

Visalia City Council Agenda



For the regular meeting of: Monday, October 3, 2005

Location: City Hall Council Chambers

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

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.

Employee Introductions:

Human Resources Director Janice Avila introduces the Downtown Visalians & Alliance & Director Jan Minami.

Chief of Police Jerry Barker introduces Dustin Thompson, Police Officer, Matt Doherty, Police Officer, Shane Logan, Police Officer, Krista Cline, Community Service Officer.

Community Development/Public Works Director Michael Olmos introduces Pam Shattuck, Office Assistant.

Assistant Community Development/Public Works Director Andrew Benelli introduces Steven Son, Associate Engineer.

Assistant Community Development/Public Works Director David Jacobs introduces Manuel Molina, Associate Engineer.

WORK SESSION AND ACTION ITEMS (as described)

4:00 p.m.

1. Presentation by Bruce Race of Race Studios and members of the East Downtown Task Force regarding the East Downtown Strategic Plan and recommendation to accept as presented (Estimated time 1 ½ hours.)
2. Bruce Race, Race Studios provides an update on the Tulare County general plan and its implications for Visalia and for local businesses (Estimated time 15 minutes-time permitting.) *Written material may not be available for this item, but may be made available at or before the meeting.*
3. Item removed from agenda.

**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. Conference with Legal Counsel – Existing Litigation (1)
Name of Case: City of Visalia v. Harrah, TCSC Case No. 04-210016
5. Conference with Legal Counsel – Anticipated Litigation (2)
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 G.C.
6. Conference with Real Property Negotiators
Property: 720 W. Mineral King and 438 S. Locust Street
Under Negotiation: Price, terms, conditions for development of a potential purchase and sale agreement
Negotiators: Steve Salomon, George Sandoval, Fred Brusuelas, Bob Nance, and Carl Anderson of the Presbytery of San Joaquin
7. Item removed from Agenda.
8. Conference with Real Property Negotiators
Property: acquisition of portions of nine (9) parcels on Tulare Avenue between Court Street and Locust Street; 101, 103, 105 & 211 West Tulare Avenue, 103 East Tulare Avenue, 931 & 944 South Court Street, 924 & 925 South Locust Street; APN 097-320-048, 049, 069, 072, 097-251-039, 097-016-007, 097-015-007, 097-016-008, 097-017-008; Project No. 1111-00000-720000-0-9347-2002
Under Negotiation: Price, terms, condition of purchase
Negotiators: Steve Salomon, Jim Funk, Property owners: Dunn, Williams, Dougherty, Visalia Y.M.C.A., Hatherley, Mota, Sutherland, Estrada and Perez

REGULAR SESSION

7:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION -

SPECIAL PRESENTATIONS/RECOGNITION

Resolution of Commendation in recognition of the 25th Anniversary Putignano, Italy Sister City Committee.

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.

CHANGES TO THE AGENDA/ITEMS TO BE PULLED FOR DISCUSSION

9. 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) Item removed from Agenda.
 - c) Authorize City staff to work with members of the Visalia Rotary Clubs on the feasibility of an outdoor multi-purpose facility in the new civic center/central park in the northeast downtown.
 - d) Award a contract for the Visalia Police Department Radio Equipment Upgrades to J's Communications in the amount of \$121,044.45.
 - e) Authorization to award the design-build contact for a new compressed natural (CNG) facility in the amount of \$1,518, 179 and a ten year maintenance contract in the amount of \$686,821 to Pinnacle CNG of Midland, Texas and appropriate \$1,600,000 for the project.
 - f) Authorize the Transit Division to award the purchase of the bus wash equipment in the amount of \$150,331 to NS Wash Corp utilizing their California Multiple Award Schedule (CMAS) contract, and appropriate \$150,331 for the project.
 - g) Authorize the Transit Division to award the construction contract for a new bus operations and maintenance facility in the amount of \$5,659,000 to Lewis Nelson & Son of Selma and appropriate a total of \$7,517,274 for the project.
 - h) Item removed from Agenda.
 - i) Award competitive bid for Self-Contained Breathing Apparatus Equipment to All-Star Fire Equipment in the amount of \$304,857.29, RFB 05-06-01.
 - j) Authorize the execution of a contract for a downtown parking enhancement study with TPG Consulting Inc. of Visalia, California in the amount of \$34,200 and authorize the funding from the Parking District Fund (6111).
 - k) Authorization to sell various segments of Mooney Boulevard right-of-way to California Department of Transportation (CalTrans) for the sale price of \$6,000.00 for the Mooney Boulevard (Nobel Avenue to Caldwell Avenue) widening project.

- l) 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 Avalon, located at the northwest corner of Riggin Avenue and Demaree Street (190 lots) and the Formation of Landscape and Lighting District No. 05-25, Avalon; **Resolution 2005-146 and 2005-147 required.** APN: 077-060-026.
- m) Authorization to record the final map for the following:
 1. Tentative Parcel Map 2005-18, located at the southeast corner of Akers and Caldwell Avenue APN 119-070-041.
- n) Request authorization to file a Notice of Completion on the following:
 1. The Little Ranch, containing 16 lots, located west of Dans Lane 450' south of Rialto Avenue.
 2. Four Creeks Estates, containing 31 lots, located on the west side of Ben Maddox at Buena Vista Avenue.
- o) Approval of Change Order No. 1 in the amount of \$157, 991.72 for the Lift Station Upgrade Project; Project No. 3011-720000-0-0-9504-2002.

Per staff's request Item 10 is to be continued to Monday, October 17, 2005 (Motion required.)

10. CONTINUED PUBLIC HEARING from September 6, 2005 -
 - a. Certify Mitigated Negative Declaration No. 2005-071. **Resolution 2005-125 required.** (*A separate Motion by the Council is required.*)
 - b. General Plan Amendment No. 2004-31: a request by Fred Machado (Branum Group, agent) to change the General Plan land use designation on 48 acres from Business Research Park to 6.0 acres of Professional / Administrative Office, 7.7 acres of Park, and 34.3 acres of Low Density Residential. 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) **Resolution No. 2005-126 required.**
 - c. **Introduction 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).

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.

11. PUBLIC HEARING -

- a. Certify Negative Declaration No. 2005-39. **Resolution 2005-143 required.** (*A separate Motion by the Council is required.*)
- b. General Plan Amendment No. 2002-13: a request by Bill Morgan to change the land use designation on approximately 11 acres from Light Industrial to seven acres of Low Density Residential and four acres of Conservation. The site is located on the north side of the railroad tracks north of K Road and east of Santa Fe Street (APN 123-080-009, 019 and 020) **Resolution 2005-103 required.**
- c. **Introduction of Ordinance 2005-14** Change of Zone No. 2002-12: A request by Bill Morgan to change the zoning on approximately 11 acres from IL (Light Industrial) to seven acres of R-1-6 (Single Family Residential) and four acres of QP (Quasi-Public.) The site is located on the north side of the railroad tracks of K Road and east of Santa Fe Street (APN: 123-080-009, 019, 020.)

12. PUBLIC HEARING -

- a. Certify Negative Declaration No. 2005-81, **Resolution 2005-142 required.** (*A separate motion by the Council is required.*)
- b. **Introduction of Ordinance 2005-18** Change of Zone No. 2005-17: a request by Michael Ray Sutherland to change the zoning from R-1-6 (Single-Family Residential) to R-1-4.5 (Single/Multi-Family Residential) on approximately 14.2 acres and to QP (Quasi-Public) on approximately 6.5 acres. The project site is located on the north side of Goshen Avenue, approximately 1,500 feet west of Lovers Lane. (APN: 098-050-014,020, 058, 059).

13. REGULAR ITEM - **Introduction of Ordinance 2005-19** establishing regulations Governing Medical Marijuana Dispensaries, the Cultivation and Processing of Medical Marijuana and the Public Use/Consumption of Medical Marijuana.

14. PUBLIC HEARING - to receive comments regarding the Draft 2005/2006 Disadvantaged Business Enterprise (DBE) Overall Goal and Methodology for transportation and transit projects, and adopt the Final 2005/2006 Disadvantaged Business Enterprise Overall Goal. **Resolution 2005-144 required.**

15. PUBLIC HEARING - to approve the recommended expenditure of the State of California 2005 Citizens Option for Public Safety (COPS) funds of \$155,182 to continue funding two Police Officer positions, appropriating \$155,182 in recognition of the grant and approval of **Resolution 2005-145** regarding the grant.

16. REGULAR ITEM - City Council Authorization to process the annual increase in Dog Licensing Fees (altered dogs: increase fee from \$10 to \$15 and unaltered dogs from \$25 to \$35), Cat Licensing Fees (altered cats: increase fee from \$5 to \$7 and unaltered cats from \$10 to \$15) and the Penalty Fee for Late or No License (increase fee from \$10 to \$20) at Valley Oak SPCA.

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS

Upcoming Council Meetings

Monday, October 17, 2005

Monday, October 24, 2005 (Special Meeting 6 p.m. Closed Session 7 p.m. Regular Session)

Monday, November 7, 2005

Monday, November 21, 2005

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: October 3, 2005

Agenda Item Number: 1

Agenda Item Wording:

1. Presentation by Bruce Race of Race Studio and members of the East Downtown Task Force regarding the East Downtown Strategic Plan and recommendation to accept as presented.

Deadline for Action: None

Submitting Department: Community Development and Public Works Department - Planning

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.): 60

Contact Name and Phone Number: Jason Pausma, Associate Planner (559) 713-4348

Recommendation and Summary: Staff and the East Downtown Task Force recommend that the City Council accept the East Downtown Strategic Plan and direct staff to return within 60 days with recommendations to initiate changes in codes, policies, and standards to implement the Strategic Plan.

Committee/Commission Review and Actions:

The Planning Commission held a workshop study session on August 8, 2005 with the East Downtown Task Force. At the meeting members of the Task Force presented an overview of the plan, discussed strategies and the potential action plan for the East Downtown study area. The Planning Commission did not take a formal action on the plan, but Commissioners commented on the benefits of the Plan and recognized and thanked the consultant Bruce Race and the Task Force for the work they did in preparing the East Downtown Strategic Plan. The Strategic Plan has now been forwarded to the City Council for review and acceptance.

Below is an outline of the East Downtown Task Force 4:00 p.m. workshop. Included in your packet is a copy of the Public Draft East Downtown Strategic Plan for your review.

1. Introduction
 - Introducing the Task Force and Staff
 - Process summary
 - Objectives for presentation
2. Overview of Opportunities, Strategies and Actions
 - Opportunities
 - Strategies

- Actions

3. Overall Concepts

- Land use
- Circulation
- Urban design/open space

4. Creating Places

- Mill Creek Plaza
- Santa Fe Plaza
- East Main court yards
- Central Park
- Civic Center Park and Mill Creek
- Burke Gateway

5. Action Plan

- Phasing and sequencing strategy
- Administrative actions
- Regulatory actions
- Financial actions

6. Discussion

History:

The East Downtown Strategic Plan identifies the necessary changes to City plans, codes, standards, and programs to facilitate downtown's eastward expansion. The intent of the plan is not to compete with the existing downtown area, but compliment it. The plan examines existing physical and economic conditions in the East Downtown Area. The boundaries of the study are from Highway 198 to Murray/Goshen Avenue, and from Bridge Street to Ben Maddox Way. The plan identifies, on a comprehensive basis, changes to plans, policies and standards that should be undertaken by the City to allow and encourage downtown style development along East Main Street and land uses that complement downtown. These strategies are listed in Chapter 3 of the report.

The Strategic Plan contains a concept land use plan for the East Downtown area. The concept plan is intended to show an optimal land use mix for the plan area based on the plan's findings and conclusions. The recommended changes to City plans, policies, and standards will enable this land use mix to occur. However, the land use pattern that eventually develops in the area may differ from the concept plan based on City priorities land owner needs and economic conditions.

The consultant for the project, Bruce Race, has met with the East Downtown Task Force numerous times. In July there were a number of meetings regarding the project, including a Community Workshop where citizens of the community had a chance to participate in the

planning process and identify key issues facing the East Downtown. These issues have been discussed and incorporated in the key planning concepts.

On January 18, 2005, Bruce Race made a presentation to a Joint Study Session of the City Council and Planning Commission. The joint study covered three objectives. The first objective provided an update on what has happened up to this point and provided a summary of all the meetings that have occurred up to this point with the task force members, members of staff, and members of the community. Secondly, draft framework issues were reviewed such as land uses, circulation, and design concepts. The third objective was to discuss the implementation approach, which includes potential actions and going over the feasibility of development.

Prior Council/Board Actions: The City Council authorized awarding a contract for urban design and planning services to Bruce Race and Larry Mintier Associates on December 15, 2003. The City Council authorized the formation of an East Downtown Strategic Plan Task Force at its March 15, 2004, meeting. The Council appointed the members of the Task Force on April 19, 2004. A list of the Task Force members is attached.

Prior Council/Board Actions:

None

Alternatives:

None recommended

Attachments:

- List of the East Downtown Strategic Plan Task Force Members
- Map of Strategic Plan Study Area
- Section Three: Action Plan of the East Downtown Strategic Plan

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

I move to accept the East Downtown Strategic Plan and direct staff to return within 60 days with recommendations to implement the Strategic Plan.

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:

Tracking Information:

Anticipated schedule of review:

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: October 3, 2005

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

Agenda Item Wording: Authorization for the City Staff to work with the Rotary Clubs Steering Committee on the feasibility of developing a 2000 seat outdoor multi-purpose Rotary Pavilion in the proposed "Central Park" along Mill Creek in the northeastern part of the Downtown.

Deadline for Action:

Submitting Department:

Contact Name and Phone Number: Steve Salomon, City Manager (559) 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:

The City received the attached letter dated September 14, 2005 from the Rotary Clubs Steering Committee asking the City to work cooperatively with them and others on the feasibility of developing a multi-purpose outdoor facility at the new "Central Park." I am recommending that the Council authorize the staff to work with Rotary and others on this concept.

Background: Over the last several years the City has acquired approximately 40 acres of property along Mill Creek and Jennings Ditch near the downtown area. The City has undertaken extensive planning efforts related to both this property, as well as an effort to "grow" the downtown into the area generally bounded by Santa Fe on the west, Ben Maddox on east, Mineral King on the south and Goshen/ Murray on the north. The planning and community input has resulted in a consensus that a park should be developed along Mill Creek and Jennings Ditch.

The Rotary Clubs have formed a steering committee which has proposed working with the City to explore the construction of an approximately 2000 seat outdoor multi-use facility in this park. The facility would be paid for through a combination of sources including significant fund raising by the Rotary Clubs and the Visalia Community Rotary Foundation. Other funding sources might include the Visalia Parks and Recreation Foundation, City of Visalia funds, grants, and other private donations.

If this item is approved it would give staff authority to work with the Rotary Steering Committee and come back with more specific recommendations. Similar facilities in other communities

need to be studied. Some funds may need to be allocated to develop preliminary cost estimates and design parameters.

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_____	

Committee/Commission Review and Actions:

Alternatives:

Attachments:

City Manager Recommendation

Alternatives:

Recommended Motion (and Alternative Motions if expected):

Motion to authorize City Staff to work with the Rotary Clubs Steering Committee on the feasibility of developing a 2000 seat outdoor multi-purpose Rotary Pavilion in the proposed "Central Park" along Mill Creek in the northeastern part of the Downtown.

Copies of this report have been provided to: Paul Sonier, Allan D. Fisher, Bryon Riegel M.D., Tony Salierno – Rotary Clubs Steering Committee, Park and Recreation Commission Members, Planning Commission Members, Parks and Recreation Foundation Board Members, Mike Olmos – City of Visalia Community and Public Works Director, Fred Brusuelas – City of Visalia Community and Public Works Assistant Director, Bob Nance - City of Visalia Economic and Redevelopment Manager, Vince Elizondo – City of Visalia Parks and Recreation Director, Don Stone – City of Visalia Recreation Manager, Stan Carrizosa - Visalia Unified School District Superintendent, Rodney Elder – Visalia Unified School District Board President, Aaron Collins, Carole Firstman – First Saturday Arts Market Board Members, Thora Guthrie – Visalia Parks and Recreation Foundation Director, Harlan Hutson.

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: October 3, 2005

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

Agenda Item Wording: Award a contract for the Visalia Police Department Radio Equipment Upgrades to J's Communications in the amount of \$121,044.45.

Deadline for Action: October 3, 2005

Submitting Department: Police

Contact Name and Phone Number: Stacy Handley 713-4175,
Cheryl Jackson 713-4301, Chuck Hindenburg 713-4250

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.): 1

Department Recommendation and Summary: The Police Department recommends that the City Council award a contract for the Police Radio Equipment Upgrades to J's Communications in the amount of \$121,044.45. The upgrade will be funded through a 100% reimbursable Homeland Security Grant, money must be spent by November 30, 2005 or the grant will be lost.

Earlier this year, the MIS Department submitted an application to Homeland Security requesting funds to replace the Police Departments radio equipment. The application was approved by Homeland Security and a grant was issued to the Police Department to facilitate the upgrade.

The current equipment is approximately 25 to 30 years old and the replacements parts have become unavailable. The upgrade will consist of replacing transmitters, cables, batteries and antennas at our current repeater locations (Holiday Inn, Fire Station 2, Town Meadows and Golden West High School).

A third police radio channel is also included in the pricing. The third channel is extremely necessary due to the growth of the City and the amount of radio traffic that is conducted over the two current channels that the Police Department utilizes.

This upgrade will eliminate the potential problem of an extensive police communication failure should the present radio repeater system fail, as this system can no longer be repaired should a failure occur.

The request for new radio equipment was not submitted in the current budget. We were not aware of this situation until our radio maintenance contractor informed us of this potential problem.

This document last revised: 9/30/05 4:23:00 PM

By author: .

File location and name: H:\(1) AGENDAS for Council\100305\Item 9d Council Agenda Transmittal Radio Equip.doc

J's Communications designed the dispatch console upgrade that took place two years ago. Utilizing J's for this project, as well, will keep the different components of the radio system interfaced together and J's will then maintain the entire system.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives: Do not award contract and not complete the project. Not moving forward with the project will result in continued risk to personnel from intermittent loss of radio communications.

Attachments:

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): Move to award a contract for the Police Department Radio Equipment Upgrade to J's Communications in the amount of \$121,044.45. Project # 0011-00000-720000-9827-2006

Financial Impact

Funding Source: Reimbursable Homeland Security Grant for \$121,044.45
Account Number: 0011-00000-720000-9827-2006 (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$121,044.45	New Revenue: \$
Amount Budgeted: \$	Lost Revenue:\$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	

Copies of this report have been provided to:

This document last revised: 9/30/05 4:23:00 PM

By author: .

File location and name: H:\(1) AGENDAS for Council\100305\Item 9d Council Agenda Transmittal Radio Equip.doc

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:

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: 9/30/05 4:23:00 PM

By author: .

File location and name: H:\(1) AGENDAS for Council\100305\Item 9d Council Agenda Transmittal Radio Equip.doc

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 3, 2005

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

Agenda Item Wording: Authorization to award the design-build contract for a new compressed natural gas (CNG) facility in the amount of \$1,518,179 and a ten year maintenance contract in the amount of \$686,821 to Pinnacle CNG of Midland, Texas and appropriate a total of \$1,600,000 for the project.

Deadline for Action: September 5, 2005

Submitting Department: Administration – Transit Division

Contact Name and Phone Number:

Monty Cox 713-4591
Leslie Caviglia 713-4317

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

Department Recommendation: Staff is recommending that Council award the design-build contract for a new compressed natural gas (CNG) facility in the amount of \$1,518,179 and a ten year maintenance contract in the amount of \$686,821 to Pinnacle CNG of Midland, Texas. It is also recommended that the Council formally appropriate a total of \$1,600,000 for the project, thereby consolidating the grant funds received and previously accepted by the Council for this project from the Congestion Mitigation Air Quality (CMAQ), the Dept. of Energy (DOE) and the Local Transportation Fund (LTF).

Discussion

Staff conducted a competitive design-build procurement for this project. The design-build approach is recommended for facilities utilizing this technology in order to streamline the design and construction process as well as minimize conflicts between the two different phases. The resulting agreements include one for the entire design-build process and one for 10 years of maintenance and repair. This also minimizes the City's exposure and responsibility for dealing with a technology that City staff may not yet be fully familiar with.

In response to the Request for Proposals, the City received three proposals from qualified firms; Pinnacle of Midland, TX, Hanover, of Broken Arrow, OK, and Clean Fuels of Seal Beach, CA. The City utilized a consulting firm, Adrianus, Inc. of Sierra Madre, CA, to assist the Solid Waste Division and the Transit Division with the review and scoring of the proposals. There are several approaches utilizing this technology and the results can vary in the production of the fuel as well as the cost of producing the fuel. Due to the complexity of the technology staff used Adrianus, Inc. to assist us with this process.

After reviewing the three proposals, staff recommends the selection of Pinnacle CNG to Design and Build the CNG station for a cost of \$1,518,179. Staff also recommends contracting with

Pinnacle to maintain the facility for 10 years at an additional cost of \$686,821. This approach will allow the City to maximize the use of grant funds obtained for this project. Pinnacle CNG is the company that recently installed a similar facility for Visalia Unified School District. The other two proposals and related costs were as follows:

	<u>Design/Build</u>	<u>Maintenance</u>
Hanover	\$2,067,000	\$ 819,238
Clean Energy	\$2,645,000	\$1,512,200

As the owner of this CNG station, the City will experience savings up to 15 cents per gallon at essentially a wholesale rate. In addition, as more and more CNG vehicles are purchased in the community, the City will begin to realize additional revenue to offset any future costs of maintaining the facility. More importantly, the City of Visalia and Visalia Unified School District will together have two reliable sources of CNG fuel, which will make it possible for more private and public fleets to consider using the alternative fuel.

Background

On June 1, 2004 Council authorized staff to accept \$1,460,000 in Congestion Mitigation Air Quality (CMAQ) funds to construct a new CNG dispensing facility. Matching funds of \$190,000 will come from a Department of Energy grant (\$150,000) and the city's Local Transportation Fund (\$40,000), making the total amount available \$1,650,000. This facility is needed to support the City's policy of converting to alternative fuel vehicles wherever possible. Under this policy, the City has purchased 5 CNG buses, 6 CNG solid waste vehicles, and is scheduled to purchase up to twice that many in the next few years. This facility will not only provide the fuel for the City's CNG vehicle program, but will be available to the general public and act as a backup facility for the Visalia Unified School District.

The facility will be located on Cain Street between the new bus operations & maintenance facility and the City Corporation Yard. In addition to the dispensers available to the public off of Cain Street, it will also be piped to fast-fill dispensers located on the bus facility and slow-fill dispensers at the Corporation Yard. This facility is sized to meet the City's projected needs past the next fifty years. The new facility will enable the City and other private and public fleets to expand their current number of CNG vehicles which will help substantially in improving air quality.

Prior Council/Board Actions: Approval to apply for and accept CMAQ funding for the project.

Committee/Commission Review and Actions: The Transit Advisory Committee recommends approval of these agreements.

Alternatives: None recommended

Attachments: Design-Build Agreement with Pinnacle CNG
10 Year Maintenance Agreement with Pinnacle CNG

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):
award the design-build contract for a new compressed natural gas (CNG) facility in the amount of \$1,518,179 and a ten-year maintenance contract in the amount of \$686,821 to Pinnacle CNG of Midland, Texas and appropriate \$1,600,000 for the project.

City of Visalia Agenda Item Transmittal

Meeting Date: October 3, 2005

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

Agenda Item Wording: Authorize the Transit Division to award the purchase of the bus wash equipment in the amount of \$150,331 to NS Corporation utilizing their California Multiple Award Schedule (CMAS) contract, and appropriate \$150,331 for the project.

Deadline for Action: October 3, 2005

Submitting Department: Administration -Transit Division

Contact Name and Phone Number:

Monty Cox 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.):5 min.

Department Recommendation:

That the City Council authorize the Transit Division to award the purchase of the bus wash equipment in the amount of \$150,331 to NS Corporation utilizing their California Multiple Award Schedule (CMAS) contract, and appropriate \$150,331 for the project. This project is funded by a grant from the Federal Transit Administration.

Department Summary and Discussion:

N/S Corporation currently has a contract with CMAS. Purchasing the equipment from N/S gives the City the advantage of the savings on the overall price. Equipment included is a heavy-duty 2 brush wash system with a Water Recovery System.

Staff reviewed various options for purchasing the drive through bus wash equipment including the following:

1. Include the equipment and installation in the general construction contract for the bus operations and maintenance contract.
2. Complete a separate competitive bid process for the bus wash equipment.
3. Purchase the bus wash equipment from an approved contractor listed on the California Multiple Award Schedule (CMAS).

After conducting the review, including a cost analysis by City finance staff, it was determined that the City would get the best price by purchasing the equipment separately off the CMAS contract list. The NS Corporation equipment was also recommended by the City's bus operations facility design team, Teter Consultants, and the City's bus operations contractor, MV Transportation.

