

Regular Meeting Agenda

Visalia City Council



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

Monday, June 6, 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. Review City of Visalia participation in the 2011 Golden Guardian Statewide Disaster exercise.
- 4:10 p.m. 2. Status of the Historic Preservation Advisory Committee to add the Visalia's Home Builders Addition, which is located on the south side of Noble Avenue between West and Conyer Streets to the north side of Mt. Whitney High School, comprised of 105 properties, to the Historic District.
- 4:40 p.m. 3. Consider options for filling the City Council position vacated by Mike Lane and direct staff to proceed with either the appointment or the election process.

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) – 1 potential case

5. Conference with Labor Negotiators (GC 54957.6)
Agency representatives: Steve Salomon, Mark Nelson, Eric Frost, Diane Davis
Employee organizations: All groups
6. Conference with Real Property Negotiator (G.C. 54956.8)
Property : 3.43 acres located at the northeast corner of Road 68 and Caldwell Avenue; 11 acres southeast corner of Lovers Lane and Mill Creek Parkway, approximately 27 acres northwest corner of Golden West High School parcel north of St. John’s River, and 6.61 acres at Goshen Avenue and Virmargo St.
Under Negotiation: Authority to negotiate price, terms and conditions
Negotiating parties: Steve Salomon, Mike Olmos, Leslie Caviglia, Chris Tavarez, Craig Wheaton, Robert Groeber
7. Conference with Real Property Negotiator (G.C. 54956.8)
Property : 1.7 acres on the northwest corner of Roeben/Tulare
Under Negotiation: Authority to negotiate price, terms and conditions
Negotiating parties: Steve Salomon, Mark Nelson, Lois Murray, Director Sierra Village; Alex Peltzer

7:00 p.m.

CALL TO ORDER REGULAR SESSION

PLEDGE OF ALLEGIANCE

INVOCATION – Pastor Ken Squires, 1st Assembly of God

SPECIAL PRESENTATIONS/RECOGNITION - Recognition of Wally Roeben and Burke Mulligan for life saving efforts they performed at the Convention Center

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.

8. **PUBLIC HEARING** for the Special Assessment Ballot of Assessment District 2011-1 “Orchard Walk East/West Utility Undergrounding Assessment District” and direct the purchase of public assets if the assessment district is approved.

(Upon completion of the public hearing, the City Clerk will open and tabulate the ballots and the results will be reported at the end of the meeting and Council will take appropriate action at that time).

9. **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) Authorize the application of \$2.5 million for “Proposition 84” Park Bond Act Monies to develop Civic Center Park (2.8 ac.) along Mill Creek between Tipton St. and Burke St.
Resolution 2011-26 required.
 - c) Authorize amendment to the Tulare County Association of Governments Joint Powers Agreement to modify powers of the TCAG. **Resolution 2011-27 required.**
 - d) Authorize the Mayor to send letters to appropriate state legislators expressing support for California Assembly Bills 890 and 1121 and letters of opposition for Assembly Bills 506, 1220 and Senate Bills 474 and 931.
 - e) Authorize filing Notice of Completion for Whitendale Avenue Widening Project in the amount of \$1,139,049.44 (Project No. 1241-9252).
 - f) Consideration of changes to the appointment list of the General Plan Update Review Committee (GPURC).
 - g) Accept the City of Visalia Cash and Investment Report for the third quarter ending March 31, 2011.
 - h) Approve reappointment of committee members for Disability Advocacy Committee, Historic Preservation Committee and Waterways & Trails Committee due to vacancies and/or end of terms.
 - i) Award annual janitorial supplies contract to Clean Source per specifications of RFB 10-11-36.

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.*

10. *Request from staff to continue this item to July 18, 2011 - **PUBLIC HEARING** and First Reading of an ordinance pertaining to: revocation and repeal of Chapters 5.66 and 17.64 of the Visalia Municipal Code pertaining to medical marijuana business permitting and zoning; amendment of Chapter 17.02 of the Visalia Municipal Code to prohibit medical marijuana dispensaries in all zones; and amendment of Chapter 8.64 of the Visalia Municipal Code to establish regulations governing the cultivation and consumption of medical marijuana for personal use.*
11. *Request from staff and consultant to continue this item to June 20, 2011 (Public Hearing is closed – action is continued from 5/16/11) - 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*

Wal-Mart 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.**

12. **PUBLIC HEARING** - Introduction of Ordinance 2011-09; for Zoning Text Amendment No. 2011-08: A request by the City of Visalia to amend Sections 17.02 (Article 2 Administrative Adjustment [17.02.150, through 17.02.180] of the Visalia Municipal Code (Zoning Ordinance), to increase the maximum available adjustment from ten (10) percent to twenty (20) percent for development standards related to building and landscaping setbacks, site area, lot width, building height and parking requirements, and rescind portions of Sections 17.34.120 and 17.30.160 of Zoning Ordinance pertaining to a twenty (20) percent administrative reduction to parking requirements for properties within portions of Design District "A". **Resolution 2011-28 required**

13. Report results of Special Assessment Ballot of Assessment District 2011-1 "Orchard Walk East/West Utility Undergrounding Assessment District" and take action on Item #8. **Resolution 2011-29 required.**

CLOSED SESSION REPORT (if any)

Buyer	Seller	APN Number	Address	Purpose	Closing Date	Project Manager
City of Visalia	CDEC 53526,LLC	081-010-087 (portion)	700 N Plaza Dr Plaza/Rd80 project area	Right of Way for Plaza/Rd 80 widening project	5/23/11	Fred Lampe
City of Visalia	Stasio, Tom & Linda	078-110-021	522 Riverway Drive (Riverway/ Dinuba Blvd)	Riverway Trail Project	5/24/11	Vince Elizondo
City of Visalia	Broderick, John & Stacy	081-010-056, (portion)	1010 N Plaza Dr Plaza/Rd 80 project area	Right of Way for Plaza/Rd 80 widening project	5/25/11	Fred Lampe

Upcoming Council Meetings

- Monday, June 13, 2011, 4:00 p.m. Special Meeting – 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 with Visalia Unified School District at Anthony Community Center, 345 N. Jacob St.

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. For more information, contact Community Relations Manager Nancy Loliva at nloliva@ci.visalia.ca.us.

City of Visalia Agenda Item Transmittal

Meeting Date: June 6, 2011

Agenda Item Number (Assigned by City Clerk): 1

Agenda Item Wording: City Council to review the City of Visalia participation in the 2011 Golden Guardian Statewide Disaster Exercise

Deadline for Action: N/A

Submitting Department: Fire

Contact Name and Phone Number:

Mark Nelson, Fire Chief – 713-4220
Danny Wristen, Battalion Chief – 713-4056
Karl Kassner, Administrative Officer – 713-4545

Department Recommendation:

City Council to review the City of Visalia participation in the Golden Guardian Statewide Disaster Exercise and provide feedback.

Summary / Background:

Golden Guardian is the Governor of California's Annual Statewide Exercise Series that takes place each year in May. The goal of Golden Guardian is to exercise and assess emergency operation plans, policies, and procedures for all-hazards / catastrophic incidents at the local, regional, and state levels. First implemented by Governor Arnold Schwarzenegger in 2004, Golden Guardian has become the largest statewide exercise series in the country. The exercise involves a common disaster scenario that allows all players in the exercise to coordinate their response based on the same scenario.

Discussion:

On May 19, 2011, the City of Visalia participated in the Golden Guardian Statewide Disaster Exercise. The scenario for this year's exercise was a catastrophic rain and flooding event that impacted the entire State and required a coordinated response from all levels of government. The City participated in the exercise by opening the City of Visalia Emergency Operations Center (EOC) and utilizing the City's Emergency Operations Plans (EOP) to manage the disaster scenario. City staff participated in the event, either in the EOC or in the exercise coordination center. Staff utilized the new EOC, located at Fire Station 55, for the first time and found it to work effectively as an EOC.

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.): __10__

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 Tulare Operational Area Golden Guardian 2011 Functional Exercise was an operational exercise designed to establish a learning environment for role-players to exercise emergency response plans, policies, and procedures as they pertain to emergency management of a catastrophic severe weather event. This exercise included complex events that required detailed planning with subject matter experts and local representatives from numerous agencies. In order to prepare for the exercise, City staff participated on the Planning Committee and attended training sessions to be Controllers and Evaluators for the exercise. The exercise was a coordinated event planned over a period of 12 months with the cities of Visalia, Dinuba, Tulare, Porterville, Exeter, Farmersville, the County of Tulare and the State of California.

Exercise Objectives

- Coordinate effective incident management and inter-disciplinary / inter-agency response activities between the Emergency Operations Centers of the Tulare Operational Area.
- Create situational awareness for responders and key decision-makers through effective gathering, processing, and dissemination of accurate and timely information.
- Utilize Web EOC as the primary disaster information management & coordination platform.
- Establish and communicate the jurisdiction's response priorities, and revise these priorities as necessary to adapt to the current situation.
- Effectively coordinate simulated evacuations across multiple jurisdictions in accordance with the Operational Area Evacuation Plan.
- Provide frequent, timely, coordinated, complete, and accurate information to the public to support response activities and minimize potential loss of life.
- Effectively employ all available resources to mitigate incidents, leveraging mutual aid agreements, memoranda of understanding, and purchasing / contracting authority as necessary to obtain response assets.

Types of Events

The scenarios designed for our community were all weather related, including several flooding situations. A hazardous materials incident at Kaweah Delta Medical Center and a request for assistance for a hazardous material incident in the City of Exeter were used to test agreements in regards to the response of the Hazardous Material Team. Examples of the storm related events included high winds downing trees and power lines creating simulated power outages. Evacuation planning was tested with overland flooding events creating the need to evacuate and provide shelter for affected residents. Scenarios were developed from research conducted for the Multi-Hazard Mitigation Plan and where historical data was unavailable realistic models were developed by the National Weather Service or National Geological Society. EOC personnel had to evaluate and prioritize the City's resources to respond to the scenarios, and ensure a coordinated response. As part of the exercise, our EOC personnel utilized the Web EOC computer program to track and document disaster activities during the scenario. The Web EOC program allows for immediate documentation of events during a disaster and for communication with the Operational Area EOC.

Lessons Learned

After the exercise concluded, staff conducted an immediate After Action Debriefing to allow the EOC personnel to discuss the exercise and make recommendations for improvements. We also participated in a county wide debriefing to discuss the exercise and recommendations for improvements. The improvement process represents the comprehensive, continuing preparedness effort of which the Golden Guardian exercise is a part. The lessons learned and recommendations from the After Action Report will be incorporated into an Improvement Plan. The After Action Report and Plan will be drafted by the Tulare County Operational Area.

Next Steps

- Further development of plans (Emergency Operation Plan, Evacuation Plan, Hazard Mitigation Plan, MOU's).
- Additional emergency preparedness training (Web EOC, SEMS/NIMS, Flood Fighting).
- Continued participation in drills and exercises (assisting Kaweah Delta Medical Center with drill on June 30th).
- Evaluate facility needs for the new EOC located at Station 55 and make recommendations

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives: N/A

Attachments: Power Point Presentation

Recommended Motion (and Alternative Motions if expected): N/A

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: N/A



2011 Golden Guardian Exercise

City of Visalia
May 19, 2011




Golden Guardian Priorities

- Leadership
- Collaboration
- Meaningful Partnerships




Exercise Objectives

- EOC Management
 - Web EOC
 - Emergency Operations Plan (EOP)
- Evacuation
 - Evacuation Plan
- Mass Care
 - Evacuation Plan
- Mutual Aid
 - Resources Manager/Web EOC



Scenario vs. Objectives

- Objectives:
 - Utilize Web EOC to effectively coordinate incident management across all involved jurisdictions.
 - Coordinate a simulated evacuation and related activities across multiple jurisdictions.
 - Utilize all available mutual aid agreements and memoranda of understanding to obtain necessary response assets.




Golden Guardian Participants

- Statewide - 20 counties, 10 cities, 22 State Agency's, 9 Federal Agencies, and more than 5,000 participants




Local Participants

- Cities of Dinuba, Exeter, Farmersville, Porterville, Tulare, Visalia
- County / OA
- US Army Corps of Engineers
- Red Cross
- Southern CA Edison
- Hospitals
- NWS / DWR (via scenario injects)



Venues

- Operational Area EOC
- Health Department DOC
- Sierra Hospital EOC ("HICS")
- City EOCs:
 - Dinuba
 - Exeter
 - Farmersville
 - Porterville
 - Tulare
 - Visalia
- Simulation Cell - Sierra Room, Gov't Plaza



Visalia EOC





PLANNING SECTION CHIEF




City of Visalia Participation

- 40 City of Visalia Employees
- Utilized the new EOC at Fire Station 55
- Utilized Web EOC to track and document




Lessons Learned

- The improvement process represents the comprehensive, continuing preparedness effort of which the Golden Guardian exercise is a part.
- The lessons learned and recommendations from the After Action Report will be incorporated into an Improvement Plan.
- The After Action Report and Plan will be drafted by the Tulare County Operational Area.



Next Steps

- Further development of plans (Emergency Operation Plan, Evacuation Plan, Hazard Mitigation Plan, MOU's).
- Additional emergency preparedness training (Web EOC, SEMS/NIMS, Flood Fighting).
- Continued participation in drills and exercises (assisting Kaweah Delta Medical Center with drill on June 30th).
- Evaluate facility needs for the new EOC located at Station 55 and make recommendations



**Work Session
Agenda Item Transmittal**

Meeting Date: June 6, 2011

Agenda Item Number (Assigned by City Clerk): 2

Agenda Item Wording:

Status of Historic Preservation Advisory Committee Actions to add the Visalia Home Builders Addition to the Historic District

Site Location: Visalia Home Builders Addition is located on the south side of Noble Avenue between West and Conyer Streets to the north side of MT. Whitney High School, comprised of 105 properties.

Contact Name and Phone Number:

Andrew Chamberlain, Senior Planner (559) 713-4003
Nancy Loliva, Community Relations Manager (559) 713-4535
Paul Scheibel, AICP, Planning Services Manager (559) 713-4369

Summary: The Historic Preservation Advisory Committee has been considering the addition of the Visalia Home Builders Addition to the City's Historic District for many years. The area, which is bounded by Watson and Conyer Streets, south of Noble Avenue to Mount Whitney High School, consists of 115 properties which are the Visalia Home Builders Addition, as shown in Exhibit "A". Being added to the Historic District would result in requirements which call for exterior remodels or new construction to be done in a compatible architectural design with the primary unit.

Background:

Visalia Home Builders Addition

Constructed in the 1920's and 1930's, the Visalia Home Builders subdivision was built in response to the need for affordable housing in Visalia. A group of Visalia businessmen, interested in the town and its future, sought to provide good quality, affordable housing and make Visalia a better place to live.

The homes in the subdivision follow a common architectural theme. It was the era of the bungalow in California, and the addition brought that theme to Visalia in a cohesive neighborhood. The homes were built low to the ground, with broad, gently sloping eaves. Though there is a common theme in the spacing and the architecture of the addition, each home has a unique character.

It is this character, of the neighborhood and the houses in it, that the Visalia Historic Preservation Advisory Committee seeks to preserve by considering the addition of the Visalia Home Builders Addition to the Visalia Historic Preservation District.

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: 30 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.

Historic Preservation Advisory Committee

The Historic Preservation Advisory Committee is charged with reviewing proposed exterior changes for the protection and preservation of historic structures, and to preserve and enhance historic residential areas as cohesive neighborhood units. The formation of the District, Register and Committee is to express the commitment of the City to assure that the city's cultural heritage, as reflected in its historic structures, sites and features is not lost or destroyed.

Created in 1979, the District's purposes include the protection and preservation of historic structures and the preservation and maintenance of historic residential areas as cohesive neighborhood units.

Exhibit "B" is a map showing the location of the current Historic Districts and Local Register Structures, and includes the location of the "Visalia Home Builders Addition". Exhibit "D" is Zoning Ordinance Section 17.56, the Historic Preservation District Ordinance. The HPAC Committee duties are outlined and include the review of structures listed on the Local Register of Historic Structures and located within the Historic District. Part of the HPAC Committee charge is to survey and update the inventory, (Historic District) and Local Register for additions and deletions where warranted.

Inclusion in the Historic District (what it means):

Inclusion in the District would entail some restrictions regarding remodeling and design changes to the structures in the neighborhood. However, it will not affect interior remodeling, normal maintenance of the structures, such as painting, nor will it affect the marketability of the properties. More significantly, inclusion of the Home Builders addition in the Historic District will assure that new and remodeled structures and land uses will be compatible with the neighborhood. District status will also help to preserve the character of the neighborhood by protecting against inappropriately designed and scaled structures. Inclusion in the District has the potential to stabilize the visual character of the neighborhood which tends to promote pride of ownership and the long term steadiness of property values in the area.

Currently, 20 of the 115 sites in Visalia Home Builders Addition are in the Historic District, or are listed on the Local Register of Historic Structures.

Changes to existing structures including additions and exterior remodeling are reviewed for consistency with the existing architectural character.

Items subject to reviewed by the Historic Preservation Advisory Committee:

- Additions – bedrooms, garages, patios
- Demolition
- Office Conversions
- Replace windows
- Replace doors
- New window or door openings on the structure
- Exterior siding or trim changes

- New fencing
- Office conversion site plans
- General Plan Amendments, zone changes, conditional use permits and variances (Committee makes a recommendation to the Planning Commission and City Council)

Items not subject to review by the Historic Preservation Advisory Committee:

- Landscaping upkeep or planting requirements – None
- Replacement of existing fences with same material and style
- Paint
- Maintenance (replacement of exterior features with no change in the materials or location)
- Any interior alterations which do not result in any exterior changes
- Replacement or new mechanical equipment (air units, electric panels)
- Reroof or Residing with like materials
- Foundation work
- Swimming Pools
- Masonry repairs with like materials

Frequently Asked Questions:

Is there a cost for the committee to review my proposed exterior changes?

No, there is no cost for submitting an application to the committee for review.

How often does the Committee meet?

The Committee meets every 2nd and 4th Wednesday of the month.

How far ahead of the Committee meeting do I need to submit an application with exhibits of my project?

Staff recommends that items be submitted 10 days prior to the meeting, though simple items may be accommodated up to 7 days prior to the meeting. This allows staff to prepare a Staff Report and publish the request on the HPAC agenda.

Are there any requirements or regulations related to being in the Historic District that require building permits because of the “Historic” designation?

No, inclusion in the Historic District does not change any City of Visalia or Uniform Building Code requirements for building permits.

Are there any Historic Loan Programs associated with being in the Historic District?

No, there are currently no Historic Preservation Loan programs administered by the Committee or City of Visalia.

Actions by HPAC Committee to Date:

Over the past years, the HPAC Committee and Visalia Heritage, an independent local historic group, have sent letters of interest to the Visalia Home Builders Addition property owners to apprise them of the interest in bringing the neighborhood into the Historic District and to try and gauge interest by the property owners. The following is a list of recent HPAC Committee outreach actions to the Visalia Home Builders Addition neighborhood:

May 2009 – Historic Preservation Retreat with Home Builders neighborhood. This was a presentation to the neighborhood which described the Committee interest in adding the neighborhood to the Historic District. Then Mayor Gamboa welcomed the attendees and provided a brief introduction to the staff presentation which described the historic interest and regulatory requirements of being in the Historic District.

2007 to 2010 – The HPAC Committee undertook a survey of all the primary residential structures in the Visalia Home Builders Addition.

February 2010 – A survey was mailed to property owners in the Visalia Home Builders Addition asking their interest in joining the Historic District, requesting that they respond (yes/no/undecided). Exhibit “C” is a map of the survey results with additions which have been brought to staff attention since the May 18, 2011 meeting.

May 18, 2011 – The HPAC Committee invited all of the property owners and residents to a Work Session. During the work session the attendees were given a brief analysis of the Committee interest and what it means to be added to the Historic District. The attendees were provided the balance of the meeting to ask questions, which generated over an hour of beneficial discussion.

Prior Council/Board Actions: None

City Council Work Session notices were mailed to property owners in advance of this meeting.

Tentative Project Schedule:

The following schedule is subject to change:

- May 18, 2011 Work Session with HPAC Committee (Completed)
- June 6, 2011 Work Session with City Council
- June 22, 2011 Action at Historic Preservation Advisory Committee
- July 11, 2011 Action at Planning Commission
- August 1, 2011 Action at City Council

Attachments:

- Exhibit A – Aerial Photo of Visalia Home Builders Addition
- Exhibit B – Map of Current Historic District and Local Register Structures
- Exhibit C – Map of Property Owner Interest Survey – Updated June 2011
- Exhibit D – Zoning Ordinance Section 17.56 – Historic Preservation District

Copies of this City Council Transmittal have been provided to:

HPAC Committee

City of Visalia Agenda Item Transmittal

Meeting Date: June 6, 2011

Agenda Item Number (Assigned by City Clerk): 3

Agenda Item Wording: Consider options for filling the City Council position vacated by Mike Lane and direct staff to proceed with either the appointment or the election process.

