

# Visalia City Council Agenda



For the special meeting of: Monday, October 24, 2005

Location: Visalia Convention Center

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

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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.

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## **CLOSED SESSION**

**6:30 p.m.**

1. Conference with real property negotiators  
Property: 501 N. Church Street and 110 E. Murray Avenue, Visalia, California  
Under Negotiation: Price, terms and conditions that may be included in a potential purchase and sale agreement  
Negotiators: Steve Salomon, Bob Nance and Mark Avedian of Avedian Properties representing Philip S. & Maureen A. Bianco
  
- 1a. Conference with real property negotiators  
Property: East side 300 block of N. Tipton, 404 N. Tipton and APN: 094-250-036, Visalia California  
Under Negotiation: Price, terms and conditions that may be included in a potential purchase and sale agreement  
Negotiators: Steve Salomon, Bob Nance, Colby Wells, and Ruth Love of the Southern California Gas Company

## **REGULAR SESSION**

**7:00 p.m.**

**PLEDGE OF ALLEGIANCE**

**INVOCATION -**

**SPECIAL PRESENTATIONS/RECOGNITION**

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

2. **REGULAR ITEM** - Update on Scenic Airline's scheduled service to Las Vegas from the Visalia Airport.
3. **PUBLIC HEARING** - for Contract Cancellation No. 2005-04: a request by Joe Freitas, property owner (DBO Development Co., applicant) to cancel Williamson Act Land Conservation Contract No. 10350 within Agricultural Preserve No. 3503, covering 34 acres. The site is located on the north and south sides of Cameron Avenue, approximately ¼ mile east of Mooney Blvd. (APN: 126-062-069[portion], 126-730-015) **Resolution 2005-152 required.**

## **REPORT ON ACTIONS TAKEN IN CLOSED SESSION**

## **REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS**

### **Upcoming Council Meetings**

Monday, November 7, 2005  
Monday, November 21, 2005  
Monday, December 5, 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 24, 2005

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

**Agenda Item Wording:** Update on Scenic Airline's Scheduled Service to Las Vegas from the Visalia Airport.

**Deadline for Action:** None

**Submitting Department:** Administrative Services - Airport

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

For action by:

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

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 15

### Department Recommendation and Summary:

#### Executive Summary:

On September 30, 2005, Scenic Airlines completed its first full month of operating non-stop flights from Visalia to Las Vegas. Following a hugely successful grand opening event on September 1<sup>st</sup>, the Airline sold 1,548 tickets in the month of September and has sold a total of 2,440 tickets through October 17<sup>th</sup>. The number of tickets sold in eight (8) weeks, so far, totals over 600 tickets more than United Airlines sold all last year.

#### Background:

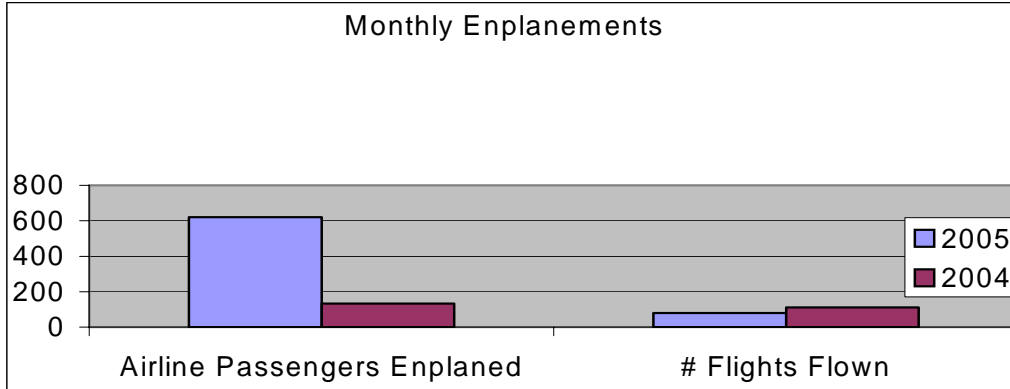
The new service began September 1, 2005, operating a pressurized 19-passenger Beechcraft 1900 aircraft from the North Las Vegas Airport providing ten (10) flights per week. Fares start as low as \$89 per one-way trip. Since that time, sales have been steadily increasing and Scenic officials have stated that they are pleased with the average daily sales.