The California Multiple Award Schedule (CMAS) program was established in 1994. The CMAS contracts are awarded and administered by the State of California, Department of General Services, Procurement Division. The CMAS contracts are established using products, services and prices from already existing competitively assessed and cost compared multiple award contracts. The products, services and prices are primarily from the federal General Services Administration (GSA) multiple award schedule program but not exclusively. To these products, services and prices, they add California contract terms and conditions and procurement codes and policies and establish a totally independent California contract. The contracts are utilized statewide by both California state and local government agencies under delegated authority from the Department of General Services. Agencies make best value purchasing decisions according to their own business needs such as price, warranty, and supplier performance.

Staff will coordinate the installation of the bus wash equipment with the construction of the Bus Operations & Maintenance facility.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: N/A

Alternatives: N/A

Attachments: None

City Manager/Executive Director Recommendation:

Recommended Motion (and Alternative Motions if expected):

I move that the City Council authorize the Transit Division to award the purchase of the bus wash equipment in the amount of \$150,331 to NS Corporation utilizing their California Multiple Award Schedule (CMAS) contract and appropriate \$150,331 for the project.

Copies of this report have been provided to:

Financial Impact

Funding Source: Federal Transit Administration

Account Number: 4511-0-720000-0-9409-2006

Budget Recap:

Total Estimated cost:	\$150,331	New Revenue:	\$150,331
Amount Budgeted:	\$ 0	Lost Revenue:	\$ N/A
New funding required:	\$0	New Personnel:	\$ N/A
Council Policy Change:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	

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: October 3, 2005

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

Agenda Item Wording: Authorize the Transit Division to award the construction contract for a new bus operations and maintenance facility in the amount of \$5,659,000 to Lewis Nelson & Son of Selma, and appropriate a total of \$7,517,274 for the project.

Deadline for Action: October 3, 2005

Submitting Department: Administration -Transit Division

Contact Name and Phone Number:

Monty Cox 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.):5 min.

Department Recommendation:

That the City Council authorize the Transit Division to award the construction contract for a new bus operations and maintenance facility in the amount of \$5,659,000 to Lewis Nelson & Son of Selma, and appropriate a total of \$7,517,274 for the project. (\$6,013,819 FTA, \$1,503,455 LTF)

Department Summary and Discussion:

Summary

Staff conducted a competitive bid process to construct a City-owned operations and maintenance facility on the corner of Goshen and Cain Streets. The City received three proposals from qualified firms; Lewis Nelson & Son, Seals Biehle, and Zumwalt. The City utilized our construction management firm Harris & Associates to assist the Transit Division with the bid process and review of the bids. The bids received were as follows:

Lewis Nelson & Son	\$5,659,000
Seals Biehle	\$5,842,000
Zumwalt	\$5,906,000

After reviewing the three bids, staff recommends the selection of Lewis Nelson & Son to construct the new Operations & Maintenance facility for a cost of \$5,659,000. Harris reviewed the bids, conducted a reference check process, and recommended awarding the contract to Lewis Nelson & Son based on their review. Harris & Associates will continue throughout the construction to assist staff with all aspects of construction including documentation management, change order review, and contractor oversight.

Lewis Nelson & Son has a history of doing construction projects in the area. Specifically they have done similar projects for Fresno Unified, CSUF, Selma Unified, and Delano Unified. These projects were completed on time and with minimal change orders. According to the project managers for these agencies there were no issues related to change orders or quality of work and they recommended the firm for our project.

Because of the size of the project, staff will have a change order process in place. All change order requests will be given by the contractor to the architect, Teter, for review. Copies of the change order requests will also be provided to Harris for their review and analysis. All change order requests that are deemed warranted by Teter and verified by Harris will be given to the City to be reviewed by staff and the City Change Order Committee. All change orders will go through this process before approval is given.

The City will be using three grants from the Federal Transit Administration (FTA) to fund this facility. The federal portion available is \$6,013,819 with matching funds from the city's Local Transportation Fund of \$1,503,455 making the total amount available \$7,517,274. In addition to the construction contract (\$5,659,000), this funding was also used to cover the cost of the environmental phase (\$75,000), design phase (\$428,630), land purchase (\$506,018) completed previously; as well as the construction management contract (\$199,375) currently in progress. This leaves a total of \$649,251 in funding available for miscellaneous expenses and a construction contingency.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: N/A

Alternatives: The City could elect to award the contract to one of the other proposers.

Attachments: None

City Manager/Executive Director Recommendation:

Recommended Motion (and Alternative Motions if expected):

I move that the City Council authorize the Transit Division to award the construction contract for a new bus operations and maintenance facility in the amount of \$5,659,000 to Lewis Nelson & Son of Selma, and appropriate a total of \$7,517,274 for the project.

Financial Impact

Funding Source: Federal Transit Administration
Account Number: 4511-0-0-720000-0-9409-2006

Budget Recap:

Total Estimated cost:	\$5,659,000	New Revenue:	\$2,059,000
Amount Budgeted:	\$ 3,600,000	Lost Revenue:	\$ N/A
New funding required:	\$0	New Personnel:	\$ N/A
Council Policy Change:	Yes <input type="checkbox"/>	No	<input checked="" type="checkbox"/>

Copies of this report have been provided to:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

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

City of Visalia
Agenda Item Transmittal

Meeting Date: October 3, 2005

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

Agenda Item Wording: Award competitive bid for Self-Contained Breathing Apparatus Equipment to All-Star Fire Equipment in the amount of \$304,857.29, RFB 05-06-01

Deadline for Action: October 3, 2005

Submitting Department: Fire Department

Contact Name and Phone Number: Battalion Chief Danny Wristen, 713-4056

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 award All-Star Fire Equipment the competitive bid for Self-Contained Breathing Apparatus (SCBA) Equipment for the Fire Department. Finance received two bids during the competitive bid process for this project. The low bid was All-Star Fire Equipment in the amount of \$304,857.29. The other bid was from Cascade Fire Equipment in the amount of \$319,920.35.

The Fire Department currently utilizes Interspiro brand SCBA equipment. The majority of this equipment is 15 years old and in need of replacement. Over the last several years we have had equipment failures as a result of the age of our current equipment. Luckily, none of the failures have resulted in injuries or near misses on the fire ground. In addition, our existing SCBA equipment does not meet the current NIOSH or NFPA standards for safety and firefighter protection.

As technology has changed dramatically in the last 15 years, the Fire Department spent approximately nine months testing different brands of SCBA equipment. After a careful evaluation of seven different SCBA brands, the Fire Department chose to purchase Scott brand SCBA equipment. We feel that the Scott Nx G2 SCBA will provide our department with the latest safety features and proven reliability.

This is a multi-funded project with the following breakdown - \$285,324 from the General Fund and \$30,030 from the Fire Impact Fee Fund. These funds are located in the FY 05/06 CIP Budget.

61 SCBA Units	3011-00000-720000-0-9715-2005	\$225,230
60 SCBA Cylinders	0011-00000-720000-0-9720-2006	\$ 64,400
Posi-Check SCBA Test Unit	0011-00000-720000-0-9724-2005	\$ 15,100
Porta Count Fit Test Unit	0011-00000-720000-0-9734-2005	\$ 10,624

Prior Council/Board Actions: None

Committee/Commission Review and Actions: N/A

Alternatives: Do not award bid or re-bid project.

Attachments: Scott SCBA Equipment List

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to award the bid to All-Star Fire Equipment in the amount of \$304,857.29 for SCBA Equipment for the Fire Department, RFB 05-06-01.

Financial Impact

Funding Source:

Account Number: (See above table)

Budget Recap:

Total Estimated cost: \$ 304,857.29	New Revenue:	\$
Amount Budgeted: \$ 315,354.00	Lost Revenue:	\$
New funding required: \$ 0	New Personnel:	\$
Council Policy Change: Yes_____	No <u>X</u>	

Copies of this report have been provided to: None

Scott SCBA Equipment List
(Attachment #1)

- 61 ea. 200310-06 NxG2 Air-Pak 4.5, with Pak-Alert Dual EBSS Buddy Breathing, 30 min. Carbon Cylinder & AV3000 Mask**
- 39 ea. 200128-01 Spare 30 min. Carbon Cylinder**
- 31 ea. Spare AV3000 Mask**
- 21 ea. 200130-01 60 min. Carbon Cylinder**
- 92 ea. 804564-01 Voice Amplifier**
- 92 ea. 805787-01 Bracket for Voice Amplifier**
- 92 ea. Fleece Mask Bag**
- 92 ea. Twin Cartridge Adapter, quarter turn**
- 300 pr. 742-P100 Quarter Turn Cartridges**
- 2 ea. Rit-Pak II with 60 min. Cylinder**
- 1 ea. Posi-Check 3 Flow Test Unit with Software pkg.**
- 1 ea. Port-A-Count Fit Test Unit with mask attachment**
- 1 lot Spare Parts per enclosed list (See Attachment #1)**
- 3 Training days for SCBA Don/Doff**
- 1 Training day for Posi-Check**
- 1 Training day for Port-A-Count**

Scott Spare Parts for Visalia FD
(Attachment #2)

805773-02	AV3000 facepiece, medium	Qty – 1
805345-01	AV3000 lens	Qty. – 2
10011024	Upper Bezel for AV3000	Qty. – 1
10011025	Lower Bezel for AV3000	Qty. – 1
33335-022	Bezel Screw (set)	Qty. – 1
10005218	Regulator Purge Knob	Qty. – 2
803351-01	Valve stem assembly	Qty. – 2
18070-00	O-ring, valve stem	Qty. – 2
33481-007	Roll pin, purge knob	Qty. – 2
10005368	Regulator seal gasket	Qty. – 10
10008880	MMR holder	Qty. – 5
805693-10	EZ-Flo II regulator	Qty. - 1

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 3, 2005

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

Agenda Item Wording: Authorize the execution of a contract for a downtown parking enhancement study with TPG Consulting Inc. of Visalia, California in the amount of \$34,200 and authorize the funding from the Parking District Fund (6111).

Deadline for Action: October 31, 2005

Submitting Department: Community Development & Public Works Department –Traffic Safety Division

Contact Name and Phone Number:

Eric Bons: 713-4350 or
Andrew Benelli: 713-4340

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 is recommending that the City Council approve the professional service contract for a downtown parking study to TPG Consulting Inc. of Visalia, California in the amount of \$34,200 and authorize the funding from the Parking District Fund (6111).

The proposed study will perform an update to portions of the 2000 Downtown Visalia Parking Study prepared by TPG Consulting, Inc. The study will identify areas where additional parking may be created in public parking areas and on public streets. In addition, the study will make recommendations for the use of various parking areas (ie. two hour parking verses all day parking). The study will inventory the existing parking both on street and off street which will provide information to analyze the present parking needs and aid in the determination of future needs. A detailed list of the tasks to be performed by TPG Consulting Inc. is shown in Exhibit B.

The study area is shown in the attached map labeled Exhibit A. The southerly boundary of the study is one block south of Noble Avenue. The northerly boundary is general one half block north of Murray Avenue with a portion projecting north which is bounded by Tipton Street on the east, E. Grove Avenue on the north, and Court Street on the west. The western boundary is Conyer Street from Murray Avenue to Center Avenue and Hall Street from Center Avenue to Main Street and Dollner Street from Main Street to Noble Avenue.

The cost of the study is \$34,200 which will be funded from the Parking District Fund (6111). Staff believes that the parking study will result in a substantial number of additional parking spaces being identified along existing public street and in public parking lots through re-configuration, striping, and curb markings. The cost to build new parking spacing in a parking structure is approximately \$20,000 per space. The cost of the study is reasonable given the

potential saving to be realized by creating additional spaces on existing streets and parking facilities.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives:

Attachments: Project location sketch, Exhibit A
Professional Services Agreement, Exhibit B

City Manager/Executive Director Recommendation:

Recommended Motion (and Alternative Motions if expected):
Move to authorize the execution of a contract for a downtown parking enhancement study with TPG Consulting Inc. of Visalia, California in the amount of \$34,200 and authorize the funding from the Parking District Fund (6111).

Financial Impact

Funding Source:
Account Number: Parking District Fund (6111).

Budget Recap:

Total Estimated cost:	\$ 34,200	New Revenue:	\$ N/A
Amount Budgeted:	\$ 34,200	Lost Revenue:	\$ N/A
New funding required:	\$ 0	New Personnel:	\$ N/A

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: Mitigated Negative Declaration
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:

Exhibit A, Project Location Sketch

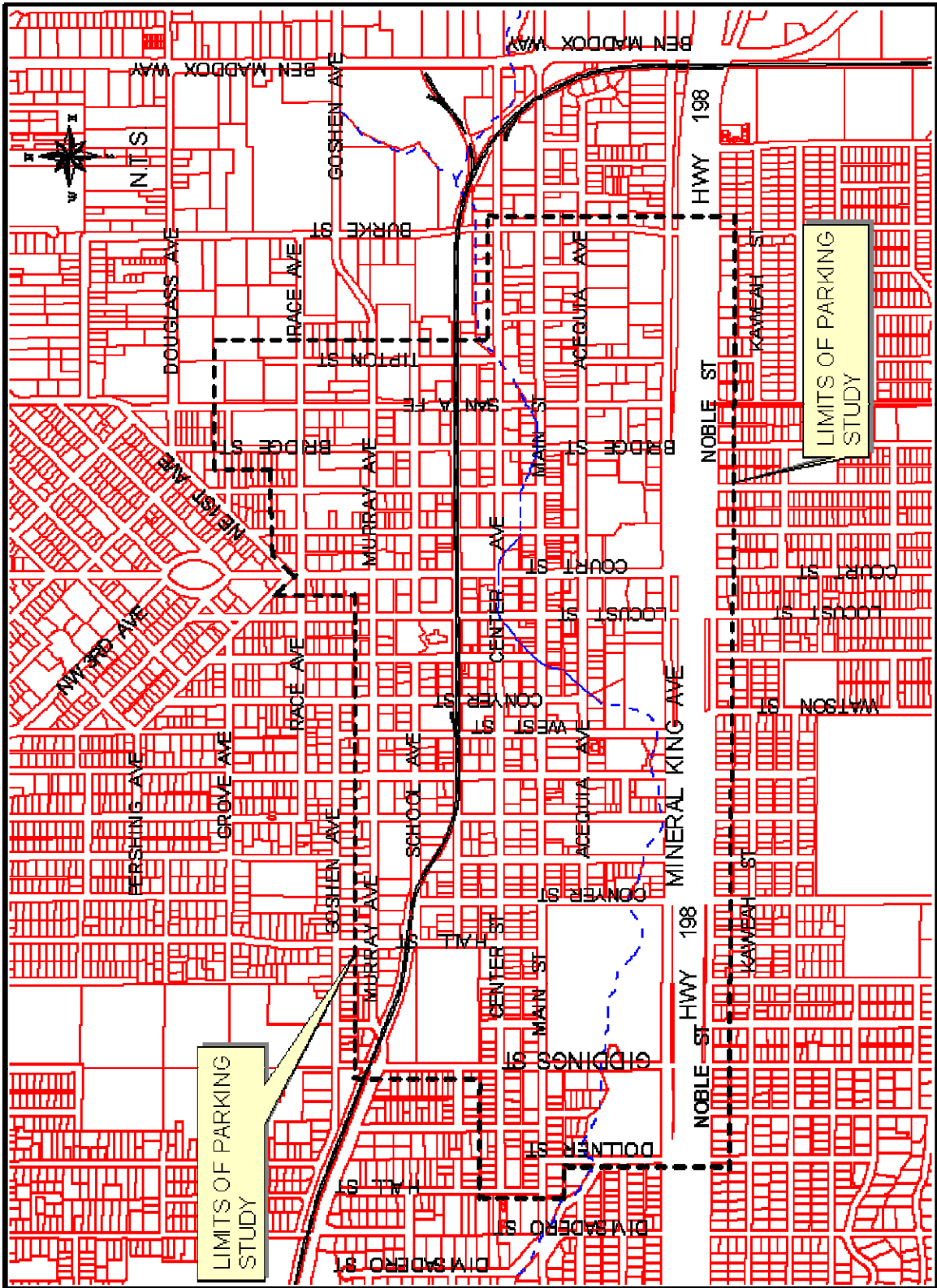


Exhibit B, Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT

DOWNTOWN PARKING STUDY

This Agreement, entered into this [REDACTED] day of [REDACTED], 2005, by and between the City of Visalia, hereinafter referred to as the "CITY", and TPG Consulting, Inc. hereinafter referred to as the "CONSULTANT".

W I T N E S S E I H

WHEREAS, the CITY is authorized and empowered to employ consultants and specialists in the performance of its duties and functions; and

WHEREAS, the CITY has the desire to secure certain technical and professional services to assist in the preparation and completion of the items of work described as "Scope of Work" in Exhibit "A", and hereinafter referred to as the "PROJECT"; and

WHEREAS, the CONSULTANT represents it is licensed, qualified and willing to provide such services pursuant to terms and conditions of this Agreement.

NOW, THEREFORE, CITY and CONSULTANT agree as follows:

I. SERVICES TO BE PERFORMED BY THE CONSULTANT

- A. Authorized Scope of Work: The CONSULTANT agrees to perform all work necessary to complete in a manner satisfactory to the CITY those tasks described in Exhibit "A" - Scope of Work, for the cost identified in Exhibit "B" - Project Fee.
- B. Additional Services: Incidental work related to the PROJECT and not provided for in Exhibit "A" may be needed during the performance of this Agreement. The CONSULTANT agrees to provide any and all additional services at the rates identified in attached Exhibit "C" - Schedule of Fees for Professional Services. Such additional services shall not be performed by CONSULTANT without the written consent of CITY.

II. TIME OF PERFORMANCE

The CONSULTANT shall commence performance of this Agreement within **five (5)** days following **City Manager** approval of this Agreement and shall complete the work within the timeframes outlined in Exhibit "A", unless otherwise extended in writing by CITY, in its sole discretion.

If the CONSULTANT fails to complete the PROJECT within the time specified, plus any extensions of time which may be granted, the CITY shall determine the percent of each work item completed and shall pay the CONSULTANT on that basis.

CONSULTANT shall not be responsible for delays which are due to causes beyond the CONSULTANT's reasonable control. In the case of any such delay, the time of completion shall be extended accordingly in a writing signed by both parties.

III. COMPENSATION

- A. Total Compensation: For services performed pursuant to this Agreement, the CITY agrees to pay and the CONSULTANT agrees to accept, as payment in full, a sum not to exceed **thirty four thousand two hundred and no/100 dollars (\$34,200)**. This amount shall constitute complete compensation, including document production and out-of-pocket expenses for all services for the work and PROJECT identified in Exhibits "A" and "B".
- B. Payment of Compensation: The CONSULTANT shall be compensated according to the progress payment schedule set forth in Exhibit "D" upon completion of percentage of each noted phase. The CONSULTANT shall be paid no later than thirty (30) days following submission of a written, verified billing to the CITY. Said billing shall include the percentage of each task completed to date and since the date of the preceding billing, if any.

IV. AUTHORIZED REPRESENTATIVE

- A. CITY: The **Traffic Safety Manager** shall represent the CITY in all matters pertaining to the services to be rendered under this Agreement, except where approval of the City Council of the City of Visalia is specifically required.
- B. CONSULTANT: **Charles Clouse** shall represent and act as principle for CONSULTANT in all matters pertaining to the services to be rendered by it under this Agreement.

V. TERMINATION

The right to terminate this Agreement, with or without cause, may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

- A. Termination By Either Party Without Cause: The CITY or CONSULTANT may terminate this Agreement at any time by giving written notice to the other of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination.

- B. Termination of Agreement for Cause: The CITY may by written notice to the CONSULTANT specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination, terminate the whole or any part of this Agreement in any of the following circumstances:
 - 1. If the CONSULTANT fails to perform the services called for by this Agreement within time(s) specified herein or any extension thereof; or
 - 2. If the CONSULTANT fails to make progress under this Agreement as to endanger performance of this Agreement in accordance with its terms, and does not correct such failure within a period of ten (10) days (or longer period as the CITY may authorize in writing) after receipt of notice from the CITY specifying such failure.

- C. Post-Termination:
 - 1. In the event the CITY terminates this Agreement with or without cause, the CITY may procure, upon such terms and such manner as it may determine appropriate, services similar to those terminated.
 - 2. Except with respect to defaults of subconsultants, the CONSULTANT shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the CONSULTANT. Such causes include, but are not limited to, acts of God or of the public enemy, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather; but in the event the failure to perform is caused by the default of a subconsultant, the CONSULTANT shall not be liable for failure to perform, unless the services to be furnished by the subconsultant were obtainable from other sources in sufficient time and within budgeted resources to permit the CONSULTANT to meet the required delivery schedule or other performance requirements.
 - 3. Should the Agreement be terminated with or without cause, the CONSULTANT shall provide the CITY with all finished and unfinished documents, data, studies, services, drawings, maps, models,

photographs, reports, etc., prepared by the CONSULTANT pursuant to this Agreement.

4. Upon termination, with or without cause, CONSULTANT will be compensated for the services satisfactorily completed to the date of termination according to compensation provisions contained herein. In no event, shall the total compensation paid CONSULTANT exceed the total compensation agreed to herein.
5. If, after notice of termination of this Agreement, as provided for in this article, it is determined for any reason that the CONSULTANT was not in default under the provisions of this article, then the rights and obligations of the parties shall be the same as if the Agreement was terminated without cause.
6. Termination of this Agreement shall not terminate any obligation to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination activities.

VI. INTEREST OF OFFICIALS AND THE CONSULTANT

- A. No officer, member, or employee of the CITY who exercises any functions or responsibilities in the review or approval of this Agreement shall:
 1. Participate in any decision relating to this Agreement which effects his personal interest or the interest of any corporation, partnership, or association in which he has, directly or indirectly, any interest; or
 2. Have any interest, direct or indirect, in this Agreement or the proceeds thereof during his tenure or for one year thereafter.
- B. The CONSULTANT hereby covenants that he has, at the time of the execution of this Agreement, no interest, and that he shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. The CONSULTANT further covenants that in the performance of this work, no person having any such interest shall be employed.

VII. NO PERSONNEL, AGENCY OR COMMISSION

The CONSULTANT warrants, by execution of this Agreement, that no personnel agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide established commercial or selling agencies maintained by the CONSULTANT for the purpose of

securing business. For breach or violation of this warranty, the CITY shall have the right to annul this Agreement without liability or, in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

VIII. SUBCONTRACTING

- A. The CONSULTANT shall not subcontract or otherwise assign any portion of the work to be performed under this Agreement without the prior written approval of the CITY.
- B. In no event shall the CONSULTANT subcontract work in excess of 50% of the contract amount, excluding specialized services. Specialized services are those items not ordinarily furnished by a consultant performing the particular type of project.

IX. INDEPENDENT CONTRACTOR

In the performance of the services herein provided for, the CONSULTANT shall be, and is, an independent contractor and is not an agent or employee of the CITY. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder. The CONSULTANT shall be solely responsible for all matters relating to the payment of its employees including compliance with social security and income tax withholding and all other regulations governing such matters.

X. SPECIFICATIONS

All specifications, manuals, standards, etc., either attached to this Agreement or incorporated by reference, are binding as to the performance of the work specified in this Agreement unless they are changed by written amendment to this Agreement modified in writing to incorporate such changes.

XI. DOCUMENTS/DATA

- A. Ownership of Documents: All original papers and documents, produced as a result of this Agreement, shall become the property of the CITY. In addition, CITY shall be provided with access and use of any other papers and documents consistent with the purpose and scope of services covered by this Agreement. Any additional copies, not otherwise provided for herein, shall be the responsibility of the CITY.

Documents, including drawings and specifications, prepared by CONSULTANT pursuant to this Agreement, are not intended or represented to be suitable for reuse by CITY or others on extensions of the PROJECT or on any other project. Any use of the completed documents for other projects and any use of incomplete documents without the specific written authorization from CONSULTANT will be at CITY's sole risk and without liability to CONSULTANT. Further, any and all liability arising out of changes made to CONSULTANT's deliverables under this Agreement by CITY or persons other than CONSULTANT is waived as against CONSULTANT, and the CITY assumes full responsibility for such changes unless the CITY has given CONSULTANT prior notice and has received from CONSULTANT written consent for such changes.

- B. Publication: No report, information, or other data given or prepared or assembled by the CONSULTANT pursuant to this Agreement, shall be made available to any individual or organization by the CONSULTANT without the prior written approval of the CITY. Notwithstanding the foregoing, however, the CONSULTANT shall not be required to protect or hold in confidence and confidential information which (1) is or becomes available to the public with the prior written consent of the CITY; (2) must be disclosed to comply with law; or (3) must be disclosed in connection with any legal proceedings.
- C. Copyrights: The CONSULTANT shall be free to copyright material developed under this Agreement with the provision that the CITY be given a nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the material for government or public purposes.

XII. INDEMNIFICATION AND INSURANCE

- A. As respects acts, errors, or omissions in the performance of professional services, CONSULTANT agrees to indemnify and hold harmless CITY, its elected and appointed officers, employees, and CITY designated volunteers from and against any and all claims, demands, defense costs, liability or consequential damages of any kind or nature arising directly out of CONSULTANT's negligent acts, errors or omissions in the performance of his/her professional services under the terms of this Agreement.
- B. As respects all acts or omissions which do not arise directly out of the performance of professional services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, CONSULTANT agrees to indemnify, defend (at CITY's option), and hold harmless CITY, its elected and appointed officers, agents, employees, representatives, and volunteers from and against any and all claims, demands, defense costs, liability, or consequential damages of any kind or nature arising out of or in connection with CONSULTANT's (or CONSULTANT's subcontractors, if any) performance or failure to perform, under the terms of this Agreement; excepting those which arise out of the sole negligence of CITY.