Deadline for Action: N/A

Submitting Department: Administration

Contact Name and Phone Number: Alex Peltzer, 636-0200;
Leslie Caviglia, 713-4317

Department Recommendation

It is recommended that the City Council consider options for filling the City Council position vacated by Mike Lane and direct staff to proceed with either the appointment or the election process.

Summary

Council Member Mike Lane publically announced on May 17 that he would be resigning from the Visalia City Council effective May 31. Elected to the City Council in November, 2009, his term expires in November, 2013 which means there is approximately 2 ½ years left in his term.

Pursuant to the City Charter and state law, the City Council has 60 days (July 30, 2011) after the Council seat is vacated to take one of the following actions to fill the vacancy:

1. Call for a special election to fill remainder of the unexpired term,
2. Appoint a resident of Visalia to fill the vacant seat for the remainder of the unexpired term

If the Council chooses to call a special election, and does so prior to July 15, 2011, the election would occur simultaneously with the election for the two regular seats that are to be filled at the regularly established election date of November 8, 2013.

In either case, the person appointed or elected would fill the entire remainder of the unexpired term. The Council does not have authority to make a provisional appointment now, subject to requiring the appointment be confirmed through a special election.

There is no provision in the law for what occurs if the Council does neither of two things listed above, but the default would be that the seat would remain vacant until the November, 2013, election. Staff recommends taking action to avoid this outcome.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head LBC 52211

Finance

City Atty

City Mgr

Election:

In accordance with California Law and the City Charter, the Council could choose to have the seat filled by special election. If it makes the decision prior to July 15, 2011, the special election would occur as part of the November 2011 General Election. While it would technically be a special election for this seat, it would be conducted as part of the regular election. Visalia will already be holding an election for two Council seats (those currently held by Link and Shuklian), and a third seat could be filled simultaneously. A normal election would be held, and as provided for in the City Charter, the candidate receiving the third largest number of votes would serve the unexpired term.

State law provides that the Council has 60 days from the date of the vacancy to call a special election. Mr. Lane's resignation is effective May 31, 2011, and therefore the Council has until July 30, 2011 to call for a special election.

State law also provides that if a special election is called, it shall occur at the next regularly established election date that is at least 114 days after the election was called (Government Code section 36512(c)(2)). Therefore, if the Council chooses this option, and the Council wants to ensure that the special election will be held in 2011, it by July 15, 2011 so the petition can be filed in accordance with State law at least 114 days prior to the election date. If the Council selects this option, but does not actually call for the election until after July 15, the next "regularly established election date" that is at least 114 days after the election is called would be November, 2013. That means the seat would remain vacant for more than two years, which would be an undesirable result, given the uncertainty caused by having a vacancy on the Council for that length of time. This would also be the outcome if the Council took no action prior to the end of the 60 day period following the vacancy.

According to the County Elections Department, even though such an election called pursuant to the Government Code would technically be a "special" election since it would be held in conjunction with the General Election, there would not be any significant additional costs associated with having the unexpired term filled during this election process.

In conclusion, if the Council desires to fill the vacancy through special election to be held concurrently with the November 8, 2011, general election, it should formally call for the special election prior to July 15, 2011.

Appointment:

If the Council chooses to fill the vacancy through the appointment process, staff recommends accepting letters of interest for until Friday, June 17 at 12 noon. The Council could then review the letters and discuss at the June 20 meeting whether there is consensus on a single name, or they want to proceed with interviewing some or all of the candidates. In either case, the Council would have time to complete the appointment process, or choose to call for a special election prior to the July 15 deadline for the November 2011 election process.

All of the proceedings regarding appointment, including discussions on whether to appoint a replacement, interviews of potential appointees, if conducted by a majority of the City Council, and deliberations regarding selection of an appointee, are required to be conducted in a public meeting.

Background

In the past years, vacancies on the Visalia City Council have been filled as follows

- 2004 Walter Deissler, a former Planning Commissioner, was appointed to fill the unexpired term of Phil Cox. He ran for election in 2005 and was not elected.
- 1995 Don Landers, a Planning Commissioner was appointed in September to fill the unexpired term of Basil Perch. He ran for election in 1997 and won.
- 1988 Berkley Johnson, former Mayor, was appointed in September to fill the unexpired term of Alan McIntosh. He did not run in the 1989 election.
- 1977 Wayne Shelly, former Vice Mayor, was appointed in December 1976 to fill the unexpired term of Terry Churchill whose term was slated to expire in November of the following year. He did not run.
- 1972 Ben O'Dell was appointed in February 1972 to fill the unexpired term of David Allen. He later ran for election in 1973 and won.
- 1960 Elson Gaebe, former Planning Commissioner, was appointed in February, 1960 to fill the unexpired term of Gene Ford. He later ran for election in 1961 and won.

Previous Board Actions:

Committee/Commission Review and Actions:

Alternatives:

1. To call for a Special Election by July 15, 2011 with the election to be held November 8, 2011
2. To go through an appointment process to be completed by July 30, 2011

Attachments:

Applicable City Charter and Government Code Sections

Recommended Motion (and Alternative Motions if expected):

I move to go through an application and selection process to fill the City Council vacancy in accordance with staff recommendation.

Or

I move to call for a Special Election to fill the City Council vacancy.

Applicable Charter Provision:

Article V

Elections

Section 1. General municipal elections, after the effective date of this Charter, for the election of officers and for such other purposes as the Council may prescribe shall be held on the date prescribed by the Education Code. All other municipal elections that may be held by authority of this Charter, or of the general law, shall be known as special municipal elections.

Section 2. Provisions of State Law to Apply: The Council may, by ordinance, make further provisions as to the manner of holding and conducting elections. The provisions of the laws of the State of California relating to municipal elections, the qualifications of electors, the manner of voting, the duties of election officers, and all other particulars so far as they may be applicable, shall govern all municipal elections, except as otherwise provided in this Charter, or by such ordinance; provided, that no primary elections shall be held.

Section 3. Terms of Elective Officers: Elective officers shall hold office for a period of four years from and after eight o'clock p.m. of the first Monday following the day of election, and until their successors are elected and qualified; provided further that any person elected to fill a vacancy shall serve for the remainder of the unexpired term. In the election of councilmen and members of the Board of Education, where full terms and one or more unexpired terms are to be filled, no distinction shall be made in nomination or voting between the full terms and the unexpired terms, but the person or persons elected by the highest number of votes shall be elected for the full term or terms, and the persons receiving the next highest vote shall be elected for the unexpired term or terms, as the case may be.

Applicable State Government Code:

36512. (a) If a vacancy occurs in an appointive office provided for in this chapter, the council shall fill the vacancy by appointment. A person appointed to fill a vacancy holds office for the unexpired term of the former incumbent.

(b) If a vacancy occurs in an elective office provided for in this chapter, the council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent.

(c) Notwithstanding subdivision (b) and Section **34902**, a city may enact an ordinance that does any of the following:

(1) Requires that a special election be called immediately to fill every city council vacancy and the office of mayor designated pursuant to Section **34902**. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the call of the special election.

(2) Requires that a special election be held to fill a city council vacancy and the office of mayor designated pursuant to

Section **34902** when petitions bearing a specified number of verified signatures are filed. The ordinance shall provide that the special election shall be held on the next regularly established election date not less than 114 days from the filing of the petition. A governing body that has enacted such an ordinance may also call a special election pursuant to subdivision (b) without waiting for the filing of a petition.

(3) Provides that a person appointed to fill a vacancy on the city council holds office only until the date of a special election which shall immediately be called to fill the remainder of the term. The special election may be held on the date of the next regularly established election or regularly scheduled municipal election to be held throughout the city not less than 114 days from the call of the special election.

(d) (1) Notwithstanding subdivision (b) and Section **34902**, an appointment shall not be made to fill a vacancy on a city council if the appointment would result in a majority of the members serving on the council having been appointed. The vacancy shall be filled in the manner provided by this subdivision.

(2) The city council may call an election to fill the vacancy, to be held on the next regularly established election date not less than 114 days after the call.

(3) If the city council does not call an election pursuant to paragraph (2), the vacancy shall be filled at the next regularly established election date.

City of Visalia Agenda Item Transmittal

Meeting Date: June 6, 2011

Agenda Item Number (Assigned by City Clerk): 8

Agenda Item Wording: Public Hearing for the Special Assessment Ballot of Assessment District 2011-1 "Orchard Walk East/West Utility Undergrounding Assessment District" and direct the purchase of public assets if the assessment district is approved.

Deadline for Action: None

Submitting Department: Community Development and Administrative Services

Contact Name and Phone Number: Eric Frost, x4474; Doug Damko, x4268

Department Recommendation: That the following actions take place:

1. Mayor opens the public hearing.
2. Mayor requests staff report:
 - (a) City Staff makes report regarding purchase of public assets, namely the undergrounding of utility lines;
 - (b) Bond Counsel makes report as to the jurisdiction of the Council to hold the hearing and election and the legal requirements that have to be met to go forward.
3. Clerk states that the Notice of Hearing and Assessment was mailed out more than 45 days in advance of this hearing. Clerk reads all written protests and endorsements.
4. Mayor requests any protest communications from owners and other interested parties.
5. Mayor closes the public hearing and requests the Clerk to open and count the ballots.
6. The Clerk reports on the results of the election.
7. If there is not a majority protest filed (the "yes" votes are more than the "no" votes), Bond Counsel is requested to present and explain the following resolution:

Resolution of the City Council of the City of Visalia Adopting Engineer's Report, Confirming the assessment, Ordering the Reimbursement and directing Actions with Respect Thereto for Assessment District 2011-1 "Orchard Walk East/West Utility Undergrounding Assessment District".

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.

8. If appropriate, Council adopts resolution and authorizes the City Clerk to file the Assessment Diagram Map with the County Recorder.

Summary/background:

Donahue/Schriber developed the Orchard Walk East/West commercial shopping center on Dinuba Boulevard (SR-63) between Riggins Avenue and Shannon Parkway. In the process of developing that shopping center, the City required that electrical utilities be placed underground. In the process of negotiations, the developer requested that Council form an assessment district to reimburse the developer for approximately \$600,000 in utility undergrounding improvements at the shopping center. Specifically, the items to put in the assessment district are the following:

- A. The installation of the electrical and communication systems (SCE and Comcast) consisting of the following:
 - (i) The trenching excavation, installation of electrical conduits ranging from 1-1/2-inches to 5-inches in diameter, and for 2-inch and 3-inch cable conduits; together with associated utility vaults, equipment pads, connections to riser poles, borings across Dinuba Boulevard and Riggins Avenue, and appurtenant work such as concrete replacement and conduit encasement, asphalt concrete resurfacing and traffic control.
 - (ii) Construction and design services performed by SCE and Comcast in conjunction with installation of cables for electrical, telephone and cable services and with the removal of existing utility poles and related utility structures.
 - (iii) The payment of SCE transfer, facility relocation and street lighting fees.
 - (iv) The payment of Comcast pole relocation and transfer fees.
 - (v) Incidental costs and financing costs.

Council approved the formation of a district on October 19, 2009. City staff soon afterwards engaged Scothorn Consulting Services to prepare the Preliminary Engineer's Report, which is attached. The report describes the project, process to date, affected parcels and estimated costs. The formation of the district has taken more time than usual because of a number of factors. Resolution between the developer and City staff regarding the scope and cost documentation for the utility undergrounding took a number of months. The developer also processed a subsequent parcel map and two lot line adjustments to make changes to the configuration of the parcels that resulted in additional delays with the County for issuing assessor's parcel numbers. The assessor's parcel numbers are required for the assessments to be placed on the tax roll.

On April 18, 2011, the Council authorized the following:

- 1) The Preliminary Engineer's Report for Assessment District 2011-1 "Orchard Walk East/West Utility Undergrounding Assessment District";

- 2) A public hearing for Monday, June 6, 2011 to consider public testimony on the formation of the assessment district to reimburse for utility undergrounding;
- 3) The mailing of a notice of the hearing to the affected parties; and,
- 4) The filing of the Proposed Boundaries Assessment District Map with the County Recorder.

At the meeting of June 6, 2011, the Council will count the ballots on the measure and adopt the reimbursement assessment, if appropriate.

With these actions, the public undergrounding assets will be purchased from Donahue/Schriber by issuing assessment bonds which will be repaid by the assessment district property owners.

Prior Council/Board Actions: Council approved the balloting of this district on April 18, 2011

Committee/Commission Review and Actions:

Alternatives:

Attachments: Location Map, Resolution, Engineer's Report

Recommended Motion (and Alternative Motions if expected):

If the ballot supports the special assessment, the following action would be appropriate:

- 1) Move to approve Resolution 2011-29 adopting the Engineer's Report, Confirming the assessment, Ordering the Reimbursement and directing Actions with Respect Thereto for Assessment District 2011-1 "Orchard Walk East/West Utility Undergrounding Assessment District";
- 2) Authorize the City Clerk to file the Assessment Diagram Map with the County Recorder.

Environmental Assessment Status

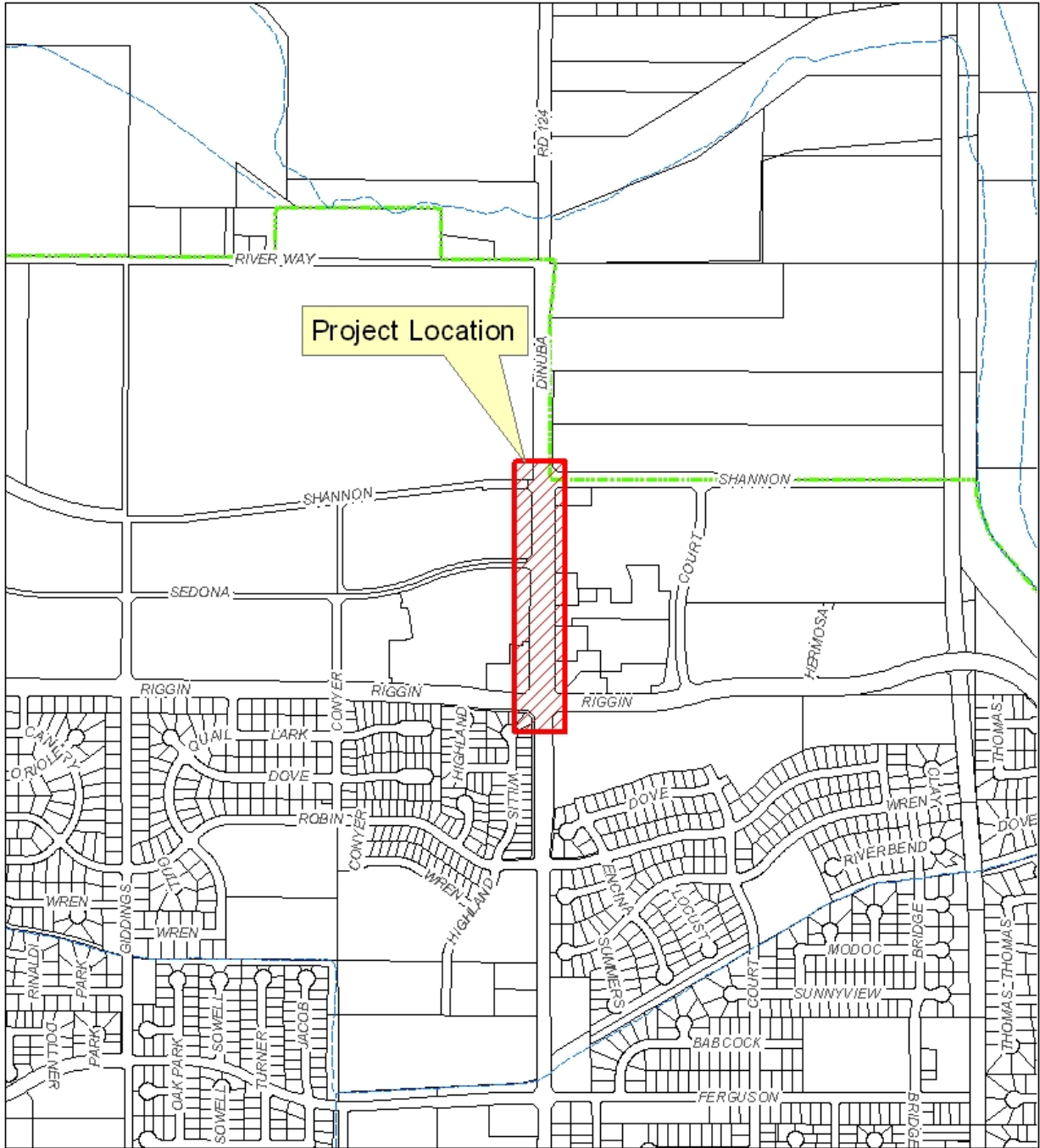
CEQA Review:

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:

Location Map



Assessment District 2011-1 Orchard Walk East/West Utility Undergrounding District



Scale: 1"=800'

**CITY OF VISALIA
ASSESSMENT DISTRICT 2011-1
ORCHARD WALK EAST/WEST
UTILITY UNDERGROUNDING DISTRICT**

**CHIEF DEPUTY CITY CLERK'S CERTIFICATE
RE: ASSESSMENT BALLOT RESULTS**

I, DONJIA HUFFMON, Chief Deputy City Clerk of the City of Visalia (the "City") hereby certify:

I have personally received and assembled all assessment ballots eligible to be cast in the assessment ballot proceedings called by the City Council in its Resolution of the City Council of the City of Visalia Preliminarily Approving Engineer's Report, Calling for Construction Bids, Setting Hearing and Election, Providing Notice, Approving Boundary Map, Approving Assessment Diagram Map and Directing Actions with Respect Thereto, and in accordance with instructions contained in the Assessment Ballot, I hereby declare the election closed.

I personally counted the ballots and certify the results of that count to be as follows:

TOTAL BALLOTS THAT COULD BE CAST:	12, representing assessments of \$675,000
TOTAL BALLOTS CAST "YES":	_____, representing assessments of \$_____
TOTAL BALLOTS CAST "NO":	_____, representing assessments of \$_____

THE BALLOTS CAST AND RETURNED _____ (DO OR DO NOT) CONSTITUTE A MAJORITY PROTEST, weighted by the respective amounts of assessments as provided by Article XIID of the California Constitution and the Proposition 218 Omnibus Implementation Act.

I make this Certification on June 6, 2011.

DONJIA HUFFMON, Chief Deputy City Clerk
City of Visalia, California

RESOLUTION NO. 2011-29

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA ADOPTING ENGINEER'S REPORT, CONFIRMING THE ASSESSMENT, ORDERING THE REIMBURSEMENT AND DIRECTING ACTIONS WITH RESPECT THERETO

ASSESSMENT DISTRICT 2011-1
ORCHARD WALK EAST/WEST
UTILITY UNDERGROUNDING DISTRICT

RESOLVED by the City Council (the "Council") of the City of Visalia (the "City"), that:

WHEREAS, on October 19, 2009, this Council adopted Resolution No. 2009-49, "*A Resolution of the City of Visalia of Intention to Reimburse the Cost to Construct Improvements and Determining to Proceed,*" and in it directed the Engineer of Work to make and file a report in writing in accordance with and pursuant to the Municipal Improvement Act of 1913 (the "Act") in and for the City's proposed Orchard Walk East and West Undergrounding Utilities Assessment District (the "Improvement Project").

WHEREAS, the report was made and filed, and considered by this Council and found to be sufficient in every particular, whereupon it was determined that the report should stand as the Engineer's Report for all subsequent proceedings under and pursuant to the Resolution of Intention, and Monday, June 6, 2011 at the hour of 7:00 p.m., in the meeting place of the City Council, Council Chambers, 707 West Acequia Avenue, Visalia, California, 93291, were the time and place for a public hearing to take testimony and for hearing protests in relation to the proposed Improvement Project, for tabulation of assessment ballots and final action upon the Engineer's Report, notices of which hearing, including assessment ballots, were mailed as required by law; and

WHEREAS, the hearing was held, and all persons interested desiring to be heard were given an opportunity to be heard, and all matters and things pertaining to the Improvements were fully heard and considered by this Council, and any protests, both written and oral, were duly heard, considered, and all assessment ballots submitted by property owners were received and tabulated;

NOW, THEREFORE, IT IS ORDERED as follows:

SECTION 1. No Majority Protest; Protests Overruled. It is hereby determined that, upon the conclusion of the public hearing, and after tabulation of the assessment ballots submitted, no majority protest against the assessment existed because the assessment ballots submitted in opposition to the assessment did not exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots were weighted according to the proportional financial obligation of the affected properties. The protests against the proposed improvements or the grades at which the work was done, as a whole or as to any part thereof, or against the Improvement Project or the extent thereof to be assessed for the costs and expenses of the Improvement Project, as a whole or as to any part thereof, or against the engineer's estimate of costs and expenses, in whole or in part, or against the maps and descriptions, in whole or in part, or against the diagram or the assessment to pay for the costs and expenses thereof, in whole or in part, written and oral, are hereby overruled.

