

Visalia City Council Agenda



For the regular meeting of: Monday, March 6, 2006

Location: City Hall Council Chambers

Mayor: Jesus J. Gamboa
Vice Mayor: Greg Kirkpatrick
Council Member: Greg Collins
Council Member: Donald K. Landers
Council Member: Bob Link

All items listed under the Consent Calendar are considered to be routine and will be enacted by one motion. If anyone desires discussion on any item on the Consent Calendar, please contact the City Clerk who will then request that Council make the item part of the regular agenda.

WORK SESSION AND ACTION ITEMS (as described)

5:00 p.m.

1. Review of Lovers Lane Interchange and Alternative Improvements.
2. Item removed from Agenda.
3. Review and continued discussion of West Highway 198 Master Plan Process.

**Any items not completed prior to Closed Session may be continued to the evening session at the discretion of the Council.*

ITEMS OF INTEREST

CLOSED SESSION

6:00 p.m. (Or, immediately following Work Session)

4. Item removed from Agenda.
5. Public Employment
Title: Chief of Police

REGULAR SESSION

7:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION -

SPECIAL PRESENTATIONS/RECOGNITION

CITIZENS REQUESTS - This is the time for members of the public to comment on any matter within the jurisdiction of the Visalia City Council. This is also the public's opportunity to request that a Consent Calendar item be removed from that section and made a regular agenda item for discussion purposes. Comments related to Regular or Public Hearing Items listed on this agenda will be heard at the time the item is discussed or at the time the Public Hearing is opened for comment. The Council Members ask that you keep your comments brief and positive. Creative criticism, presented with appropriate courtesy, is welcome. The Council cannot legally discuss or take official action on citizen request items that are introduced tonight. In fairness to all who wish to speak tonight, each speaker from the public will be allowed three minutes (speaker 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 address.

- Convene jointly as the Redevelopment Agency and the Visalia City Council

6. RDA CONSENT CALENDAR -

- a. Request Council approval to provide \$1,536,450 additional Redevelopment Set-aside low/mod housing funds to Tulare County Housing Authority for the development of the 70 unit Millcreek Housing project.

- Adjourn as the Redevelopment Agency and remain seated as the Visalia City Council

CHANGES TO THE AGENDA/ITEMS TO BE PULLED FOR DISCUSSION

7. CONSENT CALENDAR - Consent Calendar items are considered routine and will be enacted by a single vote of the Council with no discussion. For a Consent Calendar item to be discussed, or voted upon individually, it must be removed at the request of the Council.
 - a) Authorization to read ordinances by title only.
 - b) Approve the recommended appointment(s) of Brad Wiebe to the North Visalia Neighborhood Committee as recommended by the Citizens Advisory Committee.
 - c) Approve the appointment of new members Andrew A. Miller, Ronald Allen, and Philip C. Bourdette to the Transit Advisory Committee.
 - d) Authorize the City Manager to execute an Agreement between the City of Visalia and San Joaquin Valley Railroad, Co. (SJVR) for Access to Perform Customary Road Improvements to the intersection of Pinkham Street and K Avenue.

- e) Authorize the City Manager to execute an agreement with Omni Means, Ltd. To prepare the City of Visalia's portion of the Project Approval and Environmental Document for the Caldwell Avenue (Avenue 280) widening project from State Route 99/Caldwell interchange to Orange Avenue in Exeter. The City of Visalia's contract will cover the segment from the Highway 99/Caldwell interchange to Mooney Boulevard in the amount of \$407,844.35. Project No. 1611-00000-720000-0-9485-2006.
- f) Authorization for the Formation, Annexation, or Amendment of the following Landscape and Lighting District(s), and authorization *for the Recordation* of the final map(s) related thereto (if applicable):
 - 1. Authorize the Recordation of the Final Map for Valley Palms, located on the south side of Riggin Avenue between Linwood Street and Demaree Street (36 lots) and the Formation of Landscape and Lighting District No. 06-04, Valley Palms; **Resolution 2006-16 and 2006-17 required**; APN: 077-180-015.
 - 2. South Cameron Creek, Unit No. 2, located at the southwest corner of Cameron Avenue and West Street (76 lots) and the Annexation of South Cameron Creek, Unit No. 2 & 3 into Landscape and Lighting District No. 05-03, South Cameron Creek; **Resolution 2006-18 and 2006-19 required**; APN: 126-070-040 and a portion of 126-070-026.
- g) Authorization to file Notice of Completion for the following:
 - 1. Garden Terrace Villas # 1, containing 16 lots, located on Sunnyview Avenue west of Mooney Boulevard.
- h) **Introduction of the following Ordinance(s):**
 - 1. **Ordinance 2006-02** to amend Section 13.08 (Sewer Service System) of the Visalia Municipal Code to comply with Environmental Protection Agency (EPA) requirements.
- i) **Second Reading of the following Ordinance(s):**
 - 1. **Ordinance 2006-01** to amend Chapter 16.03 of the Visalia Municipal Code by adding a new section 16.04.110 related to the dedications and reservations of school sites on subdivision and Parcel Maps.
- j) Authorization for the City of Visalia to apply jointly with the County of Tulare for Federal funding for the Edward Byrn Memorial Justice Assistance Grant (JAG) Program through the Bureau of Justice Assistance (BJA) and execution of a Memorandum of Understanding (MOU) regarding the grant.
- k) Authorization for the City Manager to execute an Encumbrance Agreement with Optimal Aviation Services, LLC and Bank of the Sierra allowing Optimal Aviation to encumber the Airport Ground Lease for the purpose of securing financing to construct an Aircraft Storage Facility.

- l) Authorization for allocation of \$1,100,000 of HOME funds as gap financing to assist the Kaweah Management Company to construct a 10 unit affordable residential community located at Robinwood Court, north of Hillsdale and west of the Visalia Medical Clinic and authorize Executive Director to execute a contract between the Kaweah Management Company and the City of Visalia.
- m) Authorization for staff to develop the appropriate policy resolution and/or ordinance to allow for Council review of Commission actions.
- n) Item removed from Agenda.
8. **REGULAR ITEM – Introduction of Interim Ordinance 2006-03** An Interim Ordinance Establishing Prohibited And Permitted Uses And Development Standards For A Portion Of The East Downtown Strategic Plan Area. *(A 4/5 vote is required in order approve this Interim Ordinance.)*
9. **REGULAR ITEM – Second Reading for Ordinance 2005-17** for Change of Zone No. 2004-32: a request to change the Zoning designation on 48 acres from BRP (Business Research Park) to 6.0 acres of PA (Professional / Administrative Office), 7.7 acres of QP (Quasi-Public), and 34.3 acres of R-1-6 (Single-family Residential, 6,000 sq. ft. min. lot size) and Approval of Conditional Zoning Agreement No. 2005-02 authorizing the City Manager to execute an agreement containing conditions for the development of single-family residences and office buildings on the property subject to Change of Zone No. 2004-32. The project site is located on the north side of Goshen Avenue, approximately ¼ mile east of Shirk Street. (APN: 077-100-19, 27, 28, 34.) Applicant: Fred Machado; Agent: Branum Group.
10. **PUBLIC HEARING –**
 - a. Certify Negative Declaration No. 2004-87. **Resolution 2006-22 required.** *(A separate Motion by the Council is required.)*
 - b. General Plan Amendment No. 2004-16. A request by Plaza Land LLC to change the Land Use Designation from Business Research Park to Professional Administrative Office for 13.7 acres. The site is located on the northeast corner of Highway 198 and Plaza Drive APN: 081-020-036. Resolution No. 2004-115 required. **Resolution 2006-23 required.** *(A separate Motion by the Council is required.)*
 - c. **Introduction of Ordinance 2006-04** for Change of Zone No. 2004-19. A request by Plaza Land LLC to change the zoning from BRP (Business Research Park) to PA (Professional Administrative Office) for 13.7 acres. The site is located on the northeast corner of Highway 198 and Plaza Drive APN: 081-020-036.

The request includes an amendment to the Design District boundaries to enlarge Design District “H” to encompass the proposed limits of the Jostens manufacturing site.

11. PUBLIC HEARING -

- a. Certification of Negative Declaration No. 2005-137. **Resolution 2006-20 required. (A separate Motion by the Council is required.)**
- b. Contract Cancellation No. 2005-02 a request by Frank Luisi, property owner (Quad Knopf, agent) to cancel the remaining 30 acres of Williamson Act Land Conservation Contract No. 10080 within Agricultural Preserve No. 3430. The site is located at the northwest corner of Mooney Boulevard and Ferguson Avenue in the City of Visalia, within APN 089-010-034. **Resolution No. 2006-21 required. (A separate Motion by the Council is required.)**

12. PUBLIC HEARING - on the proposed first amendment to the Community Development Block Grant (CDBG) and HOME Program FY 2005-06 Action Plan.

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS

Upcoming Council Meetings

Monday, March 20, 2006

Monday, April 3, 2006

Monday, April 17, 2006

Work Session 4:00 p.m.

Regular Session 7:00 p.m.

City Hall Council Chambers

707 West Acequia Avenue

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.

City of Visalia Agenda Item Transmittal

Meeting Date: March 6, 2006

Agenda Item Number (Assigned by City Clerk): 1

Agenda Item Wording: Review of Lovers Lane Interchange and Alternative Improvements

Deadline for Action: none

Submitting Department: Public Works

Contact Name and Phone Number: David Jacobs 713-4492

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 min.

Department Recommendation and Summary: Staff recommends moving forward with Alternative 1 and trying to secure funding for the ultimate configuration of the interchange.

On June 10, 2005 the city entered into an agreement with Omni-Means LTD. to identify current and long-term operational conditions and the most appropriate mitigation measures to resolve the current operational and safety conditions. Omni-Means has collected traffic information for the intersections and developed a traffic model for the existing traffic. Using the traffic model Omni-Means has developed three alternatives for the Lovers Lane State Route 198 interchange area.

Alternative 1 – Various widening, striping and control improvements.

This alternative includes the addition of an eastbound lane on Mineral King from Lovers Lane to State Route 198 westbound ramp, construct an additional southbound left turn lane at Mineral King and Lovers Lane, modify signal phasing at Mineral King and Noble at Lovers Lane, install a traffic signal at the intersection of Mineral King and State Route 198 westbound ramps, and optimize coordinated signal timing at all intersections. Estimated cost \$1,500,000.

Alternative 2 – Replace eastbound diamond ramps with hook ramps.

This alternative includes all the items under alternative 1 plus it replaces the existing eastbound ramps with hook ramps connecting to Noble east of Lovers Lane. Estimated cost \$8,600,000.

Alternative 3 – Modern roundabouts

This alternative would construct modern roundabouts at the intersections of Lovers Lane and Mineral King and Lovers Lane and Noble. Estimated cost \$4,200,000.

Funding for this interchange is not currently in the Capital Improvement Program's (CIP) 6 year budget. Some of the funding could come from traffic impact fees since the realignment of Noble and the ramp intersections are projects listed in the Circulation Element. The entire amount cannot be funded by the impact fees since this interchange was listed as an existing deficiency when the Circulation Element was adopted. Staff will look at funding options that include the State Transportation Improvement Program (STIP) and try for a Federal earmark through Congressman Nunes' office.

STIP projects, which require a Project Study Report (PSR), are currently programmed through Tulare County Association of Governments (TCAG) which has a set of scoring criteria to rank projects submitted to ensure the best use of funds. The current scoring that is used by TCAG favors long projects. This is due to the fact that a lower cost per miles traveled scores the best. Currently there is discussion to redo the scoring criteria so that interchanges can compete or to reserve a percentage of the funding for interchanges. In either case the City would need to complete a PSR for the project and then compete against other interchanges within Tulare County. If the project does get funding through the STIP the funds may not be available until after 2015.

As part of the CIP we could start putting money into the project each year so that at some point in the future there would be adequate funds to complete Alternative 3. This would give staff time to look for alternative funding for the project.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments:

City Manager Recommendation:

Copies of this report have been provided to:

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)*

Recommended Motion (and Alternative Motions if expected): I move moving forward with Alternative 1 and try to secure funding for the ultimate configuration of the interchange

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

City of Visalia Agenda Item Transmittal

Meeting Date: March 6, 2006

Agenda Item Number (Assigned by City Clerk): 3

Agenda Item Wording: Continued Review and Discussion of West Highway 198 Master Plan Process

Deadline for Action: None

Submitting Department: Community Development

Contact Name and Phone Number: Fred Brusuelas 713-4364
Mike Olmos 713- 4332

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.):30 min.

Department Recommendation and Summary:

The City Council at their workshop of February 6, 2006 was presented a report on the status of the West Highway 198 Master Plan process. The City Council, during the discussion, offered the following comments for staff consideration and continued discussion:

1. The land use planning for this area of Visalia is a major planning issue.
2. The discussed 200 feet greenbelt concept along Highway 198 does not represent a unanimous opinion to satisfy the issue of a gateway entrance into the City of Visalia.
3. Review the February 2003 Conceptual Plan for an Ag Enterprise Zone in Visalia's West Highway 198 Corridor.
4. Cold storage uses should not be permitted within an Ag Enterprise Zone.
5. Make Land Use decisions based upon what is best for the City of Visalia.
6. The anticipated expenditure of funds for the initial Master Plan proposal should be reduced and the scope of work diminished if the plan is to be agriculture focused.
7. Proposed urban land uses to be located within the Master Plan area should be justified on the basis of need. *(Example: Are residential land uses needed if there is sufficient residential acreage available within the current General Plan Land Use boundary area?)*
8. There should be a definite boundary line separating urban land uses from agricultural uses. Roeben Avenue and Shirk Avenue are good locations for this type of land use separation.
9. The protection of agricultural land in this area of Visalia is an important effort in preserving the historic character and major community entry way of Visalia.

10. If the comprehensive Master Plan is pursued, both consultants should be given an additional opportunity to present their Master Plan approach if it is to be focused on agricultural land protection.

The issue of preparing an agricultural focused Land Use Plan for the West Highway 198 area can be accomplished in two fundamental ways. The first method is to keep the city's General Plan land use designation as Agricultural and amend the current Zoning Ordinance to establish an Ag Enterprise Zone classification. The second method is to prepare an agricultural focused Master Plan with minor land use changes to the current General Plan Land Use Element. Either approach could incorporate supporting policy that addresses the issues of agricultural land protection, agricultural land protection funding, and agricultural land protection programs.

Staff recommendation and alternatives for consideration:

Staff recommends that the City Council suspend the processing and preparation of the West Highway 198 Master Plan. In addition, direct staff to prepare a land use study to consider the establishment of an Agricultural Enterprise Zone classification. The land use study will incorporate agricultural land use issues and other City Council items related to the 2003 Ag Enterprise Zone Report. Do not consider any new major planning efforts west of Roeben Avenue on the south side of Highway 198 and do not consider new major planning efforts west of Shirk Avenue on the north side of Highway 198. These areas would remain unchanged and subject to the 2020 Plan agricultural designation with the exception of future changes to Agricultural Enterprise Zone classification as previously mentioned. Only consider land use changes in the areas east of Roeben Avenue/south of Highway 198 and east of Shirk Avenue/north of Highway 198. Only land within this designated area would be considered for land use changes at this time. This option would consider the crafting of land use and design solutions for the Highway 198 corridor affecting the Sierra Village project located south of Highway 198 east of Roeben Avenue and the designated Conservation area located north of Highway 198 east of Shirk Avenue. Staff will accomplish this work with the assistance of a presently contracted land use consultant (Mary Beatie of TPG Consulting).

ALTERNATIVE No. 1. Direct the preparation of a Zoning Ordinance Amendment to establish an Ag Enterprise zone that incorporates concepts and items from the 2003 Ag Enterprise Zone Report. The new Ag Enterprise Zone would be applicable to land located within the Highway 198 Master Plan boundary area.

ALTERNATIVE No. 2. Proceed with the preparation of an agricultural focused Highway 198 Master Plan. Staff will return to the City Council with a Consultant recommendation and revised scope of work and schedule. The Master Plan would establish a land use mix focusing on agricultural land preservation and a permanent setback along Highway 198. Discussion with the two consultants indicated they would be willing to be selected based upon the Task Force recommendation without additional interviews.

ALTERNATIVE No. 3. Proceed with the initial preparation of the West Highway 198 Master Plan by selecting one of the interviewed consultants. Staff will bring back to the City Council the Task Force recommendation and scope of work for preparation of the plan.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives: None

Attachments: Master Plan Area Map
Conceptual Plan for an Ag Enterprise Zone in Visalia Highway 198 Corridor
County of Tulare "AE-20 Zoning" Regulations
West Visalia Zone District "Concept" by Council Member Collins

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to accept staff recommendation as described in the staff report (This motion will result in a.) suspend West Highway 198 Master Plan process, b.) prepare a study for consideration of an Ag Enterprise Zone; and c.) that the 2020 Plan remain in effect for the areas West of Roeben Avenue/ south of Highway 198 and West of Shirk Avenue/north of Highway 198.)

Financial Impact

Funding Source:

Account Number: _____ (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:

NEPA Review:	Required:
Required? Yes	No
Review and Action:	Prior:
	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)*

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 6, 2006

Agenda Item Number (Assigned by City Clerk): 6a

Agenda Item Wording: Authorization to provide \$1,536,450 additional Redevelopment Low and Moderate Income Set-aside housing funds to The Kaweah Management Company for the development of the 70 unit Millcreek Housing project.

Deadline for Action: March 6, 2006

Submitting Department: Community Development

Contact Name and Phone Number:

Steve Salomon, City Manager, 713-4312
Michael Olmos, Director of Community Development, 713-4332
Sharon Sheltzer, Project Manager, 713-4414

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.): 2

Department Recommendation and Summary:

Staff recommends the Agency Board of Directors

1. Authorize the provision of \$1,536,450 additional Redevelopment Low and Moderate Income Set-aside housing funds to The Kaweah Management Company, a California 501(c)3 non-profit corporation formed by the Tulare County Housing Authority for the development of housing projects.
2. Authorize the City Attorney to prepare the necessary Addendum to the agreement between the Agency and The Kaweah Management Company previously executed on September 7, 2004 for the provision of \$3,000,000.
3. Authorize the Executive Director to execute the Addendum on behalf of the Agency.
4. Authorize the Finance Department to make the necessary adjustment to the 2006/07 budget.

Background

The planned Millcreek Parkway Town House project will provide 70 housing units for low and moderate income families on approximately 9.6 acres located along the south side of Millcreek Parkway west of Manzanita Avenue. The Agency entered into an agreement with The Kaweah Management Company on September 7, 2004 whereby the Agency would purchase 55 year affordability covenants in the amount of \$3 million dollars (\$42,857 per unit) with its Low and Moderate Income Set-aside funds. The project will consist of (42) two-bedroom units, (22) three-bedroom units, and (6) four-bedroom units, enclosed garages, a community room and recreational facilities. The target income levels of the tenant population would be from 60 to 80% of Median income. In 2004, the project was estimated to cost about \$9.8 million dollars.

The Kaweah Management Company put the project out to bid in December 2005. The low bid for hard costs received from the Westland Development Company was \$12,107,000. The

Kaweah Management Company worked with the low bidder to reduce the costs by over 2 million to \$10,084,360. The Kaweah Management Company contribution will be an additional 1.5 million dollars on top of about 1 million already contributed for the purchase of land, engineering and telephone pole relocation. The project long term debt (bank loan) that can be repaid by the restricted rent receipts is \$6,200,000. The development cost funding gap, after the Agency provision of 3 million dollars, is calculated by The Kaweah Management Company to be \$1,630,076. Please see the Development Cost Summary attachment provided by The Kaweah Management Company.

Agency Financial Analysis

The Financial Department examined the five year projection for Redevelopment Low/Mod funds and was able to identify the following available funds:

FY 2006/07	\$975,129
FY 2007/08	\$561,321
Total	\$1,536,450

If these Low/Mod funds are used then new projects requesting these funds cannot be funded until 2009. There are presently no other projects requesting these funds. The Kaweah Management Company believes that they can execute this project with the additional \$1,536,450 in funding.

Prior Council/Board Actions:

September 7, 2004- Redevelopment Agency Board authorized an agreement, and indemnification agreement and an addendum to the agreement to include Good Neighbor conditions, between the City and The Kaweah Management Company.

Committee/Commission Review and Actions:

Alternatives: None recommended

Attachments: Kaweah Management Company Development Cost Summary
Exhibit A map

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):
Staff recommends the Agency Board of Directors
<ol style="list-style-type: none"> 5. Authorize the provision of \$1,536,450 additional Redevelopment Set-aside Low/mod housing funds to The Kaweah Management Company, a California 501(c)3 non-profit corporation formed by the Tulare County Housing Authority for the development of housing projects. 6. Authorize the City Attorney to make an Addendum to the Agreement between the Agency and The Kaweah Management Company previously executed on September 7, 2004 for the provision of \$3,000,000. 7. Authorize the Executive Director to execute the Addendum on behalf of the Agency. 8. Authorize the Finance Department to make the necessary adjustment to the 2006/07 budget.

Financial Impact

Funding Source: Redevelopment Low/Moderate Income Set-aside funds

Account Number:

Budget Recap:

Total Estimated cost: \$	New Revenue:	\$
Amount Budgeted: \$3,000,000	Lost Revenue:	\$
New funding required:\$1,536,450	New Personnel:	\$
Council Policy Change: Yes___	No__x__	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No x

Review and Action: Prior:
Required: CEQA evaluation was completed as part of the 1990 General Plan and Zoning process

NEPA Review:

Required? Yes No x

Review and Action: Prior:
Required: No Federal funds are proposed from this project

Tracking: City Attorney will draft Addendum which will be signed. Finance Department will adjust their 2006/07 Budget.

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 6, 2006

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

Agenda Item Wording: Approve the recommended appointment(s) of Brad Wiebe to the North Visalia Neighborhood Committee as recommended by the Citizens Advisory Committee.

Deadline for Action: None

Submitting Department: Administration

Contact Name and Phone Number: Rick Haskill, Staff Rep
713-4205

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.): _____

Department Recommendation and Summary: It is recommended that the City Council approve the recommended appointment(s) of Brad Wiebe to the North Visalia Neighborhood Advisory Committee.

BACKGROUND:

- A. Each committee is responsible for contacting their applicants to invite them to a future committee meeting. The committee can either interview them during this meeting or set up a sub-committee to screen/interview the applicants. The key point to remember is that all applicants need to be considered for the vacancies in some manner. The committees evaluate the knowledge skills and abilities of each applicant. They also consider the demographics of their membership and whenever possible, try to make their committee more representative of the community through the applicants that they recommend.
- B. The Citizens Advisory Committee has been charged by the City Council to review the committee recommendations to insure that all applicants had an equal opportunity to be considered for the vacancies for each committee. The staff representative or Chairperson from each committee with vacancies attends this meeting to explain their review process. The members of the Citizens Advisory Committee ask any questions during the meeting that they need to make sure equal consideration and opportunity was given to all applicants.
- C. The Citizens Advisory Committee then makes a formal recommendation to the City Council to formally appoint the recommended applicants to the committees.
- D. Once approved by the City Council, the new committee members are notified and begin serving as official members of the committee they are appointed to.

Prior Council/Board Actions:

Committee/Commission Review and Actions: The North Visalia Neighborhood Advisory Committees has conducted interviews with the applicant(s) for their committee. They provided a recommendation to the Citizens Advisory Committee for review and approval. The Citizens Advisory Committee met on March 1, 2006, to review the recommendations from the committee. The Citizens Advisory Committee concurs with the recommendations and is recommending that the Visalia City Council formally appoint applicant listed above.

Alternatives: Any of these positions could remain vacant.

Attachments: Committee recommendations to the Citizens Advisory Committee
Application of the individual(s) desiring to serve on the committee.

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move that the City Council approve the recommended appointment to the North Visalia Neighborhood Advisory Committee.

Financial Impact

Funding Source:

Account Number: _____ (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:

<u>Review and Approval - As needed:</u>
Department Head Review (Signature):
Risk Management Review (Signature):
City Attorney Review (Signature):
Administrative Services Finance Review (Signature):
Others:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 6, 2006

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

Agenda Item Wording: Appointment of new members Andrew A. Miller, Ronald Allan, and Philip C. Bourdette to the Transit Advisory Committee.

Deadline for Action: March 6, 2006

Submitting Department: Administration Department – Transit Division

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

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 min.

Department Recommendation and Summary: It is recommended that Andrew A. Miller, Ronald Allan, and Philip C. Bourdette be appointed to the Transit Advisory Committee for a three year term.

The Transit Advisory Committee currently has 4 vacancies. Applicants were recruited from various organizations in addition to the general public. An interview process was held by the Transit Advisory Committee on February 1 to review the applications that were received. During this process, the committee felt Andrew A. Miller, Ronald Allan, and Philip C. Bourdette had skills, experience and interest that the committee requires. They recommend all three to be appointed. The Citizens Advisory Committee (CAC) reviewed and approved this recommendation on March 1. The recommendation is now being forwarded to the City Council for approval and appointment.

Prior Council/Board Actions

Committee/Commission Review and Actions:

Alternatives: The positions can be left vacant.

Attachments: Applications for Andrew A. Miller, Ronald Allan, and Philip C. Bourdette.

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected) I move to appoint Andrew A. Miller, Ronald Allan, and Philip C. Bourdette to the Transit Advisory Committee.

Copies of this report have been provided to:

<i>Financial Impact</i>			
Funding Source:			
Account Number: _____		(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_____		

<i>Environmental Assessment Status</i>			
CEQA Review:			
Required? Yes	No		
Review and Action: Prior:			
	Required:		
NEPA Review:			
Required? Yes	No		
Review and Action: Prior:			
	Required:		

<u>Review and Approval - As needed:</u>
Department Head Review (Signature):
Risk Management Review (Signature):
City Attorney Review (Signature):
Administrative Services Finance Review (Signature):
Others:

City of Visalia Agenda Item Transmittal

Meeting Date: March 6, 2006

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

Agenda Item Wording: Authorize the City Manager to execute an Agreement between the City of Visalia and San Joaquin Valley Railroad, Co. (SJVR) for Access to Perform Customary Road Improvements to the intersection of Pinkham Street and K Avenue.

Deadline for Action: None

Submitting Department: Public Works Department

Contact Name and Phone Number: Michael Carr 713-4595,
Jim Funk 713-4540

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 min.

Department Recommendation and Summary: Staff recommends that authorization be given to the City Manager to execute an Agreement between the City of Visalia and San Joaquin Valley Railroad, Co. (SJVR) for Access to Perform Customary Road Improvements to the intersection of Pinkham Street and K Avenue. The Agreement was prepared by the SJVR and has been reviewed and approved by the City attorney.

The City will fund the upgrade of existing railroad tracks to concrete panels at the intersection of Pinkham Street along with the upgrade of the existing at-grade crossing. Crossing gates must also be installed along with lighted warning devices facing north and south bound traffic. The estimated cost of the warning signal and track upgrades is \$285,807.06.

The overall project also consists of removing the existing Pinkham Street roadway and west side curb, gutter, sidewalk and landscaping from Cherry Avenue to K Avenue. Additionally, the existing K Avenue roadway will be removed to points approximately 400 feet east and west of Pinkham Street. Both roadways will be elevated to better match existing railroad track grades on Pinkham Street north of K Avenue. The elevated roadway will match the recently completed section of Pinkham Street south of K Avenue. The south leg of Pinkham Street at K Avenue was installed as part of the Sunrise Park subdivision. Pinkham Street north of K Avenue will be widened to 46 feet curb to curb. Construction on K Avenue east and west of Pinkham Street will include curb and gutter on both north and south sides of the roadway. The roadway is designed as 40 feet curb to curb. Additionally, five-foot concrete sidewalk will be reinstalled on the west side of Pinkham Street and new City Standard sidewalk will be installed on the east side of Pinkham Street. An 8-foot concrete

bike path will be installed on the south side of K Avenue starting at Pinkham Street and tying into the existing bike path to the west. The proposed improvements will match grade and tie into the existing public improvements installed with the Sunrise Park subdivision located at the southwest corner of Pinkham Street and K Avenue. Currently, Pinkham Street extends south of Noble Avenue to K Avenue and from Caldwell Avenue north to Monte Verde. With the completion of the intersection improvements, Pinkham Street will be connected between K Avenue and Caldwell Avenue and will allow travel from Nobel Avenue to Caldwell Avenue.

Based on the current construction schedule the project will begin construction in March, 2006, and should be completed by May, 2006.

Prior Council/Board Actions: December 5, 2005, Council authorized the budget for the railroad crossing upgrade; December, 19, 2005, Council awarded the construction contract to Central Valley Asphalt.

Committee/Commission Review and Actions: None

Alternatives: None recommended

Attachments: Agreement (Exhibit A), Location map (Exhibit B)

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

I hereby move to authorize the City Manager to execute an Agreement between the City of Visalia and San Joaquin Valley Railroad, Co. for Access to Perform Customary Road Improvements to the intersection of Pinkham Street and K Avenue.

Financial Impact

Funding Source:

Account Number: 1241-00000-720000-0-09723-2005

Budget Recap:

Total Estimated cost:	\$ 631,500.00	New Revenue:	\$
Amount Budgeted:	\$ 631,500.00	Lost Revenue:	\$
New funding required:	\$	New Personnel:	\$
Council Policy Change:	Yes___	No	<u>X</u>

Copies of this report have been provided to:

This document last revised: 3/3/06 1:32:00 PM

By author: Michael Carr

File location and name: H:\(1) AGENDAS for Council\2006\030606\Item 7d Agrmnt with San Joaquin Valley Railroad for Pinkham & K.doc

Environmental Assessment Status

CEQA Review:

Required? Yes No

Review and Action: Prior:
Require:

NEPA Review:

Required? Yes No

Review and Action: Prior:
Require:

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)*
Record a Notice of Completion with the County Recorder
Pay Contractor the 10% withholding 35 days from recording date.

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

City of Visalia Agenda Item Transmittal

Meeting Date: March 6, 2006

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

Agenda Item Wording: Authorize the City Manager to execute an agreement with Omni Means, Ltd. to prepare the City of Visalia's portion of the Project Approval and Environmental Document for the Caldwell Avenue (Avenue 280) widening project from State Route 99/Caldwell interchange to Orange Avenue in Exeter. The City of Visalia's contract will cover the segment from the Highway 99/Caldwell interchange to Mooney Boulevard in the amount of \$407,844.35. Project No. 1611-00000-720000-0-9485-2006

Deadline for Action: March 6, 2006

Submitting Department: Public Works Department

Contact Name and Phone Number: David Jacobs 713-4492

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

Department Recommendation and Summary: Staff recommends that the City Council authorize the City Manager to execute an agreement between the City and Omni Means, Ltd. to prepare Project Approval and Environmental Document (PA&ED) for the Caldwell Avenue (Avenue 280) widening project in the amount of \$407,844.35 to cover the portion of the work from Highway 99 /Caldwell interchange to Mooney Blvd. (Project No. 1611-00000-720000-0-9485-2006). \$400,000 of the project cost will be funded by the State Transportation Improvement Program (STIP) with local funds covering the remaining \$7,844.35.

Department Discussion:

Caldwell widening project background

In June 1999 Omni-Means, Ltd completed a Major Investment Study (MIS) for Tulare County Association of Governments (TCAG) for Caldwell Avenue from State Route 99 to Orange Avenue in Exeter. This study was conducted in order to determine the need, cost and alternatives to widen Caldwell Avenue from Highway 99 to Orange Avenue in Exeter. The MIS allowed TCAG to consider and approve funding for sections within the MIS. The MIS had Caldwell broken into 12 sections for study and programming purposes, with the section from Akers Street to Shady Street identified as having the highest need for improvement. The 2000 State Transportation Improvement Program (STIP) programmed \$60,000 to fund the Project Approval and Environmental Document (PA&ED) for the Akers to Shady section. PA&ED consists of preliminary designs, identifying properties that are potentially affected, identifying environmental concerns,

March 3, 2006
1:32 PM

and completing the environmental process for California Environmental Quality Act (CEQA) and National Environmental Protection Act (NEPA) review.

The project has since been expanded to include all sections within the MIS. The expanded scope of work was broken into three sections. Section 1 is the State Route 99 interchange, Section 2 is from the interchange to State Route 63 (Mooney Boulevard), and Section 3 is from State Route 63 to Orange Avenue in Exeter. The County will be managing the contract for Sections 1 and 3 and the City will manage the contract for Section 2 (99 interchange to Mooney Blvd.)

Consultant selection process

In accordance with Caltrans Local Assistance Procedure Manual, Tulare County distributed a request for Statement of Qualifications (SOQ) in April 2002. Seven SOQ's were received and were reviewed by a selection committee comprised of the following:

Blas Martinez Jr.	Tulare County
Marcia Vierra	Tulare County
Robert Newby	Tulare County
David Jacobs	City of Visalia
Marv Johnson	Caltrans
Kirsten Helton	Caltrans

From the seven SOQ's, four consultants were selected to give an oral presentation to the selection committee. The four firms were:

Dokken Engineering	Rancho Cordova, CA
Quad Knopf	Visalia, CA
Omni-Means	Visalia, CA
Provost and Pritchard	Fresno, CA

The selection committee came to a recommendation that Omni-Means was the most qualified to complete the project.

In accordance with the Caltrans Local Assistance Procedure Manual, after a design firm is selected a price is then negotiated. Once a price is agreed upon the contract goes through a pre-award audit to insure the costs and overhead being charged are within Caltrans' guidelines. The pre-award audit was conducted on both the City and County contracts by the Tulare County Auditor. The recommendations of the Auditor have been addressed in the final version of the contract.

City budget impact and new funding requests

The City's current two year budget has appropriated \$906,000 for this project in FY 05-06. This amount was originally for project design. However, project design has been reprogrammed to 2007/08. The State Transportation Improvement Program (STIP) has allocated \$400,000 for the current fiscal year. The first task order of this project was completed in July 2005 under a contract approved June 16, 2003. The second task order (this request) covers the remaining work of the PA&ED. It should be noted that all of the County's funding for their portion of the Caldwell widening project has been

obligated. Authorizing the contract for the City's share will enable the full project to proceed.

The following table breaks down the funding for PA&ED for each section of the Caldwell/ Ave 280 project.

Street	Limits	Lead Agency	PA&ED Cost	STIP allocation
Caldwell	Mooney to SR 99	Visalia	\$508,072.00	\$460,000
SR 99 Interchange	State Route 99	Tulare County	\$100,000	\$100,000
Avenue 280	Mooney to Orange	Tulare County	\$1,073,000	\$1,073,000

Prior Council/Board Actions: Approve task order 1 June 16, 2003

Committee/Commission Review and Actions:

Recommended Motion (and Alternative Motions if expected): I move to authorize the City Manager to execute an agreement with Omni Means, Ltd. to prepare Project Approval and Environmental Document (PA&ED) for the Caldwell Avenue (Avenue 280) widening project in the amount of \$407,844.35. Project No. 1611-00000-720000-0-9485-2001.

Alternatives: not award the contract

Attachments: Location Map, Scope of services outline

City Manager/Executive Director Recommendation:

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: _____

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

Financial Impact

Funding Source:

Account Number: 1611-00000-720000-0-9485-2006 (State of California Transportation Development Act Fund)

Budget Recap:

Total Estimated cost: \$407,844.35

Amount Budgeted: \$906,000

New funding required: \$0

Council Policy Change: Yes No

New Revenue: \$N/A

Lost Revenue : \$N/A

New Personnel: \$N/A

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 6, 2006

Agenda Item Number (Assigned by City Clerk): 7f(1)

Agenda Item Wording: Authorize the Recordation of the Final Map for Valley Palms, located on the south side of Riggan Avenue between Linwood Street and Demaree Street (36 lots) and the Formation of Landscape and Lighting District No. 06-04, Valley Palms (Resolution Nos. 06-16 and 06-17 required). APN: 077-180-015

Deadline for Action: N/A

Submitting Department: Public Works

Contact Name and Phone Number:

Andrew Benelli 713-4340

Ken McSheehy 713-4447

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

Department Recommendation and Summary:

Final Map

Staff recommends that City Council authorize the recordation of the final map for Valley Palms containing 36 single family lots. All bonds, cash payments, subdivision agreement and final map are in the possession of the City as follows: 1) An executed subdivision agreement; 2) Faithful Performance Bond in the amount of \$645,294.50 and Labor and Material Bond in the amount of \$322,647.25; 3) cash payment of \$183,176.84 distributed to various accounts; and 4) Final Map. The developer of Valley Palms is Hidden Oak Development.

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.

According to Resolution No. 2004-117 adopted by City Council on October 18, 2004 the City will reimburse the developer for street improvements made to Arterial and Collector streets. This development is constructing street improvements on Riggin Avenue (Arterial). The City will be reimbursing the developer approximately \$43,000 for Arterial/Collector street improvements. The reimbursement will come through a combination of fee credits for Transportation Impact Fees and cash payment.

Landscape & Lighting

Staff recommends that the City Council: adopt Resolution No. 06-16 Initiating Proceedings for Formation of Assessment District No. 06-04, Valley Palms; adopt the Engineer's Report as submitted; and adopt Resolution No. 06-17 confirming the Engineer's Report, ordering the improvements and levying the annual assessments.

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, trees on local streets and pavement 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.

The Landscape and Lighting Act allows for the use of summary proceedings when all the affected property owners have given their written consent. This process waives the requirement for a public hearing since the owners of this development have given their written consent to form this district.

Prior Council/Board Actions: The City has been allowing the use of the Landscape and Lighting Act of 1972 for maintaining common area features that are a special benefit and enhance the subdivision.

On September 7, 2004, Council approved the Street Maintenance Assessment Policy establishing guidelines and processes for placing street maintenance costs into assessment districts.

Committee/Commission Review and Actions: The tentative subdivision map for Valley Palms subdivision was approved by the Planning Commission on October 25, 2004. The tentative map will expire on October 25, 2006.

Alternatives: N/A

Attachments: Location Map; Resolution Initiating Proceedings; Clerk's Certification; Resolution Ordering the Improvements; Exhibits "A", "B", "C", "D"

City Manager Recommendation:

Recommended Motions (and Alternative Motions if expected):

“I move to authorize the recordation of the Final Map for Valley Palms and I move to adopt Resolution No. 06-16 Initiating Proceedings for Formation of Assessment District No. 06-04 “Valley Palms” and adopt Resolution No. 06-17 Ordering the Improvements for Assessment District No. 06-04 “Valley Palms.”