- C. Without limiting CITY's right to indemnification, it is agreed that CONSULTANT shall secure prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:
1. Workers' compensation insurance as required by California statutes.
 2. Commercial general liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products and Completed Operations Liability, Broad Form Property Damage (if applicable), Independent Contractor's Liability (if applicable).
 3. Professional liability insurance coverage, in an amount not less than One Million Dollars (\$1,000,000). CONSULTANT shall maintain such coverage for at least four (4) years from the termination of this Agreement. During this four (4) year period, CONSULTANT shall use CONSULTANT'S best efforts to ensure that there is no change of the retroactive date on this insurance coverage.
 4. Comprehensive Automobile Liability coverage with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles and shall be provided by a business automobile policy.
- D. CITY'S Risk Manager is hereby authorized to reduce the requirements set forth above in the event he/she determines that such reduction is in the CITY'S best interest.
- E. Each insurance policy required by this Agreement shall contain the following clause:

"This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the City Clerk, City of Visalia, 707 W. Acequia, Visalia, CA 93291."

In addition, the commercial general liability and comprehensive automobile liability policies required by this Agreement shall contain the following clauses:

"It is agreed that any insurance maintained by the City of Visalia shall apply in excess of and not contribute with insurance provided by this policy."

"The City of Visalia, its officers, agents, employees, representatives and volunteers are added as additional insureds as respects operations and

activities of, or on behalf of the named insured, performed under contract with the City of Visalia.”

- F. Prior to commencing any work under this Agreement, CONSULTANT shall deliver to CITY insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above. Within thirty (30) days of the execution date of this Agreement, CONSULTANT shall provide to CITY endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Said endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title. Should it be deemed necessary by CITY, it shall be CONSULTANT's responsibility to see that CITY receives documentation acceptable to CITY which sustains that the individual signing said endorsements is indeed authorized to do so by the insurance company. CITY has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.

- G. In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:
 - 1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; or
 - 2. Order CONSULTANT to stop work under this Agreement and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof; or
 - 3. Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies CITY may have and is not the exclusive remedy for CONSULTANT's failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which CONSULTANT may be held responsible for payments of damages to persons or property resulting from CONSULTANT's or its subcontractor's performance of the work covered under this Agreement.

XIII. NON-DISCRIMINATION

CONSULTANT and all subcontractors shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 CFR part

26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement.

XIV. MISCELLANEOUS PROVISIONS

- A. Asbestos and Hazardous Materials: In providing its services hereunder, CONSULTANT shall not be responsible for identification, handling, containment, abatement, or in any other respect, for any asbestos or hazardous material if such is present in connection with the PROJECT. In the event the CITY becomes aware of the presence of asbestos or hazardous material at the jobsite, CITY shall be responsible for complying with all applicable federal and state rules and regulations, and shall immediately notify CONSULTANT, who shall then be entitled to cease any of its services that may be affected by such presence, without liability to CONSULTANT arising therefrom.
- B. Successors and Assigns: This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.
- C. Prohibition of Assignment: Neither the CITY nor CONSULTANT shall assign, delegate or transfer their rights and duties in this Agreement without the written consent of the other party.
- D. Dispute/Governing Law: Any dispute not resolvable by informal arbitration between the parties to this Agreement shall be adjudicated in a Court of Law under the laws of the State of California.
- E. Notices: Notice shall be sufficient hereunder if personally served upon the City Clerk of the CITY or an officer or principal of the CONSULTANT, or if sent via the United States Postal Service, postage prepaid, addressed as follows:

CITY OF VISALIA
707 W. Acequia Ave.
Visalia, CA 93291
Attention: City Clerk

CONSULTANT
TPG Consulting, Inc
222 N Garden Street, Suite 100
Visalia, CA 93291
Attention: Charles Clouse
Tel: (559) 739-8072

- F. Jurisdiction/Venue/Waiver Of Removal: This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in that State. Any action brought to interpret or enforce this Agreement, or any of the terms or conditions hereof, shall be brought in Tulare County, California. The CONSULTANT hereby expressly waives any right to remove any action to a county other than Tulare County as permitted pursuant to Section 394 of the California Code of Civil Procedure.

- G. Integration/Modification: This Agreement and each of the exhibits referenced herein, which are incorporated by reference, represents the entire understanding of the CITY and the CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by the CITY and the CONSULTANT.
- H. Conflict With Law: If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder of the Agreement shall be in full force and effect.
- I. Attorney's Fees: In the event either party commences any action, arbitration or legal proceedings for the enforcement of this Agreement, the prevailing party, as determined by the court or arbitrator, shall be entitled to recovery of its attorney's fees and court costs incurred in the action brought thereon.
- J. Construction: This Agreement is the product of negotiation and compromise on the part of each party and the parties agree, notwithstanding Civil Code Section 1654, that in the event of uncertainty the language will not be construed against the party causing the uncertainty to exist.
- K. Authority: Each signatory to this Agreement represents that it is authorized to enter into this Agreement and to bind the party to which its signature represents.
- L. Headings: Section headings are provided for organizational purposes only and do not in any manner affect the scope or intent of the provisions thereunder.

IN WITNESS WHEREOF, this Agreement is executed on the day and year first above written.

CITY OF VISALIA

CONSULTANT

City Manager

Approved as to Form

City Attorney

Risk Manager

Purchasing Agent

Attachments:

Exhibit "A": Scope of Work and Project Fee

Exhibit "B": Schedule of Fees for Professional Services

Exhibit A

CITY OF VISALIA – Parking Study Update **REVISED SCOPE OF WORK**

TPG Consulting will complete a partial update to the 2000 Downtown Visalia Parking Study. This update will focus on the sub-area delineated on the attached map. This scope and budget has been prepared to reflect information contained in the City's request for proposals and subsequent discussions with City Staff.

TASK 1: Initial Meeting

The first task to be performed will be the development of information requirements and survey protocols. TPG will meet with City Staff to design study parameters of data collection and processing. Background data will also be requested for the existing public and private parking facilities. The use of the City's GIS will be of great assistance in translating the 2000 base data and inventory to existing conditions within each block.

TASK 2: Field Data Collection

A comprehensive field review of the area will be conducted. This will include updated inventories of all public on and off-street parking facilities. All private parking supplies will also be inventoried with emphasis placed on the changes underway in association with the development of the new parking structure on Acequia. Parking supplies will be updated for each block in the area (approximately 108 blocks). Included in this information will be number of stalls, type of stalls (short-term vs. long-term, restricted vs. unrestricted) and a peak hour demand survey. In addition, proposed yet, undeveloped projects (Heart Hospital, KDH expansion, Barbis Medical Building) will be cataloged to ascertain their influence on future parking demand. This data will be compared to previous records to assess changes since 2000.

TASK 3: Development of Initial Findings and Recommendations

The field data will be used to identify locations where demand exceeds supply. Of critical importance are those blocks where demand is nearing 100% of supply, since those locations begin having problems do to turn over and saturation. A series of strategies and options will be developed which address those blocks needing additional supply or reductions in demand. Angled parking, redevelopment of existing lots, development of new public and private lots and satellite parking will all be considered as part of this evaluation.

TASK 4: Preparation of Preliminary Plans

The information developed in the first three tasks will be used to prepare the preliminary plan for the subarea. This plan will describe those areas that are currently exhibiting parking problems as well as those areas projected to have supply shortages. The demand for additional parking resources will be quantified for both public and private facilities. A main focus will be the re-use of existing streets and lots as a low cost method for development of additional parking supplies. This strategy will look at numbers as well as time of use (duration).

Exhibit A

CITY OF VISALIA – Parking Study Update **REVISED SCOPE OF WORK**

Ten copies of the Preliminary Plan will be prepared and submitted for use by the City.

TASK 5: Presentation to City and Downtown Groups

With the completion of the preliminary plans, TPG will present the conclusions, design concepts and recommendations to the City Council, Kaweah Delta District Hospital and the Downtown Visalians. Information and feedback gained from these presentations will be used as input into the Final Plan.

TASK 6: Preparation of Final Plan

Using City Staff, City Council, Hospital and Downtown Visalians comments and suggestions a Final Plan will be prepared and submitted. Ten copies of the Final Plan along with electronic versions of the report and graphics will be prepared and submitted for use by the City.

Cost for *TPG Consulting* to provide the work outlined above is \$34,200.

Exhibit B

TPG 2005 Schedule of Fees for Professional Services

Position	Hourly Rate
PRINCIPAL	\$ 145.00
SENIOR CIVIL ENGINEER	\$ 125.00
SENIOR TRANSPORTATION ENGINEER	\$ 125.00
CIVIL ENGINEER	\$ 105.00
TRANSPORTATION ENGINEER	\$ 91.00
ASSOCIATE ENGINEER	\$ 71.00
ASSISTANT ENGINEER	\$ 59.00
SENIOR PLANNER	\$ 100.00
ASSOCIATE PLANNER	\$ 78.00
PLANNER	\$ 63.00
SENIOR TECHNICIAN	\$ 108.00
TECHNICIAN	\$ 49.00
GRAPHICS / DRAFTSPERSON	\$ 52.00
SUPPORT STAFF	\$ 42.00
COURT APPEARANCES AND DEPOSITIONS	\$ 250.00

Notes

Hourly rates include direct and indirect staff expenses. Extra charges may be made for production, printing, reproduction, mileage or special studies necessary to the specific project. All sub-consultant charges will include a 10% handling fee.

All invoices are due and payable within 30 days from the date of the invoice. A monthly interest rate of 1-1/2% (18% per annum) will be charged on all invoices 60 days past due from the date of invoicing.

City of Visalia Agenda Item Transmittal

Meeting Date: October 3, 2005

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

Agenda Item Wording: Authorization to sell various segments of Mooney Boulevard right of way to California Department of Transportation (CalTrans) for the sale price of \$6,000.00 for the Mooney Boulevard (Noble Avenue to Caldwell Avenue) widening project.

Deadline for Action: none

Submitting Department: Community Development
and Public Works

Contact Name and Phone Number:

David Jacobs 713-4492
Manuel Molina 713-4491

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.): 3 min.

Department Recommendation and Summary: Staff recommends that the Visalia City Council authorize the sale of various segments of city owned Mooney Boulevard right of way for the future widening project. This will involve the sale of twelve parcels of right of way which range in size from 82 to 11,437 square feet to California Department of Transportation (CalTrans) for the Mooney Boulevard (Noble Avenue to Caldwell Avenue) widening project. Proposed sale price is \$500 per parcel; total sale price for the twelve parcels is \$6,000.00.

As part of the Mooney Boulevard Widening Project, the Department of Transportation plans to improve the Mooney Boulevard intersections starting in 2007. These intersections include Cameron, Orchard, Sunnyside, Whitendale, Princeton, Walnut and Tulare Avenues. The Department of Transportation's purchase of these parcels, combined with their purchase of privately owned property in the area will allow CalTrans to show clear state ownership of the right of way for the state's widening project.

The California Department of Transportation wants to purchase the parcels for the widening project along Mooney Boulevard. Since the property being acquired are small segments of a public roadway, Cal Trans has a fixed appraised value of \$1.00 per parcel. However, Cal Trans also has a policy to pay a minimum of \$500.00 for each parcel. In conclusion, Cal Trans is offering to purchase twelve parcels described in Exhibits "A-1 through A-12" for a total of \$6,000.00. The Department of Transportation plans to commence with the widening project in 2007, which will help relieve congestion along Mooney Boulevard once the project is completed.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: None

Alternatives:N/A

Attachments: Ordinance, Location map; Exhibits; "A-1" – "A-12"

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to authorization the sale of various Mooney Boulevard parcels to California Department of Transportation (CalTrans) for a total combined sale price of \$6,000.00 for the Mooney Boulevard (Noble Avenue to Caldwell Avenue) widening project.

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 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. 2005-__
DECLARING VARIOUS PARCELS ALONG MOONEY BOULEVARD
BETWEEN CAMERON AND TULARE AVENUES SURPLUS PROPERTY
AND DECLARING INTENT TO SELL TO
CALIFORNIA DEPARTMENT OF TRANSPORTATION
BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: The City of Visalia owns all the legal and beneficial interest in certain real properties hereon referred to as Exhibits “A-1” – “A-12”.

Section 2: Said real property is more particularly and legally described in Exhibits “A-1” – “A-12” attached hereto and made a part hereof

Section 3: The City Council of the City of Visalia, having considered evidence submitted in oral and written form, finds the subject real property is not now, nor will be of public use or necessity, and

Section 4: The City of Visalia wishes to sell real property and the rights and entitlement, and

Section 5: Having found the subject property to have no further public use or necessity, the Council declares said property to be surplus and hereby authorizes the sale of said property

Section 6: This ordinance shall become effective thirty days after passage hereof.

PASSED AND ADOPTED:

Bob Link, Mayor

ATTEST:

APPROVED BY CITY ATTORNEY:

Steven M. Salomon, City Clerk

Daniel M. Dooley

EXHIBIT 'A-1'

North East Corner of Mooney Boulevard and Sunnyside Avenue Legal Description

A portion of that land described in a Grant Deed to the City of Visalia, a Municipal Corporation, recorded July 19, 1990 as document number 44729, in the Office of the Recorder of said County, Lying southwesterly of course (7), westerly of courses (9), (10), (12), (14) and (15), northerly of course (11) and southerly of course (13), more particularly described as follows:

COMMENCING at a 2 inch brass disk with punch mark, in a monument well, marking the Southwest Corner of Section 6, Township 19 South, Range 25 East, Mount Diablo Meridian and Base Line, from which a 2 inch brass disk with punch mark, in a monument well, marking the West Quarter Corner of said Section, lies North 0°21'44" West, 2,642.20 feet;

THENCE (1) North 0°21'44" West, along the west line of said Section, 1,769.49 feet;

THENCE (2) North 89°38'16" East, 199.35 feet to the east right of way line of State Route 63 and the beginning of a non-tangent curve concave easterly to which a radial line bears South 89°38'16" West, having a radius of 20 feet and a central angle of 10°28'28";

Thence (3) northerly along last said non-tangent curve 3.65 feet;

Thence (4) North 44°41'58" East, 22.71 feet to the beginning of a non-tangent curve concave southerly to which a radial line bears North 10°42'48" West, having a radius of 20 feet and a central angle of 11°33'16";

THENCE (5) easterly along last said non-tangent curve 4.03 feet;

THENCE (6) North 1°12'26" East, 50 feet;

THENCE (7) North 45°18'19" West, 30.85 feet to said east right of way line of State Route 63;

THENCE (8) North 0°21'44" West, along said east right of way line, 8.91 feet;

THENCE (9) North 10°24'50" East, 12.80 feet;

THENCE (10) North 0°18'02" West, 57.58 feet;

THENCE (11) North 89°42'14" East, 1.97 feet;

THENCE (12) North 0°17'59" West, 9.84 feet;

THENCE (13) South 89°42'14" West, 1.97 feet;

THENCE (14) North 0°18'00" West, 14.63 feet;

THENCE (15) North 11°12'33" West, 13.19 feet to said east right of way line of State Route 63;

THENCE (16) South 89°38'16" West, 55 feet to a point on the west line of said Section, said point of being South 0°21'44" East, 664.32 feet from the West Quarter Corner of said Section.

Said parcel contains 401.49 square feet, more or less.

EXHIBIT 'A-2'

**Portion of Mooney Boulevard south of Caldwell Avenue
Legal Description**

The West 18.00 feet of Lots 47 through 51 inclusive of Tract No.71, recorded in Volume 19, page 93 of maps, Tulare County Records.

Also the west 18.00 feet of Parcel No. 1 of Parcel Map 1623, recorded in book 17, page 24 of parcel maps, Tulare County Records.

Said Parcel contains 11,437.00 square feet, more or less.

EXHIBIT 'A-3'

Southeast Corner of Mooney Boulevard and Orchard Avenue Legal Description

A portion of that land described in a Grant Deed to the City of Visalia, recorded September 29, 1975 as document number 37880, in Volume 3269, Page 88, in the Office of the Recorder of said County, more particularly described as follows.

COMMENCING at a 2 inch brass disk with punch mark, in a monument well, marking the Southwest Corner of Section 6, Township 19 South, Range 25 East, Mount Diablo Meridian and Base Line, from which a 2 inch brass disk with punch mark, in monument well, marking the West Quarter Corner of said Section, lies North 0°21'44" West, 8,668.65 feet;

THENCE (1) North 0°21'44" West, along the west line of said Section, 659.96 feet;

THENCE (2) South 88°43'41" East, 55.02 feet to the southerly line of that land is said Grant Deed to the City of Visalia;

THENCE (3) Continuing South 88°21'44" East, 31.08 feet;

THENCE (4) South 1°16'19" West, 30.00 feet to the southerly line of that land in said Grant Deed to the City of Visalia;

THENCE (5) North 88°43'41" West, along said southerly line. 9.65 feet to the beginning of a tangent curve concave southeasterly, having a radius of 20.00 feet and a central angle of 91°38'03";

THENCE (6) continuing along said southerly line, and southwesterly along last said tangent curve, 31.98 feet to said east right of way line of State Route 63;

THENCE (7) North 0°21'44" West, along said east right of way line, 50.59 feet to the POINT OF BEGINNING.

Said Parcel contains 1,011.81 square feet, more or less.

EXHIBIT 'A-4'

Southeast Corner of Mooney Boulevard and Walnut Avenue Legal Description

A portion of the land described in a Grant Deed to the City of Visalia, recorded October 27, 1979 as document number 75103, in the Office of the Recorder of the said County, more particularly described as follows;

COMMENCING at a 2 inch brass disk with a punch mark, in a monument well, marking the Northwest Corner of Section 6, Township 19 South, Range 25 East, Mount Diablo Meridian and Base Line, from which a brass cap flush, stamped City of Visalia Engineer, Marking the North Quarter Corner of said Section, lies South 89°12'31" East, 2,504.30 feet;

THENCE (1) South 89°12'31" East, along the north line of said Section, 55.00 feet to a point on the east right of way line of State Route 63 and the POINT OF BEGINNING;

THENCE (2) Continuing South 89°12'31" East, along said north line, 56.05 feet;

THENCE (3) South 0°47'23" West, 40.00 feet to the southerly line of that land in said Grant Deed to the City of Visalia;

THENCE (4) North 89°12'31" West, along said southerly line, 34.84 feet to the beginning of a tangent curve concave southeasterly, having a radius of 20.00 feet and a central angle of 91°08'58";

THENCE (5) continuing along said southerly line, and southwesterly along last said tangent curve, 31.81 feet to said east right of way line of State Route 63;

THENCE (6) North 0°21'29" West, along said east right of way line, 60.41 feet to the POINT OF BEGINNING.

Said Parcel contains 2,316.39 square feet, more or less.

EXHIBIT 'A-5'

Southeast Corner of Mooney Boulevard and Walnut Avenue Legal Description

A portion of that land described in a Grant Deed to the City of Visalia, recorded March 7, 1962 as document number 8733, in the Office of the Recorder of said County, more particularly described as follows:

COMMENCING at a 2 inch brass disk with punch mark, in a monument well, marking the Southwest Corner of Section 31, Township 18 South, Range 25 East, Mount Diablo Meridian and Base Line, from which a brass cap flush, stamped City of Visalia Engineer, marking the South Quarter Corner of said Section, lies South 89°12'31" East, 2,504.30 feet;

THENCE (1) South 89°12'31" East, along the south line of said Section, 83.60 feet;

THENCE (2) North 0°47'29" East, 30.00 feet to a point on the southerly line of said Grant Deed to the City of Visalia, said point also being the POINT OF BEGINNING;

THENCE (3) continuing North 0°47'29" East, 7.00 feet to the northerly line of said Grant Deed to the City of Visalia;

THENCE (4) North 89°12'31" West, along said northerly line, 9.73 feet to the beginning of a tangent curve concave northeasterly, having a radius of 20.00 feet and a central angle of 88°50'40";

THENCE (5) continuing along said northerly line and northwesterly along last said tangent curve, 31.01 feet to the east right of way line of State Route 63;

THENCE (6) South 0°21'50" East, along said east right of way line, 26.60 feet to said southerly line of said Grant Deed to the City of Visalia;

THENCE (7) South 89°12'31" East, along said southerly line of said Grant Deed to the City of Visalia, 29.19 feet to the POINT OF BEGINNING.

Said Parcel contains 286.32 square feet, more or less.

EXHIBIT 'A-6'

Northeast Corner of Mooney Boulevard and Walnut Avenue Legal Description

All that portion of Parcel 2 of Parcel Map No.764, in the City of Visalia, County of Tulare, State of California, as per map recorded in Book 8, Page 64 of Parcel Maps, Tulare County Records, described as follows:

BEGINNING at the Northeast Corner of said Parcel 2; Thence south along the east line of said Parcel 2, 42.00 feet to the Northeast Corner of Parcel 1 of said Parcel Map No. 764;

THENCE North 89°58'55" West along the north line of said Parcel 1, 13.00 feet;

THENCE North parallel with the east line of said Parcel 2, 42.00 feet to the north line of said Parcel 2;

THENCE east along said north line, 13.00 feet to the TRUE POINT OF BEGINNING.

Said Parcel contains 546.00 square feet, more or less.

EXHIBIT 'A-7'

Southeast Corner of Mooney Boulevard and Walnut Avenue Legal Description

That portion of Monte Vista Avenue lying within the following described courses, located in the southeast quarter of Section 1, Township 19 South, Range 24 East, Mount Diablo Meridian and Base Line, more particularly described as follows:

COMMENCING at a 2 inch brass disk with punch mark, in a monument well, marking the East Quarter Corner of said Section, from which a 2 inch brass disk with punch mark, in monument well, marking the Southeast Corner of said Section, lies South 0°21'44" East, 2,642.20 feet;

THENCE (1) South 0°21'44" East, along the east line of said Section, 286.95 feet;

THENCE (2) South 89°38'16" West, 55.00 feet to a point on the west right of way line of State Route 63, said point also being the POINT OF BEGINNING;

THENCE (3) North 45°18'19" West, 27.00 feet;

THENCE (4) North 1°31'47" East, 57.66 feet;

THENCE (5) North 44°42'23" East, 24.00 feet to said east right of way line of State Route 63;

THENCE (6) South 0°21'44" East, along said east right if way line, 93.57 feet to the POINT OF BEGINNING.

Said Parcel contains 893.00 square feet, more or less.

EXHIBIT 'A-8'

Southeast Corner of Mooney Boulevard and Walnut Avenue Legal Description

That portion of land described as the exception to Parcel One in the that document recorded December 22, 1966, in Book 2689, Page 209, in the Office of the Recorder of said County.

Said Parcel contains 82.00 square feet, more or less.

EXHIBIT 'A-9'

Northeast Corner of Mooney Boulevard and Orchard Avenue Legal Description

A portion of the northwest quarter of the southwest quarter of Section 6, and a portion of that land described in a Grant Deed to the City of Visalia, recorded January 9, 1976 as document number 1150, in Volume 3291, Page 667, in the Office of the Recorder of said County, more particular described as follows:

COMMENCING at a 2 inch brass disk with punch mark, in a monument well, marking the Southwest Corner of Section 6, Township 19 South, Range 25 East, Mount Diablo Meridian and Base Line, from which a 2 inch brass disk with punch mark, in a monument well, marking the West Quarter Corner of said Section, lies North 0°21'44" West, 2,642.20 feet;

THENCE (1) North 0°21'44" West, along the west line of said Section, 660.00 feet;

THENCE (2) South 88°43'41" East, 55.00 feet to a point on the east right of way line of State Route 63, said point also the POINT OF BEGINNING;

THENCE (3) continuing South 88°43'41" East, 12.37 feet;

THENCE (4) North 0°50'28" East, 31.00 feet to the north line of Orchard Avenue as described in said Grant Deed to the City of Visalia;

THENCE (5) North 89°09'32" West, along said north line, 13.00 feet to said east right of way line of State Route 63;

THENCE (6) South 0°21'44" East, along said east right of way line, 40.00 feet to the POINT OF BEGINNING;

Said Parcel contains 394 square feet, more or less.