SECTION 2. Public Interest. The public interest, convenience and necessity require that the reimbursements be made and that the Improvement Project be created.

SECTION 3. Improvement Project Described. The Improvement Project benefited by the improvements and to be assessed to pay the costs and expenses thereof, and the exterior boundaries thereof, are as shown by a map thereof filed in the office of the City Clerk, which map is made a part hereof by reference thereto.

SECTION 4. Engineer's Report Approved. The Engineer's Report (the "Engineer's Report") in the form on file in the office of the City Clerk and to which reference is hereby made for further particulars, including the estimates of costs and expenses, the apportionment of assessments and the assessment diagram contained in the Engineer's Report, is hereby approved and confirmed and shall stand as the Engineer's Report for these and all future proceedings for the Improvement Project. The Engineer's Report is made a part hereof by attachment as Exhibit A.

SECTION 5. Benefits Determined. Based on the oral and documentary evidence, including the Engineer's Report, offered and received at the public hearing, this Council expressly finds and determines that:

(a) each of the several subdivisions of land in the Improvement Project will be specially benefited by the improvements at least in the amount, if not more than the amount, of the assessment apportioned against the subdivisions of land, respectively; and

(b) there is evidence to support, and the weight of the evidence preponderates in favor of, the finding and determination as to special benefits.

SECTION 6. Improvement Project Formed and Assessments Confirmed. This Council hereby orders that the Improvement Project be formed and that the assessment to pay the costs and expenses thereof be confirmed and are hereby levied. For further particulars pursuant to the provisions of the Act, reference is hereby made to the Resolution of Intention and Engineer's Report.

SECTION 7. Recording Ordered.

The City Clerk shall forthwith:

(a) deliver to the City Engineer the assessment as contained in the Engineer's Report together with the assessment diagram, as approved and confirmed by this Council, with a certificate of such confirmation and of the date thereof, executed by the City Clerk, attached thereto. The City Engineer shall record the assessment and diagram in a suitable book to be kept for that purpose, and append thereto a certificate of the date of such recording, and such recordation shall be and constitute the assessment roll herein; and

(b) cause a copy of the assessment diagram and a notice of assessment, substantially the form provided in Section 3114 of the Streets and Highways Code of California, executed by the City Clerk, to be filed and recorded, respectively, in the office of the County Recorder of the County of Tulare.

From the date of recording of the notice of assessment, all persons shall be deemed to have notice of the contents of such assessment, and each of such assessments shall thereupon be a lien upon the property against which it is made, and unless sooner discharged such liens shall so continue for the period of ten (10) years from the date of the recordation, or in the event bonds are issued to represent the assessments, then such liens shall continue until the expiration of four (4) years after the due date of the last installment upon the bonds or of the last installment of principal

of the bonds. The appropriate officer or officers of the City are hereby authorized to take all actions and to pay any and all fees required by law in connection with the above.

SECTION 8. Unless waived by 100% of the assessed parcels, that said City Engineer, upon recording of said diagram and assessment, shall mail, or cause to be mailed, to each owner of real property within the Improvement Project at his or her last known address as the same appear on the tax rolls of the City or on file in the Office of the City Clerk, or to both addresses if said address so appears, a statement containing a designation by street number or other description of the property assessed sufficient to enable the owner to identify the same, the amount of the assessment, the time and place of payment thereof, the effect of failure to pay within such time, and a statement of the fact that bonds may be issued on the unpaid assessments pursuant to the Improvement Bond Act of 1915.

SECTION 9. Unless waived by 100% of the assessed parcels, that said City Engineer shall also give notice by publishing a Notice to Pay Assessments by two successive insertions in a newspaper published and circulated in said City, that said assessment has been recorded in his office, and that all sums assessed thereon are due and payable immediately, and that the payment of said sums is to be made thirty (30) days after the date of recording said assessment, which date shall be stated in said notice, and of the fact that bonds may be issued upon unpaid assessments as above provided.

SECTION 10. Effective Date. This resolution shall be effective upon the date of its adoption.

* * * * *

PASSED AND ADOPTED by the City Council of the City of Visalia, Tulare County, State of California, this ____ day of _____, 2011 by the following vote:

- AYES: COUNCIL MEMBERS
- NOES: COUNCIL MEMBERS
- ABSENT: COUNCIL MEMBERS
- ABSTAIN: COUNCIL MEMBERS

Mayor

ATTEST:

Chief Deputy City Clerk

* * * * *

PASSED AND ADOPTED: STEVEN M. SALOMON, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF VISALIA)

I, Steve M. Salomon, City Clerk for the City of Visalia, certify the foregoing is the full and true Resolution 2011-____ passed and adopted by the Council of the City of Visalia at a regular meeting held on _____, 2011.

STEVEN M. SALOMON, CITY CLERK

By: _____
Donjia Huffmon, Chief Deputy City Clerk

Preliminary Engineer's Report

ASSESSMENT DISTRICT NO. 2011-1 Orchard Walk East/West Utility Undergrounding Project

City of Visalia
Tulare County, California

February 2011

Prepared under the provisions of the Municipal Improvement Act of 1913

City of Visalia
Tulare County, California

City Council

Robert R. Link, Mayor
Amy Shuklian, Vice Mayor
Council Member E. Warren Gubler
Council Member Mike Lane
Council Member Steven Nelsen

Steve Salomon
City Manager

Professional Services

Robert M. Haight – Bond Counsel
Scothorn Consulting Services – Assessment Engineer

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EXECUTIVE SUMMARY

Background

The proposed assessment district grew out of the desire of the City of Visalia to underground utility lines along the Dinuba Boulevard frontage of commercial properties within the City's Orchard Walk Specific Plan Area. Agreement was reached with the project developer, Donahue Schriber Realty Group (DSRG), for the cost of the undergrounding to be reimbursed through creation of a benefit assessment district.

A petition containing signatures from landowners representing 65% of the land area within the proposed district was submitted to the City in February, 2009. In October 2009, the City Council approved a Resolution of Intention to pursue formation of the district under the provisions of the Municipal Improvement Act of 1913 ("the Act").

In the interim, DSRG proceeded with development of the commercial properties, undertaking construction of the associated public improvements (including the utility undergrounding work). On-site construction on the commercial properties along the easterly side of Dinuba Boulevard also proceeded and currently nearly 252,000 square-feet of retail floor space is constructed and occupied.

Limits of the Assessment District

The proposed assessment district includes a total of twelve parcels. Ten of these are located in the area bounded by Dinuba Boulevard, Riggin Avenue, Court Street and Shannon Parkway. This area is referred to as Orchard Walk East. The Orchard Park West area, containing the remaining two parcels, extends roughly 800-feet west of Dinuba Boulevard between Sedona and Riggin Avenues.

The boundaries of the district and the individual parcels are shown more specifically on the Boundary Map included on Pages 3 and 4 of this report.

Improvements to be Acquired

The undergrounding improvements to be acquired consist of electrical distribution and communications service facilities constructed within the public right-of-way for Dinuba Boulevard. They extend generally from Shannon Parkway to Riggin Avenue. The details of these improvements are shown on the plans and construction documents on file with the City Engineer.

Estimated Project Cost

The construction cost of the improvements totaled \$485,048. Additional costs for incidental expenses and financing costs are estimated at \$189,952, making the total project cost \$675,000. Further detail on these costs is provided in Table 4-1 on Page 7 of the report.

Method of Assessment

It is proposed that the project costs be distributed in direct proportion to the land area of the twelve benefiting properties. This method of spread was adopted following a comprehensive evaluation of the specific and special benefits received by each parcel. This approach was compared with alternative assessment methodologies to assure compliance with the requirements of Article 13 of the State Constitution.

Assessment Diagram

An Assessment Diagram consistent with the requirements of the Act has been prepared and is on file with the City Clerk. The diagram identifies the properties to be assessed, together with their dimensions, and the current APNs assigned by the Tulare County Assessor. Each parcel is assigned a unique, 2-digit assessment number. A reduced copy of the diagram is included on Pages 25 and 26.

Debt Limitation and Property Valuations

The total amount of the proposed assessment to be levied is currently projected as \$675,000. No prior assessments are known to exist on the properties within the district.

The “true value” of the land and improvements thereon (as defined by §2980 of the Streets & Highways Code) is the full cash value shown on the latest equalized assessment roll of the County. As of the time of the preparation of this report, the Assessor had not posted an amended roll providing current valuations on all parcels in the district. However, based on preliminary data provided by the Assessor’s Office, the total value of land and improvements is estimated to exceed \$37-million.

Based on the above, it is likely that the principal sum of the levied assessments will be comfortably within the statutory debt limitation of “not more than one-half” of the total true value of the properties. It is anticipated that the updated assessment roll for all properties within the Assessment District will be available prior to the City Council’s consideration of the Final Engineer’s Report.

Assessment Roll and Provision for Administrative Expense

Table A-1 on Page 23 of this report presents the assessment for each parcel in the district as recommended for preliminary approval of the City Council.

Resolutions proposed for adoption by the Council also provide for an additional annual assessment not to exceed 2% of the annual installment of principal and interest to offset the cost of administration and debt service collection.

Required Certifications

The Engineer’s Report incorporates the certifications required of City staff and the Assessment Engineer as required by the Act or the provisions of Article 13 of the California Constitution. These include:

- Right-of-Way Certificate
- Environmental Certificate
- Certification of the Assessment Engineer
- Certifications of the City Clerk

◇ ◇ ◇

SECTION 1 – INTRODUCTION AND BACKGROUND

Section 1.1 – Proposed Assessment District 2011-1

The City Council of the City of Visalia is proposing the formation of Assessment District 2011-1 under the provisions of Section 10100 of the Municipal Improvement Act of 1913 (the “Act”).

Section 1.2 – Background

The properties within the proposed Assessment District include two retail commercial sites located on either side of Dinuba Boulevard (a major north-south thoroughfare) between Riggin Avenue and Shannon Parkway in the north-central part of the City. The commercial development of these sites is part of the City’s Orchard Walk Specific Plan.

The commercial site on the east side of Dinuba Boulevard is comprised of 21.8 acres devoted to commercial/retail uses. This area is bounded by Riggin Avenue on the south, Dinuba Boulevard on the west, Shannon Parkway on the north and Court Street on the east. This community shopping center, known as “*Orchard Walk East*,” will ultimately provide nearly 300,000 square feet of leasable space offering a wide range of merchandise and services. The mix of uses is consistent with the Specific Plan’s intention to create a high intensity center providing daily essentials, specialty shops and restaurants for residents in the north Visalia.

The completed initial phase of this shopping center includes nearly 252,000 square-feet of retail floor space, anchored by a 142,279 square-foot Target general merchandise superstore. Other major tenants in the center are Ross Dress for Less and Vallarta Supermarket. The complex contains several other national chains, including McDonald’s and Subway restaurants, and Radio Shack and Famous Footwear stores. These are complemented by a variety of local and regional retailers and service providers. Additional food service establishments include Mountain Mike’s Pizza, Figaro’s Mexican Grill, and Yodigity Yogurt. A second phase of construction is slated to add another 41,000 square-feet of leasable space. Further detail on the floor area and tenant mix for this center is provided in Appendix C, Table C-1.

The future commercial site on the west side of Dinuba Boulevard is referred to as “*Orchard Walk West*.” This portion of the assessment district consists of three parcels with a land area totaling 13.5 acres. This center is planned for commercial/retail/office uses. The site extends some 800-feet westerly from Dinuba Boulevard; and is bounded on by Sedona Avenue on the north and by Riggin Avenue on the south. No development proposals are currently pending on this area.

Section 1.3 – History of the Undergrounding Project

In the course of the development review of the Orchard Park East commercial project, the City staff requested that the developer, Donahue Schriber Realty Group, LP (DSRG), install underground utilities. Following negotiations between the parties, City staff recommended to the City Council that the cost of utility undergrounding be reimbursed to DSRG through formation of a benefit assessment district.

Discussions continued into the winter of 2008, and in January of 2009 a draft petition for formation of an assessment district was forwarded to DSRG. A petition signed on behalf of Donahue Schriber Realty Group, Inc. and its affiliate company Donahue Schriber Asset Management Corporation (DSAMC) as tenants in common was submitted on February 20, 2009.

On October 19, 2009 the City Council adopted Resolution No. 2009-49 expressing that it was in the public interest for the City to reimburse the improvement cost and to form an assessment district pursuant to the provisions of the Municipal Improvement Act of 1913.

SECTION 2 – BOUNDARIES OF THE ASSESSMENT DISTRICT

Section 2.1 – General Description of Limits of the Assessment District

The twelve properties proposed to be included in the Assessment District are within the boundaries of the City of Visalia. The total land area of the parcels included is approximately 36.1-acres¹ and all are zoned for commercial use. In general terms, the limits of the Assessment District can be described as follows:

- Southerly along the easterly line of Dinuba Boulevard from Shannon Parkway to the extension of the southerly line of Sedona Avenue;
- Westerly along Sedona Avenue to a point approximately 834-feet westerly of Dinuba Boulevard;
- Southerly along the westerly boundary line of Parcel 1 as shown on Parcel Map 4928 to the northerly line of Riggin Avenue;
- Easterly along Riggin Avenue (crossing Dinuba Boulevard) to the westerly line of Court Street;
- Northerly along Court Street to the southerly line of Shannon Parkway; and
- Westerly along Shannon Parkway to the easterly line of Dinuba Boulevard.

Section 2.2 – Proposed Boundaries of Assessment District 2011-1

The boundaries of the area to be included in the Assessment District are depicted in detail on the Boundary Map, a reduced size copy of which is included herein on Pages 3 and 4. The Boundary Map (if approved by the City Council) will be filed for record in the Book of Maps of Assessment and Community Facilities Districts with the Tulare County Recorder in accordance with the provisions of Section 3310 of the California Streets and Highway Code. A full-sized copy of the Boundary Map is on file in the office of the City Clerk of the City of Visalia.

As required under the code, the Boundary Map shows the exterior limits of the proposed Assessment District and identifies the affected parcels. The map also identifies the properties by the Assessor's Parcel Numbers (APNs) currently assigned by Tulare County Assessor.

¹ Exclusive of public street rights-of-way

ASSESSMENT DIAGRAM ASSESSMENT DISTRICT NO. 2011-1 ORCHARD WALK EAST/WEST · UTILITY UNDERGROUNDING DISTRICT

City of Visalia
County of Tulare · State of California

BOUNDARIES OF THE ASSESSMENT DISTRICT

THE BOUNDARIES OF THE ASSESSMENT DISTRICT NO. 2011-1 ARE IDENTIFIED ON THE HERIN ASSESSMENT DIAGRAM WITH A DISTINCTIVE BOUNDARY LINE AND ARE CONSISTENT WITH THOSE SHOWN ON THE BOUNDARY MAP APPROVED BY THE CITY COUNCIL OF THE CITY OF VISALIA AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____, 2011, BY ITS RESOLUTION NO. 2011-____.

THE PROPERTIES SUBJECT TO ASSESSMENT ARE IDENTIFIED BY THE ASSESSOR'S PARCEL NUMBERS SHOWN ON SAID BOUNDARY MAP AND INCLUDE: PARCELS 1, 2, 3 AND 5 AS SHOWN ON PARCEL MAP 4928 FILED IN BOOK 50 OF MAPS AT PAGE 37; PARCELS 1, 2, 4 AND 5 AS SHOWN AS SHOWN ON PARCEL MAP 4916 FILED IN BOOK 50 OF MAPS AT PAGE 37; AND PARCELS 3 THROUGH 6 AS SHOWN ON PARCEL MAP 4989 FILED IN BOOK 50 OF MAPS AT PAGE 34. THE CITY ENGINEER OF THE COUNTY OF TULARE AS SUCH PARCELS ARE CORRECTLY CONFIGURED AND IDENTIFIED BY THE TULARE COUNTY ASSESSOR AS HAVING ACTIVE ASSESSOR'S PARCEL NUMBERS.

CERTIFICATE OF CITY CLERK

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF VISALIA THIS _____ DAY OF _____, 2011.

STEVE SALOMON
CITY CLERK
CITY OF VISALIA
TULARE COUNTY, CALIFORNIA

BY: _____
DONIA HUFFRON
CHIEF DEPUTY CITY CLERK

CERTIFICATE OF CITY ENGINEER

RECORDED IN THE OFFICE OF THE CITY ENGINEER OF THE CITY OF VISALIA THIS _____ DAY OF _____, 2011.

FOR CITY ENGINEER,
CITY OF VISALIA
TULARE COUNTY, CALIFORNIA

DOUGLAS S. DAMKO, RCE 59445
FOR CITY ENGINEER

CERTIFICATION OF ASSESSMENT LEVY AND RECORDATION

AN ASSESSMENT WAS LEVIED BY THE CITY COUNCIL OF THE CITY OF VISALIA ON THE LOTS, PIECES, AND PARCELS OF LAND SHOWN ON THIS ASSESSMENT DIAGRAM. THE ASSESSMENT WAS LEVIED ON THE _____ DAY OF _____, 2011, BY THE COUNCIL'S RESOLUTION NO. 2011-_____.

THE ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL WERE RECORDED IN THE OFFICE OF THE CITY ENGINEER OF THE CITY OF VISALIA ON THE _____ DAY OF _____, 2011.

REFERENCE IS MADE TO THE ASSESSMENT ROLL RECORDED IN THE OFFICE OF THE CITY ENGINEER FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND SHOWN ON THIS ASSESSMENT DIAGRAM.

STEVE SALOMON
CITY CLERK
CITY OF VISALIA
TULARE COUNTY, CALIFORNIA

BY: _____
DONIA HUFFRON
CHIEF DEPUTY CITY CLERK

CERTIFICATE OF COUNTY RECORDER

FILED THIS _____ DAY OF _____, 2011, AT THE HOUR OF _____ O'CLOCK IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE _____ AND AS INSTRUMENT NO. 2011-_____ IN THE OFFICE OF THE COUNTY CLERK-RECORDER FOR THE COUNTY OF TULARE, STATE OF CALIFORNIA.

ROLAND P. HELL
ASSESSOR/CLERK-RECORDER
COUNTY OF TULARE, CALIFORNIA

BY: _____
DEPUTY

Scothorn Consulting Services

Engineering · Planning · Management

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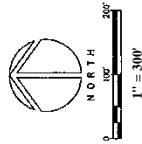
PROPOSED BOUNDARIES ASSESSMENT DISTRICT NO. 2011-1

City of Visalia
County of Tulare • State of California

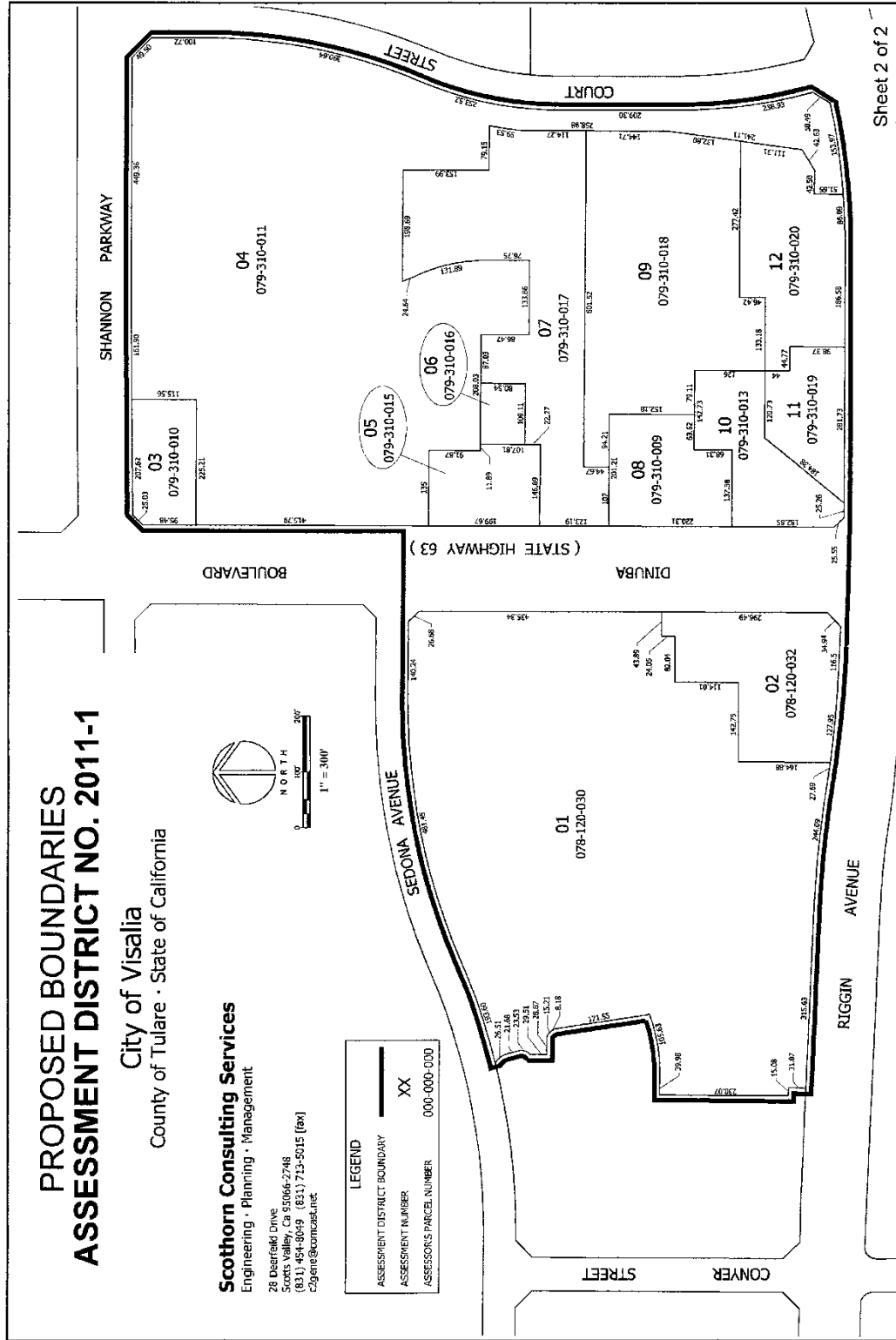
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c2gene@scothorn.net



LEGEND	
ASSESSMENT DISTRICT BOUNDARY	XX
ASSESSMENT NUMBER	000-000-000
ASSESSORS PARCEL NUMBER	



Sheet 2 of 2

SECTION 3 – DESCRIPTION OF THE IMPROVEMENTS TO BE ACQUIRED

Section 3.1 – Improvements

Section 10100 of the Municipal Improvement Act of 1913 (the “Act”) provides for the legislative body of any county, city or special purpose district to finance certain capital facilities and services within or along any public right-of-way or easement. The following is a list of the proposed improvements to be acquired by the City of Visalia under provisions of the Act.