As expected, weekend flights are typically full or close to full. However, midweek flights have shown appeal to the local traveler. One recent flight, midweek, had 15 passengers booked. Of those 15 passengers, 3 were continuing on via the free shuttle to catch a connecting flight out of Las Vegas International Airport.

The chart below shows a comparison of September 2005, with September 2004, during which time service was provided by United Express/SkyWest. As can be seen in the chart, the number of passengers increased 370%, while the passengers per flight increased over 500%. This increase is despite the fact that Scenic flies a 19 passenger aircraft compared to the 30 passenger airplane flown by United.

**September**

DESCRIPTION	2005	2004	
<b>Airline Passengers Enplaned</b>	<b>620</b>	<b>132</b>	<b>370%</b>
<b># Flights Flown</b>	<b>80</b>	<b>110</b>	<b>-27%</b>
<b>Avg. Pass./Flight</b>	<b>7.75</b>	<b>1.20</b>	<b>546%</b>



The airport has received many compliments on the new service from satisfied passengers and all signs point to the number of the passengers increasing. Scenic continues to advertise the new service in both print and radio media and the airport is receiving numerous inquiries daily about the service.

**Prior Council/Board Actions:**

December 1, 1997 - Council authorized the execution of this same agreement with West Air Commuter Airlines.

May 4, 1998 - Council authorized the execution of this same agreement with SkyWest Airlines.

June 16, 2003 - Council adopted Resolution 2003-79 authorized staff to submit an application for the Small Community Air Service Development Grant.

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:**

**City Manager Recommendation:**

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

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

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

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

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

**NEPA Review:**

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

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

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia**  
**Agenda Item Transmittal**

**Meeting Date:** October 24, 2005

**Agenda Item Number:** 3

**Agenda Item Wording:**

Public Hearing for Contract Cancellation No. 2005-04: a request by Joe Freitas, property owner (DBO Development Co., applicant) to cancel Williamson Act Land Conservation Contract No. 10350 within Agricultural Preserve No. 3503, covering 34 acres. The site is located on the north and south sides of Cameron Avenue, approximately ¼ mile east of Mooney Blvd. (APN: 126-062-069[portion], 126-730-015) **Resolution No. 2005-152 required.**

**Deadline for Action:** None

**Submitting Department:** Community Development and Public Works Dept. - Planning

**Contact Name and Phone Number:** Brandon Smith, Associate Planner (559) 713-4636

For action by:

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

For placement on which agenda:

- Work Session  
 Closed Session  
 Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 15

**Department Recommendation and Summary:**

Planning Division Staff recommends that the City Council hold a public hearing and then approve a request for the full cancellation of Land Conservation Contract No. 10350, covering 34 acres on a portion of the site of Phase 2 of the Packwood Creek Regional Commercial Center. The site is located on the north and south sides of Cameron Avenue, approximately ¼ mile east of Mooney Boulevard.

Request

DBO Development, who represents property owner Joe Freitas, is requesting the cancellation of 34 acres under contract for the alternative use of a planned commercial center to be anchored by CostCo. The Williamson Act Cancellation follows other entitlements which have been approved on this site to facilitate the construction of Phase 2 of the Packwood Creek Commercial Center, a two-phase regional commercial center that will yield approximately 422,000 sq. ft. in commercial space, and will be anchored by a new CostCo Wholesaler. In February 2005, Council initiated the annexation of the land for the project, and in September of 2005, the Planning Commission approved a parcel map and development plan (see attached) for the first phase of the development south of Cameron Avenue.

The site's contract and preserve must be cancelled before the approved tentative parcel map can be recorded as a final map, allowing the site to develop. The Planning Commission's approval of the related parcel map and conditional use permit on September 12, 2005 was subject to the successful removal of the contract. The environmental effects of the cancellation of the contract were analyzed in the EIR for the South Packwood Creek Specific Plan.

### Contract Background

Land Conservation Contract No. 10350, along with Agricultural Preserve No. 3503, became effective in 1977 at the request of property owner Mabel Freitas. At the time application was made, the property was within one mile of the City limits of Visalia; however the City did not protest the formation of the agricultural preserve and contract.