EXHIBIT 'A-10'

West Side of Mooney Boulevard and Sunnyside Avenue Legal Description

That portion of Sunnyside Avenue lying within the following described courses;

COMMENCING at a 2 inch brass disk with punch mark, in a monument well, marking the Southeast Corner of Section 1, Township 19 South, Range 24 East, Mount Diablo Meridian and Base Line, from which a 2 inch brass disk with punch mark, in a monument well, marking the East Quarter Corner of said Section, lies North 0°21'44" West, 2,642.20 feet;

THENCE (1) North 0°21'44" West, along the east line of said Section, 1,757.05 feet;

THENCE (2) South 89°38'16" West, 55.00 feet to a point on the west right of way line of State Route 63 and the beginning of a tangent curve concave westerly, having a radius of 20.00 feet and a central angle of 4°58'04" said point also being the POINT OF BEGINNING;

THENCE (3) northerly along last said tangent curve 1.73 feet;

THENCE (4) North 45°18'02" West, 25.70 feet to the north line of Parcel No. 1 of Parcel Map No.1244, recorded in Book 13, Page 45 of Parcel Maps, in the Office of the Recorder of said County;

THENCE (5) North 0°31'02" West, 30.00 feet;

THENCE (6) South 89°28'58" West, 3.17 feet;

THENCE (7) North 0°31'02" West, 30.00 feet to the northerly line of that land described in a Corporation Grant Deed to the City of Visalia, recorded August 24, 1973 as document number 34587, in the Office of the Recorder of said County;

THENCE (8) North 44°18'12" East, 30.66 feet to said west right of way line of State Route 63;

THENCE (9) South 0°21'44" East, along said west right of way line, 101.80 feet to the POINT OF BEGINNING.

Said Parcel contains 1,365 square feet, more or less.

EXHIBIT 'A-11'

Southwest Corner of Mooney Boulevard and Tulare Avenue Legal Description

A portion of that land described in a Corporation Grant Deed to the City of Visalia, recorded November 28, 1983 as document number 58683, in the Office of the Recorder of said County, more particularly described as follows;

COMMENCING at a 2 inch brass disk with a punch mark, in a monument well, marking the East Quarter Corner of Section 36, Township 18 South, Range 24 East, Mount Diablo Meridian and Base Line, from which a ½ inch rebar, down 0.5', marking the Center Quarter Corner of said Section, lies South 89°36'37" West, 2,621.85 feet;

THENCE (1) South 89°36'37" West, along the north line of the southeast quarter of said Section, 85.00 feet;

THENCE (2) South 0°23'23" East, 25.00 feet to a point on the northerly line of said Corporation Grant Deed to the City of Visalia said point also being the POINT OF BEGINNING;

THENCE (3) continuing south 0°23'23" East, 7.00 feet to the southerly line of said Corporation Grant Deed to the City of Visalia;

THENCE (4) North 89°36'37" East, along said southerly line, 9.09 feet to the beginning of a tangent curve concave southwesterly, having a radius of 20.00 feet and a central angle of 90°01'32";

THENCE (5) continuing along said southerly line, and southeasterly along last said tangent curve, 31.42 feet to the west right of way line of State Route 63;

THENCE (6) North 0°21'50" West, along said west right of way line, 27.00 feet to said northerly line of said Corporation Grant Deed to the City of Visalia;

THENCE (7) South 89°36'37" West, along said northerly line, 29.10 feet to the POINT OF BEGINNING.

Said Parcel contains 290.00 square feet, more or less.

EXHIBIT 'A-12'

Northwest Corner of Mooney Boulevard and Walnut Avenue Legal Description

A portion of that land described in a Grant Deed to the City of Visalia, recorded May 5, 1965 as a document number 17699, in the Office of the Recorder of said County, more particularly described as follows:

COMMENCING at a 2 inch disk with punch mark, in a monument well, marking the Southeast Corner of Section 36, Township 18 South, Range 24 East, Mount Diablo Meridian and Base Line, from which a 2 inch brass disk in concrete stamped R.C.E. 15310, flush, marking the South Quarter Corner of said Section, lies South 89°31'56" West, 2,628.17 feet;

THENCE (1) South 89°31'56" West, along the south line of said Section, 110.75 feet;

THENCE (2) North 0°28'04" West, 30.00 feet to a point on the southerly line of said land to the City of Visalia, said point also being the POINT OF BEGINNING;

THENCE (3) continuing North 0°28'04" West, 10.00 feet to the northerly line of said land to the City of Visalia;

THENCE (4) North 89°31'56" East, along said northerly line, 55.83 feet to the west right of way line of State Route 63;

THENCE (5) South 0°21'50" East, along said west right of way line, 10.00 feet to said southerly line of said land to the City of Visalia;

THENCE (6) South 89°31'56" West, along said southerly line, 55.82 feet to the POINT OF BEGINNING.

Said Parcel contains 558.00 square feet, more or less.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 3, 2005

Agenda Item Number (Assigned by City Clerk): 9I(1)

Agenda Item Wording: Authorize the Recordation of the Final Map for Avalon, located at the northwest corner of Riggan Avenue and Demaree Street (190 lots) and the Formation of Landscape and Lighting District No. 05-25, Avalon (Resolution Nos. 05-146 and 05-147 required). APN: 077-060-026

Deadline for Action: N/A

Submitting Department: Community Development & Public Works

Contact Name and Phone Number:

Andrew Benelli 713-4340
Doug Damko 713-4268

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 approve the recordation of the final map for Avalon containing 182 single family lots (R-1-6 zone) and 8 multi-family lots with 20 units (R-M-2 zone). Conditional Use Permit 2004-135 was approved with the subdivision to allow private streets, modified lot sizes and modified setbacks. Avalon is a private, gated subdivision that will have decorative block walls on all four sides. The landscaping outside the block walls on Demaree Street and Riggan Avenue will be maintained by the home owners association. During the Site Plan Review process, City staff discussed a north-south public street be located between Avalon and the Modoc/Peltzer Basin. This north-south public street would help improve circulation for development projects located around the 49 acre Modoc/Peltzer Basin. The impact of this north-south public street on the layout of Avalon was considered substantial to the developer because the project was intended to be a gated, private neighborhood. The tentative map was filed as a gated neighborhood and approved without this street. To address connectivity, the developer agreed to provide pedestrian access to the Modoc/Peltzer Basin and to Modoc Ditch, which is a community waterway. The improvement plans for the subdivision show one gated pedestrian connection to the Modoc/Peltzer Basin and two gated pedestrian connections to Modoc Ditch. A north/south street connection will be considered on the west side of Peltzer Basin in the future.

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 \$687,464.12 and Labor and Material Bond in the amount of \$343,732.06; 3) cash payment of \$438,010.95 distributed to various accounts; and 4) Final Map. The owner and developer of this project is Centex Homes.

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 Riggan Avenue (Arterial) and Demaree Street (Arterial). The City will be reimbursing the developer approximately \$690,000 for Arterial/Collector street improvements, \$150,000 for Storm Water Master Plan lines and \$360,000 for utility pole relocations. 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. 05-146 Initiating Proceedings for Formation of Assessment District No. 05-25, Avalon; adopt the Engineer's Report as submitted; and adopt Resolution No. 05-147 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.

Committee/Commission Review and Actions: The tentative subdivision map for Avalon subdivision was approved by the Planning Commission on October 11, 2004. The tentative map will expire on October 11, 2006.

Alternatives: N/A

Attachments: Resolution Initiating Proceedings; Clerk’s Certification; Resolution Ordering the Improvements; Exhibits “A”, “B”, “C”, “D”; Location Map; Ownership Disclosure

City Manager Recommendation:

Recommended Motions (and Alternative Motions if expected):

“I move to authorize the recordation of the Final Map for Avalon and I move to adopt Resolution No. 05-146 Initiating Proceedings for Formation of Assessment District No. 05-25 “Avalon” and adopt Resolution No. 05-147 Ordering the Improvements for Assessment District No. 05-25 “Avalon.”

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 X
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:

RESOLUTION NO. 05-146

RESOLUTION INITIATING PROCEEDINGS
FOR FORMATION OF
ASSESSMENT DISTRICT 05-25
AVALON

(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 street lights and any other applicable equipment or improvements.
2. The proposed district shall be designated "Assessment District No. 05-25, City of Visalia, Tulare County, California" and shall include the land shown on the map designated "Assessment Diagram, Assessment District No. 05-25, City of Visalia, Tulare County, California", which is on file with the City Clerk and is hereby approved and known as "Avalon".
3. The City Engineer of the City of Visalia is hereby designated engineer for the purpose of these formation proceedings. The City Council hereby directs the Engineer to prepare and file with the City Clerk a report in accordance with Article 4 of Chapter 1 of the Landscape & Lighting Act of 1972.

PASSED AND ADOPTED:

CLERK'S CERTIFICATION TO COUNTY AUDITOR

ASSESSMENT DISTRICT NO. 05-25

AVALON

(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. 05-25, City of Visalia, Tulare County, California" confirmed by the City Council of the City of Visalia on the 3rd day of October, 2005 by its Resolution No. 05-146 & 147

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

RESOLUTION NO. 05-147

RESOLUTION ORDERING IMPROVEMENTS FOR
ASSESSMENT DISTRICT NO. 05-25
AVALON
(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. 05-25, 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 2005-06.
6. The City Council hereby forwards the following attachments to Tulare County Recorder's Office for recordation:
 - a. Clerk's Certification to County Auditor
 - b. Resolution Initiating Proceedings
 - c. Resolution Ordering Improvements
 - d. Engineer's Report:
 - Exhibit A - Assessment Diagram showing all parcels of real property within the Assessment District
 - Exhibit B - Landscape Location Diagram
 - Exhibit C - Tax Roll Assessment
 - Exhibit D - Engineer's Report

PASSED AND ADOPTED

Exhibit "A"

Assessment Diagram Assessment District No. 05-25 City of Visalia, Tulare County, California

AVALON

BEING A DIVISION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 14,
TOWNSHIP 18 SOUTH, RANGE 24 EAST, MOUNT DUBILEZ BASE & MERIDIAN, IN THE CITY OF
VISALIA, COUNTY OF TULARE, STATE OF CALIFORNIA. JUNE 2005

FOR: **CENTEX HOMES** BY: **Quad Knopf**

L. C. BRUN HODGE, COUNTY ADMINISTRATOR
CITY OF VISALIA, CALIFORNIA

OWNER'S STATEMENT
We hereby state that we are the legal owner(s) of, have the right, title or interest in the above described parcel and we hereby certify that the information herein is true and correct. We warrant that we have the authority to execute this instrument and that we are not subject to any liens, mortgages, judgments, or other claims that may affect the property. We warrant that we are not subject to any liens, mortgages, judgments, or other claims that may affect the property. We warrant that we are not subject to any liens, mortgages, judgments, or other claims that may affect the property.

STATE OF CALIFORNIA
COUNTY OF TULARE

On _____ before me, the undersigned, a Notary Public in and for the State of California, personally appeared _____, known to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and he/she/it acknowledged to me that he/she/it executed the instrument for the purposes and consideration therein expressed. My commission expires _____.

WITNESS my hand and official seal of the County of Tulare, California, this _____ day of _____, 2005.

Notary Public
My Commission Expires _____
Principal Place of Business: _____ County, California

BASIS OF BEARINGS
All bearings were measured by the Surveyor of the City of Visalia, California, and are shown on the map of the City of Visalia, California, dated June 14, 2005, and are shown on the map of the City of Visalia, California, dated June 14, 2005, and are shown on the map of the City of Visalia, California, dated June 14, 2005.

LEGEND
1. 1/4" MONUMENT AS DESCRIBED
2. SET 3/4" FROM PIPE TO EDGE OF 1/4" MONUMENT AS SHOWN
3. MONUMENT IS IN PLACE AND IS NOT TO BE MOVED
4. LINE INDICATES SUBMISSION BOUNDARY

OWNER'S STATEMENT
I hereby certify that I have examined the map and I am satisfied that it is a true and correct representation of the land shown thereon. I warrant that the information herein is true and correct. I warrant that I have the authority to execute this instrument and that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property.

CITY ENGINEER'S STATEMENT
I hereby certify that I have examined the map and I am satisfied that it is a true and correct representation of the land shown thereon. I warrant that the information herein is true and correct. I warrant that I have the authority to execute this instrument and that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property.

CITY CLERK'S STATEMENT
I hereby certify that I have examined the map and I am satisfied that it is a true and correct representation of the land shown thereon. I warrant that the information herein is true and correct. I warrant that I have the authority to execute this instrument and that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property.

BOARD OF SUPERVISORS
I, C. Brun Hodge, County Administrator, Office/Chair of the Board of Supervisors of the County of Tulare, California, do hereby certify that I have examined the map and I am satisfied that it is a true and correct representation of the land shown thereon. I warrant that the information herein is true and correct. I warrant that I have the authority to execute this instrument and that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property.

CITY PLANNER'S STATEMENT
I hereby certify that I have examined the map and I am satisfied that it is a true and correct representation of the land shown thereon. I warrant that the information herein is true and correct. I warrant that I have the authority to execute this instrument and that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property.

RECORDER'S STATEMENT
I hereby certify that I have examined the map and I am satisfied that it is a true and correct representation of the land shown thereon. I warrant that the information herein is true and correct. I warrant that I have the authority to execute this instrument and that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property. I warrant that I am not subject to any liens, mortgages, judgments, or other claims that may affect the property.

LANDSCAPE & LIGHTING ASSESSMENT DISTRICT
All the map property included in the boundaries of this Assessment District is within the boundaries of the City of Visalia, California, and is subject to the provisions of the City of Visalia, California, Ordinance No. 045-03, the property shown on this map lies within a Flood Hazard Zone designated as "Zone C".

FLOOD HAZARD ZONE
As delineated on the National Inundation Hazard Insurance rate map, No. 045-03, the property shown on this map lies within a Flood Hazard Zone designated as "Zone C".

VICINITY MAP
NO SCALE

Exhibit "A"

Assessment Diagram
Assessment District No. 05-25
City of Visalia, Tulare County, California

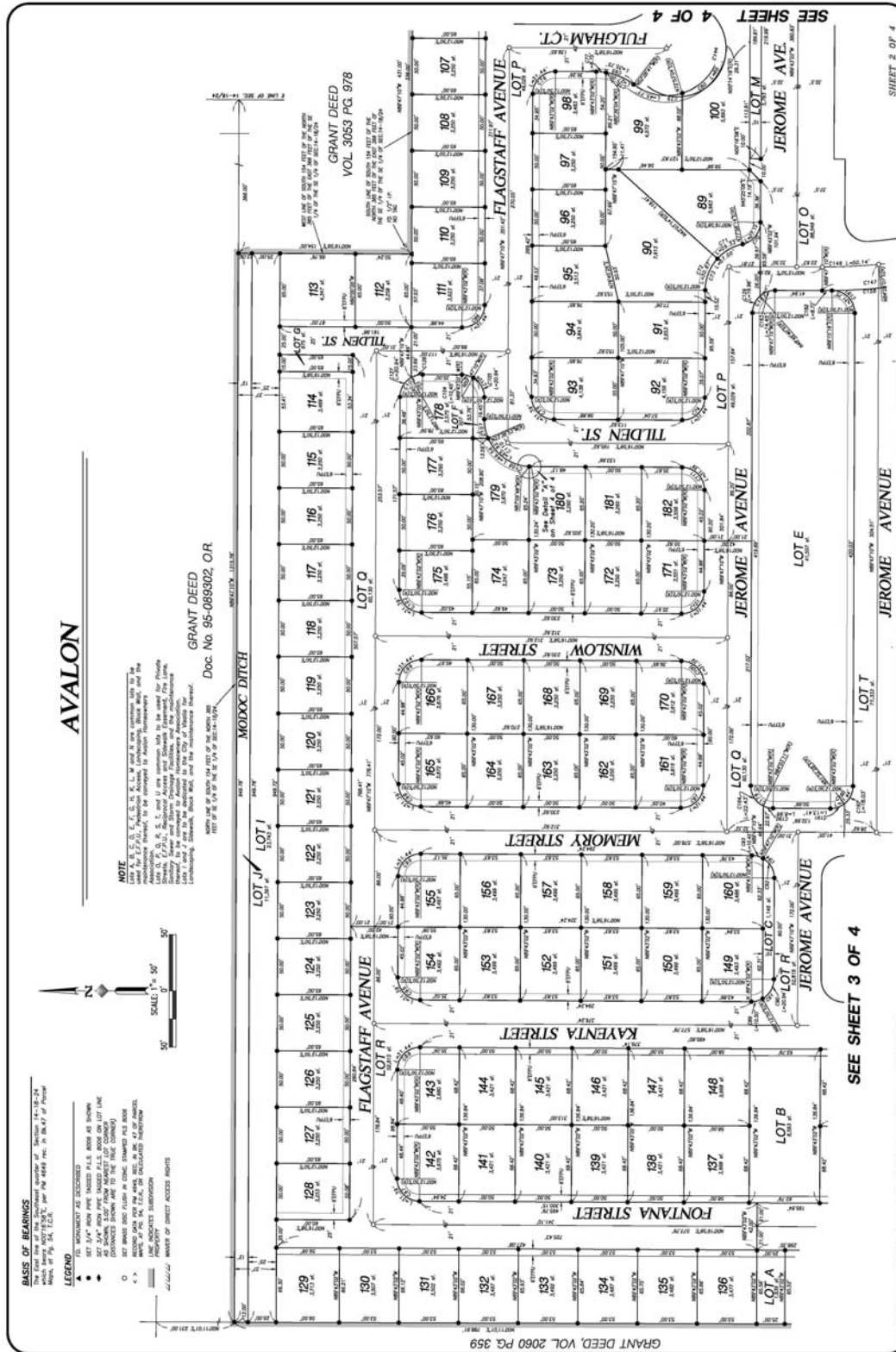


Exhibit "A"

Assessment Diagram
Assessment District No. 05-25
City of Visalia, Tulare County, California

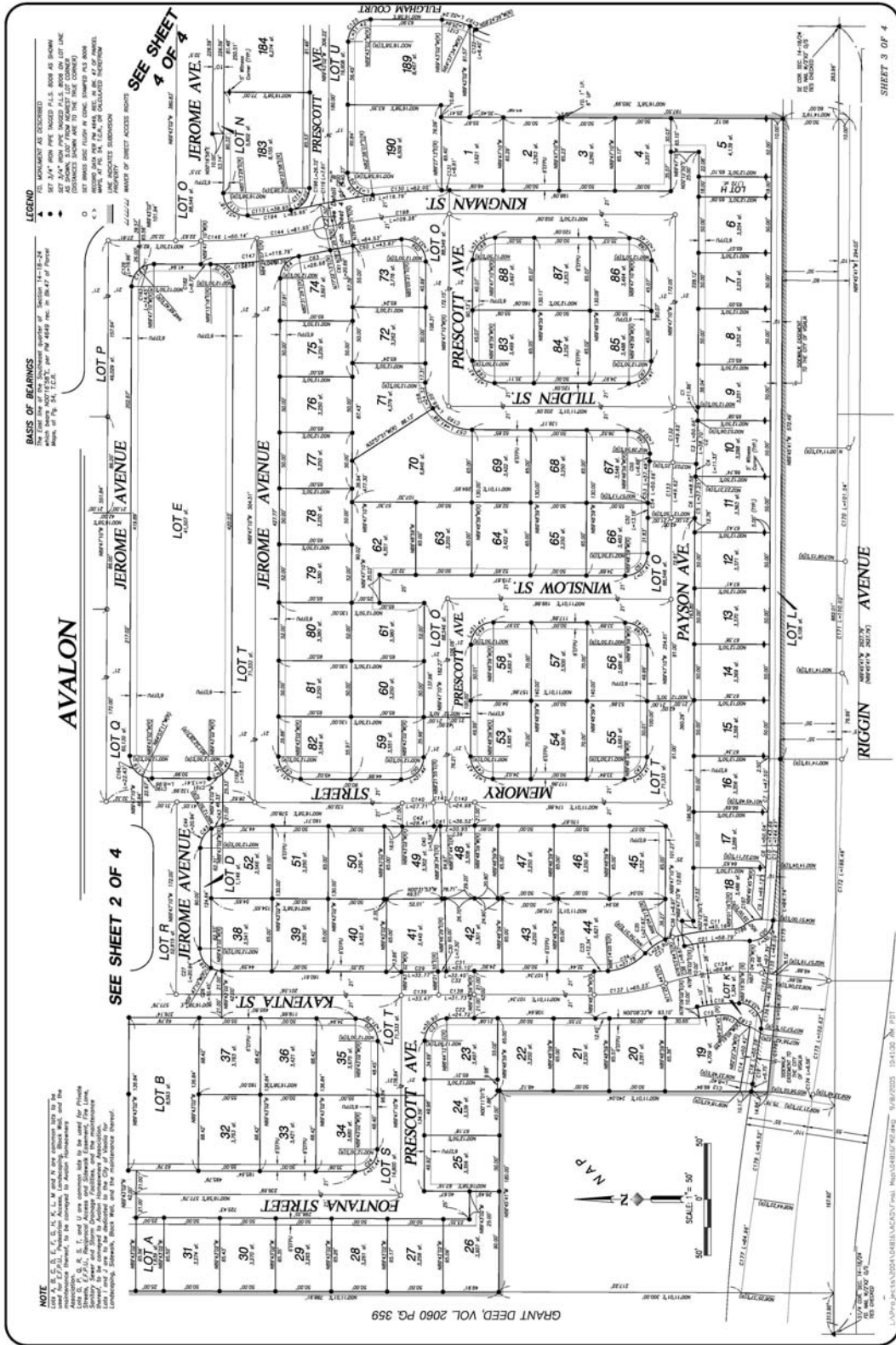


Exhibit "A"

Assessment Diagram
Assessment District No. 05-25
City of Visalia, Tulare County, California

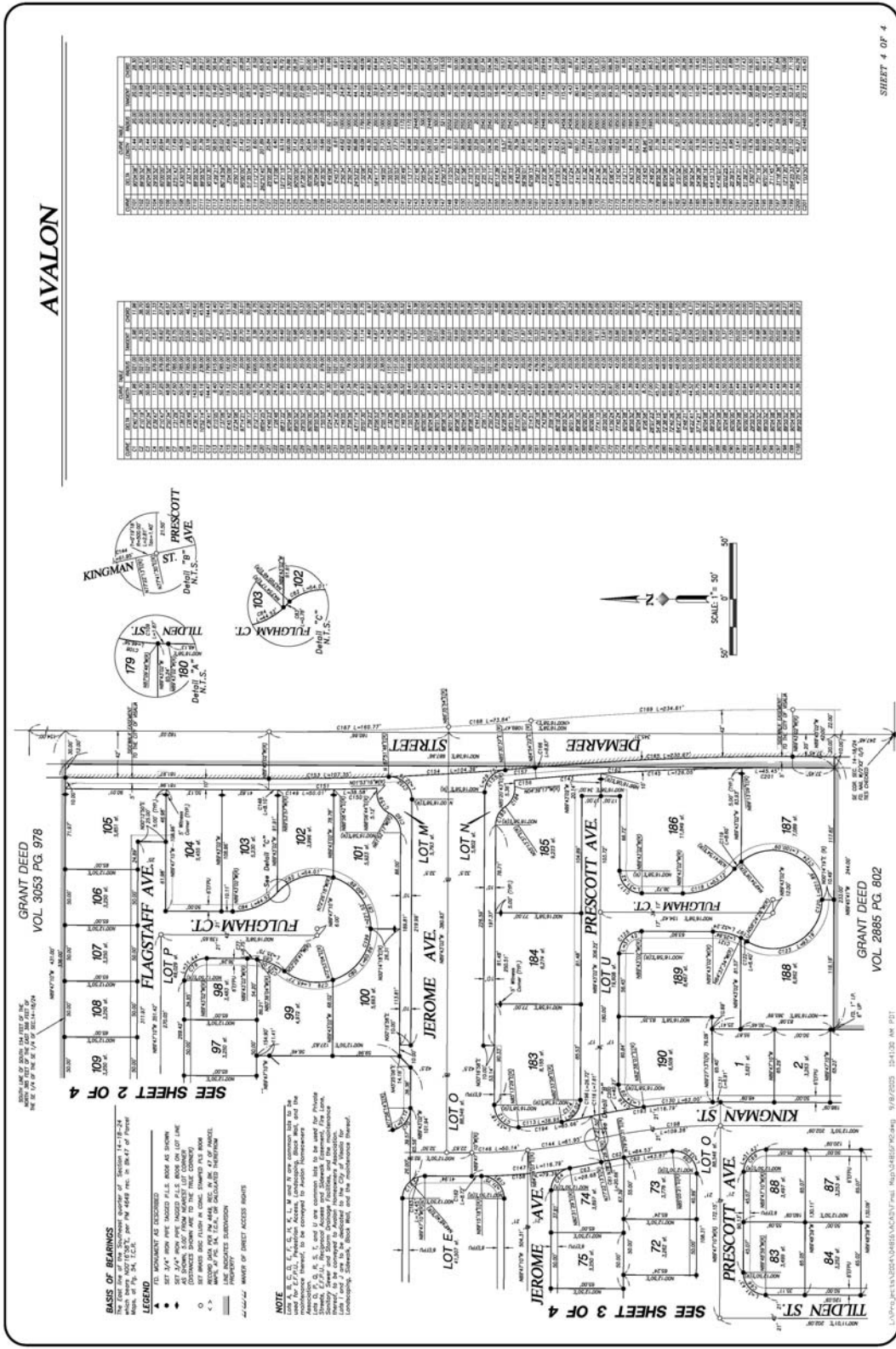


Table 1 (Top):

Lot #	Area (sq. ft.)	Area (sq. m.)	Perimeter (ft.)	Perimeter (m.)
105	1,520.00	140.15	406.87	121.11
106	1,520.00	140.15	406.87	121.11
107	1,520.00	140.15	406.87	121.11
108	1,520.00	140.15	406.87	121.11
109	1,520.00	140.15	406.87	121.11
110	1,520.00	140.15	406.87	121.11
111	1,520.00	140.15	406.87	121.11
112	1,520.00	140.15	406.87	121.11
113	1,520.00	140.15	406.87	121.11
114	1,520.00	140.15	406.87	121.11
115	1,520.00	140.15	406.87	121.11
116	1,520.00	140.15	406.87	121.11
117	1,520.00	140.15	406.87	121.11
118	1,520.00	140.15	406.87	121.11
119	1,520.00	140.15	406.87	121.11
120	1,520.00	140.15	406.87	121.11
121	1,520.00	140.15	406.87	121.11
122	1,520.00	140.15	406.87	121.11
123	1,520.00	140.15	406.87	121.11
124	1,520.00	140.15	406.87	121.11
125	1,520.00	140.15	406.87	121.11
126	1,520.00	140.15	406.87	121.11
127	1,520.00	140.15	406.87	121.11
128	1,520.00	140.15	406.87	121.11
129	1,520.00	140.15	406.87	121.11
130	1,520.00	140.15	406.87	121.11

Table 2 (Bottom):

Lot #	Area (sq. ft.)	Area (sq. m.)	Perimeter (ft.)	Perimeter (m.)
185	4,071.00	375.59	1,042.15	317.52
186	4,071.00	375.59	1,042.15	317.52
187	4,071.00	375.59	1,042.15	317.52
188	4,071.00	375.59	1,042.15	317.52
189	4,071.00	375.59	1,042.15	317.52
190	4,071.00	375.59	1,042.15	317.52

SEE SHEET 2 OF 4

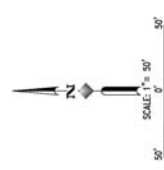
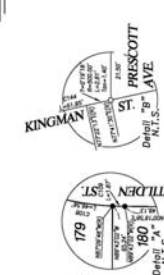
SEE SHEET 3 OF 4

BASE OF BEARINGS
The Base of Bearings is the Southern quarter of Section 14, T. 18 N., R. 24 E., S. 4 W., Township 18 North, Range 24 East, and the Southern quarter of Section 15, T. 18 N., R. 24 E., S. 4 W., Township 18 North, Range 24 East, and the Southern quarter of Section 16, T. 18 N., R. 24 E., S. 4 W., Township 18 North, Range 24 East.

