization to apply for Energy Block Grant funding and creation of a Conservation Account

June 15, 2009 – Authorization to apply for Energy Block Grant funding

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:**

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

I move to award RFB 10-11-52 to Kertel Communications, Inc., dba Sebastian, with change order requested by staff, to implement Energy Efficient Lighting Retrofits for a total cost of \$458,156.

***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:** May 16, 2011

**Agenda Item Number (Assigned by City Clerk):** 6f

**Agenda Item Wording:** Award Energy Efficient HVAC Retrofit to ACCO Engineered Systems, Inc., (RFP #10-11-53) with change order to be funded by the City's EECBG grant.

**Deadline for Action:** May 16, 2011

**Submitting Department:** Administration Department, Natural Resource Conservation Division

**Contact Name and Phone Number:**

Kim Loeb, Natural Resource Conservation Manager, 713-4530  
Leslie Caviglia, Deputy City Manager, 713-4317

**Department Recommendation:**

Staff recommends that the City Council award RFB 10-11-53 to ACCO Engineered Systems, Inc., and authorize the City Manager to enter into an agreement with ACCO Engineered Systems to implement energy efficient HVAC retrofits at City facilities, with a change order, funded by the City's EECBG grant.

**Summary:**

The City received an Energy Efficiency and Conservation Block Grant (EECBG), which consists of \$1.15 million of ARRA stimulus funds. The City Council approved retrofit of existing buildings with energy efficient lighting and heating, ventilating and air conditioning (HVAC) as one of the priority projects when it authorized staff to apply for EECBG funds at its June 15, 2009, meeting.

The City published Request for Bid (RFB) 10-11-53 on March 14, 2011, for Energy Efficient HVAC Retrofits at City Hall West, Senior Center, Anthony Community Center, and Convention Center. The bid closed on April 15, 2011. Four bids were received. ACCO Engineered Systems, Inc., of Fresno, California, submitted the lowest bid at \$223,947.

Due to the grant requirement for the HVAC equipment to be "Buy American" qualified, award with an immediate change order is necessary. The change order will assure that all equipment will be Buy American qualified, but due to the increased cost, retrofit of the Senior Center will not be conducted. This change is acceptable to ACCO. The revised project cost is \$219,705.

**Background:**

Staff identified and prioritized City facilities with the oldest and least efficient HVAC systems as candidates for retrofit. Taylor Teter Partnership, with offices in Visalia and Fresno, California,

**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.

was contracted for mechanical engineering services through the City's informal Request for Proposal (RFP) process. Taylor Teter Partnership prepared plans and specifications for the Energy Efficient HVAC Retrofit RFB, paid for using EECBG grant funds.

RFB 10-11-53 was issued on March 14, 2011. The RFB was mailed to potential bidders and bidders exchanges, was posted to the on-line Bid Net system; and it was published in the Visalia Times-Delta on March 14 and 21, 2001. A non-mandatory pre-bid meeting and job walk-through was conducted on March 24, 2011.

The bid results were as follows:

	<i>Contractor</i>	<i>Base Bid</i>
1.	ACCO Engineered Systems (Fresno, CA)	\$ 223,947
2.	Servi-Tech Controls (Fresno, CA)	\$ 259,045
3.	American Inc. (Visalia, CA)	\$ 264,020
4.	Patton Air Conditioning (Fresno, CA)	\$ 342,144

Because this is a federally funded EECBG grant project, the City cannot consider local preference (e.g., 5% local preference).

Based on recommendations by City Building Maintenance and Convention Center Maintenance staff, the RFB specified units manufactured by Carrier with Trane as an acceptable substitute. Late in the RFB process, a bidder notified the City that most of the Carrier HVAC units specified in the RFB were no longer "Buy American" qualified, a requirement of the EECBG grant. The City issued a statement advising bidders to bid as specified and that the City would address the Buy American issue with a change order. The revised costs with Buy American qualified Trane equipment are significantly higher. Therefore, retrofit of units at the Senior Center was dropped from the scope of work to keep the project total within the available grant budget.

The scope of work will include the following tasks:

- Replace 6 HVAC units at City Hall West
- Replace 7 HVAC units at the Anthony Community Center
- Replace 8 HVAC units at the Convention Center

Staff's initial estimate is that these retrofits will save the City approximately \$18,846 in annual electrical costs. Half of the first three years of energy efficiency savings will be placed in the revolving Conservation Fund, as approved by Council on April 20, 2009. The Conservation Fund will be used for other energy efficiency and conservation projects.

This project will be funded through the City's EECBG grant. No City General Fund dollars or other City discretionary funds will be used. This project must be awarded at the May 16, 2011, City Council meeting to meet the EECBG grant deadline.

**Prior Council/Board Actions:**

April 20, 2009 – Authorization to apply for Energy Block Grant funding and creation of a Conservation Account

June 15, 2009 – Authorization to apply for Energy Block Grant funding

**Committee/Commission Review and Actions:**



**Alternatives:**

**Attachments:**

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

I move to award RFB 10-11-53 to ACCO Engineered Systems, Inc., with change order requested by staff, to conduct Energy Efficient HVAC Retrofits for a total cost of \$219,705.

***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:** May 16, 2011

**Agenda Item Number (Assigned by City Clerk):** 6g

**Agenda Item Wording:** In accordance with the City's policy on naming park facilities, approve the recommendation by the Parks & Recreation Commission to name the new neighborhood park located at Visalia Parkway and County Center Road (adjacent to Packwood Creek) the "Perry Family Park."

**Deadline for Action:** N/A

**Submitting Department:** Parks & Recreation

**Contact Name and Phone Number:** Vincent Elizondo, Director of Parks and Recreation, 713-4367

**Department Recommendation:**

In accordance with the City's policy on naming park facilities, approve the recommendation by the Parks & Recreation Commission to name the new neighborhood park located at Visalia Parkway and County Center Road (adjacent to Packwood Creek) the "Perry Family Park."

**Background:**

For several years now, the Visalia Parks & Recreation Foundation, in coordination with the Parks & Recreation Department, has been raising funds to help defray the costs of various park projects. These contributions have been big and small, both cash and in-kind contributions.

Major donors have had the opportunity to "sponsor" certain park amenities in accordance with the City's Ordinance related to the **Naming of City Owned Facilities, Buildings, and Parks** (City Code 12.060.020).

The ordinance includes some guidelines and policies to follow when implementing the program. Some key elements of the policy are outlined below:

- *"The policy ... **may be applied to entire facilities, or to portions of a facility, such as fields at a park, or rooms in a building.**"*

**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.

- *“It is understood that a facility may be selected in recognition of a financial contribution.... The following are general guidelines regarding financial contributions for which a naming opportunity may be extended ...*
- *“For a major prominent facility that exceeds \$500,000 in cost, a significant monetary contribution may be considered to be 10% in cash, property, securities, or in-kind services, of the total value of the development.”*
- *“If a facility is named in recognition of a financial contribution, an agreement should be signed between the donor and the City that specifies conditions of the gift, the responsibilities of each party and the minimum length of time the name will be used, signage and other appropriate provisions. The recommended minimum sunset should be no less than 15 years.”*

The Perry Family, residents of Visalia, would like to name the new neighborhood park in southwest Visalia (Project Name: Dan’s Lane) the “Perry Family Park”. This four acre park is located on Visalia Parkway, just west both County Center Road and Packwood Creek.

The donation would be \$80,000, which is roughly 10% of the actual construction cost for the neighborhood park project. The park is expected to open in the Fall of 2011. The donation schedule will be \$15,000 each year for 5 years and one final payment of \$5,000. The term of the sponsorship agreement is 25 years.

These funds shall be deposited in a City account designated for future park Capital Improvement Projects.

A contract for this donation is being finalized in accordance with the City’s naming policy. Donations are initially deposited with the Parks & Recreation Foundation, and then turned over to the City of Visalia.

As approved by the Council in 2007, a Sponsorship Donation Agreement will be executed by the City (City Manager); the Parks & Recreation Foundation; and the donor. The Council has authorized the City Manager to execute donor agreements on behalf of the City.

**Commission Review and Actions:** Park and Recreation Commission meeting of April 19, 2011.

**Attachments:** None

**Recommended Motion (and Alternative Motions if expected):** In accordance with the City’s policy on naming park facilities, the Parks and Recreation Commission is recommending to the Council to name the new neighborhood park on Visalia Parkway and County Center Road the “Perry Neighborhood Park”.

***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)*

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** May 16, 2011

**Agenda Item Number (Assigned by City Clerk):** 6h

**Agenda Item Wording:** Award a construction contract and authorize the City Manager to execute an agreement for RFB No. 10-11-62, Downtown One-way Street Conversions Project (including downtown amenities such as bulbouts, etc.), in the amount of \$579,000.00 to the low bidder, R. J. Berry Jr., Inc., and authorize an additional appropriation of \$375,000.00 from Measure R Local to complete the construction phase of the Project. The project is bounded by Garden Street, Santa Fe Street, Center Avenue and Main Street.

(Project No. 3011-00000-720000-0-8207)

**Deadline for Action:** May 16, 2011

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

**Contact Name and Phone Number:**

Adam Ennis, Assistant Director of Engineering, 713-4323  
Chris Young, Community Development Director, 713-4392

**Department Recommendation:** Staff recommends that the City Council award a construction contract and authorize the City Manager to execute an agreement for RFB 10-11-62 for the Downtown One-Way Street Conversions Project (including downtown amenities such as bulbouts, etc.), in the amount of \$579,000.00 to the low bidder, R. J. Berry Jr., Inc., and authorize an additional appropriation of \$375,000.00 from Measure R Local to complete the construction phase of the Project. The project is bounded by Garden Street, Santa Fe Street, Center Avenue and Main Street.

**Summary:** The Downtown One-Way Conversion Project was proposed to improve traffic flow, increase parking and extend the Main Street amenities from Garden Street to Santa Fe Street. The project would make lane configuration changes on the west side of Santa Fe Street creating a natural breakpoint at a major north/south arterial providing larger intersections for the transitions. In addition, the Main Street amenities (bulbouts, landscaping, etc.) would be extended two blocks east of Garden Street and additional angled parking would be provided. Awarding this project now will provide the opportunity to complete construction of the Main Street frontage improvements at the Main Street Promenade prior to opening of that building to business. The improvements in front of the Main Street Promenade are planned to be completed by July 29, 2011 to meet their occupancy deadline. The remainder of the project is planned to be completed by September 5, 2011.

**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.):\_1 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.

There were two construction phases of this project. The first phase was to expose and repair the Mill Creek culvert below Main Street which was completed in the fall of 2010. The construction of this phase was funded by the City's Storm Drain Fund. The second phase of the project is now ready for construction and includes the conversion from two-way traffic to 1) one-way eastbound traffic on Main Street between Garden Street and Santa Fe Street, 2) one-way southbound traffic on Garden Street from Center Avenue to Main Street and 3) one-way westbound traffic on Center Avenue from Santa Fe Street to Bridge Street.

The bid included a base bid for the Main Street and Garden Street conversions with an Alternate Bid Item 1 for sidewalk and landscape improvements across the north side of Main Street between Bridge Street and Santa Fe Street and an alternate bid item 2 which includes the Center Avenue conversion. The Alternative Bid Item 1 includes work that will connect the street improvements to the Main Street Promenade building. The exterior of the building will need to be completed prior to construction of these improvements. It is unknown at this time if the building exterior will be completed in time for the City's project to install these improvements or if these improvements will need to be installed at a later date by the Main Street Promenade project. If the improvements are constructed with the City project, staff would process a change order to include the Alternative Bid Item 1 improvements in the City project and the developer would reimburse the City for these improvements. Staff recommends that the City Council award the Base Bid and Alternate Bid Item 2 at this time since the City of Visalia Transit Division has indicated that the Center Avenue conversion will be compatible with the Transit Center operations.

Two bids were received for the project with the low base bid provided by R. J. Berry Jr., Inc., in the amount of \$506,413.40. The engineers estimate was \$610,000.00. The bid amount for Alternate Bid Item 1 was \$79,433.00, and the price for Alternate Bid Item 2 was \$72,297.50. It is not recommended to award Alternate Bid Item 1 at this time, as described above. An additional appropriation of \$375,000 from Measure R Local will be needed to complete construction of the project. This funding would come from design funding for the Visalia Parkway crossing at Packwood Creek that is budgeted for this year. On July 1, 2011 the remainder of the funding for the Visalia Parkway crossing at Packwood Creek becomes available and would allow for that project to be designed.

**Background:** A development project, the Main Street Promenade, is being constructed by Mangano Company on the north side of Main Street between Bridge Street and Santa Fe Street. During preliminary reviews of the frontage improvements for this development, it became clear to staff that continuing the Main Street aesthetics and traffic flow would resolve many issues that would occur without the conversions. Right-of-way widths through this portion of Main Street are consistent with those to the west which would allow for similar street frontage improvements and the continuance of the same traffic lane configurations east to Santa Fe Street. In addition, with the opening of the Santa Fe Street Bridge over State Highway 198, this corridor will become a major north/south arterial street through the City. The Santa Fe corridor will become a natural "break point" for traffic flows and will provide a clean and logical transition location from one-way to two way traffic.

The conversion of Garden Street to one-way southbound traffic and adding angled parking has been suggested by downtown merchants and property owners for some time. With the conversion of Main Street, the Garden Street conversion would "clean up" the small, cramped intersection at Garden Street and Main Street and provide better traffic flow. The conversion would also allow for the addition of angled parking resulting in an increase in the number of spaces available to the public on the street. The conversion of Center Avenue from two-way to

one-way westbound between Santa Fe Street and Bridge Street would also provide a consistent traffic flow west of Santa Fe Street and also allow for additional angled parking.

The Project is to be completed in three (3) stages, described below:

Stage 1 consists of completing the improvements along the north half of Main Street between Bridge Street and Santa Fe Street, including, but not limited to: bulb-out improvements, drainage, sidewalk, curb, gutter, crosswalk improvements, slurry seal, pavement markings, striping, and landscaping planters. Improvement areas include the northwest corner of Bridge Street and Main Street, the northeast corner of Bridge Street and Main Street, Main Street mid block bulb-outs, and the northwest corner of Main Street and Santa Fe Street.

Stage 2 consists of completing the improvements along Center Avenue between Bridge Street and Santa Fe Street, improvements along the east half of Garden Street between Center Avenue and Main Street, and along the north half of Main Street between Garden Street and Bridge Street. Stage 2 improvements include the following: bulb-out improvements, slurry seal, pavement markings, striping, and landscaping planters as shown on the approved Improvement Drawings. The Center Street improvements in Stage 2 are included with Alternate Bid Item 2.

Stage 3 consists of completing the improvements along the west half of Garden Street between Center Avenue and Main Street, and along the south side of Main Street between Garden Street and Santa Fe Street. Stage 3 improvements include: slurry seal, pavement markings and striping, trench repair, bulb-out improvements, drainage, sidewalk, curb, gutter, crosswalk improvements, and landscape planters.

The three project stages include the Base Bid and Alternate Bid Items 1 and 2. Alternate Bid Item 1 consists of sidewalk and landscaping improvements that are located adjacent to and abutting the Main Street Promenade building. The Alternate Bid Item 1 improvements were separated from the rest of the bid because they involve sidewalk and landscaping improvements between the Main Street Conversion and the private Main Street Promenade Building Project. The Main Street Promenade Building exterior may or may not be completed in time to allow for these improvements to occur with the City project. Therefore, the Alternative Bid Item 1 work may be constructed by the developer or the City depending on each project's construction schedule. Either way, the cost of these improvements is the responsibility of the developer. If the construction scheduling governs that the City construct these improvements, staff would process a change order to include these improvements in the City project and the developer would reimburse the City for these improvements.

Two bids were received for the Project. The low Base Bid was provided by R. J. Berry Jr., Inc., in the amount of \$506,413.40. The engineers estimate was \$610,000.00. The bid amount for Alternate Bid Item 1 was \$79,433.00, and the price for Alternate Bid Item 2 was \$72,297.50. Staff recommends that the City award the Base Bid and Alternate Bid Item 2 at this time. It is not recommended to award Alternate Bid Item 1 at this time, as described above. However, Staff may process a change order to the construction contract if it is determined to be necessary to construct these improvements with the City project. The 5% local vendor preference does not apply to this bid since it is governed by State Contract Law.

On May 10, 2011, the City of Visalia opened two (2) bids for the Downtown One-Way Streets Conversion Project. The results of the bid opening are as follows:

	Contractor	Address	Bid Amount
1.	R. J. Berry Jr., Inc.	P.O. Box 468 Selma, CA 93662	<b>\$578,710.90</b>
2.	Lee's Paving	1212 N. Plaza Drive Visalia, CA 93291	<b>\$669,145.41</b>

R. J. Berry Jr., Inc. has satisfactorily completed several projects for the City of Visalia in the past. The most recent includes the East Caldwell Avenue Widening Project and the Ferguson Avenue Extension.

**Financial Analysis:** This project is being funded with local Measure R funds. To date, \$174,000 in design and preconstruction related fees have been expended. This leaves \$326,000.00 in funding for the construction phase of the project. The low bid for the Project (including Alternative Bid Item 2) is \$578,710.90, and we estimate an additional \$147,000.00 for construction administration, testing, inspection services, and contingencies will be required. We anticipate Developer Fees and reimbursements of approximately \$25,000.00 to offset project costs. Accordingly, we are requesting a budget increase of \$375,000.00 to complete the project. This funding would come from design funding for the Visalia Parkway crossing at Packwood Creek that is budgeted for this year. On July 1, 2011 the remainder of the funding for the Visalia Parkway crossing at Packwood Creek becomes available and would allow for that project to be designed. A summary of the project funding is presented below:

	Current Funding
Original Project Budget	\$ 500,000.00
Estimated Developer Fees and Reimbursements	\$ 25,000.00
<b>Total Current Funding</b>	<b>\$ 525,000.00</b>
	Estimated Cost
City Staff and Consultant Fees (Pre-Construction Design and Administration Fees)	\$ -174,000.00
Low Bid Amount	\$ -579,000.00
Construction Support and Administration	\$ -147,000.00
<b>Project Total</b>	<b>\$ -900,000.00</b>

**Proposed Budget Increase** \$ 375,000.00

**Prior Council/Board Actions:** City Council authorized implementation and appropriated \$500,000.00 to fund the Downtown One-Way Streets Conversion project on March 1, 2010.



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

**Alternatives:** None recommended

**Attachments:** Attachment 1 – Location Map  
Attachment 2 – Bid Results  
Attachment 3 – Contractor Disclosure Form

**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*)

***Financial Impact***

**Funding Source:** Account Number: 3011-00000-720000-0-8264

**Budget Recap**

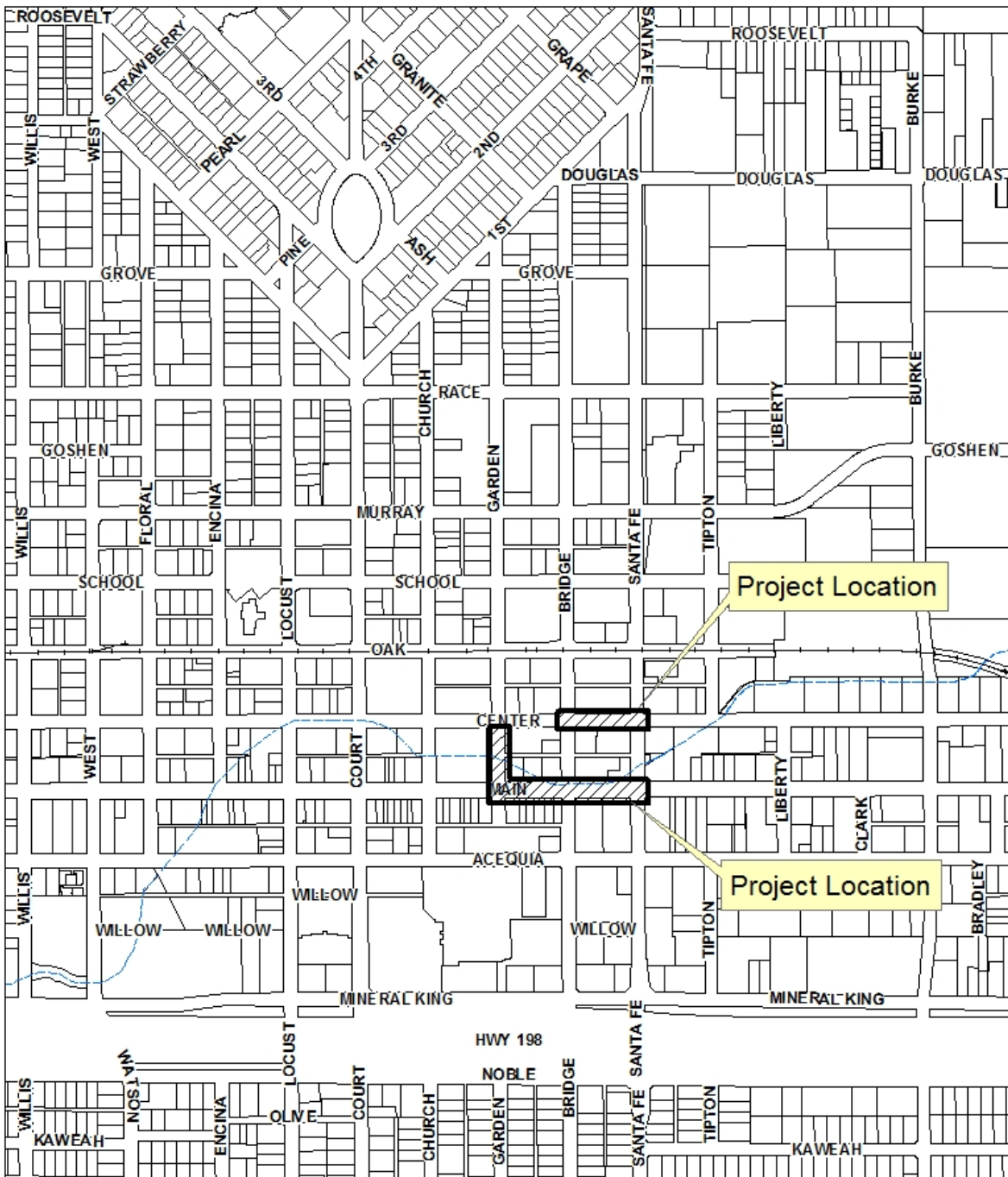
Total Estimated cost:	\$ 900,000.00	New Revenue:	\$
Amount Budgeted:	\$ 500,000.00	Lost Revenue:	\$
Developer Fees	\$ 25,000.00		
New funding required:	\$ 375,000.00	New Personnel:	\$
Council Policy Change:	Yes ___ No <u>X</u>		

***Environmental Assessment Status***

**CEQA Review:** Notice of Exemption, Environmental Document No. 2010-57, issued July 30, 2010.

**NEPA Review:** N/A

Copies of this report have been provided to:



**Downtown One-Way Street Conversions  
Between Garden St & Santa Fe St**



Scale: 1"=600'

Project Name: Downtown One-Way Conversions  
 Project No. 3011-8207

PM: MP  
 Date: 5/10/11

Downtown One-Way Street Conversions  
 Bid Canvass

Item No.	Description	Qty	Unit	Engineer's Estimate		Low Bid: J.R. Berry Jr., Inc.	
				Unit Price	Amount	Unit Price	Amount
1	Mobilization & Demobilization	1	LS	\$65,000.00	\$65,000.00	\$45,000.00	\$45,000.00
2	Dust Pollution Control	1	LS	\$2,500.00	\$2,500.00	\$5,000.00	\$5,000.00
3	Storm water Pollution Control	1	LS	\$2,500.00	\$2,500.00	\$5,000.00	\$5,000.00
4	Traffic Control & Implementation	1	LS	\$15,000.00	\$15,000.00	\$30,000.00	\$30,000.00
5	Remove Temporary Trench Patch	1	LS	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00
6	Saw Cutting	1,211	LF	\$1.00	\$1,211.00	\$2.00	\$2,422.00
7	Remove AC Pavement Section	10,546	SF	\$1.00	\$10,546.00	\$1.00	\$10,546.00
8	Remove Concrete Curb & Gutter	625	LF	\$3.00	\$1,875.00	\$5.00	\$3,125.00
9	Remove Concrete Sidewalk	2,000	SF	\$1.00	\$2,000.00	\$4.00	\$8,000.00
10	Remove Gutter Pan from Curbing	228	LF	\$5.00	\$1,140.00	\$3.00	\$684.00
11	Remove Existing D.I. and Plug w/Concrete	1	EA	\$500.00	\$500.00	\$1,000.00	\$1,000.00
12	Remove & Store Detectable Warning Surface	1	EA	\$500.00	\$500.00	\$250.00	\$250.00
13	Remove Existing Trees	5	EA	\$500.00	\$2,500.00	\$250.00	\$1,250.00
14	Concrete Landscape Curb	745	LF	\$30.00	\$22,350.00	\$24.00	\$17,880.00
15	Barrier Curb & Gutter (City Standard A2-6)	315	LF	\$30.00	\$9,450.00	\$25.00	\$7,875.00
16	Barrier Curb & Gutter (Modified City Standard A2-6)	1	LF	\$30.00	\$30.00	\$25.00	\$25.00
17	Concrete Vee Gutter (City Standard C-6)	226	LF	\$30.00	\$6,780.00	\$22.00	\$4,972.00
18	Type "B" Asphalt Concrete	193	TN	\$100.00	\$19,300.00	\$250.00	\$48,250.00
19	Class II Aggregate Base	303	TN	\$34.00	\$10,302.00	\$190.00	\$57,570.00
20	Slurry Seal (Caltrans Class 2)	58,164	SF	\$0.17	\$9,887.88	\$0.85	\$49,439.40
21	Storm Drain Inlet (old City Standard D-5)	4	EA	\$1,500.00	\$6,000.00	\$1,250.00	\$5,000.00
22	Storm Drain Inlet (City Standard D-5)	1	EA	\$2,600.00	\$2,600.00	\$2,800.00	\$2,800.00
23	Storm Drain Inlet (into New Culvert Roof Deck)	1	EA	\$1,500.00	\$1,500.00	\$2,000.00	\$2,000.00
24	Storm Drain Inlet (into Existing Culvert Roof Deck)	2	EA	\$2,500.00	\$5,000.00	\$2,000.00	\$4,000.00
25	Vee Gutter Drainage Inlet (City Standard D-7)	1	EA	\$1,000.00	\$1,000.00	\$1,750.00	\$1,750.00
26	Modify Existing Drain Inlet	1	EA	\$1,000.00	\$1,000.00	\$1,500.00	\$1,500.00
27	Storm Drain Junction Box	1	EA	\$1,000.00	\$1,000.00	\$1,400.00	\$1,400.00
28	12" PVC Storm Drain Pipe	97	LF	\$30.00	\$2,910.00	\$50.00	\$4,850.00
29	12" PVC Storm Drain Pipe (incl. trench repair)	52	LF	\$50.00	\$2,600.00	\$75.00	\$3,900.00
30	12" PVC Storm Drain Pipe (incl. sidewalk repair)	12	LF	\$45.00	\$540.00	\$50.00	\$600.00
31	12" Storm Drain Connection to Existing Culvert	2	EA	\$2,000.00	\$4,000.00	\$600.00	\$1,200.00
32	12" Storm Drain Connection to Existing SD Manhole	1	EA	\$1,000.00	\$1,000.00	\$480.00	\$480.00
33	12" Storm Drain Connection to Existing SD Lateral	1	EA	\$500.00	\$500.00	\$800.00	\$800.00
34	Traffic Striping & Pavement Markings	1	LS	\$15,000.00	\$15,000.00	\$9,500.00	\$9,500.00
35	Traffic Signs	1	LS	\$10,000.00	\$10,000.00	\$6,500.00	\$6,500.00
36	3" Roof Drain Laterals (2 LF each pipe)	9	EA	\$100.00	\$900.00	\$200.00	\$1,800.00
37	Adjust Manhole and Utility Boxes	1	LS	\$3,000.00	\$3,000.00	\$1,500.00	\$1,500.00
38	Demo/Over Excavation of Planter Areas	140	CY	\$157.50	\$22,050.00	\$50.00	\$7,000.00
39	Concrete Sidewalk	260	SF	\$16.80	\$4,368.00	\$6.00	\$1,560.00
40	Concrete Sidewalk w/Color	3,050	SF	\$24.15	\$73,657.50	\$8.00	\$24,400.00
41	Pavers with Detectable Warning Surface	410	SF	\$28.80	\$11,808.00	\$9.00	\$3,690.00
42	Decorative Brick Paving	2,400	SF	\$37.92	\$91,008.00	\$10.00	\$24,000.00
43	Tree Wells w/Grate	1	EA	\$1,848.00	\$1,848.00	\$2,500.00	\$2,500.00
44	Seat Walls	30	LF	\$366.80	\$11,004.00	\$325.00	\$9,750.00
45	Decorative Columns	6	EA	\$2,129.75	\$12,778.50	\$1,400.00	\$8,400.00
46	Landscape Soil Prep	140	CY	\$47.25	\$6,615.00	\$84.00	\$11,760.00
47	Landscape Irrigation	825	SF	\$100.98	\$83,308.50	\$24.00	\$19,800.00
48	Trees 24" Box	9	EA	\$808.50	\$7,276.50	\$175.00	\$1,575.00
49	Shrubs 5 gals	215	EA	\$42.00	\$9,030.00	\$1.00	\$215.00
50	Shrubs 1 gal	145	EA	\$20.37	\$2,953.65	\$7.00	\$1,015.00





CITY OF VISALIA  
Disclosure Contractors and Consultants

**NAMES OF PRINCIPALS, PARTNERS, AND/OR TRUSTEES:**

Firm Name R. J. Berry Jr. Inc.  
Firm Address 2020 High St, Suite B/ P.O. Box 468, Selma, CA 95662

List the names of all principals, partners, and/or trustees. For corporations provide names of officers, directors and all stockholders owning more than 10% equity interest in corporation:

Robert J. Berry Jr, President 100%  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5/11/11  
Date

[Signature]  
Signature  
Robert J. Berry Jr, President  
Print Name & Title

\_\_\_\_\_  
Date

[Signature]  
Signature  
\_\_\_\_\_  
Print Name & Title

# City of Visalia Agenda Item Transmittal

**Meeting Date:** May 16, 2011

**Agenda Item Number (Assigned by City Clerk):** 7

**Deadline for Action:** Per Visalia Municipal Code Section 17.02.145.B, an appeal before the City Council must be heard within 30 days of the appeal filing date. This appeal was filed on May 5, 2011, allowing the appeal to be heard on May 16, 2011.

**Agenda Item Wording:**

Public hearing for:

**Appeal of the Planning Commission's approval of the following actions:**

**Environmental Impact Report State Clearinghouse Number 20081211133:** Certification of the Final Environmental Impact Report (FEIR) for the Proposed Project which is to allow the expansion of the existing Walmart store located at 1819 East Noble Avenue from 133,206 square foot up to 190,000 square feet, with a grocery component, outdoor garden center and ancillary interior service-oriented tenants, including a fast food tenant and sign program. The FEIR was prepared to evaluate the potentially significant environmental impacts of the Proposed Project, and recommend mitigation measures to reduce significant impacts to a less than significant level. The Public Review Period for the Draft Environmental Impact Report began on October 14, 2010, and ended on November 29, 2010 (45 days)

With the exception of temporary Construction Noise, all of the Project's environmental impacts would be mitigated to a less than significant level. Due to the significant and unavoidable Construction Noise impacts, the Council's approval of the Proposed Project would necessitate the adoption of a Statement of Overriding Considerations setting forth the basis for finding that the Project's benefits outweigh the significant and unavoidable Construction Noise impacts, and the adoption of Findings that all other potentially significant environmental impacts are less than significant, or will be reduced to a level that is less than significant with the imposition of enforceable, feasible and effective mitigation measures contained in the FEIR and enforceable through the Mitigation Monitoring and Reporting Program (MMRP) **Resolution No. 2011-23 required.**

**Conditional Use Permit No. 2007-17:** A request by CEI Engineering Associates to allow the expansion of the existing Walmart store located at 1819 East Noble Avenue from 133,206 square foot up to 190,000 square feet, with a grocery component, outdoor garden center and ancillary interior service-oriented tenants, including a fast food tenant (the "Proposed Project"), as fully described in the Final Environmental Impact Report (SCH 20081211133). The existing 14.55 acre site area would be expanded to a total of 18.35 acres, all of which is currently zoned Commercial /Shopping Office (P-CSO), located at 1819 E. Noble Avenue. (APN: 100-050-001, 100-050-007, 100-050-013, 100-050-014, and 100-040-038) **Resolution No. 2011-24 required.**

**Variance No. 2007-06:** A request by CEI Engineering Associates to allow a sign program for building and monument signage exceeding the standards in Design District "A". The site

<b>For action by:</b> <input checked="" type="checkbox"/> City Council <input type="checkbox"/> Redev. Agency Bd. <input type="checkbox"/> Cap. Impr. Corp. <input type="checkbox"/> VPFA
<b>For placement on which agenda:</b> <input type="checkbox"/> Work Session <input type="checkbox"/> Closed Session
<b>Regular Session:</b> <input type="checkbox"/> Consent Calendar <input type="checkbox"/> Regular Item <input checked="" type="checkbox"/> Public Hearing
Est. Time: 180 min
<b>Review:</b> <b>Dept. Head</b> _____ (Initials & date required)
<b>Finance</b> _____ <b>City Atty</b> _____ (Initials & date required or N/A)
<b>City Mgr</b> _____ (Initials Required)
<small>If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.</small>

is zoned Commercial/Shopping Office (P-CSO), located at 1819 E. Noble Avenue. (APN: 100-050-001, 100-050-007, 100-050-013, 100-050-014, and 100-040-038). **Resolution No. 2011-25 required.**

**Site Size, Zoning, and Location:** The existing 14.55 acre site area would be expanded to a total of 18.35 acres, all of which is currently zoned Commercial /Shopping Office (P-CSO), located at 1819 E. Noble Avenue. (APN: 100-050-001, 100-050-007, 100-050-013, 100-050-014, and 100-040-038)

**Contact Name and Phone Number:**

Andrew Chamberlain, AICP, Senior Planner (559) 713-4003  
Paul Scheibel, AICP, Planning Services Manager (559) 713-4369  
Chris Young, Community Development Director/City Engineer  
(559) 713-4392  
Ken Richardson, City Attorney (559) 636-0200  
Alex Peltzer, City Attorney, (559) 636-0200

**Submitting Department:** Community Development - Planning

**Department Recommendation:** Staff recommends that the City Council uphold the Planning Commission's certification of the Final Environmental Impact Report SCH NO. 20081211133, and approve Conditional Use Permit No. 2007-17 and Variance No. 2007-06.

These recommendations are made on the basis that the overall Project will improve and enhance an existing retail venue that has operated since 1992 at its current location within the City, for the benefit of the City and its residents' fiscal well-being.

Further, according to substantial evidence in the record, including written documentation, correspondence regarding the Project, and oral testimony provided at the April 25, 2011 Planning Commission hearing, the Project will, among other things:

- Provide much-needed jobs in an environment with an 18 percent unemployment rate in 2010;
- Provide the market area with an affordable, *one-stop* shopping alternative offering grocery and general merchandise sales to enhance customer convenience and economic well-being;
- Allow local residents and visitors to shop for essential goods and services, in a safe and secure, 24-hour shopping environment;
- Develop the vacant eastern portion of the site in a manner that is compatible with the existing site, and enhances its aesthetics; and
- Implement a high-quality architectural design at a site in need of updating and a significant aesthetic improvement.

Finally, the recommendations are justified on the basis that the issues raised in the appeal were previously raised in appellant Mark Wolfe's written comments on the Draft FEIR, and were adequately addressed in the Final EIR. Mr. Wolfe's five-page letter submitted both with his appeal and also at the April 25, 2011 Planning Commission hearing challenged the adequacy of the Final EIR's written responses to his comments. The contents of this letter were addressed at the April 25, 2011 hearing, on the record, and were thus considered by the Planning Commission prior to voting to certify the Final EIR and approve the Project, as conditioned.

**Planning Commission Votes:** The Planning Commission's vote was 3-2 (Segrue, Soltesz and Lane Yes, Salinas and Peck No) to certify the Final Environmental Impact Report SCH No. 20081211133, including the Statement of Overriding Considerations and uphold the approval of Conditional Use Permit No. 2007-17 and Variance No. 2007-06.

Commissioner Salinas commented that the project would adversely create traffic congestion along the Noble Avenue corridor, and voted no on the project. This vote was consistent with a previous no vote for the Social Security Office location adjacent to the project site.

Commissioner Peck commented that he did not have an issue with the Final EIR, but that the project did not appear to be consistent with the Commercial Shopping Office (CSO) land use and zoning designations for the expanded site. He felt that the proposed use was representative of a community commercial use which is not supported by the CSO zone use.

**Background on Conditional Use Permit No. 2007-17 & Variance No. 2007-06:** The proposed project would increase the existing Walmart from 133,206 sq. ft up to 190,000 sq. ft. and establish a sign program for the site. The site would be expanded from the existing 14.55 acres to 18.325 acres, with the added area consisting of the eastern extension of the store and parking area as illustrated in Exhibit "A" of the Planning Commission Report. The primary project objective is to expand the store to provide approximately 54,076 square feet of allowed sales floor area, resulting in up to 190,000 square feet of combined grocery, general merchandise and related Walmart services under one roof.<sup>1</sup> Grocery stores and general retail stores are permitted uses in the CSO zone with the only requirement being that a conditional use permit is required for any building over 40,000 square feet regardless of the proposed use.

The store would provide 846 parking spaces to meet the required parking, not including the 21 parking stalls that would be utilized seasonally as an outdoor garden area. As illustrated in Exhibit "A" to the Planning Commission Report, the on-site vehicle and pedestrian circulation would be improved, and modified to expand the eastern signalized access point, providing a pedestrian cross walk to the north side of Noble Avenue to a new bus stop, while the existing bus stop on the south side of Noble Avenue will be maintained. New dedicated pedestrian walkways would be provided from the store front to Noble Avenue.

A truck route along the east side of the site would provide access to the expanded truck docks. The project includes the extension of the existing 14-foot high wall on the south side of the site to the east where it will meet a 15-foot high wall running along the eastern side of the site as a noise barrier. These walls will be setback 15 feet, the required building setback, and will have trees planted between the 6-foot high walls along the property lines and the new sound walls. This area will be gated off to prevent loitering and will be monitored by on-site security. These sound walls have been shown to reduce anticipated noise from evening and overnight operations related to the use of the parking lot and truck circulation and loading dock operations to levels that comply with the City's noise ordinance.