The Contract and Preserve was originally 42.32 acres in size. In 2002, an application was made by property owner Joe Freitas to the County of Tulare to remove an 8.10-acre portion of the Contract and Preserve. A Notice of Partial Non-Renewal was also filed for the 8.10 acres. The alternative use for the land was Phase 1A of the Packwood Creek Commercial Center, which has since been developed (the 8.10-acre portion of Contract and Preserve was located on the southeast corner of the commercial center). The County Board of Supervisors approved the request on July 23, 2002. This portion of land was subsequently annexed into the City limits on September 11, 2002.

In January 2005, an application was filed to annex the subject property into the City limits. City Council initiated the annexation on February 21, 2005, and the Annexation was approved by the Tulare County LAFCO on May 4, 2005. The annexation was recorded on October 12, 2005, at which point the City succeeded to the remainder of Contract No. 10350 and Preserve No. 3503. In doing so, the City now has jurisdictional authority over the Contract and Preserve.

Currently, the site is vacant and contains non-cultivated farm land. The contracted land is physically divided on the north and south by Cameron Avenue.

### Required Findings

Based upon the analysis prepared by staff (included as an attachment), Staff believes that the Council can make both the five "consistency" findings as well as the two "public interest" findings that would allow the contract to be tentatively cancelled. According to State law, at least one of the two sets of findings must be made in order for a Council to tentatively approve the cancellation. Staff's recommendation includes proposed conditions that must be met before the final cancellation can be approved. The proposed conditions and the procedure of tentative and final cancellation are all in accordance with the procedures outlined in State law (Sections 51280 through 51287 of State Government Code).

The recommended conditions are as follows:

1. The applicant shall make full payment to the Tulare County Treasurer for the amount of the cancellation fee, which is \$518,750 (12.50 % of the land's current fair market value of \$4,150,000).
2. Unless the cancellation fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, the fee shall be recomputed as of the date of notice that the landowner has satisfied the required conditions of the tentative cancellation.
3. The applicant shall file an application and pay application fees for the disestablishment of Agricultural Preserve No. 3503.

State law requires that a copy of the petition for cancellation be sent to the Department of Conservation, which will conduct its own analysis of findings and determines if the "consistency" and "public interest" findings can be made. The City Council is then required to consider the comments received by the Department of Conservation before taking action on the item. The comment letter received for this cancellation raises objections to the proposed contract



cancellation. Staff has concluded that analysis of the required findings is unsubstantiated in this case due to the site's location within the current Urban Development Boundary and its designation by the General Plan for Regional Retail Commercial as an extension of the planned commercial development along South Mooney Blvd. The enclosed analysis of the required findings provides Staff's recommendations on these issues. One of the conclusions of the analysis is that denying the proposed cancellation would have negative effects upon the agricultural land because the site would be surrounded on three sides by urban development.

### Williamson Act Background

Since the State began the Williamson Act program in the late 1960's, many landowners of agricultural land have requested to have their land designated as agricultural preserves. (Tulare County has about 1.1 million acres of land in agricultural preserve, the most land of any county in the State.) Once in preserve the landowner signs a contract with the city or county in which the property is located. The standard contract states that in exchange for a reduction in property taxes, the owner agrees to only use the land for agricultural purposes. The terms of these contracts are initially set for ten years, and are automatically renewed annually for an additional year, unless the property owner or the city/county files a Notice of Non-Renewal of the contract. Once this notice is filed, the contract is no longer renewed and expires after ten years. During those ten years, property taxes are gradually increased to the noncontracted tax rate. In this case, the property owner has filed a Notice of Non-Renewal dated March 8, 2005.

State law does provide for a cancellation procedure. It requires that the City Council hold a public hearing, and that the Council make specific findings regarding whether or not it is appropriate to cancel the contract. If it makes the findings, the Council can tentatively cancel the contract subject to conditions, including payment by the landowner of a penalty fee that is determined by the County Assessor. Once the fee is paid to the County Auditor and any other conditions are met, the City can issue a final cancellation, which would allow the property to develop. The cancellation fee is calculated 12.5% of the fair market value of the property as determined by the County Assessor. In this case, the County Assessor has determined that the current fair market value for the 34 acres under Contract is estimated at \$4,150,000; therefore the fee would be \$518,750. Once the fee is paid to the County Treasurer and all other conditions required by Council are satisfied, the City can issue a final cancellation, which would allow the property to develop.