The definitive scope of improvements proposed to be acquired under this Assessment District is detailed in the plans and specifications described in Section 3.2 herein. The cost reimbursement for the improvements to be acquired relates to underground utilities along Dinuba Boulevard between Shannon Parkway and Riggan Avenue within the area known as Orchard Walk East and West. The improvements, facilities and services to be acquired include the following:

- The trenching excavation, installation of electrical conduits ranging from 1½-inches to 5-inches in diameter, and for 2-inch and 3-inch cable conduits; together with associated utility vaults, equipment pads, connections to riser poles, borings across Dinuba Boulevard and Riggan Avenue, installation of a traffic signal at Shannon Parkway and appurtenant work such as concrete replacement and conduit encasement, asphalt concrete resurfacing and traffic control.
- Construction and design services by performed Southern California Edison (SCE) in conjunction with installation of cables for electrical, telephone and cable services and with the relocation of utility poles and related utility structures.
- The payment of SCE transfer, facility relocation, and street lighting fees.
- The payment of AT&T pole relocation and Comcast transfer fees.

Section 3.2 – Improvement Plans

The nature, location and extent of the improvements contemplated for the area within the Assessment District are described greater specificity on the improvement plans and related construction documents prepared by on file in the offices of the City Clerk and the City Engineer.

Said plans, specifications and related construction documents are voluminous and are not bound herein, but by this reference are incorporated as if attached to and are hereby made a part of this Engineer’s Report.

SECTION 4 – ESTIMATES OF COST

Section 4.1 – Construction Cost

The net construction cost for underground utility infrastructure benefiting properties within the boundaries of the Assessment District has been established as \$485,048. This amount was accepted by the City staff following a thorough review of cost documentation provided by DSRG and its consultants. The net cost includes adjustments made by City staff and reflects a prior reimbursement to DSRG.

A letter from Douglas S. Damko dated September 28, 2010 indicating the City's acceptance of the submitted data and an accompanying summary of the cost allocation are included in Appendix C to this report.

The accepted net construction cost is reflected in Table 4-1 on Page 7.

Section 4.2 – Total Project Cost

The total project cost, which combines both construction and incidental costs, is estimated to be \$585,000. Because much of the incidental services remain to be completed, a reasonable contingency allowance has been included for these items. The costs are also shown in Table 4-1.

Section 4.3 – Balance to Assessment

The balance to be assessed to the properties in the District is preliminarily estimated to be \$675,000. The total includes the previously mentioned construction and incidental costs, plus the anticipated costs of bond underwriting and reserve of a ten percent of the total bond amount. These finance related costs are also included in Table 4-1.

TABLE 4-1
ESTIMATED PROJECT COST
 Assessment District 2011-1
 City of Visalia

	As Preliminarily Approved	As Confirmed
Construction Cost		
Utility Undergrounding	\$271,603	
Southern California Edison	232,595	
Comcast Fee	7,619	
Subtotal	\$511,817	
Less Reibursement to DSRG	(26,769)	
Net Construction Cost		\$485,048
Incidental Costs		
Construction Management	\$18,951	
Project Administration	23,103	
Assessment Engineering	13,000	
Bond Counsel	17,500	
Disclosure Counsel	12,500	
Auditor's Records	2,500	
Paying Agent	1,500	
Other Direct Expenses	1,812	
Subtotal	\$90,866	
Contingencies @ ±10%	\$9,086	
Total Incidental Cost		\$99,952
TOTAL PROJECT COST		\$585,000
Financing Costs		
Bond Underwriter @ ±3%	\$20,000	
Bond Reserve @ ±10%	70,000	
Total Financing Cost		\$90,000
BALANCE TO ASSESSMENT		\$675,000

SECTION 5 – METHOD OF ASSESSMENT

Section 5.1 – General Background

Since the improvements to be acquired are to be funded by the levying of assessments, the “Municipal Improvement Act of 1913” (“the Act”) and Article XIID of the State Constitution require that assessments must be based on the special benefit that the properties receive from the Works of Improvement. In addition, Section 4 of Article XIID (“CSC Section 4”) stipulates that a parcel’s assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel.

CSC Section 4 further provides that only special benefits are assessable and the local agency levying the assessment must separate the general benefits from the special benefits. CSC Section 4 also provides that parcels within a district that are owned or used by any public agency, the State of California, or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels receive no special benefit. Neither the Act nor the State Constitution specifies the method or formula that should be used to apportion the costs to properties.

Section 5.2 – Specific and Special Benefit

In conducting the evaluation of benefits received by the parcels within the boundaries of the Assessment District, considerable effort was devoted to assuring that the amount of each assessment be directly proportional to the property’s benefit from the improvements; and that the special benefit be specific, direct and clearly distinguishable from general benefits that might otherwise be conferred on the public at large.

It was determined that the special benefit to each property resulting from the proposed improvements lies principally in the enhancement of the street frontage serving the commercial properties within the Assessment District boundaries. This enhancement is largely aesthetic in nature, offering an appealing streetscape along Dinuba Boulevard which serves as the primary entry to the shopping center.

Section 5.3 – Tests of Special vs. General Benefit

In the conduct of this analysis, it was necessary to conclusively determine whether the properties receive a special benefit, as distinguished from general benefits conferred on real property within in the District or to the public at large. To this end, it is important to consider the manner in which the project improvements satisfy the criteria for “special,” “specific” and “direct” benefit; or under which they are more legitimately categorization as being of a “general” or “public” benefit.

The findings of these analyses are that the benefits enumerated in Section 5.2 are specific and directly associated with the parcels included within the Assessment District boundaries. The most significant factor in this determination is the nature of the land use within the district.

All of the properties within the district are commercially zoned and their development is principally retail oriented. As such, the success of tenants and landowners is highly dependent on the ability to attract customers to stores. An important component of this attraction lies in providing a convenient and attractive atmosphere for patrons.

The added aesthetic gain resulting from the utility undergrounding offers both “curb appeal” and added marketing advantage in comparison with older or less attractive shopping areas. Without the project improvements this competitive advantage would clearly be lessened.

Another factor that provides benefit to the parcels within the assessment district is the inclusion of street lighting along Dinuba Boulevard. Street lighting improves safety and gives added opportunity for customers to identify the commercial nature of the project area.

There is also some basis to consider the improvements as having general benefit. It can be argued that the undergrounding of utilities and installation of street lighting does provide some collateral general benefit in terms of aesthetics and safety to the community. The nature of these benefits is, however, much less tangible than that for specific benefit. Moreover, the extent of public benefit is difficult to assign since the improvements were a specific condition of the project approvals required for developmental entitlements.

Based on the above, it is concluded that the project improvements provide sufficient specific benefit to the properties within the district boundaries and that they meet the test as being distinguishable from general or public benefit.

Section 5.4 – Assessment Methodology

The responsibility for apportionment of the costs to benefiting properties rests directly with the City Council and indirectly with the Assessment Engineer, who has been appointed for the purpose of evaluating the facts and making recommendations to the City Council with respect to an accurate and equitable apportionment of the costs of improvements.

This Preliminary Engineer's Report summarizes such an analysis and proposes a distribution of costs that the Assessment Engineer recommends as satisfying both the requirements of statute and equity.

Based on the findings described in Sections 5.2 and 5.3, the special benefit received by the properties within the boundaries of the Assessment District is the provision of commercial value resulting from enhanced aesthetics, site recognition and customer safety.

Section 5.5 – Basis of Benefit

The twelve properties within the boundaries of the Assessment District are similar in some respects and quite different in others. Their similarities are that all the parcels are commercially zoned and located within areas master planned for retail use. The differences lie in significant disparities in parcel size, configuration and location with respect to surrounding public streets.

In this instance, the improvements to be funded have been constructed within the right-of-way of Dinuba Boulevard, a public street. Methodologies commonly utilized for establishing relative benefit for improvements which are located within adjunct public streets is commonly distributed either on the basis of the relative frontage of the parcels or in proportion to parcel area. In some instances the distribution is based on a combination of these (and/or other) factors.

In developing a mechanism to distribute the improvement, incidental and financing cost for this project; the following approaches were considered:

1. **Frontage as a Basis of Benefit** – The discussions between DSRG (the project developer) and City staff in the latter part of 2008 and early in 2009 assumed that a cost distribution formula based on parcel frontage along Dinuba Boulevard would be equitable. This was a straightforward and logical approach given the longitudinal nature of the undergrounding improvements together and the (then smaller) number of properties.

At that point, eight parcels existed within the proposed district boundaries and all but one fronted directly on Dinuba Boulevard. The exception had frontage only on Riggan Avenue. This fact weakened the case for using street frontage as a sole criterion for assessment

distribution, but did not necessarily invalidate frontage as a consideration. This circumstance still existed when the assessment process was formally initiated with the approval by the City Council in October, 2009.

However, the process experienced extensive delays for a variety of reasons, most notably the inability of DSRG to provide the City with verifiable project cost data. As a result, assessment engineering efforts were suspended in January, 2010 pending resolution of this and other significant issues. The cost accounting issues were resolved with City staff in September, 2010 (see Section 4.1 of this report) and authorization to reinstate the assessment work was issued in late October.

In the interim, additional subdivision occurred within the properties lying to the east of Dinuba Boulevard. Parcel Map No. 4989 was filed with the County Recorder on February 25, 2010. This map created five new parcels and modified a sixth.

This new configuration left four parcels without frontage on Dinuba Boulevard. The setback of these parcels from Dinuba Avenue ranges between 44-feet and 280-feet. This reconfiguration made the utilization of a “frontage-only” distribution method even less appropriate.

Another factor that called the use of Dinuba Boulevard frontage into question was that only three of the twelve properties (Assessment Parcels 01, 04 & 07) have direct vehicular access from Dinuba Boulevard. In the case of Parcels 04 and 07 the access is not exclusive, but provides a common entry driveway serving all of the properties on the east side of Dinuba Boulevard.

It was determined that the combination of these issues effectively precludes the use of parcel frontage as an appropriate basis for distribution of basis.

2. **Land Area as a Basis of Benefit** – The assignment of benefit in relation to the relative land area of the various parcels is a mechanism that is also commonly utilized in assessment proceedings. This approach is appropriate where a nexus can be shown between the benefits resulting from the improvements and the size of the parcels to be assessed.

The areal distribution method is especially useful where there is no direct or immediate relationship between the position of the improvements of work and the perimeter of the individual parcels; and/or where there is sufficient disparity in size and dimensions of the parcels to render a “unit” benefit inappropriate. Since these conditions both exist in the Orchard Walk project area, consideration of parcel area in apportionment of benefit was deemed appropriate.

An additional factor that is present in community shopping centers such as Orchard Walk is that the individual parcels are highly interdependent. This interdependency extends to the infrastructure supporting the project. Thus, the benefit resulting from public improvements (including utility undergrounding) to parcels adjacent to Dinuba Boulevard are not markedly different from those derived by other parcels within the district.

This concept of interdependency is exemplified in the improvements devoted to vehicular circulation in and around the shopping center. All of the parcels, regardless of their location within the project limits, benefit from improvements to Dinuba Boulevard. However, they are also highly dependent on a common internal circulation and parking system.

Review of the traffic impact study² for the Orchard Walk commercial project suggests that more than 70% of the inbound vehicular traffic to the properties in the Assessment District enters from Dinuba Boulevard. This demonstrates that most users utilize the internal driveway and parking aisles to reach specific stores within the center. Table 6 of the traffic report also indicates that vehicle trips are generally uniformly distributed within the shopping centers.

In many ways the benefit from undergrounding of utilities is analogous to those related to offsite street and transportation improvements. Their location within the Dinuba Boulevard right-of-way is an accepted design convention that provides consistency with the general distribution networks of the utility companies, while providing utility services to the shopping centers. However, the benefits derived by the parcels within the centers have little (if any) relationship to their proximity to the utility trench.

Accordingly, this analysis concludes that all of the parcels within the Assessment District boundaries are of common land use and that the only basis for differentiating benefit is parcel size.

3. **Combination of Area and Frontage as a Basis of Benefit** – Based on the evaluations summarized in Paragraphs 1 and 2 above, it was concluded that the use of parcel frontage as a criterion in distributing benefit was not appropriate.
4. **Provision for Potentially Subdividable Parcels** – The potential exists that one or more parcels within the Assessment District may be further subdivided in the future. Such a possibility would require approval of the City of Visalia. Such an eventuality is provided for in §8730-§8734 and in §8740 of the California Streets and Highways Code. These sections establish procedures under which segregation and apportionment of any unpaid installments of the original assessment are to be made for any parcel of land affected by such a division.
5. **Provision for Publicly Owned Parcels** – Section 4(a) of Proposition 218 specifically requires assessments to be levied on publically owned parcels within an assessment district unless the agency which owns the parcel can “*demonstrate by clear and convincing evidence*” that its parcel will receive no benefit. There are no publically owned parcels within the proposed Assessment District and no assessment or finding of non-benefit is required.
6. **Assignment of Exemptions and Credits** – No exemptions or credits are applicable or proposed for any parcel of land within the proposed Assessment District.

Based on the foregoing, the distribution of benefit to each parcel, improved or vacant, will be made in proportion to the ratio that the area of each parcel bears to the total area of all parcels within the Assessment District. This approach provides an equitable means for distribution of the cost of improvements that reflects the direct and special benefit conferred each of the properties within the Assessment District.

² Impact Study, North Park Promenade, Visalia, CA, IPG Consulting, Inc., March 2007

SECTION 6 – ASSESSMENT DIAGRAM

Section 6.1 – General

A reduced copy of the Assessment Diagram is included in Appendix B. Full-sized copies of the Boundary Map and Assessment Diagram are also on file in the Office of the City Clerk of the City of Visalia.

As required by the Act, the Assessment Diagram shows the exterior boundaries of the Assessment District and the assessment number assigned to each parcel of land corresponding to its number as it appears in the Assessment Roll attached as Appendix A hereto. The Assessor's Parcel Number is also shown for each parcel as they existed at the time of preparation of this report.

Reference is hereby made to the Assessor's Parcel Maps of the County of Tulare for the boundaries and dimensions of each parcel of land.

Section 6.2 – Assessment Numbers

In the assignment of assessment numbers, a sequential convention of two-digit numbers has been utilized, with "leading zeros" preceding parcel numbers 1 through 9.

SECTION 7 – DEBT LIMITATION AND PROPERTY VALUATION

Section 7.1 – Estimated Amount of Proposed Assessments

The total amount of assessment proposed to be levied on parcels within the Assessment District is estimated to be \$675,000.

Section 7.2 – Amount of Other Unpaid Assessments

The total principal amount of all unpaid assessments levied on properties within the Assessment District other than the assessments proposed by this Assessment District is reported to be \$0.00.

Section 7.3 – Total of Current and Proposed Assessment Debt

The estimated total principal amount of proposed and currently unpaid assessments levied on properties within the Assessment District boundaries to be \$675,000

Section 7.4 – True Value of Parcels to be Assessed

Section 2825 of the Streets and Highways Code requires that this report contain statements of both the total “true value” of all parcels of land to be assessed for the improvements to be acquired; and of each parcel individually. “True value” is defined in § 2980 (a) as “the fair market value of the land and improvements thereon.”

It is recommended that the City Council determine that the fair market value be the full cash value shown on the last equalized assessment roll of the County of Tulare. This means of determination is permitted under Street and Highways Code § 2980 (b). On this basis, the total true value of land and improvements within the district is \$37,365,250.³ The true value of land and improvements for the individual parcels is shown in Table 7-1 on Page 14.

Section 7.5 – Certification of the Assessment Engineer

For the purpose of demonstrating compliance with Part 7.5 of Division 4 of the California Streets and Highways Code, I the undersigned Assessment Engineer, do hereby certify that the total amount of the principal sum of the assessments proposed to be levied for the Assessment District, together with the principal amount of all other assessments levied or proposed to be levied on the properties within the Assessment District, as set forth in Section 7.3 above, does not exceed one-half (½) of the total True Value of the parcels to be assessed in the Assessment District.

Date: _____, 2011



Gene B. Scothorn, PE
RCE 14760

³ At the time of submittal of this Preliminary Engineer’s Report, the Tulare County Assessor had not posted an amended roll providing current valuations on a majority of properties within the proposed Assessment District. The total values shown are based on preliminary estimates provided by the Assessor’s Office. These estimates are subject to further processing and adjustment by the Assessor’s Office and cannot be considered definitive or final. It is anticipated that an updated assessment roll for all properties within the Assessment District will be available prior to the public hearing before the City Council and the Council’s consideration of the Final Engineer’s Report.

**TABLE 7-1
TRUE VALUE OF LAND AND IMPROVEMENTS
Assessment District 2011-1**

Orchard Walk East/West Utility Undergrounding Assessment District
City of Visalia, California

Assmt Number	Assessor's Parcel No.	Property Owner	Mailing Address	Preliminary Estimates of AV		
				Land	Improvements	Total
01	078-120-030	Donahue Schriber Realty Group	200 E. Baker Street #100, Costa Mesa, CA 92626	\$4,924,317	\$0	\$4,924,317
02	078-120-032	Donahue Schriber Realty Group	200 E. Baker Street #100, Costa Mesa, CA 92626	618,069	0	618,069
03	079-310-010	Donahue Schriber Realty Group	200 E. Baker Street #100, Costa Mesa, CA 92626	353,099	748,440	1,101,539
04	079-310-011	Target Corporation	1000 Nicollet Mall #12, Minneapolis, MN 55403	5,805,322	10,474,800	16,280,122
05	079-310-015	Donahue Schriber Realty Group	200 E. Baker Street #100, Costa Mesa, CA 92626	387,493	0	387,493
06	079-310-016	Donahue Schriber Realty Group	200 E. Baker Street #100, Costa Mesa, CA 92626	119,386	0	119,386
07	079-310-017	Donahue Schriber Realty Group	200 E. Baker Street #100, Costa Mesa, CA 92626	1,285,178	3,641,960	4,927,138
08	079-310-009	MKR Associates	15721 S. Western Avenue #200, Gardena, CA 90247	1,159,000	825,000	1,984,000
09	079-310-018	Donahue Schriber Realty Group	200 E. Baker Street #100, Costa Mesa, CA 92626	1,479,228	2,778,848	4,258,076
10	079-310-013	Donahue Schriber Realty Group	200 E. Baker Street #100, Costa Mesa, CA 92626	547,057	79,808	626,865
11	079-310-019	Donahue Schriber Realty Group	200 E. Baker Street #100, Costa Mesa, CA 92626	407,010	968,212	1,375,222
12	079-310-020	Donahue Schriber Realty Group	200 E. Baker Street #100, Costa Mesa, CA 92626	688,203	74,820	763,023
Total Assessed Valuation				\$17,773,362	\$19,591,888	\$37,365,250

¹ The values indicated in this table for Assessment Nos. 03 - 12 are estimates provided by the Tulare County Assessor's Office based on preliminary valuation and segregation of costs to the resubdivided parcels. These values are subject to further evaluation and processing by the Assessor's Office and should not be considered as final.

