

# Regular Meeting Agenda

## Visalia City Council



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

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Monday, August 1, 2011

City Hall Council Chambers, 707 W. 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.

**BADGE PINNING CEREMONY** - Lieutenant Brian Winter and Sergeant Mark Feller

**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. LAFCO update regarding City Municipal Service Review (MSR) reports
2. Review the draft Multi-Hazard Mitigation Plan for future adoption.
3. Downtown Street Light upgrade status report and authorization to issue a Request for Proposals (RFP) to hire an engineering firm to survey the street light system downtown, design a new lighting system and prepare phased construction bid documents for construction in phases. Also authorize the Mayor to send a letter to the downtown Property Owners Association requesting them to participate in funding the upgrades to the street light system.
4. Update on Animal Control Facility design.
5. Presentation - Analyzing the City's General Fund

*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)**

6. Conference with Labor Negotiators (GC 54957.6)  
Agency representatives: Steve Salomon, Eric Frost, Mark Nelson  
Employee organization: Group G
7. Conference with Legal Counsel – Existing Litigation (G.C. 54956.9)  
Name of Case: Palomino v. COV - TCSC # 10-238916
8. Conference with Legal Counsel– Anticipated Litigation Significant exposure to litigation pursuant to subdivision (b) of (G.C. 54956.9) – 2 potential cases
9. Conference with Labor Negotiators (GC 54957.6)  
Agency representatives: Steve Salomon, Eric Frost, Diane Davis  
Employee organization: Group M

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

**PLEDGE OF ALLEGIANCE**

**INVOCATION** – Sister Amber Haueter, Church of Jesus Christ of Latter Day Saints

**SPECIAL PRESENTATIONS/RECOGNITION**

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

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

*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.*

10. **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. Adopt Resolution determining unpaid assessments, providing for bond issuance and guaranteeing purchase of bonds for Orchard Walk East and West Undergrounding Utilities Assessment District. **Resolution 2011-39 required.**
  - c. Authorization to develop and implement “HAP – Health Awareness Program” a city wellness program at a cost not to exceed \$10,000.

- d. Authorize the Mayor to send letters to appropriate federal legislators in support of the PACE Assessment Protection Act of 2011 (HR 2599).
- e. Authorization to record the final parcel map of Tentative Parcel Map No. 2006-19, located at 5828 West Hurley Avenue (2 Lots). (APN: 085-530-007).
- f. Second reading and adoption of Ordinance No. 2011-11 authorizing the Grant of Easement of Southern California Edison Company for a non-exclusive easement in gross for the conveyance and distribution of electricity across a portion of City owned property (APN#073-160-001) and authorize the City Manager to execute the grant of easement. The easement will enable the Southern California Edison Company to provide power to the new Perfection Pet Food addition southeast of the Goshen Basin Site and provide a source of electricity to the adjacent properties, including the Goshen Basin site. The Goshen Basin is located on the south side of Goshen Avenue and east of Camp Drive. **Ordinance 2011-11 required.**
- g. Second reading and adoption of Ordinance No. 2011-10 for Zone Text Amendment No. 2011-09: a request by the City of Visalia to revoke and repeal Chapter 5.66 from Title 5 and Chapter 17.64 from Title 17 of the Visalia Municipal Code pertaining to Medical Marijuana Business Permitting and Zoning, and amend Title 8 Chapter 8.64 of the Visalia Municipal Code to establish regulations governing the cultivation and consumption of medical marijuana for personal use. **Ordinance 2011-10 required.**
- h. Acceptance of City owned property into the public street system along the south side of the alley located between Acequia Avenue and Main Street in the block between Locust Street and Court Street. **Resolution 2011-40 required.**
- i. Authorize the Mayor to send letters to appropriate state legislators expressing opposition for California Assembly Bills 46 and 781, oppose Senate Bill 263, continue to monitor SB 46 and oppose SB 244 and 293 unless amended.
- j. Authorization to file a Notice of Completion for the renovation of the restrooms at the Anthony Community Center located at 345 N. Jacob St., at a final cost of \$78,175.60.
- k. Authorization to initiate a General Plan and Zoning Map Amendment to change the General Plan Land Use and Zoning designations from Residential Low Density to Quasi Public and Convenience Commercial and initiate a corresponding parcel map on APN 103-120-004 located at 3709 East Houston Avenue.
- l. Approve Resolution adopting the City of Visalia's annually Investment Policy and Delegating authority to invest funds for the City to the Administrative Services Director/Treasurer for fiscal year 2011/12. **Resolution 2011-41 required.**
- m. Authorize the recordation of the final map for Pheasant Ridge Unit 3D, located east of Denton Street at Wren Avenue (12 lots) and the annexation of Pheasant Ridge 3D and 3 lots of Pheasant Ridge 3C into Landscape and Lighting Assessment District 05-19, Pheasant Ridge (**Resolutions 2011-42 and 2011-43 required**)
- n. Accept the City of Visalia Cash and Investment Report for the fourth quarter ending June 30, 2011.

- o. Authorize the City Manager to execute the Reimbursement Agreement for Pheasant Ridge Unit 3B located on the west side of Roeben Street south of Riggin Avenue.
- p. *Item removed at the request of staff*
- q. Update of efforts by a temporary ad hoc group addressing Downtown infrastructure needs and a strategy for implementation of infrastructure upgrades.

**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.*

- 11. **PUBLIC HEARING** - Amendment to Pre-Annexation Agreement for Annexation 2004-11 (Caldwell-Ben Maddox): A request by Diamond Oaks LLC, to amend terms of the pre-annexation agreement as it relates to 56.9 acres of the property located at the southwest corner of East Caldwell Avenue and the logical extension of Ben Maddox alignment. **Resolution 2011-44 required.**
- 12. Request to place on the tax rolls two assessments: \$2,067.03 for weed abatement at 1304 S. Santa Fe and \$330 for failure to conserve water at 314 N. Bennett Circle.
- 13. Recommendation from the Council sub-committee on the City's Election process to appoint a Task Force to investigate and report to the Visalia City Council regarding possible changes to the City's Council member election process.

**CLOSED SESSION REPORT (if any)**

**Upcoming Council Meetings**

- Monday, August 15, 2011, 4:00 Work Session, 7:00 p.m. Regular Session - City Hall Council Chambers 707 W. Acequia
- Tuesday, September 6, 2011, 4:00 Work Session, 7:00 p.m. Regular Session - Visalia Convention Center, 303 E. Acequia
- Monday, September 19, 2011, 4:00 Work Session, 7:00 p.m. Regular Session - City Hall Council Chambers 707 W. Acequia

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

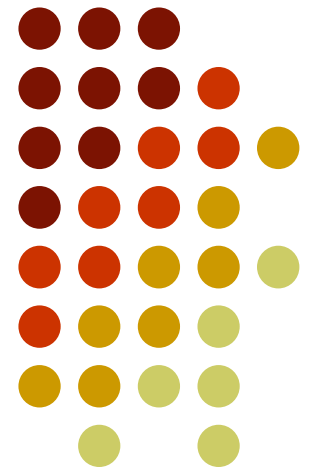
*In compliance with the American Disabilities Act, if you need special assistance to participate in meetings call (559) 713-4512 48-hours in advance of the meeting. For Hearing-Impaired - Call (559) 713-4900 (TDD) 48-hours in advance of the scheduled meeting time to request signing services.*

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

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

# Municipal Service Reviews

Helping to Shape Local Agency  
Growth



# Purpose of Workshop



- To better inform people who are paying for services, like water, sewer, garbage pickup, police and fire of the role of LAFCO in reviewing those services
- To get feedback from the public
- To explain what a Municipal Service Review (MSR) is and what its purpose is.
- Answer your questions.
- Your comments will help LAFCO create an MSR that will:
  - ensure orderly growth,
  - protect the County's resources,
  - ensure efficient service delivery,
  - and facilitate access of basic services to previously underserved territories.



# What is LAFCO?

- The Local Agency Formation Commission (LAFCO) is an independent agency charged with promoting orderly growth, discouraging urban sprawl, preserving natural resources, and ensuring efficient governmental services.
- Each County is required to have a Local Agency Formation Commission comprised of (2) city govt. representatives, (2) county govt. representatives, and a member representing the public at large. Some Commissions also have 2 representatives from Special Districts.
- Local agency boundary changes are governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

# Commission Authority



The Commission reviews and approves or disapproves, with or without amendment, wholly, partially, or conditionally various “changes of organization” including:

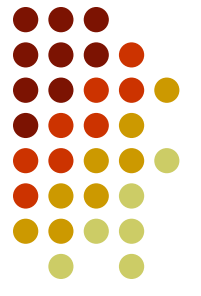
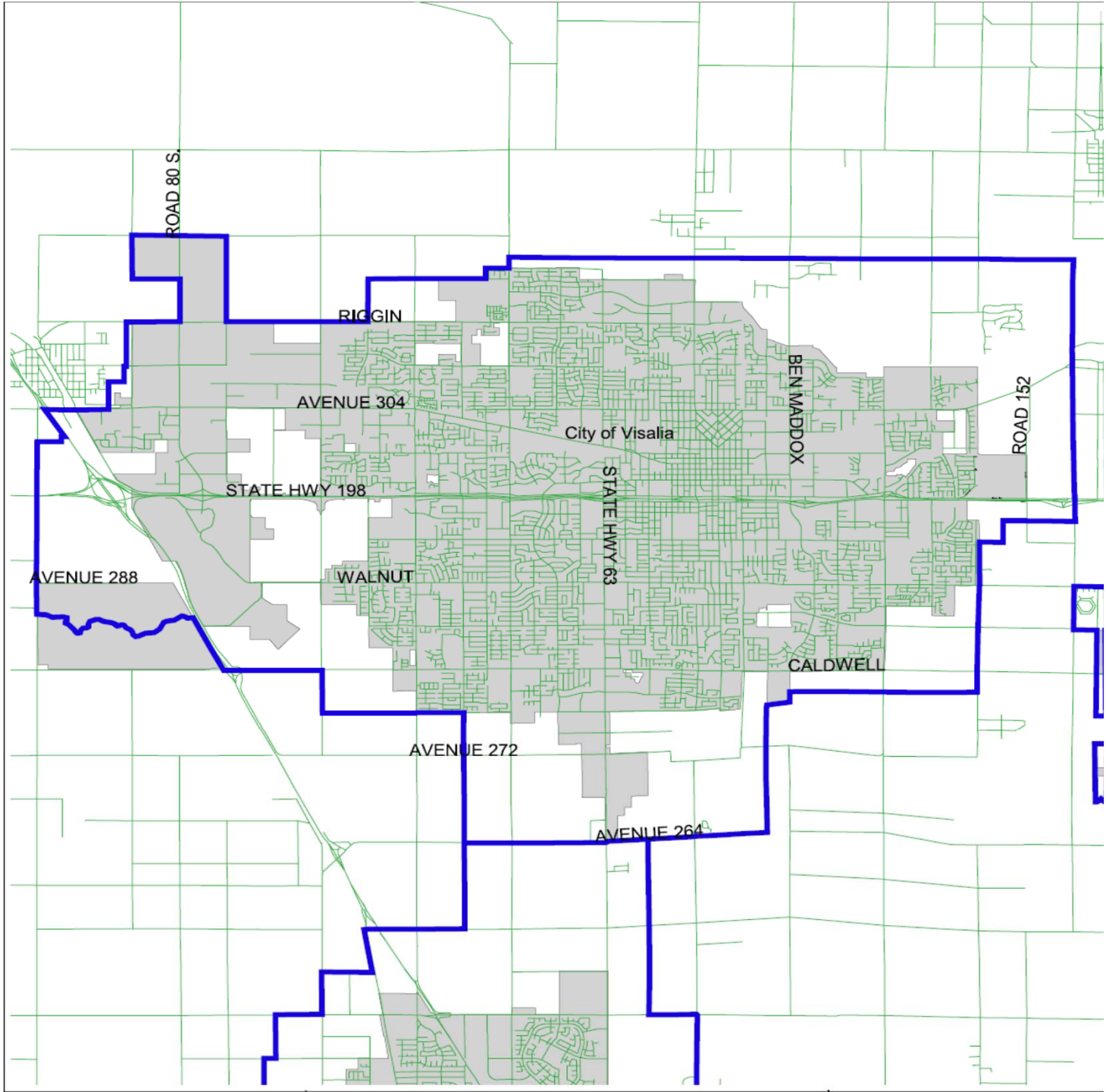
- Annexations (expansion of boundaries)
- Detachments (reduction of boundary)
- City Incorporations
- District Formations
- Consolidation of local govt agencies
- Merger of Cities with Districts
- Amendment/comprehensive updates to an agency’s Sphere of Influence (probable physical boundary and service extension area of agency over the course of a 20-year period)



# SOI Purpose

- LAFCO is charged with ensuring and enforcing orderly and logical growth and uses SOIs (Spheres of Influence) to do this.
- An SOI is LAFCO's determination of the probable growth and future physical boundary and service area of a local agency over a 20-year period.
- An SOI limits growth by forcing a city or a district to grow within their Sphere of Influence.
- A City or District can only annex land that is within the established SOI and adjacent to the city's boundaries.
- An established SOI can be amended; however, approval of an SOI amendment must undergo a detailed analysis (with a focus on why a deviation from the established SOI is necessary) and should only be approved in extraordinary situations.





# SOI Process



- A city whose SOI will be updated must meet with the county to establish development standards and zoning requirements within the SOI to ensure orderly and logical growth (GC Section 56425)
- If the city and county reach an agreement, the Commission shall give the agreement great weight to the extent it's consistent with Commission policy when determining the SOI.
- If no agreement is reached, the Commission must rely on existing policy when determining the city's new SOI.

# SOI Process



- In determining the SOI, the Commission must prepare a written statement of determinations with respect to the following:
  - Present & planned land uses within area, including ag & open-space
  - Present & probable need for public facilities & services in the area
  - Present capacity of public facilities and adequacy of public services that the agency is provides
  - The existence of any social or economic communities of interest in the area if the Commission determines they are relevant to the agency.

# SOI Process



- The report of the Commission on Local Governance for the 21<sup>st</sup> Century, that led to CKH, clearly states that an SOI must be guided by detailed analytical studies that analyze actual & projected information on trends in growth & development and service capacities.
- Part of the local governance law overhaul, CKH, requires the preparation of a Municipal Service Review report prior to an SOI update or Amendment.



# MSR Purpose

- A Municipal Service Review (MSR) serves as the analytical basis used to inform the SOI and other Commission changes of organization.
- An MSR must be prepared at the time or prior to consideration of a SOI Amendment or Update.

# MSR Purpose



An MSR must contain written determinations with respect to (6) factors:

1. Growth and population projections for the affected area
2. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs and deficiencies
3. Financial ability of agency to provide service
4. Status of, and opportunities for, shared facilities
5. Accountability for community service needs, including governmental structure and operational efficiencies.
6. Any other matter related to effective or efficient service delivery, as required by Commission policy.

# MSR Process



- Collection of data from the city itself as well as other regulatory agencies.
- Organize the data collected into one of the 6 factors.
- Look at data in totality for each factor and make a determination.
- Focus on efficiency, quality and long-term viability.
- Recommend possible solutions to service/infrastructure discrepancies and/or needs discovered in MSR analysis.



# Recent MSR Changes



- Tulare LAFCO Policy C-5.11 adopted in April of 2011 does each of the following:
  - Outlines the service factors that shall be analyzed within each developed community outside a subject agency's boundaries, but within or adjacent to its SOI.
  - Prescribes that the analysis conducted for the aforementioned developed communities is integrated within the overall MSR analysis in order to help address service/infrastructure needs or deficiencies.
  - Reconciles an agency's city and county urban boundaries with LAFCO's adopted SOI wherever feasible.
  - Requires a public workshop to be held within the jurisdiction of the subject agency prior to MSR adoption
  - Requires LAFCO to incorporate resident/customer comments be into MSR determinations if applicable.

# Services Subject to Review



- Police Protection
- Fire Protection
- Water and Wastewater
- Solid Waste Collection and Disposal
- Streets and Traffic Circulation
- Power Generation and Distribution
- Health Care



# Providing Comments

- Comments can be provided today by filling out the comment cards available.
- You can also provide written comment at a later date at 5955 South Mooney Boulevard Visalia, CA. 93277.
- Email: [msegura@co.tulare.ca.us](mailto:msegura@co.tulare.ca.us)
- You can find more information on our webpage [www.co.tulare.ca.us/lafco/](http://www.co.tulare.ca.us/lafco/) or call us at 624-7257

# City of Visalia Agenda Item Transmittal

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** City Council to review the Draft Multi-Hazard Mitigation Plan for future adoption by the City of Visalia.

**Deadline for Action:** N/A

**Submitting Department:** Fire

**Contact Name and Phone Number:**

Mark Nelson, Fire Chief (4220); Karl Kassner, Administrative Officer – (4545); Nancy Renovato, Sr. Administrative Analyst (4513)

**Department Recommendation:**

That City Council reviews the Draft Multi-Hazard Mitigation Plan for future adoption.

**Summary / Background:**

In response to the rising cost of responding and recovering from disasters, the President signed the Disaster Mitigation Act of 2000 on October 30, 2000. The Act encourages cooperation between state and local authorities, tribes, and the community to reduce the effects of disasters. Under the Disaster Mitigation Act, states and local governments must have an approved, adopted hazard mitigation plan in place to be eligible for disaster assistance.

In 2010, the City of Visalia was invited to be part of a steering/planning committee to assist in the planning process of a Draft Hazard Mitigation Plan (HMP) with Tulare County Office of Emergency Services (OES) as the lead Agency. Other agencies included in the committee were the Cities of Tulare, Dinuba, Porterville, Exeter, Farmersville, the Tule River Tribe, Army Corps of Engineers, Kaweah Delta Healthcare District, and the Red Cross. Since then, the committee has worked together on formulating a draft plan. Monthly planning meetings were held with representatives from Visalia Police Department, Visalia Fire Department, and Visalia Engineering Department attending meetings. These staff members were Jason Salazar, Karl Kassner, and Doug Damko who also performed hours of analysis during this process.

Hazard Mitigation

“Hazard Mitigation” is the process of reduce or eliminating long-term risks caused by disaster or man-made hazards. The HMP analyzes a wide range of potential natural and man-made hazards, and prioritizes future projects that will reduce damage and impacts from disasters, including:

**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.): 15

**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.

- Significantly reduce life loss and injuries.
- Minimize damage to structures and property, as well as disruption of essential services and human activities.
- Protect the environment.
- Promote hazard mitigation as an integrated public policy.

### **General Discussion:**

Although the HMP has been submitted to the Federal Emergency Management Agency (FEMA) for review and approval, the following is an overview of the plan:

#### Hazard Analysis

Staff identified the location, potential extent, and expected severity of hazards. Hazard information is often presented in the form of a map or as digital data that can be used for further analysis. It is important to remember that many hazards are not easily identified, for example, many earthquake faults lie hidden below the earth's surface.

#### Vulnerability Analysis

Once hazards were identified, the next step was to determine who and what is at risk if the hazard event should occur. Natural events such as earthquakes, floods, and fires are called disasters only when there is loss of life or destruction of property. For example, in 2002, Denali, AK, experienced a 7.9 magnitude earthquake that did far less damage than the 6.7 Northridge, CA earthquake of 1994, because there were fewer people and buildings shaken by the Alaskan quake.

#### Capability Analysis

An analysis has been conducted to identify resources available to jurisdictions for hazard mitigation. This includes equipment inventory and available personnel within the organization or contracted by the organization.

#### Mitigation Strategy

The HMP identifies long-term strategies that include planning, policy changes, programs, projects and other activities, as well as implementation. Hazard Mitigation plans should exist at every level including individuals, businesses, state, local, and federal governments.

Hazard mitigation activities should be permanent or long-term and should include the following:

- Land-use planning and regulation of development in hazard zones such as floodplains.
- Development and enforcement of building codes - The Seismic Safety Commission has identified stringent building codes and standards as the primary reason why California has suffered relatively low damages during hazard events.
- Retrofitting structures – this can include activities such as seismic retrofits to reduce damage from earthquakes or elevating buildings in flood-prone areas.
- Removing structures from hazardous areas.
- There are many other types of mitigation activities that can be done by individuals, businesses, and government.

#### Outreach

Public Outreach Workshops were conducted to solicit public input. The workshops took place in Porterville and Dinuba. The City of Visalia hosted a workshop on July 21<sup>st</sup>. In addition to public workshops County OES posted the draft plan onto the County website for public review and comments.

Next Steps

1. The HMP has been submitted to the Federal Emergency Management Agency (FEMA) who is responsible for reviewing and approving the Plan.
2. If the HMP is approved, Tulare County and other plan participants will be eligible to apply for and receive Federal hazard mitigation funds following a disaster, as well as certain types of pre-disaster hazard mitigation funding.
3. Tulare County intends to finalize the Plan by August 2011.
4. Recommended that Council adopt plan through Resolution in September 2011.
5. Plan will be monitored and updated every five years.

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

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

**Alternatives:** N/A

**Attachments:** Power Point Presentation  
Draft Plan

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

I move to accept the report on the Draft Multi-Hazard Mitigation Plan as presented.

***Environmental Assessment Status***

**CEQA Review:**

**NEPA Review:**

# Draft Multi-Hazard Mitigation Plan Review



# Background



# FEMA

Tulare County Office of Emergency Services (OES) has coordinated the preparation of the 2011 Multi-Hazard Mitigation Plan. A Planning Committee comprised of local cities and special interest districts was formed to guide the plans development.







# City Participation

- Visalia steering committee members
  - Danny Wristen, Fire Department
  - Karl Kassner, Fire Department
  - Jason Salazar, Police Department
  
- Visalia planning committee members
  - Karl Kassner, Fire Department
  - Doug Damko, Engineering
  - Jason Salazar, Police Department



# What is Hazard Mitigation?

Hazard mitigation is “any action taken to reduce or eliminate the long-term risk to human life and property from natural hazards”<sup>1</sup>. In California this definition has been expanded to include both natural and man-made hazards.



# Plan Benefit

- Situational awareness
  - Knowing the hazards, vulnerabilities, and capabilities of the City of Visalia.
- Eligibility for grant funds
  - Hazard Mitigation Grant Program
  - Pre-Disaster Mitigation Program
  - Flood Mitigation Assistance Grant Program
  - Repetitive Flood Claims Program
  - Severe Repetitive Loss Program

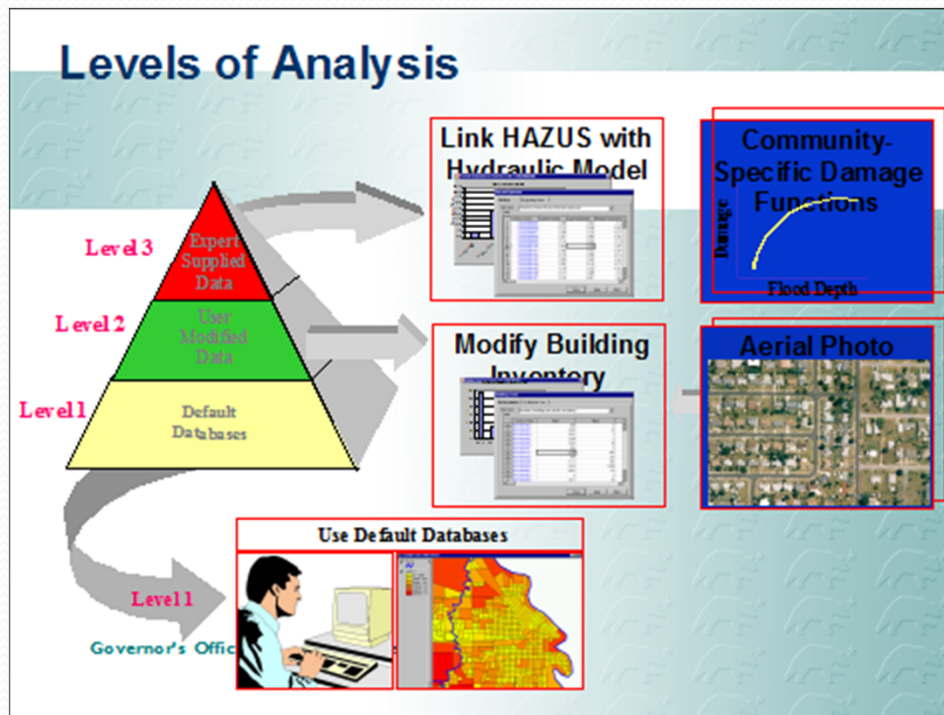
# Planning Process

- Assessments of existing plans, reports and other relevant information
- Conduct hazard analysis
- Conduct vulnerability analysis
- Prepare capability assessment
- Identify mitigation strategies/actions



# Hazard Analysis

- Identify location, potential extent, and expected severity of hazards.



Each hazard was assessed based on its nature, history, extent, and probability of future occurrence.

# Vulnerability Analysis



- Determine who and what would be at risk if the hazard event occurs.
- Vulnerable assets include population, residential building stock, repetitive loss properties, and critical facilities and infrastructure.
- Natural events such as earthquakes, floods, and fires are only called disasters when there is loss of life or destruction of property.

# Capability Analysis

- Human, technical, financial, legal and regulatory resources were identified for each participating jurisdiction.
- City resources identified:
  - Equipment
  - Personnel
  - Funding





# Mitigation Strategy

- Provides a blueprint for reducing potential losses identified in the vulnerability analysis.
- Planning committee identified over two dozen potential mitigation strategies, for example:
  - Seismically retrofit structures
  - Relocate or elevate structures from hazardous areas
  - Upgrade or improve drainage basins, levees, bridges and other facilities
  - Increase participation in the National Flood Insurance Program



# Types of Flood Mitigation Projects

- Elevations & Acquisitions
- Erosion control
- Drainage Improvements
- Planning
- Codes & Standards





# Plan Maintenance

- The Mitigation plan will need to be updated every 5 years through;
  - Annual Review Questionnaires
  - Mitigation Project Progress Reports
  - Annual meetings

**PLAN**

**Plan/update**

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**DO**

**Monitor**

**ACT**

**CHECK**



# Next Steps

- Final draft plan will be submitted to Cal EMA and FEMA for review and approval.
- City Council will need to adopt the Multi-Hazard Mitigation Plan through a Resolution.
- Funding may be sought to implement mitigation projects.
- Continued public outreach and plan maintenance



# Questions



Tulare County Office of  
Emergency Services



## 2011 Tulare County Hazard Mitigation Plan



Initial Draft, May 2011

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| O | City of Woodlake                  |
| P | Tulare County Office of Education |
| Q | Tule River Tribe                  |

## Acronyms

|          |   |
|----------|---|
| ACS      | American Community Survey                             |
| AIDS     | acquired immune deficiency syndrome                   |
| CalARP   | California Accidental Release Prevention (Program)    |
| CalEMA   | California Emergency Management Agency                |
| CalFire  | California Department of Forestry and Fire Protection |
| CDC      | Centers for Disease Control and Prevention            |
| CFR      | Code of Federal Regulations                           |
| County   | Tulare County   |
| CUPA     | Certified Unified Program Agency                      |
| DFIRM    | digital FIRM  |
| DMA 2000 | Disaster Mitigation Act of 2000                       |
| F        | Fahrenheit  |
| FEMA     | Federal Emergency Management Agency                   |
| FIRM     | Flood Insurance Rate Map                              |
| FMA      | Flood Mitigation Assistance                           |
| g        | gravity   |
| GIS      | Geographic Information System                         |
| GWSS     | glass-winged sharpshooter                             |



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|              |   |
|--------------|---|
| HIV          | human immunodeficiency virus  |
| HLB          | huanglongbing   |
| HMGP         | Hazard Mitigation Grant Program   |
| HMP          | hazard mitigation plan  |
| M            | moment magnitude  |
| MMI          | Modified Mercalli Intensity   |
| mph          | mile(s) per hour  |
| MRSA         | methicillin-resistant staphylococcus aureus                             |
| NCDC         | National Climatic Data Center   |
| NFIP         | National Flood Insurance Program  |
| NRC          | National Response Center  |
| NWS          | National Weather Service  |
| OES          | Office of Emergency Services  |
| PDM          | Pre-Disaster Mitigation (Program)                                       |
| PGA          | peak ground acceleration  |
| POC          | Point of contact  |
| RL           | Repetitive Loss   |
| SARS         | severe acute respiratory syndrome                                       |
| SR           | State Route   |
| SRL          | severe repetitive loss  |
| Stafford Act | Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 |
| TB           | tuberculosis  |
| TCOE         | Tulare County Office of Education                                       |
| URS          | URS Corporation   |
| USACE        | U.S. Army Corps of Engineers  |
| USC          | United States Code  |
| USGS         | U.S. Geological Survey  |
| VMB          | vine mealybug   |

## **1.1 OVERVIEW**

This section provides a brief overview of the topic, an introduction to hazard mitigation planning, and an overview of the Disaster Mitigation Act of 2000 (DMA 2000), grant programs with mitigation plan requirements, and plan participants, and a description of the hazard mitigation plan (HMP) that Tulare County (the County) has developed (hereinafter referred to as the 2011 HMP) to assess the risks posed by natural and human-caused hazards and to develop a mitigation strategy to reduce these risks. The County has prepared the 2011 HMP in accordance with the requirements of DMA 2000. The Tulare County Office of Emergency Services (OES) has coordinated the preparation of the 2011 HMP in cooperation with several cities and special districts.

## **1.2 HAZARD MITIGATION PLANNING**

As defined in Title 44 of the Code of Federal Regulations (CFR), Subpart M, Section 206.401, hazard mitigation is “any action taken to reduce or eliminate the long-term risk to human life and property from natural hazards.” As such, hazard mitigation is any work to minimize the impacts of any type of hazard event before it occurs. Hazard mitigation aims to reduce losses from future disasters. It is a process in which hazards are identified and profiled, the people and facilities at risk are analyzed, and mitigation actions to reduce or eliminate hazard risk are developed. The implementation of the mitigation actions, which include both short- and long-term strategies that may involve planning, policy changes, programs, projects, and other activities, is the end result of this process.

## **1.3 DISASTER MITIGATION ACT OF 2000**

In recent years, local hazard mitigation planning has been driven by the federal law known as DMA 2000. On October 30, 2000, Congress passed DMA 2000 (Public Law 106-390); this law amended the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Stafford Act) (Title 42 of the United States Code [USC] Section 5121 et seq.) by repealing the act’s previous mitigation planning section (409) and replacing it with a new mitigation planning section (322). The new section emphasized the need for state, tribal, and local entities to closely coordinate their mitigation planning and implementation efforts. This new section also provided the legal basis for the Federal Emergency Management Agency’s (FEMA’s) mitigation plan requirements for mitigation grant assistance.

To implement these planning requirements, FEMA published an Interim Final Rule in the Federal Register on February 26, 2002 (FEMA 2002) (44 CFR Part 201). The tribal planning requirements were updated in 44 CFR Part 201.7 in 2009. The local and tribal mitigation planning requirements are identified in their appropriate sections throughout the 2011 HMP and in Appendix A, FEMA Crosswalk.

## **1.4 GRANT PROGRAMS WITH MITIGATION PLAN REQUIREMENTS**

Currently, five FEMA grant programs are available to participating jurisdictions that have FEMA-approved HMPs and are members of the National Flood Insurance Program (NFIP). Two of the grant programs are authorized under the Stafford Act and DMA 2000, and the remaining

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

**Agenda Item Number (Assigned by City Clerk):** 3

**Agenda Item Wording:** Downtown street light upgrade status report and authorization to issue a Request for Proposals (RFP) to hire an engineering firm to survey the street light system downtown, design a new lighting system and prepare construction bid documents for construction in phases. Also authorize the Mayor to send a letter to the downtown Property Owners Association requesting them to participate in funding the upgrades to the street light system.

**Deadline for Action:** N/A

**Submitting Department:** Community Development Department

**Contact Name and Phone Number:**

Adam Ennis, Assist. Community Dev. Director, 713-4323  
Andrew Benelli, Public Works Director, 713-4340

**Department Recommendation:** Staff recommends that Council accept this update and authorize the City Manager to issue a Request for Proposals to hire an engineering consultant to survey the street light system downtown, design a new lighting system and prepare construction bid documents for construction in phases. Also authorize the Mayor to send a letter to the downtown Property Owners Association requesting them to participate in funding the upgrades to the street light system.

**Summary:** Much of the street light system in Downtown Visalia was installed in 1938 and is currently in very poor condition and should be replaced. The City owns and maintains 225 street lights on seven separate circuits in the area between Willis Street, Edison Street, Mineral King Avenue and Oak Avenue. The existing City owned system could be abandoned and the City could contract with Southern California Edison (SCE) to supply street lighting in these areas. However, the maintenance and operation costs of this option would be much more expensive and, due to SCE policies for street lights owned by them, would reduce the options available for pole type, lighting fixture type, and amenities that could be added to the street light system.

The approximate operations and maintenance cost of the existing system is \$130,000 per year. If a new system were installed and operated by the City, the approximate annual cost would be \$34,000.00 and under Southern California Edison ownership this cost would be \$46,000 per year. The savings in the annual operating and maintenance costs could be used to finance a portion of the construction costs of the new system.

**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.):\_\_15

**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.

In 2006, the downtown property owners (PBID) hired Rose Sing Electrical Engineers to prepare an electrical design for new lights downtown. However, Rose Sing was not contracted to prepare civil plans, specifications or bid documents for a publicly bid project. Staff recommends hiring a civil engineering firm to further develop Rose Sing's electrical plans to a level that would allow the City to solicit bids from contractors and replace the lighting system in phases. Construction of the project will probably need to be phased due to construction funding availability. Staff recommends having the design for the entire system completed even though construction of some phases may be delayed several years.

There is currently \$400,000 allocated in a Capital Improvement Program Fund to improve the downtown street lights. That funding could be used to produce bid documents for all phases of the project. Since much of the electrical design work has been completed by Rose Sing, staff estimates that design and contract document costs will be less than the \$400,000 available for this work.

This work could be completed over the next six months and provide "shovel ready" documents so the City could take advantage of any future construction funding opportunities.

**Background:** Much of the street light system in Downtown Visalia was installed in 1938. It is in very poor condition and should be replaced. The City owns and maintains 225 street lights in the area between Willis, Santa Fe, Mineral King and Oak. The lights are located on Center, Main, and Acequia and on some of the north / south streets. The system is wired in series so any short circuits result in the lights on several blocks failing. Repairs have to be coordinated with Edison and sometimes take several weeks or longer. Modern street lights are wired so that short circuits only impact a single fixture and repairs can typically be completed quickly.

The existing City owned system could be abandoned and the City could contract with Southern California Edison (SCE) to supply street lighting in these areas. However, the maintenance and operation costs of this option would be much more expensive and, due to SCE policies for street lights owned by them, would reduce the options available for pole type, lighting fixture type, and amenities that could be added to the street light system. The current system costs the City approximately \$130,000 per year. It is estimated that the operation and maintenance cost of a new system under City ownership would be about \$34,000 per year versus SCE owning the new system with a cost of about \$46,000 per year. The savings in the annual operating and maintenance costs could be used to finance a portion of the construction costs of the new system.

In 2006, the downtown property owners (PBID) hired Rose Sing Electrical Engineers to prepare an electrical design for new lights downtown. Rose Sing prepared an electrical design and a wiring schematic for new lights. They also established minimum lumination thresholds and determined the amount of lights needed. Rose Sing was not hired to prepare civil plans, specifications or bid documents for a publicly bid project. Staff recommends hiring a civil engineering firm to further develop Rose Sing's electrical plans to a level that would allow the City to solicit bids from contractors in phases. The project will probably need to be phased due to construction funding availability. The current system has seven different circuits and the new system would probably also have several circuits which could be divided up into separate construction phases. Staff would recommend completing design of the entire system even though some of the construction may be delayed several years. It will be more cost effective to edit and freshen the plans in the future than to have each phase of the project designed at different times.

There is currently \$400,000 allocated in a CIP fund to improve the downtown street lights. The allocation consists of \$200,000 in prior year RDA funds and \$200,000 in Gas Tax funds spread over

the next two years. Rose Sing estimated that the construction replacement cost would be \$4,480,500. This is about \$20,000 per light, which seems to be higher than typical. In the Rose Sing design some of the light poles were to have 110-volt receptacles for Christmas decorations and street fairs. The lights on Main Street were also planned to have a PA system for music and announcements. These additional items probably caused the price to be higher. Since the receptacles and PA system would be primarily for downtown events and uses, staff recommends that the Mayor send a letter to the downtown Property Owners Association requesting them to participate in funding these upgrades to the street light system. Engineering design costs are generally about ten percent of the construction cost. However, much of the electrical design work has been completed by Rose Sing. Staff estimates that design and construction document costs will be less than the \$400,000 available for this work.

The City submitted a Transportation Enhancement (TE) Grant to TCAG that requested funds to replace the street light system downtown. The grant was ranked and scored by TCAG as a project that could potentially receive funding. TCAG staff indicated before the submittal that street lighting for pedestrian corridors was an eligible project. However, Caltrans determined that replacing the downtown street lights is a maintenance issue and provided primarily street traffic lighting rather than pedestrian corridor lighting and that TE funds could not be used. Farmersville also submitted a street lighting project and has been notified that their project is not eligible.

A power consumption study needs to be performed as part of the design services. Several different light fixtures and lamps should be analyzed for their ability to illuminate the street. A cost benefit analysis should be performed comparing, solar lighting, LEDs and other more conventional light fixtures.

**Committee/Commission Review and Actions:**

**Alternatives:** Do not authorize the City Manager to issue a Request for Proposals.

**Attachments:** Exhibit #1 - Street Light Location Map Showing Seven Existing Circuits.

**Recommended Motion (and Alternative Motions if expected):** Authorize the City Manager to issue a Request for Proposals to retain an engineering consulting firm to survey the street light system downtown, design a new lighting system and prepare construction bid documents for construction in phases. Also authorize the Mayor to send a letter to the downtown Property Owners Association requesting them to participate in funding the upgrades to the street light system.

***Environmental Assessment Status***

**CEQA Review:**

**NEPA Review:**

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

Copies of this report have been provided to:

## City of Visalia Agenda Item Transmittal

**Meeting Date:** August 1, 2011

**Agenda Item Number (Assigned by City Clerk):** 4

**Agenda Item Wording:** Update on Animal Control Facility Design

**Deadline for Action:** N/A

**Submitting Department:** Administration

**Contact Name and Phone Number:** Mario Cifuentez, 713-4480

**Department Recommendation:** Staff recommends that Council receive this report on the status of the Animal Control Shelter design.

**Summary/background:**

### Recent Project Milestones

Staff understands that, from a public perception standpoint, there appears to have been lengthy delays in this project, and staff understands the frustration with the timeline. However, animal control is often a difficult situation for cities to deal with, especially in these difficult economic times. In fact, Visalia is currently the only City in the County that has an animal control facility within its City limits. All other cities either contract with Visalia or another City, or lease a facility outside their City limits. For many years, the Visalia City Council has expressed strong support for a new facility that would provide for better care for the animals, and a better working environment for the employees and volunteers. Even with this strong support, there have been challenges, not the least of which is the economy. Therefore, staff felt that it would be appropriate to start with a timeline of actions and events that recaps the process to date. The timeline below just lists milestones that have occurred along the way since the current location was chosen in December 2008.

- December 4, 2008 – Council approved the selection of the current ACF location at the Visalia Airport
- April 23, 2009 – The ACF Subcommittee authorized Staff to prepare and forward to the City Council an RFQ for a 17,250 sq. ft. campus-style facility.
- June 15, 2009 – Council postpones the release of the Request for Qualifications (RFQ) for design services for six months over concerns about the City's budget and revenue projections.

### **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.): 15

### **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.

- October 19, 2009 – With the understanding that Council might not yet award the contract due to budgetary concerns, Council authorizes the release of an RFP for Architectural Design of the new Animal Control Facility.
- December 2009 – The City issued RFP #09-10-23 Animal Control Facility Design
- April 19, 2010 – Council authorized the award of contract for architectural design of a JOINT facility with the VOSPCA, contingent on a signed MOU and financing plan being approved.
- July 12, 2010 – Amid concerns that a 3 year plan for fundraising, by the VOSPCA, would delay the design and construction project, Council authorized staff to move forward with the design of the City's portion of a new campus style Animal Control Facility.
- September 21, 2010 – The City executed a contract for design of the new ACF and work began on the project.

Prior to the previously mentioned Milestones, the City had originally designated the current site as the location for the current shelter. However, the initial design phase commenced in 2007 prior to the release of the new FEMA flood maps. Once work began on the site analysis for the project in that location, it was determined that the entire project would have to be raised several feet to comply with minimum flood elevations required in that area. That requirement virtually rendered the project unfeasible in that location.

Once the current location was ruled out as an option, the City chose an alternate airport site out of the flood plain and hoped to construct the new facility at the Southwest corner of Walnut and Aviation, but the threat of a lawsuit by an adjacent landowner led Council to direct staff to consider an alternate sites. While analyzing various sites around the City, staff spent over a year meeting with community groups in an effort to determine an alternate location for the new facility. At each proposed location, the proposed site was met with opposition from adjacent property owners. During this time, the new FEMA flood maps, which removed most of the airport property from the flood plain, were released and once again made the existing site viable. Consequently, the decision was made to build the new facility, in its originally proposed location, adjacent to the current location.

### **Conceptual Design Concepts**

In early 2010, there were several months of delays in the project as the City and VOSPCA wrestled with concept of a joint facility vs. campus layout. VOSPCA leadership presented the concept of a Joint facility and the City was agreeable on building a joint animal control/adoption facility. Consequently, on April 19, 2010, the City Council authorized the award of contract to WLC Architects for the design of a new Animal Control Facility, so long as the VOSPCA could make a financial contribution towards the facility and an MOU could be reached. As the City and the VOSPCA began to discuss the timelines for the design and construction phases of the total project, it became apparent that the VOSPCA would need considerably more time to raise the funds necessary to contribute to their portion of the project. Council representatives to the ACF Subcommittee reviewed the Capital campaign developed by the VOSPCA at that time and that plan detailed a 3-5 year program for raising the funds to build their portion of the facility. The City realized that it could not delay the construction of a new animal shelter, for animal control, for that length of time and on July 12, 2010, Council authorized staff to move forward with construction of the City only portion utilizing a campus design.

This approach separates the City's legally mandated animal control functions pursuant to the State Health and Safety Code from those of the animal adoption and education outreach programs of the VOSPCA. Under the campus approach, the City ACF will function primarily as



a lost and stray animal facility. As such, its purpose is to facilitate animal control officer functions, vicious and quarantine holds for public safety, administrative services such as licensing, and kenneling for lost animals and strays prior to being reunited with their owners or relinquished to the VOSPCA for adoption.

The VOSPCA building, to be funded with private funds to be raised by the non-profit, will be constructed immediately south of the new City Animal Control Facility at a later date and will focus on owner-surrenders, adoption, voluntary spay/neutering, education, advocacy and outreach, and VOSPCA organizational activities not directly related to its service contract with the City. The VOSPCA has yet to begin design of their facility and no timeline is currently available for their project. While the VOSPCA does a great job of fundraising, the current economic times have had as much of an impact on non-profits as it has for the City. Since the draft Capital Campaign was released last year, the bulk of their fundraising efforts have gone towards funding day to day operations of the non-profit. In these times, fundraising has been more an activity for sustainability for them, rather a focus on building development.

### **Budgetary Concerns**

Lastly, one important element that persists throughout the timeline is the concern for the City's budget and how to fund this project given the declining revenues and reserves. While staff has been diligent in reviewing the proposed elements of the project, the City has had no control over the economy. The City's fiscal situation has continued to deteriorate since 2007 when work on the project began in earnest. There are significant concerns about the overall projected cost of the project in economic times where Council has not been able to adopt a budget without significant cuts and the use of reserves for four years. Staff's goal has been to assure Council that we are designing a shelter that is functional, focuses on animal health and care, and is inviting to the public. Staff has visited multiple shelters that were recently constructed and compared the per square foot cost to confirm that we are meeting that goal. Additionally, staff has worked with the design architect to review options, including but not limited to:

- Phasing of the project by constructing intake and animal care areas first and using trailers for administrative areas until more funding is available. Additionally, revisions to the layout would allow for phasing of all elements, including various kennel types
- Shifting the location of the new facility further to the south to allow for the continued use of existing kennels for feral cats and dogs that have little to no chance of being adopted.

The current Estimate of Project costs details approximately \$6 million in hard construction costs. With the addition of design and other soft costs, the total cost for the project is in fact currently estimated to be approximately \$7 million. At this point, it's important to remind Council that the current project design and corresponding estimate is for a facility that not only serves the citizens of the City of Visalia, but also those in the Cities of Tulare, Dinuba, Farmersville and Exeter.

The current program design would accommodate an average of 15,000 animals interred at the shelter each year. Of that total, only roughly two thirds of the animals are from the City of Visalia. The remaining animals, and the responsibility for them, are attributable to the remaining cities. In the past, aside from a one-time contribution from one City, the City of Visalia has generally not asked Cities that are using the current animal control facility to pay anything towards the capital investment or maintenance of the existing facility. The VOSPCA currently charges each agency, that uses the facility, a fee for handling and holding the animals, but that fee is strictly for the VOSPCA services and up until now, has not included any costs for using

the facility. Historically, the costs have been relatively low and Visalia has absorbed those costs.