Financial Impact

Funding Source:

Account Number: _____ (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 X No

Review and Action: Prior: Negative Declaration processed with tentative map
Required:

NEPA Review:

Required? Yes No

Review and Action: Prior:
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)

Review and Approval - As needed:

Department Head Review (Signature):

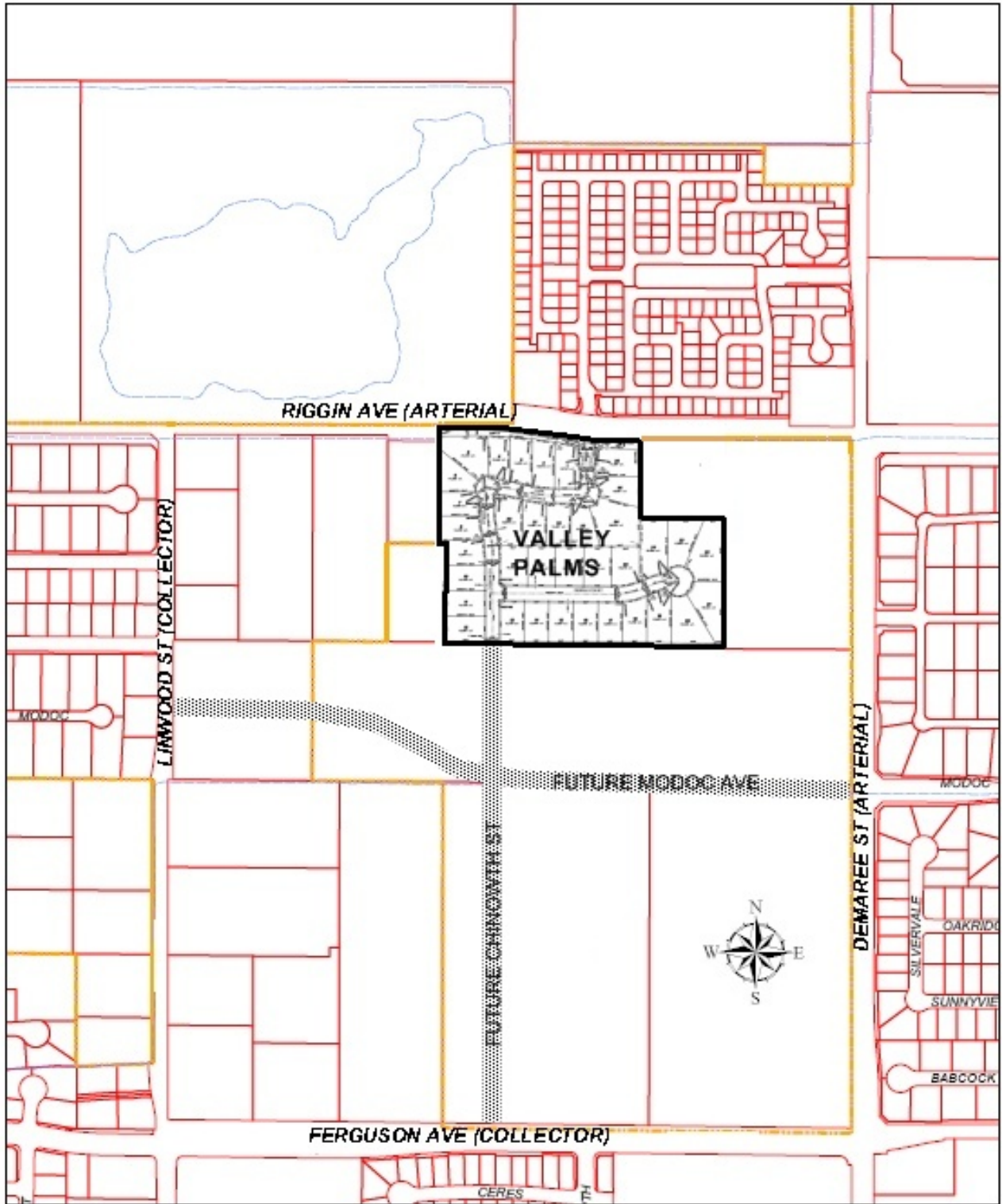
Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

LOCATION MAP



RESOLUTION NO. 06-16

RESOLUTION INITIATING PROCEEDINGS FOR
ASSESSMENT DISTRICT 06-04
VALLEY PALMS
(Pursuant to Landscape and Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council proposes to form 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 areas, shrub areas, irrigation systems, trees, block walls, pavement on local streets and any other applicable equipment or improvements.
2. The proposed district shall be designated Assessment District No. 06-04, City of Visalia, Tulare County, California, and shall include the land shown on the map designated "Assessment Diagram, Assessment District No. 06-04, City of Visalia, Tulare County, California", which is on file with the City Clerk and is hereby approved and known as "Valley Palms".
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. 06-04

VALLEY PALMS

(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. 06-04, City of Visalia, Tulare County, California" confirmed by the City Council of the City of Visalia on the 6th day of March, 2006 by its Resolution No. 06-16 & 17

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

RESOLUTION NO. 06-17

RESOLUTION ORDERING IMPROVEMENTS FOR
ASSESSMENT DISTRICT NO. 06-04
VALLEY PALMS
(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. 06-04, 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. Owners of all land within the boundaries of the proposed landscape and lighting district have filed their consent to the formation of the proposed district, and to the adoption of the Engineer's Report and the levy of the assessments stated therein.
4. The City Council hereby orders the improvements and the formation of 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 2006-07.
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 "C"

Tax Roll Assessment
Valley Palms
Fiscal Year 2006-07

<u>APN #</u>	<u>Assessment</u>	<u>Owner</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$458.92	To Be Assigned	06-0401	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0402	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0403	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0404	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0405	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0406	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0407	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0408	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0409	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0410	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0411	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0412	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0413	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0414	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0415	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0416	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0417	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0418	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0419	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0420	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0421	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0422	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0423	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0424	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0425	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0426	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0427	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0428	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0429	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0430	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0431	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0432	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0433	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0434	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0435	Valley Palms
To Be Assigned	\$458.92	To Be Assigned	06-0436	Valley Palms

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 06-04
Valley Palms
Fiscal Year 2006-07

General Description

This Assessment District (District) is located on the south side of Riggin Avenue between Linwood Street and Demaree Street. Exhibit "A" is a map of Assessment District 06-04. This District includes the maintenance of turf areas, shrub areas, irrigation systems, trees, block walls, pavement on local streets and any other applicable equipment or improvements. The maintenance of irrigation systems and block 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 maintenance of pavement on local streets includes preventative maintenance by means including, but not limited to overlays, chip seals/crack seals and reclamite (oiling). The total number lots within the district are 36.

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, street lights and pocket parks. 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 turf areas, shrub areas, irrigation systems, trees, block walls, pavement on local streets and any other applicable equipment or improvements. 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 06-04
Valley Palms
Fiscal Year 2006-07

The quantities and estimated costs 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.	6620	\$0.199	\$1,317.38
Shrub Area	Sq. Ft.	15235	\$0.199	\$3,031.77
Water	Sq. Ft.	21855	\$0.050	\$1,092.75
Electricity	Sq. Ft.	21855	\$0.008	\$174.84
Trees In Landscape Lots	Each	49	\$25.00	\$1,225.00
Trees In Local Street Parkways	Each	56	\$25.00	\$1,400.00
Street Lights	Each	11	\$105.00	\$1,155.00
Chip Seal (15 year cycle)	Sq. Ft.	58625	\$0.190	\$742.58
Crack Seal (8 year cycle)	Sq. Ft.	58625	\$0.02933	\$214.96
Reclamite (6 year cycle)	Sq. Ft.	58625	\$0.0211110	\$206.27
Overlays (10 year cycle)	Sq. Ft.	58625	\$0.65	\$3,810.63
Project Management Costs	Lots	36	\$18.00	\$648.00
TOTAL				\$15,019.17
10% Reserve Fund				\$1,501.92
GRAND TOTAL				\$16,521.09
COST PER LOT				\$458.92

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:

$$A_{max} \text{ for any given year "n"} = (\$16,521.09) (1.05)^{(n-1)}$$

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

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 06-04
Valley Palms
Fiscal Year 2006-07

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 \$18,007.99 [a 9% increase over the base year estimated cost of \$16,521.09]. The maximum annual assessment for year four is \$19,125.23
 $(4-1)$
 $[A_{max} = (\$16,521.09) (1.05)^{(4-1)}]$. The assessment will be set at \$18,007.99 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 \$18,668.83 [a 7% increase over the previous year assessment and a 13.0% increase over the base year estimated cost of \$16,521.09]. 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 \$373.38 will restore the reserve fund to a level of 10%. This amount is recognized as a deficit. The maximum
 $(4-1)$
annual assessment for year four is \$19,125.23 $[A_{max} = (\$16,521.09) (1.05)^{(4-1)}]$. The year four assessment will be set at \$18,668.83 plus the deficit amount of \$373.38 which equals \$19,042.21 [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.

Example 3. The estimated year four cost of maintaining the improvements in the district is \$18,007.99 [a 9% increase over the base year assessment of \$16,521.09] and damage occurred to the masonry wall raising the year five expenses to \$20,155.73 [a 22% increase over the previous year assessment]. The year five assessment will be capped at \$19,808.79 (a 10% increase over the previous year) and below the maximum annual assessment of
 $(5-1)$
\$20,081.49 $[A_{max} = (\$16,521.09) (1.05)^{(5-1)}]$. The difference of \$346.94 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.

Andrew Benelli RCE 50022 Date
Assistant Director Engineering

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 6, 2006

Agenda Item Number (Assigned by City Clerk): 7f(2)

Agenda Item Wording: Authorize the Recordation of the Final Map for South Cameron Creek, Unit No. 2, located at the southwest corner of Cameron Avenue and West Street (76 lots) and the Annexation of South Cameron Creek, Unit No. 2 & 3 into Landscape and Lighting District No. 05-03, South Cameron Creek (Resolution Nos. 06-18 and 06-19 required).

APN: 126-070-040 and a portion of 126-070-026

Deadline for Action: March 20, 2006

Submitting Department: Community Development & Public Works

Contact Name and Phone Number:

Andrew Benelli 713-4340
Greg Dais 713-4164

Department Recommendation and Summary:

Final Map

Staff recommends that City Council approve the recordation of the final map for South Cameron Creek, Unit No. 2 containing 76 single family lots. All bonds, cash payments, subdivision agreement and final map are in the possession of the City as follows: 1) An executed subdivision agreement; 2) Faithful Performance Bond in the amount of \$1,076,697.94 and Labor and Material Bond in the amount of \$538,348.97; 3) cash payment of \$274,567.35 distributed to various accounts; and 4) Final Map.

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.

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

According to Resolution No. 2004-117 adopted by City Council on October 18, 2004 the City will reimburse the Developer for street improvements made to Arterial or Collector streets. This development is constructing street improvements along Visalia Parkway (Arterial) and Cameron Avenue (Collector). The City will be reimbursing approximately \$ 215,755 to the developer (McMillin South Cameron Creek, LLC) by giving a fee credit for Transportation Impact Fees.

The City will be also reimbursing to the developer (McMillin South Cameron Creek, LLC) approximately \$35,393 for installing landscaping, sidewalk and street lights along the pond frontage.

Landscape & Lighting

Staff recommends that the City Council: adopt Resolution No. 06-18 Initiating Proceedings for Annexation to Assessment District No. 05-03, South Cameron Creek; adopt the Engineer's Report as submitted; and adopt Resolution No. 06-19 confirming the Engineer's Report, ordering the improvements and levying the annual assessments.

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 March 21, 2005, City Council approved the formation of a Landscape and Lighting District for South Cameron Creek. This district included the assessor's parcel numbers for all phases of the South Cameron Creek 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 South Cameron Creek. 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. This annexation will reduce the per lot assessment for each lot within the district.

The Landscape and Lighting Act allows for the use of summary proceedings when all the affected property owners have given their written consent. This process waives the requirement for a public hearing since the owners of this development have given their written consent to form this district. This development is planned to be done in several phases.

Prior Council/Board Actions: The City has been allowing the use of the Landscape and Lighting Act of 1972 for maintaining common area features that are a special benefit and enhance the subdivision.

Committee/Commission Review and Actions: The tentative subdivision map for South Cameron Creek subdivision was approved by the Planning Commission on May 10, 2004. The tentative map will expire on May 10, 2006.

Alternatives: N/A

Attachments: Location Map; Subdivision Map; Resolution Initiating Proceedings; Clerk's Certification; Resolution Ordering the Improvements; Exhibits "A", "B", "C", "D"

City Manager Recommendation:

Recommended Motions (and Alternative Motions if expected):

"I move to authorize the recordation of the Final Map for South Cameron Creek, Unit No. 2 and I move to adopt Resolution No. 06-18 Initiating Proceedings for Annexation to Assessment District No. 05-03 "South Cameron Creek" and adopt Resolution No. 06-19 Ordering the Improvements for Assessment District No. 05-03 "South Cameron Creek."

Financial Impact

Funding Source:

Account Number: _____ (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:

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)*

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

Exhibit "B"

Landscape Location Diagram
South Cameron Creek

RESOLUTION NO. 06-18

RESOLUTION INITIATING PROCEEDINGS
FOR ANNEXATION TO
ASSESSMENT DISTRICT 05-03
SOUTH CAMERON CREEK
(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. 05-03, City of Visalia, Tulare County, California" and shall include the land shown on the map designated "Assessment Diagram, Assessment District No. 05-03, City of Visalia, Tulare County, California", which is on file with the City Clerk and is hereby approved and known as "South Cameron Creek".
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:

Exhibit "B"

Landscape Location Diagram
South Cameron Creek

CLERK'S CERTIFICATION TO COUNTY AUDITOR

ASSESSMENT DISTRICT NO. 05-03
SOUTH CAMERON CREEK
(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. 05-03, City of Visalia, Tulare County, California" confirmed by the City Council of the City of Visalia on the 6th day of March, 2006 by its Resolution No. 06-18 & 19

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

Exhibit "B"

Landscape Location Diagram
South Cameron Creek

RESOLUTION NO. 06-19

RESOLUTION ORDERING IMPROVEMENTS FOR
ASSESSMENT DISTRICT NO. 05-03
SOUTH CAMERON CREEK
(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. 05-03, 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. Owners of all land within the boundaries of the proposed landscape and lighting district have filed their consent to the formation of the proposed district, and to the adoption of the Engineer's Report and the levy of the assessments stated therein.
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 2006-07.
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 "B"

Landscape Location Diagram
South Cameron Creek



Exhibit "B"

Landscape Location Diagram
South Cameron Creek

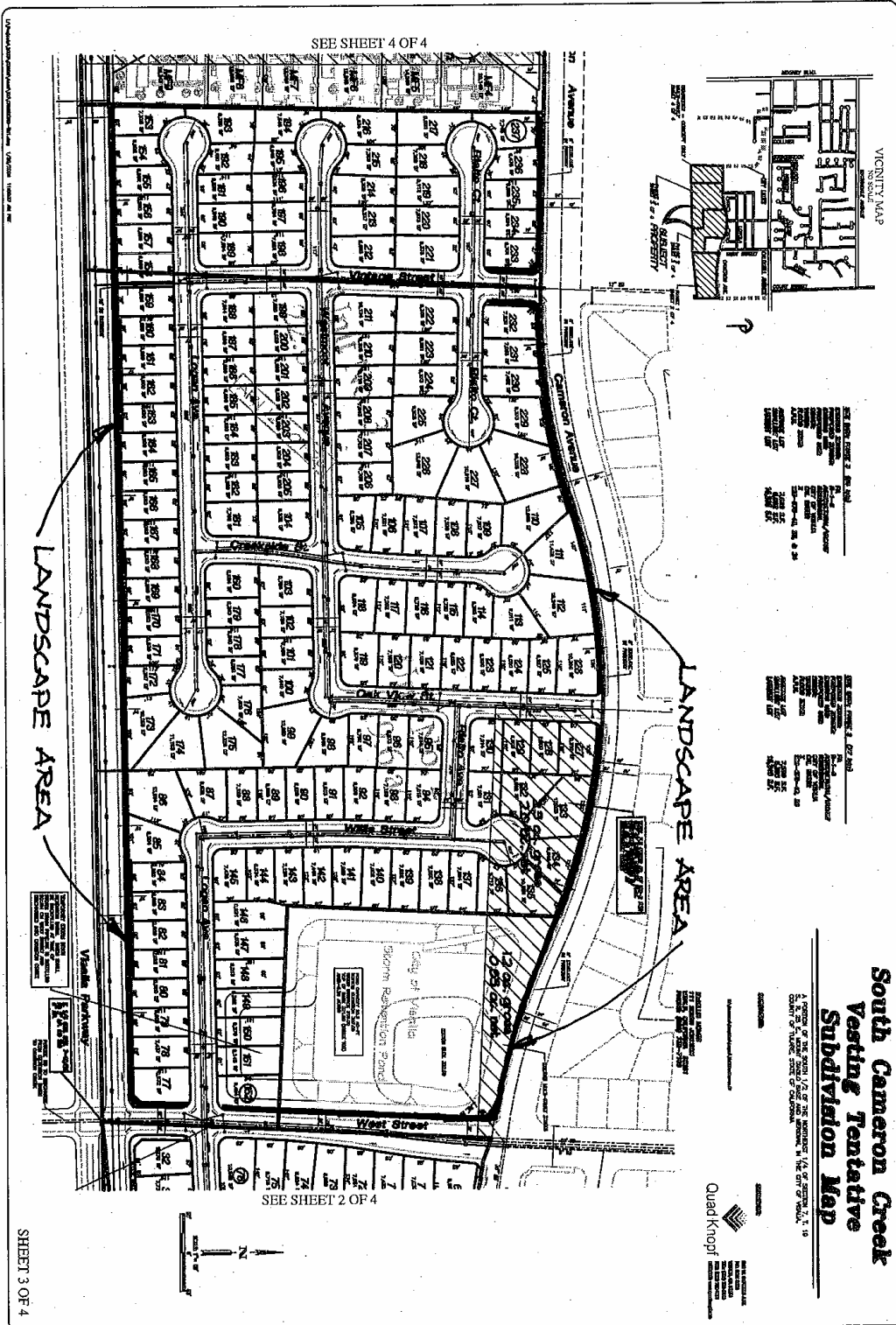


Exhibit "C"

Tax Roll Assessment
South Cameron Creek
Fiscal Year 2006-07

<u>APN #</u>	<u>Assessment</u>	<u>Lot #</u>	<u>District</u>
126-820-001	\$266.34	05-0301	South Cameron Creek No. 1
126-820-002	\$266.34	05-0302	South Cameron Creek No. 1
126-820-003	\$266.34	05-0303	South Cameron Creek No. 1
126-820-004	\$266.34	05-0304	South Cameron Creek No. 1
126-820-005	\$266.34	05-0305	South Cameron Creek No. 1
126-820-006	\$266.34	05-0306	South Cameron Creek No. 1
126-820-007	\$266.34	05-0307	South Cameron Creek No. 1
126-820-008	\$266.34	05-0308	South Cameron Creek No. 1
126-820-009	\$266.34	05-0309	South Cameron Creek No. 1
126-820-010	\$266.34	05-0310	South Cameron Creek No. 1
126-820-011	\$266.34	05-0311	South Cameron Creek No. 1
126-820-012	\$266.34	05-0312	South Cameron Creek No. 1
126-820-013	\$266.34	05-0313	South Cameron Creek No. 1
126-820-014	\$266.34	05-0314	South Cameron Creek No. 1
126-820-015	\$266.34	05-0315	South Cameron Creek No. 1
126-820-016	\$266.34	05-0316	South Cameron Creek No. 1
126-820-017	\$266.34	05-0317	South Cameron Creek No. 1
126-820-018	\$266.34	05-0318	South Cameron Creek No. 1
126-820-019	\$266.34	05-0319	South Cameron Creek No. 1
126-820-020	\$266.34	05-0320	South Cameron Creek No. 1
126-820-021	\$266.34	05-0321	South Cameron Creek No. 1
126-820-022	\$266.34	05-0322	South Cameron Creek No. 1
126-820-023	\$266.34	05-0323	South Cameron Creek No. 1
126-820-024	\$266.34	05-0324	South Cameron Creek No. 1
126-820-025	\$266.34	05-0325	South Cameron Creek No. 1
126-820-026	\$266.34	05-0326	South Cameron Creek No. 1
126-820-027	\$266.34	05-0327	South Cameron Creek No. 1
126-820-028	\$266.34	05-0328	South Cameron Creek No. 1
126-820-029	\$266.34	05-0329	South Cameron Creek No. 1
126-820-030	\$266.34	05-0330	South Cameron Creek No. 1
126-820-031	\$266.34	05-0331	South Cameron Creek No. 1
126-820-032	\$266.34	05-0332	South Cameron Creek No. 1
126-820-033	\$266.34	05-0333	South Cameron Creek No. 1
126-820-034	\$266.34	05-0334	South Cameron Creek No. 1
126-820-035	\$266.34	05-0335	South Cameron Creek No. 1
126-820-036	\$266.34	05-0336	South Cameron Creek No. 1
126-820-037	\$266.34	05-0337	South Cameron Creek No. 1
126-820-038	\$266.34	05-0338	South Cameron Creek No. 1
126-820-039	\$266.34	05-0339	South Cameron Creek No. 1
126-820-040	\$266.34	05-0340	South Cameron Creek No. 1
126-820-041	\$266.34	05-0341	South Cameron Creek No. 1
126-820-042	\$266.34	05-0342	South Cameron Creek No. 1
126-820-043	\$266.34	05-0343	South Cameron Creek No. 1
126-820-044	\$266.34	05-0344	South Cameron Creek No. 1

Exhibit "C"

Tax Roll Assessment South Cameron Creek Fiscal Year 2006-07

<u>APN #</u>	<u>Assessment</u>	<u>Lot #</u>	<u>District</u>
126-820-045	\$266.34	05-0345	South Cameron Creek No. 1
126-820-046	\$266.34	05-0346	South Cameron Creek No. 1
126-820-047	\$266.34	05-0347	South Cameron Creek No. 1
126-820-048	\$266.34	05-0348	South Cameron Creek No. 1
126-820-049	\$266.34	05-0349	South Cameron Creek No. 1
126-820-050	\$266.34	05-0350	South Cameron Creek No. 1
126-820-051	\$266.34	05-0351	South Cameron Creek No. 1
126-820-052	\$266.34	05-0352	South Cameron Creek No. 1
126-820-053	\$266.34	05-0353	South Cameron Creek No. 1
126-820-054	\$266.34	05-0354	South Cameron Creek No. 1
126-820-055	\$266.34	05-0355	South Cameron Creek No. 1
126-820-056	\$266.34	05-0356	South Cameron Creek No. 1
126-820-057	\$266.34	05-0357	South Cameron Creek No. 1
126-820-058	\$266.34	05-0358	South Cameron Creek No. 1
126-820-059	\$266.34	05-0359	South Cameron Creek No. 1
126-820-060	\$266.34	05-0360	South Cameron Creek No. 1
126-820-061	\$266.34	05-0361	South Cameron Creek No. 1
126-820-062	\$266.34	05-0362	South Cameron Creek No. 1
126-820-063	\$266.34	05-0363	South Cameron Creek No. 1
126-820-064	\$266.34	05-0364	South Cameron Creek No. 1
126-820-065	\$266.34	05-0365	South Cameron Creek No. 1
126-820-066	\$266.34	05-0366	South Cameron Creek No. 1
126-820-067	\$266.34	05-0367	South Cameron Creek No. 1
126-820-068	\$266.34	05-0368	South Cameron Creek No. 1
126-820-069	\$266.34	05-0369	South Cameron Creek No. 1
126-820-070	\$266.34	05-0370	South Cameron Creek No. 1
126-820-071	\$266.34	05-0371	South Cameron Creek No. 1
126-820-072	\$266.34	05-0372	South Cameron Creek No. 1
126-820-073	\$266.34	05-0373	South Cameron Creek No. 1
126-820-074	\$266.34	05-0374	South Cameron Creek No. 1
126-820-075	\$266.34	05-0375	South Cameron Creek No. 1
126-820-076	\$266.34	05-0376	South Cameron Creek No. 1
To Be Assigned	\$266.34	05-0377	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0378	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0379	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0380	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0381	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0382	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0383	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0384	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0385	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0386	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0387	South Cameron Creek No. 2

Exhibit "C"

Tax Roll Assessment
South Cameron Creek
Fiscal Year 2006-07

<u>APN #</u>	<u>Assessment</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$266.34	05-0388	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0389	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0390	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0391	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0392	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0393	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0394	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0395	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0396	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0397	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0398	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-0399	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03100	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03101	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03102	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03103	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03104	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03105	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03106	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03107	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03108	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03109	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03110	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03111	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03112	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03113	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03114	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03115	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03116	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03117	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03118	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03119	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03120	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03121	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03122	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03123	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03124	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03125	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03126	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03127	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03128	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03129	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03130	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03131	South Cameron Creek No. 2

Exhibit "C"

Tax Roll Assessment
South Cameron Creek
Fiscal Year 2006-07

<u>APN #</u>	<u>Assessment</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$266.34	05-03132	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03133	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03134	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03135	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03136	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03137	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03138	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03139	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03140	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03141	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03142	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03143	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03144	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03145	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03146	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03147	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03148	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03149	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03150	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03151	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03152	South Cameron Creek No. 2
To Be Assigned	\$266.34	05-03153	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03154	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03155	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03156	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03157	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03158	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03159	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03160	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03161	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03162	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03163	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03164	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03165	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03166	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03167	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03168	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03169	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03170	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03171	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03172	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03173	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03174	South Cameron Creek No. 3

Exhibit "C"

Tax Roll Assessment
South Cameron Creek
Fiscal Year 2006-07

<u>APN #</u>	<u>Assessment</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$266.34	05-03175	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03176	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03177	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03178	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03179	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03180	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03181	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03182	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03183	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03184	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03185	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03186	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03187	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03188	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03189	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03190	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03191	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03192	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03193	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03194	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03195	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03196	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03197	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03198	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03199	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03200	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03201	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03202	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03203	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03204	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03205	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03206	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03207	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03208	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03209	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03210	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03211	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03212	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03213	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03214	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03215	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03216	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03217	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03218	South Cameron Creek No. 3

Exhibit "C"

Tax Roll Assessment
South Cameron Creek
Fiscal Year 2006-07

<u>APN #</u>	<u>Assessment</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$266.34	05-03219	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03220	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03221	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03222	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03223	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03224	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03225	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03226	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03227	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03228	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03229	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03230	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03231	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03232	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03233	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03234	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03235	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03236	South Cameron Creek No. 3
To Be Assigned	\$266.34	05-03237	South Cameron Creek No. 3

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-03
South Cameron Creek
Fiscal Year 2006-07

General Description

This Assessment District (District) is located on the south side of Cameron Ave. between Court Street and Stonebrook Street. Exhibit "A" is a map of Assessment District 05-03. This District includes the maintenance of turf areas, shrub areas, irrigation systems, trees, block walls and any other applicable equipment or improvements. The maintenance of irrigation systems and block 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 within the district are 237.

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, the City Council has determined that landscape areas, street lights and block walls 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.

Estimated Costs

The estimated costs to maintain the District includes the costs to maintain turf areas, shrub areas, irrigation systems, trees, block walls and any other applicable equipment or improvements.

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-03
South Cameron Creek
Fiscal Year 2006-07

The quantities and estimated costs 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.	47,915	\$0.180	\$8,624.70
Shrub Area	Sq. Ft.	76,045	\$0.180	\$13,688.10
Water	Sq. Ft.	123,960	\$0.050	\$6,198.00
Electricity	Sq. Ft.	123,960	\$0.008	\$991.68
Trees In Landscape Lots	Each	399	\$25.00	\$9,975.00
Trees In Local Street Parkways	Each	302	\$25.00	\$7,550.00
Street Lights	Each	58	\$105.00	\$6,090.00
Project Management Costs	Lots	237	\$18.00	\$4,266.00
TOTAL				\$57,383.48
10% Reserve Fund				\$5,738.35
GRAND TOTAL				\$63,121.83
COST PER LOT				\$266.34

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:

$$A_{max} \text{ for any given year "n"} = (\$63,121.83) (1.05)^{(n-1)}$$

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.

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-03
South Cameron Creek
Fiscal Year 2006-07

Example 1. The estimated year four cost of maintaining the improvements in the district is \$68,802.79 [a 9% increase over the base year estimated cost of \$63,121.83]. The maximum annual assessment for year four is \$73,071.41 [$A_{\max} = (\$63,121.83)^{(4-1)}$ (1.05)]. The assessment will be set at \$68,802.79 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 \$71,327.67 [a 7% increase over the previous year assessment and a 13.0% increase over the base year estimated cost of \$63,121.83]. 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 \$1,426.55 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 \$73,071.41 [$A_{\max} = (\$63,121.83)^{(4-1)}$ (1.05)]. The year four assessment will be set at \$71,327.67 plus the deficit amount of \$1,426.55 which equals \$72,754.22 [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.

Example 3. The estimated year four cost of maintaining the improvements in the district is \$68,802.79 [a 9% increase over the base year assessment of \$63,121.83] and damage occurred to the masonry wall raising the year five expenses to \$77,008.63 [a 22% increase over the previous year assessment]. The year five assessment will be capped at \$75,683.07 (a 10% increase over the previous year) and below the maximum annual assessment of \$76,724.98 [$A_{\max} = (\$63,121.83)^{(5-1)}$ (1.05)]. The difference of \$1,325.56 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.

Andrew Benelli
Public Works Director

RCE 50022

Date

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 6, 2006

Agenda Item Number (Assigned by City Clerk): 7g(1)

Agenda Item Wording: Request authorization to file a Notice of Completion for Garden Terrace Villas # 1, containing 16 lots, located on Sunnyview Avenue west of Mooney Boulevard.

Deadline for Action: March 6, 2006

Submitting Department: Public Works Department

Contact Name and Phone Number: Andrew Benelli 713-4340,
Norm Goldstrom 713-4638

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 Min.

Department Recommendation and Summary: The recommendation is that City Council give authorization to file a Notice of Completion as all the necessary improvements for this subdivision have been completed and are ready for acceptance by the City of Visalia. The subdivision was developed by Two Little Boys Land Company LLC. Two Little Boys Land Company LLC has submitted a maintenance bond in the amount of \$10,439.58 as required by the Subdivision Map Act to guarantee the improvements against defects for one year.

Prior Council/Board Actions: Final Map recording was approved at Council meeting of October 20, 2003.

Committee/Commission Review and Actions: The tentative subdivision map for Garden Terrace Villas Tentative Subdivision Map was approved by Planning Commission on June 16, 2003.

Alternatives: N/A

Attachments: Location sketch and vicinity map.

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

I hereby authorize filing a Notice of Completion for Garden Terrace Villas # 1, containing 16 lots, located on Sunnyview Avenue west of Mooney Boulevard.

Financial Impact

Funding Source:

Account Number: _____ (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: Environmental finding completed for tentative subdivision map.
Required:

NEPA Review:

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

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

City of Visalia Agenda Item Transmittal

Meeting Date: March 6, 2006

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording: Introduction of Ordinance 2006-_____ to amend Chapter 13.08 (Sewer Service System) of the Visalia Municipal Code to comply with Environmental Protection Agency (EPA) requirements.

Deadline for Action: March 6, 2006

Submitting Department: Public Works

Contact Name and Phone Number: Jim Ross, Utilities Manager, 713-4466

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

Department Recommendation

Staff recommends amending Chapter 13.08 of the Visalia Municipal Code, Sewer Service System to comply with EPA requirements. Staff further recommends adopting the pretreatment Enforcement Policy Procedures Manual.

Discussion

The City of Visalia wastewater division is responsible for administering the City's wastewater pretreatment program. The pretreatment program is required by the Clean Water Act and is designed to enable the city to regulate the quality and quantity of wastewater discharged into the sewer system. Chapter 13.08 of the Visalia Municipal Code (Sewer Service System), the City of Visalia Enforcement Policy Procedures Manual (EPPM), and various other documents compose the pretreatment program.

In practice, the primary function of the pretreatment program is to permit and monitor the wastewater discharge of Visalia's industrial and commercial users. There are currently 16 users classified as significant industrial users (SIU: Kraft, Mission Uniform, Josten's, etc) and approximately 475 classified as non-significant industrial users (NIU: restaurants, print shops, dry cleaners, automotive shops, etc). These facilities are routinely inspected and sampled for compliance with the ordinance. In addition, regular self monitoring reports are received from the various industries.

The pretreatment program falls under the regulatory authority of the California State Water Resources Control Board (SWRCB) and annually undergoes a Pretreatment Compliance Inspection (PCI) for compliance with Federal and State standards. Recent inspections have identified deficiencies in the sewer ordinance and the EPPM that the proposed changes are intended to address.

Following is a brief description of the proposed changes to the Sewer System Ordinance. Minor changes such as spelling and grammar corrections are not discussed.

- A “discharger” is now being called a “user” in order to standardize the ordinance with Federal regulations.
- Various wastewater terms such as POTW, septage waste, and pass through are being more clearly defined.
- Limitations on discharge are being moved from Section 13.08.550, Limitations on Wastewater Strength, to Section 13.08.480, Prohibitions on Discharge, to make the ordinance easier to follow.
- Non-significant Industrial user permits shall be valid up to four years rather than the current two years.
- Federal regulations require certain industrial users to submit reports for baseline monitoring, compliance schedule progress, compliance with deadlines and periodic compliance reports. Provisions are being added to the ordinance to authorize the city to enforce these requirements (Section 13.08.823A et.al.)
- New tools to enforce the city’s pretreatment program are being added to the sewer ordinance. Currently, when a user is in violation of their discharge permit, the city issues a Notice of Violation (NOV). If the industry fails to correct the problem, the City issues a Cease and Desist order (C&D) which would prohibit discharge. The addition of Section 13.08.925, Consent Orders, Section 13.08.930, Compliance Orders, and Section 13.8.1035, Administrative Fines, would allow the City to escalate enforcement actions to bring an industry into compliance without resorting to a C&D.
- Authority to impose civil and criminal liabilities against unauthorized discharges is being amended to comply with the language requirements of federal regulations.
- Section 13.08.1075, Emergency Suspensions, is being added to authorize the City to immediately suspend a user’s discharge when necessary to stop an actual or threatened discharge which could endanger the health or welfare of the public.

The City’s Enforcement Policy Procedures Manual (EPPM) is a document that outlines the enforcement actions the City will take to enforce the provisions of the sewer ordinance. The original EPPM was written in 1989 and was never adopted by the City Council nor submitted for EPA or SWRCB review and approval. In addition, it fails to address enforcement responses for several commonly anticipated violations. As such, the EPPM is being amended to identify actions that shall be taken to address the following types of violations:

- Unpermitted discharges
 - Discharger unaware of requirement and unauthorized discharge did not cause harm to environment or to the sewer system.
 - Failure to apply for a discharge permit after initial notification of the application requirements.
- Exceedance of local or federal pretreatment standards
- Monitoring and reporting violations
 - Improperly signed or certified
 - Incomplete record keeping
 - Failure to utilize proper analytical methods
 - Failure to report additional sampling results
 - Failure to keep permit on-site
- Compliance schedule violations
- Denial of entry violations

As an aside, the Goshen Community Services District (Goshen CSD) is also being required to make similar changes to its sewer use ordinance. Once the amended ordinances are adopted by the City Council and the Goshen CSD Board of Directors, changes to the Wastewater Pretreatment Program MOU between the two jurisdictions shall be required.

Prior Council/Board Actions: None

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Proposed Sewer Service System ordinance (Section 13.08 of Visalia Municipal Code)
Proposed Enforcement Policy Procedures Manual
Letter from SWRCB, City of Visalia Pretreatment Program Legal Adequacy Review
Evaluation of City's Enforcement Policy Procedures Manual

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

Staff recommends amending Chapter 13.08 of the Visalia Municipal Code, Sewer Service System to comply with EPA requirements.

Staff further recommends adopting the pretreatment Enforcement Policy Procedures Manual.

Financial Impact

Funding Source:
Account Number: None (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes <input type="checkbox"/> No <input type="checkbox"/>	

Environmental Assessment Status

CEQA Review:

Required? Yes No X

Review and Action: Prior:
Required:

NEPA Review:

Required? Yes No X

Review and Action: Prior:
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)*

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

ORDINANCE NO. 2006-__
OF THE VISALIA CITY COUNCIL
TO AMEND CHAPTER 13.08 OF THE
CITY OF VISALIA MUNICIPAL CODE

WHEREAS, the City of Visalia owns and operates the wastewater collection and treatment system within the City of Visalia; and

WHEREAS, the wastewater collection system is comprised of over 400 miles of sanitary sewer pipelines; and

WHEREAS, the Visalia Water Conservation Facility is a 22.0 million gallon per day wastewater treatment plant; and

WHEREAS, the Visalia Water Conservation Plant operates under a discharge permit issued and enforced by the California State Water Resources Control Board; and

WHEREAS, the California State Water Resources Control Board conducts an annual inspection and evaluation of the Water Conservation Facility to ensure permit compliance; and

WHEREAS, as part of its annual evaluation, the California State Water Resources Control Board reviews the governing municipal code to verify that the City has the necessary authority to carry out its responsibilities under the discharge permit; and

WHEREAS, Visalia Municipal Code Chapter 13.08, Sewer Service System, governs the use and operation of the sewer service system; and

WHEREAS, the California State Water Resources Control Board has identified various changes that are needed in Chapter 13.08 to comply with regulatory requirements.

NOW, THEREFORE BE IT ORDAINED that the Visalia City Council makes the following specific findings based on the evidence presented:

1. Amendments to Chapter 13.08 of the Visalia municipal code are necessary in order to comply with regulatory requirements.
2. The proposed amendments will satisfy regulatory requirements and are beneficial to the operation and maintenance of the sewer service system.

NOW, BE IT FURTHER ORDAINED that the Visalia City Council, based on the specific findings and evidence presented, amends Chapter 13.08 of the Visalia municipal code as proposed.

The record of this proceeding is located in the City Clerk's Office located at 707 W. Acequia Ave. in the city of Visalia, California..

PASSED AND ADOPTED:

This document last revised: 2/23/2006 2:54 PM
By author: JRoss
File location and name: Agenda Sewer Ordinance 030606

Jesus Gamboa, Mayer

ATTEST:

APPROVED BY CITY ATTORNEY:

Steven M. Salomon, City Clerk

Daniel M. Dooley

Chapter 13.08

SEWER SERVICE SYSTEM

Sections:

- 13.08.00A Article 1. General Provisions
- 13.08.010 Purpose and policy.
- 13.08.020 Rules and regulations.
- 13.08.030 Short title.
- 13.08.039A Article 2. Definitions
- 13.08.040 Definitions.
- 13.08.049A Article 3. Use of Public Sewers Required
- 13.08.050 Disposal of wastes.
- 13.08.060 Treatment of wastes required.
- 13.08.070 Unlawful disposal.
- 13.08.080 Occupancy prohibited.
- 13.08.090 Private sewerage disposal systems--Continuation of use.
- 13.08.100 Private sewerage disposal systems--Restrictions and exceptions, continuation of use.
- 13.08.109A Article 4. Private Sewerage Disposal Construction
- 13.08.110 Prohibition of new systems or connections.
- 13.08.120 Sewer not available.
- 13.08.125 City's option to extend sewer
- 13.08.130 Permit required.
- 13.08.140 Inspection required.
- 13.08.150 Design requirements.
- 13.08.160 Cost of maintenance by owner.
- 13.08.170 Additional requirements.
- 13.08.179A Article 5. Sewer Extensions, Financing and Costs Repayment
- 13.08.180 Private financing.
- 13.08.190 Public financing.
- 13.08.200 Existing sewer cost repayment.
- 13.08.209A Article 6. Side Sewers and Connections
- 13.08.210 Permit required.
- 13.08.220 Installation and/or connection of lateral sewers by city.
- 13.08.230 Design considerations.
- 13.08.240 Separate sewers.
- 13.08.250 Sewer too low.
- 13.08.260 Connection to public sewer.
- 13.08.270 Safety precautions.
- 13.08.280 Completion of work.
- 13.08.290 Maintenance of side sewers.
- 13.08.299A Article 7. Public Sewer Construction
- 13.08.300 Permit required.
- 13.08.310 Plans, profiles and specifications required.
- 13.08.320 Subdivision.
- 13.08.330 Easements or rights-of-way.
- 13.08.340 Persons authorized to perform work.
- 13.08.350 Grade stakes.

- 13.08.360 Compliance with local regulations.
- 13.08.370 Protection of excavation.
- 13.08.380 Design and construction standards.
- 13.08.390 Bond--Public sewer construction.
- 13.08.400 All work to be inspected.
- 13.08.410 Notification.
- 13.08.420 Correct notices.
- 13.08.430 All costs paid by owner.
- 13.08.440 Contract with outside industrial and commercial users.
- 13.08.450 Street excavation permit.
- 13.08.460 Liability.
- 13.08.470 Time limit on permits.
- 13.08.479A Article 8. Regulation of Wastewater Discharges
- 13.08.480 Prohibitions on discharges.
- 13.08.490 Prohibitions on storm drainage and ground water.
- 13.08.500 Prohibition on unpolluted water.
- 13.08.510 Limitations on radioactive wastes.
- 13.08.520 Limitations on the use of garbage grinders.
- 13.08.530 Limitations on point of discharge.
- 13.08.540 Holding tank waste and septic tank waste.
- 13.08.550 Limitations on wastewater strength.
- 13.08.560 Limitations on infectious waste.
- 13.08.570 Traps required.
- 13.08.580 Construction of traps.
- 13.08.590 Maintenance of traps.
- 13.08.600 Pretreatment of wastes.
- 13.08.610 Maintenance of pretreatment facilities.
- 13.08.620 Monitoring facilities.
- 13.08.630 Inspection and sampling.
- 13.08.640 Notification of violation.
- 13.08.650 Notification of the discharge of hazardous waste.
- 13.08.660 Special agreements--Private facilities.
- 13.08.670 Special agreement--Public facilities.
- 13.08.680 Federal requirements limitations.
- 13.08.690 Regional water quality control board requirement limitations.
- 13.08.700 Other governmental agency jurisdictions.
- 13.08.709A Article 9. Permits and Fees
- 13.08.710 Permit required.
- 13.08.720 Application for permit.
- 13.08.730 Compliance with permit.
- 13.08.740 Agreement.
- 13.08.750 Basic connection charge.
- 13.08.755 Timing of fee payment.
- 13.08.760 Treatment connection charge.
- 13.08.770 Timing of fee payment.
- 13.08.780 Special connection charges.
- 13.08.790 Additional connection charges.
- 13.08.800 Classes of permits.
- 13.08.810 Permits and inspection charges.
- 13.08.815 Analytical requirements.
- 13.08.816 Sample collection.

Visalia Municipal Code

- 13.08.820 Recordkeeping requirements.
- 13.08.823A Article 10. Reporting requirements.
- 13.08.824 Baseline monitoring reports.
- 13.08.825 Compliance schedule progress reports.
- 13.08.826 Report on compliance with categorical pretreatment standard deadline.
- 13.08.827 Periodic compliance reports.
- 13.08.829A Sewer service charges.
- 13.08.830 Purpose and basis.
- 13.08.840 Setting of rates.
- 13.08.850 Discharge classification.
- 13.08.860 Flow measurement.
- 13.08.870 Collection.
- 13.08.880 Late charges.
- 13.08.890 Application.
- 13.08.899A Article 11. Administration and Enforcement
- 13.08.900 Violation unlawful.
- 13.08.910 Inspection and sampling.
- 13.08.920 Notice and correction.
- 13.08.925 Consent orders
- 13.08.930 Compliance orders.
- 13.08.935 Public nuisance.
- 13.08.940 Disconnection.
- 13.08.950 Public nuisance--Abatement.
- 13.08.960 Means of enforcement only.
- 13.08.970 Accidental discharge/slug control plan.
- 13.08.980 Issuance of cease and desist orders.
- 13.08.990 Show cause hearing.
- 13.08.995 Submission of time schedule.
- 13.08.1000 Appeals.
- 13.08.1010 City council appeal.
- 13.08.1020 Injunction.
- 13.08.1030 Liability.
- 13.08.1035 Administrative fines.
- 13.08.1040 Civil penalties.
- 13.08.1050 Criminal penalties for certain violations.
- 13.08.1060 Penalties for significant noncompliance.
- 13.08.1070 Falsifying of information.
- 13.08.1075 Emergency suspensions
- 13.08.1080 Termination of service.
- 13.08.1089A Article 12. Special Regulations
- 13.08.1090 Protection from damage.
- 13.08.1100 Confidential information.
- 13.08.1110 Special agreements.