At the time of this report, the Assessor's office was engaged in preparation of the amended roll for these properties. Although no specific date for posting of the amended roll was available, the Assessor's Office has indicated that it had been given priority status.

SECTION 8 – RIGHTS OF WAY

Section 8.1 – General

The Act requires that the proposed Works of Improvement must be located within public rights-of-way, or within land or easements owned by or licensed to the agency conducting the assessment district proceedings.

Section 8.2 – Right-of-Way Certificate

The below certificate, executed on behalf of the Community Development Director/City Engineer of the City of Visalia certifies that all rights-of-way and easements necessary for the Works of Improvement to be acquired by Assessment District No. 2011-1 were under public ownership prior to the City's action to acquire the improvements.

The undersigned hereby certifies that the following is all true and correct:

That at all times herein mentioned, the undersigned was, and now is, the authorized representative of the Community Development Director/City Engineer of the City of Visalia, Tulare, County, State of California.

That there have now been instituted proceedings under the provisions of Article XIID of the California Constitution, and the "Municipal Improvements Act of 1913," being Division 12 of the Streets and Highways Code of the State of California, for the acquisition of certain public improvements in a special assessment district known and designated as Assessment District No. 2011-1 (hereinafter referred to as the "Assessment District").

The undersigned further states and certifies as follows:

It is hereby acknowledged that the Works of Improvement to be acquired under this Assessment District must be located within public rights-of-way, or within land or easements owned or controlled by a public entity. The undersigned hereby certifies that, based on his research, he has determined that all necessary rights-of-way and easements were under the ownership and/or control of the State of California prior to final action by the Visalia City Council in approving the assessment district.

Date: _____, 2011

Chris R. Young
Community Development Director/City Engineer
City of Visalia
Tulare County, California

Douglas S, Damko, RCE 59445

SECTION 9 – ENVIRONMENTAL PROCEEDINGS

Section 9.1 – General

California law requires that the lead agency for any “project,” including construction projects financed through assessment proceedings, must comply with the provisions and processes of the California Environmental Quality Act (CEQA).

Section 9.2 – Environmental Certification

The following is the certificate executed on behalf of the City of Visalia stating that the specific environmental proceedings required under CEQA as they related to this Assessment District have been completed in accordance with CEQA compliance.

The undersigned CERTIFIES as follows:

1. That I am the person who authorized to prepare and process all environmental documentation as needed as it relates to the formation of the special Assessment District being formed pursuant to the provisions of the “municipal Improvement Act of 1913” being Division 12 of the Streets and Highways Code of the State of California, said special Assessment District known and designated as ASSESSMENT DISTRICT NO. 2011-1 (hereinafter referred to as the “Assessment District”).
2. The specific environmental proceedings relating to this Assessment District that have been completed and the City of Visalia has determined that it has complied with the California Environmental Quality Act (CEQA) for the project identified above and that the project is described in adequate and sufficient detail to allow the project’s acquisition.
3. That the CEQA analysis for this project encompasses all aspects of the improvements to be acquired.

Date: _____, 2011

Paul Scheibel, AICP
Principal Planner
City of Visalia
Tulare County, California

SECTION 10 – ADMINISTRATIVE COST

Section 10.1 – General

In addition to the assessment lien levied against each parcel of land within the Assessment District, each parcel of land shall also be subject to an annual assessment to pay for costs incurred by the City of Visalia which result from the administration or registration of any bonds and/or reserve or other related funds.

Section 10.2 – Maximum Annual Administrative Assessment

The City Council of the CITY shall annually, at the time of preparation of annual auditor's records, establish the amount of such administrative cost. The total amount of such annual administrative assessment will not exceed two-percent (2%) of the annual installment of principal and interest, and shall be posted to the tax rolls for assessment collection.

SECTION 11 – ASSESSMENT CALCULATION

Section 11.1 – General

An assessment of the total amount of the costs and expenses of the improvements upon the subdivisions of land within the Assessment in proportion to the estimated special benefit to be received by the subdivisions from the improvements is set forth upon the Assessment Roll attached hereto as Appendix A.

Table A-1 in Appendix A shows the amounts proposed to be assessed to each and every parcel within the Assessment District, both as preliminarily approved and as confirmed by the City Council.

SECTION 12 – CERTIFICICATIONS

Section 12.1 – General

An assessment of the total amount of the costs and expenses of the improvements upon the subdivisions of land within the Assessment in proportion to the estimated special benefit to be received by the subdivisions from the improvements is set forth upon the Assessment Roll attached hereto as Appendix A.

Section 12.2 – Submittal by Assessment Engineer

The undersigned respectfully submits this Preliminary Engineer’s Report on Assessment District No. 2011-1 as directed by the City Council of the City of Visalia.

Date: _____, 2011



Gene B. Scothorn, PE
RCE 14760

Section 12.3 – Certification of Assessment Engineer

WHEREAS, on the 19th day of October, 2009, the City Council of the City of Visalia, located in the County of Tulare, State of California (hereinafter referred to as the “COUNCIL CITY”) did, pursuant to the provisions of the Municipal Improvement Act of 1913 which is Division 12 of the Streets and Highways Code of the State of California (hereinafter referred to as the “Act”) as amended, and Article XIID of the State Constitution and Article 4.6 of Chapter 4 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53750 (“Article XIID”), adopt its Resolution of Intention for the financing, acquisition, and construction of certain public improvements, together with appurtenances and appurtenant work in connection therewith, in a special assessment district known, and designated as: CITY OF VISALIA ASSESSMENT DISTRICT NO. 2011-1 (hereinafter referred to as the “Assessment District”); and

WHEREAS, with respect to the Improvements, the Resolution of Intention directed the undersigned to make and file a report presenting a general description of any works and appliances already installed and any other property necessary or convenient for the operation of the Improvements, plans and specifications for the proposed construction, estimate of costs, maps and descriptions of lands and easements to be acquired, and diagram and assessment of and upon the parcels of land within the Assessment District, to which Resolution and the description of the Improvements therein contained reference is hereby made for further particulars;

NOW, THEREFORE, I do hereby assess and apportion the Balance to Assessment of the Total Cost of the acquisitions, work and improvements upon the several lots, pieces or parcel or portions of lots or subdivisions of land liable therefore and benefited thereby, and do herein submit the following:

1. The improvements to be provided within the Assessment District are generally described as Utility Undergrounding Improvements (hereinafter referred to as the “Improvements”) which include electrical, communications and street lighting improvements. Reference is

made to Section 3, Description of the Improvements, for additional detail on the proposed Improvements.

2. Pursuant to the provisions of the law and the Resolution of Intention, the costs and expenses of the Improvements have been assessed upon each of the parcels and lots of land benefited in direct proportion and relation to the estimated special benefits to be received by each of the parcels. For particulars of identification of the parcels, reference is made to the Assessment Diagram a reduced copy of which is included in Appendix B.
3. There are no publicly owned parcels in the proposed Assessment District that are receiving an assessment.
4. An Assessment Diagram showing the boundaries of the proposed Assessment District, as well as the lines and dimensions of each parcel of land within the Assessment District as they existed at the time of the preparation of this report. Each parcel of land has been given a separate number on the Assessment Diagram.
5. The subdivisions and parcels of land and their numbers shown within the Assessment Diagram correspond with the numbers appearing in the Assessment Roll.
6. In addition to, or as a part of, the assessment lien levied against each parcel of land within the Assessment District, each parcel of land shall also be subject to an annual assessment to pay for costs incurred by the CITY which result from the administration and collection of assessments or from the administration or registration of any bonds and/or reserve or other related funds. The total amount of such annual administrative assessment will not exceed two-percent (2%) of the annual installment of principal and interest, and shall be posted to the tax rolls for assessment collection.
7. Each parcel's share of the administrative cost add-on shall be computed based on the parcel's proportionate share of its annual assessment.
8. The parcels and assessments included herein do not include any prior unpaid special assessments.

NOTICE IS HEREBY GIVEN that bonds may be issued in accordance with Division 10 of the Streets and Highways Code of the State of California (The Improvement Bond Act of 1915), to represent all unpaid assessments, and the last installments of said bonds shall mature a maximum of forty (40) years from the second day of September next succeeding twelve (12) months from their date. Said bonds bear interest at a rate not to exceed the current legal maximum rate of twelve (12) percent per annum.

For particulars of the individual assessments and their descriptions, reference is made to the Assessment Roll contained in Appendix A. All costs and expenses of the Improvements have been assessed to all parcels and lots of land within the Assessment District in a manner, which is more comprehensively defined in the Method of Assessment described in Section 5 herein.

Date: _____, 2011



Gene B. Scothorn, PE
RCE 14760

Scothorn Consulting Services

Section 12.4 – Certification of City Clerk

I HEREBY CERTIFY that the enclosed Engineer’s Report, together with the Assessment and Assessment Diagram thereto attached, was approved and confirmed by the City Council of the City of Visalia, California, on the _____ day of _____, 2011.

Date: _____, 2011

Steve Salomon
City Clerk
City of Visalia
Tulare County, California

Donjia Huffmon
Chief Deputy City Clerk

Section 12.5 – Certification of City Clerk

I HEREBY CERTIFY that the enclosed Engineer’s Report, together with the Assessments and the Assessment Diagram thereto attached was filed in my office on the _____ day of _____, 2011.

Date: _____, 2011

Steve Salomon
City Clerk
City of Visalia
Tulare County, California

Donjia Huffmon
Chief Deputy City Clerk

APPENDIX A

ASSESSMENT ROLL Assessment District 2011-1

Orchard Walk East/West
Utility Undergrounding Assessment District

City of Visalia
Tulare County, California

TABLE A-1
ASSESSMENT ROLL
Assessment District 2011-1
Orchard Walk East/West Utility Undergrounding Assessment District
City of Visalia, California

Assmt Number	Assessor's Parcel No.	Property Owner	Parcel Area		As Preliminarily Approved	As Confirmed & Approved
			(Acres)	(ft ²)		
01	078-120-030	Donahue Schriber Realty Group	11.47	499,423	\$214,266.29	
02	078-120-032	Donahue Schriber Realty Group	1.44	62,544	26,833.11	
03	079-310-010	Donahue Schriber Realty Group	0.59	25,700	11,026.01	
04	079-310-011	Target Corporation	11.73	510,959	219,215.56	
05	079-310-015	Donahue Schriber Realty Group	0.65	28,227	12,110.16	
06	079-310-016	Donahue Schriber Realty Group	0.20	8,788	3,770.30	
07	079-310-017	Donahue Schriber Realty Group	2.86	124,407	53,374.05	
08	079-310-009	MKR Associates	0.92	39,971	17,148.67	
09	079-310-012	Donahue Schriber Realty Group	3.29	143,138	61,410.17	
10	079-310-013	Donahue Schriber Realty Group	0.92	40,260	17,272.66	
11	079-310-019	Donahue Schriber Realty Group	0.69	29,926	12,839.08	
12	079-310-020	Donahue Schriber Realty Group	1.38	59,982	25,733.94	
Totals			36.14	1,573,325	\$675,000.00	

APPENDIX B

ASSESSMENT DIAGRAM Assessment District 2011-1

Orchard Walk East/West
Utility Undergrounding Assessment District

City of Visalia
Tulare County, California

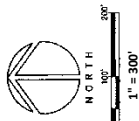
ASSESSMENT DIAGRAM ASSESSMENT DISTRICT NO. 2011-1

City of Visalia
County of Tulare · State of California

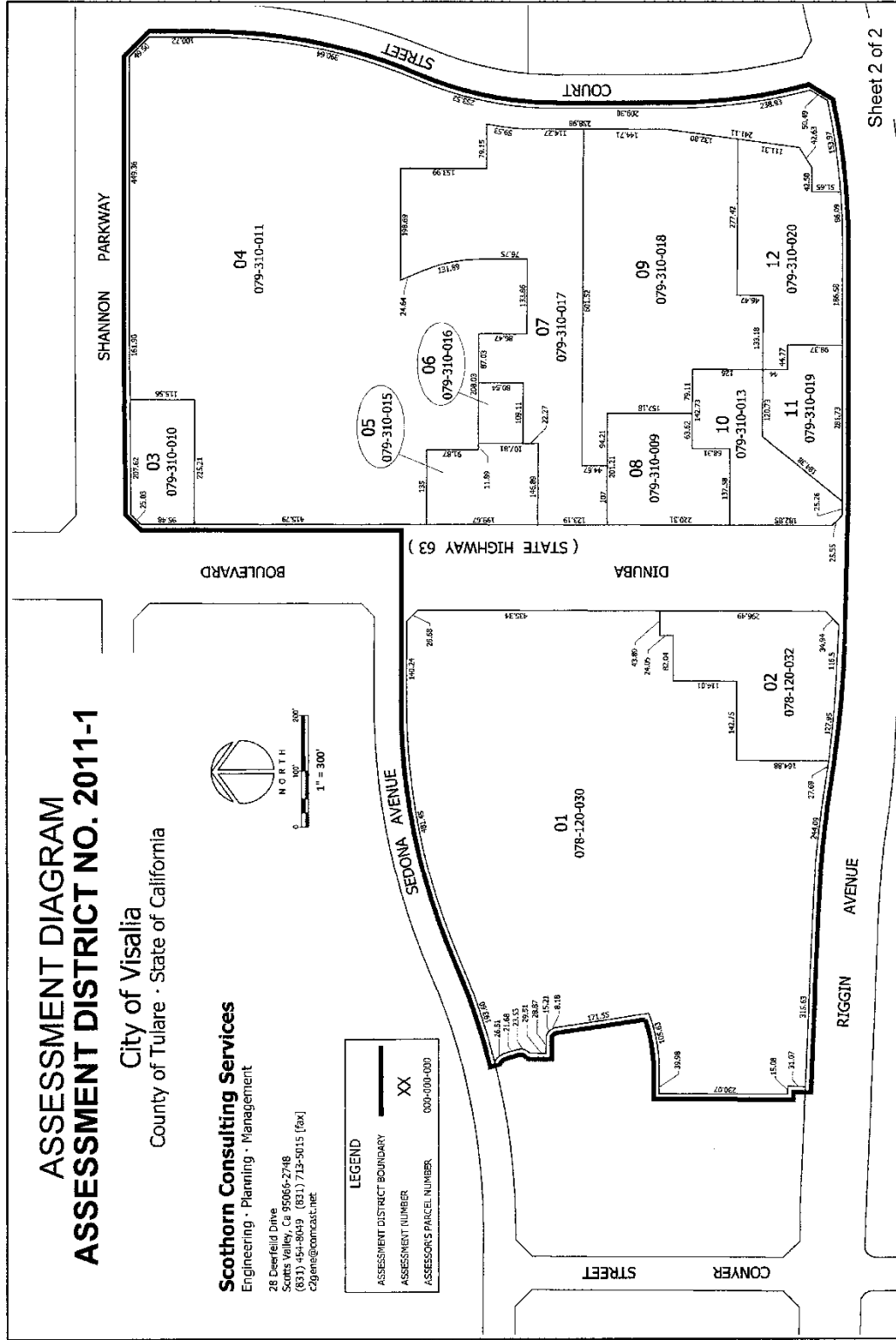
Scothorn Consulting Services

Engineering · Planning · Management

28 Deerfield Drive
Scotts Valley, Ca 95066-2748
(831) 454-8149 (831) 713-4015 (fax)
c2j@scot.comcast.net



LEGEND	
ASSESSMENT DISTRICT BOUNDARY	XX
ASSESSMENT NUMBER	009-000-000
ASSESSOR'S PARCEL NUMBER	



APPENDIX C

REFERENCE DOCUMENTS **Assessment District 2011-1**

Orchard Walk East/West
Utility Undergrounding Assessment District

City of Visalia
Tulare County, California

TABLE C-1
BUILDING SIZE & OCCUPANCY
Assessment District 2011-1

Orchard Walk East Shopping Center
City of Visalia, California

Assmt Number	Property Owner	Category	Pad	Unit	Tenant	Building Area (ft ²)
03	Donahue Schriber Realty Group	Shops	1	A	Game Shop	1,485
03	Donahue Schriber Realty Group	Shops	1	B	(Vacant)	1,350
03	Donahue Schriber Realty Group	Shops	1	C	Sally Beauty	1,350
03	Donahue Schriber Realty Group	Shops	1	D	Supercuts	1,265
03	Donahue Schriber Realty Group	Shops	1	E & F	Radio Shack	1,980
04	Target Corporation	Major	A	--	Target	142,279
05	Donahue Schriber Realty	Shops	2	--	Undeveloped	10,032
06	Donahue Schriber Realty	Shops	3	--	Undeveloped	3,000
07	Donahue Schriber Realty Group	Shops	B	1	Famous Footware	6,000
07	Donahue Schriber Realty Group	Shops	B	2	Vibe	3,000
07	Donahue Schriber Realty Group	Shops	B	3	Maurice's	5,000
07	Donahue Schriber Realty Group	Major	C	--	Ross Dress for Less	27,683
08	MKR Associates	Shops	4	--	McDonald's Restaurant	3,915
09	Donahue Schriber Realty Group	Major	D & E	--	Vallarta Supermarket	47,973
10	Donahue Schriber Realty	Shops	5	--	Undeveloped	8,000
11	Donahue Schriber Realty Group	Shops	6	A & B	Figaro's Mexican Grill	3,502
11	Donahue Schriber Realty Group	Shops	6	C	Yodigity Yogurt	1,249
11	Donahue Schriber Realty Group	Shops	6	D	Subway Restaurant	1,447
11	Donahue Schriber Realty Group	Shops	6	E	Fiesta Insurance	1,699
11	Donahue Schriber Realty Group	Shops	6	F & G	Mountain Mike's Pizza	2,100
12	Donahue Schriber Realty	Major	F	--	Undeveloped	20,087
Total Building Area						294,396



September 28, 2010

ROBERT M. HAIGHT
ATTORNEY AT LAW
Municipal Bond Counsel
5435 Scotts Valley Drive, Suite D
Scotts Valley, CA 95066

RE: Orchard Walk East and West Underground Utilities Assessment District

Dear Robert,

Attached to this letter as Exhibit A is the City's summary and acceptance of the costs that were submitted by Donahue Schriber Realty Group for consideration and inclusion in the Orchard Walk East and West Underground Utilities Assessment District. In summary, the total construction costs are \$485,048, the DSRG administrative costs are \$23,106 and the Tolladay Corp construction management costs are \$18,951.

Respectfully,

A handwritten signature in blue ink, appearing to read "Douglas S. Damko".

Douglas S. Damko
Senior Civil Engineer

EXHIBIT A

08-Dec-08
 09:11 AM
 MICHAEL R. TOLLADAY CORPORATION
 7080 N. MARKS, SUITE 118
 FRESNO, CALIFORNIA 93711

CONTRACTOR CHARGES AND COST DESIGNATION

RULE 20 UNDERGROUNDING
 (SCE, AT&T AND COMCAST)

DESCRIPTION	TYPE	DATE	NUMBER	MEMO	ITEM	AMOUNT
BROWNING CONSTRUCTION						
	BILL	2/2/08	48197	UTILITY UNDERGROUND SCE, AT&T AND COMCAST		74,677
	BILL	3/20/08	48283	UTILITY UNDERGROUND SCE, AT&T AND COMCAST		283,270
	BILL	4/20/08	48419	UTILITY UNDERGROUND SCE, AT&T AND COMCAST		1,672
	BILL	4/20/08	48401	UTILITY UNDERGROUND SCE, AT&T AND COMCAST		111,987
	BILL	5/27/08	48493	UTILITY UNDERGROUND SCE, AT&T AND COMCAST		7,032
				DEDUCT FOR WORK ON ADJACENT STREETS		(207,915)
						270,723
TOLLADAY CORPORATION						
	BILL	12/8/08		CONST FEE	CONST FEE	18,951
						18,951
COMCAST						
	BILL	5/2/08	6VT17	COMCAST FEE	COMCAST FEE	7,619
						7,619
SCE						
	BILL	3/3/08	23967	STREET LIGHT INSTALL	SCE FEE	20,059
	BILL	3/4/08	24101	UTILITY UNDERGROUND	SCE FEE	208,637
	BILL	6/30/08	35543	RELOCATE FACILITIES	RELOCATE FACILITIES	3,899
						232,595
				TOTAL		\$ 528,888

CITY ADJUSTMENTS:

BROWNING CONSTRUCTION

ERROR ADJUSTMENT ON DEDUCT FOR WORK ON ADJACENT STREETS - REDUCE BY \$880 TO \$207,035

DSRG

COMPLETED CITY REIMBURSEMENT FOR DINUBA BLVD EAST SIDE STREET LIGHTS - DEDUCT \$26,769

SUMMARY:

FINAL TOTAL CONSTRUCTION COSTS WITH CITY ADJUSTMENTS = **\$485,048**

BROWNING = \$478,638 - \$207,035 = \$271,603

COMCAST = \$7,619

SCE = \$232,595

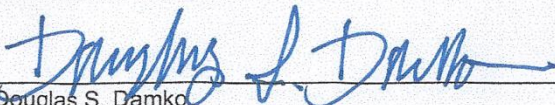
DSRG REIMBURSEMENT = (\$26,769)

FINAL TOTAL SOFT COSTS = **\$42,054**

TOLLADAY CORP = \$18,951 (7% CONSTRUCTION MANAGEMENT)

DSRG = \$23,103 (6% ADMINISTRATION)

CITY ACCEPTANCE:


 Douglas S. Damko
 for City Engineer

8/4/10
 Date

**City of Visalia
Agenda Item Transmittal**

Meeting Date: June 6, 2011

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

Agenda Item Wording: Adoption of Resolution No. 2011 - 26
Authorizing the Application of \$2.5 million for "Proposition 84" Park Bond Act Monies To Develop Civic Center Park (2.8 ac.) along Mill Creek between Tipton St. and Burke St.