As previously stated, these tough economic times have dictated that we, as the City, take a look at the way we conduct all of our operations. In doing so, through development of this design, it has become apparent that, prior to construction of the new shelter, we will have to have a financial commitment from the other Cities that are using the facility or we will modify the size of the facility to accommodate those Cities that are willing to partner with us.

The proposed facility incorporates a kennel design that could be considered “modular” in the sense that they can be constructed as part of the initial construction or at a later date if funding does not allow full construction and the project must be phased. Additionally, they can be expanded to accommodate more animals, should the need arise. There are three (3) separate kennel wards, including the Isolation/Quarantine kennels. This design also allows the kennel wards to be constructed in phases or bid as alternates, which will allow the City to determine which alternates, can be included in the first phase of construction. The kennel wards range in cost from \$600,000 to \$900,000 depending on the purpose and programmed size of that particular ward. By constructing just the intake and administrative areas first, the City could construct a first phase and save approximately \$2 million off of the project estimate.

While the actual per square foot cost of the kennels would suggest that more savings could be achieved, phasing of the project adds an additional percentage of the costs onto the project because of mobilization and some demolition required for the future phases. Should Council decide to construct the project in phases, a portion of the existing kennels can be used to house some stray animals in the interim.

### **Recent Project Activity and Next Steps**

On February 15, 2011, the Animal Control Facility Subcommittee held the “kick off” meeting for the design of the new City of Visalia Animal Control Facility. At the outset of this project, the City Council approved the formation of an ACF subcommittee to review matters relating to the construction of a new animal control facility and make recommendations to the Council. The subcommittee is comprised of 2 council members, a VOSPCA representative, and several City staff members. At the time that the subcommittee was formed, the 2 appointed council members were Mayor Link and Vice-mayor Shuklian. Since that time, Councilmember Nelsen has replaced Mayor Link on the subcommittee.

Between the time that work commenced on the project in September 2010, up to that “kick-off” meeting, it would appear that there were many months of no activity. However, prior to beginning the design of the facility, WLC Architects had to complete the Pre-Design Phase of the project. That first phase consisted of the programming, space planning and building analysis phase, which documented all the programmatic requirements for component spaces. As part of that phase, they also reviewed and analyzed the existing site conditions and completed the following tasks:

1. Data Collection:

WLC collected data from both VOSPCA and City staffing on current and projected staffing levels, animal intake and dispositions, and local animal population trends to determine what the long term needs would be. Additionally they documented all specialized areas of the facilities by function, size, equipment and furniture requirements.

## 2. Facility Projections:

Utilizing the City's historical data for types and quantities of animals housed, WLC completed what amounted to a "mini" Needs Assessment. The City of Visalia had previously had a needs assessment completed by a different firm, but the growth of local animal populations has already far exceeded those levels proposed in the needs assessment for the year 2015. Consequently, the data contained in the old assessment could not be used to facility size projections.

## 3. Space Standards:

WLC worked closely with the appropriate City and Shelter staff to determine space standards, kennel and cage sizes, equipment standards, furniture standards, inventory of existing furniture and equipment to be reused, and telephone and computer specifications. This was a critical part of the pre-design phase in that it required all staff to take a look at the way operations were conducted and determine what was the most efficient use of space for their particular function. The goal of the entire project has and will continue to be that the City provides a new, state of the art facility that focuses on animal care and welfare, but keeps areas for animal control staff and the public to the minimum necessary to conduct operations.

## 4. Environmental Analysis:

WLC has already selected a firm to perform the Geotechnical studies and that work is underway. Prior to that work commencing, City staff conducted all of the topographic surveys of the new site.

## 5. Physical Aspects

As part of this task, WLC documented the physical aspects of each area within the current facility and the proposed facility with regard to their interior and exterior elements such as lighting, electrical, air conditioning/heating, all site improvements and specialized finishes.

## 6. Program

Based upon the analysis of all of the above listed information, they prepared a written space program, which was presented to the Subcommittee at the kick-off meeting, to review and amend in order to establish a base from which to develop the Schematic Design Phase.

Based on the feedback received from the kick-off meeting, the design firm was able to reduce the square footage allotted for many shelter functions. Additionally, the decision was made to move away from the concept of individual office space and design more open, convertible space that can be furnished with partitions and broaden functionality. With all of the information provided to the Design Architect, they were able to develop the attached Proposed Building Program and Initial Block Diagram. Further review of those diagrams and input from various staff and subcommittee members has led to the creation of the attached site layout and proposed site diagram.

At the most recent Subcommittee meeting, held on July 18, 2011, subcommittee members reviewed the above referenced diagrams, considered several options for phasing of shelter construction and gave input on options for continued utilization of existing space. The subcommittee stated a preference for convertible space, meaning space that can be used for kenneling in the short term, but can easily be converted to open communal type space in the future. The subcommittee was satisfied that the current program schematic met the needs of the City and contains all of the basic requirements for animal control. As such, they directed WLC architects to take the program design to the next level and move onto the Schematic Design Phase. That phase will use the approved program to create the Schematic Floor plan and exterior building elevations, which will be submitted to the subcommittee for review and ultimately to Council for approval prior to beginning construction documents.

Based on the attached project schedule, the Subcommittee will meet again in late August or early September as part of the site analysis phase and Council can expect to see the project back before them in October. As previously mentioned, the recent direction of the ACF subcommittee will allow the architect to develop a detailed floor plan, proposed exterior elevations and full details on construction phasing. Once the project is brought back to Council in October, Council will be asked to give final direction on the layout as well as approve funding of the project based on the incorporated design elements and phasing.

**Prior Council/Board Actions:**

April 19, 2010 – Council awarded the contract for design of a new Animal Control Facility to WLC Architects.

**Committee/Commission Review and Actions:**

The ACF Subcommittee has provided direction to the architect in order to develop the current program schematic and directed WLC to commence work on the Design Phase.

**Alternatives:**

**Attachments:** Proposed Building Program, Initial Block Diagram, Site Diagram, Phased Site Layout, Updated Project Schedule, Updated Estimate of Project Cost

**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:

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

**Agenda Item Number (Assigned by City Clerk):** 5

**Agenda Item Wording:** Accept presentation "Analyzing Visalia's General Fund".

**Deadline for Action:** None

**Submitting Department:** Administrative Services - Finance

**Contact Name and Phone Number:**

|  |          |
|--|----------|
| Eric Frost, Administrative Services Director | 713-4474 |
| Renee Nagel, Finance Manager                 | 713-4475 |

**Summary/background:**

Staff has prepared a presentation that analyzes the City's General Fund. The presentation compares Visalia's major revenue sources to cities in Tulare County.

The attached presentation will show the following five key points about the General Fund:

1. Perception: Visalia has more money than other communities.  
Reality: Visalia has less money per capita than other communities.
2. Other governments have a broader tax base:
  - Higher property tax share
  - Utility Users Tax
  - Higher sales tax override
3. Sales Tax can be improved, but is not the answer to make Visalia's tax revenues equal to other communities.
4. Other Governments spend more per capita than Visalia.
5. Citizens pay large amounts in taxes (22 – 25% of income); however, local governments only get 1-3% to provide services.

**For action by:**

City Council  
 Redev. Agency Bd.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

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

**Review:**

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

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

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

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

***Recommended Motion: Accept presentation “Analyzing Visalia’s General Fund”.***

***Environmental Assessment Status***

**CEQA Review:**

**NEPA Review:**

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

Copies of this report have been provided to:

# City of Visalia

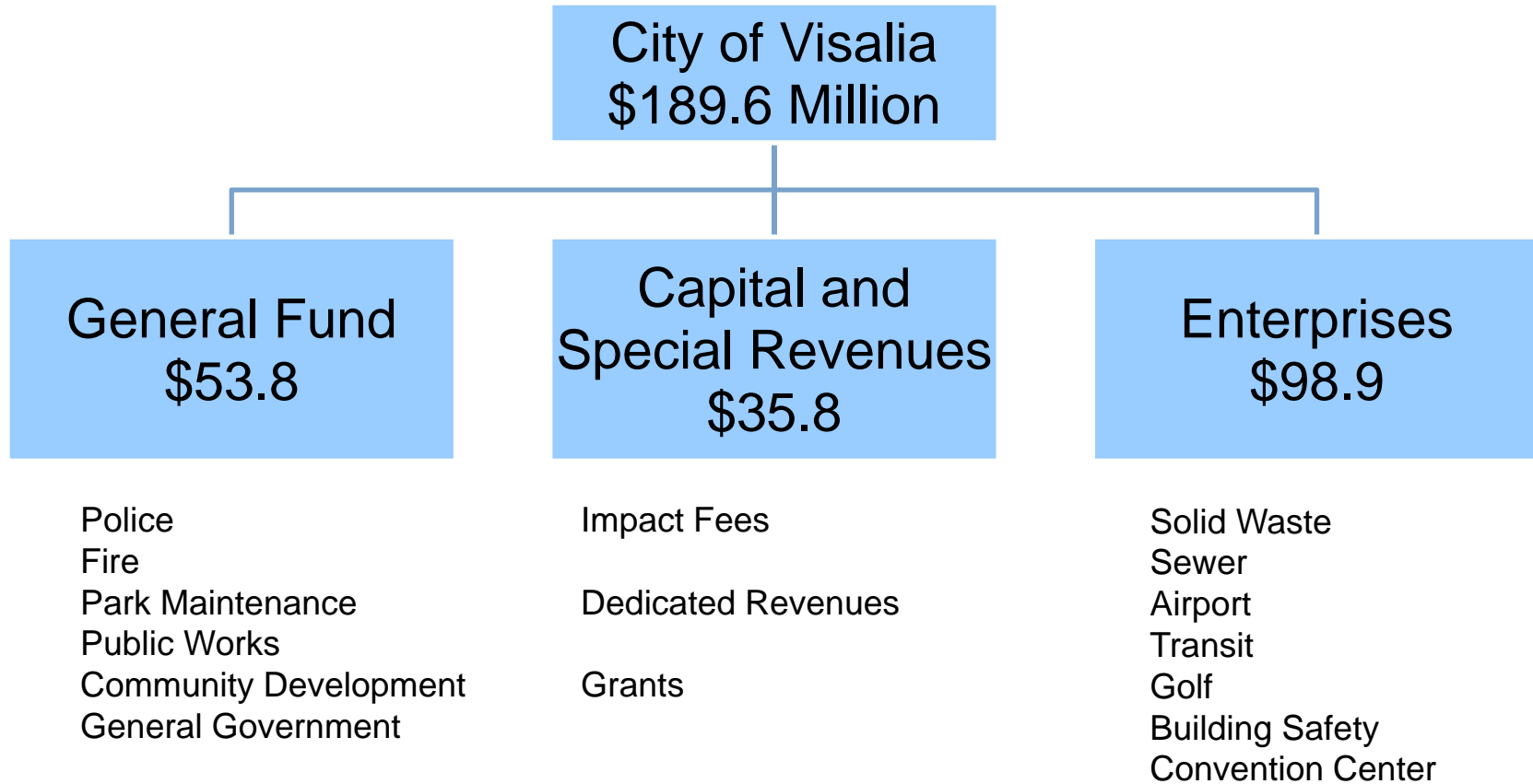
Analyzing Visalia's General  
Fund



# Discussion Points

- Perception of Visalia's revenues differ from reality.
- Other governments have a broader tax base:
  - Higher property tax share
  - Utility Users Tax
  - Higher sales tax override
- Sales Tax can be improved, but is not the answer.
- Other Governments spending more per capita than Visalia.
- Citizens pay large amounts in taxes; however local governments only get a small % to provide services.

# FY 10/11 Budget Projection



Note: Internal Service Funds are \$1m and Debt Service is \$0.1

# General Fund – Governmental Operations For FY 10/11



## Revenues

|                       |               |            |
|-----------------------|---------------|------------|
| Sales Tax             | \$19.2        | 37%        |
| Property Tax          | <u>18.0</u>   | <u>35%</u> |
| <b>Subtotal</b>       | <b>\$37.2</b> | <b>72%</b> |
| Business License      | 2.2           | 4%         |
| Transit Occupancy Tax | 1.9           | 4%         |
| All Other             | <u>10.2</u>   | 20%        |
| <b>Total</b>          | <b>\$51.5</b> |            |

## Expenditures

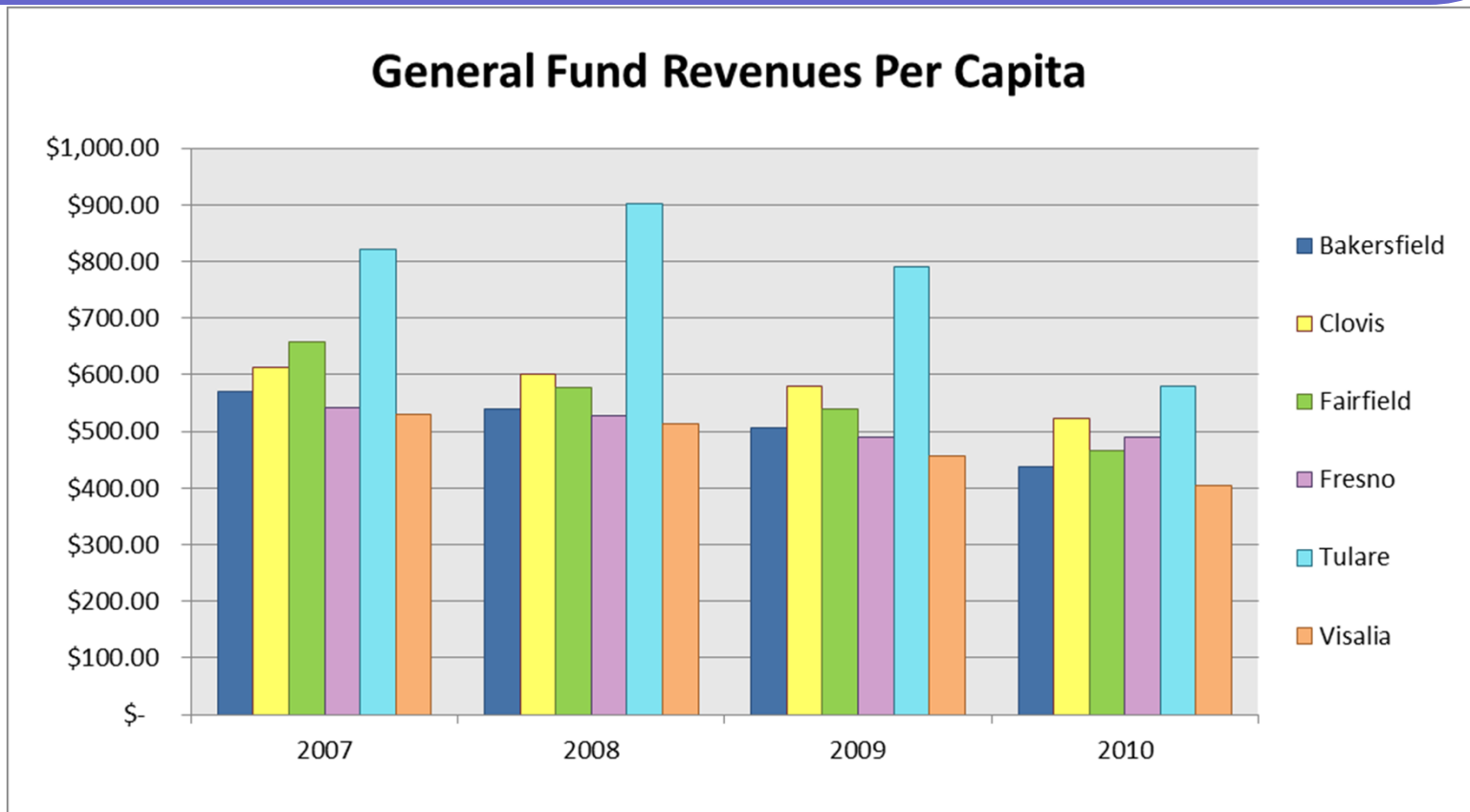
|                 |               |     |
|-----------------|---------------|-----|
| Police          | \$25.1        | 51% |
| Fire            | 11.5          | 23% |
| Park and Rec    | 9.0           | 18% |
| All Other       | <u>4.0</u>    | 8%  |
| <b>Subtotal</b> | <b>\$49.6</b> |     |

Note: Operating expenses does not include CIP of \$.08m and Inter-fund Transfers of \$3.4m.

# General Fund Major Revenues/Expenditures

- 72% of revenues are generated from Sales Tax & Property Tax.
  - Sales Tax      \$19.2 million
  - Property Tax    \$18.0 million
  
- 74% of operating expenditures is for Public Safety.
  - Police            \$25.1 million
  - Fire              \$11.5 million

# General Fund Revenues Per Capita



Visalia's General Fund Revenues Per capita is less than other governments.

# Visalia's Tax Base is more narrow

| Cities in Tulare County |                                     |                   |                       |                           |             |
|-------------------------|-------------------------------------|-------------------|-----------------------|---------------------------|-------------|
| Tax Basis               |                                     |                   |                       |                           |             |
|                         | Share of 1%<br>Property Tax<br>Rate | Sales Tax<br>Rate | Sales Tax<br>Override | Utility Users<br>Tax Rate | TOT tax     |
| Dinuba                  | 18.79%                              | 9.50%             | 1.25%                 | 7%                        | 10%         |
| Exeter                  | 15.32%                              | 8.75%             | 0.50%                 | 5%                        | 4%          |
| Farmersville            | 11.81%                              | 9.25%             | 1.00%                 | <u>None</u>               | <u>None</u> |
| Lindsay                 | 14.79%                              | 8.75%             | 0.50%                 | 6%                        | 15%         |
| Porterville             | 11.80%                              | 9.25%             | 1.00%                 | 6%                        | 8%          |
| Tulare                  | 14.09%                              | 9.25%             | 1.00%                 | 6%                        | 10%         |
| Visalia                 | <u>11.57%</u>                       | <u>9.00%</u>      | 0.75%                 | <u>None</u>               | 10%         |
| Woodlake                | 15.76%                              | 8.75%             | 0.50%                 | 6%                        | <u>None</u> |

# Cost of Living Comparison

## Tax Burden For Family of 3

|                                   | Visalia          | Tulare           |
|-----------------------------------|------------------|------------------|
| Ave. Median Income <sup>(1)</sup> | 60,700           | 46,000           |
| Median Home Value <sup>(1)</sup>  | 240,700          | 213,000          |
| Income Taxes                      | 8,829            | 6,629            |
| Property Taxes                    | 2,407            | 2,130            |
| Property Tax Override (Bonds)*    | 174              | 377              |
| Sales Tax**                       | 1,763            | 1,351            |
| Utilities (Sewer & SW)            | 492              | 720              |
| Utility Users Tax***              | -                | 374              |
| <b>Tax Burden</b>                 | <b>\$ 13,665</b> | <b>\$ 11,582</b> |
| <b>Percent of Income</b>          | <b>22.5%</b>     | <b>25.2%</b>     |

|                               | Visalia          | Tulare           |
|-------------------------------|------------------|------------------|
| <b>Tax Burden</b>             | <b>\$ 13,665</b> | <b>\$ 11,582</b> |
| <b>Taxes Received by City</b> |                  |                  |
| Property Tax Portion          | 278              | 300              |
| Property Tax Override (Bonds) | 174              | 377              |
| Sales Tax Portion             | 196              | 146              |
| Sales Tax Override**          | 147              | 146              |
| Utility Users Tax Rate        | -                | 374              |
| <b>Total</b>                  | <b>\$ 795</b>    | <b>\$ 1,344</b>  |
| <b>Percent of Income</b>      | <b>1.3%</b>      | <b>2.9%</b>      |
| <b>Percent of Taxes</b>       | <b>5.8%</b>      | <b>11.6%</b>     |

### 40,000 Household Comparison

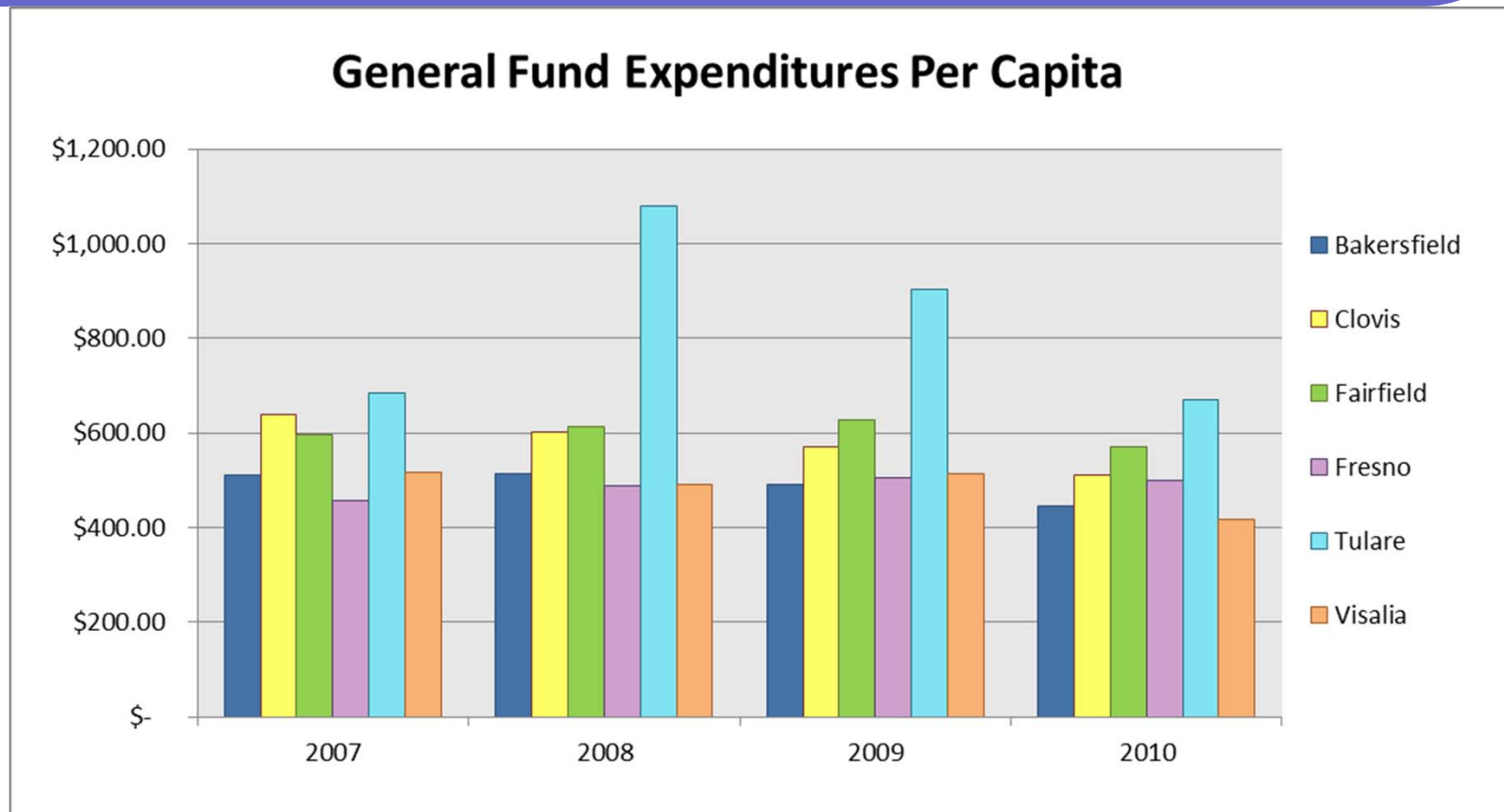
| Revenue                | Visalia       | Tulare        | Difference    |
|------------------------|---------------|---------------|---------------|
| Taxes received by City | \$ 31,798,358 | \$ 53,762,028 | \$ 21,963,670 |

# Cost of Living Comparison

- Average Visalia family pays 22.5% of their income in taxes.
  - 1.3% actually goes for local services.
- Visalia receives 5.8% in taxes from the average family.
  - Tulare receives 11.6%.
- Visalia would receive \$22 million more General Fund dollars (40% of the General Fund), if Visalia had the same tax rate as Tulare.
  - Higher property tax share
  - Utility Users Tax
  - Higher sales Tax over-ride

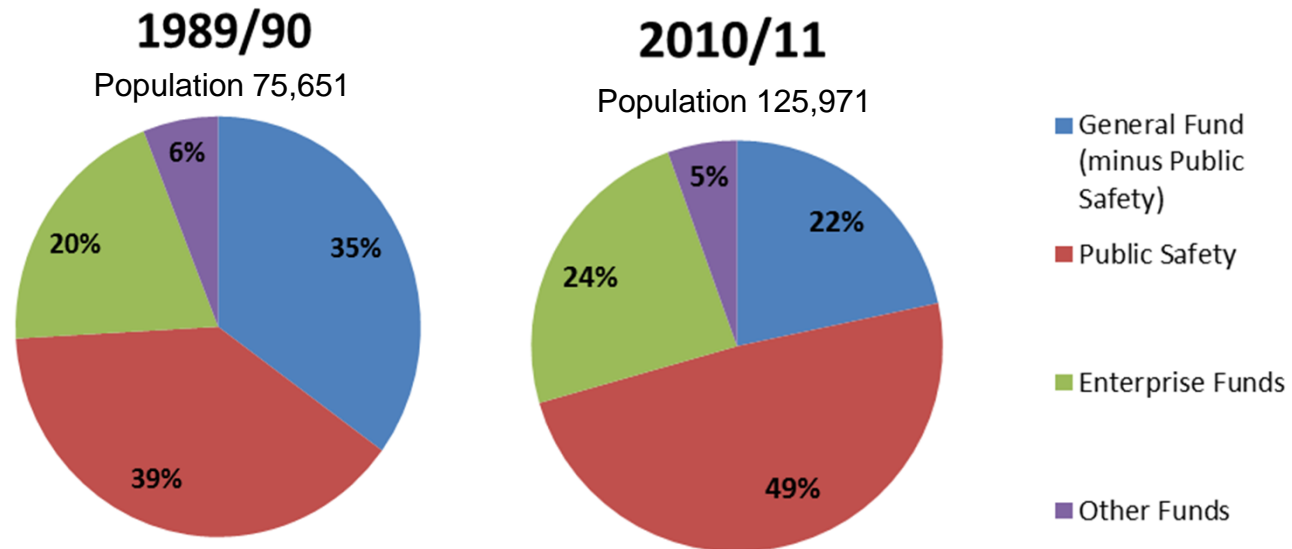


# General Fund Expenditures Per Capita



Visalia's General Fund spends less per capita than other cities.

# Allocated Positions

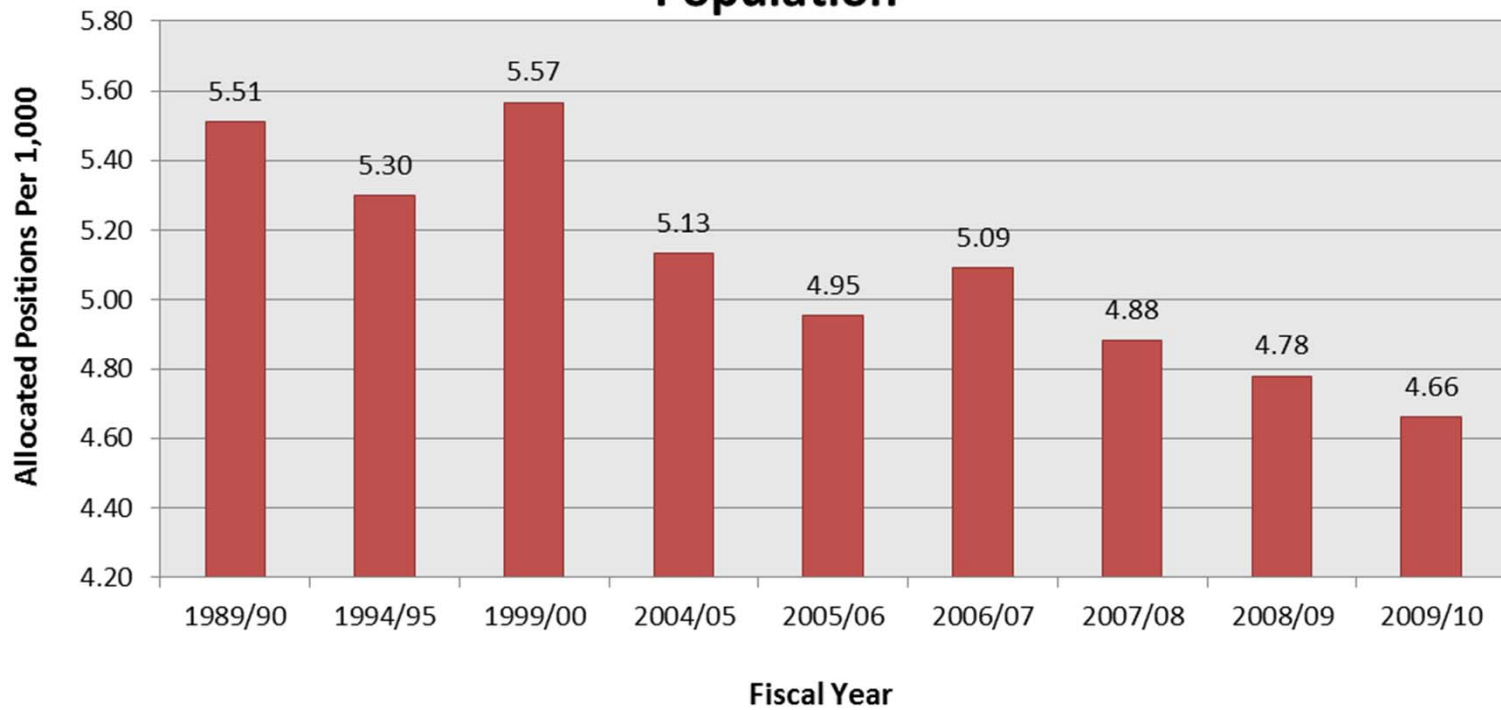


## Change from 1989/90 to 2010/11

- General Fund non-public safety allocated positions decreased 35% to 22% (146 positions to 119 positions).
- Public Safety allocated positions increased 39% to 49%.
- Enterprise and other positions about the same.

# Allocated Positions

**Allocated Positions (All Funds) Per Thousand Population**



# Top 5 items to remember about Visalia's General Fund

1) Perception: Visalia has more money than other communities.

Reality: Visalia has less money per capita than other communities.

2) Other governments have a broader tax base:

- ❑ Higher property tax share
- ❑ Utility Users Tax
- ❑ Higher sales tax override

## Top 5 items to remember about Visalia's General Fund (cont)

- 3) Sales Tax can improve, but is not the answer to make Visalia's tax revenues equal to other communities.
- 4) Other Governments spend more per capita than Visalia.
- 5) Citizens pay large amounts in taxes (22 – 25% of income); however, local governments only get 1-3% to provide services.

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Resolution determining unpaid assessments, providing for bond issuance and guaranteeing purchase of bonds for Orchard Walk East and West Undergrounding Utilities Assessment District.

**Deadline for Action:** August 1, 2011

**Submitting Department:** Community Development and Administrative Services

**Contact Name and Phone Number:** Eric Frost, x4474

**Department Recommendation:** That the following actions take place:

1. Adopt a resolution providing for issuance of bonds for unpaid assessments for the Orchard Walk East and West Undergrounding Utilities Assessment District; and,
2. Authorize the City to guarantee the purchase of the Orchard Walk East and West Undergrounding Utilities Assessment bonds for the amount of \$675,000 to be paid back over 15 years at 6.75%.

**Summary/background:**

Donahue/Schriber developed the Orchard Walk East/West commercial shopping center on Dinuba Boulevard (SR-63) between Riggan 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.

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. The report describes the project, process, affected parcels and estimated costs.

**For action by:**

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

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

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

**Review:**

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

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

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

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

The City Council at their April 18, 2011 meeting authorized the balloting of affected parcels for the assessment. At the June 6, 2011 meeting, Council conducted a public hearing and approved the assessment. At the Council's June 20, 2011 meeting, the Council authorized the purchase of the 15 year assessment bonds to be placed in the City's investment portfolio.

The action before Council is to authorize the terms of the bond sale and execute the purchase guarantee. The purchase guarantee states how the bonds will be sold and the City's responsibilities in selling the bond. Because the City has agreed to purchase the bonds, the sale is assured. However, the form of the sale leaves the assessment district bond intact, which would allow the City to resell the bond, if it ever chose to.

**Prior Council/Board Actions:** Council approved the balloting of this district on April 18, 2011. On June 6, 2011, Council conducted a hearing, counted ballots and approved the district's assessment.

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:** #1 Robert M. Haight, Bond Attorney, explanation letter  
#2 Unpaid Assessment Resolution and Purchase Guarantee

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

I move to adopt the resolution determining unpaid assessments, providing for the issuance of the Orchard Walk East and West Underground Utilities Assessment Bonds and approving the form of the purchase guarantee.

***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:



RESOLUTION NO. \_2011-39

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA DETERMINING UNPAID ASSESSMENTS, PROVIDING FOR THE ISSUANCE OF BONDS PURSUANT TO THE "IMPROVEMENT BOND ACT OF 1915" AND APPROVING THE FORM OF PURCHASE GUARANTEE

ORCHARD WALK EAST AND WEST UNDERGROUNDING UTILITIES ASSESSMENT DISTRICT

WHEREAS, the City Council (the "Council") of the City of Visalia, California (the "City") has heretofore undertaken proceedings pursuant to the "Municipal Improvement Act of 1913," being Division 12 of the Streets and Highways Code of the State of California;

WHEREAS, this Council has authority to issue Bond upon the unpaid assessments levied upon lands within a special assessment district described in Resolution of Intention No. 2009-49, adopted October 19, 2009 (the "Resolution of Intention"), for the reimbursement of improvements, said special assessment district known and designated as ORCHARD WALK EAST AND WEST UNDERGROUNDING UTILITIES ASSESSMENT DISTRICT (hereinafter referred to as the "Assessment District");

WHEREAS, said proceedings provided for the issuance of Bond pursuant to the "Improvement Bond Act of 1915," being Division 10 of the Streets and Highways Code of the State of California, and it is necessary to establish terms and provisions of such issuance; and,

WHEREAS, a notice of the assessment has been recorded, and the publication and the mailing of notice of the time within which assessments may be paid in cash has been duly published and mailed in the manner provided by law, and the time so provided for receiving payment of assessments in cash expired, and the Administrative Services Director of the City, the official who will be designated by this Council as Collection Officer for cash payments of said assessments, has filed herewith a list of all assessments which now remain unpaid.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Visalia as follows:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. Unpaid Assessments

That the assessments now remaining unpaid, and the aggregate thereof, are as shown on the list entitled "List of Unpaid Assessments" (the "Unpaid List"), referenced by the name of this Assessment District, a copy of which is on file in the office of the Administrative Services Director and by reference made a part hereof and attached hereto as "Exhibit A."

SECTION 3. Parcel Descriptions

That for a particular description of the lots or parcels of land bearing the respective assessment numbers set forth in said Unpaid List and upon which assessments remain unpaid, reference is hereby made to the assessment and to the diagram filed in the office of the Public Works Director and recorded with Tulare County Recorder's Office.

SECTION 4. Issuance of Bond

The Unpaid List is in the amount of \$675,000 and a single term bond shall be issued in said amount and upon the security of said unpaid assessments in accordance with the provisions of the "Improvement Bond Act of 1915," and under and pursuant to the provisions of said Resolution of Intention and the proceedings thereunder duly had and taken. The Bond shall be designated the "City of Visalia Orchard Walk East and West Undergrounding Utilities Assessment District, Series 2011" (the "Bond").

SECTION 5. Registered Bond

Said Bond shall be issuable either as one fully registered bond in the denomination of not to exceed \$675,000 or as fully registered Bond in the denomination of \$5,000 or any integral multiple thereof, except for one Bond maturing in the first year of maturity, which shall include the amount of which the total issue differs from the maximum integral multiples of \$5,000 contained therein.

SECTION 6. Date of Bond

Said Bond shall be dated the date the Bond is sold and delivered, as set forth in the Purchase Guarantee, a copy of which is attached hereto and identified as Exhibit "B."

SECTION 7. Maturity

The Bond shall be issued in serial or term form with annual maturities on September 2nd. The interest rates and principal amount maturing each year will be as set forth in the Purchase Guarantee.

SECTION 8. Interest

Each Bond shall bear interest at the rate or rates specified in the Purchase Guarantee from the interest payment date next preceding the date on which the Bond is authenticated, unless the Bond is authenticated and registered as of an interest payment date, in which event it shall bear interest from such interest payment date, or unless the bond is authenticated and registered prior to September 2, 2012, in which event it shall bear interest from its date, until payment of such principal amount shall have been discharged, at the rates per annum stated in the Purchase Guarantee, payable semiannually on March 2 and September 2 (each being an "Interest Payment Date") in each year commencing March 2, 2012.

SECTION 9. Paying Agent

The Administrative Services Director is hereby appointed as Transfer Agent, Registrar and Paying Agent (the "Paying Agent"), upon the terms and conditions contained herein.

The Paying Agent will maintain the Bond registration books, as set forth herein and will register and authenticate the Bond upon initial issuance as well as upon the transfer and exchange thereof.

Principal of and interest on the Bond will be paid by the Paying Agent on each Interest Payment Date from moneys transferred to the Paying Agent by the City.

SECTION 10. Place of Payment

The principal, interest and redemption premium on the Bond shall be payable in lawful money of the United States of America, upon presentation and surrender at the designated office of the Paying Agent.

Principal and Interest on said Bond shall be paid by check or draft on each Interest Payment Date to the registered owner thereof at his or her address as it appears on the books of registration, or at such address as may have been filed with the Paying Agent for that purpose, as of the fifteenth (15th) day immediately preceding each Interest Payment Date.

SECTION 11. Optional Redemption

At the option of the City, the Bond, or a portion thereof if issued in a denomination greater than \$5,000 shall be subject to redemption and payment in advance of maturity in increments of \$5,000 as provided in Section 8768 of the Streets and Highways Code, on the 2nd day of March or September in any year, by giving at least thirty (30) days notice, by registered or certified mail, or by personal service, to the registered owner thereof at his or her address as it appears on the books of registration maintained by the Paying Agent, with interest on such redeemed amount, together with a premium equal to three percent (3%) of the redeemed principal amount. If less than the entire Bond is redeemed, the unredeemed portion shall be reissued to the registered owner thereof.

SECTION 12. Transfer of Registered Bond

Any fully registered Bond may, in accordance with its terms, be transferred upon the books of registration required to be kept pursuant to the provisions of this Resolution by the owner in whose name it is registered, or by his or her duly authorized attorney or legal representative, upon surrender of such fully registered Bond for registration of such transfer, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent and by the owner of said Bond, duly executed.

The Paying Agent shall require the payment by the Bondholder requesting such transfer of any tax or other governmental charge required to be paid with respect to such other transfer and such changes as provided for in the system of registration for registered debt obligations. No transfer of fully registered Bond shall be required to be made during the fifteen (15) days next preceding each Interest Payment Date.

SECTION 13. Exchange of Registered Bond

Fully registered Bond may be exchanged at the office of the Paying Agent, or designated transfer agent/registrar, for a like aggregate principal amount of Bond of the same series, interest rate and maturity, subject to the terms and conditions provided in the system of registration for registered debt obligations, including the payment of certain charges, if any, upon surrender and cancellation of said Bond. Upon such transfer and exchange, a new registered Bond or Bond of any authorized denomination or denominations of the same maturity for the same aggregate principal amount will be issued to the transferee in exchange therefor.

SECTION 14. Books of Registration

There shall be kept by the Paying Agent sufficient books for the registration and transfer of the Bond and, upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said register, the Bond as hereinbefore provided. The register shall show the series, number, date, amount, rate of interest and last known holder of each bond, and the number and amount of each interest payment made.

SECTION 15. Execution of Bond

The Bond shall be executed by the Administrative Services Director and by the City Clerk, by the manual or facsimile signature, and the corporate seal shall be reproduced by similar means on the Bond. The Bond shall then be delivered to the Paying Agent for authentication and registration. In case an officer who shall have signed or attested to the Bond shall cease to be such officer before the authentication, delivery and issuance of the Bond, such Bond nevertheless may be authenticated, delivered and issued, and upon such authentication, delivery and issue, shall be as binding as though those who signed and attested the same had remained in office.

SECTION 16. Authentication

Only the Bond as shall bear thereon a certificate of authentication substantially in the form below, manually executed by the Paying Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Resolution and such certificate of the Paying Agent shall be conclusive evidence that the Bond so authenticated have been duly executed, authenticated and delivered hereunder, and are entitled to the benefits of this Resolution.

FORM OF PAYING AGENT'S CERTIFICATE OF  
AUTHENTICATION AND REGISTRATION

This is one of the Bond described in the within-mentioned Resolution of  
Issuance which will be authenticated and registered on \_\_\_\_\_, 2011.

By: \_\_\_\_\_  
Paying Agent

SECTION 17. Negotiability, Registration and Transfer of Bond

The transfer of the Bond may be registered only upon such books of registration upon surrender thereof to the Paying Agent together with an assignment duly executed by the owner or his or her attorney or legal representative, in satisfactory form. Upon any such registration of transfer, a new Bond or Bond shall be authenticated and delivered in exchange for such Bond, in the name of the transferee, of any denomination or denominations authorized by this Resolution, and in an aggregate principal amount equal to the principal amount of such Bond or principal amount of such Bond or Bond so surrendered. In all cases in which Bond shall be exchanged or transferred, the Paying Agent shall authenticate at the earliest practical time, Bond in accordance with the provisions of this Resolution. All Bond surrendered in such exchange or registration transfer shall forthwith be canceled. The legislative body may make a charge for every such exchange or registration of transfer of Bond sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer. The Paying Agent shall not be required to make such exchange or registration of transfer of Bond during the fifteen (15) days immediately preceding any Interest Payment Date.

SECTION 18. Ownership of Bond

The person in whose name the Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal and redemption premium, of any such Bond, and the interest on any such Bond, shall be made only to or upon the order of the registered owner thereof or his or her legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the redemption premium, and interest thereon, to the extent of the sum or sums to paid.

SECTION 19. Mutilated, Destroyed, Stolen or Lost Bond

In case the Bond secured hereby shall become mutilated or be destroyed, stolen or lost, the legislative body shall cause to be executed and authenticated a new Bond of like date and tenor in exchange and substitution for and upon the cancellation of such mutilated Bond or in lieu of and in substitution for such Bond destroyed, stolen or lost, upon the owner's paying the reasonable expenses and charges in connection therewith, and, in the case of a Bond destroyed, stolen or lost, his or her filing with the legislative body and the Paying Agent, with indemnity satisfactory to it.

SECTION 20. Cancellation of Bond

All Bond paid or redeemed, either at or before maturity, shall be canceled upon payment or redemption of such Bond, and shall be delivered to the Paying Agent when such payment or redemption is made. All Bond canceled under any of the provisions of this Resolution shall be destroyed by the Paying Agent and returned to the City.

SECTION 21. Reimbursement Fund

The Reimbursement Fund shall be maintained by the Paying Agent. The proceeds from the sale of the Bond, after deposit of required amounts in the Redemption Fund (as defined below), shall be placed in the fund hereby created, pursuant to Section 10602 of the California Streets and Highways Code, as amended, which shall be called the "Reimbursement Fund, Orchard Walk East and West Undergrounding Utilities Assessment District" (the "Reimbursement Fund"), and the moneys in the Reimbursement Fund shall be used only for purposes authorized in said assessment proceedings.

The Paying Agent shall disburse moneys from the Reimbursement Fund only upon receipt of a requisition of the City, signed by the City Manager, Assistant City Manager, Public Works Director, Assistant Public Works Director, Administrative Services Director, or any other officer of the City duly authorized by any of the foregoing officers to sign said requisitions. Said requisition shall state all of the following:

- (a) The amount of the request;
- (b) The purpose for which the money will be used;
- (c) The fact that said purposes are authorized under the assessment proceedings;
- (d) That said amount does not exceed the amount contemplated for such purposes under the assessment proceedings; and
- (e) That the officer executing the requisition is authorized to do so under this Resolution.

Each requisition shall be sequentially numbered and may contain other provisions required by the Paying Agent. No amounts may be disbursed from the Reimbursement Fund except upon receipt of said requisition.

Any investment earnings on amounts on deposit in the Reimbursement Fund shall be used for the purposes set forth in the assessment proceedings, subject to any rebate to the federal government.