**Environmental Impact Report State Clearinghouse Number 20081211133:** An Environmental Impact Report was prepared for this project which identified potentially significant impacts and provides mitigation for those impacts, excepting construction noise. The short term impacts from construction were found to be significant and unavoidable wherein Findings of Overriding Consideration are required for this impact.

**Planning Commission Hearing:** On April 25, 2011, the Planning Commission held a public hearing for Conditional Use Permit No. 2007-17, Variance No. 2007-06, and the Final EIR SCH No. 20081211133. During the Public Hearing portion, 28 persons spoke in favor of the project, three persons spoke in opposition. Five pieces of correspondence were received after publication of the staff report (see Planning Commission late correspondence), and were read by the Commission and entered into the record during the proceeding. The City's EIR

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<sup>1</sup> While Project plans depict a 54,076 square foot store expansion for a total floor area of 187,282 square feet (including the garden center), the Environmental Impact Report evaluated a total building size of 190,000 square feet to allow for any minor adjustments through the project review and approval process, and during the project's post-approval construction and design drawing phase. The additional square footage was evaluated as grocery sales square footage to ensure that the EIR provided the most conservative analysis of potential project impacts related to urban decay. Based upon the FEIR preparation for a store of 190,000 square feet, staff is recommending that the project be approved for 190,000 square feet.



consultant (Bert Verrips), his subconsultants, and City staff provided verbal responses to the issues raised in two pieces of late correspondence submitted by project opponent attorney Mark Wolfe and Jim Watt, a former Save Mart executive, on behalf of “a number of concerned retailers that operate in Visalia.”

Specifically, Mr. Verrips and the EIR subconsultants who prepared the technical reports for (1) traffic; (2) air quality; (3) urban decay; and (4) noise—the substantive areas of the EIR Mr. Wolfe has challenged--were called to the podium to respond in detail to the allegations of EIR inadequacy and related comments set forth in April 25, 2011 Wolfe letter.

Planning Staff and the applicant’s engineer both responded on the record to the letter submitted by Mr. Watt. A full written response to the Mark Wolfe appeal and the Jim Watt comment letter is included as Exhibit B to this Report.

The Planning Commission convened the public hearing and after the public testimony, it further discussed and reviewed the existing and new received correspondence for the project. The Planning Commission concluded that no significant new information was presented in the testimony or documents that would warrant a different conclusion, and that no new significant impacts or increase in the severity of impacts which were analyzed in the FEIR were presented which would require further analysis or re-distribution of the FEIR.

**Appeal Filing:** On May 5, 2011, the City Clerk staff received the appeal filing. The reasons for the appeal are contained in Exhibit “B” which cites Traffic, Noise, Air Quality, and Urban Decay as unresolved issues in the Final EIR.

The Planning Commission considered all of the appellant’s issues in their consideration of this project, and based upon the staff and environmental consultants’ input on the project and environmental issues raised both before and during the April 25, 2011 hearing, concluded that the Final EIR had adequately addressed the environmental issues, and that the project as presented in the conditional use permit and variance was consistent with the General Plan and Zoning Ordinance. The Planning Commission certified the FEIR with no additional conditions or mitigation measures.

### **Prohibition on Filing New Conditional Use Permit and Variance Applications**

Per Zoning Code Section 17.38.050., following the denial of a conditional use permit application or the revocation of a conditional use permit, no application for a conditional use permit for the same or substantially the same conditional use on the same or substantially the same site shall be filed within one year from the date of denial or revocation of the permit unless such denial was a denial without prejudice by the Planning Commission or City Council.

Furthermore, per Zoning Code Section 17.42.140., following the denial of a variance or exception application or the revocation of a variance or exception, no application for the same or substantially the same site shall be filed within one year of the date of denial of the variance or exception application or revocation of the variance or exception.

**Prior Council/Board Actions:** None

**Committee/Commission Review and Actions:** The Planning Commission held a public hearing on April 25, 2011, certifying Final Environmental Impact Report, SCH No. 20081211133 and approving Conditional Use Permit No. 2007-17 and Variance No. 2007-06 on a 3-2 vote.

**Recommended Motion:** I move to deny the appeal and certify Final Environmental Impact Report, SCH No. 20081211133 by adopting Resolution No. 2011 -23, and approve Conditional Use Permit No. 2007-17 by adopting Resolution No. 2011 - 24, and approve Variance No. 2007-06 by adopting Resolution No. 2011 -25.

**Alternative Motion 1:** I move to overturn the decision of the Planning Commission and deny Conditional Use Permit No. 2007-17 and Variance No. 2007-06.

**Alternative Motion 2:** I move to refer the matter back to the Planning Commission.

**Alternative Motion 3:** I move to continue the matter to a future City Council hearing for additional information if necessary.

**Alternatives:** The City Council may:

1. Overturn the decision of the Planning Commission and decertify Final Environmental Impact Report, SCH No. 20081211133, and continue or deny Conditional Use Permit No. 2007-17 and Variance No. 2007-06; or
2. Refer the matter back to the Planning Commission; or
3. Continue the matter to a future City Council hearing for additional information, if necessary.

**Attachments:**

- Resolutions upholding the certification of FEIR SCH No. 20081211133, and approval of Conditional Use Permit No. 2007-17 and Variance No. 2007-06
- Exhibit "A" – Appeal Letter
- Exhibit "B" – EIR Consultant's Rebuttal Memo to Appeal Letter and other correspondence
- Exhibit "C" – Planning Commission Staff Report

#### ***Environmental Assessment Status***

**CEQA Review:** An Environmental Impact Report (EIR) has been prepared for use with this project, consistent with the California Environmental Quality Act (CEQA). The City of Visalia acted as the lead agency on the environmental document. The Final EIR SCH No. 20081211133 was certified by the Planning Commission on April 25, 2011.

**NEPA Review:** None Required

**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 City Council Transmittal (without Attachment – Exhibit - C) have been provided to:

Planning Commission  
Appellant

May 4, 2011

**Via FedEx**

City Clerk  
City of Visalia  
425 E. Oak Ave. Suite 301  
Visalia, CA 93291

**Re: Appeal of Planning Commission Action:  
Conditional Use Permit No. 2007-17/Variance No. 2007-06  
Environmental Impact Report (State Clearinghouse No. 20081211133)  
Walmart Store at 1819 E. Noble Avenue**

To the City Clerk:

The Visalia Smart Growth Coalition hereby appeals the April 25, 2011 action by the City of Visalia Planning Commission certifying the environmental impact report and approving the conditional use permit and variance referenced above.

Enclosed please find a completed Appeal Form obtained from the City's website, a letter attached to the form setting forth the reasons for the appeal, and a check for \$351.00 for the appeal fee.

Please contact me if there are any questions or concerns. Thank you for your attention to this matter.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.



Mark R. Wolfe

MRW:am  
enclosures

EXHIBIT "A"

**APPEAL OF PLANNING COMMISSION ACTION**

(The fee to file an Appeal is \$351. Applicants who meet specific income guidelines may be eligible to waive this fee. A fee waiver application can be obtained from the Planning Department located at 315 E. Acequia. All Appeal forms with applicable fees or waivers must be submitted to the Office of the City Clerk at 425 E. Oak Ave. Ste. 301, within ten (10) days after the action which is the subject of the appeal. If the final day to file falls on a weekend or holiday the deadline to file is extended to the next business day by 5:00 p.m.)

Planning Commission Public Hearing Date: April 25, 2011

Appellant Name: Visalia Smart Growth Coalition

Address: c/o M.R. Wolfe & Assocs. 1 Sutter, Suite 300  
San Francisco, CA 94104

Phone: (415) 369-9400

Please check the actions appealed and provide the action number. The action number may be obtained from the Planning Division at 713-4359.

- Conditional Use Permit No. 2007-17 (Section 17.02.145)
- Variance/Exception No. 2007-06 (Section 17.02.145)
- Change of Zone No. \_\_\_\_\_ (Section 17.44.080)
- Tentative Subdivision Map \_\_\_\_\_ (Section 16.04.040)
- Tentative Parcel Map No. \_\_\_\_\_ (Section 16.04.040)
- Site Plan Review Committee Determination \_\_\_\_\_ (Section 17.28.050)

In accordance with the Municipal Code of the City of Visalia, decisions by the Planning Commission may be appealed to the City Council within ten (10) days after the action which is the subject of the appeal. The appeal must state specifically where it is claimed that there was an error or abuse of discretion by the Planning Commission or whether the decision of the Commission is not supported by the evidence in the record.

List reason for appeal in accordance with the above requirements (Additional pages and/or supporting documentation may be attached)

\_\_\_\_\_  
Please refer to attached letters.  
\_\_\_\_\_

Signature: *M. Wolfe* Date: May 4, 2011

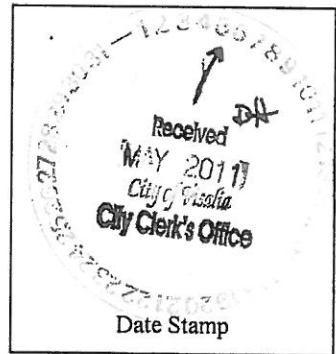
Office Use Only

Received By: *Souja Huffman*

Date: 5/5/2011

Faxed to City Planner: 5/5/2011

City Council Hearing Date: 5/16/2011



April 25, 2011

**By Fax & E-Mail**

Lawrence Segrue, Chair  
Members of the Planning Commission  
City of Visalia  
315 E. Acequia  
Visalia, CA 93291  
Fax: (559) 713-4814  
c/o cityclerk@ci.visalia.ca.us

**Re: Conditional Use Permit No. 2007-17/Variance No. 2007-06/Draft EIR  
for Walmart Expansion Project (SCH No. 2008121133), 1819 East  
Noble Avenue.**

Dear Chair Segrue and Members of the Planning Commission,

This letter is submitted on behalf of the Visalia Smart Growth Coalition, an *ad hoc* association of citizens who live, work, own property, and maintain businesses in Visalia. We previously submitted comments on the Draft EIR for the Walmart Project referenced above. Many, if not most, of those comments sought additional documentation or other evidence to support the Draft EIR's questionable conclusions that with a few narrow exceptions in the area of temporary construction noise, all of the Project's impacts on the environment would be less than significant after mitigation.

We have reviewed the City of Visalia's Final EIR and responses to our and others' comments on the Draft EIR, and have also reviewed the staff report prepared for the public hearing on this item. As discussed below, the City has generally declined to provide the documentary support requested, and has generally failed to provide the required "good faith, reasoned analysis" in response to comments received on the Draft EIR. As it stands, the Final EIR does not contain sufficient evidence or analysis to support its overarching conclusions regarding the significance of the Project's impacts.

The Planning Commission should therefore revise the Draft EIR's analyses of the topic areas discussed below – namely traffic, air quality, noise, and urban decay – and recirculate the corrected analyses for additional public comment before taking any action on the underlying land use entitlements.

### A. Traffic

The Final EIR repeatedly mischaracterize our comments on the Draft EIR as somehow mistaken or erroneous. This is disingenuous. For example, in many if not most instances we asked the City to provide evidence to support its assumptions regarding the planning status and funding sources of future roadway improvements identified as mitigation for the Project's traffic impacts. In response, instead of providing the requested information, the Final EIR simply states that we have failed to prove that the improvements in question are not planned and funded. This wrongfully suggests that the burden is somehow on the commenter to establish that mitigation is *infeasible*, rather than vice versa. CEQA squarely prohibits such an approach. It is the agency approving a project, not the public, that has the burden to evaluate all of a Project's impacts. *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170; *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1199; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311. "The agency [will] not be allowed to hide behind its own failure to gather relevant data. . . . CEQA places the burden of environmental investigation on government rather than the public." *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1378-1379, emphasis added.

The Final EIR would place an undue burden on the public, rather than the City or the applicant, to investigate and disclose information critical to a meaningful environmental analysis. In any event, there remains no evidence in the Draft or Final EIR that several roadway improvements, fair-share fee payments toward which are identified as Project mitigation, will in fact be funded and constructed through the City's TIF program. Other analytic defects, including the application of an indefensible pass-by trip reduction percentage of 28% during the PM peak hours, also remain.

### B. Noise

In our comments on the Draft EIR, we questioned the assumption that the proposed 14 foot sound wall would attain 16 dB of noise attenuation, citing an FHWA publication that indicated it is "very difficult" for sound walls to attain noise by more than 15 dB. We asked for calculations of assumed attenuation and documentation of any assumptions regarding the efficacy of barriers. In response, the Final EIR asserts, without documented authority (other than an oblique reference to "standard barrier theory"), or calculations that the FHWA publication applies to line sources and that a 24 db attenuation is possible for point sources like the Project. The Final EIR does not provide calculations or document its assumed barrier efficacy, other than to say it was based on data in the Project plans. This is simply unresponsive to our request in comments on the Draft EIR that the City "document any assumptions regarding the efficacy of barriers."

### **C. Air Quality**

The Final EIR similarly fails to provide information responsive to our questions related to the Project's emissions of toxic air contaminants and criteria pollutants. For example, the Final EIR provided no justification for its significance thresholds other than reliance on the San Joaquin Valley Air Pollution Control District. The EIR uncritically adopts the Air District's thresholds for criteria pollutants, toxics, and greenhouse gas emissions, even though these thresholds have not been justified. Although CEQA allows an agency flexibility in choosing a significance threshold against which to evaluate a project's impacts, the decision nevertheless must be justified by substantial evidence and analysis that connect health risks to the threshold chosen.

Furthermore, the Final EIR declines to provide the specific information we requested about the assumptions for population, employment, and vehicle miles traveled in the various clean air plans. Finally, the Final EIR presents for the first time an entirely new analysis of criteria pollutants just days before the City is to act on the application. At the very least the City should recirculate this new "localized" analysis, so that the public has an opportunity to comment on this new analysis and to obtain responses.

### **D. Urban Decay**

The Final EIR's responses to requests for further information to support various assumptions and conclusions in the Natelson Dale Group's analysis is similarly dismissive. For example, we asked that the EIR investigate whether it was true that two large-scale retailers in Visalia were also planning to add grocery components in a manner similar to this Project. At the time of our comments, we had understood this was the case, but were unable to verify it as fact. The Final EIR declined to investigate or confirm this rumor one way or the other, stating that the City is not obligated to respond to "speculative" comments.

We have since learned that a second Wal-Mart Supercenter will open in the former Costco building on South Mooney Boulevard, and that the City's two Target stores are expanding to provide full grocery components. Clearly City staff and the applicant were aware of the former project, at the very least, and should have included it in the urban decay analysis.

With regard to the various assumptions regarding future market area growth, we object to the last minute acknowledgement of, and reference to, household and population and projections from 2010 in the Final EIR. CEQA requires an agency to investigate and disclose "all it reasonably can" in a draft EIR. We submit it was patently reasonable for the City to have obtained current data at the time it was preparing this Draft EIR and to have required its consultant to incorporate such data into its analysis. The City should circulate this substantial and significant new information for further public review and comment in accordance with the recirculation provisions of CEQA.

April 25, 2011  
Page 4

Finally, we continue to question the EIR's assumptions regarding the potential for re-tenanting stores that may close as a result of the Project. In response to our request for documentary support for these assumptions, the Final EIR simply states that such support is already included on pages 39 through 50 of the Nateson Dale Study. This "store-by-store" discussion of re-tenanting potential simply describes the physical state and locations of potentially affected retailers' buildings, reaching various conclusions regarding their "desirability" from the standpoint of prospective future tenants. We submit that the physical and locational attributes of closed buildings will have little bearing on re-tenanting potential in the absence of sufficient overall retail market demand in the future. We therefore reiterate that the urban decay analysis fails to sufficiently document its assumptions regarding the potential for re-tenanting of retail vacancies the Project may cause.

For all these reasons, we request that the Planning Commission decline to approve the Project's entitlements at this time and to prepare and re-circulate revisions to the Draft/Final EIR that address the informational deficiencies identified above.

Thank you for your consideration of these comments.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.

A handwritten signature in black ink, appearing to read 'M Wolfe', with a long horizontal flourish extending to the right.

Mark R. Wolfe

MRW:am

cc: Andrew Chamberlain (by email to: AChamberlain@ci.visalia.ca.us)

EXHIBIT "A"



November 29, 2010

**By E-Mail**

Andrew Chamberlain, Senior Planner  
City of Visalia  
315 E. Acequia Avenue  
Visalia, CA 93291  
achamberlain@ci.visalia.ca.us

**Re: Draft EIR for Walmart Expansion Project (SCH No. 2008121133)**

Dear Mr. Chamberlain,

This office represents the Visalia Smart Growth Coalition, an *ad hoc* association of citizens who live, work, own property, and maintain businesses in Visalia. At the Coalition's request, we have reviewed the Draft EIR ("DEIR") for the Visalia Walmart Expansion Project ("Project") referenced above, and offer the following comments.

**A. Traffic Impacts**

It appears the Project will aggravate traffic impacts at numerous intersections that are operating, or are projected to operate, at unacceptable service levels. The proposed mitigation measures described in the DEIR are neither comprehensive nor adequately specified. In many instances it appears the affected intersections will remain degraded even after Project mitigation is implemented. Accordingly, the public has the right to understand just what the City will commit itself to doing and/or what the Project proponent will accomplish by way of mitigation.

**1. Planning Status of Road 148/SR-198 Interchange**

The Traffic Report and DEIR assume that Phase 1 of a new interchange at Road 148/SR-198 will be constructed and operational by 2030, funded by Measure R and Regional Improvement Program funds. Traffic Report, p. 59; DEIR, p. 156. Traffic analyses for the year 2030 scenarios assume that this facility will be in place.

The Action Element of the 2011 Regional Transportation Plan ("2011 RTP") lists projects that are projected to be funded during the scope of the RTP (through 2035) though all identified funding sources (STIP, local developer impact fee programs, state disbursements to local agencies, Measure R, etc.). TCAG, 2011 Tulare County Regional

Transportation Plan, p. 3-23 and Table 3-14.<sup>1</sup> For each fundable and planned improvement, the RTP indicates the expected date that the project would be open to traffic. Table 3-14 indicates that the new interchange at SR 198 at Avenue 148 would not be open to traffic until 2032.

In view of the projected opening date of 2032 in the 2011 RTP, please explain why the Traffic Report and Draft EIR assumed that Phase 1 of the interchange would be open by 2030. Please identify the document or documents that justify this assumption.

If Phase 1 of the interchange will not be open by 2030, then the analysis of traffic conditions in the year 2030 that assumed it would be open is not accurate and the must be revised and recirculated.

## **2. Planning Status of SR-198 Lovers Lane Interchange Improvements and Proximate Intersections**

The Traffic Report and DEIR identify significant impacts at the intersections of Lovers Lane with Mineral King, Noble, and the SR 198 East Bound Ramp. DEIR, pp. 168-175; Traffic Report, pp. 42, 56-57, 69, 71-72.

Impact #2 will occur in 2010 at Mineral King/Lovers Lane. Impacts #6 and #7 will occur by 2015 at the Noble and SR 198 EB Ramp intersections with Lovers Lane. Impacts #9, #12, and #13 will occur by 2030 at the Mineral King, Noble, and SR 198 EB Ramp intersections with Lovers Lane. In each case, the Project will add to an intersection already operating at an unacceptable Level of Service (LOS E or F).

For each of these impacts, the DEIR proposes corresponding mitigation measures (#2, 6, 7, 9, 12, and 13) under which the "applicant shall contribute the required project fees to the City's TIF Program to provide the City with the revenue needed to" construct or install various traffic facilities at these intersections, including addition of turn lanes, restriping, removal of turn lanes, and/or unspecified "equivalent improvements."

However, despite the call for payment of TIF Program fees to address these impacts, the City's TIF Program does not apparently include these intersections. This is evident as follows. First, the City's Capital Improvement Program does not include in its listing of TIF funded projects any of these improvements required by 2010 and 2015 that are specified by Mitigation Measures 2, 6, and 7. City of Visalia, Two-Year Budget 2010-11 & 2011-12, including the 2010/11-2015/16 Capital Improvement Program ("2010-2016 CIP"), pp. 13-28 to 13-30 (listing all projects from 2010 to 2016 to be funded by the Transportation Impact Fee Fund 1241.<sup>2</sup> Second, the CIP indicates that the City plans to fund these intersection improvements not through TIF payments but only through the use of Measure R Regional project funds, Measure R Local project funds,

<sup>1</sup> Available at <http://www.tularecog.org/rtpcomments.php>.

<sup>2</sup> Available at [http://www.ci.visalia.ca.us/depts/finance/budget\\_n\\_financial\\_reports/default.asp](http://www.ci.visalia.ca.us/depts/finance/budget_n_financial_reports/default.asp).

and a prior year contribution from Walmart. 2010-2016 CIP, p. 13-86. In particular, the 2010-2016 CIP indicates that improvement of the Lovers Lane intersections with SR 198, Mineral King and Noble will be undertaken as part of the Lovers Lane/198 interchange improvement project. Id.

The 2010-2016 CIP indicates that construction on the Lovers Lane/198 interchange project is not set to commence until at least 2013/2014. 2010-2016 CIP, p. 13-86. The 2011 RTP indicates the interchange project will not be completed until 2018. 2011 RTP, Table 3-14. In view of the need for timely mitigation involving these intersections by 2010 and 2015, and in view of the City's plan to construct improvements only as part of the Lovers Lane/198 interchange project, it is unclear how the City will *also* fund the series of six additional mitigation projects required before 2010, 2015, and/or 2030 in order to add turn lanes, restripe, remove turn lanes, and/or construct unspecified "equivalent improvements" at the three intersections.

The lack of clarity exists for several reasons. First, it is unclear whether the improvements identified in Mitigation Measures 2, 6, 7, 9, 12, and 13 would be required *in addition to* the improvements to be constructed as part of the Lovers Lane/198 interchange project. It appears that at least those improvements required before the interchange project is completed will represent additional effort. Thus, second, it is unclear how the City would timely construct the specific mitigation improvements required under Mitigation Measures 2, 6, and 7 by 2010 and 2015 at these intersections while simultaneously constructing the Lovers Lane/198 interchange project for completion by 2018. In view of the fact that the timely completion of the intersection improvements identified in Mitigation Measures 2, 6, and 7 are not part of the City's TIF program or the Lovers Lane/198 interchange project and that they will be required before the interchange project is completed, please explain how payment of the TIF would provide the City with revenue to fund these improvements without taking funding from other improvements that are included in the TIF program.

In addition, in view of the fact that the intersection improvements identified in Mitigation Measures 9, 12, and 13 are not part of the City's TIF program, please explain how payment of the TIF would provide the City with revenue to fund these improvements without taking funding from other improvements that are included in the TIF program.

The 2010-2016 CIP indicates that the Project Study Report ("PSR") required by Caltrans for the Lovers Lane/198 interchange project has not yet been completed. Please identify the current status of the PSR preparation. If the PSR is complete, please advise us where we may obtain a copy and set forth the PSR's proposal for constructing the intersections identified in Mitigation Measures 2, 6, 7, 9, 12, and 13, including the proposed right of way widths and all lane configurations.

If the PSR is not complete, please explain how the DEIR and Traffic Report have determined that the improvements to be constructed are *consistent with* the proposed

mitigation measures, which include including addition of turn lanes, restriping, removal of turn lanes, and/or unspecified "equivalent improvements."

### **3. Planning Status of Traffic Signal at Noble/Pinkham**

Mitigation Measure 11 requires that the "applicant shall contribute the required project fees to the City's TIF Program to provide the City with the revenue needed to signalize" the Noble/Pinkham intersection. DEIR., P. 173. Although the Traffic Report states that the Noble/Pinkham "intersection is included in the TIF program and a traffic signal is warranted in the Existing traffic conditions" (Traffic Report, p. 71), the 2011-2016 CIP does not include a signal for this intersection in the list of projects to be funded by the TIF. 2011-2016 CIP, p. 13-28 to 13-30. Nor does the 2011-2016 CIP include a traffic signal at this location under any other funding category. Id., pp. 13-1 to 13-94.

We note that the Nexus Study for the TIF includes 57 new signals in the TIF program at unspecified locations over the life of the TIF program. Willdan Financial Services, Traffic Impact Fee Update Nexus Study, Nov. 13, 2008, Appendix 2, Construction Cost Summaries, p. 51. However, because the Nexus Study does not identify the *location* of planned signals, it does not provide any evidence that a signal at Noble/Pinkham is in fact "included in the TIF program."

The 2011 RTP does include a signal at Noble/Pinkham, to be installed by 2015, identifying its funding type as "Local." 2011 RTP, Table 3-13. However, it is unclear that this "local" funding would be provided by the TIF program for two reasons. First, if the signal were part of the TIF program and were to be scheduled for installation by 2015, it would presumably have been included in the 2011-2016 CIP – but it is not. Second, the 2011 RTP includes 75 traffic signals in Visalia, not just the 57 signals costed into the TIF program in the Nexus Study. Thus it appears that many of the traffic signals in the 2011 RTP must be funded from sources other than the TIF.

In view of the lack of any evidence that this particular signal is included in the TIF program, please explain on what basis the DEIR concludes that the signal is included in the TIF program, citing the document or documents that support this conclusion.

### **4. Planning Status of Traffic Signal at Tulare/Pinkham**

Mitigation Measure 14 requires that the "applicant shall contribute the required project fees to the City's TIF Program to provide the City with the revenue needed to install a signal" at the Tulare/Pinkham intersection. DEIR, p. 175. The Traffic Report does *not* state that the Tulare/Pinkham intersection is included in the TIF program. Traffic Report, p. 72-73.

No signal at Tulare/Pinkham is included in either the 2011-2016 CIP or the 2011 RTP. 2011-2016 CIP, pp. 13-1 to 13-94; 2011 RTP, Table 3-13. Thus there is no evidence that the TIF program includes this signal.

In view of the lack of any evidence that this particular signal is included in the TIF program, please explain on what basis the DEIR concludes that the signal is included in the TIF program, citing the document or documents that support this conclusion.

## **5. Signal Optimization**

Mitigation Measures 3, 4, and 5 call for the applicant to “contribute the funds needed, as determined by the City, to” modify signal phasing, optimize cycle length of signal timing, or optimize signal timing to address impacts in 2010 and 2015. DEIR, pp. 169-170. The DEIR does not indicate what the Project’s actual payment would be to fund this mitigation. Please indicate the amount of this payment and the basis on which it was determined. Please identify the funding sources for any required hardware and software and for any studies to determine the feasibility of, and the specific implementation of, this mitigation, including amounts that have been paid or will be paid through sources other than the applicant. Please identify the document or documents that support these responses.

The DEIR does not indicate whether the existing signals contain hardware and software suitable for signal timing and coordination of signal timing with other signals, if needed. Nor does the DEIR indicate whether the City needs to or plans to undertake preliminary studies to determine the need for, and feasibility of, coordination of signal timing on the affected corridors in order to effectuate this mitigation. Please identify the existing hardware and software capabilities of the affected signals with respect to the City’s ability to effectuate this mitigation, including the capabilities of the other signals in the affected corridor if they must be coordinated. Please also indicate whether the City has determined the need for and feasibility of signal coordination in the affected corridors and identify the document or documents supporting this response. Please explain what study has been undertaken or will be undertaken to implement this mitigation. Please identify the document or documents that support these responses.

Mitigation Measures 8, 10, 15, 16, 17, and 18 call for the applicant “to contribute the funds needed, as determined by the City, to” optimize intersection signal-timing or to “undertake equivalent improvements” in order to address impacts in 2030. DEIR, pp. 172-177. Again, the DEIR does not state what this funding will be or how it was determined. Please indicate the amount of this payment and the basis on which it was determined. Please identify the funding sources for any required hardware and software and for any studies to determine the feasibility of, and the specific implementation of, this mitigation, including amounts that have been paid or will be paid through sources other than the applicant. Please identify the document or documents that support these responses.

Again, the DEIR is silent as to the existing hardware and software capabilities of these signals, the need for coordination with other signals, the feasibility of coordination with other signals, and the coordination capabilities of other signals in the corridor. Please identify the existing hardware and software capabilities of the affected signals

with respect to the City's ability to effectuate this mitigation, including the capabilities of the other signals in the affected corridor if they must be coordinated. Please also indicate whether the City has determined the need for and feasibility of signal coordination in the affected corridors and identify the document or documents supporting this response. Please explain what study has been undertaken or will be undertaken to implement this mitigation. Please identify the document or documents that support these responses.

## **6. Other Equivalent Improvements**

The DEIR permits but does not identify the "other equivalent improvements" that may be provided in lieu or in addition to the signal optimization in Mitigation Measures 8, 10, 15, 16, 17, and 18. DEIR, pp. 172-177. The DEIR also permits but does not identify "other equivalent improvements" to be provided in lieu of, or in addition to, the mitigation calling for TIF payments for specified lane improvements in Mitigation Measures 9, 11, 12, 13, and 14. Id.

Please identify this other equivalent improvement mitigation for each affected intersection, identify the cost of this mitigation, identify the amount to be paid for by the applicant, and explain on what basis the City would determine to provide this mitigation in lieu of, or in addition to, the signal optimization.

Please explain whether the other equivalent improvement mitigation would be provided in lieu of, or in addition to, the signal optimization or lane improvements specified in the mitigation measure.

Please explain whether, when, and how the City would exact the cost of the other equivalent improvement mitigation from the applicant.

For Mitigation Measures 9, 11, 12, 13, and 14, please explain whether and how the City has determined that the TIF program funds will be sufficient to pay for the other equivalent improvement mitigation without taking funding from other improvements that are included in the TIF program.

## **B. Noise Impacts**

### **1. Traffic Noise**

Please identify the source or sources used to determine the "existing traffic noise levels along nearby segments of Noble Avenue and Ben Maddox Way" identified in the DEIR. DEIR, p. 206. If these data were the results of measurements, please provide the details of those measurements, including the dates, duration, locations, and the measurement data itself. If these data were determined by modeling, please identify the model used and provide the assumptions used in that modeling, including the traffic volumes assumed, the source of those traffic volumes assumptions, whether the results

were calibrated, and, if so, the method and data used for that calibration.

## 2. Sound Wall

The DEIR indicates that the proposed 14 foot sound wall will attain 16 dBA of noise attenuation at a receiver positioned 5 feet above the ground. DEIR, p. 212.

The FHWA concludes that it is "very difficult" to attain attenuation over 15 dBA through sound barriers. U.S. Dept. of Transportation Federal Highway Administration, "Highway Traffic Noise Analysis and Abatement Policy and Guidance," June 1995, Table 10.<sup>3</sup> The FHWA explains that each incremental reduction of 1.5 dB requires an additional meter in height over the height required to break the line of sight:

"Noise barriers do have limitations. For a noise barrier to work, it must be high enough and long enough to block the view of a road. Noise barriers do very little good for homes on a hillside overlooking a road or for buildings which rise above the barrier. A noise barrier can achieve a 5 dB noise level reduction when it is tall enough to break the line-of-sight from the highway to the receiver and it can achieve an approximate 1.5 dB additional noise level reduction for each meter of height after it breaks the line-of-sight (with a maximum theoretical total reduction of 20 dBA)." *Id.*, p. 31.

In view of this, please explain on what basis the DEIR or Noise Assessment determined that a 14 foot wall would result in attenuation of 16 dBA, especially given that truck noise sources (exhaust, TRU) are elevated. Please provide any calculations used to determine the attenuation provided by the sound wall for each instance in which attenuation from the sound wall was assumed to reduce noise to receivers (e.g., for truck noise, for TRUs, etc.). Please identify and document any assumptions regarding the efficacy of barriers.

## 3. Truck Mounted Refrigeration Units

The DEIR concludes that noise from truck-mounted refrigeration units ("TRUs") will be less than significant because the maximum instantaneous noise will not exceed the 65 dB nighttime standard for "Category 5" noises in Visalia Municipal Code section 8.36.040. DEIR, p. 212. (Category 5 noises are measured with the "Lmax" metric, representing the maximum instantaneous noise of minimal duration.)

The DEIR's analysis is incomplete because it evaluates only the maximum instantaneous TRU noise, not the effects of the cumulative TRU noise over the course of an hour.

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<sup>3</sup> Available at <http://www.nonoise.org/library/highway/policy.htm#VA>.

The DEIR acknowledges that TRUs will run for 37 minutes each hour. DEIR, p. 212. Noise that is present more than 30 minutes in an hour is subject to the Category 1 limit of 45 dB at night. Visalia Municipal Code, § 8.36.040. (Category 1 limits apply to noises that are present more than 30 minutes in any one hour.) The 45 dB standard must be reduced 5 dB to 40 dB for “pure tone noises, noises consisting primarily of speech or music, or for recurring impulsive noises.” Id. Noise from TRU reciprocating compressors should be considered pure tone noise.

Although the DEIR fails to evaluate the critical Category 1 metric, it appears that noise from TRUs running more than 30 minutes in the hour would exceed the 40 dB limit set by Visalia Municipal Code section 8.36.040. Please revise the DEIR to provide an analysis and mitigation of this impact.

### C. Air Quality Impacts

#### 1. Ozone

The DEIR states that the region is classified as a “serious nonattainment” area for ozone. DEIR, p. 240. ROG and NOx are ozone precursors. The DEIR concludes that operational emissions of these pollutants from the Project are not individually significant at the project level because they are under 10 tons per year. DEIR, pp. 244, 250-251. The DEIR adopts this threshold from the SJVAPCD without explaining why it is an appropriate threshold of significance in the CEQA context. Adoption of this threshold must be justified by facts and analysis that connect health risks to the threshold.

The DEIR also concludes that ozone precursor emissions are not cumulatively considerable because: 1) they are below the 10 ton-per-year threshold, and 2) the Project is purportedly consistent with the Air District’s clean air plans. DEIR, pp. 257, 258. But CEQA is clear that the fact that an impact is not individually significant does not mean that it is not cumulatively considerable. Here, the fact that the Project will aggravate a serious existing problem should be the basis of finding its impacts cumulatively considerable.

Furthermore, the DEIR simply *assumes* that the Project is consistent with the regional clean air plans, based on the general claim that those plans rely on local land use designations to develop emissions inventories. DEIR, p. 257. No evidence is presented that the clean air plans in effect do in fact assume traffic-intensive Supercenter uses at the Project site or in the geographical unit of analysis (e.g., Traffic Analysis Zone) that may have been used to develop emissions inventories.

Please provide the planning assumptions used in the Clean Air Plan - specifically the population, employment, and vehicle miles traveled projections for the project site if available, and/or for the traffic analysis zone as defined in the applicable travel model. This data must be provided for all federal and state plans for ozone, PM10, and PM2.5.



In addition, the DEIR must show that the proposed project is consistent with all applicable Clean Air Plan control measures. Please document the stationary and mobile source control measures included in each applicable plan, and describe how the proposed project is, or is not, consistent with each control measure.

## 2. Toxic Air Contaminants

The DEIR acknowledges that existing toxic air contaminants ("TACs") in the "project portion of Visalia," resulting from major roadways, inventories industrial and area sources, and off road equipment will cause 100 incremental cancers per million people. DEIR, p. 237. Please identify the source or sources of this estimate. Please specifically identify the referenced "project portion of Visalia." Please identify the geographic scope of the estimate both with respect to TAC sources and TAC receptors. Please identify the major roadways and industrial and area sources assumed. In addition, please clarify whether this estimate specifically takes into account the localized effects on the maximally exposed individual receptor of the TACs from existing Wal-Mart deliveries, e.g., the existing truck deliveries identified in the Noise Assessment.

The DEIR concludes that TAC impacts are not individually significant at the project level because they cause fewer than 10 incremental cancers per 1 million persons. Again, the DEIR adopts a threshold from the SJVAPCD without explaining why it is an appropriate threshold of significance in the CEQA context. Adoption of this threshold must be justified by facts and analysis that connect health risks to the threshold.

The DEIR concludes that TAC impacts are not cumulatively considerable because "there are no other proposed projects near the proposed Walmart expansion project that would potentially contribute to emissions of Toxic Air contaminants (TACs)." DEIR, p. 258. Please clarify what assumptions were made with respect to future increases in diesel sources on SR-198 within one half mile of the Project boundary (the purported geographic scope of the cumulative TAC analysis), including increases in SR-198 diesel vehicle traffic and including diesel emission sources related to planned roadway improvement projects, e.g., improvements to SR-198 interchanges and proximate city streets.

The explanation of cumulative impacts errs by missing the fundamental point that the significance of cumulative impacts must be evaluated by considering the project in combination, not just with foreseeable *future* projects, but also *past and present* projects. Since the project will increase cancers by 3.4 per million, adding the existing deliveries to Walmart, which are twice the level of the Project, would itself likely result in more than 10 incremental cancers. Furthermore, the DEIR acknowledges that TAC impacts in the "project portion of Visalia" are already ten times higher than the threshold used to determine the significance of the project's individual impacts. Accordingly, the DEIR must acknowledge that the project's contribution is cumulatively considerable.

## **D. Urban Decay Impacts**

### **1. Inaccurate Description of Baseline Market Conditions**

The Economic Impact/Urban Decay Report prepared by The Natelson Dale Group, Inc (TNDG) was dated January 4, 2010. The Report relied on data and assumption based on conditions that existed in late 2009. As described below, there have been significant changes in the Visalia retail grocery marketplace in the past year which call into question TNDG's conclusions regarding the Project's potential to cause urban decay impacts in the City.

For example, in the time since the Report was completed, two supermarkets in Visalia have closed and one has opened.<sup>4</sup> While the overall supermarket square footage has not appreciably changed, the amount of vacant supermarket space in Visalia has nevertheless increased from 153,599 s.f. to 208,548 s.f. The closures have increased the number of vacant anchor-tenants in supermarket anchored centers. Meanwhile, the City Council has recently amended the zoning code to allow smaller supermarkets on Mooney Boulevard, while Target has announced plans to add grocery components to its two existing Visalia stores. Other large retailers are rumored to be adding grocery components as well. This strongly suggests that the introduction of the Project into this market environment will impair the re-tenanting of vacant supermarkets with new grocery retailers, and hence may cause or contribute to urban decay conditions in the City.

Moreover, the TNDG has omitted mention of Smart & Final as a Project competitor even though it carries a full assortment of groceries and perishable items. It also omits Costco, which maintains 75,000 square feet devoted to grocery items and estimated food sales of about \$90 million. Finally, the new Food-4-Less store is not 50,220, but 56,970 square feet, according to its management.

The DEIR and/or the TNDG study should be revised to account for current market realities in order to present a complete and accurate description of baseline conditions. This necessarily includes identifying and disclosing any potential new supermarkets or grocery outlets likely to open in the foreseeable future.