Section 13.08.00A Article 1. General Provisions

Section 13.08.010 Purpose and policy.

These wastewater discharge regulations set uniform requirements for discharges

of domestic and industrial waste and drainage water into the city sewerage system to enable the city to comply with the administrative provisions of the Clean Water Grant Regulations, water quality requirements set by the Regional Water Quality Control Board and the applicable effluent limitations, national standards of performance, toxic and pretreatment effluent standards, and any other discharge criteria which are required or authorized by state and federal law, and to derive the maximum public benefit by regulating the quality and quantity of wastewater discharged into those systems. (Prior code § 4100)

Section 13.08.020 Rules and regulations.

The following rules and regulations concerning sewer construction, disposal of sewage and drainage of buildings, and connection to and use of the sewerage system of the city are adopted, and all work in respect thereto shall be performed as herein required and not otherwise. (Prior code § 4101)

Section 13.08.030 Short title.

This chapter shall be known as the "Wastewater Ordinance of the City of Visalia." (Prior code § 4103)

Section 13.08.039A Article 2. Definitions

Section 13.08.040 Definitions.

As used in this chapter, the following terms are defined in this section:

"Acceptable private sewerage disposal system" means adequate earth-covered underground septic tanks, cesspools, leach lines and wells, and/or combinations thereof; not including privies, privy vaults, open cesspools, or similar devices.

"Act" or "the act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

"Applicant" means the person making application for a permit for a sewer or plumbing installation, who shall be the owner of premises to be served by the sewer or plumbing installation for which a permit or waiver is requested, or his authorized agent.

"Authorized representative" means:

1. If the discharger is a corporation, an authorized representative shall mean:

a. President of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

b. The manager of one or more manufacturing, production, or operational facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

2. If the discharger is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively;

3. If the discharger is a federal, state or local governmental facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or his/her designee;

4. The individuals described in this section may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization has been submitted to the city.

"Available sewer" means a community sewer within two hundred (200) feet of the property line of any premises.

"Beneficial uses" means uses of the waters of the state that may be protected against quality degradation including, but not necessarily limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible as specified by federal and state law.

"Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty (20) degrees C, expressed in milligrams per liter.

"Building" means a structure used for any purpose which contains a fixture, plumbing system or sanitary facility of any type.

"Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the side sewer.

"Categorical pretreatment standards" means National Categorical Pretreatment Standard(s). Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act which applies to a specific category of industrial user.

"Cesspool" means an excavation in the ground which receives the discharge of a drainage system, or part thereof, so designed and constructed as to retain the organic matter and solids discharging therein, but permitting the liquids to seep through the bottom and sides.

"Chlorine demand" means the amount of chlorine required to produce a free chlorine residual of 0.1 mg/l after a contact time of fifteen (15) minutes as measured by the Iodometric Method on a sample at a temperature of twenty (20) degrees C in accordance with the procedures in standard methods.

"City" means the city of Visalia, California.

"City council" means the city council of the city.

"City engineer" means the city engineer of the city or the engineer's authorized deputy, agent or representative.

"City manager" means the city manager of the city or the manager's authorized deputy, agent or representative.

"Clean Water Grant Program Regulations" means the latest regulations of the California Code of Regulations, Title 23, Chapter 3, Subchapter 7, and any subsequent amendments thereto.

"Commercial discharger" means any discharger not specifically defined as a residential, industrial, or institutional discharger.

"Commercial garbage grinder" means a mechanical unit for pulverizing solid wastes produced by commercial dischargers.

"Community sewer" means a sewer owned and operated by the city or other public agency tributary to a treatment facility operated by the city.

"Compatible pollutant" means biochemical oxygen demand, suspended solids, settleable solids, pH and fecal coliform bacteria; plus other pollutants that the city's treatment facilities are designed to accept and/or remove. Compatible pollutants are

incompatible when discharged in quantities that have an adverse effect on the city's system or NPDES permit compliance.

"Connection" means the physical attachment of a building, premises, fixture, plumbing system, trap, pretreatment facility, or any other facility discharging wastewater to a community sewer.

"Connection fee" means a one time charge for new connections to the collection system. The fee is normally paid at the time of issuance of a building permit.

"Contamination" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of the state are affected.

"Contractor" means an individual, firm, corporation, partnership or association duly licensed by the state of California to perform the type of work to be done under a permit.

"County" means the county of Tulare, California.

"Developed lot" means a parcel of ground of record, of less than five acres, created by subdivision or lot split, and occupied by a residential, commercial, institutional or industrial structure.

"Director" means the director(s) of the department(s) of the city or such other person as may be designated by the director to perform the services or make the determinations permitted or required in this chapter to be made by the director.

"Discharger" means any person who discharges or causes the discharge of wastewater to a community sewer system or directly to the POTW. Discharger shall mean the same as user.

"Dissolved solids" means the solid matter in solution in wastewater, as determined by evaporation of a sample from which all suspended matter has been removed by filtration, in accordance with the procedures in standard methods.

"Domestic sewage" means the waterborne wastes derived from the ordinary living processes and of such character as to permit satisfactory disposal, without special treatment, into the community sewer.

"Dwelling unit" means a building or portion of a building arranged, intended or designed to be occupied by not more than one family and having facilities for sleeping, eating, cooking and sanitary purposes.

"Effluent" means wastewater or other liquid, partially or completely treated, or in its natural state, or any portion thereof flowing out of a reservoir, basin, treatment plant or industrial treatment plant.

"Fixture" means lavatory, tub, shower, water closet, garbage disposal or other facility connected by a drain to the sewer.

"Fixture unit" means the flow producing effluent of different fixtures on the collection system as defined by the most recent edition adopted by the city of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials, a nonprofit organization.

"Garbage" means putrescible animal, fish, fowl, fruit, or vegetable refuse or any part thereof resulting from the preparation, storage, handling, processing or consumption of food.

"Grease" means any material which is extractable from an acidified sample of a waste by hexane or other designated solvent and as determined by the appropriate methods and procedures approved by the Environmental Protection Agency, and identified in 40 CFR Part 136. Grease includes fats and oils.

"Grease interceptor" means a pretreatment device designed and installed to

separate fats, oils and grease from wastewater.

"Holding tank waste" means septage waste from holding tanks such as chemical toilets, campers, trailers, septic tanks or other such tanks intended to temporarily contain septage wastes.

"Incompatible pollutant" means any pollutant which is not a compatible pollutant as defined in this section.

"Indirect discharge" means the introduction of pollutants into the city's wastewater collection or treatment systems from any nondomestic source regulated under the provisions of the Act, Section 307, as amended, or as otherwise identified by the city.

"Industrial user" means a source of indirect discharge.

"Industrial waste" means the waterborne waste and wastewater from any producing, manufacturing or processing operation of whatever nature, including institutional and commercial operations, where water is used for laundering, vehicle cleaning, or the removal of significant quantities of wastes of nonhuman origin, as distinct from sanitary sewage. "Industrial waste inspector" means the representative of the city specifically authorized as industrial waste inspector.

"Institutional discharger" means any public or nonprofit school, church, hospital, lodge, club, fire department, library, memorial building or other public or nonprofit activity which discharges only sanitary sewage to city's system.

"Interference" means the inhibition or disruption of the sewer system, treatment process or operations of the wastewater treatment plant which contributes to the violation of city's NPDES permit caused by a discharge, either alone or in conjunction with discharge or discharges from other sources. The term includes prevention of sewage sludge use or disposal by the city in accordance with Section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection, Research, and Sanctuaries Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the city.

"Mass emission rate" means the weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

"Natural outlet" means any outlet into a water course, pond, ditch, lake or other body of surface or groundwater.

"New source" means:

1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if standards are thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating process of the building, structure, facility or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, will be considered.

2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections (1)(b) or (1)(c) of this definition, but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a new source is determined to have commenced if the owner or operator has:

a. Begun, or caused to being as part of a continuous on-site construction program:

i. Any placement, assembly, or installation of facilities or equipment; or
ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase, or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

"Nuisance" means anything which is injurious to health or is offensive to the senses or an obstruction to the free use of property so as to interfere with a person's comfort or enjoyment of life or property, or which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

"Outside sewer" means a sanitary sewer, beyond the limits of the city, not subject to control or jurisdiction of the city.

"POTW (Publicly Operated Treatment Works)" means the city sewage treatment facilities, known also as the sewage treatment plant, the water conservation plant, or the wastewater treatment plant.

"Pass through" means the discharge of pollutants through the city's treatment system into navigable waters in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources is cause of a violation of any requirement of the city's NPDES permit, including an increase in magnitude or duration of the violation.

"Peak flow rate" means the annually determined highest flow rate of sewage or industrial waste discharged to a public sewer over a period of at least fifteen (15) minutes at any time during the preceding twelve (12) month period.

"Permit" means any written authorization to install or construct sewers or to discharge to the city sewerage system required pursuant to this or any other regulation of the city.

"Person" means any individual, firm, company, partnership, association, organization, the United States of America, the state of California, a political subdivision, governmental agency or other public or municipal corporation.

"pH" means the logarithm of the reciprocal of the hydrogen-ion activity in moles per liter of solution as determined by standard methods and procedures approved by the Environmental Protection Agency, and identified in 40 CFR Part 136.

"Plumbing fixtures" means receptacles that receive liquid, water, or wastewater and discharge them into a drainage system.

"Plumbing system" means the distributing pipes for the water supply; the fixtures and fixture traps; the soil, waste and vent pipes; the building drain and building sewer, and the stormwater drainage pipes; with their devices, appurtenances, and connections within and adjacent to the building.

"Pollution" means an alteration of the quality of the receiving waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or for facilities which serve such beneficial uses. Pollution may include, but not be limited to, contamination.

"Premises" means any lot, place or parcel of land or any building, structure, mobile home, or any part of a building, structure, or mobile home on any lot, place or parcel of land.

1. "Residential premises" means all premises used exclusively for residential purposes except for boarding houses, dormitories, motels, hotels, hospitals, convalescent homes, or other premises used primarily as a temporary place of residence, and discharging only sanitary sewage.

2. "Nonresidential premises" means all premises other than residential premises.

"Pretreatment facility" means any works or device for the treatment or flow limitation of sewage or industrial waste, prior to discharge into a public sewer.

"Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

"Pretreatment standard" means any prohibitive discharge standards, categorical pretreatment standards and/or local limitations on wastewater discharge characteristics.

"Private sewer," "building sewer" or "house service sewer" means that part of the building sewer beginning at the junction thereof with the building plumbing or drainage system and terminating at the property line or at the easement line.

"Properly shredded garbage" means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles shall be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch (1.27 centimeters) in any dimension.

"Public sewer" ("community sewer") means a sewer directly controlled by the city.

"Radioactive material" means material containing chemical elements that spontaneously change their atomic structure by emitting any particles, rays or energy forms.

"Receiving water quality requirements" means requirements for the city's treatment plant effluent and/or the waters to which such effluent is discharged, established by law or by state or federal regulatory agencies, for the protection of receiving water quality.

"Residential discharger" means any discharger whose premises are used solely for residential purposes.

"Sanitary sewage" means any and all waste substances, liquids or solids associated with human habitation, excluding storm, surface and groundwaters, and industrial wastes.

"Sanitary sewer" means a sewer which carries only sanitary or sanitary and industrial wastewaters and to which storm, surface, and groundwaters are not intentionally admitted.

"Septage receiving station" means a facility at the Visalia Water Conservation Plant for receipt of septic and holding tank wastes.

"Septage waste" means the liquid and semi-solid material removed from septic tanks or other holding tanks used to temporarily contain domestic sewage.

"Septage waste hauler" means an entity permitted to transport septage waste from various locations to the wastewater treatment facility.

"Septic tank" means a watertight receptacle which receives the discharge of a

drainage system or part thereof, designed and constructed so as to retain solids, digest organic matter through a period of detention, and allow the liquids to discharge into the soil outside of the tank through a system of open joint piping or a seepage pit meeting the requirements of the Uniform Plumbing Code.

"Sewage" ("wastewater") means a combination of the water-carried wastes from residences, commercial buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.

"Sewerage system" means all facilities for collecting, pumping, storing, treating and disposing of sewage.

"Sewage treatment plant" means the city sewage treatment facilities known also as the water conservation plant or the wastewater treatment plant.

"Sewer" means a pipe or conduit for holding and carrying sewage, including manholes and all other appurtenance facilities which are necessary or convenient to the holding or carrying of sewage.

1. "House sewer" (building sewer) means that portion of the side sewer from the lateral sewer to its connection to the building drain.

2. "Interceptor sewer" means a public sewer in a public right-of-way receiving the discharges from main or trunk sewers and conveying said sewage to the sewage treatment plant.

3. "Lateral sewer" means that portion of the side sewer which is within the public right-of-way.

4. "Main sewer" means a publicly owned sewer in a public right-of-way to which side sewer connections from private properties are or may be connected for the disposal of domestic or industrial waste.

5. "Side sewer" means the privately owned and maintained sewer which connects the plumbing system of the building to the main sewer. The side sewer begins at the point of connection to the main sewer, including the wye, and terminates at the point of connection to the building drain two feet outside the foundation line or building wall. Side sewer includes the lateral sewer and the house sewer.

6. "Trunk sewer" means a public sewer in a public right-of-way receiving the discharge from one or more main sewers and conveying said sewage to another trunk sewer or to an interceptor sewer.

"Sewer service charge" means a charge established to obtain equitable payment from all dischargers for the cost of construction, operation and maintenance of the sewerage facilities.

"Shall" is mandatory; "may" is permissive.

"Significant industrial user" means any industrial user which:

1. May be subject to categorical pretreatment standards;

2. Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

3. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or

4. Is designated as significant by the city on the basis that the industrial user has a reasonable potential for adversely affecting the operation of the system or for violating any pretreatment standard or requirement.

"Significant noncompliance" means any violation of one or more of the criteria set forth in 40 CFR Part 403.8(f)(2)(vii), as amended.

"Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than three times the average twenty-four

(24) hour concentration or flows.

"Solid wastes" means the nonliquid carried wastes normally considered to be suitable for disposal with refuse at sanitary landfill refuse disposal sites.

"Street" means a public highway, road, street, avenue, alley way, public place, easement or right-of-way for vehicle or pedestrian use.

"Storm drain" ("storm sewer") means a sewer which carries storm and surface waters and drainage, but excludes sanitary sewage and industrial wastes, other than unpolluted cooling water.

"Suspended solids" means solids that either float on the surface of or are in suspension in, water, sewage, or other liquids; and which are removable by laboratory filtering.

"Trade secret" means any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce or compound an article of trade or a service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

"Trap" means any facility designed, constructed and operated for the purpose of removing and retaining dangerous, deleterious or prohibited constituents from wastewater by differential gravity separation before discharge to the public sewer.

"Unpolluted water" means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the agency having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

"Unsanitary" means contrary to those principles which are known to promote and safeguard health.

"User" means any person who discharges or causes the discharge of wastewater to a community sewer system or directly to the POTW. User shall mean the same as discharger.

"User classification" means a classification of users based on the 1987 edition of the Standard Industrial Classification (SIC) Manual prepared by the Federal Executive Office of Management and Budget.

"Waste" means and includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

"Wastewater constituents and characteristics" means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate, and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

"Watercourse" means a channel in which a flow of water occurs either continuously or intermittently.

"Water softener" means a unit using the ion exchange process and requiring sodium chloride to regenerate the exchange bed designed to remove hardness (magnesium and/or calcium ions) from a water supply.

"Waters of the state" means any water, surface or underground, including saline waters, within the boundaries of the state. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code §§ 4104--4199)

Section 13.08.049A Article 3. Use of Public Sewers Required

Section 13.08.050 Disposal of wastes.

It is unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner, upon public or private property within the city, or in an area under jurisdiction of said city, any human or animal excrement, garbage or other objectionable waste. (Prior code § 4200)

Section 13.08.060 Treatment of wastes required.

It is unlawful to discharge to any natural outlet or watercourse any sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter. (Prior code § 4201)

Section 13.08.070 Unlawful disposal.

Except as provided in this chapter, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, seepage pit or other facility intended or used for the disposal of sewage. (Prior code § 4202)

Section 13.08.080 Occupancy prohibited.

No building, industrial facility or other structure shall be occupied until the owner of the premises has complied with this chapter. (Prior code § 4203)

Section 13.08.090 Private sewerage disposal systems--Continuation of use.

Whether or not public sewers exist or are installed in public streets or rights-of-way abutting annexed and developed properties, existing acceptable private sewerage disposal systems may continue to be maintained and used by the property owners for service of the dwellings and structures existing at the time of adoption of this chapter only, except as hereinafter restricted or excepted. Acceptable private sewerage disposal systems include adequate earth-covered underground septic tanks, cesspools, leach lines and wells, and/or combinations thereof. Determination of the acceptability of a private system shall be the responsibility of the city. (Prior code § 4204)

Section 13.08.100 Private sewerage disposal systems--Restrictions and exceptions, continuation of use.

A. Dwellings or structures connected to or utilizing privies, privy vaults, open cesspools, or similar unacceptable private sewerage disposal systems shall, immediately upon annexation to the city, be connected to an available public sewerage system.

B. Whenever it is determined that an existing adequate private sewerage disposal system is in need of major repairs to ensure continuation of the proper operation of that system, the dwelling or structure served must be connected to an available public sewerage system within sixty (60) days. "Major repairs" does not include such items as septic tank pumping and usual maintenance functions.

C. Whenever state or county health authorities, or the city, declare an individual private disposal system, or the systems in the area, to be a health hazard or to be creating a public nuisance, the use of such system, or systems, shall be discontinued within the period of time specified by the city and connection(s) to public sewer made forthwith.

D. Whenever an area, under the authority of the special assessment acts of the state of California is assessed for sewer construction, all benefited property owners may be required by the city council to connect to the public sewer system, where in the opinion of the council the conditions described in subsection (c) of this section exist or are incipient.

E. Where main sewers are installed, for the public welfare and at public expense, the city council may require abutting property owners to connect thereto within a period of time specified by the council. (Prior code § 4205)

Section 13.08.109A Article 4. Private Sewerage Disposal Construction

Section 13.08.110 Prohibition of new systems or connections.

No new private sewerage disposal systems shall be constructed within the city, and no new dwellings or structures shall be connected to existing private systems; except as hereinafter excepted. (Prior code § 4206)

Section 13.08.120 Sewer not available.

Where a public sewer is not available, the building sewer shall be connected to a private sewerage disposal system complying with the provisions of this chapter. (Prior code § 4207)

13.08.125 City's option to extend sewer.

Where there is no available public sewer, the city shall have the option, at its sole discretion, to extend the public sewer to within two hundred (200) feet of the property line and require connection thereto, as set forth herein. If the city waives its option to extend sewer system, such waiver shall be in writing from the city manager to the applicant. Such waiver is required prior to applicant commencing installation of a private sewage disposal system. (Ord. 2003-20 (part), 2003)

Section 13.08.130 Permit required.

Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the city. The written application for such permit shall be supplemented by any plans, specifications, and other information deemed necessary by the city as well as the sewer extension waiver signed by City Manager. A permit and inspection fee shall be paid to the city at the time application is filed, in accordance with the provisions of this chapter. (Prior code § 4208)

Section 13.08.140 Inspection required.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the city. The city shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall provide twenty-four (24) hour notice to the city when the work is ready for final inspection, and before any underground portions are covered. (Prior code § 4209)

Section 13.08.150 Design requirements.

The type, capacities, location and layout of a private sewage disposal system shall comply with recommendations of the department of public health of the state of California and the health officer of Tulare County, as determined by the city. No permit

shall be issued for any private sewage disposal system requiring subsurface soil absorption capacity where the characteristics of the property do not indicate sufficient soil absorption qualities. No septic tank, cesspool, anaerobic tank or chemical process shall be permitted to discharge to any public sewer or any stream or watercourse. (Prior code § 4210)

Section 13.08.160 Cost of maintenance by owner.

The owner shall operate and maintain private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. (Prior code § 4211)

Section 13.08.170 Additional requirements.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by any law, ordinance, rule or regulation administered by the county health office or city building inspector. (Prior code § 4212)

Section 13.08.179A Article 5. Sewer Extensions, Financing and Costs Repayment

Section 13.08.180 Private financing.

The purpose of this article is to provide an expedient method of financing sewer construction in cases where all benefited property owners do not wish to participate in such construction and shall not benefit therefrom until connecting to such sewer construction. The method shall provide for equal proportion of cost within a reasonable period of time among the parcels to be benefited. The following method is not intended to be exclusive.

A. Petition for Extension. Owners of real property desiring to have the city sewer system extended in accordance with the provisions of this article, shall make written application therefore to the city, stating the location and limits of the requested public sewer extension, together with a description of their property. The city shall evaluate the feasibility and practicality of the proposed sewer extension and shall estimate the cost of the project, including all costs normally charged by the city to persons extending public sewers, and shall submit to the council a map showing the area to be served and benefited by said sewer extension. All such sewer extensions shall be within the boundary lines of a public street or a public easement. The sewer extension shall extend across the parcel boundaries being served. The minimum cost to any property owner shall be not less than required by Section 13.08.180(C). The city manager shall report to the city council regarding the proposed sewer extension and if the council determines said extension to be in the public interest, it may grant the request for initiation of the sewer extension project.

B. Deposit of Funds for Construction and Costs. Whenever the application of property owners for public sewer extension has been granted by the city council, the applicant shall deposit with the city, in cash, an amount equal to the total cost estimate of the project. No work shall be started upon the project until the specified deposit has been made.

C. Performance. The city shall prepare plans, specifications, and proposal agreements for the construction of the proposed public sewer extension and shall advertise for sealed proposals. Contracts shall be let to the lowest responsible bidder by the city council. Upon completion and acceptance of the work by the city, the city shall prepare a statement of the final cost of the public extension. If it shall be found that the

actual cost upon completion of the project is less than the estimated cost, the excess of the money paid to the city shall be refunded to the applicants in the same proportion that it was paid to the city. When the actual cost exceeds the estimated cost, the applicants upon notice and demand shall forthwith pay the prorated deficiency in cash. No connection to the constructed sewer shall be permitted by the city until such additional payment, if necessary, is made.

D. Cost of Distribution. The city shall prepare a statement of the final cost of the public sewer, and a map showing the prorated costs to the various parcels of property benefited.

E. Connection Requirements. Whenever the sewer system of the city has been extended in accordance with the provisions of this article, those owners of property benefited, or their successors in interest who have not heretofore contributed their proportionate share of the cost of the public sewer extension in the amount set up in the city's final cost sheet, shall not be permitted to connect with the public sewer extension unless, and until, they shall have paid to the city the amount in cash stated on the city's final costs sheet, or the current year connection fee as required by Section 13.08.750(C), whichever is greater. All such payments shall be in addition to any other fees required by other city ordinances or regulations.

F. Private Sewers. Any property owner in the public sewer extension district who has, prior to said sewer extension, constructed a private sewer connection to the public sewer for his property at his own expense, shall not be required to contribute to the cost of said public sewer extension except where such property derives increased benefits therefrom as determined by the city and as approved by the council. Such property owner shall pay only the amount so approved before connecting his property to the public sewer extension.

G. Refunds. Periodically upon demand, the city shall refund to the persons originally paying for a sewer extension proportionate amounts paid to the city by property owners who did not participate in the original cost and who have been given permits to connect to the extended sewer and have paid for said connection as provided for in this chapter.

H. Termination of Refunds. Any claim by a contributing property owner for a refund which is available due to payment by benefited property owners, shall be made within a period of ten years of the filing of the final cost statement. All money paid after the lapse of ten years shall be retained by the city.

I. Oversizing Sewer Mains. The city may oversize any sewer main from the minimum eight inch diameter if it is determined by the city that a larger line would be needed to serve other developments. If a larger line is installed, the city shall pay only the additional oversizing cost. (Prior code § 4213)

Section 13.08.190 Public financing.

The purpose of this article is to provide an equitable method for the assessing of costs and the financing of such costs for the provision of sanitary sewer service to developed lots within the city and/or annexing to the city. The following method is not intended to be exclusive.

A. Definitions and Restrictions.

1. A developed lot is defined for purposes of this article as a parcel of ground of record less than five acres, a parcel created by subdivision or lot split and any of the above occupied by a residential, institutional, or commercial structure.

2. The provisions of this article shall apply when at least ninety (90) percent of the area proposed for sewer service is composed of developed lots which are using

private sewage disposal systems.

3. No area shall be considered for sewer service under the provisions of this article unless at least fifty (50) percent of the property owners of the developed lots sign a sewer connection agreement with the city in accordance with the procedures outlined hereinafter.

4. Developed lots larger than those in the surrounding neighborhood or subdivision which are subject to further development under existing zoning restrictions shall be assessed at charges higher than those described hereinafter when, in the opinion of the city engineer, such higher charges are required as a matter of equitable sewer cost assessment.

B. Financing of Sewer Extensions. Sewer extensions to be constructed under the provisions of this article may be financed by the city. The city must be reimbursed for this financed cost at such time as benefiting property owners connect to the sewer, except that sewers may be financed for a period not to exceed five years from the date of connection under the financing provisions of the short form of the 1911 Act, Chapter 27, (commencing with Section 5870 through 5895.54) of the Streets and Highways Code, state of California. The limits imposed with respect to such 1911 Act financing are a minimum annual payment to the city of fifty dollars (\$50.00) plus interest with the repayment of the total amount due, with interest, to be completed in not more than five years. All monies received as a result of this chapter shall be paid to the Sanitation Fund of the city.

C. Public Financing. The city council shall establish annually by resolution the sewer connection fee which is to represent the total cost of public sewer facilities to the benefited property owners under this article, which fee shall include and take the place of all other charges and fees other than the monthly sewer service charge specified in this chapter. Such resolution shall be adopted by the council in each calendar year. The resolution currently in effect shall prevail until such time as the resolution for the new year is adopted.

D. The connection fee shall be based on a recommendation by the city engineer considering the costs of sewer extensions for the preceding twelve-month period. The connection fee shall include the cost of sewer laterals to the property line, manholes, main line costs, plumbing permit, and the trunkline capacity charge and treatment plant capacity charge outlined in Section 13.08.750 and shall be a uniform cost per lot; except, that additional fees may be stipulated for additional dwelling units on such lots. The above provisions shall be dependent upon budgeted or specified allocations by the city council of funds sufficient to carry out the purposes of this subsection. The city council, by this chapter in no way undertakes to guarantee the provision of sewer service to any area within or annexing to the city except when, in the council's opinion, the city is able to finance such facilities, and when it is the council's judgment that there is priority need for such facilities with respect to other municipal service.

E. Sewer Connection Agreements. The property owner signing the sewer connection agreement consents to:

1. Pay any and all applicable sewer connection fees as set forth in Article 9, Sections 13.08.710 through 13.08.820;
2. Connect to the sewer line and pay the normal sewer service charge as set forth in Article 10, Sections 13.08.830 through 13.08.890. (Prior code § 4214)

Section 13.08.200 Existing sewer cost repayment.

The purpose of this article is to assure repayment to the city by directly benefited

property owners for connections to trunk sewers abutting properties not otherwise adequately served by the public sewer system, where such trunk sewers have been built at public expense and where the property owners directly connecting thereto receive benefits in excess of those accruing to the general area served by the trunk sewer; and further to require payment to the city for connection to main sewers where the owners and/or developers of connected and directly benefited property have not paid for their proportionate share of the cost of construction of the main sewer.

A. Application. This article shall not apply to connections to existing sewers within the boundaries of the incorporated area of the city, as said boundaries existed on April 12, 1948, as outlined in the map thereof on file in the office of the city engineer.

B. Payment. Prior to issuance of a sewer connection permit for properties desiring to connect directly to the aforementioned trunk sewers, or main sewers, the persons desiring to connect thereto shall pay to the city a cost determined annually by council resolution under Section 13.08.750. It is the intent of this article to provide that property owners directly benefited by the construction of trunk or main sewers at a location where they may connect directly thereto without extension of the public sewer, shall pay to the city the costs which they would normally have incurred were they to have constructed, or to have participated in the construction of, sewer facilities to serve their property. Single-family residences within the city limits of the city which are permitted to connect to an existing sanitary sewer line may have their charges set on the tax roll if they so elect. The procedure of the short form of the 1911 Act assessment as set forth in the Street and Highways Code, Chapter 27 shall be followed. The limits imposed are a minimum annual payment to the city of fifty dollars (\$50.00), with the repayment of all charges, with interest, to be completed in not more than five years.

C. Exceptions. The provisions of this article shall apply to connection to existing main or trunk sewer lines with the following exceptions:

1. Those sewers constructed under the provisions of either the short or long form of the 1911 Act of the state of California Streets and Highways Code where assessments are or have been made on the basis of benefits;

2. Sewer connections of the existing single family dwellings in those areas which are deemed by the council to be unable to finance public sewer improvements and described as such by council resolution, said boundaries being as outlined on maps thereof on file in the city engineer's office;

3. Sewers constructed under the provisions of Sections 13.08.180 or 13.08.190 or similar provisions of prior city ordinances;

4. Sewers constructed under council annexation agreements;

5. Sewers constructed pursuant to approved development agreements.

D. Disposition of Funds. All monies received as a result of this section shall be deposited into the sanitation fund of the city. No monies received as a result of this chapter shall be repayable to any developer or property owner who has constructed main sewers for the benefit of his property. Such repayments shall be made only when the developer or property owner has fully complied with the provisions of Section 13.08.180. Further, no developer or property owners shall have the right to sell, lease, assign, or otherwise purport to convey sewer connection rights to any main sewer for other than directly benefited properties owned by said developer at the time of design approval by the city. (Prior code § 4215)

13.08.205 Payment for sewer connections prior to July 1, 2010.

Notwithstanding the provisions of Section 13.08.190 B. and Section 13.08.200 B., payment for connection of single family residences inside the city limits made to sanitary

sewer lines after January 1, 2004 and prior to July 1, 2010, may be placed on the county tax roll pursuant to the provisions of Chapter 27 of the Streets and Highways Code, with the repayment of all charges, with interest, to be completed in not more than ten (10) years.

Section 13.08.209A Article 6. Side Sewers and Connections

Section 13.08.210 Permit required.

No person shall cause or permit a premises to be initially connected to the sewer system nor shall any person increase the number of dwelling units on residential premises connected to the sewer system, change the use of residential premises connected to the sewer system to a nonresidential use, increase the area of nonresidential premises devoted to a nonresidential use, or change the use of nonresidential premises to a residential use without a connection permit issued by the director as provided by this chapter. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4216)

Section 13.08.220 Installation and/or connection of lateral sewers by city.

A. Except as otherwise directed by the city, the city shall install all lateral sewers, making connections therefrom to main and trunk sewers, and charging the property owner for the costs thereof. This installation shall terminate at the property line (street right-of-way line); line and grade to said termination shall be determined by the city engineer, as shall procedures for requesting such installations.

B. Where determined by the city engineer to be in the best interest of the city and/or the property owner, and in all new subdivision installations, the property owner shall be requested to have the lateral sewer installed by a licensed contractor in lieu of city installation. In such instances, the city shall be responsible for cutting wyes into existing sewers.

C. In either case, city installation or property owner installation, all costs and expenses incident to the installation and connection of a lateral sewer shall be borne by the owner, except where otherwise provided in this chapter. (Prior code § 4217)

Section 13.08.230 Design considerations.

Minimum size and slope in the side sewer shall be in accordance with the requirements of the city. (Prior code § 4218)

Section 13.08.240 Separate sewers.

Every building must be separately connected to a public sewer. No two adjacent lots abutting the same area shall be permitted to join in the use of the same side sewer. However, one or more buildings located on premises belonging to the same owner may be served with the same side sewer during the period of said ownership. Upon the subsequent subdivision and/or sale of a portion of said lot, the portion not directly connected with such public sewer shall be separately connected with a public sewer, and it is unlawful for the owner thereof to continue to use or maintain such indirect connection. (Prior code § 4219)

Section 13.08.250 Sewer too low.

In any building in which any portion of the building drain or building sewer is too

low to permit gravity flow to the public sewer, sewage drained by such building drain or sewer shall be lifted by artificial means, approved by the city engineer, and discharged to the public sewer at the expense of the owner. (Prior code § 4220)

Section 13.08.260 Connection to public sewer.

The applicant for a side sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer or lateral sewer. (Prior code § 4221)

Section 13.08.270 Safety precautions.

All excavations for a side sewer installation being installed by the owner's contractor shall be maintained in a safe and workmanlike manner, and adequately guarded with barricades and/or lights so as to protect the public from hazard, in full accordance with all applicable state and federal regulations. (Prior code § 4222)

Section 13.08.280 Completion of work.

Streets, sidewalks, parkways and other property disturbed in the course of a contractor's work shall be restored in a manner satisfactory to the city. (Prior code § 4223)

Section 13.08.290 Maintenance of side sewers.

Side sewers, including lateral sewers and wyes, shall be maintained by the owner of the property served in good order and condition, at his or her sole cost and expense. (Prior code § 4224)

Section 13.08.299A Article 7. Public Sewer Construction

Section 13.08.300 Permit required.

No person shall construct, extend or connect to any public sewer without first obtaining a written permit from the city and paying all fees and connection charges and furnishing bonds and/or cash deposits as required herein. The provisions of this section requiring permits shall not be construed to apply to contractors constructing sewers and appurtenances under contracts awarded and entered into with the city. (Prior code § 4225)

Section 13.08.310 Plans, profiles and specifications required.

A. The application for a permit for public sewer construction shall be accompanied by complete plans, profiles and specifications, complying with all applicable ordinances, rules and regulations of the city, prepared by a registered civil engineer, showing all details of the proposed work.

B. The application, together with the plans, profiles and specifications shall be examined by the city engineer who shall within twenty (20) working days approve them as filed or require them to be modified as deemed necessary for proper installation. When the city engineer is satisfied that the proposed work is proper and that the plans, profiles and specifications are sufficient and correct, he shall order the issuance of a permit predicated upon the payment of all connection charges, fees and deposits and furnishing required bonds. The permit shall prescribe such terms and conditions as necessary in the public interest. (Prior code § 4226)

Section 13.08.320 Subdivision.

The requirements of Sections 13.08.300 and 13.08.310 shall be fully complied with before any final subdivision map shall be approved by the city council. The final subdivision map shall provide for the dedication for public use of all streets, easements or rights of way in which public sewer lines are to be constructed. (Prior code § 4227)

Section 13.08.330 Easements or rights-of-way.

In the event that an easement is required for an extension of the public sewer, the applicant shall procure and have accepted by the city council a proper easement or grant of right-of-way sufficient in law to allow the laying and maintenance of such extension. (Prior code § 4228)

Section 13.08.340 Persons authorized to perform work.

Only properly licensed contractors shall be authorized to perform the work of public sewer construction within the city. All terms and conditions of the permit issued by the city to the applicant shall be binding on the contractor. The requirements of this section shall apply to side sewers installed concurrently with public sewer construction. (Prior code § 4229)

Section 13.08.350 Grade stakes.

Grade and line stakes shall be set by a registered civil engineer prior to the start of work on any public sewer construction. The contractor shall be responsible for accurately transferring grades to sewer inverts. The engineer shall provide copies of cut sheets to the contractor and to the city. (Prior code § 4230)

Section 13.08.360 Compliance with local regulations.

Any person constructing a sewer within a street or public right-of-way or easement shall comply with all state, county or city laws, ordinances, rules and regulations pertaining to the cutting of pavement, opening, barricading, lighting and protecting of trenches, backfilling and repaving thereof, and shall obtain all permits and pay all fees required by other departments having jurisdiction prior to the issuance of a permit by the city. (Prior code § 4231)

Section 13.08.370 Protection of excavation.

A. The applicant shall maintain such barriers, lights and signals as are necessary to give warning to the public at all times that a sewer is under construction and of each dangerous condition to be encountered as a result thereof. Applicant shall also likewise protect the public in the use of the sidewalk against any such conditions in connection with the construction of the sewer. Streets, sidewalks, parkways and other property disturbed in the course of the work shall be reinstalled in a manner satisfactory to the city or any other public agency having jurisdiction thereover.

B. If the city engineer determines that the construction site is not adequately signed and the contractor evades the engineer's warning or it is after working hours, the engineer shall have the recourse to obtain the necessary signing devices from any source available and all costs related thereto shall be borne by the contractor. (Prior code § 4232)

Section 13.08.380 Design and construction standards.

Minimum standards for the design and construction of sewers within the city or subject to the jurisdiction of the city shall be the "Sanitary and Storm Sewer Specifications" of the city. The city engineer may permit modifications of those specifications or may require higher standards where unusual conditions are encountered. "As-built" drawings showing the actual location of all sewers, structures, wyes, and laterals shall be filed with the city before final acceptance of the work. (Prior code § 4233)

Section 13.08.390 Bond--Public sewer construction.

Prior to the issuance of a permit for public sewer construction the applicant shall furnish to the city a faithful performance bond or cash deposit in the amount of the total estimated cost of the work. Said bond shall be in the minimum amount of one thousand dollars (\$1,000.00) and shall be secured by a surety or sureties satisfactory to the city. The cash deposit or faithful performance bond shall be conditioned upon the performance of the terms and conditions of the permit and shall guarantee the correction of faulty workmanship and the replacement of defective materials for a period of one year after the date of acceptance of the work. (Prior code § 4234)

Section 13.08.400 All work to be inspected.

All sewer construction work, building sewers, plumbing and drainage systems shall be inspected by an inspector acting for the city to insure compliance with all requirements of the city. No sewer shall be covered at any point until it has been inspected and passed for acceptance. No sewer shall be connected either directly or indirectly to the city's public sewer system until the work covered by appropriate permit has been completed, inspected and approved. All sewers shall be cleaned of all debris accumulated from construction operations. (Prior code § 4235)

Section 13.08.410 Notification.

It shall be the duty of the person doing the work authorized by permit to notify the office of the city that said work is ready for inspection. Such notification shall be given not less than twenty-four (24) hours before the work is to be inspected and if notice is made verbally, it shall be followed by written notice. It shall be the duty of the person doing the work to make sure that the work is ready for inspection by the city before giving the above notification. (Prior code § 4236)

Section 13.08.420 Correct notices.

When any work has been inspected and the work is unsatisfactory, a written notice to that effect shall be given instructing the permittee, or the agent of such permittee, within ten days, to comply to such order or notice for work authorized by the permit in accordance with the ordinances, rules and regulations of the city. (Prior code § 4237)

Section 13.08.430 All costs paid by owner.

All costs and expenses incident to the installation and connection of any sewer or other work for which a permit has been issued shall be borne by the permittee. The permittee shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the work. (Prior code § 4238)

Section 13.08.440 Contract with outside industrial and commercial users.

A. Use by an industry or commercial establishment located outside the city limits ("outside user") shall not be granted if it shall impair the usage of the sewer system or any part thereof by property within the city.

B. Enlargements, extensions or modifications of the city sewer system for use by outside industries or commercial establishments, shall be solely at the cost of such user and the city shall, upon completion, be granted title to and hold full control of such extension, enlargements or modifications.

C. Failure or refusal of any outside user to comply with any condition of this article or of any contract granted hereunder, shall be sufficient grounds for cutting off its connection with the sewer system after five days written notice thereof by the city.

D. Determination by the city that the use of the city sewer system by an outside user is resulting in impairment of the use by property within the city, shall give the city the conclusive right to terminate any contract user's further use of said city sewer system or any part thereof.

E. Any existing contracts with outside users for city sewer system usage shall not be modified by the provisions of this chapter until such time as such contracts have terminated.

F. Maximum protection to the city shall be provided in the drafting of any contract and such protection shall include enforcement of the pretreatment provisions of the city's NPDES permit and provision for annexation to the city of the property occupied by users at such time as annexation is, in the opinion of the city, feasible, with sufficient penalty fees in said contract to guarantee compliance with this stipulation.

G. All contracts with outside users shall be approved by the city council.

H. Permission shall not be granted to connect any lot or parcel of land outside the city to any public sewer in or under the jurisdiction of the city unless a permit thereof is obtained. The applicant shall first enter into a contract in writing whereby he shall bind himself, his heirs, successors and assigns to abide by all ordinances, rules and regulations in regard to the manner in which such sewer shall be used, the manner of connecting therewith, and the plumbing and drainage in connection therewith and also shall agree to pay all fees required for securing the permit and a monthly fee in the amount set by the city for the privilege of using such sewer. The granting of permission for connection to the city sewer system by an outside user shall be optional with the city council. (Prior code § 4239)

Section 13.08.450 Street excavation permit.

A separate permit must be secured from the city or the county or any other person having jurisdiction thereover by permittees or contractors intending to excavate in a public street for the purpose of installing sewers or making sewer connections.

A. No person shall enter, obstruct, uncover or tamper with any portion of the public sewer, or connect to it, or dispose anything into any sewer and/or sewer manhole without the written permission of the city engineer.

B. No person or party shall remove or demolish any building or structures with plumbing fixtures connected directly or indirectly to the public sewer without first notifying the city engineer of such intention. All openings in or leading to the public sewer line or lines caused by such work shall be sealed watertight and inspected by the city engineer before being backfilled.

C. No person shall fill or backfill over, or cause to cover, or obstruct access to, any sewer manhole.

D. No person shall erect any improvements, structures, or buildings over public sewers without the written permission of the city engineer. (Prior code § 4240)

Section 13.08.460 Liability.

A. The city and its officers, agents and employees shall not be answerable for any liability or injury or death to any person or damage to any property arising during or growing out of the performance of any work by any permittee. The permittee shall be answerable for, and shall save the city and its officers, agents and employees harmless from any liability imposed by law upon the city or its officers, agents or employees, including all costs, expenses, fees and interest incurred in defending same or in seeking to enforce this provision. The permittee shall be solely liable for any defects in the performance of permittee's work or any failure which may develop therein.