SECTION 22. Redemption Fund

The Redemption Fund shall be maintained by the Paying Agent. Principal of and interest on said Bond shall be paid only out of the Redemption Fund created pursuant to Section 8671 of the California Streets and Highways Code (the "Redemption Fund"). Accrued interest paid by the purchaser of the Bond, if any, and all prepaid capitalized interest, if any, shall be deposited in the Redemption Fund, which shall be a trust fund for the benefit of the Bondholders. Payment of the Bond at maturity, or at redemption prior to maturity, and all interest and premiums on the Bond shall be paid from the Redemption Fund. In all respects not recited herein, said Bond shall be governed by the provisions of the "Improvement Bond Act of 1915," Division 10 of the California Streets and Highways Code, as amended.

SECTION 23. Investment of Moneys

Subject to certain tax covenants described below and contained in the Non-Arbitrage Certificate and the Rebate Certificate, to be executed the day the Bond is sold and delivered (the "Closing Date"), the Paying Agent shall invest the Reimbursement Fund and the Redemption Fund in accordance with the City's investment policies. All investment earnings shall be credited to the fund in which they were earned, and said investment earnings may be applied for the purposes of such fund, subject to certain requirements regarding rebate to the federal government, if any.

SECTION 24. Covenant to Foreclose

The City hereby covenants that upon default of any assessment payment due, it will cause foreclosure proceedings to be brought within one hundred fifty (150) days of such default and thereafter diligently prosecute such proceedings to completion.

SECTION 25. Books and Accounts; Financial Statement

The City will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the City in which complete and correct entries shall be made of all transactions relating to the project. Such books of record and accounts shall at all times during business hours be subject to the inspection of the Paying Agent and the Owners of not less than ten percent (10%) of the principal amount of the Bond then outstanding, or their representatives authorized in writing.

SECTION 26. Protection of Security and Rights of Bond Owners

The City will preserve and protect the security of the Bond and the rights of the Bond Owners, and will warrant and defend their rights against all claims and demands of all persons.

Form and after the sale and delivery of the Bond by the City, the Bond shall be incontestable by the City.

SECTION 27. Further Assurances

The City will adopt, make, execute and deliver any and all such further resolutions, instruments and assurance as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Resolution, and for the better assuring and confirming unto the Owners of the Bond of the rights and benefits provided in this Resolution.

SECTION 28. Tax Covenants

The City covenants to satisfy certain restrictions which relate to conditions precedent to the issuance of tax-exempt obligations, as contained in the Non-Arbitrage Certificate and the Rebate Certificate, to be executed on the Closing Date, and said covenants are incorporated herein by reference.

SECTION 29. Supplemental Resolutions Effective Without Consent of the Owners

The City may from time to time, and at any time, without notice to or consent of any of the Bond Owners, adopt resolutions or orders supplemental to this Resolution for any of the following purposes:

- (a) to cure any ambiguity, to correct or supplement any provision in this Resolution which may be inconsistent with any other provision in this Resolution, or to make any other provision with respect to matters or questions arising under this Resolution or in any additional resolution or order, provided that such action shall not adversely affect the interest of the Bond Owners.
- (b) to add to the covenants and agreements of and the limitations and the restrictions upon the City contained in this Resolution, other covenants, agreements, limitations and restrictions to be observed by the City which are not contrary to or inconsistent with this Resolution as theretofore in effect or are necessary to ensure that the interest on the Bond remains excludable from gross income for federal income tax purposes; and
- (c) to modify, alter, amend or supplement this Resolution in any other respect which is not adverse to the interests of the Bond Owners.

SECTION 30. Supplemental Resolution Effective With Consent of the Owners

Any modification or amendment of this Resolution and of the rights and obligations of the City and of the Owners of the Bond, in any particular, may be made by a supplemental resolution, with the written consent of the Owners of at least sixty percent (60%) in aggregate principal amount of the Bond Outstanding at the time such consent is given. No such modification or amendment shall permit a) any extension of the maturity date of the principal of, or the payment date of interest on, the Bond, b) a reduction in the principal amount of, or the redemption premium on, the Bond or the rate of interest thereof, c) a preference or priority of the Bond, or d) a reduction in the aggregate principal amount of the Bond the Owners of which are required to consent to such modification or amendment without the consent of all the Owners of such Bond, or shall change or modify any of the rights or obligations of the Paying Agent without its written assent thereto.

SECTION 31. Removal of Paying Agent

The City may at any time at its sole discretion remove the Paying Agent initially appointed, and any successor thereto, by delivering to the Paying Agent a written notice of its decision to remove the Paying Agent and may appoint a successor or successors thereto; provided that any such successor shall be a bank or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least ten million dollars (\$10,000,000), and subject to supervision or examination by federal or state authority. Any removal shall become effective only upon acceptance of appointment by the successor Paying Agent. If any bank or trust company appointed as a successor publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

SECTION 32. Resignation of Paying Agent

The Paying Agent may at any time resign by giving written notice to the City and by giving to the Owners notice of such resignation, which notice shall be mailed to the Owners at their addresses appearing in the registration books in the office of the Paying agent. Upon receiving such notice of resignation, the City shall promptly appoint a successor Paying Agent by an instrument in writing. Any resignation or removal of the Paying Agent and appointment of a successor Paying Agent shall become effective only upon acceptance of appointment by the successor Paying Agent. Unless a Successor Paying Agent shall have been appointed by the City and shall have accepted its appointment within ninety (90) days after the resignation or removal of the Paying Agent, as aforesaid, the Paying Agent may petition a court of competent jurisdiction to appoint a Paying Agent to fill such vacancy.

SECTION 33. Order to Print and Authenticate Bond

The Administrative Services Director is hereby instructed to cause the Bond, as set forth above, to be printed, and to proceed to cause said Bond to be authenticated and delivered to an authorized representative of the purchaser, upon payment of the purchase price as set forth in the accepted proposal for the sale of Bond.

SECTION 34. Performance of Duties by Officers

Each and every officer of the City is authorized to perform his or her services on behalf of the City. The Administrative Services Director or his or her written designee, is authorized to pay the costs of such services as are necessary to effect the issuance of the Bond. Such services shall include, but not limited to, printing the Bond, legal services, Paying Agent's services and any other services appropriate for the issuance of the Bond. These costs shall be paid from Bond proceeds.

SECTION 35. Ratification of Previous Actions; Future Actions

All actions heretofore taken by officers and agents of the City with respect to the sale and issuance of the Bond is hereby approved, confirmed and ratified, and the Mayor, City Manager, Administrative Services Director and City Clerk and the other officers of the City responsible for the fiscal affairs of the City are hereby authorized and directed to take any actions and execute and deliver any and all documents as are necessary to accomplish the issuance, sale, and delivery of the Bond in accordance with the provisions of this Resolution. In the event that the Mayor is



unavailable to sign any document authorized for execution herein, the City Manager or Administrative Services Director is hereby authorized to sign such document. Any document authorized hereby to be signed by the Clerk may be signed by a duly appointed deputy clerk.

SECTION 36. Approval of the Purchase Guarantee

The City hereby officially approves the Purchase Guarantee in substantially the form on file with the City Clerk, a copy of which is attached to this resolution, provided the total principal amount of Bond to be issued does not exceed \$675,000, the interest rate shall not exceed six and seventy-five hundredths percent (6.75%) per annum and the term of the Bond shall not exceed fifteen (15) years (which is no greater than fourteen (14) years from the 2nd day of September next succeeding twelve (12) months from the date of the Bond). The Mayor, the City Manager, or the Administrative Services Director is hereby authorized and directed to approve any changes in or additions to a final form of said Purchase Guarantee approved by the Mayor, the City Manager, or the Administrative Services Director, including but not limited to, interest rates, principal maturities, and the date of the Bond, whose execution thereof shall be conclusive evidence of approval of any such changes and additions.

SECTION 37. Other Officers

That the officers responsible for the execution of any of the agreements, orders, or covenants contained in any of the foregoing Sections or in any other document heretofore approved in these proceedings are hereby authorized and directed to take any actions and execute and deliver any and all further documents, agreements or certificates as are necessary to accomplish the issuance and sale of the Bond.

SECTION 38. Continuing Disclosure

The City hereby covenants that it will comply with and carry out all the provisions of the Continuing Disclosure Certificate, a copy of which is on file with the City Clerk.

PASSED AND ADOPTED by the City Council of the City of Visalia, Tulare County, State of California, this 1st day of August 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 August 1, 2011.

STEVEN M. SALOMON, CITY CLERK

By: \_\_\_\_\_  
Danjia Huffmon, Chief Deputy City Clerk

**EXHIBIT A**

CITY OF VISALIA

ORCHARD WALK EAST AND WEST UNDERGROUNDING UTILITIES ASSESSMENT DISTRICT

**LIST OF UNPAID ASSESSMENTS**

WHEREAS, an assessment and diagram was recorded in the Office of the Office of the Public Works Director of the City of Visalia, California on June 21, 2011, for the reimbursement of the cost of improvements described in Resolution of Intention No. 2009-41 adopted by the City Council of the City of Visalia on October 19, 2009, and

WHEREAS, notice of the recordation of said assessment and of the time and place where and within which said assessments were to be paid will be duly performed and satisfied, and no assessments have been paid in whole or in part.

NOW, THEREFORE, I, the undersigned Administrative Services Director of said City, do hereby certify that the list attached hereto is a true, correct and complete list of all assessments unpaid upon said assessment, and is hereby made and filed by me and on file with this office according to law, and said list with the respective assessment and diagram number of the lots or parcels of land assessed, and the amount unpaid thereon is as hereinafter set forth.

The total or aggregate amount of assessments unpaid is \$675,000.

IN TESTIMONY WHEREOF, I have hereunto set my hand this \_\_\_\_ day of July 2011.

\_\_\_\_\_  
Administrative Services Director  
City of Visalia

LIST OF UNPAID ASSESSMENTS

ORCHARD WALK EAST AND WEST UNDERGROUNDING UTILITIES ASSESSMENT DISTRICT

| <u>Assessment No.</u> | <u>Assessor's Parcel No.</u> | <u>Assessment Amount</u> |
|-----------------------|------------------------------|--------------------------|
| 01                    | 078-120-030                  | \$214,266.29             |
| 02                    | 078-120-032                  | 26,833.11                |
| 03                    | 079-310-010                  | 11,026.01                |
| 04                    | 079-310-011                  | 219,215.56               |
| 05                    | 079-310-015                  | 12,110.16                |
| 06                    | 079-310-016                  | 3,770.30                 |
| 07                    | 079-310-017                  | 53,374.05                |
| 08                    | 079-310-009                  | 17,148.67                |
| 09                    | 079-310-012                  | 61,410.17                |
| 10                    | 079-310-013                  | 17,272.66                |
| 11                    | 079-310-019                  | 12,839.08                |
| 12                    | 079-310-020                  | 25,733.94                |
|                       | TOTAL:                       | <hr/> \$675,000.00       |

**EXHIBIT B**

CITY OF VISALIA  
ORCHARD WALK EAST AND WEST UNDERGROUNDING UTILITIES ASSESSMENT DISTRICT

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**PURCHASE GUARANTEE**

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Subject to the conditions set forth in Resolution No. \_\_\_\_\_, of the City Council of the City of Visalia, titled "A Resolution of the City Council of the City of Visalia Determining Unpaid Assessments, Providing for the Issuance of Bond Pursuant to the 'Improvement Bond Act of 1915, and Approving the Form of Purchase Guarantee for the Orchard Walk East and West Undergrounding Utilities Assessment District," adopted by the City Council of the City on August 1, 2011, the City of Visalia (the "City") hereby agrees to purchase the entire issue of the City's \$675,000 Limited Obligation Improvement Bond for Orchard Walk East and West Undergrounding Utilities Assessment District, Series 2011, and guarantee as follows:

1. Upon the terms and conditions, and upon the representations set forth herein, the Bond shall be purchased at its par value of \$675,000.00 which Bond shall be issued as one bond, dated August \_\_\_\_, 2011 (the "Bond") and shall bear interest and mature in accordance with the terms set forth in Attachment 1 attached hereto, such interest being payable on March 2nd and September 2nd, commencing March 2, 2012.

2. The payment for and delivery of the Bond, and other actions contemplated hereby to take place at the time of such payment and delivery, shall occur no later than August \_\_\_\_, 2011 (the "Closing").

3. Proceeds of the sale of the Bond will be used by the City in accordance with the Bond Resolution. All actions, agreements and proceedings, including but not limited to this Purchase Guarantee and the Bond Resolution, relating to the issuance of the Bond and taken pursuant to the Municipal Improvement Act of 1913 (the "Improvement Act"), Improvement Bond Act of 1915 (the "Bond Law") and all other applicable laws are herein collectively referred to as the "Proceedings."

4. Any action under this Purchase Guarantee taken by the City, including payment for and acceptance of the Bond, and delivery and execution of any receipt for the Bond and any other instruments in connection with the Closing, shall be valid and sufficient for all purposes and binding upon the City, provided that any such action shall not impose any obligation or liability upon the City other than as may arise as expressly set forth in this Purchase Guarantee.

5. That the entire aggregate principal amount of the Bond authorized by the Bond Resolution shall be sold, delivered, purchased, accepted and paid for by the City not later than the Closing.

6. The City is a municipal corporation duly organized and existing under the Constitution and laws of the State of California, and has, and at the date of the closing will have, full legal right, power and authority (i) to enter into this Purchase Guarantee, (ii) to adopt the Bond Resolution and the other Proceedings relating to the Bond, (iii) to issue, sell, deliver and purchase the Bond as provided herein, and (iv) to carry out and consummate the transactions contemplated by this Purchase Guarantee and the Bond Resolution.

7. The City has complied, and will at the Closing be in compliance in all respects, with the Bond Resolution, the Improvement Act, the Bond Law and all other proceedings.

8. By official action of the City prior to or concurrently with the acceptance hereof, the City has duly adopted the Bond Resolution, has duly authorized and approved the execution, delivery and purchase of, and the performance by the City of the obligations contained in the Bond and this Purchase Guarantee, and has duly authorized and approved the performance by the City of its obligations contained in the Bond Resolution and the other Proceedings, and the consummation by it of all other transactions contemplated, including, without limitation, the pledge and obligation of the Bond proceeds.

9. The execution and delivery of this Purchase Guarantee and the Bond, the adoption of the Bond Resolution and the other Proceedings, and compliance with the provisions of each thereof, and the carrying out and consummation of the transactions contemplated, will not conflict with or constitute a breach of or a default under any applicable law or administrative regulation of the State of California or the United States, or any applicable judgment, decree, agreement or other instrument to which the City is a party or is otherwise subject.

10. There is no action, suit, proceeding or investigation before or by any court, public board or body pending or, to the knowledge of the City, threatened, wherein an unfavorable decision, ruling or finding would: (i) affect the creation, organization, existence or powers of the City or the titles of its Council members and officers to their respective offices, (ii) enjoin, or restrain the issuance, sale and delivery of the Bond, the issuance and sale of the Bond and pledge of the proceeds thereof, (iii) in any way question or affect any of the rights, powers, duties or obligations of the City with respect to the moneys pledged or to be pledged to pay the principal of, premium, if any, or interest on the Bond, (iv) in any way question or affect any authority for the issuance of the Bond, or the validity or enforceability of the Bond or the Proceedings, or (v) in any way questions or affect this Purchase Guarantee or the transaction contemplated by this Purchase Guarantee, or any other agreement or instrument to which the City is a party relating to the Bond.

11. The issuance and sale of the Bond is not subject to any transfer of other documentary stamp taxes of the State of California or any political subdivision thereof.

12. The City has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the City is a bond or note issuer whose arbitrage certifications may not be relied upon.

13. Any certificate signed by any official of the City authorized to do so shall be deemed a representation and warranty by the City as to the statements made therein.

14. The representations and warranties of the City contained herein shall be true, complete and correct on the date hereof and on and as of the date of the Closing, as if made on the date of the Closing.

15. At the time of the Closing the Proceedings shall be in full force and effect, and shall not have been amended, modified or supplemented, except in as may have been agreed to by the City.

16. At the time of the Closing, all official action of the City relating to the Proceedings shall be in full force and effect, and there shall have been taken all such actions as, in the opinion of Robert M. Haight, Attorney at Law, bond counsel ("Bond Counsel"), shall be necessary or appropriate in connection therewith, with the issuance of the Bond and with the transactions contemplated hereby.

17. The City shall have the right to terminate its obligations under this Purchase Guarantee to purchase, to accept delivery of and to pay for the Bond by notifying all property owners listed on

Attachment 1 of the Bond Resolution of its election to do so if, after the execution hereof and prior to the Closing: (i) the marketability of the Bond or the market price thereof, in the opinion of the City, has been materially and adversely affected by any decision issued by a court of the United States (including the United States Tax Court) or of the State of California, by any ruling or regulation (final, temporary or proposed) issued by or on behalf of the Department of the Treasury of the United States, the Internal Revenue Service or other governmental agency of the United States, or any governmental agency of the State of California, or by a tentative decision with respect to legislation reached by a committee of the House of Representatives or the Senate or the Congress of the United States, or by legislation enacted by, pending in, or favorably reported to either the House of Representatives or the Senate or the Congress of the United States or either house of the Legislature of the State of California, or formally proposed to the Congress of the United States by the President of the United States or to the Legislature of the State of California by the governor of the State of California in an executive communication, affecting the tax status of the City, its property or income, its Bond (including the Bond) or the interest thereon, or any tax exemption granted or authorized by the Improvement Act or Bond Law; (ii) the United States shall have become engaged in hostilities which have resulted in a declaration of war or a national emergency, or there shall have occurred any other outbreak of hostilities, or a local, national or international calamity or crises, financial or otherwise, the effect of such outbreak, calamity or crises being such as, in the reasonable opinion of the City, would affect materially and adversely the ability of the City to market the Bond (it being agreed by the City that there is no outbreak, calamity or crises of such a character as of the date hereof); (iii) there shall have occurred a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by the United States, New York State or California State authorities; (iv) there shall have occurred a withdrawal or downgrading of any rating assigned to any securities of the City by a national municipal bond rating agency; (v) any of the proposed developments shall have been repudiated by the City, or, any litigation or proceedings shall be pending or threatened questioning the proposed developments or seeking to enjoin the development thereof; (vi) any Federal or California court, authority or regulatory body shall take action materially and adversely affecting the ability of a City to proceed with the development; and (vii) any other event or occurrence which, in the sole discretion of the City, would negatively affect the public interest or necessity for the purchase of the Bond.

18. If the City shall be unable to satisfy the conditions or obligations to issue, sell, purchase, accept delivery of and pay for the Bond contained in this Purchase Guarantee, or if the obligations of the City to purchase, accept delivery of and pay for the Bond shall be terminated for any reason permitted by this Purchase Guarantee this Purchase Guarantee shall terminate, and the City shall be under further obligation hereunder.

19. This Purchase Guarantee is made solely for the benefit of the City and its successors and assigns, and no other person shall acquire or have any right hereunder or by virtue hereof.

20. This Purchase Guarantee shall become effective upon the execution of the acceptance hereof by the Mayor of the City, and shall be valid and enforceable as of the time of such execution.

DATED this \_\_\_\_ day of August 2011.

CITY OF VISALIA

ACCEPTED: \_\_\_\_\_  
Eric Frost,  
Administrative Services Director

**ATTACHMENT 1**

**BOND MATURITY SCHEDULE**

| <b>Maturity Date<br/>(September 2)</b> | <b>Amount</b> | <b>Interest<br/>Rate</b> |
|--|---------------|--------------------------|
| 2012                                   | \$45,000      | 6.75%                    |
| 2013                                   | 45,000        | 6.75%                    |
| 2014                                   | 45,000        | 6.75%                    |
| 2015                                   | 45,000        | 6.75%                    |
| 2016                                   | 45,000        | 6.75%                    |
| 2017                                   | 45,000        | 6.75%                    |
| 2018                                   | 45,000        | 6.75%                    |
| 2019                                   | 45,000        | 6.75%                    |
| 2020                                   | 45,000        | 6.75%                    |
| 2021                                   | 45,000        | 6.75%                    |
| 2022                                   | 45,000        | 6.75%                    |
| 2023                                   | 45,000        | 6.75%                    |
| 2024                                   | 45,000        | 6.75%                    |
| 2025                                   | 45,000        | 6.75%                    |
| 2026                                   | 45,000        | 6.75%                    |
|  | \$675,000     |                          |

Dated this \_\_\_\_ day of August 2011

CITY OF VISALIA

ACCEPTED:

\_\_\_\_\_  
Administrative Services Director



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Authorization for staff to develop and implement "HAP – Health Awareness Program" a City Wellness program at a cost not to exceed \$10,000

**Deadline for Action:** N/A

**Submitting Department:** Administrative Services

**Contact Name and Phone Number:** Eric Frost x4474,  
Charlotte Dunn x4335

**Department Recommendation:**

Staff is recommending the development and implementation of "HAP – Health Awareness Program" a wellness program for City employees at a cost not to exceed \$10,000.

**Summary/background:**

According to the new American Heart Association policy statement "workplace wellness programs are an effective way to reduce major risk factors for heart disease, such as smoking, obesity, high blood pressure and diabetes".

Our nation, state and city is dealing with economic decline, obesity in children and adults alike and a pattern of employee issues unlike anything we have ever seen. It seems appropriate that we seek ways to address some of these issues by investing in our employees, which is our most valuable asset.

During the last couple of years, the City has taken steps to promote health and wellness through:

- Annual Benefits Fair
- Flu immunization offerings
- Citywide weight loss contests
- Annual health screenings
- Preventative benefits through the health plan, and
- Lunchtime drop in programs

**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.

During a review of Risk programs during a City Council workshop held February, Council authorized staff to explore wellness options and devote up to \$30,000 annually to fund a program recommended by the Employee Health Benefits Committee (EHBC).

These opportunities were discussed at the EHBC meeting in March. Although there was great interest and support for expanding the wellness program the committee wants to be more conservative in the use of funds and preferred that low or no cost options be considered.

A sub-committee of Michelle Fitzgerald, Lilly Garza, Eric Frost and Charlotte Dunn was assigned to review options and develop a recommendation for further consideration by the EHBC. We met on March 14<sup>th</sup> to discuss how this program could most benefit our employees. Identifying the risk is the most important step of improving our health. Much of the success of wellness programs is getting folks involved and taking charge of their own health destination.

This proposal was reviewed by the EHBC (Employee Health Benefit Committee) on April 12, 2011 and the Department Head Group on April 26, 2011. Both groups recommend expanding the wellness opportunities under the following guidelines.

**Recommendation**

To reach our employees, we understand that ‘one size does not fit all’. We believe in order to engage employees, we need to offer a variety of programs for them to select from. By incorporating the comments from the EHBC and the sub-committee, we recommend the following Wellness components and expenses:

|  |                 |
|--|-----------------|
| Employee Discount Program                  | No Cost         |
| Anthem 360 – Health Education              | No Cost         |
| Sharing Community Health Information       | No Cost         |
| Sponsor Corporate Games                    | \$ 750          |
| Walk 2 Fitness Program                     | \$ 1,000        |
| Fridge Fitness (300 sets)                  | \$ 1,500        |
| Sponsor Park & Recreation Exercise Program | \$ 2,000        |
| Weight & Health Clinic Screenings          | \$ 3,000        |
| Miscellaneous                              | \$ 1,750        |
|  |                 |
| <b>Total Wellness Program Expenses</b>     | <b>\$10,000</b> |

Although it is difficult to measure the success of these programs, the average return of investment is 3 to 1. Awareness is the first step in changing our lifestyle and improving our health. I suggest a return of 1 to 1 would still be considered a success if it reduced or prevented the major risk factors for health disease or other serious health conditions. This is a great opportunity for us to invest in our employees. It would be an added bonus if our employee’s families joined this journey as well!

The source of funds for this program will come from gains achieved in the Health Benefits fund. The City participates in a health insurance pool. Both the City and employees deposit funds into the fund. Several years ago, the City received a dividend from the pool of almost \$1 million dollars. The dividend occurred when monies set aside for program fluctuation. As the pool grew, the need for the excess monies disappeared.

**Prior Council/Board Actions:**

At the Council Workshop in February 2011, Council authorized staff to evaluate options for a wellness program for City employees at a cost not to exceed \$30,000.

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:**

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

***Environmental Assessment Status***

**CEQA Review:**

**NEPA Review:**

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

Copies of this report have been provided to:

## City of Visalia Agenda Item Transmittal

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Authorize the Mayor to send letters to appropriate federal legislators in support of the PACE Assessment Protection Act of 2011 (HR 2599).

**Deadline for Action:** None

**Submitting Department:** Administration

**Contact Name and Phone Number:** Michael Olmos at 713-4332, Nancy Loliva at 713-4535, and Kim Loeb at 713-4530.

**Department Recommendation:** Authorize the Mayor to send letters to appropriate legislators in support of the PACE Assessment Protection Act of 2011 (HR 2599).

**Summary/background:** The "PACE Assessment Protection Act of 2011" was introduced by Nan Hayworth (R-NY), Mike Thompson (D-CA), and Dan Lungren (R-CA), and currently has 12 additional bi-partisan co-sponsors. The bill is designed to prevent Fannie Mae, Freddie Mac, and other Federal residential and commercial mortgage lending regulators from adopting policies that contravene established Senate and local property assessed clean energy laws.

The bill has been referred to the House Committee on Financial Services and is waiting to be assigned to a subcommittee. At this time, the primary goal is increasing support for the legislation, which will likely see movement after Congress' August recess.

PACE enables local governments to create property tax finance districts to issue low-cost long-term loans to eligible property owners to install solar and energy efficiency projects. Property owners repay the loan as a line item on their property tax bill. PACE is a financing mechanism to enable property owners to reduce their energy use and cost and boost construction jobs conducting energy efficiency and alternative energy projects.

The Visalia City Council issued a resolution in August 2010 supporting legislation that would allow PACE programs. The resolution stated that PACE financing programs are an innovative local government solution to help property owners finance energy efficiency and renewable energy improvements – such as energy efficient boilers, upgraded insulation, new windows, solar installations, etc. – to homes and businesses.

**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.

HR 2599 has three main purposes:

- Rescinds the 2010 guidance from the Federal Housing Finance Agency (FHFA), Office of the Comptroller of the Currency (OCC), and Fannie Mae and Freddie Mac, and affirms the validity of assessments.
- Resolves a legal issue by defining a PACE assessment as an “assessment,” not a “loan.”
- Limits/eliminates the risk to Fannie & Freddie by establishing national program standards, underwriting criteria, consumer protections, qualifying improvements, and qualifying contractors including:
  - Homes must have 15% or more positive equity to qualify;
  - Projects are limited to 10% of the home value;
  - Prohibits acceleration of non-delinquent payments.
  - Projects must show a positive cash flow savings compared to the cost of the PACE investment; i.e., the estimated utility bill savings must exceed the assessment payments:
    - Requires an energy audit or feasibility study prior to approval.
    - Requires that the work must be performed by accredited professionals, and;
    - Requires that, prior to levying a PACE assessment, the local government determine that there are no signs of an inability to pay.

The organization presenting the bill, PACE Now, is requesting letters of support from local governments, and has approached all of the members of the House Financial Services Committee – Subcommittee on Capital Markets and GSEs. The group reports that the members are sympathetic to the purpose of this bill. Principals in the PACE Now organization include staff from Renewable Funding, the administrator of CaliforniaFIRST, California Communities PACE program, which is sponsored by the California State Association of Counties and the League of California Cities.

**Prior Council/Board Actions:**

August 2, 2010 – Adoption of Resolution 2010-47 in support of Congressional action regarding Property Assessed Clean Energy (PACE) programs

June 7, 2010 – Update on CaliforniaFIRST AB811 Property Assessed Clean Energy financing program for energy efficiency and solar energy

April 19, 2010 – Discussion of possible stimulus actions the City of Visalia might take

October 19, 2009 – Authorization to declare interest in participating in the CaliforniaFIRST solar and energy efficiency financing program

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

**Alternatives:** NA

**Attachments:** Goals and Key Provisions of PACE Assessment Protection Act of 2011.

**Recommended Motion (and Alternative Motions if expected):** Authorize the Mayor to send letters to appropriate federal legislators in support of the PACE Assessment Protection Act of 2011. (HR 2599).

***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:** August 1, 2011

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

**Agenda Item Wording:** Authorization to record the final parcel map of Tentative Parcel Map No. 2006-19, located at 5828 West Hurley Avenue (2 Lots). (APN: 085-530-007)

**Deadline for Action:** N/A

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

**Contact Name and Phone Number:**  
Chris Young, Community Dev. Director - 713-4392  
Adrian Rubalcaba, Assistant Engineer - 713-4271

**Recommendation:** Staff recommends that City Council authorize the recordation of the final parcel map of Tentative Parcel Map 2006-19 located at 5828 West Hurley Avenue (2 Lots).

**Summary:** The final parcel map is creating two individual residential lots for two existing single-family dwelling units on a 30,363 square foot parcel in the RA zone. The parcel map also dedicates 10 feet of right of way along Hurley Avenue, per the City of Visalia circulation element. There are no public street improvements associated with this parcel map.

Variance No. 2006-07 was approved by the Planning Commission on November 28, 2006 allowing a variance from the minimum lot area and configuration requirements of the RA zone. A cash payment for parcel map filing and plan check fees has been received by the City.

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

**Committee/Commission Review and Actions:** Tentative Parcel Map 2006-19 and Variance No. 2006-07 was approved by the Planning Commission on November 28, 2006.

**Alternatives:** N/A

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

**For action by:**

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

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 1

**Review:**

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

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

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

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

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

“I move to authorize recordation of the final parcel map of Tentative Parcel Map 2006-19.”

***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:





# TPM 2006-19 Location Map



Scale: 1"=500'

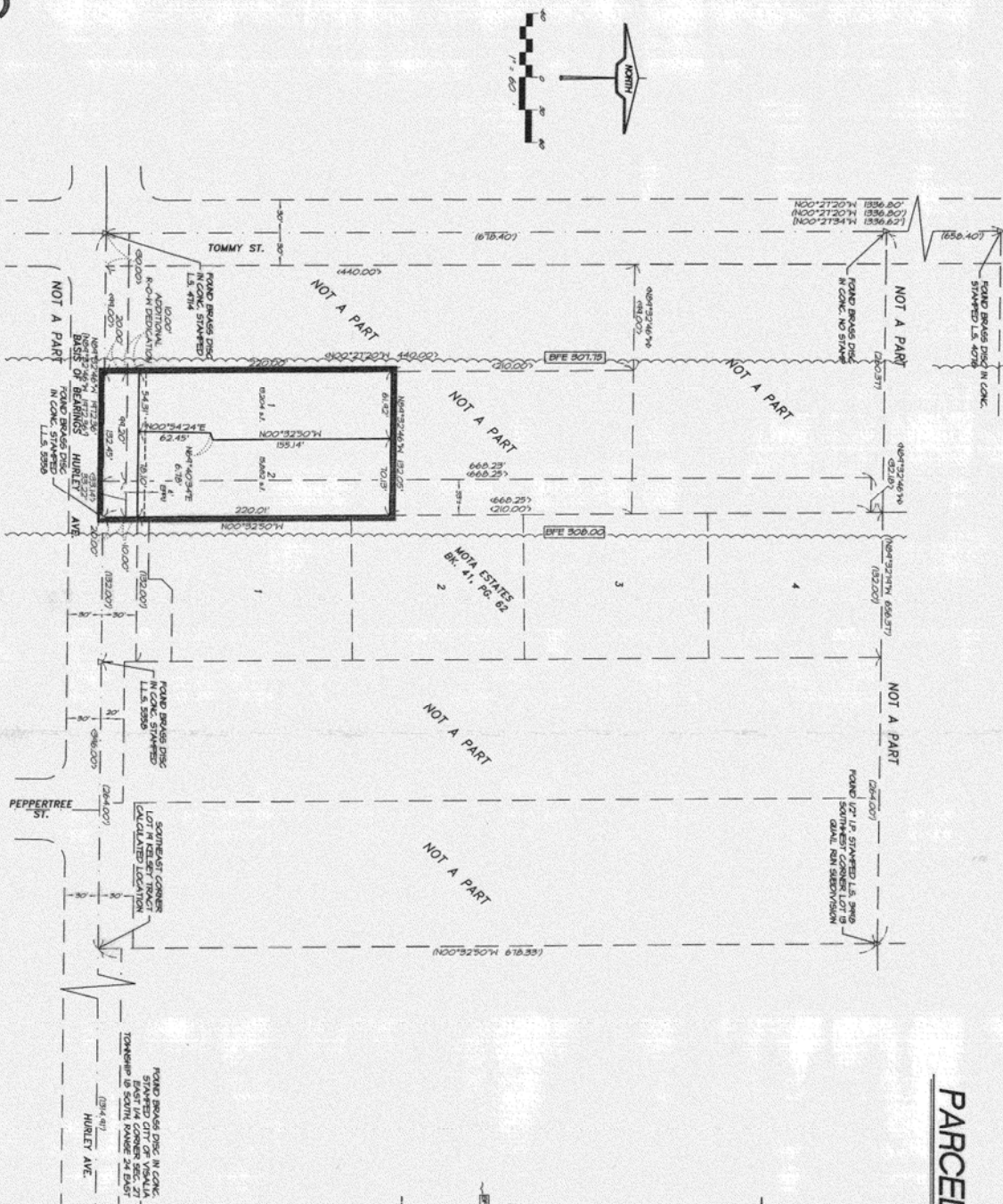
# PARCEL MAP NO.

## LEGEND AND NOTES

- SET CITY OF VISALIA STANDARD STREET MONUMENT BRASS DISC IN CONC. STAMPED FILE 2002
- SET 12" IP STAMPED FILE 2003 AT ALL LOT CORNERS
- FOUND MONUMENT AS ENCOUNTERED ACCEPTED ALSO OTHERWISE NOTED
- 1) RECORD DATA PER VISALIA STANDARD SUBDIVISION MAP RECORDED IN BK. 4 OF MAPS AT PG. 63, 124 (ACCEPTED ALSO OTHERWISE NOTED)
- 1) RECORD DATA PER ABET ALABE ESTATES SUBDIVISION MAP RECORDED IN BK. 38 OF MAPS AT PG. 4, 124 (ACCEPTED ALSO OTHERWISE NOTED)
- 1) RECORD DATA PER DOCUMENT NO. 2007-020333 RECORDED DECEMBER 28, 2007 (ACCEPTED ALSO OTHERWISE NOTED)
- EP/VI EXHIBIT FOR FILED REFILES
- PERMITS/EXEMPT OF THE SUBDIVISION 070 AK
- FILE 2002 PMA BASE FLOOD ELEVATION LINE AND VALUE ELEVATION IN FEET
- W/VD 68

## BASIS OF BEARINGS

THE SCHEMATIC OF THE MONUMENTS PLACEMENT OF RECORD 21, 20000000 IS SHOWN BASED ON LOCAL BEARING MONUMENT 40" HIG. 4.5" DIA. HURLET MAINLINE ESTATES SUBDIVISION MAP RECORDED IN BK. 38 OF MAPS AT PG. 4 & 124



California Planning and Engineering Corporation  
271 N. 9th Street, Ste. 1000, Visalia, CA 93291  
(559) 732-3333 • www.cpea.com

## City of Visalia Agenda Item Transmittal

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Second reading and adoption of Ordinance No. 2011-11 authorizing the Grant of Easement to Southern California Edison Company for a non-exclusive easement in gross for the conveyance and distribution of electricity across a portion of City owned property (APN # 073-160-001) and authorize the City Manager to execute the grant of easement. The easement will enable the Southern California Edison Company to provide power to the new Perfection Pet Food addition southeast of the Goshen Basin Site and provide a source of electricity to the adjacent properties, including the Goshen Basin site. The Goshen Basin is located on the south side of Goshen Avenue and east of Camp Drive. **Ordinance 2011-11 Required**

**Deadline for Action:** N/A

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

**Contact Name and Phone Number:**

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

**Department Recommendation:** Authorize the Grant of Easement to Southern California Edison Company for a non-exclusive easement for the conveyance and distribution of electricity across a portion of City owned property (APN # 073-160-001) and authorize the City Manager to execute the grant of easement.

**Summary:** The Southern California Edison Company (SCE) is requesting a twenty foot (20') wide easement over one City owned property to connect an electrical line to augment the electrical system southeast of the Goshen Basin. This easement will extend south from the Goshen Avenue right-of-way along the east side of the Goshen Basin between Miller Park Street and Camp Drive to the Perfection Pet Foods site southeast of the Goshen Basin. The cost of installing the power line will be the responsibility of Perfection Pet Food and Southern California Edison.

The additional electrical line is needed by an expansion currently underway by Perfection Pet Foods. SCE is re-routing electrical services in the area to be able to provide power for the expansion project. The line will also serve electricity to the City's Goshen Basin site which is not currently served with electricity but will need to be served in the future when the basin is fitted with a permanent on-site pump station.

**For action by:**

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

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.):\_\_1\_\_

**Review:**

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

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

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

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

**Background:** The additional electrical line is needed by an expansion currently underway by Perfection Pet Foods which will be a relatively large electrical user. Due to this high usage, Perfection Pet Foods will receive a large electrical credit for extending the line, thereby reducing their cost for the extension. The line will also serve electricity to the City's Goshen Basin Site which will be fitted with a permanent on-site pump station sometime in the future. This pump will carry storm water to an existing pipeline which carries flows to the north Mill Creek branch (portable pumps were used at this location during the December 2010 storms to keep storm flow from backing up into the streets). Currently there is no electrical service to the Goshen Basin site and the cost for the City to extend the electrical line would be expensive since a basin pump station would not use a significant amount of electricity and would not qualify for a large electrical usage discount. By providing this easement, the City would be participating in the extension of this line and could benefit along with Perfection Pet Foods from the electrical line extension. For these reasons, the City is providing the easement to Southern California Edison at no cost.

The City recently applied for a Proposition 84 Grant which would fund the purchase of land and the cost of the improvements to expand the Goshen Basin by 25%. Perfection Pet Foods signed an agreement to sell the City approximately 3 acres on the south side of the Goshen Basin if the City receives the grant.

The easement would be located along, and parallel with, the east edge of the Goshen Basin site and would extend south for a distance of approximately 850 feet completely crossing the City owned parcel. The electrical line extension would be installed by excavation through the City owned parcel and the ground surface would be restored to its current condition after installation. The installation would not impact the improvements proposed in the Proposition 84 Grant application. The only requirement would be that no trees or plantings be placed over the easement. However, mulch/bark ground cover could be placed over the easement.

It is the responsibility of SCE to obtain all the appropriate permits and perform its work conforming to all City of Visalia standards and policies. SCE is also responsible for repairing or replacing any damaged infrastructure or landscaping resulting from their construction project. The cost of all work will be the responsibility of SCE and Perfection Pet Foods.

The area of the easement on the City owned parcel is approximately 0.39 acre (17,000 SF). Staff, in consultation with the City Attorney, has determined that the easement document, as written, is acceptable to the City.

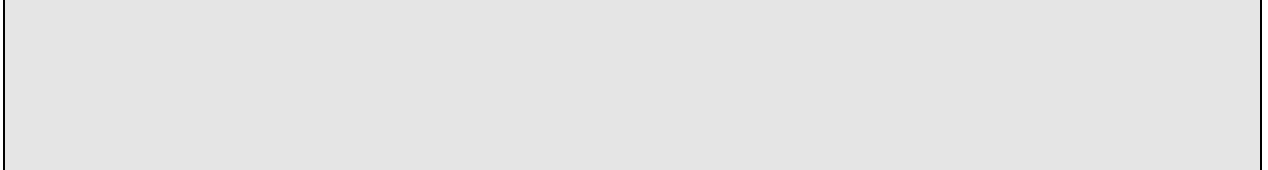
**Prior Council/Board Actions:** N/A

**Committee/Commission Review and Actions:**

**Alternatives:** Do not grant easement.

**Attachments:** (1) Location map, (2) Grant of Easements

**Recommended Motion (and Alternative Motions if expected):** Adoption of Ordinance No. 2011-11 authorizing the Grant of Easement to Southern California Edison Company for a non-exclusive easement in gross for the conveyance and distribution of electricity across a portion of City owned property (APN # 073-160-001) and authorize the City Manager to execute the grant of easement.



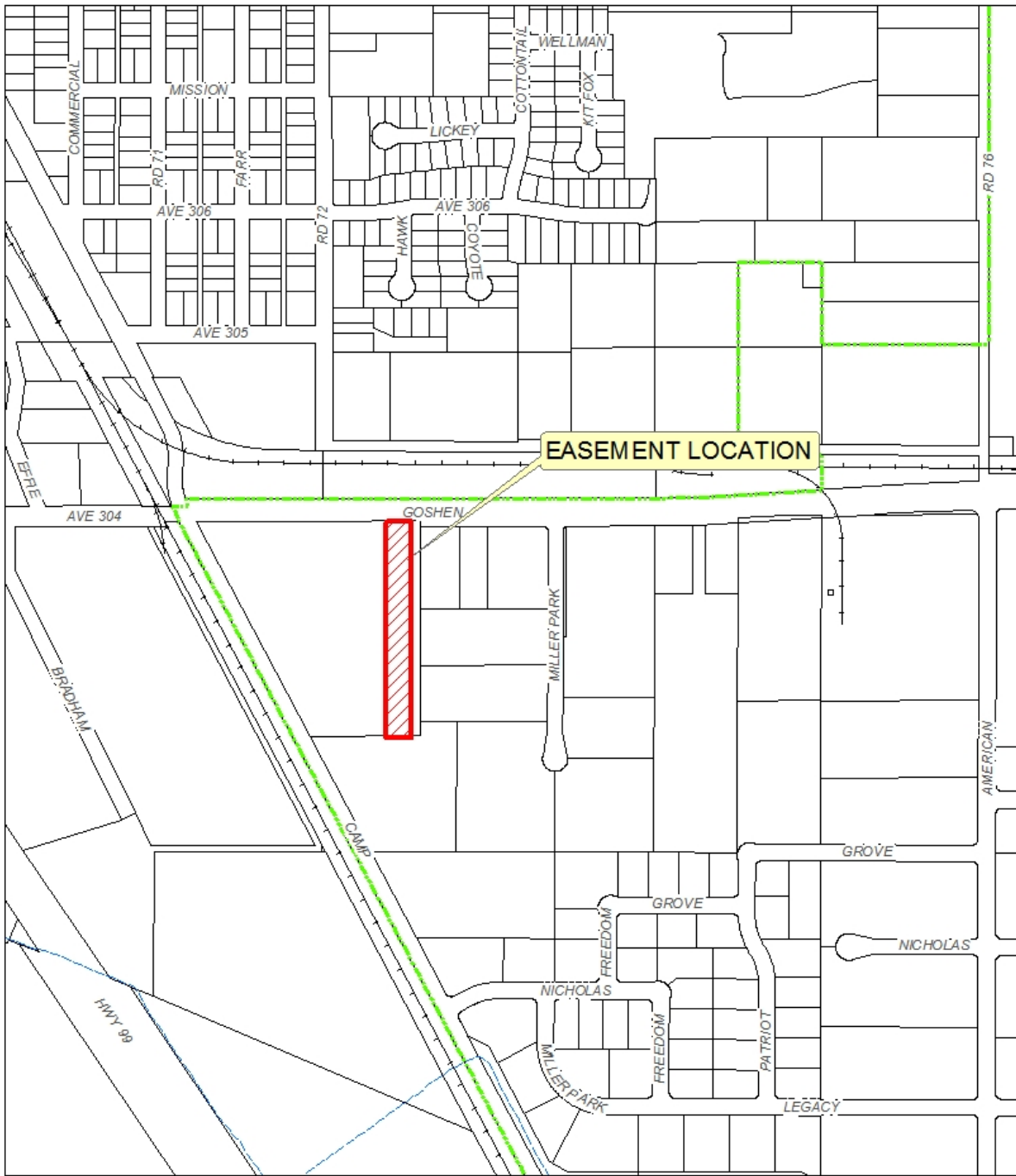
***Environmental Assessment Status***

**CEQA Review:** N/A

**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:



EASEMENT LOCATION



# Southern California Edison Easement Location Map



Scale: 1"=500'

**ORDINANCE NO. 2011-11**

**AUTHORIZING GRANT OF EASEMENT TO  
SOUTHERN CALIFORNIA EDISON COMPANY**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: The City of Visalia owns all the legal and beneficial interest in certain real properties commonly referred to as the Goshen Basin located on the south side of Goshen Avenue between Camp Drive and Miller Par Street, Visalia, California (APN: 073-160-001) and has determined to convey an easement over a portion of it to Southern California Edison Company, and

Section 2: Said real properties are located on the south side of Goshen Avenue between Camp Drive and Miller Park Street and the portions to be conveyed to Southern California Edison Company are more particularly and legally described in the Grant of Easement documents, and

Section 3: The City Council of the City of Visalia, having considered evidence submitted, finds and determines that easements over said portions of the real properties should be granted to Southern California Edison Company, and

Section 4: Said City Council agrees to grant easements to Southern California Edison Company over said real properties, based on terms and conditions set forth in the Grant of Easement documents.

Section 5: This ordinance shall become effective thirty days after passage hereof.