### **2. Inaccurate and Inconsistent Assumptions Regarding Present and Future Food Demand**

On pages 24 and 70 of the Report, TNDG estimates 68 percent of current food sales in Visalia occur at existing supermarkets. TNDG then states: " we have assumed that supermarkets will continue to capture 68% of residents' existing Food demand while

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<sup>4</sup> The closed stores are Young's Market (27,000 sq. ft.) at 3535 W. Walnut Avenue, and Mercado El Progreso (27,949 sq. ft.) at 1610 N. Dinuba Boulevard. The store that opened was Vallarta Market (47,973 sq. ft.) at the NEC Dinuba Blvd. and Riggin Avenue.

capturing 75% of the growth (or increment) in Food demand.” However, an examination of TNG’s analysis shows that it actually assumed supermarkets would account for 70 percent of food demand, and 85% of the increment (see Table III-6A). The Report accordingly overstates food demand in the year 2013 by approximately \$13.0 million, or the equivalent of about 27,000 square feet of supportable grocery space in that year alone. The Report must be revised, and the analysis redone, in order to correct for this inconsistency.

TNDG also states on page 24 that: “In a typical trade area with an adequate supply of contemporary supermarkets, supermarkets capture as much as 80% to 90% of total Food demand.” Please identify and append the source or factual basis for this statement. The statement is highly dubious, as it is at total variance with U.S. government statistics showing that in 2009, supermarkets captured 59.7 percent of total food purchases consumed at home, and that this share has remained fairly constant for the last 20 years. Given that grocery items are being sold today at multiple and diverse retail outlet formats (drug stores, dollar stores, big box stores, service stations, etc.) it would seem more logical to use a capture rate of 60 percent of incremental sales.

### **3. Inaccurate Assumptions Regarding Future Population Growth**

TNDG’s estimates of future population growth provide much of the foundation for the DEIR’s ultimate conclusion that the Project has no potential for long-term urban decay impacts. The problem is that these estimates are substantially exaggerated.

For its Baseline projections, TNDG estimated growth rates using data prepared by the Tulare County Association of Governments (TCAG) in *2004*. The DEIR must use the best available data in its analysis, which this clearly is not. Indeed, TNDG states that revised estimates by TCAG were to be available in March, 2010. These revised numbers, together with recent trends in building permit activity, must form the basis for new, more accurate population projections.

TNDG also presents a Delayed Growth scenario that assumes no growth in the two-year period from 2009 to 2011, followed by a return to earlier, pre-recession growth rates. The basis for this assumption is a Congressional Budget Office estimate that *national* housing starts would “bottom out to 548,400 units in the 2<sup>nd</sup> Quarter of 2009” (page 6). Even if national-level data were the best available for purposes of the DEIR’s urban decay analysis, more recent housing data show that in October 2010 the U.S. is still stuck at 550,000 new housing units. Add in Visalia’s very high foreclosure rate and number of homes for sale, and expected growth in the City will almost certainly remain anemic for a significant period of time. The DEIR should assume a “worst case” scenario based on current trends.

#### **4. Unsupported Assumptions Regarding Project Operations**

TNDG states that Walmart's grocery sales area will equal only 70 percent of the grocery component's gross building area. This appears unreasonably low, and results in an underestimate of overall economic impacts. A floor plan schematic that Walmart produced for a proposed Supercenter in Tulare showed a total building (excluding the garden center) of 215,845 square feet, with a stock and ancillary area of 32,775 square feet. This equates to 85 percent of that supercenter's grocery component's gross building area devoted to grocery sales. Applied to Visalia, this ratio would increase Walmart's supermarket sales from \$33.5 million annually to \$40.3 million.

Additionally, TNDG also relied on 2009 data from *Progressive Grocer* to estimate Project sales, when 2010 estimates were available.

#### **5. Unsupported Assumptions Regarding Re-Tenancing Of Vacant Stores**

TNDG has not provided a good faith, impartial evaluation of the ability to re-tenant vacant space in light of the trade areas long-term high vacancy rate. As noted on page 29 of the Report, TNDG considers urban decay the consequence of a downward spiral of store closures and long-term vacancies. TNDG observes that Visalia's 2009 overall vacancy rate of 14.4 percent is well above the range of 5 to 10 percent considered to reflect a "healthy" retail market (page 8). In TNDG's delayed growth scenario this vacancy factor will rise to 23.1 percent by 2015, which translates into 2,152,000 square feet of vacant space. Using TNDG's own growth projections, it will be 2025 before this vacancy overhang is reduced to an acceptable level of 5 to 10 percent. Please explain the basis for any conclusion that Project-caused supermarket vacancies will be re-tenanted before 2025.

Please also indicate whether any of the centers named by TNDG as having long-term vacancies avoided urban decay because the prior supermarket tenant continued to pay occupancy costs. The real test of maintaining the property occurs when these leases expire. Please therefore indicate when the supermarket leases expire at existing, vacant supermarket anchored centers.

#### **6. Unclear Categorization Under the General Plan**

The Visalia General Plan and Zoning Ordinance distinguish between "community serving" and "region serving" retailers. It is unclear from TNDG's description of the Project's trade area whether the Project is considered community serving or region serving for purposes of evaluating consistency with the General Plan. Please identify which category applies to the Project and describe the criteria used to reach this conclusion.

**E. Recirculation Of A Revised DEIR Is Required**

CEQA requires an agency to recirculate a revised draft EIR whenever there is an addition of significant new information in an EIR after the public comment deadline but before certification. CEQA Guidelines, § 15088.5, subd. (a). "Significant new information" includes a disclosure showing that "[t]he draft EIR was so fundamentally and basically inadequate in nature that meaningful public review and comment were precluded." *Id.* Here, the errors and omissions discussed above establish that the current DEIR is "fundamentally and basically inadequate" that meaningful public participation has effectively been precluded. The City should therefore recirculate a revised draft EIR after correcting the errors and omissions in question.

Thank you for your consideration of these comments.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.

A handwritten signature in black ink, appearing to read 'M. Wolfe', is written over a horizontal line.

Mark R. Wolfe

MRW:am

# BERT VERRIPS, AICP

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## TRANSMITTAL

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**To:** Andrew Chamberlain  
Paul Scheibel  
City of Visalia Planning Division  
315 East Acequia Avenue  
Visalia, CA 93291

**From:** Bert Verrips, AICP, Environmental Consulting Services  
Jim West, Kimley-Horn and Associates, Transportation Consultants  
Roger Dale, The Natelson Dale Group, Economic Consultants  
Michael Thill, Illingworth & Rodkin, Noise Consultants  
Dave Mitchell, Michael Brandman Associates, Air Quality Consultants

**Re:** Visalia Walmart Expansion  
Rebuttal Memo to April 25, 2011 Comment Letters on FEIR

**Date:** May 11, 2011

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Andy and Paul,

Enclosed is the Rebuttal Memo to Comments Received on the Final EIR on the Walmart Expansion project, received from M.R. Wolfe and Associates and Jim Watt on April 25, 2011.

EXHIBIT B

Each member of our team of consultant experts, listed above, has prepared detailed responses to the comments according to their respective areas of expertise. I believe you will find that these responses address the comments thoroughly and completely.

Thank you,

Bert Verrips, AICP

# Visalia Walmart Expansion EIR – Rebuttal Memo to Comments Received on Final EIR on April 25, 2011 From Mark Wolfe and Jim Watt

## A. Response to April 25, 2011 Comment Letter from Mark Wolfe

### Wolfe Comment A1 – Page 1, Paragraph 1 – Introductory Comments

*“This letter is submitted on behalf of the Visalia Smart Growth Coalition, an ad hoc association of citizens who live, work, own property, and maintain businesses in Visalia. We previously submitted comments on the Draft EIR for the Walmart Project referenced above. Many, if not most, of those comments sought additional documentation or other evidence to support the Draft EIR’s questionable conclusions that with a few narrow exceptions in the area of temporary construction noise, all of the Project’s impacts on the environment would be less than significant after mitigation.”*

**Response A1:** This introductory paragraph raises no substantive issues on the Final EIR. No response is needed to this comment. Responses to related detailed comments are provided below.

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### Wolfe Comment A2 – Page 1, Paragraph 2 – General Comments on FEIR

*“We have reviewed the City of Visalia’s Final EIR and responses to our and others’ comments on the Draft EIR, and have also reviewed the staff report prepared for the public hearing on this item. As discussed below, the City has generally declined to provide the documentary support requested, and has generally failed to provide the required “good faith, reasoned analysis” in response to comments received on the Draft EIR. As it stands, the Final EIR does not contain sufficient evidence or analysis to support its overarching conclusions regarding the significance of the Project’s impacts.”*

**Response A2:** This paragraph claims that the Final EIR did not adequately respond to the November 29, 2010 comments Mr. Wolfe submitted on the Draft EIR. As discussed in detail below, the Wolfe letter contains nothing that would support his claim that the FEIR responses to his DEIR comments are incomplete or insufficient. The City fully responded to each one of Mr. Wolfe’s comments on the Draft EIR in detailed written responses contained in the Final EIR. Each response is supported by substantial evidence in the form of factual information, expert opinion, technical analysis, and staff expertise on each of the topics Mr. Wolfe’s comments covered. The Final EIR contains tremendous detail and information supporting each of its conclusions that all project impacts—with the exception of temporary construction noise—can be mitigated to a level that is less than significant through the imposition of feasible, effective and binding mitigation measures.



### **Wolfe Comment A3 – Page 1, Paragraph 3 – Draft EIR Should be Revised and Recirculated**

*“The Planning Commission should therefore revise the Draft EIR’s analyses of the topic areas discussed below – namely traffic, air quality, noise, and urban decay – and recirculate the corrected analyses for additional public comment before taking any action on the underlying land use entitlements.”*

#### **Response A3:**

As discussed below, the EIR’s analysis of traffic, air quality, noise and urban decay is supported by substantial evidence, appellant’s claims to the contrary notwithstanding. Moreover, any “new information” appellant identifies in his appeal letter is far from the type of information that under CEQA would require revision of the EIR and recirculation. As Mr. Wolfe’s claim that the EIR must be “revised and recirculated” pervades his letter, the following CEQA guidance and information is provided to give context to his request and to support the conclusion reached herein that recirculation is not warranted.

- Overview of CEQA’s Requirements for Recirculation of an EIR prior to Certification.

A lead agency must recirculate a draft EIR when **significant new information** has been added after the draft EIR was made available for public review and comment, but prior to certification of the EIR by the lead agency. “Recirculation” requires provision of new public notice and opportunity for comment and interagency consultation. CEQA §21092.1, State CEQA Guidelines (“Guidelines”) §15088.5.

The California Supreme Court addressed this requirement in the Laurel Heights II decision (Laurel Heights Improvements Assn. v. Regents of University of California (1993) 6 Cal. 4th 1112), where it rejected project opponents’ claim that an EIR had to be recirculated. In Laurel Heights II, the Court reiterated the basic standard for recirculation as follows:

We conclude that recirculation is only required when the information added to the EIR changes the EIR in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible project alternative or mitigation measure that would clearly reduce such an effect and that the project’s proponents have declined to implement. We further conclude that a decision not to recirculate an EIR must be supported by substantial evidence. 6 Cal. 4th at 1120. In rejecting the project opponents’ claim that certain “significant new information” contained in the Final EIR and record required EIR recirculation, the court laid out the following guidance:

As recognized by the *Sutter* court, recirculation is not required where the new information added to the EIR “merely clarifies or amplifies [citations] or makes insignificant modifications in [citation] an adequate EIR.” (*Sutter*, supra, 122 Cal. App. 3d at pp. 822-823.) 6 Cal. App. 4th at 1129-1136.

- Only the Addition of “Significant” New Information Triggers Recirculation.

During the EIR process, “new information” may be added in two ways. First, it may be added in oral or written comments on the draft EIR which must be contained in the final document. Second, it may be added in responses to comments on the draft, as well as revisions to the final

EIR itself. “New information” includes a change in the project, its environmental setting, or the availability of new data. Guidelines § 15088.5(a).

In all cases, the critical question is whether the new information is “significant.” Unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon (i) a substantial adverse environmental effect of the project, or (ii) a feasible way to mitigate or avoid such an effect (including a feasible project alternative), the information is not significant for this purpose. Guidelines § 15088.5(a). Under the Guidelines, “significant new information” requiring recirculation would include new information demonstrating that:

- (i) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (ii) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (iii) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it.
- (iv) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

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**Wolfe Comment A4 – Page 2 – A. Traffic – Paragraph 1-- Erroneous Comments and lack of evidence that roadway improvements will be funded through the TIF program.**

*“The Final EIR repeatedly mischaracterizes our comments on the Draft EIR as somehow mistaken or erroneous. This is disingenuous. For example, in many if not most instances we asked the City to provide evidence to support its assumptions regarding the planning status and funding sources of future roadway improvements identified as mitigation for the Project’s traffic impacts.*

*“In response, instead of providing the requested information, the Final EIR simply states that we have failed to prove that the improvements in question are not planned and funded. This wrongfully suggests that the burden is somehow on the commenter to establish that mitigation is infeasible, rather than vice versa. CEQA squarely prohibits such an approach. It is the agency approving a project, not the public, that has the burden to evaluate all of a Project’s impacts. *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170; *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1199; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 311. “The agency [will] not be allowed to hide behind its own failure to gather relevant data. . . . CEQA places the burden of environmental investigation on government rather than the public.” *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1378-1379, *emphasis added*.*

*The Final EIR would place an undue burden on the public, rather than the City or the applicant, to investigate and disclose information critical to a meaningful environmental analysis. In any*

*event, there remains no evidence in the Draft or Final EIR that several roadway improvements, fair-share fee payments toward which are identified as Project mitigation, will in fact be funded and constructed through the City's TIF program."*

**Response A4:** This very general comment lacks specific references to Draft EIR comments and responses Mr. Wolfe feels are inadequate, and is therefore difficult to respond to in a detailed way. However, it is noted that in the FEIR responses to the commenter's November 29, 2010 letter on the Draft EIR, there are instances where it is noted that certain specific comments are based on erroneous assumptions or misunderstandings of the facts, specifically how the City's TIF program operates. These comments and the corresponding responses are discussed and further explained below.

In addition, the FEIR provided all of the requested information regarding the planning status and funding sources of future roadway improvements identified as project mitigation as well as those assumed to be in place in the 2030 scenario. These instances are also discussed below.

1. **SR-198/Road 148 Interchange**

This FEIR response (E-2) relates to page 1 of the commenter's November 29<sup>th</sup> letter (page 55 in the FEIR), where the commenter states: "The Traffic Report and DEIR assume that Phase 1 of a new interchange at Road 148/SR-198 will be constructed and operational by 2030..." In response, the FEIR (at page 69) states the following:

"First, the commenter incorrectly states that the DEIR and traffic study include the full interchange at SR-198/Road 148 as an improvement in the 2030 baseline condition. On page 156 of the DEIR it clearly states that the first phase of the SR-198/Road 148 interchange, consisting of an overpass/bridge only, is planned to be completed prior to 2030, while the interchange ramps are assumed to be completed after 2030. The primary basis for the inclusion of the Road 148 overcrossing in the 2030 baseline scenario is the current City Visalia Circulation Element Map, which designates the construction of the segment of Road 148 over SR-198 as a "Year 16-25 Arterial. (See City of Visalia Circulation Element Map at <http://www.ci.visalia.ca.us/civica/filebank/blobdload.asp?BlobID=4366#page>) Since the Circulation Element was adopted in April 2001, this indicates that the Circulation Element specifies the completion of this facility by April 2026. This is supported by the 2008 Nexus Study for the Traffic Impact Fee (TIF) Program which includes the construction of the SR-198/Road 148 interchange in its calculation of overall cost of implementing the Circulation Element, which forms the basis of the fee schedule in the TIF Program." (See TIF Ordinance and Nexus Study at <http://www.ci.visalia.ca.us/civica/filebank/blobdload.asp?BlobID=6505#page>)

It is noted, however, that while the Nexus Study (at page 51) considers the cost of constructing the entire interchange in the fee calculation, scoping discussions with the City staff in March 2010 indicated that only Phase 1, consisting of the Road 148 bridge over SR-198 was planned to be completed prior to 2030. (Doug Damko, Senior Civil Engineer, City of Visalia, March 17, 2010). Therefore, the Traffic Impact Study by Kimley-Horn and Associates considered only the completion of the Road 148 overcrossing, and not the entire interchange with connecting ramps, as part of the baseline condition for the 2030 analysis.

To further clarify the above response from the FEIR, it is important to note that the 2011 Regional Transportation Plan (RTP) cited by the commenter indicates only that the entire interchange at SR-198/Road 148 is scheduled for completion in 2032. The RTP makes no mention of “Phase 1” which consists only of a new bridge to carry Road 148 over SR-198, and does not include connecting ramps between Road 148 and SR-198.

To summarize, the factually inaccurate assumption made by the commenter in his November 29<sup>th</sup> comment letter was that the DEIR and traffic report assume that the entire interchange planned for SR-198/Road 148 would be complete and operational by 2030, and as a result, the EIR understates the Walmart Project’s traffic impacts in the long-term 2030 scenario. In fact, the DEIR and traffic report explicitly assume that only the Road 148 overpass at SR-198 would be operational by 2030, and further explicitly assume that the full interchange would not be operational until after 2030. (See DEIR, Volume I, page 156, and DEIR, Volume II, Appendix G – Traffic Report, page 59.) As such, there is no inconsistency between the DEIR and the RTP with respect to the timing of the full interchange improvements.

2. **Planning Status of SR-198/Lovers Lane Interchange**

This FEIR response (E-3) relates to an inaccurate understanding as expressed on page 2 of the commenter’s November 29<sup>th</sup> letter (page 56 in the FEIR), under the heading “2. Planning Status of SR-198/Lovers Lane Interchange...” The commenter requests evidence that the mitigating improvements identified in the DEIR and traffic study for the ramps and intersections in the vicinity of the SR-198/Lovers Lane interchange will be constructed.

In response, the FEIR explains that these ramps and intersections are specifically identified in the General Plan’s Circulation Element, and the TIF Ordinance specifically states that it is intended to provide the revenue source for the improvements to the roadway network identified in the Circulation Element.

However, in order to err on the side of utmost caution and conservatism, the FEIR includes text revisions to the Draft EIR which modifies the pertinent mitigation language to specify that the intersection mitigation measures identified for the vicinity of the SR-198/Lovers Lane interchange shall be funded by the applicant.

Since these text revisions removed the references to the TIF program as a funding source for the subject transportation facilities, these text revisions thereby eliminated the need to provide any further documentary evidence that these improvements would be funded through the TIF Program.

3. **Planning Status of Traffic Signals at Noble/Pinkham**

Mitigation Measure 11 requires the applicant to contribute the required project fees to the City’s TIF program to provide the City with revenue to signalize the intersection of the Noble/Pinkham intersection by 2030, or shall undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. Ignoring the fact that the applicant has to physically improve this intersection if the intersection is not signalized by 2030, Mr. Wolfe challenged the payment of TIF fees as inadequate mitigation under

CEQA claiming that there was not evidence that this signal is included in the TIF program.

The FEIR response (E-6) addresses Mr. Wolfe’s apparent misunderstanding of the City of Visalia’s Traffic Impact Fee (TIF) program as a funding source for signalization of the Noble/Pinkham intersection by 2030. The TIF program includes planned improvements identified in the General Plan Circulation Element, as follows:

- Noble/Pinkham is an intersection of an arterial and collector street
- Intersections of arterial and collector streets fall within the TIF Ordinance’s definition of a “*planned transportation improvements*” that covers the arterial/collector street system in the Circulation Element.
- The nexus study prepared to support the TIF fee program included the General Plan’s Circulation Element (See TIF Ordinance [page 5] available at <http://www.ci.visalia.ca.us/civica/filebank/blobdload.asp?BlobID=6505#page=>) with one exception: the nexus study excluded the Circulation Element’s future growth areas in the peripheral portions of the City’s Planning Area.
- Thus, it is clear that the Noble/Pinkham intersection is in the TIF program.

In terms of the signal being constructed by 2030, the Final EIR provided evidence on this topic as well. The Final EIR’s response E-6 referenced the City of Visalia’s Signalization Priority List that was also attached to the Final EIR as Appendix B. (See FEIR, Appendix B, page 1.)

As stated in the E-6 Final EIR response, the Priority List indicates that the signalization of the Noble/Pinkham intersection has a very high rank on the list (#12), and therefore this signalization project is among the 57 intersection signalizations included in the TIF nexus study. As such, this intersection is included in the improvement cost calculations which resulted in the fee schedule to be applied to the Walmart expansion project. Therefore, the TIF fees to be paid by the applicant include the applicant’s fair share of the installation of the signals at the Noble/Pinkham intersection.

In addition, given the very high ranking of this intersection on the Signal Priority List, it is City Staff’s informed opinion that this signalization project is likely to be included in the next 2-year CIP (2012/13-2013/14), well in advance of the 2030 completion date indicated in the DEIR (Doug Damko, Senior Civil Engineer, City of Visalia, February 4, 2011).

#### 4. Planning Status of Traffic Signal at Tulare/Pinkham

FEIR response (E-7) first addresses Mr. Wolfe’s incorrect statement that the “traffic report does *not* state that the Tulare/Pinkham interchange is included in the TIF program.” The FEIR states “In fact, the Traffic Report at page 69 clearly identifies the Tulare/Pinkham intersection as a TIF intersection.” On page 69 of the Traffic Report, the subject intersection is included in a list of intersections and their funding sources, and appears as the seventh bulleted item on that page, as follows:

- “#13 – Tulare Avenue at Pinkham Road (TIF)”

This FEIR response (E-7) also addresses the commenter's claim that "there is no evidence the TIF program is a funding source for signalization of the Tulare/Pinkham intersection, which is identified in the DEIR as a mitigation measure to be implemented by 2030."

Again, as in the case of Noble/Pinkham intersection discussed in #3 above, since Tulare/Pinkham is also an intersection of an arterial and collector street, it falls within the definition of "planned transportation improvements" in the TIF Ordinance which covers that portion of the arterial/collector street system in the Circulation Element that was included in the nexus study for the TIF fee program (See TIF Ordinance [page 5] available at <http://www.ci.visalia.ca.us/civica/filebank/blobdownload.asp?BlobID=6505#page=.>) (Note: the only portions of the Circulation Element that were excluded from the nexus study were the future growth areas in the peripheral portions of the City's Planning Area.)

In order to further demonstrate that this intersection is indeed programmed for funding, the City of Visalia's Signalization Priority List was attached to the FEIR as Appendix B (see FEIR, Appendix B, page 1). As stated in the response, the Priority List indicates that the signalization of the Tulare/Pinkham intersection has a very high rank on the list (#19), and therefore this signalization project is among the 57 intersection signalizations included in the TIF nexus study. As such, this intersection is included in the improvement cost calculations which resulted in the fee schedule to be applied to the Walmart expansion project. Therefore, the TIF fees to be paid by the applicant include the applicant's fair share of the installation of the signals at the Noble/Pinkham intersection. In addition, given its high rank on the Priority List, it is City staff's considered opinion that this signal installation project is certain to be completed well in advance of the 2030 completion date specified in the DEIR (Doug Damko, Senior Civil Engineer, City of Visalia, February 4, 2011).

No other instances were found in the FEIR responses where the commenter's assertions were characterized as erroneous or based on an inaccurate understanding of the facts.

As discussed in detail above, the FEIR provides detailed explanations and documentation in support of the responses where the comments are characterized as being based on such incorrect assumptions. There are no instances in the FEIR responses where requests for further supporting information or explanation are not provided.

Given the information above and contained in the Final EIR's responses to Mr. Wolfe's comments regarding traffic mitigation, there is clearly no merit to the claim made in support of his appeal that

*"In any event, there remains no evidence in the Draft or Final EIR that several roadway improvements, fair-share fee payments toward which are identified as Project mitigation, will in fact be funded and constructed through the City's TIF program."*

**Wolfe Comment A5 – Page 2 – A. Traffic – Paragraph 1, Sentences 4 through 6, and Paragraph 2 – Shifting Burden of Proof to Commenter**

*"The Final EIR would place an undue burden on the public, rather than the City or the applicant, to investigate and disclose information critical to a meaningful environmental analysis. In any event, there remains no evidence in the Draft or Final EIR that several roadway improvements,*

*fair-share fee payments toward which are identified as Project mitigation, will in fact be funded and constructed through the City's TIF program.”*

**Response A5:** The City of Visalia and its EIR consultants have conducted a painstaking review of the FEIR and could find no instance of a response which states that the commenter has “failed to prove that the improvements in question are not planned and funded” as claimed. To the contrary, the FEIR contains detailed and good faith responses which provide further corroboration for the planning and funding status of the mitigating improvements. This is discussed at length in Response A4 above.

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**Wolfe Comment A6 – Page 2 – A. Traffic – Paragraph 2, last sentence – Other Analytic Defects**

*“Other analytic defects, including the application of an indefensible pass-by trip reduction percentage of 28% during the PM peak hours, also remain.”*

**Response A6:** Regarding the 28% reduction for pass-by trip, this rate is well-established. As noted in the DEIR, the Walmart expansion will generate a specific number of vehicle trips, many of which will already be on the road and will stop as they pass by the site. These are not new vehicle trips but are considered to be pass-by trips. Pass-by trips in the DEIR were calculated based on data published in *Trip Generation Handbook, 2nd Edition* published by the Institute of Transportation Engineers.

This publication is considered by transportation professionals to be the most complete source for pass-by information for many land use types including Free-Standing Discount Store (Land Use 815) for the existing Walmart store and Free-Standing Discount Superstore (Land Use 813) for the proposed expanded Walmart store.

Pass-by trip percentages differ depending on multiple factors including the type of land use and adjacent street volume. According to *Trip Generation Handbook*, studies of stores similar to the expanded Visalia Walmart had had pass-by trip percentages as high as 40% but experienced an average of 28% in the PM peak hour.

Noble Avenue is an east-west major collector roadway that parallels SR-198 and serves approximately 14,000 vehicles per day in the vicinity of the proposed project, which is a sufficient level of background traffic to support PM pass-by trips at the 28% level.

With regard to “other analytic defects,” it is not possible to respond to this assertion without more detail on the alleged defects.

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**Wolfe Comment A7 – Page 2 – B. Noise - Paragraph 1 – Efficacy of Sound Walls**

*“In our comments on the Draft EIR, we questioned the assumption that the proposed 14 foot sound wall would attain 16 dB of noise attenuation, citing an FHWA publication that indicated it is “very difficult” for sound walls to attain noise by more than 15 dB. We asked for calculations of assumed attenuation and documentation of any assumptions regarding the*

*efficacy of barriers. In response, the Final EIR asserts, without documented authority (other than an oblique reference to “standard barrier theory”), or calculations that the FHWA publication applies to line sources and that a 24 db attenuation is possible for point sources like the Project. The Final EIR does not provide calculations or document its assumed barrier efficacy, other than to say it was based on data in the Project plans. This is simply unresponsive to our request in comments on the Draft EIR that the City ‘document any assumptions regarding the efficacy of barriers.’”*

**Response A7:** The following response was prepared by Illingworth & Rodkin, Inc., acoustical engineers, who prepared the DEIR noise analysis.

The reference made to FHWA’s discussion regarding noise barrier limitations misleads the reader, causes confusion, and is not applicable to noise barrier attenuation from sources such as delivery trucks, loading and unloading activities, mechanical equipment, etc. Industry-accepted methods<sup>1</sup> were used to calculate noise levels assuming distance from the noise source and the attenuation provided by noise barriers. Noise attenuation with distance from a point source follows the “inverse square law” of sound propagation, where sound pressure levels decrease at a rate of 6 dB per doubling of distance from the source. The attenuation provided by a “thin” noise barrier, such as a masonry wall, results from a single-diffraction of sound, and is calculated by determining the difference in distance that the sound travels assuming a noise barrier is in place (diffracted path) as compared to the direct path assuming no noise barrier is in place (line-of-sight path). The barrier provides a noise reduction for receivers located within its “shadow zone,” and for the each calculation, receivers were assumed to be located 15 feet from the noise barrier, and clearly within the “shadow zone” of a 14-foot noise barrier. As discussed previously, the maximum practical reduction provided by a thin noise barrier is 24 dBA, and the predicted noise reduction is well within the feasible range of noise reduction that could be provided by a 14-foot noise barrier.

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**Wolfe Comment A8 – Page 3 – C. Air Quality – Paragraph 1 – Significance Thresholds**

*“The Final EIR similarly fails to provide information responsive to our questions related to the Project’s emissions of toxic air contaminants and criteria pollutants. For example, the Final EIR provided no justification for its significance thresholds other than reliance on the San Joaquin Valley Air Pollution Control District. The EIR uncritically adopts the Air District’s thresholds for criteria pollutants, toxics, and greenhouse gas emissions, even though these thresholds have not been justified. Although CEQA allows an agency flexibility in choosing a significance threshold against which to evaluate a project’s impacts, the decision nevertheless must be justified by substantial evidence and analysis that connect health risks to the threshold chosen.”*

**Response A8:** Regarding the significance thresholds for toxic air contaminants, these thresholds are well-established, as discussed in the following response prepared by Michael Brandman Associates.

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<sup>1</sup> Harris, Cyril M. *Handbook of Acoustical Measurements and Noise Control, Third Edition*. 1998.



The source of the threshold for toxic air contaminants (TAC) is the San Joaquin Valley Air Pollution Control District Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI) (available at <http://www.valleyair.org/transportation/CEQA%20Rules/GAMAQI%20Jan%202002%20Rev.pdf>). The GAMAQI was adopted in August 1998. The GAMAQI provides recommended analysis techniques and thresholds of significance for all commonly encountered air quality impacts. The original GAMAQI and subsequent revision went through public review processes and were adopted by the SJVAPCD Governing Board.

The SJVAPCD is considered an expert commenting agency under CEQA for air quality impacts due to its regulatory authority over stationary, area, and indirect sources of emissions and due its technical analysis capabilities. Due to the highly technical nature of air quality impacts, local agencies requested assistance from the SJVAPCD to provide guidance on appropriate analysis techniques and thresholds of significance for the pollutants of concern. Furthermore, the SJVAPCD works with the California Air Pollution Control Officers Association (CAPCOA), a voluntary association of air pollution control districts and air quality management districts around the state, to share information on air toxic analysis procedures and threshold approaches.

The level of the threshold (increase in cancer risk of 10 in one million) was set at a level that would be protective of public health, and is a number widely accepted around the state since the mid-1990s. A level of zero cancer risk is not possible as long as society continues to use gasoline and diesel powered vehicles and other chemicals for industrial processes that emit toxic air contaminants.

After careful consideration of potential non-zero thresholds, the consensus of California air agencies and local agencies is that a 10 in one million increase is sufficiently small to not constitute a significant air quality impact. The City of Visalia has relied on this threshold since its adoption and could not be expected to have superior ability to determine a level more effectively than those agencies with responsibility for regulating air quality resources.

The TAC threshold is the most scientifically supported air quality threshold used for CEQA documents. The California Office of Environmental Health Hazard Assessment (OEHHA) is responsible for conducting scientific assessments of toxic risk and publishes health risk exposure factors based on scientific studies for all pollutants classified as TACs.

Diesel TAC emissions have been the subject of numerous scientific studies over the last twenty years to determine the health impacts of these pollutants. TAC emission sources are modeled using dispersion models to determine pollutant concentrations for the nearest sensitive receptor. The potential exposure level is modeled using State of California approved models to determine the health risk. The risk assessment is based on an assumption that an individual will be exposed for 70 years. Although diesel emissions will be substantially reduced through compliance with state and federal vehicle emission standards, the modeling assumes exposure at current levels for the entire 70 years. This provides a highly conservative estimate of the increased health risk of the project.

To recap, the threshold level (10 in a million increases in cancer risk) was adopted through a public process by an expert commenting agency with authority over air quality. The impact is quantified using models approved for use by the State of California and

used by Air Districts and local agencies throughout the state for determining impacts under CEQA for more than a decade. The impact is correlated to its effect on health by substantial evidence in the form of scientific studies and modeling to relate the expected exposure levels to predicted cancer risk. See also Response E-17 in the Final EIR for additional discussion of the basis of the threshold of significance for toxic air contaminants.

Regarding criteria pollutants, the commenter's November 29<sup>th</sup>, 2010 comment letter on the Draft EIR does not raise an issue with respect to the significance thresholds for criteria pollutants, as stated in the above excerpt from the commenter's April 25<sup>th</sup>, 2011 comment letter on the Final EIR. Nevertheless, the following additional information regarding significance thresholds for criteria pollutants is provided by Michael Brandman Associates.

The source of the threshold of significance for criteria pollutants is the SJVAPCD's Guide for Assessing Mitigating Air Quality Impacts (GAMAQI). As stated above, the SJVAPCD is an expert commenting agency for air quality impacts including those resulting from criteria pollutant emission sources. The GAMAQI went through a public review process and was adopted by the SJVAPCD Governing Board in 1998 and was updated in 2002. The criteria pollutant thresholds for the ozone precursors ROG and NOx are 10 tons per year for each pollutant. This is the threshold level established in state law for air basins designated as Severe Nonattainment for the state ozone standard to require new stationary sources to provide emission offsets. This level is the lowest offset threshold in the nation. Although the stationary offset threshold was originally intended to apply to stationary emissions sources, Air Districts around the state have determined that stationary source thresholds provide logical thresholds that are sufficiently stringent to ensure that projects that emit less than this amount would not result in a significant air quality impact.

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**Wolfe Comment A9 – Page 3 – C. Air Quality – Paragraph 2, First Sentence – Clean Air Plans**

*“Furthermore, the Final EIR declines to provide the specific information we requested about the assumptions for population, employment, and vehicle miles traveled in the various clean air plans.”*

**Response A9:** The City of Visalia disagrees with the assertion that the response in the Final EIR is inadequate with respect to the project's consistency with the assumptions of the applicable clean air plans (see Response E-15 for the complete discussion). The following additional clarification of the consistency determination is provided by Michael Brandman Associates.

The mechanism used to ensure that growth does not interfere with attainment plans is Federal Transportation Conformity. Under Transportation Conformity, the Regional Transportation Agencies or Metropolitan Planning Organizations (MPO) prepare emission budgets for inclusion in attainment plans for each nonattainment pollutant. The Clean Air Act states that “the determination of conformity shall be based on the most recent estimates of emissions, and such estimates shall be determined from the most recent population, employment, travel, and congestion estimates as determined by the

MPO or other agency authorized to make such estimates. According to the Tulare County Associations of Governments Draft Conformity Analysis for the 2011 Regional Transportation Plan, Info USA data was used to provide employment data. Info USA provided approximately 11,000 data records of businesses in Tulare County, including their name, address, 4-digit standard industry classification (SIC) code, employees (total and “employees here”), and geocoding at the Census 2000 block level. This allows for distribution of employees by Census block, and ultimately, by traffic analysis zone (TAZ).

The analysis used data from the firm Woods & Poole to provide historical, current, and projected estimates of county-wide employment by 5 year increments from 1970 to 2025. Estimates include county totals of population, employment (jobs) by SIC code and major category (e.g., farm, agricultural, construction, manufacturing, wholesale trade, retail trade, service, government, etc.), households, etc. Tulare County used 2003 Department of Finance (DOF) growth rate of 1.9 percent per year for its projections. Trend lines with historic data were used to estimate future population and housing levels using the updated 2007 estimates as a base. On the employment side, employment trend lines, estimates of employees per household by jurisdiction, and overall employment distribution were used to forecast future employment.

The budgets account for growth in population, and employment in terms of their impact on vehicle miles traveled and air pollutant emissions. In developing the budgets, the Regional Transportation Planning Agency (RTPA) for each County and the San Joaquin Valley Air Pollution Control District (Air District) must demonstrate that onroad mobile source emissions will continue to decline to levels required to reach attainment by the mandated attainment date accounting for projected growth.

The San Joaquin Valley’s most recent and most stringent plan is the 2007 Ozone Plan. This plan provides the lowest budget for PM due to the need to control NOx emissions for PM10 and PM2.5 reductions. The motor vehicle emission budget for Tulare County in 2008 was 10.5 tons/day of ROG and 23.31 tons/day of NOx. In 2011, the budget drops to 9.2 tons/day of ROG and 20.0 tons/day of NOx and the conformity analysis results for the 2011 RTP indicate that Tulare County would come in well under budget (8.0 tons/day ROG and 17.9 tons/day NOx).

In other words, there is a margin for growth beyond that projected in the attainment plans of 1.2 tons/day of ROG and 3.0 tons/day of NOx in Tulare County. The project will result in unmitigated emissions of 3.74 tons/year (0.01 tons/day) of ROG, and 7.99 tons/year (0.022 tons/day) of NOx. It is clear that there is more than adequate room in the budget for this project and many more without coming close to exceeding the budget even if growth rates greatly accelerated. Therefore, no additional analysis is warranted.

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**Wolfe Comment A10 – Page 3 – C. Air Quality – Paragraph 2, Sentences 2 and 3 – Local Air Quality Analysis**

*“Finally, the Final EIR presents for the first time and an entirely new analysis of criteria pollutants just days before the City is to act on the application. At the very least the City should recirculate this new “localized” analysis, so that the public has an opportunity to comment on this new analysis and to obtain responses.”*

**Response A10:** The local air quality analysis was requested by the San Joaquin Valley Air Pollution Control District (Air District) in its DEIR comment letter dated November 29, 2010 (see FEIR comment letter D1). The request to prepare such a local air quality analysis is highly unusual and is not included in any Air District guidance or other documentation regarding preparation of air quality analyses for development projects, as discussed below. In similar letters on other development projects, the Air District has indicated that it requests such studies for projects that may be controversial. Thus it appears that the Air District is acting with an abundance of caution when it requests such local air quality analysis.

As discussed in the FEIR (Response D1-5), the requested full assessment of localized air pollutants (apart from the standard analysis of localized impacts from project-related emissions of CO, PM, and TACs), as requested by the Air District, is not included in the Air District's *Guide for Assessing and Mitigating Air Quality Impacts* (GAMAQI), or any other Air District rule, regulation, or guidance document.

In addition, the SJVAPCD's response letter to the Notice of Preparation for the Visalia Walmart Expansion EIR makes no mention of a full assessment of localized air pollutants as was subsequently requested in the Air District's comment on the DEIR (see DEIR Appendix A for the NOP and the Air District's comment letter).

It is highly unusual to conduct such analyses, in this or any other air basin in California, since the potential for significant project impacts related to localized emissions of CO, NO<sub>2</sub>, SO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> is extremely low. Finally, there is no evidence or analysis from other projects of similar nature and size in the San Joaquin Valley or elsewhere that would indicate the potential for significant impacts resulting from project emissions of these pollutants at the Visalia Walmart Expansion project.

Therefore, the analysis of these localized pollutants was not included in the original air quality assessment for the DEIR. Nevertheless, in response to the November 29<sup>th</sup> comment from the Air District that an analysis of these localized pollutants be conducted, a supplemental air quality assessment on the potential impacts resulting from project emissions of these localized pollutants was prepared.