Deadline for Action: July 1, 2011

Submitting Department: Parks & Recreation

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

Recommendation:

Adoption of Resolution No. 2011 - 26 Authorizing the Application for \$2.5 million for "Proposition 84" Round II Park Bond Act Monies To Develop Civic Center Park (2.8 ac.) along Mill Creek between Tipton St. and Burke St.

Background Information:

In 2006, Proposition 84 was passed by the voters of California, more commonly known as the **Statewide Park Development and Community Revitalization Program of 2008 and Nature Facilities Grant Program.**

This new competitive grant program was created by Assembly Bill 31 (De Leon) Chapter 623, Statutes of 2008. There will be two rounds awarding \$368 million dollars to critically underserved communities throughout California. The 2009-10 budget act appropriated \$184 million dollars for the first round.

The maximum amount of funding that can be awarded for any one project is \$5 million dollars. There is no required match for a grant award.

In 2009, the City submitted an application for the East Downtown Civic Center Park project. This is a 2.8 acre park and the grant application was for \$2.5 million dollars. While the grant was very competitive, the City was not awarded a grant in the first round of competition. The grant application was supported by the Parks & Recreation Commission and the Council.

For action by:

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

For placement on:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

After much review and analysis, City staff is again proposing the East Downtown Civic Center park project as our top prospect for round II of the grant competition. In coming to this decision, City staff analyzed 12 potential park projects for this competitive grant.

This grant application is again being supported by the Parks and Recreation Commission.

Enclosed in this staff report you will find the following information:

- Resolution 2011 - 26.
- Rating criteria outlining scoring breakdown to earn 100 maximum points.
- Summary pages for the East Downtown Parks Master Plan.

City staff will be submitting a grant application specifically to develop Civic Center Park, a 2.8 acre linear park north of Mill Creek, between Tipton Street and Burke Street. The grant application will be for \$2.5 million dollars.

Several areas that are critical to a good grant application related to the scoring criteria make this a viable project:

- The project is in an underserved (low income) area.
- The project is a new park creating new open space opportunities.
- There is a park master plan that saw significant community outreach and public meetings.
- The master plan has a number of recommended conservation and sustainable features.

After tremendous community outreach, the East Downtown Parks & Infrastructure Master Plan was “accepted” by the City Council in June 2008. The plan was prepared by EDAW, Inc.

Further community outreach was done on May 24 and May 25 regarding the park master plan with meetings held at CSET and the Manuel Hernandez Community Center, respectfully.

If the City is awarded a Proposition 84 grant, the project will require CEQA review and compliance within one-year of the date of the grant award.

Attachments:

- Resolution 2011 – 26.
- Rating criteria outlining scoring breakdown to earn 100 maximum points.
- Summary pages for the East Downtown Parks Master Plan.

Recommended Motion (and Alternative Motions if expected):

Adoption of Resolution No. 2011 - 26 Authorizing the Application for \$2.5 million for “Proposition 84” Round II Park Bond Act Monies To Develop Civic Center Park (2.8 ac.) along Mill Creek between Tipton St. and Burke St.

RESOLUTION OF THE City Council of the City of Visalia

Approving the Application for STATEWIDE PARK PROGRAM GRANT FUNDS

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby: Approves the filing of an application for the East Downtown Civic Center Park (2.8 acre) project, and

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

Approved and adopted the _____ day of _____, 2011

I, the undersigned, hereby certify that the foregoing Resolution No. 2011 - _____ was duly adopted by the City of Visalia City Council following a roll call vote:

Ayes:

Noes:

Absent:

City Clerk

City of Visalia
Agenda Item Transmittal

Meeting Date: June 6, 2011

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

Agenda Item Wording: Request by the Tulare County Association of Governments (TCAG) to execute an amended Joint Powers Agreement for Tulare County and the eight Cities in the County to modify the powers of the TCAG.

Resolution No. 2011-27 needed.

Deadline for Action: June 6, 2011

Submitting Department: Administration

Contact Name and Phone Number:
Mike Olmos, Assistant City Manager, 713-4332

Department Recommendation

Staff recommends that the City Council adopt Resolution No. 2011-__ approving the amended Joint Powers Agreement for the Tulare County Association of Governments. This amendment would provide authority to TCAG to acquire, maintain and dispose of real property for offices for personnel, provided that this does not authorize power of eminent domain.

Background

The Tulare County Association of Governments was established in May, 1971 by the eight Cities in Tulare County and the County government to serve as a regional transportation planning agency and conduit for transportation, air quality and other regional funding opportunities. The powers of TCAG are established through a joint powers agreement (JPA) executed by the eight Cities and the County. Following the inception of TCAG, the JPA was amended in June 1975 and February 1976.

Since 1976 only one amendment has been implemented and approved by Council in June 2010 for changes to allow for staff services for the Local Agency Formation Commission (LAFCO) and adding 'operation of van pool services' into its list of authorized powers.

In December 2010, a proposed amendment to the JPA was submitted to include real property acquisition and disposition authority and power to enter into joint power agreements, however, Council did not approve the amendment due to reasoning it was

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1

Review:

Dept. Head _____
(Initials & date required)

Finance n/a
City Atty _____
(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.

not necessary for TCAG to have broad authority for real property acquisition and disposition.

On May 17, 2011, TCAG submitted a proposed JPA amendment to the Cities and County. TCAG's governing board directed that TCAG Staff move from its' current location to a new facility. In order for TCAG to reside in a non-county building and purchase or lease office space, the proposed amendment gives TCAG the limited ability to obtain real property for personnel use.

Discussion

The purpose of this amendment to the JPA is to give TCAG the ability to make real property transactions exclusively for offices for personnel. TCAG's governing board has directed that TCAG staff move from its current location in the County's Government Plaza in Visalia to a new facility.

The amended JPA will allow TCAG "[to] acquire, maintain, and dispose of real property or an interest in real property, exclusively as it pertains to offices for personnel. This power does not include the power of eminent domain."

City Staff supports the language in this proposed amendment as it is exclusive for personnel offices and promotes a more independent TCAG by not being dependent on County housing. The location parameters for a new location as approved by the TCAG board are:

1. Centralized (population) location in the County
2. Near SR-198 and SR-99
3. Transit access
4. Close proximity (walking distance) to restaurants and other uses
5. Minimum of 5,500 sf and 10 dedicated parking spaces along with access to 50 other parking spaces
6. Video Conference capability
7. Downtown environment

Effect of Recommended Action

TCAG must receive approval from **all** nine entities (eight Cities and County) to enable this amendment to the Joint Powers Agreement to go into effect. If any of the nine entities will not approve the amended agreement, the amended agreement will not go into effect, and TCAG will continue to operate under the current joint powers agreement as last updated in July 2010 that does not include the power to move personnel offices to a non-county building as has been recommended by member agencies and directed by the TCAG board.

Prior Council/Board Actions:

On April 19, 2010 Council considered a previous draft JPA amendment including additional powers for real property acquisition and entering into joint power agreements for TCAG. Council did not approve the previous amended JPA with these two additional powers out of concern that they were not necessary for the essence of TCAG's mission.

June 21, 2010, following the April 19 meeting TCAG removed the two items of concern from the amended JPA. Council approved an amendment to the JPA that included two key provisions for LAFCO staff services and operation of van pool services.

December 6, 2010 Council did not approve a proposed second amendment to the TCAG JPA due to concern that broad real property acquisition powers were not necessary to the operations of TCAG since it has gone without real property acquisition powers since its' inception.

Committee/Commission Review and Actions:

Reviewed by Council of Cities, May 2011

Alternatives: To not approve JPA amendment

Attachments:

1. Resolution No. 2011-27
2. Proposed amended Tulare County Association of Governments Joint Powers Agreement (Exhibit A to Resolution)
3. May 17, 2011 Memo from Executive Director of TCAG

<p>Recommended Motion (and Alternative Motions if expected):</p> <p>Move to adopt Resolution No. 2011-27 approving the amended TCAG joint powers agreement.</p>
<p style="text-align: center;"><i>Environmental Assessment Status</i></p> <p>CEQA Review: NA</p> <p>NEPA Review: NA</p>
<p>Tracking Information: <i>(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)</i></p>

Copies of this report have been provided to: NA

RESOLUTION 2011-27

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA
APPROVING THE AMENDED JOINT POWERS AGREEMENT FOR THE
TULARE COUNTY ASSOCIATION OF GOVERNMENTS**

WHEREAS, as presented on May 17, 2011 by the Tulare County Association of Governments (TCAG), the City Council approves of the TCAG to acquire, maintain and dispose of real property on an interest in real property exclusively as it pertains to offices for personnel;

WHEREAS, this power does not include the power of eminent domain;

NOW, THEREFORE, BE IT RESOLVED,

The City Council hereby approves and authorizes the Mayor to execute the amended Joint Powers Agreements attached as Exhibit A to this resolution.

PASSED AND ADOPTED:

STEVEN M. SALOMON, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF VISALIA)

I, Steven M. Salomon, City Clerk of the City of Visalia, certify the foregoing is the full and true Resolution _____ passed and adopted by the Council of the City of Visalia at a regular meeting held on _____.

Dated:

STEVEN M. SALOMON, CITY CLERK

By Donjia Huffmon CMC, Chief Deputy City Clerk

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AMENDMENT ONE TO THE
TULARE COUNTY ASSOCIATION OF GOVERNMENTS
JOINT POWERS AGREEMENT

THIS AGREEMENT, dated for convenience as of this ____ day of _____, 2011, by and between the COUNTY OF TULARE, hereinafter referred to as the “County,” and the CITIES OF DINUBA, EXETER, FARMERSVILLE, LINDSAY, PORTERVILLE, TULARE, VISALIA, and WOODLAKE, or so many of said Cities as have executed this Agreement, hereinafter collectively referred to as the “Cities”;

WITNESSETH:

WHEREAS, the Tulare County Association of Governments, hereinafter referred to as the “Association,” will be a separate entity from the County; and

WHEREAS, as of the 4th day of May, 1971, the County and the Cities executed an Agreement (Tulare County Agreement No. 6460) which established the Association, and set forth the powers and duties of the Association; and

WHEREAS, the Joint Powers Agreement may be amended from time to time; and

WHEREAS, the Association desires to amend said Agreement to give the Association the ability to make real property transactions for purposes of TCAG operations and staff accommodation, hereby amend said Agreement.

NOW, THEREFORE, BE IT AGREED as follows:

Paragraph (2) of said Agreement is hereby amended by adding thereto subparagraph (q) to read as follows:

(q) To acquire, maintain, and dispose of real property or an interest in real property, exclusively as it pertains to offices for personnel. This power does not include the power of eminent domain.

1 IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as
2 of the day and year first above written pursuant to resolutions of the governing bodies of the
3 respective parties, duly adopted, authorizing such execution.
4

5 ATTEST: Jean M. Rousseau
6 County Administrative Officer
7 Clerk, Board of Supervisors

COUNTY OF TULARE

8 By _____
9 Deputy

By _____
Chairman, Board of Supervisors

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11 ATTEST:

CITY OF DINUBA

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13 By _____
14 City Clerk

By _____
Mayor

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16 ATTEST:

CITY OF EXETER

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18 By _____
19 City Clerk

By _____
Mayor

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21 ATTEST:

CITY OF FARMERSVILLE

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23 By _____
24 City Clerk

By _____
Mayor

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26 ATTEST:

CITY OF LINDSAY

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28 By _____
City Clerk

By _____
Mayor

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ATTEST:

CITY OF PORTERVILLE

By _____

By _____

City Clerk

Mayor

ATTEST:

CITY OF TULARE

By _____

By _____

City Clerk

Mayor

ATTEST:

CITY OF VISALIA

By _____

By _____

City Clerk

Mayor

ATTEST:

CITY OF WOODLAKE

By _____

By _____

City Clerk

Mayor



5955 S. Mooney Blvd.
Visalia, California 93277
Phone (559)624-7274
Fax (559)733-6720
www.tularecog.org

MEMORANDUM

To: TCAG Member Agencies
From: Ted Smalley, Executive Director
Date: May 17, 2011
Subject: TCAG Joint Powers Agreement (JPA) Amendment One

Attached for your consideration is Amendment One to the Tulare County Association of Governments' (TCAG) Joint Powers Agreement (JPA). The TCAG governing board has directed that TCAG staff move from the current location (Government Plaza in Visalia) to a new facility. Criteria for the facility has been set and approved by the TCAG Board and site negotiations are underway. The sites that are being considered at this time are all non-county buildings.

The current JPA does not allow TCAG to reside in a non-county building. In order to lease office space, a JPA amendment is required. The full language of Amendment One is attached, and the proposed amended language is highlighted below, giving TCAG the very limited ability to:

“[To] acquire, maintain, and dispose of real property or an interest in real property, exclusively as it pertains to offices for personnel. This power does not include the power of eminent domain.”

Each city and the county must pass a resolution approving the JPA Amendment One with no changes in order to authorize its execution. It is respectfully requested that the amendment is considered at your agency's earliest convenience. The goal set by the Board for action by all agencies is June 15, 2011.

Please contact me with any questions, and thank you for your collaborative effort and support to relocate TCAG.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: June 6, 2011

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

Agenda Item Wording: Authorize the Mayor to send letters to appropriate state legislators expressing support for California Assembly Bills 890 and 1121 and letters of opposition for Assembly Bills 506, 1220 and Senate Bills 474 and 931.

Deadline for Action: None

Submitting Department: Administration

Contact Name and Phone Number: Michael Olmos, 713-4332, and Nancy Loliva, 713-4535

Department Recommendation: Authorize the Mayor to send letters to appropriate state legislators expressing support for California Assembly Bills 890 and 1121 and letters of opposition for Assembly Bills 506, 1220 and Senate Bills 474 and 931.

Summary/background: Below is a list of bills and recommended positions for the City of Visalia to take in letters of support or opposition to local legislators. The bills selected were included based on input from appropriate staff on the legislation's impact to not only the City of Visalia, but cities statewide and that could set an important precedent for future legislation.

Employee Relations

SB 931 (Vargas) Public Agencies. Outside Legal Counsel - Oppose.

This bill provides that all public agencies are forbidden to use taxpayer dollars to pay for outside consultants or legal advisors for the purpose of counseling the public employer about ways to minimize or deter the exercise of public employee union activities. The Meyers-Milias-Brown Act already provides protection against the City in engaging in discriminatory behavior regarding employees and union activity. The City should be able to engage legal representation for advice in dealing with many employee issues; this may restrict that ability unnecessarily.

AB 506 (Wieckowski): State Intrusion into Local Affairs: Fiscal Emergencies and Employee Relations (as amended March 31, 2011) – Oppose. As drafted, this legislation creates an obstacle course of criteria and conditions that are replete with bias against local agencies to the benefit of labor interests. The process only serves to impede a local agency from being able to file for Chapter 9 bankruptcy protection. Local agencies in fiscal distress will be effectively blocked from seeking the protections of federal bankruptcy court. AB 506 is an unnecessary intrusion into what is fundamentally a local government's fiscal decision. Municipal

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.

bankruptcy has always been an option of last resort. AB 506 also creates broader implications for future state intervention into local financial and labor disputes. The bill is similar to AG 155 (Mendoza) Municipal Bankruptcy, which the Council voted to oppose in April, 2010. The bill is currently on suspense file in the appropriations committee of the Assembly.

Transportation and Public Works

AB 890 (Olsen and Perea) CEQA Exemption: roadway improvement (as amended March 29, 2011) - Support.

This bill would exempt city roadway improvement projects from California Environmental Quality Act (CEQA) requirements if the project is within the existing right-of-way. AB 890 will result in lower project costs and faster project delivery for roadway improvement projects. CEQA requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. Current law provides for some project-specific exemptions as well as more general exemptions such as a pipeline project less than one mile in length within a public street, highway, or right-of-way.

SB 474 (Evans) Commercial construction contracts: indemnity (as amended May 2, 2011) – Oppose.

SB 474 would prohibit indemnification provisions in contracts between cities and contractors. This would limit a city's ability to negotiate contract terms and ultimately result in increased costs to the public. To develop infrastructure projects, public agencies enter into written contracts that establish the scope of the project and allocate the risks associated with the particular project through an indemnity or "hold harmless" provision. The negotiation of terms between public agencies and contractors should be left to the free-play of market forces. SB 474 precludes negotiation of broader protection, even where the public agency is willing to pay extra for such protection.

Land Use and Housing

AB 1220 (Alejo) Land use and planning: cause of actions: time limitations – Oppose.

The Planning and Zoning Law requires an action or proceeding against local zoning and planning decisions of a legislative body to be commenced and the legislative body to be served within a year of accrual of the cause of action, if it meets certain requirements. Where the action or proceeding is brought in support of or to encourage or facilitate the development of housing that would increase the community's supply of affordable housing, a cause of action accrues 60 days after notice is filed or the legislative body takes a final action in response to the notice, whichever occurs first. This bill would authorize the notice to be filed any time within 5 years after a specified action pursuant to existing law. It would extend from one year to five years the time frame for opponents of Council actions on zoning matters to file legal challenges. This bill greatly expands risk and will have a negative effect on California's ability to recover from the recession.

Animal Control

AB 1121 (Pan) Dog licensing: issuance: puppy licenses – Support.

The bill would require pet stores, non-profit shelters and high-volume dog breeders compile and send to their local licensing agency a monthly list of licensing information regarding dogs placed, adopted or sold. Currently, the City of Visalia contracts with the local non-profit Valley Oak SPCA to provide animal control and licensing. Increasing the number of animal licenses has already been identified as a primary goal of the City's animal control program. The primary obstacle faced in licensing animals is determining what animals are currently unlicensed and getting information from animal owners. A program has been established to contact owners of non-licensed animals and to follow-up on those who do not respond. Increased revenue

generated from newly licensed animals will more than offset any additional costs to manage the program. Estimates of the number of unlicensed animals in the City show that not only would the increased revenue fund licensing efforts, but it may be enough to fully fund animal control functions and provide for more public education and spay/neuter programs.

Prior Council/Board Actions: NA

Committee/Commission Review and Actions: NA

Alternatives: NA

Attachments: None

Recommended Motion (and Alternative Motions if expected): I move to authorize the Mayor to send letters to appropriate state legislators expressing support for California Assembly Bills 890 and 1121 and letters of opposition for Assembly Bills 506, 1220 and Senate Bills 474 and 931.

Environmental Assessment Status

CEQA Review: NA

NEPA Review: NA

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

Copies of this report have been provided to: NA

City of Visalia Agenda Item Transmittal

Meeting Date: June 6, 2011

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

Agenda Item Wording: Request authorization to have staff file a Notice of Completion for the Whitendale Avenue Street Widening Project in the amount of \$1,139,049.44. (Project No. 1241-9252).

Deadline for Action: None

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:

Michael Carr, Senior Transportation Planner, 713-4595
Adam Ennis, Assistant Director of Engineering, 713-4323
Chris Young, Community Development Director, 713-4392

Department Recommendation: Staff recommends that the City Council authorize filing a Notice of Completion for the Whitendale Avenue Street Widening Project. All the work has been completed by the contractor (Teichert Construction). The final contract amount is \$1,139,049.44.

Summary: The Whitendale Avenue Street Widening Project consisted of adding dedicated right-turn lanes to Whitendale and southbound Mooney Boulevard and opening up the second left-turn lane for southbound Mooney to eastbound Whitendale. Typical street improvements were completed along with building low retaining walls to support existing landscaping and the installation of a new storm drain line. Larger traffic signal poles and longer mast arms to span the added lanes were also installed.

Change orders were required to deal with existing “unforeseen conditions”, redesigning a storm drain line, accelerating the project schedule, and a final balance of quantities. In all, twenty-two change orders were processed with a cost increase totaling \$134,411.79. This represents a 13.4% increase over the originally awarded contract total of \$1,004,637.65.

Background: On June 21, 2010, Council awarded the Whitendale Avenue Street Widening Project to Teichert Construction of Fresno for the contract price of \$1,004,637.65. The City budget for this project was \$1,900,000 including the total cost of this contract, City of Visalia project management, inspections, surveying and testing.