B. Every person, firm, company, corporation, or organization applying for a permit shall file with the engineering department a policy, true copy thereof, or certificate of insurance, accompanied by an endorsement signed by the underwriter or an authorized representative, as evidence that the applicant has obtained and maintains and shall require all of its subcontractors to maintain the following insurance requirements:

1. Comprehensive general liability coverage with limits of not less than one million dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury, and property damage. Such insurance shall: (a) name city, its appointed and elected officials, officers, employees and agents as additionally insureds; and (b) be primary with respect to any insurance or self-insurance programs maintained by the city; and (c) contain standard cross liability provisions;

2. Commercial automobile liability insurance with a combined single limit of no less than five hundred thousand dollars (\$500,000.00) per occurrence. Applicants whose transportation operations are governed by the public utilities commission shall possess limits as required by the commission;

3. Worker's compensation coverage with statutory limits, and employer's liability insurance with limits of not less than one million dollars (\$1,000,000.00) per accident.

C. Greater amounts may be required as determined by the city from time to time by resolution. Permittee must pay premiums thereon and permittee shall not commence work until all insurance required has been obtained and such insurance has been approved by the city. (Prior code § 4241)

Section 13.08.470 Time limit on permits.

If work under a permit is not commenced within six months from the date of issuance or if after partial completion the work shall be discontinued for a period of six months, or if the connection or work authorized by such permit is not completed within one year from date of issuance of permit, the permit shall thereupon become void and no further work shall be done until a new permit shall have been secured. A new fee shall be paid upon the issuance of said new permit. (Prior code § 4242)

Section 13.08.479A Article 8. Regulation of Wastewater Discharges

Section 13.08.480 Prohibitions on discharges.

No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment

standards or any other National, State, or local pretreatment standards or requirements.

No person shall discharge to a public sewer wastes which, in the opinion of the director, cause, threaten to cause, or are capable of causing either alone or by interaction with other substances:

- A. A fire or explosive hazard;
- B. Obstruction of flow in a sewer system or injury of the system or damage to the wastewater collection, treatment or disposal facilities;
- C. Danger to life or safety of personnel;
- D. A nuisance, or prevention of the effective maintenance or operation of the sewer system, through having a strong, unpleasant odor;
- E. Air pollution by the release of toxic or malodorous gases or malodorous gas-producing substances;
- F. . No person or industrial user shall discharge to the city's facilities any substance which has or contains:
 1. A temperature which will inhibit biological activity in the treatment plant, but in no case heat which will cause the influent at the headworks of the treatment plant to exceed one hundred four (104) degrees F (forty (40) degrees C);
 2. More than two hundred (200) mg/l of oil or grease of animal or vegetable origin;
 3. Any gasoline, benzene, naphtha, fuel oil or other inflammable or explosive liquid, solid or gas;
 4. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
 5. Any garbage that has not been properly shredded;
 6. Any ashes, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, wood, or any other solid, or viscous substance capable of causing obstructions to the flow in sewers or other interference with the proper operation of the sewage system;
 7. Any waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive characteristic capable of causing damage or hazard to structures, equipment or personnel of the sewage system;
 8. Any waters or wastes containing toxic or poisonous substances in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant;
 9. Any noxious or malodorous gas or substance capable of creating a public nuisance;
 10. No discharge to the sewer shall be permitted that when blended with the remaining city flow shall cause an excess of the following constituent levels in the discharge from the sewage treatment plant.
 - a. Chlorides: one hundred fifty (150) mg/l,
 - b. Dissolved solids: six hundred (600) mg/l,
 - c. Sodium ratio: seventy (70) percent,
 - d. pH, outside limits: 6.5-8.5 ph units;
 11. Which exerts an excessive chemical oxygen demand or chlorine demand to such a degree that the total wastewater received at the sewage treatment plant exceeds treatable limits, as established by the city, for such wastewater;
 12. Which shall produce discoloration of the sewage treatment plant effluent;
 13. With a volume of flow or concentration of wastes constituting "slugs" as defined in Section 13.08.040;
 14. Any substance which may cause the treatment plant's effluent or any

other product of the treatment plant such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to city's facilities cause the plant to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used;

15. Any substance which may cause the treatment plant to violate its NPDES permit or the receiving water quality standards;

16. Pollutants which create a fire or explosive hazard in the city's wastewater collection and/or treatment systems, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty (140) degrees F (sixty (60) degrees C) using the test methods specified in 40 CFR Part 261.21.

G. A detrimental environmental impact or a nuisance in the waters of the state or a condition unacceptable to any public agency having regulatory jurisdiction over the city; discoloration or any other condition in the quality of the city's treatment works effluent in such a manner that receiving water quality requirements established by city's NPDES permit cannot be met;

H. Conditions at or near the city's treatment works which violates any statute or any rule, regulation, or ordinance of any public agency or state or federal regulatory body;

I. Quantities or rates of flow which overload the city's collection or treatment facilities or cause excessive city collection or treatment costs. (Prior code § 4245)

Section 13.08.490 Prohibitions on storm drainage and ground water.

Storm water, ground water, rain water, water well development water, monitoring well discharge, swimming pool filter backwash, street drainage, subsurface drainage, irrigation drainage, or yard drainage shall not be discharged through direct or indirect connections to a community sewer. The city shall require cessation of such discharge if found to be existing. (Prior code § 4246)

Section 13.08.500 Prohibition on unpolluted water.

Unpolluted water, including, but not limited to, cooling water, process water or blow-down from cooling towers or evaporative coolers, or surface drainage from streets, curb and gutter or parking lots, shall not be discharged through direct or indirect connection to a public sanitary sewer. All installations of air-conditioning systems require the issuance of a permit therefore by the city and the payment of customary building and/or plumbing permit fees to the city prior to commencement of installation. All evaporative coolers shall be furnished with a circulating pump or be drained to yard areas, seepage wells or leaching devices, or storm drains. All new installations of industrial, commercial or residential air conditioning units shall have cooling water discharge recirculated or shall be of such type as not to require cooling water discharge. In no case shall discharge be permitted to be connected to the sanitary sewer system; except, that condensation only from cooling towers may be discharged to the sanitary sewer system by permit only. In no case shall water from evaporative coolers or air conditioning units be allowed to discharge onto public streets, alleys or sidewalks or to in any manner create a public nuisance. (Prior code § 4247)

Section 13.08.510 Limitations on radioactive wastes.

No person shall discharge or cause to be discharged, any radioactive waste into a community sewer. (Prior code § 4248)

Section 13.08.520 Limitations on the use of garbage grinders.

A. Waste from garbage grinders shall not be discharged into a community sewer except:

1. Wastes generated in preparation of food normally consumed on the premises;

2. Where the user has obtained a permit for that specific use from the city, and agrees to undertake whatever self-monitoring is required to enable the city to equitably determine the user charges based on the waste constituents and characteristics.

B. Such grinders must shred the waste to a degree that all particles shall be carried freely under normal flow conditions prevailing in the community sewer, with no particles greater than one-half inch (1.27 centimeters) in any dimension. Garbage grinders shall not be used for grinding plastic, paper products, inert materials, or garden refuse. The installation and operation of any garbage grinder equipped with a motor of one-half horsepower or greater shall be subject to the review and approval of the city. (Prior code § 4249)

Section 13.08.530 Limitations on point of discharge.

No person shall discharge any substances directly into a manhole or other opening in a community sewer other than through an approved side sewer, unless upon written application by the discharger and payment of the applicable charges and fees, the city issues a permit for such direct discharges. (Prior code § 4250)

Section 13.08.540 Holding tank waste and septic tank waste.

A discharger proposing to discharge holding tank waste and septic tank waste into the septage receiving station must secure a permit. No discharge shall be allowed to any location except the septage receiving station. If a permit is granted for discharge of such waste, the discharger shall pay the applicable user charges and fees and shall meet such other conditions as required by the city. (Prior code § 4251)

Section 13.08.550 Limitations on wastewater strength.

A. No person or industrial user shall discharge wastewater containing in excess of the following instantaneous maximum allowable limitations:

Pollutant	Instantaneous Maximum Allowable Discharge Limit (mg/l)
Arsenic	0.05
Boron	1.60
Cadmium	0.02
Chromium	3.44
Copper	1.97
Cyanide	0.16

Visalia Municipal Code

Lead	0.30
Mercury	0.02
Nickel	2.86
Silver	0.76
Zinc	0.64
Pentachlorophenol	0.15

B. Notwithstanding the limitations that are set forth in subsection (A) of this section:

1. The city may impose more restrictive standards or requirements on discharges if it is deemed necessary to comply with the objectives of this ordinance, specific prohibitions or the terms of the city's NPDES permit;

2. The city may authorize discharges containing higher concentrations of specific pollutants on a site-specific basis, provided that the concentrations of such discharges shall not cause pass through or interference. Upon approval by the city, site-specific limitations shall be established through the terms specified in the discharger's industrial discharge permit. The city may impose mass limitations in addition to, or in place of, concentration based limitations. However, no special agreement shall be allowed to contravene federal, state or local pretreatment standards.

C. No person or industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The city may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Prior code § 4252)

Section 13.08.560 Limitations on infectious waste.

A. Infectious wastes which have been rendered noninfectious prior to grinding as specified in Title 22, California Code of Regulations, Section 66840(i) from hospitals, clinics, and mortuaries may be disposed of to the sanitary sewer system subject to the following limitations and requirements:

1. Pathologic specimens may not be disposed of to the sanitary sewer system;

2. The material shall be ground by an approved grinder having the capabilities of meeting or exceeding the following fineness: at least forty (40) percent shall pass a No. 8 sieve; at least sixty-five (65) percent shall pass a No. 3 sieve, and one hundred (100) percent shall pass a 3/8-inch screen opening;

3. Ground organic kitchen waste from hospital food preparation and disposal facilities excluding all paper and plastic items may be discharged into the sanitary sewer system;

4. Disposable hypodermic needles, syringes, and associated articles following their use in hospitals, out-patient clinics, medical and dental offices, etc., may not be discharged to the sanitary sewer system;

5. The materials must not violate any other requirements of these rules and regulations.

B. The following shall not be discharged to the sanitary sewer by any means:

1. Solid wastes generated in the rooms of patients who are isolated because of a suspected or diagnosed communicable disease;

2. Recognizable portions of the human anatomy;
3. Wastes excluded by other provisions of this title except as specifically permitted in this section.

C. All hospitals within the limits of the city desiring to dispose of a ground "infectious waste" by discharge into facilities of the city shall first have a valid nonsignificant discharge permit. All applicants for such permits shall fill out completely the application form, pay the appropriate fee, receive a copy of the city regulations governing discharge of ground hospital wastes, and shall agree in writing to abide by the regulations. The nonsignificant discharge permit shall be valid for a period not to exceed four years from date of issuance.

D. Nothing in this section shall be construed to limit the authority of the health officer of Tulare County to define wastes as being infectious. (Prior code § 4253)

Section 13.08.570 Traps required.

Grease, oil and sand traps shall be provided when, in the opinion of the City, they are necessary for the protection of the sewerage system from liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such traps shall not be required for buildings used solely for residential purposes. Such traps shall be required, for example, on discharges from all service stations, automotive repair garages, car washes, restaurants, eating establishments and food preparation establishments, and such other commercial or industrial establishments as the city may designate. (Prior code § 4254)

Section 13.08.580 Construction of traps.

All traps shall be of a type and capacity approved by the city, and shall be so located as to be readily and easily accessible for cleaning and inspection. Restaurant traps shall be gas-tight, of a type approved for restaurant use by the division of building safety. Traps for all other facilities, including service stations and garages, shall be in accordance with the adopted plan of the city for such traps or shall be the approved equal thereof as determined by the director. (Prior code § 4255)

Section 13.08.590 Maintenance of traps.

When installed, all grease, oil and sand traps shall be maintained by the owner, at owner's expense, in continuously efficient operation at all times. (Prior code § 4256)

Section 13.08.600 Pretreatment of wastes.

The admission into the public sewers of any waters or wastes having (a) a five-day biochemical oxygen demand greater than three hundred fifty (350) milligrams per liter; (b) containing more than three hundred fifty (350) milligrams per liter of suspended solids; (c) having the characteristics described in Section 13.08.550 (C) or constituent levels in excess of those enumerated in Section 13.08.550 (A); or (d) having an average daily flow greater than .05 MGD, or one percent of the average daily sewage flow of the city, shall be subject to the review and approval of the city. When necessary in the opinion of the city the discharger shall provide, at his/her expense, such pretreatment as may be necessary to: (a) reduce the BOD discharge to three hundred fifty (350) mg/l and suspended solids to three hundred fifty (350) mg/l; (b) reduce objectionable characteristics or constituents to within the maximum limits provided in Section 13.08.550; or (c) control the quantities and rates of discharge of such water or wastes. Plans, specifications, and any other pertinent information relating to proposed

pretreatment facilities shall be submitted for the approval of the city and no construction of such facilities shall be commenced until said approval is obtained in writing. Material which shall readily settle, such as sand, glass, metal filings and diatomaceous earth, for example, or floatable material which is readily removable shall be removed from wastewater prior to discharge to the public sanitary sewer system. The review and approval of such plans and/or proposed operation procedures shall in no way relieve the discharger from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city and in accordance with federal and state standards, under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported in writing to and be approved by the city. (Prior code § 4257)

Section 13.08.610 Maintenance of pretreatment facilities.

When preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at owner's expense. (Prior code § 4258)

Section 13.08.620 Monitoring facilities.

The city may require the discharger to construct, at discharger's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems and may also require sampling or metering equipment to be provided, installed, and operated at the dischargers expense. The monitoring facility shall be situated on the discharger's premises. If the monitoring facility is inside the discharger's fence, there shall be accommodations to allow access for city personnel, such as a gate secured with a city lock. There shall be ample room in or near such sampling manhole to allow accurate sampling and compositing of samples for analysis. The manhole, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger, regardless of whether located on private or public property. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with city requirements, construction standards and specifications. (Prior code § 4259)

Section 13.08.630 Inspection and sampling.

The city shall inspect the facilities of any discharger to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The city, state and EPA shall have the right to set up on the discharger's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a discharger has security measures in force which would require proper identification and clearance before entry into their premises, the discharger shall make necessary arrangements so that upon presentation of suitable identification, personnel from the city, state and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. (Prior code § 4260)

Section 13.08.640 Notification of violation.

If sampling performed by an industrial user indicates a violation, the industrial user must notify the city within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of such analysis to the city within thirty (30) days after becoming aware of the violation. The industrial user is not required to resample if the city performs monitoring at the facility at least once each month for the parameter in violation. (Prior code § 4261)

Section 13.08.650 Notification of the discharge of hazardous waste.

A. Any industrial user who commences the discharge of hazardous waste shall notify the city, the EPA Regional Waste Management Division Director and the state hazardous waste authorities in writing of any discharge into the city's wastewater collection and treatment system of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than ten kilograms of such waste per calendar month, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of the constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than ten days after the discharge commences. Notifications of changed discharges must be submitted in accordance with the provisions of this chapter. This notification requirement does not apply to pollutants reported under the requirements of discharge permits issued by the city.

B. In case of any new regulations under Section 3001 of the Resource Conservation and Recovery Act (RCRA) identifying additional characteristics of hazardous waste or listing any additional substances as a hazardous waste, the industrial user shall notify the city, the EPA Regional Waste Management Division Director and the state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

C. In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. (Prior code § 4262)

Section 13.08.670 Special agreement--Public facilities.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any other public corporation or entity, whereby the city undertakes to provide for the construction, acceptance, maintenance or operation of facilities for the collection, pumping or other means of transmission of sewage from the public agencies, pursuant to any appropriate legal authorization. However, no special agreement shall be allowed to contravene federal, state or local pretreatment standards. (Prior code § 4264)

Section 13.08.680 Federal requirements limitations.

Users in industrial categories subject to the categorical pretreatment standards development by the EPA under the Act are required to comply with pretreatment

standards promulgated pursuant to Section 307. The city may issue standards more stringent than the federal standards if the director determines that the limitations in the federal standards are not sufficient to: (1) protect the operation of the city's treatment facilities, or (2) comply with water quality standards or effluent limitations specified in the city's national pollutant discharge elimination system (NPDES) permit. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4265)

Section 13.08.690 Regional water quality control board requirement limitations.

Source control of industrial discharges shall be accomplished by use of a permit and monitoring system as described herein. Discharge of industrial waste from any person within the city onto land or to any natural outlet may be permitted only if the discharge complies with all requirements of the regional water quality control board and of all other local, state and federal laws and regulations. (Prior code § 4266)

Section 13.08.700 Other governmental agency jurisdictions.

Nothing contained in this section shall be construed to limit any additional requirements that may be imposed by the county health officer, by the regional water quality control board, fish and game, or by other governmental agencies having jurisdiction thereof. (Prior code § 4267)

Section 13.08.709A Article 9. Permits and Fees

Section 13.08.710 Permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance or perform any work on any plumbing or drainage system under the jurisdiction of the city without first obtaining a written permit from the city. (Prior code § 4270)

Section 13.08.720 Application for permit.

Any person, legally entitled to apply for and receive a permit, shall make such application on forms provided by the city for that purpose. Applicant shall give a description of the character of the work proposed to be done and the location, ownership, occupancy and use of the premises in connection therewith. The city may require plans, specifications or drawings and such other information deemed necessary. If the city determines that the plans, specifications, drawings, descriptions or information furnished by the applicant are in compliance with the ordinances, rules and regulations of the city, the permit applied for shall be issued upon payment of the required fees as hereinafter fixed and/or as adopted by council resolution in implementation or modification hereof. (Prior code § 4271)

Section 13.08.730 Compliance with permit.

After approval of the application, evidenced by the issuance of a permit, no change shall be made in the location of the sewer, the grade, materials or other details from those described in the permit or as shown on the plans and specifications for which the permit was issued, except with written permission from an authorized representative of the city. (Prior code § 4272)

Section 13.08.740 Agreement.

The applicant's signature on an application for any permit, as set forth in Section 13.08.720, shall constitute an agreement to comply with all of the provisions, terms and requirements of this and other applicable ordinances, rules and regulations of the city, and with the plans and specifications filed with the application, if any, together with such corrections or modifications as may be made or permitted by the city, if any. Such agreement shall be binding upon the applicant and may be altered only upon a written request for the alteration from the applicant, approved by the city. (Prior code § 4273)

Section 13.08.750 Basic connection charge.

The city requires property developers, subdividers and individuals making connection to the city sanitary sewer system to pay a fee per connection.

A. Developers and subdividers shall pay to the city an amount, as set by resolution of the city council, for connection to the sanitary sewer system. Payment shall be made at such time as actual development is approved by the city.

B. At the time of connection to the city sewer system, residential property shall be assessed at an amount, as set by resolution of the city council, per lot for connection to the city sewer system, where such residential properties were not previously assessed on an acreage basis.

C. Properties, other than those for which connection has been requested by or required of a developer or individual, shall only be assessed at such time as connection is made to the city sewer system. Public bodies or such organizations as the city council may determine as nonprofit, and not land developers for profit, shall not be assessed until such time as connection is made to the city sewer system.

D. The city reserves to itself the right to assess additional fees for commercial or industrial properties where such additional fees are, in the opinion of the council, warranted by increased flows.

E. Fees established by the council are based upon the average costs of trunk sewers and oversize sewers paid for by the city in typical areas subject to service by the city. Review of the existing fees may be initiated by the council from time to time as necessary to meet increasing costs or changed conditions of providing trunk sewer or oversize service to areas being considered by the city for sanitary sewer service. Any revision of the fee schedule shall be approved by resolution adopted by the council.

F. The council is in no way committed to annexation of any particular area by virtue of the offer of the aforementioned fees by persons owning or developing areas proposed to be annexed to the city. The questions of annexation or of provision of a trunk sewer or oversize sewer to any area shall, in each instance, be resolved by the city council for the benefit of the city.

G. The above shall in no way abrogate any of the provisions of any other ordinance governing sewer service charges or fees currently in effect or hereafter adopted. (Prior code § 4274)

Section 13.08.755 Timing of fee payment.

A. Notwithstanding the requirements of Section 13.08.750, the city council may, by resolution, authorize the payment of the fee at a time other than that identified in Section 13.08.750.

B. In adopting the resolution identified in subsection A of this section, the city council shall make the following findings:

1. That the state of the economy in the city is such that the deferment of the fee required by this chapter will stimulate the economy and enhance the provision of jobs; and

2. That the deferment of the fee required by this chapter will not materially affect the ability of the city to deliver its five year capital improvement program.

C. In adopting the resolution identified in subsection A of this section, the city council shall:

1. Identify the point in time at which the fee shall be paid; provided, that in no event shall the deferral be extended beyond the time of the final inspection or issuance of the certificate of occupancy, whichever occurs first;

2. Identify to which major land use category (i.e., residential, commercial, office and/or industrial) the resolution applies;

3. Identify whether or not a contract shall be entered into by and between the property owner, or lessee if the lessee's interest appears of record, and the city prior to the issuance of the building permit. If a contract is required to be executed, it shall be processed and recorded in accordance with Government Code Section 66007(c). In lieu of entering into a contract, if one is required, the feepayer may provide such other form of surety instrument guaranteeing payment of the fee as may be acceptable to the city engineer or his/her designee and the city attorney;

4. Impose a penalty, equal to one hundred (100) percent of the amount of the fees deferred, on any party who fails to pay the deferred fee by the point in time specified in such resolution; and

5. Provide that a party who fails to pay such deferred fees by the point in time specified in such resolution shall further forfeit the future right to defer such fees on parcels in which such party has a financial interest.

D. Companies classified within the following Standard Industrial Codes shall be able to pay their development impact fees over five years without interest or administrative fee. The first installment of twenty (20) percent shall be due upon occupancy and the balance shall be paid in five equal annual installments thereafter and shall be collected on the property tax roll. The collection of the balance due on the property tax roll shall not preclude the earlier payment of any outstanding balance.

- 2000--2099 Food processing
- 2200--3999 Certain other manufacturers
- 4200--4299 Trucking and warehousing
- 4500--4599 Air transportation
- 4700--5199 Transportation services and warehouse trade

(Ord. 9818 § 2, 1998)

Section 13.08.760 Treatment connection charge.

A separate charge is established to recover capital costs for future use in the treatment facility from those for whom the capacity has been provided. Each new discharger who connects to the public sewer shall, prior to issuance of a permit, pay to the city a sum of money to be determined yearly by the city council, which sum shall represent repayment by that discharger for future capacity provided for dischargers use. The payment of this fee shall in no way affect that discharger's monthly sewer service charges or any other charges and fees established by this chapter. (Prior code § 4275)

Section 13.08.770 Timing of fee payment.

A. Notwithstanding the requirements of Section 13.08.760, the city council may, by resolution, authorize the payment of the fee at a time other than that identified in Section 13.08.760.

B. In adopting the resolution identified in subsection A of this section the city council shall make the following findings:

1. That the state of the economy in the city is such that the deferment of the fee required by this article will stimulate the economy and enhance the provision of jobs; and

2. That the deferment of the fee required by this article will not materially effect the ability of the city to deliver its five year capital improvement program.

C. In adopting the resolution identified in subsection A of this section, the city council shall:

1. Identify the point in time at which the fee shall be paid; provided, that in no event shall the deferral be extended beyond the time of the final inspection or issuance of the certificate of occupancy, whichever occurs first;

2. Identify to which major land use category (i.e., residential, commercial, office and/or industrial) the resolution applies;

3. Identify whether or not a contract shall be entered into by and between the property owner, or lessee if the lessee's interest appears of record, and the city prior to the issuance of the building permit. If a contract is required to be executed, it shall be processed and recorded in accordance with Government Code Section 66007(c). In lieu of entering into a contract, if one is required, the fee payer may provide such other form of surety instrument guaranteeing payment of the fee as may be acceptable to the city engineer or his/her designee and the city attorney;

4. Impose a penalty, equal to one hundred (100) percent of the amount of the fees deferred, on any party who fails to pay the deferred fee by the point in time specified in such resolution; and

5. Provide that a party who fails to pay such deferred fees by the point in time specified in such resolution shall further forfeit the future right to defer such fees on parcels in which such party has a financial interest.

D. Companies classified within the following Standard Industrial Codes shall be able to pay their development impact fees over five years without interest or administrative fee. The first installment of twenty (20) percent shall be due upon occupancy and the balance shall be paid in five equal annual installments thereafter and shall be collected on the property tax roll. The collection of the balance due on the property tax roll shall not preclude the earlier payment of any outstanding balance.

2000--2099	Food processing
2200--3999	Certain other manufacturers
4200-4299	Trucking and warehousing
4500-4599	Air transportation
4700-5199	Transportation services and warehouse trade

(Ord. 9818 § 3, 1998)

Section 13.08.780 Special connection charges.

Whenever sewers serving a property have been previously constructed under the provisions of Article 5 of this chapter, cost recovery payments in accord with the procedures outlined in that article 5 shall be recovered prior to sewer connection permit issuance. (Prior code § 4276)

Section 13.08.790 Additional connection charges.

In addition to any other charges established herein, the city may establish additional connection charges for any sewer connection when, in the opinion of the city council, the circumstances of such connection necessitate the payment of charges over and above those established herein. (Prior code § 4277)

Section 13.08.800 Classes of permits.

Permit classes are as follows:

- A. Building sewer permit;
- B. Public sewer construction permit;
- C. Private sewage disposal system permit;
- D. Industrial discharge permit;
- E. Nonsignificant discharge permit;
- F. Special use sewer permit. (Prior code § 4278)

Section 13.08.810 Permits and inspection charges.

Permit and inspection charges and requirements shall be established by resolution of the city council as follows:

A. Building Sewer Permit. A lump sum fee as required by Section 15.04.010, shall be paid to the city for inspecting the system from the end of the building drain to a public sewer or private sewage-disposal system.

B. Public Sewer Construction Permit. A fee as required by Section 16.36.170 shall be paid to the city for inspecting the installation of sewer mains that shall become a public sewer.

C. Private Sewage Disposal System Permit. A fee as set by resolution of the city council for evaluating design adequacy and inspection of installation shall be paid to the city for the issuance of a permit for the construction of a new private sewage disposal system under the terms of Article 4 of this chapter. Should the installation be of excessive magnitude or complexity, the city may impose such additional charges as required to provide sufficient funds to cover all costs incurred by the city.

D. Industrial Discharge Permit. The permit fees shall be based on time, materials and analyses required to process the permit and shall be paid to the city for each industrial discharge permit.

1. Prior to consideration of any industrial discharge permit, each industrial user shall furnish the following information on forms to be provided by the city:

- a. Name and address of applicant;
- b. Volume of wastewater to be discharged;
- c. Wastewater constituents and characteristics including but not limited to those mentioned in Section 13.08.550;
- d. Average and thirty (30) minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- e. Site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation;
- f. Description of activities, facilities and plant processes on the premises including all types of materials which are or could be discharged;
- g. Any other information deemed by the city to be necessary to evaluate the permit application.

2. The city shall evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue an industrial discharge permit subject to the terms and conditions provided herein.

3. Industrial discharge permits shall contain the following:

- a. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- b. The average and maximum allowable wastewater constituents and characteristics;
- c. Limits on rate and time of discharge, or requirements for flow regulations

and equalization;

d. Requirements for installation of inspection, metering, and sampling facilities;

e. Pretreatment requirements;

f. Specifications for monitoring programs which shall include sampling, number, types and standards for tests and reporting schedule. Sampling and pollutant analysis shall be performed in accordance with the procedures established under Section 304 (h) of the Act, detailed in 40 CFR 136;

g. i. Requirements for submission of technical reports or discharge reports, including but not limited to baseline monitoring reports, compliance schedule progress reports, ninety (90) day compliance reports, and periodic reports on continued compliance (see Sections 13.08.824 to 1308.827 of this ordinance) as may be required from industrial users to assess compliance with federal, state and local limitations and standards with permit conditions, and, where applicable, with compliance schedule milestones or deadlines. In addition, all users shall submit to the city notices of potential problem discharges including slug loading;

ii. Reports submitted to the city by industrial users must be signed and certified by an authorized representative of the discharger. The name of such individual(s) shall be presented to the city for approval prior to issuance of any permit. A change in the authorized representative without prior notification to and approval by the city may result in rescission of the discharge permit. All baseline monitoring reports and other reports related to compliance with categorical pretreatment standard deadlines must contain a certification by a qualified professional, indicating whether or not pretreatment standards are being consistently met, and if any additional operation and maintenance and/or pretreatment is required to meet the applicable standards. The reports required pursuant to this Section are subject to the provisions of 18 U.S.C. 1001 relating to fraud and false statements and the provisions of Section 309(c)(2) of the Act governing false statements, representations or certifications in reports required under the Act.

h. Requirements for specific language in the certification by an authorized representative. Said certification shall state,

I certify, under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

i. Requirements for maintaining plant records relating to wastewater discharge as specified by the city, and affording the city access thereto;

j. Mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants, as defined by Section 13.08.040, are proposed or present in the user's wastewater discharge;

k. Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

4. Industrial discharge permits shall be issued for a specified time period, not to exceed two years. It shall be the responsibility of permittee to initiate renewal within ninety (90) days prior to permit expiration. Any changes or new conditions in the

permit shall include a reasonable time schedule for compliance.

5. Industrial discharge permits are issued to a specific discharger for a specific operation. If operational changes cause any new, increased or changed discharge, the city may rescind, condition or modify the discharger's industrial discharge permit. An industrial discharge permit shall not be reassigned or transferred or sold to a new owner, new discharger, different premises, or a new or changed operation without the prior approval of the city. Provided, that the city approves of such reassignment, transfer or sale of the permit, the permitted discharger shall provide a copy of the existing permit to the new owner or operator of the facility prior to completing the transaction.

6. Any discharger who violates the following conditions of the permit or of this chapter, or applicable state and federal regulations, is subject to having his permit revoked, after due notice and hearing by the city council.

a. Failure of a discharger to factually report the wastewater constituents and characteristics of his discharge;

b. Failure of the discharger to report significant changes in operations or wastewater constituents and characteristics;

c. Refusal of reasonable access to the discharger's premises for the purpose of inspection or monitoring;

d. Violation of conditions of the permit.

E. Nonsignificant Discharge Permit. The permit fees shall be based on time, material and analyses required to process the permit and shall be paid to the city for each nonsignificant discharge permit. Nonsignificant discharge permits shall be issued to certain small industries and some commercial users whose individual discharges do not significantly impact the treatment system, degrade receiving water quality, or contaminate sludge. Industries that have the potential to discharge a nondomestic or process wastestream but at the present time discharge only sanitary waste, are also included in this group. This group also includes septage waste haulers.

1. Information similar to that required for an industrial discharge permit shall be required for a nonsignificant discharge permit, and shall be furnished on forms to be provided by the city;

2. Nonsignificant discharge permits may contain the same information as industrial discharge permits;

3. Nonsignificant discharge permits shall be issued for a specified time period, not to exceed four years;

4. Nonsignificant discharge permits are issued to a specific discharger for a specific operation, and shall not be reassigned, transferred or sold without the prior approval of the city;

5. Violators of the conditions of the nonsignificant discharge permit shall be subject to the same penalties as violators of the conditions of the industrial discharge permit.

F. Special Use Sewer Permit. Special use permits shall be required under the following circumstances:

1. Storm or drainage water discharge (Section 13.08.490);

2. Discharge of unpolluted waters (Section 13.08.500);

3. Direct discharge to sewer (Section 13.08.530);

4. Monitoring well discharge (Section 13.08.490).

Under any of the above circumstances, or any other special condition that may be determined by the city to warrant a permit, the applicant shall, prior to confirmation of such permit, pay a fee in an amount to be determined on an individual case basis by the city.

G. Reinspection Fee. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. (Prior code § 4279)

Section 13.08.815 Analytical requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

Section 13.08.816 Sample collection

A. Except as indicated in Section B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the city may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

Section 13.08.820 Recordkeeping requirements.

Industrial users shall maintain records of all information resulting from monitoring activities. Records shall be kept for a time period consistent with the requirements of 40 CFR 403.12(h) but in no case for a period of less than three years. Such records shall be made available for inspection and upon demand by the city, state and/or EPA. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the city's pretreatment program or when requested by the state or the Environmental Protection Agency. (Prior code § 4280)

Section 13.08.823A Article 10 reporting requirements

Section 13.08.824 Baseline monitoring reports

A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the city a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the city a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below.

1. Identifying Information. The name and address of the facility, including the name of the operator and owner.
2. Environmental Permits. A list of any environmental control permits held by or for the facility.
3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
5. Measurement of Pollutants.
 - a. The categorical pretreatment standards applicable to each regulated process.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the city, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 13.08.815 of this ordinance.
 - c. Sampling must be performed in accordance with procedures set out in Section 13.08.816 of this ordinance.
6. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 13.08.825 of this ordinance.
8. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Sections 13.08.810D.3.gii and 13.08.810D.3.h of this ordinance.

Section 13.08.825 Compliance schedule progress reports

The following conditions shall apply to the compliance schedule required by Section 13.08.824(B)(7) of this ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months nor shall the total time period exceed the allotted time specified in the consent order or compliance order;

C. The user shall submit a progress report to the city no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

D. In no event shall more than (9) months elapse between such progress reports to the city.

Section 13.08.826 Report on compliance with categorical pretreatment standard deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in Section 13.08.824(B)(4-6) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Sections 13.08.810D.3.gii and 13.08.810D.3.h of this ordinance.

Section 13.08.827 Periodic compliance reports

A. All significant industrial users shall, at a frequency determined by the city but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 13.08.810D.3.h of this ordinance.

B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the city, using the procedures prescribed in Section 13.08.816 of this ordinance, the results of this monitoring shall be included in the report.

Section 13.08.829A Article 10. Sewer Service Charges

Section 13.08.830 Purpose and basis.

Sewer service charges as set forth in this chapter are established to assure that each recipient of waste treatment services within the city sewer service area shall pay its proportionate share of the costs of all waste treatment service provided by the city. The system of charges to be established must, in accordance with the requirements of the federal act and the state Clean Water Grant Program, provide for the following items:

A. Sufficient financing for an adequate operation and maintenance program;

including competent operating personnel.

B. Funds to be reserved for necessary future replacements, improvements, and expansions of the facilities. (Prior code § 4285)

Section 13.08.840 Setting of rates.

Specific dollar amounts for sewer service charges for each user classification shall be established by resolution of the city council on a yearly basis following the federally required annual revision of the city's revenue program, with any required adjustments to be effective as set by resolution of the city council. (Prior code § 4286)

Section 13.08.850 Discharge classification.

The following basis shall be utilized for the establishment of sewer service charges:

A. Residential (single-family, multiple dwellings, and mobile home parks). Each residential unit shall pay a flat rate per month for each dwelling unit.

B. Commercial and institutional (excluding such commercial establishments as are determined by the director to produce wastewaters with a higher BOD or suspended solids content than Visalia domestic wastewater or to possess other characteristics requiring additional treatment costs). Each licensed business, institutional, and commercial establishment (including businesses and professional offices, motels, schools and hospitals) shall pay in accordance with the rate schedule as set by resolution of the city council.

C. Industrial (including high-strength or additional treatment requirement commercial dischargers as described in subsection (B) of this section).

1. All significant industrial and commercial sources shall be charged on the basis of set amounts for each million gallons of wastewater flow, each pound of BOD, and each pound of suspended solids discharged by individual users per month, in accordance with a rate schedule set by resolution of the city council. Measurement of BOD and suspended solids shall be performed by the city or by a laboratory approved by the city; the frequency and number of tests for each characteristic to be determined by the director. All such testing shall be at the expense of the discharger;

2. All industrial sources determined by the director not to be significant dischargers shall be charged a flat rate per month based on the quantity and strength of their wastewater as determined by the director, in general accordance with the rate schedule for subsection (C)(1) of this section set by resolution of the city council. (Prior code § 4287)

Section 13.08.860 Flow measurement.

Flow measurements for rate purposes shall be based upon one hundred (100) percent of daily metered water consumption if all water used is supplied by a public utility company. Otherwise, the amount of sewer usage shall be determined by the director in accordance with the provisions of this chapter. If, in the opinion of the director or the opinion of the discharger, it is necessary to install metering devices in order to accurately determine the sewer usage, such metering devices shall be installed, when directed by the city, at the discharger's cost, and the specifications therefor shall be approved by the city. Flow measurements shall be made at regular intervals or continuously recorded as determined necessary by the city and billings shall be adjusted appropriately. (Prior code § 4288)

Section 13.08.870 Collection.

A. "Billing for sewer service for those dischargers governed by Section 13.08.850(A) and 13.08.850(B), and payment thereof shall be to and by the person in whose name water service is rendered to the property, or the owner of the property on written application. In the case of a residence or commercial establishment using well water, the owner of the property is responsible for sewer service charges. The date charges begin to accrue for sewer service is the date water billing is started. In the case of a residence or commercial establishment using well water, the date charges begin to accrue for sewer service is the date of occupancy, title change, or annexation. The date charges for service end is the later of the date the water service or sewer service is terminated. The sewer service charges for dischargers governed by Section 13.08.850(C) shall be paid every month on the basis of measured flow, BOD and suspended solids for the previous month, as billed by the city to the discharger.

B. All service charges shall be retained by the city irrespective of any intra-billing termination date of sewer service, to defer service and administrative costs. Upon written application by the property owner of tenant-occupied property, billing and payment may be to and by such property owner where the refuse service charge is similarly billed and paid. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4289)

Section 13.08.880 Late charges.

A. For each industrial sewer service charge, as defined in Section 13.08.850(A), remaining unpaid more than fifteen (15) days after its due date there may be added and collected therewith a late charge as set by resolution of the city council and any such unpaid charge, together with the late charge shall bear interest at the rate as set by resolution of the city council until paid.

B. In the event that dischargers described in Sections 13.08.850(A) and 13.08.850(B) shall fail to pay any billing within thirty (30) days from the beginning of the calendar month which the billing covers, a late charge as set by resolution of the city council for each such billing month may be added to the bill, and the city may have no authority to accept any payment thereafter without collecting the late charge. This charge shall be collected to defray the cost of billing and bookkeeping involved in late payments. At the discretion of the city, service on outside owner-occupied accounts may be stopped and billed to the owner as a result of delinquency. A restart fee may be required.

C. In the event that the discharger shall fail to pay any charge herein provided by the 15th of the third month following presentation of the bill for such charge to the discharger, the city may, in addition to any other remedies it may have, after due notice in writing, discontinue furnishing sewer service and not resume the same until all delinquent charges hereunder, together with any costs necessitated by the discontinuance and resumption of sewer service, have been fully paid. Any such notice of disconnection or discontinuance of service shall include the name, address, and telephone number of the city division authorized to discuss, and correct where appropriate, any outstanding charges.

D. In addition or in the alternative, and at the option of the city, the city may file a civil action for the collection of any amounts due and unpaid. This remedy shall be cumulative and in addition to the remedy of means of enforcing payment of the sum required to be paid by this chapter stated in subsection (A), (B), (C), (E), (F), (G) or (H) of this section.

E. As an alternate means of collection of amounts due and unpaid at owner-occupied property:

1. Once a year the city council may cause to be prepared a report of

delinquent fees including late charges. The council shall fix a time, date and place for hearing the report and any objections or protests thereto;

2. The council shall cause notice of the hearing to be mailed to the landowners listed on the report not less than ten days prior to the date of the hearing;

3. At the hearing the council shall hear any objections or protests of landowners liable to be assessed for delinquent fees including late charges. The council may make such revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed;

4. The delinquent fees set forth in the report as confirmed shall constitute special assessments against the respective parcels of land and are a lien on the property for the amount of such delinquent fees. A certified copy of the confirmed report shall be filed with the county auditor for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien is created, and attaches upon recordation, in the office of the county recorder of the county in which the property is situated, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary county ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of county ad valorem property taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the delinquent fees, as confirmed, relating to such property shall be transferred to the unsecured roll for collection and recorded in the name of the prior property owner following city policies and procedures.

5. The city may, in its discretion, issue separate bills for such special assessment taxes and separate receipts for collection on account of such assessment.

F. At the time the fees become delinquent, until such time as they are fully paid, the delinquent account balance, including late charges, shall constitute an unrecorded lien against the property, and, as such, may be identified during a title search. For commercial businesses, delinquent account balances, including late charges, may be considered an unrecorded lien against the business name and/or owner of the business.

G. In addition to, or in lieu of other collection processes, the city may authorize a third party to discontinue water service as a means of collecting delinquent balances.

H. In addition to, or in lieu of other collection processes, delinquent balances may be processed through a collection bureau. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4290)

Section 13.08.890 Application.

In the event there are any inequities that arise because of the nature of certain business, commercial accommodations or units under this article, the director shall have the authority to establish any variances in applying this article to alleviate such inequities. Any requirements for pretreatment to bring materials discharged to a sewer to a condition where they may be handled by the sewage system of the city, shall not be

cause for a reduction of the rates and charges outlined herein. (Prior code § 4291)

Section 13.08.899A Article 11. Administration and Enforcement

Section 13.08.900 Violation unlawful.

A. Following the effective date of this chapter, it shall be unlawful for any person to violate any provision of this chapter, to connect to, construct, install or provide, maintain, use or alter any other means of sewage disposal from any building in said city except by connection to a public sewer in the manner as provided in this chapter, or by installation, provision, usage or maintenance of approved private disposal facilities in accordance with the provisions of this chapter.