The assessment of localized air quality impacts found that the project-related emissions of CO, NO<sub>2</sub>, and SO<sub>2</sub> would be substantially below the significance thresholds applicable to each pollutant. It was further found that the total pollutant concentrations, including background concentrations and emissions from the existing Walmart store and the planned store expansion, would also be well below all of the applicable significance thresholds (see FEIR Appendix A, Table 9). The air quality assessment also found that the localized emissions of PM<sub>10</sub> and PM<sub>2.5</sub> from the proposed expansion (including the existing Walmart store) would be well below the applicable significance thresholds (see FEIR Appendix A, Table 10).

Based on these findings, the project impacts to localized air pollution would be less than significant. Furthermore, the fact that project emissions of local pollutants was found to be so far below the applicable thresholds further indicates that the Air District's request for this analysis was unwarranted and unnecessary.

In a second and final comment letter, dated March 24, 2011, the Air District indicated that it had reviewed the local air quality analysis and agrees with the conclusion that the project will not result in an exceedance of the standards for carbon dioxide, sulfur dioxide, and nitrogen dioxide, nor contribute to an exceedance of the particulate standard. (See Comment Letter D2 in the FEIR.)

The commenter claims that there was insufficient time to review the Local Air Quality Analysis contained in FEIR. However, the FEIR was provided to the commenter 10 days prior to the April 25<sup>th</sup> Planning Commission hearing. Given the brevity of the Local Air Quality report and the simplicity of its conclusions, i.e., that the project's local emissions are very far below all of the significance thresholds, it should not have taken the commenter very long to review the report.

Moreover, the local air quality analysis clearly does not raise the potential existence of new significant impacts that were not evaluated in the DEIR, nor does it indicate that the severity of those impacts is greater than reported in the DEIR. If anything, it confirms that the project's local air quality impacts are far less than significant. This finding does nothing to alter the conclusions of the DEIR with respect to the identification of significant project impacts to air quality.

In any event, the Final EIR's inclusion of an ambient air quality analysis does not constitute the type of "significant information" that would trigger EIR recirculation under CEQA. Recirculation is not required where the "new information" added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR. Guidelines §15088.5(b). This point is illustrated by the Supreme Court's decision in Laurel Heights II. Laurel Heights involved the siting of a proposed University research center in a residential neighborhood. The original EIR for the project had been found to be inadequate in Laurel Heights I. Laurel Heights Improvement Assn. v. Regents of the University of California (1988) 47 Ca. 3d 376. Following that decision, the Regents substantially revised their analysis and circulated a new draft EIR.

Although a great deal of new information was provided in the Final EIR as a result of Draft EIR comments and the University's responses to such comments, recirculation of the EIR was not required. The new information included new noise studies, new studies on potential toxic emissions, clarification of the number of loading docks to be used for certain purposes, recognition of "nightlighting glare" as an insignificant impact, and an expanded analysis of the alternative of adding to the facilities at the existing University campus. The new information did not alter the EIR's analysis of the issues, and was simply included to amplify or clarify an existing discussion regarding the insignificance of impacts. 6 Cal. 4th at 1130 (emphasis added).

The inclusion in the Final EIR of an ambient air quality analysis revealing no new environmental impacts falls far short of the type of "new information" that could require recirculation. In short, Mr. Wolfe has identified no new information that reveals a "new or substantially more severe significant impact" that would require revision of the EIR and recirculation for another round of public review and comment, and public hearing.

**Wolfe Comment A11 – Page 3 – D. Urban Decay – Paragraph 1 – Plans for Additional Grocery Components by Walmart and Target**

*“The Final EIR’s responses to requests for further information to support various assumptions and conclusions in the Natelson Dale Group’s analysis is similarly dismissive. For example, we asked that the EIR investigate whether it was true that that two large-scale retailers in Visalia were also planning to add grocery components in a manner similar to this Project. At the time of our comments, we had understood this was the case, but were unable to verify it as fact. The Final EIR declined to investigate or confirm this rumor one way or the other, stating that the City is not obligated to respond to “speculative” comments.”*

**Response A11:** As described on page 83 of the Final EIR, the cumulative analysis provided in the DEIR Economic Impact/Urban Decay Report by The Natelson Dale Group (TNDG report) considered all planned and pending retail projects in the trade area as of the date of the report (January 4, 2010). At the time of Mr. Wolfe’s comments on the DEIR (November 29, 2010), TNDG had no different or better information than that available to Mr. Wolfe or his clients.

The City of Visalia staff indicated to TNDG that no plans/applications for additional grocery space (i.e., additional projects beyond those already considered in the DEIR) had been submitted. Subsequent to TNDG’s preparation of responses to Mr. Wolfe’s comments, the applicants for these projects submitted plans/applications to the City. Thus, there was no new information to evaluate in the Final EIR. Since Mr. Wolfe’s comments referred only generically to Target adding grocery space to its two existing Visalia stores (without providing any indication of the potential square footages of such expansions), any analysis of these expansions in the Final EIR would have been purely speculative. For purposes of evaluating CEQA impacts, an EIR is not required engage in speculative analysis.

As described above, at the time that TNDG prepared responses to Mr. Wolfe’s Draft EIR comments, no information was available on which a valid revision of TNDG’s cumulative analysis could have been based. This fact is consistent with Mr. Wolfe’s own description of the possibility of additional grocery projects in the City. In particular, the November 29, 2010 comment letter states that “[o]ther large retailers are **rumored** to be adding grocery components as well” (emphasis added).

In addition, Mr. Wolfe’s April 25, 2011 letter to the Planning Commission indicates that, at the time of his original (November 29, 2010) comments, he was **“unable to verify”** as fact any additional grocery projects in the City. Given the then vague and speculative nature of the potential projects mentioned by Mr. Wolfe, it would have been impossible (and inappropriate under CEQA) to address them in the Final EIR.

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**Wolfe Comment A12 – Page 3 – D. Urban Decay – Paragraph 2 – Plans for Additional Grocery Components by Walmart and Target**

*“We have since learned that a second Wal-Mart Supercenter will open in the former Costco building on South Mooney Boulevard, and that the City’s two Target stores are expanding to provide full grocery components. Clearly City staff and the applicant were aware of the former project, at the very least, and should have included it in the urban decay analysis.”*

**Response A12:** Consistent with Response A10 above, the City of Visalia had not received plans/applications for the three potential projects mentioned by Mr. Wolfe as of the time that TNDG prepared responses to his comments on the Final EIR. In the absence of verifiable and quantifiable information about these projects at that time, it was impossible to evaluate them in the Final EIR.

Subsequently, the applicants for these three projects submitted plans/applications to the City. Thus, it is now possible to quantify the extent to which the inclusion of these projects in TNDG's analysis would change the conclusions of the TNDG report. The three potential projects would add new grocery space to the trade area as follows:

- Per the project applicant, the grocery component of the Walmart store in the former Costco building would total approximately 50,000 square feet.
- Per City staff, the Dinuba Highway Target project would result in a net increase of 3,900 square feet of grocery sales area and approximately 2,000 square feet of additional non-sales area related to the grocery expansions. Thus, the overall increase in grocery related space would be 5,900 square feet.
- Per City staff, the Mooney Boulevard Target project would result in a net increase of 3,200 square feet of grocery sales area and approximately 2,000 square feet of additional non-sales area related to the grocery expansions. Thus, the overall increase in grocery related space would be 5,200 square feet.

Thus, the three projects combined would add 61,100 square feet of grocery space to the trade area<sup>2</sup>.

- Additional grocery square footage has no effect on Urban Decay conclusions.

While the three new projects listed above will potentially add grocery space to the trade area that was not evaluated in the TNDG report, this potential addition of space to the cumulative list is more than offset by changes in status for several projects included on the original list. In particular, TNDG's cumulative analysis assumed that a total of six<sup>3</sup> projects totaling approximately 300,000 square feet of grocery space would be added to the trade area between 2010 and 2015 (see Table 4 on page 56 of the DEIR, or Table III-4 on page 19 of the TNDG report [in Appendix B of the DEIR]).

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<sup>2</sup> In remarks provided at the April 25, 2011 Planning Commission hearing, Urban Decay study author Roger Dale of TNDG estimated that the three projects would expand grocery space in the trade area by as much as 80,000 square feet. This preliminary number was based on estimates provided by City staff just prior to the hearing. Given the submission of Mr. Wolfe's letter to the Commission just hours before the hearing, it was necessary for staff to provide rough estimates of the square footages. As such, staff appropriately erred on the side of over-estimating the potential square footages of these projects.

<sup>3</sup> In remarks provided at the April 25, 2011 Planning Commission hearing, Roger Dale stated that the original study considered seven (rather than six) cumulative grocery projects. However, one of these projects (the El Progreso market at 1610 North Dinuba Boulevard) was built in 2009. Thus, this project was treated as part of the "existing" inventory in TNDG's analysis and is not included in the "future" grocery space of approximately 300,000 square feet.

Based on updated information provided by City staff, four of these six projects are either considered no longer active or “dead,” or have been reduced in size. The specific changes are as follows:

- The entitlement application for the potential supermarket at the Country Club Shopping Center (Demaree & Houston) has been reduced to 35,000 square feet (compared to the 72,000 square assumed in TNDG’s original analysis).
- The assumed 42,030 square foot supermarket at the Unnamed Center (Noble & Lovers Lane) was originally planned to be a Vallarta market. However, Vallarta has withdrawn from the project, and no other supermarket application has been submitted for this site. (It is noted that Vallarta instead elected to locate at the Orchard Walk Shopping Center at Dinuba and Riggan, and opened 2010. This Vallarta market is included in the cumulative list of supermarket projects [see Table 4 on page 56 of the DEIR].)
- The assumed 13,969 square foot Fresh & Easy store on the southwest corner of Court & Caldwell has not been built and the entitlement application expired on March 10, 2010.
- The potential supermarket at the Unnamed Neighborhood Center (northwest corner of Walnut & Lovers Lane) has been reduced to 60,000 square feet (compared to the 71,118 square assumed in TNDG’s original analysis).

Collectively, the above changes represent a reduction of 104,117 square feet from the total assumed in TNDG’s original analysis. Thus, the 51,100 square feet of new grocery space in the three projects identified above would be more than offset by the reduction in the previously assumed grocery projects. Indeed, the project reductions represent more than twice the amount of space identified for the three new projects.

While it is possible that the newly identified Walmart and Target projects would generate higher sales per square foot (PSF) than the previously assumed conventional supermarkets, this differential would not be substantial enough to offset the significant difference in total square footages between the new and former projects.

Based on data documented in the TNDG report, the original analysis identified a benchmark sales PSF factor of \$475 for conventional supermarkets and a projected sales PSF volume of \$601 for the proposed Walmart grocery component. Thus, Walmart was assumed to generate sales PSF approximately 27% higher than a standard supermarket. Given that the reductions of the previously assumed projects total more than double the square footage of the three new projects, a 27% sales PSF differential would not be sufficient to change the assertion that the new projects are more than offset by reductions of the previously assumed projects.

***Based on the above facts, TNDG can confidently conclude that the three additional grocery projects would not alter the conclusions of the Economic Impact/Urban Decay Report.*** As such and based upon controlling CEQA law discussed above, there is no legal basis for the EIR to be revised to include this “new information” and recirculated.



**Wolfe Comment A13 – Page 3 – D. Urban Decay – Paragraph 3 – Projections from 2010**

*“With regard to the various assumptions regarding future market area growth, we object to the last minute acknowledgement of, and reference to, household and population and projections from 2010 in the Final EIR. CEQA requires an agency to investigate and disclose “all it reasonably can” in a draft EIR. We submit it was patently reasonable for the City to have obtained current data at the time it was preparing this Draft EIR and to have required its consultant to incorporate such data into its analysis. The City should circulate this substantial and significant new information for further public review and comment in accordance with the recirculation provisions of CEQA.”*

**Response A13:** The detailed information contained in Response E-23 (pages 86 through 91 of the Final EIR) was provided in order to be fully responsive to the reviewer’s November 29, 2010 comment letter. Indeed, two of the data items referenced – the TCAG population forecasts released in March 2010 and “recent trends in building permit activity” – were specifically requested in Mr. Wolfe’s DEIR comment letter. The other data provided in the response allow for a meaningful comparison between the information requested by Mr. Wolfe and the original data utilized in the TNDG report.

It is critical to note that, on the basis of the detailed data provided in Response E-23, TNDG determined that no changes were warranted in the original assumptions regarding future population growth. The Response clearly concludes as follows (on page 91 of the Final EIR):

“Contrary to the reviewer’s claim, the additional information provided above establishes that the growth projections are not exaggerated. In fact, the data shown above indicate that the growth projections in the Study likely understate the amount of recent and future growth in the market.”

Thus, the Response does not provide “new” information in that it does not have the effect of changing any of the data or assumptions used in the original TNDG report. It merely substantiates the appropriateness of the original assumptions in direct response to Mr. Wolfe’s inquiry.

Mr. Wolfe’s assertion that the updated TCAG projections should have been included in the DEIR disregards the fact that the TCAG projections were released two months after the TNDG report was completed. Moreover, Response E-23 documents that Mr. Wolfe’s concern is a moot point since the updated TCAG projections were actually indicated a lower level of economic effect than the original projections assumed in the analysis.

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**Wolfe Comment A14 – Page 4 – D. Urban Decay – Paragraph 1 – Retenancing Potential**

*“Finally, we continue to question the EIR’s assumptions regarding the potential for re-tenancing stores that may close as a result of the Project. In response to our request for documentary support for these assumptions, the Final EIR simply states that such support is already included on pages 39 through 50 of the Natelson Dale Study. This “store-by-store” discussion of re-tenancing potential simply describes the physical state and locations of potentially affected retailers’ buildings, reaching various conclusions regarding their “desirability” from the standpoint of prospective future tenants. We submit that the physical and locational attributes of closed buildings will have little bearing on re-tenancing potential in*

*the absence of sufficient overall retail market demand in the future. We therefore reiterate that the urban decay analysis fails to sufficiently document its assumptions regarding the potential for re-tenanting of retail vacancies the Project may cause.”*

**Response A14:** The potential for re-tenanting any existing stores that may become vacant (under the cumulative impact conditions examined by TNDG) is thoroughly examined in the TNDG report. Whereas the discussion on pages 39 through 50 of the TNDG report does, as Mr. Wolfe notes, provides a detailed description of the desirability of potential vacant buildings from the perspective of future tenants, this discussion is by no means the only basis on which the TNDG report concludes that any vacancies would eventually be re-tenanted.

Mr. Wolfe notes that the physical and locational desirability of vacated buildings “will have little bearing on re-tenanting potential in the absence of sufficient overall retail market demand in the future.” TNDG concurs with this point, which is why the TNDG report comprehensively evaluates future demand for new retail space in the trade area and concludes (on pages 21 and 22) that demand would be sufficient to absorb all planned and pending retail projects by 2020 or 2022 (under the Baseline and Delayed Growth scenarios, respectively). In this regard, it should be emphasized that the report assumes an aggressive development schedule for the non-grocery cumulative projects, many of which are likely to be delayed, downsized or withdrawn altogether (for the reasons described on pages 22 and 23 of the TNDG report) if there is insufficient market demand to support them. Whereas the TNDG report very conservatively assumes that any vacancies resulting from the cumulative impacts of the proposed project would represent additional space needing to be absorbed in the trade area (i.e., over and above the potential new projects included in the cumulative analysis), the market reality is that any excess vacancies in the market would increase the likelihood of one or more of the assumed cumulative projects being delayed, downsized or withdrawn, such that the worst case vacancy levels indicated on pages 31 and 32 of the TNDG report would not ever be reached. Pages 33 through 35 of the TNDG report provide a specific description of factors that would prevent an overbuilt retail market.

Even under a worst-case (and highly unlikely) scenario of extended high vacancies, the TNDG report provides substantial compelling evidence that urban decay conditions would not result. In particular, pages 50 through 59 of the report summarize TNDG’s comprehensive survey of vacant supermarkets in the trade area (and in all of Fresno County, immediately north of the project trade area). These findings strongly indicate that market forces tend to effectively preclude the development of urban decay, even in cases of long-term vacancies.

Table III-9 on page 55 of the TNDG report indicates the status of vacant (or previously vacated) supermarkets in the trade area as of the date of the report (January 2010). Of the six buildings identified, two had been reused by the time the report was prepared. Since that time, two additional reuse projects have been initiated in the City of Visalia:

- A request has been submitted to reoccupy the vacant Fairway Market (520 E. Tulare Avenue) with office uses. The site plan review (SPR) was given a “Resubmit” on February 23, 2011.
- A request has been submitted to reoccupy the vacant Vons store (4207 W. Noble Avenue) with an indoor soccer/volleyball facility, gymnasium, retail tenant

space, sports bar, video arcade and yogurt shop. The SPR item was given a “Revise and Proceed” to discretionary entitlement filing on March 23, 2011.

The above projects provide further evidence of the resiliency of the commercial retail market in the trade area.

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**Wolfe Comment A15 – Page 4 – Concluding Comments – Revise and Recirculate EIR**

*“For all these reasons, we request that the Planning Commission decline to approve the Project’s entitlements at this time and to prepare and re-circulate revisions to the Draft/Final EIR that address the informational deficiencies identified above.”*

**Response A15:** Under CEQA, a decision not to recirculate an EIR must be supported by substantial evidence in the administrative record. CEQA Guidelines § 15088.5(e). “In applying the substantial evidence standard, the reviewing court must resolve reasonable doubts in favor of the administrative finding and decision.” Laurel Heights, supra, 6 Cal. 4th at 1133. As evident from the contents of this memo and the EIR itself, there has been no new information revealed that would trigger recirculation under CEQA Guidelines section 15088.5 and the controlling case law.

**B. Response to Jim Watt’s Oral and Written Comments Submitted April 25, 2011.**

**1. Response to April 25<sup>th</sup> Oral Comments from Jim Watt:**

**Watt Oral Comment:** “I would also point out that under the zoning ordinance it says that while groceries allowed in this particular zone, they are not allowed if—where shopping centers may already be available. And right next-door is a Save Mart supermarket and about half a mile away is an R&N Market. So I would submit that this area is already well served by supermarkets.”

**Response:** It appears that Watt is trying to stretch the following descriptive language for the P-C-SO zone, which states under Section 17.18.010 (purposes):

3. Planned Shopping/Office Zone— (P-C-SO). The purpose and intent of the planned shopping/ office zone district is to provide areas for a wide range of neighborhood and community level retail commercial and office uses. This district is intended to provide for the transition from service and heavy commercial uses where they exist in this district to retail and office and to provide areas for neighborhood goods and services where shopping centers may not be available.”

The Zoning Ordinance contains no other provisions that would limit the location of grocery stores based upon the location of competing stores. In addition, Use #357 - supermarkets/grocery stores over 30,000 square feet—are permitted by right in the P-C-SO zone.

## 2. Response to April 25<sup>th</sup> Comment Letter from Jim Watt

### **Watt Comment B1 – Page 1, Paragraphs 1, 2 and 3 – General Plan and Zoning Consistency**

The City of Visalia has maintained a long-standing policy of differentiating between retailers and projects that primarily serve neighborhood/community needs versus those that draw from a regional trade area. These distinctions are enunciated in both Visalia's General Plan and Zoning Ordinance. This is evidenced by the importance of grocery stores in neighborhood serving locations, and the 1-mile spacing policy between neighborhood zoned centers. By comparison, regional retailers serving shoppers from outside the community are restricted to areas zoned for regional retail commercial.

There is ample evidence in the record indicating this expanded Wal-Mart will serve a regional trade area. Moreover, while grocery stores are permitted in areas zoned Shopping/Office; these neighborhood services are not allowed if existing shopping centers are available. The adjacent Save Mart and nearby R-N Market certainly qualify as existing nearby shopping alternatives.

Please review the attached pages from the General Plan and the Zoning Ordinance that deal with this issue. **We believe the city's existing policies clearly prohibit the approval of this expansion and therefore request that the Planning Commission deny the project.**

**Response B1:** The following response was prepared by the City of Visalia Staff.

Oral and written testimony at the April 25, 2011, Planning Commission hearing contends that General Plan Policy 3.5.6 establishes a requirement that grocery stores be separated by a distance no closer than one mile from other grocery stores. Mr. Watt raised this contention in a previous Planning Commission hearing for a shopping center with grocery store in the Neighborhood Commercial zone (CUP No. 2008-26) located at the northwest corner of Lovers Lane and Walnut Avenue, on September 13, 2010), and in an earlier non-project specific City Council Work Session.

The contention has been responded to as being without merit by City Staff and City Attorney on each occasion for the following reasons:

Policy 3.5.6 prescribes a separation of neighborhood commercial zones no closer than one mile from other General Plan-designated neighborhood centers (CN Land Use Designation). It does not in any way prescribe any specific separation of grocery stores, which are permitted by right in other zone districts, and with many having and already existed at the time of adoption of Policy 3.5.6 in 1991.

The Shopping/Office land use designation is described as follows in the Land Use Element

#### **Land Use Element**

3.5.7 Shopping/Office Centers for a range of neighborhood and community-level commercial and office uses. Consists of areas previously designated for local retail (C-2.5), neighborhood, community and regional

commercial uses. Generally characterized as strip or linear in nature and serving a non-regional market area. General locations are:

1. Dinuba Highway, between Ferguson and Houston.
2. East side of Ben Maddox Way, between Main Street and Houston.
3. Murray Street corridor between Divisadero to Conyer.
4. Houston corridor, between Divisadero and Turner.
5. Noble Avenue corridor between Ben Maddox and Pinkham. Also, land locked or infill parcels may be added to this designation when they are merged with adjacent properties to obtain Noble Avenue frontage.
6. Mineral King Plaza (south of SH 198 between Linwood and Chinowth).
7. Cain Street and Goshen Avenue.
8. Other locations that may be found to be appropriate by the City Council and in conformity with the intent of the Land Use District.

**General Plan Land Use Consistency** - By definition, some of the pre-existing stores were permitted as neighborhood, community, and regional uses. The existing Walmart was located in accordance with the General Plan Land Use Element and Zoning Ordinance designations in effect at the time of development. The site was zoned C-2 (Planned Regional Commercial) at the time of development.

The proposed expansion is still allowed as a conditionally allowed use in the current CSO zoning. It is an expansion of an existing allowed use that will provide added shopping convenience for the general public. The retail uses at the Ben Maddox Way/Highway 198 access points attract a certain level of regional and local customers by virtue of their proximity as regional uses by the very nature of being located at a highway access point which is the first urban area access point for the city with commercial/office /service uses available for west-bound Highway 198 travelers.

Based upon the initial development and location of the project site, the proposed expansion is consistent with the existing Shopping/Office land use designation.

The CSO zoning designation is described as follows in the Zoning Ordinance:

**ZONING:**

17.18.010 Purposes: The several types of commercial zones included in this chapter are designed to achieve the following:

1. Provide appropriate areas for various types of retail stores, offices, service establishments and wholesale businesses to be concentrated for the convenience of the public; and to be located and grouped on sites that are in logical proximity to the respective geographical areas and respective categories of patrons which they serve in a manner consistent with the general plan;
2. Maintain the central business district (CBD - Conyer Street to Tipton and Murray Street to Mineral King Avenue including the Court-Locust corridor to the Lincoln Oval area) as Visalia's traditional, medical, professional, retail, government and cultural center;
3. Maintain Visalia's role as the regional commercial center for Tulare, Kings and southern Fresno counties;
4. Maintain and improve Visalia's retail base to serve the needs of local residents and encourage shoppers from outside the community;

5. Accommodate a variety of commercial activities to encourage new and existing business that will employ residents of the city and those of adjacent communities;
  6. Maintain Visalia's role as the regional retailing center for Tulare and Kings Counties and ensure the continued viability of the existing commercial areas;
  7. Maintain commercial land uses which are responsive to the needs of shoppers, maximizing accessibility and minimizing trip length;
  8. Ensure compatibility with adjacent land uses.
3. Planned Shopping/Office Zone - (P-C-SO). The purpose and intent of the planned shopping/ office zone district is to provide areas for a wide range of neighborhood and community level retail commercial and office uses. This district is intended to provide for the transition from service and heavy commercial uses where they exist in this district to retail and office and to provide areas for neighborhood goods and services where shopping centers may not be available.

**Zoning Consistency** - The proposed expansion of the Walmart store meets the intent of the CSO zoning by providing for neighborhood and community level retail. In addition, the site was originally developed in 1992 to meet the neighborhood and community retail needs, along with drawing from regional areas outside of the City.

This regional draw was consistent with the C-2 zone existing at the time of development. In reviewing the intent of the commercial zoning designations in Zoning Ordinance Section 17.18.010, staff finds that the proposed expansion of the existing general retail use is consistent with the purpose of the commercial zoning designations as described in the Purposes Section; in particular:

1. Provide appropriate areas for various types of retail stores, offices, service establishments and wholesale businesses to be concentrated for the convenience of the public; and to be located and grouped on sites that are in logical proximity to the respective geographical areas and respective categories of patrons which they serve in a manner consistent with the general plan.

The proposed project concentrates retail goods "under one roof" for the convenience of the public and is further located on a site adjacent to other retail opportunities for local, community, and regional shoppers

5. Accommodate a variety of commercial activities to encourage new and existing business that will employ residents of the city and those of adjacent communities.

The proposed project would be expected to employ residents of the city and those of adjacent communities. And its location adjacent to Highway 198 and Noble Avenue makes it easily accessible to employees and patrons from the city and beyond. Moreover, the project offers a unique method of providing a wide variety of retail goods and services under a single rooftop and a "value priced" niche.

6. Maintain Visalia's role as the regional retailing center for Tulare and Kings Counties and ensure the continued viability of the existing commercial areas.

The proposed project would maintain Visalia's role as the regional retailing center for Tulare and Kings Counties and ensure the continued viability of the existing commercial areas.

7. Maintain commercial land uses which are responsive to the needs of shoppers, maximizing accessibility and minimizing trip length.

The proposed project would maintain commercial land uses which are responsive to the needs of shoppers, maximizing accessibility and minimizing trip length.

8. Ensure compatibility with adjacent land uses.

The proposed project has been designed and conditioned to ensure compatibility with adjacent residential and non-residential land uses.

The project is not directly or indirectly in conflict with any of the other provisions of the Zoning Ordinance.

**Conclusion** – Based upon the above analysis, staff finds the proposed expansion of the existing Walmart store to be consistent with the applicable CN General Plan land use designation and policies, and the CSO zoning designation.

#### **Watt Comment B2 – Page 1, Paragraph 4 – EIR Economic Impacts**

The economic impacts contained in EIR are inadequate because they have not accounted for a second Wal-Mart Supercenter in the former Costco on S. Mooney Blvd., and the expansion of the grocery components of Visalia's two Target stores. These additional grocery operations will place existing supermarkets at risk of closure, and the second Wal-Mart Supercenter will alter the trade area of the proposed Wal-Mart expansion. Both the second Supercenter and the Target remodels have been known by staff for a considerable period of time, and the fact that they are either under construction or about to start construction requires they be accounted for as part of any meaningful impact analysis.

**Response B2:** The following responses are provided by The Natelson Dale Group (TNDG), the preparers of the Economic Impact/Urban Decay Analysis (TNDG report) contained in Appendix B of the DEIR.

Regarding Mr. Watt's contention that the Target grocery expansions and the Mooney Boulevard Walmart project should be addressed in the Economic Impact/Urban Decay analysis please see Responses A11 and A12 above.

TNDG disagrees with Mr. Watt's contention that the Mooney Boulevard Walmart project would "alter the trade area of the proposed [Noble Avenue] Walmart expansion." Mr. Watt's April 25, 2011 memorandum states that "there is ample evidence in the record indicating this expanded Walmart will serve a regional trade area." TNDG agrees, and

we would add that Visalia as a whole and the shopping districts surrounding the Noble Avenue and Mooney Boulevard Walmart sites are characterized by regional “drawing power” (i.e., they attract patrons from well beyond the City limits).

As regional facilities located within a larger regional “cluster” of retail activity, it would be expected that the Noble Avenue and Mooney Boulevard Walmart stores would attract non-local consumers who are also patronizing other businesses in Visalia during their shopping trips. The consumers’ choices as to which Visalia Walmart store to patronize on a particular trip would not only be based on the locations of the Walmart stores themselves but would also be influenced by the other businesses they are patronizing on a particular day. It is entirely possible that an individual household would, over the course of a year, patronize *both* Walmart stores, although the household might prefer one over the other on a particular shopping trip. As such, it would be inappropriate and arbitrary to divide the overall regional trade area into subcomponents. Moreover, subdividing the trade area would not have a net affect on the bottom-line conclusions of the analysis. Whereas the smaller subareas would, individually, have fewer households and therefore less retail demand, they would also have fewer existing and future supermarkets needing to be supported. Thus, the supply/demand ratio for supermarkets would not materially change if the trade area were evaluated as two parts rather than as a unified whole.



**RESOLUTION NO. 2011-23**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT SCH # 2008121133, FOR CONDITIONAL USE PERMIT NO. 2007-17 AND VARIANCE NO. 2011-06 FOR THE EXPANSION OF THE WALMART STORE LOCATED AT 1819 E. NOBLE AVENUE**

**WHEREAS**, the City Council of the City of Visalia has reviewed and considered the Final Environmental Impact Report prepared for the Project which consists of the expansion of the existing Walmart store from 133,206 square feet up to 190,000 square feet, located at 1819 E. Noble Avenue (APN: 100-050-001, 100-050-007, 100-050-013, 100-050-014, and 100-040-038); and,

**WHEREAS**, the Draft Environmental Impact Report (Draft EIR) was released on October 14, 2010, for circulation through November 29, 2010; and,

**WHEREAS**, the Final Environmental Impact Report (Final EIR) was released on April 15, 2011, and consists of the Draft EIR and the revisions of, and additions to, the Draft EIR; the written comments and recommendations received on the Draft EIR; the written responses of the City of Visalia to significant environmental points raised in the review and consultation process; errata to the foregoing; and other information added by the City of Visalia as specified in the record; and,

**WHEREAS**, the Planning Commission of the City of Visalia, after ten (10) days published notice held a public hearing to consider approval of the Project, and certification of the Final EIR on April 25, 2011, and voted to approve the Project and certify the Final EIR; and

**WHEREAS**, as required by the California Environmental Quality Act (CEQA), the Planning Commission adopted Findings of Fact and a Statement of Overriding Considerations due to the Final EIR's identification of a significant and unavoidable Construction Noise impact.

**WHEREAS**, an appeal of the Planning Commission's approval of Project and certification of the Final EIR was received on May 5, 2011; and

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council finds that the Project, Final Environmental Impact Report, SCH# 2004061090 was prepared in compliance with CEQA and the City of Visalia Environmental Guidelines.

**BE IT FURTHER RESOLVED** that the City Council certifies Final Environmental Impact Report, SCH# 2008121133, for the Project, based on the findings contained in Attachment "A" hereto, the following specific findings, and the evidence in the record:

1. That full and fair public hearings have been held on the Final Environmental Impact Report and the City Council having considered all comments received thereon, said Final Environmental Impact Report is hereby determined to be adequate and complete; and said Environmental Impact Report, SCH# 2008121133, is hereby incorporated herein by reference.

2. That the City Council hereby determines that the Final Environmental Impact Report, SCH# 2008121133, for the Project has been prepared in compliance with (CEQA) and the state and local environmental guidelines and regulations; that it has independently reviewed and analyzed the information contained therein, including the written comments received during and after the EIR review period and the oral comments received at the public hearing; and that the Final EIR reflects the independent judgment of the City of Visalia, as Lead Agency for the project.
3. That the City Council does hereby find and recognize that the Final Environmental Impact Report, SCH# 2008121133, contains additions, clarifications, modifications and other information in its responses to comments on the Draft EIR and also incorporates text changes to the EIR based on information obtained by the City since the Draft EIR was issued. The City Council does hereby find and determine that such changes and additional information is not significant new information as that term is defined under the provisions of CEQA because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the project and they do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the Draft EIR have been proposed that would lessen significant environmental impacts of the project; and no feasible alternatives considerably different from those analyzed in the Draft EIR have been proposed that would lessen the significant environmental impacts of the project.
4. That the City Council does hereby make the following findings attached to this Resolution as Attachment "A" which includes a Statement of Overriding Considerations due to the unavoidable significant Construction Noise impacts resulting from the project, as identified in the Final Environmental Impact Report, SCH# 2008121133, with the stipulation that all information in these findings is intended as a summary of the administrative proceedings and record supporting the City Council's certification of the Final Environmental Impact Report.
5. **MITIGATION MONITORING PROGRAM:**

Attachment A to this Resolution includes an "Exhibit B," which is the Mitigation and Monitoring Program for the Project ("MMRP"). The MMRP identifies impacts of the Project and corresponding mitigation, and designates responsibility for monitoring the implementation of the identified mitigation measures to ensure they are carried out as intended. The MMRP is incorporated and adopted as part of this Resolution.

**BE IT FURTHER RESOLVED** that the City Council adopts the Statement of Overriding Considerations for the Project contained in Attachment "A" Section V. In adopting the Statement of Overriding Consideration, the City Council hereby finds that the Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant unavoidable Construction Noise impacts resulting from the project are acceptable in light of environmental, economic, social or other considerations set forth herein because the benefits of the project outweigh the significant and adverse effects of the Construction Noise impacts identified in the Final Environmental Impact Report, SCH# 2008121133,

and Section V, of Attachment "A".

**BE IT FURTHER RESOLVED** that the City Council hereby determines that the Final Environmental Impact Report prepared for the Project is adequate and complete pursuant to the requirements of the California Environmental Quality Act, and so certifies it.

**ATTACHMENT A: CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT  
FOR THE VISALIA WALMART EXPANSION PROJECT AND THE CITY'S FINDINGS OF  
FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE APPROVAL OF  
THE VISALIA WALMART EXPANSION PROJECT**

**I. INTRODUCTION**

The City of Visalia, as lead agency under the California Environmental Quality Act (Pub. Res. Act § 21000 *et seq.*) and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000-15387) (collectively, "CEQA"), has completed the Final Environmental Impact Report ("Final EIR" or "EIR") for the Visalia Walmart Expansion Project (hereinafter, "Project").

On April 25, 2011, at a public noticed meeting, the Planning Commission considered the Project and the required discretionary approvals, including (1) Certification of the Final EIR SCH No. 20081211133; (2) Conditional Use Permit No. 207-17; and (3) Sign Variance No. 2007-06 ("Associated Approvals"). Following a four hour hearing at which 28 persons spoke in favor of the project, three spoke in opposition including Jim Watt, a former Save-Mart executive from Contra Costa County representing competing retailers in Visalia who also submitted an opposition letter before the hearing, the Planning Commission voted to approve the Project and the Associated Approvals.

On May 5, 2011, attorney Mark Wolfe appealed the Planning Commission's decision on behalf of a heretofore unknown group called the "Visalia Smart Growth Coalition" (hereinafter, "Appellants") who did not appear at the Planning Commission hearing. Mr. Wolfe's appeal attaches his November 29, 2011 comment letter on the Draft EIR, and a brief cover letter dated April 25, 2011 submitted shortly before the Planning Commission hearing. The City's EIR consultant and expert subconsultants and Planning Staff provided verbal responses to the issues raised in the Wolfe and Watt April 25<sup>th</sup> letters. The EIR consultant subsequently prepared a comprehensive written response addressing each issue raised in the Wolfe and Watt letters (hereinafter, the "Rebuttal Memo").

At a May 16, 2011 duly noticed public hearing, the City voted to deny the appeal and upheld the Planning Commission's Decision. The City approved the Project and the Associated Approvals.

This document embodies the City's approval of the Project and contains the City's certification of the Final EIR, its Findings of Fact under CEQA, and its Statement of Overriding Considerations made in approving the Project.

The document is organized into the following sections:

- A.** Section I, "**Introduction**," provides an Introduction to the Document.
- B.** Section II, "**Project Description**," provides a summary of the Project, a statement of the Project Objectives, the alternatives considered in the Final EIR, and an overview of the Record of Proceedings for approval of the Project.
- C.** Section III, "**Certification of the Final EIR**," sets forth the City's findings in support of certification of the Final EIR.
- D.** Section IV sets forth the **Findings** required under CEQA, as follows:

1. Part IV.A: Findings regarding the environmental review process and the contents of the Final EIR.
2. Part IV.B: Findings regarding the environmental impacts of the Project and the mitigation measures for those impacts identified in the Final EIR and adopted as conditions of approval.
3. Parts IV.C and IV.D: Findings regarding alternatives discussed in the Final EIR and the reasons that such alternatives to the Project are not approved.
4. Part IV.E: Findings Regarding Project Alternatives Scoped-Out of the EIR.
5. Part IV.F: Findings Regarding Adequacy of Range of Alternatives.
6. Part IV.G: Description of the Mitigation Monitoring and Reporting Program (“MMRP”) for the Project.
7. Part IV.H: Summary of the findings and determinations regarding the Project.

**E.** Section V, “**Statement of Overriding Considerations,**” sets forth the substantial benefits of the Project that outweigh and override the Project’s significant and unavoidable impacts, such that the impacts are considered acceptable.

## **II. PROJECT DESCRIPTION**

### **A. Project Components, Operational Features, and Development**

The Project consists of the expansion and remodeling of the existing Walmart store located in east-central Visalia.

#### 1. Project Site.

a. The expansion Project area is 4.6 acres out of the overall 18.35-acre site the expanded Walmart store will occupy, which consists of five parcels (Assessors Parcel No. 100-050-001, 100-050-038, 100-050-007, 100-050-013, and 100-050-014) located at 1819 East Noble Avenue, between Ben Maddox Way and Pinkham Street (“Project site”)

b. The Project site currently consists of an existing 133,206 square-foot Walmart store with parking areas, loading areas, and landscaping situated on 14.55 acres. The eastern 0.8 acres of the 14.55-acre parcel is undeveloped and will accommodate components of the Project. The expansion area also consists 3.8 acres to the east of the existing store, and this land contains a vacant medical office building and other, undeveloped areas that are covered with non-native grasses and weedy vegetation.

c. The lands surrounding the Project site are almost entirely urbanized with a mixture of commercial, office, residential, church, and public facility uses. There is an existing commercial retail shopping center adjacent to the west, beyond which is a

series of automobile dealerships along Ben Maddox Way to the southwest. There is a new Social Security Administration office building on property adjacent to and northeast of the Project site along Noble Avenue. The land uses along the south side of Noble Avenue east to Pinkham Street consist of commercial service, church, and office uses. The lands to the east and south of the project site are largely in residential use, with the exception of one vacant 2.0-acre parcel adjacent to the southeast portion of the Project site, which vacant parcel fronts onto Pinkham Street to the east. The State Route 198 freeway corridor runs in an east-west direction just north of Noble Avenue, and beyond the freeway there are various commercial and light industrial uses along Mineral King Avenue.