PASSED AND ADOPTED:

\_\_\_\_\_, MAYOR

ATTEST BY: \_\_\_\_\_

APPROVED BY CITY ATTORNEY: \_\_\_\_\_

**EXHIBIT 'A'**

Lane Project No. 11091  
July 13, 2011

That portion of the NE1/4 of Section 30, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, in the City of Visalia, County of Tulare, State of California, more particularly described as follows:

BEGINNING at the Northwest corner of Parcel 1 of PM 3797 per map recorded in Book 38, Page 100 of Parcel Maps, T.C.R.:

Thence South 00°14'50" East 773.00 feet along the west lines of said Parcel 1, Parcel 2 of PM 1391 per map recorded in Book 14 of Parcel Maps at Page 92 and Parcel 1 of PM 2329 per map recorded in Book 24 of Parcel Maps at Page 30, T.C.R. to the southwest corner of Parcel 1 of said PM 2329;

Thence South 00°14'50" East 55.00 feet on the southerly prolongation of said west line;

Thence South 89°45'10" West 20.00 feet;

Thence North 00°14'50" West 850.00 feet parallel with the west lines of said parcels to the Southerly right-of-way of Goshen Avenue being 20.00 feet wide as measured at right angles thereto;

Thence North 89°45'10 East 20.00 feet along said Southerly right-of-way to a point on the northerly prolongation of the west line of Parcel 1 of said PM 3797;

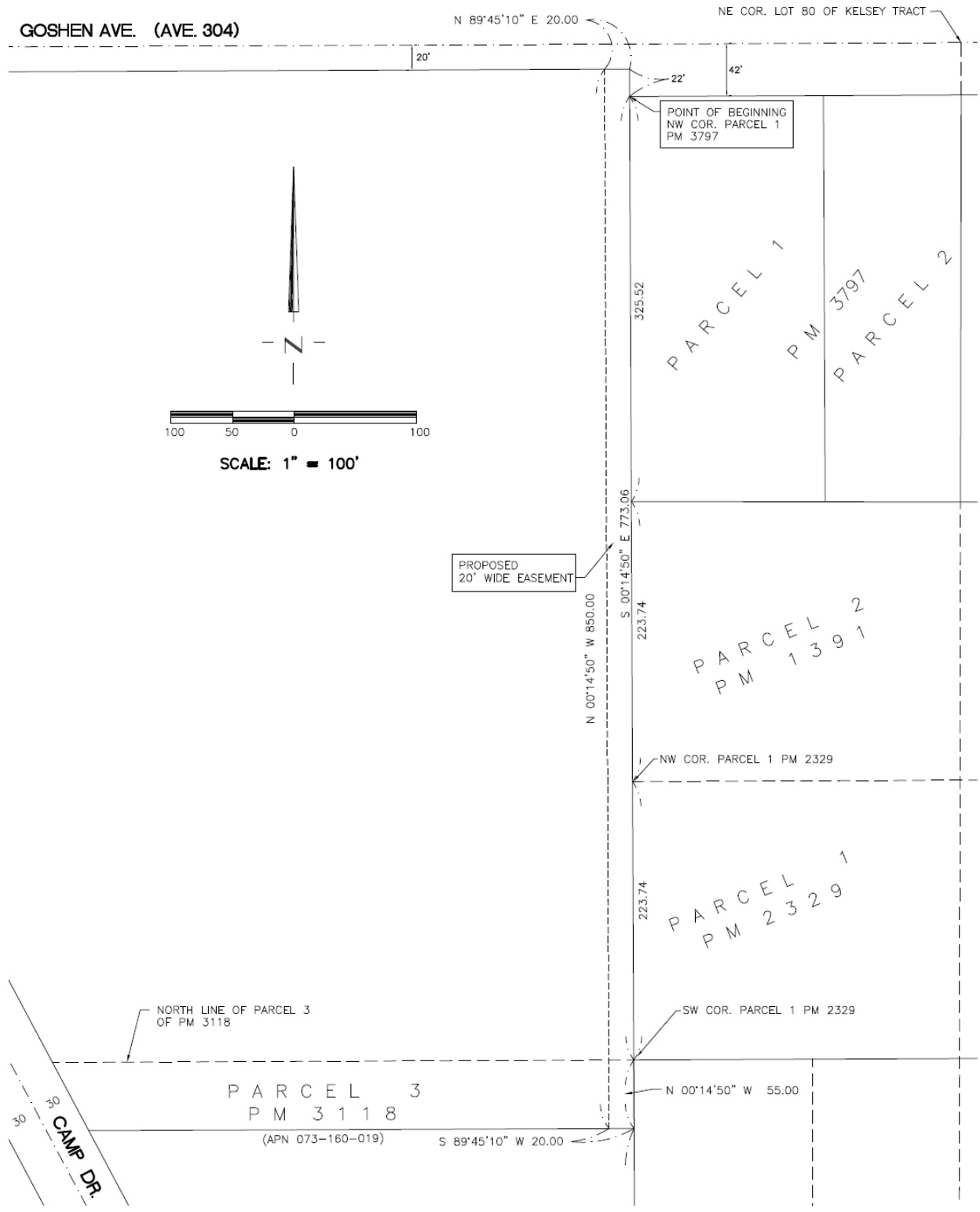
Thence South 00°14'50" East 22.00 feet along said west line and northerly prolongation to the POINT OF BEGINNING.

SEE EXHIBIT "B" ATTACHED HERETO.

CONTAINING APPROXIMATELY 17,000 s.f. (0.39 acres)



# EXHIBIT "B"



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Second reading and adoption of Ordinance No. 2011-10 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 8.64 of the Visalia Municipal Code to establish regulations governing the cultivation and consumption of medical marijuana for personal use and to prohibit medical marijuana dispensaries.

**Deadline for Action:** Ordinance to be in effect by October 18, 2011 (expiration of existing temporary moratorium on medical marijuana uses)

**Submitting Department:** Administration/City Attorney

**Contact Name and Phone Number:** Mike Olmos, Assistant City Manager - 713-4332; Alex Peltzer, City Attorney – 636-0200

**Department Recommendation:** Adopt Ordinance No. 2011-10 making revisions to the City of Visalia's medical marijuana regulations. The ordinance will delete all provisions in the Visalia Municipal Code regarding Medical Marijuana Dispensaries, thereafter prohibiting medical marijuana dispensaries and all other medical marijuana businesses inside the City of Visalia. The ordinance will also establish regulations for restricting the public use and consumption of marijuana for medical purposes and standards for the personal cultivation of medical marijuana consistent with the Compassionate Use Act of 1996 and Senate Bill 420 (enacted January, 2004).

The ordinance was introduced at the Council meeting held on July 18, 2011. A public hearing on the item was held at that time and public testimony was received. Council is being requested to adopt the ordinance on August 1. If adopted, the ordinance will become effective 30 days thereafter.

**Summary/background:**

The ordinance recommended for adoption will prohibit "medical marijuana dispensaries" and "medical marijuana businesses". Whichever term is used, it would be defined as a "facility or location, whether fixed or mobile, where marijuana is cultivated, made available, and/or distributed by or to three or more persons within the following categories: a primary caregiver, a

**For action by:**

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

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 1

**Review:**

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

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

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

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

qualified patient, or a patient with an identification card, as those terms are defined in Health and Safety Code sections 11362.5 and 11362.7 et seq. as such sections may be amended from time to time". These prohibitions would include not only the "retail storefront" type of dispensary, but also the "cooperative" facilities that may operate on a non-profit basis.

The recommended ordinance will also establish revised standards for personal cultivation and consumption of marijuana for medical purposes consistent with the Compassionate Use Act (Proposition 215, approved by California voters in 1996) and the Medical Marijuana Program (Senate Bill 420, enacted 2004). The ordinance includes a list of standards to be applied to locations where personal use and cultivation of marijuana for medical purposes is proposed to occur (see Ordinance Sections 5 & 6, page 4). These standards include, but are not limited to:

- Use and consumption of medical marijuana is allowed inside a private residence only, and no smoke or odor may be detected from any neighboring property or residence.
- Cultivation can occur in Single Family Residential (R-1) and Agricultural (A) zones only.
- Cultivation must occur in a fully enclosed and secured structure with solid walls and roof, but not in any living space.
- The structure and related improvements must meet all zoning and building standards including, but not limited to, yard setbacks, height restrictions, and California building and fire code requirements and permitting.
- Maximum allowable area dedicated to cultivation shall be 100 square feet per parcel.
- Any person cultivating between 10 and 100 square feet of medical marijuana must obtain a building safety inspection every three months to confirm compliance with these standards and must pay inspection fees based on actual inspection costs as established by the City Council.
- The person responsible for cultivating must provide evidence of qualification to conduct marijuana cultivation as required by state law.

These standards are intended to assure that a reasonable level of personal use and cultivation of medical marijuana is conducted in a manner compatible with residential neighborhoods.

The proposed ordinance is also clear in that it is not intended to legalize activity that is otherwise unlawful. If state law is amended to make personal cultivation and use unlawful, then nothing in the proposed ordinance would separately permit it. Similarly, if it is determined that federal law prohibiting all marijuana use preempts state law on this issue, the Visalia ordinance regulating such activity would not have any effect and would be similarly preempted.

**Prior Council/Board Actions:** On July 18, 2001, the City Council held a public hearing, received public testimony, and introduced proposed Ordinance 2011-10.

On September 20, 2010, Council adopted Ordinance No. 2010-07 extending for one year (from October 19, 2010 to October 18, 2011) the existing temporary moratorium on medical marijuana dispensaries and collective or cooperative cultivation and distribution enterprises.

**Committee/Commission Review and Actions:** On June 27, 2011 the Planning Commission held a public hearing to consider Zoning Text Amendment 2011-09 pertaining to repeal of Chapter 17.64 of the Visalia Municipal Code pertaining to Medical Marijuana Business Permitting and Zoning. This zoning text amendment is a component of the attached comprehensive ordinance regarding medical marijuana now under consideration by the City Council. Following the public hearing, a motion to recommend approval of the zoning text amendment to repeal Chapter 17.64 did not pass on a 2-2 vote (Salinas, Segre: yes; Peck,

Lane: no; Soltesz: absent). Because this motion did not pass, there is no Planning Commission recommendation on the revocation of Chapter 17.64.

**Alternatives:** None recommended.

**Attachments:**

1. Ordinance 2011-10

**Recommended Motion (and Alternative Motions if expected):** Move to adopt Ordinance 2011-10.

***Environmental Assessment Status***

**CEQA Review:** Not subject to environmental review under the California Environmental Quality Act pursuant to Title 14 of the California Code of Regulations Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in physical change of the environment, directly or indirectly.

**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

**ORDINANCE NO. 2011-10**

**AN ORDINANCE OF THE CITY COUNCIL  
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; 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 AND TO PROHIBIT MEDICAL MARIJUANA  
DISPENSARIES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:**

**SECTION 1 – Preamble and Findings.**

A. Federal Law (codified as 21 U.S.C. Sections 801 et seq., entitled the "Controlled Substances Act" ("CSA")) makes it unlawful to manufacture, distribute or possess any controlled substances, including marijuana, which has, as a Schedule I drug under the CSA, "no accepted medical value in treatment;" and,

B. Sections 11357 and 11358 of the California Health and Safety Code make it a crime, respectively, to possess and cultivate marijuana; and,

C. At the General Election held on November 5, 1996, California voters approved Proposition 215 (codified as Health and Safety Code Section 11362.5, and titled the "Compassionate Use Act of 1996" ("CUA")), intended to "ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief;" and further provided that "Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician;" and,

D. On January 1, 2004, Senate Bill 420 (codified as Health and Safety Code Sections 11362.7 et seq. and titled the "Medical Marijuana Program" ("MMP")) went into effect and was enacted to clarify the scope of the CUA and to allow cities and counties to adopt and enforce regulations consistent with the CUA and MMP; and,

E. The CUA and MMP, on one hand, and the CSA, on the other, create a law enforcement dilemma due to the conflict between federal and state law; and although state law purports to create a limited affirmative defense to criminal prosecution for qualifying persons who collectively gather to cultivate medical marijuana, there is no provision in state law which authorizes or protects the establishment of a medical marijuana dispensary, other storefront distribution operation, or other facility to distribute marijuana; and,

F. Medical marijuana dispensaries and storefront distribution facilities have been established in cities and counties throughout the State in increasing numbers under the claim that the CUA and the MMP allows for such facilities without regard to local regulation; further, although the CUA and MMP provide for personal possession, use, and cultivation of marijuana, as well as collective cultivation, in limited circumstances, they do not authorize or legalize the sale of marijuana for profit on an individual basis or from a store-front; and,

G. The City of Visalia, by and through its City Council has adopted a Medical Marijuana Business Ordinance, consisting of Chapter 5.66 of Title 5 (Business Regulations) creating regulations regarding the operation of “Medical Marijuana Dispensaries” and other forms of “Medical Marijuana Businesses” within the City of Visalia, Chapter 8.64 of Title 8 (Health and Safety) creating regulations regarding the “Public Use and Consumption of Medical Marijuana,” and Chapter 17.64 of Title 17 (Zoning) restricting the location of Medical Marijuana Businesses.

H. Since adoption of the Medical Marijuana Business Ordinance (“MMBO”), the courts of the State of California and the United States, and the California Attorney General, have had occasion to consider, establish and refine, the appropriate definitions of terms that are contained in the Compassionate Use Act and SB 420, and that are used in the Visalia Medical Marijuana Business Ordinance. In particular, such authorities have resulted in changes, refinements and additions to the definitions of “primary caregiver”, “collective” and “cooperative” activities of “qualified patients”, and other similar terms.

I. The City has reviewed these authorities and determined that definitions contained in the Visalia Medical Marijuana Business Ordinance are not fully consistent with the above-noted later enacted authorities. The City has further determined that current applicants for a Medical Marijuana Business Ordinance may be able to establish conformance with the Medical Marijuana Business Ordinance but will not be in conformance with the above-stated state laws in that the activity does not constitute an action that is consistent with, and therefore protected by, the Compassionate Use Act or SB 420. Because of this, City staff has recommended that the City Council consider immediate changes to the Medical Marijuana Business Ordinance to ensure that no Medical Marijuana Business is allowed to be established in the City of Visalia unless it can be confirmed that it is consistent with state law.

J. After having made findings consistent with Section 65858 of the California Government Code, the City Council of the City of Visalia enacted a temporary moratorium on the establishment of medical marijuana businesses as defined in the MMBO. The purpose of the temporary moratorium was to provide City staff with sufficient time to study potential changes to the MMBO that will bring the MMBO into conformance with developing state law and ensure that no medical marijuana business is established in Visalia that is later determined to be unlawful under the CUA and MMP.

K. Numerous cities in the State of California have adopted ordinances prohibiting medical marijuana dispensaries. As a significant number of cities including cities in central California have prohibited or heavily regulated medical marijuana dispensaries there is a substantially increased likelihood that such

establishments will seek to locate in the City of Visalia, particularly if the City of Visalia ordinance on this subject is more expansive than what would be allowed under state laws.

L. The health, safety and welfare of the people of the City of Visalia are threatened by businesses or other establishments that violate state law, particularly in relation to the cultivation and distribution of a substance that is illegal pursuant to federal laws. The City has found that other jurisdictions in California that have allowed or legally permitted the establishment of medical marijuana dispensaries, other storefront distributions operations, or other facilities to distribute marijuana, have experienced an increase in crime, such as loitering, theft, burglary, robbery, homicide and sale of illegal drugs in the areas immediately surrounding such facilities.

M. The temporary moratorium on medical marijuana businesses will expire in October, 2011. The City Council finds a permanent revocation of the MMBO is required prior to such expiration because the MMBO as previously enacted no longer appears consistent with state laws.

N. Based on the adverse secondary impacts experienced by other cities and counties, it is reasonable to conclude that similar negative secondary effects on the public health, safety, and welfare would occur in the City as a result of the proliferation of facilities distributing marijuana and the lack of appropriate regulations governing the establishment and operation of such facilities; and,

O. The City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and preemption of the City's authority will not be implied when the legislative scheme of the law, including the MMP and CUA, either permits or recognizes local regulation; and the MMP explicitly provides that a City shall not be prevented from adopting or enforcing laws consistent with the MMP; and the CUA and MMP do not contemplate or mention in any way or fashion the creation of medical marijuana retail or distribution outlets to be permitted in a city or county, and therefore a prohibition of such outlets is consistent with the MMP and CUA.

P. In addition to prohibitions against medical marijuana dispensaries and related uses, it is consistent with the MMP and CUA to impose conditions on individual use and cultivation of marijuana for medical purposes, and without such conditions, the same negative secondary impacts associated with dispensaries will occur.

Q. In order to prevent the negative secondary effects of individual cultivation and consumption of medical marijuana, the City has identified several additional conditions that should be placed on such activities beyond those currently in place in the Visalia Municipal Code.

R. In establishing local regulations on individual use and cultivation of medical marijuana (an activity that state law has expressly made permissible), the City Council does not intend to create new or separate permissive authority for such activity, nor does the City Council intend to create authority that permits activity that is contrary to federal law if federal law is determined to be pre-emptive of state law. In the event state law is amended to make individual consumption and cultivation of marijuana for medical purposes unlawful, or in the event federal law is determined to

preempt state law on this issue, the City Council intends the ordinances enacted hereby to also be repealed, or to be preempted by federal law, as the case may be.

**Section 2 - Revocation of Medical Marijuana Business Ordinance.** Chapter 5.66 of the Visalia Municipal Code is hereby deleted, revoked and repealed in its entirety.

**Section 3 - Revocation of Medical Marijuana Business Zoning Provisions.** Chapter 17.64 of the Visalia Municipal Code is hereby deleted, revoked and repealed in its entirety.

**Section 4. Intent in Establishing Local Regulation.** Section 8.64.010 of the Visalia Municipal Code pertaining to purpose and intent of Chapter 8.64 is revoked and replaced with the following amended section 8.64.010:

**8.64.010 Purpose and Intent.**

A. It is the purpose of this chapter to promote the health, safety, morals, general welfare and enjoyment of private property of the residents within the city by restricting the public use and consumption of marijuana for medical purposes and by regulating the individual cultivation of medical marijuana.

B. The City Council finds that the regulation established by this Chapter 8.64 is necessary in order to avoid adverse effects that would occur in the absence of any local regulations due to the uncertainty caused by the fact that state law expressly permits activity that is prohibited under federal law. However, in enacting this ordinance, the City Council does not intend to create new or separate permissive authority for the use, cultivation or consumption of any substance that is prohibited by federal law. Accordingly, in the event state law defining medical marijuana and making its possession, cultivation and use permitted under state criminal laws is repealed, or in the event federal law is determined to preempt state law on this issue, the City Council intends Chapter 8.64 to also be repealed to correspond to state law, or to be preempted by action of federal law, as the case may be.

**Section 5 – Regulation of Personal Medical Marijuana Consumption.** Section 8.64.030 of the Visalia Municipal Code pertaining to individual consumption of medical marijuana is revoked and replaced with the following amended section 8.64.030:

**8.64.030 Regulations applicable to individual use or consumption of medical marijuana.**

No person shall smoke, ingest, or otherwise consume medical marijuana in the city unless each of the following conditions is met:

1. such smoking, ingesting or consumption occurs entirely within a private residence, and



2. No smoke or odor resulting from such smoking, ingesting or consumption may be detected from any neighboring property or residence.

**Section 6 – Regulation of Personal Medical Marijuana Cultivation.** Section 8.64.040 of the Visalia Municipal Code pertaining to individual cultivation of medical marijuana is revoked and replaced with the following amended section 8.64.040:

**8.64.040 Regulations applicable to individual cultivation of medical marijuana.**

A. No person shall cultivate medical marijuana in the city unless each of the following conditions is met:

1. Such cultivation occurs either in any of the Single Family Residential Zones (R-1 Zones) or the Agricultural Zone (A Zone).
2. Such cultivation occurs within a fully enclosed and adequately secured building (as that term is defined in Title 17 of the Visalia Municipal Code) having at least four solid walls and roof of masonry, metal or wood, and standard locks, but not within any portion of a building or structure dedicated to living space.
3. The building within which such cultivation occurs, and any improvements within such building, meet all applicable building and zoning requirements (including but not limited to required setbacks, height limitations and fire sprinkler requirements), and the structure and improvements themselves have been properly permitted and inspected.
4. The total area dedicated to cultivation shall be limited to a total of 100 square feet per parcel.
5. The person responsible for such cultivation maintains evidence of qualification to use and cultivate medical marijuana as required by state law.
6. Cultivation does not constitute the establishment of a medical marijuana dispensary in violation of section 8.64.050.
7. Any chemicals or other materials used in such cultivation are used in a manner that is consistent with any applicable rules and regulations pertaining to chemical or material handling and storage, and no hazardous materials are maintained or allowed to exist on the premises.

B. Any person cultivating between 10 and 100 square feet of medical marijuana at any single location in the City shall request and obtain a code compliance inspection no less than every three months consistent with this subsection B., shall maintain evidence of such inspection at all times at the location of the cultivation, and shall be prepared to provide evidence of such inspection at any time upon request. The code compliance inspection required by this section shall:

1. be performed by the Building Department of the City of Visalia, or designee, with assistance as may be necessary from other

departments, including but not limited to the Code Enforcement division, the Fire Department and the Police Department.

2. confirm compliance with Subsection A. of this section.

3. be subject to payment of inspection fees based on the actual inspection costs, determined with reference to the standard hourly code enforcement building inspection costs as established from time to time by the City.

**Section 7 – Prohibition Against Medical Marijuana Dispensaries.** Section 8.64.050 is added to Chapter 8.64 of Title 8 of the Visalia Municipal Code, to read:

**Section 8.64.050. Medical Marijuana Dispensaries Prohibited.**

A. A medical marijuana dispensary as defined in subsection B. of this section may not be established within the City of Visalia, and no permit of any type shall be issued therefor. Notwithstanding Section 17.02.110 of the Visalia Municipal Code, in no event shall a medical marijuana dispensary as defined in subsection B. of this section be considered a permitted or conditionally permitted use in any land use zoning district. This section shall not affect the right to possess, use or cultivate marijuana for medicinal purposes as is presently authorized or prohibited by the laws of the State of California as set forth in the Health and Safety Code, Penal Code, or other state law, or by any federal law, provided such possession, use or cultivation otherwise complies with any applicable provisions of the Visalia Municipal Code.

B. A medical marijuana dispensary is any facility or location, whether fixed or mobile, where marijuana is cultivated, made available, and/or distributed by or to three or more persons within the following categories: a primary caregiver, a qualified patient, or a patient with an identification card, as those terms are defined in Health and Safety Code Sections 11362.5 and 11362.7 et seq. as such sections may be amended from time to time.

**Section 8. Effective Date.** This ordinance shall take effect thirty (30) days from the date of adoption.

**PASSED AND ADOPTED:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Resolution 2011-40 Acceptance of City owned property into the public street system along the south side of the alley located between Acequia Avenue and Main Street in the block between Locust Street and Court Street.

**Deadline for Action:** None

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

**Contact Name and Phone Number:**  
Jason Huckleberry, Eng. Services Manager, 713-4259  
Adam Ennis, Assist. Director of Engineering, 713-4323  
Chris Young, Community Development Director, 713-4392

**Department Recommendation:** Staff recommends approval of Resolution 2011-40, accepting City owned property into the public street system along the south side of the alley located between Acequia Avenue and Main Street in the block between Locust Street and Court Street.

**Summary and Background:** In recent months, Staff has met several times with downtown property owners in order to identify potential downtown infrastructure needs, concentrating on infrastructure that would allow for the remodel and expansion of downtown properties. Meetings have focused on electrical upgrades and fire protection facilities and have been attended by various utility companies.

Additional above ground electrical utilities (Southern California Edison Co) are needed in the alley located between Main Street and Acequia Avenue in the block between Court Street and Locust Street to facilitate pending renovations to the Cusenza Building (Fugazzi's Restaurant) located on the north side of the alley. This area will also facilitate utility upgrades to adjacent buildings on the same block (includes the Cellar Door and the Time's Place building) upon renovation and/or expansion in the future (see Exhibit #1). The primary access for utilities to this block is along the alley on the south side of the buildings. The alley is currently at the minimum width needed for solid waste and emergency vehicles. Since the existing buildings were originally built on the property line, there is no room for the needed above ground utilities in the alley or on the building properties. Several of the utilities must be located above ground and outside of the buildings.

The City currently owns the parking lot on the south side of the alley. Staff recommends that an approximately 25 feet (north-south) and 30 feet (east-west) area of the parking lot, immediately south of the alley and about 140 feet east of the east Locust Street right-of-way line, be accepted into the City street system (see Exhibit #1). This area would be converted from City

**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)**

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property to part of the alley, which is part of the City street system, allowing utilities to be located there under the current utility franchise agreements. The area would eliminate two spaces from the parking lot but would provide additional “right-of-way” for utilities needed in that block for adjacent property owner’s to renovate and upgrade their buildings. The location was selected to minimize the impact to the current parking lot and provide an acceptable location for necessary utilities required for the renovation of downtown properties. There are no improvements to the alley associated with this request. The area could be converted back to City property in the future if desired. However, any utilities existing in the area at the time would have to be either relocated or given an easement.

**Prior Council/Board Actions:** On March 21, 2011 Council approved a similar resolution for an area in the parking lot north of the alley between Center Ave and Main St between Church St and Court St in order to facilitate renovations to the Togni building.

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

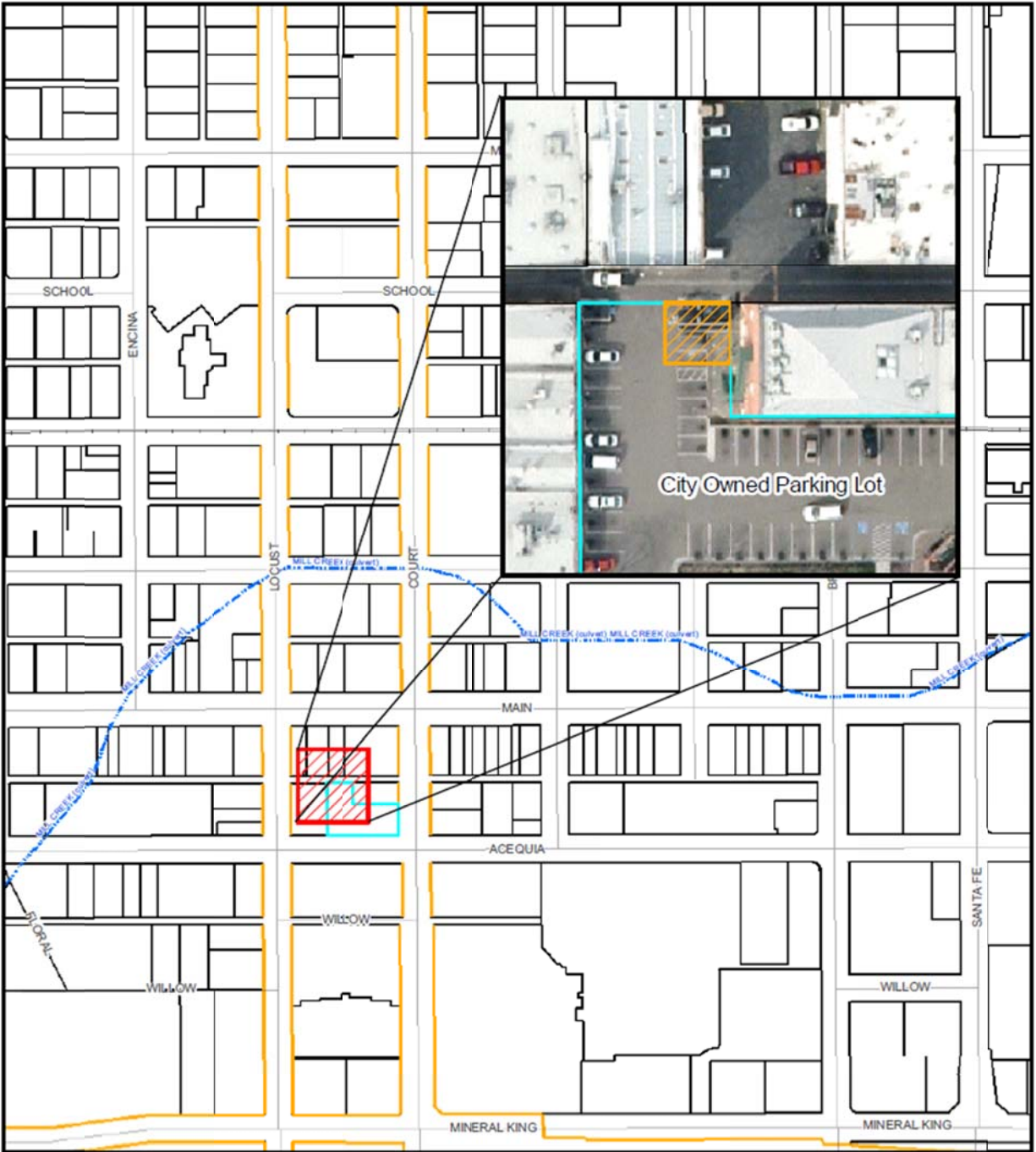
**Alternatives:** None

**Attachments:** Exhibit #1 - Location Map and Site Plan, Resolution 2011-40.  
Legal Description (and Exhibit)

**Recommended Motion (and Alternative Motions if expected):**  
I move to approve Resolution 2011-40, accepting City owned property into the public street system along the south side of the alley located between Acequia Ave and Main Street in the block between Locust Street and Court Street.

**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 Records Office through City Engineer’s office.*

Copies of this report have been provided to:



**EXHIBIT 1**



**RESOLUTION NO. 2011-40**

**ACCEPTANCE OF CITY OWNED  
PROPERTY INTO PUBLIC STREET SYSTEM**

**WHEREAS**, the City of Visalia owns those properties commonly known as a portion of Lot 6 and Lot 7 of Block 32 of the original town site; and,

**WHEREAS**, the City of Visalia desires to accept real property into the public street system; and,

**WHEREAS**, said portions are more particularly described as follows:

See Exhibit "A" (Legal Description) and Exhibit "B" (Diagram of the area designated) attached and made a part thereof;

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Visalia does hereby accept into the public street system the above-described parcel of land.

**EXHIBIT 'A'**

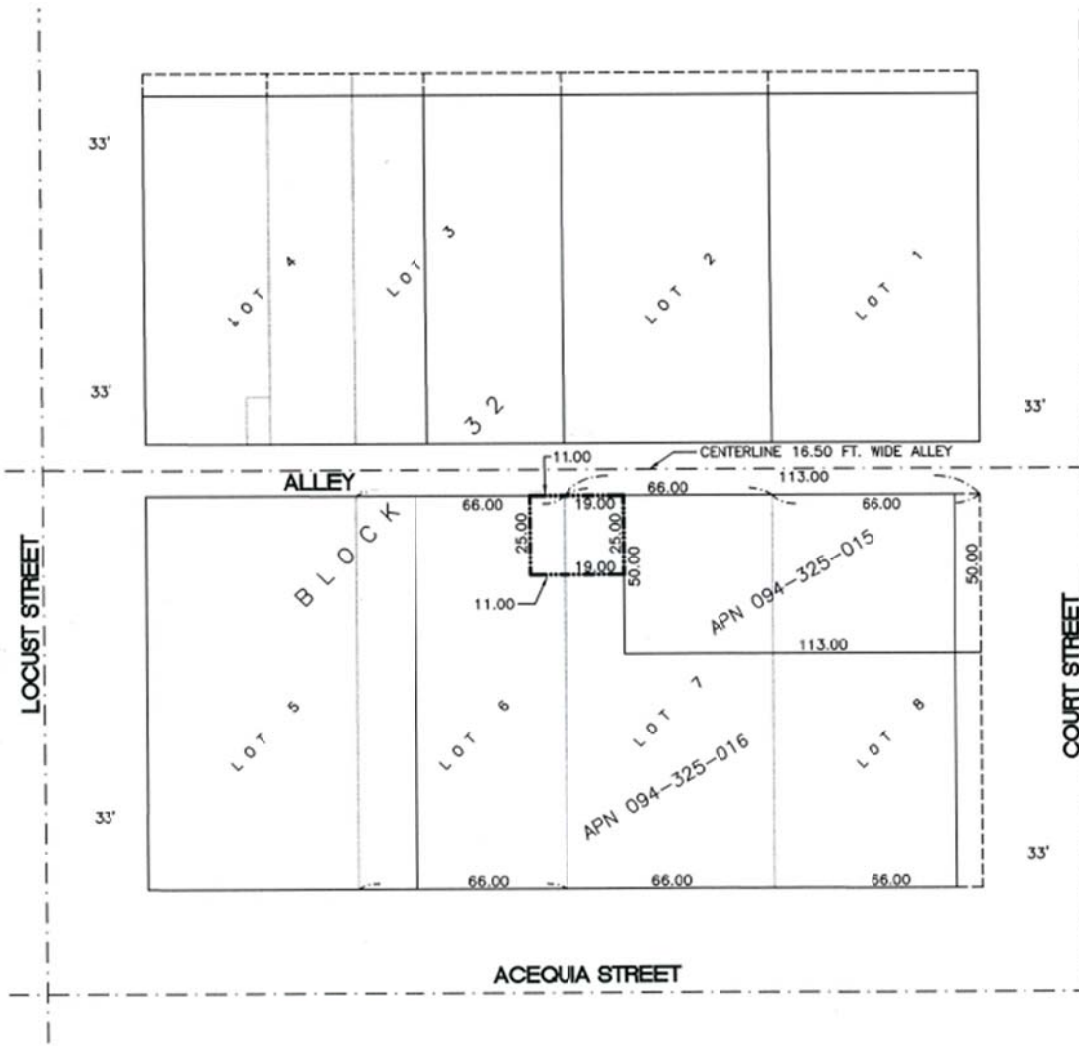
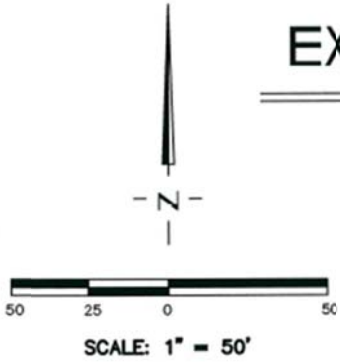
Lane Engineers, Inc. Job No. 11175  
July 19, 2011

The North 25.00 feet of the West 19.00 feet of Lot 7 and the North 25.00 feet of the East 11.00 feet of Lot 6 in Block 32 of the 'Original Townsite of the City of Visalia' recorded in Volume 3 of Maps at Page 48, T.C.R. situated in a portion of the SW1/4 of the SW1/4 of Section 29, Township 18 South, Range 25 East, Mount Diablo Base and Meridian, in the City of Visalia, County of Tulare, State of California.

SEE EXHIBIT 'B' ATTACHED HERETO.



# EXHIBIT 'B'





**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Authorize the Mayor to send letters to appropriate state legislators expressing opposition for California Assembly Bills 46 and 781, oppose Senate Bill 263, continue to monitor SB 46, and oppose SB 244 and 293 unless amended.

**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 opposition for California Assembly Bills 46 and 781, oppose Senate Bill 263, continue to monitor SB 46, and oppose SB 244 and 293 unless amended.

**Summary/background:** Below is a list of bills and recommended positions for the City of Visalia to take in letters of opposition to local legislators. The bills selected were included based on input from the City's state lobbyist, John Moffatt of Nielsen, Merksamer et al and 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.

**Local government**

**AB 46 (John A. Perez) Local government: cities, and AB 781 (Perez) Local Government: Counties: Unincorporated Areas.** AB 46 would provide that every city with a population of less than 150 people as of January 1, 2010, would be disincorporated into that city's respective county as of 91 days after the effective date of the bill unless a county board of supervisors determines, by majority vote, that continuing such a city within that county's boundaries would serve a public purpose if the board of supervisors determines that the city is in an isolated rural location that makes it impractical for the residents of the community to organize in another form of local governance. The bill would also require the local agency formation commission within the county to oversee the terms and conditions of the disincorporation of the city, as specified. Specifically, this bill forcibly dis-incorporates the City of Vernon and is double-joined to AB 781 by the same author which creates a community services district in Vernon and places the Los Angeles County Board of Supervisors in charge of the district.

**Reasons for opposition:** Both AB 46 and AB 781 are examples of state infringement on local control. Together, they set a dangerous precedent for all California charter cities as they would

**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)**

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allow the legislature to eliminate a charter city without a vote of the affected residents. Charter cities throughout California should be concerned that other cities may be similarly affected. Additionally, these bills represent another example of the state ignoring the will of California voters and the state constitution. On its face, AB 46 and AB 781 violate several provisions of the California Constitution, including provisions prohibiting special legislation, provisions protecting charter cities, and Propositions 18, 22, 1A and 26. There are available remedies to address problems in existing cities, including the process to elect city council members. This legislation ignores existing remedies and instead attempts to establish an unnecessary, heavy-handed and unconstitutional process.

### **Compensation Disclosure**

**SB 46 (Correa) Public Officials: Compensation Disclosure.** This bill would, commencing on January 1, 2013, and continuing until January 1, 2019, require every designated employee and other person, except a candidate for public office, who is required to file a statement of economic interests to include, as a part of that filing, a compensation disclosure form that provides compensation information for the preceding calendar year. The bill also requires every agency to post on its website information contained on the compensation disclosure form.

**Reasons for continued monitoring of legislation:** The City of Visalia believes in open government and access to information for its citizens. The City currently lists annual salaries for Council members, City Manager, and salary ranges for Department Heads. While this bill appears to have merit, at this time, the bill is unclear as to what exactly needs to be reported and made publicly available. Staff and the City's state lobbyists will continue to monitor the bill and make recommendations that will make the bill more concise so that the City and others can ensure compliance with this law.

### **Land Use**

**SB 244 (Wolk) Land Use: Disadvantaged Unincorporated Communities.** This bill amends the Planning and Zoning Law, which requires adoption of plans for the development of a city or county and of land outside a city or county's boundaries. It requires reviews of land use elements to include an analysis of the presence of island, fringe, or legacy unincorporated communities. It also requires the formation of a local commission to make certain determinations regarding public service needs, including sewers, water, and fire protection, in certain disadvantaged unincorporated communities.

**Reasons for opposing legislation unless amended:** Although well-intended, this bill will have little impact on actually helping disadvantaged communities throughout the state, including the Central Valley. A better approach would be to eliminate disincentives and develop solutions that would encourage existing cities to bring smaller communities into their systems, rather than plan around them as the bill alleges. Staff recommends that the City's state lobbyists continue to reach out to the author and sponsors of the bill to determine whether a more practical, effective approach can be reached in the current legislative session.

### **Water**

**SB 263 (Pavley) Wells: Reports: Public availability.** Existing law requires any person who digs or drills a water well, or abandons, destroys or deepens a well to file a report of completion with the Department of Water Resources. Existing law also prohibits these reports from being made available to the public, except under specific circumstances. This bill would require these reports to be made available to the public.

**Reasons for opposition:** While no other cities have expressed a position on this bill, California Water Services and the water utility industry have expressed great concern that providing this information to the public increases the vulnerability of the State's domestic water systems. These reports contain detailed information on the well, thus increasing its vulnerability through tampering or more serious activities. Staff recommends asking other cities to oppose this

legislation and send letters of opposition from both the City Council and the Visalia Police Department to the City's state representatives.

**Public Works**

**SB 293 (Padilla) Payment Bonds: Laborers.** This bill relates to the time period for the payment of a subcontractor by a prime contractor under a private or public works improvement contract, the enforcement of a claim upon any payment bond given in connection with a public works contract, the notice of completion, the percentage of retention proceeds withheld under the contract, progress payments upon contracts for public works of improvement, and withholding of a percentage of the contract price until the project is completed.

**Reasons for opposing legislation unless amended:** While portions of this bill have merit, the language reducing the percentage of retention proceeds will inhibit the City's ability to get contractors to complete public works projects in a timely manner. A "retention" is a percentage of the contract amount that is withheld from a contractor until a project is complete and Council approves a Notice of Completion. The ability to retain final payment to a contractor for a public works project is often the only remedy, other than litigation, that the City has to ensure completed performance of a project. The retained funds must be large enough to provide an incentive for the contractor to finish the work. This bill reduces that percentage from 10% to 5%, thus reducing the incentive for a contractor to finish a construction project in a timely manner and increasing the risk of a contractor leaving a job unfinished. The City opposes this provision, but would not be opposed to the bill if the provisions reducing the percentage no more than 5% were removed from the bill.

**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 opposition for California Assembly Bills 46 and 781, oppose Senate Bill 263, continue to monitor SB 46 and oppose SB 244 and 293 unless amended.

***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:** August 2, 2011

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

**Agenda Item Wording:** Request authorization to file a Notice of Completion for the renovation of the restrooms at the Anthony Community Center located at 345 N. Jacob Street, Visalia, Project No. 0011-00000-720000-0-8217, at a final cost of \$78,175.60.

**Deadline for Action:** None

**Submitting Department:** Parks and Recreation Department

**Contact Name and Phone Number:** Jeannie Greenwood,  
Recreation Manager, 713-4042

**Department Recommendation:** Authorize staff to file a Notice of Completion on Project No. 0011-00000-720000-0-8217 for the restroom plumbing and renovation project located at the Anthony Community Center, 345 N. Jacob Street, Visalia, for a final cost of \$78,175.60.

### Project Summary:

In 2010, the City was able to secure CDBG-R funding for restroom renovations at the Anthony Community Center. That project allowed for several improvements to make the Anthony Community Center compliant with current ADA codes and standards.

On February 22, 2011, the City Council awarded a contract to C.J. Atkins Construction, Inc. of Visalia for the second phase of this project, to replace outdated plumbing in the men's restroom including replacing two floor urinals where pipes were eroding and replacing with three wall mounted units. In addition, the project was to replace the existing 35+ year old flooring and tiles, replace sinks in the ladies room, install energy efficient hand dryers and replace asbestos containing vinyl tile in the hallway.

This project was funded at \$78,500 based on the architect's estimate and was estimated to be completed at \$62,651.87 with the awarded contract. This left monies to be held in contingency once the restrooms were completely demolished to ascertain if there were other items that would require fixing and/or replacing. (One never knows what will be found when opening up a

### 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.

50+ year old facility.) Once the restrooms were completely opened up, project staff was able to determine that the project would not see increases in costs related to unknown circumstances. At that time, a Request for Change Order was presented to the Change Order Committee to add additional items to the project that were left out of the original Request for Bid with the thought that there would not be enough money in the project to complete additional items. Thanks to a good bidding environment and no additional plumbing issues, we were able to include the following additional items in this project:

- Replacing all plumbing fixtures with water efficient, automatic features such as auto flush commodes and urinals and motion sensor water faucets.
- Adding shut off valves for each restroom, prior to the project the entire facility was on one shut off valve.
- Ceilings were removed and replaced to allow for better access for the project.
- Repairs were made to cinder block walls that were damaged when removing old ceramic tile.
- Vinyl composite tile (VCT) containing asbestos was removed from the hallway in the facility entry/lobby and replaced.

This project completed the renovation of the restrooms at the Anthony Community Center. The facility now has an ADA accessible restroom that is new from the underground plumbing to the ceilings.

The Anthony Community Center is a very busy location with programs operating up to 14 hours a day, six to seven days a week. Changes to water efficient, self-flushing commodes and urinals will save the City water use and maintenance time. Motion activated faucets will also save significant amounts of water and electric hand dryers will offer continued savings in the cost of paper towels and waste removal.

The project was completed on July 13, 2011 with a total project cost of \$78,175.60, \$324.40 under budget.

**Prior Council/Board Actions:** Award of Anthony Community Center Plumbing Project to C.J. Atkins Construction, Inc. on February 22, 2011.

**Committee/Commission Review and Actions:**

**Alternatives:** None

**Attachments:** None

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

***Environmental Assessment Status***

**CEQA Review:**

**NEPA Review:**

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

Copies of this report have been provided to:

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:**

Authorization to initiate a General Plan and Zoning Map Amendment to change the General Plan Land Use and Zoning designations from Residential Low Density to Quasi Public and Convenience Commercial and initiate a corresponding parcel map on APN 103-120-004 located at 3709 East Houston Avenue.

**Deadline for Action:** None

**Submitting Department:** Community Development

**Contact Name and Phone Number:**

Mike Olmos, Assistant City Manager – 713-4332  
Mark Nelson, Fire Chief – 713-4218

**Department Recommendation:**

Staff recommends that the City Council initiate a General Plan (GPA) and Zoning Map (ZC) Amendment to change the land use and zoning designation for a 3.78 acre City-owned parcel at McAuliff Street and Houston Avenue as shown on the attached map. The proposed change is from Residential Low Density (RLD) to Quasi Public (QP) for 1.53 acres and Convenience Commercial (CC) for 1.95 acres. A parcel map to create legally separate parcels for these uses is also recommended. Staff's recommendation is to reserve part of this parcel for future construction of a fire station on the QP zoned area and utilize the CC designated remainder of this parcel for a future master planned commercial development to serve this area of the community.