B. When the city finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may fine such user in at least the amount of one thousand dollars (\$1000.00) per day. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

C. Unless otherwise specified in this chapter, any violation of the provisions of subsection (A) of this section shall constitute a misdemeanor. Notwithstanding the classification of a violation of this chapter as a misdemeanor, at the time an action is commenced to enforce the provisions of this chapter, the trial court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction pursuant to Section 19(c) of the California Penal Code.

D. Any person convicted of a misdemeanor under this article shall be punished by: (1) A fine not to exceed five hundred dollars (\$500.00) and/or thirty (30) days in the county jail for a first violation; (2) a fine not exceeding one thousand dollars (\$1,000.00) and/or ninety (90) days in the county jail for a second violation of this article within one year; and (3) a fine not exceeding two thousand five hundred dollars (\$2,500.00) and/or six months in the county jail for each additional violation of this article within one year. Each day that a violation continues shall be regarded as a new and separate offense.

E. Any person convicted of any infraction of this article shall be punished by: (1) a fine not exceeding fifty dollars (\$50.00) for a first violation; (2) a fine not exceeding one hundred dollars (\$100.00) for the second violation of this article within one year; and (3) a fine not exceeding two hundred fifty dollars (\$250.00) for each additional violation of this article within one year. Each day a violation continues shall be regarded as a new and separate offense. (Prior code § 4295)

Section 13.08.910 Inspection and sampling.

The city may inspect the facilities of any discharger to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Owners and/or occupants of premises where wastewater is created or discharged shall allow city representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The city shall have the right to set up on the discharger's property such devices as are necessary to conduct sampling or metering operations. Where a discharger has security measures in force which would require proper identification and clearance before entry into their premises, the discharger shall make necessary arrangements with security guards so that, upon presentation of suitable identification, personnel from the

city shall be permitted to enter without delay for the purposes of performing their specific responsibilities. The purposes of such inspection may include, but are not limited to:

- A. Determination of the size, depth and location of any sewer or storm drain connection;
 - B. Determination of the outlet of any sewer or storm drain connection by depositing testing materials in any plumbing fixture attached thereto and flushing the same, if necessary;
 - C. Determination by measurements and samples of the quantity and nature of sewage or wastewater being discharged into any sewer, storm drain or water course;
 - D. Inspection testings and sampling of the discharge of any device used to prevent the discharge into any sewer, storm drain, or water course of illegal waste or illegal quantities of waste, such as floor drains, traps or other clarifiers, also, of those devices used to grind, shred, pulverize, or otherwise treat garbage or industrial waste before discharging same into a sewer or storm drain;
 - E. Determination of the location of roof, swimming pool and surface drains, and whether they are connected to a street gutter, storm drain or sewer;
 - F. Determination of the nature and quantity of flow in any open water course or storm drain;
 - G. Inspection and copying of records of monitoring activities and results.
- (Prior code § 4296)

Section 13.08.920 Notice and correction.

- A. Any person found to be violating, with respect to violations other than sewer service charge delinquencies, any provision of this or any other ordinance, rule or regulation of the city shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. All persons shall be held responsible for any and all damages resulting from the acts of agents or employees. Upon being notified by the city of any violation of this chapter, the person or persons having charge of said work or facilities shall correct the same, within the stipulated time limit, at such person or persons' expense. (Prior code § 4297)

Section 13.08.925 Consent orders.

the city may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 13.08.930 and 13.08.980 of this ordinance and shall be judicially enforceable.

Section 13.08.930 Compliance orders.

When the city finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other

related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order shall not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 13.08.935 Public nuisance.

Continued habitation of any building or continued operation of any industrial facility in violation of the provisions of this chapter, other than those provisions involving sewer service charge delinquencies, is declared to be a public nuisance. The city may cause proceedings to be brought for the abatement of the occupancy of the building or industrial facility during the period of such violation. (Prior code § 4298)

Section 13.08.940 Disconnection.

As an alternative method of enforcing the provisions of this chapter, the city shall have the power to disconnect a discharger from the sewer mains of the city five days after written notice, by certified mail, thereof. Upon disconnection, the city shall estimate the cost of disconnection from and reconnection to the system, and the discharger shall deposit the cost, as estimated, of disconnection and reconnection before such discharger connection is reconnected to the system. The city shall refund any part of the deposit remaining after payment of all costs of disconnection and reconnection. (Prior code § 4299)

Section 13.08.950 Public nuisance--Abatement.

During the period of any disconnection, habitation of such premises by human beings shall constitute a public nuisance, whereupon the city may cause proceedings to be brought for the abatement of the occupancy of said premises by human beings during the period of such disconnection. In such event, and as a condition of reconnection, there is to be paid to the city a reasonable attorney's fee and cost of suit arising in said action. (Prior code § 4300)

Section 13.08.960 Means of enforcement only.

The city declares that Sections 13.08.880 through 13.08.950 are established only as a means of enforcement of the terms and conditions of this chapter and not as a penalty. (Prior code § 4301)

Section 13.08.970 Accidental discharge/slug control plan.

A. The city may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years, the city shall evaluate each significant industrial user and determine whether or not such a plan will be required. Any industrial user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;

3. Procedures for immediately notifying the city of any accidental or slug discharge. Such notification must also be given for any discharge of substances prohibited by the city;

4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, and/or measures and equipment for emergency response.

B. Notification of Discharge. Significant industrial and commercial users shall notify the city immediately upon accidentally discharging wastes in violation of this chapter, to enable countermeasures to be taken by the city to minimize damage to the community sewer, treatment facility, treatment processes and the receiving waters. This notification shall be followed, within seven days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence. Such notification shall not relieve dischargers of liability for any expense, loss or damage to the sewer system, treatment plant, or treatment process, or for any fines imposed on the city on account thereof under Section 13350 of the California Water Code or for violations of Section 5650 of the California Fish and Game Code.

C. Notices to Employees. In order that employees of significant industrial users be informed of city requirements, such dischargers shall make available to their employees copies of this chapter, together with such other wastewater information and notices which may be furnished by the city from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the discharger's bulletin board advising employees whom to call in case of an accidental discharge or violation of this chapter.

D. Preventive Measures. Any direct or indirect connection or entry point for accidental discharge of deleterious wastes to the discharger's plumbing or drainage system should be eliminated. Where such action is impractical or unreasonable, the discharger shall appropriately label such entry points to warn against discharge of such wastes in violation of this chapter. (Prior code § 4302)

Section 13.08.980 Issuance of cease and desist orders.

When the city finds that a discharge of wastewater has taken place, in violation of prohibitions or limitations of this chapter, or the provisions of an industrial discharge permit, the city may issue an order to cease and desist and direct that those persons not complying with such prohibitions, limitations, or provisions:

- A. Comply forthwith;
- B. Comply in accordance with a time schedule set forth by the city;
- C. Take appropriate remedial or preventive action in the event of a threatened violation. (Prior code § 4303)

Section 13.08.990 Show cause hearing.

The city may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the city and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the

proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven (7) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

Section 13.08.995 Submission of time schedule.

When the city finds that a discharge of wastewater has been taking place, in violation of prohibitions or limitations prescribed in this chapter, or the provisions of an industrial discharge permit, the city may require the discharger to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the discharger shall take in order to prevent or correct the violation. (Prior code § 4304)

Section 13.08.1000 Appeals.

Any discharger, permit applicant, or permit holder affected by any decision, action, or determination made by the director, interpreting or implementing the provisions of this chapter or any permit issued hereunder by the city, may file with the city manager a written request for reconsideration within ten days of such decision, action, or determination, setting forth in detail the facts supporting the discharger's request for reconsideration. The city manager has the discretion to refer any and all appeals to a designated administrative hearing officer for determination. (Ord. 2000-18 §§ 1 (part), 2 (part), 2000: prior code § 4305)

Section 13.08.1010 City council appeal.

Appeal decisions made by the city manager, or an administrative hearing officer designated by the city manager, may be appealed to the city council. City council decisions shall be final. (Prior code § 4306)

Section 13.08.1020 Injunction.

Whenever a discharge of wastewater is in violation of the provisions of this chapter or otherwise causes or threatens to cause a condition of contamination, pollution or nuisance, or whenever any person violates permit conditions and/or applicable pretreatment standards, the city may petition the superior court for the issuance of a preliminary or permanent injunction or both, as may be appropriate, in restraining the continuance of such discharge. (Prior code § 4307)

Section 13.08.1030 Liability.

Any person, firm or corporation, or any partner, officer, agent or employee thereof who deposits or permits to be deposited into the city's sewer system or any facilities tributary thereto any wastes other than those permissible under the terms of the ordinance and the terms of the valid permit granted thereunder, shall be liable for any and all damage caused to the city by virtue of such act, including compensation for damage to the city's facilities and all costs of any legal fees, suits, or judgments against the city which may be attributable to such wastes so discharged. (Prior code § 4308)

Section 13.08.1035 Administrative fines.

A. When the city finds that a user has violated, or continues to violate, any

provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may fine such user in an amount not to exceed [\$1,000.00]. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the city to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the city may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

E. Revocation of Permit. In the event a discharger shall fail to make arrangements for corrective actions or to pay penalties, as required herein, and shall not have appealed as provided within the time allowed, then the director shall order such discharger's permit immediately suspended, and take such action as necessary to ensure that the discharger complies with the provisions of this section, including but not limited to physically blocking the discharger's access to the sewer system. All such measures shall remain in effect until the discharger has complied with the provisions of this section.

Section 13.08.1040 Civil penalties.

Notwithstanding the provisions of Section 13.08.900.

A. The city may impose civil penalties upon any discharger who violates any provision of this chapter. Civil penalties shall be in accordance with Section 1.12.010. The purpose for issuing civil penalties under this section is to penalize negligent or willful misconduct, discourage future violations from occurring, encouraging corrective actions and punishing repeat violators.

B. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city in at least the amount of one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

C. The city may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

D. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

E. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

F. Notice of Violation. Upon the director's determination that a chargeable violation has occurred, he shall issue to and serve upon, the discharger a notice of violation(s). Such notice shall describe the time, date, place and circumstances of each violation charged, the amount of penalty imposed by the director for each violation, and corrective measures which the discharger is required to undertake as a condition of continuation of discharger's permit. The director shall have discretionary authority to decline to issue notice of violation(s) in cases where violations are insignificantly technical in nature and the public interest would not be served by formal charges. The director shall keep a record of all such discretionary determinations.

G. Discharger Payment or Appeal. Discharger shall pay the penalty and take corrective action described in the notice of violation, or shall make arrangements to pay and take corrective actions. Payment shall be made, or a plan for payment and corrective action shall be made and completed not later than thirty (30) days after service upon the discharge of the notice of violation. Discharger may, in the alternative, within thirty (30) days of service of the notice of violation, file a notice of appeal with the city manager, which notice of appeal shall stay all further action on the notice of violation, and accumulation of interest upon penalties therein, pending final decision by the city manager on the appeal; provided, however, that nothing herein shall be taken to limit the authority of the director to take such action or to make such directives as are reasonable in the circumstances to stop or prevent an ongoing or threatened violation.

H. Revocation of Permit. In the event a discharger shall fail to make arrangements for corrective actions or to pay penalties, as required herein, and shall not have appealed as provided within the time allowed, then the director shall order such discharger's permit immediately suspended, and take such action as necessary to ensure that the discharger complies with the provisions of this section, including but not limited to physically blocking the discharger's access to the sewer system. All such measures shall remain in effect until the discharger has complied with the provisions of this section.

I. City Manager's Authority. Upon an appeal brought to the city manager by a notice of appeal by a discharger charged with the violation, the city manager shall set the matter for hearing. Alternatively, the city manager may refer such appeals to a designated administrative hearing officer. The city manager, or the administrative hearing officer designated by the city manager, shall determine whether the violation has occurred, and whether the civil penalty imposed by the director was reasonable in all the circumstances. The city manager, or the administrative hearing officer designated by the city manager, shall have the authority and set proceedings to affirm or dismiss the allegations, to condition the penalties imposed or the corrective action, or to reduce or increase the fines imposed by the director. Failure of the discharger to comply with the decision of the city manager or the administrative hearing officer designated by the city manager, or make arrangements for compliance satisfactory to the director within fifteen (15) days of the date of the decision, shall result in termination of the discharger's permit, and the director shall thereupon order physical termination of service forthwith, which service shall not be resumed until the order of the city manager or the administrative hearing officer designated by the city manager, has been complied with.

J. Lien. The amount of civil penalties imposed under this section which have remained delinquent for a period of sixty (60) days shall constitute a lien against the real property of the discharger from which the discharge originated resulting in the imposition of the civil penalty. The lien provided herein shall have no force and effect until recorded with the county recorder and when recorded shall be in force and effect for ten years from time of recording unless sooner released, and shall be renewable in accordance with the provisions of Sections 683.110 to 683.220, inclusive, of the Code of Civil

Procedure.

K. Superior Court Action. The city may, at its option, elect to petition the superior court to confirm any other establishing civil penalties and enter judgment in conformity therewith in accordance with the provisions of Sections 1285 to 1297.6, inclusive, of the Code of Civil Procedure. (Ord. 9605 § 26 (part), 1996: prior code § 4309)

Section 13.08.1050 Criminal penalties for certain violations.

Notwithstanding the provisions of Section 13.08.900:

A. A discharger who willfully or negligently violates any provisions of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine in at least the amount of one thousand dollars (\$1,000.00) per violation, per day, or subject to penalties in accordance with Section 1.12.010. (Ord. 9605 § 26 (part), 1996: prior code § 4310).

B. A discharger who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor, and be subject to a penalty in at least the amount of one thousand dollars (\$1,000.00) per violation, per day or be subject to penalties in accordance with Section 1.12.010 (Ord. 9605 § 26 (part) 1996: prior code § 4310). This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

Section 13.08.1060 Penalties for significant noncompliance.

Notwithstanding civil or criminal penalties, any industrial user found to be in significant noncompliance with applicable pretreatment requirements during the previous twelve (12) months shall be included in an annual public notification in the largest daily newspaper published in the city. (Prior code § 4311)

Section 13.08.1070 Falsifying of information.

Any person or persons who knowingly makes any false statements, representation, record, report, plan or other document filed with the city or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or procedure required under this chapter, shall be guilty of a violation of this chapter. (Prior code § 4312)

Section 13.08.1075 Emergency Suspensions.

The city may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare or persons. The city may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or

minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The city may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings in Section 13.08.1080 of this ordinance are initiated against the user.

B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the city prior to the date of any termination hearing under Section 13.08.1080 of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

Section 13.08.1080 Termination of Service.

The city may revoke any industrial discharge permit, or immediately terminate, or cause to be immediately terminated, wastewater service to any premises if a violation of any provision of this chapter causes or threatens to cause a condition of contamination, pollution, or nuisance as defined in this chapter. (Prior code § 4313)

Section 13.08.1089A Article 12. Special Regulations

Section 13.08.1090 Protection from damage.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the city sewerage system. (Prior code § 4316)

Section 13.08.1100 Confidential information.

All information and data regarding a discharger obtained from reports, questionnaires, permit applications, permits or monitoring programs, and from inspections, shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods which would be detrimental to the discharger's competitive position. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use in making studies and shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information. (Prior code § 4317)

Section 13.08.1110 Special agreements.

Special agreements and arrangements between the city and any persons or agencies regarding wastewater treatment and sewerage facilities may be entered into when in the opinion of the city unusual or extraordinary circumstances compel special terms and conditions. However, no special agreements between the city and any user shall be allowed to contravene federal, state or local pretreatment standards. (Prior code § 4318)

City of Visalia

Pretreatment Program
Enforcement Policy
Procedures Manual

March 2006

The City of Visalia Enforcement Policy Procedures Manual was developed as a mechanism for enforcing against violations of the City of Visalia’s Wastewater Ordinance, the City of Visalia’s approved Pretreatment Program, Federal General Pretreatment Regulations, Federal Categorical Standards and City of Visalia Wastewater Discharge Permits. Enforcement actions are intended to be progressive in nature with initial responses that are intended to be appropriate in relation to the nature and severity of the violation and the overall degree of noncompliance. The long term effectiveness of the Enforcement Policy Procedures Manual can be measured by:

- Whether the noncomplying source returns to compliance as expeditiously as possible;
- Whether the enforcement response establishes the appropriate deterrent effect for the particular violator and for other potential violators;
- Whether the enforcement response promotes fairness of government treatment as between comparable violators, as well as between complying and noncomplying parties.

The EPA Pretreatment Compliance Monitoring and Enforcement Guidance Manual was used as a source document in the development of the City of Visalia’s Enforcement Policy Procedures Manual. This guidance manual provides a definition of significant noncompliance (SNC) that includes criteria patterned after those used in the NPDES Program. Officially, any violation of Pretreatment Program requirements is an instance of noncompliance for which the industrial user is liable for enforcement including penalties. A working definition of significant noncompliance (SNC) is industrial user violations which meet one or more of the following criteria:

1. Violations of wastewater discharge limits.
 - a. Chronic violations. Sixty-six percent or more of the measurement exceed the same daily maximum limit or the same average limit in a 6-month period (any magnitude of exceedance).
 - b. Technical Review Criteria (TRC) violations. Thirty-three percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a 6-month period.

There are two groups of TRCs:

Group I for conventional pollutants
(BOD, TSS, fats, oil, and grease) TRC = 1.4

Group II for all other pollutants TRC = 1.2

- c. Any other violation(s) of an effluent limit (average or daily maximum) that the Control Authority believes has caused, alone or in combination with other discharges, interference (e.g. slug loads) or pass-through; or endangered the health of the sewage treatment personnel or the public.
 - d. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- 2. Violations of time schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
 - 3. Failure to provide reports for time schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from the due date.
 - 4. Failure to accurately report noncompliance.
 - 5. Any other violation or group of violations that the Control Authority considers to be significant.

The table of Enforcement Policy Procedures found later in this manual is designed to be used in instances of noncompliance for all industrial users. Significant Industrial Users are defined in 40 CFR 403.3 (t) as:

- A. All categorical industrial users.
- B. Any noncategorical industrial user that:
 - Discharges 25,000 gallons per day or more of process wastewater (“process wastewater” excludes sanitary, noncontact cooling and boiler blowdown wastewaters).
 - Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic (BOD, TSS, etc) capacity of the treatment plant.
- C. Has a reasonable potential, in the opinion of the Control or Approval Authority, to adversely affect the POTW treatment plant (inhibition, pass-through of pollutants, sludge contamination, or endangerment of POTW workers).

A nonsignificant industrial user is defined as industry or commercial business that does not meet the 40 CFR 403 definition of a significant industrial user and also meets at least one of the following criteria:

- A. Has a treatment system that treats a process wastewater (e.g. grease trap, silver recovery system; pH adjustment, etc.);
- B. Requires a special waste handling permit condition clause for a process wastewater or a waste stream that has a strong potential for discharge to the sanitary sewer system (e.g. silver recovery clause requiring waste fixer to be hauled off site for treatment);
- C. Requires a narrative waste stream permit condition prohibition for one or more waste streams (e.g. prohibition of dry cleaning process waste discharge including still oil and separator water to the sanitary sewer system);
- D. Is identified as being in the L1-3 Food Edible Products/Process category. These industries are few in number and have the greatest potential to be reclassified as significant industrial users through increased process wastewater flow;
- E. Is identified as being in the L1-2 Food Preparation category with a preordinance clause in their existing Wastewater Discharge Permit allowing them to operate without installing a grease trap. The 10 businesses in this situation will eventually be eliminated by business closure/change of ownership attrition.

Major violations are defined as those that fulfill at least one of the following:

- Achieve the federal definition of significant noncompliance (SNC);
- Impede the determination of compliance status;
- Have the potential to cause or may have actually caused adverse environmental effects; health problems or interference with POTW treatment capability.

Minor violations are those that do not meet the threshold requirement of major violations.

TABLE OF ENFORCEMENT POLICY PROCEDURES

SAMPLING, MONITORING AND REPORTING

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
1. Failure to sample, monitor or report (routine reports).	First event in a year.	Phone call or informal meeting requiring a report within 10 days.
	Second event in a year.	Failure to respond letter requiring a report within 21 days.
	Third and subsequent events in a year.	Notice of Violation requiring a report within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
2. Failure to notify of known SIU effluent limit violation or slug discharge.	First event in a year with no pass through, interference, incompatibility, damage or personnel endangerment caused	Phone call or informal meeting requiring a report within 10 days.
	Second event in a year with no pass through, interference, incompatibility, damage or personnel endangerment caused	Failure to Respond letter requiring a report within 21 days.
	Third and subsequent events in a year with no pass through, interference, incompatibility, damage or personnel endangerment caused	Notice of Violation requiring a report within 30 days. If no action resolving notice of violation in 45 days then publication in newspaper.
3. Failure to notify of known SIU effluent limit violation or slug discharge.	Any instance in which pass through, interference, incompatibility, damage to the POTW and or personnel endangerment is caused – SNC.	Emergency suspension with possible injunction.
4. Tampering with effluent flow meters, samplers or monitoring equipment	Isolated or infrequent (once in 2 quarters)	Notice of Violation requiring an explanation within 30 days.
	Frequent (twice or more in 2 quarters).	Consent Order, Compliance Order and/or Administrative Fine.
5. Failure to return wastewater discharge permit application by deadline. (Significant Industrial User)	First week overdue.	Phone call requiring submission within 7 days.
	Second week overdue	Notice of Violation requiring submission within 7 days and administrative fine. If no action resolving Notice of Violation in 45 days then publication in newspaper.

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
6. Failure to return wastewater discharge permit application by deadline. (Nonsignificant Industrial User)	Overdue	Certified letter requiring submission within 30 days.
	No submission within 30 days	Notice of Violation requiring submission within 7 days and administrative fine.
7. Ordinance or administrative permit violation (non-effluent limit violation).	Isolated (once in a quarter).	Phone call or informal meeting explaining proper techniques.
	Infrequent (twice in a quarter).	Letter explaining proper techniques.
	Frequent (3 or more times in a quarter).	Notice of Violation requiring resolution of problem in 30 days. If no action resolving the Notice of Violation received in 45 days then publication in newspaper.
8. Minor sampling, monitoring or reporting deficiencies (computational or typographical errors).	First event in a year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year.	Notice of Violation requiring correction to be made and/or submitted within 30 days.
9. Unintentional failure to sample all pollutants as required by permit in a representative manner (including batch discharge events) and/or handle samples properly	First event in a year.	Phone call or informal meeting explaining proper techniques.
	Second event in a year.	Letter explaining proper techniques.
	Third and subsequent events in a year.	Notice of Violation requiring resolution of the problem in 30 days. If no action resolving the Notice of Violation is received in 45 days then publication in newspaper.

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
10. Intentional failure to sample all pollutants as required by permit in a representative manner (including batch discharge events) and/or handle samples properly.	Isolated (once in 3 years).	Notice of Violation requiring correction and explanation within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
	More than once in 3 years – SNC.	Consent Order, Compliance Order and/or Administrative Fine.
11. Major sampling or monitoring deficiencies.	First event in a year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made and/or submitted within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, then Consent Order, Compliance Order and/or Administrative Fine.
12. Reports that are improperly signed or certified.	First event in year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made and/or submitted within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, Consent Order, Compliance Order and/or Administrative Fine.
13. Incomplete record-keeping violations (missing information)	First event in year	Phone call or informal meeting explaining proper techniques.
	Second event in a year.	Letter explaining proper techniques.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring resolution of the problem in 30 days. If no action resolving the Notice of Violation is received in 45 days then publication in newspaper.

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
14. Failure to utilize proper analytical methods.	First event in a year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made and/or submitted within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, then Consent Order, Compliance Order and/or Administrative Fine.
15. Failure to report additional sampling results	First event in a year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made and/or submitted within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, then Consent Order, Compliance Order and/or Administrative Fine.
16. Failure to maintain a copy of wastewater discharge permit on site.	First event in a year.	Phone call or informal meeting requiring correction to be made in 14 days.
	Second event in a year.	Letter requiring correction to be made within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, then Consent Order, Compliance Order and/or Administrative Fine.

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
17. Late reports (no minimum number of days) Exception: If industrial user's private contract laboratory is cause of late report.	First event in a year.	Phone call or informal meeting requiring corrections to be made and/or submitted in 14 days.
	Second event in a year.	Letter requiring corrections to be made and/or submitted within 21 days.
	Third and subsequent events in a year or continuous. If continuous and remains uncorrected for 30 days or more – SNC.	Notice of Violation requiring correction to be made and/or submitted within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper. If SNC, Consent Order, Compliance Order and/or Administrative Fine.
18. Reporting false information.	Isolated (once in 3 years).	Notice of Violation requiring correction and explanation within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
	More than once in 3 years – SNC.	Consent Order, Compliance Order and/or Administrative Fine.

COMPLIANCE SCHEDULES (CONSTRUCTION PHASES OR PLANNING)

	<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
19.	Failure to submit a time schedule.	At any time.	Second Notice of Violation requiring a response in 15 days. If no action resolving the Notices of Violation has occurred within 45 days of the initial Notice of Violation then publication in newspaper – SNC.
20.	Missed time schedule milestone.	Will not cause late final date or other milestone dates.	Phone call to determine status. Progress report with explanation to be required within 21 days.
		Will result in other missed milestone. Violation for good or valid cause.	Phone call to determine status. Progress report with explanation to be required within 21 days.
		Will result in other missed milestones. No good or valid cause.	Notice of Violation requiring rescheduled compliance milestones within 14 days. If no action resolving the Notice of Violation has occurred within 45 days then publication in newspaper.
21.	Missed time schedule completion date.	Violation due to force majeure (strike, Act of God, etc.)	Phone call requiring documentation of good and valid cause within 14 days. Also require new completion date as soon as possible. If necessary set new accelerated milestones.
		Up to 90 days outstanding. Failure or refusal to comply without good or valid cause.	Notice of Violation requiring the submission of a new completion date within 14 days. If there is no response resolving the Notice of Violation within 45 days then publication in newspaper.
		90 days or more outstanding. Failure or refusal to comply without good or valid cause	Consent Order, Compliance Order and/or Administrative Fine.
22.	Recurring compliance schedule violations.	First recurrence.	Notice of Violation requiring an explanation of the violation and the intended actions to prevent recurrence.
		Second Recurrence.	Consent Order, Compliance Order and /or Administrative Fine.

NONCOMPLIANCE EVENT

CIRCUMSTANCES

INITIAL RESPONSE

23.	Failure to install monitoring equipment.	Up to 90 days outstanding.	Notice of Violation requiring the installation of monitoring equipment within 30 days. If there is no response resolving the Notice of Violation within 45 days then publication in newspaper.
		90 days or more outstanding – SNC.	Consent Order, Compliance Order and/or Administrative Fine requiring immediate monitoring (using outside contracts if necessary) and the installation of equipment within a minimal time.

EFFLUENT LIMITS

24.	Exceeding final discharge limits (categorical, local or prohibited).	Any discharge violation in which SNC discharge criteria are not achieved.	Notice of violation requiring corrective action or a time schedule within 30 days. If no action resolving notice of violation in 45 days then publication in newspaper.
		Any discharge violation in which SNC discharge criteria are not achieved that causes harm to the environment or POTW.	Emergency suspension with possible injunction, civil penalties and/or criminal penalties.
		Any discharge violation in which SNC discharge criteria are achieved without known damages to the environment or POTW.	Consent Order, Compliance Order and/or Administrative Fine.
		Any discharge violation in which SNC discharge criteria are achieved with known damages to the environment or POTW.	Emergency suspension with possible injunction, civil penalties and/or criminal penalties.
25.	Exceeding interim discharge limits (categorical or local).	Any discharge violation without known damages to the environment or POTW.	Notice of Violation requiring corrective action or a time schedule within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
		Any discharge violation in which SNC discharge criteria are not achieved that causes harm to the environment or POTW.	Consent Order, Compliance Order and/or Administrative Fine or emergency suspension with possible Cease and Desist Order, injunction, civil penalties and/or criminal penalties depending on the extent of the damages.
		Any discharge in which SNC discharge criteria are achieved with known damages to the environment or POTW.	Consent Order, Compliance Order and/or Administrative Fine or emergency suspension with possible Cease and Desist Order, injunction, civil penalties and/or criminal penalties depending on the extent of the damages.

<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
26. Reported slug discharge.	Isolated without damages to the environment or POTW.	Notice of Violation requiring corrective action or a time schedule within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
	Recurring without known damages to the environment or POTW.	Consent Order, Compliance Order and/or Administrative Fine.
	Any instance with known damages to the environment or POTW.	Emergency suspension with possible Cease and Desist Order, injunction, civil penalties and/or criminal penalties.
27. Discharge without a permit or approval.	Discharger unaware of permit being required and without damages to the environment or POTW.	Notice of Violation requiring discontinuation of discharge until a wastewater discharge permit has been issued.
	Discharger continues to discharge to sewer after being notified to discontinue and without damages to the environment or POTW.	Emergency suspension with possible Cease and Desist Order.
	Failure to apply for a wastewater discharge permit after initial notification of application requirements.	Notice of Violation requiring submission of a wastewater discharge permit application within 7 days.
	One time that results in known damages to the environment or POTW or continuing violation – SNC.	Emergency suspension with possible Cease and Desist Order, injunction, civil penalties and/or criminal penalties.
	Continuing violation that results in known damages to the environment or POTW.	Emergency suspension with possible Cease and Desist Order, injunction, civil penalties and/or criminal penalties.
28. pH of discharge in violation of discharge limits.	First measurement in a quarter in violation of local pH limits.	Phone call or informal meeting requiring corrective action to be made within 14 days.
	Second measurement in a quarter in violation of local pH limits.	Letter requiring correction to be made within 21 days.
	Third and subsequent measurements in a quarter in violation of local pH limits.	Notice of Violation requiring corrective action or a time schedule within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
	Any measurement that is in violation of federal discharge limits. pH less than 5.0 (40 CFR 403.5 (b) (2)).	Notice of Violation requiring corrective action or a time schedule within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.
	Any single measurement that meets the state definition of hazardous waste due to corrosivity. pH less than or equal to 2.0 or greater than or equal to 12.5 (Title 22 California Code of Regulations, SEC 66261.22 (a) (1)).	Notice of Violation requiring corrective action or a time schedule within 30 days. If no action resolving Notice of Violation in 45 days then publication in newspaper.

	<u>NONCOMPLIANCE EVENT</u>	<u>CIRCUMSTANCES</u>	<u>INITIAL RESPONSE</u>
29.	Entry to nondomestic discharger premises denied	At any time.	Notice of Violation requiring immediate access. If still denied access then emergency suspension with possible Cease and Desist Order.
30.	Nondomestic discharger withdraws consent for an inspection.	At any time.	Notice of Violation requiring access for inspection. If still denied access then emergency suspension with possible Cease and Desist Order.
31.	Nondomestic discharger denies city inspectors the right to copy records	At any time.	Notice of Violation requiring access to records within 7 days for the purpose of copying.

NONCOMPLIANCE DETECTED THROUGH INSPECTIONS OR FIELD INVESTIGATIONS

32.	Minor violation noted during inspection	Isolated - one or two during single inspection.	Discuss corrective action at time of inspection and visually reinspect within one month.
		Three or more during a single inspection.	Discuss corrective action at time of inspection. Follow-up with a letter addressing corrective action. Visually reinspect within one month.
33.	Major violation noted during inspection.	Isolated – one instance during a single inspection. No evidence of negligence or intent.	Notice of Violation requiring corrective action within 30 days. Visual reinspection after 30 days. If no action resolving the Notice of Violation in 45 days then publish in newspaper.
		More than one instance during a single inspection or evidence of negligence or intent – SNC.	Consent Order, Compliance Order and/or Administrative Fine.
34.	Minor violation of permit condition.	Isolated – one or two during a single inspection. No evidence of negligence or intent.	Discuss corrective action at time of inspection. Follow-up with a letter addressing corrective action. Visually reinspect within one month.
		Three or more during a single inspection or evidence of negligence or intent.	Notice of Violation requiring corrective action within 30 days. Visual reinspection after 30 days. If no action resolving the Notice of Violation in 45 days then publish in newspaper.

NONCOMPLIANCE EVENT

CIRCUMSTANCES

INITIAL RESPONSE

35. Major violation of permit condition.

Isolated – one instance during a single inspection. No evidence of negligence or intent.

Notice of Violation requiring corrective action within 30 days. Visual reinspection after 30 days. If no action resolving the Notice of Violation in 45 days then publish in newspaper.

More than one instance during a single inspection or evidence of negligence or intent – SNC.

Consent Order, Compliance Order and/or Administrative Fine.

ENFORCEMENT ESCALATION

INFORMAL ENFORCEMENT ACTIONS

<u>INITIAL RESPONSE</u>	<u>TIME FRAME (1)</u>	<u>NEXT ENFORCEMENT LEVEL</u>
1. Phone call or informal meeting.	7 to 14 days.	Failure to respond letter or a letter requiring corrections.
2. Failure to respond letter or a letter requiring corrections.	21 days.	Notice of Violation.
3. Notice of Violation(2)	30 days	Consent order, compliance order and/or administrative fine. Specific sequence at the discretion of Public Works Manager or designee. If no response to notice of violation in 45 days then publication in newspaper.
4. Consent order, compliance order and/or administrative fine.	At the discretion of Public Works Manager or designee. Not to extend the deadline for compliance established for a pretreatment standard or requirement	Cease and Desist Order with time schedule for corrective action.

FORMAL ENFORCEMENT ACTIONS (3)

5. Cease and Desist Order.	At the discretion of the Public Works Department Head.	Beyond the Cease and Desist Order the specific sequence of formal enforcement actions deployed is at the discretion of the Public Works Department Head, the City Attorney and/or the City Council.
6. Civil suit for injunctive relief and/or civil penalties (4).	At the discretion of the City Attorney and/or City Council.	
7. Criminal suit.	At the discretion of the City Attorney and/or City Council.	
8. Termination of Service (Revocation of Permit).	At the discretion of the Public Works Department Head, the City Attorney and/or the City Council.	

Footnotes:

- (1) Time frames are the amount of time in which nondomestic dischargers must respond to an informal enforcement action.
- (2) Repeat discharge violations will be issued Notices of Continued Violation if compliance schedule submission due dates have not been reached or if compliance schedule actions have not been completed.
- (3) The City of Visalia may conduct show cause meetings to clarify or resolve violations prior to proceeding with formal enforcement actions.
- (4) Prior to a civil suit the City Attorney may opt to declare the violating industry a public nuisance which calls for the City to commence court action for an abatement of the building occupancy.

RECEIVED
OCT 14 2005

Evaluation of City of Visalia's Enforcement Policy Procedures Manual

Discharger: City of Visalia, California
Location: 336 North Ben Maddox Way, Visalia, CA 93292-6631
Contacts: Grant Knight, Quality Assurance Supervisor
Evaluation Date: 17 June 2003
Evaluated By: I-Hsin Lee, Tetra Tech, Inc.

Contents

1. Executive Summary	1
2. Introduction	1
3. Sewer Use Ordinance: Enforcement Authority	2
4. Anticipated Types of Enforcement and Escalation of Enforcement	3
4.1 Unpermitted Discharges	3
4.2 Exceedance of Local or Federal Pretreatment Standard.....	3
4.3 Monitoring and Reporting Violations.....	4
4.4 Compliance Schedule Violations.....	4
4.5 Denial of Entry Violations.....	5
4.6 Miscellaneous Clarifications	5
5. Designation of Officials for Enforcement Responses	5
6. Summary of Findings	5

1. Executive Summary

The City of Visalia's (City's) *Enforcement Policy Procedures Manual* (the Manual) was evaluated by Tetra Tech, Inc., as part of the City's Pretreatment Compliance Inspection (PCI). This report describes the primary concerns generated by the review of the City's Manual.

The City's Manual was completed in 1989. It was however, never adopted by the City nor submitted to the U.S. Environmental Protection Agency (EPA) or the Central Valley State Water Resources Control Board (Regional Board) for review and approval. The review of the City's Manual revealed several deficiencies. These deficiencies include

- Inadequate enforcement authority in the City's sewer use ordinance
- Failure to include enforcement responses for several commonly anticipated violations, such as unpermitted discharges, effluent limit discharges that cause harm to the environment or publicly owned treatment work (POTW), several common monitoring and reporting violations, compliance schedule violations, and denial of entry.

In addition, several sections in the Manual need further clarification of enforcement time frames and definitions.

2. Introduction

40 CFR 403.8(f)(5) requires POTWs with approved pretreatment programs to develop and implement an enforcement response plan (ERP). This plan must contain detailed procedures indicating how a POTW will investigate and respond to all instances of nondomestic user noncompliance. The plan must, at a minimum,

- Describe how the POTW will investigate instances of noncompliance;
- Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of violations and the time period within which responses will take place;
- Identify by title, the official(s) responsible for each type of response; and
- Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 CFR 403.8(f)(1) and (2).

The City Manual was completed on 20 October 1989; however, during the 2-3 April 2003 PCI, the City's Quality Assurance Supervisor indicated that the Manual was never signed or dated by the City Council. A City staff member stated that during the closing comments of the 12 December 1990 PCI, the auditor, from the Regional Board, indicated that the City's Manual would be submitted to EPA for review and approval. The City never received a formal approval letter from the Regional Board. Furthermore, City staff

indicated that during the 25 May 1993 pretreatment compliance audit (PCA), auditors indicated that the City had procedures that defined the appropriate enforcement response and time frames for initiating the responses to different types of violations. City staff was uncertain whether the comment from the May 1993 PCA indicated an official approval of the City's Manual. It should be noted that regardless of whether the Regional Board has required the City to develop, adopt, and implement an ERP, 40 CFR 403.8(f)(5) requires the City to do so.

As part of the April 2003 PCI conducted by the Regional Board and Tetra Tech, Inc., the City's Manual was reviewed. This report summarizes the findings of the review and describes the elements in the Manual that are not consistent with federal requirements. In addition, the report provides recommendations to enhance the effectiveness of the City's enforcement response procedures.

3. Sewer Use Ordinance: Enforcement Authority

The City's Manual contains several enforcement responses that are not listed or described in the City's Sewer Service System Ordinance (Ordinance), Chapter 13.08. The City's Manual, it lists the following enforcement responses to violations:

- Phone call or informal meeting
- Failure to respond letter
- Notice of violation letter
- Compliance schedule issuance
- Cease and desist order
- Judicial action with possible termination of services
- Judicial action with penalty
- Criminal investigation

The City's Ordinance does not authorize the use of compliance schedules, judicial actions, and criminal investigations. 40 CFR 403.8(f)(1) requires the City to have adequate authority to enforce the requirements of sections 307(b) and (c), 402(b)(8) of the Clean Water Act. Therefore, the City is required to review its Ordinance to ensure that it authorizes the range of enforcement responses listed in its Manual. If the City's review of its Ordinance finds that it is lacking in authorization, the City is required to revise either its Manual or the Ordinance accordingly. It should be noted that any change in the City's Ordinance that relaxes the City's legal authority is considered a substantial modification to its approved pretreatment program and must be submitted to the Regional Board for review and approval [40 CFR 403.18].

Section 13.08.990 of the Ordinance authorizes the use of "time schedule" to prevent or correct a violation. The use of time schedules appears to be similar to the use of compliance schedules. Therefore, it is strongly recommended that the City replace the use of compliance schedules in the Manual with references to time schedules.

4. Anticipated Types of Enforcement and Escalation of Enforcement

40 CFR 403.8(f)(5) requires that the ERP specify types of escalating enforcement actions for all anticipated types of violations. The Manual fails to include several common anticipated violations.

4.1 *Unpermitted Discharges*

The Manual does not establish enforcement actions for all unpermitted discharges. The City has established enforcement actions for unpermitted discharges that cause harm to the environment or POTW (addressed in the Manual as Noncompliance Event #18). An unpermitted discharge is one in which a significant nondomestic discharger is discharging without a required permit. The following are some of the possible violations for this type that are not described in the Manual:

- Discharger is unaware of requirement and the unpermitted discharge did not cause harm
- Failure to apply for permit after initial notification of the application requirements

40 CFR 403.8(f)(1)(iii) requires the City to have the authority to control through permit, the contribution to the City by each significant nondomestic discharger. Additionally, Section 13.08.710 of the Ordinance states that no authorized person is allowed to use the City's public sewer without first obtaining a written permit from the City. Therefore, the City is required to revise its Manual to include applicable enforcement actions for violations of this requirement.

4.2 *Exceedance of Local or Federal Pretreatment Standard*

The City's Manual fails to establish enforcement actions for all possible circumstances of a violation of local, local interim, or federal discharge limits (Noncompliance Events #15 and #16). The City's Manual indicates that "any" pretreatment standard violation in which significant noncompliance (SNC)[as defined at 403.8(f)(2)(vii)] discharge criteria are not achieved will lead to a notice of violation requiring corrective action or a compliance schedule. "Any" discharge violation resulting in SNC discharge criteria without damage to the environment or POTW will lead to a cease and desist order. In addition, "any" discharge violation resulting in SNC discharge criteria with damages to the environment or POTW will lead to judicial action with applicable penalties. This section of the Manual does not establish appropriate enforcement actions for a discharge violation nor resulting in SNC discharge criteria but causes harm to the environment or POTW.

Since the City's Manual establishes the appropriate types of enforcement based on the discharger's SNC statute, the City is required to revise its Manual to include appropriate enforcement actions for all anticipated types of effluent violations.