## 2. Expanded Walmart Store.

a. The Project consists of the expansion of the existing 133,206 square-foot Walmart store by 54,076 square feet, increasing the total floor area to 187,282 square feet (including the outdoor garden center portion of the store).

b. The primary departments included in the store expansion area are grocery sales and support (52,945 square feet), an outdoor garden center (1,937 square feet), a fast-food tenant (381 square feet), and ancillary uses (133 square feet). Depending on the floor plan for the remodeled ancillary area, potential uses of the expanded ancillary area include an ATM, medical clinic, vision care, hair salon, photo lab, portrait studio, and pharmacy. The existing store contains a tire and lube center, which will remain at its current size, and the overall floor area for general merchandise will decrease by 1,320 square feet.

c. While the anticipated expansion is estimated to total 54,076 square feet, the Draft EIR studies a build out of 56,794 square feet to serve as "buffer" floor area. The additional 2,718 square feet are conservatively treated as grocery floor area for purposes of analysis in the Final EIR, at p. 16, Table 2.

d. The expanded Walmart store will include six new loading docks at the rear southeast corner of the building, which will be accessed by roll-up doors. The existing store has 2 loading docks that will be demolished with the expansion. The existing Walmart store receives up to about 8 semi-trailer deliveries and up to about 8 smaller deliveries per day. The expansion project would increase the totals up to about 11 semi-trailer deliveries, of which about 2 would be by refrigerated truck, and up to about 12 smaller vendor truck deliveries per day. Deliveries by semi-trailer could occur any time of the day or night. Vendor deliveries are not anticipated to occur during overnight hours.

e. The exterior area south and east of the building will include two trash compactors (one new and one relocated unit) each with 8-foot screen walls, a relocated electrical transformer, and a relocated and enclosed pallet and bale storage area which will include an organic container. The storage area for metal shipping containers, which is currently located on the east wall of the store just north of the loading docks, will be relocated along the south site boundary adjacent to the existing 14-foot wall which will be extended eastward.

f. The existing main parking area to the north of the store will be reduced by expansion of the store and frontage improvements, the latter of which are discussed below. Additional parking area will be constructed to the east of the main building expansion area. A portion of existing parking area at the front of the existing store will be

modified to improve handicapped and pedestrian access. The expanded and reconfigured parking areas will provide a total of 846 usable parking spaces (not counting the 32 spaces to be used for cart corrals), including 24 spaces compliant with requirement under the American Disabilities Act, to serve the expanded Walmart store.

g. The Project includes new and extended soundwalls and screenwalls running near the southeastern and the eastern project boundaries to provide noise and visual screening from the expanded Walmart operation.

1) Existing masonry block walls run along the south and east boundaries of the project site. These walls are approximately six feet high.

2) Along a portion of the south boundary, there is an existing 14-foot high masonry block wall which runs parallel to and inboard of the 6-foot high boundary wall (the distance of the 14-foot wall to the south property line ranges from approximately 20 to 30 feet). This 14-foot wall runs eastward from the existing loading docks for a distance of 250 feet. The Project will extend this wall eastward for approximately 250 feet, and will terminate 15 feet west of the eastern site boundary (the extended section of 14-foot wall will be located at least 15 feet from the south project boundary). The existing 6-foot high block wall along the southern site boundary will be retained as is.

3) The existing 6-foot high block wall along the eastern boundary of the expansion area will also be retained as is. A new 15-foot concrete block wall is planned to be located parallel to and inboard of the existing 6-foot boundary wall, and will be set back at least 15 feet from the eastern boundary and will terminate 15 feet north of the end of the corresponding 14-foot wall extension that will parallel the south boundary.

h. The store operating hours will be 24 hours per day, seven days per week, except for the tire and lube center which will continue to operate between 6:00 AM and 10:00 PM, seven days per week. The current store hours are 8:00 AM to 11:00 PM. The sale of alcohol for off-site consumption will be limited to the hours of 6:00 AM to 2:00 AM the following day, in accordance with Department of Alcoholic Beverage Control (ABC) requirements.

i. The Walmart store will create approximately 85 permanent employment positions.

### 3. Roadway Improvements.

Along the project frontage, Noble Avenue will be widened to accommodate second eastbound travel lane and a landscaped median will be added. New bus bays will be added on the north and south sides of Noble Avenue and a crosswalk will be provided across Noble Avenue at the signalized east Walmart driveway entrance.

## **B. Project Design**

### 1. Architectural Elements

a. The expanded store will be single-story and utilize contemporary retail architectural design. Two new primary entrances on the front elevation, one to serve the general merchandise area and the other for the grocery sales area, will better

connect with and direct customers. Architectural elements such as canopies and articulated detailing will be used to accentuate entrance spaces and provide the customer a stronger sense of place. The front elevation will feature a number of canopies and a seating area under new shade trees, providing pedestrians a welcoming environment for entering the store or while waiting for a ride.

b. The mass of the long elevation will be reduced in scale by these pedestrian spaces, by breaking up the exterior wall into actual exterior and interior spaces that serve merchandising functions, and by articulating the design. This is reinforced by the variety of the architectural elements and the varied earth tone color palette. Curved roofs and walls, natural materials along with contemporary materials such as translucent wall panels and a large amount of transparent storefront glazing reinforce the “human scale” theme. Contrasting colors and textures will also work to break up building mass and accentuate the pedestrian experience.

c. The new rooftop equipment will be screened from view by its location and the design of the new parapet walls. New rooftop equipment will consist of Heating, Ventilating, and Air Conditioning (HVAC) units, refrigeration units, and satellite equipment. Existing and new rooftop equipment will be screened by both existing walls and new architecture.

d. The existing garden center will be increased in size, modified, and will remain in its current location to the northwest corner of the building. It will be surrounded by a masonry wall, pilasters and a painted steel fence, backed by vinyl-coated black and tan mesh shade cloth. These materials provide an opacity rating of approximately eighty-five percent (85%) and therefore visual screening of the interior of this enclosure.

## 2. Signage

a. Signage on the expanded Walmart building will be replaced with updated signs (the Walmart Sign Program is included in Appendix A-2 of the Final EIR). The building signage for the expanded Walmart consists of a total surface area of 585.22 square feet. The Project architect indicates that the Project signage will integrate and complement the building architecture. The signage would be mounted to the building and would not be illuminated except the primary “Walmart” sign on the front elevation, which will be internally lit by light-emitting diode (LED) technology. Since the total area of signage proposed exceeds the 150 square-foot maximum specified in the Design District ‘A’ standards set forth in Zoning Ordinance Section 17.48.080, the proposed action includes a Sign Variance.

b. The existing monument sign at the western project entrance on Noble Avenue will also be replaced with one new, updated monument sign. The new monument sign will be approximately 52 square feet in total surface area on each side for a total of approximately 100 square feet in total sign area. In addition, there will be approximately 43.74 square feet of monument base per side, for a total area of 95.74 square feet per side. Since these areas exceed the maximums of 70 square feet total surface area and 35 square feet of sign face per side, the monument signs will also require a Sign Variance. The building sign program and the monument signs were considered in a combined Sign Variance request, with separate findings made for each.



### 3. Project Lighting

The Project includes a combination of lighting fixtures located throughout the site and parking area.

a. The proposed lighting for the expanded Walmart store parking lot will include various single, two-, or four-light fixtures throughout the parking areas and driveways. The existing 42-foot high light standards will be retained where feasible and augmented by additional 42-foot high light standards in the eastern expansion area of the Project site. The parking lot light fixtures located near Project boundaries will be directed toward the Project interior and away from neighboring properties. All light fixtures will be designed and oriented to avoid direct illumination spilling beyond the site boundaries, in accordance with Section 17.30.130 (H) of the Visalia Municipal Code.

b. Lighting for the expanded Walmart building will include decorative wall lighting fixtures to highlight wall areas along the front façade, and also below canopies at pedestrian level along the main entries and the sign wall to create a nighttime environment that promotes safe movement of pedestrian and vehicular traffic. The mounting height of the exterior light fixtures will average 12 feet and may vary between the building's elements. No wall-illuminating lighting is planned for the east, south, or west facades of the expanded Walmart. Security lighting at service areas (wall packs) and exits will be wall mounted and will incorporate cut-off shielding as needed to ensure minimal visibility at nearby residences.

### 4. Security Measures

a. The security measures listed below would be undertaken as part of the Project and would be implemented or continue to be implemented in the operation of the expended store.

1) Conduct a risk analysis (crime survey) of the area to evaluate the security needs for the store and implement a security plan based upon this analysis.

2) Continue the parking lot security patrol for the Walmart store which assists customers, ensures safety and takes action to identify and prevent any suspicious activity (such as loitering and vandalism) both during the day and nighttime hours (i.e., 24 hours per day).

3) Install new or replace existing closed-circuit camera systems (surveillance cameras) inside and outside the store.

4) Maintain the existing plainclothes patrol inside the store to ensure safety and security.

5) Maintain the existing Risk Control Team, which is a team of associates responsible and trained to identify and correct safety and security issues at the site.

6) Provide new lighting and upgrade existing lighting in the parking area to provide public safety and visibility.

7) Continue to prohibit consumption of alcohol in the parking lots by having associates regularly “patrol” the parking areas while collecting shopping carts, and report any inappropriate activity to the store managers. (Also, per state law, alcohol sales will be limited to the hours of 6 AM to 2 AM of the following day.).

b. In addition, Walmart will implement a security plan for the south and east Project boundaries as part of the Project. The Walmart expansion will include parallel masonry walls along the south and east boundaries that may create safety or security conditions requiring implementation of a security plan for monitoring the space between the proposed walls which are adjacent to existing residences. Measures include:

1) *Parking Lot Security Patrol.* The Walmart store will provide on-site parking lot Security Patrol to assist customers, and to identify and prevent suspicious activities such as loitering and vandalism both during the day and nighttime hours (i.e., 24 hours a day). The parking lot Security Patrol will also monitor the space between the sound/screen walls and existing residents to the south and east of the parking lot/building.

2) *Closed-Circuit Camera System.* The expansion to the store will include the installation of new surveillance cameras and replacement of existing surveillance cameras. The expansion will include the installation of 2 additional cameras located on a pole near the southeast corner of the Project site that will provide surveillance of the space between the new sound/screen walls and the adjoining residences along the south and east boundaries. The surveillance cameras will be mounted lower than typical to avoid views of the adjoining residential back yards. The two proposed surveillance cameras will monitor the space between the new sound/screen walls 24 hours a day. The proposed sound/screen walls will also be posted with signs indicating “Camera Surveillance.”

3) *Parking Lot Lighting.* The expansion of the store will include upgrading existing parking lot light poles and installation of new light poles to provide for visibility and public safety. Additional lighting will be installed in the space between the new sound/screen walls and the adjoining residences along the south and east boundaries of the Project site. The lighting will be placed in this space to provide sufficient light levels for nighttime safety. The light fixtures will have shielding to prevent light spillover to the adjoining residents along the south and east boundaries.

## 5. Landscaping

a. The Project site will be re-landscaped throughout and along the perimeter while retaining usable elements of the existing landscaping.

b. The front setback area will be planted with trees, shrubs and groundcovers, and the parking areas will also be extensively planted in accordance with the landscape standards of the Municipal Code.

c. Along the west, south, and east site boundaries, the setback areas will be planted with rows of trees to provide visual screening and buffering. Along the eastern portion of the southern project boundary, landscape trees will be planted between the 6-foot boundary wall and the 14-foot sound wall.

d. Along the eastern project boundary, landscape trees will be planted between the 6-foot boundary wall and the 15-foot sound wall, as well as on the interior side of the 15-foot sound wall.

e. As required under the Water Efficient Landscape Ordinance adopted by the City of Visalia in December 2009, project landscape materials are required to be suited to the local climate and the irrigation system will be water efficient, with water applied in accordance with the evapotranspiration rates of the plant materials.

### **C. Project Objectives**

The basic objectives of the Project (“Project Objectives”) are:

1. Expand the existing Visalia Walmart store to provide the market area with a centrally-located, affordable, one-stop shopping alternative with an adequately-sized grocery component to enhance customer convenience.
2. Maximize new job opportunities for local residents.
3. Positively contribute to the local economy.
4. Provide a retail establishment that serves local residents and visitors with essential goods and services, in a safe and secure, 24-hour shopping environment.
5. Design a project consistent with the City of Visalia General Plan and Zoning Ordinance.
6. Develop the vacant eastern portion of the site in a manner that compatible with the existing site and enhances its aesthetics, positively contributes to the local economy, and enhances commercial retail and service opportunities available in the surrounding community.
7. Implement a high-quality architectural design that complements the existing design characteristics of the surrounding commercial uses and improves the aesthetics of the existing store.
8. Develop a project with new landscaping to soften the design and create a pleasant, attractive appearance that complements the Walmart store and surrounding area.
9. Develop a site plan to minimize potential automobile and pedestrian conflicts.
10. Provide sufficient off-street parking to minimize impacts to the surrounding residential neighborhood, and ensure that adequate on-site parking is provided for store customers, and employees.

11. Maximize economic growth and development in a way that is consistent with the policies of the City of Visalia.

#### **D. Summary of Alternatives in the Final EIR**

The Final EIR evaluates the following four alternatives to the proposed Project:

1. **No Project Alternative:** The Project site would remain in its existing condition and no new development would occur.
2. **Reduced Project Size Alternative:** This alternative consists of a 28,400-square-foot Walmart expansion area (about half the size of the proposed Project), with 27,800 square feet of grocery floor area.
3. **In-Line Retail:** This alternative assumes that the existing Walmart store is left in its current state, and that the 4.6-acre expansion area is not used for a Walmart expansion but rather for a series of in-line retail shops totaling 56,800 square feet.

#### **E. Record of Proceedings**

Various documents and other materials constitute the record upon which the City bases these findings and approvals contained herein. The location and custodian of these documents and materials is the City of Visalia Planning Division, 315 East Acequia Avenue, Visalia, CA 93291.

### **III. CERTIFICATION OF THE FINAL EIR**

The Final EIR comprises a project-level analysis contains the environmental review evaluating the impacts of approval of the Project and the Associated Approvals, which again include approval of Conditional Use Permit No. 2007-17 and Sign Variance No. 2007-06. The Final EIR has State Clearinghouse No. 2008121133, and the EIR was prepared in the manner specified in Section IV.A.1, which is incorporated by reference here. The Final EIR is comprised of five volumes of information, which include:

**A.** The Draft Environmental Impact Report (“Draft EIR”), which consists of four volumes.

1. Volume 1 of the Draft EIR assesses the potential environmental effects of implementation of the Project, identifies means to eliminate or reduce potential adverse impacts, and evaluates a reasonable range of alternatives.
2. Volumes 2, 3, and 4 of the Draft EIR consist of Appendices referred to in Volume 1.
3. Volume 4 consists of Traffic Study technical appendices and worksheets.

**B.** The comments on the Draft EIR submitted by interested public agencies, organizations, and members of the public; written responses to the environmental issues raised in those comments; a list of refinements to and clarifications to the Draft EIR, and revisions to the text of the Draft EIR reflecting changes made in response to comments and other information. This information together comprises Volume 5, the Final EIR.

**C.** The City hereby certifies as follows:

1. That it has been presented with the Final EIR and that it has reviewed and considered the information contained in the Final EIR prior to making the following certifications and the findings in Section IV, below;
2. That, pursuant to CEQA Guidelines Section 15090 (Title 14 of the California Code of Regulations, Section 15090), the Final EIR has been completed in compliance with the CEQA and the State CEQA Guidelines; and
3. That the Final EIR reflects its independent judgment and analysis.

#### **IV. CEQA FINDINGS**

Having received, reviewed, and considered the Final EIR and other information in the record of proceedings, the City Council hereby adopts the following findings in compliance with CEQA and the CEQA Guidelines:

- Part IV.A: Findings regarding the environmental review process and the contents of the Final EIR.
- Part IV.B: Findings regarding the environmental impacts of the Project and the mitigation measures for those impacts identified in the Final EIR and adopted as conditions of approval. As described in Part II.B, the City Council hereby adopts the impact findings as set forth in Exhibit A to these findings.
- Parts IV.C&D: Findings regarding alternatives discussed in the Final EIR and the reasons that such alternatives to the Project are not approved.
- Part IV.E: Findings Regarding Project Alternatives Scoped-Out of the EIR.
- Part IV.F: Findings Regarding Adequacy of Range of Alternatives.
- Part IV.G: Description of the Mitigation Monitoring and Reporting Program (“MMRP”) for the Project.
- Part IV.H: Summary of the findings and determinations regarding the Project.

In addition, these findings incorporate by reference Section V of this document, which includes the Statement of Overriding Considerations and determines that the benefits of implementing the Project outweigh the significant and unavoidable environmental impacts that will result, and therefore justifies approval of the Project despite those impacts.

The City certifies that these findings are based on full appraisal of all viewpoints, including all comments received up to the date of adoption of these findings that concern the environmental issues identified and discussed in the Final EIR.

## **A. Environmental Review Process**

### **1. Preparation of the EIR**

a. *Notice of Preparation.* On December 31, 2008, the City issued a Notice of Preparation (“NOP”) for the Project. The NOP included a description of the Project, its location and the Project’s probable environmental effects, and was circulated to the public, local, state, and federal agencies, and other interested parties as required under law to solicit comments on the Project and the scope of the environmental review. A 30-day public review period followed, and comment letters on the NOP were received from Caltrans District 6, the San Joaquin Valley Air Pollution Control District (SJVAPCD), the California Water Service Company, and the Southern California Gas Company. The NOP comment letters are included in Appendix A-1 to the Draft EIR. The letters from the agencies and utility companies were focused on technical issues within their areas of responsibility, and include recommendations with respect to the EIR’s content in areas within their purview. These NOP comments are addressed in the respective environmental impact analyses in the Final EIR (i.e., Traffic and Circulation, Air Quality, Utilities and Service Systems).

b. *Public Scoping Meeting.* On January 21, 2009, the City held a scoping meeting to which the responsible agencies and interested members of the public were invited, and which had been duly advertised in advance. No members from the public or public agency representatives attended the scoping meeting and no comments were made at that time. Subsequently, on February 12, 2009, a telephone conference was held with the staff of Caltrans District 6. The comments received from Caltrans during that call covered updated information on the same technical subjects as were addressed in its NOP comment letter and previous comment letters on the Project.

c. *Completion of Draft EIR.* The City completed the Draft EIR and made it available for public review and comment on October 14, 2010.

d. *Notice of Completion/Notice of Availability.* A Notice of Completion and a Notice of Availability was published on October 14, 2010, and the period for receipt of comments on the Draft EIR remained open until November 29, 2010. Written comments on the Draft EIR were received from 5 Federal, State, and local agencies, organizations and individuals. In addition, the City received 30 letters of individuals who expressed unqualified support for the project but had no comments on the Draft EIR and raised no environmental issues regarding the project.

e. The Final EIR was completed and made available to public agencies and members of the public on April 15, 2011. The Final EIR comprises the Draft EIR plus all of the comments received during the public comment period, together with written responses to those comments that raised environmental issues, which were prepared

in accordance with CEQA and the CEQA Guidelines. The Final EIR also includes refinements to mitigation measures and clarifications to text in the Draft EIR.

f. The Final EIR is hereby incorporated in this document by reference.

g. The Final EIR was made available electronically via posting on the City's Web site on April 15, 2011. The Final EIR also was available for public review in print form at the City of Visalia Planning Division at 315 E. Acequia Avenue and at the Visalia Branch Tulare County Library at 200 West Oak Avenue, both in the City of Visalia.

**The City finds and determines there was procedural compliance with the mandates of CEQA and that the Final EIR provides adequate, good faith, and reasoned responses to all comments raising significant environmental issues.**

## 2. Absence of Significant New Information

CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR, but before certification of the Final EIR. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The CEQA Guidelines provide examples of significant new information under this standard.

### a. Information Included In Final EIR

The City recognizes that the Final EIR incorporates information obtained by the City since the Draft EIR was completed, and contains additions, clarifications and some modifications. In addition, various minor changes and edits have also been made to the text and figures of the Draft EIR, as set forth in the Final EIR. These changes are generally of an administrative nature such as correcting typographical errors, making minor adjustments to the data, and adding or changing certain phrases to improve readability. In addition to the changes and corrections, the Final EIR includes additional information in response to comments and questions from agencies and the public.

Specifically, a local air quality analysis was requested by the San Joaquin Valley Air Pollution Control District (Air District) in its DEIR comment letter dated November 29, 2010 (see FEIR comment letter D1). The request to prepare such a local air quality analysis is highly unusual and is not included in any Air District guidance or other documentation regarding preparation of air quality analyses for development projects. The Air District requests such studies for projects that may be controversial.

As fully described in the May 11, 2011 Rebuttal Memo prepared by the City's EIR Consultant and incorporated in its entirety herein by reference, it is highly unusual to conduct such analyses, in this or any other air basin in California, since the potential for significant project impacts related to localized emissions of CO, NO<sub>2</sub>, SO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> is extremely low. There also is no evidence or analysis from other projects of similar nature and size in the San Joaquin Valley or elsewhere that would indicate the potential for significant impacts resulting from project emissions of these pollutants at the Visalia Walmart Expansion project.

Therefore, the analysis of these localized pollutants was not included in the original air quality assessment for the DEIR.

In response to the Air District's DEIR comment letter, a supplemental air quality assessment on the potential impacts resulting from project emissions of these localized pollutants was prepared.

- The assessment of localized air quality impacts found that the project-related emissions of CO, NO<sub>2</sub>, and SO<sub>2</sub> would be substantially below the significance thresholds applicable to each pollutant.
- It further found that the total pollutant concentrations, including background concentrations and emissions from the existing Walmart store and the planned store expansion, would also be well below all of the applicable significance thresholds (see FEIR Appendix A, Table 9).
- The air quality assessment also found that the localized emissions of PM<sub>10</sub> and PM<sub>2.5</sub> from the proposed expansion (including the existing Walmart store) would be well below the applicable significance thresholds (see FEIR Appendix A, Table 10).
- Based on these findings, the project impacts to localized air pollution would be less than significant.
- In a second and final comment letter, dated March 24, 2011, the Air District indicated that it had reviewed the local air quality analysis and agrees with the conclusion that the project will not result in exceedances of the standards for carbon dioxide, sulfur dioxide, and nitrogen dioxide, nor contribute to exceedances of the particulate standard. (See Comment Letter D2 in the FEIR.)

**The City finds that information added in the Final EIR does not constitute significant new information requiring recirculation, but rather that the additional information clarifies or amplifies an adequate EIR. Specifically, the City finds that the additional information does not show that:**

- (1) A new significant environmental impact would result from the Project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.



The local air quality analysis does not raise the potential existence of new significant impacts that were not evaluated in the DEIR, nor does it indicate that the severity of those impacts is greater than reported in the DEIR. The analysis confirms that the project's local air quality impacts are less than significant. Nonetheless, a letter submitted by Project opponents' attorney Mark Wolfe to the City dated April 25, 2011, states: *"Finally, the Final EIR presents for the first time and an entirely new analysis of criteria pollutants just days before the City is to act on the application. At the very least the City should recirculate this new "localized" analysis, so that the public has an opportunity to comment on this new analysis and to obtain responses."*

The City rejects Mr. Wolfe's request to recirculate the EIR and/or the local air quality analysis. The City finds that the FEIR was provided to Mr. Wolfe 10 days prior to the April 25, 2011 Planning Commission hearing. In light of the brevity of the local air quality report and the simplicity of its conclusions, i.e., that the project's local emissions are very far below all of the significance thresholds, the City agrees with the Rebuttal Memo's response to Mr. Wolfe that review and comment upon the report should not reasonably require more than 10 days. The City finds that the local air quality report included in the Final EIR does not constitute significant new information requiring recirculation; it instead merely clarifies or amplifies or makes insignificant modifications in an adequate EIR and contains further substantial evidence supporting its conclusions and the City's decision to approve the Project.

**Based on the foregoing, and having reviewed the information contained in the Final EIR and in the record of City's proceedings, including the comments on the Final EIR and the responses thereto, the City finds that no significant new information has been added to the Final EIR since public notice was given of the availability of the Draft EIR that would require recirculation of the Final EIR.**

b. Comments Submitted by Project Opponents On April 25, 2011 and City's Rebuttal Memo

The City also recognizes that information has been submitted to the City following publication of the Final EIR, commenting on the adequacy of the Final EIR and requesting recirculation of the EIR. Specifically, on April 25, 2011, shortly before the start of the Planning Commission public hearing, the City received two letters opposing the Walmart Expansion project, one from attorney Mark Wolfe and Associates on behalf of an "ad hoc association of citizens" called the "Visalia Smart Growth Coalition," and one from Jim Watt on behalf of several competing retailers operating in Visalia.

Mr. Wolfe's letter challenged the adequacy of the Final EIR's analysis and mitigation in the areas of (1) traffic; (2) air quality; (3) urban decay; and (4) noise. Oral responses to the Wolfe letter from the EIR Consultant and the expert subconsultants were presented to the Planning Commission. Planning Staff and the applicant's engineer both responded on the record to the letter submitted by Mr. Watt. The Rebuttal Memo, a full written response to the Mark Wolfe appeal and the Jim Watt comment letter was included as Exhibit B to the Staff Report presented to the City Council prior to the May 16, 2011 public hearing.

The Rebuttal Memo is hereby incorporated into this document by reference.

**After review of the April 25, 2011 Wolfe and Watt letters, the Wolfe appeal, and the Rebuttal Memo, the City Council finds that no significant new information was presented in the testimony or documents that would warrant a different conclusion, and**

**that no new significant impacts or increase in the severity of impacts which were analyzed in the FEIR that would require further analysis and recirculation of the FEIR have been identified.**

3. Differences of Opinion Regarding the Impacts of the Project

In making its determination to certify the Final EIR and to approve the Project, the City recognizes that the Project involves an applicant whose projects often generate organized opposition from business competitors and unions, leading to extensive comments on EIR documentation and at public hearings that are held to consider the project and differences of opinion regarding an EIR's analysis and conclusions. Here, the comment letters submitted in opposition to the Project by Mark Wolfe and Jim Watt do not support their opinions with technical studies or data, but rather with their own opinions regarding the FEIR's conclusions.

Before considering comments and information evidencing a difference of opinion regarding the Project's environmental impacts, the City has reviewed and considered, as a whole, the evidence and analysis in the Draft EIR; the evidence and analysis presented in the comments on the Draft EIR; the evidence and analysis presented in the Final EIR; the reports prepared by the experts who prepared the EIR that support its conclusions regarding the significance of project impacts and the efficacy of recommended mitigation measures; the information and comments submitted on the Final EIR; information gathered and reports prepared by the City's consultants and by staff, addressing those comments; Planning Commission hearing testimony and the Wolfe and Watt comment letters submitted at the April 25, 2011 hearing; and the Rebuttal Memo containing the supplemental analyses and information responding to these comments. As a result, the City has gained a comprehensive and well-rounded understanding of the environmental issues presented by the Project and of the range of the differing opinions regarding the Project, its impacts and the required mitigation measures. In turn, this understanding has enabled the City to make its decisions after weighing and considering the various viewpoints on these important issues.

**Accordingly, the City certifies that its findings are based on full appraisal of all of the evidence contained in the Final EIR, as well as the evidence and other information in the record addressing the Final EIR.** The differing opinions expressed by Project opponents do not undermine the substantial evidence supporting the Final EIR's analysis and conclusions or in any way indicate that further evaluation of any particular impact area addressed in the Final EIR is warranted.

**B. Project Impacts and Mitigation Measures**

1. These findings provide the written analysis and conclusions of the City regarding the environmental impacts of the Project and the mitigation measures identified in the Final EIR and adopted by the City as conditions of approval for the Project. In making these findings, the City has considered the opinions of other agencies and members of the public, including opinions that disagree with some of the thresholds of significance and analysis used in the Final EIR.

**The City finds that the analysis and determination of significance thresholds are judgments within the discretion of the City; the analysis and significance thresholds used in the Final EIR and further explained on the record at the April 25<sup>th</sup> Planning Commission hearing and in the Rebuttal Memo are supported by substantial evidence in the record, including the expert opinion of the Final EIR preparers and City consultants and staff; and the significance thresholds used in the Final EIR provide**

**reasonable and appropriate means of assessing the significance of the adverse environmental effects of the Project.**

2. Exhibit A. Attached to these findings and incorporated herein by reference summarizes the environmental determinations of the Final EIR about the Project's environmental impacts before and after mitigation. This exhibit does not attempt to describe the full analysis of each environmental impact contained in the Final EIR. Instead, Exhibit A provides a summary description of each environmental impact, identifies the applicable mitigation measures described in the Final EIR, and states the City's findings on the significance of each environmental impact after imposition of the applicable mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final EIR and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the Final EIR's determinations regarding the Project's environmental impacts and mitigation measures designed to address those impacts.

**The City approves the findings set forth in Exhibit A as its findings regarding the Project's environmental impacts before and after mitigation. In making these findings, the City ratifies, adopts, and incorporates the analysis and explanation in the Final EIR, and ratifies, adopts, and incorporates in these findings the determinations and conclusions of the Final EIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.**

**The City adopts, and incorporates as conditions of approval of the Project, the mitigation measures set forth in the MMRP attached to these findings as Exhibit B to reduce or avoid the potentially significant and significant impacts of the Project, as well as certain less-than-significant impacts.**

3. In adopting these mitigation measures, the City intends to adopt each of the mitigation measures identified by the Final EIR and applicable to the Project. Accordingly, in the event a mitigation measure recommended in the Final EIR has inadvertently been omitted from Exhibit B, such mitigation measure is hereby adopted and incorporated in the findings below by reference. In addition, in the event the language describing a mitigation measure set forth in Exhibit B fails to accurately reflect the mitigation measures in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in the Final EIR shall control, unless the language of the mitigation measure has been specifically and expressly modified by these findings.

4. Prior to approval of the Project, various measures were suggested by commenters as proposed additional mitigation measures or modifications to the mitigation measures identified by the EIR, particularly with respect to traffic improvements. Some of the EIR's mitigation measures were modified in response to such comments. Other comments requested minor modifications in mitigation measures identified in the Draft EIR; requested mitigation measures that were in fact already incorporated into proposed mitigation; requested mitigation measures for impacts that were less than significant; requested levels of detail that are not necessary for environmental review but will be submitted in advance of later permits and approvals; or requested additional mitigation measures for impacts as to which the Draft EIR identified mitigation measures that would reduce the identified impact to a less-than-significant level; these requests are declined as unnecessary.

**With respect to the additional measures suggested by commenters that were not added to the Final EIR, the City adopts and incorporates by reference the reasons set forth in the responses to comments contained in the Final EIR as its grounds for rejecting adoption of these mitigation measures.**

**C. Basis for the City's Decision to Approve the Project and Reject Other Alternatives**

The Final EIR evaluates a range of potential alternatives to the originally Project, as is described in Section I.D., above, which is incorporated here by reference. In summary, the alternatives include a: (1) No Project Alternative; (2) Reduced Project Size Alternative; and (3) In-Line Retail Alternative. The Final EIR examines the environmental impacts of each alternative in comparison with the Project as originally proposed and the relative ability of each alternative to satisfy the Project Objectives.

The Final EIR also summarizes the criteria used to identify a reasonable range of alternatives for review in the EIR and describes options that did not merit additional, more-detailed review either because they do not present viable alternatives to the Project or they are variations on the alternatives that are evaluated in detail. The findings supporting rejection of these alternatives are discussed below in Section IV.E.

**D. The City's Findings Relating to Alternatives**

**In making these findings, the City certifies that it has independently reviewed and considered the information on alternatives provided in the Final EIR, including the information provided in comments on the Draft EIR and the responses to those comments in the Final EIR.** The Final EIR's discussion and analysis of these alternatives is not repeated in total in these findings, but the discussion and analysis of the alternatives in the Final EIR are incorporated in these findings by reference to supplement the analysis here. The City also certifies that it has independently reviewed and considered all other information in the administrative record

The City finds that the range of alternatives studied in the Final EIR reflects a reasonable attempt to identify and evaluate various types of alternatives that would potentially be capable of reducing the Project's environmental effects, while accomplishing most of the Project Objectives. The City finds that the alternatives analysis is sufficient to inform the City, agencies, and the public regarding the tradeoffs between the degrees to which alternatives to the Project could reduce environmental impacts and the corresponding degree to which the alternatives would hinder the achievement of the Project Objectives and other economic, environmental, social, technological, and legal considerations.

**The City finds the Project would satisfy the Project Objectives, and is more desirable than the other alternatives.** As set forth in Section IV.B above, the City has adopted mitigation measures that avoid or reduce, to the extent feasible, the significant environmental effects of the Project. As explained in Section V, which is incorporated by reference into the CEQA findings, while these mitigation measures will not mitigate all project impacts to a less-than-significant level, they will mitigate those impacts to a level that the City finds is acceptable. **The City finds the remaining alternatives infeasible. Accordingly, the City has determined to approve the Project instead of approving one of the remaining alternatives.**

**In making this determination, the City finds that when compared to the other alternatives described and evaluated in the Final EIR, the Project, as mitigated, provides a reasonable balance between satisfying the Project Objectives and reducing potential environmental impacts to an acceptable level. The City further finds and determines that the Project should be approved, rather than one of the other alternatives, for the reasons set forth below and in the Final EIR.**

1. No Project Alternative

Under CEQA, a “No Project Alternative” compares the impacts of proceeding with a Project with the impacts of not proceeding with the Project. A “No Project Alternative” describes the environmental conditions in existence at the time the Notice of Preparation was published or some other supportable time period, along with a discussion of what would be reasonably expected to occur at the site in the foreseeable future, based on current plans and consistent with available infrastructure and community services.

Under the “No Project Alternative” considered in the Final EIR, the Project site would remain in its existing condition and no expansion of the Walmart store would occur. Another possibility is that the site would be built out to accommodate several retail uses where no individual store would exceed 40,000 square feet, such that no Conditional Use Permit would be required; however, this scenario is evaluated under the In-Line Retail Alternative.

For comparative purposes, the proposed Project would result in significant and unavoidable impacts with regard to construction noise, as is further detailed in Section V.A, below. The Project would result in other potentially significant impacts regarding air quality; biological resources; cultural resources; geology and soils; hazardous materials; hydrology and water quality; noise from sources other than construction; utilities and service systems; and traffic and circulation, all of which could be mitigated to a level of less than significant. None of these potentially significant impacts would occur under the No Project Alternative.

**The City hereby rejects the No Project Alternative as infeasible.** By not expanding the Walmart store as under the proposed Project, the No Project Alternative would not: Provide the market area with a centrally-located, affordable, one-stop shopping alternative with an adequately-sized grocery component to enhance customer convenience; positively contribute to the local economy; provide a retail establishment that serves local residents and visitors with essential goods and services, in a safe and secure, 24-hour shopping environment; develop the vacant eastern portion of the site in a manner that is compatible with the existing site and enhances its aesthetics, positively contributes to the local economy, and enhances commercial retail and service opportunities available in the surrounding community; implement a high-quality architectural design that complements the existing design characteristics of the surrounding commercial uses; develop a project with new landscaping to soften the design and create a pleasant, attractive appearance that complements the Walmart store and surrounding area; develop a site plan to minimize potential automobile and pedestrian conflicts; maximize economic growth and development in a way that is consistent with the policies of the City of Visalia. Thus, the Project would fail to achieve any of the fundamental Project Objectives.

**While this alternative would eliminate the significant environmental effects of the Project regarding noise during construction, and eliminate the less-than-significant impacts in other topical areas evaluated in the EIR, on balance, the environmental benefits that might be achieved with this alternative are outweighed, independently and separately, by the alternative’s failure to achieve any of the Project**

**Objectives, and its failure to effect the other beneficial attributes of the Project identified above and in Section V, below.**

2. Reduced Project Size Alternative

The Reduced Project Size Alternative assumes a project size which is half the size of the Walmart expansion as originally proposed, resulting in an overall project floor area of 28,400 square feet, and a grocery floor area of 27,800 square feet. The reduced floor area would also result in a smaller expanded parking area than proposed in the Project. The area of the expansion site that would be developed under this alternative would be about 2.3 acres. It is assumed that the Reduced Project Size Alternative would be developed entirely in the western portion of the expansion site and the existing vacant office building in the southeast corner of the expansion site would be demolished. This would leave a 130-foot-wide vacant strip of land along the eastern site boundary.

For comparative purposes, the Project as originally proposed would result in significant and unavoidable impacts regarding construction noise, as is further detailed in Section V.A, below. The proposed Project would result in other potentially significant impacts regarding air quality; biological resources; cultural resources; geology and soils; hazardous materials; hydrology and water quality; noise from sources other than construction; utilities and service systems; and traffic and circulation, all of which could be mitigated to a level of less than significant.

As set forth in the Draft EIR, it is anticipated this alternative would be result in lesser potential impacts associated with all the aforementioned topical areas. However, the Reduced Project Size Alternative would not avoid the significant and unavoidable construction noise impacts of the proposed Project. Although construction noise levels would be less under the Reduced Project Size Alternative, particularly to existing residences adjacent to the east project boundary, the additional 130 feet of setback would not be sufficient to reduce noise generated by heavy construction equipment to less-than-significant levels. The mitigated noise level would be 64 dBA  $L_{eq}$ , which would still exceed the applicable significance threshold of 56 dBA  $L_{eq}$ , as is further explained in the noise and alternatives analyses chapters in the Final EIR.

**The City rejects the Reduced Project Size Alternative as infeasible.** The City finds, separately and independently, the Reduced Project Size Alternative would be inconsistent with some fundamental Project Objectives, would not fully meet other fundamental Project Objectives and is less desirable to the City, as is set out in further detail below.

a. *Failure to Provide Central, One-Stop Shopping Alternative.*

One fundamental Project Objectives is to provide the market area with a one-stop shopping alternative that includes an adequately-sized grocery component. The Reduced Project Size Alternative would offer grocery floor area of only 27,800 square feet. When limited to this amount of square footage, Walmart only can offer a limited line of groceries. For instance, only packaged food items would be sold (e.g., canned and bagged foods), and no fresh food items (e.g., meats, dairy products, fruits, or vegetables) would be offered. Given the limited food offerings, this alternative Walmart store would not be considered a “food store,” and thus would compete minimally with other food stores in the Trade Area. That is, the Reduced Project Size Alternative would fail to function as a true alternative grocery source for residents of the Trade Area and would not provide residents with a convenient one-stop shopping alternative. At the same time, testimony and written comments provided by residents during the

entitlement and environmental review process and during the April 24<sup>th</sup> public hearing has confirmed the overwhelming need and consumer demand for a full range of products offered by an approximate 190,000 square foot square foot Walmart store that has been sized for the neighborhood and community market, with a grocery component of up to 56,310 square feet (see DEIR, p. 16, Table 2; includes existing 647 square feet of grocery and “buffer” area evaluated in EIR). Walmart’s research and experience and intensive consultation with the City and residents is consistent with this evidence.