In case of Contract No. 10350, the applicant has requested cancellation so that the Phase 2 development of the South Packwood Creek commercial project may move forward. Staff has analyzed the request, considered the comments received from the Department of Conservation, and conducted its own analysis of whether or not the findings can be met. The attached report entitled "Analysis of Findings for Cancellation of Contract No. 10350" contains that analysis. Based upon the analysis and the information in the EIR for the South Packwood Creek Specific Plan and Phase I Regional Retail Development, Staff believes that the five "consistency" findings as well as the two "public interest" findings can be made. A major factor in the analysis of the findings is the strong growth management policies and Urban Development Boundary system that the City of Visalia has in its General Plan.

### Environmental Findings

On April 24, 2002, a Final Environmental Impact Report (EIR) (State Clearinghouse No. 2000121005) was certified by the Council for the South Packwood Creek Specific Plan and the development of Phase I of the Specific Plan. The Specific Plan and the project description for the Final EIR both reference the cancellation of all contracts under Williamson Act designation within the Specific Plan area for all phases of the Packwood Creek development. The Final EIR was prepared in conformance with the California Environmental Quality Act (CEQA), and addressed environmental impacts associated with the above actions. The document disclosed that the project with mitigation will result in less than significant environmental impacts, and will result in unavoidable significant environmental impacts for the fields of agricultural resources and air quality.

Staff is recommending that the Council make the finding that the certified Final EIR for the South Packwood Creek Specific Plan and the development of Phase I of the Specific Plan addresses the environmental impacts and mitigation measures relating to Contract Cancellation No. 2005-04, and that no subsequent or supplemental EIR is required.

**Prior Council/Board Actions:** None.

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

**Alternatives:** None recommended.

**Attachments:**

- Resolution for Tentative Cancellation
- Analysis of Findings for Cancellation of Contract No. 10350
- Letter Received from Tulare County Assessor
- Letter Received from Department of Conservation
- Agricultural Preserves in Vicinity of Contract
- Approved site plan for Phase 2 of the Packwood Creek Commercial Center
- Location Sketch

<b>Financial Impact</b>	
<b>Funding Source:</b>	
I move to adopt Resolution No. 2005-152, finding that the certified Final EIR (SCH 2000-121005) for the South Packwood Creek Specific Plan and the development of Phase I of the Specific Plan addresses the environmental impacts and mitigation measures relating to annexation and that no subsequent or supplemental EIR is required, and approving the Tentative Cancellation of Land Conservation Contract No. 10350 as conditioned..	
<b>Budget Recap:</b>	(Call Finance for assistance)
Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

**City Manager Recommendation:**

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes

Review and Action: Prior:

Required: Council is being recommended to find that the previously certified EIR for the South Packwood Creek Specific Plan and Phase I Regional Retail Development addresses the initiation of the annexation and is sufficient for CEQA compliance.

**NEPA Review:**

Required? No

Review and Action: Prior:

Required:

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

If approved, a Certificate of Tentative Cancellation to be recorded by the City Clerk with the Tulare County Clerk.

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

RESOLUTION NO. 2005-152

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,  
APPROVING A CERTIFICATE OF TENTATIVE CANCELLATION FOR LAND  
CONSERVATION CONTRACT NO. 10350 WITHIN AGRICULTURAL PRESERVE NO. 3503,  
LOCATED ON THE NORTH AND SOUTH SIDES OF CAMERON AVENUE, APPROXIMATELY  
¼ MILE EAST OF MOONEY BLVD.

**WHEREAS**, a request was made for the cancellation 34 acres of Williamson Act Land Conservation Contract No. 10350 within Agricultural Preserve No. 3503, located on the north and south sides of Cameron Avenue, approximately ¼ mile east of Mooney Blvd. (APN: 126-062-069[portion], 126-730-015). The request was made by property owner Joe Freitas, represented by DBO Development Co.; and

**WHEREAS**, the subject property is within Agricultural Preserve No. 3503, established pursuant to the Williamson Act (California Government Code Section 51200 et seq.) and is subject to Land Conservation Contract No. 10350; and