All project change orders were reviewed and approved by the Change Order Committee. A summary of the change orders grouped into major categories is listed below.

Adding to the scope of work (additional \$68,697.97, representing 51.1% of the change orders)

The bulk of the additional scope came from not knowing (at the time of project design) if the Whitendale Widening (a City project) or the Mooney Boulevard Widening (a Caltrans project) would be constructed first. Since Mooney went ahead of Whitendale, the City had to “clean-up” some transitional items on Mooney. These items included; removing of the median “noses”, connecting irrigation lines across Whitendale, and re-striping Mooney to match the

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.): 1Min.

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.

new lane configurations. The contractor also had to relocate an electrical transformer near Me-N-Ed's Pizza. The southeast corner of the intersection at Toy-R-U's had to be demolished and rebuilt to install traffic signal infrastructure. There was a change order to have the contractor saw-cut an additional four-feet of asphalt for the length of the project east of Mooney and rebuild the road section, to provide a smooth transition matching the existing slope of the road.

Unforeseen site conditions (additional \$22,516.28, representing 16.8% of the change orders)

Through the course of this project, the contractor came across several unforeseen conditions. There were several instances where utilities were not at the expected elevation, which meant that the storm drain connections had to be modified by either trenching deeper for the pipe or placing the pipe with shallow clearances. This required encasement of the storm drain pipe in concrete. There was a storm drain manhole that needed to be relocated in order to create some clearance from a high-pressure gas mainline. While excavating, the contractor discovered two concrete foundations which had to be demolished and removed.

Redesigned storm drain in Whitendale (additional \$2,856.13, representing 2.1% of the change orders)

There were additional (unknown) underground utility conflicts. This required a substantial re-design by the consultant and resulted in additional construction and material costs.

Accelerated Project schedule (additional \$29,215.96, representing 21.7% of the change orders)

The contract was scheduled to be completed before the Thanksgiving holiday, but due to weather delays, the completion date moved into December. The City wanted the project to be done before holiday traffic on Mooney was in full swing, so the contractor was instructed to accelerate the schedule by adding workers and working overtime and weekends.

Adjustment of quantities at line item unit prices (additional \$11,125.45, representing 8.3% of the change orders)

Actual quantities for painting, base rock, asphalt and concrete paving ended up higher than the Engineer's Estimate for the project due to the added scope of work discussed above.

Prior Council/Board Actions: Award of contract on June 21, 2010.

Committee/Commission Review and Actions: None

Alternatives: None

Attachments: Location Map
Lane Configuration Exhibit
Ownership Disclosure Form

Recommended Motion (and Alternative Motions if expected):

I move to authorize staff to file a Notice of Completion for the Whitendale Avenue Street Widening Project for the final contract amount of \$1,139,049.44.

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)*
Notice of Completion to be filed with County Recorders Office through City Engineer's office.

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: June 6, 2011

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

Agenda Item Wording: Consideration of changes to the appointment list of the General Plan Update Review Committee (GPURC).

Deadline for Action: None

Submitting Department: Community Development Department/
Planning Division

Contact Name and Phone Number:

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

Department Recommendation: It is recommended that the Visalia City Council affirm Carlos Medina as the representative and Rob Cox as the alternate representative from the North Visalia Neighborhood Advisory Committee.

Summary: The North Visalia Neighborhood Advisory Committee has selected Carlos Medina as their representative serving on the GPURC and Rob Cox to serve as an alternate GPURC representative.

Mr. Cox has been representing the North Visalia Neighborhood Advisory Committee as a GPURC alternate since 2009. He was confirmed as the primary representative in April 2011 when then-representative Bill Huott completed his final term with the North Visalia Neighborhood Advisory Committee. The North Visalia Neighborhood Advisory Committee met again and chose Mr. Medina as the primary representative on the basis that Mr. Medina could offer a stronger commitment to the GPURC.

Mr. Medina is the owner of Carlos' Sportsman Barber Shop located on North Court Street. He has previously been employed as a probation officer, and currently volunteers part-time as a counselor at the County's juvenile detention facilities.

GPURC Background: On November 3, 2008, the City Council authorized the formation of a GPURC, and expanded the Committee's composition to include representation from several key stakeholders. There are currently 24 persons on the Committee representing 22 community-based groups (see attached Exhibit "A" for roster) including the City's Environmental Committee. The GPURC held its first meeting on March 25, 2009, and has met approximately once a month since then. It has recently overseen the completion of Phase I (Background studies) of the General Plan Update process and will embark on Phase II (comparison of various Plan Alternatives) in upcoming months.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 5

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

Committee/Commission Review and Actions: N/A

Alternatives: None

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

Recommended Motion (and Alternative Motions if expected):

I move to authorize the appointments to serve on the General Plan Update Review Committee, as recommended.

Environmental Assessment Status

CEQA Review: NA

NEPA Review: NA

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

Copies of this report have been provided to:
GPURC Members

Exhibit "A"

General Plan Update Review Committee Committee Roster – June 2010

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

City of Visalia Agenda Item Transmittal

Meeting Date: June 6, 2011

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

Agenda Item Wording: Accept the City of Visalia Cash and Investment Report for the third quarter ending March 31, 2011

Deadline for Action: None

Submitting Department: Administration - Finance

Contact Name and Phone Number: Eric Frost 713-4474,
Liz Ybarra 713-4598

Department Recommendation: Staff recommends that Council accepts the City of Visalia Cash and Investment Report for the quarter ending March 31, 2011.

Introduction

In the course of the City's business, significant cash assets are accumulated before they are spent on a variety of governmental operations. The quarterly investment report is an opportunity for staff to be held accountable for the investment and management of these funds.

City Investment Policy

The City's investments are diversified by the various maturities and credit types which are allowed by the City's Investment Policy and California Government Code Section 53600 et seq. It is the policy of the City to invest public funds in a manner which will provide the greatest security with the maximum investment return while meeting the daily cash flow demands of the City and conforming to all state and local statutes governing the investment of public funds.

The City continues to be conservative and prudent with the investment objectives, which in order of priority are safety, liquidity, and yield, while maintaining compliance with federal, state, and local laws and regulations. These investments will enable the City to meet expenditure requirements for the next six months, as required by state law.

Economic Outlook

Treasury yields were lower in April as market conditions reacted to slightly weaker economic data. Economic growth remains moderate. The national unemployment rate is 9%. The housing market remains very weak and the impact of higher gas prices on consumer spending remains to be seen. The Federal Reserve will conclude its asset QE2 purchase program in June, which was the purchase of \$600 billion of long term Treasury securities. The Market waits to see what the Feds will do or say on the June 22 meeting.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 5

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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Portfolio Performance

The March 31, 2011 investment report managed balance was \$112,323,219

The earnings rate for FY10/11 (Jan - March) was 1.10%. Key benchmarks and performance statistics for the City's portfolio are shown in Table 1, Managed Portfolio Performance Statistics.

Table I: Managed Portfolio Performance Statistics (dollars in millions)

Quarter Ending	Portfolio Balance	City Monthly Portfolio Rate	LAIF Balance	LAIF Rate	2 YR Treasury	Weighted Average Maturity (WAM)
December 2010	\$112.36	1.01%	\$28.8	0.47%	0.61%	144 DAYS
March 2011	\$112.32	1.10%	\$23.9	0.53%	0.80%	165 DAYS
Fiscal Year 2010/2011	\$114.8	0.95%		0.50%	0.56%	

Future Management

The City manages the portfolio partly by considering the weighted average maturity (WAM) based upon management's expectations for rising, neutral or declining interest rates. Usually, the longer an investment's maturity, the higher the interest rate will be. However, the longer the maturity, the more at risk the portfolio is to market gains or losses due interest rate changes.

As a result, the City has a target WAM based upon expected interest rate environments as shown on Table II, Target Weighted Average Maturity (WAM) Based on Interest Rate

Expectations.

Table II
Target Weighted Average Maturity (WAM)
Based Upon Interest Rate Expectations

Forecasted Interest Rate Environment	Target WAM (Years)
Rising	0.50
Neutral	1.50
Declining	2.50

Although rates this last month have declined slightly, staff believes the trend will be towards higher rate, and as rates increase the City is in good position to take advantage of the

increases. When rates are rising, the stated goal for the portfolio WAM is 0.50 years. At the end of March 2011 the portfolio, WAM was 165 days. Never the less, staff is beginning to find value in short term investments. **The table below shows the most recent investment activity.**

	<u>Type</u>	<u>Yield</u>	<u>Amount</u>	<u>Purchase Date</u>	<u>Maturity Date</u>
<u>Purchases</u>					
CA Dev Authority	MUNI BOND	1.92%	\$3.5M	03/17/2011	02/05/2013
BOFA /ML	CORP BOND	1.87%	\$5.0M	03/17/2011	06/15/2013

Investment Plan For The Next Quarter

Staff will continue to review investment options that are available within the City's policy since there are significant signs that interest rates will rise. Staff will continue to evaluate 1 to 2 year maturities to take advantage of these rates. Longer term investments are yielding higher, but because of the current interest rate environment, the risk of principal loss due to rising interest rates makes longer term purchases not worth the potential interest rate pick up.

It is very tempting to extend out the maturity to gain from the extra yield, but that strategy can be very costly. Staff believes general interest rates will rise between 1.5% to 2% within the next year. The table below illustrates possible earnings if in year 2 of the investment rates go up.

\$1.0M Investment - Potential Earnings/(Loss)			
	Scenario 1	Scenario 2	Scenario 3
	5 Year Treasury	5 Year Treasury	5 Year Treasury
Year	2.0%	3.5%	5.0%
1	20,000	5,000	5,000
2	20,000	35,000	50,000
3	20,000	35,000	50,000
4	20,000	35,000	50,000
5	20,000	35,000	50,000
Earnings	\$ 100,000.00	\$ 145,000.00	\$ 205,000.00
Potential earnings with rate increase			

Scenario 1 – Current earnings for 5 year Treasury

Scenario 2 – Potential earnings if 5 year Treasury goes up to 3.5%; assumes year 1 is in LAIF @ .50%

Scenario 3 – Potential earnings if 5 year Treasury goes up to 5.0%; assumes year 1 is in LAIF @ .50%

Notice that if in year two interest rate increase by 1.5%, the City would loose \$15,000 per million per year or almost a third of the potential interest earnings. If rates rise 3%, then the loss is almost \$30,000 per million. As a result, staff will be looking to cautiously extend maturities.

Attachments:

Attachment #1, City of Visalia Cash and Investment Summary
Attachment #2, City of Visalia Investment Details

Recommended Motion (and Alternative Motions if expected): Move to accept the City of Visalia Cash and Investment Report for the third quarter ending March 31, 2011

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
Investment Report - Quarter Ended March 31, 2011
Cash and Investment Summary

				Weighted % of	Average YTM	Average Days to Maturity
	<u>Par Value</u>	<u>Original Cost</u>	<u>Market Value</u>	<u>Portfolio</u>		
Security Investments						
Federal Agency	\$ 5,000,000	\$ 5,152,460	\$ 5,304,530	4.72%	5.00%	491
Medium-Term Corporate Bonds	\$ 15,000,000	\$ 15,743,200	\$ 15,654,800	13.92%	1.60%	567
Municipal Bonds	\$ 13,500,000	\$ 13,807,400	\$ 13,791,000	12.26%	1.70%	328
CDARS	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000	8.89%	0.80%	147
Certificates of Deposits	\$ 10,240,000	\$ 10,240,000	\$ 10,244,231	9.11%	0.83%	175
Total Security Investments	\$ 53,740,000	\$ 54,943,060	\$ 54,994,561	48.96%		
Cash Investments						
Local Agency Investment Fund (LAIF)	\$ 23,950,608	\$ 23,950,608	\$ 23,950,608	21.30%	0.53%	
Sweep Account (Citizens Business Bank)	\$ 13,259,696	\$ 13,259,696	\$ 13,259,696	11.90%	0.40%	
Rabo Bank (Money Market)	\$ 20,118,354	\$ 20,118,354	\$ 20,118,354	17.89%	0.68%	
Total Cash Investments	\$ 57,328,658	\$ 57,328,658	\$ 57,328,658	51.04%		
Total Investments	\$ 111,068,658	\$ 112,271,718	\$ 112,323,219	100.00%	1.10%	165 days (WAM)
OTHER CASH						
Cash with Fiscal Agents						
US Bank (GIC)	\$ 2,061,100	\$ 2,061,100	\$ 2,061,100			
US Bank 2003 East Visalia RDA	\$ 394,057	\$ 394,057	\$ 394,057			
Union Bank (WWTP)	\$ 100,000	\$ 100,000	\$ 100,000			
Citizens Business BK (RDA Mooney District)	\$ 6,075,646	\$ 6,075,646	\$ 6,075,646			
Accel (Workers Comp Excess Liability Dep)	\$ 922,180	\$ 922,180	\$ 922,180			
EIA (Health Prefunding)	\$ 1,055,869	\$ 1,055,869	\$ 1,055,869			
Delta Dental (Dental Prefunding)	\$ 60,700	\$ 60,700	\$ 60,700			
Vision	\$ 11,210	\$ 11,210	\$ 11,210			
Keenan & Assoc (Workers Comp Prefunding)	\$ 632,363	\$ 632,363	\$ 632,363			
	\$ -	\$ -	\$ -			
Total Cash with Fiscal Agents	\$ 11,313,125	\$ 11,313,125	\$ 11,313,125			
Cash in Banks						
Citizens Business Bank - AP/Payroll	\$ 120,732	\$ 120,732	\$ 120,732			
Bank of America - Convention Center	\$ 28,139	\$ 28,139	\$ 28,139			
Bank of America - Golf	\$ 17,767	\$ 17,767	\$ 17,767			
Petty Cash	\$ 19,997	\$ 19,997	\$ 19,997			
Total Cash in Banks	\$ 186,636	\$ 186,636	\$ 186,636			
Total Cash and Investments	\$ 122,568,418	\$ 123,771,478	\$ 123,822,979			

**City of Visalia
Agenda Item Transmittal**

Meeting Date: June 6, 2011

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

Agenda Item Wording: Re-appointment of members of the Disability Advocacy Committee, Historic Preservation Committee and Waterways & Trails Committee due to vacancies and/or end of term.

Deadline for Action: June 6, 2011

Submitting Department: Community Development Department

Contact Name and Phone Number:

Chris Young, Community Dev. Director (559) 713-4392

Department Recommendation: Department staff recommends that the Visalia City Council re-appoint or appoint the following members of the committees below due to vacancies and/or end of term.

Disability Advocacy Committee

Background & Summary: The Disability Advocacy Committee is a seven member Advisory Committee to the City Council who represents issues and concerns of the disabled community. Two terms are ending in June 2011. Mary Wheeler has just completed her 2nd term and is eligible to serve her third two-year term. This will be the final term for Mary Wheeler. Kathleen Papove has completed her 1st term and is also eligible to serve an additional two-year term. Both Mary Wheeler and Kathleen Papove have requested to be reappointed.

Historic Preservation Committee

Background & Summary: The Historic Preservation Committee is a seven member committee who administers and carries out the standards and specifications of the Historic Preservation Ordinance. The committee promotes historic preservation including encouraging building owners to initiate preservation efforts. The Committee facilitates building identification and seeks to preserve Visalia's historic structures. Jay Hohlbauch has just completed his 3rd consecutive term which is the limit and he cannot be re-appointed. Virginia Strawser has completed her first term and would like to be re-appointed. Steve Pastis has completed his first

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.

term and would like to be re-appointed. This leaves two vacant committee positions and two vacant alternate positions.

Waterways & Trails Committee

Background & Summary: The Waterways & Trails Committee is a thirteen member committee who advises on matters related to the Bikeway Master Plan and the Waterway and Trail Master Plan. Five terms are ending in June 2011, and there are three member vacancies and one vacant alternate position. Bob Brown, Dominique Niccoli, George Piling, Herb Simmons and Richard Garcia have completed their 1st terms and are eligible to serve an additional two-year term. All have requested to be re-appointed.

Recommendations:

Disability Advocacy Committee: Staff recommends the City Council re-appoint Mary Wheeler and Kathleen Papove for additional two year terms.

Historic Preservation Committee: Staff recommends the City Council re-appoint Steve Pastis and Virginia Strawser for additional two year terms.

Waterways & Trails Committee: Staff recommends the City Council re-appoint Bob Brown, Dominique Niccoli, George Piling, Herb Simmons and Richard Garcia for additional two year terms.

Prior Council/Board Actions: Reappointment of Mary Wheeler in 2006 and 2009. Appointment of Kathleen Papove in 2008. Reappointment of Jay Hohlbauch in 2009 and appointment of Steve Pastis in 2010 and Virginia Strawser in 2008. Appointment of Bob Brown, Dominique Niccoli, George Piling and Herb Simmons in 2006 and appointment of Richard Garcia in 2007.

Committee/Commission Review and Actions:

Alternatives:

Attachments: Local Appointment List updated 5/24/11.

Recommended Motion (and Alternative Motions if expected): City Council hereby appoints Mary Wheeler and Kathleen Papove to the Disability Advocacy Committee as voting members effective July 1, 2011 for an additional two year term each. Appoint Steve Pastis and Virginia Strawser as voting members effective July 1, 2011 for an additional two year term for Historic Preservation Committee. Appoint Bob Brown, Dominique Niccoli, George Piling, Herb Simmons and Richard Garcia to the Waterways & Trails Committee as voting members effective July 1, 2011 for an additional two year terms.

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: June 6, 2011

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

Agenda Item Wording Award Annual Janitorial Supplies
Contract to Clean Source per specifications of RFB 10-11-36.

Deadline for Action: June 6, 2011

Submitting Department: Building Maintenance Division

Contact Name and Phone Number:

Ray Palomino, Building Services Coordinator, 713-4169
Jim Bean, Park and Urban Forestry Manager, 713-4564

Department Recommendation:

Staff recommends Clean Source be awarded the contract for janitorial supplies used by the Buildings Maintenance division at their stated bid prices and not to exceed an annual cost of \$75,000.

Background:

The City's current contract with Waxie Supply for janitorial supplies used throughout the city facilities is expired. This contract has been renewed several times, but it has now exhausted all options for renewal and has been re-bid, following our Purchasing Policy.

Staff compiled a list of products used and estimated annual usage to issue a Request for Bids. Bids were solicited by mailing 11 notices to vendors in the Visalia & Fresno area, broadcasting on Bid Net to 37+ additional vendors, advertising in the Visalia Times Delta on Jan. 6th and 12th, 2011, and a notice was sent to the Visalia Chamber of Commerce in accordance with the local economic stimulus program adopted by the City Council.

The City received a total of seven bids. There were no bids received from any vendors from Tulare County. Further follow up was conducted with the only Visalia janitorial supply company listed in the phone book, but the company office is vacant, and the phone number is forwarded to an office out of town. A complete bid was not received from this company. Three of the bids only provided pricing on particular items or a very limited number of items (less than 10 items) and were considered incomplete bids. The other four bids provided pricing on all or most items and therefore, a more detailed bid comparison was completed by the Purchasing Department and is included in Attachment 1 but can be summarized as follows:

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.

JANITORIAL SUPPLIES					
RFB-10-11-36 Analysis Summary	<u>Waxie</u>	<u>Ernest</u>	<u>Central</u>	<u>Clean Source</u>	
Location	<u>Livermore</u>	<u>Fresno</u>	<u>Supply</u>	<u>Fresno</u>	
			<u>Modesto</u>		
Base Bid Prices	\$61,074.66	\$61,386.40	\$76,423.25	\$67,841.73	
Base Bid with missing prices assumed at highest price bid	\$70,302.88	\$80,882.79	\$76,423.25	\$67,841.73	
Base Bid with missing prices assumed at lowest price bid	\$68,308.00	\$73,394.04	\$76,423.25	\$67,841.73	

Base bid would indicate that Waxie is the apparent low bidder, however, they did not provide pricing on approximately 20 items. To get a better idea of the actual “low bidder” overall, staff did some comparisons as follows: On bids which had no pricing on particular items, we substituted the “highest” bid price submitted for those items and then again, substituting the “lowest” bid price for those items. In reviewing this information, Clean Source is the overall low bidder with a bid price of \$67,841.73. Additionally, they provided prices on all items listed in bid.

The contract is for a one-year period, but can be renewed annually up to four additional years. The janitorial supplies are budgeted in the Buildings division which is a General Fund division and will not need a budget amendment.

Recommended Motion (and Alternative Motions if expected): Staff recommends that Clean Source be awarded the Annual Janitorial Supplies Contract in an amount not to exceed \$75,000.