**Summary/background:** Fire Chief Mark Nelson has determined that a future fire station will be needed in the northeast area of Visalia to serve existing neighborhoods and anticipated growth. The Fire Department has examined several potential locations for a fire station and determined that the City-owned property located at the southeast corner of McAuliff Street and Houston Avenue is well located and most suitable for a future fire station. City staff believes this site can be adequately developed for a fire station utilizing the southerly approximately 1.53 acres of the parcel with the northerly remaining 1.95 acres made available for other future urban uses.

Staff believes the northerly 1.95 acres is well suited for future development to convenience commercial uses. This site, though small, could accommodate a small grocery store, stand-alone pharmacy/general merchandise store (such as the Rite Aid located at Ben

**For action by:**

City Council  
 Redev. Agency Bd.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.):   1  

**Review:**

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

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

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

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Maddox/Walnut), or a well designed mix of small neighborhood retail, food and/or service tenants. Designation and creation of a parcel for these uses would enable the site to be marketed to interested commercial developers for sale and future development. This commercial node could serve surrounding residential neighborhoods, students, staff and visitors to the Golden west school complex, and motorists on McAuliff and Houston. This area of the community is currently underserved regarding retail uses. The nearest existing shopping areas from McAuliff/ Houston intersection are located at Ben Maddox and Houston and Lovers Lane and Noble, both of which are approximately 1.5 miles away. A small shopping node at Houston and McAuliff could help serve the needs of nearby residents and school related traffic in a manner accessible by pedestrians, bicycles, and autos. This site's location is well suited for a pedestrian and bike friendly shopping node.

There is also a small strip of Convenience Commercial designated land located on the north side of Houston Avenue, approximately ½ mile east of McAuliff at the future Road 148 alignment. The property at the Road 148 location is not inside the City and is currently vacant. Given the limited size of Convenience Commercial areas, the ½ mile separation between the existing designated site at Houston/Road 148 and the Houston/McAuliff site should not cause an oversaturation of commercial sites in this area of the community.

If the City Council authorizes this action, the costs associated with the GPA/ZC and the environmental document will be paid from the General Fund and are estimated to be \$10,000 or less. Processing time for this action is anticipated to be 120 days from the date the applications are formally filed. Costs for these efforts can be offset when the sale of the commercial portion occurs.

**Discussion:**

This zoning change is recommended because it reflects the needs of the City on this parcel for a future fire station and incorporates small scale commercial zoning that will be compatible with the fire station. The surrounding area is a mixture of residential units, commercial development and agricultural reserve. This site is in the northeastern part of the City and will be well suited for a fire station and new commercial development where there is not any within an immediate ¼ mile radius. Staff would recommend incorporation of restrictions on development to the CC designated portion of the site to exclude development such as cigarette stores and stores selling drug related items, and other uses that may not be appropriate in such close proximity to a school site. Other restrictions may be placed on such activities as advertising and alcohol sales.

The proposed GPA/ZC would foster new commercial development with design standards that would allow for aesthetically pleasing development with small retail shops such as small grocery store, coffee shops or small restaurants. Staff feels the split of QP and CC on this parcel will complement each other and the surrounding areas, while allowing for the needed fire station.

**Prior Council/Board Actions:**

None

**Committee/Commission Review and Actions:**

N/A

**Alternatives:**

Do not pursue recommended GPA/ZC

**Attachments:**

Map A – concept map of proposed improvements on parcel #103-120-004

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

I move to initiate General Plan and Zoning Map Amendments and parcel map as recommended in the staff report.

***Environmental Assessment Status***

**CEQA Review: N/A**

**NEPA Review: N/A**

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*  
none

Copies of this report have been provided to:

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Approve Resolution Number 2011-41 adopting the City of Visalia's annually Investment Policy and Delegating authority to invest funds for the City to the Administrative Services Director/Treasurer for fiscal year 2011/12.

**Deadline for Action:** None

**Submitting Department:** Administration - Finance

**Contact Name and Phone Number:**

Eric Frost, Director Administrative Services -713-4474,  
Liz Ybarra, Sr. Administrative Analyst -713-4598

**Department Recommendation:** Staff recommends that Council take the following actions:

1. Make no changes to the Investment Policy.
2. Approve the annually adopted Investment Policy.
3. Delegate annual authority of the investment program to the Administrative Services Director/Treasurer, Eric Frost.

**Authority To Invest Funds**

According to California Government Code Section 53607, the authority to invest funds of a local agency may be delegated for a one year period or until the delegation of authority is revoked. Staff recommends assigning Administrative Services Director/Treasurer, Eric Frost, with City investment responsibility.

**City Investment Policy**

The City's investments are diversified by the various maturities, call structures, and credit types which are allowed by the City's Investment Policy and California Government Code Section 53600 et seq. The policy is attached for Council's review.

**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.): 5

**Review:**

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

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

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

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Attachment #1, City of Visalia Investment Policy  
Attachment #2, City of Visalia Resolution approving the investment policy and delegating authority to Administrative Services Director

**Recommended Motion (and Alternative Motions if expected)** Move to approve resolution No. 2011-41 adopting the City of Visalia’s annually updated Investment Policy and delegating authority to invest funds for the City to the Administrative Services Director/Treasurer, Eric Frost.

***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

## Statement of Investment Policy

### **INTRODUCTION**

The City of Visalia (The City) strives to maintain the level of investment of all funds as near 100% as possible through daily and projected cash flow determinations. Investments are made so maturities match or precede the cash needs of the City. The City will insure that principal invested is protected from loss while maintaining adequate cash availability and maximizing yield on invested funds.

The basic premise underlying the City's investment philosophy is to insure that money is always available when needed. A minimum amount of 6% of the adopted operating budget is maintained in immediately available investments, such as the State Treasurer's Local Agency Investment Fund or other cash equivalents. This may include commercial paper, banker's acceptances, or new repurchase agreements.

The City's portfolio will be limited to an average life of three years or less. When the market warrants purchase of longer maturities to capture a higher rate of return, purchases will be limited to United States Treasury Notes and Bonds, Federal Agencies, Medium Term Notes, and Mortgage Backed Securities.

The City will attempt to ladder the portfolio with staggered maturities so that a portion of the portfolio will mature each year. In addition, the economy and various markets are monitored carefully to assess the probable course of interest rates. In a market with low or increasing interest rates, the City will attempt to invest in securities with shorter maturities. This makes funds available for other investments when the interest rates are higher. When interest rates appear to be near a relative high rate, the City will attempt to purchase investments with medium to long-term maturities to lock in the higher rate of return. When interest rates are falling, the City will invest in securities with longer maturities to hold the higher rate for a longer period of time.

City will also take advantage of any new investment instrument that becomes eligible for municipal investment only after a detailed review of the investment, and its safety, liquidity and yield are completed.

### **1.0 Policy**

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 entity and conforming to all state and local statutes governing the investment of public funds.

### **2.0 Scope**

It is intended that this Investment Policy cover all funds and investment activities under the direct authority of the City organization.

### **3.0 Prudence**

As a charter city, the City operates its pooled cash investments under the prudent investor rule. Investments shall be made with the judgment and care, under the circumstances then prevailing which investors of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. This affords the City a broad spectrum of investment opportunities as long as the investment is deemed prudent and is allowable under current legislation of the State of California, the charter of the City, and this investment policy. Investments will be made in a range of instruments to insure diversification of the City's portfolio and liquidity of assets in an emergency situation.

3.1 The standard of prudence to be used by investment officials shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments. Future State of California legislative actions affecting this investment policy (adding further restrictions to the type and length of investments) shall not apply to those investments held prior to the enactment of said legislation unless specifically identified in the legislative action.

### **4.0 Objective**

The primary objectives, in priority order, of the City of Visalia's investment activities shall be:

4.1 **Safety:** Safety of principal is the foremost objective of the investment program. Investments of the City shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk.

- a. Credit Risk, which is the risk of loss due to the failure of the security issuer or backer, will be minimized by:
  - Limiting investments to the types of securities listed in Section 8.0 of this Investment Policy
  - Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisers with which the City will do business in accordance with Section 7.0
  - Diversifying the investment portfolio so that the impact of potential losses from any one type of security or from any one individual issuer will be minimized.
- b. Interest Rate Risk, which is the risk that the market value of securities in the portfolio will fall due to changes in market interest rates, by:
  - Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity
  - Investing funds primarily in shorter-term securities, money market mutual funds, or similar investment pools and limiting the average maturity of the portfolio in accordance with this policy as outlined in Section 13.0.

4.2 **Liquidity:** The City's investment portfolio will remain sufficiently liquid to enable the City to meet all operating requirements which might be reasonably anticipated.

**4.3 Return on Investments:** The City's investment portfolio shall be designed with the objective of attaining a rate of return throughout budgetary and economic cycles, commensurate with the City's investment risk constraints and the cash flow characteristics of the portfolio. Securities shall generally be held until maturity with the following exceptions:

- A security with declining credit may be sold early to minimize loss of principal.
- A security swap would improve the quality, yield, or target duration in the portfolio.
- Liquidity needs of the portfolio require that the security be sold.

#### **5.0 Delegation of Authority:**

Authority to manage the City's investment program is derived from the City's Charter. On November 21, 1983 Council delegated responsibility (Resolution 83-96) for the investment program is to the Finance Director (Treasurer), who shall establish written procedures for the operation of the investment program consistent with this investment policy. Procedures should include reference to: safekeeping, repurchase agreements, wire transfer agreements, banking service contracts and collateral/depository agreements. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Treasurer. The Treasurer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. Annually, Council will review and adopt by resolution the updated Investment Policy, in which Council will delegate responsibility for the investment program to the Treasurer.

#### **6.0 Ethics and Conflicts of Interest**

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment officials shall disclose to the Treasurer any material interests in financial institutions that conduct business within this jurisdiction, and they shall further disclose any large personal financial/investment positions that could be related to the performance of the City, particularly with regard to the time of purchases and sales.

#### **7.0 Authorized Financial Dealers and Institutions:**

The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security broker/dealers selected by credit worthiness who are authorized to provide investment services in the State of California. These may include "primary" dealers or regional dealers that qualify under Securities & Exchange Commission Rule 15C3-1 (uniform net capital rule). No public deposit shall be made except in a qualified public depository as established by State laws.

All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the Treasurer with the following:

- Audited Financial Statements
- Proof of National Association of Security Dealers certification
- Completed broker/dealer questionnaire
- Certification of having read this investment policy
- Compliance with City of Visalia insurance requirements for professional services agreements for general, professional and automotive liability.

An annual review of the financial condition and registrations of qualified bidders will be conducted by the Treasurer. In addition, a current audited financial statement is required to be on file for each financial institution and broker/dealer in which the City conducts investment transactions.

The City shall also be open to contracting investment management services for a portion of the portfolio. That portion shall be limited to longer term investments of two years or longer. Any investment management firm contracted shall meet criteria established by the Treasurer. All investments made under contract will be purchased in the City's name and in accordance with the guidelines established by the City's investment policy.

## **8.0 Authorized and Suitable Investments**

The City is empowered by statute to invest in the following types of securities:

### **A. Securities of the U.S. Government**

Securities of the U.S. Government include U.S. Treasury bills, notes and bonds.

U.S. Treasury Bills - are issued by the U.S. Treasury and are available in maturities out to one year. They are non-interest bearing and sold on a discount basis. The face amount is paid at maturity.

Treasury Notes - are issued by the U.S. Treasury with maturities from two to ten years. They are issued in coupon form and many issues are also available in registered form. Interest is payable at six month intervals until maturity.

Treasury Bonds - are issued by the U.S. Treasury with maturities of ten years to thirty years. The City may purchase the interest and/or principal of a U.S. Treasury Bond. A principal only instrument is commonly called a "stripped" or "zero" coupon. Stripped coupons are sold at a discount basis. The face amount is paid at maturity.

### **B. Securities of U.S. Government Agencies**

The capital of U.S. government agencies was initially financed by the United States Treasury. As the agencies have grown and operated profitably over the years, the Treasury's investment has been replaced in a large measure by private capital. At the present time, obligations of only a few agencies are backed by the full faith and credit of the U.S. Government. The obligations of all the federal agencies described in the following sections are not guaranteed by the U.S. Government with the exception of Government National Mortgage Association, but are considered to be investments of the highest quality.

Federal National Mortgage Association - (Fannie Mae) Is a quasi- public corporation created by an act of Congress to assist the home mortgage market by purchasing mortgages insured by the Federal Housing Administration and the Farmers Home Administration, as well as those guaranteed by the Veterans Administration. FNMA issues Notes and Bonds. Notes are issued with maturities of less than one year with interest paid at maturity. Bonds are issued for 15 and 30 year maturities with interest paid semi-annually. Interest is computed on a 30/360 day basis. There is a strong secondary market in these securities. A secondary market means these instruments are actively traded; they are bought and sold daily.

Government National Mortgage Association - (Ginnie Mae) is a wholly owned corporate instrumentality of the United States within the Department of Housing and Urban Development. A certificate collateralized by FHA/VA residential mortgages represents a share in a pool of FHA or VA mortgages. Ginnie Mae's are registered securities. Principal and interest are paid monthly and sent directly from the issuer of the pool, usually a mortgage banker, to the City. Original maturities range



from 12 to 30 years with a 7 to 12 year assumed average life. (Assumed average life is due to prepayments of mortgages).

Federal Home Loan Banks - provide credit to member lending institutions such as savings and loan associations, cooperative banks, insurance companies and savings banks. The agency offers bonds in the public market with maturities of one year to ten years. These bonds are usually offered on a quarterly basis depending on the current demands of the housing industry. Interest is paid semi-annually on a 30/360 day basis.

Federal Farm Credit Banks - are debt instruments issued to meet the financial needs of farmers and the national agricultural industry. Discount notes are issued monthly with 6 and 9 month maturities. Discount notes pay interest at maturity. Longer term debentures (2-5 years) are also issued. Debentures pay interest semi-annually on a 30/360 day basis. These issues enjoy an established secondary market.

Small Business Administration Loans - (SBA) The Small Business Administration is an independent agency of the United States government which furnishes financial and management assistance to small businesses. The SBA guarantees the principal portion of the loans it approves. The City purchases the guaranteed portion of these loans. Maturity can be for 1 year to 30 years. These loans can be either set at a fixed rate or variable rate which is usually tied to the prime rate. Principal and interest are paid monthly on a 30/360 day basis.

Federal Home Loan Mortgage Corporation - (Freddie Macs) A publicly held government-sponsored enterprise created on July 24, 1970 pursuant to the Federal Home Loan Mortgage Corporation Act, Title III of the Emergency Home Finance Act of 1970, as amended. Freddie Mac's statutory mission is to provide stability in the secondary market for home mortgages, to respond appropriately to the private capital market and to provide ongoing assistance to the secondary market for home mortgages by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for home mortgage financing. Maturity can be for 1 year to 30 years. These loans can be either set at a fixed rate or variable rate.

Other U.S. government securities available to the City for investment purposes include: Student Loan Marketing Association (SLMA or Sallie Mae), Aid for International Development (AID), and debentures of Tennessee Valley Authority (TVA). However, these instruments are not offered on a regular basis and do not offer the same liquidity as the before mentioned instruments.

### **C. Securities of the State of California or Its Sub-Divisions**

The State of California and its sub-divisions occasionally provide a good investment alternative, such as notes, bonds and other evidences of indebtedness. They are used to meet the financial needs of State, or other agencies of the State. These investments, during certain market conditions, can provide a higher yield even without the tax benefit that the private sector takes advantage of. The City will only purchase California securities with credit ratings of A or better by a nationally recognized rating agency; and with maturities of 5 years or less. Their interest is calculated on a 30/360 day basis like Agency bonds. Interest is paid semi-annually.

### **D. Time Deposits and Certificates of Deposit**

Time Deposits are placed with commercial banks, savings association, or state or federal credit unions. A time deposit is a receipt for funds deposited in a financial institution for a specified period of time at a specified rate of interest. Generally, the time is 3 months to 2 years. Denominations can be any agreed upon amount and interest is normally calculated using actual number of days on a 360-day year and paid monthly. Deposits of \$100,000 (commonly referred to as Jumbo C.D.'s) per

institution are insured by the Federal Deposit Insurance Corporation (FDIC) and Certificates of Deposit can be supported by either 110% U.S. Government agency notes or 150% mortgages currently held by the bank or savings and loan. An institution must meet the following criteria to be considered by the City:

- The institution must maintain a net worth to asset ratio of at least 3% and a positive earnings record.
- The institution must make available a current FDIC call report or FHLB report. A call report presents the solvency of the institution to the agency with oversight responsibility of that institution.

#### **E. Negotiable Certificates of Deposit**

Negotiable Certificates of Deposit are a form of Certificate of Deposit which have been an important money market instrument since 1961 when commercial banks began issuing them and a secondary market developed to provide liquidity. Since these certificates of deposit can be traded in the secondary market, they are negotiable instruments, hence their name negotiable certificate of deposit. They are supported only by the strength of the institution from which they are purchased. Interest is paid semi-annually computed on a 30/360 day basis. Maturities range from 3 months to 2 years. Negotiable Certificates of Deposit are generally issued in blocks of \$1 million, \$5 million, \$10 million, etc.

The City will restrict its investments in Negotiable Certificates of Deposit to the 100 largest United States banks according to asset size. The profitability of the financial institution as well as its financial stability is also taken into account prior to placing the investment.

#### **F. Banker's Acceptance Notes**

A banker's acceptance (B.A.) is a unique credit instrument used to finance both domestic and international transactions. As a money market instrument, it is an attractive short-term investment. When a bank "accepts" such a time draft, it becomes, in effect, a predated certified check payable to the bearer at some future, specified date. Little risk is involved because the commercial bank assumes primary liability once the draft is accepted. Banker's acceptances are frequently in odd amounts. Maturities normally range from 30 up to 180 days. Banker's acceptances are sold at a discount. This means the face amount is received at maturity. The City will purchase Banker's acceptances from only the 100 largest United States banks according to asset size. The profitability of the financial institution as well as its financial stability is also taken into account prior to placing the investment.

#### **G. Commercial Paper**

Commercial paper is the trade name applied to unsecured promissory notes issued by finance and industrial companies to raise funds on a short term basis. Commercial paper can be purchased on an interest bearing or discount basis. Interest bearing instruments pay interest semi-annually. Discounted instruments pay interest at maturity. The City will invest in commercial paper only if the paper attains the highest ranking or attains the highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO). Maturities range from 30 to 180 days with interest computed on a 30/360 day basis.

#### **H. Medium Term Notes**

In recent years, this financing mechanism has grown, providing capital to the private sector, and diminishing the Negotiable Certificate of Deposit market. The trend towards medium term notes is related to buyer and seller flexibility and convenience. The notes are issued on any given date and maturing on a negotiated date. They generally range from 2 to 5 years in maturity. This market provides an excellent alternative to Negotiable C.D.'s. The City will only purchase Medium Term Notes with credit ratings of A or better by a nationally recognized rating agency; and with maturities of 5 years or less. Their interest is calculated on a 30/360 day basis like Agency bonds. Interest is paid semi-annually.

#### I. **Local Agency Investment Fund demand deposit**

The Local Agency Investment Fund (LAIF) was established by the State to enable treasurers to place funds in a pool for investment. The LAIF has been particularly beneficial to those jurisdictions with small portfolios. Each agency is limited to an investment of \$50.0 million per account. The City uses this fund for short term liquidity, investment, and yield when rates are declining. Funds are available on demand and interest is paid quarterly. Presently, the City maintains three LAIF accounts.

#### J. **Repurchase Agreement**

Closely associated with the functioning of the Federal funds market is the negotiation of repurchase agreements or repo's. Banks may buy temporarily idle funds from a customer by selling U.S. Government or other securities with the contractual agreement to repurchase the same security on a future date determined by negotiation. For the use of funds, the customer receives an interest payment from the bank; the interest rate reflects both the prevailing demand for Federal funds and the maturity of the repo. Repurchase Agreements are usually executed for \$100,000 or more. The City will require physical delivery of the securities backing the repo to its safekeeping agent. The institution from which the City purchases a repo must transfer on an ongoing basis sufficient securities to compensate for changing market conditions and to insure that the market value of securities is valued at 102 percent or greater of the funds borrowed against those securities. Generally, maturities range from 1 to 90 days with interest paid at maturity, and may not exceed one year. A Master Repurchase Agreement is required.

#### K. **Reverse Repurchase Agreements**

Reverse Repurchase Agreements, on the other hand simply reverses the above process of purchasing repurchase agreements. The City, in effect, sells a particular security to a firm for a stated period of time, not to exceed 92 days. Interest is paid at maturity. The City pays the firm interest on the cash it receives while receiving the interest on original security. The City will in turn purchase a short term security at a higher rate of interest. Reverse repurchase agreements may also be used to alleviate a temporary cash shortage. The City of Visalia will never utilize the reverse repurchase agreement in order to meet its cash needs. Reinvestment of reverse repurchases will be in securities of shorter or equal maturities to a reverse repurchase agreement. Reverse repurchase agreements cannot exceed 20% of the investment portfolio.

#### L. **Money Market Mutual Funds**

Money Market Mutual Funds are shares issued by diversified management companies who invest in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) of Government Code Section 53630 and comply with the investment restrictions of Article 2 (commencing with Section 53630 of the California Government Code). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized rating services,

or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five year's experience investing in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) of Government Code section 53630, and with assets under management in excess of five hundred million dollars (\$500,000,000). The purchase price of shares purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 20 percent of the investment portfolio.

### **9.0 Other Investment Pools:**

A thorough investigation of investment pools, as authorized by statute, shall be conducted prior to the City's investment. The City uses the Local Agency Investment Fund (LAIF) that was established by the State to enable treasurers to place funds in a pool for investments. Any pool shall provide the following:

- A description of eligible investment securities, and a written statement of investment policy and objectives (i.e. are reserves, retained earnings, etc. utilized by the pool and is the pool eligible for bond proceeds and/or will it accept such proceeds)
- A description of interest calculations and distribution methods, and how gains and losses are treated
- A description of how the securities are safeguarded (including the settlement processes), and how often securities are priced and the program audited
- A description of who may invest in the program
- A description of how deposits and withdrawals will be made, how often they are allowed and any minimum or maximum limitations
- A reporting schedule for receiving statements and portfolio activity
- A fee schedule and method of assessment

### **10.0 Collateralization:**

Collateralization will be required on two types of investments: certificates of deposit and repurchase (and reverse) agreements. Deposits of \$100,000 (commonly referred to as Jumbo C.D.'s) per institution are insured by the FDIC and Certificates of Deposit can be supported by either 110% U.S. Government agency notes or 150% mortgages currently held by the bank or savings and loan.

### **11.0 Safekeeping and Custody:**

Securities purchased with invested funds that are in a negotiable, bearer, registered, or nonregistered format, shall require delivery of all the securities to the City, including those purchased for the City by financial advisors, consultants, or managers using the City's funds, by book entry, physical delivery, or by third party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book-entry delivery.

To insure the safety and internal accounting controls necessary to establish a stable and accurate investment system, the City uses an investment confirmation document. This document is prepared by Treasury and approved by accounting personnel. Copies are also distributed to the City accounting department, Treasury investment file, and the institutions with which the order to transfer funds was placed (safekeeping). This transaction control document, or "Confirmation" form, contains information regarding the type of investment; amount invested; interest rate; purchase and maturity dates; and any delivery instructions. This confirmation is matched to the Broker's Confirmation and

held in the Treasury's file until the security is sold or matures.

## **12.0 Diversification:**

The City operates its investment pool with many State and self-imposed constraints. It does not buy stocks and it does not speculate. Currently Government Code Section 53600 (et seq) restricts the City portfolio to:

- o 30% in Negotiable Certificates of Deposit
- o 25% in Commercial Paper
- o 20% in Money Market Mutual Funds
- o 40% in Bankers Acceptance Notes
- o 30% in Medium Term Notes
- o 20% in Repurchase Agreements

These restrictions primarily apply to short-term investments and are interpreted to apply at the time of investment. If, as the portfolio mix changes over time, a particular segment exceeds these restrictions the prudent investor rule shall apply.

The City will be selective in purchasing long-term negotiable certificates of deposit and medium term notes, placing such an investment only with a large stable institution.

## **13.0 Maximum Maturities**

To the extent possible, the City will attempt to match its investments with anticipated cash flow requirements. The City will operate a portfolio with an average life of three years or less. This is to insure liquidity and the ability to move with changing markets and interest rates.

No investments shall be made in investments with maturities greater than five (5) years without specific Council approval not less than ninety days prior to the investment. Exception: Mortgage Backed Securities, such as Federal National Mortgage Association (Fannie Mae) and Government National Mortgage Association (Ginnie Mae) which have maturities greater than five (5) years, and not to exceed 30 years may be purchased. While the final maturity on these investments is greater than five (5) years, the return of principal and interest is received on a monthly basis (as mortgages are being paid, refinanced, and pre-paid), therefore minimizing the investment risk. At no point, will investments with maturities greater than five (5) years exceed 20% of the portfolio value.

## **14.0 Internal Control**

The Treasurer shall establish an annual process of independent review by an external auditor. This review will provide internal control by assuring compliance with policies and procedures.

## **15.0 Performance Standards**

The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs.

15.1 Market Yield (Benchmark): The City's investment strategy is passive. Passive investment portfolio management generally indicates that the Treasurer will purchase an instrument and hold it through maturity, and then reinvest the monies. Although the City's investment strategy is passive,

this will not restrict the Treasurer from evaluating when swaps are appropriate or if the sale of an instrument is prudent prior to final maturity. Given this strategy, a series of appropriate benchmarks shall be established against which portfolio performance shall be compared on a regular basis. The benchmarks shall be reflective of the actual securities being purchased and risks undertaken and the benchmarks shall have a similar weighted average maturity as the portfolio.

### **16.0 Reporting**

Quarterly, the Treasurer will issue a report for Council's review of the City's current investment portfolio, detailing securities purchase and maturity date, face and market value, credit quality, and any reverse activities.

Periodically, the long-term investments will be reviewed in order to determine if it is advantageous to sell those securities and purchase others. The review will consider current market conditions and various spread relationships among security types. Additionally, a statement will be issued indicating the findings of the analysis. The monitoring of the conditions set forth in this policy statement is the responsibility of the Treasurer.

### **17.0 Investment Policy Adoption**

The City's investment policy shall be adopted by resolution. The policy shall be reviewed annually by the City Council and any modifications made thereto must be approved by them.

## Exhibit A

### City of Visalia - Summary of Eligible Investments

| Type of Issue                               | Original Maturities   | Interest Payments  | U.S. Govt. Guaranteed? |
|---|---|--|------------------------|
| U.S. Treasury Bills                         | 91 day and 182 day Bills auctioned each Monday for settlement on Thursday.<br><br>52 week bills auctioned every fourth Thursday for settlement on the following Thursday. | Issued at a discount from par. Paid at maturity.<br><br>Discount is based on the actual number of days on a 360 day basis. Paid at maturity.   | Yes                    |
| U.S. Treasury Notes                         | 2 to 10 years.  | Paid semi-annual based on the actual days in the month and half-year.  | Yes                    |
| U.S. Treasury Bonds                         | 10 to 30 years.   | Paid semi-annual based on the actual days in the month and half-year.  | Yes                    |
| Strips or Zeros                             | 10 to 30 years.   | Issued at a discount from par. Paid at maturity on a 30/360 day basis.   | Yes                    |
| FNMA(Federal National Mortgage Association) | Discount notes are issued with maturities less than one year.<br><br>15 year and 30 year mortgage-backed securities with a 7 and 15 year assumed average life.            | Issued at a discount from par. Paid at maturity on a 30/360 day basis.<br><br>Principal and interest paid semi-annually on a 30/360 day basis. | No<br><br>No           |
| GNMA(Gov't National Mortgage Association)   | Various maturities from 12 to 30 years with an assumed average life of 7 to 12 years.   | Principal and interest paid monthly on a 30/360 day basis.   | Yes                    |
| FHLB(Fed Home Loan Bank)                    | Bonds of maturities from 1 to 10 years.   | Paid semi-annually on 30/360 day basis.  | No                     |

## Exhibit A

### City of Visalia - Summary of Eligible Investments

| Type of Issue                              | Original Maturities   | Interest Payments  | U.S. Govt. Guaranteed? |
|--|---|--|------------------------|
| FFCB(Fed Farm Credit Bank)                 | 6 and 9 month offered monthly.  | Paid at maturity on a 30/360 day basis.  | No                     |
|  | Debentures are issued with 2 to 5 years maturities.   | Paid semi-annually on a 30/360 day basis.  | No                     |
| SBA(Small Bus. Administration)             | Loans to Small Businesses. The principal portion of the loan is guaranteed by the SBA. 1 to 30 years.                       | Principal and interest paid monthly. On a 30/360 day basis. Can be a fixed or variable rate which is usually tied to prime rate. | No                     |
| FHLMC(Fed. Home Loan Mortgage Corporation) | 30 year final with 12 year assumed average life.  | Principal and interest paid monthly on a 30/360 day basis.   | No                     |
| California Securities                      | Debentures are issued with 2 to 5 years maturities.   | Paid semi-annually on a 30/360 day basis.  | No                     |
| CD(Certificate of Deposit)                 | 3 months to 5 years.  | Paid monthly on a actual/360 day basis.  | No                     |
| NCD(Negotiable Certificates of Deposit)    | 3 months to 2 years. Some issues have quarterly floating rates.   | Paid semi-annually. Floaters pay quarterly.  | No                     |
| BA Notes(Banker's Acceptance Notes)        | 30 to 180 days.   | Issued at a discount from par. Paid at maturity.   | No                     |
| Commercial Paper                           | Unsecured promissory note issued by finance and industrial companies to raise short term capital. Generally 30 to 180 days. | Can be interest bearing or a discounted note. If interest bearing, paid semi-annually. If discounted, paid at maturity.          | No                     |



## City of Visalia - Summary of Eligible Investments

| Type of Issue                                 | Original Maturities   | Interest Payments                         | U.S. Govt. Guaranteed? |
|---|---|---|------------------------|
| MTN(Medium Term Notes)                        | 2 to 5 years.<br>Extended maturity commercial paper.  | Paid semi-annually on a 30/360 day basis. | No                     |
| LAIF(Local Agency Investment Fund) State Pool | Funds are available on demand. Investments are restricted by Gov't. Code, same as the City's.   | Paid quarterly.                           | No                     |
| Repurchase Agreements                         | Negotiated.<br>A short term investment transaction with a contractual agreement to repurchase the same securities at a future date. In essence, the City loans the Bank money for a specified time collateralized by marketable securities. Terms are from 1 to 90 days.            | Paid at maturity.                         | No                     |
| Reverse Repurchase Agreements                 | Negotiated.<br>This transaction is the mirror image of the repurchase agreement. Instead of the City loaning the Bank money, the Bank loans the City funds. The City then "repurchases" securities with matched maturities to the end of the contract. Terms are from 1 to 90 days. | Paid at maturity.                         | No                     |
| Money Market Mutual Funds                     | Funds are available on demand. Shares issued by a diversified management company.   | Paid Monthly                              | No                     |
| Other Investment Pools                        | Funds are available on demand.  | Paid quarterly                            | No                     |

## GLOSSARY

**AGENCIES:** Federal agency securities

**ASKED:** The price at which securities are offered.

**ARBITRAGE:** Transactions by which securities are bought and sold in different markets at the same time for the sake of the profit arising from a yield difference in the two markets.

**BANKERS ACCEPTANCE (BA):** A draft of bill or exchange by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

**BID:** The price offered by a buyer of securities. (When you are selling securities, you ask for a bid.) See Offer.

**BROKER:** A broker brings buyers and sellers together for a commission.

**CERTIFICATE OF DEPOSIT (CD):** A time deposit with a specific maturity evidenced by a certificate. Large-denomination CD's are typically negotiable.

**COLLATERAL:** Securities, evidence of deposit or other property which a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

**COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR):** The official annual report for the City of Visalia. It includes five combined statements for each individual fund and account group prepared in conformity with GAAP. It also includes supporting schedules necessary to demonstrate compliance with finance-related legal and contractual provisions, and a detailed Statistical Section.

**COUPON:** (a) The annual rate of interest a bond's issuer promises to pay the bondholder on the bond's face value. (b) A certificate attached to a bond evidencing interest due on a payment date.

**DEALER:** A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his/her own account.

**DEBENTURE:** A bond secured only by the general credit of the issuer.

**DELIVERY VERSUS PAYMENT (DVP):** There are two methods of delivery of securities: delivery versus payment and delivery versus receipt. Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

**DERIVATIVES:** (1) Financial instruments whose return profile is linked to, or derived from, the movement of one or more underlying index or security, and may include a leveraging factor, or (2) financial contracts based upon notional amounts whose value is derived from an underlying index or security (interest rates, foreign exchange rates, equities or commodities).

**DISCOUNT:** The difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

**DISCOUNT SECURITIES:** Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g. U.S. Treasury Bills.

**DIVERSIFICATION:** Dividing investment funds among a variety of securities offering independent returns.

**FEDERAL CREDIT AGENCIES:** Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

**FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC):** A federal agency that insures bank deposits, currently up to \$100,000 per deposit.

**FEDERAL FUNDS RATE:** The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

**FEDERAL HOME LOAN BANKS (FHLB):** Government sponsored wholesale banks (currently 12 regional banks) which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions and insurance companies. The mission of the FHLB's is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

**FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA):** FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal interest.

**FEDERAL OPEN MARKET COMMITTEE (FOMC):** Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market and a means of influencing the volume of bank credit and money.

**FEDERAL RESERVE SYSTEM:** the central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, DC, 12 regional banks and about 5,700 commercial banks that are members of the system.

**GENERALLY ACCEPTED ACCOUNTING PRINCIPALS (GAAP):** The standard established by the National Council on Governmental Accounting which establishes the *minimum* requirements for a fair presentation of financial data in external financial reports. GAAP also assures a degree of comparability in financial reporting among different governments.

**GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae):** Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by the FHA, VA or FMHM mortgages. The term "passthroughs" is often used to describe Ginnie Mae's.

**LIQUIDITY:** A liquid asset is one that can be converted easily and rapidly into cash without a

substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

**LOCAL AGENCY INVESTMENT FUND:** The Local Agency Investment Fund (LAIF) was established by the State to enable treasurers to place funds in a pool for investments. The LAIF has been particularly beneficial to those jurisdictions with small portfolios. Each account is limited to an investment of \$40.0 million.

**MARKET VALUE:** The price at which a security is trading and could presumably be purchased or sold.

**MASTER REPURCHASE AGREEMENT:** A written contract covering all future transactions between the parties to repurchase—reverse repurchase agreements that establishes each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

**MATURITY:** The date upon which the principal or stated value of an investment becomes due and payable.

**MONEY MARKET:** The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

**OFFER:** The price asked by a seller of securities. (When you are buying securities, you ask for an offer.) See Asked and Bid.

**OPEN MARKET OPERATIONS:** Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

**PORTFOLIO:** Collection of securities held by an investor.

**PRIMARY DEALER:** A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker-dealers, banks, and a few unregulated firms.

**PRUDENT PERSON RULE:** An investment standard. In some states the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the custody state—the so-called legal list. In other states the trustee may invest in a security if it is one which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

**QUALIFIED PUBLIC DEPOSITORIES:** A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

**RATE OF RETURN:** The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond the current income return.

**REPURCHASE AGREEMENT (REPO):** A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security “buyer” in effect lends the “seller” money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use Repos extensively to finance their positions. Exception: When the Fed is said to be doing Repos, it is lending money, increasing bank reserves.

**SAFEKEEPING:** A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank’s vaults for protection.

**SECONDARY MARKET:** A market made for the purchase and sale of outstanding issues following the initial distribution.

**SECURITIES & EXCHANGE COMMISSION:** Agency created by Congress to protect investors in securities transactions by administering securities legislation.

**SEC RULE 15C3-1:** See Uniform Net Capital Rule.

**STRUCTURED NOTES:** Notes issued by Government Sponsored Enterprises (FHLB, FNMA, SLMA, etc.) and corporations which have imbedded options (e.g. call features, step-up coupons, floating rate coupons, derivative-based returns) into their debt structure. Their market performance is impacted by the fluctuation of interest rates, the volatility of the imbedded options and shifts in the shape of the yield curve.

**TREASURY BILLS:** A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, and one year.

**TREASURY BONDS:** Long-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities of more than 10 years.

**TREASURY NOTES:** Long-term coupon-bearing U.S. Treasury securities issued as direct obligations of the U.S. Government and having initial maturities from two to 10 years.

**UNIFORM NET CAPITAL RULE:** Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

**YIELD:** The rate of annual income return on an investment, expressed as a percentage. (a) **INCOME YIELD** is obtained by dividing the current dollar income by the current market price for the security. (b) **NET YIELD** or **YIELD TO MATURITY** is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF VISALIA  
ADOPTING THE CITY INVESTMENT POLICY

**WHEREAS**, the Council of the City of Visalia has adopted the Statement of Investment Policy; and

**WHEREAS**, California Government Code section 53646 requires annual review and adoption of the Investment Policy; and

**WHEREAS**, the authority to manage the City's investment program is derived from the City's Charter; and

**WHEREAS**, California Government Code section 53607 requires the authority to invest the funds of the City to be delegated annually to the Director of Administrative Services/Treasurer,

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Visalia adopt the City of Visalia Statement of Investment Policy and delegate responsibility for the investment program to the Director of Administrative Services/Treasurer.

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

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Authorize the Recordation of the Final Map for Pheasant Ridge Unit No. 3D, located east of Denton Street at Wren Avenue (12 lots) and the Annexation of Pheasant Ridge 3D and 3 lots of Pheasant Ridge 3C into Landscape and Lighting Assessment District No. 05-19, Pheasant Ridge (Resolution Nos. 2011-42 and 2011-43 required). APN: 077-760-042

**Deadline for Action:** N/A

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

**Contact Name and Phone Number:**

Chris Young, Community Dev. Director - 713-4392  
Adam Ennis, Asst. Community Dev. Director – 713-4323  
Doug Damko, Senior Civil Engineer - 713-4268

**Department Recommendation:** Staff recommends that City Council authorize the recordation of the final map for Pheasant Ridge Unit No. 3D containing 12 lots; adopt Resolution No. 2011-\_\_ Initiating Proceedings for Annexation to Assessment District No. 05-19, "Pheasant Ridge"; and adopt Resolution No. 2011-\_\_ Ordering the Improvements and Levying the Annual Assessments for Assessment District No. 05-19 "Pheasant Ridge."

**Summary:** The final map for the 12 lot Pheasant Ridge Unit 3D development is ready for recording. All bonds, cash payments, subdivision agreement and final map are in the possession of the City as follows: 1) An executed subdivision agreement; 2) Cash Deposit in-lieu of Faithful Performance Bond in the amount of \$207,647.50 and Cash Deposit in-lieu of Labor and Material Bond in the amount of \$103,823.75; 3) cash payment of \$49,010.50 distributed to various accounts to cover City fees; and 4) Final Map. Therefore, staff recommends that authorization be given for this final map to be recorded.

On November 7, 2005 City Council approved the formation of Landscape and Lighting District No. 05-19 for the entire Pheasant Ridge development. The 12 lots from Pheasant Ridge Unit No. 3D are now ready to be annexed into this assessment district. The tax roll in Exhibit C also includes 3 lots from Unit No. 3C because they were inadvertently left out of the prior annexation tax roll per Resolution 2010-78 for Unit No. 3C. This district included the area for all phases of the Pheasant Ridge tentative map. This established at the onset of this development that the landscape and lighting district would be built in phases and the cost for maintenance would be

**For action by:**

City Council  
 Redev. Agency Bd.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.):   1  

**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.

shared equally among all the property owners for all phases of Pheasant Ridge. The Landscape and Lighting Act allows for the use of summary proceedings when all the affected property owners have given their written consent to waive the requirement for a public hearing, which occurred in this case. Use of the summary proceedings allows adoption of a resolution to initiate proceedings for annexation to an assessment district and adoption of a resolution ordering the improvements and levying the annual assessments all at one time.

**Background:** The Faithful Performance Bond covers the cost of constructing the public improvements noted in the subdivision agreement and the Labor and Material Bond covers the salaries and benefits as well as the materials supplied to install the required public improvements. As required by the Subdivision Ordinance, the Faithful Performance Bond covers 100% of the cost of the public improvements. The Labor and Material Bond is valued at 50% of the Faithful Performance Bond. A Maintenance Bond valued at 10% of the cost of the public improvements will be required prior to recording the Notice of Completion. The Maintenance Bond is held for one year after the recording and acts as a warranty for the public improvements installed per the subdivision agreement. The cash payment covers Development Impact Fees such as storm water acquisition, waterways, sewer front foot fees and any outstanding plan check and inspection fees. The plan check and inspection fees are estimated at the beginning of the final map process and are not confirmed until the subdivision agreement is finalized. Differences are due in cash at the time of City Council approval of the final map.

The City of Visalia has been allowing the developers of subdivisions to form assessment districts under the Landscape and Lighting Act of 1972, and now under Proposition 218, in lieu of using homeowners associations for the maintenance of common features such as landscaping, irrigation systems, street lights and trees on local streets. The maintenance of these improvements is a special benefit to the development and enhances the land values to the individual property owners in the district.

On November 7, 2005 City Council approved the formation of a Landscape and Lighting District for Pheasant Ridge. This district included the area for all phases of the Pheasant Ridge tentative map. This established at the onset of this development that the landscape and lighting district would be built in phases and the cost for maintenance would be shared equally among all the property owners for all phases of Pheasant Ridge. The purpose behind this was to bring future annexations to the Council without having to get permission from the owners in each developed phase to add additional lots to the district. The City would only need permission from the owners in each developed phase if the annexation of the new phase would cause the per lot assessment to increase, which is not occurring at this time.

The Landscape and Lighting Act allows for the use of summary proceedings when all the affected property owners have given their written consent to waive the requirement for a public hearing. The notice period is also waived. The owner of this development has given their written consent to waive the public hearing and form this district. The use of summary proceedings allows for the initiation of proceedings and the final formation action of the assessment district to be acted upon together as separate resolutions.

**Prior Council/Board Actions:**

On June 10, 1987, Council authorized the use of landscape maintenance assessment districts per the Landscape and Lighting Act of 1972 for maintaining common area features that are a special benefit and enhance subdivisions.



**Committee/Commission Review and Actions:** The tentative subdivision map for Pheasant Ridge subdivision was approved by the Planning Commission on October 25, 2004. The tentative map will expire on October 25, 2011.

**Alternatives:** N/A

**Attachments:** Project Location Map  
Development Project Disclosure  
Resolution Initiating Proceedings  
Clerk's Certification  
Resolution Ordering the Improvements  
Exhibit A – Assessment Diagram  
Exhibit B – Landscape Location Diagram  
Exhibit C – Tax roll Assessment  
Exhibit D – Engineer's Report

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

"I move to authorize the recordation of the Final Map for Pheasant Ridge Unit No. 3D and I move to adopt Resolution No. 2011-42 Initiating Proceedings for Annexation to Assessment District No. 05-19 "Pheasant Ridge" and adopt Resolution No. 2011-43 Ordering the Improvements and Levying the Annual Assessments for Assessment District No. 05-19 "Pheasant Ridge"."