LEGEND

- 1. FTS. INDICATED BY DIMENSIONS AS SHOWN
- 2. DIMENSIONS SHOWN FROM CENTERLINE OF CURVE
- 3. DIMENSIONS SHOWN FROM POINT OF BEGINNING OF CURVE
- 4. DIMENSIONS SHOWN FROM POINT OF TANGENCY OF CURVE
- 5. DIMENSIONS SHOWN FROM POINT OF INTERSECTION OF CURVES
- 6. DIMENSIONS SHOWN FROM POINT OF TANGENCY OF CURVE
- 7. DIMENSIONS SHOWN FROM POINT OF INTERSECTION OF CURVES

NOTE
This assessment diagram was prepared by the City of Visalia, California, from a survey conducted by the City of Visalia, California, on or about the date of the original survey. The City of Visalia, California, is not responsible for the accuracy of the survey or the assessment diagram. The City of Visalia, California, is not responsible for the accuracy of the survey or the assessment diagram. The City of Visalia, California, is not responsible for the accuracy of the survey or the assessment diagram.



SEE SHEET 2 OF 4

Exhibit "C"

Tax Roll Assessment
Avalon
Fiscal Year 2005-06

<u>APN #</u>	<u>Assessment</u>	<u>Owner</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$15.26	To Be Assigned	05-25001	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25002	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25003	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25004	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25005	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25006	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25007	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25008	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25009	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25010	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25011	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25012	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25013	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25014	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25015	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25016	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25017	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25018	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25019	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25020	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25021	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25022	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25023	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25024	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25025	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25026	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25027	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25028	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25029	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25030	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25031	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25032	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25033	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25034	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25035	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25036	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25037	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25038	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25039	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25040	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25041	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25042	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25043	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25044	Avalon

Exhibit "C"

Tax Roll Assessment
Avalon
Fiscal Year 2005-06

<u>APN #</u>	<u>Assessment</u>	<u>Owner</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$15.26	To Be Assigned	05-25045	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25046	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25047	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25048	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25049	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25050	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25051	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25052	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25053	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25054	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25055	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25056	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25057	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25058	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25059	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25060	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25061	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25062	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25063	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25064	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25065	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25066	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25067	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25068	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25069	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25070	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25071	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25072	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25073	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25074	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25075	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25076	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25077	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25078	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25079	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25080	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25081	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25082	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25083	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25084	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25085	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25086	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25087	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25088	Avalon

Exhibit "C"

Tax Roll Assessment
Avalon
Fiscal Year 2005-06

<u>APN #</u>	<u>Assessment</u>	<u>Owner</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$15.26	To Be Assigned	05-25089	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25090	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25091	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25092	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25093	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25094	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25095	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25096	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25097	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25098	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25099	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25100	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25101	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25102	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25103	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25104	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25105	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25106	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25107	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25108	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25109	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25110	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25111	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25112	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25113	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25114	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25115	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25116	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25117	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25118	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25119	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25120	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25121	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25122	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25123	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25124	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25125	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25126	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25127	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25128	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25129	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25130	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25131	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25132	Avalon

Exhibit "C"

Tax Roll Assessment
Avalon
Fiscal Year 2005-06

<u>APN #</u>	<u>Assessment</u>	<u>Owner</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$15.26	To Be Assigned	05-25133	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25134	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25135	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25136	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25137	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25138	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25139	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25140	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25141	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25142	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25143	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25144	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25145	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25146	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25147	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25148	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25149	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25150	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25151	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25152	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25153	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25154	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25155	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25156	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25157	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25158	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25159	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25160	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25161	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25162	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25163	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25164	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25165	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25166	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25167	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25168	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25169	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25170	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25171	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25172	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25173	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25174	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25175	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25176	Avalon

Exhibit "C"

Tax Roll Assessment
Avalon
Fiscal Year 2005-06

<u>APN #</u>	<u>Assessment</u>	<u>Owner</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$15.26	To Be Assigned	05-25177	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25178	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25179	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25180	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25181	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25182	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25183	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25184	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25185	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25186	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25187	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25188	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25189	Avalon
To Be Assigned	\$15.26	To Be Assigned	05-25190	Avalon

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-25
Avalon
Fiscal Year 2005-06

General Description

This Assessment District (District) is located at the northwest corner of Riggin Avenue and Demaree Street. Exhibit "A" is a map of Assessment District 05-25. This District includes the energy and maintenance costs of street lights along the public street frontages. The maintenance of street lights includes, but is not limited to, maintaining the structural and operational integrity of the street lights. The total number lots within the district are 190.

Determination of Benefit

The purpose of lighting is to provide safety and visual impressions for the area. 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 by the uniform lighting of the public street frontages of the District.

Estimated Costs

The estimated costs to maintain the District includes the energy costs of the street lights and the costs for project management by City staff. The maintenance of the street lights is included into the energy rates from SCE.

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-25
Avalon
Fiscal Year 2005-06

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>
Street Lights	Each	7	\$105.00	\$735.00
Project Management Costs	Lots	190	\$10.00	\$1,900.00
TOTAL				\$2,635.00
10% Reserve Fund				\$263.50
GRAND TOTAL				\$2,898.50
COST PER LOT				\$15.26

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:

$$A_{max} \text{ for any given year "n"} = (\$2,898.50) (1.05)^{(n-1)}$$

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

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

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

Example 1. The estimated year four cost of maintaining the improvements in the district is \$3,159.37 [a 9% increase over the base year estimated cost of \$2,898.50]. The

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-25
Avalon
Fiscal Year 2005-06

maximum annual assessment for year four is \$3,355.38 [$A_{\max} = (\$2,898.50) (1.05)^{(4-1)}$]. The assessment will be set at \$3,159.37 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 \$3,275.31 [a 7% increase over the previous year assessment and a 13.0% increase over the base year estimated cost of \$2,898.50]. 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 \$43.08 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 \$3,355.38 [$A_{\max} = (\$2,898.50) (1.05)^{(4-1)}$]. The year four assessment will be set at \$3,275.31 plus the deficit amount of \$65.51 which equals \$3,318.39 [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 \$3,159.37 [a 9% increase over the base year assessment of \$2,898.50] and damage occurred to the masonry wall raising the year five expenses to \$3,536.17 [a 22% increase over the previous year assessment]. The year five assessment will be capped at \$3,475.30 (a 10% increase over the previous year) and below the maximum annual assessment of \$3,523.14 [$A_{\max} = (\$2,898.50) (1.05)^{(5-1)}$]. The difference of \$60.87 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
Assistant Director Engineering

RCE 50022

Date

City of Visalia Agenda Item Transmittal

Meeting Date: October 3, 2005

Agenda Item Number (Assigned by City Clerk): 9m(1)

Agenda Item Wording: Authorization to record the final parcel map for Tentative Parcel Map 2005-18, located at the southeast corner of Akers Street and Caldwell Avenue. APN 119-070-041

Deadline for Action: N/A

Submitting Department: Community Development

Contact Name and Phone Number:

Andrew Benelli 713-4340
Steven Son 713-4259

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: Currently the 37.2 acres of land located at the southeast corner of Akers Street and Caldwell Avenue is owned by the Archdiocese of Fresno. The Archdiocese of Fresno wishes to split the 37.2 acre land into two parcels each over 18 acres in size. Upon recording of the final parcel map, the Archdiocese of Fresno proposes to sell the southern 18.2 acres to Mangano Homes for development and keep the northern 19.3 acres for future church site.

The recommendation is that City Council approves the recordation of the final parcel map of Tentative Parcel Map 2005-18. Both of the parcels have frontage on a public street. Public street improvements along Akers Street as well as Caldwell Avenue will be required to be completed prior to the development of these parcels.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: Tentative Parcel Map 2005-18 was approved by the Planning Commission on August 22, 2005.

Alternatives: N/A

Attachments: 1) location map; 2) tentative parcel map; 3) Partnership and Property Owners disclosure

City Manager Recommendation:

Recommended Motions (and Alternative Motions if expected):

Move to authorize recordation of the final parcel map of Tentative Parcel Map 2005-18.

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 X
Review and Action: Prior: Environmental finding completed for tentative parcel map

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:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 3, 2005

Agenda Item Number (Assigned by City Clerk): 9n(1)

Agenda Item Wording: Request authorization to file a Notice of Completion for The Little Ranch, containing 16 lots, located west of Dans Lane 450' south of Rialto Avenue.

Deadline for Action: None

Submitting Department: Community Development &
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 Eric Kozlowski. Eric Kozlowski has submitted a maintenance bond in the amount of \$16,077.33 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 December 2, 2003.

Committee/Commission Review and Actions: The tentative subdivision map for The Little Ranch was approved by Planning Commission on June 23, 2003.

Alternatives: N/A

Attachments: Ownership Disclosure, Location sketch and vicinity map.

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

I hereby authorize filing a Notice of Completion for The Little Ranch.

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: October 3, 2005

Agenda Item Number (Assigned by City Clerk): 9o(2)

Agenda Item Wording: Request authorization to file a Notice of Completion for Four Creeks Estates, containing 31 lots, located on the west side of Ben Maddox Way at Buena Vista Avenue.

Deadline for Action: None

Submitting Department: Community Development & Public Works Department

Contact Name and Phone Number:

Andrew Benelli – 713-4340
Ed Juarez – 713-4446

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 American Family Homes, LP. American Family Homes, LP has submitted a Time Deposit Agreement in the amount of \$19,750.00 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 September 7, 2004.

Committee/Commission Review and Actions: The tentative subdivision map for Four Creeks Estates was approved by Planning Commission on November 10, 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 Four Creeks Estates.

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: October 3, 2005

Agenda Item Number (Assigned by City Clerk): 90

Agenda Item Wording: Approval of Change Order No.1 in the amount of \$157,991.72 for the Lift Station Upgrade Project. Project No. 3011-720000-0-0-9504-2002.

Deadline for Action: October 3, 2005

Submitting Department: Community Development and Public Works

Contact Name and Phone Number: David Jacobs, Assistant Director 713-4492; Jim Ross, Public Works 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

It is recommended that Council approve Change Order No.1 in the amount of \$157,991.72 for the Lift Station Upgrade project. This change order is essentially a contract amendment to provide for work that was not included in the original bid package. The contractor, designer and city staff have reviewed the work necessary to be done at over 45 work locations on the system of lift stations, many of which are over three decades old.

Discussion

In August, 2003, Council authorized the preparation of drawings and specifications to modernize the City's 45 storm and sanitary sewer lift station control panels. The Construction phase of the project was let to bid in November 2004 and a PO issued to American Inc. in January 2005 for a bid price of \$1,397,000. The engineering estimate for the construction was \$1,400,000. The Table below summarizes the bids received.

Bids received

Company	Amount
American, Inc.	\$ 1,397,000
Telstar Instruments, Inc.	\$ 1,457,144
Control Manufacturing Co., Inc.	\$ 1,732,000

The overall project intent was to replace the City's dilapidated control equipment with components that met the electrical code requirements. In most instances, complete replacement of control equipment was necessary as were new enclosures to accommodate the equipment. In some instances, existing motor control starters and other equipment were being reused to minimize expenses. Variable frequency drives (VFDs) were to be utilized on the larger pumps to increase motor efficiency. All these items were included in the original bid price.

Many of the lift stations are over 30 years old and available records were outdated. While staff and the design engineer attempted to update the information as much as possible during engineering design, existing conditions could not be accurately determined on all stations. From the beginning, it was expected that a more in-depth assessment of each site would be required by the chosen contractor before ordering equipment and commencing construction. Once the contract was awarded, the Contractor, City staff, the design engineer, control integrators and the manufacturers who would be supplying the equipment teamed up to thoroughly evaluate each site. Unknown deficiencies and appropriate solutions were identified. This Change Order No.1 represents necessary changes discovered during this process, which is now complete.

City code reserves for Council the authority to approve contracts in excess of \$100,000. It is for this reason that this item is before Council. The original contract amount for this project was \$1,397,000. Change Order No.1, in the amount of \$157,991.72, represents an 11.3% increase in the project cost.

To date, no equipment has been placed in the field and construction of upgrades has not yet been started. Assembling of the site panels is being delayed pending approval of this change order. As a result of this approach, all required modifications to the initial design will be done at the factory as opposed to in the field, resulting in lower pricing and higher quality workmanship.

Modifications

Two minor modifications were recommended at all of the lift stations in order to assist with maintenance and increase safety. First, it was suggested that interior panel lighting be added and second, that the float control system be replaced with an ultrasonic level measurement system. This change would eliminate the need for City staff to enter manholes to perform maintenance on the level control system and would be more reliable over time. The cost for these two changes is \$320.33 per station (\$14,414.68 total). At 16 of the 45 sites, the interior panel lighting and ultrasonic level measurement system are the only changes being made. Site 1 (as shown on the enclosed map) is an example of this.

In addition, several discrepancies were noted between what was shown on plan drawings and actual field conditions. The majority of discrepancies could not have been discovered during the design phase of the project. In general terms, these discrepancies can be classified into five categories, listed and discussed below.

- Irrigation equipment connected to control panel.
- Actual motor horse power more than shown on plans.
- Existing electrical service insufficient to meet load demand.
- Existing equipment incompatible with new equipment.
- Site-specific discrepancies (mostly space constraints)

Irrigation equipment is connected to control panel.

At 12 of the 45 lift station sites, the Parks Department has connected an irrigation well and/or related equipment to the pump station panel and is running their equipment from the lift station power. The design engineer was unaware of this situation when the drawings were done. In order to incorporate the irrigation system into the new equipment, the existing irrigation control equipment must be replaced and the new equipment connected to the lift station control panel. The cost to make these modifications is between \$1,135.26 and \$1,300.52 per station (\$15,440.97 total). Site 2 is an example of this situation.

Actual motor horsepower is greater than shown on plans.

At eight locations, the design horsepower of the pumps did not match the actual pump installed at the site. For example, the design criteria for Site 11 specified equipment needed to run three separate pumps sized at 25, 30 and 15 HP. In reality, the pump sizes are 25, 30 and 40HP.

The up-size cost varies from site to site depending on what work is required as well as the degree of discrepancy. For example, at Site 11, the cost to upsize equipment from 15 HP to 40 HP is \$715.73, while at site 17 an upsize from 3 HP to 20 HP will cost \$5,431.70 because new conduit and wire must be installed.

The total cost to correct the horsepower discrepancy at all eight locations is \$19,772.75

The information provided by the City to the design engineer was based on records detailing the equipment originally installed in the lift stations. In many instances, the lift stations are more than 30 years old. As equipment was replaced and upgraded, records were not updated with new information. The City has recently established a computer database to track such changes which should prevent this from reoccurring in the future.

Existing electrical service is insufficient to meet load demand.

At six sites, the existing electrical service may be insufficient to meet the load demands of the new control equipment. In some cases, the existing electrical service is insufficient to meet current load demands; the demands required by the new equipment will be even greater.

These electrical services must be upgraded. At three of the sites, the design engineer and panel manufacturer disagree as to whether the existing service is sufficient. Without a service upgrade, the panel manufacturer will not warranty the panel. Being that the existing service is questionable and a warranty is desirable, it is prudent to upgrade the service.

The upgrade cost varies from site to site depending on what is required. Site cost ranges from a credit of \$1,673.49 to an up-charge of \$4,721.44. Total cost to upgrade the electrical service to all six sites is \$15,601.58.

Existing equipment incompatible with new equipment.

During the design phase of this project, it was determined that the City would attempt to reutilize existing equipment whenever possible in order to reduce overall cost. Based on visual observation, ten sites were identified in which the existing equipment appeared to be in excellent shape.

Unfortunately, after the contract was awarded, it was discovered that though the equipment is in good shape, several of the starters were sized improperly for their corresponding motors, electrical relays and contacts were improperly sized, and other deficiencies made reuse of the existing equipment ill advised or impossible.

Replacement rather than reuse of the existing equipment necessitated a larger enclosure than would otherwise have been necessary. Rather than a 30x30x20 inch enclosure, the enclosures at these sites would range in size up to 92 inches high, 48 inches wide, and 25 inches deep.

The larger enclosures necessitate a larger concrete pad upon which to mount them, as well as lifting equipment in order to move them into position.

The cost to correct items associated with the inability to reuse existing equipment varies from site to site. Site cost ranges from \$3,690.59 to \$4,629.93. Total cost to correct all ten sites is \$42,608.09.

Site-specific discrepancies

There are six sites that are atypical and require work unique to each site. These sites as well as the associated modifications are discussed below. Total cost for the site-specific changes is \$48,589.39.

- Site 4: Remove and replace City-owned power pole due to poor condition. Re-run conduit and re-feed panel. Cost for site is \$4,354.16.
- Site 9: The panel box is located 85 feet from the pump motor. The existing conduit and wire size is too small for the existing load. Underground installation of new conduit and wire is required. Cost for site is \$4,648.59.
- Site 19: There is insufficient space to place the new enclosure inside the existing fence as indicated on the drawings. The fence will be moved, the concrete pad extended, and conduit rerouted. Cost for site is \$3,371.30.
- Site 21: There is an existing building at this location that houses all of the electrical equipment for the site. This building has insufficient space for the new equipment and will be demolished and replaced with an electrical enclosure. From this new enclosure, 50 feet of trenching will be done to replace the conduit feeding the control panel. Cost for site is \$15,369.91
- Site 37D: This site has a 240V single phase service. The two existing pump motors are 3-phase and must remain so due to operational requirements. In order to convert the single phase service to 3-phase, the addition of two variable frequency drives (VFDs) is required. The use of the VFDs necessitates installing a larger enclosure than specified as well as a panel air conditioner unit. Cost for site is \$11,000.99.
- Site 38E This site is located in an historically significant area of town (Mill Creek and Main St.) In order to minimize the visual impacts to the area, a custom panel is being fabricated that will fit behind an existing brick wall. Lifting equipment will be required to lower the enclosure into place. Cost for site is \$9,844.44.

The table below summarizes the cost of the various changes being done.

Description	# Sites	Avg per site	Total Cost
Ultrasonic and Light	45	\$320.33	\$14,414.68
Irrigation equipment	12	\$1,286.75	\$ 15,440.97
Horsepower change	8	\$2,471.59	\$ 19,772.75
Service Upgrade	6	\$2,600.26	\$ 15,601.58

Existing equip unusable	10	\$4,260.81	\$ 42,608.09
Site-specific	6	\$8,098.23	\$ 48,589.39

The original contract amount for this project was \$1,397,000. Change Order No.1, in the amount of \$157,991.72, represents an 11.3% increase in the project cost.

The only changes being made with CO No.1 that could be considered "optional" are the addition of the ultrasonic equipment and the panel lighting (\$14,414.68). These two changes are being recommended for safety, convenience and overall reliability. All other changes are required in order to create a functioning product.

The majority of the required changes could not have been discovered during the design phase of the project. Most of the lift station sites are more than 30 years old and complete site drawings and equipment information and specifications were not available. The detailed evaluation that American Inc. has now done at each site will serve as the starting point from which future records will be maintained. The City has purchased a software package to maintain up-to-date information on all aspects of the sewer collection system, including lift stations. Use of this software will facilitate accurate record keeping from this point forward and should eliminate such discrepancies from occurring in the future.

The panel supplier has already ordered the panels built and is awaiting approval of this Change Order before ordering the necessary equipment to go in those panels. Once approval is given, the project will progress rapidly with field installations scheduled to begin in November.

The Change Order Review Committee reviewed and approved this change order on September 22, 2005.

This is CIP project No. 3011-720000-0-0-9504-2002. It is funded through the wastewater enterprise fund (4311) and the storm sewer enterprise fund (4812). The project has a budget of \$2,037,750. There is sufficient money remaining to cover this change order.

Prior Council/Board Actions:

January 2005 Award of Bid to American, Inc.

Committee/Commission Review and Actions:

September 22, 2005 Change Order Committee approval of Change Order

Alternatives:

Attachments:

Cost breakdown per site
Lift Station site map

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

Move to approve Change Order No.1 in the amount of \$157,991.72 for the Lift Station Upgrade project.

Financial Impact

Funding Source:

Account Number: 3011-720000-0-0-9504-2002 (Call Finance for assistance)

Budget Recap:

Total Estimated cost:	\$ 1,554,991.72	New Revenue:	\$
Amount Budgeted:	\$ 2,037,750.00	Lost Revenue:	\$
New funding required:	\$	New Personnel:	\$
Council Policy Change:	Yes_____ No <u>XX</u>		

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*)

No follow-up required

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

Memo



To: City Council
From: Brandon Smith, Associate Planner
Date: October 3, 2005
Re: Continuance of General Plan Amendment No. 2004-31 and Change of Zone No. 2004-32 Item 10

Recommendation

Staff is recommending that the agenda item for General Plan Amendment No. 2004-31 and Change of Zone No. 2004-32 be continued to October 17, 2005. The reason for the continuance is so that staff can take additional time to work with the project applicant on an acceptable solution to the noise mitigation requirements associated with future development on the project site. Possible solutions may include an amended application to place less noise-sensitive land uses such as offices on the westerly portion of the proposed residential area (generally on the west side of Roeben Street), or an alternative mitigation that incorporates the strategic placement of structures and/or land uses between the industrial and residential uses.

Background

On September 6, 2005, the agenda item for General Plan Amendment No. 2004-31 and Change of Zone No. 2004-32, a request by Fred Machado (Branum Group, agent) to change the General Plan Land Use and Zoning Designations on 48 acres from Business Research Park to 6.0 acres of Professional / Administrative Office, 7.7 acres of Park, and 34.3 acres of Low Density Residential, was continued to October 3, 2005 at the request of the applicant. The public hearing was opened for the item on September 6, 2005, and the Council then continued the item per the applicant's request. The project site is located on the north side of Goshen Avenue, approximately ¼ mile east of Shirk Street.

The reason for this continuance was that the applicant desired more time to work with staff on mitigating noise impacts. Thus far, the applicant has proposed a 21-foot tall berm and wall combination as the mitigating solution to the noise impacts. A meeting was held between staff and the applicant on September 20, 2005 to discuss the project; however the applicant has not yet agreed to resolve the noise mitigation requirements with an alternative other than the proposed berm / wall.

Recommended Motion

I move to continue the public hearing for the Certification of Mitigated Negative Declaration No. 2005-071, General Plan Amendment No. 2004-31, and Introduction of Ordinance 2005-17 for Change of Zone No. 2004-32 to October 17, 2005.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 3, 2005

Agenda Item Number: 11

Agenda Item Wording:

Public hearing for:

1. Certify Negative Declaration No. 2005-39. **Resolution 2005-143 required.** (A separate Motion by the Council is required.)
2. General Plan Amendment No. 2002-13 is a request by Bill Morgan to change the land use designation on approximately 11 acres from Light Industrial to seven acres of Low Density Residential and four acres of Conservation. The site is located on the north side of the railroad tracks north of K Road and east of Santa Fe Street (APN 123-080-009, 019 and 020). **Resolution No. 2005-103 required.**
3. First Reading of Change of Zone No. 2002-12 A request by Bill Morgan to change the zoning on approximately 11 acres from IL (Light Industrial) to seven acres of R-1-6 (Single-Family Residential) and four acres of QP (Quasi-Public). The site is located on the north side of the railroad tracks north of K Road and east of Santa Fe Street (APN: 123-080-009, 019, 020) **Ordinance No. 2005-14 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.): 20

Deadline for Action: None

Submitting Department: Community Development - Planning

Contact Name and Phone Number: Jason Pausma, Associate Planner (559) 713-4348

Recommendation and Summary: On June 13, 2005, the Planning Commission recommended by a 3-0 vote (Commissioners Perez and Salinas absent) approval of General Plan Amendment No. 2002-13 and Change of Zone 2002-12. The Planning Commission determined that the proposal was consistent with the intent of the General Plan and Zoning Ordinance.