In sum, without the more than 50,000 square feet of space dedicated to the sale of groceries as under the Project as proposed, coupled with a substantial amount of general merchandise sales space, this alternative would fail to provide the market area with a one-stop shopping alternative that includes an adequately-sized grocery component.

b. *No Affordable Shopping Alternatives for Groceries.*

One fundamental Project Objective is to provide the Trade Area with an affordable shopping alternative that includes an adequately-sized grocery store. Affordability is especially important in light of the unemployment figures and income levels in the City. For instance, the City had an estimated 18 percent unemployment rate in 2010. Visalia also has income levels lower than the State as a whole, with an estimated median annual household income of \$41,349. In contrast, California’s median household income is \$47,493 for the same time period. The gap for per capita income is even more pronounced

Wal-Mart stores have been shown to provide substantial price savings on consumer goods when compared to competitors. According to the article in the *Journal of Economics & Management Strategy* entitled “The Evolving Food Chain: Competitive Effects of Wal-Mart’s Entry into the Supermarket Industry,” estimates of Walmart’s prices for grocery items have been, on average, 10 percent lower than competitors’ prices. By not expanding the existing Walmart to the same degree as the proposed Project, and reducing grocery sales space by about 25,000 square feet (which would impact sales operations as set forth in Section IV.D.2.a), the Reduced Project Size Alternative would fail to meet the objective of providing regional consumers with a real, affordable alternative to existing supplies.

c. *Fewer Job Opportunities.*

One fundamental Project Objective is to maximize new job opportunities for local residents. The expansion of the existing Walmart store, as contemplated under the Project as proposed, is estimated to create approximately 85 employment positions, and an expansion totaling roughly half the size of the originally proposed space would result in the loss of approximately 43 job opportunities. These permanent positions would be both full-time and part-time, with most of the positions being entry level. These employment opportunities are especially significant in light of recent economic trends. The City, for example, had an estimated 18 percent unemployment rate in 2010

Meanwhile, the Final EIR’s urban decay analysis shows that while the Project would cause a decline in revenues at other grocery stores, no closures are expected, and sales volumes would recover to current levels by 2013. While the cumulative analysis does identify the possibility of store closures, the analysis is based on a number of conservative assumptions that are set forth in the Land Use and Planning chapter of the Draft EIR and the urban decay technical analysis in Appendix B to the Draft EIR, which are incorporated by reference. As the Draft EIR concludes, it is more reasonable that automatic market corrections and other factors

as also are set forth in the above documents and incorporated by reference, will prevent the market from becoming substantially overbuilt at any given time with additional projects.

d. *Fewer Tax Revenues.*

One fundamental Project Objective is to positively contribute to the local economy. The Project, as originally proposed, would add approximately 55,000 square feet in retail space, which would result in approximately \$233,750 in property tax revenues for the City. Under the Reduced Project Size Alternative, the addition square footage of expansion space would total 28,400, which would result in only about \$200,500 property tax revenues. Sales tax revenues also would be reduced. Under the Project as originally proposed, the City estimates that it would receive more tax revenues than a reduced Project alternative; an additional, \$20,000 in sales tax, whereas the Reduced Project Size Alternative would be expected to generate \$10,000 in sales tax revenue. Tax revenues in the City are especially important given that, from 2005 to 2009, the population of Visalia increased by 16,100, yet per capita retail sales tax decreased from \$1,459,952 in 2005 to \$1,239,595 in 2009, as shown in fiscal analyses prepared for the City. The City has more residents to serve, but tax revenues are not keeping pace with the size of the service population.

Meanwhile, the Final EIR's urban decay analysis shows that while the Project would cause a temporary decline in revenues at other grocery stores, sales volumes would recover to current levels by 2013. While the cumulative analysis does identify the possibility of store closures when other projects are considered along with the Walmart expansion project, the analysis is based on a number of very conservative assumptions. These assumptions are set forth in the Land Use and Planning chapter of the Draft EIR and the urban decay technical analysis in Appendix B to the Draft EIR, which are incorporated by reference. As the Draft EIR concludes, it is more reasonable to conclude that automatic market corrections and other factors, (as also are set forth in the above documents and incorporated by reference), will prevent the market from becoming substantially overbuilt at any given time with additional projects.

e. *Fewer Enhancements of Aesthetics and Commercial Opportunities.*

A fundamental Project Objective is to develop the vacant eastern portion of the site in a manner that is compatible with the existing site and enhances its aesthetics, positively contributes to the local economy, and enhances commercial retail and service opportunities available in the surrounding community. Another is to develop a project with new landscaping to soften the design and create a pleasant, attractive appearance that complements the Walmart store and surrounding area. The area of the expansion site that would be developed under the Reduced Size Project Alternative would be about 2.3 acres, in contrast to 4.6 acres under the Project as originally proposed. Thus, the alternative would leave portions of the site vacant, and fail to enhance the aesthetics of the site to the same degree as the proposed Project, as well as fail to enhance the commercial retail and service opportunities available in the surrounding community to the same extent as the proposed Project.

f. *Failure to Maximize Growth and Development Consistent with City Policies.*

One fundamental Project Objective is to maximize economic growth and development in a way that is consistent with the policies of the City of Visalia. A number of



policies and objectives in the City's General Plan Land Use Element are relevant, as set forth below. Following each statement of City policy are City findings regarding how the alternative fulfills the policy compared to the Project as originally proposed.

1) *Goal 3, Objective 3.1 B:* Promote diversity in Visalia's economic base to increase the stability of jobs and fiscal revenues. As discussed in Sections IV.D.2.c and IV.D.2.d, above, the Reduced Project Size Alternative will promote diversity in the City's economic base or increase the stability of jobs and fiscal revenues to the same extent as the Project as originally proposed.

2) *Goal 3, Objective 3.1 C:* Enhance the City's sales tax revenues by maintaining and improving Visalia's retail base to serve the needs of local residents and encourage shoppers from outside the community. As discussed in Section IV.D.2.d, above, the Reduced Project Size Alternative will not enhance the City's tax revenues to the same extent as the Project as originally proposed.

3) *Policy 3.1.5:* Encourage new and existing business and industry that will employ Visalians. As discussed in Section IV.D.2.c, above, the Reduced Project Size Alternative will create about half the number of job opportunities available to Visalians as would be available under the Project as originally proposed.

4) *Goal 3, Objective 3.5 C:* Promote comprehensively planned, concentric commercial areas to meet the needs of Visalia residents and its market area. The Reduced Project Size Alternative would provide approximately 28,400 square feet of commercial space and a grocery component with reduced goods and services. Further, in reducing the expansion area, this alternative would leave acreage on the Project site undeveloped. The alternative therefore would not meet the needs of Visalia residents in terms of providing a one-stop shopping destination where consumers could purchase affordable general merchandise and a full offering of grocery goods, as is set forth in Sections IV.D.2.a and IV.D.2.b, above, and this alternative is not as comprehensively planned as the originally proposed Project.

5) *Goal 3, Objective 3.5 D:* Create and maintain a commercial land use classification system (including location and development criteria) which is responsive to the needs of shoppers, maximizing accessibility and minimizing trip length. The Reduced Project Size Alternative, by not offering a full-sized, affordable grocery component adjacent to a diverse source of goods, would not be responsive to the needs of neighborhood or community shoppers, as contemplated by the Shopping/Office Commercial designation, and as is set forth in Sections IV.D.2.a and IV.D.2.b, above would reduce the benefits of having multiple consumer needs met under one roof. Further, the arrangement of comprehensive grocery uses in a location coterminous with a national retailer's general merchandise stock not only maximizes accessibility, but minimizes residents' vehicle travel lengths. That is, by siting a number of complementary uses within the same store, such as general merchandise and grocery, consumers have the option at the Project site to meet their diverse demands without any additional vehicle travel or vehicle travel to other cities where Walmart supercenters are located. By contrast, without the centralization of development afforded by the proposed Project, consumers would have to travel greater distances to satisfy consumer demand related to each of these uses, thereby increasing congestion at intersections and along roadway segments, and contributing greater amounts of greenhouse gas emissions to the atmosphere

6) *Policy 3.5.1:* Ensure that future commercial development is concentrated in shopping districts and nodes to discourage expansion of strip commercial development. The Reduced Project Size Alternative would reduce the benefit of having multiple consumer needs met under one roof by not offering a full-sized grocery component in a location coterminous with a diverse source of goods, would fail to concentrate commercial development in a shopping district or node, as is further set forth in Section IV.D.2.a, above. It is reasonably foreseeable that demand for any of the goods or services offered exclusively by the proposed Project would have to be met off-site, thus encouraging the expansion of strip commercial development.

**While the Reduced Project Size Alternative would reduce environmental effects of the Project, the alternative would not eliminate the significant and unavoidable construction noise impacts associated with the Project, and, on balance, the environmental benefits that might be achieved with this alternative are outweighed, independently and separately, by the alternative's failure to achieve Project Objectives in the manner described above, and its failure to effect fully the other beneficial attributes of the Project identified above and in Section V, below.**

### 3. In-Line Retail Alternative

The In-Line Retail Alternative assumes that the existing Walmart store is left in its current state, and that the 4.6-acre expansion area is not used for a Walmart expansion but rather for a series of in-line retail shops. It is further assumed that the overall floor area proposed for incremental development would remain the same as in the proposed Project at about 56,800 square feet. It is also assumed that none of the new retailers would engage in grocery sales, but would sell some form of general merchandise (e.g., shoes, clothes, books, office or art supplies, housewares, etc.). The building configuration would have all new stores in a line across the vacant site from north to south (parallel to the east Project site boundary), with parking in front and loading areas in the rear. The in-line retail likely would not stay open 24 hours per day. Under this alternative, the Walmart store would not be expanded or remodeled.

For comparative purposes, the proposed Project would result in significant and unavoidable impacts regarding construction noise, as is further detailed in Section V.A, below. The Project would result in other potentially significant impacts regarding air quality; biological resources; cultural resources; geology and soils; hazardous materials; hydrology and water quality; noise from sources other than construction; utilities and service systems; and traffic and circulation, all of which could be mitigated to a level of less than significant.

As set forth in the Draft EIR, it is anticipated this alternative would be result in lesser potential impacts associated with operational noise (owing to the fact that the in-line retail would not be open 24 hours per day) and land use and planning (which were determined already to be less-than-significant under the proposed Project; however, because less noise is anticipated from operations, and because no conditional use permits would be needed for this alternative, impacts are deemed to be even less significant). However, the In-Line Retail Alternative would not avoid the significant and unavoidable construction noise impacts of the proposed Project, even after implementation of all feasible mitigation measures. Like the proposed Project, the In-Line Retail Alternative also would involve grading and construction of the entire expansion area, including demolition of the existing vacant office building. As such, the temporary construction impacts associated with this alternative would be similarly significant and unavoidable with the implementation of all feasible mitigation measures.

Other impacts of the In-Line Retail Alternative, including those regarding geology and soils; biological resources; cultural resources; aesthetics; traffic and circulation; air quality; hazardous materials; utilities and service systems; public services; energy; and global climate change were deemed to be similar to those occurring under the originally proposed Project, as is set forth in the alternatives analysis in the Draft EIR. Finally, impacts of the alternative that are associated with hydrology and water quality were determined to be greater (although still less-than-significant) than what would occur under the proposed Project because the alternative's building footprint would encroach further into a flood plain. Much of the southeastern portion of the expansion area (comprising approximately half of the total expansion area) is located within the mapped 100-year flood zone. Under the proposed Project, the planned building expansion extends into the 100-year flood zone along the front façade of the expanded store, although the planned finished floor elevation is above the highest base flood elevation on the Project site. Under the In-Line Retail Alternative, approximately one-half of the floor area would encroach upon the flood zone, with a correspondingly greater potential for displacement of flood waters compared to the proposed Project, although any potential flooding impacts are likely to be less than significant in either case. To avoid significant impacts, building pads for the in-line retail stores would be raised above base flood elevations, as required by the City.

**The City rejects the In-Line Retail Alternative as infeasible.** The City finds, separately and independently, the In-Line Retail Alternative would be inconsistent with some fundamental Project Objectives, would not fully meet other fundamental Project Objectives, and is less desirable to the City, as is set out in further detail below.

a. *Failure to Provide Central, One-Stop Shopping Alternative.*

One fundamental Project Objectives is to provide the market area with a one-stop shopping alternative that includes an adequately-sized grocery component. The In-Line Retail Alternative would consist of a number of smaller stores that, reasonably, would support only general merchandise sales and not a full-sized grocery market. At the same time, Walmart's research, experience and intensive consultation with the City and residents, and information provided by residents during the CEQA review process and at the April 25<sup>th</sup> public hearing has confirmed the overwhelming need and consumer demand for a full range of products offered by a Walmart store that has been sized for the neighborhood and community market, with a grocery component of up to 56,310 square-feet.

In sum, without the more than 50,000 square feet of space dedicated to the sale of groceries as under the Project as proposed, this alternative would fail to provide the market area with a one-stop shopping alternative that includes an adequately-sized grocery component.

b. *Failure to Provide an Affordable Shopping Alternative for Groceries.*

One fundamental Project Objective is to provide the Trade Area with an affordable shopping alternative that includes an adequately sized grocery store. Affordability is especially important in light of the unemployment figures and income levels in the City. For instance, the City had an estimated 18 percent unemployment rate in 2010. Visalia also has low-income levels, with the City having an estimated median annual household income of \$41,349. In contrast, California's median household income is \$47,493 for the same time period. The gap for per capita income is even more pronounced.

Under the In-Line Retail Alternative, no planned grocery market would be constructed. In terms of general merchandise sales, this alternative contemplates that small-scale stores would operate. However, these small stores likely would not benefit from economies of scale to the extent that a larger discount store would benefit, and it therefore is anticipated that goods for sale in the in-line retail stores would not be as affordable as comparable goods offered in the existing Walmart store. In fact, it is more likely the in-line retail stores would offer specialty items that would not compete with the on-site, national retailer. In this vein, evidence shows Walmart stores provide substantial price savings on consumer goods when compared to competitors. For example, according to the article in the *Journal of Economics & Management Strategy* entitled "The Evolving Food Chain: Competitive Effects of Wal-Mart's Entry into the Supermarket Industry," estimates of Walmart's prices for grocery items have been, on average, 10 percent lower than competitors' prices. By not providing an affordable grocery store, and by creating a likely source of less affordable general merchandise, the In-Line Retail Alternative would fail to meet the objective of providing trade area consumers with an affordable shopping alternative.

c. *Failure to Maximize Growth and Development Consistent with City Policies.*

One fundamental Project Objective is to maximize economic growth and development in a way that is consistent with the policies of the City of Visalia. A number of policies and objectives in the City's General Plan Land Use Element are relevant, as set forth below. Following each statement of City policy are findings regarding how the alternative fulfills the policy compared to the Project as originally proposed.

1) *Goal 3, Objective 3.5 C: Promote comprehensively planned, concentric commercial areas to meet the needs of Visalia residents and its market area.* The In-Line Retail Alternative would include comparable square feet of commercial space vis-à-vis the proposed Project, but no grocery component. The alternative therefore would not meet the needs of Trade Area and Visalia residents in terms of providing a one-stop shopping destination where consumers could purchase affordable general merchandise and grocery goods, as is set forth in Sections IV.D.3.a and IV.D.3.b, above.

2) *Goal 3, Objective 3.5 D: Create and maintain a commercial land use classification system (including location and development criteria) which is responsive to the needs of shoppers, maximizing accessibility and minimizing trip length.* The In-Line Retail Alternative, by not offering a full-sized, convenient and affordable grocery component adjacent to a diverse source of goods, would not be responsive to the needs of neighborhood or community shoppers, as contemplated by the Shopping/Office Commercial designation, and as is set forth in Sections IV.D.3.a and IV.D.3.b, above. While the In-Line Retail Alternative would offer complementary uses in close proximity, the neighborhood and community have indicated a demand for more affordable grocery options, given the state of the economy. Further, the arrangement of comprehensive grocery uses in a location coterminous with a national retailer's general merchandise stock not only maximizes accessibility, but minimizes residents' vehicle travel lengths. That is, by siting a number of complementary uses in close proximity, such as general merchandise and grocery, consumers have the option at the Project site to meet their diverse demands without any additional vehicle travel. By contrast, without the centralization of development afforded by the proposed Project, consumers would have to travel greater distances to satisfy consumer related to each of these uses, thereby increasing congestion at intersections and along roadway segments, and contributing greater amounts of greenhouse gas emissions to the atmosphere.

3) *Policy 3.5.1:* Ensure that future commercial development is concentrated in shopping districts and nodes to discourage expansion of strip commercial development. The In-Line Retail Alternative, by not offering a grocery component in a location coterminous with a diverse source of goods, would fail to concentrate commercial development in a shopping district or node, as is further set forth in Section IV.D.3.a, above. While this alternative would build out the site to the same extent as the proposed Project with complementary uses, the neighborhood and community have evinced a strong preference for more affordable grocery options, given the state of the economy. It is reasonably foreseeable that demand for any of the affordable groceries offered exclusively by the proposed Project would have to be met off-site, thus encouraging the expansion of strip commercial development

**While the In-Line Retail Alternative would reduce environmental effects of the Project, the alternative would not eliminate the significant and unavoidable construction noise impacts associated with the Project, and would result in greater impacts regarding hydrology and water quality; on balance, the environmental benefits that might be achieved with this alternative are outweighed, independently and separately, by the alternative's failure to achieve Project Objectives in the manner described above, and its failure to effect fully the other beneficial attributes of the Project identified above and in Section V, below.**

**E. Findings Regarding Project Alternative Scoped out of EIR**

One other alternative was considered during the EIR process in forming a reasonable range of alternatives: the Alternative Project Location.

**With respect to alternatives considered or raised during the EIR process, the City hereby adopts and incorporates by reference the reasons set forth in the DEIR analysis and responses to comments contained in the Final EIR, separately and independently, as its grounds for finding infeasible and rejecting the scoped-out alternative. Separately and independently, the City further finds infeasible and rejects the alternative location project alternative for the following reasons:**

Evaluating an alternative location for the Project was initially considered but ultimately was rejected from further considerations, separately and independently, for the following reasons:

1. Since the proposed Walmart expansion could not be located at another site in isolation of the remainder of the store, the evaluation of an alternative project location would imply the relocation of the existing Walmart store to another site, along with the proposed expansion. The resulting project would be approximately 190,000 square feet in size, which would be substantially larger than the proposed expansion project size of 56,800 square feet. Thus the basic Project Objective of providing a centrally-located, one-stop shopping alternative, and with an adequately-sized grocery component, could only be met at an alternative location with a new store at least three times the size of the proposed expansion Project.

2. Regardless of location, the impacts associated with a project which is three times as large as the proposed Project would be far greater than those associated with the proposed Project at the proposed location. The volume of traffic generated would be roughly three times that associated with the proposed project, as would air quality impacts, energy consumption, and greenhouse gas emissions. The emissions of ozone

precursors such as nitrogen oxides and reactive organic gases would exceed the San Joaquin Valley Air Pollution Control District's significance thresholds under such an alternative, while the emissions associated with the proposed Project would not do so. Regarding construction noise, building an entirely new store and parking area in a location appropriate for the market area would require substantially more grading and construction, and thus would be expected to generate similar levels of noise, but for longer durations, at any nearby residences or other sensitive receptors. In terms of construction effects, expanding the existing store also would involve substantially less consumption of building materials and energy, and significantly lower emissions of air pollutants and greenhouse gases. Thus, instead of avoiding or substantially lessening the impacts of the proposed Project, this alternative would do the opposite and create new significant air quality impacts and result in substantially worse traffic and noise impacts than those associated with the proposed project location.

3. Expanding the existing store on land which is already owned by Walmart would be less cost prohibitive than constructing an entirely new store on land which would have to be acquired.

4. The relocation of the Walmart store to another site would create a vacancy at the existing store which would need to be retenanted. It is possible that another big box retailer that does not currently have a presence in the area could occupy the empty store, or that the store could be subdivided into smaller tenant spaces. However, under the current economic conditions, such retenanting could take several years. Alternatively, the store could be demolished and the site could be developed for another use such as residential, but this option would be costly and would generate substantial waste.

5. While there may be alternative sites in the area that would be suitable for a 190,000 square-foot Walmart store, it is unlikely that any would be more suitable from the standpoint of delivery of City services than the current project site. At the Project site, all urban infrastructure needed to support the project is already in place on the Project site. This includes water supply, sanitary sewer, storm drainage, natural gas, and electrical service, all of which currently serve the existing store and would require minor upgrades and on-site extensions to serve the expansion Project. The roadways serving the Project generally have adequate capacity to accommodate additional traffic generated by the Project, although some intersection improvements will be needed to maintain adequate service levels. The Project has good access to transit service along Noble Avenue, and police and fire stations are located in the vicinity. Thus the Project site avoids the necessity of extending infrastructure and services to a less central site where such utilities and services may not be in place with the service capacities necessary to serve the Project.

#### **F. Findings Regarding Adequacy of Range of Alternatives.**

The City finds that the range of alternatives evaluated in the EIR reflects a reasonable attempt to identify and evaluate various types of alternatives that would potentially be capable of reducing the Project's environmental effects, while accomplishing most but not all of the Project Objectives. The City finds that the alternatives analysis is sufficient to inform the City and the public regarding the tradeoffs between the degree to which alternatives to the Project could reduce environmental impacts and the corresponding degree to which the alternatives would hinder the City's ability to achieve most or all of its Project Objectives.

**G. Mitigation Monitoring and Reporting Program**

In accordance with CEQA and the CEQA Guidelines, the City must adopt a mitigation monitoring and reporting program to ensure that the mitigation measures adopted herein are implemented. **The City hereby adopts the Mitigation Monitoring and Reporting Program for the Project attached to these findings as attached Exhibit B.**

**H. Summary**

1. Based on the foregoing findings and the information contained in the administrative record of proceedings, the City has made one or more of the following findings with respect to each of the significant environmental effects of the Project identified in the Final EIR:

a. Changes or alterations have been required in, or incorporated into, the Project which avoid or substantially lessen the significant environmental effects on the environment.

b. Specific economic, social, technological, or other considerations make infeasible the mitigation measures or alternatives identified in the Final EIR that would otherwise avoid or substantially lessen the identified significant environmental effects of the Project.

2. Based on the foregoing findings and information contained in the record, it is hereby determined that:

a. All significant effects on the environment due to approval of the Project have been eliminated or substantially lessened where feasible.

b. Any remaining significant effects on the environment found unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations in Section V, below.

**V. STATEMENT OF OVERRIDING CONSIDERATIONS**

**A. Construction Noise Impact That Remains Significant After Mitigation**

As discussed in Exhibit A and the Final EIR, the City has found impacts related construction noise remain significant following adoption and implementation of the mitigation measures described in the Final EIR. **The City finds that mitigating construction noise impacts, as identified in this section, to a level of less-than-significant would be infeasible, separately and independently, for the reasons set forth below.** As more fully described in the Final EIR and MMRP, all measures identified to alleviate these impacts that are feasible will be adopted.

1. Impact

a. Construction of the Project is anticipated to significantly impact homes to the south and to the east. To the south, a number of single family homes have backyards that abut the Project site, though existing walls separate these yards from store property. The homes themselves lie approximately 25 feet from portions of the site that

would undergo construction, and at least 75 feet from the building expansion footprint. To the east, a number of multiple family residences lie approximately 15 feet away from the expanded parking area, and about 400 feet away from the easternmost façade of the expansion.

b. For homes lying to the southwest and southeast of the Project site: During grading and paving, noise would exceed the threshold adopted in the Draft EIR by 19 to 29 decibels (dBA  $L_{eq}$ ) when taking place in the immediate vicinity of homes, and depending on the equipment in operation during a given time. During construction of the building expansion, noise is anticipated to exceed the adopted threshold by 5 to 25 dBA  $L_{eq}$  when occurring at the nearest residences to the south, with the range of noise dependant on equipment being used at a given time (e.g., graders and excavators versus air compressors).

c. For homes lying to the east: During grading and paving, noise would exceed the adopted threshold by 3 to 23 dBA  $L_{eq}$  when taking place in the immediate vicinity of the homes, with fluctuations based on the equipment in operation during a given time. During construction of the building expansion, noise is anticipated to exceed the adopted threshold by up to 5 dBA  $L_{eq}$  when occurring at the nearest residences, and depending on equipment in operation.

## 2. Mitigation

Feasible mitigation measures were identified in the Draft EIR that would reduce construction noise impacts, and these will be adopted as conditions of Project approval. However, technical noise modeling shows these measures only will be able to reduce noise impacts by approximately 5 to 10 dBA  $L_{eq}$ . The adopted feasible mitigations are as follows:

a. In accordance with the City's Municipal Code, construction activities shall be limited to weekdays between 6:00 a.m. to 7:00 p.m., and weekend days between 9:00 a.m. and 7:00 p.m.

b. Permanent noise barriers proposed along the south and east boundaries of the site (which are identified and discussed above in Section II.A.2.g) shall be constructed prior to engaging in any site development activities, including site clearing, demolition, building expansion and remodeling, and parking area expansion, reconstruction or rehabilitation. If this is not feasible, temporary noise barriers (minimum 10-foot high) shall be erected at the start of construction activities to shield heavy construction areas from adjacent residential receptors. The temporary noise barriers shall either be constructed of a minimum 0.5-inch plywood (without holes or gaps) or utilize acoustical blankets with a minimum Sound Transmission Class of 12. The temporary barriers shall remain in place until all exterior construction activity is completed or the permanent noise barriers are constructed.

c. All equipment driven by internal combustion engines shall be equipped with mufflers which are in good condition and appropriate for the equipment.

d. The construction contractor shall utilize "quiet" models of air compressors and other stationary noise sources where technology exists.

e. Unnecessary idling of internal combustion engines shall be prohibited.



f. At all times during project grading and construction, stationary noise-generating equipment shall be located as far as practicable from sensitive receptors.

g. All stationary construction equipment shall be placed so that the emitted noise is directed away from sensitive receptors nearest the project site.

h. Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.

i. Owners and occupants of residential and non-residential properties located within 300 feet of the construction site shall be notified of the construction schedule in writing.

j. The construction contractor shall designate a “noise disturbance coordinator” who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and institute reasonable measures as warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

### 3. Feasibility Findings

The City finds that further mitigation measures would not be feasible, separately and independently, for the following reasons:

a. Raising the height of the temporary noise barriers may reduce construction noise by a few decibels, but technical obstacles render it infeasible to provide the structural support needed to withstand windloading. Barriers higher than 10 feet would require substantial foundations (e.g., concrete footings) to provide structural support due to windloading issues; such foundations would be permanent in nature and would not be warranted for support of temporary structures.

Therefore, the residual significance of the impacts at this intersection and roadway segment are considered significant and unavoidable.

### **B. Overriding Considerations Justifying Project Approval**

**In accordance with CEQA Guidelines Section 15093, the City has, in determining whether or not to approve the Project, balanced the economic, social, technological, and other project benefits against its unavoidable environmental risks, and finds that each of the benefits of the Project set forth below outweigh the significant adverse environmental effects that are not mitigated to less-than-significant levels.**

This statement of overriding considerations is based on the City’s review of the Final EIR and other information in the administrative record. Each of the benefits identified below provides a separate and independent basis for overriding the significant environmental effects of the Project. The benefits of the Project are as follows:

1. Creation of Employment Opportunities.

The Project will provide a retail element that will provide significant benefits to the City and community in terms of employment opportunities. The Walmart store is estimated to hire approximately 85 new employees. Except for a very few number of Walmart management positions that may be filled by transferees from other localities, most of these full- and part-time positions will be entry level and filled by area residents. Consequently, it is reasonably expected that the City and its residents will enjoy the economic and social benefits from added employment opportunities afforded by the Project. These employment opportunities are especially significant in light of recent economic trends. The City and the Trade Area, as defined in the Final EIR, have very high unemployment levels. For instance, the Trade Area had an estimated 18 percent unemployment rate in 2010.

2. Creation of Tax Revenues.

The Project would add approximately 55,000 square feet in retail space, which would result in approximately greater property tax revenues and additional sales tax revenues for the City. At the same time, anticipated municipal costs associated with the proposed Project are less than sales taxes generated, leaving a net gain of up to \$20,000. These revenues will go to the City's General Fund, which is the primary funding source for the construction, operation and maintenance of a number of essential City services, programs and facilities, including fire and police services, recreation programs, transit operations, library services, public infrastructure such as water and sanitary sewer service, and administrative functions, among other things. Tax revenues in the City are especially important given that, from 2005 to 2009, the population of Visalia increased by 16,100, yet per capita retail sales tax decreased from \$1,459,952 in 2005 to \$1,239,595 in 2009. The City has more residents to serve, but tax revenues are not keeping pace with the size of the service population.

In addition, the opening of a Walmart store with grocery should lead to increases in sales tax and new business permits, as described in letters to the Planning Commission from the Visalia Chamber of Commerce (dated April 21, 2011) and from Lon Hatamiya of the Hatamiya Group (dated April 22, 2011). The Chamber of Commerce letter notes that "the project is unique in that it can indirectly lead to additional sales tax revenues for the City." Providing a detailed expert analysis of publicly available data provided by the California Board of Equalization, Mr. Hatamiya's letter describes a 16.1 percent increase in taxable retail sales in the City of Dinuba, and an 8.7 percent increase in the city's retail business permits since a Walmart store with grocery sales opened in 2006. While the City recognizes that post-recession increases may be smaller, substantial evidence nonetheless indicates that a Walmart store with grocery leads to increases in taxable retail sales and the opening of new businesses.

3. Provision of Convenient Shopping Alternative With a Grocery Component Sized to Meet Consumer Needs.

The Project will provide general retail and grocery items under one roof, a shopping option that currently does not exist in the Trade Area, and with updated, modern, and energy efficient construction, in close proximity to local consumers and residents. Detailed evidence in the record, including written and oral comments provided during the CEQA review process, including extensive testimony heard from 28 Project supporters at the April 25, 2011 Planning Commission meeting, demonstrates the City's need for a more convenient, affordable source of groceries and general merchandise items for which consumer demand exists, that can serve customers during both daytime and nighttime in a safe and secure environment. The

proposed Project provides such a source. In addition to convenience, the community will benefit insofar as this closer source of goods leads to less vehicle miles traveled overall and associated environmental benefits.

#### 4. Provision of Affordable, One-Stop Shopping Option

Wal-Mart stores have been shown to provide substantial price savings on consumer goods when compared to competitors. According to the article in the *Journal of Economics & Management Strategy* entitled “The Evolving Food Chain: Competitive Effects of Wal-Mart’s Entry into the Supermarket Industry,” estimates of Walmart’s prices for grocery items have been, on average, 10 percent lower than competitors’ prices. In addition, the entry of a Walmart store has been shown to result in a decrease in pricing offered by competitor stores. According to the article “Selling a Cheaper Mousetrap,” published in the *Journal of Urban Economics*, the entry of a Walmart store can result in price declines of 1.5 to 3 percent for many products (e.g., staple goods such as aspirin, laundry detergent, toothpaste, and shampoo) in the short term, and 7 to 13 percent in the long-term (i.e., five years). As such, the Project results in a wide variety of more affordable goods to residents of the City and surrounding communities.

#### 5. Modern, Energy-Efficient Sustainable Project Design

The Project involves a number of beneficial attributes that would serve the community, including the implementation of numerous sustainable design, siting and building features. With regard to sustainable design, the Project would include use of the industry’s most energy-efficient features available:

a. *Energy efficient HVAC units:* In the expansion area, the Project will utilize one of the industry’s most efficient heating, ventilating and air-conditioning (HVAC) units available for the expansion area. Per ASHRAE 90.1-2004, retail stores’ HVAC equipment is required to achieve an overall minimum Energy Efficiency Ratio (EER) value of 10.3. The new HVAC equipment that will be installed in the expansion area has an EER rating of approximately 12.1 to 14.3, well above the standard.

b. *Water Heating:* As part of the expansion Project, the entire Walmart store will reclaim waste heat from on-site refrigeration equipment to supply 70 percent of the hot water needs for the expanded store.

c. *Central Energy Management:* Walmart employs a centralized energy management system (EMS) to monitor and control the heating, air conditioning, refrigeration and lighting systems for all stores from Walmart’s corporate headquarters in Bentonville, Arkansas. The EMS enables Walmart to constantly monitor and control the expanded store’s energy usage, analyze refrigeration temperatures, observe HVAC and lighting performance, and adjust system levels from a central location 24 hours per day, seven days per week. This system will govern operations in the entirety of the store.

d. *White Roof:* The entire store will have a “white” membrane roof instead of the typical darker colored roof materials. The high solar reflectivity of this membrane results in lowering the “cooling” load by about 10 percent. No PVC-roofs will be used.

e. *Interior Lighting Retrofit Program:* All lighting in the store will be replaced by T-8 fluorescent lamps and electronic ballasts, resulting in a 15-20 percent reduction in energy load.

f. *Lighting:* All exterior building signage and many refrigerated food cases in the expanded store will be illuminated with light emitting diodes (LEDs). LED technology is up to 52 percent more energy-efficient operation than fluorescent illumination. Total estimated energy savings for LED lighting in the store's grocery section is approximately 59,000 kWh per year. With a lifespan of up to 100,000 hours, LEDs significantly outlast fluorescent lamps, allowing for significant reduction in re-lamping and maintenance costs. Additionally, LEDs contain no mercury or lead, perform well in the cold and produce less heat than fluorescent bulbs - heat which must be compensated for by the refrigeration equipment.

g. *Light Sensors:* The entire store will include occupancy sensors in most non-sales areas, including restrooms, break rooms, and offices. The sensors automatically turn the lights off when the space is unoccupied.

h. *Dehumidification:* The store entire will include a dehumidifying system that allows the store to be operated at a higher temperature, use less energy, and allow the refrigeration system to operate more efficiently.

i. *Food Displays:* The store will include a film on the freezer doors that combats condensation and requires no energy, unlike heating systems that are typically used to combat condensation.

## 6. Provision of Aesthetically Pleasing Design and Visual Upgrade to Existing Store and Overall Site

The Project will replace the site's existing vacant medical building that sits upon 2.0 acres and 1.8 acres of weedy vegetation with a highly-upgraded, visually-pleasing environment in which the public can gather and shop. The existing store's nearly 20-year old façade and elevations will be replaced with architectural upgrades that will seamlessly integrate the expansion area into the existing store and provide residents and members of the public with a modern-day Walmart store. Additional landscaping to be installed on-site, particularly in the areas of the new screenwalls, will provide an enhanced visual environment while also increasing on-site shading.

## 7. Implementation of Smart Growth

The Project would constitute development on a site surrounded on three sides by existing residential and commercial development, and located along a major thoroughfare (State Route 198) in and gateway to the City. This use of the site would help to avoid impacts to agricultural land that could arise should the Project be sited elsewhere in the City, and its mix of complementary uses would lower the number of vehicle miles traveled when compared to existing commercial inventory.