**Copies of this report have been provided to:**

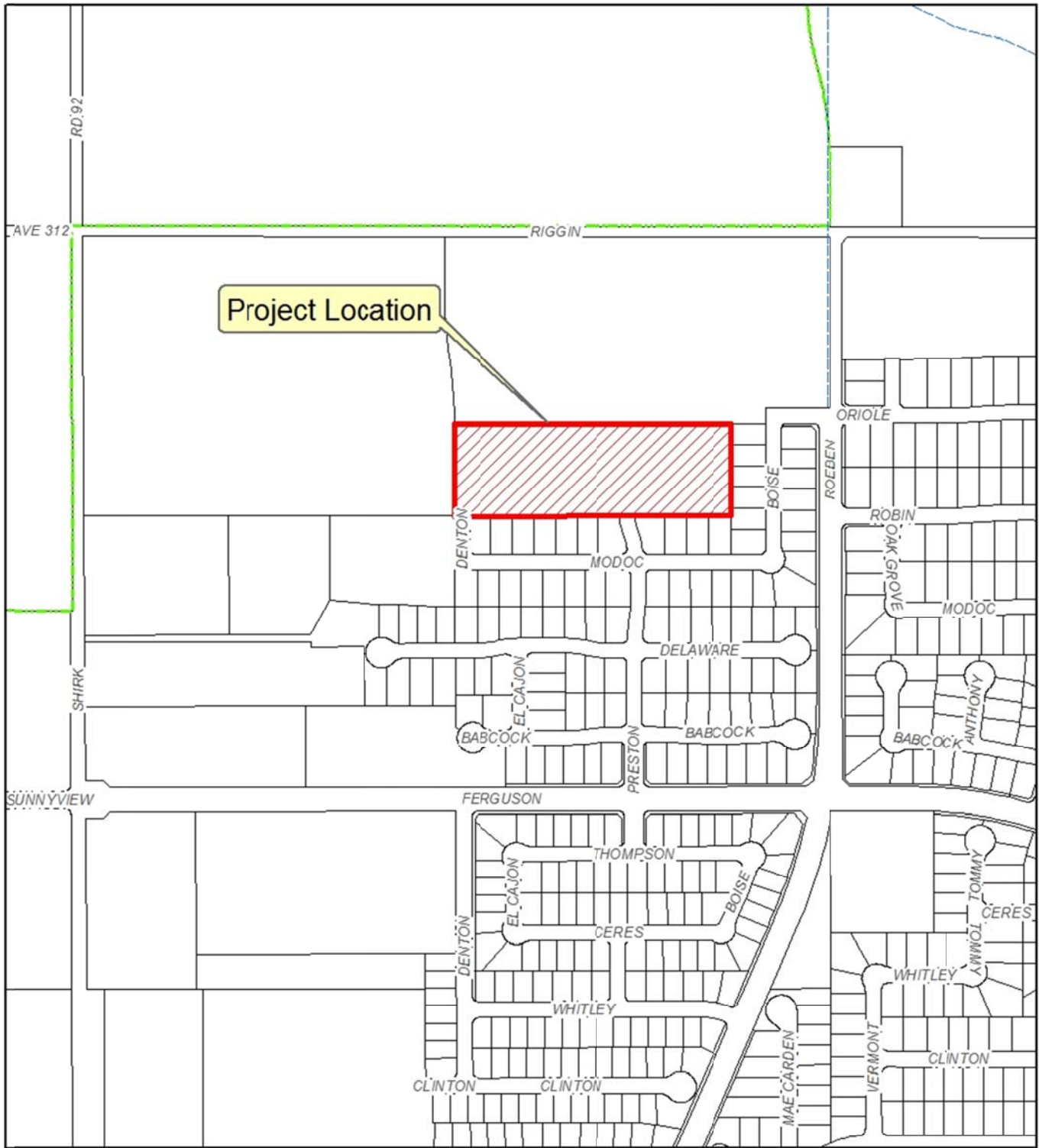
***Environmental Assessment Status***

**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)*





# Pheasant Ridge Unit No. 3D



Scale: 1"=800'

RESOLUTION NO. 2011-42

RESOLUTION INITIATING PROCEEDINGS  
FOR ANNEXATION TO  
ASSESSMENT DISTRICT 05-19  
Pheasant Ridge  
(Pursuant to Landscape and Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council proposes to annex to an assessment district pursuant to the Landscaping & Lighting act of 1972 (Section 22500 and following, Streets & Highways Code) for the purpose of the following improvements:  
  
Maintenance of turf, shrub area, irrigation systems, trees, walls and any other applicable equipment or improvements.
2. The district, including the annexation, shall continue with the designation established with the initial formation, which is "Assessment District No. 05-19, City of Visalia, Tulare County, California" and shall include the land shown on the map designated "Assessment Diagram, Assessment District No. 05-19, City of Visalia, Tulare County, California", which is on file with the City Clerk and is hereby approved and known as "Pheasant Ridge".
3. The City Engineer of the City of Visalia is hereby designated engineer for the purpose of these formation proceedings. The City Council hereby directs the Engineer to prepare and file with the City Clerk a report in accordance with Article 4 of Chapter 1 of the Landscape & Lighting Act of 1972.

PASSED AND ADOPTED:

CLERK'S CERTIFICATION TO COUNTY AUDITOR

ASSESSMENT DISTRICT NO. 05-19

Pheasant Ridge

(Pursuant to Landscaping & Lighting Act of 1972)

TO THE COUNTY AUDITOR OF THE COUNTY OF TULARE:

I hereby certify that the attached document is a true copy of that certain Engineer's Report, including assessments and assessment diagram, for "Assessment District No. 05-19, City of Visalia, Tulare County, California" confirmed by the City Council of the City of Visalia on the \_\_\_\_\_ by its Resolution No. 2011-\_\_.

This document is certified, and is filed with you, pursuant to Section 22641 of the Streets and Highways Code.

RESOLUTION NO. 2011-43

RESOLUTION ORDERING THE IMPROVEMENTS  
AND THE ANNEXATION TO  
ASSESSMENT DISTRICT NO. 05-19  
Pheasant Ridge  
(Pursuant to the Landscape & Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council adopted its Resolution Initiating Proceedings for Assessment District No. 05-19, City of Visalia, Tulare County, California, and directed the preparation and filing of the Engineer's Report on the proposed formation.
2. The Engineer for the proceedings has filed an Engineer's Report with the City Clerk.
3. The owner of all land within the boundaries of the proposed annexation area to the landscape and lighting district have filed their consent to be annexed into the district, and to the adoption of the Engineer's Report and the levy of the assessments stated therein.

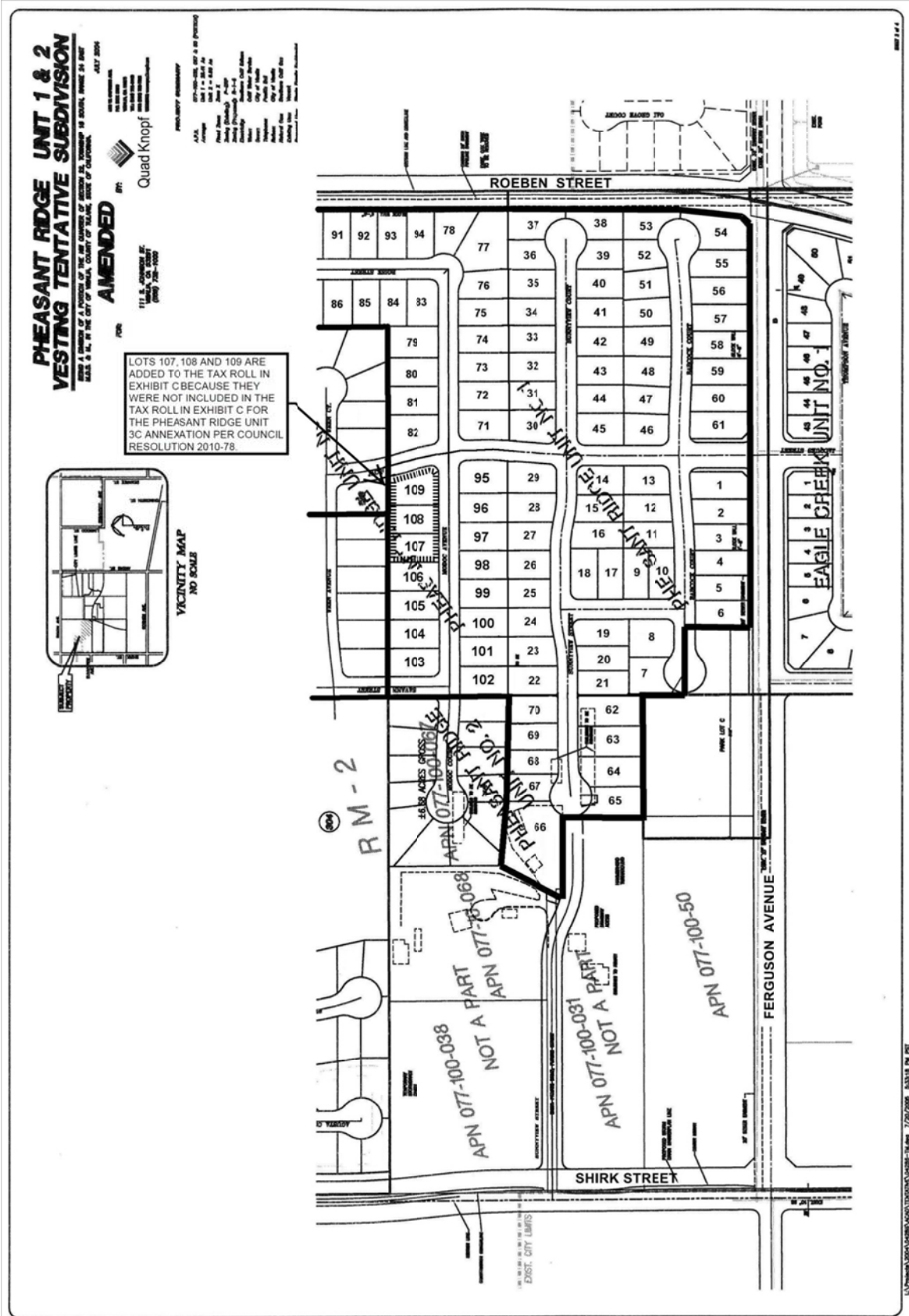
As stated in the Engineer's Report, the assessment amounts for the existing lots within the district will remain unchanged with the proposed annexation.

4. The City Council hereby orders the improvements and the annexation to the assessment district described in the Resolution Initiating Proceedings and in the Engineer's Report.
5. The City Council hereby confirms the diagram and the assessment contained in the Engineer's Report and levies the assessment for the fiscal year 2011-12.
6. The City Council hereby forwards the following attachments to Tulare County Recorder's Office for recordation:
  - a. Clerk's Certification to County Auditor
  - b. Resolution Initiating Proceedings
  - c. Resolution Ordering Improvements
  - d. Engineer's Report:
    - Exhibit A - Assessment Diagram showing all parcels of real property within the Assessment District
    - Exhibit B - Landscape Location Diagram
    - Exhibit C - Tax Roll Assessment
    - Exhibit D - Engineer's Report

PASSED AND ADOPTED

# Exhibit "A"

## Assessment Diagram Pheasant Ridge

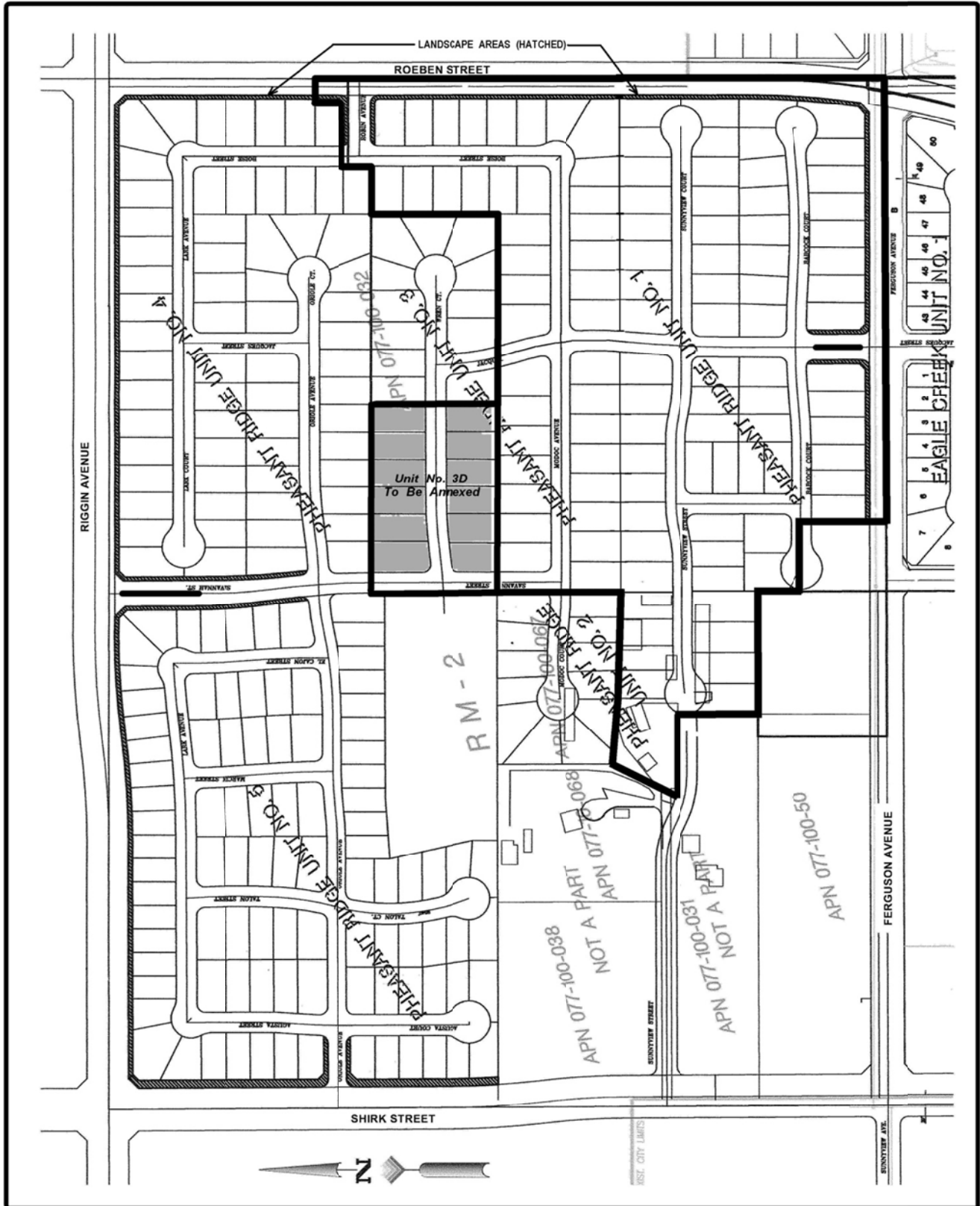






# Exhibit "B"

## Landscape Location Diagram Pheasant Ridge



**Exhibit "C"**

Tax Roll Assessment  
Pheasant Ridge  
Fiscal Year 2011-12

| <u>APN #</u>   | <u>Assessment</u> | <u>Owner</u>   | <u>Lot #</u> | <u>District</u>      |
|----------------|-------------------|----------------|--------------|----------------------|
| To Be Assigned | \$387.85          | McMillin Homes | 05-19107     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19108     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19109     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19110     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19111     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19112     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19113     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19114     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19115     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19116     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19117     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19118     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19119     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19120     | 05-19 Pheasant Ridge |
| To Be Assigned | \$387.85          | McMillin Homes | 05-19121     | 05-19 Pheasant Ridge |

## **Exhibit "D"**

Engineer's Report  
Landscape & Lighting Assessment District 05-19  
Pheasant Ridge  
Fiscal Year 2011-12

### General Description

This Assessment District (05-19, Pheasant Ridge) is located at the northwest corner of Ferguson Avenue and Roeben Street. Exhibit "A" is a map of Assessment District 05-19. This District includes the maintenance of turf areas, shrub areas, irrigation systems, trees, block walls, street lights, pavement on local streets and any other applicable equipment or improvements. The maintenance of irrigation systems and block wall includes, but is not limited to, maintaining the structural and operational integrity of these features and repairing any acts of vandalism (graffiti, theft or damage) that may occur. The total number lots planned to be within the district are 304.

### Determination of Benefit

The purpose of landscaping is to provide an aesthetic impression for the area. The lighting is to provide safety and visual impressions for the area. The block wall provides security, aesthetics, and sound suppression. The maintenance of the landscape areas, street lights, and block walls is vital for the protection of both economic and humanistic values of the development. In order to preserve the values incorporated within developments and to concurrently have an adequate funding source for the maintenance of all internal local streets within the subdivision, the City Council has determined that landscape areas, street lights, block walls, and all internal local streets should be included in a maintenance district to ensure satisfactory levels of maintenance.

### Method of Apportionment

In order to provide an equitable assessment to all owners within the District, the following method of apportionment has been used. All lots in the District benefit equally, including lots not adjacent to landscape areas, block walls, and street lights. The lots not adjacent to landscape areas, block walls, and street lights benefit by the uniform maintenance and overall appearance of the District. All lots in the District have frontage on an internal local street and therefore derive a direct benefit from the maintenance of the local streets.

### Estimated Costs

The estimated costs to maintain the District includes the costs to maintain street lights, drainage basin and pavement on local streets. The regular preventive maintenance of pavement on local streets is based on the following schedule: Chip Seal on a 15 year cycle; Overlays on a 10 year cycle; Crack Seal on an 8 year cycle and Reclamite on a 6 year cycle.

**Exhibit "D"**

Engineer's Report  
Landscape & Lighting Assessment District 05-19  
Pheasant Ridge  
Fiscal Year 2011-12

The quantities, estimated annual costs and per lot annual assessment for all 5 phases of the Pheasant Ridge tentative map are as follows:

| <u>Description</u>             | <u>Unit</u> | <u>Amount</u> | <u>Cost per unit</u> | <u>Total Cost</u>        |
|--------------------------------|-------------|---------------|----------------------|--------------------------|
| Turf Area                      | Sq. Ft.     | 59,648        | \$0.180              | \$10,736.64              |
| Shrub Area                     | Sq. Ft.     | 59,648        | \$0.180              | \$10,736.64              |
| Water                          | Sq. Ft.     | 119,296       | \$0.050              | \$5,964.80               |
| Electricity                    | Sq. Ft.     | 119,296       | \$0.008              | \$954.37                 |
| Trees In Landscape Lots        | Each        | 332           | \$25.00              | \$8,300.00               |
| Trees In Local Street Parkways | Each        | 422           | \$25.00              | \$10,550.00              |
| Street Lights                  | Each        | 71            | \$105.00             | \$7,455.00               |
| Chip Seal (15 year cycle)      | Sq. Ft.     | 554,122       | \$0.190              | \$7,018.88               |
| Crack Seal (8 year cycle)      | Sq. Ft.     | 554,122       | \$0.029333           | \$2,031.76               |
| Reclamite (6 year cycle)       | Sq. Ft.     | 554,122       | \$0.02111            | \$1,949.68               |
| Overlays (10 year cycle)       | Sq. Ft.     | 554,122       | \$0.650              | \$36,017.93              |
| Project Management Costs       | Lots        | 304           | \$18.00              | \$5,472.00               |
| TOTAL                          |             |               |                      | <hr/> \$107,187.69       |
| 10% Reserve Fund               |             |               |                      | \$10,718.77              |
| GRAND TOTAL                    |             |               |                      | <hr/> <hr/> \$117,906.46 |
| NUMBER OF LOTS                 |             |               |                      | 304                      |
| ANNUAL PER LOT ASSESSMENT      |             |               |                      | \$387.85                 |

## Exhibit "D"

Engineer's Report  
Landscape & Lighting Assessment District 05-19  
Pheasant Ridge  
Fiscal Year 2011-12

### Annual Cost Increase

This assessment district shall be subject to a maximum annual assessment ( $A_{\max}$ ) for any given year "n" based on the following formula:

$$A_{\max} \text{ for any given year "n"} = (\$117,906.46) (1.05)^{(n-1)}$$

where "n" equals the age of the assessment district with year one (1) being the year that the assessment district was formed;

The actual annual assessment for any given year will be based on the estimated cost of maintaining the improvements in the district plus any prior years' deficit and less any carryover. In no case shall the annual assessment be greater than maximum annual assessment as calculated by the formula above. The maximum annual increase for any given year shall be limited to 10% as long as the annual assessment does not exceed the maximum annual assessment as calculated by the formula above.

The reserve fund shall be maintained at a level of 10% of the estimated annual cost of maintaining the improvements in the district. If the reserve fund falls below 10%, then an amount will be calculated to restore the reserve fund to a level of 10%. This amount will be recognized as a deficit and applied to next year's annual assessment.

Example 1. The estimated year four cost of maintaining the improvements in the district is \$128,518.04 [a 9% increase over the base year estimated cost of \$117,906.46]. The maximum annual assessment for year four is \$136,491.47 [ $A_{\max} = (\$117,906.46) (1.05)^{(4-1)}$ ]. The assessment will be set at \$128,518.04 because it is less than the maximum annual assessment and less than the 10% maximum annual increase.

Example 2. The estimated year four cost of maintaining the improvements in the district is \$133,234.30 [a 7% increase over the previous year assessment and a 13.0% increase over the base year estimated cost of \$117,906.46]. The reserve fund is determined to be at a level of 8% of the estimated year four cost of maintaining the improvements in the district. An amount of \$2,664.69 will restore the reserve fund to a level of 10%. This amount is recognized as a deficit. The maximum annual assessment for year four is \$136,491.47 [ $A_{\max} = (\$117,906.46) (1.05)^{(4-1)}$ ]. The year four assessment will be set at \$133,234.30 plus the deficit amount of \$2,664.69 which equals \$135,898.99 [a 9% increase over the previous year assessment] because it is less than the maximum annual assessment and less than the 10% maximum annual increase.

**Exhibit "D"**

Engineer's Report  
Landscape & Lighting Assessment District 05-19  
Pheasant Ridge  
Fiscal Year 2011-12

Example 3. The estimated year four cost of maintaining the improvements in the district is \$128,518.04 [a 9% increase over the base year assessment of \$117,906.46] and damage occurred to the masonry wall raising the year five expenses to \$143,845.88 [a 22% increase over the previous year assessment]. The year five assessment will be capped at \$141,369.85 (a 10% increase over the previous year) and below the maximum annual assessment of \$143,316.04 [ $A_{\max} =$   
(5-1)  
(\$117,906.46) (1.05)]. The difference of \$2,476.03 is recognized as a deficit and will be carried over into future years' assessments until the masonry wall repair expenses are fully paid.

City Engineer Certification

I hereby certify that this report was prepared under my supervision and this report is based on information obtained from the improvement plans of the subject development.

---

Douglas S. Damko  
Sr. Civil Engineer

RCE 59445

Date

# City of Visalia Agenda Item Transmittal

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Accept the City of Visalia Cash and Investment Report for the fourth quarter ending June 30, 2011

**Deadline for Action:** None

**Submitting Department:** Administration - Finance

**Contact Name and Phone Number:**

Eric Frost, Director Administrative Services 713-4474,  
Liz Ybarra, Sr. Administrative Analyst -713-4598

**Department Recommendation:** Staff recommends that Council accepts the City of Visalia Cash and Investment Report for the quarter ending June 30, 2011.

**Introduction**

The City accumulates significant cash assets before they are spent on a variety of governmental operations. The quarterly investment report holds staff 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 under 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 modestly higher in June, even though economic data reflects a sluggish and uneven recovery. There was a 10 basis point (100 bases points equals 1%) change in the 10 year Treasury from 3.05% to 3.15%. The Core CPI (CPI less food and energy) increased year over year at a 1.55% rate. The Federal Reserve is monitoring commodity price increases, but does not believe the increases will flow through to sharply higher consumer prices. Even though housing starts increased 3.7% in May, this sector continues to struggle. The national unemployment rate rose to 9.2%. While indicators are mixed, the general consensus is that the overall economy should grow at a slow but steady pace.

**For action by:**

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

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 5

**Review:**

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

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

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

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

## Portfolio Performance

The June 30, 2011 investment report managed balance was \$121,748,880

The earnings rate for FY10/11 (April - June) was 0.96%. 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) |
|--------------------------------------|-------------------|-----------------------------|--------------|-------------|---------------|---------------------------------|
| March 2011                           | \$112.32          | 1.10%                       | \$23.9       | 0.53%       | 0.80%         | 165 DAYS                        |
| June 2011                            | \$121.7           | 0.96%                       | \$42.0       | 0.44%       | 0.45%         | 129 DAYS                        |
| <b>Fiscal Year Average 2010/2011</b> | <b>\$116.51</b>   | <b>0.97%</b>                |              | <b>.50%</b> | <b>0.54%</b>  |                                 |

## 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 to 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.

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

Staff is in a good position to take advantage of new investment opportunities as rates increase. When rates are rising, the stated goal for the portfolio WAM is 0.50 years. At the end of June



2011 the portfolio, WAM was 129 days or .35 years. In the latter part of FY 2010/11, the City purchased 2 & 3 year investments to take advantage of higher yielding opportunities. **The table below shows investment activity for the quarter.**

|                                |  | <b>TYPE</b> | <b>YIELD</b> | <b>AMOUNT</b> | <b>PURCHASE DATE</b> | <b>MATURITY DATE</b> |
|--------------------------------|--|-------------|--------------|---------------|----------------------|----------------------|
| <b><u>Maturities/Sales</u></b> |  |             |              |               |                      |                      |
| CA Revenue Bonds               |  | Muni        | 1.75%        | 5,000,000     | 11/22/2010           | 06/28/2011           |
| CA Revenue Bonds               |  | Muni        | 1.53%        | 5,000,000     | 12/17/2010           | 06/28/2011           |
| <b><u>Purchases</u></b>        |  |             |              |               |                      |                      |
| CA GO Bond                     |  | Muni        | 1.99%        | 1,625,000     | 06/09/2011           | 04/01/2014           |
| CA GO Bond                     |  | Muni        | 1.35%        | 1,000,000     | 06/28/2011           | 10/01/2013           |

The City currently receives compensated balance credit towards banking fees for any cash we leave in the checking account. It pays 65 basis points. Staff has requested Citizens Business Bank to allow us to increase the amount it leaves in the bank account to maximize this credit and pay for the majority of the City's banking services.

In the first quarter FY 2011-12, a 4 week on-line training program will be provided to finance staff members serving on the investment committee at no cost to the City. The training will provide valuable investment planning tools and information.

**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 June 30, 2011

**City of Visalia**  
**Investment Report - Quarter Ended June 30, 2011**  
**Cash and Investment Summary**

|  |                       |                       |                       |                   |                |  | Average<br>Days to<br>Maturity |
|--|-----------------------|-----------------------|-----------------------|-------------------|----------------|--|--------------------------------|
|  | Par Value             | Original Cost         | Market Value          | % of<br>Portfolio | Average<br>YTM |  |                                |
| <b>Security Investments</b>                |                       |                       |                       |                   |                |  |                                |
| Federal Agency                             | \$ 5,000,000          | \$ 5,152,460          | \$ 5,257,720          | 4.32%             | 5.00%          |  | 400                            |
| Medium-Term Corporate Bonds                | \$ 15,000,000         | \$ 15,743,200         | \$ 15,604,800         | 12.82%            | 1.69%          |  | 476                            |
| Municipal Bonds                            | \$ 5,181,843          | \$ 5,558,449          | \$ 5,568,738          | 4.53%             | 1.96%          |  | 898                            |
| CDARS                                      | \$ 10,000,000         | \$ 10,000,000         | \$ 10,068,480         | 8.27%             | 0.81%          |  | 56                             |
| Certificates of Deposits                   | \$ 10,240,000         | \$ 10,240,000         | \$ 10,314,811         | 8.47%             | 0.85%          |  | 84                             |
| <b>Total Security Investments</b>          | <b>\$ 45,421,843</b>  | <b>\$ 46,694,109</b>  | <b>\$ 46,814,549</b>  | <b>38.45%</b>     |                |  |                                |
| <b>Other Investments</b>                   |                       |                       |                       |                   |                |  |                                |
| Local Agency Investment Fund (LAIF)        | \$ 42,023,644         | \$ 42,023,644         | \$ 42,023,644         | 34.52%            | 0.44%          |  |                                |
| Citizens Business Bank (Sweep)             | 12,898,532            | \$ 12,898,532         | \$ 12,898,532         | 10.59%            | 0.40%          |  |                                |
| Rabo Bank (Money Market)                   | \$ 20,012,154         | \$ 20,012,154         | \$ 20,012,154         | 16.44%            | 0.64%          |  |                                |
| <b>Total Other Investments</b>             | <b>\$ 74,934,331</b>  | <b>\$ 74,934,331</b>  | <b>\$ 74,934,331</b>  | <b>61.55%</b>     |                |  |                                |
| <b>Total Investments</b>                   | <b>\$ 120,356,174</b> | <b>\$ 121,628,440</b> | <b>\$ 121,748,880</b> | <b>100.0%</b>     | <b>0.96%</b>   |  | <b>129 days (WAM)</b>          |
| <b>OTHER CASH</b>                          |                       |                       |                       |                   |                |  |                                |
| <b>Cash with Fiscal Agents</b>             |                       |                       |                       |                   |                |  |                                |
| 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)                          | \$ 100,129            | \$ 100,129            | \$ 100,129            |                   |                |  |                                |
| Citizens Business BK (RDA Mooney District) | \$ 6,044,845          | \$ 6,044,845          | \$ 6,044,845          |                   |                |  |                                |
| Accel (Workers Comp Excess Liability Dep)  | \$ 922,180            | \$ 922,180            | \$ 922,180            |                   |                |  |                                |
| 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            |                   |                |  |                                |
| <b>Total Cash with Fiscal Agents</b>       | <b>\$ 10,226,584</b>  | <b>\$ 10,226,584</b>  | <b>\$ 10,226,584</b>  |                   |                |  |                                |
| <b>Cash in Banks</b>                       |                       |                       |                       |                   |                |  |                                |
| Citizens Business Bank - AP/Payroll        | \$ 191,748            | \$ 191,748            | \$ 191,748            |                   |                |  |                                |
| Bank of America - Convention Center        | \$ 37,285             | \$ 37,285             | \$ 37,285             |                   |                |  |                                |
| Bank of America - Golf                     | \$ 198,036            | \$ 198,036            | \$ 198,036            |                   |                |  |                                |
| Petty Cash                                 | \$ 20,522             | \$ 20,522             | \$ 20,522             |                   |                |  |                                |
| <b>Total Cash in Banks</b>                 | <b>\$ 447,590</b>     | <b>\$ 447,590</b>     | <b>\$ 447,590</b>     |                   |                |  |                                |
| <b>Total Cash and Investments</b>          | <b>\$ 131,030,348</b> | <b>\$ 132,302,614</b> | <b>\$ 132,423,054</b> |                   |                |  |                                |

**City of Visalia**  
**Investment Report -Ended June 30, 2011**  
**Investment Details**

|   |              |                      |                      |                      |        |               |            |        |             |  |  | % of |  | Credit |
|---|--------------|----------------------|----------------------|----------------------|--------|---------------|------------|--------|-------------|--|--|------|--|--------|
|   | Type         | Par Value            | Original Cost        | Market Value         | Yield  | Portfolio     | Maturity   | Coupon | Rating      |  |  |      |  |        |
| Federal Farm Credit Banks                   | Agency       | \$ 3,000,000         | \$ 3,127,320         | \$ 3,149,040         | 5.03%  | 2.59%         | 6/21/2012  | 5.45%  | AA+         |  |  |      |  |        |
| Federal Home Loan Banks                     | Agency       | \$ 2,000,000         | \$ 2,025,140         | \$ 2,108,680         | 5.00%  | 1.73%         | 9/14/2012  | 5.00%  | AA+         |  |  |      |  |        |
| <b>Total Federal Agency</b>                 |              | <b>\$ 5,000,000</b>  | <b>\$ 5,152,460</b>  | <b>\$ 5,257,720</b>  |        | <b>4.32%</b>  |            |        |             |  |  |      |  |        |
| General Electric Cap. Corp                  | Corporate    | \$ 5,000,000         | \$ 5,293,200         | \$ 5,173,900         | 1.50%  | 4.25%         | 4/10/2012  | 5.00%  | AA+         |  |  |      |  |        |
| General Electric Cap. Corp                  | Corporate    | \$ 5,000,000         | \$ 5,120,000         | \$ 5,126,950         | 1.60%  | 4.21%         | 1/08/2013  | 2.80%  | AA+         |  |  |      |  |        |
| BOFA /Merrill Lynch                         | Corporate    | \$ 5,000,000         | \$ 5,330,000         | \$ 5,303,950         | 1.87%  | 4.36%         | 2/05/2013  | 5.45%  | A           |  |  |      |  |        |
| <b>Total Medium-Term Corp Bonds</b>         |              | <b>\$ 15,000,000</b> | <b>\$ 15,743,200</b> | <b>\$ 15,604,800</b> |        | <b>12.82%</b> |            |        |             |  |  |      |  |        |
| CA DEV Authority (Development Authority)    | Muni         | \$ 3,500,000         | \$ 3,733,200         | \$ 3,765,020         | 1.925% | 3.09%         | 6/15/2013  | 5.00%  | A-          |  |  |      |  |        |
| CA General Obligation (GO Callable)         | Muni         | \$ 1,625,000         | \$ 1,768,406         | \$ 1,746,875         | 1.990% | 1.43%         | 6/14/2014  | 5.25%  | A-          |  |  |      |  |        |
| Village West Improvement Bond-(COV)         | Bond         | 56,843               | 56,843               | 56,843               | 6.00%  | 0.05%         | 6/01/2022  | 6.00%  | N/A         |  |  |      |  |        |
| <b>Total Municipal Bonds</b>                |              | <b>\$ 5,181,843</b>  | <b>\$ 5,558,449</b>  | <b>\$ 5,568,738</b>  |        | <b>4.53%</b>  |            |        |             |  |  |      |  |        |
| CDARS - Bank of The Sierra                  | Cert Deposit | \$ 5,000,000         | \$ 5,000,000         | \$ 5,036,860         | 0.83%  | 4.14%         | 8/11/2011  | N/A    | N/A         |  |  |      |  |        |
| CDARS - Bank of The Sierra                  | Cert Deposit | \$ 5,000,000         | \$ 5,000,000         | \$ 5,031,620         | 0.78%  | 4.13%         | 9/08/2011  | N/A    | N/A         |  |  |      |  |        |
| <b>Total CDARS</b>                          |              | <b>\$ 10,000,000</b> | <b>\$ 10,000,000</b> | <b>\$ 10,068,480</b> |        | <b>8.27%</b>  |            |        |             |  |  |      |  |        |
| Citizens Business Bank CD                   | Cert Deposit | \$ 5,000,000         | \$ 5,000,000         | \$ 5,042,088         | 0.85%  | 4.14%         | 7/24/2011  | N/A    | N/A         |  |  |      |  |        |
| Citizens Business Bank CD                   | Cert Deposit | \$ 5,000,000         | \$ 5,000,000         | \$ 5,027,967         | 0.80%  | 4.13%         | 11/05/2011 | N/A    | N/A         |  |  |      |  |        |
| Visalia Community Bank CD                   | Cert Deposit | \$ 240,000           | \$ 240,000           | \$ 244,757           | 0.85%  | 0.20%         | 10/08/2011 | N/A    | N/A         |  |  |      |  |        |
| <b>Total Certificate of Deposits</b>        |              | <b>\$ 10,240,000</b> | <b>\$ 10,240,000</b> | <b>\$ 10,314,811</b> |        | <b>8.47%</b>  |            |        |             |  |  |      |  |        |
| <b>Total Investments</b>                    |              | <b>\$ 45,421,843</b> | <b>\$ 46,694,109</b> | <b>\$ 46,814,549</b> |        | <b>38.41%</b> |            |        |             |  |  |      |  |        |
| <b>Other Investments</b>                    |              |                      |                      |                      |        |               |            |        |             |  |  |      |  |        |
| Local Agency Investment Funds (LAIF)        | Cash         | 42,023,644           | 42,023,644           | 42,023,644           | 0.44%  | 34.52%        | N/A        | N/A    | N/A         |  |  |      |  |        |
| Sweep Account (Citizens Business Bank)      | Cash         | 12,898,532           | 12,898,532           | 12,898,532           | 0.40%  | 10.59%        | N/A        | N/A    | N/A         |  |  |      |  |        |
| Public Investment Money Market ( Rabo Bank) | Cash         | 20,012,154           | 20,012,154           | 20,012,154           | 0.64%  | 16.44%        | N/A        | N/A    | N/A         |  |  |      |  |        |
| <b>Total Other Investments</b>              |              | <b>74,934,331</b>    | <b>74,934,331</b>    | <b>74,934,331</b>    |        | <b>61.55%</b> |            |        |             |  |  |      |  |        |
| <b>Total Investments Holdings</b>           |              | <b>120,356,174</b>   | <b>121,628,440</b>   | <b>121,748,880</b>   |        | <b>0.96%</b>  |            |        | <b>100%</b> |  |  |      |  |        |

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Authorize the City Manager to execute the Reimbursement Agreement for Pheasant Ridge Unit 3B located on the west side of Roeben Street south of Riggin Avenue.

**Deadline for Action:** N/A

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

**Contact Name and Phone Number:**

Doug Damko, Senior Civil Engineer - 713-4268  
Adam Ennis, Asst. Community Dev. Director - 713-4323  
Chris Young, Community Development Director – 713-4392

**Department Recommendation:** Staff recommends that City Council authorize the City Manager to execute the Reimbursement Agreement for Pheasant Ridge Unit 3B located on the west side of Roeben Street south of Riggin Avenue.

**Summary:** Council approved recordation of the final map for Pheasant Ridge Unit 3B on July 13, 2009, which created 12 single family lots. Construction of Unit 3B included all of the offsite improvements that participate in the City Transportation Impact Fee (TIF) Program for all of the Pheasant Ridge Unit 3 phases. All offsite improvements were for Roeben Street, a collector street, and required as part of the executed subdivision agreement. This work included curb, gutter, pavement and street lights. The offsite street improvements required are shown in the City Circulation Element and are included in the City TIF program. The total cost of these improvements was \$237,396. Based on the TIF program stipulations, the City would reimburse the developer the TIF fees that have already been paid by the development of \$194,606 now and the remaining reimbursement of \$87,790 on a semi-annual basis from the future TIF fees collected from the development. A Notice of Completion was authorized by City Council on April 7, 2008.

Pheasant Ridge 3, which consists of five phases, Units 3A, 3B, 3C, 3D & 3E, for 63 lots, will be contributing TIF fees toward the offsite improvements. For this development, the total TIF fees to be paid by the development (\$409,790) exceed the cost of the offsite street improvements (\$237,396). Currently the TIF fund is approximately \$4M overextended and is anticipated to be up to \$10M overextended by upcoming reimbursement commitments

**For action by:**

City Council  
 Redev. Agency Bd.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 1

**Review:**

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

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

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

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

**Background:** Under Resolution No. 2008-58 (adopted by City Council on December 1, 2008), a development project with a signed subdivision agreement and final parcel map in effect prior to the effective date of said Resolution, shall be grandfathered into the prior Transportation Impact Fee program (established by Council Resolution 2004-117). In accordance with Resolution No. 2004-117 adopted by City Council on October 18, 2004, the City will reimburse the Developer for improvements made to Circulation Element arterial and collector streets. The TIF program specifies that if the reimbursement for the required arterial and collector street improvements is more than the TIF fees paid by the development the City will reimburse the TIF fees paid by the development and then any remainder would be reimbursed once the funds are available in the TIF fund. The following table summarizes the project's revenues and expenditures related to the development fee program:

| <b>Pheasant Ridge 3 Phases Units A, B, C, D &amp; E</b> |  |                    |               |                    |                  |
|---|--|--------------------|---------------|--------------------|------------------|
| <b>Development</b>                                      | <b>Impact Fee Component</b>  | <b>Amount Paid</b> |               | <b>Cost Totals</b> |                  |
|   |  | <b>Cash</b>        | <b>Credit</b> |                    |                  |
|   | Transportation Impact Fees (TIF)   | \$194,606          | \$0           |                    |                  |
|   | Arterial and Collector Right of Way Cost   |                    |               |                    | \$139,747        |
|   | Arterial and Collector Construction Cost   |                    |               |                    | \$ 97,649        |
|   | <b>Cash Reimbursement of TIF Paid:</b>   |                    |               |                    | <b>\$194,606</b> |
|   | <b>Future Cash Reimbursement paid semi-annually from TIF fees paid by the development:</b> |                    |               |                    | <b>\$87,790</b>  |

The reimbursement agreement for Pheasant Ridge Unit 3B was reviewed by the Development Reimbursement Review Committee (DRRC) on May 25, 2011. The DRRC is comprised of staff from the Community Development and Finance Departments. The DRRC reviewed the reimbursement agreement to ensure that the costs are reasonable (as compared to the City's costs for comparable capital projects) and also compared to a unit construction cost schedule focused on the Visalia construction market.

**Prior Council/Board Actions:**

- On July 13, 2009, Council authorized recordation of the final map for Pheasant Ridge Unit 3B.
- On April 20, 2010, Council authorized the filing of a Notice of Completion for Pheasant Ridge Unit 3B.

**Committee/Commission Review and Actions:**

- On October 25, 2004, Planning Commission approved Tentative Subdivision Map 5461 for Pheasant Ridge.
- On May 25, 2011, Developer Reimbursement Review Committee reviewed and recommended for approval the reimbursement for Collector street improvements associated with Pheasant Ridge Unit 3B.

**Alternatives:** N/A

**Attachments:** Location Map, Reimbursement Exhibit

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

I move to authorize the City Manager to execute the Reimbursement Agreement for Pheasant Ridge Unit 3B located on the west side of Roeben Street south of Riggin Avenue.

***Financial Impact***

**Funding Source:**

Account Number: 1241 fund (Call Finance for assistance)

**Budget Recap:**

|                                       |                |    |
|---------------------------------------|----------------|----|
| Total Estimated cost: \$              | New Revenue:   | \$ |
| Amount Budgeted: \$                   | Lost Revenue:  | \$ |
| New funding required:\$               | New Personnel: | \$ |
| Council Policy Change: Yes____ No____ |                |    |

**Copies of this report have been provided to:**

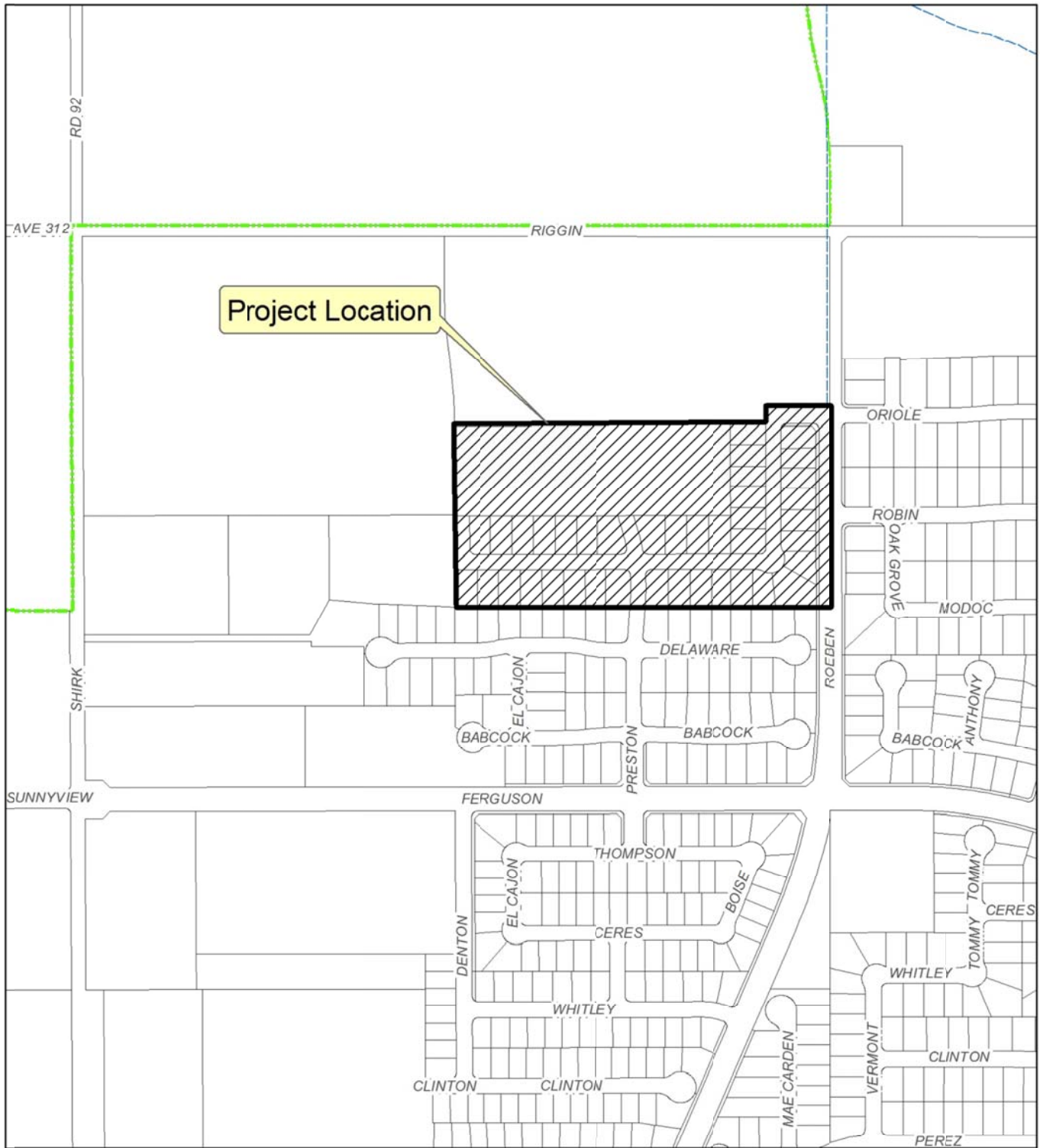
***Environmental Assessment Status***

**CEQA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:



# Pheasant Ridge Unit No. 3B Reimbursement Agreement



Scale: 1"=800'

# City of Visalia Agenda Item Transmittal

**Meeting Date:** August 1, 2011

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

**Agenda Item Wording:** Update of efforts by a temporary ad hoc group addressing Downtown infrastructure needs and a strategy for implementation of infrastructure upgrades.

**Deadline for Action:** None

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

**Contact Name and Phone Number:**

Jason Huckleberry, Eng. Services Manager, 713-4259  
Adam Ennis, Assist. Director of Engineering, 713-4323

**Department Recommendation:** Staff requests that the City Council accepts this update and provides any comments or direction it deems appropriate.

**Summary:** Due to significant infrastructure obstacles experienced by property owners in the renovation/expansion of Downtown buildings, a temporary ad hoc group has developed. City staff from Administration, Engineering and the Fire Department has met on a periodic basis with various Downtown property owners in attempt to find solutions to these obstacles. Meetings have also been attended by utility companies, including Southern California Edison and California Water Service.