On July 18, 2005 the City Council heard and continued this item. The City Council directed staff and the applicant to prepare an alternative design that had less potential for the apparent land use conflicts between the Light Industrial and Low Density Residential General Plan Land Use designations. Specifically, the City Council expressed concerns for the following in respect to the General Plan Amendment and Change of Zone requests and the underlying subdivision project (Willow Springs Tentative Subdivision):

- o Mixing of Industrial and Residential uses without buffering or transitions
- o Lack of extension of Burke Street across the railroad tracks south to K Avenue

- Since the continued public hearing, the applicant has worked with staff to revise the subdivision plan as follows (see Exhibit "A"):
- Connection south of Burke Street to K Avenue, stub out and offer dedication to K Avenue
- Eliminated residential lots in western portion of tract so that proposed residential land does not adjoin industrial land
- Relocated detention basin to form a landscaped greenbelt. The greenbelt will be similar in appearance as the landscaped detention basin at Roeben Street and Walnut Avenue (see Aerial Photo, Exhibit "B") The basin will serve the proposed subdivision primarily and the landscaping will be maintained through a Landscape and Lighting Maintenance District.

To resolve the Council's concerns and to accommodate the project revisions noted above, the applicant has amended the General Plan Amendment and Zone Change applications as follows:

- Added four acres of Conservation Land Use and QP (Quasi-Public) Zone
- Revised R-1-6 Zone from 11 acres to seven acres

This represents a less intensive development so the Initial Study and Negative Declaration could be adopted without re-considering the environmental document and findings for approval.

Staff recommends approval of the General Plan Amendment and Zone Change because it meets the criteria of the proposed land uses as articulated in the General Plan Land Use and Conservation Elements. Staff further endorses the proposed modifications to the General Plan and Zone Change applications. These modifications are necessary to facilitate the applicant's intended revisions to the subdivision project which addresses the Council's concerns expressed at the July 18 public hearing.

Relocating the retention basin between the two Light Industrial Land Use designations decreases the potential for conflicts between the Light Industrial and Single-Family Residential zones. The amendment and change of zone are being proposed in order to accommodate a new 41 acre single-family residential subdivision with a two and a half acre retention basin (see Exhibit "A"). The proposed action would change the land use designation on approximately 11 acres from Light Industrial to seven acres of Low Density Residential and four acres of Conservation.

A 7.5 acre Light Industrial zoned parcel will remain south of this project, and six acres of Light Industrial zoned land will remain north of this project (see the attached Zoning Map). Designing the retention basin to be located between the two industrial zoned properties eliminates land use conflicts along this long narrow parcel, and allows this subdivision to have another access point to a major street. Without the connection to Santa Fe Street, the subdivision would have only one access / exit point onto Walnut Avenue (see attached Willow Springs Tentative Subdivision Map). The basin is proposed to be heavily landscaped by the applicant, with landscaping around the perimeter of the basin. The landscaping will be maintained by the Landscape and Lighting District which will be formed with this subdivision. The district will also

maintain street trees, street maintenance and street lights. Typical annual fees for Landscape and Lighting Districts for subdivisions are around \$200 to \$300 dollars per year.

This application will not change all of the Light Industrial zoned land in this area. 13.5 acres will remain zoned Light Industrial. 6 acres on the north side of this project, east of Santa Fe Street is owned by a separate property owner, and contains a light industrial warehouse building which is not proposed to change. The 7.5 acres south of this site, on the north east corner of K Road and Santa Fe Street is currently proposed to be converted to a mini-storage facility, which is a permitted use in the Light Industrial zone.

Committee/Commission Review and Actions:

The Planning Commission has not reviewed the modified Zoning and General Plan amendment designations. The Council may approve the modified request as presented today, or the Council may direct Staff to take the modified request back to the Planning Commission for their review and recommendation.

The requested Change of Zone and General Plan Amendment originally went to the Planning Commission for review on January 27, 2003. The public hearing was continued indefinitely due to concerns about possible contaminated soil from the operations and processing of olives at the former olive processing facility. A Phase 1 Environmental report was issued in June of 2004. Pursuant to the recommendations contained in the Phase 1 Environmental Site Assessment, Geo-Phase Environmental, Inc. conducted further investigation of the subject site by collecting a series of soil samples from depths as great as 27 feet and submitting them to a laboratory for analytical testing. This information is summarized in a report dated June 7, 2004, attached.

The report concluded the low levels of olive brine found at the site of the former olive processing plant do not constitute a hazardous release and are not hazardous to human health if ingested. However, the condition of the soil does render the affected parts of the property unsuitable for residential use due to the soil conditions that are unsuitable for growing many trees and other domestic flora. The applicant has indicated to staff that measures will be taken to ensure the suitability of this site for residential landscaping. These measures include adding two to five feet of clean fill dirt, as this site is located in a flood zone. The applicant has also contacted ASR Engineering, Inc., and in a letter dated June 10, 2005 (attached) ASR Engineering indicated that other products like DeSalt and DeSalt Plus have been shown to improve soil quality impacted by brines. Remediation of soil conditions to ensure that landscaping or trees will thrive will be recommended as a condition of approval on the tentative map.

The Planning Commission held a public hearing on June 13, 2005, and recommended approval of General Plan Amendment No. 2002-13 and Change of Zone No. 2002-12 on a 3-0 vote (Commissioners Perez and Salinas absent). During the public hearing, two persons spoke to the item. Mike Lane, the applicant's agent spoke in support of the proposed general plan amendment and change of zone. Christine Watson, a neighboring resident spoke in opposition to the project, citing concerns about possible contamination of the soil on the site of the former olive processing plant. She refused to give her address, and produced a soil sample in a glass jar, claiming it to be contaminated soil from the subject site. After she spoke, it was reiterated that a Phase 1 Environmental Assessment and additional subsequent soil testing had been performed on this site.

Prior Council/Board Actions:

The Council heard this item on July 12, 2005 and continued it, directing staff to work with the applicant to come up with an alternative design that reduces the land use conflicts between the

Light Industrial and the Low Density Residential designated properties along the long narrow parcel on the western portion of the site. The Willow Springs Tentative Subdivision map has not yet been reviewed by the Planning Commission.

Alternatives:

MEDIUM DENSITY RESIDENTIAL- The Council may revise the Change of Zone and General Plan Amendment applications to include other land uses, such as Medium Density Residential along the narrow four acre strip of land north of the rail road tracks just east of Santa Fe Street, or throughout the project area. Medium Density Residential could be appropriate adjacent to and dividing two Light Industrial Zoned properties. The applicant is proposing the open space designation to provide a point of access to the subdivision, and to create an aesthetically pleasing greenbelt corridor with the access route to Santa Fe Street to support the lower density subdivision application. Before considering a higher density land use for the entire project site, staff would recommend a more thorough analysis of the adequacy of the area's roads and utility infrastructure, and local schools and parks to serve an approximate doubling of the resident population on the project site

OFFICE- An office designation may be another feasible alternative for part or all of the project site. The site is adjacent to an Arterial road (Santa Fe Street), and meets the General Plan size criteria of one to 10 acres for office developments. However, this change may be inconsistent with General Plan Objective 3.6.A in that it may not be effectively integrated into the surrounding area due to the site's physical constraints, and for it's potential to draw office uses away from existing office developments on Caldwell and Walnut Avenues which are less than one mile and one-half mile respectively from the project site.

Environmental Findings:

When approving this project, 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. 2005-039, which was prepared for the General Plan Amendment, Change of Zone, and Willow Springs Tentative Subdivision Map. The Negative Declaration document is attached.

Attachments:

- Reduced Copy of Proposed Willow Springs Tentative Subdivision Map (**Exhibit "A"**)
- Aerial Photo of Detention Basin at Roeben Street and Walnut Avenue (**Exhibit "B"**)
- Resolution and Ordinance
- Land Use Map
- Zoning Map
- Aerial Photo of Site
- Location Map
- June 7, 2004 Preliminary Soil Investigation Report
- June 2, 2004 Phase 1 Environmental Site Assessment Summary
- June 10, 2005 Letter from ASR Engineering, Inc.
- Environmental Document

- Planning Commission Staff Report

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):
 I move to adopt Resolution No. 2005- 143 certifying Negative Declaration No. 2005-039.
 I move to adopt Resolution No. 2005-103 approving General Plan Amendment No. 2002-13 and adopt Ordinance No. 2005-14 approving Change of Zone 2002-12.

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:

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. 2005-143

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,
ADOPTING NEGATIVE DECLARATION NO. 2005-39, WHICH EVALUATES
ENVIRONMENTAL IMPACTS FOR CHANGE OF ZONE NO. 2002-12, GENERAL
PLAN AMENDMENT NO. 2002-13, AND WILLOW SPRINGS TENTATIVE
SUBDIVISION MAP.

WHEREAS, Change of Zone No. 2002-12, General Plan Amendment No. 2002-13, and Willow Springs Tentative Subdivision Map (hereinafter "Project") is a request to change the zoning on 11 acres from IL (Light Industrial) to seven acres of R-1-6 (Single-Family Residential) and four acres of QP (Quasi-Public), a request to change the General Plan Land Use Designation on 11 acres from Light Industrial to seven acres of Low Density Residential and four acres of Conservation, and a request to divide 45.4 acres into 166 single-family residential lots. The project is located on the south side of Walnut Avenue, east of Santa Fe Street, City of Visalia, County of Tulare. (APN: 123-080-009, 015, 019, 020, & 123-100-016)

WHEREAS, the City Council of the City of Visalia, after twenty (20) days published notice, held a public hearing before said Council on October 3, 2005 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. 2005-39 which evaluates environmental impacts for Change of Zone No. 2002-12, General Plan Amendment No. 2002-13, and Willow Springs Tentative Subdivision Map. 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. 2005-103

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,

APPROVING GENERAL PLAN AMENDMENT NO. 2002-13, A REQUEST TO CHANGE THE LAND USE DESIGNATION FROM LIGHT INDUSTRIAL TO SEVEN ACRES OF LOW DENSITY RESIDENTIAL AND FOUR ACRES OF CONSERVATION, LOCATED ON THE NORTH SIDE OF THE RAILROAD TRACKS NORTH OF K ROAD, ON THE EAST SIDE OF SANTA FE STREET.

WHEREAS, an application for General Plan Amendment No. 2002-13, requested by Bill Morgan to change the General Plan Land Use Designation from Light Industrial to seven acres of Low Density Residential and four acres of Conservation, located on the north side of the railroad tracks north of K Road, on the east side of Santa Fe Street. APN: 123-080-009, 019, 020; and

WHEREAS, the Planning Commission of the City of Visalia, after twenty-one (21) days published notice, held a public hearing before said Commission on June 13, 2005; and

WHEREAS, the Planning Commission of the City of Visalia considered the general plan amendment in accordance with Section 17.54.070 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff report and testimony presented at the public hearing and recommended approval of the general plan amendment; and

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice heard this item on July 18, 2005 and continued it indefinitely; and

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice held a public hearing before said Council on October 3, 2005; and

WHEREAS, the City Council of the City of Visalia finds the general plan amendment to be in accordance with Section 17.54.080 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff report and testimony presented at the public hearing; 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.

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 approves the proposed General Plan Amendment based on the following specific findings and based on the evidence presented:

1. That the land use changes proposed and recommended in General Plan Amendment No. 2002-13 would result in an efficient land use pattern, consistent with the area's surrounding residential land uses.

2. 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. 2005-39 is hereby adopted.
3. That the General Plan Amendment is consistent with the intent of the General Plan and Zoning Ordinance, and is not detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
4. That there is no evidence before the City Council that the proposed projects will have any potential for adverse effects on wildlife resources, as defined in Section 711.2 of the Department of Fish and Game Code.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia approves the General Plan Amendment described herein, in accordance with the terms of this resolution under the provisions of Section 17.54.070 of the Ordinance Code of the City of Visalia and based on the above findings.

ORDINANCE NO. 2005-14

AMENDING THE ZONING MAP OF THE CITY OF VISALIA CHANGING THE ZONING FROM IL (LIGHT INDUSTRIAL) TO SEVEN ACRES OF R-1-6 (SINGLE-FAMILY RESIDENTIAL) AND FOUR ACRES OF QP (QUASI-PUBLIC) ON APPROXIMATELY 11 ACRES ON THE NORTH SIDE OF THE RAILROAD TRACK NORTH OF K ROAD, ON THE EAST SIDE OF SANTA FE STREET; BILL MORGAN, APPLICANT

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 changes to the Zoning Map of the City of Visalia that would change the zoning from IL (Light Industrial) to seven acres of R-1-6 (Single-Family Residential) and four acres of QP (Quasi-Public) on 11 acres on the north side of the railroad tracks north of K Road, east of Santa Fe Street; APN123-080-009, 019, 020; City of Visalia; and

Section 2: This property and Zoning Map of the City of Visalia is hereby amended to show said property changes.

Section 3: This ordinance shall become effective 30 days after passage hereof.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 3, 2005

Agenda Item Number: 12

Agenda Item Wording:

Public hearing for:

1. Certify Negative Declaration No. 2005-81. **Resolution 2005-142 required.** (A separate Motion by the Council is required.)
2. First Reading of Change of Zone No. 2005-17: A request by Michael Ray Sutherland to change the zoning from R-1-6 (Single-Family Residential) to R-1-4.5 (Single/Multi-Family Residential) on approximately 14.2 acres and to QP (Quasi-Public) on approximately 6.5 acres. **Ordinance No. 2005-18 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.): 10

The site is located on the north side of Goshen Avenue, approximately 1,500 feet west of Lovers Lane (APN: 098-050-014, 020, 058, 059).

Deadline for Action: None

Submitting Department: Community Development and Public Works Department - Planning

Contact Name and Phone Number: Jason Pausma, Associate Planner (559) 713-4348

Recommendation and Summary: The Planning Commission recommends that the City Council approve Change of Zone No 2005-17. The proposed action would change the zoning on approximately 14.2 acres from R-1-6 to R-1-4.5 and would change 6.5 acres from R-1-6 to QP. The result of the proposed action is to increase the lot yield from approximately 54 lots in the R-1-6 zone to 65 lots in the R-1-4.5 zone as shown in the proposed subdivision map in Exhibit "A". The Change of Zone increases the density for this area. The existing R-1-6 Zone has a minimum lot size of 6,000 square feet. The R-1-4.5 zone has a minimum lot size of 4,500 square feet. The minimum lot size in the proposed single-family subdivision is 5,000 square feet, and the average lot size in the subject site is 5,559 square feet per lot.

The 6.5 acres of QP Zoning is for a proposed park/pond basin. The basin has not yet been designed. The City Council has previously authorized the Engineering Department to negotiate the purchase of this land for a park/pond basin. This park/pond is a substitution for a previously planned 10-acre park/pond facility along Mill Creek near Lovers Lane. The City is in the process of selling that property to the Visalia Unified School District. The new 6.5-acre site is preferred because it will be more centrally located and accessible for the residents, and it meets all of the site requirements for a storm water detention facility. The 6.5 acre site could be developed to a small park/pond facility. Additionally, when the property to the west develops, the City could purchase additional land to expand the park/pond to be a ten-acre facility. If the full 10 acres are acquired, the park/pond facility could be developed into a similar park/pond

complex such as the neighborhood park located on Stonebrook Street, north of Caldwell Avenue as shown in Exhibit "D." If the property is developed as a park/pond the design will come back to the Council prior to it going out to bid. If it is developed primarily as a storm pond, per previous Council direction the staff will work to incorporate a trail/walking path and appropriate landscaping.

The associated subdivision, known as Eagle Meadows 1 Tentative Subdivision, is scheduled for a public hearing at the Planning Commission on October 10, 2005. The hearing on the subdivision will be re-scheduled for map revisions if the Change of Zone is not approved by Council. Eagle Meadows 1 Tentative Subdivision is adjacent to another proposed tentative subdivision named Eagle Meadows 2, which is zoned R-1-4.5 and is also scheduled for a public hearing at the Planning Commission on October 10, 2005.

Committee/Commission Review and Actions:

The Planning Commission held a public hearing on September 12, 2005 and recommended approval of Change of Zone No. 2005-17 on a 5-0 vote. The Planning Commission found that the proposed change to R-1-4.5 was consistent with the General Plan land use designation of Low Density Residential. General Plan Land Use Policy 4.1.18 provides for R-1-4.5 type development in the Northeast Specific Plan Area.

The Planning Commission also determined that the project is consistent with the goals and objectives of the Northeast Specific Plan, of which this project is located. Finally, the Planning Commission also found that the existing single and multi-family zones in the surrounding area would be consistent with the proposal for R-1-4.5 and QP Zoning. This proposal does not increase the potential for land use conflicts since the area already contains a mix of single-family and multiple-family land uses and designations.

During the public hearing, no persons spoke in opposition to the requested zone change.

Related Projects:

None

Prior Council/Board Actions:

None

Alternatives:

None recommended

Attachments:

- Exhibit "A" Applicants' Zoning Map
- Exhibit "B" Eagle Meadows 1 Tentative Subdivision Map
- Exhibit "C" Eagle Meadows 2 Tentative Subdivision Map
- Exhibit "D" Landscaped Park/Pond Example
- Exhibit "E" Surrounding Projects Map
- Resolution Adopting Negative Declaration No. 2005-81
- Ordinance
- General Plan Land Use Map
- Zoning Map

- Aerial Map
- Location Map
- Environmental Document
- Planning Commission Staff Report

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):
 I move to adopt Resolution No. 2005- 142 certifying Negative Declaration No. 2005-081.
 I move to approve Change of Zone No. 2005-17 by introduction of Ordinance No. 2005-18.

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: City Council 2nd reading - October 17, 2005

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. 2005-142

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,
ADOPTING NEGATIVE DECLARATION NO. 2005-81, WHICH EVALUATES
ENVIRONMENTAL IMPACTS FOR CHANGE OF ZONE NO. 2005-17, EAGLE
MEADOWS OF VISALIA NO. 1 TENTATIVE SUBDIVISION MAP, AND EAGLE
MEADOWS OF VISALIA NO. 2 TENTATIVE SUBDIVISION MAP.

WHEREAS, Change of Zone No. 2005-17, Eagle Meadows of Visalia No. 1 Tentative Subdivision Map, and Eagle Meadows of Visalia No. 2 Tentative Subdivision Map (hereinafter "Project") is a request to change the zoning from R-1-6 (Single-Family Residential) to R-1-4.5 (Single/Multi-Family Residential) on approximately 14.2 acres and to QP (Quasi-Public) on approximately 6.5 acres, a request to divide 19.6 acres into 65 single-family residential lots, and a request to divide 21.5 acres into 86 single-family residential lots. The project is located on the north side of Goshen Avenue, between 500 and 1500 feet west of Lovers Lane, City of Visalia, County of Tulare. (APN: 098-050-014, 020, 058, 059)

WHEREAS, the City Council of the City of Visalia, after twenty (20) days published notice, held a public hearing before said Council on October 3, 2005 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. 2005-81 which evaluates environmental impacts for Change of Zone No. 2005-17, Eagle Meadows of Visalia No. 1 Tentative Subdivision Map, and Eagle Meadows of Visalia No. 2 Tentative Subdivision Map. 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.

ORDINANCE NO. 2005-18

AN ORDINANCE OF THE CITY OF VISALIA, RECOMMENDING APPROVAL OF CHANGE OF ZONE NO. 2005-17, TO CHANGE THE ZONING FROM R-1-6 (SINGLE-FAMILY RESIDENTIAL) TO R-1-4.5 (SINGLE/MULTI-FAMILY RESIDENTIAL) ON APPROXIMATELY 14.2 ACRES AND TO QP (QUASI-PUBLIC) ON APPROXIMATELY 6.5 ACRES FOR THE DEVELOPMENT OF A SINGLE FAMILY RESIDENTIAL SUBDIVISION AND A PARK/POND BASIN

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 Change of Zone No. 2005-17, to change the zoning from R-1-6 (Single Family Residential) to R-1-4.5 (Single/Multi-Family Residential) on approximately 14.2 acres and to QP (Quasi-Public) on approximately 6.5 acres, for the development of a single family residential subdivision and park/pond basin for Michael Ray Sutherland, on the north side of Goshen Avenue, approximately 1,500 feet west of Lovers Lane , APN 098-050-014, 020, 058, 059, City of Visalia.

Section 2: This property and Zoning Map of the City of Visalia is hereby amended to show said property changes.

Section 3: This ordinance shall become effective 30 days after passage hereof.

MEMORANDUM

To: Visalia City Council

From: Daniel M. Dooley, City Attorney
Alex M. Peltzer, Assistant City Attorney
Kris B. Pedersen, Deputy City Attorney
Dooley Herr & Peltzer, LLP

Date: September 29, 2005

Re: Regular Item for October 3, 2005
New Ordinance for the Regulation of Medical Marijuana
Dispensaries, The Cultivation and Processing of Medical
Marijuana and the Public Use/Consumption of Medical
Marijuana; Special Zoning Provisions

Introduction

This memorandum is being submitted to the City Council for its consideration in relation to the proposed ordinance that would institute certain regulations of medical marijuana dispensaries, the cultivation and processing of medical marijuana, the public use and consumption of medical marijuana and special zoning provisions.

The Planning Department, Police Department and Community Development Code Enforcement Officer have raised several issues over the past twelve months regarding the appropriate regulation and controls of medical marijuana within the City of Visalia. These departments have requested that an ordinance be considered that establishes guidelines that are absent from state law.

In light of these issues raised, staff, including the City Attorneys' office, has analyzed the various issues involved, including whether to regulate and limit medicinal marijuana and the apparent conflict between state and federal law.

The attached proposed ordinance sets forth carefully crafted regulations that are complimentary to and not in conflict with California's Compassionate Use Act. At the same time, the proposed ordinance specifies it is not the intent of the Council to either condemn or condone or otherwise legitimize the use of marijuana for any purpose. The proposed ordinance addresses the concerns of the City, particularly law enforcement and planning staff, that there are no regulations that clearly establish appropriate specific limits and guidelines to the distribution, cultivation, and use of medicinal marijuana, which activity is

generally permitted under the California Compassionate Use Act. The proposed ordinance acknowledges that those choosing to engage in such activity may still be subjected to federal prosecution for violating the federal Controlled Substances Act.

Background

Proposition 215, approved by the voters of the state pursuant to the initiative process in 1996, added section 11362.5 to the Health & Safety Code and is commonly known as the “Compassionate Use Act” (hereinafter referred to as “the Act”). The Act in general provides a limited defense to provisions of law that otherwise make possession, cultivation and distribution of marijuana a crime in California. The defense is primarily only available to patients who have a doctor’s recommendation to use marijuana for medical purposes, and their primary caregivers.

To address uncertainties and clarify the scope of the Act for patients, caregivers, law enforcement and others, additional code sections were enacted by the state legislature in December of 2003 (see California Health and Safety Code, Article 2.5, Sections 11362.7 through 11362.83). These provisions created a new Article 2.5, titled “Medical Marijuana Program,” consisting of sections 11362.7 through 11362.9. Among other things, Article 2.5 creates additional affirmative defenses and establishes a voluntary program for creating identification cards that serve as prima facie evidence of qualification for the affirmative defense provided in the Act, and also includes prohibitions against arrest of persons possessing valid identification cards.

Despite these provisions of state law, cultivation and distribution of marijuana, even for medical purposes, remains illegal under the provisions of the federal Controlled Substances Act (“CSA”). The United States Supreme Court, in the case of Gonzales v. Raich (2005) 125 S. Ct. 2195, recently determined that the CSA’s criminal provisions can be applied to medical marijuana users in California despite the existence of the defenses provided by the Compassionate Use Act.

Need for Local Regulation

Current Setting

One local organization is currently operating what appears to be a “dispensary” – a facility from which medical marijuana is distributed to individuals who ostensibly qualify for protections under the CUA. This organization has expressed a desire to move to a downtown business district location from its current Mooney Boulevard location. An affiliated organization also cultivates marijuana, also ostensibly for use as medical marijuana, at a location within the City limits in an Agricultural Zone.

Both the Police Department and City’s Code Enforcement Officer have had experience with issues surrounding this dispensary and cultivation operation.