4.3 Monitoring and Reporting Violations

The City's Manual does not establish enforcement actions for several monitoring and reporting violations. The following are possible monitoring and reporting violations that were not addressed in the Manual include:

- Reports that are improperly signed or certified
- Reports that are improperly signed or certified after initial notification
- Incomplete record-keeping
- Failure to use proper analytical methods
- Failure to report additional sampling results
- Failure to keep permit on-site

40 CFR 403.8(f)(2)(vi) requires the City to investigate instances of noncompliance with pretreatment requirements as indicated in reports and notices required under 40 CFR 403.12. Therefore, the City is required to revise its Manual to include appropriate enforcement actions for these types of violations.

Noncompliance Event #8 in the Manual establishes enforcement responses for "failure to sample representatively and/or handle samples properly." This section does not include enforcement responses instances when a discharger is found to intentionally handle samples improperly. 40 CFR 403.8(f)(5)(ii) requires the City to have appropriate enforcement responses for all anticipated types of violations. Therefore, City is required to include an appropriate enforcement action for this type of monitoring violations.

Furthermore, due to the Manual's wording, it could not be determined whether this noncompliance event was for failure to sample all pollutants as required by permit, or for failure to sample during actual nondomestic discharge events (batch dischargers), or both. It is strongly recommended that the City clarify the definition of "failure to sample representatively."

In addition, Noncompliance Event #9 in the Manual establishes enforcement responses for "major or gross" sampling, monitoring, or reporting deficiencies, such as missing information or late reports. A definition of "major or gross" could not be found in the Manual. For that reason, the minimum number of days a report must be late to be considered a major reporting deficiency could not be ascertained. The City is required to specify its definition of "major or gross."

4.4 Compliance Schedule Violations

Noncompliance Events #12 and #13 in the Manual describe several possible compliance schedule violations. The Manual, however, does not include a description of enforcement responses for recurring compliance schedule violations. 40 CFR 403.8(f)(5)(ii) requires the City to have appropriate enforcement responses for all types of anticipated violations, and violations of compliance schedules are common violations.

Therefore, City is required to revise its Manual to include appropriate enforcement response for this type of violation.

4.5 Denial of Entry Violations

The Manual does not establish enforcement responses to violations in which a nondomestic discharger denies entry or withdraws consent for an inspection, or denies City inspectors the right to copy records. The City is required to revise its Manual to include appropriate enforcement actions for these violations.

4.6 Miscellaneous Clarifications

The City's Manual page 16 establishes "time frames" for informal enforcement actions. It could not be determined whether these are time frames in which nondomestic dischargers must respond to an informal enforcement action or if it is the time frame in which the City must issue an enforcement response. The City is required to clarify the meaning of "time frame" in the Manual. It should be noted that it is recommended that no more than 30 days be allowed to elapse between the detection of the violation(s) and the initiation of an enforcement response. Furthermore, 40 CFR 403.12(g) requires a significant industrial user (SIU) to notify the City within 24 hours of becoming aware of the violation(s); the SIU must perform repeat sampling and analysis, and submit the resampling results to the City within 30 days of becoming aware of the noncompliance.

5. Designation of Officials for Enforcement Responses

40 CFR 403.8(f)(5) requires that ERPs indicate the official(s) authorized to implement an enforcement response. The City's Manual has adequately designated the authorized POTW personnel responsible for initiating specific enforcement responses. The Manual indicates that the City's Quality Assurance Supervisor is authorized to implement informal enforcement actions, such as telephone calls and informal meetings, failure to respond letters, notice of violation letters, and compliance schedules. Formal enforcement actions, such as cease and desist orders, can be implemented by the head of the City's General Services Department. Civil suits for injunctive relief, civil penalties, and criminal suits can be implemented by either the City Attorney or City Council. Termination of services can be executed by, either, the head of the General Services Department, the City Attorney, or the City Council.

6. Summary of Findings

Listed below are the primary requirements and recommendations resulting from the evaluation of the City's Manual. Please refer to the specific sections of the report (as referenced) for more information pertaining to each finding.

1. The City's Ordinance does not authorize the use of compliance schedules, judicial actions, and criminal investigations. The City is required to review its Ordinance to ensure that it authorizes the range of enforcement responses listed in its Manual. (Section 3., Sewer User Ordinance: Enforcement Authority)
2. Ordinance section 13.08.990 authorizes the use of time schedules to prevent or correct a violation. The use of time schedules appears to be similar to compliance schedules. It is recommended that the City revise the language regarding the use of compliance schedules in its Manual with references to time schedules for consistency. (Section 3., Sewer Use Ordinance: Enforcement Authority)
3. The Manual does not establish enforcement actions for all unpermitted discharges. The City is required to revise its Manual to include applicable enforcement actions for these violations. (Section 4.1, Unpermitted Discharges)
4. The Manual does not establish enforcement actions for all possible circumstances for a discharge limit violation. The City is required to revise its Manual to include applicable enforcement actions for these violations. (Section 4.2, Exceedance of Local or Federal Pretreatment Standards)
5. The Manual does not establish enforcement actions for improperly signed reports, recordkeeping violations, improper use of analytical procedure violations, failure to report additional sampling results, and failure to maintain a copy of the permit. The City is required to revise its Manual to include applicable enforcement actions for these violations. (Section 4.3, Monitoring and Reporting Violations)
6. Noncompliance Event #8 in the City's Manual does not include enforcement responses for the intentional mishandling of samples. The City is required to revise its Manual to include appropriate enforcement actions for this type of violation. (Section 4.3, Monitoring and Reporting Violations)
7. The wording of Noncompliance Event #8 in the Manual is confusing and ambiguous. It is strongly recommended that the City clarify "failure to sample representatively." (Section 4.3, Monitoring and Reporting Violations)
8. A definition of "major or gross" could not be found in the Manual. The City is required to clarify its definition of "major" and "gross." (Section 4.3, Monitoring and Reporting Violations)
9. The Manual does not include enforcement responses for recurring compliance schedule violations. The City is required to revise its Manual to include appropriate enforcement actions for this type of violation. (Section 4.4, Compliance Schedule Violations)
10. The Manual does not establish enforcement responses for violations due to a nondomestic discharger denying entry or withdrawing consent for an inspection.

or denying City inspectors the right to copy records. The City is required to revise its Manual to include applicable enforcement actions for this type of violation (Section 4.5, Denial of Entry Violations)

11. It could not be determined whether the time frames established on page 16 of the Manual are time frames in which nondomestic dischargers must respond to an informal enforcement action or if it is the time frames in which the City must issue an enforcement response. The City is required to clarify the definition of these time frames. (Section 4.6, Miscellaneous Clarifications)



Don H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Office of Chief Counsel

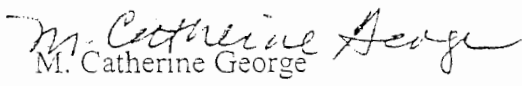
1001 I Street, 22nd Floor, Sacramento, California 95814
P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5161 ♦ FAX (916) 341-5199 ♦ www.swrcb.ca.gov



Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov.

TO: Jo Anne Kipps
Senior Water Resources Control Engineer
Central Valley Regional Water Quality
Control Board (Fresno)

FROM: 
M. Catherine George
Staff Counsel
OFFICE OF CHIEF COUNSEL

DATE: September 11, 2002

SUBJECT: CITY OF VISALIA PRETREATMENT PROGRAM LEGAL ADEQUACY
REVIEW

In conjunction with the Regional Board's pretreatment compliance audit (PCA) of the City of Visalia's pretreatment program, you asked our office to conduct a legal review of the City of Visalia's (City) sewer ordinance, the Goshen Community Services District (District) sewer ordinance, and two agreements between the City and the District concerning wastewater treatment. The purpose of my comments is to identify necessary changes to the ordinances and to the Wastewater Service Agreement (Agreement) and Memorandum of Understanding (MOU) so that together these documents provide the City with adequate legal authority under the applicable federal pretreatment regulations (set forth in 40 Code of Federal Regulations (CFR) Part 403) to implement and fully enforce its pretreatment program against industrial users in its own and in contributing jurisdictions such as the District.

Accordingly, I have reviewed the City's ordinance (Visalia Municipal Code Chapter 13.08), the Goshen Community Service District's ordinance SO96-1, revised October 16, 1995, the June 5, 1995 Agreement and the March 25, 1999 MOU regarding wastewater pretreatment, both between the City and the District, and have the following comments.

RECEIVED

Comments on the City of Visalia Ordinance

SEP 16 2002

Definitions

RWGCB-OVR
FRESNO, CALIF

Interference. After "permit," insert "caused by a discharge, either alone or in conjunction with discharge or discharges from other sources." The definition should also be revised to include the

reference to the Marine Protection, Research, and Sanctuaries Act, as set forth in the Model Ordinance, Section 1.4.L.

Pass Through. As written, the language is less stringent than that provided by the federal regulations because the language seems to exclude contributions that do not significantly contribute to the City's violation of its permit. The definition should be revised to delete "significantly contribute" and insert after the words "concentrations which" the phrase "alone or in conjunction with a discharge or discharges from other sources is a cause of a violation of any requirement of the City's permit, including an increase in the magnitude or duration of the violation."

Industrial User. The term "industrial discharger" defined in the ordinance should be changed to "industrial user," or the term "industrial user" can be added as an alternative. The federal regulations refer throughout to "user" rather than "discharger." References within the ordinance to the term should also be revised accordingly.

Significant Industrial User. The definition of Significant Industrial Discharger should be revised to refer to "user," rather than "discharger" and corresponding changes made in the remainder of the ordinance to reflect the terms used in the federal regulations. In addition, the definition (at 2.) must be revised to reflect that a Significant Industrial User is an industrial user that "Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater)." As written, the definition is less stringent than required under the federal regulations.

Prohibitions

The ordinance does not appear to contain the required general discharge prohibition. See 40 CFR 403.5(a) and Model Ordinance, Section 2.1A. The general discharge prohibition should state: "No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements."

It appears that subsection C. under 13.08.550 of the ordinance sets forth some of the specific prohibitions required under the federal regulations. The ordinance would be easier to follow if the specific prohibitions were moved to fall under the heading of "Prohibitions on discharges," Section 13.08.480.

Reporting Requirements

The City needs to add a section on reporting requirements to supplement the information set forth in the ordinance at section 13.08.810.D.3.g. The federal regulations require that a POTW

with an approved pretreatment program require reports for baseline monitoring, compliance schedule progress, compliance with categorical deadlines, and periodic compliance reports for categorical users and significant non-categorical users. 40 CFR 403.12(b)-(e), and 40 CFR 403.12(h). Such a section could be added between Article 9 and Article 10 (or elsewhere as appropriate) and should reflect the information set forth in the U.S. EPA's Model Ordinance in sections 6.1-6.4 and in the applicable regulations. To the extent that the ordinance already lists certain required components of a submittal for issuance of an industrial discharge permit that are also relevant to monitoring and reporting requirements (e.g., section 13.08.810.D.3.h. identifies the contents of an appropriate certification for permit issuance purposes), the City can cross-reference to the already existing sections rather than repeating the information in the new reporting section.

Remedies for Noncompliance (Enforcement)

The City's ordinance does not provide adequate authority to enforce against noncompliance with pretreatment requirements as required in 40 CFR 403.8(f)(1)(vi). Section 13.08.900 does not provide the City with adequate authority to impose the civil and criminal liabilities required in the pretreatment regulations. Under the applicable federal regulations, the City must have the "authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation by Industrial Users of Pretreatment Standards and Requirements." 40 CFR 403.8(f)(1)(vi)(A). While section 13.08.1050 allows the imposition of criminal penalties "[n]otwithstanding the provisions of section 13.08.900," the same qualifying language is missing as to the imposition of civil penalties addressed in section 13.08.1040. Moreover, neither of these sections specifies the minimum authority the City should have. If the City wishes to retain the language in section 13.08.900 as to violations of provisions of the ordinance other than those pertinent to enforcement of its pretreatment program, it should tailor the language of that section to make its intent clear.

Emergency Suspensions

Finally, the federal regulations require that a POTW have the ability to act in an emergency to stop and actual or threatened discharge in a manner more expedient than is allowed under the ordinance's section authorizing the City to seek an injunction. 40 CFR 403.8(f)(1)(vi)(B). While section 13.08.1080, "Termination of Service," arguably would permit the City to take emergency action, U.S. EPA's model ordinance at section 10.7 contains language that more explicitly reflects the necessary authority to act to suspend an industrial user's discharge in an emergency situation.

Comments on the Goshen Community Services District Ordinance

As indicated below, an effective multijurisdictional agreement will require that a contributing jurisdiction such as the District have an effective ordinance that is at least as stringent as that of

the Control Authority (the City) to ensure that the Control Authority has all of the necessary legal authorities to enforce its pretreatment program within the contributing jurisdiction. Ordinarily, the easiest way to ensure that a contributing jurisdiction such as the District has a sufficiently stringent ordinance is for that jurisdiction to incorporate the Control Authority's pretreatment ordinance by reference into its own code. Because in this case the District's ordinance already has adopted all of the pretreatment related provisions from the City's code, it is probably easier to make the revisions required for the City's ordinance as appropriate into the District's own ordinance. All of the required revisions to the City's ordinance described above are also required to be made to the District's ordinance for it to be legally sufficient. In addition, I have a couple of additional changes that are necessary only for the District's ordinance.

Definitions.

Significant Industrial User. In addition to revisions to this definition already noted, at subdivision (c), "ten (10)" should be replaced with "five (5)."

A definition of Publicly Owned Treatment Works referencing the City of Visalia's facility should be added to the District's ordinance.

Comments on the Multijurisdictional Agreement

The City has a Wastewater Service Agreement with the District dated June 5, 1995 (Agreement). The Agreement does not comprehensively address the issues of pretreatment or discharges by industrial users located in the District to the City's POTW. The Agreement does prescribe some limitations on the wastewater that the District can discharge to the City's system (Agreement, section 2.1 Loading Limits). Among these limitations is a requirement that the District's discharge to the City's POTW shall not "[v]iolate the Environmental Protection Agency pretreatment requirements applicable to the City as administered by the Regional Water Quality Control Board." Agreement, section 2.1(c)(4). The Agreement also states that "[t]he District reserves the right to require pretreatment of any and all effluent or waste products of any commercial or industrial dischargers that enters the District system." Agreement, section 2.2. While these few references to pretreatment exist, the Agreement also states that "the issue of pretreatment [] will be addressed in a separate document, signed by the parties, and incorporated herein as if set forth in its entirety . . ." Agreement, section 8.9. From the correspondence and additional documentation the City provided following the PCA, it appears that the Memorandum of Understanding Between the City of Visalia and the Goshen Community Services District Regarding Wastewater Pretreatment Program (MOU), executed on March 25, 1999, is the document anticipated in the Agreement and the document in which the City and the District intend to set forth the pretreatment authorities for the regulation of industrial users in the District.

In order to permit discharges, or contributions, from industrial users located in other jurisdictions (known as contributing jurisdictions) into its system, a POTW must demonstrate that in

accepting contributions from other jurisdictions, it will "operate pursuant to legal authority enforceable in Federal, State or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of sections 307 (b) and (c), and 402(b)(8) of the [Federal Water Pollution Control Act] and any regulations implementing those sections." See 40 CFR section 403.8(f)(1). In other words, the POTW must be able to demonstrate to the Approval Authority (in this case the Board) that it has the legal authority to enforce federal, state and local pretreatment requirements and regulations against *all* industrial users that discharge to the POTW, whether located inside or outside of its jurisdictional boundaries.

As described above, an effective multijurisdictional agreement will require that the contributing jurisdiction agree to adopt a sewer ordinance that is no less stringent than the POTW's. Moreover, an effective multijurisdictional agreement will indicate clearly whether the POTW or the contributing jurisdiction is responsible for enforcing the contributing jurisdiction's ordinance against its industrial users. Generally, the contributing jurisdiction will designate the POTW as its agent for implementation and enforcement purposes. Alternatively, an agreement can provide that the contributing jurisdiction enforce its own ordinance. Under the latter approach, such a commitment by the contributing jurisdiction ordinarily is accompanied by a provision authorizing the POTW to step in and enforce the terms of the contributing jurisdiction's ordinance if the latter fails to do so.

From the MOU, it appears that in this case, the City and the District intend for the City to assume primary responsibility for implementation and enforcement of the City's pretreatment program within the District's jurisdiction. If that is not the case, the City should let us know. Whether or not this is the case, however, there are several areas in which the Agreement and MOU are inadequate.

First, the Agreement or MOU should explicitly obligate the contributing jurisdiction (i.e., the District) to adopt an ordinance that is at least as stringent as the City's ordinance and to make necessary amendments thereto as may be required over time. As indicated above, the review of the City's ordinance shows that the City's ordinance requires revisions in order to be considered legally adequate. Thus, to the extent the District's ordinance contains the same deficiencies as the City's ordinance, the District should revise its ordinance.

Second, the Agreement or MOU should explicitly state whether the City and District intend for the City to have primary responsibility for enforcing all aspects or only specific aspects of its pretreatment program against the District's industrial users. If the District intends to retain some responsibility, the Agreement or MOU should explicitly state that the City can enforce the program against industrial users in the District if the District fails to enforce the program. One of the clearest ways to accomplish this delineation of responsibilities is to have the District assign to the City the right to enforce all of the relevant provisions of the District's ordinance if the District fails to do so.

As written, Article 3 of the MOU provides the City only incomplete authority to take legal enforcement action. The Agreement or MOU should further specify that the entity not primarily responsible for implementation and enforcement has adequate legal remedies (such as indemnification and specific performance) against the responsible entity in the event the responsible entity fails to adequately implement and enforce the pretreatment program against industrial users in the District.

Third, while Article 2 of the proposed amendment provides the City with authority to issue discharge permits to the industrial users located within the District, the language suggests that either the District or the City may issue permits. It is preferable that one entity clearly assumes this role. If it will be undertaken jointly, the amendment should specify which entity assumes the lead role for drafting purposes.

Fourth, while Article 2 of the amendment provides the City with authority to independently enter the facilities of industrial users in the District, it should also ensure that the City has adequate access to records compiled as part of the District's pretreatment program activities.

For these reasons, as written, the Agreement and the MOU do not provide the City with the authority necessary to enable it to fully implement and enforce its pretreatment program against industrial users in the District's jurisdiction. Because the Agreement states that the City and District intend to address pretreatment issues in a separate document, rather than try to amend the existing Agreement or MOU, it may be simplest to develop a new, separate multijurisdictional agreement that would then be explicitly incorporated into the 1995 Agreement. However, the City may propose some other means of accomplishing this.

For an example of a multijurisdictional agreement that contains provisions that satisfy the legal authorities requirements of 40 CFR section 403.8(f) and provide a similarly situated control authority with strong authorities, you might refer the City to a recent agreement between the City of Redding and the County of Shasta that was recently approved by the Regional Board as a component of a substantial modification to the City of Redding's approved pretreatment program. In addition, you may want to refer the City to the U.S. EPA's Guidance Manual for Multijurisdictional Pretreatment Programs published in June 1994 and available on the U.S. EPA's website, for substantive guidance on this topic. Along with describing the elements of an effective multijurisdictional agreement, the Guidance Manual also contains examples of effective multijurisdictional agreements. These reference materials should facilitate the City's ability to ensure it has an effective and legally adequate agreement in place.

Conclusion

When the revisions to the City's ordinance, the District's ordinance and a revised or new multijurisdictional agreement between the City and the District are complete, they will need to be submitted to the Board for consideration as a substantial modification to the City's approved

pretreatment program under 40 CFR 403.18 using the procedures set forth in 40 CFR 403.11. Alternatively, when new waste discharge requirements are considered, it is possible to include a compliance schedule for completion of the necessary revisions. That way, the pretreatment program can be approved, subject to the completion of the required revisions.

If you, the City or the District have questions or disagree with the proposed changes to the ordinance or agreements, please call me or have them call me at (916) 327-4440 because there may be other ways to address my concerns.

MEMORANDUM

To: Visalia City Council

From: Alex M. Peltzer, Assistant City Attorney
Dooley Herr & Peltzer, LLP

Date: March 3, 2006

Re: School Site Dedications and Reservations; Second Reading
of Ordinance 2006-01 Authorizing use of Dedication
Our File No: 701-06-08 Item 7i(1)

Introduction

The City Council and the Board of Trustees for Visalia Unified School District (the "District") have discussed in recent years the possibility of the City working with the District in enacting certain procedures that would aid the District in acquiring school sites in areas of the City that are being developed. The District has experienced some difficulty in recent months in acquiring the necessary school sites, and has suggested that provisions of state law can be invoked by the City to aid in their efforts.

State law provides two different mechanisms whereby a City can impose conditions on a proposed development that would result in a school site being reserved or dedicated through the development process. One of these provisions (relating to reservations) has been enacted by the City of Visalia, but has not been utilized in relation to actual development proposal. The District has requested that the City both put in place a system both for utilizing the existing ordinance as well as enact an ordinance that authorizes the City to use a second statutory provision, relating to dedications.

Recommendation

After meeting with the District as well as representatives of the development industry, staff recommends the City Council consider and adopt a simple ordinance indicating that the statutory provisions may be invoked in appropriate circumstances, and also adopt a policy for putting both reservations and dedications into practice.

Background

Reservations

The relevant provision of the Map Act with respect to reservations (as opposed to dedications which will be discussed below) is Government Code Section 66479. That section states a city may, by local ordinance, require certain areas of real property within a subdivision to be reserved for public uses, including schools. That reservation would be subject to four specific statutory conditions. The most important of these are 1) the required reservation must permit the balance of the property to develop in an orderly and efficient manner, and 2) the amount of land reserved will not make the development of the remaining land held by the subdivider economically unfeasible. I believe these sections are intended to be protections against claims of unconstitutional takings.

Visalia has followed the invoked the provisions of this section and enacted Visalia Municipal Code Section 16.24.040. It states, in relevant part:

C. Reservations. At the discretion of the Council, areas of real property within the subdivision may be reserved for future needs for schools, ... pursuant to the applicable provisions of the Subdivision Map Act.”

If a reservation is made pursuant to 66479, the public agency for whose benefit the reservation was made may acquire that reserved property pursuant to the terms of 66480 of the Government Code. Briefly, that section provides that: 1) the school district would have to enter into a binding agreement at the time of approval of a final subdivision map to acquire the reserved area within two years; and 2) the purchase price to the school district for the reserved area will be the market value of the land at the time of the filing of the tentative map, plus taxes and costs since the tentative map was recorded. If a binding agreement is not entered at the time of approval of the final map the reservation automatically terminates (Gov. Code § 66481).

In brief, a reservation must leave a remnant that is economically feasible to develop, requires the school district to enter into a binding purchase agreement before approval of the final subdivision map, requires the district to close on the transaction within two years, and sets the price as the market price at the time of the filing of the tentative map, plus taxes and costs.

To date, the Planning Department has no record of the reservation provisions of the Map Act having been invoked and imposed on a development.

Dedications

The Subdivision Map Act also has a parallel, but distinct process for dedication of land within subdivisions for school use (Gov. Code § 66478). That section provides that a city may adopt an ordinance requiring any subdivider to dedicate to the school district such land as the city council deems necessary for the purpose of constructing an elementary school to be served by that subdivision. The Government code includes the following requirements:

- 1) The local dedication ordinance cannot be applied to a subdivider who has owned the land for more than 10 years;
- 2) The requirement of dedication shall be imposed at the time of approval of the tentative map.
- 3) The school district has to accept the dedication within 30 days, or the dedication is automatically terminated.
- 4) If the district accepts the dedication, the district has to repay to the subdivider or his successors the original cost to the subdivider of the dedicated land plus other hard costs incurred.
- 5) If the land is not used by the school district, as a school site, within 10 years after dedication, the subdivider shall have the option to repurchase the property from the district for the amount paid.

District Proposal

The District believes that the City should enact an ordinance that would allow City planners to recommend either reservations or dedications be imposed upon particular development projects. The District also asserts that having such planning tools available will enable the City to work cooperatively with the District and the developer to identify and provide for school sites in a mutually satisfactory manner.

The Planning Department staff is not opposed to this request and agrees with the conclusion that having the tools available will be beneficial to both sides. However, the Planning Department also believes that there may be additional issues that arise in implementing either a school site dedication or a reservation, and that these issues will have to be addressed on a case by case basis. Because of this, it is recommend that along with authorization to utilize the indicated statutory powers, a policy should be enacted that specifies how these tools will be implemented, and how the District and City work together to identify school sites as the City grows.

The District agrees with this conclusion and has worked with the City in drafting such a policy. The District has also coordinated the review of both the ordinance and the policy with the development community. The development community has neither endorsed nor opposed the

recommend ordinance, and has committed to continue working with the District in the practical application of the ordinance in a cooperative manner. In short, it is staff's understanding that the development community does not oppose the recommended ordinance.

Recommended Ordinance and Policy

For these reasons, staff is recommending that a simple ordinance authorizing the use of the dedication statutory provisions be enacted at the same time that a policy is enacted setting for the manner in which both dedication and reservation powers would be utilized.

The attached ordinance, which is presented for introduction and first reading, simply authorizes the City to invoke the provisions of the Map Act relating to school site dedications. Further, it authorizes the Planning Director to develop and maintain a policy for implementing those powers. The policy would not be subject to council approval. However, we are presenting the policy that has been drafted by the Planning Director with this ordinance to give appropriate context to the Council.

Recommended motion:

I Move that the proposed ordinance 2006-01 Amending Chapter 16.03, Of The Visalia Municipal Code By Adding A New Section 16.04.110 Related To The Dedications And Reservations Of School Sites On Subdivision And Parcel Maps be approved.

ORDINANCE NO. 2006-01

AMENDING CHAPTER 16.03, OF THE VISALIA MUNICIPAL CODE BY ADDING A
NEW SECTION 16.04.110 RELATED TO THE DEDICATIONS AND RESERVATIONS
OF SCHOOL SITES ON SUBDIVISION AND PARCEL MAPS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: The City of Visalia is experiencing extraordinary community-wide growth, and the City and Visalia Unified School District are working cooperatively to respond to that growth in a manner that provides needed public schools commensurate with growth demands in a proactive and methodical manner.

Section 2: The Subdivision Map Act (Division 2 of Title 7 of the California Government Code) provides that a City may invoke certain specific powers enumerated therein for the purpose of providing land necessary for public schools through the parcel map and subdivision map processes.

Section 3: The Council finds that the processes provided for in the Subdivision Map Act referred to above may, in certain circumstances, be appropriate to invoke in response to future development proposals.

Section 4: This ordinance shall become effective thirty days after passage hereof.

Section 5: The following new section 16.040.110 shall be added to Chapter 16.04 of the Visalia Municipal Code:

16.04.110 School Site Dedications and Reservations

- A. In considering the approval or the conditions of approval of a parcel map or subdivision map, as those terms are defined in the Subdivision Map Act (Division 2 of Title 7 of the California Government Code), the Visalia City Council or the Visalia Planning Commission may require the reservation or dedication of school sites in a manner that is consistent with the provisions of Government Code sections 66478 and 66479, provided that the Council or the Commission, as the case may be, is able to determine that the conditions enumerated in those sections, as they may from time to time be amended, are applicable to the proposed subdivision map or parcel map.
- B. The Planning Director, in cooperation with the official designated by the Visalia Unified School District, shall develop and keep in place a policy establishing the manner in which this section shall be implemented by the Planning Director and his or her designees. Such policy shall be established at the discretion of the Planning Director, provided the policy is consistent with the Government Code sections 66478 and 66479.

**POLICY REGARDING IMPLEMENTATION OF VISALIA MUNICIPAL CODE
PROVISIONS RELATED TO SCHOOL SITE RESERVATIONS OR DEDICATIONS**

Preamble: The trustees of the Visalia Unified School District (“VUSD”) and the Visalia City Council have recognized the value of advance planning in determining and securing school sites as the City of Visalia grows. In light of this recognition, the following policy is instituted by the Visalia Planning Department:

Section 1: VUSD shall make efforts to plan school sites in advance cooperatively with the City. VUSD shall be responsible for providing the City’s Planning Director with the most current list of planned school sites within the City of Visalia (the “School Site List”).

Section 2: Upon receipt of any conceptual site plan for a proposed tentative parcel map, subdivision map, or vesting tentative subdivision map, City shall cross-reference the location of the proposed parcels or subdivision shown on the conceptual site plan with the School Site List.

Section 3: Following completion of the cross-check required by Section 2, the City’s Planning Division shall forward a copy of all conceptual site plans, by e-mail and facsimile, to VUSD’s Assistant Superintendent for Business Services at the address and number provided. Accompanying the site plans, the City shall also provide notice that it has determined that:

- a. the conceptual subdivision or parcel map has been received and will be reviewed by the City Site Plan Review Committee prior to submission to the City’s Planning Commission; and
- b. the proposed map has been cross-referenced with VUSD’s school site list as well as applicable specific plan areas, if any, and that a school site from VUSD’s school site list is:
 - i. entirely or partially included within the lands to be subdivided or parcels to be created; or
 - ii. entirely or partially located on the remainder portion of a parcel map, or
 - iii. is within an area affected by a specific plan calling for a school; or
 - iv. is not any of the above.
- c. the date that the Site Plan Review Committee will examine and review the proposal.

Section 4: Within five (5) business days of receipt of the notice required by Section 3 herein, VUSD shall inform City whether it desires the City to require a reservation (pursuant to Visalia Municipal Code Section 16.24.040 and California Government Code Section 64479) or a dedication (pursuant to Visalia Municipal Code section 16.24.0?0 and California Government Code Section 66478) of a school site on the proposed map, as the case may warrant. VUSD shall indicate the preferred location and required acreage.

Section 5: If VUSD informs the City that it desires the reservation or dedication of a school site on land impacted by the proposed map, the City shall confer with VUSD regarding project specifics before giving conceptual approval to the proposed map through the site plan process. The City and VUSD shall endeavor confer on the details of the procedure for the imposition of the reservation or dedication within five (5) business days of VUSD's notice.

Section 6: If necessary to allow time for VUSD and the City to confer on the procedure for the imposition of the reservation and dedication requirement, the City shall continue the item from the scheduled site-plan review committee meeting. The City and VUSD will together diligently to avoid any delay of greater than 10 business days for the site review process.

Section 7: If a joint plan for imposition of a school site reservation or dedication is developed, VUSD shall provide assistance to the City for the purpose of identifying the factual underpinnings for the findings that state law requires the Planning Commission or City Council to make as a condition of imposing the reservation or dedication. Such assistance shall be from VUSD's staff or from a planning contractor hired by VUSD. Further, VUSD and the City shall enter into an indemnification agreement whereby VUSD agrees to defend and hold the City harmless against any challenge to the imposition of the reservation or dedication requirement.

City of Visalia Agenda Item Transmittal

Meeting Date: March 6, 2006

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

Agenda Item Wording: Authorization for the City of Visalia to apply jointly with the County of Tulare for Federal funding for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program through the Bureau of Justice Assistance (BJA) and execution of a Memorandum of Understanding (MOU) regarding the grant.

Deadline for Action: March 6, 2006

Submitting Department: Police

Contact Name and Phone Number: Police Chief Bob Williams, Ext. 4215 or Chuck Hindenburg, ext. 4250

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.): _____

Department Recommendation and Summary:

It is recommended that the Council authorize the City of Visalia to continue to participate in a joint grant application with the County of Tulare for a Justice Assistance Grant (JAG) Program and execute the required grant related Memorandum of Understanding between the City and the County. The JAG Program was proposed to streamline justice funding and grant administration and allows states, tribes and local governments to support a broad range of activities to prevent and control crime based on their own local needs and conditions. JAG blends the previous Byrne Formula and Local Law Enforcement Block Grant (LLEBG) Programs to provide agencies with the flexibility to prioritize and place justice funds where they are needed most.

The JAG formula includes a state allocation consisting of a minimum base allocation with the remaining amount determined on population and Part 1 violent crime statistics and a direct allocation to units of local government. JAG funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support and information systems for criminal justice for any one or more of six purpose areas.

The City of Visalia, jointly with the County of Tulare, is eligible for a disparate Federal allocation of funds in the amount of \$90,240. A disparate allocation of funds occurs when a constituent unit of local government is scheduled to receive one and one-half times more than another constituent unit, while the other unit of local government bears more than 50% of the costs of prosecution or incarceration that arise for Part 1 violent crimes reported by the geographically constituent unit. According to Federal officials, the portion of the disparate allocation attributable to the City of Visalia is \$54,480 and the portion attributable to the County of Tulare is \$35,760, and have advised the two entities to negotiate the use of the funds.

The JAG application is due on March 6, 2006.

Staff from the Police Department and the Sheriff's Department have met and have negotiated the use of JAG funds for a county-wide Gang Prevention Specialist/School Liaison to work with all schools within Tulare County for the prevention and suppression of gang activity, to be staffed by Sheriff's Department personnel. This grant will provide funding for a continuation of the existing program.

JAG grant funds will be used by Tulare County to continue to fund a County-wide Gang Prevention Specialist to work with schools within Tulare County for the prevention and suppression of gang activity. The Gang Prevention Specialist will make presentations at school assemblies to educate students as to the dangers of gang affiliation and activities and will work with school officials to identify gang activity in their respective areas and to assist school personnel in preventative measures.

The Sheriff's Department will work with local government and school officials to develop an outreach program and materials to educate students, teachers and the community as to the dangers and problems associated with gang activities.

Federal funds received will be paid in a single block grant of \$90,240 and will be placed in a Trust Account by the County designated for the JAG funding purpose. All interest derived from these funds is required to remain within the trust and to be expended specifically for this program. JAG funds will reimburse the County general fund for costs of personnel, equipment and support costs. There is no local match requirement.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions:

Alternatives: Deny the application of these Federal funds.

Attachments: Memorandum of Understanding

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

I move for authorization for the City of Visalia to apply jointly with the County of Tulare for Federal funding for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program through the Bureau of Justice Assistance (BJA) and to execute a Memorandum of Understanding (MOU) regarding the grant.

Financial Impact

Funding Source: Federal Bureau of Justice Assistance Grant will provide all funds needed for the program: City of Visalia portion - \$54,480
(County of Tulare portion - \$35,760)

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$54,480	New Revenue: \$54,480
Amount Budgeted: \$	Lost Revenue: \$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes___ No__X__	

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

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*)

1. Memorandum of Understanding (MOU) to be signed and returned to the Police Department to be forwarded to the Sheriff's Department for inclusion in the grant application.

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

City of Visalia Agenda Item Transmittal

Meeting Date: March 6, 2006

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

Agenda Item Wording: Authorization for the City Manager to execute an Encumbrance Agreement with Optimal Aviation Services, LLC and Bank of the Sierra allowing Optimal Aviation to encumber the Airport Ground Lease for the purpose of securing financing to construct an Aircraft Storage Facility.

Deadline for Action:

Submitting Department: Administrative Services – Airport

Contact Name and Phone Number: Mario Cifuentez, II
Airport Manager, x4480

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.): _____

Department Recommendation and Summary:

Executive Summary:

City Staff recommends that Council authorize the City Manager to execute a Lease Encumbrance Agreement with Optimal Aviation Services, LLC. This agreement allows the lending institution for Optimal Aviation Services, namely the Bank of Sierra, to assume the lease and/or remedy any default in the event of default by the tenant. Optimal Aviation, LLC. is owned and operated by Mr. David Lanham. Mr. Lanham is an experienced pilot and charter operation manager and has been a long time tenant at the Visalia Airport and currently leases space from an existing airport tenant. In December, Council approved Ordinance No. 2005-23 authorizing the lease of airport property to Optimal Aviation for the purpose of constructing an aircraft storage facility.

Background:

Council has previously approved a lease agreement with Optimal Aviation Services for property at the Visalia Airport. During the course of securing financing for the construction of the facility, Bank of Sierra has requested that additional language be added to the Airport Ground Lease Agreement in order to protect their interest in the leasehold. Based on the language that has been requested by the Bank's Attorneys, the City Attorney felt that it would be in the City's best interest to leave the standard ground lease agreement unchanged and instead approve the encumbrance by way of a separate Consent to Encumber.

In addition to protecting the bank's interest, this separate encumbrance agreement will provide an additional layer of protection for the City and put the requirement on the Bank to secure a new tenant, to be approved by the City, in the event of default.

This document last revised: 3/3/06 1:37:00 PM

By author: Mario Cifuentez

File location and name: H:\(1) AGENDAS for Council\2006\030606\Item 7k Authorization for Encumbrance.doc

Prior Council/Board Actions:

December 5, 2005 - Council approved Introduction of Ordinance No. 2005-23 authorizing the lease of airport property to Optimal Aviation Services for the purpose of constructing an aircraft storage facility.

December 19 2005 - Council approved the Second Reading of Ordinance No. 2005-23 authorizing the lease of airport property to Optimal Aviation Services for the purpose of constructing an aircraft storage facility.

Committee/Commission Review and Actions:

The Airport Committee recommended approval of the ordinance and execution of the associated Lease Agreement.

Alternatives:

Attachments: Proposed Consent to Encumber

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): Move to Authorize the City Manager to execute an Encumbrance Agreement with Optimal Aviation Services for the purpose of securing financing to construct an airport storage facility at the Visalia Municipal Airport.

This document last revised: 3/3/06 1:37:00 PM

By author: Mario Cifuentez

File location and name: H:\(1) AGENDAS for Council\2006\030606\Item 7k Authorization for Encumbrance.doc

Financial Impact

Funding Source:

Account Number: 4011-452011-40401 (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue:	\$14,288.00 annually
Amount Budgeted: \$	Lost Revenue:	\$
New funding required:\$	New Personnel:	\$
Council Policy Change: Yes_____	No <u>✓</u>	

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:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

This document last revised: 3/3/06 1:37:00 PM

By author: Mario Cifuentez

File location and name: H:\(1) AGENDAS for Council\2006\030606\Item 7k Authorization for Encumbrance.doc

This document last revised: 3/3/06 1:37:00 PM

By author: Mario Cifuentez

File location and name: H:\(1) AGENDAS for Council\2006\030606\Item 7k Authorization for Encumbrance.doc

City of Visalia

Agenda Item Transmittal

Meeting Date: March 6, 2006

Agenda Item Number (Assigned by City Clerk): 71

Agenda Item Wording : Authorization for allocation of \$1,100,000 of HOME funds as gap financing to assist The Kaweah Management Company to construct a 10 unit affordable residential community located at Robinwood Court north of Hillsdale and west of the Visalia Medical Clinic and authorize the City Manager to execute between the Kaweah Management Company and the City of Visalia.

Deadline for Action: none

Submitting Department: Community Development

Contact Name and Phone Number:

Steve Salomon, City Manager, 713-4312

Michael Olmos, Director of Community Development, 713-4332

Sharon Sheltzer, Project Manager, 713-4414

Department Recommendation and Summary:

Staff recommends:

1. Authorization for allocation of \$1,100,000 of HOME funds as gap financing to assist The Kaweah Management Company to construct a 10 unit affordable residential community located at Robinwood Court north of Hillsdale and west of the Visalia Medical Clinic, and;
2. Authorize the City Manager to execute the contract for this transaction between the Kaweah Management Company and the City of Visalia

Background

The City has partnered with the Tulare County Housing Authority on past affordable housing projects including the 95 unit Kimball Court elderly low income housing project, the Tulare Avenue Transitional Living Center and the upcoming mixed income 70 unit Millcreek housing. The Kaweah Management Company, a 501(c)3 non-profit housing corporation and an arm of the Housing Authority, acquired three multi-family lots with the intention of developing affordable rental housing. The Kaweah Management Company will oversee the development which includes the finance package, the design, the construction and finally the property management by The Tulare County Housing Authority. The Housing Authority could elect to sub-contract to a private property management company. The Kaweah Management Company will retain ownership of the project.

The three lots are located at the end of a cul-de-sac on Robinwood Court. Due to one story height limitations under existing conditional use permits, this project will be restricted to ten units. Prevailing wages are not required to be paid when developing 11 or fewer units when

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.): 2

using HOME funds. They will provide one three-bedroom duplex, two two-bedroom duplexes, three detached two-bedroom units and one handicapped accessible two-bedroom detached unit. These units will also have detached garages with photovoltaic units mounted on the roof to provide reduced energy bills for the future tenants. The rents are anticipated to be in the \$500 range for the two bedroom units and \$700 for the three bedroom units but will be adjusted to reflect final costs and in accordance with the formula provided by the HOME regulations. For seven (7) units, renters' household income levels shall not exceed 60% of the Tulare County Median-Income Level. With respect to two (2) of the units, renters' household income levels shall not exceed 50% of the Median-Income Level and with respect to one (1) unit, the renters' household income shall not exceed 80% of the Median-Income Level.

The use of \$800,000 of HOME funds in the form of a forgivable loan for this project was approved by amendment #2 to the 2004/5 Action Plan, and the money has been rolled forward into the next fiscal year. Total development costs were originally estimated by the Kaweah Management Company in 2004 to be \$1,486,510, when they also anticipated using Redevelopment Set-aside funds. Redevelopment funds were not available but \$800,000 in HOME funds were available for commitment by the City. The Kaweah management Company anticipated combining the HOME funds with a \$686,510 bank loan to cover the development costs. This debt would be serviced, along with maintenance and management costs, with the anticipated rental income.

The Kaweah Management Company recently recalculated construction costs and has determined that the total development costs are estimated to be \$1,892,484. With the increase in construction costs and the greater rent restrictions imposed by HOME funding compared to Redevelopment Set-aside funding, the funding gap widened by \$405,974. The Kaweah Management Company proposes to provide a Developer contribution of \$226,250, to reduce the project long term debt (bank loan) from \$686,510 to \$566,234 to accommodate lower rental receipts, and to request the City to provide an additional \$300,000 in HOME funds. See the financial plan attachment provided by the Housing Authority and the Sources and Uses chart below.