One solution that has been developed for two current renovations/expansions is to create a central “nesting” area for electrical transformers, which could serve an entire block in the future. Areas in other Downtown blocks are being identified to possibly continue the use of this solution. Other possible solutions being explored include the “manifolding” of Fire Department connections for an entire block near one common fire hydrant and backflow preventer and adjusting City Policies and ordinances to accommodate more economical and physically workable solutions.

The group continues to work towards solutions whereby Downtown property owners are able to upgrade services to meet current needs and fire and building codes while minimizing costs, aesthetic and traffic impacts and interference to adjacent Downtown businesses.

**Background:** Many proposed renovations and expansions in the Downtown have experienced significant obstacles due to the aging infrastructure that currently supports the existing buildings. Often, the existing services to buildings are not sufficient to meet current needs and/or building and fire code requirements. In addition, existing streets and buildings are not configured to accept the needed infrastructure improvements that would accommodate expansion or renovation.

**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.



In 2011, the group has met several times and has quickly identified two major infrastructure components vital to the successful renovation/expansion of Downtown properties, electrical service upgrades (Southern California Edison Co) and water supply for fire services (California Water Service). Some potential solutions to these obstacles are being explored. At one location, the Togni-Branch Building, conversion of a small portion of City parking lot to City street system was approved by Council and will be used as a central utility location for facilities that could eventually serve the entire block. A second similar proposal is being presented to Council tonight for approval for another proposed Downtown expansion between Acequia Avenue and Main Street in the block between Locust Street and Court Street. These are shown in Exhibit #1.

#### Electrical facility upgrades – Southern California Edison (SCE)

Downtown properties are commonly found to have electrical facilities that are timeworn and unable to accept additional electrical loading that may be necessary to service a remodel and/or expansion. As such, it is often a requirement to provide a new electrical service to the building in conjunction with a new above ground SCE transformer. The transformers typically need to be located above ground and exterior to the buildings they serve. Most Downtown properties will find it difficult to locate these above ground electrical facilities in close proximity to their building. Most of these buildings are bordered by adjacent buildings built on property line and alleys built at the minimum width necessary to accommodate solid waste and emergency vehicles.

As a solution, staff has concentrated on identifying utility “nesting” areas in each Downtown block that would facilitate above ground utility upgrades. Most of these locations are identified as City owned parking lots or properties where utilities can be placed in landscape islands with minimal impact to existing parking or operations. By creating these nesting areas, property owners on each block can bring new services to their building from these central locations where the new electrical transformers can be located.

Presently, we have two such projects utilizing this method for utility upgrades, the Togni-Branch Building renovation on the north side of Main Street between Court St. and Church St. and the Cusenza property 2<sup>nd</sup> floor expansion at the southeast corner of Main and Locust St.

#### Water supply for fire services – California Water Service (Cal Water)

Depending upon the proposed use and improvements, property owners and businesses expanding and/or renovating in Downtown are often required to adhere to current fire suppression requirements. Often these requirements involve new fire service lines off of the water main, fire hydrants, fire department connections, and backflow prevention systems. Typically, these systems would have to extend from the water main in Main Street to the building frontages. Since these systems would be required for most property expansions/renovations, there could be many placement, aesthetic and possibly handicap accessibility issues created by the needed facilities.

Several options are currently being reviewed by the group, including:

1. Group fire services in landscape areas to include hydrant, backflow preventer, and a manifold type fire department connection panel to serve the entire block.
2. Installation of fire service mains in existing alleys to serve each block.

The Downtown infrastructure group will continue to identify future tasks and opportunities. Engineering staff will prepare a master aerial/plat that shows potential utility nest locations throughout the Downtown and, in conjunction with the affected utility companies and the City Fire Department, develop a composite utility plan. Once a plan and costs are developed, potential funding sources will be identified and explored for funding opportunities. In addition, stakeholders such as PBID, Downtown business owners and the affected utility companies will be brought into the process for improving the Downtown infrastructure. Updates on the progress of the group would be brought to the City Council as needed.

**Prior Council/Board Actions:** None

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

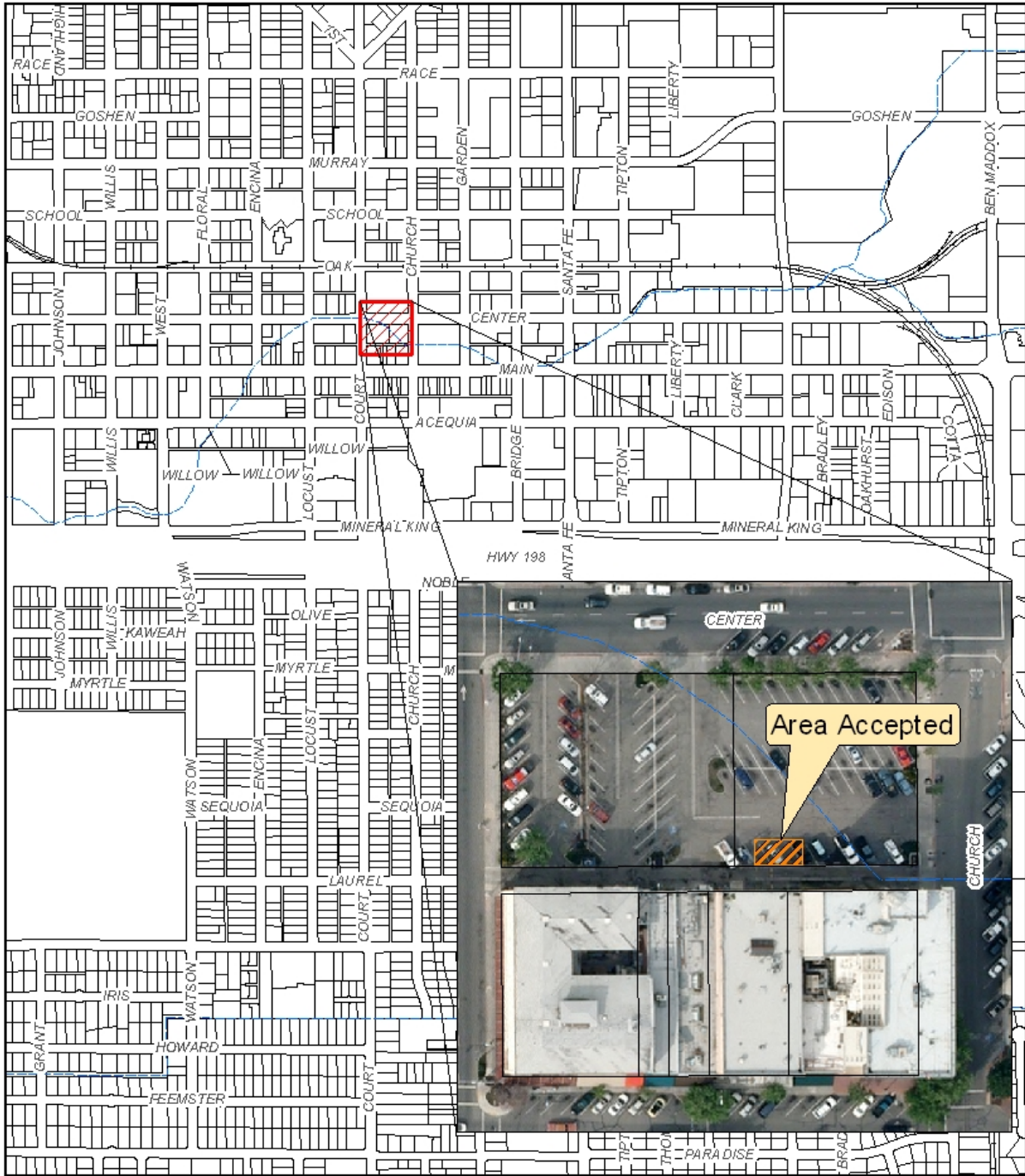
**Alternatives:** None

**Attachments:** Exhibit #1 – Two Renovation/Expansion Projects With Resolved Utility Issues

**Recommended Motion (and Alternative Motions if expected):** I move to accept this update

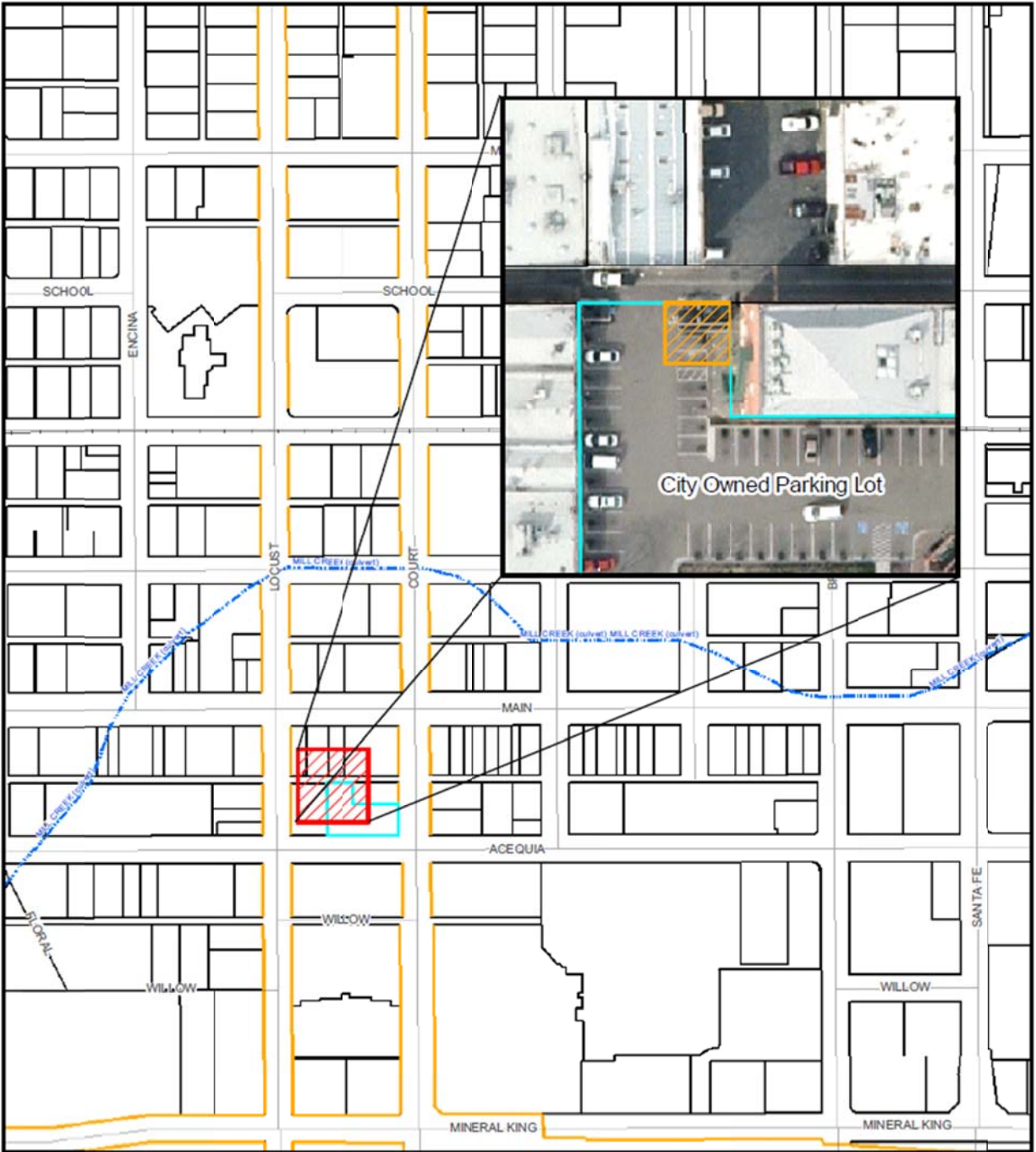
**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)  
Notice of Completion to be filed with County Recorders Office through City Engineer's office.*

Copies of this report have been provided to:



# Exhibit 1





**EXHIBIT 1**



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

**Agenda Item Number (Assigned by City Clerk):** 11

**Agenda Item Wording:**

Public hearing for:

**Public Hearing for Amendment to Pre-Annexation Agreement for Annexation No. 2004-11 (Caldwell-Ben Maddox):** A request by Diamond Oaks LLC., to amend terms of the Pre-Annexation Agreement as it relates to 56.9 acres of property located at the southwest corner of East Caldwell Avenue and the logical extension of Ben Maddox Way alignment. (APN: 126-100-012)

**Deadline for Action:** None.

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

**Contact Name and Phone Number:**

Paul Bernal, Senior Planner (559) 713-4025  
Paul Scheibel, AICP, Planning Services Manager, (559) 713-4369  
Chris Young, Community Development Director/City Engineer (559) 713-4392

**Department Recommendation:** The Planning Commission recommends that the City Council approve the amendment to the Pre-Annexation Agreement for Annexation No. 2004-11 (Caldwell-Ben Maddox) by removing Condition II.D that requires **subsequent development of the site to be consistent with the adopted Southeast Area Plan**. A copy of the Pre-Annexation Agreement with the existing terms is attached to this report as Exhibit "A".

**Summary:** On June 27, 2011, the Planning Commission held a public hearing and voted unanimously to endorse the proponent's request that they be released from the requirements that development on their suite be consistent with a master plan for the large southeast plan area cited in General Plan Policy 1.1.11. The Planning Commission agreed with the applicant there has been an extensive time lag between the execution of the pre-annexation agreement and the still un-adopted master plan for that area.

**Pre-Annexation:** On October 4, 2004, staff received authorization from the City Council to proceed with the application for Annexation No. 2004-11. This annexation request was to add approximately 129 acres of property into the City Limits; however, only 56.9 acres were added to the city. A condition was added to the annexation that required subsequent development of the site shall not occur until staff determines that such development will be consistent with the Southeast Master Plan that is approved by the City Council.

**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.

**Background/Analysis:** This amendment to Pre-Annexation No. 2004-11 would relieve the property owner from the Pre-Annexation condition that requires development of their 56.9 acres to adhere to the requirements of the Southeast Area Plan (General Plan Land Use Policy 1.1.11). The Southeast Area Master Plan (SEAP) begun in 2005 is the planning documented that corresponds to this General Plan Policy. The SEAP and associated Environmental Impact Report (EIR) is as yet not completed or adopted by the City Council.

The applicant contends that due to the length of time that has lapsed, and no adoption of the Southeast Area Master Plan, they seek to be unencumbered to independently submit subdivision and conditional use permit plans to develop the property, rather than waiting for the Southeast Area Master Plan and EIR to be adopted.

The proponent does not yet have formal development applications submitted. However, the applicant has provided a conceptual development plan (see Exhibit "C") depicting parcel patterns for both single-family and multi-family developments. The proponent is noting that Exhibit "C" is intended to be conceptual in nature only and does not reflect any specific development intent.

**Consistency with General Plan Policy 1.1.11:** The applicant has stated the owner of the 56.9 acres may desire to proceed with development entitlements to develop the property with some provisions related to sustainability as identified in the un-adopted Southeast Master Plan. This development would incorporate mixed housing types, grid streets and potential on-site rain gardens. The property owner is proposing to develop the site at the densities prescribed under the current General Plan land use designation and zoning. The 56.9 acres have land use designations of Residential Low Density, Residential Medium Density and Residential High Density. However, development plans cannot proceed due to the condition contained in the Pre-Annexation Agreement that requires this property to be developed consistent with the adopted Southeast Master Plan. Given that no Southeast Area Plan has been formally adopted, the proponents are technically restricted from moving forward in their development plans for the site.

**Status of Southeast Master Plan:** A report to the City Council on June 21, 2010, provided an update on progress and discussion on a revised approach for the SEASP and EIR. The report identified several recommendations that were mutually agreed upon based on input and consensus with property owners and other development community stakeholders. Major changes to the revised approach include changing the "Plan" from a specific plan to a master plan. This changes the document from a "regulatory" document to an "incentive-based" document. Other noted changes include early development projects along Caldwell Avenue may precede using existing infrastructure capacities.

The Southeast Area Plan will proceed on independently from the General Plan Update process. Drafts of the EIR and Plan are in staff's procession but neither is programmed to go to public review before late summer, and therefore, none of the recommended changes have been formally adopted. However, staff and the property owners view these changes from the original Plan as a practical and necessary solution to adopting the Plan. The changes to the Plan may hold the best opportunity to achieve a practical balance of the realities of the local marketplace and the owners' individual goals for their property with many of the best features contained in the Plan.

**Background:** On June 27, 2011, the Planning Commission held a public hearing on June 27, 2011, and recommended approval of the removal of the condition for Pre-Annexation Agreement No. 2004-11 by a 4-0 vote, with Commissioner Soltesz absent. During the public hearing, one person, Darlene Mata representing the applicant, spoke to the item.

Ms. Mata, stated that due to the length of time that has occurred between the approval of the annexation, and no formal adoption of the specific plan, the owner wants to pursue development of their property. Ms. Mata further stated subsequent development of this site will result in discretionary review to determine consistency with the General Plan and Zoning Ordinance.

The Planning Commission was unanimous in their support for removing the condition given the length of time that has lapsed since the initiation of the Southeast Specific Plan, and the substantial support from property owners in the southeast area that support development of the area without adhering to a specific plan but rather master plan. The Commission stated that the condition should be removed.

**Environmental Findings:** An Initial Study was prepared for the Pre-Annexation of the 56.9 acre site which resulted in a Negative Declaration. Negative Declaration No. 2004-86 was certified for the project. The removal of the condition to adhere to the Southeast Area Plan is consistent with the certified Negative Declaration No. 2004-86.

**Alternatives:** The City Council may approve, modify, or not approve the request to modify the Pre-Annexation Agreement. The City Council may alternately return the matter to staff with further direction as the City Council deems appropriate.

**Attachments:**

- Resolution No. 2011-44
- Exhibit A – Revised Pre-Annexation Agreement
- Exhibit B – Letter from Property Owner dated March 1, 2011
- Exhibit C – Conceptual Development Plan
- Exhibit D – General Plan Policy 1.1.11
- Exhibit E – Planning Commission Staff Report from June 27, 2011
- General Plan Land Use Map
- Zoning Map
- Southeast Area Specific Map

**Recommended Motion:** I move to approve Amendment to Pre-Annexation Agreement for Annexation No. 2004-11 (Caldwell-Ben Maddox): A request by Diamond Oaks LLC., to amend terms of the Pre-Annexation Agreement as it relates to 56.9 acres of property located at the southwest corner of East Caldwell Avenue and the logical extension of Ben Maddox alignment. (APN: 126-100-012).

***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. 2004-86).

**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



RESOLUTION NO. 2011-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA APPROVING AMENDMENT TO PRE-ANNEXATION AGREEMENT FOR ANNEXATION NO. 2004-11 (CALDWELL-BEN MADDOX), A REQUEST BY DIAMOND OAKS LLC., TO AMEND TERMS OF THE PRE-ANNEXATION AGREEMENT AS IT RELATES TO 56.9 ACRES OF PROPERTY LOCATED AT THE SOUTHWEST CORNER OF EAST CALDWELL AVENUE AND THE LOGICAL EXTENSION OF BEN MADDOX ALIGNMENT (APN: 126-100-012)

**WHEREAS**, Amendment to Pre-Annexation Agreement for Annexation No. 2004-11, is a request by Diamond Oaks LLC., to amend terms of the Pre-Annexation Agreement as it relates to 56.9 acres of property located at the southwest corner of East Caldwell Avenue and the logical extension of Ben Maddox alignment; and

**WHEREAS**, the intent of the amendment is to remove the condition that requires subsequent development of the site shall not occur until staff determines that such development will be consistent with the adopted Southeast Master Plan that is approved by the City Council, as identified in the attached Exhibit "A"; and,

**WHEREAS**, the Planning Commission of the City of Visalia, after ten (10) days published notice, held a public hearing before said Commission on June 27, 2011; and

**WHEREAS**, the Planning Commission of the City of Visalia finds the Amendment to Pre-Annexation Agreement for Annexation No. 2004-11 (Caldwell-Ben Maddox) to be in accordance with General Plan Policy 1.1.11 of the Land Use Element of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing; and

**WHEREAS**, the Planning Commission of the City of Visalia recommended approval of the Pre-Annexation Agreement amendment by adoption of Planning Commission Resolution No. 2011-27 on June 27; 2011 and

**WHEREAS**, an Initial Study was prepared in accordance with the California Environmental Quality Act (CEQA) and found that no significant environmental effects would result from this project.

**WHEREAS**, Negative Declaration No. 2004-86 was prepared consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines and certified by the City Council on October 4, 2004, and the modification to Pre-Annexation Agreement is consistent with Negative Declaration No. 2004-86.

**NOW THEREFORE BE IT RESOLVED** that the City Council of the City of Visalia hereby makes the following findings with regard to amendment to Pre-Annexation Agreement for Annexation No. 2004-11:

1. That the proposed amendment is consistent with General Plan Land Use Policy 1.1.11, and any future development entitlements for this site will address infrastructure improvements, street circulation, stormwater management and comply with land use policies.

**BE IT FURTHER RESOLVED** that the City Council of the City of Visalia hereby approves the amendment to Pre-Annexation Agreement for Annexation No. 2004-11, in accordance with the terms of this resolution and based on the above findings.

# *City of Visalia*



*City Council Hearing*  
*August 1, 2011*

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# Project Description

- Diamond Oaks LLC., requesting City amend annexation agreement.
- Annexation Agreement included condition that requires . . . development be consistent with the adopted Southeast Master Plan.
- Applicant contends . . .
  - Lapse of time on SEASP
  - Owner would like to proceed with independent plans on developing their property.



# Planning Commission

- Planning Commission voted unanimously to endorse the proponent's request.
- The Commission agreed the condition could not have foreseen extensive time lag between the annexation and the un-adopted status of a master plan.

# SEASP

- SEASP has been underway for several years.
- Major changes to the revised approach.
  - Specific Plan to Master Plan.
  - Incentive Base for complying with Plan.
- Draft EIR & Plan not programmed for public review, no changes adopted

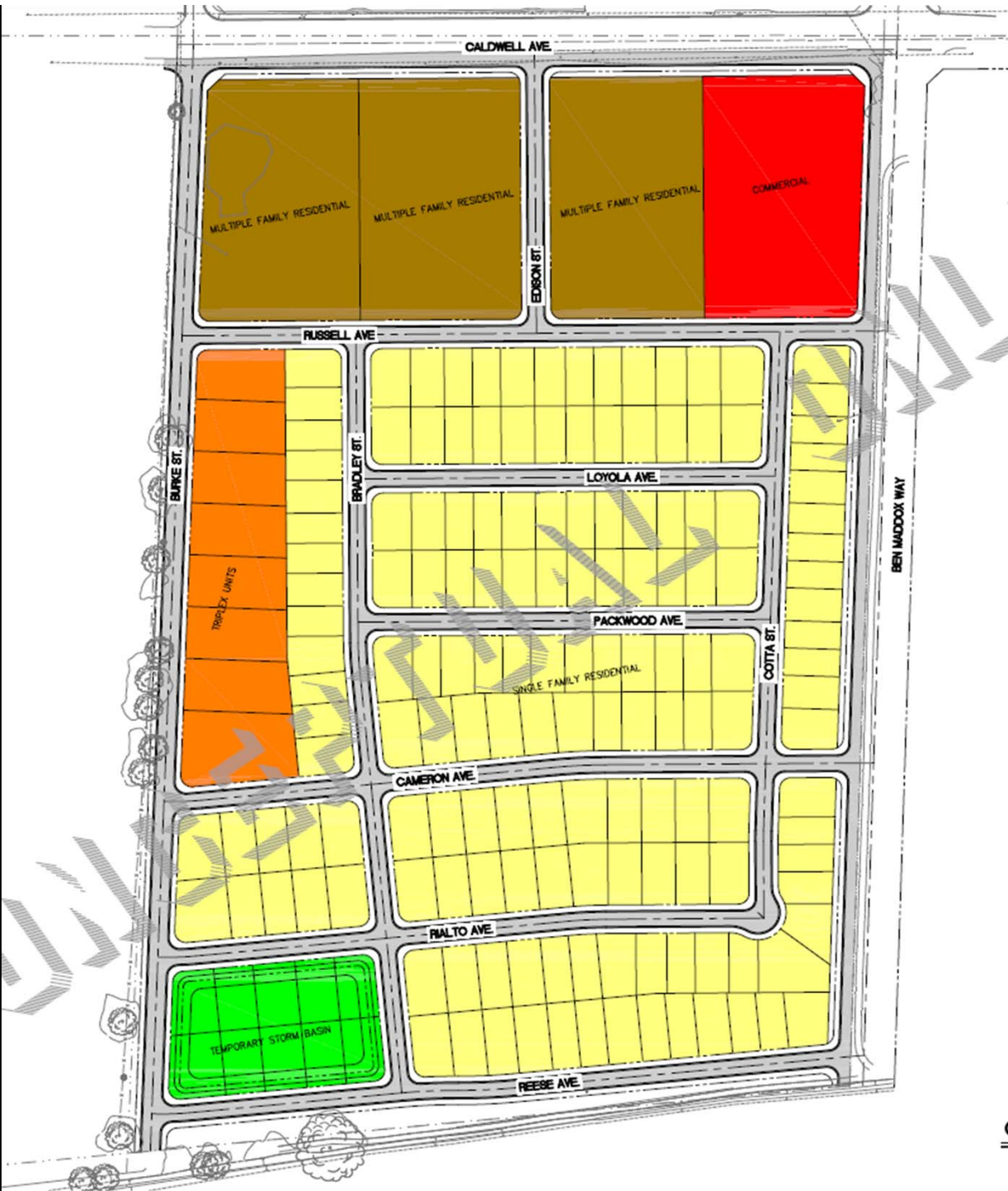
# Development Plan

- Proponent does not yet have formal development applications submitted.
- Proponent is noting that Exhibit “C” is intended to be conceptual in nature only and does not reflect any specific development intent.

# Recommendation

- Staff recommends:
  - City Council approve the amendment to the Pre-Annexation Agreement for Annexation No. 2004-11 (Caldwell-Ben Maddox) by removing Condition II.D



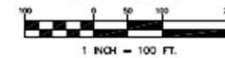


**LEGEND**

- PROPOSED STREET R/W
- - - - PROPOSED STREET CENTERLINE
- PROPOSED SINGLE FAMILY RESIDENTIAL: 423.2 ACRES
- PROPOSED COMMERCIAL: 42.8 ACRES
- PROPOSED MULTIPLE FAMILY RESIDENTIAL: 48.6 ACRES
- PROPOSED TRIPLEX UNITS: 43.2 ACRES
- PROPOSED TEMPORARY STORM BASIN: 42.0 ACRES
- PROPOSED NEW STREET PAVING



GRAPHIC SCALE



**DIAMOND OAKS  
CONCEPTUAL DEVELOPMENT PLAN**



Caldwell Ave

Ben Maddox

Santa Fe

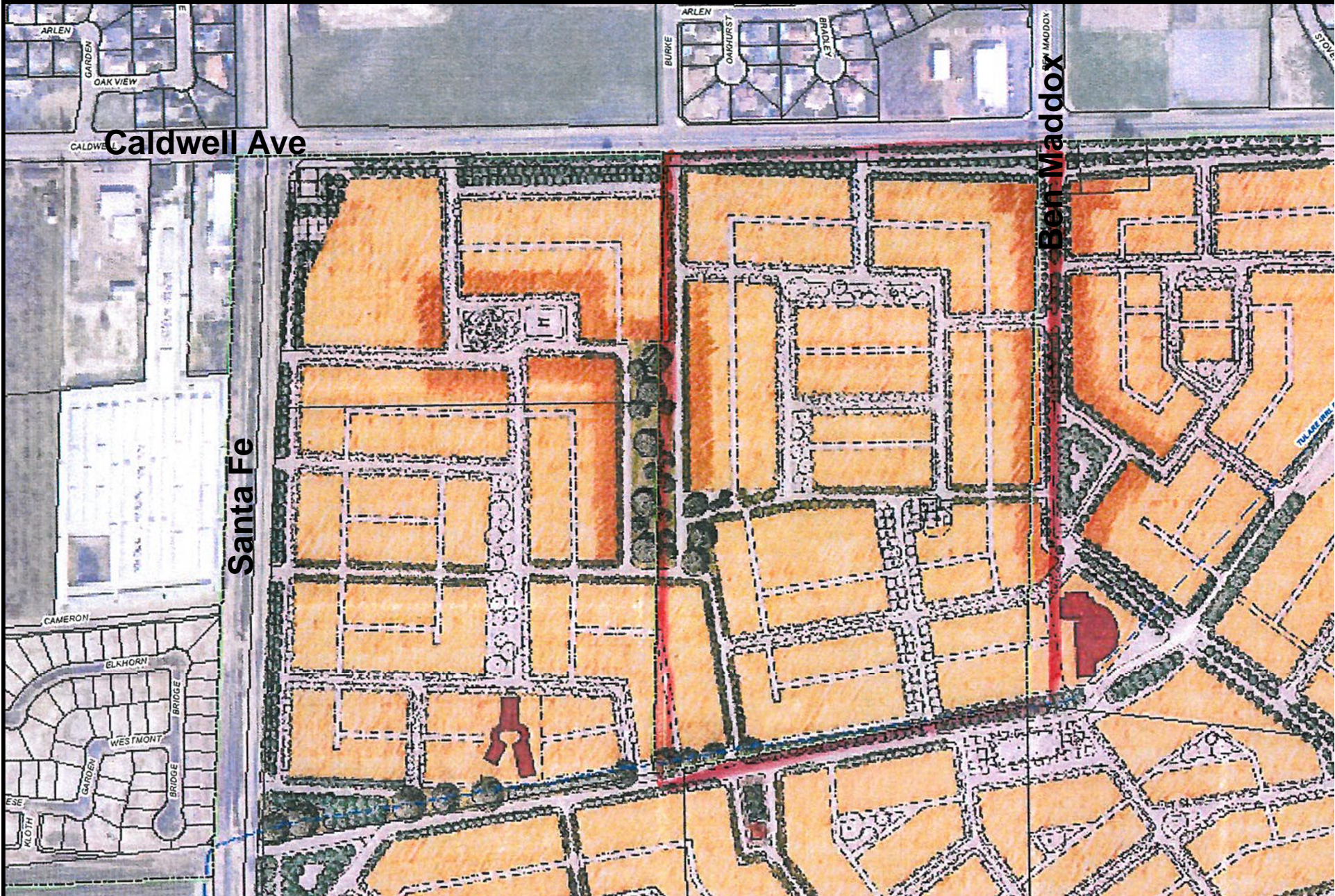
Lovers Lane

Ave 272

**SE Master Plan**

- CITY LIMITS
- WATERWAYS





Caldwell Ave

Santa Fe

Ben Maddox

ARLEN  
GARDEN  
OAK VIEW

BURKE  
ARLEN  
OMHURST  
ASTOR

CAMERON  
ELKHORN  
WESTMONT  
BRIDGE  
GARDEN  
ESE  
KLOTH

TALACE AVE

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2011

**Agenda Item Number (Assigned by City Clerk):** 12

**Agenda Item Wording:** Request to place on the tax rolls two assessments: \$2,067.03 for weed abatement at 1304 S. Santa Fe and \$330 for failure to conserve water at 314 N. Bennett Circle

**Deadline for Action:** For this tax year, August 15, 2011

**Submitting Department:**

**Contact Name and Phone Number:** Mark Nelson, Fire Chief, x 4220, Kim Loeb, Natural Resources Manager, x4530, Eric Frost, Administrative Services Director, x4474.

**Department Recommendation:** That the following assessments be placed upon the tax roll:

1. Weed Abatement of \$2,067.03 for 1304 S. Santa Fe; and,
2. Water Conservation Violations of \$330 for 314 N. Bennett Circle.

**Summary/background:**

On July 18, 2011, the City Council conducted a public hearing to place certain fees and charges on this year's tax rolls. Two items were protested and the Council removed the items to have a more in-depth review. The following is a summary of the items. After review of these cases, staff recommends that both items be placed on the tax roll. Council action is needed at this meeting because appropriate materials must be turned in to the County by August 10, 2011.

Both of these protests could have asked for an administrative hearing to review the fines. These hearings require a letter requesting the hearing and a \$100 deposit. Code Enforcement will then arrange for an outside party to sit as an hearing officer to determine if the fine is appropriate or not. If the fine is overturned, then the \$100 deposit is returned. In this case, neither party pursued the appeal process.

**1304 S. Santa Fe – Mike Rogers**

Mr. Rogers' property is composed of two parcels totaling 1.6 acres. The property has been abated in the past. As staff reviewed the timeline, all the proper notices appear to be presented

**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.

timely. The issue with the bill being higher than what Mr. Rogers' expected can be explained by examining the bill, shown below in Table I, Weed Abatement Charges.

Table I  
Weed Abatement Charges

|                    | APN        |            | Total    |
|--------------------|------------|------------|----------|
|                    | 97-241-014 | 97-241-001 |          |
| Size               | (.6 acres) | (1 acre)   |          |
| Disking Fee        | 247.00     | 270.00     | 517.00   |
| Rubbish Charge     | 431.00     | 431.00     | 862.00   |
| Handwork @\$46/hr  | 92.00      | 230.00     | 322.00   |
| Dump Fee           | 24.12      |            | 24.12    |
| Weed Abatement Fee | 77.00      | 77.00      | 154.00   |
| Tax Roll Fee @ 10% | 87.11      | 100.80     | 187.91   |
| Total              | 958.23     | 1,108.80   | 2,067.03 |

The main driver of this weed abatement bill is the hauling of rubbish. Two truckloads were charged. In reviewing the bill with the contactor, the contractor confirmed that an unusual amount of trash was removed from the property, such as old mattresses. As a result, the billing appears appropriate and should have the charges paid.

Additional information on this case is found in the attached memo date 7/22/2011 from Fire Chief Nelson.

**314 N. Bennett Circle – Larry Harrington**

In this case, the City is enforcing its water conservation ordinance. Residents are given two warnings during a twelve month period about water conservation ordinances and then charged an administrative fine for additional violations. In Mr. Harrington's case, four violations occurred in a twelve month period.

Kim Loeb, Natural Resources Manager, has attached a memo that provides the timeline for these violations. In short, the City employs two part-time Water Conservation/Education Coordinators. These individuals will patrol various parts of the City to achieve better compliance with the City's Water conservation ordinance. If they discover a violation, they will make a report of the violation to the Natural Resources Manager and if they discover the violation after 8 am, they will also attempt to contact the resident to explain how the watering practice is not in compliance with the City's water conservation ordinance. In most cases, people comply with the ordinance and no further action is necessary.

In Mr. Harrington's case, his violations were for wrong day watering, wrong time of day watering and evidence of over watering. Proper notification occurred and Mr. Harrington was fined \$100 and \$200 for a third and fourth water ordinance violation during a twelve month period.

In February, another violation notice was presented to Mr. Harrington. Mr. Harrington stated he was simply testing his system. Staff rescinded the notice in this case on the word of Mr. Harrington, but the staff did not see him working in the yard, there were no sign of tools and no

one answered the door when the staff attempted to make contact with Mr. Harrington. Kim Loeb's letter from this contact is attached. Nevertheless, no notices have been issued since February, leading staff to believe Mr. Harrington has resolved his issues on how watering needs to occur in Visalia.

Mr. Harrington did not pursue the administrative appeal process but has now brought his concerns to Council. He has also expressed concerns about a pocket park close to his home which may have water use issues. Parks and Recreation has been notified that this pocket park may need to have its water controller adjusted.

In any case, the administrative fines followed the proper notification process. Staff recommends that this fine be placed on the tax roll, including the Tax Roll charge of 10%, or \$330.

**Prior Council/Board Actions:**

**Committee/Commission Review and Actions:**

**Alternatives:**

- Attachments:** #1 Memo dated 7/22/2011 from Chief Nelson  
#2 Memo dated 7/20/11 from Kim Loeb, Natural Resources Manager  
#3 Letter dated 2/25/2011 from Kim Loeb to Larry Harrington

**Recommended Motion (and Alternative Motions if expected):** I move to place two assessment on the 2011/12 tax roll, namely:

1. Weed Abatement of \$2,067.03 for 1304 S. Santa Fee; and,
2. Water Conservation Violations of \$330 for 314 N. Bennett Circle.

***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: Mr. Harrington and Mr. Rogers.



February 25, 2011

Mr. Larry D. Harrington  
314 N. Bennett Circle  
Visalia, CA 93292

RE: NOTICE OF VIOLATION – VISALIA MUNICIPAL CODE CHAPTER 13.20

Dear Mr. Harrington,

This letter follows our telephone conversation yesterday regarding the notice of violation of the City's Water Conservation Ordinance. As we discussed, you received two citations within the previous 12 months and this notice would normally result in the issuance of a third citation and a \$500 dollar fine. Following is a summary of the notices issued to you over the last 12 months:

- 07/14/10 – Notice # 19946 – watering at wrong time of day (5:28 pm)
- 08/24/10 – Notice # 21143 – watering on wrong day of the week (Tuesday) Citation # 6541
- 09/14/10 – Notice # 21000 – watering on the wrong day of the week (Tuesday) Citation # 6543
- 02/24/11 – Notice # 17231 – watering on the wrong day of the week (Thursday)

Although our water conservation staff member did not see you working, nor tools or any sign of repair work being conducted, and although no one came to the door when our water conservation staff member rang the doorbell, you stated that you were simply testing your sprinklers and were not irrigating. For this reason, we are not issuing a citation and fine as a result of this notice of violation.

However, I note that every one of your past notices of violation were for watering on the wrong day or at the wrong time. As I did in our telephone conversation, I again strongly encourage you not to "test" your sprinklers except on your watering day and time. You should follow the even address schedule. Receipt of another notice of violation will result in issuance of a citation and a \$500 fine.

| WATERING DAYS & TIMES            |  | M | T | W | T | F | S | S |
|----------------------------------|--|---|---|---|---|---|---|---|
| Addresses ending in even numbers |  |   | ☹ |   | ☹ |   | ☹ |   |
| Addresses ending in odd numbers  |  | ☹ |   | ☹ |   | ☹ |   |   |

- No watering on Mondays
- No watering between 10 am and 8 pm

Please feel free to contact us at 713-4531 if you should have any questions about the City's Water Conservation Ordinance or watering schedule.

Sincerely,

Kimball R. Loeb, PG  
Natural Resource Conservation Manager





**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** August 1, 2010

**Agenda Item Number (Assigned by City Clerk):** 13

**Agenda Item Wording:** Recommendation from the Council Sub Committee on the City's Election process to appoint a Task Force to investigate and report to the Visalia City Council regarding possible changes to the City's Council Member election process

**Deadline for Action:** N/A

**Submitting Department:** Council Subcommittee

**Contact Name and Phone Number:** Amy Shuklian, Vice Mayor; Warren Gubler, Member of Council

**Council Recommendation:**

It is recommended that the Visalia City Council appoint a Council Member Election Process Task Force to investigate and make recommendations to the Council regarding possible changes to the system of electing Visalia City Council members. The following points are recommended with regards to the Task Force's Purpose, the appointment process, and Committee Guidelines.

**Summary/background:**

Article IV of the Visalia City Charter specifies that City Council members be elected at-large. "The members of the Council and the members of the Board of Education shall be elected from the City at large, as provided in this Charter."

The Mayor proposed creating a Council Subcommittee made up of Vice Mayor Amy Shuklian and Council Member Warren Gubler to consider the options for investigating a change in election process. The Council approved that recommendation on June 28.

The Council Subcommittee, in considering this issue, recognizes that with a diverse population of 125,000, and with the data from the 2010 census now available, it may be an appropriate time for the Council, in conjunction with the community, to review how City Council Members are elected and determine the best course of action for the future. Some state and federal law election provisions favor district elections; although the Council Subcommittee does not necessarily agree that at large elections should be abandoned for the City of Visalia, it agrees that the community should have an opportunity to discuss this matter in greater depth. A

**For action by:**

City Council  
 Redev. Agency Bd.  
 VPFA

**For placement on which agenda:**

Work Session  
 Closed Session

**Regular Session:**

Consent Calendar  
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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.

community-based group should be given the task of investigating the feasibility and appropriateness of district elections for the City of Visalia.

### **Task Force Purpose:**

Consistent with the above, the Council Subcommittee recommends that a Task Force should be created and charged with considering the following:

1. Review the types of City Council election formats being used in other cities that may comply with federal and state election law.
2. Consider whether the City Council should consider changing how the Visalia City Council is elected, including the implementation of a "By-District" election process.
3. Consider the current demographic and voter makeup statistics as revealed by the 2010 census and recent election data, and how are these statistics relevant to the question of how or whether the City's election process should be changed.
4. Taking the above into consideration, determine whether the Task Force has a recommendation on the following aspects of the Council Member election system:
  - a. Is the "at large" system still appropriate for Visalia? If not, what type of District elections are recommended (i.e. pure by-district, or hybrid with an "at-large" component)?
  - b. How many Districts should there be, and should the City create new Council seats (for example, move to a seven-person Council)?
  - c. If a change is recommended, what should the timeline for processing such a change be?
  - d. By what process should the change be implemented? (Charter Amendment, ordinance, other)

### **Appointment Process:**

It is recommended that the Task Force be composed of 13 members in addition to 2 Ex officio (non voting) members from the City Council. The voting members of the task force should be appointed as follows: each Council Member to appoint 2 members to the Task Force, three additional appointments to be made via random selection. The Mayor will designate the Chair of the Committee from the 13 members . All appointments will be derived from applications that are received from residents of Visalia. The application process will be open until noon on Friday, August 12, 2011. The applications will be provided to the Council for review, and the Council will make their appointments at the City Council meeting on Monday, Aug. 15. (Draft application attached)

The Mayor will recommend the City Council Ex Officio Members and those names will also be brought to the full Council for consideration at the Aug. 15 City Council meeting.

### **Task Force Guidelines:**

-The Task Force should complete its work as expeditiously as possible, but should have a report to the City Council no later than January 30, 2012, with the goal of allowing for a charter amendment election, if recommended, in 2012 prior to the 2013 council elections.

-All meetings are to follow the Brown Act Open Meeting Laws. The public is encouraged to attend the meetings.

-The Task Force is encouraged to actively seek input from the community.

-The Task Force meetings will most likely be held in the late afternoons, either 4-5 p.m. on non-council meeting Mondays or Wednesdays. The frequency of the meetings will be determined by the Committee based on research time needed, etc.

-Task Force attendance and participation are critical to the Task Force's progress. Any Task Force member that misses 3 meetings for any reason will be removed, and the appointing Council member will have the option of replacing the Task Force member from the applicants received during the initial process. A Council Member may choose not to reappoint if they feel the group's progress has advanced to a stage where a new member would have a difficult time coming up to speed given the amount of information the Task Force has already processed.

-The Task Force's decision does not have to be unanimous, but given the significance of this recommendation, the Council hopes the Committee can come to a consensus decision. If the final decision is a split vote, the vote results should be presented as part of the Committee's final report.

-The Task Force will have staff assistance from the City Attorney and the Deputy City Manager. Other staff members will be brought in to assist as warranted.

**Prior Council/Board Actions:**

June 28, 2010 – Council Subcommittee Appointed

**Attachments:** N/A

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

I move to approve the recommendation from the Council Sub Committee on the City's Election process to appoint a Task Force to make recommendations to the Visalia City Council regarding possible changes to the City's Election Process

**City of Visalia**  
**ELECTION PROCESS TASK FORCE APPLICATION**

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Occupation: \_\_\_\_\_ Employer: \_\_\_\_\_

Education: \_\_\_\_\_

Community  
Involvement: \_\_\_\_\_

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Civic Involvement: \_\_\_\_\_

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**On a separate piece of paper, please answer the following questions:**

- 1. Why are you interested in serving on the Election Process Task Force?**
- 2. What do you hope to accomplish as a member of the Task Force?**
- 3. Do you have any unique skills, talents or abilities that you believe would be beneficial to the Task Force?**
- 4. What do you see has some of the most challenging issues facing the City of Visalia and why?**
- 5. What do you enjoy most about living in Visalia?**
- 6. What have you enjoyed about living in another community? (If you have always lived in Visalia, what intrigues about another community)**

**Applications, supplemental question answers, and any other documentation that would support your interest in serving on this Task Force must be received by the City Clerk's Office by 12 noon on Friday, August 12. A resume that addresses community and civic involvement may be attached in place of using the form to list involvement. Items may be sent by email to [cityclerk@ci.visalia.ca.us](mailto:cityclerk@ci.visalia.ca.us), or delivered by hand or mail to 425 E. Oak, Suite 301, Visalia, CA 93291. Questions can be directed to the Clerk's Office at 713-4512.**

# CHARTER OF THE CITY OF VISALIA

## Article I

Section 1. The territory of the City of Visalia shall be that contained within its present boundaries as now established with the power and authority to change the same in the manner provided by law.