Based on this experience, the police departments have the following observations:

- 1) Marijuana remains a Class 1 federally controlled substance and state law also imposes severe penalties for non-medical uses and distribution. Despite these prohibitions, a significant amount of illicit trade in marijuana continues to exist. The fact of this illicit trade increases the likelihood that illegal activity, along with the permitted activity of medical use of marijuana, will occur wherever medical marijuana is distributed.
- 2) The cultivation of medical marijuana in an open field, such as has occurred in Visalia to date, invites theft and misuse of the marijuana, resulting in a high likelihood that at least some of the marijuana will enter the illicit (non-medical) marijuana trade. Neighboring property owners have registered complaints with the Police Department. The Police further have no means of confirming that the marijuana cultivated in this manner in fact is used for medical purposes.
- 3) The storage of cash and marijuana at a dispensary also invites theft, and at least one burglary and theft of several pounds of marijuana has already occurred.
- 4) If self-medication is allowed to occur at the dispensary site, smoke could enter neighboring businesses or properties. This presents obvious as well as non-obvious problems. As an example of the non-obvious problems that could result, exposure of a neighboring business' employees to second hand marijuana smoke could result in a positive drug test for those employees. Neighboring business owners have registered complaints.
- 5) Because marijuana, used for any purpose, is an intoxicant, the locations in which marijuana may be distributed or consumed should be controlled so as to protect neighboring uses. Because of its intoxicating characteristic, the same types of controls applicable to alcohol should be considered.
- 6) The protections of the CUA have clear limitations, including the number of plants that may be cultivated and possessed; however, there are no good means of verifying that the marijuana cultivated or brought to a location for distribution as medical marijuana is in fact being used for medical purposes, or whether it later enters the illicit marijuana trade.

In addition to the Police Department concerns, the Planning Department and the Code Enforcement Officer has concerns relating to medical marijuana dispensaries and related businesses as a land use. Specifically, the following has been documented:

- 1) When an individual requests a business license permit, the Planning Department and Code Enforcement Officer have not been able to determine whether a medical marijuana dispensary, cultivation operation or related business qualifies as one of the permitted uses in any of the existing commercial zones.

- 2) Even if a dispensary or related enterprise is permitted in a particular zone under current zoning regulations, it is unclear under what conditions the business should be allowed to operate, or whether any conditions can be imposed.
- 3) Without clear permitting conditions, complaints from neighboring property owners and businesses, which have in fact been received, cannot be adequately addressed, and no clear enforcement action can be taken.
- 4) Cultivation and distribution of medical marijuana presents a number of land use challenges, including the fact that walk-in traffic must be able to co-exist with a packaging, distribution and cultivation operation. These various aspects of the business do not fit easily within either a professional office setting or a retail setting, which are the two locations to date that the business proponents have suggested.

Outline of Proposed Local Regulations

In response to these concerns, an ordinance has been drafted that is similar to other ordinances enacted in recent years, such as the adult-oriented business ordinance. The proposed ordinance consists of three sections:

Section 1:

Like the Adult-Oriented Business Ordinance, the proposed Medical Marijuana Ordinance would create a special business permit process, which would enable the City Planner and the Police Chief to confirm various aspects of the proposed medical marijuana operation to ensure compliance with state law. The special business permit would be required for not only the dispensary operations, but also the cooperative or mass cultivation and processing operations as well. If the permittee meets the necessary qualifications and this qualification can be confirmed through background checks, the permittee would be subject to a list of conditions, established by the ordinance.

The permit provisions, and the conditions to which all medical marijuana-related businesses would be subject, were developed with close input from the Police Department and the code enforcement officer. They form the bulk of the proposed ordinance. The Council is directed to the attached ordinance for the details of these provisions.

In addition to those provisions, however, the ordinance also addresses the following:

Section 2:

This section makes changes to Title 8 of the Municipal Code relating to public consumption of medical marijuana. In addition to the distribution, cultivation and processing controls as outlined in Section 1, limitations on where medical marijuana may be consumed are also necessary to address the

Police Department's concerns regarding second hand smoke and the impacts of consumption of an intoxicant on surrounding individuals.

Section 3:

This section establishes the zoning requirements for medical marijuana businesses, which includes dispensaries and cultivation and processing operations referred to in Section 1. In general, it establishes the CS zone as the only zone in which a medical marijuana business is allowed. It also establishes a buffer zone from any sensitive use. This buffer zone is to be applied within the CS zone.

The CS zone currently accommodates businesses that feature combinations of retail, industrial and distribution aspects. Because of this, it appears to be the ideal zone to accommodate medical marijuana businesses. Further, the smaller warehouse uses that exist in this zone appear adequate to accommodate the cultivation and processing activities contemplated under the ordinance.

The Planning Department has developed information showing the availability of locations that qualify under the limitations.

General

The proposed ordinance also expresses several findings by the City Council regarding the compatibility of the ordinance with the Compassionate Use Act, the availability of suitable locations within the City for the permitted uses, and a statement that the ordinance is not intended to condone or condemn the use of marijuana for medical purposes.

Conclusion

It is our recommendation that the City Council introduce the ordinance to regulate the cultivation, use and distribution of medicinal marijuana within the City's limits. The Council may also direct that the ordinance be modified before it is approved on final reading.

ORDINANCE No. 2005-_____

**An Ordinance of the City Council
of the City of Visalia Adopting Regulations Regarding
Medical Marijuana Dispensaries, the Cultivation and Processing of
Medical Marijuana and the Public Use/Consumption of Medical Marijuana**

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

SECTION 1: PURPOSE

The purpose of this Ordinance is

A. To amend Title 5 of the City of Visalia Municipal Code pertaining to Business Regulations by adding Chapter 5.66 and creating regulations regarding the operation of “Medical Marijuana Dispensaries” within the City of Visalia;

C. To amend Title 8 of the City of Visalia Municipal Code pertaining to Health and Safety by adding Chapter 8.64 and creating regulations regarding the “Public Use and Consumption of Medical Marijuana”; and

D. To amend Title 17 of the City of Visalia Municipal Code pertaining to Zoning by adding Chapter 17.64 and restricting the location of Medical Marijuana Businesses.

SECTION 2: FINDINGS

A. The voters of the State of California approved proposition 215 (codified as California Health and Safety Code section 11362.5, et seq. and entitled “The Compassionate Use Act of 1996”).

B. The intent of Proposition 215 was to enable seriously ill Californians to obtain and use marijuana for medical purposes, where that medical use is deemed appropriate and has been recommended by a physician, without fear of criminal prosecution under limited, specified circumstances.

C. In 2004, the State Legislature enacted SB 420 to clarify the scope of the Compassionate Use Act of 1996 to allow cities and other government bodies to adopt and enforce rules and regulations consistent with SB 420.

D. In June 2005, the United States Supreme Court issued a decision entitled Gonzales v. Raich (2005) 545 U.S. ____ wherein it determined the cultivation and use of marijuana in compliance with California law is a violation of federal law, and may be prosecuted under federal law.

F. The City of Visalia has identified are a number of health, safety, and welfare concerns associated with dispensaries, the cultivation, processing, and public use/consumption of medicinal marijuana. These adverse impacts require careful consideration and regulation of the location and manner in

which the uses are to operate so as to prevent impacts on nearby residents, businesses and the community at large.

E. The City of Visalia neither condones nor condemns the use of marijuana, but finds it important to ensure that the adverse impacts from the medical use of marijuana are minimized in the City of Visalia.

G. The City of Visalia has received inquiries from prospective operators for the establishment of various related businesses, such as a medical marijuana dispensary, a co-operative cultivation operation and related processing center. Currently, the City of Visalia has no rules or regulations governing medical marijuana or dispensaries of medical marijuana.

H. To protect the public health, safety, and welfare, it is the desire of the City Council to modify the municipal code consistent with and complimentary to The Compassionate Use Act of 1996 and SB 420.

I. The City Council acknowledges the federal government and its law enforcement and prosecuting agents have jurisdiction to enforce the Controlled Substances Act, 21 U.S.C. Section 841, within the city limits of the City of Visalia. It is the City Council's intention that nothing in this ordinance shall be deemed to prevent federal prosecution of violations of the Controlled Substances Act within the City of Visalia.

J. It is the City Council's intention that nothing in this ordinance shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow the use of marijuana for non-medical purposes, or (3) allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal.

K. The City Council desires to adopt reasonable time, place and manner regulations that address the adverse secondary effects of medical marijuana dispensaries, the cultivation and processing thereof and the public use/consumption of marijuana for medical purposes. This Ordinance both complies with applicable state law, as well as imposes reasonable restrictive rules and regulations protecting the public health, safety, and welfare of the residents and businesses within the City of Visalia.

L. The locational requirements established by this ordinance do not unreasonably restrict the establishment or operation of a medical marijuana dispensary in the City of Visalia, and the application of this ordinance results in a reasonable number of appropriate locations for such dispensaries.

M. The City Council of the City of Visalia also finds that locational criteria alone do not adequately protect the health, safety, and general welfare of the citizens of the City of Visalia. Thus, certain requirements with respect to the ownership and operation of medical marijuana dispensaries, cultivation and processing of medical marijuana, and the public use/consumption of marijuana for medical purposes are in the public interest.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDING

This ordinance is hereby found to be categorically exempt from environmental review pursuant to CEQA Guidelines section 15061(b)(3). The City Council finds that the adoption of this ordinance does not have the potential for causing a significant adverse effect on the environment.

SECTION 4. SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact than any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 5. EFFECTIVE DATE

This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION

At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City. In addition, a notice shall be published once in the Visalia Times-Delta, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

I, Roxanne Yoder, City Clerk of the City of Visalia, do hereby certify that the foregoing Ordinance was introduced at the _____, 2005 City Council meeting and duly adopted by the following vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

BOB LINK
Mayor of the City

ATTEST:

Roxanne Yoder
City Clerk of the City of Visalia

APPROVED AS TO FORM:

Daniel M. Dooley
City Attorney

Exhibit "A"

Ordinance No. 2005 - _____

SECTION 1: AMENDMENT OF TITLE 5 OF THE CITY OF VISALIA MUNICIPAL CODE RELATING TO BUSINESS REGULATIONS: ADDITION OF CHAPTER 5.66 ENTITLED "MEDICAL MARIJUANA DISPENSARIES"

Title 5 of the Visalia Municipal Code is hereby amended by adding thereto Chapter 5.66, which shall read as follows:

Chapter 5.66

MEDICAL MARIJUANA DISPENSARIES

Article 1. General

Section 5.66.010 Purpose and Intent

It is the purpose and intent of this ordinance to promote the health, safety, and general welfare of the residents and businesses within the City by regulating medical marijuana dispensaries. It is not the intent nor effect of this ordinance to restrict or deny qualified patients access to marijuana for medical purpose as intended by the passage of the Compassionate Use Act of 1996 and SB 420 in 2004. Neither is it the intent nor effect of this ordinance to condone or legitimize the use of marijuana.

Section 5.66.020 Definitions

All definitions set forth in Health & Safety Code sections 11362.5 and 11362.7 *et seq.*, as may be amended, including but not limited to the terms "attending physician", "person with an identification card", "primary caregiver", "qualified patient", "identification card", and "serious medical condition", shall apply under this Ordinance in addition to the definitions set forth as follows:

"Applicant" means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee or agent of a Medical Marijuana Business.

"City Planner" means the City Planner holding office in the City of Visalia or his or her designee.

"Medical Marijuana" is defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq.*

"Medical Marijuana Dispensary" means any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by,

or distributed to three or more of the following: (1) a qualified patient, (2) a person with an identification card, or (3) a primary caregiver. All three of these terms are defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq.* Unless otherwise regulated by this Code or applicable law, a “medical marijuana dispensary” shall not include the following uses: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code sections 11362.5, and 11362.7 *et seq.*

“Medical Marijuana Businesses” means any Medical Marijuana Dispensary; any cultivation and/or processing of medical marijuana operations by primary caregivers for three or more qualified patients or persons with identification cards; or collective or cooperative cultivation operations.

“Cultivation of medical marijuana” means the growing of medical marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

“Collective or cooperative cultivation” means the association within California of qualified patients, persons with valid identification cards, and designated primary care givers to cultivate marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

“Processing of medical marijuana” means the harvesting of marijuana or the use of any process or equipment, including but not limited to dehydrators or humidifiers, that may be necessary to convert raw marijuana plants or plant parts into a consumable product.

“Permittee” means the person to whom a Medical Marijuana Business permit is issued.

“Written Recommendation” shall have the same definition as California Health and Safety Code section 11362.7 *et seq.*, and as may be amended.

Section 5.66.030 Enforcement of Chapter.

The City Planner of the City of Visalia shall have the responsibility and duty of enforcement of this Chapter.

Article 2. Medical Marijuana Business Permit

Section 5.66.040 Medical Marijuana Business Permit Required.

A. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City of Visalia the operation of a Medical Marijuana Business unless the person first obtains and continues to maintain in full force and effect a Medical Marijuana Business permit from the City of Visalia as herein required.

B. A Medical Marijuana Business shall also be required to apply for and maintain a general City of Visalia business license as a prerequisite to obtaining a permit pursuant to the terms hereof.

Section 5.66.050 Applications.

A. The applicant for a Medical Marijuana Business permit shall submit to the City Planner or designee an application for a permit. The application shall be made under penalty of perjury and shall include the following information:

1. The full name, present address, and telephone number of the applicant;
2. The address to which notice of action on the application is to be mailed;
3. Previous addresses for the past five (5) years immediately prior to the present address of the applicant;
4. Written proof that the applicant is over the age of eighteen (18) years of age.
5. Applicant's height, weight, color of eyes and hair;
6. An identification photograph of the applicant;
7. All business, occupation, or employment of the applicant for the five years immediately preceding the date of the application;
8. The business license history of the applicant, including whether such person, in previously operating in this or another city, county or state under a license has had such license revoked or suspended, the reason therefore, and the business or activity or occupation subsequent to such action of suspension or revocation;
9. The name or names of the person or persons having the management or supervision of applicant's business;
10. Whether the person or persons having the management or supervision of applicant's business have been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received therefore;
11. The name of all employees, independent contractors, and other persons who will work at the proposed Medical Marijuana Business;
12. The names and addresses of all suppliers of marijuana products. Any change in suppliers must be disclosed in

- advance to the City by requesting an amended business license.
13. The proposed security arrangements for ensuring the safety of persons, safe and secure storage of the marijuana, and to protect the premises from theft which shall be kept confidential and not disclosed to the public as the public interest is served in preserving the confidentiality of such security arrangements;
 14. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the proposed Medical Marijuana Business. The sketch or diagram need not be professionally prepared, but must be drawn with marked dimensions of the interior of the premises;
 15. A current and accurate straight-line drawing depicting the building and/or the portion thereof to be occupied by the proposed Medical Marijuana Business and the property lines of any church, school, park, recreation center, youth center, or residential zone or use within 1,000 feet of the primary entrance of the proposed Medical Marijuana Business;
 16. Authorization for the City of Visalia, its agents and employees to seek verification of the information contained within the application;
 17. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct; and
 18. Such other identification and information as deemed necessary by the City Planner or designee.

B. If the applicant has completed the application improperly, or if the application is incomplete, the City Planner or designee shall within ten (10) days of receipt of the original application, notify the applicant of such fact.

C. The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a Medical Marijuana Business permit.

Section 5.66.060 Term, Renewals and Fees.

A. Unless otherwise suspended or revoked, a Medical Marijuana Business permit shall expire one (1) year following its issuance. An operator of a Medical Marijuana Business may re-apply for a permit for subsequent year(s).

B. Every application for a permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution adopted by the City Council from time to time. This application or renewal fee shall not include fingerprinting, photographing or background check costs and shall be in addition to any other business license fee or permit fee imposed by this code or other governmental agencies.

Section 5.66.070 Notification of Community.

A. Within ten (10) calendar days of filing an application for a Medical Marijuana Business permit, the applicant shall provide the City Planner or designee with proof that all residents and property owners within 1,000 feet of the proposed premises have been notified in writing by U.S. mail of the applicant's intent to open such a business and filing of such application.

Section 5.66.080 Investigation and Action on Application.

A. The City Planner or designee, in consultation with the City of Visalia Chief of Police, shall conduct a background check of any applicant for a Medical Marijuana Business permit or employee thereof and shall conduct an investigation of the application.

B. After the background checks and investigation are complete, and in no case later than forty-five (45) days after receipt of a completed application, the City Planner or designee shall determine whether to issue the Medical Marijuana Business permit. The City Planner or designee may grant the permit subject to conditions he or she deems reasonable under the circumstances to protect the public health, safety and welfare of the community. The City Planner or designee shall cause a written notice of his or her decision to issue or deny a permit to be delivered in person or mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested.

Section 5.66.090 Grounds for Denial of Permit.

The grounds for denial of a permit shall be one or more of the following:

A. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule or regulation.

B. The applicant has violated any local or state law, statute, rule or regulation relating to medical marijuana business.

C. The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

D. The applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

F. The applicant has committed any act, which, if done by a permittee, would be grounds for suspension or revocations of a permit.

G. An applicant is under eighteen (18) years of age.

H. The Medical Marijuana Business does not comply with the ordinance standards of the City of Visalia Municipal Code or the development standards set forth in this Chapter.

I. The required application or renewal fees have not been paid.

Section 5.66.100 Appeal from Denial.

A. An applicant aggrieved by the decision of the City Planner or designee to deny a permit may appeal such decision to the City Council by filing a written notice with the City Clerk within ten (10) calendar days of service of the written notice of decision. If an appeal is not taken within such time, the City Planner's decision shall be final.

B. Upon filing of a timely appeal, the permit application shall be scheduled by the City Clerk for a public hearing within forty-five (45) calendar days.

C. Notice of the hearing shall be given by the posting of notice on the premises where the activity is to be conducted for a period of not less than five (5) working days prior to the date of the hearing. In addition, a copy of the notice of hearing shall be mailed to the applicant at least five (5) working days in advance of the hearing. The City Council may give such additional notice of hearing as it deems appropriate in a particular case.

D. Following public hearing, the City Council may grant the permit subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the community or it may deny the issuance of the permit for any of the grounds specified in this Chapter. The decision of the City Council shall be final.

Section 5.66.110 Suspension or Revocation of Permit.

A. The City Planner or designee may suspend or revoke a permit when the permittee or the permittee's agent or employee has committed any one or more of the following acts:

1. Any act which would be considered a ground for denial of the permit in the first instance.
2. Violates any other provision of this Chapter or any local or State law, statute, rule or regulation relating to his or her permitted activity.

3. Engages in or permits misconduct substantially related to the qualification, functions or duties of the permittee.
4. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.
5. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business.
6. Violates or fails to comply with the terms and conditions or the permit.

B. Prior to suspension or revocation, the City Planner or designee shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least five (5) working days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery to the permittee or by certified U.S. Mail, postage prepaid, addressed to the permittee at his or her address as it appears in his application for the permit.

C. If any permittee or person acting under the authority of a permittee is convicted of a public offense in any court for the violation of any law which relates to his or her permit, the City Planner or designee may immediately revoke the permit without any further action, other than giving notice of revocation to the permittee. In this circumstance, during the pendency of any appeal to the City Council, the permit shall not remain in effect.

D. Any permittee aggrieved by the decision of the City Planner or designee in suspending or revoking a permit may, within ten (10) calendar days, appeal to the City Council by filing a written notice with the City Clerk. Unless otherwise stated in this Chapter, during the pendency of the appeal to the Council, the permit shall remain in effect. If such appeal is not taken within ten (10) days, the decision of the City Planner or designee shall be final. If an appeal is timely filed, the appeal shall be held in accordance with the procedures for considering an appeal of the denial of a permit. The City Council may suspend or revoke the permit for any of the grounds specified in this Chapter. The City Council's decision shall be final.

Section 5.66.120 Judicial Review.

Judicial review of a final decision made under this Chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provision of the California Code of Civil Procedure section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision

becomes final as provided in California Code of Civil Procedure section 1094.6, which shall be applicable for such actions.

Section 5.66.130 Effect of Denial or Revocation.

When the City Planner or designee has denied or revoked a permit and the time for appeal to the City Council has elapsed, or if after appeal to the City Council, the decision of the City Planner or designee has been affirmed by the City Council, no new application for a permit shall be accepted from the applicant and no permit shall be issued to such person or to any corporation in which he or she shall have any beneficial interest for a period of one (1) year after the action denying or revoking the permit.

Article 3. Facilities and Employees

Section 5.66.140 Operating requirements.

A Medical Marijuana Business, once permitted by the City Planner or Designee, shall meet the following operating standards for the duration of the use:

A. A Medical Marijuana Business shall be open for business only between the hours of 9:00 a.m. and 5:00 p.m. on any particular day.

B. A Medical Marijuana Business shall maintain a current register of the names of all employees employed by the Business.

C. A Medical Marijuana Business shall maintain a current register of all qualified patients, persons with identification cards and primary caregivers to whom it provides or distributes medical marijuana. Once documented the qualified patients, persons with identification cards and primary caregivers shall be “registered” patrons of the Business. The Business’s register shall be subject to periodic inspection to ensure compliance with the state law. The Business shall further maintain records of all patients and primary caregivers using the identification card number only when issued by the county, or its agent, pursuant to California Health and Safety Code section 11362.7 *et seq.*, so as to protect the confidentiality of the cardholders, or a copy of the written recommendation from a physician stating the need for medical marijuana.

D. The building entrance to a Medical Marijuana Business shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) years are precluded from entering the premises unless they are a qualified patient and they are in the presence of their parent or guardian.

E. A Medical Marijuana Dispensary may not possess more than eight (8) ounces of dried marijuana per registered qualified patient or primary caregiver on the premises. However, if a qualified patient or primary caregiver has a doctor’s recommendation that this quantity does not meet the qualified patient’s medical needs, the may not possess an amount of marijuana in excess of the registered patient’s needs.

F. No marijuana shall be smoked, ingested or otherwise consumed on the premises of the Business. The term “premises” includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. The building entrance to a Medical Marijuana Business shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the Business is prohibited.

G. Any cultivation of medical marijuana or processing of medical marijuana conducted by the Business shall at all times occur in a secure, locked, and fully enclosed structure. No Medical Marijuana Business may cultivate or process more than 99 marijuana plants, whether mature or immature.

H. No Medical Marijuana Business shall hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the Business.

I. No Medical Marijuana Business shall conduct or engage in the commercial sale of any product, good or service. The term “commercial sale” does not include the provision of medical marijuana on terms and conditions consistent with this Chapter and the Compassionate Use Act of 1996, and any amendments thereto.

J. A Medical Marijuana Business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.

K. A Medical Marijuana Business shall provide litter removal services once during each day of operation on and in front of the premises and, if necessary, on public sidewalks within one hundred (100) feet of the premises.

L. A Medical Marijuana Business shall not cultivate, distribute or sell medical marijuana for a profit. A Business may receive compensation for its actual expenses, including reasonable compensation for service provided, or for payment of out-of-pocket expenses incurred in providing those services. However, any such Business must pay applicable sales tax on such sales or services and maintain the applicable seller’s permit or similar permit from the State Franchise Tax Board or other applicable agency.

M. A Medical Marijuana Business shall meet all the operating criteria for the dispensing of medical marijuana as required pursuant to California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

N. Each Medical Marijuana Business shall allow the City Planner or designee to have access to the Business’s books, records, accounts, and any

and all data relevant to its activities for the purposes of conducting an audit or examination. Books, records, accounts, and any and all relevant data shall be produced no later than 24 hours after receipt of the City Planner's written request(s).

O. The Medical Marijuana Business shall meet any specific additional operating procedures and measures as may be imposed as conditions of approval by the City Planner or designee to ensure that operations of the Business is consistent with protection of the health, safety and welfare of the community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.

P. The building in which the Medical Marijuana Business is located shall comply with all applicable local, state and federal rules, regulations and laws including, but not limited to, building codes and the Americans with Disability Act, as certified by the Building Official of the City.

Q. Any marijuana provided by a Medical Marijuana Business for the purpose of consumption by the recipient shall be contained in a package that includes, in a conspicuous location, the following warning: "Smoking has been found to be hazardous to the health of the consumer, and smoking by pregnant women may result in fetal injury, premature birth and low birth weight. Further, ingestion of marijuana in any form may be hazardous to the health of the consumer and may impair the judgment of the consumer."

R. A Medical Marijuana Business that provides marijuana in the form of food or other comestibles shall obtain and maintain the appropriate licenses from the County Health Department for the provisions of food or other comestibles.

S. A Medical Marijuana Business shall provide to the City Planner or designee, upon request, written evidence to the City Planner or designee's reasonable satisfaction, that the Business is not engaged in interstate commerce.

S. No Medical Marijuana Business shall sell or display any drug paraphernalia as defined in California Health and Safety Code section 11364, *et seq.*, or any implement that may be used to administer, use, consume, smoke or ingest medical marijuana.

Failure to comply with any of the above operating requirements shall result in the revocation of any permit issued.

Section 5.66.150 Zoning and Development Standards.

The provisions of Chapter 17.64 of Title 17 ("Zoning") of the Municipal Code are applicable to Medical Marijuana Dispensaries and compliance with those provisions shall be considered additional requirements for a permit required by this Chapter.

Section 5.66.160 Minors.

A. It shall be unlawful for any permittee, operator, or other person in charge of any Medical Marijuana Business to employ any person who is not at least eighteen (18) years of age.

B. Persons under the age of eighteen (18) years shall not be allowed on the premises of a Medical Marijuana Business unless they are a qualified patient and they are in the presence of their parent or guardian.