Exhibit A to Attachment A

SUMMARY OF IMPACTS AND MITIGATIONS

The following is a brief summary of project impacts and mitigation measures addressed in the main body of this EIR. After each impact statement there is a conclusion in bold as to whether the impact is a “Potentially Significant Impact” or “Less-than-Significant Impact.” These conclusions are based on the evaluation of the project’s effects in terms of the significance criteria established for each environmental subject area. The complete discussion of impacts and mitigations is contained Chapter II. *Environmental Setting, Impacts, and Mitigation Measures.*

**IMPACTS**

**MITIGATION**

A. LAND USE AND PLANNING

<p>A1. <b><u>Consistency with General Plan, Zoning Ordinance, and Municipal Code.</u></b> The planned expansion project is consistent with the provisions of the City of Visalia General Plan, Zoning Ordinance, and other applicable provisions of the Municipal Code. (Less-than-Significant Impact)</p>	<p><b>No mitigation required.</b></p>
<p>A2. <b><u>Land Use Compatibility.</u></b> The project would constitute a change in land use within the planned expansion area; however, it would not result in significant conflicts or incompatibility with adjacent or nearby land uses. (Less-than-Significant Impact)</p>	<p><b>No mitigation required.</b></p>
<p>A3. <b><u>Potential for Urban Decay Due to Economic Impacts.</u></b> The project would result in potential economic impacts to existing supermarkets in the trade area. The increased competition from the project is unlikely to result in or contribute to closure of any existing supermarkets, or significantly constrain the ability of existing vacant supermarkets to be retenanted; and as such would not ultimately result in physical deterioration of properties, or urban decay. (Less-than-Significant Impact)</p>	<p><b>No mitigation required.</b></p>
<p>A4. <b><u>Cumulative Land Use Impacts.</u></b> The potential land use impacts associated with</p>	<p><b>No mitigation required.</b></p>

<p><b>the proposed project, combined with the land use impacts of other cumulative development, would be less than significant.</b> (Less-than-Significant Cumulative Impact)</p>	
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**IMPACTS**

**MITIGATION**

A. LAND USE AND PLANNING (CONT'D)

<p><b>A5. <u>Cumulative Urban Decay Impacts.</u></b> The project, combined with the other cumulative commercial retail projects in the trade area could result in the closure of up to six existing supermarkets under worst-case economic conditions. Based on strong long-term growth projected for the trade area, and resulting low overall vacancy rates, and given the retail strength of each potentially closed supermarket, there is a high likelihood that each site would be retenanted and would not be subject to long-term vacancy. Therefore, it is unlikely that the closure of up to six existing supermarkets in the trade area would result in extended vacancy periods which, coupled with lack of maintenance, could result in physical deterioration of property and ultimately urban decay. (Less-than-Significant Cumulative Impact)</p>	<p><b>No mitigation required.</b></p>
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B. GEOLOGY AND SOILS

<p><b>B1. <u>Seismic Ground Shaking.</u></b> Strong ground shaking expected at the site during a moderate to severe earthquake could potentially result in severe damage to project buildings and other structures. (Potentially Significant Impact)</p>	<p>Prior to the issuance of grading permits, the project applicant shall provide documentation to the City of Visalia demonstrating that all project structures are designed in accordance with the seismic design criteria of the California Building Code. The project applicant shall also implement all recommendations of the project geotechnical engineer with respect to grading, soil preparation, building foundation design, pavement design, excavations, and other construction considerations.</p>
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	(Less-than-Significant Impact with Mitigation)
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**IMPACTS**

**MITIGATION**

B. GEOLOGY AND SOILS (CONT'D)

<p><b>B2. <u>Seismic Settlement.</u> There is a potential for seismically-induced ground settlement at the project site, which could result in damage to project foundations and structures. (Potentially Significant Impact)</b></p>	<p><b>If subsequent geotechnical studies indicate unacceptable levels of potential seismic settlement, potential damage resulting from such settlements shall be minimized by implementing recommendations of the geotechnical engineer, and may include removal of soils from below the bottom of footings and replacement of the soils with engineered fill, or other measures as recommended by the geotechnical engineer. (Less-than-Significant Impact with Mitigation)</b></p>
<p><b>B3. <u>Expansive Soils.</u> There is a low potential for soils expansion at the site, it is possible that design level geotechnical investigations could identify potentially expansive soils, which could result in differential subgrade movements and cracking of foundations. (Potentially Significant Impact)</b></p>	<p><b>If subsequent project-specific geotechnical studies indicate the presence of expansive soils, the potential for damage due to soils expansion shall be minimized by implementing recommendations of the geotechnical engineer, and may include extending foundations below the zone of shrink and swell and providing non-expansive fill below slabs, or chemically treating the soils with quicklime, or other measures as may be recommended by the geotechnical engineer. (Less-than-Significant Impact with Mitigation)</b></p>
<p><b>B4. <u>Soil Corrosivity.</u> Corrosive soils on the site could potentially damage or weaken structures composed of uncoated steel. (Potentially Significant Impact)</b></p>	<p><b>Potential damage to underground steel structures due to highly corrosive soils to steel shall be minimized by implementing recommendations of the geotechnical engineer, and may include the use of corrosion resistant materials, coatings, and</b></p>

	<b>cathodic protection for buried steel.</b> (Less-than-Significant Impact with Mitigation)
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**IMPACTS**

**MITIGATION**

B. GEOLOGY AND SOILS (CONT'D)

<p><b>B5. <u>Cumulative Geology and Soils Impacts.</u></b> The potential geology and soils impacts would be mitigated on a project-specific basis for all cumulative projects, as required by existing regulations. Therefore, the addition of the less-than-significant geology and soils impacts resulting from the project would not contribute to a cumulatively significant impact. (Less-than-Significant Cumulative Impact)</p>	<p>No mitigation required.</p>
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C. HYDROLOGY AND WATER QUALITY

<p><b>C1. <u>Increased Stormwater Runoff.</u></b> The proposed project would increase stormwater runoff generated at the expansion site compared to existing conditions. However, potential drainage and flooding impacts would be avoided through proper design of the project storm drainage system, in accordance with City of Visalia requirements. (Less-than-Significant Impact)</p>	<p>No mitigation required.</p>
<p><b>C2. <u>Flooding.</u></b> Portions of the project site would be subject to flooding during the 100-year storm event; however, flood elevations would remain below the finished floor elevation of the on-site building. (Less-than-Significant Impact)</p>	<p>No mitigation required.</p>
<p><b>C3. <u>Construction-Related Impacts to Water Quality.</u></b> During grading and construction, erosion of exposed soils and pollutants from equipment may result in water quality impacts to downstream water bodies. (Potentially Significant Impact)</p>	<p>A comprehensive erosion control and water pollution prevention program shall be carried out during site clearing, grading, and construction. This program shall follow the detailed Best Management Practices (BMPs) specified in the Storm Water Pollution Prevention Plan (SWPPP) for the project to provide for runoff and sediment control, soil stabilization, protection of storm drains and sensitive areas, and other storm drainage control measures to be specified in the SWPPP. The SWPPP shall be prepared by the applicant and implemented and complied with during</p>

	<b>and after project grading and construction, as required under State law. (Less-than-Significant Impact with Mitigation)</b>
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**IMPACTS**

**MITIGATION**

C. HYDROLOGY AND WATER QUALITY (CONT'D)

<p><b>C4. <u>Urban Nonpoint Source Pollution.</u> The project would generate urban nonpoint contaminants which may be carried off-site in stormwater runoff from paved surfaces. However, the majority of these pollutants would be captured by the downstream City stormwater basin. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>
<p><b>C5. <u>Cumulative Hydrology and Water Quality Impacts.</u> The potential hydrology and water quality impacts would be mitigated on a project-specific basis for all cumulative projects, as required by existing regulations and design standards. The addition of the less-than-significant hydrology and water quality impacts resulting from the project in combination with the other cumulative projects would not result in a cumulatively significant impact. (Less-than-Significant Cumulative Impact)</b></p>	<p><b>No mitigation required.</b></p>

D. BIOLOGICAL RESOURCES

<p><b>D1. <u>Special Status Plants.</u> The project would not adversely affect special status plants since no special-status plant species or their habitat are present on the project site. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>
<p><b>D2. <u>Special Status Animals.</u> The project would not adversely affect special status animals or their habitat. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>

**IMPACTS**

**MITIGATION**

D. BIOLOGICAL RESOURCES

<p><b>D3. <u>Disturbance to Native Wildlife Nursery Sites.</u> The project could adversely affect tree-nesting raptors. (Potentially Significant Impact)</b></p>	<p><b>The following measures shall be implemented to avoid any impacts to active raptor (e.g., hawks, falcons, etc.) nests:</b></p> <ul style="list-style-type: none"><li>• If possible, trees planned for removal should be removed during the non-breeding season (September 1 through January 31). However, if it is not possible to avoid such disturbance during the breeding season (February 1 through August 31), a qualified ornithologist shall conduct a pre-construction survey for tree-nesting raptors in all trees on and adjacent to the project site within 30 days of the onset of ground disturbance, if such disturbance will occur during the breeding season (February 1 through August 31). If nesting raptors are detected on or adjacent to the site during the survey, a suitable construction-free buffer shall be established around all active nests. The precise dimension of the buffer (up to 250 feet) will be determined at that time and may vary depending on location and species. Buffers shall remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. Pre-construction surveys during the non-breeding season are not necessary for tree nesting raptors, as they are expected to abandon their roosts during construction. <b>(Less-than-Significant Impact with Mitigation)</b></li></ul>
<p><b>D4. <u>Loss of Habitat for Native Wildlife.</u> Conversion of ruderal grassland habitat on the project site would reduce habitat available to native regional wildlife populations. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>

**IMPACTS**

**MITIGATION**

D. BIOLOGICAL RESOURCES (CONT'D)

<p><b>D5. <u>Movement of Native Wildlife.</u> Site development would not interfere with the home range and dispersal movements of native wildlife. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>
<p><b>D6. <u>Wetlands, Riparian Habitats or Sensitive Natural Communities.</u> Since there are no wetlands, riparian zones or other sensitive habitats within or immediately adjacent to the site, the project would not adversely affect such habitats. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>
<p><b>D7. <u>Conflict with Oak Tree Preservation Ordinance.</u> The proposed project does not include removal of any of the 11 valley oak trees on the site, and potential construction damage to these on-site oaks, as well as nearby off-site oaks would be prevented as specified by the City's Oak Tree Preservation Ordinance. Therefore, the project would not conflict with the provisions of the Oak Tree Preservation Ordinance. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>
<p><b>D8. <u>Habitat Conservation Plans.</u> The project would not conflict with adopted habitat conservation plans or other approved local, regional or state habitat conservation plans. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>
<p><b>D9. <u>Cumulative Impacts to Biological Resources.</u> Upon mitigation for biological impacts associated with the project and other approved and pending projects in the vicinity, the cumulative impacts to biological resources would be</b></p>	<p><b>No mitigation required.</b></p>

<b>less than significant.</b> (Less-than-Significant Cumulative Impact)	
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**IMPACTS**

**MITIGATION**

**E. CULTURAL RESOURCES**

<p><b>E1. <u>Disturbance to Buried Cultural Resources.</u></b> There are no known cultural resources in the vicinity of the project site, and the probability that any are present on the site is low. However, it is possible that previously undiscovered cultural materials may be buried on the site which could be adversely affected by grading and construction for the project. (Potentially Significant Impact)</p>	<p>Implementation of the following measures will mitigate any potential impacts to cultural resources.</p> <ul style="list-style-type: none"><li>• If any prehistoric or historic artifacts, or other indications of archaeological resources are found once project construction is underway, all work within 25 feet of the find must stop and the City shall be immediately notified. An archaeologist meeting the Secretary of Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, shall be retained to evaluate the find and recommend appropriate mitigation measures for the discovered cultural resources. Mitigation for historic and prehistoric materials may include monitoring combined with data retrieval, or may require a program of hand excavation to record and/or remove materials for further analysis.</li><li>• If human remains are discovered, all work must stop in the immediate vicinity of the find, and the Tulare County Coroner must be notified, according to Section 7050.5 of California's Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, who would identify a most likely descendant to make recommendations to the land owner for dealing with the human remains</li></ul>
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	<p><b>and any associated grave goods, as provided in Public Resources Code Section 5097.98.</b></p> <p>(Less-than-Significant Impact with Mitigation)</p>
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**IMPACTS**

**MITIGATION**

E. CULTURAL RESOURCES (CONT'D)

<p><b>E2. <u>Disturbance to Paleontological Resources.</u></b> There are no known paleontological resources in the vicinity of the project site, and the probability that any are present is very low. However, it is remotely possible that previously undiscovered paleontological materials may be buried on the site which could be adversely affected by grading and construction for the project. (Potentially Significant Impact)</p>	<p>Implementation of the following measure will mitigate any potential impacts to paleontological resources.</p> <ul style="list-style-type: none"><li>• In the event any paleontological resources are exposed or discovered during subsurface construction, ground-disturbing operations shall stop within 25 feet of the find and a qualified professional paleontologist, as recognized by the Museum of Paleontology at U.C. Berkeley, shall be contacted for evaluation and further recommendations. Treatment sufficient to reduce the impact to paleontological resources shall be implemented as determined in coordination with the City of Visalia Community Development Department. (Less-than-Significant Impact with Mitigation)</li></ul>
<p><b>E3. <u>Cumulative Impacts to Cultural Resources.</u></b> There are no known archaeological, historical or paleontological resources in the vicinity of the project site or the other cumulative project sites. It is possible that previously undiscovered cultural materials may be buried on cumulative project sites which could be adversely affected by grading and construction for the projects. However, any such potential impacts would be mitigated to less-than-significant levels on a project-specific basis in each case, in accordance with the applicable State and local requirements. (Less-than-Significant Cumulative Impact)</p>	<p>No additional mitigation required.</p>

F. AESTHETICS

<p><b>F1. <u>Visual Change Resulting From Project.</u></b> <b>The project would result in a change in the visual character of the site; however, this would not represent a significant adverse visual impact. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>
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**IMPACTS**

**MITIGATION**

F. AESTHETICS (CONT'D)

<p><b>F2. <u>Lighting and Glare.</u> Lighting for the project building, parking lot, and loading areas could potentially produce light and glare at off-site locations; however, the effects of lighting and glare would be minimized through compliance with the applicable City requirements and standards. (Less-than-Significant Impact)</b></p>	<p>No mitigation required.</p>
<p><b>F3. <u>Cumulative Aesthetic Impacts.</u> The project and the other cumulative projects would result in changes to the visual character of their settings; however, these visual changes would not represent a cumulatively significant visual impact. (Less-than-Significant Cumulative Impact)</b></p>	<p>No mitigation required.</p>

G. TRAFFIC AND CIRCULATION

Intersection Level of Service

<p><b>G1. <u>Near-Term (2010) plus Project – Mineral King Avenue at SR-198 Westbound Ramps (Near Ben Maddox Way).</u> This intersection will operate at unacceptable LOS F during the AM peak hour under Near-Term (2010) conditions without the project, and would be subject to an increase in delay in the PM peak hour with the addition of project traffic. (Potentially Significant Impact)</b></p>	<p><b>Prior to the City’s issuance of the project building permit, the applicant shall install stop control on Mineral King Avenue to make the intersection of Mineral King Avenue at SR-198 Westbound Ramps (near Ben Maddox Way) operate as an all-way (3-way) stop-controlled intersection, subject to Caltrans design review and approval. The installation of the all-way stop fully mitigates the project impacts to this intersection. Although the all-way stop control will fully mitigate the project impact under CEQA, the signal warrant analysis indicated that signalization of this intersection is warranted. Because the project does not trigger the impact but adds to the unacceptable operation, the project shall only be responsible for a proportionate share of the signal installation costs. The project’s equitable share is 3.5 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i>. The project’s fair share contribution to this signal installation shall be payable to the City of Visalia and/or Caltrans prior to the City’s issuance of the project building permit. (Less-than-Significant Impact with Mitigation)</b></p>
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**IMPACTS**

**MITIGATION**

G. TRAFFIC AND CIRCULATION (CONT'D)

<p><b>G2. <u>Near-Term (2010) plus Project – Mineral King Avenue at Lovers Lane.</u> This intersection will operate at LOS E and F during the AM and PM peak hours, respectively, under Near-Term (2010) conditions without the project, and would be subject to increases in delay during both the AM and PM peak hours with the addition of project traffic. (Potentially Significant Impact)</b></p>	<p><b>Prior to the City’s issuance of the Certificate of Occupancy for the project, the applicant shall construct an exclusive northbound right turn lane and also restripe the existing northbound through-shared-right lane to a through lane at the intersection of Mineral King Avenue and Lovers Lane, subject to Caltrans’ design review and approval. The project’s equitable share of the improvement cost is 0.5 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i>. The applicant shall be reimbursed by the City for costs beyond its fair share amount of 0.5 percent. Prior to the issuance of the project building permit, the applicant and City of Visalia shall jointly agree to execute an agreement to reimburse the applicant for improvement costs that exceed the project’s fair share amount. (Less-than-Significant Impact with Mitigation)</b></p>
<p><b>G3. <u>Near-Term (2010) plus Project – Noble Avenue at Ben Maddox Way.</u> This intersection will have a southbound left-turn queue that is 143 feet long (or 53 feet longer than the turn pocket) without the project. With the addition of project traffic, the queue will extend a further 32 feet into the adjacent through lane during the PM peak-hour under the Near-Term 2010 + Project, resulting in a potential traffic safety hazard. (Potentially Significant Impact)</b></p>	<p><b>Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to modify the signal phasing such that the southbound left turn split movement at this location is increased by 10 seconds. The City shall be solely responsible to construct these improvements in a time sufficient to mitigate these project impacts prior to the opening day of the project. (Less-than-Significant Impact with Mitigation)</b></p>

**IMPACTS**

**MITIGATION**

G. TRAFFIC AND CIRCULATION (CONT'D)

<p>G4. <b><u>Near-Term (2010) plus Project – Noble Avenue at East Project Driveway.</u></b> With the addition of project traffic, this intersection will have a northbound queue that will back up 417 feet, 167 feet beyond the 250-foot throat depth and block the nearby intersecting drive aisles within the project site during the PM peak-hour under the Near-Term (2010) plus Project condition. (Potentially Significant Impact)</p>	<p>Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize cycle length of the signal timing during the PM peak hour at this location. The City shall be solely responsible to implement these improvements prior to opening day of the project. Because the impact results only from project traffic, the project applicant shall be solely responsible for all of the mitigation costs. (Less-than-Significant Impact with Mitigation)</p>
<p>G5. <b><u>Near-Term (2015) plus Project – Noble Avenue at Ben Maddox Way.</u></b> This intersection will operate at LOS E during the PM peak hour under Near-Term (2015) conditions without the project, and would be subject to an increase in delay in the PM peak hour with the addition of project traffic. (Potentially Significant Impact)</p>	<p>Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the signal timing during the PM peak hour at this location. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate these project impacts. (Less-than-Significant Impact with Mitigation)</p>
<p>G6. <b><u>Near-Term (2015) plus Project – Noble Avenue at Lovers Lane.</u></b> This intersection will operate at LOS E during the AM and PM peak hour under Near-Term (2015) conditions without the project, and would be subject to an increase in delay during both peak hours with the addition of project traffic. (Potentially Significant Impact)</p>	<p>Prior to the City’s issuance of the Certificate of Occupancy for the project, the applicant shall construct a northbound through-shared-right lane and remove the northbound right turn lane at the Noble Avenue/Lovers Lane intersection. The project’s equitable share of the improvement cost is 7.1 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i>. Prior to the issuance of the project building permit, the applicant and City of Visalia shall jointly agree to execute an agreement to reimburse the applicant for improvement costs that exceed the project’s fair share amount.. (Less-than-Significant Impact with Mitigation)</p>

**IMPACTS**

**MITIGATION**

G. TRAFFIC AND CIRCULATION (CONT'D)

<p>G7. <u>Near-Term (2015) plus Project – Lovers Lane at SR-198 Eastbound Ramps.</u> This intersection will operate at LOS E and LOS F during the AM and PM peak-hours, respectively, under Near-Term (2015) traffic conditions, and would be subject to an increase in delay during the AM peak-hour with the addition of project traffic. (Potentially Significant Impact)</p>	<p>Prior to the City’s issuance of the Certificate of Occupancy for the project, the applicant shall construct a third northbound through lane at the intersection of Lovers Lane and the SR-198 Eastbound Ramps, subject to Caltrans’ design review and approval. The project’s equitable share of the improvement cost is 1.2 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i>. Prior to the issuance of the project building permit, the applicant and City of Visalia shall jointly agree to execute an agreement to reimburse the applicant for improvement costs that exceed the project’s fair share amount. (Less-than-Significant Impact with Mitigation)</p>
<p>G8. <u>Far-Term (2030) plus Project – Mineral King Avenue at Ben Maddox Way.</u> This intersection will operate at acceptable LOS D during the AM peak hour under Far-Term (2030) traffic conditions, and would degrade to unacceptable LOS E with the addition of project traffic. (Potentially Significant Impact)</p>	<p>Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the signal timing during the PM peak hour at this location. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate these project impacts. (Less-than-Significant Impact with Mitigation)</p>
<p>G9. <u>Far-Term (2030) plus Project – Mineral King Avenue at Lovers Lane.</u> This intersection will operate at LOS F during the AM and PM peak hours under Far-Term (2030) traffic conditions, and would be subject to an increase in delay during both peak hours with the addition of project traffic. (Potentially Significant Impact)</p>	<p>Prior to the City’s issuance of the project building permit, the applicant shall pay to the City the applicant’s fair share of the cost for the City to restripe the eastbound approach at the Mineral King Avenue/Lovers Lane intersection to modify the existing through-shared-right lane to become a through lane and a right lane, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030, subject to Caltrans’ design review and approval. The project’s equitable share of the improvement cost is 0.5 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i>. (Less-than-Significant Impact with Mitigation)</p>



**IMPACTS**

**MITIGATION**

G. TRAFFIC AND CIRCULATION (CONT'D)

<p><b>G10. <u>Far-Term (2030) plus Project – Noble Avenue at SR-198 Eastbound Ramps (near Ben Maddox Way).</u> This intersection will operate at LOS D during the PM peak hour under Far-Term (2030) traffic conditions without the project, and would be subject to an increase in delay with the addition of project traffic. (Potentially Significant Impact)</b></p>	<p><b>Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the cycle length in the signal timing at this location during the PM peak hour, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate the project impacts. (Less-than-Significant Impact with Mitigation)</b></p>
<p><b>G11. <u>Far-Term (2030) plus Project – Noble Avenue at Pinkham Street.</u> This intersection will operate at LOS E during the PM peak hour under Far-Term (2030) traffic conditions without the project, and would degrade to LOS F during the PM peak hour with the addition of project traffic. (Potentially Significant Impact)</b></p>	<p><b>Prior to the City’s issuance of the project building permit, the applicant shall contribute the required project fees to the TIF Program to provide the City with the revenue needed to signalize the intersection, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate these project impacts using TIF Program revenue. (Less-than-Significant Impact with Mitigation)</b></p>
<p><b>G12. <u>Far-Term (2030) plus Project – Noble Avenue at Lovers Lane.</u> This intersection will operate at LOS E and LOS F during the AM and PM peak-hours, respectively, under Far-Term (2030) traffic conditions without the project, and would be subject to an increase in delay during both peak hours with the addition of project traffic. (Potentially Significant Impact)</b></p>	<p><b>Prior to the City’s issuance of the project building permit, the applicant shall pay to the City the applicant’s fair share of the cost for the City to restripe the eastbound through-shared-right lane to a through lane and a right turn lane at the Noble Avenue/Lovers Lane intersection, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The project’s equitable share of the</b></p>

	<p><b>improvement cost is 1.2 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i>. (Less-than-Significant Impact with Mitigation)</b></p>
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**IMPACTS**

**MITIGATION**

G. TRAFFIC AND CIRCULATION (CONT'D)

<p><b>G13. <u>Far-Term (2030) plus Project – Lovers Lane at SR-198 Eastbound Ramps.</u> This intersection will operate at LOS F during the PM peak hour under Far-Term (2030) traffic conditions without the project, and would be subject to an increase in delay with the addition of project traffic. (Potentially Significant Impact)</b></p>	<p><b>Prior to the City’s issuance of the project building permit, the applicant shall pay to the City the applicant’s fair share of the cost for the City to restripe the eastbound all-shared lane to a through-shared-right lane at the intersection of Lovers Lane and the SR-198 Eastbound Ramps, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030, subject to Caltrans design review and approval. The project’s equitable share of the improvement cost is 0.2 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i> (Less-than-Significant Impact with Mitigation)</b></p>
<p><b>G14. <u>Far-Term (2030) plus Project – Tulare Avenue at Pinkham Street.</u> This intersection will operate at LOS F during the AM and PM peak hours under Far-Term (2030) traffic conditions without the project, and would be subject to an increase in delay with the addition of project traffic. (Potentially Significant Impact)</b></p>	<p><b>Prior to the City’s issuance of the project building permit, the applicant shall contribute the required project fees to the City’s TIF Program to provide the City with the revenue needed to install a signal at this location, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate these project impacts using TIF Program revenue. (Less-than-Significant Impact with Mitigation)</b></p>
<p><b>G15. <u>Far-Term (2030) plus Project – Court Street at Acequia Avenue.</u> This intersection will operate at LOS E during the PM peak hour under Far-Term (2030) traffic conditions without the project, and would be subject to an increase in delay with the addition of</b></p>	<p><b>Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the intersection signal timing at this location during the PM peak-hour, or undertake equivalent improvements to</b></p>

<p><b>project traffic.</b> (Potentially Significant Impact)</p>	<p><b>mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate the project impacts.</b> (Less-than-Significant Impact with Mitigation)</p>
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**IMPACTS**

**MITIGATION**

G. TRAFFIC AND CIRCULATION (CONT'D)

<p><b>G16. <u>Far-Term (2030) plus Project – Court Street at Mineral King Avenue.</u> This intersection will operate at LOS F during the AM peak hour under Far-Term (2030) traffic conditions without the project, and would be subject to an increase in delay with the addition of project traffic. (Potentially Significant Impact)</b></p>	<p><b>Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the intersection signal timing at this location during the AM peak-hour, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate the project impacts. (Less-than-Significant Impact with Mitigation)</b></p>
<p><b>G17. <u>Far-Term (2030) plus Project – Court Street at Noble Avenue.</u> This intersection will operate at LOS F during the PM peak hour under Far-Term (2030) traffic conditions without the project, and would be subject to an increase in delay with the addition of project traffic. (Potentially Significant Impact)</b></p>	<p><b>Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the intersection signal timing at this location during the PM peak-hour, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate the project impacts. (Less-than-Significant Impact with Mitigation)</b></p>
<p><b>G18. <u>Far-Term (2030) plus Project – Noble Avenue at Ben Maddox Way.</u> The westbound left-turn queue at this intersection will be 344 feet long, and will extend beyond the turn pocket by 64 feet during the AM peak hour under Far-Term (2030) traffic conditions without the project, and would be subject to an increase in queue length of 48 feet with the addition of project traffic. (Potentially Significant Impact)</b></p>	<p><b>Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the cycle length in the signal timing at this location during the AM peak-hour, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate the project impacts. (Less-</b></p>

	than-Significant Impact with Mitigation)
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**IMPACTS**

**MITIGATION**

G. TRAFFIC AND CIRCULATION (CONT'D)

Other Transportation Impacts

<p><b>G19. <u>Construction Traffic – Hazards.</u> During project grading, demolition and construction, the presence of large and slow moving vehicles and construction equipment on City streets in the project vicinity would result in potential safety hazards to motorists. (Potentially Significant Impact)</b></p>	<p>Prior to the issuance of grading permits for the project, the applicant shall prepare a traffic control plan for construction and shall obtain approval from the Engineering Division for implementation of such a plan. The traffic control plan shall be prepared in accordance with the traffic control provisions of the City of Visalia Standard Specifications and Engineering Improvement Standards and shall include final information about times of construction, the haul routes, delivery times for heavy equipment, and any other particulars as required by the City. <b>(Less-than-Significant Impact with Mitigation)</b></p>
<p><b>G20. <u>Construction Traffic – Level of Service Impacts.</u> The Mineral King Avenue at SR-198 WB Ramps (near Ben Maddox Way) intersection will operate at unacceptable LOS F during the AM peak-hour under the Near-Term 2010 traffic conditions without the construction traffic, and will experience an increase in delay due to the project construction traffic. (Potentially Significant Impact)</b></p>	<p>Prior to the commencement of project demolition, grading, and construction activity, the applicant shall install 3-way stop control at this intersection, as specified in Mitigation G1 above. <b>(Less-than-Significant Impact with Mitigation)</b></p>
<p><b>G21. <u>Potential Effects on At-Grade Railroad Crossing on Noble Avenue.</u> The additional traffic generated by the project would potentially be subject to hazardous conditions at the existing at-grade railroad crossing on Noble Avenue just west of Ben Maddox Way. However, the City of Visalia has commenced the installation of CPUC-approved safety improvements at this grade crossing, to be completed in late-</b></p>	<p><b>No mitigation required.</b></p>

<p><b>2010 prior to the completion of the Walmart expansion project, which will eliminate the safety issues related to the at-grade crossing on Noble Avenue to the west of Ben Maddox Way. (Less-than-Significant Impact)</b></p>	
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**IMPACTS**

**MITIGATION**

G. TRAFFIC AND CIRCULATION (CONT'D)

<p><b>G22. <u>Transit, Bicycle and Pedestrian Facilities.</u></b> The project would not result in operational or capacity impacts to the transit, bicycle or pedestrian facilities serving the project or the project area. (Less-than-Significant Impact)</p>	<p><b>No mitigation required.</b></p>
<p><b>G23. <u>Vehicular Access and Circulation.</u></b> The project would not result in on-site congestion, safety issues, or access problems for trucks or emergency vehicles due to inadequate design of site access and circulation. (Less-than-Significant Impact)</p>	<p><b>No mitigation required.</b></p>
<p><b>G24. <u>Parking.</u></b> The number of parking spaces planned for the project meets the City of Visalia parking requirements for the project; therefore, the project would not result in a parking impact. (Less-than-Significant Impact)</p>	<p><b>No mitigation required.</b></p>
<p><b>G25. <u>Cumulative Traffic Impacts.</u></b> There are no cumulatively significant traffic impacts associated with the project under near-term or far-term conditions. (Less-than-Significant Cumulative Impact)</p>	<p><b>No mitigation required.</b></p>

H. NOISE

<p><b>H1. <u>Exposure of Project to Existing Noise Sources.</u></b> The project noise environment would be affected by existing off-site noise sources such as traffic on the adjacent roadways, and on-site noise from project operations. (Less-than-</p>	<p><b>No mitigation required.</b></p>
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Significant Impact)	
<b>H2. <u>Project Traffic Noise.</u> Traffic generated by the project would increase noise levels along roadways in the vicinity.</b> (Less-than-Significant Impact)	<b>No mitigation required.</b>

**IMPACTS**

**MITIGATION**

H. NOISE

<p><b>H3. <u>Noise from Project Activity.</u></b> Noise generated by activity associated with the project would increase noise levels at nearby noise sensitive receivers. Truck circulation and loading/unloading activities would result in noise levels that exceed the City of Visalia’s noise standards. (Potentially Significant Impact)</p>	<p>The following measures shall be implemented to achieve project operational noise levels that are in conformance with applicable City noise criteria and standards:</p> <p><i>Delivery, Loading, and Parking Lot Noise</i></p> <p>There are two distinct sets of mitigation measures available to reduce noise generated by delivery trucks, TRUs, and parking lot activity. The selection of one of these sets of measures is required reduce the project delivery, loading, and parking lot noise impacts to less-than-significant levels and ensure that resulting noise levels are kept within the applicable City noise standards. The two sets of mitigation options are as follows:</p> <p><b><u>Mitigation Option 1 – Restricted Hours and Locations of Delivery, Loading, and Parking Lot Activity</u></b></p> <ul style="list-style-type: none"><li>• Truck circulation shall be prohibited within 200 feet of the east boundary of the project site between the hours of 7:00 p.m. and 6:00 a.m. Trucks shall be routed to the loading dock area along the third parking drive aisle from the east project boundary. Delivery truck drivers shall be directed to follow the nighttime delivery route by temporary directional signs to be posted along the truck circulation route.</li><li>• Parking of vehicles and parking area cleaning shall be prohibited within 100 feet of the east boundary of the site, between the hours of 7:00 p.m. and 6:00 a.m. Entry of vehicles to the</li></ul>
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	<p><b>restricted parking area shall be blocked during the evening and nighttime hours by cones or similar means.</b></p> <p><b>(Continued on next page.)</b></p>
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**IMPACTS**

**MITIGATION**

H. NOISE (CONT'D)

<p>H3. <b><u>Noise from Project Activity</u></b> (Continued)</p>	<p><b><u>Mitigation Option 2 – Increase the Height of Planned Masonry Walls Along the Eastern Project Boundary</u></b></p> <ul style="list-style-type: none"><li>• The 8-foot high masonry block wall planned along the eastern project boundary shall be increased in height to a planned height of 15 feet along the northerly 450 feet of this wall.</li></ul> <p>(Less-than-Significant Impact with Mitigation)</p> <p>[Note: Mitigation Option 2 has been adopted by the applicant and incorporated into the project plans. However, instead of raising the wall on the east project boundary, a new soundwall meeting the above specifications is planned to be located 15 feet inboard of the existing boundary wall.]</p>
<p>H4. <b><u>Construction Noise.</u></b> Noise levels would be temporarily elevated during construction activities associated with project development. (Potential Temporary Significant Impact)</p>	<p>The following measures shall be implemented to reduce project construction noise to the extent feasible:</p> <ul style="list-style-type: none"><li>• In accordance with the City’s Municipal Code, construction activities shall be limited to weekdays between 6:00 am to 7:00 pm, and weekend days between 9:00 a.m. and 7:00 p.m.</li><li>• The permanent noise barriers proposed along the south and east boundaries of the site shall be constructed prior to engaging in any site development activities, including site clearing, demolition, building expansion and remodeling, and parking area expansion, reconstruction or rehabilitation. If this is not feasible, temporary noise barriers (minimum 10-foot high) shall be erected at the start of construction activities to shield heavy construction areas from adjacent residential receptors. The temporary noise barriers shall either be constructed of a minimum 0.5-inch plywood (without holes or gaps) or utilize acoustical blankets with a minimum Sound Transmission Class of 12. The temporary barriers shall remain</li></ul>

	<b>in place until all exterior construction activity is completed.</b>
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**IMPACTS**

**MITIGATION**

H. NOISE (CONT'D)

<p><b>H4. <u>Construction Noise.</u> (Continued.)</b></p>	<ul style="list-style-type: none"><li>• All equipment driven by internal combustion engines shall be equipped with mufflers which are in good condition and appropriate for the equipment.</li><li>• The construction contractor shall utilize “quiet” models of air compressors and other stationary noise sources where technology exists.</li><li>• Unnecessary idling of internal combustion engines shall be prohibited.</li><li>• At all times during project grading and construction, stationary noise-generating equipment shall be located as far as practicable from sensitive receptors.</li><li>• All stationary construction equipment shall be placed so that the emitted noise is directed away from sensitive receptors nearest the project site.</li><li>• Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.</li><li>• Owners and occupants of residential and non-residential properties located within 300 feet of the construction site shall be notified of the construction schedule in writing.</li><li>• The construction contractor shall designate a “noise disturbance coordinator” who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of</li></ul>
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	<p><b>the noise complaint (e.g., starting too early, bad muffler, etc.) and institute reasonable measures as warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site. (Significant and Unavoidable Temporary Impact)</b></p>
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**IMPACTS**

**MITIGATION**

H. NOISE (CONT'D)

<p>H5. <b><u>Cumulative Noise Impacts.</u></b> The noise generated by project sources, combined with noise from other cumulative projects, would not result in a cumulatively significant operational noise impact, but construction noise would result in a cumulatively significant temporary impact. (Less-than-Significant Cumulative Impact for operational noise; Significant Cumulative Impact for construction noise)</p>	<p>No additional feasible mitigation is available for near-term construction noise, beyond the measures identified in Mitigation H4. (Significant and Unavoidable Temporary Impact for Construction Noise)</p>
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I. AIR QUALITY

<p>I1. <b><u>Construction Dust.</u></b> Construction activity involves a high potential for the emission of fugitive particulate matter emissions that would affect local air quality. (Potentially Significant Impact)</p>	<p>In addition to the required dust control measures under SJVAPCD Regulation VIII, the following enhanced dust control measures shall be included in project construction contracts to control fugitive dust emissions during construction:</p> <ul style="list-style-type: none"><li>• Limit traffic speeds on unpaved roads to 15 mph.</li><li>• Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</li><li>• Landscape or replant vegetation in disturbed areas as quickly as possible.</li><li>• Limit access to the construction sites, so tracking of mud or dirt onto public roadways can be prevented. If necessary, use wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.</li><li>• Suspend grading activity when winds (instantaneous gusts) exceed 25 mph or dust clouds cannot be prevented from extending beyond the site. (Less-than-Significant Impact with Mitigation)</li></ul>
<p>I2. <b><u>Construction Exhaust Emissions.</u></b> Equipment and vehicle trips associated with construction would emit ozone precursor air pollutants on a</p>	<p>No mitigation required.</p>

<p><b>temporary basis. However, emissions would be below the SJVAPCD significance thresholds.</b> (Less-than-Significant Impact)</p>	
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**IMPACTS**

**MITIGATION**

I. AIR QUALITY (CONT'D)

<p><b>I3. <u>Ozone Precursors and Particulate Matter.</u></b> Vehicular emissions associated with the project would result in emissions of criteria pollutants ROG, NOx, and PM; however, the net new emissions from the project would not exceed the SJVAPCD thresholds of significance, and therefore would represent a less-than-significant impact. (Less-than-Significant Impact)</p>	<p><b>No mitigation required.</b></p>
<p><b>I4. <u>Carbon Monoxide Emissions.</u></b> Traffic generated by the project would increase carbon monoxide emissions at local roadways and intersections; however, the resulting carbon monoxide concentrations would not exceed applicable regulatory thresholds. (Less-than-Significant Impact)</p>	<p><b>No mitigation required.</b></p>
<p><b>I5. <u>Exposure of Sensitive Receptors to Toxic Air Contaminants.</u></b> Construction activity, delivery trucks, and customer traffic associated with the project would expose nearby receptors to toxic air contaminants. A health risk assessment to assess the potential cancer risk from these emissions found the cancer risk to be below the SJVAPCD significance threshold for Diesel Particulate Matter. (Less-than-Significant Impact)</p>	<p><b>No mitigation required.</b></p>
<p><b>I6. <u>Odors.</u></b> The project would result in temporary odors during construction and would include the relocation of an existing restaurant, which is a source of cooking odors. (Potentially Significant Impact)</p>	<p><b>Prior to issuance of a Certificates of Occupancy, the owner/operator of the relocated restaurant in the project shall have installed kitchen exhaust vents in accordance with accepted engineering practice, and shall install a exhaust filtration system or other accepted method of odor reduction. (Less-than-Significant Impact with</b></p>

	Mitigation)
<b>I7. <u>Consistency with Clean Air Planning Efforts.</u> The project would not conflict with the current clean air plan or obstruct its implementation. (Less-than-Significant Impact)</b>	<b>No mitigation required.</b>

**IMPACTS**

**MITIGATION**

I. AIR QUALITY (CONT'D)

<p><b>I8. <u>Cumulative Air Quality Impacts.</u> The cumulative air quality impacts associated with the proposed project would not be significant. (Less-than-Significant Cumulative Impact)</b></p>	<p><b>No mitigation required.</b></p>
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J. HAZARDOUS MATERIALS

<p><b>J1. <u>Release of Potential Contaminants During Demolition and Remodeling.</u> The demolition of the vacant office building and the remodeling of the existing Walmart store would involve the removal of building materials and fixtures which could contain hazardous materials such as PCBs, mercury, CFCs, and asbestos. (Significant Impact)</b></p>	<p><b>The removal and disposal of potential contaminant sources from the vacant office building and the remodeled portion of the Walmart store shall be carried out in accordance with applicable federal, state, and local regulations. (Less-than-Significant Impact with Mitigation)</b></p>
<p><b>J2. <u>Sale of Household Hazardous Products.</u> Household cleaners, fertilizers, pesticides, oil, automobile products, and other household hazardous materials are sold by Walmart and may be located within the planned expansion area. These products would be safely packaged to prevent harm to employees and consumers, and would be handled, stored, and transported in accordance with applicable federal, State, and local regulations. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>
<p><b>J3. <u>Cumulative Hazardous Materials Impacts.</u> The potential impacts due to contaminant sources at the project site would be avoided or fully mitigated by the proper removal and disposal, recycling or reuse of the contaminant source, as</b></p>	<p><b>No mitigation required.</b></p>

<p><b>appropriate, in accordance with applicable laws and regulations. It is expected that any potential hazardous materials that may be present at other approved and pending project sites would be similarly mitigated, as required by law.</b> (Less-than-Significant Cumulative Impact)</p>	
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**IMPACTS**

**MITIGATION**

K. UTILITIES AND SERVICE SYSTEMS

<p><b>K1. <u>Water Supply.</u></b> The planned expansion project would result in increased demand for domestic water service; however, existing water resources and supply infrastructure are adequate to serve the domestic and fire flow needs of the project. (Less-than-Significant Impact)</p>	<p>No mitigation required.</p>
<p><b>K2. <u>Wastewater Collection and Treatment.</u></b> The planned expansion project would increase the demand for wastewater collection, treatment and disposal facilities serving the site; however, there is sufficient capacity in the municipal wastewater collection, treatment, and disposal system to serve the project without expansion of existing infrastructure. (Less-than-Significant Impact)</p>	<p>No mitigation required.</p>
<p><b>K3. <u>Cumulative Utilities and Services Impacts.</u></b> The increased demands for water supply, sanitary sewer service, and wastewater collection, treatment, and disposal resulting from the approved and pending projects in Visalia will likely require the improvements to and expansions of utilities and service systems. Extensions of utility mains would be constructed as needed in accordance with the City's master utility plans. Municipal wells and storage facilities would be constructed as needed to meet cumulative water supply demands, and the wastewater treatment capacity would likewise be expanded incrementally to meet growth needs. There are plans and programs currently in place that provide for the necessary capacity expansions. Any physical</p>	<p>No mitigation required.</p>

<p><b>expansion of facilities would be subject to environmental review and any resulting impacts would be required to be mitigated.</b> (Less-than-Significant Cumulative Impact)</p>	
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**IMPACTS**

**MITIGATION**

L. PUBLIC SERVICES

<p><b>L1. <u>Fire, Police, and Solid Waste.</u> The project would increase the need for fire and police protection services, as well as the demand for solid waste collection and disposal service; however, these increased demands would not degrade service levels or result in the need for new or altered facilities for any of these services. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>
<p><b>L2. <u>Cumulative Public Services Impacts.</u> The increased demands for police and fire services, and solid waste collection and disposal services resulting from the approved and pending projects in the project vicinity will likely require additional staff and equipment but are not expected to require the construction of new or expanded facilities. Any physical expansion of facilities would be subject to environmental review and any resulting impacts would be required to be mitigated. (Less-than-Significant Cumulative Impact)</b></p>	<p><b>No mitigation required.</b></p>

M. ENERGY

<p><b>M1. <u>Energy Consumption.</u> The project would increase energy consumption at the project site in the construction and operational phases of the project. However, energy conservation measures incorporated into the design, construction and operation of the project would avoid wasteful, inefficient or unnecessary consumption of energy. (Less-than-Significant Impact)</b></p>	<p><b>No mitigation required.</b></p>
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**IMPACTS**

**MITIGATION**

M. ENERGY (CONT'D)

<p><b>M2. <u>Impact on Energy Supplies and Infrastructure.</u></b> The increased demand for energy resulting from the project would not require new or expanded sources of supply or the construction of new or expanded energy delivery systems or infrastructure capacity. (Less-than-Significant Impact)</p>	<p><b>No mitigation required.</b></p>
<p><b>M3. <u>Cumulative Energy Impacts.</u></b> The combined energy use by the proposed project and the other cumulative projects would not result in cumulatively significant impacts in terms of wasteful, inefficient or unnecessary use of energy; nor would the combined energy demand from these projects require new or expanded sources of supply or the construction of new or expanded energy delivery systems or infrastructure capacity. (Less-than-Significant Cumulative Impact)</p>	<p><b>No mitigation required.</b></p>

N. GLOBAL CLIMATE CHANGE

<p><b>N1. <u>Greenhouse Gas Emissions.</u></b> The proposed project would not emit significant quantities of greenhouse gases or conflict with an applicable plan, policy, or regulation concerning greenhouse gas reduction. (Less-than-Significant Impact)</p>	<p><b>No mitigation required.</b></p>
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**EXHIBIT – B TO ATTACHMENT – A**  
**MITIGATION MONITORING AND REPORTING PROGRAM**

**VISALIA WALMART EXPANSION**

**EAST NOBLE AVENUE**  
**VISALIA, CALIFORNIA**

**APRIL 2011**

**Attachment - A**  
**Exhibit - B**

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>B. GEOLOGY AND SOILS</b>					
B1.	<u>Seismic Ground Shaking.</u> Prior to the issuance of grading permits, the project applicant shall provide documentation to the City of Visalia demonstrating that all project structures are designed in accordance with the seismic design criteria of the California Building Code. The project applicant shall also implement all recommendations of the project geotechnical engineer with respect to grading, soil preparation, building foundation design, pavement design, excavations, and other construction considerations.	Developer and construction contractor.	City of Visalia, Community Development Department, Building Safety Division; Engineering Department, Development Services Division.	Verify that project plans/specifications comply with seismic requirements of CBC and recommendations of geotechnical engineer.  Conduct compliance inspections.	Prior to issuance of grading permits.  During grading and construction.
B2.	<u>Seismic Settlement.</u> If subsequent geotechnical studies indicate unacceptable levels of potential seismic settlement, potential damage resulting from such settlements shall be minimized by implementing recommendations of the geotechnical engineer, and may include removal of soils from below the bottom of footings and replacement of the soils with engineered fill, or other measures as recommended by the geotechnical engineer.	Developer and construction contractor.	City of Visalia, Community Development Department, Building Safety Division; Engineering Department, Development Services Division.	Verify that project plans and specifications comply with recommendations of geo-technical engineer.  Conduct compliance inspections.	Prior to issuance of grading permits.  During grading and construction.
B3.	<u>Expansive Soils.</u> If subsequent project-specific geotechnical studies indicate the presence of expansive soils, the potential for damage due to soils expansion shall be minimized by implementing recommendations of the geotechnical engineer, and may include extending foundations below the zone of shrink and swell and providing non-expansive fill below slabs, or chemically treating the soils with quicklime, or other measures as may be recommended by the geotechnical engineer.	Developer and construction contractor.	City of Visalia, Community Development Department, Building Safety Division; Engineering Department, Development Services Division.	Verify that project plans and specifications comply with recommendations of geo-technical engineer.  Conduct compliance inspections.	Prior to issuance of grading permits.  During grading and construction.