## Article II

Section 1. The City of Visalia, as successor in interest of the municipal corporation of the same name, heretofore created and existing, shall own, hold, possess, use, lease, control, and in every way succeed to and become the owner of all rights and all property of every kind and nature by said existing municipal corporation owned, controlled, possessed, or claimed, and shall be subject to all the debts, obligations, liabilities, dues and duties of said existing corporation.

## Article III

### Powers of City

Section 1. The City of Visalia, a municipal corporation, shall after the adoption of this charter, continue its existence as such municipal corporation, and under the corporate name, City of Visalia, shall have possess, and exercise all powers and rights vested in said City of Visalia, under this charter, and the Constitution of California and the laws of the state, and all powers which a municipal corporation may lawfully possess or exercise under the Constitution of this state. The City of Visalia shall have the right and power to make and enforce all laws and regulations in respect to municipal affairs, subjected only to the restrictions and limitations provided in this charter; provided that nothing herein shall be construed to prevent or restrict the City from exercising or consenting to, and the City is hereby authorized to exercise any and all rights, powers and privileges heretofore or hereafter granted or prescribed by the general laws of the state; provided also, that where the general laws of the state provide a procedure for the carrying out and enforcement of any rights or powers belonging to the City, said procedure shall control and be followed unless a different procedure shall have been provided in this charter or by ordinance.

Section 2. Without in any way or to any extent limiting or curtailing the powers hereinbefore conferred or mentioned, and for the purpose only of removing all doubt concerning the exercise of powers hereinafter expressly mentioned, the City of Visalia shall have power:

- (1) To have and use a corporate seal;
- (2) To sue or be sued in all courts in all actions and proceedings;
- (3) To levy and collect taxes, and to levy and collect license taxes for both regulation and revenue;
- (4) To borrow money, incur municipal indebtedness, and issue bonds or other evidence of such indebtedness;
- (5) To acquire by purchase, bequest, devise, gift, condemnation or other manner sanctioned by law, within and without the limits of said City, property of every kind and nature for all purposes;
- (6) To acquire by said means and to establish, maintain, equip, own and operate, either within or outside of the City, telephone and telegraph systems, street railways, or other means of transportation, warehouses, free markets, waterworks, filtration plants, gas works, electric light, heat and power works, underground or overhead conduit systems or any other works necessary to a public utility; and to join with any other city or cities or county in the acquisition, construction and maintenance of same;
- (7) To improve the streams and channels flowing through the City or adjoining the same, to widen, straighten and deepen the channels thereof, and remove obstructions therefrom, to construct and maintain embankment and other works to protect the City from overflow and storm waters;
- (8) To furnish the City or its inhabitants or persons without the City, and public utility service or commodity whatsoever;
- (9) To lease, sell, convey and dispose of any and all property herein mentioned for the common benefit;
- (10) To acquire, construct, operate and maintain parks, playgrounds, markets, baths, public halls, auditoriums, libraries, museums, art galleries, gymnasiums, mausoleum and any and all buildings, establishments, institutions, and places whether situated inside or outside of the City limits, which are necessary or convenient for the transaction of public business or for promoting the health, morals, education, care of the indigent or welfare of the inhabitants of the City or for their amusement, recreation, entertainment, or benefit;
- (11) To acquire, construct and maintain all works necessary for the disposition of sewage, garbage and waste, to construct, own, maintain and operate incinerating or garbage reduction plants, and to join with any other city or cities or county in the acquisition, construction and maintenance of any such works or plant;
- (12) To define and abate nuisances;
- (13) To provide for the care of the indigent;
- (14) To establish boulevards and regulate traffic thereon;

(15) To equip and maintain a fire department and to make all necessary regulations for the prevention of fires;

(16) To grant permits to use the streets or public property revocable at any time without notice;

(17) To regulate and establish rates and charges to be imposed and collected by any person or corporation for commodities or services rendered under or in connection with any franchise, permit, or license heretofore or hereafter granted by the City, or other authority, provided, that the same is not inconsistent with the Constitution of the State of California;

(18) To receive devises, bequests, gifts and donations of all kinds of property, in fee simple, or in trust, for charitable or other purposes and to do all acts necessary to carry out the purposes of such devises, bequests, gifts and donations with power to manage, sell, lease, or otherwise dispose of the same in accordance with the terms of the devise, bequest, gift or donation or absolutely in case such devise, bequest or trust be unconditional;

(19) To regulate and limit the height and bulk of buildings hereafter erected, and to regulate and determine the area of yards, courts and other open spaces and for said purpose to divide the City into districts. Such regulations shall be uniform for each class of buildings throughout any district, but the regulations in one or more districts may differ from those in other districts. Such regulations shall be designed to secure safety from fire and other dangers, and to promote the public health and welfare, including, so far as conditions may permit, provisions for adequate light, air and convenience of access, and shall be made with reasonable regard to the character of the buildings erected in each district, the value of land and the use to which it may be put, to the end that such regulations may promote the public health, safety and welfare;

(20) To regulate and restrict the location of trades and industries and the location of buildings designed for specified uses, and for said purposes to divide the City into districts and to specify for each such district the trades and industries which shall be excluded or subjected to special regulations and the uses for which buildings may not be erected or altered. Such regulations shall be designed to promote the public health, safety and welfare and shall be made with reasonable consideration, among other things, to the character of the district and to its peculiar suitability for particular uses.

(21) Emergency Powers. Notwithstanding any general or special provision of this Charter, the Council, in order to insure continuity of governmental operations in periods of emergency resulting from disasters of whatever nature, shall have the power and immediate duty:

(a) To provide for prompt and temporary succession to the powers and duties of all City officers, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and

(b) To adopt such other measures as may be necessary and proper for insuring the continuity of City operations, including, but not limited to, the financing thereof. In the exercise of the powers hereby conferred, the Council in all respects shall conform to the requirements of this Charter except to the extent that in the judgment of the Council so to do would be impractical or would admit of an undue delay.

Article IV  
Officers, Deputies and Employees and Their  
Compensation

Section 1. The officers of the City of Visalia shall be five members of the Council, members of the Board of Education, five Library Trustees, a City Manager, a City Clerk, and a City Attorney. The Council may also provide by ordinance for additional offices and for the duties thereof, and for additional duties of officers herein provided for, but in no such manner as to encroach upon the duties of any officer as provided for by this Charter. The Council may also provide by ordinance for such subordinate officers, assistants, deputies, clerks and employees in the several offices and departments as they deem necessary. The members of the Council and the members of the Board of Education shall be elected from the City at large, as provided in this Charter; provided, however, that all qualified electors of the Visalia Unified School District shall also have the right to vote for members of the Board of Education. All other officers, assistants, deputies, clerks and employees shall be appointed as provided in this Charter, or as the Council may provide by ordinance in case no provision for their appointment is herein made, and shall hold their respective offices or positions at the pleasure of the appointing power. Where the appointment of any of said officers, assistants, deputies, clerks or employees, is vested in the Council, such appointment and any removal must be made by a three-fifths vote of the members of the appointing power.

Section 2. All elective officers of the City shall be subject to recall as provided in this Charter.

Section 3. All officers, assistants, deputies, clerks and employees shall receive such compensation as the Council may from time to time determine by resolution; provided, however, that the compensation of elective officers, not otherwise fixed by this Charter, shall be fixed and determined by ordinance only.

Section 4. The Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the second degree of any one or more of the members of such Council and neither shall any department head or other officer having appointive power appoint any relative within such degree to any such position.

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.

## Article VI

### Legislative. The Council. Powers and Duties

Section 1. The legislative power of the City of Visalia shall be vested in the people through the initiative and referendum, and in a body to be designated The Council. Each candidate for member of the Council shall have been an elector of the City for at least 30 days prior to the final date for filing nomination papers for the election at which he is a candidate.

Section 2. Meetings: The Council shall meet in the Council Chambers at the City Hall in regular session on the fourth Monday in April following their election at 8 p.m., and shall organize as herein required. Thereafter the Council shall meet at such times and places as the Council may prescribe by rule, except that it shall meet regularly at least once each month. All of the meetings of the Council shall be open to the public. Special meetings may be called by the Mayor, by two members of the Council, or by the City Manager, but notice of every such meeting must be served personally upon every member not joining in the call, and upon the City Manager, if not called by him, or left at the place of residence or of business of each person to be so served, not less than two hours before the time of such special meeting.

Such notice must state the subject or subjects to be considered or acted upon and must state the time of such meeting. All meetings of the Council and all records thereof, shall be open to the public, and no citizen shall be denied the right personally, or through counsel, to present grievance, or offer suggestions for the betterment of municipal affairs.

Section 3. Quorum: Three members of the Council shall constitute a quorum, but a less number may adjourn from time to time. No franchise shall be granted, ordinance passed, budget adopted, supplemented or amended, appropriation made, or payment of money ordered unless three members of the Council concur in such action.

Section 4. General Powers of the Council: Subject to the provisions and restrictions in this Charter contained, and the valid delegation by this Charter of any powers to any person, officer, board or committee, which delegation of power, if any, shall control, the Council shall have the power, in the name of the City, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants and which are not specifically forbidden by the Constitution of the State or which now or hereafter it would be competent for this Charter specifically to enumerate. No enumeration or specific statement herein of any particular powers shall be held to be exclusive of, or a limitation of, the foregoing general grant of powers.

Section 5. Certain Powers and Duties Enumerated: The Council shall--

- (1) Judge the qualifications of its members and of election returns;
- (2) Establish rules for its proceedings;
- (3) Cause a correct record of its proceedings to be kept. The ayes and noes shall on demand of any member, be taken and entered therein, and they shall be recorded on all votes passing any ordinance or appointing or dismissing or confirming the appointment or dismissal of any officer, or authorizing the execution of contracts, or the appropriation or payment of money.
- (4) Choose one of its members as presiding officer, to be called Mayor. The Mayor shall preside over the sessions of the Council, shall sign official documents when the signature of the Council or Mayor is required by law, and he shall act as the official head of the City on public and ceremonial occasions. He shall have power to administer oaths and affirmations. When the Mayor is absent from any meeting of the Council, the members of the Council may choose another member to act as Vice Mayor, and he shall for the time being, have the powers of the Mayor.
- (5) Appoint a City Attorney, a City Manager, a City Clerk, and five Library Trustees.

Section 6. Ordinance: The enacting clause of every ordinance passed by the Council shall be: "Be it ordained by the Council of the City of Visalia." The enacting clause of every ordinance initiated by the people shall be: "Be it ordained by the people of the City of Visalia." At least five days must elapse between the introduction and the final passage of any ordinance; provided, that amendments germane to the subject of any proposed ordinance may be made when it is brought up for final passage; and provided further, that in case of an extraordinary epidemic or any disaster, such as flood, fire, or earthquake requiring immediate action on the part of any public authority, an emergency ordinance may be introduced and passed at either a regular or special meeting without any intervention of time between introduction and final passage. A final vote on any ordinance or any vote on any appropriation must be taken only at a regular or adjourned regular meeting. Every ordinance must be signed by the Mayor, attested by the Clerk and the ordinance or a brief summary thereof published once in the official newspaper. Any ordinance granting any franchise or privilege shall be published at the expense of the applicant therefor.

Section 7. When Ordinances go into Effect: Except as otherwise provided in this Charter every ordinance, and every measure passed by the Council granting any franchise or privilege, shall go into effect at the expiration of thirty days after its final passage, unless otherwise provided in said ordinance or measure; provided, however, that no such ordinance or measure shall go into

effect less than thirty days from its final passage. But ordinances declared by the Council to be necessary as emergency measures for the immediate preservation of the public peace, health, or safety, containing a statement of the reasons for their urgency and passed by a four-fifths vote of the Council, ordinances ordering or otherwise relating to annexations, elections, and ordinances relating to public improvements, the cost of which is to be borne wholly or in part by special assessments, may go into effect at the will of the Council.

**Section 8. Amending Ordinances:** No ordinance shall be amended by reference to its title, but the sections thereof to be amended, shall be re-enacted at length as amended; and any amendment passed contrary to the provisions of this section shall be void, except the City Council may adopt and amend any standard code of technical regulations by reference thereto without the necessity of publishing said ordinances in their entirety; providing, however, that three (3) copies of the specific codes to be adopted by reference are available for inspection in the City Clerk's office between the introduction and passage of said ordinance.

**Section 9. Codification of Ordinances:** Any or all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference with the same effect as an ordinance by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three (3) copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof. Ordinances codified shall be repealed as of the effective date of the code. Subsequent amendments to sections of the code shall be enacted in the same manner as herein required for the amendment of ordinances generally.

Detailed regulations pertaining to any subject such as the construction of buildings, plumbing, wiring, or other subject which require extensive regulations, when arranged as a comprehensive code, may likewise be adopted by reference in the manner provided in this section.

**Section 10. Contracts:** In the erection, improvement, and repairing of all public buildings and works, in all street and sewer work, the installation of pipes, fire hydrants, wells, pumping plants, conduits, electric transmission lines, sub-stations, power plants; gas mains and generators, improvements and development of parks and playgrounds, and works for protection against overflow, and in furnishing any supplies, or materials for the same, when the expenditures required for the same shall exceed the amount specifically set by the State of California, from time to time covering the requirement of formal bids, the same shall be done by contract, and shall be let to the lowest responsible bidder, after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least seven days before the time for opening bids; provided, that the Council may reject any and all bids presented and may re-advertise in their discretion; and provided further, that after rejecting bids, or if no bids are received, the Council may declare and determine that in its opinion the work in question may be performed better or more economically by day labor, or the materials or supplies purchased at a lower price in the open market and after the adoption of a resolution to this effect by a four-fifths vote, they may proceed to have the said work done or materials or supplies purchased without further observance of the foregoing provisions of this section; provided further, that nothing in this section shall require the care, repair or maintenance of streets or public utilities to let by contract.

Section 11. Power to do Public Work Direct: The Council shall have the power to provide by ordinance a complete procedure whereby the City may bid on all public work done under the provisions of any local improvement ordinance or resolution. Said ordinance shall provide the procedure whereby the City shall perform such public work for which the City may be the lowest bidder. A revolving fund may be created by bond issue for the purpose of financing the cost of such public work.

Section 12. Advertising: All official advertising of the City shall be done in a newspaper of general circulation as defined by the laws of the State of California, which newspaper shall be published in the City of Visalia, and shall be designated by the Council as the official newspaper. The Council shall annually call for bids for such advertising, and a contract therefor shall be awarded to the lowest responsible bidder; provided, that the Council may reject all bids and may again call for bids; and provided further that no defect or irregularity in proceedings taken under this section, or failure of the Council to designate an official newspaper, shall invalidate any publication, where the same is otherwise in conformity to law or this charter.

Section 13. Councilmen Ineligible to Other City Positions: No member of the Council shall be eligible to any office or employment provided for in this charter except an elective office, during the term for which he was elected.

Section 14. Vacancies in the Council: Any member of the Council who is absent from all meetings thereof for two consecutive months, unless excused by the Council, shall forfeit his office. Any vacancies occurring in the Council may be filled by a person appointed by a majority vote of the whole Council. Said person appointed shall serve until his successor is elected and qualified. Such successor shall be elected at the next regular election at which members of the Council are chosen, provided there is sufficient time to nominate and elect such successor at said next regular election.

Section 15. Committees of Council: The Council shall appoint such standing and other committees as it deems necessary.

Section 16. Sale or Lease of City Property: No sale of real estate shall be authorized by the Council except by ordinance passed by the affirmative vote of four-fifths of all the members and no lease shall be made for a period of longer than five years, except by ordinance adopted by the Council.

Section 17. Independent Audit: The Council shall employ, at the beginning of each fiscal year an independent certified public accountant who, at such time or times as may be specified by the Council, at least annually, shall examine the books, records, inventories, and reports of all officers and employees who receive, handle or disburse public funds and all such other officers and employees and departments as the Council may direct. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the Council, one copy thereof to be distributed to each member, one to the Fiscal Officer, one to the City Manager and one to the City Attorney respectively, and three (3) additional copies to be placed on file in the office of the City Clerk, where they shall be available for inspection by the general public.

Section 18. Official Bonds: The Council shall fix by ordinance the amounts and terms of the official bonds of all officials or employees who are required by ordinance to give such bonds. All

bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City.

There shall be no personal liability upon, or any right to recover against, a superior officer, or his bond, for any wrongful act or omission of his subordinate, unless such superior officer was a party to, or conspired in such wrongful act or omission.

Section 19. Every officer of the City, before entering upon the duties of his office, shall take and file with the City Clerk the constitutional oath of office, except that the oath of the City Clerk shall be filed with the Fiscal Officer.

Section 20. City Clerk: The City Clerk shall keep, under the direction of the Council, a full and true record in a book, of all proceedings of the Council. He shall keep a book, marked "Ordinances," in which he shall copy all ordinances, with his certificate annexed to said copy, stating that it is a full and true record thereof, and that such ordinance has been duly published. Said record copy, with such certificate shall be prima facie evidence of the contents of such ordinances and of the passage and publication thereof. The Clerk shall also keep an index to the minutes of the Council and to said Ordinance Book. The City Clerk shall be the custodian of the City Seal and shall affix the same to all official certificates made by him and to other papers when directed by the Council to attest or execute the same. He shall have power to administer oaths and affirmations, to take affidavits, and to certify the same. He shall have such other powers and perform such other duties as may be provided by this Charter or by ordinance.

## Article VII

### City Attorney

Section 1. The City Attorney shall be a qualified elector of the City at the time of his appointment, and shall be an attorney and counselor-at-law, duly admitted to practice law in the State of California. He shall have been actually engaged in the practice of his profession in this State for a period of at least three years next before his appointment.

Section 2. It shall be his duty when directed by the Council to prosecute on behalf of the people, all criminal cases for violations of this Charter and of City ordinances, and to attend to all suits and other matters to which the City is a party or in which the City may be legally interested. He shall be in attendance at every meeting of the Council unless excused therefrom by the Mayor or the Council. He shall give his advice or opinion in writing whenever required by the Council or other officers, except the Board of Education. He shall be the legal advisor of all City officers; he shall approve the forms of all bonds given to and all contracts made with the City; he shall, when required by the Council, or any member thereof, draft all proposed ordinances for the City, and amendments thereto; and shall do and perform all such things touching his office as the Council may require of him, and at the expiration of this term shall surrender to his successor all books, papers and documents pertaining to the City's business.

Section 3. He shall receive as compensation a salary to be fixed by resolution, and in case the Council shall require him to devote all of his time to the duties of his office, he shall receive in addition thereto, such reasonable fees as the Council may allow for suits or proceedings before any court or commission in which he has been directed by the Council to act or appear.

Section 4. The Council shall have power to direct and control the prosecution and defense of all suits and proceedings to which the City is a party or in which it is interested, and may employ counsel to assist the City Attorney therein.

## Article VIII

### City Manager

Section 1. The City Manager need not be a resident of the State of California at the time of his appointment. His powers and duties shall be:

- (1) To see that all ordinances of the City are enforced;
- (2) To appoint, except as otherwise provided in this Charter, all officers, heads of departments or divisions, and all deputies, assistants and employees in the several departments and offices, and to remove same. Appointment and removal of department heads shall be subject to the approval of the Council and shall not be effective without such approval;
- (3) To keep the Council fully informed as to compliance with the law in the operation of public utilities, to see that the provisions of franchises, permits and privileges granted by the City are fully observed, and to report to the Council any violation thereof;
- (4) To attend all meetings of the Council unless excused therefrom by the Council or by the Mayor;
- (5) To act as purchasing agent for all departments of the City. Provided, however, that he may designate some officer or employee of the City to act as assistant purchasing agent, and perform the duties of the purchasing agent;
- (6) To examine or cause to be examined, without notice, the official conduct of any officer, assistant, deputy, clerk or employee in any of the departments of the city government, except of the Council and Board of Education;
- (7) To keep the Council advised as to the needs of the City;
- (8) To appoint and remove at his pleasure, a secretary;
- (9) To prepare, or cause to be prepared, plans and specifications for work which the Council may order, coming under his supervision;
- (10) To have control, subject to such ordinances as may from time to time be adopted, of all public utilities owned and operated by the City;

(11) To devote his entire time to the discharge of his official duties;

(12) To perform such other duties as may be required by this Charter or as the Council may require of him.

Section 2. In case of absence, sickness, or other disability of the City Manager to act, the Council may designate some other person to perform his duties during such disability.

## Article IX

### Fiscal Administration

Section 1. Indebtedness: No indebtedness shall be incurred on behalf of the City, for any purpose, unless and until the same shall have been authorized by ordinance, resolution or order of the Council.

Section 2. Fiscal Officer: A fiscal officer shall be appointed by the City Manager subject to the approval of the City Council, and the City manager shall establish the qualifications, duties and functions of such fiscal officer.

Section 3. Demands Against the City: Moneys shall be drawn from the City Treasury only in the manner prescribed by ordinance of the Council.

Section 4. Filing of Claims: Except as otherwise provided by the provisions of State law applicable to chartered cities, claims against the City shall be filed as prescribed by ordinance.

Section 5. The Fiscal Year: The fiscal year of the City shall commence upon the first day of July of each year, or at such other time as may be fixed by ordinance.

Section 6. Annual Budget: On such date in each year as shall be fixed by the Council, the City Manager shall send to the Council a careful estimate, in writing, of the amounts required for the business and proper conduct of the various departments, offices, boards and commissions of the City, over which he has control during the next ensuing year. The City Manager shall also at said time submit to the Council an estimate of the amount of income from fines, licenses, and other sources of revenue, exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation.

Section 7. Public Hearing on the Budget: After reviewing the proposed budget as submitted by the City Manager and making such revisions as it may deem advisable, the Council shall determine the time for holding of a public hearing upon, and shall cause a notice thereof to be published not less than ten (10) days prior to said hearing by at least one insertion in the official newspaper of the City.

Copies of the proposed budget shall be available for inspection by the public at the office of the City Clerk at least ten (10) days prior to said hearing.

At the time so advertised or at any time such public hearing from time to time be adjourned, the Council shall hold a public hearing on the proposed budget at which interested persons desiring to be heard shall be given such opportunity.

Section 8. Adoption of the Budget: After the conclusion of the public hearing, the Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable, and thereafter it shall adopt the budget with revisions, if any. Upon final adoption, the budget shall be in effect for the ensuing fiscal year.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the various departments or activities therein described. All appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any meeting after the adoption of the budget, the Council may amend or supplement the budget by motion.

Section 9. Tax System: The Council shall by ordinance provide a system for the assessment, levy and collection of City taxes upon property.

Section 10. The Council shall have power by ordinance to authorize the transfer to and the assumption and discharge by officers of the County of Tulare, of any function of the City relating to the assessment of property for taxation, and equalization of such assessment, the collection of taxes levied for municipal purposes, the collection of assessments levied for local improvements, the sale of property for non-payment of taxes levied for municipal purposes or for non-payment of assessments levied for local improvements, and the redemption of property from sales for either of said purposes and may repeal any such ordinances.

Section 11. Tax Rate: The total property tax for any one year shall not exceed one per cent of the assessed valuation, unless a special tax be authorized, as provided in this Charter; and the proceeds of any such special tax shall be used for no other purpose than that specified for which it was voted; provided, however, that in addition to said one per cent there shall be included in every annual levy, a sufficient amount to cover all liabilities of the City for principal and interest of all bonds or judgments due and unpaid or to become due during the ensuing fiscal year and not otherwise provided for.

Special Levies: Special levies in addition to the above may be made annually in amounts not to exceed the limits hereinafter enumerated in this section, respectively, on each \$100 of the assessed value of the taxable property in the City:

(1) For the support and maintenance of free public libraries and reading rooms, Thirty Cents (\$30).

(2) For the support and maintenance of parks, playgrounds and recreation centers, Thirty Cents (\$30).

The City shall spend each fiscal period not less than the total amount raised each year from special levies for the free public libraries and reading rooms, and the parks, playgrounds and recreation centers.



Section 12. Special Taxes and Bonds:

(a) Whenever the Council shall determine that the public interest demands a special tax for a specified purpose, either for any specified number of years or for an indefinite period of time, in excess of the maximum tax rates provided for in Section 11 of this Article IX, the Council may submit to the qualified voters of the City at a regular or special election a proposition to authorize such tax for such purpose and for such number of years for an indefinite period of time, but no such special tax shall be levied unless authorized by the affirmative votes of the same number of voters voting on such proposition as is at the time required to authorize indebtedness of the City evidenced by general obligation bonds.

(b) No indebtedness evidenced by general obligation bonds shall be incurred by the City unless authorized by the affirmative votes of that number of voters voting on the proposition for incurring such indebtedness that shall at the time be required by the Constitution and general laws of the State. All proceedings for the incurring of indebtedness evidenced by general obligation bonds of the City shall be taken in accordance with the Constitution and general laws of the State. All proceedings for the incurring of indebtedness evidenced by general obligation bonds of the City shall be taken in accordance with the Constitution and general laws of the State, except as provided in Section 13 of this Article IX.

Section 13. Limit of General Obligation Bonded Indebtedness: The general obligation bonded indebtedness of the City shall at no time exceed a total of twenty per cent of the assessed valuation of all property taxable for City purposes.

Section 14. City Promotion: The Council may appropriate and spend money from the funds of the City for any or all of the following purposes: Reception and entertainment of public guests, assistance of public celebrations, fairs and exhibitions, to aid or carry on the work of immigration to the City, to encourage and promote industrial and commercial development and tourism; and generally, for the purpose of advertising the City; provided, however, that the aggregate expenditures from property taxes for all of said purposes shall not exceed in one fiscal year the sum of four (\$.04) cents on each One Hundred Dollars (\$100) of the assessed value of property within the City.

## Article X

### Department of Education

Section 1. Board of Education: The control of the Public School Department of the City of Visalia, including the whole of the Visalia Unified School District, shall be vested in a Board of Education, which shall consist of members elected from the district at large.

Section 2. The powers and duties of the Board of Education shall be such as are prescribed by the Constitution and Laws of the State of California.

## Article XI

### City Library

Section 1. Library Trustees: The Board of Library Trustees shall each serve for a term of four years and until his successor is appointed and qualified; provided, that at the first appointment under this Charter, two trustees shall be appointed for two years, and three trustees for four years and until their successors are appointed and qualified. In case of a vacancy, the same shall be filled by appointment by the Council for the remainder of the term then vacant.

Section 2. The Board of Library Trustees shall have the power and duty to:

- (a) Act in an advisory capacity to the Council and the City Manager in all matters pertaining to library administration;
- (b) Formulate and recommend annually to the Council and the City Manager a budget for library services;
- (c) Act in an advisory capacity to the Council and the City Manager regarding provision of library services for the inhabitants of the City.

## Article XII

### Parks, Playgrounds and Recreation Centers

Section 1. The Council may, by ordinance, provide for the appointment of a commission of five members to serve without compensation, and to act in an advisory capacity to the Council and City Manager in all matters pertaining to parks, playgrounds and recreation centers. This commission shall be known as the City Parks and Recreation Commission.

## Article XIII

### City Planning

Section 1. Planning Commission: The Council may, by ordinance, provide for the appointment of a City Planning Commission of five members, to serve without compensation, and to have such powers and duties as the Council may prescribe relating to City planning.

The Planning Commission shall have the power and duty to:

- (a) Recommend to the Council, after a public hearing thereon, the adoption, amendment or repeal of a General Plan or any part thereof, for the physical development of the City;

(b) Exercise such functions with respect to land subdivisions, planning and zoning as may be prescribed by ordinance or resolution.

(c) Perform such other duties relating to planning and zoning as the Council may require by ordinance or resolution.

## Article XIV

### Franchises

Section 1. Franchise, renewals, extensions or amendments of franchise may be granted by the City Council whenever, in its opinion, the public necessity or convenience may require any such grant. No such grant shall be exclusive, nor made except by ordinance, nor in violation of any limitation contained in this Charter, nor for a longer term than fifty years. The enactment, publication and taking effect of any such ordinance shall be governed by and subject to the provisions of Article VI and Article XV of this Charter; provided, that no such ordinance shall be passed as an emergency measure. No public utility franchise shall be transferable except with the approval of the City Council expressed by ordinance; and copies of all transfers, trust deeds, mortgages or other documents affecting the title or use of public utilities shall be filed with the City Council within ten days after the execution thereof.

Section 2. Any person desiring any franchise or a renewal of any franchise, may file with the City Clerk a written application therefor, accompanied by a cash deposit of One Hundred (\$100) Dollars, as a fund out of which to pay the expenses connected with such application, and proceedings had or taken thereunder. In the event the franchise or the renewal of franchise so applied for is not granted, the unexpended portion of said deposit, if any, shall be returned to the applicant; and if the franchise or the renewal of franchise applied for shall be awarded to some other than the applicant, such deposit shall be returned to the applicant. No franchise or any renewal of a franchise shall be finally awarded, until all expenses incurred in connection with the awarding of the same shall have been fully paid by the person to whom the same shall be awarded.

Section 3. Upon the filing of the said application and the making of the deposit, as aforesaid, the City Council shall, if it propose grant the same, proceed to determine the character of the franchise or of the renewal franchise applied for, and shall determine the terms, restrictions, reservations, conditions, provisions, and the form of the ordinance to be adopted for the purpose of granting the same. And if such application be for the renewal of an existing franchise, the Council shall not be in any way limited or restricted in its determination of such terms, restrictions, reservations, conditions or provisions, by the provisions of the franchise sought to be renewed.

Section 4. The Council shall thereupon advertise the fact of said application, together with the statement that it proposes to grant the same in the form so determined, in one or more newspapers of general circulation published in the City of Visalia, once a day for five successive days, or as often during said period as such newspapers are published, and the full publication

must be completed not less than twenty nor more than thirty days before any further action is taken thereon. Said advertisement must state the character of the franchise or of the renewal of franchise proposed, and set forth in full the form of the ordinance proposed for the granting of the same, and must state that sealed bids therefor will be received and open at a time and place to be stated in said advertisement, and that the said franchise or renewal of franchise will be awarded to the highest and best bidder; provided that no franchise nor any renewal of any franchise shall be sold for less than \$500.

Section 5. At the time of opening the sealed bids, any responsible person, firm or corporation may bid for said franchise or renewal of franchise, a sum not less than ten percent above the highest sealed bid therefor and such bid so made may be raised, and such bidding may continue until finally said franchise or renewal of franchise shall be struck off, sold and awarded by the City Council to the person, firm or corporation offering the highest and best bid therefor; provided, that such bidder shall, before the making of such award deposit with the City Clerk at least ten per cent of the amount of his bid, and if such successful bidder be not the applicant, the sum of One Hundred (\$100) Dollars in addition to his bid shall be deposited by him at the same time, and in the event of his failure to make such deposit or deposits, his bid shall be rejected and no further proceedings for the sale of said franchise, or renewal of franchise shall be had without re-advertising in the manner hereinbefore provided; and in case the successful bidder shall fail to deposit with the Treasurer, the remaining ninety per centum of his bid within five days after its acceptance, the award of said franchise or renewal of franchise shall be set aside and all deposits theretofore made thereon shall be forfeited to the City, and no further proceedings for the sale of said franchise or renewal of franchise shall be had without re-advertising in the manner hereinbefore provided.

Section 6. The successful bidder for any franchise or renewal of franchise sold or awarded under this Charter, shall file a bond running to the City of Visalia, with at least two good and sufficient sureties or other good and sufficient bond provided by law, to be approved by the City Council, in a penal sum to be prescribed by the City Council and set forth in the advertisement for bids, conditioned that such bidder shall well and truly observe, fulfill and perform each and every term, condition and provision of such franchise or renewal of franchise, and that in case of any breach of condition of such bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and sureties upon said bond, or from any or either of them. Said bond shall be filed with the City Clerk within five days after such franchise, or renewal of franchise is awarded, and upon the filing and approval of such bond the said franchise or renewal of franchise shall be granted by the City Council by ordinance to the person, firm or corporation to whom it was struck off, sold and awarded. And in case the said bond shall not be so filed, the award of such franchise or renewal of franchise shall be set aside and any money paid therefor shall be forfeited to the City and said franchise or renewal of franchise may, in the direction of the City Council, be re-advertised and again offered for sale in the same manner and under the same restrictions as in this Charter provided for the original application, advertisement and sale.

Section 7. No clause or condition of any kind shall be inserted in any franchise or renewal of franchise offered for sale under the terms of this Charter, which shall directly or indirectly restrict free and open competition in bidding therefor, and no clause or provision shall be inserted in any franchise or renewal of franchise offered for sale, which shall in any wise favor one person, firm or corporation as against another in bidding for the purchase therefor.

Section 8. Extensions and amendments of existing franchise may be granted by the City Council in the same manner and subject to the same limitation, restrictions and provisions as provided in this Charter for the granting of franchises and renewals of franchises; provided that extensions or amendments of franchises shall not be advertised for sale, or sold, or awarded to the highest bidder, and the provisions of this Charter governing the advertising for sale, and the sale and award of franchises or renewals of franchises to the highest bidder, shall have no application to the granting of extensions or amendments of existing franchises.

Section 9. If any ordinance granting a franchise or a renewal, extension or amendment of any franchise shall fail to go into effect by reason of its not being approved by a majority of the votes cast at an election to which the same was referred by referendum proceedings as provided in this Charter, such failure to go into effect shall not entitle the person to whom the grant of such franchise or renewal, extension or amendment of franchise was made, to claim a refund of any moneys paid or deposited by him as provided in this Charter, on account of any of the proceedings had for the obtaining of such grant. But if any such ordinance shall be repealed by the City Council upon the filing of a referendum petition demanding its repeal, or a reference thereof to a vote of the electors of the City, without submitting it to such vote, all moneys paid or deposited by the grantee of such franchise renewal, extension or amendment of franchise as provided in this Charter, in excess of the actual expenses of the proceedings for such grant shall be refunded to such grantee.

Section 10. Any public utility franchise may be terminated by ordinance at specified intervals of not more than ten years after the beginning of operation, whenever the City shall determine to acquire by condemnation or otherwise, the property of such utility. Indeterminate franchise may also be granted, subject always to the right of the City at any time and upon six months' notice in writing to acquire and possess the property of the grantee.

Section 11. All grants, renewals, extensions or amendments of public utility franchises, whether so provided in the ordinance or not, shall be subject to the right of the City:

- (a) To repeal the same by ordinance at any time for non-use, or for failure to begin construction within the time prescribed;
- (b) To require proper and adequate extensions of plant service, and the maintenance of the plant and fixtures at the highest practicable standard of efficiency;
- (c) To regulate the rates and charges of all public utilities;
- (d) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (e) To prescribe the form of accounts and at any time to examine and audit the accounts and other records of any such utility, and to require annual and other reports by each such public utility; provided, that if a public service commission or any other authority shall be given the power by law to prescribe the forms of accounts for public utilities throughout the state or throughout any district of which the City is a part, the forms so prescribed shall be controlling so far as they go, but the City Council may prescribe more detailed forms for the utilities within its jurisdiction;

(f) To impose such other regulations as may be conducive to the safety, welfare, and accommodation of the public.

Section 12. The consent of abutting and adjacent property owners shall not be required for the construction, extension, maintenance or operation of any public utility, but any such property owner shall be entitled to recover from the owner of such public utility, the actual amount of damages to such property on account thereof, less any benefits received therefrom; provided, suit is commenced within two years after the damage is begun.

Section 13. All extensions of public utilities within the City limits shall become a part of the aggregate property of the public utility, shall be operated as such, and shall be subject to all the obligations and reserved rights contained in this Charter, and in any original grant hereafter made. The right to use and maintain any extension shall terminate with the original grant and shall be terminable as provided in Sections 10, 11 and 17 hereof.

Section 14. Every public utility franchise hereafter granted shall be held subject to all the terms and conditions contained in this Article, whether or not such terms are specifically mentioned in such franchise. Nothing in this Charter shall operate to limit in any way, except as specifically stated, the discretion of the City Council or the electors of the City in imposing terms and conditions in connection with any franchise grant.

Section 15. Within six months after this Charter takes effect, every public utility and every owner of a public utility franchise, shall file with the City, certified copies of all the franchises owned or claimed or under which any such utility is operated. The City shall compile and maintain a public record of all public utility franchises and of all public utility fixtures in the streets of the City.

Section 16. It shall be the duty of the City Manager to investigate and report on all proposed ordinances relating to public utilities. He shall exercise a diligent oversight over the operation of all public utilities operated within the City. The City Attorney shall represent the City in all proceedings before any State Public Utilities Commission involving the public utilities within the City. The City Manager shall perform such other duties in relation to public utilities as may be prescribed by the City Council.

Section 17. Accounts shall be kept for each public utility owned or operated by the City, distinct from other City accounts and in such manner as to show the true and complete financial results of such City ownership, or ownership and operation, including all assets, liabilities, revenues and expenses. Such accounts shall show the actual cost to the City of each public utility owned, the cost of all extensions, additions and improvements, all expenses of maintenance, the amounts set aside for sinking fund purposes, and in the case of City operation, all operating expenses of every description. The accounts shall show as nearly as possible the value of any service furnished to or rendered by any such public utility by or to any other City or governmental department. The accounts shall also show a proper allowance for depreciation, insurance and interest on the investment, and estimates of the amount of taxes that would be chargeable against the property if privately owned. The City Council shall annually cause to be made and printed for public distribution, a report showing the financial results of such City ownership or ownership and operation, which report shall give the information specified in this section and such other information as the City Council shall deem expedient.

Section 18. The City may establish, acquire, lease and operate, or cease to operate and dispose of public utilities and quasi-public utilities at its own option in the manner provided by the laws now existing or hereafter enacted or by the majority vote of the registered, qualified electors of the City in the manner provided by ordinance enacted by the City Council by the affirmative vote of four members of such Council. All amendments of such ordinances shall require a like vote. In such ordinances the City Council may define what are public utilities and quasi-public utilities.

Section 19. In acquiring public utilities and quasi-public utilities, the City may purchase the same subject to existing bond issues and other obligations thereof, whether secured by mortgages or trust deeds against the property of such utilities or not, and may assume and pay such obligations as part of the purchase price.

## Article XV

### Initiative, Referendum and Recall

Section 1. The Initiative, Referendum and Recall: Except insofar as is otherwise provided by ordinances hereinafter enacted, the provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended, governing the initiative, the referendum and the recall of municipal officers shall apply to the use thereof in the City insofar as the same are not in conflict with this Charter.

## Article XVI

### Miscellaneous Provisions

Section 1. Notwithstanding anything in this Charter contained, the City Manager may from time to time, in order to facilitate the prompt, economical and efficient dispatch of City business, assign assistants, deputies, clerks or employees from any office or department of the City government to perform work or service in connection with any other office or department of the City government or may assign any assistant, deputy, clerk or employee of the City to work in more than one of said offices or departments.

Section 2. All general laws of the State applicable to municipal corporations, now or hereafter enacted, and which are not in conflict with the provisions of this Charter or with ordinances or resolutions adopted in pursuance of this Charter, shall be applicable to the City.

Section 3. Wherever in this Charter the word "City" occurs, it means the City of Visalia, and every department, board or officer whenever either is mentioned, means a department, board or officer, as the case may be, of the City of Visalia.

Section 4. The compensation of elective officers shall not be increased during the terms of their respective offices.

Section 5. If any officer of the City shall die or remove from the City, or absent himself therefrom for more than thirty days consecutively, without the permission of the Council, or if he shall fail to qualify by taking the oath of office and filing his official bond, whenever such bond is required, within fifteen days from the time his certificate of election or appointment is mailed or delivered to him, or if he shall resign or be removed from office, or if his election shall be finally declared void by any competent tribunal, or if he shall be convicted of a felony, or if he shall be adjudged insane, or if he shall cease to discharge the duties of his office (other than that of member of the Council) for two consecutive months, unless prevented by sickness, his office shall become vacant.

Section 6. The improvement, widening and opening of streets, the planting of trees, and the making of any other public improvement may be done and assessments therefor may be levied in conformity with and under the authority conferred by general laws; provided, however, that the Council may by ordinance adopt a procedure for the improvement of streets, alleys or other public places, the laying of pipes, or conduits or for the removal of dirt, rubbish, weeds and other rank growths and materials which may injure or endanger neighboring property or the health or the welfare of inhabitants of the vicinity, from buildings, lots and grounds and the sidewalks opposite thereto, and for making and enforcing assessments against property benefitted or affected thereby or from which such removal is made, for the cost of such improvements or removal and may make such assessments a lien on such property superior to all other claims or liens thereon, except State, County and Municipal taxes, but no such ordinances shall prevent the Council from proceeding under general laws for said purposes.

Section 7. All officers and boards shall deliver to their successors all papers, books documents, records, archives and other properties pertaining to their respective offices or departments in their possession or under their control.

Section 8. No member of the Council or of any board and no officer or employee of the City shall be or become interested in any contract for which bids are or may be required for the furnishing of labor or materials to or for the City, nor shall either or any of them receive any gratuity or advantage from any contract or from the contractor furnishing any labor or material under any contract, the cost or consideration of which is payable from the City Treasury. Any such contract with the City in which any such officer or employee is or becomes interested shall be declared void by the Council.

Section 9. All officers, clerks and assistants of the City and departments thereof, except such as may be employed for special purposes must be citizens of the United States during their period of employment.

Section 10. No officer or employee of the City shall give or promise to give to any person, any portion of his compensation, or any money or thing of value in consideration of having been or of being nominated, appointed, voted for or elected to any office or employment.

Section 11. No officer or employee shall accept any donation or gratuity in money, or other thing of value, either directly or indirectly from any subordinate or employee, or from anyone under



his charge, or from any candidate or applicant for any position as employee or subordinate in any department of the City.

Section 12. No officer or employee of the City shall aid or assist a bidder in securing a contract to furnish labor, or materials or supplies at a higher price or rate than that proposed by any other responsible bidder, or shall favor one bidder over another, giving or withholding information, or shall willfully mislead any bidder in regard to the character of the materials or supplies of a quality inferior to that called for by the contract, or shall knowingly certify to a greater amount of labor performed than has actually been performed or to the receipt of a greater amount of material or supplies than has actually been received.

Section 13. Every officer who shall willfully approve, allow or pay any demand on the Treasury, not authorized by law, shall be liable to the City individually and his official bond for the amount of the demand so approved, allowed or paid, and shall forfeit such office and be forever disbarred and disqualified from holding any position in the service of the City.

Section 14. All books and records of every office and department shall be open to the inspection of any citizen during business hours subject to the proper rules and regulations for the efficient conduct of the business of such department or office; but the records of the Police Department shall not be subject to such inspection except by permission of the proper police authorities.

Section 15. Copies or extracts, duly certified, from said books and records open for inspection, shall be given by the officer having the same in custody to any person demanding the same and paying the costs of reproduction thereof.

Section 16. All officers, assistants and employees in office, when this Charter takes effect, shall continue to hold and exercise their respective offices or employment, under the terms of this Charter, until the election or appointment and qualification of their successors.

Section 17. The present City Council, in accordance with Article V of this Charter shall provide for the holding of the first election of officers under this Charter and declare the results thereof.

Section 18. All vested rights of the City shall continue and shall not in any manner be affected by its adoption of this Charter, nor shall any right, liability, pending suit or prosecution, either in behalf of or against the City, be affected by the adoption of this Charter, unless otherwise herein expressly provided. All contracts entered into by the City or for its benefit prior to the taking effect of this Charter shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken under laws in force at the time this Charter takes effect, may be carried to completion in accordance with the provisions of such laws.

Section 19. If any section or part of a section of this Charter proves to be invalid, it shall not be held to invalidate or impair the validity of any other section or part of a section, unless it clearly appears that such other section, or part of a section, is dependent for its operation upon the section or part of a section so held invalid.

Section 20. When making purchases for all departments of the City, local merchants shall be given the preference, quality and prices being equal.

Section 21. (Deleted November 4, 1974)

Section 22. All the powers of the City except as otherwise provided in this Charter, are hereby vested in the Council.

Section 23. The violation of any provisions of this Charter or of any ordinance of the City shall be deemed a misdemeanor, and may be prosecuted by the authorities of the City in the name of the people of the State of California, or may be redressed by civil action, at the option of said authorities. The maximum penalty upon conviction for the violation of any provisions of this Charter, or of any ordinance of the City, shall be by a fine of not exceeding \$1,000 or by imprisonment for a term of not exceeding one year or by both such fine and imprisonment. Any person sentenced to imprisonment for the violation of a provision of this Charter or of any ordinance may be imprisoned in the City jail, or, if the Council by ordinance shall so prescribe, in the County jail of the county in which the City of Visalia is situated, or any road camp established in Tulare County, in which case the expense of such imprisonment shall be a charge in favor of such county against the City of Visalia.

Section 24. The members of the City Council and Board of Education in office at the time of the approval of this Charter by the Legislature shall continue to hold office and discharge their duties for the balance of the term for which they were elected, or until their successors are elected and qualified. All appointive officials, officers and employees of the City now in office or employed at the time of the approval of this Charter by the Legislature, shall continue to hold their office or employment until they are re-appointed or their successors are appointed in their place in accordance with the provisions of this Charter.

Section 25. For the purpose of electing all elective officers and all other purposes, this Charter shall take effect from the time of its approval by the Legislature.