Section 5.66.170 Display of permit.

Every Medical Marijuana Business shall display at all times during business hours the permit issued pursuant to the provisions of this Chapter in a conspicuous place so that the same may be readily seen by all persons entering the Medical Marijuana Business.

Section 5.66.180 Transfer of permits.

A. A permittee shall not operate a Medical Marijuana Business under the authority of a Medical Marijuana Business permit at any place other than the address of the Medical Marijuana Business stated in the application for the permit.

B. A permittee shall not transfer ownership or control of a Medical Marijuana Business permit to another person unless and until the transferee obtains an amendment to the permit from the City Planner or designee stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City Planner or designee in accordance with this Chapter and accompanies the application with the transfer fee in an amount set by the resolution of the City Council, and the City Manager determines that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the City Planner or designee has notified the permittee that the permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

Section 5.66.190 Violations of Chapter: Enforcement.

A. Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

B. Any use of condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is hereby declared a public nuisance and may be summarily abated by the City pursuant to the City of Visalia Municipal Code.

C. Any person who violates, causes, or permits another person to violate any provision of this Chapter commits a misdemeanor.

D. The violation of any provisions of this Chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief.

E. In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this Chapter may be subject to administrative remedies as set forth by City ordinance.

Article 4. Miscellaneous Provisions

Section 5.66.200 Severability.

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Chapter.

Section 5.66.210 Existing Medical Marijuana Dispensaries; Time Limit for Filing Application for Permit.

The continued operation of a Medical Marijuana Business in existence before the effective date of this Chapter without having applied for a permit obtained pursuant to the provisions of this Chapter for more than ninety (90) days after the effective date of this Chapter shall constitute a violation of this Chapter.

SECTION 2: AMENDMENT OF TITLE 8 OF THE CITY OF VISALIA MUNICIPAL CODE RELATING TO HEALTH AND SAFETY: ADDITION OF CHAPTER 8.64 ENTITLED: "PUBLIC USE/CONSUMPTION OF MEDICAL MARIJUANA"

Chapter 8.64 of Title 8 of the Visalia Municipal Code is added to read as follows:

Chapter 8.64

PUBLIC USE/CONSUMPTION OF MEDICAL MARIJUANA

Section 8.64.010 Purpose and Intent

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

Section 8.64.020 Definitions

All definitions set forth in Health & Safety Code sections 11362.5 and 11362.7 *et seq*, as may be amended, including but not limited to the terms "person with an identification card", "primary caregiver", "qualified patient", and "identification card" shall apply under this Ordinance in addition to the definitions set forth as follows:

"Medical Marijuana" is defined in strict accordance with California Health and Safety Code section 11362.5 and 11362.7 *et seq*.

"Cultivation of medical marijuana" means the growing of medical marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 *et seq*.

Section 8.64.030 Regulations Applicable to Public Use/Consumption of Medical Marijuana

No person shall smoke, ingest, or otherwise consume medical marijuana in the City of Visalia unless such smoking, ingesting or consumption occurs entirely within a private residence.

Section 8.64.040 Regulations Applicable to Individual Cultivation

In addition to any other applicable regulation under the Municipal Code, all cultivation of medical marijuana in the City of Visalia shall occur at all times in a secure, locked and fully enclosed structure.

SECTION 3: AMENDMENT OF TITLE 17 OF THE CITY OF VISALIA MUNICIPAL CODE RELATING TO ZONING: ADDITION OF CHAPTER 8.64 ENTITLED “MEDICAL MARIJUANA BUSINESSES”

Chapter 17.64 of Title 17 of the Visalia Municipal Code is added to read as follows:

Chapter 17.64

MEDICAL MARIJUANA BUSINESSES

Section 17.64.010 Purpose and Intent

It is the purpose and intent of this Chapter to promote the health, safety, and general welfare of the residents and businesses within the City by regulating the location and manner of development of medical marijuana businesses. It is not the intent nor effect of this ordinance to restrict or deny qualified patients access to marijuana for medical purpose as intended by the passage of the Compassionate Use Act of 1996 and SB 420 in 2004. Neither is it the intent nor effect of this ordinance to condone or legitimize the use of marijuana.

It is the intent of this Chapter to prevent community wide secondary adverse impacts which can be brought about by the concentration of medical marijuana businesses in close proximity to each other or proximity to other incompatible uses, such as schools for minors, day care facilities, churches, parks, youth recreational facilities and residentially zoned districts or uses. It is, therefore, the purpose of this Chapter to establish reasonable and uniform regulations to prevent the concentration of medical marijuana businesses or their close proximity to other incompatible uses, while allowing for the location of medical marijuana businesses in certain areas and in compliance with California’s Compassionate Use Act of 1996 and passage of S.B. 240 in 2004.

Section 17.64.020 Definitions

All definitions set forth in Health & Safety Code sections 11362.5 and 11362.7 *et seq.*, as may be amended, including but not limited to the terms “attending physician”, “person with an identification card”, “primary caregiver”, “qualified patient”, “identification card”, and “serious medical condition”, shall apply under this Ordinance in addition to the definitions set forth as follows:

“Church” means a structure or leased portion of a structure which is used primarily for religious worship and related religious activities.

“Cultivation of medical marijuana” means the growing of medical marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

“Collective or cooperative cultivation” means the association within California of qualified patients, persons with valid identification cards, and

designated primary care givers to cultivate marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

“Medical Marijuana” is defined in Title 5, Chapter 5.66, Section 5.66.020.

“Medical Marijuana Business” is defined in Title 5, Chapter 5.66, Section 5.66.020.

“Medical Marijuana Dispensary” is defined in Title 5, Chapter 5.66, Section 5.66.020.

Section 17.64.030 Permitted Zones; Minimum Proximity; Other Requirements

A. Medical Marijuana Businesses shall not be established or located in any zone in the City of Visalia, other than in the C-S (Service Commercial) Zone.

B. No Medical Marijuana Businesses shall be located:

1. Within 500 feet of any residential zone district; or
2. Within 1,000 feet of another Medical Marijuana Dispensary, an public or private elementary school, middle school or high school; or
3. Within 1,000 feet of any recreation center, public library, public park, day care center, or church; or
4. Within 1,000 feet of any youth-orientated establishment characterized by either or both of the following: (a) the establishment advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors; or (b) the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

The uses and zones set forth in this subsection shall be collectively known as “sensitive uses.” The distance between a medical marijuana businesses and a “sensitive use” shall be measured in a straight line, without regard to the intervening structures or objects, from the primary entrance of the medical marijuana business to the property line in which the “sensitive use” occurs or is located.

C. A Medical Marijuana Business is not and may not be approved as an accessory use to any other use permitted by this Code.

D. No more than one Medical Marijuana Business may operate out of a single building.

City of Visalia Agenda Item Transmittal

Meeting Date: October 3, 2005

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording: Conduct a Public Hearing to receive comments regarding the Draft 2005/2006 Disadvantaged Business enterprise (DBE) Overall Goal and Methodology for transportation and transit projects, and adopt the Final 2005/2006 DBE Overall Goal. **Resolution 2005- required.**

Deadline for Action: October 3, 2005. Federal-Aid projects cannot proceed after October 1, until a DBE Overall Goal is adopted.

Submitting Department: Community Development
and Public Works

Contact Name and Phone Number:
Michael Carr 713-4595, or 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.): 3 min.

Department Recommendation and Summary:

It is the recommendation of staff that the City Council conduct a public hearing, then adopt the 2005/2006 Disadvantaged Business Enterprise (DBE) Program Overall Goal for the City of Visalia Engineering and Transit Divisions. The Draft DBE Program goal is eight Percent (8.0%) DBE participation on the transportation and transit projects programmed to use Federal Highway Administration (FHWA) and/or Federal Transit Administration (FTA) funds in the 2005/2006 Federal Fiscal Year, which runs from October 1, 2005 through September 30, 2006.

Discussion:

The Federal Government requires that all agencies with contracts that utilize federal funding have an adopted and approved Disadvantaged Business Enterprise (DBE) Program. After the Federal Fiscal Year begins on October 1, 2005, the California Department of Transportation (Caltrans), the agency that administers Federal grant programs for transportation and transit projects in the State of California on behalf of FHWA and FTA, will not approve "Authorizations to Proceed" for new projects or any new phases of ongoing projects until the agency's 2005/2006 Annual Goal is adopted. The DBE Program is a legal document to assure contracting opportunities in good faith for all businesses in the contract-related fields including those owned by minorities and/or women. The eight-percent "Overall Goal" takes into consideration all DBE contracting opportunities for the City of Visalia's transportation and transit projects. Project-specific goals will be determined on a project-by-project basis, and could, potentially, vary significantly from the Overall Goal. The City of Visalia also has many non-

federally-funded projects that offer additional opportunities for DBE contractors, but those projects are not subject to the DBE Program requirements and goals.

The Overall Goal and project-by-project goals are established using a State-approved formula which looks at the percentage of DBE firms available in the local contracting area compared to all of the available firms specializing in a specific trade in the same local area. For the city of Visalia, our "local area" consists of Tulare, Kings, Kern, and Fresno counties. This year, the Methodology yielded an overall DBE goal of 7.2%, but, because of the City of Visalia's past success in meeting or exceeding its DBE goals, that number was rounded up to 8.0%. The State has concurred with the 8.0% Overall Goal and gave its approval on August 17, 2005. The public hearing to adopt the Annual DBE Goal and Methodology has been properly noticed and the documents have been made available for public review and comment since August 18, 2005. No comments have been received. While each project will have a project-specific DBE Goal, only the Overall Goal requires annual Council adoption.

Over the past five years, the City of Visalia has exceeded its Annual Goal as shown on the table below:

DBE CONTRACTING OPPORTUNITIES ON <u>FEDERALLY-FUNDED</u> PROJECTS						
Federal FY	Project	Dollar Amount of Total Project	Dollar Amount of DBE Contract	Annual Goal	Actual DBE Participation	DBE Category
2000/01	Garden Street Pedestrian Area Design	\$30,000	\$0	7.00%	0.00%	N/A
2000/01	Transit Center Design	\$277,000	\$12,500	7.00%	4.50%	Woman
2000/01	Intersection of SR63 @Houston Avenue	\$415,000	\$190,000	7.00%	45.80%	Hispanic
2000/01	Transit Marketing Plan	\$19,000	\$19,000	7.00%	100.00%	Woman
2000/01	Short-Range Transit Plan	\$34,000	\$34,000	7.00%	100.00%	Woman
2000/01 ANNUAL TOTALS =		\$775,000	\$255,500	7.00%	33.00%	
2001/02	Transit Center Construction	\$3,144,000	\$3,144,000	9.00%	100.00%	Woman
2001/02 ANNUAL TOTALS =		\$3,144,000	\$3,144,000	9.00%	100.00%	
2002/03	Garden Street Pedestrian Plaza	\$222,644	\$6,000	9.00%	2.69%	Veteran

2002/03	Street Paving (various locations within the city)	\$123,765	\$61,223	9.00%	49.47%	Hispanic, Indian
2002/03 ANNUAL TOTALS =		\$346,409	\$67,223	9.00%	19.41%	
2003/04	Short-Range Transit Plan	\$50,000	\$50,000	9.00%	100.00%	Woman
2003/04 ANNUAL TOTALS =		\$50,000	\$50,000	9.00%	100.00%	
2004/05	Tree Planting on Major Travel Corridors	\$217,348	\$23,760	7.00%	10.93%	Indian
2004/05	Transit Marketing Strategy	\$36,000	\$36,000	7.00%	100.00%	Woman
2004/05	Transit Center to Main St. Downtown Pedestrian	\$458,645	\$12,200	7.00%	2.66%	Indian
2004/05 ANNUAL TOTALS =		\$711,993	\$71,960	7.00%	10.11%	

The DBE Program is kept on file and is available for inspection during normal business hours at Visalia City Hall East, located at 315 East Acequia Avenue in downtown Visalia.

Prior Council/Board Actions: The City Council adopts an annual DBE Overall Goal prior to every Federal Fiscal Year.

Committee/Commission Review and Actions: None

Alternatives:

- 1) Adopt an Annual Goal other than the 8.0% goal prescribed by the approved Methodology.
- 2) Delay adopting an Overall DBE Goal, placing Federally-funded projects on hold.
- 3) Do not adopt an Overall DBE Goal and fund all City projects with only local and/or State dollars.

Attachments: Resolution 2005- , Adopting the Annual DBE Goal

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to adopt the Final 2005/2006 DBE Overall Goal of eight percent.

Copies of this report have been provided to:

Financial Impact

Funding Source:

Budget Recap:

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

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 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:

RESOLUTION NO. 2005-

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA
ADOPTING THE 2005-2006 DISADVANTAGED BUSINESS ENTERPRISE (DBE) ANNUAL
OVERALL GOAL AND METHODOLOGY**

WHEREAS, The Federal Department of Transportation has established requirements for local agency Disadvantaged Business Enterprise (DBE) Programs (Reference: 49 CFR Part 26); and

WHEREAS, Local agencies receiving Federal-aid funding are required to have an official DBE Program and to submit an Overall DBE Goal and Methodology that is updated annually; and

WHEREAS, The City of Visalia Engineering Design and Transit Divisions have established said Goal and Methodology for transportation and transit projects receiving Federal funding in the 2005/2006 Federal Fiscal Year (Exhibit A); and

WHEREAS, The Overall Annual Goal was established using a Methodology approved by the California Department of Transportation (Caltrans); and

WHEREAS, The Draft 2005-2006 DBE Program Annual Goal and Methodology was submitted to Caltrans, and approved by the Caltrans District 6 Local Assistance Engineer (DLAE) on August 17, 2005; and

WHEREAS, The City has complied with the Federal requirements for public participation by having a noticed 45-day period for review and comment on its Draft 2005-2006 DBE Overall Goal and Methodology.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Visalia that the 2005-2006 Final Disadvantaged Business Enterprise (DBE) Overall Annual Goal and Methodology are hereby adopted for Federally-funded transportation and transit projects.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 3, 2005

Agenda Item Number (Assigned by City Clerk): 15

Agenda Item Wording: Public Hearing to approve the recommended expenditure of the State of California 2005 Citizens Option for Public Safety (COPS) funds of \$155,182 to continue funding two Police Officer positions, appropriating \$155,182 in recognition of the grant and approval of a Resolution regarding the grant. Resolution 2005-143 required.

Deadline for Action: October 3, 2005

Submitting Department: Police

Contact Name and Phone Number: Asst. Chief Bob Williams, ext. 4227 or Cheryl Jackson, ext. 4301

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

Department Recommendation and Summary:

It is recommended the 2005 Citizens Option for Public Safety (COPS) Program funds (\$155,182) be used to extend the salaries and benefits of two existing State COPS-funded Police Officer positions through June 2006. The current funding for the two existing State COPS-funded Officer positions will expire approximately at the end of October 2005.

The California State Legislature has again authorized the Citizens Option for Public Safety (COPS) Program. All funds received under this program are in addition to existing funds that local government may budget for local law enforcement. The City of Visalia Police Department is expecting to receive \$155,182. This State entitlement requires city councils to appropriate existing and anticipated COPS money exclusively to fund front line municipal police services in accordance with written requests submitted by the chief of police of that city. These written requests are to be considered by the City Council at a public hearing.

It is requested that this year's entitlement be used to extend the salaries and benefits of two existing State COPS-funded Police Officer positions through June 2006.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives: Refuse the designated grant money

Attachments: Resolution of the City Council authorizing the Police Department to use State COPS grant monies as recommended.

City Manager Recommendation:

Copies of this report have been provided to:

<i>Financial Impact</i>			
Funding Source: State COPS grant funds - \$155,182			
Account Number: _____ (Call Finance for assistance)			
Budget Recap:			
Total Estimated cost:	\$ 155,182	New Revenue:	\$ 155,182
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:			

Tracking Information: <i>(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)</i>
Resolution to be executed and returned to the Police Department to be submitted to the COPS Grant Oversight Committee.

Recommended Motion (and Alternative Motions if expected):
I move to approve the 2005 Citizens Option for Public Safety Program (COPS) funds be used to extend the salaries and benefits of two existing State COPS-funded Police Officer positions, \$150,791 be appropriated in recognition of the grant and that a Resolution regarding the grant be executed.

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. 2005-145

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA
AUTHORIZING THE POLICE DEPARTMENT
TO USE STATE COPS GRANT MONIES AS RESOLVED BELOW

WHEREAS, the City of Visalia has been granted State funds through the Citizen Option for Public Safety Program (COPS); and

WHEREAS, the monies are expected to be expended for the enhancement of services by the Police Department to the betterment of the community;

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

1. That the City Council of the City of Visalia held a public hearing to receive input from the public concerning the expenditure of the aforesaid funds; and

2. That the City of Visalia is committed to see that these funds are properly expended.

The foregoing resolution is hereby adopted this 3rd day of October, 2005 by the following vote:

YES:

NOES:

ABSTAIN:

ABSENT:

Steven Salomon, City Manager

ATTEST:

Roxanne Yoder, Chief Deputy City Clerk

City of Visalia
Agenda Item Transmittal

Meeting Date: October 3, 2005

Agenda Item Number (Assigned by City Clerk): 16

Agenda Item Wording: **Agenda Item Wording:** City Council Authorization to process the annual increase in Dog Licensing Fees (altered dogs: increase fee from \$10 to \$15 and unaltered dogs from \$25 to \$35), Cat Licensing Fees (altered cats: increase fee from \$5 to \$7 and unaltered cats from \$10 to \$15) and the Penalty Fee for Late or No License (increase fee from \$10 to \$20) at Valley Oak SPCA.

Deadline for Action:

October 3, 2005

Submitting Department:

Administration

Contact Name and Phone Number: Carol L. Cairns, Assistant City Manager 713-4324

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:

Valley Oak SPCA is recommending an increase in dog and cat licensing fees and the penalty fee for late or no license.

- Dogs: altered increase current \$25 fee to \$35
unaltered increase the current \$10 fee to \$15

- Cats: altered increase the current \$5 fee to \$7
unaltered increase the current \$10 fee to \$15

- Penalty fee for late or no license increase the current \$10 fee to \$20
(if an animal is picked up and transported to the shelter and is not licensed then the owner must pay to have the animal licensed as well as pay the penalty fee.

At the August 15, 2005, Council Meeting, city staff presented the new annual contract for services with Valley Oak SPCA. Included in the report was a recommendation to increase the current license fee for dogs and cats. The contract for services was approved by Council. However, Council requested the recommendation regarding the increase in licensing fees be brought back for further discussion.

Valley Oak staff have evaluated the fees related to animal control services and have provided city staff with the information for this report.

The City of Visalia contracts with Valley Oak SPCA to provide animal control services and to operate an animal shelter. These services are required by Visalia Municipal Code, Chapter 6,

Section 6.04.010 through Section 6.04.110. Certain operational fees are necessary in order to provide required services. If Council authorizes staff to move forward with the increases a Resolution will be brought back at a future meeting. Thereafter, the fees will be included in the City's annual Rates and Fess Document.

LICENSE FEES:

Over the past 5 years approximately 41,629 animals have been licensed. As of July 31, 2005, **5,699** animals have been licensed in the current year. The fee has only been increased once during the past five years.

	FY 02-03	FY 03-04
Dog-unaltered	\$20.00	\$25.00
Dog-spay/neutered	8.00	10.00
Cat-unaltered	6.00	10.00
Cat-spay/neutered	3.00	5.00

(This increase was a 25% increase in dog licenses and a 66.7% increase in cat licenses).

Valley Oak originally requested that licenses be increased 100%. However, after discussion with City Council at the August 15, 2005, meeting, they have revised the increase for the current fiscal year based upon increasing the late or no license penalty fee and increasing the community outreach programs.

The annual revenue from licensing is approximately \$135,000. Valley Oak has requested to increase licensing fees as follows for FY 2005-06:

	Current	Proposed
• Dogs: Unaltered	\$25	35 (40% increase)
Altered	10	15 (50% increase)
• Cats: Unaltered	10	15 (50% increase)
Altered	5	7 (40% increase)
• Penalty for late or no license	10	20 (100% increase)

Valley Oak strongly believes the current fees have been low and do not adequately reflect the amount of time, materials and allocated costs that are calculated into the licensing program. In addition, fees have not been increased in a timely fashion over the past years.

The attached chart reflects the licensing fees for surrounding communities. Valley Oak SPCA recommended increase in licensing fee for dogs fall within the range of local communities surveyed. Information was not collected on cats as cats are not required to be licensed in any of the communities surveyed.

Valley Oak SPCA has implemented the following community outreach programs to try to assist pet owners in getting their animals licensed, vaccinated, chip implantation for identification, spayed/neutered and in adopting pets.

- VOSPCA held the first annual DOG DAYS OF SUMMER parade and fair at Recreation Park on September 24, 2005, to promote the above;
- A new program titled 6/60 has been implemented to assist seniors over sixty years of age adopting a pet that is over 6 years old. The adoption cost is significantly decreased to find a home for older animals and for senior citizens. The current adoption rate is \$95 for dogs and \$65 for cats. This program allows a special adoption rate of \$20 for dogs and \$15 for cats.
- Until October 15, 2005, a special 20% discount is in place for cat adoptions.
- Groomingdales's grooming works with VOSPCA in maintaining a number of cats available for adoption.
- Information regarding VOSPCA services is available on the website, www.VOSPCA.org, Times Delta Fresno Bee, Foothill Gazette and TV Channel 30.

All of these programs aim to increase the number of pets licensed, promote healthy animals and provide happy homes for them to live in.

An additional item that was discussed at the August 15, 2005, Council Meeting was the Charles Hoey Adoption Center. This item will be brought back at a future time for discussion regarding the City's participation in the planning and financing of the project.

Prior Council/Board Actions:

Approval of the 2005-06 Animal Control Contract on August 15, 2005.

Committee/Commission Review and Actions:

n/a

Alternatives:

Do not increase licensing and penalty fees

Attachments:

Survey of licensing and penalty fees

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move the City Council authorize the City Manager to process the identified increase in dog and cat licensing fees and the identified increase in the penalty fee for late or no license and thereafter include such fee increases in the City's Annual Rates and Fees Document.

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:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

Key
D/M - doesn't matter
None- not a license option

Community Dog and Cat License Fees

DOG FEES

	<u>Spayed/Neutered Licenses</u>			<u>Unaltered Licenses</u>			<u>Sr. Citizen Discount Licenses</u>		
	1 year	2year	3 year	1 year	2 year	3 year	1 year	2 year	3 year
Porterville	\$ 5.00	None	None	\$ 10.00	None	None	None	None	None
Tulare County	10.00	16.00	22.00	25.00	40.00	55.00	None	None	None
Tulare	10.00	16.50	None	41.00	76.50	None	None	None	None
Kings County	6.00	10.00	13.00	20.00	30.00	40.00	None	None	None
Hanford	6.00	10.00	13.00	20.00	30.00	40.00	None	None	None
Kern County	15.00	25.00	30.00	60.00	120.00	150.00	None	None	None
Bakersfield	15.00	25.00	30.00	60.00	120.00	150.00	None	None	None
Woodlake	None	None	None	None	None	None	None	None	None
Fresno County	4.00	None	12.00	10.00	None	30.00	\$ 2.00	None	6.00
Fresno	4.00	None	10.00	10.00	None	27.00	2.00	None	4.00
Clovis	8.00	14.00	18.00	5.00	9.00	13.00	5.00	9.00	13.00
Modesto	14.00	28.00	42.00	28.00	56.00	84.00	None	None	None
Visalia									
Current	10.00	None	None	25.00	None	None	None	None	None
Proposed	15.00	None	None	35.00	None	None	None	None	None

DOGS PICKED-UP WITH NO LICENSE

	<u>Spayed/Neutered</u>	<u>Unaltered</u>	<u>Impound Fee: To pick up dog</u>	<u>If Licensed</u>	<u>Pay For License and Add.Fees or/ Unlicensed</u>
Porterville	D/M	D/M	\$ 60.00	Only pay impound fee	Yes
Tulare County	\$ 10.00	\$ 25.00	\$ 30.00	Only pay impound fee	Yes
Tulare	All fees are charged based on specific situations of the dog and impoundment.				
Kings County	D/M	D/M		\$ 35.00	\$ 65.00
Hanford	D/M	D/M		\$ 35.00	\$ 65.00
Kern County	Owner Receives a ticket and is charged with Add.Fees ranging from \$100 and up				
Bakersfield	Owner Receives a ticket and is charged with Add.Fees ranging from \$100 and up				
Woodlake	Licenses are not required, however they do have a Leash Law that is required				
Fresno County	D/M	\$ 35.00	All additional fees and penalties included depends on situation		
Fresno	D/M	\$ 35.00	All additional fees and penalties included depends on situation		
Clovis	Free (if licensed)	\$65 and unlicensed	\$30 no license but altered		\$35licensed/unaltered
Modesto	D/M	D/M	Pick-Up Fee: \$12 plus Impoundment: \$30		Yes
Visalia					
Current	D/M	D/M	\$ 10.00 for any dog	D/M	D/M
Proposed	D/M	D/M	\$ 20.00 for any dog	D/M	D/M

Cats are not required to be Licensed in any of these communities