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>B. GEOLOGY AND SOILS (CONT'D)</b>					
B4.	<p><u>Soil Corrosivity</u>. Potential damage to underground steel structures due to highly corrosive soils to steel shall be minimized by implementing recommendations of the geotechnical engineer, and may include the use of corrosion resistant materials, coatings, and cathodic protection for buried steel.</p>	Developer and construction contractor.	City of Visalia, Community Development Department, Building Safety Division; Engineering Department, Development Services Division.	<p>Verify that project plans and specifications comply with recommendations of geo-technical engineer.</p> <p>Conduct compliance inspections.</p>	<p>Prior to issuance of grading permits.</p> <p>During grading and construction.</p>
<b>C. HYDROLOGY AND WATER QUALITY</b>					
C3.	<p><u>Construction-Related Impacts to Water Quality</u>. A comprehensive erosion control and water pollution prevention program shall be carried out during site clearing, grading, and construction. This program shall follow the detailed Best Management Practices (BMPs) specified in the Storm Water Pollution Prevention Plan (SWPPP) for the project to provide for runoff and sediment control, soil stabilization, protection of storm drains and sensitive areas, and other storm drainage control measures to be specified in the SWPPP. The SWPPP shall be prepared by the applicant and implemented and complied with during and after project grading and construction, as required under State law.</p>	Developer and construction contractor.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify completion of an adequate SWPPP for project.</p> <p>Conduct compliance inspections during construction.</p>	<p>Prior to issuance of grading, demolition, and building permits.</p> <p>During grading and construction.</p>

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>D. BIOLOGICAL RESOURCES</b>					
D3.	<p><u>Disturbance to Native Wildlife Nursery Sites.</u> The following measures shall be implemented to avoid any impacts to active raptor (e.g., hawks, falcons, etc.) nests:</p> <ul style="list-style-type: none"> <li>If possible, trees planned for removal should be removed during the non-breeding season (September 1 through January 31). However, if it is not possible to avoid such disturbance during the breeding season (February 1 through August 31), a qualified ornithologist shall conduct a pre-construction survey for tree-nesting raptors in all trees on and adjacent to the project site within 30 days of the onset of ground disturbance, if such disturbance will occur during the breeding season (February 1 through August 31). If nesting raptors are detected on or adjacent to the site during the survey, a suitable construction-free buffer shall be established around all active nests. The precise dimension of the buffer (up to 250 feet) will be determined at that time and may vary depending on location and species. Buffers shall remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. Pre-construction surveys during the non-breeding season are not necessary for tree nesting raptors, as they are expected to abandon their roosts during construction.</li> </ul>	Developer	City of Visalia, Community Development Department, Planning Division; Engineering Department, Development Services Division.	<p>Verify completion of pre-construction surveys.</p> <p>If active nests are found, verify implementation of specified mitigation measures.</p>	Prior to issuance of grading permit.

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>E. CULTURAL RESOURCES</b>					
E1.	<p><u>Disturbance to Buried Archaeological Resources.</u> Implementation of the following measures will mitigate any potential impacts to archaeological resources.</p> <ul style="list-style-type: none"> <li>If any prehistoric or historic artifacts, or other indications of archaeological resources are found once project construction is underway, all work within 25 feet of the find must stop and the City shall be immediately notified. An archaeologist meeting the Secretary of Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, shall be retained to evaluate the find and recommend appropriate mitigation measures for the discovered cultural resources. Mitigation for historic and prehistoric materials may include monitoring combined with data retrieval, or may require a program of hand excavation to record and/or remove materials for further analysis.</li> <li>If human remains are discovered, all work must stop in the immediate vicinity of the find, and the Tulare County Coroner must be notified, according to Section 7050.5 of California's Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, who would identify a most likely descendant to make recommendations to the land owner for dealing with the human remains and any associated grave goods, as provided in Public Resources Code Section 5097.98.</li> </ul>	Developer and construction contractor.	City of Visalia, Community Development Department, Planning Division.	<p>Approve selection of archaeologist and review field protocols to be provided by archaeologist. Supply contractors with contact information for city staff and archaeologist to call if resources found.</p> <p>If suspected artifacts or burials are encountered, suspend work within specified distance of find/burial until all statutory requirements have been fulfilled, as determined by the Community Development Director in consultation with the archaeologist.</p>	<p>Prior to issuance of grading permits.</p> <p>During grading and construction.</p>

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>E. CULTURAL RESOURCES (CONT'D)</b>					
E1.	<p><u>Disturbance to Paleontological Resources.</u> Implementation of the following measure will mitigate any potential impacts to paleontological resources.</p> <ul style="list-style-type: none"> <li>In the event any paleontological resources are exposed or discovered during subsurface construction, ground-disturbing operations shall stop within 25 feet of the find and a qualified professional paleontologist, as recognized by the Museum of Paleontology at U.C. Berkeley, shall be contacted for evaluation and further recommendations. Treatment sufficient to reduce the impact to paleontological resources shall be implemented as determined in coordination with the City of Visalia Community Development Department.</li> </ul>	Developer and construction contractor.	City of Visalia, Community Development Department, Planning Division.	<p>Approve selection of paleontologist. Supply contractors with contact information for city staff and paleontologist to call if resources found.</p> <p>If and when suspected fossils are encountered, suspend work within specified distance of find until any paleontological resources have been properly removed, as determined by the Community Development Director in consultation with the paleontologist.</p>	<p>Prior to issuance of grading permits.</p> <p>During grading and construction.</p>



## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing
<b>G. TRAFFIC AND CIRCULATION</b>				
<p>G1. <u>Near-Term (2010) plus Project – Mineral King Avenue at SR-198 Westbound Ramps (Near Ben Maddox Way.</u>                      Prior to the City’s issuance of the project building permit, the applicant shall install stop control on Mineral King Avenue to make the intersection of Mineral King Avenue at SR-198 Westbound Ramps (near Ben Maddox Way) operate as an all-way (3-way) stop-controlled intersection. The installation of the all-way stop fully mitigates the project impacts to this intersection. Since this intersection is not included in the TIF program or other local funding programs, the applicant will be responsible for installation of the mitigation. Although the all-way stop control will fully mitigate the project impact under CEQA, the signal warrant analysis indicated that signalization of this intersection is warranted. Because the project does not trigger the impact but adds to the unacceptable operation, the project shall only be responsible for a proportionate share of the signal installation costs. The project’s equitable share is 3.5 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i>.</p>	<p>Developer.</p>	<p>City of Visalia, Engineering Department, Development Services Division.</p>	<p>Verify installation of stop controls.                       Verify payment of fair share cost of signal installation.</p>	<p>Prior to issuance of building permit.</p>

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>G. TRAFFIC AND CIRCULATION (CONT'D)</b>					
G2.	<p><u>Near-Term (2010) plus Project – Mineral King Avenue at Lovers Lane.</u> Prior to the City’s issuance of the Certificate of Occupancy for the project, the applicant shall construct an exclusive northbound right turn lane and also restripe the existing northbound through-shared-right lane to a through lane at the intersection of Mineral King Avenue and Lovers Lane, subject to Caltrans’ design review and approval. The project’s equitable share of the improvement cost is 0.5 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i>. The applicant shall be reimbursed by the City for costs beyond its fair share amount of 0.5 percent. Prior to the issuance of the project building permit, the applicant and City of Visalia shall jointly agree to execute an agreement to reimburse the applicant for improvement costs that exceed the project’s fair share amount.</p>	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify execution of reimbursement agreement.</p> <p>Verify completion of intersection improvements.</p>	<p>Prior to issuance of building permit.</p> <p>Prior to opening day of project.</p>
G3.	<p><u>Near-Term (2010) plus Project – Noble Avenue at Ben Maddox Way.</u> Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to modify the signal phasing such that the southbound left turn split movement at this location is increased by 10 seconds. The City shall be solely responsible to construct these improvements in a time sufficient to mitigate these project impacts prior to the opening day of the project.</p>	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify payment of improvement funds.</p> <p>Verify completion of intersection improvements.</p>	<p>Prior to issuance of building permit.</p> <p>Prior to opening day of project.</p>

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>G. TRAFFIC AND CIRCULATION (CONT'D)</b>					
G4.	<u>Near-Term (2010) plus Project – Noble Avenue at East Project Driveway.</u> Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize cycle length of the signal timing during the PM peak hour at this location. The City shall be solely responsible to implement these improvements prior to opening day of the project. Because the impact results only from project traffic, the project applicant shall be solely responsible for all of the mitigation costs.	Developer.	City of Visalia, Engineering Department, Development Services Division.	Verify payment of improvement funds.  Verify completion of intersection improvements.	Prior to issuance of building permit.  Prior to opening day of project.
G5.	<u>Near-Term (2015) plus Project – Noble Avenue at Ben Maddox Way.</u> Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the signal timing during the PM peak hour at this location. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate these project impacts.	Developer.	City of Visalia, Engineering Department, Development Services Division.	Verify payment of improvement funds.  Verify completion of intersection improvements.	Prior to issuance of building permit.  By 2015.
G6.	<u>Near-Term (2015) plus Project – Noble Avenue at Lovers Lane.</u> Prior to the City’s issuance of the Certificate of Occupancy for the project, the applicant shall construct a northbound through-shared-right lane and remove the northbound right turn lane at the Noble Avenue/Lovers Lane intersection. The project’s equitable share of the improvement cost is 7.1 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i> . Prior to the issuance of the project building permit, the applicant and City of Visalia shall jointly agree to execute an agreement to reimburse the applicant for improvement costs that exceed the project’s fair share	Developer.	City of Visalia, Engineering Department, Development Services Division.	Verify execution of reimbursement agreement.  Verify completion of intersection improvements.	Prior to issuance of building permit.  Prior to issuance of Certificate of Occupancy.

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## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>G. TRAFFIC AND CIRCULATION (CONT'D)</b>					
G7.	<p><u>Near-Term (2015) plus Project – Lovers Lane at SR-198 Eastbound Ramps.</u> Prior to the City’s issuance of the Certificate of Occupancy for the project, the applicant shall construct a third northbound through lane at the intersection of Lovers Lane and the SR-198 Eastbound Ramps, subject to Caltrans’ design review and approval. The project’s equitable share of the improvement cost is 1.2 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i>. Prior to the issuance of the project building permit, the applicant and City of Visalia shall jointly agree to execute an agreement to reimburse the applicant for improvement costs that exceed the project’s fair share amount.</p>	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify execution of reimbursement agreement.</p> <p>Verify completion of intersection improvements.</p>	<p>Prior to issuance of building permit.</p> <p>Prior to issuance of Certificate of Occupancy.</p>
G8.	<p><u>Far-Term (2030) plus Project – Mineral King Avenue at Ben Maddox Way.</u> Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the signal timing during the PM peak hour at this location. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate these project impacts.</p>	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify payment of improvement funds.</p> <p>Verify completion of intersection improvements.</p>	<p>Prior to issuance of building permit.</p> <p>By 2030.</p>
G9.	<p><u>Far-Term (2030) plus Project – Mineral King Avenue at Lovers Lane.</u> Prior to the City’s issuance of the project building permit, the applicant shall pay to the City the applicant’s fair share of the cost for the City to restripe the eastbound approach at the Mineral King Avenue/Lovers Lane intersection to modify the existing through-shared-right lane to become a through lane and a right lane, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030, subject to Caltrans’ design review and approval. The project’s equitable share of the improvement cost is 0.5 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of</i></p>	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify payment of fair share cost.</p> <p>Verify completion of intersection improvements.</p>	<p>Prior to issuance of building permit.</p> <p>By 2030.</p>

	<i>Traffic Impact Studies.</i>				
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## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>G. TRAFFIC AND CIRCULATION (CONT'D)</b>					
G10.	<u>Far-Term (2030) plus Project – Noble Avenue at SR-198 Eastbound Ramps (near Ben Maddox Way).</u> Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the cycle length in the signal timing at this location during the PM peak hour, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate the project impacts.	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify payment of improvement funds.</p> <p>Verify completion of intersection improvements.</p>	<p>Prior to issuance of building permit.</p> <p>By 2030.</p>
G11.	<u>Far-Term (2030) plus Project – Noble Avenue at Pinkham Street.</u> Prior to the City’s issuance of the project building permit, the applicant shall contribute the required project fees to the TIF Program to provide the City with the revenue needed to signalize the intersection, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate these project impacts using TIF Program revenue.	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify payment of fees to TIF Program.</p> <p>Verify completion of intersection improvements.</p>	<p>Prior to issuance of building permit.</p> <p>By 2030.</p>
G12.	<u>Far-Term (2030) plus Project – Noble Avenue at Lovers Lane.</u> Prior to the City’s issuance of the project building permit, the applicant shall pay to the City the applicant’s fair share of the cost for the City to restripe the eastbound through-shared-right lane to a through lane and a right turn lane at the Noble Avenue/Lovers Lane intersection, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The project’s equitable share of the improvement cost is 1.2 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i> .	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify payment of fair share cost.</p> <p>Verify completion of intersection improvements.</p>	<p>Prior to issuance of building permit.</p> <p>By 2030.</p>

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>G. TRAFFIC AND CIRCULATION (CONT'D)</b>					
G13.	<u>Far-Term (2030) plus Project – Lovers Lane at SR-198 Eastbound Ramps.</u> Prior to the City’s issuance of the project building permit, the applicant shall pay to the City the applicant’s fair share of the cost for the City to restripe the eastbound all-shared lane to a through-shared-right lane at the intersection of Lovers Lane and the SR-198 Eastbound Ramps, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030, subject to Caltrans design review and approval. The project’s equitable share of the improvement cost is 0.2 percent based on the Caltrans methodology contained in their <i>Guide for the Preparation of Traffic Impact Studies</i> .	Developer.	City of Visalia, Engineering Department, Development Services Division.	Verify payment of fair share cost.  Verify completion of intersection improvements.	Prior to issuance of building permit.  By 2030.
G14.	<u>Far-Term (2030) plus Project – Tulare Avenue at Pinkham Street.</u> Prior to the City’s issuance of the project building permit, the applicant shall contribute the required project fees to the City’s TIF Program to provide the City with the revenue needed to install a signal at this location, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate these project impacts using TIF Program revenue.	Developer.	City of Visalia, Engineering Department, Development Services Division.	Verify payment of fees to TIF Program.  Verify completion of intersection improvements.	Prior to issuance of building permit.  By 2030.
G15.	<u>Far-Term (2030) plus Project – Court Street at Acequia Avenue.</u> Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the intersection signal timing at this location during the PM peak-hour, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate the project	Developer.	City of Visalia, Engineering Department, Development Services Division.	Verify payment of improvement funds.  Verify completion of intersection improvements.	Prior to issuance of building permit.  By 2030.



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## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>G. TRAFFIC AND CIRCULATION (CONT'D)</b>					
G16.	<u>Far-Term (2030) plus Project – Court Street at Mineral King Avenue.</u> Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the intersection signal timing at this location during the AM peak-hour, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate the project impacts.	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify payment of improvement funds.</p> <p>Verify completion of intersection improvements.</p>	<p>Prior to issuance of building permit.</p> <p>By 2030.</p>
G17.	<u>Far-Term (2030) plus Project – Court Street at Noble Avenue.</u> Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the intersection signal timing at this location during the PM peak-hour, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate the project impacts.	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify payment of improvement funds.</p> <p>Verify completion of intersection improvements.</p>	<p>Prior to issuance of building permit.</p> <p>By 2030.</p>
G18.	<u>Far-Term (2030) plus Project – Noble Avenue at Ben Maddox Way.</u> Prior to the City’s issuance of the project building permit, the applicant shall contribute the funds needed, as determined by the City, to optimize the cycle length in the signal timing at this location during the AM peak-hour, or undertake equivalent improvements to mitigate intersection deficiencies at this location by 2030. The City shall be solely responsible to implement these improvements in a time sufficient to mitigate the project impacts.	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify payment of improvement funds.</p> <p>Verify completion of intersection improvements.</p>	<p>Prior to issuance of building permit.</p> <p>By 2030.</p>

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>G. TRAFFIC AND CIRCULATION (CONT'D)</b>					
G19.	<p><u>Construction Traffic – Hazards.</u> Prior to the issuance of grading permits for the project, the applicant shall prepare a traffic control plan for construction and shall obtain approval from the Engineering Division for implementation of such a plan. The traffic control plan shall be prepared in accordance with the traffic control provisions of the City of Visalia Standard Specifications and Engineering Improvement Standards and shall include final information about times of construction, the haul routes, delivery times for heavy equipment, and any other particulars as required by the City.</p>	Developer.	City of Visalia, Engineering Department, Development Services Division.	<p>Verify preparation and City approval of traffic control plan. Verify inclusion of approved traffic control plan in construction contract documents for project.</p> <p>Verify implementation of traffic control plan.</p>	<p>Prior to issuance of demolition and grading permits.</p> <p>During grading and construction.</p>
G20.	<p><u>Construction Traffic – Level of Service Impacts.</u> Prior to the commencement of project demolition, grading, and construction activity, the applicant shall install 3-way stop control at this intersection, as specified in Mitigation G1 above.</p>	Developer.	City of Visalia, Engineering Department, Development Services Division.	Verify installation of stop controls.	Prior to issuance of demolition and grading permits.

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing
<b>H. NOISE</b>				
<p>H3. <u>Noise from Project Activity.</u> The following measures shall be implemented to achieve project operational noise levels that are in conformance with applicable City noise criteria and standards:</p> <p><i>Delivery, Loading, and Parking Lot Noise</i></p> <p>There are two distinct sets of mitigation measures available to reduce noise generated by delivery trucks, TRUs, and parking lot activity. The selection of one of these sets of measures is required reduce the project delivery, loading, and parking lot noise impacts to less-than-significant levels and ensure that resulting noise levels are kept within the applicable City noise standards. The two sets of mitigation options are as follows:</p> <p><u>Mitigation Option 1 – Restricted Hours and Locations of Delivery, Loading, and Parking Lot Activity</u></p> <ul style="list-style-type: none"> <li>Truck circulation shall be prohibited within 200 feet of the east boundary of the project site between the hours of 7:00 p.m. and 6:00 a.m. Trucks shall be routed to the loading dock area along the third parking drive aisle from the east project boundary. Delivery truck drivers shall be directed to follow the nighttime delivery route by temporary directional signs to be posted along the truck circulation route.</li> </ul> <p>(Continued on next page.)</p>	Developer.	City of Visalia, Community Development Department, Planning Division, and Building Safety Division; Engineering Department, Development Services Division.	Verify completion of noise wall.	Prior to opening day of project.

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing
<b>H. NOISE (CONT'D)</b>				
<p>H3. (Continued from preceding page.)</p> <ul style="list-style-type: none"> <li>• Parking of vehicles and parking area cleaning shall be prohibited within 100 feet of the east boundary of the site, between the hours of 7:00 p.m. and 6:00 a.m. Entry of vehicles to the restricted parking area shall be blocked during the evening and nighttime hours by cones or similar means.</li> </ul> <p><u>Mitigation Option 2 – Increase the Height of Planned Masonry Walls Along the Eastern Project Boundary</u></p> <ul style="list-style-type: none"> <li>• The 8-foot high masonry block wall planned along the eastern project boundary shall be increased in height to a planned height of 15 feet along the northerly 450 feet of this wall.</li> </ul> <p>[Note: Mitigation Option 2 has been adopted by the applicant and incorporated into the project plans. However, instead of raising the wall on the east project boundary, a new soundwall meeting the above specifications is planned to be located 15 feet inboard of the existing boundary wall.]</p>	<p>Developer.</p>	<p>City of Visalia, Community Development Department, Planning Division, and Building Safety Division; Engineering Department, Development Services Division.</p>	<p>Verify completion of noise wall.</p>	<p>Prior to opening day of project.</p>

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing
<b>H. NOISE (CONT'D)</b>				
<p>H4. <u>Construction Noise.</u> The following measures shall be implemented to reduce project construction noise to the extent feasible:</p> <ul style="list-style-type: none"> <li>• In accordance with the City’s Municipal Code, construction activities shall be limited to weekdays between 6:00 am to 7:00 pm, and weekend days between 9:00 a.m. and 7:00 p.m.</li> <li>• The permanent noise barriers proposed along the south and east boundaries of the site shall be constructed prior to engaging in any site development activities, including site clearing, demolition, building expansion and remodeling, and parking area expansion, reconstruction or rehabilitation. If this is not feasible, temporary noise barriers (minimum 10-foot high) shall be erected at the start of construction activities to shield heavy construction areas from adjacent residential receptors. The temporary noise barriers shall either be constructed of a minimum 0.5-inch plywood (without holes or gaps) or utilize acoustical blankets with a minimum Sound Transmission Class of 12. The temporary barriers shall remain in place until all exterior construction activity is completed.</li> <li>• All equipment driven by internal combustion engines shall be equipped with mufflers which are in good condition and appropriate for the equipment.</li> <li>• The construction contractor shall utilize “quiet” models of air compressors and other stationary noise sources where technology exists.</li> <li>• Unnecessary idling of internal combustion engines shall be prohibited.</li> </ul> <p>(Continued on next page.)</p>	<p>Developer and construction contractor.</p>	<p>City of Visalia, Community Development Department, Planning Division and Building Safety Division; Engineering Department, Development Services Division.</p>	<p>Conduct regular site visits to verify compliance with Municipal Code construction hours.</p> <p>Verify completion temporary noise barriers.</p> <p>Conduct regular site visits to verify implementation of equipment noise measures.</p>	<p>During grading, demolition, and construction inspections.</p> <p>Prior to issuance of grading and demolition permits.</p> <p>During grading, demolition, and construction inspections.</p>

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing
<b>H. NOISE (CONT'D)</b>				
<p>H4. (Continued from preceding page.)</p> <ul style="list-style-type: none"> <li>• At all times during project grading and construction, stationary noise-generating equipment shall be located as far as practicable from sensitive receptors.</li> <li>• All stationary construction equipment shall be placed so that the emitted noise is directed away from sensitive receptors nearest the project site.</li> <li>• Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.</li> <li>• Owners and occupants of residential and non-residential properties located within 300 feet of the construction site shall be notified of the construction schedule in writing.</li> <li>• The construction contractor shall designate a “noise disturbance coordinator” who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and institute reasonable measures as warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.</li> </ul>	<p>Developer and construction contractor.</p>	<p>City of Visalia, Community Development Department, Planning Division and Building Safety Division; Engineering Department, Development Services Division.</p>	<p>Verify noticing completed.</p> <p>Verify posting of contact information for disturbance coordinator.</p> <p>Respond to noise complaints. Record each site visit and noise complaint.</p>	<p>One week prior to start of grading and construction activity.</p> <p>One week prior to start of grading and construction activity.</p>

## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>I. AIR QUALITY</b>					
I1.	<p><u>Construction Dust.</u> In addition to the required dust control measures under SJVAPCD Regulation VIII, the following enhanced dust control measures shall be included in project construction contracts to control fugitive dust emissions during construction:</p> <ul style="list-style-type: none"> <li>• Limit traffic speeds on unpaved roads to 15 mph.</li> <li>• Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</li> <li>• Landscape or replant vegetation in disturbed areas as quickly as possible.</li> <li>• Limit access to the construction sites, so tracking of mud or dirt onto public roadways can be prevented. If necessary, use wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.</li> <li>• Suspend grading activity when winds (instantaneous gusts) exceed 25 mph or dust clouds cannot be prevented from extending beyond the site.</li> </ul>	Developer and construction contractor.	City of Visalia, Community Development Department, Planning Division and Building Safety Division; Engineering Department, Development Services Division.	<p>Verify that all required dust control measures are included in construction contract documents for project.</p> <p>Conduct compliance investigations during construction to verify that fugitive dust is controlled according to mitigation specifications.</p>	<p>Prior to issuance of grading and demolition permits.</p> <p>During grading and construction.</p>
I6.	<p><u>Odors.</u> Prior to issuance of a Certificates of Occupancy, the owner/operator of the relocated restaurant in the project shall have installed kitchen exhaust vents in accordance with accepted engineering practice, and shall install a exhaust filtration system or other accepted method of odor reduction.</p>	Developer.	City of Visalia, Community Development Department, Building Safety Division.	Confirm installation of specified odor control devices.	Prior to issuance of Certificates of Occupancy.



## MITIGATION MONITORING AND REPORTING

Mitigation Measure	Responsibility for Implementation	Responsibility for Monitoring	Action by Monitor	Timing	
<b>J. HAZARDOUS MATERIALS</b>					
J1.	<p><u>Release of Potential Contaminants During Demolition and Remodeling.</u> The removal and disposal of potential contaminant sources from the vacant office building and the remodeled portion of the Walmart store shall be carried out in accordance with applicable federal, state, and local regulations.</p>	Developer and construction contractor.	City of Visalia, Community Development Department, Building Safety Division.	<p>Verify that developer or construction contractor has retained a hazardous waste contractor to properly remove all hazardous materials in accordance with applicable laws and regulations.</p> <p>Upon completion of removal and disposal, verify that developer or construction contractor has provided documentation to the City of Visalia demonstrating that the required removals and disposal were successfully completed as required by applicable laws and regulations.</p>	<p>Prior to issuance of demolition permits.</p> <p>Prior to issuance of building permits.</p>

## **RESOLUTION NO. 2011-24**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF CONDITIONAL USE PERMIT NO. 2007-17, A REQUEST BY CEI ENGINEERING ASSOCIATES TO ALLOW THE EXPANSION OF AN EXISTING 133,206 SQUARE FOOT WALMART STORE LOCATED AT 1819 EAST NOBLE AVENUE UP TO 190,000 SQUARE FEET, WITH A PROPOSED 52,945 SQUARE FOOT GROCERY COMPONENT, OUTDOOR GARDEN CENTER AND ANCILLARY INTERIOR SERVICE-ORIENTED TENANTS, INCLUDING A FAST FOOD TENANT (THE "PROPOSED PROJECT"), AS FULLY DESCRIBED IN THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH 20081211133). THE EXISTING 14.55 ACRE SITE AREA WOULD BE EXPANDED TO A TOTAL OF 18.35 ACRES, ALL OF WHICH IS CURRENTLY ZONED COMMERCIAL /SHOPPING OFFICE (P-CSO), LOCATED AT 1819 E. NOBLE AVENUE. (APN: 100-050-001, 100-050-007, 100-050-013, 100-050-014, AND 100-040-038).

**WHEREAS**, Conditional Use Permit No. 2007-17 is a request by CEI Engineering Associates to allow the expansion of an existing 133,206 square foot Walmart store located at 1819 East Noble Avenue up to 190,000 square feet, on a 14.55 acre site on which the area would be expanded to a total of 18.35 acres, all of which is currently zoned Commercial /Shopping Office (P-CSO), located at 1819 E. Noble Avenue. (APN: 100-050-001, 100-050-007, 100-050-013, 100-050-014, and 100-040-038); and,

**WHEREAS**, the Planning Commission of the City of Visalia, after duly published notice did hold a public hearing before said Commission on April 25, 2011; and

**WHEREAS**, the Planning Commission of the City of Visalia, after conducting a public hearing, approved Conditional Use Permit No. 2007-17; and

**WHEREAS**, an appeal of the Planning Commission's approval of Conditional Use Permit No. 2007-17 pertaining to error or abuse of discretion by the Planning Commission in its action and pertaining to the Commission's actions not being supported by evidence in the record was received on May 5, 2011; and

**WHEREAS**, the City Council of the City of Visalia, after ten (10) days published notice held a public hearing before said Council on May 16, 2011; and

**WHEREAS**, the City Council finds the approval of Conditional Use Permit No. 2007-17 was made in accordance with Chapter 17.38 (Conditional Use Permits) of the City of Visalia, based on the evidence contained in the staff report and testimony presented at the public hearing.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council finds that the Project, Final Environmental Impact Report, SCH# 2004061090 was prepared consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of Visalia makes the following specific findings based on the evidence presented:

1. That the proposed project will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity because adequate conditions and mitigation measures have been incorporated into the project to protect adjacent properties and public improvements during ongoing operations of the project.
2. That the proposed conditional use permit is consistent with the policies and intent of the General Plan and Zoning Ordinance. Specifically, the project is consistent with the required findings of Zoning Ordinance Section 17.38.110:
  - A. The proposed location of the conditional use permit is in accordance with the objectives of the Zoning Ordinance and the purposes of the zone in which the site is located.
  - B. The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, nor materially injurious to properties or improvements in the vicinity.
3. That the project is consistent with the project description contained in the Final Environmental Impact Report (FEIR) (SCH# 2008121133) for the project associated with this Conditional Use Permit CUP 2007-17, for the expansion of a existing Walmart store at said location, and for which said FEIR was certified by this Commission precedent to its consideration of this Variance request, consistent with the California Environmental Quality Act (CEQA) and City of Visalia Environmental Guidelines.

**BE IT FURTHER RESOLVED** that the City Council denies the appellants appeal and upholds the approval of the Conditional Use Permit on the real property here in above described in accordance with the terms of this resolution under the provisions of Section 17.38.110 of the Ordinance Code of the City of Visalia, subject to the following conditions:

1. That the site be developed in substantial conformance with the site plan in Exhibit "A", except that the cross access point depicted between the project site and the church located at 1905 E. Noble Ave. (APN 100-050-013) shall be revised to occur at the east end of the church parking lot, as shown on the approved site plan for CUP 2008-30, and that said access point be signed as "exit only" from the church parking lot onto the project site.
2. That the mitigation monitoring plan and mitigation measures adopted with the FEIR certified for the project (SCH# 2008121133) by Resolution No. 2011-14, and all conditions of this project be met during construction and upon final occupancy and ongoing operation of the project.
3. That the Conditional Use Permit be developed consistent with the comments and conditions of Site Plan Review No. 2006-240, incorporated herein by reference.
4. That landscape and irrigation plans, prepared in accordance with the City of Visalia Model Water Efficient Landscape Ordinance, shall be included in the construction document plans submitted for either grading or building construction permits.

5. Parking lot trees to remain on-site shall be protected during construction such that their existing canopy configuration remains unharmed or disturbed. All site landscaping shall be regularly maintained in a healthy manner such that parking lot trees are able to exist in the full canopy configuration that is consistent with the age and size of the particular tree.
6. That the applicant prepares a security plan for review and approval by the Community Development Director that specifically includes but is not limited to provision for controlled access, active and passive surveillance, and ongoing maintenance of the area between the two walls generally along the project's east boundary. The security plan shall also satisfactorily address security of and retrieval of shopping carts.
7. Within one year of commencement of operations of the expanded store area or new loading docks, the applicant shall bear the costs of one acoustical analyses conducted by the noise consultant the City retained to prepare the EIR's noise study and EIR analysis. The study shall be undertaken at the City's sole discretion and timing. The purpose of the analyses shall be to establish the project's compliance with Community Noise Standards for sensitive receptors adjacent to the project site.
8. That all other existing City Codes and Ordinances shall apply
9. Within 30 days following the City's issuance of a Notice of Determination, the applicant and City shall have prepared and executed an indemnification agreement.
10. That the applicant submit to the City of Visalia a signed receipt and acceptance of conditions from the applicant and property owner, stating that they understand and agree to all the conditions of Conditional Use Permit No. 2007-17 prior to the issuance of any building permits for this project.

## RESOLUTION NO. 2011-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF VARIANCE NO. 2007-06, A REQUEST BY CEI ENGINEERING CEI ENGINEERING ASSOCIATES TO ALLOW A SIGN PROGRAM FOR BUILDING AND MONUMENT SIGNAGE EXCEEDING THE STANDARDS IN DESIGN DISTRICT "A". THE SITE IS ZONED COMMERCIAL/SHOPPING OFFICE (P-CSO), LOCATED AT 1819 E. NOBLE AVENUE. (APN: 100-050-001, 100-050-007, 100-050-013, 100-050-014, AND 100-040-038)

**WHEREAS**, Variance No. 2007-06, A request by CEI Engineering Associates to allow a sign program for building and monument signage exceeding the standards in Design District "A". The site is zoned Commercial/Shopping Office (P-CSO), located at 1819 E. Noble Avenue. (APN: 100-050-001, 100-050-007, 100-050-013, 100-050-014, and 100-040-038); and,

**WHEREAS**, the Planning Commission of the City of Visalia, after duly published notice did hold a public hearing before said Commission on April 25, 2011; and

**WHEREAS**, the Planning Commission of the City of Visalia, after conducting a public hearing, approved Variance No. 2007-06; and

**WHEREAS**, an appeal of the Planning Commission's approval of Variance No. 2007-06 pertaining to error or abuse of discretion by the Planning Commission in its action and pertaining to the Commission's actions not being supported by evidence in the record was received on May 5, 2011; and

**WHEREAS**, the City Council of the City of Visalia, after ten (10) days published notice held a public hearing before said Council on May 16, 2011; and

**WHEREAS**, the City Council finds Variance No. 2007-06, as conditioned by staff, to be in accordance with Section 17.42 of the Ordinance Code of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing; and,

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council finds that the Project, Final Environmental Impact Report, SCH# 2004061090 was prepared consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Visalia makes specific findings with regard to the request for the freestanding monument sign with a proposed sign copy area of up to 52 square feet, as contained in Attachment 1 of this resolution, and based on the evidence presented in this public hearing; and,

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of Visalia makes specific findings with regard to the request for the on building signage on the north elevation of said building of up to 585.22 square feet, as contained in Attachment 2 of this resolution, and based on the evidence presented in this public hearing.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council hereby approves Variance No. 2007-06, as conditioned, on the real property herein above described in accordance with the terms of this resolution under the provision of Section 17.48.110 of the Ordinance Code of the City of Visalia, subject to the following conditions:

1. That the signage be developed consistent with Exhibits "D" and "E", and the Sign Program dated April 2011.
2. That the timeline for the lapse of this Variance shall be the tied to the timeline for Conditional Use Permit 2007-17.
3. That all other existing federal, state and city codes, ordinances and laws be met.
4. That the applicant submit to the City of Visalia a signed receipt and acceptance of conditions from the applicant and property owner, stating that they understand and agree to all the conditions of Variance No. 2007-06, prior to the issuance of any building permits for this project.