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

Memo



To: Mayor and City Council

From: Chris Young, Community Development Director (713-4392)
Paul Scheibel, AICP, Planning Services Manager (713-4369)
Andrew Chamberlain, Senior Planner (713-4003)

Date: June 6, 2011

Re: **Appeal of the Planning Commission's certification and approval of Environmental Impact Report State Clearinghouse Number 20081211133, Conditional Use Permit No. 2007-17, and Variance No. 2007-06: 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**

Recommendation: City staff and the City's EIR consultant team respectfully request that this item be continued to the June 20, 2011, regular City Council meeting. This request is made to allow the EIR consultant and sub consultants adequate time to complete their review and provide a complete written response to the City Council in regard to the late correspondence (216 pages) received from the Appellant (M.R. Wolfe) on the day of the City Council hearing (May 16, 2011), and a letter from Mr. James Watt (22 pages) during the public hearing.

In continuing the item to the June 6, 2011, date, the City Council closed the public hearing, and directed staff to prepare a written response to be considered on June 6th.

Notification to Interested Parties: If the City Council concurs with the request to continue to the item to June 20, 2011, the item will not be required to be publicly re-noticed. It is anticipated that interested parties on both sides of the issue will be present at the June 6th meeting and thus informed of the continuance date at that time.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: June 6, 2011

Agenda Item Number (Assigned by City Clerk): 12

Agenda Item Wording:

Public hearing for:

1. **Public Hearing and Introduction of Ordinance 2011-09;** for Zoning Text Amendment No. 2011-08: Amending Sections 17.02 (Article 2 Administrative Adjustment [17.02.150, through 17.02.180] of the Visalia Municipal Code (Zoning Ordinance), to increase the maximum available adjustment from ten (10) percent to twenty (20) percent for development standards related to building and landscaping setbacks, site area, lot width, building height and parking requirements, and rescind portions of Sections 17.34.120 and 17.30.160 of the Zoning Ordinance pertaining to a twenty (20) percent administrative reduction to parking requirements for properties within portions of Design District "A".

2. **Certification of Negative Declaration No. 2011-11. (Resolution 2011-28 required)**

Deadline for Action: None.

Submitting Department: City Attorney and Community Development Department – Planning Division

Contact Name and Phone Number:

Paul Bernal, Senior Planner (559) 713-4025
Paul Scheibel, AICP, Planning Service Manager, (559) 713-4369
Alex Peltzer, City Attorney, (559) 636-0200
Ken Richardson, City Attorney, (559) 636-0200
Chris Young, Community Development Director/City Engineer (559) 713-4392

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.):10mins

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.

Department Recommendation: It is recommended that the City Council consider the information contained in this report and hold a public hearing and Certify Negative Declaration No. 2011-23, and introduce Ordinance No. 2011-09 for the first reading of Zone Text Amendment No. 2011-08 amending Title 17 Section 17.02 (Article 2 Administrative Adjustment [17.02.150, through 17.02.180] of the Visalia Municipal Code (Zoning Ordinance) and rescinding portions of Sections 17.34.120 and 17.30.160 of the Zoning Ordinance pertaining to a twenty (20) percent administrative reduction to parking requirements for properties within portions of Design District "A". **The rescinding action is recommended as a way to unify and simplify the parking reduction allowances that are presently exclusive to the Mooney Corridor to apply uniformly to all zone districts.**

Summary: This Zoning Text Amendment (ZTA) stems from the Council's direction in February to re-examine the City's ordinances for ways to streamline the development permit process. This ZTA will expand the allowable deviation from zoning administrative adjustment standards

of ten (10) percent to twenty (20) percent. It will also add new categories that become eligible for deviations including parking and landscaping setbacks.

Background on Zone Text Amendment No. 2011-08: The project is a request by the City of Visalia and consists of an amendment to the Visalia Zoning Ordinance (Title 17 of the Visalia Municipal Code). The objective of the project is to amend the City of Visalia's Administrative Adjustment process by increasing the flexibility of development standards from ten (10) percent to twenty (20) percent for required development standards, and to include "landscaping" and "parking" into the list of development standards applicable to the Administrative Adjustments.

The purpose of an administrative adjustment is to provide action on projects, which are routine in nature but may require an interpretation of established policies and standards set forth in the zoning ordinance. Currently, administrative adjustments are limited to no more than ten (10) percent of a required development standard, which include setbacks, site area, lot width, and building height. A copy of the Administrative Adjustment ordinance (i.e., Section 17.02.150 of the VMC) is attached to this report. This process is valuable in helping developers and landowners situate buildings on existing lots, and can be an effective tool for infill development

However, this tool is not extensively used in part due to the relatively small ten (10) percent adjustment that is available. To entice the use of the Administrative Adjustments, staff recommends increasing the flexibility of development standards from ten (10) percent to twenty (20) percent. The increase from ten (10) percent to twenty (20) percent is intended to increase the utility value for streamlining development applications.

Pursuant to Section 17.42.180 of the Visalia Municipal Code (VMC), the City Planner is required to present a report to the Planning Commission summarizing the number of Administrative Adjustment applications processed and approved during the preceding calendar year.

During the 2010 calendar year, a total of eight administrative adjustment applications were filed and approved. One was for a commercial permit and seven were for residential permits. During the past three months of the 2011 calendar year, two administrative adjustment applications were filed and approved.

Committee/Commission Review and Actions: The Planning Commission held a public hearing on May 9, 2011, and recommended approval of Zone Text Amendment No. 2011-08 by a 3-1 (Yes, Lane, Peck, Segrue and Soltesz No, Salinas Absent) vote. During the public hearing, no persons spoke to the item.

Commissioner Peck questioned the need to include the requirement prohibiting property located within the Mooney Boulevard Corridor from requesting a twenty (20) percent Administrative Adjustment for parking. Staff informed the Commission that the language was included to prohibit property owners / tenants from requesting a twenty (20) percent reduction to parking under the Mooney Boulevard corridor amendments, and requesting a twenty (20) percent reduction parking under the Administrative Adjustment process. The Commission stated that the language should be revised to clearly state that only one reduction to parking would be issued. No further discussion by the Planning Commissioners was requested.

Prior Council/Board Actions: During the strategic worksession on February 4-5, 2011, and a City Council/Planning Commission worksession on February 22, 2011, the City Council directed staff to investigate new policies and procedures to make the development process as streamlined and efficient as possible. The City Council has placed emphasis on streamlining City processes and services in an effort to better serve the public, development community, and businesses while also being more cost effective. Amending the City of Visalia's Administrative Adjustment process is one of the measures that staff has identified in an effort to help stimulate development activity.

General Description of Changes: Attached for the Council's consideration is Ordinance No. 2011-09. This ordinance would implement the direction provided by the City Council at recent meetings to amend the City of Visalia's Administrative Adjustment process by increasing

the flexibility of development standards from ten (10) percent to twenty (20) percent for required development standards, and to include “landscaping” and “parking” into the list of development standards applicable to the Administrative Adjustments.

The attached ordinance incorporates the changes discussed in the report. The revisions are contained in Section 17.02.160.B of the Zoning Ordinance, which include “landscaping” and “parking requirements” to the list of development standards. In addition, Section 17.02.160.C, of the Zoning Ordinance has been revised increasing the administrative adjustment process from ten (10) percent to twenty (20) percent for required development standards.

Inclusion of Landscape Setbacks in the Administrative Adjustment Process: A common theme that arises in the Site Plan Review process relates to landscape setbacks. A request for reduction in landscape setback requirements has advantages for property owners. Those desiring to construct a new building or a building addition would benefit from the additional buildable area, resulting in the potential for more building square footage to be built. This may also allow more flexibility in designing sites, especially smaller vacant parcels, where it can sometimes be difficult to construct a building along with the required parking, while still meeting all setback requirements. In addition, landscape construction and maintenance costs could be slightly reduced if a property owner is granted the approval to reduce a portion of their required landscaping.

A number of building and landscaping setback variances have been approved citywide over the years. Changing the standard may reduce the number of Setback Variance requests that would otherwise be filed with the Planning Commission.

As an example, this change would increase the available adjustment (if findings can be made) for a five-foot residential side yard from six inches to one foot. This expanded adjustment capability could be helpful to landowners and designers in the placement of buildings on existing lots and help achieve development of existing parcels.

Conversely, a twenty (20) percent reduction to a required 15-foot landscape setback along North Dinuba Boulevard in Design District “B” would allow a property owner or tenant to request a 12-foot landscape setback, thereby increasing the potential to maximize the buildable area. Upon making the required findings under the attached Administrative Adjustments Ordinance, the property owner/tenant is in a position that may afford them the opportunity to maximize their property to the fullest potential.

Relief from Parking Space Requirements in the Administrative Adjustment Process: In addition to landscape setbacks, parking requirements also present development challenges when dealing with infill sites and/or properties in transition. Inclusion of “Parking Space Requirements” applicable to the Administrative Adjustment process incorporates another development standard that may alleviate the need for filing a parking variance when circumstances find a site short on parking.

As an example, a site originally developed to meet retail-parking requirements is being converted for office uses. Office uses have a higher parking requirement (i.e., one parking space per 250 square feet of building area) than retail uses (i.e., one parking space per 300 square feet of building area). If the proposed new office use is two parking stalls short, there is no relief in the Zoning Ordinance other than to file for a Variance, which can be costly and a timely process. However, if a property owner or tenant request a greater reduction to any development standard listed in the Administrative Adjustment process, they would need to apply for a Zoning Variance to be considered by the Planning Commission in a public hearing.

Parking Space Requirements in the Administrative Adjustment Process Related to the Mooney Boulevard Corridor: The City Council, during the December 20, 2010 meeting, reviewed and approved several Zoning Text Amendments (ZTAs) related to the Mooney Boulevard Corridor. They included procedures for granting up to a twenty (20) percent administrative reduction of the parking requirements for properties in the portion of Design District “A”. Those properties are located along Mooney Boulevard from Noble Avenue to Visalia Parkway and along Caldwell Avenue from Sallee Street to Packwood Creek, including where Design District A is located on both sides of Fairway Street, Monte Vista Avenue, Sunnyside Avenue, and Dorothea Avenue.

During the Planning Commission hearing, the Commission requested staff revise the language to have the administrative adjustments, including the twenty (20) percent parking reduction, applied uniformly citywide rather than including language prohibiting the use of the Administrative Adjustments twenty (20) percent parking reduction along the Mooney Boulevard corridor (i.e., Design District “A”).

To eliminate the redundancy, staff requests the Council rescind the twenty (20) percent parking reduction adopted with the Mooney Boulevard Zone Text Amendments (i.e., portions of Sections 17.34.120 and 17.30.160 of the Zoning Ordinance pertaining to a twenty (20) percent administrative reduction to parking requirements for properties within portions of Design District “A”), since it is subsumed within the proposed City wide adjustment. This would eliminate potential confusion regarding parking reductions under the amended Administrative Adjustments process and the Mooney Boulevard Zoning Text Amendments.

Staff has included the amended ordinance (see Exhibit “A”) which addresses the issues raised by the Planning Commission regarding parking reductions under the Administrative Adjustments process and the amended Design District “A” standards for Mooney Boulevard. It should be noted; the administrative adjustments process requires criteria to be met prior to approval (Section 17.02.170 of the Zoning Ordinance [See Exhibit “A”]).

Environmental Findings: An Initial Study was prepared for the project consistent with the California Environmental Quality Act (CEQA). The Initial Study disclosed that environmental impacts are determined to be not significant. Therefore, Negative Declaration No. 2011-23 was prepared for adoption at the time that the project is acted upon by the City Council.

Alternatives: The City Council may approve, modify, or not approve the Administrative Adjustments Ordinance Text Amendment. The City Council may alternately return the matter to staff with further direction as the City Council deems appropriate.

Attachments:

- Ordinance No. 2011-09
- Resolution No. 2011-28
- Exhibit A – Planning Commission Staff Report from May 09, 2011
- Exhibit B – Negative Declaration No. 2011-23

Recommended Motion: 1) I move to introduce Ordinance No. 2011-09 for Zone Text Amendment No. 2011-08, amending Title 17 Sections 17.02 (Article 2 Administrative Adjustment [17.02.150, through 17.02.180] of the Visalia Municipal Code, for the first reading and 2) Certify Negative Declaration No. 2011-11 (Resolution 2011-28 required).

Environmental Assessment Status

CEQA Review: An Initial Study and Negative Declaration have been prepared for use with this project, consistent with the California Environmental Quality Act (CEQA). It must be certified prior to the initiation of these entitlements (Negative Declaration No. 2011-23).

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 report have been provided to:

- Planning Commission

ORDINANCE NO. 2011-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA APPROVING ZONING TEXT AMENDMENT NO. 2011-08, A REQUEST BY THE CITY OF VISALIA TO AMEND SECTION 17.02 OF THE VISALIA MUNICIPAL CODE, TO INCREASE THE MAXIMUM AVAILABLE ADJUSTMENT FROM TEN (10) PERCENT TO TWENTY (20) PERCENT AND TO INCLUDE LANDSCAPING SETBACKS AND PARKING INTO THE DEVELOPMENT STANDARDS AND RESCIND PORTIONS OF SECTION 17.30.160 AND SECTION 17.34.120 OF THE VISALIA MUNICIPAL CODE DELETING PROCEDURES TO A 20 PERCENT ADMINISTRATIVE REDUCTION TO THE PARKING REQUIREMENTS FOR PROPERTIES WITHIN PORTIONS OF DESIGN DISTRICT "A"

WHEREAS, a Zoning Ordinance Text Amendment request was filed by the City of Visalia, to allow the City Planner or his/her designee to grant up to a 20 percent reduction in the off-street parking space requirements in the Visalia Zoning Ordinance, the specific text being identified in Exhibit A herein; and

WHEREAS, the City Council of the City of Visalia finds as follows:

1. That no significant environmental impacts would result from this project, that no mitigation measures would be required, and that the City Council certified Negative Declaration No. 2011-23 by Resolution No. 2011-28.
2. That the City of Visalia considered the Zoning Text Amendment in accordance with Section 17.44.090 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff reports and testimony presented at the public hearing.
3. That the proposed Zoning Text Amendment is consistent with the goals, objectives and policies of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That the proposed amendment is consistent with the objectives, purpose and intent of Zoning Ordinance Section 17.02.020 by fostering a workable relationship among land uses, promoting the stability of existing land uses which conform to the district in which they occur, promoting a safe, effective traffic circulation system, and requiring adequate off-street parking and truck loading facilities;
5. That the amendment will encourage and facilitate in-fill development and building reuse and expansion citywide by providing an administrative procedure to more flexibly enforce certain development standards identified in the Administrative Adjustments ordinance.

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a public hearing before said Council on June 6, 2011.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

Section 1: On May 9, 2011, the Planning Commission recommended that the City Council of the City of Visalia approve Zoning Text Amendment No. 2011-08.

Section 2: Consistent with its control over municipal affairs and the powers vested in the City of Visalia through the California Constitution, the City of Visalia is authorized to secure and promote the public health, comfort, safety and welfare of its citizenry. Therefore, the City Council of the City of Visalia hereby amends the Zoning Ordinance "Title 17" of the Municipal Code as provided in the following Sections.

Section 3: Section 17.02.160.B of the Visalia Municipal Code is hereby amended to read as follows (*italics denote the new provisions, and strike-out deletions*):

B. Upon written request, the city planner may approve, conditionally approve or deny without notice minor adjustments to the following development standards; *building and landscaping setbacks, site area, lot width, building height, parking.*

Section 4: Section 17.02.160.C of the Visalia Municipal Code is hereby amended to read as follows (*italics denote the new provisions, and strike-out deletions*):

C. Any administrative adjustment shall be limited to no more than ~~(ten)~~ *twenty* percent of a required development standard. In making the adjustment, the city planner shall make a finding that the adjustment is consistent with the criteria listed in Section 17.02.170. With respect to adjustments to building setbacks and building height, the adjustment shall also be approved by the fire chief and director of public works or his/her designee prior to granting said administrative adjustment. (Ord. 9605 § 30 (part), 1996: prior code § 7213.2)

Section 5: Section 17.30.160.C of the Visalia Municipal Code is hereby amended to read as follows (*strike-out denote deletions*):

C. Parking as prescribed in Chapter 17.34. ~~*New uses within existing buildings or expansions of existing buildings located within the portion of Design district A that runs along Mooney Blvd. from Noble Ave. to Visalia Parkway and along Caldwell Avenue from Sallee Street to Packwood Creek, including where Design District A is located on both sides of Fairway Street, Monte Vista Avenue, Sunnyside Avenue, and Dorothea Avenue, may be eligible for an administrative parking reduction per Section 17.34.120.*~~

Section 6: Section 17.34.120.A.1-6 of the Visalia Municipal Code is hereby amended to read as follows (*strike-out denote deletions*):

~~*A. New uses locating in existing buildings or in an expansion of existing buildings shall not be prohibited because of a lack of off-street parking spaces if all the following requirements are met:*~~

~~*1. The use is located within the portion of Design District A that runs along Mooney Blvd. from Noble Ave. to Visalia Parkway and along Caldwell Avenue from Sallee Street to Packwood Creek, including where Design District A is located on both sides of Fairway Street, Monte Vista Avenue, Sunnyside Avenue, and Dorothea Avenue.*~~

~~*2. The use is located in an existing building or shopping center that previously contained a use for which adequate parking was required on site; or the use is located in a building or shopping center that is being expanded from its original size, and the expansion results in the use not providing the required number of spaces.*~~

~~*3. The number of off-street parking spaces provided is more than the required number of off-street parking spaces multiplied by 80% (provided spaces > required spaces x 80%).*~~

~~*4. The design of the parking area meets existing improvement standards as determined by the Site Plan Review Committee.*~~

~~*5. The required amount of handicapped accessible parking spaces is provided. The required amount of handicapped spaces shall be calculated based upon the standard required amount of parking before reduction.*~~

~~*6. An acknowledgement has been filed in a form acceptable to the city planner stating that the property owner accepts and desires the reduced on-site parking standards. Where a use's parking space requirement is calculated as part of a shopping*~~

~~center per Section 17.34.020(F)(14) and/or where there is an existing shared parking agreement in effect all property owners within the shopping center or subject to the shared parking agreement shall also first agree to the reduced parking standard.~~

Section 7: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not effect the validity or enforceability of the remaining sections, subsections, subdivision, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Visalia hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 8: Construction. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section 9: Effective Date. This Ordinance shall take effect thirty days after its adoption.

Section 10: Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

RESOLUTION NO. 2011-28

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,
ADOPTING NEGATIVE DECLARATION NO. 2011-23, WHICH EVALUATES
ENVIRONMENTAL IMPACTS FOR ZONING TEXT AMENDMENT NO. 2011-08

WHEREAS, Zoning Text Amendment No. 2011-08, amending Sections 17.02 (Article 2 Administrative Adjustment [17.02.150, through 17.02.180] of the Visalia Municipal Code (Zoning Ordinance), to increase the maximum available adjustment from ten (10) percent to twenty (20) percent for development standards related to building and landscaping setbacks, site area, lot width, building height and parking requirements; and

WHEREAS, an Initial Study was prepared which disclosed that no significant environmental impacts would result from the project, and that no mitigation measures would be required for the project; and

WHEREAS, on the basis of this Initial Study, a Negative Declaration has been prepared and noticed for public review and comment for the project pursuant to the California Environmental Quality Act of 1970 (CEQA), as amended; and

WHEREAS, any comments received during the advertised comment period were reviewed and considered in accordance with provisions of CEQA; and

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a public hearing before said Council on June 6, 2011 for the Project; and

WHEREAS, the City Council of the City of Visalia considered the Initial Study and Negative Declaration and found that the Initial Study and Negative Declaration contain and reflect the independent judgment of the City of Visalia; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Visalia finds that the Negative Declaration was prepared consistent with the California Environmental Quality Act (CEQA) and the City of Visalia Environmental Guidelines.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia hereby finds, on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment and hereby certifies Negative Declaration No. 2011-23, which evaluates environmental impacts for Zoning Text Amendment No. 2011-08. The documents and other material which constitute the record of the proceedings upon which the decisions based are located at the office of the City Planner, 315 East Acequia Avenue, Visalia, California, 93291.

City of Visalia



*City Council Hearing
June 6, 2011*

Project Description

- Zone Text Amendment is a way to make development process more streamlined.
- Staff presented several strategies which included amending Administrative Adjustments.
- Currently Admin. Adjs. provide for 10% reduction to setbacks, site area, lot width, and building height.

Visalia City Council Hearing
June 6, 2011

Project Description

- Admin. Adjs. amended to provide for 20% reduction to development standards.
- Include "Landscaping" and "Parking" into list of Development Standards.
- Amendment is an effort to make Admin. Adjs. process an efficient tool for property owners/tenants.

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Planning Commission

- Planning Commission recommended approval subject to the follow:
 - Revise language to have the administrative adjustments, including the 20% parking reduction, applied uniformly citywide
- Staff requests Council rescind 20% parking reduction adopted with the Mooney Blvd ZTA's.

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Recommendation

- Staff recommends:
 - Move to introduce Ordinance for ZTA No. 2011-08, amending Title 17 Sections 17.02 of the Visalia Municipal Code for the first reading.
 - And rescinding portions of Sections 17.34.120 and 17.30.160 of the Visalia Municipal Code.

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