Sources and Uses

Sources		Uses
City of Visalia HOME funds	1,100,000	Soft and hard costs
TCHA Developer contribution	226,250	Soft and hard costs
Bank loan (long term debt)	<u>566,234</u>	Soft and hard costs
Total development costs	<u>\$1,892,484</u>	

Finance Division has been consulted and has determined that \$300,000 of additional HOME funds are available in the fiscal year 2006/07 and can be budgeted in the Action Plan for that year. These funds are available from program income and property acquisition. It is important that these HOME funds are committed by contract by August 31, 2006; the deadline established by HUD to obligate the funds.

A contract has been drafted by the City Attorney for the provision of \$1,100,000 HOME funds to the Kaweah Management Company to be used for construction of ten units of affordable rental housing. HOME funds require an affordability covenant be attached to the units for a minimum of 20 years and it has been agreed to extend the affordability covenant to 30 years. The \$1,100,000 (\$110,000 per unit) is provided in the form of a loan, without interest, to be forgiven 1/30 per year, as evidenced in the Promissory Note Exhibit "C" attached to the contract. To the

extent there are Residual Receipts from the Project, the Kaweah Management Company shall pay 100% of the Residual Receipts to the City on an annual basis.

Prior Council/Board Actions: In August of 2005 the City Council adopted a Housing Element Update, identifying housing needs for all income levels in our local population. The number of affordable housing units (from very low income to moderate income) either approved or built between 2001 and 2005 is 623. According to the Housing Element, Visalia's remaining fair share of affordable housing units to be developed between 2005 and 2008 is 6,627 units. This project is a part of the City's attempt to achieve this goal.

Committee/Commission Review and Actions: None

Alternatives: none

Attachments: Additional funding request
Contract between City of Visalia and The Kaweah Management Company
Map of Robinwood site
Financial Analysis

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

1. Authorization for allocation of \$1,100,000 of HOME funds as gap financing to assist The Kaweah Management Company to construct a 10 unit affordable residential community located at Robinwood Court north of Hillsdale and west of the Visalia Medical Clinic, and;
2. Authorize the City Manager to execute the contract for this transaction between the Kaweah Management Company and the City of Visalia

Financial Impact

Funding Source:

Account Number: 1831-63658-670058-0-R58100

Budget Recap:

Total Estimated cost: \$1,100,000	New Revenue:	\$
Amount Budgeted: \$800,000	Lost Revenue:	\$
New funding required: \$300,000	New Personnel:	\$
Council Policy Change: Yes___ No__x__		

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No x

Review and Action: Prior: Required: CEQA evaluation was complete as part of the 1990
General Plan and Zoning process

NEPA Review:

Required? Yes x No

Review and Action: Prior: Phase I Environmental Site Assessment Sept. 2005
Required: Next step by Kaweah Management Company

Tracking Information: Contract will be signed.

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

City of Visalia Agenda Item Transmittal

Meeting Date: March 6, 2006

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

Agenda Item Wording: Authorization for staff to develop the appropriate policy resolution and/or ordinance to allow for Council review of Commission actions.

Deadline for Action: N/A

Submitting Department: Administration

Contact Name and Phone Number: Steve Salomon, City Manager, 713-4312

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.): _____

Department Recommendation and Summary:

It is recommended that the City Council authorize staff, including the City Attorney, to develop the appropriate policy resolution and/or Ordinance that would allow for Council review of Commission actions.

Background:

There have been several times in recent years when individual Council Members have expressed a desire for the Council to review a particular Commission action. Currently, there is a procedure designed for the public to appeal a Commission decision. A decision can be appealed by filling out the required form, stating the reasons for the appeal, and paying a fee.

However, there is no process that provides a mechanism for the Council to request to review a decision. While a Council Member could file an appeal, it is a somewhat awkward process for Council to use since it implies that the filer disagrees with the decision of the Commission, and that may not always be the case when a Council Member wants to review a decision. In addition, if a Council Member files a formal appeal, then the Council Member cannot vote on the matter.

At Council's direction, staff will develop an ordinance and/or policy resolution, separate from the appeal process, which will provide a process for one or two Council Members to ask for Council review of a Commission decision within a specific number of days from a decision. Included will be a process for prompt notification to the Council of Commission actions. The staff recommendation may include an option for the Council to eliminate the appeal fee from the public process.

With Council's concurrence, staff will begin the research, develop the appropriate documents, and bring this matter back for Council consideration.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives:

To not develop a Council review of Commission decisions

Attachments:

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

I move that we direct staff to develop the appropriate policy resolution and/or ordinance to allow for Council review of Commission actions.

Financial Impact

Funding Source:

Account Number: _____ (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:

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)*

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

City of Visalia
Agenda Item Transmittal

Meeting Date: March 6, 2006

Agenda Item Number (Assigned by City Clerk): 8

Agenda Item Wording: Introduction of Interim Ordinance 2006-03 establishing prohibited and permitted uses and development standards for a portion of the East Downtown Strategic Plan Area. *(A 4/5 vote is required to approve this ordinance.)*

Deadline for Action: None

Submitting Department: Community Development

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

Contact Name and Phone Number: Mike Olmos 713-4332; Fred Brusuelas 713-4364; Alex Peltzer 636-0200

Recommendation and Summary: Staff recommends Council introduce the attached "Interim Ordinance Establishing Prohibited and Permitted Uses and Development Standards for a Portion of the East Downtown Strategic Plan Area". This interim ordinance, if approved at the next regularly planned meeting, would be adopted pursuant to California Government Code Section 65858 and would have an initial life of 45 days. An interim ordinance adopted pursuant to Section 65858 requires a four-fifths vote by Council and is effective immediately upon adoption. Staff further recommends that Council authorize staff to place an action item on a future Council agenda to consider extending reduced parking standards described herein to the entire downtown area.

On December 19, 2005, Council approved the East Downtown Strategic Plan and authorized several steps towards implementation. The steps included the establishment of an interim ordinance to establish an overlay zone that would prohibit new uses incompatible with the Strategic Plan, modify the list of permitted and conditional uses allowed in a portion of the plan area consistent with the plan concepts, and modify development standards and in lieu parking standards. The interim zone would be in effect until permanent General Plan, zoning, parking, and design district standards can be developed, reviewed with East Downtown property owners and interested parties, processed pursuant to planning procedures, and eventually considered for adoption by

Planning Commission and Council. Staff is working with a consultant on the permanent General Plan and code amendments. The process for adoption is expected to take approximately one year, including preparation of the necessary environmental finding.

A copy of the proposed interim ordinance to establish the East Downtown Overlay Zone is attached. The proposed zone was developed by City staff and the East Downtown urban design consultant Bruce Race, with assistance from Assistant City Attorney Alex Peltzer. On February 13, the proposed zone was reviewed at a meeting with interested property owners in the East Downtown area, and reviewed with the Downtown PBID Board of Directors on February 14. No significant issues were raised during those meetings.

The proposed ordinance has several significant features, including the following:

- The proposed East Downtown Overlay Zone will apply to a portion of the East Downtown Strategic Plan area, as shown on the attached map. The East Downtown Strategic Plan Area is bounded by Bridge Street on the west, Murray/Goshen Avenue on the north, Ben Maddox Way on the east, and Mineral King Avenue on the south. The current underlying zone districts in this area are the CDT (Central Business District) and CS (Service Commercial). An area located in the southeast portion of the East Downtown Strategic Plan area is not proposed to be included in the interim zoning area due to the almost exclusively service commercial nature of the area.
- The East Downtown Overlay Zone will supercede the requirements of underlying zone designations to implement the concepts contained in the Strategic Plan. The Overlay Zone will establish interim land use regulations for the overlay district consistent with the Strategic Plan concepts, and will prohibit most service commercial land uses that are allowed under the current CS Zone district.
- Service commercial uses that become nonconforming under the interim overlay district will be subject to nonconforming use provisions contained in the Zoning Ordinance. In general, these provisions allow legally nonconforming uses to be maintained indefinitely, and expanded up to 20% upon granting of a conditional use permit. Further, if a nonconforming use is discontinued, it can be re-established with a similar or more restrictive nonconforming use so long as said re-establishment occurs within 180 days and provided no structural alterations are made to the building. Visalia Municipal Code Sections 17.40.060 (Nonconforming Uses) and 17.40.070 (Expansion of Nonconforming Uses and Structures) are attached.
- The ordinance allows up to a maximum of (i.e., no more than) 50% of required parking to be provided on-site. The establishment of a maximum limit for on-site parking is intended to facilitate higher density urban development in the East Downtown by encouraging property owners to devote most or all of their sites to

retail, office, and mixed use buildings and not for parking. Remaining parking obligations will be satisfied through the in lieu parking district program, or through private off-site parking facilities. Up to 100% of required parking in the interim overlay area can be purchased through the in lieu parking program. The current in lieu parking fee is \$3329.18 per space. The fee is subject to periodic modification by Council.

- The proposed East Downtown Overlay Zone contains modified parking requirements. The parking standards contained in the Overlay Zone will require less parking than current standards. Reduced parking standards are reflective of the high density urban perspective of the East Downtown Strategic Plan, and will provide an incentive for private sector investment in the East Downtown area.

While this ordinance will address the needs of the East Downtown plan area only, staff believes the reduced parking standard is justified for the entire downtown area due to increasing densities occurring in the downtown and because the market investment incentive created through reduced parking standards will support ongoing efforts to keep the downtown strong. Therefore, staff recommends that Council authorize staff to return at a future meeting with a separate action item to extend the reduced parking standards to the remainder of the downtown area.

Government Code Section 65858 authorizes cities, including charter cities, to enact an interim zoning ordinance pending the development and adoption of contemplated General Plan and zoning amendments and related development standards. If adopted, the ordinance will have an initial life of 45 days from the date of adoption. As such, if adopted on March 6, the interim ordinance will expire on April 20, 2006, unless extended by future action of Council. After notice and public hearing, Council may extend the interim ordinance for an additional period of 10 months and 15 days, after which the ordinance will expire, unless extended again by Council for one additional year. The maximum life of an interim ordinance with all permitted extensions is 2 years. Given the need for significant amendments to plans and codes to establish permanent requirements to implement the East Downtown Strategic Plan, at least one extension of the interim ordinance will be needed to complete the work.

At least ten (10) days prior to expiration of the interim ordinance or any extension, Council will be required to issue a written report describing the measures taken to alleviate conditions which led to adoption of the interim ordinance. The first written report will appear on the Council agenda of April 3.

Committee/Commission Review and Actions: The Planning Commission received an update on the interim ordinance on March 13, 2006.

Prior Council/Board Actions: December 19, 2005 – Council approved the East Downtown Strategic Plan and authorized implementation measures, including preparation of the interim ordinance.

Alternatives:

Revise the interim ordinance as appropriate.

Do not adopt interim ordinance, recognizing that uses incompatible with the Strategic Plan could be established in the East Downtown area before permanent General Plan and code changes are completed.

Attachments:

1. Proposed East Downtown Overlay Zone (Ordinance No. 2006-03)
2. Map of Interim Ordinance Area
3. Visalia Municipal Code Sections 17.040.060 & 17.040.070

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): Move to introduce Ordinance No. 2006-03, an interim ordinance establishing the East Downtown Overlay Zone, and bring back to next scheduled meeting for final adoption. Authorize staff to return at a future meeting with an action item to extend reduced parking standards to remainder of downtown area.

Financial Impact

Funding Source:

Account Number: _____ (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? No
Review and Action: Prior:
Required:

NEPA Review:

Required? No
Review and Action: Prior:
Required:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

ORDINANCE NO. 2006-03

**AN INTERIM ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF VISALIA ESTABLISHING PROHIBITED AND PERMITTED USES AND
DEVELOPMENT STANDARDS FOR A PORTION OF THE EAST DOWNTOWN STRATEGIC PLAN
AREA**

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

SECTION 1 – Preamble and Findings.

- A. The City of Visalia, by and through its City Council and Planning Department, has commenced a study to identify possible land use changes for the area east of the traditional core downtown office, commercial and retail district. The initial draft of the study, known as the East Downtown Strategic Plan (hereinafter referred to as the “Plan”), has been considered and approved by the City Council. The Plan, as currently drafted, identifies several potential changes to Visalia City ordinances relating to the zoning and development standards applicable to the subject area. Such potential changes would be beneficial to and essential to the safeguarding of the public health, safety and welfare.
- B. Among the general goals of the East Downtown Strategic Plan are the encouragement of developments that mix residential and commercial uses, the provision of development standards that provide for denser and more pedestrian friendly development patterns, and the encouragement of a higher degree of economic development and redevelopment within the area.
- C. Section 65858 of the California Government Code provides that the legislative body of a city may enact an urgency interim ordinance prohibiting uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body or planning department is considering or studying or intends to study within a reasonable time.
- D. The current zoning and development standards that apply to the land within the Plan area allow for the establishment of uses and development of land in a manner that would be contrary to goals of the Plan. It is anticipated that several such projects could and will be proposed before the long-term ordinance proposals can be studied, drafted, proposed and enacted. The City Council finds that such anticipated development projects within the Plan area that would be contrary to the goals of the Plan, and therefore further finds that such development projects constitute a current and immediate threat to the public health, safety or welfare, and that approval of subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat.
- E. The City Council further finds that the above-identified threat to the public health, safety or welfare constitutes an emergency.
- F. In order to immediately address the above-identified threat, while at the same time allowing the greatest degree of economic development within the area encompassed by Plan, the City Council enacts the following interim ordinance in accordance with Section 65858 of the California Government Code and in accordance with the pertinent provisions of the City’s Charter.

SECTION 2 - Definitions.

- A. East Downtown Overlay Zone shall refer to the land within the area roughly bounded by Goshen and Murray Streets on the north, Mineral King Avenue on the south, Ben Maddox Way on the east and Bridge Street on the west, and more particularly depicted on the map entitled “East Downtown Overlay Zone.” A copy of the East Downtown Overlay Zone map is attached hereto for reference. The official original map of the East Downtown Overlay Zone is on file with the City Clerk and the Director of Planning, and is adopted and made a part of this ordinance. The actual parcels of land covered by the East Downtown Overlay Zone shall be determined by reference to the map on file, and not by reference to the above general description.
- B. Primary Commercial Street shall refer to the following streets (unless otherwise noted, the entire length of the street that lies within the East Downtown Overlay Zone shall be included in the

Primary Commercial Street designation): Santa Fe Street, Main Street, Burke Street, Oak Street between Bridge Street and 300 feet east of Tipton Street, Mineral King Avenue between Bridge Street and Tipton, and Mineral King Avenue for 300 feet on either side of Burke Street.

- C. Mixed Use Commercial Development shall mean any development of two stories and taller that mixes two or more commercial uses.
- D. Mixed Use Residential Development shall mean any development of two stories and taller that mixes commercial and residential uses.
- E. Live-Work Development shall mean a development of one or more stories that features a residential component connected to a commercial component and that is designed to allow the resident of the residential component to work or maintain a business in the connected commercial component.

SECTION 3 – Allowable Land Uses.

- A. The provisions of Visalia Municipal Code Section 17.18.050, including the uses identified in the matrix referred to therein which would otherwise be applicable, shall have no application to land within the East Downtown Overlay Zone. The only land uses that shall be allowed within the East Downtown Overlay Zone shall be those identified in this section.
- B. The purpose of the East Downtown Overlay Zone is to promote infill development that is compatible with downtown commercial uses and mixed-use neighborhoods identified in the Plan. To the extent this purpose is in conflict with the purposes identified in Visalia Municipal Code Section 17.18.010 that would otherwise be applicable, the purpose stated herein shall prevail.
- C. Nothing in this ordinance shall affect, supersede or alter the provisions of 17.40, relating to the continued existence and one-time expansion, subject to conditional use permit, of non-conforming uses.
- D. If a development, of a type that is listed in this section as being permitted, conditionally permitted or temporarily permitted, would otherwise require a Planned Development Permit according to the provisions of Visalia Municipal Code Chapter 17.26, such development shall comply with that chapter and obtain a Planned Development Permit in addition to complying with this ordinance.
- E. No residential uses, whether part of a purely residential development or a Mixed Use Residential development, shall be allowed on the ground floor of any building on any parcel that has frontage on any Primary Commercial Street.
- F. The first floor of any development located on any parcel that has frontage on any Primary Commercial Street shall be limited to the uses identified by asterisks in the list of permitted and conditionally permitted uses set forth in sub paragraph G below.
- G. The following uses shall be designated as Permitted, Conditional or Temporary within the East Downtown Overlay Zone, and such designations shall have the same meaning and effect as provided in Title 17 of the Visalia Municipal Code:

PERMITTED, CONDITIONALLY PERMITTED, TEMPORARY AND FIRST FLOOR USES

P=Permitted use
 C=Conditional use
 T=Temporary use
 *=use allowed or conditionally allowed on the first floor Primary Commercial Street

Agricultural	
Farmers Market	C*
Auditoriums	C*
Banks and Financial Institutions	
Walk-up automatic teller	P*
Branch office with out drive-up	P*

Branch office with drive-up	C
Main office	P

**Barber, Hairstylist, Tanning Centers
Massage Therapists, and Day Spas**

Stand alone	P*
Located with primary permitted use	P
Tattooist located within above use	P

Bed and Breakfast Accommodations

Traditional	P
Inns	P*

Bus Depots

Stations (passenger service)	C*
Public and private transfer point	C*

Catering Services P

Christmas Tree Sales T

Other Seasonal Commercial Uses/

Special Events T*

Churches and Other Religious Institutions

Up to 200 seats	C
-----------------	---

Clothing/Costume Rental P*

Communications

Radio and TV Broadcasting Studio -with antenna off-site	P
--	---

Daycare, Licensed

Adult	
-six or fewer adults	P
-7 to 12 adults	P
-13 or more adults	C
Children	
-eight or fewer children	P
-9 to 14 children	P
-15 or more children	C
In conjunction with primary permitted use	P

Eating and Drinking Establishments

Bars/Taverns	
--bars	C*
-micro breweries/restaurant brewing, limited	P*
-bottling or packaging, consumption on premises or distribution	

locally in kegs	C*
Cafeterias	C
Pizza/Sandwich Shops	
-Serving wine/beer	P*
-No alcohol	P*
Fast Food without Drive-thru	P
Ice Cream Shop	P*
Night Clubs/Discotheques	C*
Sit-down Restaurant/Café	
-with or without full bar using less than 25% of public area	P*
-full bar using greater than 25% of public area	C*
Specialty Foods Store	P*
Florist	P*
Galleries-Art/Photography/Crafts	P*
Home Business (live-work)	P
Hotels and Motels	C*

Laundry/Dry Cleaners

-cleaning plant	C
-pick-up point	P*
-self service	P

Manufacturing/Assembling

Cabinetmaker/carpenter shops w/ retail	C
Printing and publishing	
-desktop, blueprint, photocopy	C
-publishing, printing, and/or binding	C
Raw Materials Manufacture with retail component	
-kiln works for clay products	C

Medical Facilities/Services

Convalescent hospitals/ nursing homes	C
Clinics (medical groups, urgent care/walk-ins, dental, counseling, rehabilitation)	C
Dialysis centers	C
Opticians – Dispensing	P

Mixed-use Commercial

Development two stories and taller
which mixes commercial uses C*

Museums P*

Offices

General Business and Professional
-less than 2,000 SF P
-more than 2,000 SF C
Medical C
Chiropractor C
Counseling/psychologist
-individuals P
-groups C
Temporary (construction) Trailers T

Parking Facilities for Off-site Uses C

Park and Ride C

Photocopy Services/Desktop Publishing

With printing press C
Without printing press P*

Photography/Photo Services

Photography Studio P*
Photography Labs
-with retail on site P*
-retail drop-off/pick-up P

Planned Unit Developments

(subject to Chapter 17.26) C*

Private Clubs and Lounges C

Private Postal Service

Mail boxes, mailing service P*

Public Community Services (Public or Government Ownership)

Community and Recreational Centers C
Fire Stations C
Police Stations and Substations P
Post Office C
Public Buildings, Offices and Grounds C

Public Libraries	P
Public Parks/Playgrounds	P

Railroads	
------------------	--

Passenger Stations	P*
--------------------	----

Recreation Facilities	
------------------------------	--

Athletic and Health Clubs	P*
Bowling Alleys	C
Circus, Carnivals, Fairs, Festivals	
Revivals/Assemblies	T
Dance and Music Studios	P*
Martial Arts	C*
Pool Halls/Billiard Parlors	C*
Video Machines/Coin Operated Games	
-1 to 4 machines	C
Other Recreational Facilities	C

Residential Uses

Single Family Subdivisions	
-under 20 units per acre	C
-over 20 units per acre	P
Multi-family (townhouses, apartments, condominiums)	
-under 20 units per acre	C
-over 20 units per acre	P
Mixed-use Residential	
-projects two stories and over	
which mix commercial and residential	
uses	C*

Retail	
---------------	--

General Merchandise	
-less then/equal to 20,000 SF	P*
-greater than 20,000 SF	C*
Building/Landscape Materials	
-floor and wall coverings	C
Garden Centers/Nurseries	
-located within primary use	C
-stand alone	C
Glass Stores	C
Hardware Stores	
-less than 10,000 SF	P*
Paint Stores	C
Home Improvement	C
Drug Store/Pharmacy	
-including general retail	
merchandise	C*
-not including general retail	
merchandise	P*
Food Stores	
-convenience-7,000 SF or less	C*
-liquor store	C*
-specialty food store	P*
-supermarket/grocery stores	C*
Wine Tasting	P*

Appliances	
-small	P*
-large	P
Furniture and Finishes	
-new	P*
-secondhand	P*
Magazine/Newspaper Sales (freestanding booth/stand/kiosk)	
-indoor	P*
-outdoor	P*
Pawnshops	C
Pet Stores	C*
Secondhand Thrift Stores	
-up to 2,000 SF	P*
-greater than 2,000 SF	C*

Schools, Public and Private

Pre-school/After School Care	C
Elementary Schools, K-6 or K-8	C

Service Commercial

Appliances, Electrical Equipment, Tools (repair)	
-small	C
Locksmiths	C
Pet Grooming	C
Printing Service	C
Tailor, Dressmaking, Alterations	C

Theaters

Auditoriums	C*
Movie	C*
Live Performance	C*

Utilities

Business Offices	P
------------------	---

Veterinary Services

Animal Care Clinic (no boarding)	C*
----------------------------------	----

Other

Other Uses Similar in Nature and Intensity as Determined by the City Planner	C*
Business which Initially Employ more than 750 Employees	C

SECTION 4 - Development Standards

- A. The development standards established by this section shall be applicable to all developments within the East Downtown Overlay Zone. If the standards established by this section are in conflict with the provisions of Visalia Municipal Code Chapter 17.30, then the provisions of this section shall prevail. Otherwise, the provisions of Visalia Municipal Code Chapter 17.30 shall also be applicable to the developments subject to this ordinance.

- B. The parking standards in this section shall apply to all developments within the East Downtown Overlay Zone. If the standards established by this section are in conflict with the provisions of Visalia Municipal Code Chapter 17.34, then the provisions of this section shall prevail. Otherwise, the provisions of Visalia Municipal Code Chapter 17.34 shall also be applicable to the developments subject to this ordinance.
- C. If use of off-site or in-lieu parking to satisfy parking requirements for a development is either required or allowed by the Development Standards established by this Section, then the provisions of Article 2 of Chapter 17.30 of the Visalia Municipal Code shall govern all aspects of the use of in-lieu parking for the subject development, including but not limited to the manner in which in-lieu parking fees are calculated and imposed. Further, the area to which the in-lieu parking program established by Chapter 17.30 applies, as established by Visalia Municipal Code Section 17.30.025, is hereby expanded to include all lands within the East Downtown Overlay Zone.
- D. In general, buildings associated with Mixed Use Residential and Mixed Use Commercial Developments shall, to the greatest extent practicable, be located at the sidewalk (i.e., with zero setback) in order to contribute to the continuity of pedestrian edges. Buildings associated with Live-Work Developments may be located facing the sidewalk or be set back as residential development would be; however, if located on a Primary Commercial Street, buildings should be located at the sidewalk.
- E. Development Standards. The following are the development standards that are applicable to development within the East Downtown Overlay Zone:

Required Setbacks

<u>Type of Use</u>	<u>Primary Comm. Street</u>	<u>Street Frontage</u>	<u>Rear at Resid.</u>
Commercial and Mixed-use	16' from curb max. or zero feet from PL, whichever is greater	16' from curb max. or zero feet from PL, whichever is greater	15' min.
Residential/Live-Work	NA	15' from PL max.	10' min.

Parking Requirements

Type Of Use	Total Rqd.	On-site	Off-site/in-lieu Fees
Commercial Retail	4/1,000 SF	up to 50% max	up to 4/1,000 SF
Office	3/1,000 SF	up to 50% max	up to 3/1,000 SF
Commercial Mixed-use	Blended requirement	up to 50% max	up to 2/1,000 SF
Residential Mixed-use	Blended requirement	up to 100%	up to 3/1,000 SF for commercial.
Residential Apartments	1/DU and .25 visitor parking	100 %	NA – All required to be on-site
Residential Townhouses	2/DU for 2+ BR 1/DU for 1BR and Studio	100%	NA – All required to be on-site
Live-Work	2/DU	1/DU	1/DU

SECTION 5 – Effective Date and Duration

This ordinance shall go into effect immediately upon adoption by four fifths of the City Council, and shall remain in effect for 45 days thereafter, unless extended by vote of the City Council following notice as specified in Government Code section 65858.

PASSED AND ADOPTED:

17.40.060 Nonconforming uses.

A nonconforming use is one which lawfully existed prior to the effective date of this chapter, but which is no longer permitted in the zone or design district in which it is located. The continuance of a legal nonconforming use is subject to the following:

A. Change of ownership, tenancy, or management of a nonconforming use shall not affect its legal nonconforming status; provided, that the use and intensity of use does not change.

B. If a nonconforming use is discontinued for a continuous period of one hundred eighty (180) days, it shall lose its legal nonconforming status, and the continued use of the property shall be required to conform with the provisions of the chapter.

C. A nonconforming use of a permanent structure may be continued; provided, there is no increase or enlargement of the area, space or volume occupied by such a nonconforming use, except as provided in Section 17.40.070. In the event no structural alterations are made, a nonconforming use may be changed to another nonconforming use of the same or more restrictive nature, provided that this change occurs within the one hundred eighty (180) day period as indicated in Section 17.44.060(H).

D. Additional development of any property on which a legal nonconforming use exists shall require that all new uses conform to the provision of this chapter.

E. If a nonconforming use is converted to a conforming use, no nonconforming use may be resumed. (Ord. 2001-13 § 4 (part), 2001; prior code § 7545)

17.40.070 Expansion of nonconforming uses and structures.

An existing legal nonconforming use or legal nonconforming structure may be minimally expanded or changed subject to the granting of a conditional use permit after a noticed public hearing as specified in Chapter 17.38, and if all of the following findings are made:

A. That such expansion or change is minimal. An expansion or change is considered to be minimal if the expansion comprises generally twenty (20) percent or less additional square footage of structure or site area or twenty (20) percent increase or less in intensity as measured by additional vehicle trips, parking need generation, etc., over what was existing at the time of adoption of an ordinance making the use or structure nonconforming;

B. That such expansion or change will not adversely affect or be materially detrimental to adjoining properties;

C. That there is a need for relief of overcrowded conditions or for modernization in order to properly operate the use;

D. That the use and/or structure is existing and has not been discontinued for a one hundred eighty (180) day continuous period;

E. That the expansion shall not increase the discrepancy between existing conditions and the standards of coverage, front yards, side yards, rear yard, height of structures or distances between structures prescribed in the regulations for the zone in which the structure is located. (Prior code § 7546)

http://www.amlegal.com/nxt/gateway.dll/California/visalia_en/title17zoning/chapt... 02/23/2006

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 6, 2006

Agenda Item Number (Assigned by City Clerk): 9

Agenda Item Wording:

Second Reading of Ordinance 2005-17 for Change of Zone No. 2004-32: a request by Fred Machado (Branum Group, agent) to change the Zoning designation on 48 acres from BRP (Business Research Park) to 6.0 acres of PA (Professional /Administrative Office), 7.7 acres of QP (Quasi-Public), and 34.3 acres of R-1-6 (Single-family Residential, 6,000 sq. ft. min. lot size).

Conditional Zoning Agreement No. 2005-02: Authorization for the City Manager to execute an agreement containing conditions for the development of a single-family residences and office buildings on the property subject to Change of Zone No. 2004-32.

The project site is located on the north side of Goshen Avenue, approximately ¼ mile east of Shirk Street. (APN: 077-100-19, 27, 28, 34.)

Deadline for Action: None.

Submitting Department: Community Development - Planning

Contact Name and Phone Number Brandon Smith, Associate Planner (559) 713-4636

Department Recommendation and Summary: Staff recommends that the City Council conduct the second reading and adoption of Ordinance No. 2005-17 for Change of Zone No. 2004-32, and authorize the City Manager to execute Conditional Zoning Agreement No. 2005-02.

Committee/Commission Review and Actions:

On November 7, 2005, the City Council held a public hearing on General Plan Amendment No. 2004-31 and Change of Zone No. 2004-32. The public hearing included the first reading of Ordinance No. 2005-17 prepared for the COZ, which included a provision for the preparation of a Conditional Zoning Agreement to specify building and land use development conditions for the securing of entitlements and subsequent development of the proposed residential area. The Council approved the General Plan Amendment and conducted the first reading of Ordinance No. 2005-17 for the COZ.

Conditional Zoning Agreement No. 2005-02, attached, includes conditions pertaining to the construction and phasing of the residential and office zones, vehicular circulation, and a public pedestrian trail. During the project's public hearing on November 7, two conditions were added into the agreement. These conditions would require that two-story office buildings shall be the

For action by:

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

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): 10

required noise mitigation for the residential zoning and shall be developed in full prior to commencing construction of the residential area, and that the project's on-site vehicular circulation be designed to allow for a future vehicular crossing over the existing railroad line to Goshen Avenue. As worded in the Conditional Zoning Agreement, the City and the applicant (Fred Machado) would be responsible for making a good faith effort to work with the San Joaquin Valley Railroad Public Utilities Commission in pursuit of allowing the vehicular crossing.

Walls & Parking Structure to Serve as Noise Mitigation

On February 9, 2006, a meeting was held between staff and the applicant to discuss revisions to the office development and the applied method of noise mitigation. Based on the applicant's revisions, the two-story office buildings would still be constructed, but would cease to serve as the initial noise-attenuating feature. Instead, the applicant proposes to use a combination of 6 to 12-foot solid masonry walls and a 24-foot tall parking structure located on the west end of the office zoning adjacent to the heavy industrial zoning (see attachments for a rendering of the parking structure).

A corresponding letter provided by Brown Buntin & Associates (see attachments) confirms that the placement of the walls and parking structure together will achieve compliance with the City's exterior noise standards for the residential area. This means that all offices buildings associated with the planned office development (see attached development plan) would not have to be constructed prior to the construction of the residences, allowing for both land uses to develop on concurrent timeframes.

The letter specifically states that a 12-foot masonry sound wall shall be constructed along the western boundary of the ponding basin to achieve exterior noise standards. The applicant has expressed a desire for the City to compensate the cost on either a portion or the entirety of the wall. The Engineering Division has stated they would be constructing a 6-foot chain link and vinyl fence along this western boundary consistent with City standards had not the sound wall be required for the project. Therefore, because the standards only call for the chain link and vinyl fence, the applicant would be required to pay the cost associated with the 12-foot masonry wall and would be reimbursed by Engineering for the cost associated with the standard chain link and vinyl fence for this location.

Staff has revised the conditions of the proposed zoning agreement so that the walls and parking structure are the required noise mitigation for the residential zoning and shall be developed in full prior to commencing construction of the residential area.

Prior Council/Board Actions:

The City Council approved General Plan Amendment No. 2004-31 and the first reading of Ordinance No. 2005-17 for Change of Zone No. 2004-32 on November 7, 2005.

Committee/Commission Review and Actions:

On August 8, 2005, the Planning Commission considered the GPA and COZ along with the project's Mitigated Negative Declaration, and approved the project on a 5-0 vote. Based on the applicant's development plan, which calls for 105 single-family residential lots and an office park consisting of approximately 89,000 sq. ft. of office space, a Tentative Subdivision Map and Conditional Use Permit for a planned unit development must be approved by the Planning Commission before any construction can commence on the site.

Alternatives:

None recommended.

Attachments:

- Ordinance No. 2005-17
- Conditional Zoning Agreement No. 2005-02
 - Exhibit "A" – Existing and Proposed Zoning Map
- Correspondence from Brown Buntin Associates, Inc. (February 16, 2006)
- Proposed Development Plan
- Elevation Sketch of Proposed Parking Structure
- Location Sketch

City Manager Recommendation:

Recommended Motion: I move to conduct the second reading of Ordinance No. 2005-17 for Change of Zone No. 2004-32, and to authorize the City Manager to execute Conditional Zoning Agreement No. 2005-02.

Financial Impact

Funding Source:

Account Number: _____ (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? No

Mitigated Negative Declaration No. 2005-71 was certified by the City Council on November 7, 2005; therefore no further environmental action is required.

Review and Action: Prior:
Required:

NEPA Review:

Required? No

Review and Action: Prior:
Required:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

ORDINANCE NO. 2005-17

AMENDING THE ZONING MAP OF THE CITY OF VISALIA BY CHANGING THE ZONING DESIGNATION ON 48 ACRES FROM BRP (BUSINESS RESEARCH PARK) TO 6.0 ACRES OF PA (PROFESSIONAL / ADMINISTRATIVE OFFICE), 7.7 ACRES OF QP (QUASI-PUBLIC), AND 34.3 ACRES OF R-1-6 (SINGLE-FAMILY RESIDENTIAL, 6,000 SQ. FT. MIN. LOT SIZE), LOCATED ON THE NORTH SIDE OF GOSHEN AVENUE, APPROXIMATELY ¼ MILE EAST OF SHIRK STREET.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: The Planning Commission of the City of Visalia has recommended to the City Council the change of 48 acres of BRP (Business Research Park) zoned property on the City of Visalia Zoning Map to 6.0 acres of PA (Professional / Administrative Office), 7.7 acres of QP (Quasi-Public), and 34.3 acres of R-1-6 (Single-family Residential, 6,000 sq. ft. min. lot size). The project site is located on the north side of Goshen Avenue, approximately ¼ mile east of Shirk Street. (APN: 077-100-19, 27, 28, 34); and

Section 2: The official Zoning Map of the City of Visalia is hereby amended to show said property changes as illustrated in Exhibit "A" attached hereunto.

Section 3: This portion of property which contains the Zoning Designation of PA (Professional / Administrative Office) shall be designated to have Design District "B" on the City's officially adopted design district map.

Section 4: A Conditional Zoning Agreement shall be prepared by City staff with the applicant and approved by the City Council at the second reading of said Ordinance. The Conditional Zoning Agreement shall specify building and land use development conditions for the securing of entitlements and subsequent development of the proposed residential area. Said conditions shall specifically address the following:

- a. That the noise attenuation / mitigating feature shall be in the form of a combination of an enclosed parking structure, and walls arranged as to create a continuous noise barrier, located in the approved Professional / Administrative Office (PA) zone between the existing Heavy Industrial (I-H) zone to the west and the approved Single-family Residential (R-1-6) zone to the east, and that no building permits for residences in the approved R-1-6 zone may be issued until the noise attenuation features have been constructed;
- b. That on-site vehicular circulation be designed as to allow for a future vehicular crossing via Roeben Street between the approved R-1-6 zoning and Goshen Avenue;
- c. Vehicular access to the subject site as approved by the City;
- d. Phasing of all project elements consistent with Item "a" above;
- e. Assessment districts for all common area landscaping;
- f. Dedication, construction, and maintenance of a public pedestrian trail;
- g. Superior circulation design; and,
- h. Development and infrastructure cost responsibility.

Section 5: This ordinance shall become effective 30 days after passage hereof.

NO FEE REQUIRED PURSUANT
TO CODE SECTION 6107
RECORDING REQUESTED BY
AND MAIL RESPONSE TO:

City of Visalia
Planning Division
315 East Acequia Avenue
Visalia, CA 93291

CONDITIONAL ZONING AGREEMENT NO. 2005-02

THIS AGREEMENT made this ____ day of ____ 2006, by Fred Machado hereinafter called the "First Party" and the CITY OF VISALIA, a political subdivision of the State of California, hereinafter called, "Second Party."

WITNESSETH

WHEREAS, First Party is the owner of real property, herein called the "Property" situated in the City of Visalia, which Property is described in Item (d) of Exhibit I of this Agreement; and

WHEREAS, the Property is now zoned as specified in Item (a) of Exhibit I; and

WHEREAS, First Party has applied for a rezoning of the Property pursuant to which application the Property is being rezoned from its present classification to the classification or classifications specified in Item (b) of Exhibit I; and

WHEREAS, hearings have been held upon said application before the City Council of the City of Visalia, State of California, and after having considered the matter presented, it has been determined that certain conditions to the rezoning of said real property must be imposed so as not to create any problems inimical to the health safety and the general welfare of the City of Visalia and its residents.

NOW, THEREFORE, IT IS MUTUALLY UNDERSTOOD AND AGREED that inasmuch as the rezoning specified in Item (b) of Exhibit I is being granted, the rezoning shall be subject to the conditions specified in the following paragraphs:

1. That Exhibit I, as completed and attached hereto, is incorporated into and made a part of this Agreement with the same force and effect as if fully set forth herein.
2. That First Party shall comply with the additional conditions, if any, specified in Item (e) of Exhibit I of this Agreement.
3. In the event First Party, and successor in interest of First Party, or any person in possession of the property described in Item (d) of Exhibit I violates or fails to perform any of the conditions of this Agreement within thirty (30) days after notice thereof as provided in Paragraph 4, the City Council of the Second Party may instruct the City Attorney of Second Party to institute legal proceedings to enforce the provisions of this Agreement.

4. Notice of violation of provisions of this Agreement shall be sent to First Party at the address specified in Item (c) of the Exhibit I and to the street address of the property described in Item (c) of Exhibit I. Any subsequent title holder, any lien holder, or party in possession of the property shall also receive notice of such violation at an address other than as specified in Item (c) of Exhibit I by which the notice is to be sent, with reference to this Agreement and the Resolution authorizing its execution.
5. Each and every one of the provisions of this Agreement herein contained shall bind and inure to the benefit of the successor in interest of each and every party hereto, in the same manner as if they had herein been expressly named.
6. Zoning of the property as indicated in Item (b) of Exhibit I shall not be consummated until such time as the Agreement has been recorded in the office of the Tulare County Recorder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

BY: _____
"First Party"
Fred Machado

CITY OF VISALIA, A political
subdivision of the State of California

ATTEST: _____
Clerk of the City Council
"Second Party"

BY: _____
City Manager

EXHIBIT I
CONDITIONAL ZONING AGREEMENT NO. 2005-02

(a) The property described in Exhibit “A,” is now zoned:

Business Research Park

(b) The zoning reclassification of a portion property described in Exhibit “A,” is from its present zoning to:

Quasi-Public (QP), Professional / Administrative Office (PA), Single-Family Residential, minimum 6,000 square-foot lot size (R-1-6)

(c) Notice to First Party pursuant to Paragraph No. 4, shall be addressed to:

Mr. Fred Machado
7400 Morro Road, Suite A
Atascadero, California 93422

(d) “Property” as used in this Agreement, includes:

Land located on the north side of Goshen Avenue approximately 850 feet east of Shirk Street in the City of Visalia, County of Tulare, State of California, and containing Assessor Parcel Numbers (APNs) of 077-100-019, 077-100-027, 077-100-028, and 077-100-034.

(e) The additional conditions with which First Party shall comply, pursuant to Paragraph No. 2, of this Agreement, are as follows:

1) The noise attenuation / mitigating feature required by Mitigated Negative Declaration No. 2005-71, prepared for the rezoning, shall be in the form of the following:

- A 24-foot high enclosed parking structure extending from the northwest corner of the PA zoning site to the southwest corner of the PA zoning located on “Property”. Said parking structure shall be architecturally consistent with the representative elevation rendering included as “Exhibit B” which illustrates a structure with a high level of Spanish / Mission Revival-style design elements,
- A 12-foot high masonry sound wall located along the western boundary of the City pond containing the QP zoning and located on “Property”,
- A 6-foot high sound wall located along the east side of Ethan Street in the R-1-6 zoning located on “Property”, and
- An 8-foot high sound wall located along the west side of residential lots located between the east-west leg of Ethan Street and the southern boundary of “Property” located in the R-1-6 zoning located on “Property”.

These features shall be arranged as to create a continuous noise barrier, located on “Property” between the existing Heavy Industrial (I-H) zone to the west and the approved Single-family Residential (R-1-6) zone to the east.

2) No building permits for residences in the area rezoned to R-1-6 may be issued until said noise attenuation features have been constructed, and until it can be demonstrated that exterior noise levels in the area rezoned to R-1-6 have been reduced to a level meeting the Community Noise Standards enforced by Chapter 8.36 of the Visalia Municipal Code.