**WHEREAS**, the Agricultural Preserve No. 3503 and Land Conservation Contract No. 10350 were established and entered into between the County of Tulare and property owner in 1976 and 1977; and

**WHEREAS**, the property owner has served a Notice of Non-Renewal for the entire area contained under said Contract, and the notice was recorded as Document No. 2005-0024632 at the Tulare County Recorder on March 8, 2005; and

**WHEREAS**, the City Council of the City of Visalia, after ten (10) days published notice did hold a public hearing on October 24, 2005, regarding the request for cancellation; and

**WHEREAS**, notice of the public hearing was also given pursuant to Government Code Section 51284; and

**WHEREAS**, the City Council of the City of Visalia finds that the findings required by State law by which said contract may be tentatively canceled have been made; and

**WHEREAS**, the City Council finds the Contract Cancellation to be carried out in accordance with procedures for tentative cancellation of contracts outlined in State law; and

**WHEREAS**, a Final Environmental Impact Report (EIR) (State Clearinghouse No. 2000121005) was prepared and previously certified by the Visalia City Council on April 24, 2002 by Resolution No. 2002-32 for the South Packwood Creek Specific Plan and the development of Phase I of the specific plan, consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines; and

**WHEREAS**, the City Council has reviewed and considered the EIR for the South Packwood Creek Specific Plan and the development of Phase I of the specific plan (State Clearinghouse No. 2000121005), well as other supporting documents.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Visalia makes the following findings regarding the proposed cancellation:

1. That the cancellation is for land on which a notice of non-renewal has been served pursuant to Section 51245 of State Government Code.
2. That cancellation is not likely to result in the removal of adjacent lands from agricultural use.
3. That cancellation is for an alternative use which is consistent with the applicable provisions of the city or county general plan.
4. That cancellation will not result in discontinuous patterns of urban development.
5. That there is no proximate non-contracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non contracted land.
6. That other public concerns substantially outweigh the objectives of the Williamson Act.
7. That a Final Environmental Impact Report (EIR) (State Clearinghouse No. 2000121005) prepared for the South Packwood Creek Specific Plan, which was certified by the Visalia City Council on April 24, 2002 by Resolution No. 2002-32, addresses the environmental impacts and mitigation measures relating to the cancellation of all contracts under Williamson Act designation within the Specific Plan area for all phases of the Packwood Creek development.

There are (a) no substantial changes proposed in the project which will require revisions of the Final EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (b) no substantial changes that have occurred with respect to circumstances under which the project is undertaken which will require major revisions of the Final EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or (c) no new information of substantial importance, which was not known or could not have been known with the exercise of reasonable diligence at the time the Final EIR was certified as complete, that shows any of the following: (i) the project will have one or more significant effects not discussed in the Final EIR; (ii) significant effects previously examined will be substantially more severe than shown in the Final EIR; (iii) mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or (iv) mitigation measures or alternatives which are considerably different from those analyzed in the Final EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The Council has reviewed the Final EIR and subsequent documentation prepared to support the adequacy of the Final EIR in approving this annexation, and reaffirms and incorporates (to the extent necessary and required by law) the findings under CEQA adopted by the Council in approving the Specific Plan and Statement of Overriding Considerations.

8. There is no evidence before the Council that the proposed project will have any potential for adverse effects on wildlife resources, as defined in Section 711.2 of the Department of Fish and Game Code.

9. Based upon the certification of cancellation valuation of the site by the Tulare County Assessor, the City Council determines and certifies to the Tulare County Auditor that the appropriate cancellation fee to be paid to the Tulare County Treasurer upon cancellation of Contract No. 10350 is \$518,750.

**BE IT FURTHER RESOLVED** that the City Council of the City of Visalia approves a tentative cancellation of Land Conservation Contract No. 10350, in accordance with the terms of this resolution under the provisions of Sections 51280 through 51287 of the State Government Code and based on the above findings, subject to the following conditions:

1. The applicant shall make full payment to the Tulare County Treasurer for the amount of the cancellation fee, which is \$518,750 (12.50 % of the land's current fair market value of \$4,150,000).

2. Unless the cancellation fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, the fee shall be recomputed as of the date of notice that the landowner has satisfied the required conditions of the tentative cancellation.

3. The applicant shall file an application and pay application fees for the diminishment of Agricultural Preserve No. 3503.