- 3) A location for a public vehicular crossing connecting Roeben Street to Goshen Avenue shall be illustrated on the tentative subdivision map submittal which creates buildable lots for single-family residences in the area rezoned for R-1-6. The vehicular crossing shall be an extension of Roeben Street, currently located north of said Property, and shall provide a crossing over the San Joaquin Valley Railroad (SJVR) line which separates the area rezoned to R-1-6 from Goshen Avenue. The First Party and Second Party shall make a good faith effort to work with the SJVR Public Utilities Commission in pursuit of allowing said vehicular crossing.
- 4) Public vehicular access shall be provided via Doe Avenue and the street separating the R-1-6 and PA zones (Ethan Street) to the area rezoned for PA before a Certificate of Occupancy is issued for any office building constructed within this zone. The public vehicular access shall be constructed and paved at a minimum two-thirds (2/3) width of the ultimate planned right-of-way for these streets.
- 5) The area rezoned as PA shall contain a planned office development containing a thematic building design and landscape plan throughout the project's development.
- 6) The First Party shall dedicate to the City, at no cost, a public pedestrian trail with the recording of a tentative subdivision map which creates buildable lots for single-family residences in the area rezoned for R-1-6. The trail shall extend southerly from the existing trail on Roeben Street located north of Property, shall be located adjacent to Doe Avenue and the street separating the R-1-6 and PA zones (Ethan Street), and shall circumnavigate the City Storm Basin on the southwest corner of said Property. The trail shall culminate at the future public vehicular crossing described in item (3). The trail, along with all improvements within the dedicated area such as trees, landscaping, and irrigation, shall be maintained under a Landscape and Lighting Assessment District created for land inside said "Property".
- 7) The First Party shall pay for the development and cost of and shall complete all public infrastructure affiliated with said planned office development before any building permit is issued for residences in the area rezoned to R-1-6. Public infrastructure shall include grading and drainage, underground public utilities (sanitary sewer and storm drain), private streets, and all improved parking surfaces located on the area that will contain the planned office development.
- 8) The First Party shall pay for the development and cost of the 12-foot high masonry sound wall located along the western boundary of the City pond containing the QP zoning and located on "Property", and shall be entitled to a reimbursement by the City for the cost associated with a 6-foot chain link and vinyl fence that would have otherwise been located and constructed at the same location along the western boundary of the City pond.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 6, 2006

Agenda Item Number: 10

Agenda Item Wording:

Public hearing for:

1. Certify Negative Declaration No. 2004-87.
2. General Plan Amendment No. 2004-16. A request by Plaza Land LLC to change the Land Use Designation from Business Research Park to Professional Administrative Office for 13.7 acres. The site is located on the northeast corner of Highway 198 and Plaza Drive APN: 081-020-036. **Resolution 2006-22 required.**
3. First Reading of Change of Zone No. 2004-19. A request by Plaza Land LLC to change the zoning from BRP (Business Research Park) to PA (Professional Administrative Office) for 13.7 acres. The site is located on the northeast corner of Highway 198 and Plaza Drive APN: 081-020-036. **Resolution 2006-23 required.**
4. **Introduction to Ordinance 2006-04** for Conditional Zoning Agreement. If the City Council approves the change of zone, Council has the option to direct that a zoning agreement be utilized which would provide the Council with the final review and approvals of the development plan and mix of uses for the subject site.

For action by:

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

For placement on which agenda:

- Work Session
 Closed Session
 Regular Session:
 Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 20

Deadline for Action: None

Submitting Department: Community Development - Planning

Contact Name and Phone Number: Andrew J. Chamberlain, AICP 713-4003
Fred Brusuelas, AICP 713-4364

Recommendation and Summary: Staff recommends denial of the requested project. This recommendation is based upon Council's discussion during the January 2006 Council retreat that new major medical office complexes be located in or proximate to the downtown and that the existing BRP zoning at the Plaza Drive/Highway 198 interchange be retained.

The proposed change in land use will change approximately 13.7 acres of Business Research Park (BRP) designated land to Professional Administrative Office (PA). At the November 30, 2004, City Council meeting Planning staff recommended approval of the request based upon the Planning Commission approval of the project on September 27, 2004. The Planning Commission voted (4-0), Perez absent, to support the request. The applicants have a conditional use permit (CUP No. 2004-20) pending for action at the Planning Commission

should the proposed change be approved. The conditional use permit is for a medical facility similar to an out-patient surgery center and related services. There have been no changes in the proposed development project provided to staff since the CUP application was filed in 2004.

During the retreat, the City Council determined that the centralization of major medical facilities in the core area of the city would provide the most benefit to the community. In addition, the Business Research Park designation at the Plaza Drive/Highway 198 interchange provides an opportunity for the community to capture a research and development or similar business that would be more consistent with, and support the larger industrially zoned area to the north. One of the tasks assigned by Council during the retreat is an evaluation of the BRP zone to determine if it needs to be modified to better suit the needs of research/technology interests.

The general plan amendment and change of zone are being proposed as a prerequisite to an application for a proposed medical office facility and out-patient (ambulatory) surgery center of approximately 150,000 square feet. The existing Business Research Park zoning lists "large-scale office developments" as one of the primary purposes in the zone, although it does not include medical offices, which is why the applicants are requesting this change.

The Commission considered the General Plan Policies related to health care facilities, specifically Policy 5.5.5 which states "Direct new public and private health care facilities to the Core Area." The Core Area being located between Mooney Boulevard, Ben Maddox Way, Houston Avenue and Mineral King Avenue, (Land Use Element Objective 1.1 – A). As an example of an urban type development, staff estimated that the proposed square footage would require a five-story office building on a half block in the downtown, and a four-story parking structure on the adjacent half block. The Commission also considered the attached letter from Lindsay Mann, Chief Executive Officer of Kaweah Delta Health Care District, which stated that Kaweah Delta does not oppose the proposed medical office building and associated ambulatory surgery center, and that the plans are consistent with the health care needs of the community.

The Planning Commission also reviewed the remaining health care facilities policies, discussing that the need to work with the Kaweah Delta Hospital District is being met through the City's ongoing actions with the District, and that this project meets the intent of planning for additional medical campuses to meet the incremental needs of future residents Policy 5.5.2. The Commission recognized that conditional use permits have been approved for other medical facilities such as the Visalia Medical Clinic on Akers Street, the new Oncology Center, on the KDDH campus on Cypress, and the private out-patient surgery center at the Seven Oaks complex north of Highway 198, west of Akers, all of which are west of the core area.

5.5 HEALTH CARE FACILITIES

Objectives

- A. Facilitate a continued high level of health care services in the community.

Implementing Policies

- 5.5.1 Provide for the expansion of Kaweah Delta District Hospital through continued implementation of the Medical District Master Plan.
- 5.5.2 Plan for additional medical campuses (including ancillary facilities and expansion areas) as may be necessary to meet the incremental needs of future residents.

- 5.5.3 Continue to coordinate land use issues with representatives from the health care community.
- 5.5.4 The City and Redevelopment Agency shall continue to work with Kaweah Delta District Hospital to facilitate expansion of their downtown facility and additional new facilities.
- 5.5.5 Direct new public and private health care facilities to the Core Area.

The Planning Commission also questioned the timing of traffic signal improvements at the Plaza Drive and Crowley intersection. No improvements are currently scheduled for the Plaza Drive/Crowley intersection, the Engineering Department has indicated that the Plaza Drive/Hurley intersection to the north may be signalized by the end of 2007 based upon development projects in the area.

As noted earlier, the existing Business Research Park zoning allows large-scale office developments as a permitted use. The primary difference between professional offices and medical offices is the parking requirement (1 space for 200 sq. ft. for medical offices and 1 space per 250 sq. ft. for professional offices). Though medical offices would typically generate an increase in traffic volumes, the land use impacts of both office types are very similar. In the past, the Planning Commission has generally approved zone change requests to allow medical offices in areas where professional office uses are allowed, as long as the parking standards can be met, and any traffic related issues are addressed. It should be noted, that under the current BRP zoning, a project with a mix of uses not available in the PA zone could be developed with different traffic patterns/impacts.

Staff has encouraged the applicant to look for sites in the downtown for a medical complex. If a downtown site can not be secured, other sites could be considered, one site which is properly zoned for medical uses is near the existing medical facilities at Cypress and Akers. Other sites that might be considered for a similar land use change closer to the core of the community such as the Service Commercial areas adjacent to the Civic Center Master Plan area northeast of the of downtown. These latter areas will soon be studied as part of "framework" plans that will follow up the east Downtown Strategic Plan.

Committee/Commission Review and Actions:

The Planning Commission held a public hearing on September 27, 2004 and recommended approval of General Plan Amendment No. 2004-19 and Change of Zone No. 2004-16, (4-0, Thompson, Logan, Salinas, Wynn - Perez absent).

During the public hearing three persons spoke to the item, none in opposition. Mike Lane, agent for the proposal pointed out that no Business Research Park projects had been developed in the last decade. He indicated that the proposed project would benefit the community through increase medical services and the economics of being a regional draw.

Dr. Jim Billies spoke in support of the item indicating that land costs in the downtown and good regional access at the proposed location were factors in choosing the proposed location. In addition, he cited the benefits of the proposal being a regional facility that would bring new patients into the community, along with the related medical services. He also indicated that the existing facility approval for an out-patient surgery center (private hospital) at the Seven Oaks complex on Akers and Mineral King is likely not going to take place. Conditional Use Permit No. 2001-24 is due to lapse on October 21, 2004, based upon not obtaining a building permit or providing evidence of substantial Office of Statewide Health Planning and Development delays.

Dr. Billies indicated that several physicians, including some in Fresno and Hanford, would be utilizing this facility instead of sending patients to Fresno for out-patient or ambulatory services. He indicated that the proposed project would work in adjunct to Kaweah Delta Hospital, even referring patients for services not available at the proposed facility.

Related Projects:

If the proposed changes are approved, there is a pending conditional use permit would be processed for the medical facility including the Surgery Center.

The applicants recently processed a parcel map at the Planning Commission, approved (5-0), to separate this site from the Josten's site on the west side of the parcel.

Prior Council/Board Actions:

The item was set for public hearing on November 30, 2004. At that meeting the City Council heard a presentation by Steve Salomon, the City Manager. Mr. Salomon stated that the project area was being planned for medical offices which City policies directed to the central core of the community, whereby the project was inconsistent with the General Plan. The packet also included a letter from Mike Lane, Agent for Plaza Land LLC, requesting a six month continuation of the project to allow time to gather additional information. The City Council did not open the public hearing, and tabled the items indefinitely.

Alternatives:

1. Since the project was considered by the Planning Commission approximately 17 months ago, Council can refer the matter back to the Commission for an updated recommendation.
2. Approval – A resolution and ordinance have been included if Council moves to approve the project.
3. Defer decision until after analysis of the Business Research Park zone is completed.

Attachments:

- Resolution for adoption of ND No. 2004-87
- Land Use Map
- Zoning Map
- Exhibit "A" – Applicant's Proposed Zone Map which was handed out at the Planning Commission Meeting by Mike Lane
- Exhibit "B" – Applicant's Proposal for Design District and Zoning Minor Modifications which was handed out at the Planning Commission Meeting by Mr. Mike Lane
- Environmental Document
- Aerial Photo
- Location Map
- Planning Commission Staff Report

City Manager Recommendation:

Recommended Motion: I move to deny General Plan Amendment No. 2004-19 and Change of Zone 2004-16 by adoption of Resolution No. 2006-22.

Alternative – Council may choose to approve the project with a Conditional Zoning Agreement: I move to certify Negative Declaration No. 2004-87. I move to approve General Plan Amendment No. 2004-19 and Change of Zone 2004-16 by adoption of Resolution No. 2006-23, and Ordinance No. 2006-04. I also move that a Conditional Zoning Agreement, providing Council the final review and approval of any development plan and land use mix, be prepared and executed prior to the second reading of Ordinance No. 2006-04.

Financial Impact

Funding Source:

Account Number: _____ (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

Review and Action: Prior:

Required: A Negative Declaration has been prepared for the project. It will need to be certified prior to a decision on the project.

NEPA Review:

Required? No

Review and Action: Prior:

Required:

Tracking Information:

Anticipated schedule of review: No further actions if denied, if approved the change of zone would require a second reading. If approved with a conditional zoning agreement, the agreement would need to be executed between the first and second reading of the zone change.

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

City of Visalia
Agenda Item Transmittal

Meeting Date: March 6, 2006

Agenda Item Number:

Agenda Item Wording:

**a) Certification of Negative Declaration No. 2006-007.
Resolution No. 2006-20 required.**

b) Public Hearing for Contract Cancellation No. 2005-02: A request by Frank Luisi et al, property owners (Quad Knopf, agent) to cancel the remaining 29 acres of Williamson Act Land Conservation Contract No. 10080 within Agricultural Preserve No. 3430. The site is located on the northwest corner of Mooney Blvd. and Ferguson Ave. in the City of Visalia, County of Tulare. (APN: 089-010-034)
Resolution No. 2006-21 required.

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

Deadline for Action: None

Submitting Department: Community Development Dept. - Planning

Contact Name and Phone Number: Brandon Smith, Associate Planner (559) 713-4636

Department Recommendation and Summary:

Planning Division staff recommends that the City Council hold a public hearing and then approve a request for the full cancellation of the remaining acreage inside Land Conservation Contract No. 10080, covering 29 acres of vacant land designated for single-family residential zoning which has been approved for a tentative subdivision map. Staff's recommendation is based on findings required by State law that staff believes can be supported, and based on correspondence received from the Department of Conservation. The site is located on the northwest corner of Mooney Boulevard and Ferguson Avenue.

Request

Quad Knopf, who represents property owner Frank Luisi, is requesting the cancellation of 29 acres under contract for the alternative use of a single-family residential subdivision, consistent with the underlying R-1-6 zone. The site's contract and preserve must be cancelled before final maps can be recorded for the subdivision.

The Williamson Act Cancellation follows the approval of the Ashley Grove Unit 13 Vesting Tentative Subdivision Map which has been approved on this site to divide 29 acres into 118 lots for single-family residential use. The Planning Commission's approval of the related tentative subdivision map on October 10, 2005 was subject to the successful removal of the contract. The environmental effects of the cancellation of the contract were analyzed in an Initial Study and Negative Declaration.

The site is located inside both the 98,700 population and current 129,000 population Urban Development Boundaries. An attached map shows the development status of lands

surrounding the site. According to this development activity map, residential subdivisions are currently under construction or built to the west, north, and south of the site. To the east, a tentative map for a subdivision has been approved on undeveloped land, and a site plan review for a proposed subdivision has been completed for another piece of undeveloped land.

Contract Background

Land Conservation Contract No. 10080, along with Agricultural Preserve No. 3430, became effective in 1976 at the request of property owner Frank Luisi. At the time application was made, the City of Visalia did not protest the formation of the agricultural preserve and contract. In a recommendation to the City Council to not protest the contract, staff cited that the site was located outside the Urban Improvement Boundary, despite the fact that the entire site was within one mile of the City limits at the time the preserve and contract were executed.

On August 5, 2002, area which included the land under contract was annexed into the City under Annexation No. 2000-02 (IOH/Luisi). At this time, the City succeeded to the contract and became the administrator of both the contract and preserve.

In 2004, a petition was filed for the cancellation of 50 acres within Contract No. 10080 and Preserve No. 3430. A Notice of Non-Renewal for the entire 80-acre contract was filed with the City and recorded with the County on September 9, 2004. The Contract Cancellation and Agriculture Preserve Diminishment were subsequently approved by the City on January 18, 2005. This approval reduced the size of the Contract and Preserve from 80 acres down to the approximately 29 acres that is the subject of this current cancellation request.

Currently, the site is predominantly used for the agricultural farming of tree orchards. An orchard covers the entire site. There is an existing house, barn, walnut dehydrator, and three pole barns (together comprising approximately 1.50 acres) located on the east side of the site facing Mooney Boulevard. The site is bordered on the south by Ferguson Avenue and on the east by Mooney Boulevard.

A single-family residential subdivision has been approved by the Planning Commission as the alternative use for the subject site. Ashley Grove Unit 13 Vesting Tentative Subdivision Map (see attached exhibit) will divide the 29 acres coming out of Williamson Act contract into 118 lots for single-family residential use. All developable lots within the proposed subdivision will be built with single-family detached units. The subdivision is consistent with the policies in the General Plan Land Use Element and consistent with the Zoning Ordinance. The Planning Commission's approval of this tentative subdivision map on October 10, 2005 was conditioned on the successful removal of the contract.

Williamson Act Background

Since the State began the Williamson Act program in the late 1960's, many landowners of agricultural land have requested to have their land designated as agricultural preserves. (Tulare County has about 1.1 million acres of land in agricultural preserve, the most land of any county in the State.) Once in preserve the landowner signs a contract with the city or county in which the property is located. The standard contract states that in exchange for a reduction in property taxes, the owner agrees to only use the land for agricultural purposes. The terms of these contracts are initially set for ten years, and are automatically renewed annually for an additional year, unless the property owner or the city/county files a Notice of Non-Renewal of the contract. Once this notice is filed, the contract is no longer renewed and expires after ten years. During those remaining years, property taxes are gradually increased to the

noncontracted tax rate. In this case, the property owner has filed a Notice of Non-Renewal dated September 9, 2004.

State law does provide for a cancellation procedure. It requires that the City Council hold a public hearing, and that the Council make specific findings regarding whether or not it is appropriate to cancel the contract. If it makes the findings, the Council can tentatively cancel the contract subject to conditions, including payment by the landowner of a penalty fee that is determined by the County Assessor. Once the fee is paid to the County Auditor and any other conditions are met, the City can issue a final cancellation, which would allow the property to develop. The cancellation fee is calculated 12.5% of the fair market value of the property as determined by the County Assessor. In this case, the County Assessor has determined that the current fair market value for the 29 acres under Contract is estimated at \$3,250,000; therefore the fee would be \$406,250. Once the fee is paid to the County Treasurer and all other conditions required by Council are satisfied, the City can issue a final cancellation, which would allow the property to develop.

Required Findings

Based upon the analysis prepared by staff (included as an attachment), staff believes that the Council can make both the five "consistency" findings as well as the two "public interest" findings that would allow the contract to be tentatively cancelled. According to State law, at least one of the two sets of findings must be made in order for a Council to tentatively approve the cancellation. Staff's recommendation includes proposed conditions that must be met before the final cancellation can be approved. The proposed conditions and the procedure of tentative and final cancellation are all in accordance with the procedures outlined in State law (Sections 51280 through 51287 of State Government Code).

The recommended conditions are as follows:

1. The applicant shall make full payment to the Tulare County Treasurer for the amount of the cancellation fee, which is \$406,250 (12.50 % of the land's current fair market value of \$3,250,000).
2. Unless the cancellation fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, the fee shall be recomputed as of the date of notice that the landowner has satisfied the required conditions of the tentative cancellation.
3. The applicant shall file an application and pay application fees for the disestablishment of Agricultural Preserve No. 3430.

State law requires that a copy of the petition for cancellation be sent to the Department of Conservation (DOC), which will conduct its own analysis of findings and renders an opinion whether the "consistency" and "public interest" findings can be made. The City Council is then required to consider the comments received by the Department of Conservation before taking action on the item. The comment letter received for this cancellation (see attached) does not raise objections to the proposed contract cancellation. The DOC cites the unlikelihood of adjacent lands also being removed from agricultural use, based on existing and pending urban development surrounding the site, and indicates that a more contiguous pattern of growth can be achieved by the removal of the land. With regard to public interest, the DOC remarks that the (City) Council is charged with considering the interest of the public as a whole in the value of the land for open space and agricultural use.

In making a recommendation, the Council is required to make an environmental finding, in accordance with the California Environmental Quality Act (CEQA). Staff is recommending that the Council certify Negative Declaration No. 2006-007, which was prepared for the contract cancellation on the site. The Negative Declaration document is attached.

Meeting with Department of Conservation

If Council authorizes the recording of the Tentative Cancellation, cancellation fees for this project (\$406,250) will be paid the Tulare County Auditor, who in turn passes the fees to the State of California. Although the fees are generated locally, the fees eventually get placed in the State's general fund and are spread across state programs.

On February 9, 2006, Assistant City Manager Michael Olmos, Assistant City Attorney Alex Peltzer, and Vice Mayor Greg Kirkpatrick attended a meeting in Sacramento regarding the possible local implementation of an exchange program allowed by the Williamson Act. The meeting was hosted by Secretary of Resources Mike Chrisman and attendees also included Department of Conservation Director Bridget Luther and local development interests. The meeting focused on possible formulation of a local program whereby agriculture preserve cancellation requests complying with Williamson Act cancellation findings can be required to purchase permanent land conservation easements on similar agricultural land in our area located in strategic locations where agricultural preservation is a priority. The conservation easement would be in lieu of paying cancellation fees to the state. In essence, the cancellation fees are used to buy local agricultural land conservation easements. Such a program would provide a reasonable and systematic method of addressing contract cancellations necessitated by growth demands while permanently preserving agricultural land in strategic locations around the community. Both Mr. Chrisman and Ms. Luther expressed interest in pursuing this program and City staff is working to prepare a draft program for consideration by Council and the State.

Prior Council/Board Actions: None.

Committee/Commission Review and Actions: On October 10, 2005, the Planning Commission approved Ashley Grove 13 Vesting Tentative Subdivision Map, a request to divide the 29 acres coming out of Williamson Act contract into 118 lots for single-family residential use.

Alternatives: None recommended.

Attachments:

- Resolution for Tentative Cancellation
- Exhibit "1" - Analysis of Findings for Cancellation of Contract No. 10080
- Exhibit "2" - Letter Received from Department of Conservation
- Exhibit "3" - Letter Received from Tulare County Assessor
- Exhibit "4" - Negative Declaration No. 2006-007
- Exhibit "5" - Development Activity Surrounding Contract
- Exhibit "6" - Proposed Subdivision / Alternative Land Use on Site
- Location Sketch
- Agricultural Preserves in Vicinity of Contract
- Zoning Map

City Manager Recommendation:

Recommended Motion:

I move to certify Negative Declaration No. 2006-007 by adoption of Resolution No. 2006-20.

I move to approve the Tentative Cancellation of Land Conservation Contract No. 10080 as conditioned by adoption of Resolution No. 2006-21.

Financial Impact

Funding Source:

Account Number: _____ (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

Review and Action: Prior:

Required: A Negative Declaration has been prepared for the project. It will need to be certified prior to a decision on the project.

NEPA Review:

Required? No

Review and Action: Prior:

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)*

If approved, a Certificate of Tentative Cancellation to be recorded by the City Clerk with the Tulare County Clerk.

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

RESOLUTION NO. 2006-20
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,
ADOPTING NEGATIVE DECLARATION NO. 2006-007, WHICH EVALUATES
ENVIRONMENTAL IMPACTS FOR CONTRACT CANCELLATION NO. 2005-02.

WHEREAS, a request was made for the cancellation 29 acres of the remaining portion of Williamson Act Land Conservation Contract No. 10080 within Agricultural Preserve No. 3430, located on the northwest corner of Mooney Blvd. and Ferguson Ave. in the City of Visalia, County of Tulare. (APN: 089-010-034). The request was made by property owner Frank Luisi, represented by Quad Knopf; and

WHEREAS, the City Council of the City of Visalia, after twenty (20) days published notice, held a public hearing before said Council on March 6, 2006 for the Project; and

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

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

WHEREAS, the Initial Study and Negative Declaration for the Project were prepared and noticed for review and comment; and

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

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

WHEREAS, pursuant to AB 3158, Chapter 1706 of the Statute of 1990, the City Council of the City of Visalia hereby finds that no evidence has emerged as a result of said Initial Study to indicate that the proposed project will have any potential, either individually or cumulatively, for adverse effect on wildlife resources.

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

BE IT FURTHER RESOLVED that the City Council of the City of Visalia hereby finds, on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment and hereby adopts Negative Declaration No. 2006-007 which evaluates environmental impacts for Contract Cancellation No. 2005-02. The documents and other material which constitute the record of the proceedings upon which the decisions based are located at the office of the City Planner, 315 E. Acequia Avenue, Visalia, California, 93291.

RESOLUTION NO. 2006-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,
APPROVING A CERTIFICATE OF TENTATIVE CANCELLATION FOR THE REMAINING
PORTION OF LAND CONSERVATION CONTRACT NO. 10080 WITHIN AGRICULTURAL
PRESERVE NO. 3430, LOCATED ON THE NORTHWEST CORNER OF MOONEY
BOULEVARD AND FERGUSON AVENUE

WHEREAS, a request was made for the cancellation 29 acres of the remaining portion of Williamson Act Land Conservation Contract No. 10080 within Agricultural Preserve No. 3430, located on the northwest corner of Mooney Blvd. and Ferguson Ave. in the City of Visalia, County of Tulare. (APN: 089-010-034). The request was made by property owner Frank Luisi, represented by Quad Knopf; and

WHEREAS, the subject property is within Agricultural Preserve No. 3430, established pursuant to the Williamson Act (California Government Code Section 51200 et seq.) and is subject to Land Conservation Contract No. 10080; and

WHEREAS, the Agricultural Preserve No. 3430 and Land Conservation Contract No. 10080 were established and entered into between the County of Tulare and property owner in 1976; and

WHEREAS, the property owner has served a Notice of Nonrenewal for the entire area contained under said Contract, and the notice was recorded as Document No. 2004-0091885 at the Tulare County Recorder on September 9, 2004; and

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

WHEREAS, the City Council of the City of Visalia, after twenty (20) days published notice did hold a public hearing on March 6, 2006, regarding the request for cancellation; and

WHEREAS, notice of the public hearing was also given pursuant to Government Code Section 51284; and

WHEREAS, the City Council of the City of Visalia finds that the findings required by State law by which said contract may be tentatively canceled have been made; and

WHEREAS, the City Council finds the Contract Cancellation to be carried out in accordance with procedures for tentative cancellation of contracts outlined in State law; and

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

BE IT FURTHER RESOLVED that the City Council of the City of Visalia makes the following findings based on evidence presented in the Analysis of Findings for Contract Cancellation No. 2005-02:

1. That the cancellation is for land on which a notice of non-renewal has been served pursuant to Section 51245 of State Government Code.

A notice of nonrenewal for the entire Contract was filed with the City of Visalia and was recorded as Document No. 2004-0091885 at the Tulare County Recorder on September 9, 2004. The contract is now scheduled to expire in 2014. Therefore, this finding can be met.

2. That cancellation is not likely to result in the removal of adjacent lands from agricultural use.

Existing uses on land surrounding the parcel containing the agricultural preserve include single-family tract home subdivisions, agricultural row crops, tree orchards, and vacant land. However, a majority of the surrounding land containing agriculture-related uses has been either tentatively approved for residential subdivision maps, or has been successfully subdivided for residential use through a final subdivision map. Therefore, full development of these agricultural areas for urban uses is expected within the next two to five years. Other lands surrounding the project site contain urban zoning and land use designations, which permit these areas to develop at any time in accordance with the City's Zoning Ordinance. There are no existing agricultural preserves on any of the surrounding sites. All land surrounding the parcel with the preserve is inside the City's Urban Growth Boundary (UGB), which designates areas for urban expansion to the year 2020.

The 28.97-acre project site as well as the surrounding lands are all inside the City's current 129,000 population Urban Development Boundary (UDB) and have been designated for urban development since 1991. Therefore, it is the General Plan and its policies of managed growth out from the historical center of the community, and not this proposed contract cancellation, that increase the development potential of adjacent lands and the removal of other lands within the current UDB from agricultural use.

If existing agricultural preserves inside the current Urban Development Boundary continue to remain, the resulting land use pattern would become one of mostly urban development with pockets of agricultural land among and within the urbanized area. The traditionally intensive farming practices in Tulare County are not suitable to coexist as pockets within urban development. Other typical land use conflicts between urban and agricultural uses would also occur. This land use pattern would also be in conflict with Visalia General Plan policies to grow in a compact fashion and to avoid allowing development to leap-frog over parcels of land. In addition, the policies of the City to promote concentric growth out from its City Core would be compromised as the loss of land in agricultural preserve near existing urban development would increase the pressure to develop on other land that is farther away from urban development. This would result is an urban area that is less dense and less well-planned.

The strong growth management policies in Visalia's General Plan guide and direct growth to its most appropriate location, keeping growth near existing development and preventing growth away from existing development. These policies have proven to be strong enough that the influence of a single development on growth inducement is negligible. Therefore, the evidence supports the statement that cancellation of Agricultural Preserve No. 3430 will not in itself result in the removal of adjacent agricultural lands. If the adjacent agricultural lands are converted to urban uses it will be because this is the area the City has chosen, through adoption of its General Plan, to

direct growth, while at the same time choosing to protect other lands around the city from development pressure.

3. That cancellation is for an alternative use which is consistent with the applicable provisions of the city or county general plan.

The City General Plan, as well as the Tulare County General Plan designates the site for urban development. The site is also within the current 129,000 population and previous 98,700 population Urban Development Boundaries. The cancellation is being proposed in conjunction with a development project (subdivision) that is consistent with the General Plan. These facts support a finding that the cancellation is for an alternative use that is consistent with both the City and County General Plans.

4. That cancellation will not result in discontinuous patterns of urban development.

The discussion in item 2) (see above) illustrates how a majority of the land surrounding the project site is already urbanized or has been subdivided for future development that is consistent with the site's proposed alternative land use. With the development of adjacent areas expected in the next two to five years, the project site will be surrounded on all sides by urban development. Therefore, leaving the agriculture preserve in effect on the project site will alternately result in an inefficient pattern of urban development.

5. That there is no proximate non-contracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non contracted land.

The development of the contracted land for its proposed alternative use would provide a pattern of development that is contiguous to and consistent with existing and approved development surrounding the site. The development would be adjacent to existing development on two sides, adjacent to approved development on all four sides, and surrounded on all sides by land that is inside the City limits and is designated for development in accordance with the City General Plan.

In contrast, there is no proximate non-contracted land that is equal to or greater in size of the subject land that would support a more contiguous pattern of development. Other lands in this proximity that are equal to or greater in size of the subject land are primarily found on the fringe of the existing urbanized area of the City. While the Visalia General Plan contains policies that support the outward growth of the City into some of these undeveloped areas at this time, development of these non-contracted areas would either be less contiguous than or not contiguous to existing urban development.

6. That other public concerns substantially outweigh the objectives of the Williamson Act.

The cancellation of this contract and the subsequent development of this land for urban uses would be consistent with Goals and Policies in the City's General Plan Land Use Element. The Land Use Element specifically illustrates a goal to "manage planning area growth to be contiguous and concentric from the City's core area". Furthermore, Land Use Element Policy 6.1.1 calls for promoting development of vacant, underdeveloped, and/or redevelopable land where urban services are available". The project area is located approximately $\frac{3}{4}$ mile from the City's Core Area as defined by the Land Use Element Goal 1, and contains one of the closest land conservation contracts in proximity to the City's downtown.

Formal public participation, represented by the City Council, Planning Commission, community leaders, and the general public, played an essential role in developing the current City General Plan, its goals, and policies. The public's role in helping to formulate the plan is specifically identified in pages 1-4 through 1-8 of the Plan's Land Use Element.

In addition to the public participation which helped shape growth management policies contained in the plan, current public demand for housing is at an all-time high. Current demand supports the public interest and need for continued development in proximity to existing services.

If development is not allowed to occur on the project site, it will most likely increase the pressure for the City to approve new development on the fringe of the City.

These facts support that public concerns substantially outweigh the objectives of the Williamson Act in this particular case.

7. That an Initial Study was prepared for this project, consistent with CEQA, which disclosed that environmental impacts are determined to be not significant, and that Negative Declaration No. 2006-007 is hereby adopted.

8. There is no evidence before the Council that the proposed project will have any potential for adverse effects on wildlife resources, as defined in Section 711.2 of the Department of Fish and Game Code.

9. Based upon the certification of cancellation valuation of the site by the Tulare County Assessor, the City Council determines and certifies to the Tulare County Auditor that the appropriate cancellation fee to be paid to the Tulare County Treasurer upon cancellation of Contract No. 10080 is \$406,250.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia approves a tentative cancellation for a portion of Land Conservation Contract No. 9788, in accordance with the terms of this resolution under the provisions of Sections 51280 through 51287 of the State Government Code and based on the above findings, subject to the following conditions:

1. The applicant shall make full payment to the Tulare County Treasurer for the amount of the cancellation fee, which is \$406,250 (12.50 % of the land's current fair market value of \$3,250,000).
2. Unless the cancellation fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, the fee shall be recomputed as of the date of notice that the landowner has satisfied the required conditions of the tentative cancellation.
3. The applicant shall file an application and pay application fees for the disestablishment of Agricultural Preserve No. 3430.

Budget Projection Including Carrys and Amendments

HOME SUMMARY PROJECTION 2006-2010							
		2004/05	2005/06	2006/07	2007/08	2008/09	2009/10
SOURCES OF REVENUE:							
1	Cash - Beginning Balance	2,282,110	4,233,636	(0)	0	0	0
2	Annual Grant Amount	574,355	545,392	540,000	540,000	540,000	540,000
3	HOME matching funds - RDA Low/Mod			115,000	115,000	115,000	115,000
4	Program Income	1,907,867	700,000	600,000	500,000	400,000	300,000
5	Interest Earnings/Investment Earnings						
6	TOTAL REVENUE	4,764,332	5,479,028	1,255,000	1,155,000	1,055,000	955,000
7							
EXPENDITURES:							
9	Operating	117,326	5,800	5,916	6,034	6,155	6,278
10	Redevelopment Allocation		11,886	12,124	12,366	12,614	12,866
11	Direct Allocations		45,348	46,255	47,180	48,124	49,086
12	Subtotal Admin and Operating	117,326	63,034	64,295	65,581	66,892	68,230
13							
14	Net for Programs and Projects	4,647,006	5,415,994	1,190,705	1,089,419	988,108	886,770
15							
NEIGHBORHOOD REHABILITATION:							
17	Emergency Repairs & Basic Needs	62,300	137,700	100,000	100,000	100,000	100,000
18	Encina Parcel Development (CHDO)	7,220	504,401				
19	Loan Recapture Program		150,000				
20	Housing Rehabilitation	245,102	254,898	200,000	200,000	200,000	200,000
21	Senior Repair & Handicapped Access		-				
22	Robinwood Court 10 housing units (TCHA)		800,000				
23	HOMEOWNERSHIP:						
24	Homebuyers Assistance (HAP)	98,748	701,252	400,000	400,000	400,000	400,000
25	REDEVELOPMENT PROJECTS:						
26	Downtown Senior Housing		2,500,000				
27	1415 N., Tipton		40,000				
28	Paradise Project		150,000	150,000	150,000	150,000	99,770
29	Property Acquisition		90,743	253,705	152,419	51,108	-
30	CVC Norman Way (CHDO)		70,000				
31	CHDO Set aside		17,000	87,000	87,000	87,000	87,000
32	Subtotal Programs & Projects	413,370	5,415,994	1,190,705	1,089,419	988,108	886,770
34							
35	TOTAL EXPENDITURES	530,696	5,479,028	1,255,000	1,155,000	1,055,000	955,000
36							
37	REVENUE LESS EXPENDITURES	4,233,636	(0)	0	0	0	0

City of Visalia Agenda Item Transmittal

Meeting Date: March 6, 2006

Agenda Item Number (Assigned by City Clerk): 12

Agenda Item Wording: Public Hearing on the proposed first amendment to the Community Development Block Grant (CDBG) and HOME Program FY 2005-06 Action Plan

Deadline for Action:

Submitting Department: Community Development & Public Works

Contact Name and Phone Number:

Michael Olmos, Assistant City Manger, 713-4332
Fred Brusuelas, Community Development & Public Works
Assistant Director
Kari Blofsky, Financial Analyst, 713-4298

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

Department Recommendation and Summary:

Staff recommends, upon holding a public hearing to take public testimony and comments, the City Council:

- Approve and adopt the proposed first amendment to the CDBG and HOME Program FY 2005-06 Action Plan; and
- Authorize staff to make the appropriate budget adjustments.

The net change of CDBG actions authorizes an additional \$309,327 of funding to meet project needs. The additional funds became available in the current fiscal year due to the postponement of the first Section 108 loan payment on the West Acequia Parking Structure.

An informational meeting was held on the Proposed Action Plan Amendment during regularly scheduled meetings of the North Visalia Advisory Committee on February 13, 2006 and the Citizens Advisory Committee on February 1, 2006.

Background:

The US Department of Housing & Urban Development (HUD) administers the Community Development Block Grant (CDBG) and HOME programs that distribute federal funds to promote affordable housing, economic development and public improvement projects and programs to benefit low-income families and persons with special needs. HUD has designated the City of Visalia as an entitlement city by virtue of having a population exceeding 50,000 residents. This designation allows Visalia to receive CDBG and HOME Program funds without having to annually apply for the grants. Table I, Fiscal Resources 2005-06, details the resources available to the City.

Table I			
Estimated Fiscal Resources 2005-2006			
	CDBG	HOME	Total
Grant	1,345,457	545,392	1,890,849
Program Income	400,000	700,000	1,100,000
Total	1,745,457	1,245,392	2,990,849

Program income is generated from loan payments and loan payoffs when a home is sold or refinanced.

On May 2, 2005, the City Council adopted the 2005-2006 Annual Action Plan for the use of Federal CDBG and HOME Program funds. The budget was based upon anticipated projects, programs and activities to be undertaken during the fiscal year. Changes in project costs and programs have necessitated the reallocation of the CDBG and HOME Program funds and adopting an amendment in accordance with HUD regulations.

Proposed Action Plan Amendment – Budget Amendment

The following summary shows the proposed amendment to the current 2005-2006 Action Plan budget, as shown in Table II, Proposed 2005-2006 Action Plan Amendment.

Table II
PROPOSED 2005-2006 ACTION PLAN AMENDMENT (CDBG)

	BALANCE JULY 1, 2005	PROPOSED AMENDMENT	AMENDED PROJECT BALANCE
PROJECT (Proposed Increase)			
1 SENIOR REPAIR AND HANDICAPPED ACCESS (Moved from HOME)	5,220	70,000	75,220
2 ADA COMPLIANCE PROJECTS	56,707	45,000	101,707
3 WEST ACEQUIA PARKING STRUCTURE CONSTRUCTION	-	841,012	841,012
TOTAL PROPOSED INCREASES	61,927	956,012	1,017,939
PROJECT (Decrease)			
4 CODE ENFORCEMENT	70,000	(45,000)	25,000
5 WEST ACEQUIA PARKING STRUCTURE LOAN PAYMENT	571,685	(571,685)	-
6 ADMINISTRATION	320,221	(30,000)	290,221
TOTAL PROPOSED DECREASES	961,906	(646,685)	315,221
CDBG NET CHANGE		<u>309,327</u>	

PROPOSED 2005-2006 ACTION PLAN AMENDMENT (HOME)

	BALANCE JULY 1, 2005	PROPOSED AMENDMENT	AMENDED PROJECT BALANCE
PROJECT (Decrease)			
7 SENIOR REPAIR AND HANDICAPPED ACCESS (Move to CDBG)	70,000	(70,000)	-
HOME NET CHANGE		<u>(70000)</u>	

A line item discussion of the proposed amendment follows:

Proposed Increases

1- Senior Repair and Handicapped Access: Funds for this program were originally budgeted from the HOME grant. It was recently determined that HOME funds are ineligible to pay for this program. Therefore, \$70,000 of CDBG funds need to be budgeted to cover the expenses for 2005-2006.

2- ADA Compliance: The ADA funds are used to rehabilitate, construct, or install public facilities and improvements for the disabled. The city of Visalia Building department has determined that we must comply with state requirements, as new construction is also required, to install tactile warning panels at targeted intersections. The downtown area has many targeted intersections where side walks are flush with the adjacent street making it difficult to distinguish between the end of the sidewalk and the beginning of the street. There will be 45 tactile warning panels installed in the downtown Main Street area from Encina to Garden Street. The total amended project balance is \$101,707 which is comprised of \$34,694 for ADA curb cut projects and \$67,013 for the installation of the tactile warning panels for the blind.

3- West Acequia Parking Structure Construction: The increase of \$841,012 in CDBG funds is proposed to be used to assist with the design and construction of the 700+ space parking structure on West Acequia which was previously approved by City Council.

Proposed Decrease

4- Code Enforcement: This activity provides for the abatement of housing and building code violations that are detrimental to the health and safety of the occupants in CDBG target areas. In the past few years there have been fewer code enforcement violations than projected within in the CDBG target areas. City of Visalia Code Enforcement would like to do a higher level of code enforcement in the future. This amount might increase in the future budget years if there is a higher level of activity based on Council's direction.

5- West Parking Structure Loan Payment: The first payment on the section 108 loan will not occur until fiscal year 2006-07. Therefore the \$571,685 will not be needed in the current fiscal year for a loan payment.

6- Administration: This year there has been a decrease in administration expenses year to date due partially to salary savings.

7- Senior Repair and Handicapped Access: Funds for this program were originally budgeted from the HOME grant. It was recently determined that HOME funds are ineligible to pay for this program.

Prior Council / Board Actions:

May 2, 2005 Annual Action Plan- 2005-2006 adopted by Council

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Citizens Advisory Committee: Forward to City Council with approval.

North Visalia Neighborhood Advisory Committee: Forward to City Council with approval.

Alternatives:

Attachments: CDBG & HOME 6 year budgets.

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

Upon holding a Public Hearing:

I move the City Council:

- Approve and adopt the proposed first amendment to the Community Development Block Grant and HOME Program FY 2005-06 Action Plan; and
- Authorize staff to make the appropriate budget adjustments.

Financial Impact

Funding Source:

CDBG AND HOME PROGRAM FUNDS – REALLOCATION OF FUNDS

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$309,327	New Personnel: \$
Council Policy Change: Yes_____	No__x__

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No X

Review and Action: Prior:
Required:

NEPA Review:

Required? Yes No X

Review and Action: Prior:
Required:

Tracking Information: Staff to make the appropriate budget adjustments and proceed with the projects, programs and activities in accordance with the adopted budget as amended.

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others: