

Visalia City Council Agenda

For the regular meeting of: Monday, October 15, 2007

Location: City Hall Council Chambers – 707 W. Acequia, Visalia, CA 93291

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

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

EMPLOYEE INTRODUCTION

Introduction of Gregory Glass, Interim Fire Chief, by Steve Salomon, City Manager

WORK SESSION AND ACTION ITEMS (as described)

4:00 p.m.

Public Comment on Work Session Items -

1. Selection of a recommended Light Rail Transit (LRT) route and authorize staff to communicate recommendation to Tulare County Association of Governments (TCAG) for further study.
2. Update regarding the Sequoia Shuttle project, authorization to negotiate with NPS regarding City operation of the internal park shuttle; and, authorization to increase the gateway shuttle fee to \$15.
3. Review of initial work program for the Natural Resource Conservation Division.

The time listed for each work session item is an estimate of the time the Council will address that portion of the agenda. Members of the public should be aware that the estimated times may vary. Any items not completed prior to Closed Session may be continued to the evening session at the discretion of the Council.

ITEMS OF INTEREST

CLOSED SESSION

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

4. Conference with Real Property Negotiators (G.C. §54956.8)
Property: APN:121-090-041, 063; 122-011-008, 019, 020;
Under Negotiation: Consideration and approval of appraisals; Authority to negotiate price, terms and conditions of potential purchase
Negotiating Parties: Steve Salomon, Andrew Benelli, Colleen Carlson, Sequoia Plaza Shopping Center, Donald P. Celillo, Keith and Peggy Wilson, Joe and Nancy Berry, John and Betty Lauffenburger

5. Conference with Real Property Negotiators (G.C. §54956.8)
Property: APN: 079-071-018, 020
Under Negotiation: Consideration and approval of appraisals; Authority to negotiate price, terms and conditions of potential purchase
Negotiating Parties: Steve Salomon, Andrew Benelli, Colleen Carlson, Mary Bianco, Colegio de la Tierra/Beatriz Hernandez, Visalia Shannon Land Development Company, Inc./Chris Tyler

6. Conference with Legal Counsel – Anticipated Litigation (54956.9 GC) Significant Exposure to Litigation pursuant to subdivision (b): two potential cases

7. Conference with Real Property Negotiators (G.C. §54956.8)
Property: 440 N. Giddings
Under Negotiation: Price, terms, conditions of lease
Negotiators: Steve Salomon, Carol Cairns, Tom Seidler

8. *Item removed at the request of staff*

REGULAR SESSION

7:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION – Pastor Jon Venema, Grace Community Church

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.

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) Receive Planning Commission Action Agenda for the meeting of October 8, 2007.
 - c) Second Reading of Ordinance No. 2007-16 for Change of Zone No. 2007-12: A request by the City of Visalia to amend the Central Business District Parking Zone A boundary to include property located at 101 N.E. Third Street in the P-C-DT (Planned Central Business District Retail) Zone (APNs: 094-033-007, 008, 009, 010).
 - d) Authorization to award the Demolition and Over-Excavation contract for the Right-Field Improvements phase of the Recreation Park Stadium Expansion Project to Hobbs Construction of Fresno in the amount of \$144,808 and authorization for City Manager to execute the agreement. Project #0011-15152-72-0-8037.
 - e) Authorization to set the 2008 health benefit contribution rate for City employees and participating retirees; and, payment of the increase from interest earning for the first two months of the new plan year.
 - f) Award bid for a dump truck and trailer to Kenworth of Central California for \$170,706.42.
 - g) Award bid for two (2) dump trucks and a water truck for the Streets Division to Kenworth of Central California for \$273,699.00.
 - h) Purchase two (2) solar-powered compactor waste receptacles to be used downtown.
 - i) Request authorization to file a Notice of Completion for the Dinuba Boulevard / State Highway 63 Improvement Project with the final contract amount of \$796,592.40. Project No. 1241-720000-0-0-9739-2007.
 - j) Award a contract for the 2008 Major Street Overlays – County Center Drive and Court Street to Lee’s Paving Inc., in the amount of \$999,377.50. Project No. 1111-00000-0-720000-0-9225-2008.
10. Introduction of Ordinance No. 2007-14 Rescinding Ordinance No. 2006-13, and Authorizing the City Manager to Execute a nine (9) year, with a six (6) year renewal option, Lease of Recreation Park Stadium, for professional baseball, with Top of the Third, Inc.
11. **PUBLIC HEARING** – Introduction of Ordinance 2007-17 for Change of Zone No. 2007-01: A request by Mario Aguilera to amend Zoning Ordinance Section 17.32.161 to change the location criteria for fast food restaurants with or without drive-thru in the Light Industrial zone (IL).

12. **PUBLIC HEARING** - Approve the recommended expenditure of and appropriate the State of California 2007 Citizens Option Public Safety (COPS) Program funds of \$226,411. **Resolution 2007-87 required.**
13. Consider request by the County of Tulare to participate in the planning process for the proposed Mooney Grove Park Master Plan.

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS

Appointment of Interim Fire Chief effective 10/8/07

Buyer	Seller	APN #	Address	Purpose	Closing Date	Project Manager
City of Visalia	DBO Development No. 29	126-050-018 (2.97 acres)	Generally located on Cameron Ave btw. Woodland St. and Mooney Blvd. (Property runs along Packwood Creek)	Riparian Setback Area	10/5/07	D. Stone

14. Adjourn regular meeting to October 29, 2007, 4:00 p.m., at the City Hall Council Chambers for the following item: Second Reading of Ordinance 2007-14 Rescinding Ordinance No. 2006-13, and Authorizing the City Manager to Execute a nine (9) year, with a six (6) year renewal option, Lease of Recreation Park Stadium, for professional baseball, with Top of the Third, Inc. *Motion required to adjourn.*

Upcoming Council Meetings

- Monday, October 29, 2007; 4:00 p.m. - Regular Adjourned Meeting - City Council Chambers 707 W. Acequia
- Monday, October 29, 2007 Special Meeting - 4:05 p.m. (Or, immediately following Regular Adjourned Meeting) - City Council Chambers 707 W. Acequia
- Monday, November 19, 2007; Work Session 4:00/Regular Session 7:00 p.m. - City Council Chambers 707 W. Acequia
- Monday, December 3, 2007, Work Session 4:00/Regular Session 7:00 p.m. - City Council Chambers 707 W. Acequia

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 15, 2007

Agenda Item Number (Assigned by City Clerk): 1

Agenda Item Wording: Selection of a recommended Light Rail Transit (LRT) route and authorize staff to communicate recommendation to Tulare County Association of Governments (TCAG) for further Study

Deadline for Action: October 29, 2007

Submitting Department: Administration Department – Transit Division

Contact Name and Phone Number: Monty Cox, X4591

Department Recommendation

Select a recommended Light Rail Transit (LRT) route and authorize staff to communicate recommendation to Tulare County Association of Governments (TCAG) for further Study

Summary

City staff from the Traffic, Transit, Planning, Public Works and Economic Development divisions has evaluated the options and recommend that Council do the following:

1. Identify Mooney Boulevard as the preferred alignment for further study regarding BRT and LRT.
2. Identify Santa Fe as the corridor for further development as a bike trail.
3. Direct staff to initiate a planning process for Mooney Boulevard which would give strong consideration to higher densities along the approved route and to encourage Transit Oriented Development.
4. Recommend the LRT plan include provisions for a connection to the Visalia Municipal Airport and the future High Speed Rail Station.

In 2006 TCAG conducted a feasibility study to understand what a Light Rail Transit (LRT) operating between the cities of Visalia and Tulare would mean for those cities and for Tulare County as a whole. TCAG entered into an agreement with Wilber Smith Associates (WSA) to conduct the study. WSA held several informational and fact finding discussions throughout the area and identified three primary corridors that are potential routes; Mooney Boulevard, Santa Fe Avenue and SR99. They evaluated those three routes based on the criteria developed from successful LRT projects in Sacramento, Salt Lake City, San Jose, Dallas, and San Diego.

For action by:

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

For placement on which agenda:

- Work Session
- Closed Session

Regular Session:

- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

They provided their findings in a report that was presented to TCAG and the various City Councils during the last few months. The preliminary finding of the study is that under current policies a Visalia-Tulare LRT system will not likely be seen as cost-effective by federal funding administrators for 2030; however, there are steps the city can take to provide a less-costly transit service such as Bus Rapid Transit (BRT) and while so doing increase residential and commercial densities along the route, thereby making LRT more feasible along the same corridor. WSA is now working to identify the preferred route that can be developed toward that end and is requesting direction regarding which corridor to pursue.

Representatives from WSA will be available by phone to answer questions during the discussion of this item by Council.

Discussion

TCAG hired Wilber Smith Associates to define what Light Rail Transit between Tulare and Visalia would mean for the County in terms of ridership, costs, subsidies, and land use. They studied lessons learned from other LRT implementations, demographics of the area, LRT and alternative technologies, route alternatives, ridership potential, costs, funding sources and near term transit improvements. One of the most promising alternatives/preparatory services that can be deployed sooner is Bus Rapid Transit (BRT). BRT is an innovative, high-capacity, lower-cost public transit solution that can achieve the performance and benefits of more expensive rail modes. This integrated system uses buses or specialized vehicles on roadways or dedicated lanes to quickly and efficiently transport passengers to their destinations, while offering the flexibility to meet a variety of local conditions. BRT can operate on all types of running ways such as mixed flow arterials, mixed flow freeways, dedicated arterial lanes, at-grade transitways, fully grade-separated transitways, managed lanes, and in tunnels.

Staff from Public Works, Planning, Economic Development, Traffic, and Transit considered the information provided by the consultant and collectively came to the conclusion that the Mooney Blvd. route would best serve the City of Visalia to develop LRT, and possibly sooner, BRT for the following reasons:

- Mooney Blvd. is already established as the main transit corridor between Visalia and Tulare.
- Creating a competing corridor will have a negative effect on Mooney
- Several major destination points, crucial to providing the required ridership needed to make LRT feasible, exist on Mooney Blvd, such as shopping centers, COS and major government offices.
- Bus Rapid Transit (BRT) can be deployed much sooner with existing potential federal funding along this corridor.
- Some older commercial frontages on Mooney can be redeveloped over time to a mix of uses, including a residential component at densities that would help feed future LRT/BRT
- Mooney Blvd. does not have existing residential uses, such as on Santa Fe, that would prove difficult to develop with higher densities by 2030
- Future urban growth creating demands for employment/education/medical/ governmental/professional services are more likely to occur along Mooney Blvd

Some assumptions were used to evaluate potential LRT routes:

1. It would be an electrified LRT system
2. It will run from the transit center in Visalia to the transit center in Tulare
3. There will be a stop about every mile along the route
4. A train would come every 15 minutes during most of the day
5. It would operate daily

Five LRT systems were studied, Sacramento, Salt Lake City, San Jose, Dallas, and San Diego. Various Lessons were learned from those agencies. The study also looked at the demographics of the area, LRT alternative technologies, ridership potential, costs, funding and near term transit improvements. The following is a list of points that were discovered during the study:

- ◆ 4 of 5 LRT Systems were built with federal funds requiring an alternatives analysis
- ◆ LRT chosen because of cost effectiveness
- ◆ They had frequent headways
- ◆ 15-21 mile routes
- ◆ Weekday ridership of 11,000 to 35,000
- ◆ If LRT does not make sense now it may in the future
- ◆ LRT needs to be coordinated with land use planning to maximize use

WSA also discussed options to LRT and the relative cost difference between the options. It is important to point out that these are not mutually exclusive. It is very possible that the Cities could develop BRT initially and use the same corridor to construct the LRT in the future. The generalized cost differences include:

- ❖ Electric LRT: \$40m - \$50m per mile
- ❖ Diesel LRT: \$30m to \$40m per mile
- ❖ Historic Street Car: \$10m to \$15m per mile
- ❖ Express Bus (BRT): \$1m - \$3m per mile

A key to the success of the chosen route is to create an environment through City policy that encourages Transit Oriented Development (TOD). TOD has the following characteristics:

- High density residential development near station: 10+ units per acre
- Can generate 0.6 transit trips for each household w/i ½ mile of station
- 4,000 TOD households assumed for Tulare and Visalia in 2030

After considering all the criteria discussed above, three potential routes were identified as potential alignments for this service. Projected weekday ridership assuming TOD is also listed in parenthesis. If TOD was not included the estimates are about 30% of TOD ridership.

1. Santa Fe – This route would make use of the old Santa Fe Right of Way. Projected weekday ridership is 3,836 with TOD.
2. UP/Mooney – This route would serve Mooney Blvd. and the future commercial center in north Tulare. Projected weekday ridership is 4,148 with TOD.
3. UP/99/198 – This option makes use of UP right of way. Projected weekday ridership is 834 with TOD.

The projected performance of the three routes is identified in the following chart:

Ridership / Costs	Santa Fe		UP-Mooney Blvd.		UP-99-198	
	2030	2030 with TOD	2030	2030 with TOD	2030	2030 with TOD
Weekday Riders	1,436	3,836	1,748	4,148	834	3,234
Capital Costs	\$ 503,076,306	\$ 520,576,306	\$ 524,285,999	\$ 541,785,999	\$ 622,521,127	\$ 643,521,127
Annual Oper Costs	\$ 3,421,762	\$ 4,109,723	\$ 3,457,353	\$ 4,172,008	\$ 4,422,388	\$ 5,303,954
Annualized Costs	\$ 57,965,657	\$ 60,550,981	\$ 59,435,712	\$ 62,018,854	\$ 71,208,167	\$ 74,342,671
Annual Revenue	\$ 548,250	\$ 1,695,750	\$ 710,813	\$ 1,858,313	\$ 304,725	\$ 1,452,225
Annual Oper Subsidy	\$ 2,873,512	\$ 2,413,973	\$ 2,746,540	\$ 2,313,695	\$ 4,117,663	\$ 3,851,729
Fare Box Recovery	16.02%	41.26%	20.56%	44.54%	6.89%	27.38%
Cost per New Rider	\$ 160.08	\$ 53.72	NA	\$ 81.07	\$ 441.00	\$ 79.49
Capital Cost per Mile	\$ 42,525,470	\$ 44,004,760	\$ 41,942,880	\$ 43,342,880	\$ 40,608,032	\$ 41,977,895

Next steps once a route alignment is selected include actions that will need to be taken by both the City of Visalia and the City of Tulare as this project is moved forward. General Plan amendments and right of way preservation/acquisition will need to occur. All agencies must agree on alignment and general plan amendments for the LRT area.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives: None recommended

Attachments: None

Recommended Motion (and Alternative Motions if expected):

I move that the City Council select (Santa Fe, Mooney Blvd, SR99/SR198) as the recommended Light Rail Transit (LRT) route and authorize staff to communicate recommendation to Tulare County Association of Governments (TCAG) for further Study

Financial Impact

Funding Source:

Account Number:

Budget Recap:

Total Estimated cost: \$ _____	New Revenue: \$ 0
Amount Budgeted: \$ _____	*Lost Revenue: \$
New funding required: \$ 0	New Personnel: \$
Council Policy Change: Yes _____ No <u>X</u> _____	

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

City of Visalia Agenda Item Transmittal

Meeting Date: October 1, 2007

Agenda Item Number (Assigned by City Clerk): 2

Agenda Item Wording: Council update regarding the Sequoia Shuttle project, authorization to negotiate with NPS regarding City operation of the internal park shuttle; and, authorization to increase the gateway shuttle fee to \$15.

Deadline for Action: No Action Needed

Submitting Department: Administration – Transit Division

Contact Name and Phone Number:

Monty Cox 713-4591

Department Recommendation: Council update regarding the Sequoia Shuttle project, authorize staff to negotiate with NPS regarding City operation of the internal park shuttle; and, authorize an increase in the gateway shuttle fee to \$15.

Summary:

The City of Visalia operated the Sequoia Shuttle for the first season between Memorial Day weekend and Labor Day weekend. This was the first year of a three-year pilot project for both the City of Visalia and the National Park Service (NPS). Service from Visalia to Sequoia Park was operated by the Transit Division through our existing agreement with MV Transportation, doing business as Visalia Mountain Transit. Service within Sequoia Park was operated by the Transit Division under a Cooperative Agreement with the National Park Service also through our existing agreement with MV Transportation, doing business as Visalia Mountain Transit. Staff is requesting authorization to negotiate with the NPS to continue the service next year with potential changes to the route and fee schedules. Staff is also requesting authorization to increase the gateway shuttle fee from \$10 to \$15 in an effort to make this service more self-supporting.

After 20 years of planning by the National Park Service and 3 years of coordination between the NPS and the City of Visalia working with the National Park Service, the Sequoia Shuttle began service on May 23, 2007. It operated for 104 days straight to September 3 and carried 141,724 passengers. The route from Visalia to Sequoia Park is referred to as the gateway route and cost each round trip customer \$10. The two routes within Sequoia Park are the Giant Forest Route and the Moro Rock Route and were free to the passengers. The following table is a summary of the ridership by month and route:

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.):__

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

Sequoia Shuttle Passengers

2007 Season

<u>Month</u>	<u>Gateway Route</u>	<u>Giant Forest Route</u>	<u>Moro Rock Route</u>
May	364	4,015	2,169
June	1,238	16,295	7,904
July	1,635	35,076	17,914
August	1,752	30,357	15,010
September	315	5,047	2,633
Total	5,304	90,790	45,630

The gateway shuttle required reservations as well as a \$10 per person fare and provided five daily round trips from Visalia to the Giant Forest Museum in Sequoia Park. Reservations for the gateway shuttle were accepted 24 hours a day via an online website, www.sequoiashuttle.com, or a toll free number (877) BUS-HIKE.

In addition, under a cooperative agreement with the NPS, the City operated two shuttle routes within Sequoia Park. These shuttles were free and operated on basically a 15 minute frequency. The City contracted with Visalia Mountain Transit (a subsidiary of MV Transportation) to provide operations and maintenance services for both the gateway shuttle as well as the internal shuttle. While this was a learning year and we had many unexpected challenges our relationship with MV made it easier to respond quickly to the issues that came up. The public generally perceived the service favorably and felt it provided a benefit to the community and park visitors not previously available. The following is a discussion of some details related to the shuttle operations:

Discussion:

Gateway Route

The gateway shuttle operated five daily round trips starting at the Holiday Inn (866 rides) with stops at the Lamp Lighter Inn (454 rides), Convention Center (629 rides), and the Transit Center (525 rides) before leaving Visalia. It also had two stops in Three Rivers at the Comfort Suites (456 rides) and the Memorial Building (312 rides) ending at the Giant Forest Museum in Sequoia National Park. Ridership for the gateway route is counted by the number of one-way trips provided. The Gateway route provided 5,304 trips (each way is 1 passenger trip), which is calculated to be about 30% of total capacity. The bulk of the Gateway customers came from Europe, Southern California or Tulare County. A notable number of Gateway customers were disabled or low income and had not visited the park for many years.

Five buses left Visalia daily at 7:00, 8:00, 9:00, 10:00, and 1:00. The 1:00 was designed to leave after the daily Greyhound and Amtrak buses arrive in Visalia. Many customers took advantage of those connections. Daily return trips back to Visalia were available at 2:30, 3:30, 4:30, 5:30 and 6:30. Each one-way trip took up to 2 ½ hours. Reservations were required for the Gateway shuttle. Each Gateway shuttle only went to the stops where there were reservations for that trip. Schedules for future years will be modified to meet peak usage as determined by

our ridership analysis. The Gateway shuttle was funded with Congestion Mitigation Air Quality (CMAQ) funds and the Local Transportation Fund (LTF) programmed through the Tulare County Association of Governments. The gateway shuttle finances are detailed as follows:

<u>Gateway Operating Revenue & Expenses</u>		
CMAQ Grant (3 yrs)	\$1,046,000	
LTF Matching Funds (3 yrs)	136,000	
Passenger Fares - \$10ea (1 yr)	28,430	
Total Revenue	1,210,430	
Expenses (1 yr)	(238,900)	
Balance - Operations (2 yrs)		971,530

<u>Gateway Capital Revenues and Expenses</u>		
NPS Grant for shuttle buses (3-5 yrs)	400,000	
Buses and related expenses (3-5 yrs)	(584,951)	
Balance Capital (2 yrs)		<u>(184,951)</u>
Balance Operations and Capital (2 yrs)		\$786,579

As indicated above we collected \$28,430 in passenger fees or 11.9% of our operating expense. We have \$786,579 available to cover the operations of the gateway shuttle for the next two years. The above operating expenses include start up costs of at least \$40,000 that we will not have the next two years; therefore, we have ample funds to support the gateway shuttle for at least the next two years. These funds cannot be budgeted to cover operating expenses during a fourth year due to rules within the CMAQ program; however, we might be able to get authorization to use it for additional capital, such as buses. We can also use it to support a more extensive marketing campaign that will insure increased use of the existing shuttle buses. It is expected that with sufficient marketing the ridership will double for next year. Staff's request for authorization to increase the passenger fare to \$15, combined with the added marketing, will generate fare revenue for next year of \$85,290 or 42.6% of the operating cost. Staff will work toward a goal of covering 50% of the operating cost with the fares next year. At the end of the second year an additional increase will be evaluated, along with other funding mechanisms, to make sure sufficient funds are available to operate the service after the three-year demonstration.

Internal Park Routes

Two routes were operated within the Sequoia National Park, the Giant Forest route and the Moro Rock route. Both of these routes started from the Giant Forest Museum where they connected with the gateway route. The Giant Forest route had stops at the Sherman Tree trail, the Sherman Tree parking, Lodgepole Visitor Center and Wuksachi Lodge. The Moro Rock route also started at the Giant Forest Museum and stopped at Moro Rock and Crescent Meadow.

Ridership for the internal routes is determined by the number of boarding's along the route. The Giant Forest route provided 90,790 trips or about 70% of its capacity, while the Moro Rock route provided 45,630 trips or 88% of its capacity. The internal routes operated from 9:00 to 6:30 basically every fifteen minutes except for Wuksachi Lodge which was served every 30 minutes. The internal shuttle operating expenses are detailed as follows:

<u>Internal Routes Operating Revenue & Expenses</u>	
Revenue from NPS Task Agreement	\$509,180
Budget Operating Expenses (6375 hrs * \$54)	(344,239)

Excess Oper Exp (Ins, overtime, vanpool)	(91,076)
Annual Share of Bus & Trailer Expenses (\$908,444 by 5 yrs)	<u>(181,689)</u>
Balance – To be applied to future years (NPS)	(107,824)

As detailed above the City of Visalia received \$509,180 to operate the internal shuttle per the Cooperative and Task agreements entered into with the NPS. Those agreements were based on an operating expense of \$54 per revenue hour plus the annualized (lease) cost of the buses (estimated \$150,000). The actual cost of operations and capital for the internal shuttle ended up to be higher. The City communicated this to the NPS service and due to federal budgeting processes agreed to add the extra cost onto the two subsequent years of the three-year demonstration shuttle project. The increased cost, which will be reimbursed by the NPS, was due to the following:

1. Insurance for operating the shuttle in the mountains was higher than projected.
2. Housing for the contract employees needing to stay overnight in the park was not available as expected.
3. The City had to acquire trailers (from FEMA) to house the employees.
4. The City had to pay for vanpools to shuttle the employees daily until the trailers were ready.
5. Shuttle staff had to work overtime, including travel time, in order to provide the shuttle service as scheduled.

Future years of the internal shuttle will not have many of these expenses, as we will have the trailers and transportation issues worked out in advance; however, insurance, driver wages, and other expenses also ran higher than projected and need to be considered during discussions for operations of the internal shuttles for the second year. Federal regulations only allow the NPS to negotiate one year of operations at a time; therefore, staff is requesting authorization to negotiate a revised task agreement for the 2008 shuttle season. Related negotiations will also take place with Visalia Mountain Transit (MV) to make sure all the financial details are worked out. Staff will be coming back to Council for approval of the renewed Task agreement with the NPS as well as any required changes to the agreement with Visalia Mountain Transit.

Challenges incurred this season that will be addressed before next season

1. Employee housing – Initially we knew that some of the drivers assigned to the internal bus shifts would need to live in the park, so that they would not need to commute over two hours each way every day. When it came time to find housing the only thing available was several trailer pads. We designed the internal and gateway driver shifts to minimize this need; however, there still was 6-8 shifts per day that were designed to live in the park. With the assistance of the NPS we connected with FEMA and arranged for eight trailers which then needed to be transported from Indiana to the park and set up. Since this did not get set up until a month into this season we had to arrange for two vanpools to transport the drivers every day of the first season.
2. On-Line Reservation System – After considering several options, we contracted with a on-line reservation system designed for theater shows, but revised to handle shuttle reservations. This system is under review to see if it is the best option for future years.

3. Toll-free Reservation Answering Service – We acquired a toll-free number and contracted with a local answering service to handle the calls 24 hours a day. This is also under review to determine if it is the best option for next season.
4. On-Board Video – We created a video to play on-board the gateway shuttles which worked with limited success. We will be assessing how well this worked from a mechanical and operational perspective to see what should be done in future years.

Prior Council/Board Actions:

June 1, 2004 Authorization to apply for CMAQ funds for the study and 1st phase of operations.

June 29, 2004 Authorization to sign MOU with NPS to develop shuttles.

February 7, 2005 Award of contract to develop the shuttle plan.

Committee/Commission Review and Actions: None

Alternatives: None

Attachments: None

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to accept the Council update regarding the Sequoia Shuttle project, authorize staff to negotiate with NPS regarding City operation of the internal park shuttle; and, authorize an increase in the gateway shuttle fee to \$15.

Financial Impact

Funding Source:

Account Number:

Budget Recap:

Total Estimated cost: \$ 0	New Revenue: \$ 0	
Amount Budgeted: \$ 0	Lost Revenue: \$	
New funding required: \$ 0	New Personnel: \$	
Council Policy Change: Yes _____ No <u>X</u>		

Environmental Assessment Status

CEQA Review:

Required? No
 Review and Action: Prior:
 Require:

NEPA Review:

Required? No
Review and Action: Prior:
Require:

Tracking Information: *Record a Notice of Completion with the County Recorder*

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 15, 2007

Agenda Item Number (Assigned by City Clerk): 3

Agenda Item Wording: Review of initial work program for the Natural Resource Conservation Division.

Deadline for Action: N/A

Submitting Department: Natural Resource Conservation

Contact Name and Phone Number: Shawn Ogletree, 713-4530; Leslie Caviglia, 713-4317

Department Recommendation

Staff recommends that Council review an initial work program for the Natural Resource Conservation Division. The Division will strive to promote sound management and environmental practices to minimize waste and efficiently utilize natural resources.

Department Discussion:

It is important that the City have a focused effort and begin in earnest demonstrating the benefits that can be realized from this concerted effort by the Division. This work program will establish milestone projects and programs that the City will highlight as specific work items for the division over the first year as well as some 2-5 year targets. The initial program will be considered a living document and will evolve as the Division progresses. The Natural Resource Conservation Division will be responsible for addressing important concerns such as: Recycling, Groundwater Recharge, Water Conservation, Air Quality Issues and Clean and Renewable Energy options.

Following is a listing of the initiatives contained in the work program. The initiatives are organized by thematic areas in order of target expectation.

Energy:

1. Work with the SJVCEO in moving forward with measuring the City's carbon footprint by January 2008. Total carbon footprint/emission quantification would include energy related emissions - that is, from heat, light, power and refrigeration and all transport related emissions from cars, freight and distribution, etc. This would be done in order to get a better sense of where we can have the biggest impact and a way to track our success.
2. Explore opportunities to improve energy reliability, supply and price stability to meet current and future energy needs. This would include an evaluation and report to Council in approximately 90 days on Kings River Conservation District Community Aggregation, to determine if it is a viable opportunity for the City.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 10__

Review:

Dept. Head:

Finance

City Atty

City Mgr

3. Lead by example in pursuing the most efficient use of energy in City facilities and work with San Joaquin Valley Clean Energy Organization (SJVCEO) partners to conduct energy audits on our buildings by January 2007, and from this effort, develop a plan to fund and implement any appropriate changes.
4. Explore solar and renewable energy opportunities that the City could consider implementing and present to council within 6 months. Include projects similar to those recently constructed in Mendota and San Diego where a solar-power company, funded the initial cost for solar arrays and sells the power generated.
5. Evaluate, in conjunction with the consultant study and Waste Water Treatment Plant staff, the potential for using solar or another alternative energy source at the WWTP and provide a recommendation to Council by September 2008
6. Update the City Council on Return of Investment (ROI) for our existing and future energy conservation efforts by September 2009.
7. In conjunction with the above, evaluate the existing airport solar project, including a comparative cost analysis of the electric bill, past and present, and prepare a report for Council in approximately 30 days.
8. Through our partnership with SJVCEO, work together to make Visalia the home of a regional“ demonstration project” with the goal of developing such a project by January 2010

Water Conservation/Ground Water Recharge

1. Serve as staff to the Visalia Water Management Committee (Kaweha Delta Water Conservation District (KDWCD), California Water and Tulare Irrigation District) and monitor projects and programs in accordance with the agreement. Report back to Council at the October 29th meeting on status of water supply and recent activities of the Visalia Water Management Committee.
2. Work with KDWCD on groundwater recharge efforts and develop a plan for taking advantage of appropriate groundwater lay off and delivery opportunities during the upcoming wet season, with the understanding that a longer-term, comprehensive plan will be forthcoming over the next 6-12 months.
3. Enhance, expand and improve the conservation education program within 90 days, utilizing the Technician, the Water Education Coordinator, and any other appropriate resources.
4. Assess the current water conservation efforts, determine reasonable monitoring/tracking targets, and develop a plan for attaining those goals by September 2008. This should include developing a relationship with Cal Water, and determining how to capitalize on the City's relationship with them, especially any water conservation monies/programs, and if the City can accelerate the conversion to water meters.
5. In conjunction with the above, evaluate the potential for using grey water from the treatment plant for irrigating Cal Trans landscaping, the golf course, airport or other uses.
6. Assess what the City organization is currently doing internally, develop a list of possibilities regarding better conservation efforts the organization could implement, and develop a program by March 2008.

Air Quality:

1. Work with San Joaquin Valley Clean Energy Organization in developing a process to measure and forecast the City's Green House Gas (GHG) emissions by January 2008. This would be done in order to establish emission reduction targets and to develop recommendations for reaching reduction goals.
2. Assess the potential for utilizing the Air District mitigation program funds and provide a report to the City Manager within 90 days on current activities and what opportunities exist for future City programs or projects.
3. Develop an initial plan for implementing the Cool Cities initiative to present to Council in approximately 90 days, with the understanding that this is an on-going effort, and that a more comprehensive, long-term program will be developed over the next 6-12 months.
4. Review the viability of establishing a bicycle program in the downtown and if feasible, implement the program before April 2008.
5. Explore Intelligent Transportation System (ITS) technologies available that can be used to synchronize traffic lights in order to improve traffic flow as well as save on fuel consumption and reduce emissions and get back to Council by July 2008.
6. Continue efforts to increase the City's use of Compressed Natural Gas for the City fleet and explore other alternative fuel options to meet the City's needs. This includes exploring the viability of having an 85% ethanol fuel and gasoline by volume (E85) fuel station up and running for the City's flex fuel vehicles by October 2008.

Sustainable Growth/Design

1. Explore sustainable ideas for Visalia as a Municipality, such as a construction and renovation program that assures to the maximum extent physically and financially feasible, environmentally sustainable design for Municipal buildings, using the U.S. Green Building Councils Leadership in Energy and Environmental Design (LEED) Rating System as one standard of reference with the goal of establishing such a program by January 2009.
2. Review the proposed "Green House" program presented recently by the Home Builders Association, research other such programs, and present a work plan for developing a program for Visalia that is mutually supported by the Environmental Committee and the HBA, as well as other interested parties, with the target to have such a program implemented by January 2009.
3. Encourage sustainable business design for commercial business or retrofit of existing business within Visalia with the goal of developing a program to recognize such ventures by January 2009.

Recycling:

1. Develop a clear understanding of the California Integrated Waste Management Board (CIWMB) goals and objectives by February 2008. Moving forward, consistently develop ideas and programs in which staff can help meet those objectives.
2. Assess the current recycling efforts, and what is needed to bring the City up to State mandate requirements, or if the City is meeting those mandates, recommend new target

goals (perhaps 5 and 10 year goals) and a plan for attaining those goals by September 2008. Included in this assessment should be an on-going review of the amount of waste that is transported for burning, the cost of such and viable alternatives to that method.

3. Reach and maintain at least a 50% Joint Power Authority (JPA) diversion rate, explore competitive effects with Countywide Solid Waste JPA and continue to develop innovative programs/ideas to increase diversion rates for the City with a goal of obtaining 60% diversion by 2012. This would also include ensuring that the City has in place a "tagging program" to measure effectiveness.

Overall

1. Serve as staff for the Environmental Committee to develop realistic goals for the committee with reporting mechanisms and present to the Council for consideration within six months. Work on developing a realistic strategy for the Cool Cities Initiative should be part of this work program.
2. Monitor, in conjunction with our State and Federal lobbyist and the Assistant City Manager, all federal energy legislation.
3. Promote and achieve a cleaner and healthier environment, including improving air quality and reducing greenhouse gas emissions.
4. Explore application of new technologies such as light-emitting diode (LED) lighting, permeable concrete parking lots, Water Sense technology, etc.
5. Provide outreach, education and workshops to encourage public support and action to preserve groundwater and enhance water conservation efforts.
6. Manage the Household Hazardous Waste Program, and make recommendations regarding all aspects of the program including goals, tracking, safety and on-going funding.
7. Identify potential funding sources for the various activities underway within the Division and work with the Community Relations Manager to apply for the most appropriate grants/funding. Ideally, we would like to bring in at least \$100,000 in new funding for conservation programs during the first two years.

As noted, this is not meant to be a comprehensive list, but rather a guideline for the near future with some long-term goals included.

Prior Council/Board Actions:

- The Council voted to participate in the U.S. Conference of Mayors Climate Protection Agreement and become a "Cool City".
- The Council authorized the formation of a Natural Resource Conservation Division in the 2007-2008 budget.
- Council authorized a MOU with San Joaquin Valley Clean Energy Organization, in which the non-profit organization would assist the City in developing clean energy programs.

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Copy of the Targets and Expectations for Natural Resource Manager as identified in Visalia City Council Agenda June 26-27, 2007

Recommended Motion (and Alternative Motions if expected):

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

**Copy of the Targets and Expectations for Natural Resource Manager as identified in
Visalia City Council Agenda June 26-27, 2007**

The Natural Resources Conservation Manager (NRCM): Targets and Expectations

Leslie Caviglia provided a brief status update of the hiring process, and stated that the position should be filled by August, 2007. She asked for Council input, questions, and their targets and expectations for the NRCM. The following is a summary of their discussion:

1. Increase community awareness and the education level of the City's efforts on these important issues.
2. Explore competitive effects with Countywide Solid Waste JPA.
3. Increase diversion to 50%. Ensure that we have a "tagging program" to measure our effectiveness.
4. Get Groundwater Recharge Efforts back on-track with the KDWCD.
5. Explore ways that we can improve the air quality in the region.
6. Explore opportunities for energy conservation (e.g. solar panels, etc.).
7. Update the City Council on ROI for our existing and future energy conservation efforts.
8. Apply LEED certification and award standards for new development, and evaluate the "effectiveness of LEED standards."
9. Cal. Water: Encourage the acceleration of their conversion to meters.
10. Explore application of the Cool Cities Initiatives.
11. Explore application of new technologies such as LEED Lighting, permeable concrete parking lots, etc.
12. Conduct a comparative cost analysis of the Airport Electric Bill, past and present.
13. Work with the Citizen Environmental Committee and the City Council's Natural Resources Committee and the Household Hazardous Waste Program.
14. Hold a Council Work Session on the NRCM status in September, 2007, and present the proposed work program for FY 2007-08.

City of Visalia Agenda Item Transmittal

Meeting Date: October 15, 2007

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

Second Reading of Ordinance for Change of Zone No. 2007-12: A request by the City of Visalia to amend the Central Business District Parking zone A boundary to include property located at 101 N.E. third Street in the P-C-DT (Planned Central Business District Retail) Zone (APNs: 094-033-077,008, 009, 010). **Ordinance No. 2007-16 required.**

Location: The site is located on the northeast side of Third Street (101 N.E. Third Street) and includes the following APNs: 094,033-007, 008, 009, 010.

Deadline for Action: None

Submitting Department: Housing & Economic Development Department

Contact Name and Phone Number:
Ricardo Noguera, Housing & Economic Development Director, 713-4190
Teresa Nickell, Project Planner, 713-4328

Department Recommendation and Summary:

Staff recommends that the Council approve the second reading of Change of Zone 2007-12. The City Council held a public hearing on this item on October 1, 2007 and approved the first reading of the zone change and finding this change consistent with the General Plan along with amending the Central Business District Parking Zone A boundary to include this property located at 101 N.E. Third Street (5-0). If the change of zone is approved at the second reading, it will become effective 30 days from October 15, 2007.

After the second reading for this change of zone is conducted, the property will become part of the Central Business District Parking Zone A.

The Change of Zone request resulted from a recently approved project proposed by Arich Syprasert to develop a new gas station and mini-mart, and retain an existing gas station structure (future use as a donut shop) on the subject site. The Planning Commission approved the project's Conditional Use Permit (CUP No. 2006-19) on June 25, 2007, with the conditions that any unmet requirements for parking on the project site be subject to the payment of parking in-lieu fees, and that the applicant shall also agree to be annexed into either an existing Downtown Parking District, or any Parking District which might be established in the future for the area that includes the project site. The applicant would not be required to pay application or processing fees for annexing into a Parking District. Seventeen (17) parking spaces are required with the gas station/mini-mart project. However, the property owner/applicant is only

For action by:
 City Council
 Redev. Agency Bd.
 Cap. Impr. Corp.
 VPFA

For placement on which agenda:
 Work Session
 Closed Session

Regular Session:
 Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.):_1_

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

able to provide a total of eleven (11) spaces on the site. Therefore, an offset of six (6) spaces would be subject to the parking in-lieu fee program. Staff recommended the inclusion of only the subject site into a parking in-lieu fee zone since the property owner/applicant had expressed a desire to increase his building area in the near future (on an odd-shaped lot) and would need greater flexibility in his parking allowance. As a result, Parking Zone A (up to 100 percent of the required on-site parking spaces) was determined to provide the maximum flexibility in accordance with the proposed development and future needs of the property-owner/applicant. The parking in-lieu fees will be segregated from downtown funds in order to enable the City to pursue acquisition for the development of additional off-street parking in the Oval area.

Committee/Commission Review and Actions:

On September 10, 2007, the Planning Commission voted 5-0 to recommend approval of the Change of Zone (CBD Parking District Amendment). In its motion to adopt Resolution No. 2007-85 and Change of Zone No. 2007-12, the Commission encouraged the City Council to consider expanding the action to include the greater Lincoln Oval commercial area.

Prior Council/Board Actions:

First Reading by City Council on October 1, 2007.

Alternatives:

None recommended.

Attachments:

- Aerial Map
- Location Map

Environmental Assessment Status

CEQA Review: This project is considered Categorical Exempt under Section 15319 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA), Class 19b, annexation to a special district (Categorical Exemption No. 2007-76).

NEPA Review: N/A.

Recommended Motion (and Alternative Motions if expected):

I move to approve the second reading of Ordinance No. 2007-16, approving Change of Zone No. 2007-12.

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

Copies of this report have been provided to:

ORDINANCE NO. 2007-16

AMENDING THE CENTRAL BUSINESS DISTRICT PARKING ZONE A BOUNDARY MAP OF THE CITY OF VISALIA BY INCLUDING PROPERTY LOCATED AT 101 N.E. THIRD STREET IN THE P-C-DT (PLANNED CENTRAL BUSINESS DISTRICT RETAIL ZONE) (APNS: 094-033-007, 008, 009, 010)

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 amending the Central Business District Parking Zone A boundary to include property located at 101 N.E. Third Street in the P-C-DT (Planned Central Business District Retail Zone) (APNs: 094-033-007, 008, 009, 010); and

Section 2: The official Central Business District Parking Zones Map of the City of Visalia is hereby amended to show said property changes as illustrated in Exhibit "A" attached hereunto.

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

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 15, 2007

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

Agenda Item Wording: Authorization to award the Demolition and Over-Excavation contract for the Right-Field Improvements phase of the Recreation Park Stadium Expansion Project to Hobbs Construction of Fresno in the amount of \$144,808, and authorization for City Manager to execute the agreement. Project # 0011-15152-72-0-8037.

Deadline for Action: October 15, 2007.

Submitting Department: Administration Department

Contact Name and Phone Number:

Phyllis Coring, Special Projects Manager, 713-4566

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.): .

Recommendation: Staff recommends that City Council award the contract for the demolition and over-excavation the Right Field Improvements phase of the Recreation Park Stadium Expansion Project to Hobbs Construction of Fresno in the amount of \$144,808 and authorize the City Manager to execute the agreement.

Department Summary and Discussion:

The city conducted a competitive bid process for the demolition and over-excavation the Right Field Improvements phase of the Recreation Park Stadium Expansion Project. Five firms submitted proposals and the total lump sum bids were as follows:

Hobbs Construction	\$ 144,808
Travis Construction	\$ 174,066
First Choice General Engineering	\$ 191,000
Dunn's Construction	\$ 237,200
Lee's Paving	\$ 392,900

Work under this contract will be done to prepare for the Right Field Improvement Phase of the Recreation Park Stadium Project. The Right Field Improvements include construction of a two story building that will house concessions, the team store, a hospitality lounge, office space, ticket booth and a new entrance to the stadium. Construction drawings for the Right Field Improvements have been submitted to the Building Division for plan check and it is intended that the construction will be completed in Spring, 2008, to be used in the next baseball season.

The scope of this contract includes over-excavation and preparation of a building pad for the new two story building. Some fencing along with the scoreboard will be removed and one field light tower will be temporarily taken down so the existing footing can be removed. The light tower will be reinstalled during construction of the building, which is being designed to accommodate the location of the tower within the footprint of the building. Some of the utilities are being capped and removed.

The staff have reviewed the bids, conducted a reference check process, and recommend that the City Council award the contract to Hobbs Construction. The references provided positive comments regarding the firm's ability to perform.

Prior Council/Board Actions: Council previously authorized the project to proceed, and approved a budget of \$11.6 million. This contract is a part of that budget.

Committee/Commission Review and Actions: N/A

Alternatives: The City may choose not to award the project. If the City chooses to award the project, it must do so to the lowest responsible bidder.

Attachments:

City Manager Recommendation:

Motions (if expected):

I move that the City Council award the project and authorize the City Manager to enter into the construction contract for a the Demolition and Over-Excavation of the Right Field Improvements Phase of the Recreation Park Stadium Project in the amount of \$ \$144,808. to Hobbs Construction.

Financial Impact

Funding Sources: General Fund – Project No. 0011-15152-72-0-8037
Budget Recap:

Council Policy Change: Yes No

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 15, 2007

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

Agenda Item Wording: Setting of the 2008 health benefit contribution rate for City employees and participating retirees; and, payment of the increase from interest earning for the first two months of the new plan year.

Deadline for Action: Dec. 31, 2007

Submitting Department: Administrative Services

Contact Name and Phone Number: Eric Frost, Administrative Services Director, x4474

Department Recommendation: That the City Council do the following in regards to the City's health benefits plan as of January 1, 2008, the beginning of a new health plan year:

- a) In order to allow the Employee Health Benefit Committee additional time to finalize plan alteration recommendations this first year, pay for related increased employee, retiree and City contributions for January and February of 2008 from interest earnings earned upon assets held by the City's health benefit fund. This action is not expected to occur in future years.
- b) Increase employee health benefit contributions by \$23.03 per month per employee; and,
- c) Increase participating retiree health benefit contributions by \$23.03 a month.

Summary/background

The various employee Memorandum of Understandings state the following:

.... members agree to share increases in future health plan costs over the current cost (if any) by up to 50%. In no case, however, will the cost sharing be increased more than \$50 per month per year of this agreement. For purposes of calculating the health plan increase, the current medical only composite rate of \$947.55 will be used as the rate base.

The health plan increase for next year is 4.86%. As a result, increased employee health care contribution will pay for 2.43 % of that increase or as follows:

For action by:

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

For placement on which agenda:

- Work Session
- Closed Session

Regular Session:

- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

Monthly Medical Contribution (2007)	947.55
Increase to employee contribution	X <u>2.43%</u>
Increase in Monthly Health Contribution (2008)	23.03

Employee MOUs also state the following:

.... (Group) agrees to participate in an Employee Health Benefits Committee (EHBC). The purpose of the EHBC is to cooperatively manage the City's Health Benefits Plan by providing oversight on plan's resources, remain fiscally sound, provide the best benefits available to employees given available resources, improve administration of the plan, and make appropriate recommendations for change as researched and considered by the Committee. The EHBC is made up of all bargaining groups and City management. The EHBC does not replace collective bargaining agreements. Employee representatives are only empowered to act to the extent authorized by their respective agreements.

Increases in health plan costs, if any, may be paid via changes in the health plan as confirmed by the plan's actuary, if agreed to by 5 of the 6 units (5 bargaining groups and city management). In the event that approved plan changes exceed the employee cost increases, 75% of excess plan savings costs will be credited to the employees' contribution for current or future health plan cost increases.

The EHBC has been meeting since July, learning about how the plan functions and what options are available to revise the plan, potentially reducing premium costs. The challenge, however, is that to complete the committee's review this first time, additional time is needed to analyze changes and take recommendations to the respective bargaining units. As a result, staff is recommending a course of action which will pay for the cost increases for the first two months of the plan year. However, by March, 1 2008, employees will either pay for the increased costs or plan changes will be made to reduce the scheduled premium increase.

The extra time is needed because the committee has not completed its review and any committee recommendation will need to be considered by each bargaining group. The proposed schedule is to have a committee recommendation by early December. Formal agreement by at least 5 of the 6 groups must then occur by the end of December to implement any potential plan changes by March 1, 2008. If 5 of the 6 groups do not agree, then the proposed increase will become effective as of March 1, 2008.

Temporary Increase Funding Source. The health benefits fund has approximately \$1.4 million of assets that have been accumulated over time. Roughly, \$500,000 was returned to the City when it joined Excess Insurance Authority (EIA) Health program from excess reserves. The City has received another \$900,000 as of August of this year from health insurance reserves which have been returned to EIA Health now that EIA participates in a larger pool, Self Insurance of California Schools (SISC). The City committed these assets for City employee health benefits. These assets are projected to earn \$70,000 this fiscal year (5% times \$1.4 million.)

By allowing the interest earnings to be used to pay for the increased cost for the first two months of the health plan year, the committee will have additional time to consider plan changes which might be used to pay for this year's plan cost increase. The cost for one month's increased cost is estimated below:

Monthly increase in medical cost (City and Employee)	\$46.06
Estimated Plan participants	800
Monthly cost of increase	\$36,848

The projected interest earnings would approximately pay for the first two months of the cost increase.

In any case, however, either plan elements would change or premiums rise as of March 1, 2008.

Prior Council/Board Actions: Approval of the 5 employee MOUs this last summer.

Committee/Commission Review and Actions:

Alternatives: The City could implement the rate increase as of January 1, 2008. The EHBC could still move ahead with plan changes, implementing those changes subsequent to the beginning of the plan year. Staff recommends this alternative in order to provide additional time during the first year of the EHBC to avoid the potential up and down of premium rates.

Attachments:

Recommended Motion (and Alternative Motions if expected): That the following actions be implemented in regards to the City's Health Plan:

1. That participant contribution rates increase by \$23.03 a month, effective January 1, 2008.
2. That the increase for both the City and the health plan participants be paid for in January and February of 2008 from interest earnings on plan assets.

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

Copies of this report have been provided to: Bargain Groups, EHBC members

City of Visalia Agenda Item Transmittal

Meeting Date: October 15, 2005

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

Agenda Item Wording: Award bid for a dump truck and trailer to Kenworth of Central California for \$170,706.42.

Deadline for Action: Not Applicable

Submitting Department: Public Works Department

Contact Name and Phone Number:

Earl Nielsen, Public Works Manager, 713-4533
Andrew Benelli, Public Works Director, 713-4340

Department Recommendation:

Staff recommends purchasing the truck and trailer offered by Kenworth of Central California for \$170,706.42.

Summary/background:

Request for Bids (RFB) No. 06-07-64 was distributed to vendors with specifications for a dump truck and trailer (transfer trailer). This unit will replace a 1988 Kenworth that has 493,000 miles. The old truck does not meet the State's air quality requirements for municipal fleets and will have to be retrofitted with a particulate trap if the City decides not to replace it (approximately \$40,000). This truck is used almost every day during the summer when the crews are paving streets. The Streets Division has two transfer trucks that are used to haul hot asphalt from the plant to the job site. The RFB was written to procure a vehicle that would be able to do the heavy work and towing required by the Streets Division and to be high quality and easy to maintain.

The truck was specified with a diesel engine in order to meet torque requirements for towing and hauling heavy loads. The largest CNG engines currently available can only produce about 950 foot-lbs of torque, and the Streets Division needs at least 1,250 foot-lbs of torque to haul heavy loads. The diesel engines specified are PM-10 compliant and meet or exceed all air quality standards.

The following five bids were submitted:

- | | | |
|----|---------------------------|--------------|
| 1. | Fresno Truck Center | \$161,718.48 |
| 2. | Gibbs International Truck | \$162,654.83 |
| 3. | Gibbs International Truck | \$170,349.27 |

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 5

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

4.	Kenworth of Central California	\$170,706.42
5.	Golden State Peterbuilt	\$185,439.98

The Kenworth bid met all specifications while the other lower bids had some exceptions to the specifications:

Fresno Truck Center bid exceptions:

- Only one battery disconnect instead of two as specified.
- 135-inch mailhot hoist instead of the specified 140-inch.
- 1/4-inch thick steel trailer frame instead of 5/16-inch one piece as specified.

Gibbs International Truck bid exceptions (both of Gibbs' bids):

- Lower rated transmission than specified (Fuller 14913A instead of specified Fuller 16913A).
- No dash light switch for off road operation as specified.
- No safety grab handle on passenger door exterior as specified.
- No passenger door "peeper" window for safety as specified.
- No 140-inch mailhot hoist with a no-lift bale on the trailer body as specified.

Staff recommends purchasing the truck and trailer offered by Kenworth of Central California even though it was not the low bid. The Kenworth bid meets or exceeds all specifications listed and comes with a Cummins engine which the Fleet shop and mechanics are already set up to work on and maintain with no additional tools, software or training needed. Both the Fleet mechanics and the Streets workers have reviewed the bids, and feel the benefits of purchasing a truck that meets specifications, will be easy to maintain and is built to last, along with keeping with the standardization of the fleet (same kind of equipment we already have and are able to maintain) more than sufficiently offsets the slightly higher cost of the Kenworth truck and trailer.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives:

- Award the bid to one of the other bidders.
- Reject all the bids and direct staff to re-bid the purchase.

Attachments: None

Recommended Motion (and Alternative Motions if expected): Move to award the Bid to Kenworth of Central California.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

City of Visalia Agenda Item Transmittal

Meeting Date: 10/15/2007

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

Agenda Item Wording: Award bid for two (2) dump trucks and a Water Truck for the Streets Division to Kenworth of Central California for \$273,699.00.

Deadline for Action: 10/15/2007

Submitting Department: Public Works/Engineering Services

Contact Name and Phone Number:

Earl Nielsen, 713-4533
Andrew Benelli, 713-4340

Department Recommendation:

After careful review of the submitted bids by Streets and Fleet personnel, staff recommends that Council authorize the purchase of two (2) dump trucks and a water truck from Kenworth of Central California.

Summary/background:

Request for Bids (RFB) No. 07-08-14 was distributed to vendors with detailed specifications for two 2008 dump trucks and a 2008 water truck. These units will replace old units currently being used by the Streets Division, that need replacement before we are required to spend \$30,000 or more to retrofit them to meet air quality standards. The RFB specifications were written in order to procure vehicles that would be able to handle the heavy work and towing for the Streets Division, be maintenance friendly, and high quality to last.

There were seven bids submitted as follows; five bids included all three vehicles, one bid was only for the water truck and the other bid was only for the two dump trucks. Kenworth of Central California submitted the second to the lowest bid \$273,699.

• Fresno Truck Center (Sterling Trucks)	all 3 vehicles	\$269,554.00
• Kenworth of Central California (Kenworth Trucks)	All 3 vehicles	\$273,699.00
• Gibbs International (International Trucks)	All 3 vehicles	\$275,625.35
• Golden State Peterbuilt (Peterbuilt Trucks)	All 3 vehicles	\$278,905.68
• Kenworth of Central California (alternate bid with different water system)	All 3 vehicles	\$280,663.92
• Central Valley Truck Center (Volvo)	2 dump trucks	\$246,747.56
• Keller Motors Inc.	Water Truck	\$ 95,483.58

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

The second place Kenworth bid is an additional cost of about \$4,000 over the lowest bid, but staff feels the extra cost is more than justified by the ease of maintenance, standardization of the fleet and overall quality of the equipment. The Kenworth trucks come equipped with a Cummins engine that the Fleet mechanics are very familiar with and trained on and have all the necessary tools and software to diagnose and maintain, so there will be no additional costs for maintenance training or tools. Both the mechanics and the Streets Division staff are very comfortable working on Kenworth equipment and feel they are the highest quality vehicles overall. The majority of the Streets fleet is Kenworth with one Kenworth dump truck approaching 25 years old and still running very well (this vehicle needs to be replaced only because it does not meet air quality standards without significant and costly retrofitting). The Streets staff would also like to keep the trucks standardized to Kenworth for ease of operation. It's easier for them to move from operating one truck to another if the trucks are the same manufacturer and have similar controls and characteristics.

These trucks are diesel instead of compressed natural gas (CNG). The reason for the diesel engines is primarily power; the CNG engines do not produce enough torque to pull heavy loads well, and the Streets Division is continually towing heavy equipment and carrying heavy loads. The Streets Division needs about 1,250 foot-lbs of torque and the largest CNG engines currently available produce only about 9,500 foot-lbs of torque. The Cummins diesel engines are PM-10 compliant and need no retrofitting or particulate traps to meet Air Quality standard requirements over the next several years.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives:

- Award the bid to one of the other bidders.
- Reject all the bids and direct staff to re-bid the purchase.

Attachments: None

Recommended Motion (and Alternative Motions if expected):

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

City of Visalia Agenda Item Transmittal

Meeting Date: October, 15, 2007

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

Agenda Item Wording: Purchase two (2) solar-powered compactor waste receptacles to be used Downtown.

Deadline for Action: 10/15/2007

Submitting Department: Public Works/Engineering

Contact Name and Phone Number:

Earl Nielsen, 713-4533
Jim Bean, 713-4564
Andrew Benelli, 713-4340

Department Recommendation:

That Council approves the purchase of two (2) solar-powered "Big Belly" compactor trash receptacles to be placed in the Downtown (see attachment 1).

Summary/background:

Staff has researched the feasibility of installing solar powered trash compactor receptacles for the downtown area, and feels they will be an effective addition to the trash disposal efforts and in keeping the downtown area clean and litter free. These receptacles are solar powered units that compact the trash in the can, allowing much more trash to be collected and held between pickups. The units will use a relatively small footprint to collect and store a large amount of compacted waste; this means that fewer pickups will be needed and there will also be less opportunity for waste overflow from the receptacles being over full. The compactor receptacles are user friendly and safe. The units cost approximately \$5,000 each. Unfortunately, The Downtown Visalians do not have funding available to assist with the purchase but do agree the receptacles would help keep the downtown area cleaner and would like to see the City install them. Staff has discussed the units and their placement with the Downtown Visalians, and recommends purchasing two units, to be located in front of Starbucks on Main Street and at the Garden Street Plaza. These are two areas that generally accumulate a lot of excess waste and overflow, and require a lot of attention to keep picked up and clean. Approximately \$10,000 is needed to purchase the two units; staff recommends allocating the funding from Solid Waste reserves.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives:

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head AB 10-10-07
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

1. Do not approve the purchase of the compactor receptacles.

Attachments:

1. Compactor receptacle brochure & Information

Recommended Motion (and Alternative Motions if expected): Move to approve the purchase of two solar trash receptacles to be placed in the Downtown.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

BigBelly®

Cordless Compaction System

The solution to your waste management challenge



- ◆ Solar-powered, automatic compaction
- ◆ Reduces collections by 4 times or more
- ◆ Eliminates overflowing bins
- ◆ Keeps litter in, pests out
- ◆ No trenching or wiring needed
- ◆ Reliable, safe and easy to use
- ◆ Demonstrates commitment to community & environment
- ◆ Ad mounts provide marketing platform

"It will save the city time and money, keep litter from overflowing, and discourage illegal dumping of trash."

- Tim McCarthy, Public Works,
City of Boston

"The machines are working magnificently. They are better than advertised."

- Jim Burkhardt, Cincinnati Parks
Department

"We have saved money by reducing collections while at the same time eliminated unsightly overflowing trash cans, and reducing pests and odor."

- Mayor David Cohen, City of Newton,
Massachusetts

"The main thing for a Business Improvement District is you have to make it look neater. New benches and planters are nice, but you have to get rid of the litter. The BigBelly has been terrific for our beautification efforts."

- Marie Torniali, Steinway Street BID,
New York City



Seahorse Power Company
50 Brook Road, Needham, MA 02494 USA
1-888-820-0300 (Outside USA: +1-781-444-6002)
E-mail: sales@seahorsepower.com
Website: www.seahorsepower.com
Made in USA - Patents Pending

BigBelly®

Cordless Compaction System

Some Frequently Asked Questions



How much sunlight does it need?

The *BigBelly* system runs on a 12-Volt battery, which is kept charged by the solar panel. The battery reserve lasts for a couple weeks without any sunlight. Even in winter, with short days and cold temperatures, the units require minimal sunlight. The *BigBelly* system performs well in northern latitudes, including Vancouver, Canada, and under cloudy conditions.

Do the bags get too heavy?

Customers have not had problems with bag weight. Because the bag is readily lifted out of the low-height bin, workers have found the *BigBelly* system simple and ergonomically friendly to use.

Is the machine safe to use?

The *BigBelly* system is safe and easy for anyone to use. The trash deposit hopper prevents hands from reaching into the compaction area. The unit is locked, and the motor cannot operate with either the trash removal door or rear access panel open. The machine runs on a safe, low-voltage system.

Does it create more odor problems than a regular can?

The system is enclosed, so odors are contained inside. Customers in New York City have reported fewer odors from the *BigBelly* system in summer heat than from the open-air cans they replaced.

Is the unit susceptible to vandalism?

It's made tough: the *BigBelly* system is constructed of heavy-gauge galvanized steel, and has a thick Lexan® polycarbonate cover to protect the solar panel from impact, scratches and graffiti. To date, vandalism and graffiti have not been a customer concern.

Is it resistant to sand and saltwater?

The exterior has passed 10-year accelerated life-cycle corrosion testing. Customers with machines at beaches have had no problems with sand. The weather-resistant powder-coat finish over galvanized steel is designed for long life in icy and marine environments.

How hard is it to maintain?

The *BigBelly* system is very low-maintenance. We recommend routine lubrication of the chains, and estimate that the battery will need to be replaced and recycled after 4 years. The system uses a maintenance-free, sealed 12-Volt battery.

Is it expensive?

While the *BigBelly* system costs more than a regular trash can, it reduces collection requirements by 4 times or more – saving time and money. The system can pay for itself and save thousands over its lifetime. Contact us for a custom savings analysis.



Specifications

Dimensions: 28" W x 36" D x 51" H

Weight: 540 lbs.

Compaction Force: 1250 lbs. max (adjustable)

Drive System: Gear-motor with chain drive

Controls: fully-automated, IC processor controlled system senses trash level, fullness and machine status

Electronics: 12-Volt DC system with 40-Watt solar photovoltaic module

Materials: galvanized steel with powder-coat finish

Seahorse Power Company
50 Brook Road, Needham, MA 02494 USA
1-888-820-0300 (Outside USA: +1-781-444-6002)
E-mail: sales@seahorsepower.com
Website: www.seahorsepower.com
Made in USA - Patents Pending

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 15, 2007

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

Agenda Item Wording: Request authorization to file a Notice of Completion for the Dinuba Boulevard / State Route 63 Improvement Project with the final contract amount of \$796,592.40. Project No. 1241-720000-0-0-9739-2007

Deadline for Action: None

Submitting Department: Public Works Department

Contact Name and Phone Number:
Andrew Benelli 713-4340; Michael Carr 713-4595

Department Recommendation: Staff recommends that the City Council authorize filing a Notice of Completion for the Dinuba Boulevard / State Route 63 Improvement Project with the final contract amount of \$796,592.40.

Department Discussion:

The Visalia Riverway Sports Park is located in the Shannon Ranch development just west of Dinuba Boulevard and north of Riggan Avenue. The off-site improvements that have already been completed consist of building the sanitary sewer, storm drain lines with a temporary water detention basin, water lines, and a portion of the roadway for Giddings St. from Riggan to Shannon Parkway and for Shannon Parkway between Giddings and Dinuba Boulevard.

This project continued the offsite improvements with the build-out of the west side of Dinuba Boulevard / SR 63 to the curb and gutter fronting the Sports Park. The east side of the street was widened, but not to the ultimate right of way until development occurs on that property. The project included widening the roadway; a pavement overlay; extension of a 42' storm drain line under the roadway to the east side; painted median, lane lines, and bike lane; finishing the curb, gutter and handicapped ramp at the southwest corner of Dinuba Boulevard and River Way; and installing three new street lights.

On June 4, 2007, the City awarded the Dinuba Boulevard / State Route 63 Improvement Project to R.J. Berry Jr., Inc. The amount of the contract was \$723,376.91. The total budget for the project was \$803,376.91, which included the construction cost of the project plus \$80,000 for construction management, inspections, surveying and testing.

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.

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

There were nine (9) change orders required to complete this project, with a cost increase totaling \$73,265.40 – a 10% increase over the originally awarded contract.

The change orders were reviewed and approved by the Change Order Committee. The approved change orders entailed the following work:

1. Conform Grind at North and South End of Paving
This item grinds a wedge out of the existing pavement so that the overlay has a place to taper down to meet the exist pavement at the end of the construction while still maintaining the thickness of the new coat. The taper is very gentle and dropping the pavement grade two inches over a distance of 50 feet. Net increase in contract cost = \$8,600.
2. Relocate Flashing "Signal Ahead" Highway Sign
An existing "Signal Ahead" sign for southbound traffic approaching Riggin Avenue was located just off the edge of pavement and required moving. With Caltrans approval, a new concrete base was poured and the sign was relocated approximately twelve feet further west, away from the travel lanes. Net increase in contract cost = \$5,175.
3. Saw-cut the Old Concrete Highway Beneath Pavement
There was an old section of concrete highway that Dinuba Boulevard was paved on top of. This was an unforeseen condition, and the concrete needed to be saw-cut at the edge of pavement and removed.
Net increase in contract cost = \$10,600.
4. Concrete Work due to Re-Design of the River Way Corner
The original plans called for relocating existing water valves near the corner of Dinuba Blvd. and River Way, but the water lines could not be relocated. Because of this, the curb and gutter needed to be moved to the west to miss the valves. This involved cutting and replacing approximately 78 feet of curb and gutter. Net increase in contract cost = \$8,110.
5. Balance Quantities of Aggregate Base Material and Asphalt Concrete
In order to complete the project including the re-designed intersection of Dinuba Boulevard and River Way, aggregate base was increased by 762.37 tons. The quantity of asphalt increased by 85.1 tons.
Net increase in contract cost = \$24,253.40.
6. Abandon Existing Culvert
An existing dry well and drain line that went under Dinuba Boulevard needed to be abandoned and plugged with concrete.
Net increase in contract cost = \$790.
7. Construct Two Asphalt Drive Approaches
Caltrans required that two temporary asphalt driveway approaches be constructed for the houses on the east side of Dinuba Boulevard across from the Sports Park. Net increase in contract cost = \$3,400.

8. Additional Caltrans Inspection Time

State inspection time exceeded the original estimate by 5 hours.
Net increase in contract cost = \$492.

9. New Electrical Service and Conduit Bore

The proposed electrical connection point was not adequate to power both the "Visalia" sign and the three new street lights. A new electrical service was required and the conduit which contained the existing wires was damaged and unusable. In order to not disturb the Sports Park grounds and irrigation lines, new conduit was bored to the meter box, new wires were pulled and a new meter installed. Net increase in contract cost = \$11,845.

Miscellaneous Expenses:

Extra costs outside the construction contract included the cost for Southern California Edison to provide a new service to the "Visalia" sign and street light meter pedestal; Caltrans permits, permit riders and inspections. The total project budget was \$803,376.91 including the contract project management, surveying, testing, inspection, and contingencies. The final cost of the project including change orders and extra expenses is approximately \$803,000.

Alternatives: None suggested

Attachments: Location Map, Ownership Disclosure Form

Copies of this report have been provided to:

Recommended Motion (and Alternative Motions if expected):

I move to authorize staff to file a Notice of Completion for the Dinuba Boulevard / State Route 63 Improvement Project with the final contract amount of \$796,592.40.

Financial Impact

Funding Source:

Account Number: 1241-720000-0-0-9739-2007

Budget Recap:

Total Estimated cost: \$ 803,000.00	New Revenue: \$
Amount Budgeted: \$ 803,376.91	Lost Revenue: \$
New funding required: \$ 0.00	New Personnel: \$
Council Policy Change: Yes___ No__X	

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

Notice of Completion to be filed with County Recorded through City Engineer's office

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 15, 2007

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

Agenda Item Wording: Award a contract for the 2008 Major Street Overlays – County Center Drive and Court Street to Lee’s Paving, Inc., in the amount of \$999,377.50.
Project No. 1111-00000-0-720000-0-9225-2008

Deadline for Action: November 2, 2007 (30 days after bid opening)

Submitting Department: Public Works / Engineering Design

Contact Name and Phone Number:
Michael Carr 713-4595; Adam Ennis 713-4323;
Andrew Benelli 713-4340

Department Recommendation:
Staff recommends that the City Council award a contract to Lee’s Paving, Inc., of Visalia, CA, in the amount of \$999,377.50 for the 2008 Major Street Overlays – County Center Drive and Court Street.

Discussion:
The City of Visalia contracts for a major asphalt overlay project annually on pre-determined roadways based on the condition of the pavement. Over time, roadways required maintenance and/or a new surface. The 2008 Major Street Overlays – County Center Drive and Court Street project will resurface and stripe County Center Drive from 135 feet south of Packwood Avenue at the south end to Tulare Avenue at the north end, and Court Street from Walnut Avenue at the south end to Paradise Avenue at the north. The County Center portion is classified a major collector roadway and is an important north-south street south of Highway 198. The segment of Court Street to be overlaid is also a major north-south route through south Visalia.

This project also includes the installation of a mesh pavement fabric prior to the new asphalt being placed. This technique has been proven to extend the life of the pavement by increasing the strength of the pavement section. Over the next decade, the City’s Engineering Division staff will periodically assess how the pavement wears on these sections with the fiber mesh, comparing it to similar pavement jobs that were most recently done without it. The expected result is that incorporating the mesh material significantly extends the life of the pavement, resulting in a cost savings to the City.

For action by:
 City Council
 Redev. Agency Bd.
 Cap. Impr. Corp.
 VPFA

For placement on which agenda:
 Work Session
 Closed Session

Regular Session:
 Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 3

Review:
Dept. Head _____
(Initials & date required)

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

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

On October 4, 2007, Engineering staff opened twelve (12) bids submitted for the 2008 Major Street Overlay project. The bids were ranked based on the project bid price only. The results of the bid opening are as follows:

1. <i>Lee's Paving, Inc.</i>	<i>Visalia</i>	\$ 999,377.50
2. <i>Don Berry Construction, Inc.</i>	<i>Selma</i>	\$ 1,028,690.00
3. <i>Granite Construction Co.</i>	<i>Fresno</i>	\$ 1,034,997.00
4. <i>Cruco Construction</i>	<i>Fresno</i>	\$ 1,038,473.75
5. <i>Foster & Sons.</i>	<i>Sanger</i>	\$ 1,046,282.81
6. <i>Seal Rite Paving & Grading</i>	<i>Clovis</i>	\$ 1,086,684.50
7. <i>Glen Wells Construction Co.</i>	<i>Visalia</i>	\$ 1,129,290.00
8. <i>Bush Engineering, Inc.</i>	<i>Hanford</i>	\$ 1,131,927.50
9. <i>American Paving Co.</i>	<i>Fresno</i>	\$ 1,144,987.50
10. <i>Henderson Construction Co.</i>	<i>Fresno</i>	\$ 1,154,055.00
11. <i>W. Jaxon Baker, Inc.</i>	<i>Madera</i>	\$ 1,159,810.00
12. <i>Teichert Construction</i>	<i>Kingsburg</i>	\$ 1,163,565.00

The Engineer's Estimate for the construction contract was \$1,506,455. The project budget is \$1,130,000 from the 1111 Fund (Gas Tax Fund) to cover the total cost of the project including construction management, inspections, surveying and testing. Lee's Paving, Inc. has successfully completed several jobs for the City of Visalia. Staff recommends awarding the project to Lee's Paving, Inc. for the amount of \$999,377.50.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives: None recommended

Attachments: 1. Location Map
2. Bid Summary

Recommended Motion (and Alternative Motions if expected): I move to award a contract for the 2008 Major Street Overlays – County Center Drive and Court Street to Lee's Paving, Inc., in the amount of \$999,377.50.

Financial Impact

Funding Source:

Account Number: 1111-00000-720000-0-9225-2008

Budget Recap:

Total Estimated cost:	\$ 1,130,000.00	New Revenue:	\$
Amount Budgeted:	\$ 1,130,000.00	Lost Revenue:	\$
New funding required:	\$ 0.00	New Personnel:	\$
Council Policy Change:	Yes _____ No <u>X</u>		

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No X

Review and Action: Prior: Required: This project is considered routine maintenance of an existing facility.

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)*

City of Visalia Agenda Item Transmittal

Meeting Date: October 15, 2007

Agenda Item Number (Assigned by City Clerk): 10

Agenda Item Wording: Introduction of Ordinance No. 2007- 14, Rescinding Ordinance No. 2006-13 and Authorizing the City Manager to Execute a Nine (9) Year, With a Six (6) Year Renewal Option, Lease of Recreation Park Stadium, for Professional Baseball, With Top of the Third, Inc.

Deadline for Action:

October 15, 2007

Submitting Department:

Administration

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

Department Recommendation: The appointed subcommittee, consisting of Vice Mayor Greg Kirkpatrick, Councilmember Greg Collins and Assistant City Manager, Carol Cairns, recommends that the City Council adopt Ordinance No. 2007-14, rescinding the current lease and authorizing the City Manager to enter into a new nine (9) year lease agreement with a six (6) year option between the City of Visalia and TOP OF THE THIRD, INC., to provide professional baseball at Recreation Park Stadium. The lease is attached to the proposed Ordinance.

Summary: Summary/background:

On April 13, 2007, City Council approved the increased scope of work at Recreation Park Stadium due to infrastructure cost, rightfield upgrades, and demolition and reconstruction of the grandstand berm. Based upon the increased scope and project cost (approximately \$11.6 M), City Council also directed the project to be a City project subject to public bid and no longer a private project with TOP of the THIRD, Inc.

At the August 20, 2007, Council Meeting, Vice Mayor Kirkpatrick and Councilman Greg Collins were appointed by Mayor Gamboa to work with Assistant City Manager, Carol Cairns and Oaks owner, Tom Seidler to review the lease and refine the revenue projections. Several meetings took place to review various revenue options. At the September 24, 2007 closed session, Council directed the subcommittee to review options with Mr. Seidler adhering to the original Revenue Option 2, which was calculated on the City receiving a \$1.00 surcharge on general admission tickets and a \$2.00 surcharge on premium tickets and a percentage of the club's annual gross revenue.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

The subcommittee met on September 27, 2007, at 4:30pm to discuss the revenue options and all members, (including owner Tom Seidler), agreed to recommend to the full council that the City receive the following gross revenues:

- \$0- \$1,000,000 ticket surcharge in lieu of revenue sharing
- \$1,000,000-\$1,500,000 5%
- \$1,500,000-\$2,000,000 7.5%
- \$2,000,000-above 10%

(The thresholds will be adjusted annually by CPI.)

The surcharge on tickets would remain at \$.50 on berm tickets, \$1.00 on regular tickets and \$2.00 on premium tickets throughout the term of the lease.

At Council direction on October 1, 2007, staff and the City Attorney have prepared the draft lease incorporating the above revenue option with TOP of the THIRD, Inc. as follows:

- a. Ticket Surcharge: Lessee (TOP o the THIRD, Inc.) shall charge and collect a surcharge on each ticket sold for events for which Lessee sells tickets at the Premises of \$.50 per Berm Ticket, \$1.00 per Regular Priced Ticket and \$2.00 per premium Ticket (tickets entitling the holder to use box seats, sky boxes, Hot Corner Lounge and VIP Lounge). The surcharge shall be paid on tickets actually sold and shall not be paid on tickets "comped" or "traded" which shall be limited to no more than 15% of total tickets issued.
- b. Percentage Rental: In addition to the ticket surcharge, Lessee shall pay the Lessor (City) a Percentage Rental pursuant to the following terms.
 - i. Formula:
 - Percentage shall equal the sum of (1) Five 5% of the amount of Annual Gross Receipts that exceeds \$1,000,000 and is less than \$1,500,000.
 - 7.5% of the amount of Annual Gross Receipts that exceeds \$1,500,000 and is less than \$2,000,000 and
 - 10% of the amount of Annual Gross Receipts that exceeds \$2,000,000.

(The thresholds will be adjusted annually by CPI.)

- ii. The total amount of "Gross Receipts," is defined a the total amount of all monies or credits paid to or received by Lessee and its concessionaires or sub-concessionaires, during the period of January and 1 and December 31 of each year (a "Revenue Year"). The following list provides an example and not as limitations, are all considered sources of Gross Receipts:
 - Tickets sales
 - Concessions receipts (food and beverage, including alcoholic beverages)
 - Advertising revenue
 - Naming rights revenue
 - Revenue from ancillary activities (i.e. batting cages, pitching booths)
 - Rental or fees for special events during the months theclub leases the stadium
 - Gross Receipts shall not include tradeouts (defined as items received by Lessee in lieu of cash as consideration for goods or services provided by Lessee).

When the rightfield renovation and the grandstand replacement are fully completed and utilized, the stadium will have a seating capacity of approximately 3,100. Revenue projections are based on a conservative estimate of 70% occupancy. Therefore, any attendance above the estimate will substantially increase the revenues.

Over the 20 year loan period the City is projected to receive approximately \$6,145,093 or \$307,255 average per year.

This revenue sharing allows the club to stabilize its operational costs as well as sharing revenues with the City to pay debt service on the improvements.

Other Major Agreement Points Between the CITY of VISALIA and TOP OF THE THIRD are:

TOP of the THIRD, Inc:

- Will provide a Class A California League Professional Baseball Team in Visalia for 9 years with a 6 year option.
- Will provide annual maintenance and repair services to the facility of \$10,000 annually.
- Will provide grounds and maintenance staff year round.
- Will provide staff year round for special events.
- Will market special events for the stadium.
- Will utilize Hospitality Suite year round.

CITY OF VISALIA:

- Requires the Lessee to provide a California League Class A professional baseball equivalent or higher during the term of the lease.
- The City will require the Lessee to prepare annually a Field Maintenance and Repair Program for the coming year, which shall include at a minimum the salary for a year round grounds supervisor and other costs of field maintenance and repair, including but not limited to equipment repair and maintenance and supplies and chemical products necessary for the maintenance of the playing field surface. Lessee will provide Lessor a job description for the grounds supervisor and a list of projected costs of field repairs and maintenance, equipment repair and maintenance and field product on January 1 of each year of the lease. Lessor shall pay for up to \$40,000 (as adjusted annually cumulative increase in the Consumer Price Index-All Cities Average) of the Field Maintenance and Repair Program. Lessor will pay Lessor's obligations under this paragraph in four equal quarterly payments to Lessee on January 1, April 1, July 1, and October 1 of each year of the lease. The City previously contracted with a private vendor to provide the field maintenance and repair. The Lessee anticipates saving the City approximately \$5,000 annually by providing the maintenance internally as opposed to contracting out. Any annual amount not expended may be utilized by the Lessee toward the club's utility cost as approved by Lessor (City).
- The City currently provides major maintenance and repairs of the stadium facilities and grounds. In order to allow the Lessee to schedule repairs and maintenance in a more timely fashion and without having to schedule work through the City Building Division the City will provide the Lessee with the authority to authorize repairs and maintenance up to \$20,000 annually in 2007-09 and up to \$30,000 in 2010-2016 (or after major warranties have elapsed). Lessee will provide the City with a list of the need for such repairs annually. The City will continue to be responsible for major maintenance and repair

above this level. Any annual amount not expended may be utilized by the Lessee toward the club's utility cost as approved by Lessor (City).

- The City will pay electric billing for the baseball season at a maximum \$34,590 annually plus a CPI increase. (The original amount approved in the 2003 Lease with TOP of the THIRD, Inc. was \$30,000 with an annual CPI cumulative adjustment. The new base is \$34,590 for 2008.)The Lessee will be responsible for any electric billing in excess of the annual amount paid by the Lessor (City).

Joint Agreements Between the City of Visalia and TOP of the THIRD, Inc.

- The City of Visalia shall maintain control of the stadium during the off season (October-March 14), with the exception of the club office, conference room, storage area and team store which the Lessee has exclusive use of and expenses for, year round.
- The Lessor and Lessee will work cooperatively to schedule other special events in the stadium. A recommended plan will be submitted to the City Council by April 2008.

The owners are confident that attendance will continue to increase at Recreation Stadium as the stadium is renovated and upgraded. This is seen in many stadiums throughout the country as indicated by the attached chart. As the existing stadiums are new or significantly renovated the attendance is boosted by some 92%.

Minor League Baseball's popularity continues to be on the rise throughout the country. Attendance is consistently high in new or improved stadiums. It is a very affordable family entertainment that is hard to duplicate. It is a quality of life asset that also creates jobs, improves the surrounding area, provides opportunities for youth and brings the community together.

Prior Council/Board Actions:

Council approval of current lease August 2006

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Proposed Ordinance

City Lease with TOP of the THIRD, Inc.

Recommended Motion (and Alternative Motions if expected): I move the City Council adopt Ordinance 2007-14 rescinding Ordinance No. 2006-13 and authorizing the City Manager to enter into a nine (9) year lease agreement with a six (6) year renewal option, with TOP of the THIRD, Inc. for lease of property located at 300 North Giddings, Visalia, California for the use of professional baseball and other City authorized events.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

Ordinance No. 2007-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA REPEALING ORDINANCE NO. 2006-13 AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDED LEASE AGREEMENT BETWEEN THE CITY OF VISALIA AND TOP OF THE THIRD, INC. FOR THE LEASE OF PROPERTY LOCATED AT 300 N. GIDDINGS, VISALIA, CALIFORNIA

WHEREAS, the city of Visalia owns certain real property commonly referred to as the Recreation Park Stadium, generally located at the southeast corner of Giddings St. and Murray Avenue (portion of APNs 093-245-001, 093-233-001) ; and

WHEREAS, the Visalia City Council enacted Ordinance No. 2006-13 on August 28, 2006, authorizing the City Manager to execute a lease with Top of the Third, Inc. for said property for the purpose of providing professional baseball at Recreation Park Stadium; and

WHEREAS, the lease was executed and it is now desirable to amend the terms of said lease; and

WHEREAS, the city of Visalia and Top of the Third, Inc. desire to enter into a lease agreement for said Demised Premises for a period of nine (9) years with a six (6) year option; and

WHEREAS, said Demised Premises is more particularly described and shown on Exhibit A, attached hereto; and

WHEREAS, pursuant to the Charter of the city of Visalia, the City Council may, by ordinance, authorize the lease of property for a period of greater than five (5) years; and

WHEREAS, the City Council introduced this ordinance authorizing the City Manager to enter into the subject amended lease at the July 18, 2007 meeting of the City Council.

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

1. **SECTION 1.** The City Manager of the City of Visalia be, and is hereby authorized to execute on behalf of the city of Visalia, that certain Lease Agreement by and between the city of Visalia and Top of the Third, Inc., in the form as provided in Exhibit B attached hereto, and further authorized the City Manager to make any non-substantive administrative changes to Exhibit B that may be necessary or appropriate.
2. **SECTION 2.** The City Council of the city of Visalia finds the lease and projects referenced therein to be Categorical Exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15332 (infill project) of the Guidelines for Implementation of the California Environmental Quality Act.
3. **SECTION 3.** City of Visalia Ordinance No. 2006-13 is hereby repealed.
4. **SECTION 4.** This ordinance shall go into effect thirty (30) days after its passage.

LEASE AGREEMENT

This LEASE AGREEMENT is made and entered into as of _____ 2007, by the CITY OF VISALIA, a municipal corporation, hereinafter referred to as the "Lessor" and TOP OF THE THIRD, INC., a California Corporation, hereinafter referred to as the "Lessee".

RECITALS

Lessor is the owner of certain real property situated in the City of Visalia, County of Tulare and the State of California, described in Exhibit "A" which is attached hereto and hereby incorporated by this reference (hereinafter referred to as "the Premises").

Lessee desires to lease the Premises for the purpose described herein in connection with the operation of the Visalia Oaks Baseball Team in accordance with the agreement of the parties as set forth in this Lease Agreement.

Lessor desires to facilitate the improvement of the facility, and to make such improved facility available for lease to Lessee on the conditions that a portion of the cost of the improvements to the facility are recuperated through various revenue streams associated with Lessee's use of the Premises, and that the Lessee commit to maintaining a minor league baseball franchise in Visalia throughout the term of this lease.

Lessor previously entered into a lease with Lessee dated September 18, 2006, for a period of 10 years, and since execution of such lease, the parties have agreed to a different set of terms. This Agreement is intended to replace such previous lease in its entirety, and to be the sole Agreement setting forth the understandings of the parties in relation to the lease of the Premises.

AGREEMENT TO LEASE

For the consideration described herein and performance of the covenants and conditions to be performed by Lessee under this Lease Agreement, Lessor agrees to lease the Premises to Lessee, and Lessee agrees to lease the Premises from Lessor, on the terms and conditions set forth below.

1. PREMISES

- a. Except as expressly provided to the contrary in this Lease Agreement, reference to "Premises" is to the described land in Exhibit "A" plus any described appurtenances, including any improvements now or hereafter, located on the premises, without regard to whether ownership of the improvements is in Lessor or in Lessee. The parking lot north of the stadium improvements, and the new office rental space (as outlined in red in Exhibit "A") to be constructed on the west (Giddings Street) side of the stadium, are not included in the Premises, and shall remain in the possession of the Lessor.

2. FACILITY STANDARDS

- a. Lessor shall endeavor to provide a facility on the Premises throughout the term of this lease which complies with all aspects of Major League Rule 58, establishing "Standards for Minor League Playing Facilities" (a copy of which is attached hereto as Exhibit B) or as the same may be amended during the term of this Lease (hereinafter the "Standards"), said Standards being incorporated herein by reference. Acceptable areas of non-compliance must first be agreed upon by both Lessee, Lessee's MLB affiliate and any applicable baseball governing bodies. Lessor and Lessee agree that the Program of Renovations, as provided for below, is intended to bring the Premises into compliance with all the current Standards. Lessee agrees that the 4,000 seat standard is a recommendation by the MLB and not a requirement. Lessee agrees that the failure to provide 4,000 seats shall not constitute a violation of a term of this agreement.

3. PROGRAM OF RENOVATIONS.

- a. Lessor and Lessee agree that Lessor shall undertake a project of improvement to the Premises, to be paid for from funds provided by Lessor, consisting of those items enumerated in Exhibit C attached hereto, which shall be referred to herein as the "Program of Renovations".
- b. Lessor and Lessee shall meet and confer to determine the specific features of the improvements to be made and a specific timeframe for construction of such improvements, and shall provide an opportunity to review such improvements with the appropriate parties if determined to be necessary by the City Manager of Lessor. No improvements shall be undertaken without the express written approval of Lessor. Lessor and Lessee agree that all reasonable efforts will be made to keep renovations on schedule and that approval of such improvements shall not be unreasonably withheld.
- c. Lessor shall reimburse Lessee for, or at Lessor's option, Lessor shall contract for and shall pay directly, the costs of any improvements pursuant to the Program of Renovations. If Lessee performs or contracts for the performance of the work and seeks reimbursement, such reimbursement shall only be made upon adequately documented billing information and confirmation of the completion of the subject improvements subject to City approval of such improvements.
- d. Major Renovation construction shall take place during the 'off-season' period, and shall be completed in two phases.
- e. Upon expiration or termination of this lease, the improvements constructed and all furniture, fixtures and equipment installed pursuant to the Program of Renovations shall become the sole property of Lessor unless otherwise authorized by the Lessor.

4. TERM OF LEASE

- a. The term of the Lease Agreement shall be 9 years, commencing on January 1, 2008 and terminating December 31, 2016. Lessee shall retain the right to renew this Agreement for a period of six (6) years by providing sixty (60) days written notice to Lessor prior to the termination date of this Agreement. If total amounts paid to the Lessor by Lessee pursuant to this Agreement for the three (3) years immediately preceding such renewal (2014-2016) meets or exceeds the targeted income for the Lessor of \$620,279.00, all terms and conditions of this Agreement (excepting this right to extension) shall be applicable to the 6-year extension period. If the total revenue to the Lessor for the three (3) years immediately preceding renewal (2014-2016), falls below \$620,279.00, new terms for the extension will be negotiated during the sixty (60) day notice period.

5. BASEBALL SCHEDULE

- a. At the beginning of each calendar year or as soon thereafter as is reasonable practical, Lessee shall provide Lessor with its California League Baseball Schedule
- b. Lessor understands and agrees that changes to the schedule may be made by either the California League or by Minor League Baseball which are beyond the control of the Lessee.

6. ANNUAL RENT/TICKET REVENUE SHARING

Lessor will not charge Lessee a flat fee annual rent for the nine (9) year term of this Agreement commencing on January 1, 2008 and terminating on December 31, 2016 in exchange for the following consideration:

- a. Ticket Surcharge: Lessee shall charge and collect a surcharge on each ticket sold for any event for which Lessee sells tickets at the Premises of \$1.00 per regular priced ticket, \$2.00 per Premium Ticket (tickets entitling the holder to use box seats or sky-box facilities, limited to approximately 300 seats per event in the current and future configuration of the stadium), and \$.50 per ticket for berm (open grass) seating. Lessee shall provide a full and complete accounting for the surcharge within 30 days of the conclusion of the baseball season (but no later than October 31 each year), and shall pay the full amount of the total surcharges

collected, without deduction of any kind, to Lessor. The surcharge shall be paid on tickets actually sold, and shall not be paid on "comped" or traded tickets, which shall be limited to no more than 15 percent of total tickets issued..

- b. Percentage Rental: In addition to the ticket surcharge, Lessee shall pay the Lessor a Percentage Rental pursuant to the following terms:
- i. Formula: Percentage Rental shall equal the sum of: (1) five percent (5%) of the amount of Annual Gross Receipts that exceeds \$1,000,000 and is less than \$1,500,000; (2) seven and one half percent (7.5%) of the amount of Annual Gross Receipts that exceeds \$1,500,000 and is less than \$2,000,000; and (3) ten percent (10%) of the amount of Annual Gross Receipts that exceeds \$2,000,000. All of the above dollar figures shall be adjusted annually by the increase in the Consumer Price Index – All Cities Average.
 - ii. "Total Annual Gross Receipts" is defined as the total amount of all monies or credits, paid to or received by Lessee, during the period of January 1 and December 31 of each year (a "Revenue Year"). The following list, provided as examples and not as limitations, are all considered sources of Gross Receipts: Ticket sales; Concessions receipts (food and beverage, including alcoholic beverages); Advertising revenue; Naming rights revenue; revenue from ancillary activities (i.e. batting cages, pitching booths); Rental or fees for special events during the months the club leases the stadium; Rental or fees collected from concessionaires and sub-concessionaires, Gross Receipts shall not include tradeouts (defined as items received by Lessee in lieu of cash as consideration for goods or services provided by Lessee). Gross Receipts shall also not include the concession receipts of Lessee's concessionaires or sub-concessionaires, provided that Lessee continues to operate directly at least 75% of total concession operations (based on total concession receipts) at the Demised Premises.
 - iii. A written accounting of the Percentage Rental payable for the previous Revenue Year shall be prepared by Lessee and delivered to Lessor no later than 15 days following the close of a Revenue Year. Payment of the full amount of Percentage Rental shall be made no later than 15 days following the delivery of the Lessee's written accounting., and in no event later than January 31 following the close of a Revenue Year. Each written accounting provided pursuant to this paragraph shall be deemed to include a representation and warranty of accuracy and fairness in statements.
 - iv. Lessee shall keep proper books of account and furnish true and accurate statements of total receipts received for its home games, including, but not limited to, admissions to its home games, rental fees received by Lessee, food and beverage receipts, advertising receipts, and other receipts. Lessor or its agents and employees shall at all reasonable times that do not interfere with Lessee's operations, and with reasonable notice, have access to and the right to inspect all books, records, and license agreements of Lessee in connection with the calculation of sums payable hereunder, and with the terms and conditions of the use and occupancy covered by this Agreement.

7. USE AND PERIODS OF USE OF PREMISES

- a. Lessee agrees to use the facilities and property which are the subject of this Lease Agreement exclusively in connection with the operation of the Visalia Oaks Baseball Team and such other events as may be agreed to in advance by Lessor. Lessee shall not change the use of the Premises without first obtaining the written consent of Lessor.
- b. Lessor shall have the rights to access all facilities on the Premises at all times.
- c. Pursuant to this Agreement, Lessee shall have the year round exclusive use and possession of the as the administrative offices, conference room, break room, storage roomes and team store, all located on the west side of the stadium, together with the groundskeepers shed, all of which space shall be hereinafter referred to as the Baseball Club Office. Lessee and shall pay all utilities associated with occupying Baseball Club Office space September 30 through March 14 (electric, water, groundwater recharge, fire sprinkler, sewer, refuse, and natural

gas). The remainder of the year, the utility provisions provided below shall apply. Lessee shall have the exclusive right of use and possession of all other portions of the Premises excluding the Baseball Club Office (the "Remainder of the Premises") only during the period from March 15 through September 30 of each year. Lessor retains the right to use and possess the Remainder of the Premises during the period of October 1 through March 14, but shall coordinate any such use with Lessee pursuant to paragraph 8 below. Lessee is exclusively responsible for the operation of the Remainder of the Premises and for the direction and control of all employees employed in such operations and all other employees of TOP of the THIRD, Inc. during the period March 15 through September 30 of each year.

- d. Lessee shall, at Lessee's own cost and expense, comply with all statutes, ordinances, regulations, and requirements of all governmental bodies, both federal and state, county or municipal relating to the use and occupancy of the Premises, whether those statutes, ordinances, regulations, and requirements are now in force or are subsequently enacted.

8. OTHER EVENTS

- a. Lessor and Lessee agree to cooperatively work together to book other events in the stadium either during or after the periods of Lessee's exclusive use of the Premises as set forth in paragraph 7.c. above. Lessor and Lessee will agree upon the special events to be held in the stadium. . A committee consisting of a representative of the City Manager's office, the Convention Center, Parks/Recreation and TOP OF THE THIRD, INC. will be formed no later than April, 2008, to develop policy and procedures for all special events other than baseball games held in the stadium.
- b. Events managed by Third party . A Third Party may run an event at the facility with mutual consent of Lessee and Lessor. Third Party will be required to pay a facility fee that includes utility costs to be determined by Lessor and Lessee (which may include a portion of ticket or other revenues). Any Third Party must carry the requisite insurance as required by law and shall be held responsible for any damage or repairs required on the Premises resulting from the event.
- c. Events held or promoted by Lessee during the periods of Lessee's exclusive use and control as set forth in Paragraph 7.c. above will be charged the surcharge as set forth in paragraph 6.a. above.

9. NO PARTNERSHIP OR JOINT VENTURE

- a. Nothing in this Lease Agreement shall be construed to render Lessor in any way or purpose a partner, joint venture, or associate in any relationship with Lessee other than that of Lessor and Lessee, nor shall this Lease Agreement be construed to authorize either to act as an agent for the other.

10. MAINTENANCE

- a. Lessee shall be responsible for any Oaks baseball game related maintenance including any set-up and clean-up.
- b. Lessee shall, at its sole cost, provide repairs or other improvements to the Premises mutually agreed upon by the Lessor and Lessee in the amount of \$10,000 annually. Lessee shall provide Lessor a list of repairs or improvements together with costs, supported by adequate documentation verifying such costs, which may include but not be limited to bids or receipts for work completed, by February 1, annually for the term of the lease
- c. Field Maintenance and Repair
 - i. Lessee shall prepare annually a Field Maintenance and Repair Program for the coming year, which shall include at a minimum the salary for a year round grounds supervisor and other costs of field maintenance and repair, including but not limited to equipment repair and maintenance, and supplies and chemical products necessary for the maintenance of the playing field surface. Lessee will provide Lessor a job description for the grounds supervisors and a list of projected costs of field repairs and maintenance, equipment repair and maintenance and field product on January 1 of each year of the lease. Lessor shall pay for up to \$40,000 (as adjusted annually by the increase in the Consumer Price Index – All Cities Average) of the Field

Maintenance and Repair Program Lessor will pay Lessor's obligations under this paragraph in four equal quarterly payments to Lessee on January 1, April 1, July 1, and October 1 of each year.

- ii. On or before January 31 each year, Lessee shall provide to Lessor a list of field maintenance expenses for the prior year, and Lessor shall be reimbursed or credited for any amounts budgeted and paid for by Lessor but not expended by Lessee, or any such surplus may, at Lessee's option, be used as a credit toward Lessee's electricity obligation pursuant to Paragraph 11.a. below.
- iii. Any items or repairs that exceed the annual field maintenance and repair budget will be the responsibility of the Lessor, provided the item or repair is reasonably needed for the proper maintenance of the field as determined by the Lessor and Lessor's prior approval of such item or repair is obtained by Lessee.

d. Facility Maintenance and Repair

- i. Lessee will hire a year round grounds supervisor (item 10(c)(i) above) for the purpose of field maintenance. Where reasonable, the grounds supervisor will also assist in facility maintenance and repairs. When such maintenance and repairs are beyond the scope of the grounds supervisor, provisions c(ii) c(iii) and c(iv) shall apply.
- ii. The Lessor will provide the Lessee an annual facility maintenance budget of \$20,000 in 2007 and \$20,000 in 2008 for facility related maintenance for the stadium (excluding field maintenance), beginning January 1 of each year. Following the expiration of warranties for the new renovation the annual maintenance budget will be increased to \$30,000 annually. Following each twelve month period, the facility maintenance budget shall be adjusted by the accumulative increase in the Consumer Price Index – All Cities Average as determined by the City Finance Division. Lessee will provide Lessor with a list of facility items requiring maintenance on January 1 of each year of the contract for the previous year. Lessor will provide the facility maintenance budget in four equal quarterly payments to Lessee on January 1, April 1, July 1, and October 1 of each year, for facility maintenance expenses.
- iii. On or before January 31 each year, Lessee shall provide to Lessor a list of maintenance expenses for the prior year and a list of anticipated maintenance items for the new year and Lessor shall be reimbursed or credited for any amounts budgeted and paid for by Lessor but not expended by Lessee, or any such surplus may, at Lessee's option, be used as a credit toward Lessee's electricity obligation pursuant to Paragraph 11.a. below..
- iv. Any items or repairs that exceed the annual facility repair and maintenance budget will be the responsibility of the Lessor, provided the item or repair is reasonably needed for the proper maintenance and repair of the facility, and Lessor's prior approval of such item or repair is obtained by Lessee. Lessor and Lessee will mutually agree to reasonably insure that all aspects of the facility are in acceptable working condition for each season and are in compliance with minimum League facility standards.

11. UTILITIES:

- a. Electricity: During the term of this Lease, March 15 through September 30th of each year, Lessor shall pay for electrical services provided to the Premises a maximum \$34,590. Following each twelve month period, the \$34,590 maximum, shall be adjusted by the accumulative increase in the Consumer Price Index – All Cities Average. All electrical services that exceed Lessor's maximum payment, as adjusted by the CPI, during the period of Lessee's exclusive use of the Remainder of the Premises as set forth in paragraph 7.c. above, (March 15 through September 30th) shall be billed to the Lessee on November 1, of each contract year and reimbursed to Lessor by Lessee within thirty (30) days of receipt of an invoice therefore.
- b. Natural Gas: During the period of Lessee's exclusive use of the Remainder of the Premises as set forth in paragraph 7.c. above (March 15 through September 30th), Lessor will pay for

natural gas services provided to the Premises, however Lessor will bill the Lessee on November 1, of each contract year and Lessee will pay to Lessor within 30 days after receipt of the bill the actual charges attributed to Lessee's use.

- c. Water: During the period of Lessee's exclusive use of the Remainder of the Premises as set forth in paragraph 7.c. above (March 15 through September 30th), Lessor will pay for water services provided to the Premises, however, Lessor will bill the Lessee on November 1, of each contract year and Lessee will pay to Lessor within 30 days after receipt of the bill the actual charges attributed to Lessee's use. The City water billing includes, but is not limited to, water, groundwater recharge, fire sprinkler, sewer and refuse.

12. TAXES:

- a. Lessee recognizes and understands that this AGREEMENT may create a possessory interest subject to property taxation, and Lessee may be subject to the payment of property taxes on such interest. Lessee agrees to pay such tax if assessed during the terms of this lease.
- b. Lessee agrees to pay any and all personal property taxes assessed against its property on such premises.

13. INSPECTIONS:

- a. Initial Inspection: At the commencement of this Agreement, the Lessor and the Lessee shall perform a walk through of grounds and buildings to determine status of maintenance and inventory. The inspection and inventory will be documented and incorporated as part of this Lease Agreement, by the reference.
- b. Annual Inspections: On or before April 1 of each year, Lessor and Lessee shall conduct an inspection of the facilities and all equipment owned by Lessor located on the Premises. Within thirty days after the last game of the current season, Lessor and Lessee shall again inspect the facilities for the purpose of assuring both parties that Lessee has maintained the said Premises at the established minimum standards, and that the Premises are in a condition comparable to the April 1st inspection.

14. ALTERATIONS AND IMPROVEMENTS

Lessee shall have the right to make alterations and improvements to the facilities and the Premises which is the subject of this Lease Agreement, provided that Lessee obtains the prior written approval of Lessor for any such alterations and improvements. Unless otherwise provided in writing, the construction of any such alterations and improvements shall be solely at Lessee's cost and expense. Lessee shall not permit any claims, demands, or mechanics liens of any kind to be filed against Lessor or the Premises as a result of any work, or failed to be performed, or materials furnished to the Premises at the request of the Lessee. Lessee shall indemnify and hold Lessor free and harmless from any such claims, demands, or liens which arise from said alterations and improvements. All such alterations and improvements shall be kept in good condition and repair and unless otherwise provided in writing, all such alterations and improvements shall become the property of Lessor upon the termination of this Lease Agreement, without right to reimbursement from Lessor to Lessee for such alterations and improvements unless otherwise agreed upon by the Lessor.

15. RIGHT TO ENCUMBER OR ASSIGN

Lessee may not assign this Lease or sublet any part of the above described premises without the written authorization of Lessor. Provided, however, Lessor will not unreasonably withhold its authorization if the assignee is a California League and National Association of Professional Baseball Leagues, Inc. (NAPBL) approved purchaser of the Visalia franchise.

16. INDEMNIFICATION AND INSURANCE

- a. Indemnification: Lessee hereby agrees to indemnify and hold Lessor and its property, officers, agents, employees and assigns free and harmless from any and all liability, claims, loss, damages, or expenses, whether arising before or after completion of work hereunder, or in any manner directly or indirectly caused, occasioned or contributed to, or claimed to be cause, occasioned or contributed to, in whole or in part, by reason of any act or omission, including

strict liability or negligence of Lessee or of anyone acting under Lessee's direction or control or on its behalf, in connection with or incident to, or arising out of Lessee's occupation and use of the Premises and in connection with, or incident to, or arising out of any act or work performed by or on behalf of Lessee under the terms of this Lease Agreement.

- b. Insurance: Without limiting Lessor's right to indemnification, it is agreed that Lessee shall secure prior to commencing any activities under this Lease Agreement, and continue to maintain during the term of this Agreement, insurance coverage as follows:
- i. Workers' compensation insurance as required by law.
 - ii. 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)
 - iii. 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
 - iv. Each insurance policy required by this Agreement shall contain the following clauses:

"This insurance shall not be cancelled, 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, 425 E Oaks Avenue, Visalia, CA 93291.

"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."

Each insurance policy required by this Lease Agreement, excepting policies for workers' compensation, shall contain the following clause:

"The City of Visalia, its elected officials, officers, agents, employees, representatives and volunteers are added as additional insured as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Visalia"

Within thirty (30) days of the execution of this Lease Agreement, Lessee shall deliver to Lessor insurance certificates confirming the existence of the insurance required by this Lease Agreement, and including the applicable clauses referenced above. Also, within thirty (30) days of the execution date of this Agreement, Lessee shall provide Lessor 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 Lessor, it shall be Lessee's responsibility to see that Lessor receives documentation acceptable to Lessor which proves that the individual signing said endorsements is indeed authorized to do so by the insurance company. Also, Lessor has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Lease Agreement.

In addition to any other remedies the Lessor may have if Lessee fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, Lessor may, at its sole option (1) obtain such insurance and require the amount of the premiums for such insurance to be paid by Lessee; (2) terminate this Lease Agreement.

17. REASONABLE SECURITY/PROTECTION

Lessee shall provide at all home baseball games, at a level satisfactory to Lessor, sufficient to insure reasonable protection of the facilities and premises which are the subject of this Lease Agreement.

18. DEFAULT

All covenants and agreements contained in this Lease Agreement are declared to be conditions to this Lease and to the term hereby leased to Lessee. Should Lessee fail to perform any covenant, condition, or agreement contained in this Lease and the default is not cured within 10 days after written notice of the default is served on Lessee by Lessor, then Lessee shall be in default under this Lease Agreement.

The waiver by Lessor of any breach by Lessee of any of the provisions of the Lease Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach by Lessee of either the same or a different provision of this Lease.

19. AGREEMENT NOT TO VACATE.

- a. Lessee agrees that it shall not vacate or abandon the Premises throughout the term of this Agreement, and that Lessee will at all times use the Premises for the purpose of operating the Visalia Oaks Baseball Team under a normal California League schedule (currently 70 home games as mandated by the league). Lessee further agrees that it shall not move or attempt to move its franchise rights to another city or stadium during the term of this agreement, or in any other way fail to conduct a full season at the Premises throughout the term of this Lease. Violation of this provision shall be considered a material breach of this Lease agreement. This provision shall be considered breached upon any of the following occurrences: (i) an affirmative statement in writing from Lessee that Lessee intends to vacate the premises and no longer operate a Class A minor league baseball team at the Premises; (ii) failure of Lessee to provide adequate assurances that it will not vacate the premises after a request for such assurance is made by Lessor; or (iii) upon actual vacation or non-use of the Premises during the period April 1 through September 15 of any year.
- b. Breach of this provision shall cause Lessee to be liable for the liquidated damages established in Paragraph 20 of this Agreement.
- c. Notwithstanding the foregoing provisions of this Article, Lessee shall not be required to pay damages to Lessor if Lessee, without cause or neglect, loses its franchise to operate a team in the California League or in the event contraction or realignment of minor league baseball results in the Lessee losing its right to operate a California League team. Further, Lessor agrees that in the following events it will suffer no financial damage and will not claim liquidated damages from Lessee: (i) Lessee retains its California League franchise and operates in a different location but assigns this Lease to a third party who agrees to conduct a full season of Class A California League professional baseball operations for the remainder of the Lease term on the demised premises; or (ii) Lessee sells its California League franchise to a third party who accepts an assignment of this Lease and agrees to conduct full season (a minimum number of home games as determined by the League) Class A California League professional baseball operations for the remainder of the Lease term on the demised Premises; or (iii) If California League reorganizes minor league baseball and Lessee relocates or sells its California League franchise to a third party who relocates Lessee's team to another site but Lessee or a third party obtains another franchise from a different professional league, accepts assignment of this Lease and agrees to conduct a full season (a minimum number of games as determined by the league) of professional baseball operations for the remainder of the Lease term on the demised Premises.

20. REMEDIES

- a. In the event Lessee defaults under this Lease Agreement, Lessor may terminate this Lease by written notice to Lessee. Lessor reserves the right to bring an action to recover any amount necessary to compensate Lessor for all detriment proximately caused by Lessee's failure to perform Lessee's obligations under this Lease Agreement.
- b. In the event Lessor defaults under this Lease Agreement, Lessee may terminate this Lease by written notice to Lessor. Lessee reserves the right to bring an action to recover any amount necessary to compensate Lessee for all detriment proximately caused by Lessor's failure to perform Lessor's obligations under this Lease Agreement

- c. In the event Lessee violates Paragraph 19 of this Agreement, Lessor and Lessee agree that Lessor shall be entitled to damages according to the following formula: \$100,000 multiplied by the number of years remaining on the lease at the time of the breach. By way of example only and not by limitation, should Lessee vacate the premises in violation of this agreement prior to the sixth year of this Agreement, the liquidated damages would be \$100,000 times 4, or \$400,000. The damages so calculated shall be due immediately upon breach, as defined in Paragraph 19. These damages shall be considered liquidated damages. The parties expressly acknowledge and agree that damages that would accrue to the City by virtue of the breach of Paragraph 19 of this Agreement are impractical and extremely difficult to ascertain in advance and that the liquidated damages provided by this paragraph are a reasonable attempt to estimate such damages considering the nature of the circumstances. The parties further acknowledge that such liquidated damages shall not be regarded as a penalty. It is the intent of the parties, in light of the above acknowledgments, to waive any challenge to the liquidated damages provided by this paragraph that may arise pursuant to Civil Code section 1671.
- d. In the event Lessee becomes liable for liquidated damages as defined above, the obligation to pay liquidated damages shall be secured by a Security Agreement which shall be executed by Lessee in a form substantially the same as provided in Exhibit D, and by such further security instrument as the parties shall agree to. The parties agree that the intent of the parties in executing a security instrument or instruments in satisfaction of this subparagraph is, among other things, to ensure payment of liquidated damages from proceeds of the sale of the franchise rights now held by Lessee, where the new owner of such rights moves the team out of Visalia, thereby causing a violation of Paragraph 19 of this Agreement. It is further the intent of the parties that any such security agreement be construed in a manner that is consistent with regulations of Major League Baseball, the Minor League Baseball Association, and the California League.

21. ATTORNEY'S FEES:

Should any litigation be commenced between the parties to this Lease concerning the Premises, this Lease, or the rights and duties of either in relation thereto, the party prevailing in that litigation shall be entitled, in addition to any other relief that may be granted in that litigation, to a reasonable sum as and for that party's attorney's fees.

22. FORCE MAJEURE

Except as otherwise expressly provided in this Lease, if the performance of any act required by this Lease to be performed by either Lessor or Lessee is prevented or delayed by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, restrictive governmental laws or regulations, or any other cause (except financial inability) not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay will be excused. However, nothing contained in this section shall excuse the prompt payment of rent by Lessee as required by this Lease or the performance of any act rendered difficult or impossible solely because of the financial condition of the party required to perform the act.

23. NOTICES:

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by law to be served on either party of this Lease shall be in writing and shall be deemed duly served and given when personally delivered, or, in lieu of personal service, when deposited in the United States mail, Certified Mail, Receipt Requested with proper postage prepaid and addressed as follows:

LESSOR:
CITY OF VISALIA
425 E Oak Avenue
Visalia, CA 93291

LESSEE:
TOP of the THIRD, Inc.
300 N. Giddings

24. GOVERNING LAW

This Lease, and all matters relating to this Lease, shall be governed by the laws of the State of California in force at the time any need for interpretation of this Lease or any decision or holding concerning this Lease arises. All matters relating to this Lease shall be venued in Tulare County.

25. BINDING ON HEIRS AND SUCCESSORS:

This Lease shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto, but nothing in this section shall be construed as a consent by Lessor to any assignment of this Lease or any interest in the lease by Lessee.

26. PARTIAL INVALIDITY:

If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Lease shall remain in full force and effect unimpaired by the holding.

27. SOLE AND ONLY AGREEMENT:

This instrument constitutes the sole and only agreement between Lessor and Lessee respecting the Premises, the leasing of the Premises to Lessee, and the lease terms set forth in this Lease, and correctly sets forth the obligations of Lessor and Lessee to each other as of its date. Any agreements or representations respecting the Premises, their leasing to Lessee by Lessor, or any other matter discussed in this Lease not expressly set forth in this instrument are null and void.

28. TIME OF ESSENCE:

Time is expressly declared to be of the essence of this Lease.

29. 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.

30. AUTHORITY:

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. To the extent that work performed by Lessee or its contractors pursuant to this Agreement, including but not limited to the Program of Improvements as provided for in Section 3 of this Agreement, is determined to constitute a contract for goods or services that requires competitive bidding pursuant to the City's policies, the City Council, by authorizing the City Manager to enter into this agreement, has determined to waive such policies and has found that the public interest is served by such waiver. Further, to the extent that the work to be performed by Lessee is construed to constitute work for which prevailing wages may be required, the City Council, by authorizing the City Manager to enter into this agreement, has found that such work constitutes a purely municipal affair and determines that prevailing wages need not be paid for such work.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of the date first above written.

LESSOR, CITY OF VISALIA

By: _____
Steve Salomon, City Manager

APPROVED AS TO FORM:

By: _____

Alex Peltzer, City Attorney

By: _____
Eric Frost, Administrative Services Director

LESSEE, TOP OF THE THIRD, INC.

By: _____
Tom Seidler, President

EXHIBITS:

- A. Description of Premises (below)
- B. Professional Baseball Agreement (PBA) Facility Standards and Major League Baseball Rule 58
- C. Renovations
- D. Security Agreement

**LEASE AGREEMENT
EXHIBIT "A" – PREMISES**

Footprint of Ballpark only. Specifically exclude the following:

North Parking Lot.

Leased Office Space to be built on west (Giddings Street) side of ball park.

Exhibit B
MLB Standards

Exhibit C

Program of Renovations

Exhibit D

Form of SECURITY AGREEMENT

Top of the Third, Inc. ("Debtor"), and *City of Visalia* ("Secured Party") agree, effective [date], as follows:

1. Background and Purpose.

1.1. Debtor has executed a Lease with Secured Party containing a potential obligation in an amount not to exceed \$1,000,000. ("Lease").

1.2. To secure Debtor's obligations under the Lease, and Debtor's obligations under this Agreement, Debtor has agreed to grant Secured Party a security interest as provided below.

1.3. The parties desire to set forth more fully the terms of their agreement.

2. Grant of Security Interest. To secure Debtor's Obligations (as defined in Paragraph 3 below), Debtor grants to Secured Party a security interest in the Collateral (as defined in Paragraph 4 below).

3. Obligations. For purposes of this Agreement, "Obligations" means any and all debts, obligations, and liabilities of Debtor to Secured Party arising out of, or relating in any way to the Lease, and in particular the liquidated damages provisions of Paragraph 20 of the Lease, and any obligations of Debtor to Secured Party pursuant to this Agreement, whether existing or arising after the date of this Agreement; whether voluntary or involuntary; whether jointly owned with others; whether direct or indirect; or whether absolute or contingent; and whether or not from time to time increased, decreased, extinguished, created, or incurred.

4. Collateral. For purposes of this Agreement, "Collateral" means:

(a) All accounts, accounts receivable, contract rights, and general intangibles, including, without limitation, all forms of payment, all present and future incomes, rents, revenues, issues and profits, goodwill, licenses and license rights, bailment or leasehold interests, whether as lessor or lessee, all cases in action and recoveries for any loss in value of the real estate of Debtor or items of property described in this Agreement, rights in and to security agreements and other contracts or assignments providing security to Debtor, book debts, credits, indemnities, warranties or guarantees payable to Debtor on loss or damage of property, inventions, designs, design registrations, trademarks, trade styles, trade names, know-how, powers, privileges, logos, , payments in kind, advertising and promotional materials, trade secrets, patents, patent rights, copyrights, patent applications, tax refunds, customer lists, business and accounting records, including all ledger account cards, computer tapes and disks and other computer information, in all cases whether now owned or hereafter created or acquired by Debtor or in which Debtor may now have or may after the date of this Agreement acquire an interest;

(b) All inventory, including, without limitation, all goods held for sale or lease, finished goods, merchandise, parts and supplies, of every kind and description, whether now owned or acquired by Debtor after the date of this Agreement, or in which Debtor may now have or may after the date of this Agreement acquire an interest, including, without limitation, inventory temporarily out of Debtor's custody or possession and any returns or repossessions on any sales or accounts;

(c) All goods, including, without limitation, equipment, machinery, materials, furniture, furnishings, engines, appliances, fixtures, tools, parts, supplies, and vehicles of every kind and description, whether now owned or acquired by Debtor after the date of this Agreement or delivered to the real property of Debtor, or in which Debtor may now have or may after the date of this Agreement acquire an interest, and all additions, accessions, replacements, substitutions, and improvements to such goods and wherever located;

(d) All documents, documents of title, deposit accounts, negotiable and nonnegotiable instruments, shares, stocks, bonds, debentures, securities, moneys, sources of money,

uncalled capital, letters of credit, investment property, and chattel paper whether now owned or acquired after the date of this Agreement by Debtor; and

(e) All proceeds and products of any of the personal property described above, in any form, including, without limitation, proceeds of any insurance relating to such collateral or fire and builder's risk insurance and unrenewed insurance premiums; proceeds consisting of any of the above types of collateral; all awards made in eminent domain proceedings or purchased in lieu of such eminent domain proceedings; proceeds of any noncommercial tort cause of action in existence, now or after the date of this Agreement; and all replacements, substitutions, renewals, returns, additions, accessions, rents, royalties, issues, documents of ownership, and receipts for any of the foregoing.

5. Representations and Warranties. As a material inducement to Secured Party under this Agreement, Debtor represents and warrants that the following are and shall remain true and correct:

5.1. Title. Debtor is the owner of all right, title, and interest in the Collateral free and clear of all liens, encumbrances, and security interests, except the security interest created by this Agreement.

5.2. Truth. All information that Debtor has provided to Secured Party concerning the Collateral is true and correct.

5.3. No Defenses. No defenses, offsets, claims, or counterclaims exist against Debtor that may be asserted against Secured Party in any proceeding to enforce Secured Party's rights in the Collateral.

5.4. No Conflict. The execution, delivery, and performance of this Agreement by Debtor is not in violation of any applicable law or regulation or contractual obligation of Debtor.

5.5. First Priority Lien. The liens granted to Secured Party under this Agreement will constitute a first priority lien on the Collateral on the filing of a UCC-1 Financing Statement and Debtor's grant of such lien to Secured Party does not constitute a fraudulent conveyance under any applicable law.

5.6. Good Standing. Debtor is a *[type of entity]* duly organized, validly existing, and in good standing under the laws of *[state of formation]*.

5.7. Due Authorization. Debtor has been duly authorized to execute and deliver this Agreement, which is a valid and binding obligation of Debtor.

6. Covenants of Debtor.

6.1. Protection of Security Interest. Contemporaneously with the execution of this Agreement, Debtor shall properly execute and deliver to Secured Party UCC-1 Financing Statements to enable Secured Party to perfect Secured Party's security interest in the Collateral. Debtor agrees also to execute, file, and record such other statements, notices, and agreements, take such action and obtain such certificates and documents, in accordance with all applicable laws, statutes, and regulations as may be necessary or advisable to perfect, evidence, and continue Secured Party's security interest in the Collateral.

6.2. Transactions Involving Collateral. Debtor shall not, without the prior written consent of Secured Party, (a) sell, offer to sell, or otherwise transfer the Collateral except in the ordinary course of business, or (b) pledge, mortgage, encumber, or otherwise permit the Collateral to be subject to any lien, security interest, or charge, other than the security interest created by this Agreement.

6.3. Compliance with Laws. Debtor shall comply with all laws, statutes, and regulations pertaining to the Collateral.

6.4. Taxes, Assessments, and Liens. Debtor shall pay when due all taxes, assessments, and liens with regard to the Collateral. Debtor may withhold any such payment or may elect to contest any lien if Debtor is conducting appropriate proceedings in good faith to contest the obligation to pay and so long as Secured Party's interest is not jeopardized.

7. Authorized Action by Secured Party. Debtor irrevocably appoints Secured Party as Debtor's attorney in fact to do any act that Debtor is obligated to do pursuant to this Agreement to preserve or protect the Collateral and to preserve, protect, or establish

Secured Party's lien on the Collateral. Debtor further irrevocably appoints Secured Party to exercise such rights and powers as Debtor might exercise with respect to the Collateral following an Event of Default, as defined below. These powers shall include without limitation the right to:

(a) Collect by legal proceedings or otherwise, and endorse, receive, and receipt all dividends, interest, payments, proceeds, and other sums and property now or after the date of this Agreement payable on account of the Collateral,

(b) Transfer the Collateral to Secured Party's own or Secured Party's nominee's name, and

(c) Make any compromise or settlement and take any action Secured Party deems advisable with respect to the Collateral. Debtor agrees to reimburse Secured Party on demand for any costs and expenses, including without limitation attorney fees, which Secured Party may incur while acting as Debtor's attorney in fact under this Agreement, all of which costs and expenses are included in the Obligations secured by this Agreement. Secured Party shall have no obligation to act pursuant to this paragraph and shall not be required to make any presentment, demand, or protest, or give any notice or take any action to preserve any rights against any other person in connection with the Collateral.

8. Defaults and Remedies.

8.1. Event of Default. Any of the following events or conditions shall constitute an Event of Default by Debtor under this Agreement:

(a) Default in payment of the Obligations in accordance with the terms of the Note;

(b) Default in the performance of any Obligations or breach of any agreement, representation, or warranty contained in this Agreement;

(c) Any levy or proceeding against the Collateral or Debtor's interest in the Collateral, except if Debtor is conducting appropriate proceedings in good faith to contest the levy or proceeding; or

(d) The filing of a petition by or against Debtor under the provisions of the Bankruptcy Code.

8.2. Remedies. On the occurrence of an Event of Default, Secured Party:

(a) Shall have and may exercise all rights and remedies accorded to Secured Party by the California Uniform Commercial Code;

(b) May declare all unperformed Obligations, in whole or in part, of Debtor immediately due and payable without demand or notice; and

(c) May require Debtor to take any and all action necessary to make the Collateral available to Secured Party.

8.3. Remedies Cumulative. All of Secured Party's rights and remedies, whether evidenced by this Agreement or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by Secured Party to pursue any remedy shall not exclude pursuit of any other remedy.

9. Waiver of Hearing. Debtor expressly waives any constitutional or other right to a judicial hearing prior to the time Secured Party takes possession or disposes of the Collateral on an Event of Default as provided in Paragraph 8 above.

10. Waiver. Secured Party shall not be deemed to have waived any rights under this Agreement unless such waiver is in writing and signed by Secured Party. No delay or omission on the part of Secured Party in exercising any right shall operate as a waiver of such right or any other right.

11. Additional Documentation; Cooperation. Each party shall, on the request of the other, execute, acknowledge, and deliver to the other any instrument that may be required to accomplish the intent of this Agreement. Each party agrees to cooperate to effectuate the intent of this Agreement and shall take all appropriate action necessary or useful in doing so.

12. Miscellaneous.

12.1. Successors and Assigns. Subject to the provisions otherwise contained in this Agreement, this Agreement shall inure to the benefit of and be binding on the successors and assigns of the respective parties.

12.2. Notices. Any notice under this Agreement shall be in writing, and any written notice or other document shall be deemed to have been duly given (a) on the date of personal service on the parties, (b) on the third business day after mailing, if the document is mailed by registered or certified mail, (c) one day after being sent by professional or overnight courier or messenger service guaranteeing one day delivery, with receipt confirmed by the courier, or (d) on the date of transmission if sent by telegram, telex, telecopy, or other means of electronic transmission resulting in written copies, with receipt confirmed. Any such notice shall be delivered or addressed to the parties at the addresses set forth below or at the most recent address specified by the addressee through written notice under this provision. Failure to conform to the requirement that mailings be done by registered or certified mail shall not defeat the effectiveness of notice actually received by the addressee.

12.3. Amendment. The provisions of this Agreement may be modified at any time by written agreement of the parties. Any such agreement made after the date of this Agreement shall be ineffective to modify this Agreement in any respect unless in writing and signed by Debtor and Secured Party.

12.4. Attorney Fees; Prejudgment Interest. If the services of an attorney are required by Secured Party to secure the performance of this Agreement or otherwise on the breach or default of this Agreement, or if any judicial remedy or arbitration is necessary to enforce or interpret any provision of this Agreement or the rights and duties of any person in relation to this Agreement, Secured Party shall be entitled to reasonable attorney fees, costs, and other expenses, in addition to any other relief to which Secured Party may be entitled. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

12.5. Post-Judgment Attorney Fees. If the services of an attorney are required by any party to enforce a judgment rendered in connection with this Agreement, the judgment creditor shall be entitled to reasonable attorney fees, costs, and other expenses, and such fees, costs, and expenses shall be recoverable as a separate item. This provision shall be severable from all other provisions of this Agreement, shall survive any judgment, and shall not be deemed merged into the judgment.

12.6. Captions. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

12.7. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement that can be given effect without the invalid provision shall continue in full force and effect and shall in no way be impaired or invalidated.

12.8. Governing Law. The rights and obligations of the parties and the interpretation and performance of this Agreement shall be governed by the law of California, excluding its conflict of laws rules.

12.9. Venue. Debtor agrees that any actions arising under this Agreement shall be heard and resolved in the courts in County, California.

12.10. Entire Agreement. This document and its exhibits constitute the entire agreement between the parties, all oral agreements being merged in this Agreement, and supersede all prior representations. There are no representations, agreements, arrangements, or understandings, oral or written, between or among the parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement or its exhibits.

SECURED PARTY

ENTITY

[Name of entity]

[Type of entity]

By:

[Signature]

[Title of signatory]
INDIVIDUAL
[Signature]

[Print name]

[Address]
DEBTOR
ENTITY
[Name of entity]

[Type of entity]
By:
[Signature]

[Title of signatory]
INDIVIDUAL
[Signature]

[Print name]

[Address]

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 15, 2007

Agenda Item Number: 11

Agenda Item Wording:

Public hearing for:

Change of Zone No. 2007-01. A request by Mario Aguilera to amend Zoning Ordinance Section 17.32.161 to change the location criteria for fast food restaurants with or without drive-thru in the Light Industrial zone (IL)

Ordinance No. 2007- 17 required.

Deadline for Action: None

Submitting Department: Community Development - Planning

Contact Name and Phone Number:

Andrew J. Chamberlain, AICP, 713-4003
Fred Brusuelas, AICP 713-4364

Recommendation and Summary: On September 24, 2007, the Planning Commission adopted Resolution No. 2007-94 recommending that the City Council approve Change of Zone 2007-01. The change of zone is for a Zoning Ordinance text amendment to location criteria in the Light Industrial zone for fast food restaurants with or without drive-thrus. The criteria adds locations at arterial/collector intersections for existing parcels up to 12,000 square feet in size as follows:

5. A drive-thru kiosk only, serving beverages but without foods prepared on the site, may be allowed on an improved arterial/collector intersection with approval of a conditional use permit (CUP) if the site is located on a legally existing underdeveloped parcel that is less than 12,000 square feet in net area. Such location shall not be subject to the one mile separation requirement specified in this Section A.3

The added location criteria would allow the development of a site located on the southwest corner of Goshen Avenue and Kelsey Street for a drive-thru coffee kiosk serving beverages and pre-prepared food items. The current Zoning Ordinance language provides for fast food with drive-thru at one corner of Arterial/Arterial intersections. The southwest corner of Goshen and Kelsey is currently the only site that would be added by this text amendment.

Approval of this action would allow a drive-thru coffee kiosk at the Goshen Avenue and Kelsey Street intersection through the approval of a conditional use permit, see Related Projects below.

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

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

Related Projects:

Conditional Use Permit 2007-40 and Variance No 2007-14: A request by Mario Aguilera to allow a drive thru coffee kiosk in the Light Industrial zone (IL), and to reduce the 40-foot landscape setback in Design District "H";

Land Use Consistency

The addition of minor food and beverage services to the Industrial Park area is anticipated to meet a growing demand in the area and reduce some of the vehicle trips, and/or vehicle miles traveled for this type of service.

Previous City Council Actions

On February 20, 2007, the City Council reviewed and approved the initiation of the change of zone for the proposed text amendment (5-0) motion. Staff worked with the applicant during the preparation of the City Council initiation to form this language which would only be currently applicable to the site at 3869 W. Goshen Avenue, which is the subject site of the accompanying Conditional Use Permit and Variance. In order to limit non-industrial commercial activities in the Industrial Park area while providing food service, the language is very specific. The intent of this amendment is to allow only drive-thru type kiosks serving pre-prepared foods, occurring on parcels too small to be developed for industrial uses. The City Council initiation transmittal is included as a part of the Planning Commission staff report.

Committee/Commission Review and Actions:

On September 10, 2007, the Planning Commission continued this item with the direction to revise the Goshen Avenue access point. The Commission indicated that the access point should be designed to allow access from Goshen Avenue, while not allowing for an exit to Goshen Avenue by means of a revised design and signage.

The Planning Commission reviewed the access drive redesign on September 24, 2007, and approved the applicants request for the text amendment, conditional use permit and variance to allow the development of a coffee kiosk with drive-thru serving only beverages and pre-prepared foods. The Commission felt that additional opportunities for this type of service are needed in the Industrial Park area.

Alternatives:

None recommended

Attachments:

- Ordinance for Change Zone
- Exhibit "A" – Zoning Map for Core Area of the Industrial Park
- Exhibit "B" – Revised Site Plan for Related Project
- Planning Commission Staff Report – September 10, 2007

City Manager Recommendation:

Recommended Motion: I move to introduce Ordinance No. 2007 - 17 for Change of Zone 2007-01.

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: Mario Aguilera - applicant, and Darlene Mata - agent

Environmental Assessment Status

CEQA Review:

Required? Yes

Review and Action: Prior:
Required

Categorical Exemption No. 2007-77 has been prepared for the project finding that the project is Categorically Exempt under Section 15305 (minor alteration in land use limitations) of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA), as amended.

NEPA Review:

Required? No

Review and Action: Prior:

Tracking Information:

Anticipated schedule of review: No further actions if denied, if approved the change of zone would require a second reading.

ORDINANCE NO. 2007- 17

AN ORDINANCE OF THE CITY OF VISALIA, APPROVING CHANGE OF ZONING ORDINANCE AMENDMENT NO. 2007-01, AN AMENDMENT TO ZONING ORDINANCE SECTION 17.32.161, TO CHANGE THE LOCATION CRITERIA FOR FAST FOOD RESTAURANTS WITH OR WITHOUT DRIVE-THRUS IN THE LIGHT INDUSTRIAL (IL) ZONE

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. 2007-01, a Zoning Ordinance Text amendment, to amend Zoning Ordinance Section 17.32.161 to change the location criteria for fast food restaurants with or without drive-thru in the Light Industrial zone (IL) as presented in Attachment "A".

Section 2: The Zoning Ordinance of the City of Visalia is hereby amended to show said text changes.

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

Attachment "A"

Ordinance No. 2007-17

Change of Zone No. 2007-01

17.32.161 Fast food with and without drive-through for the light industrial zone.

A. Location Criteria.

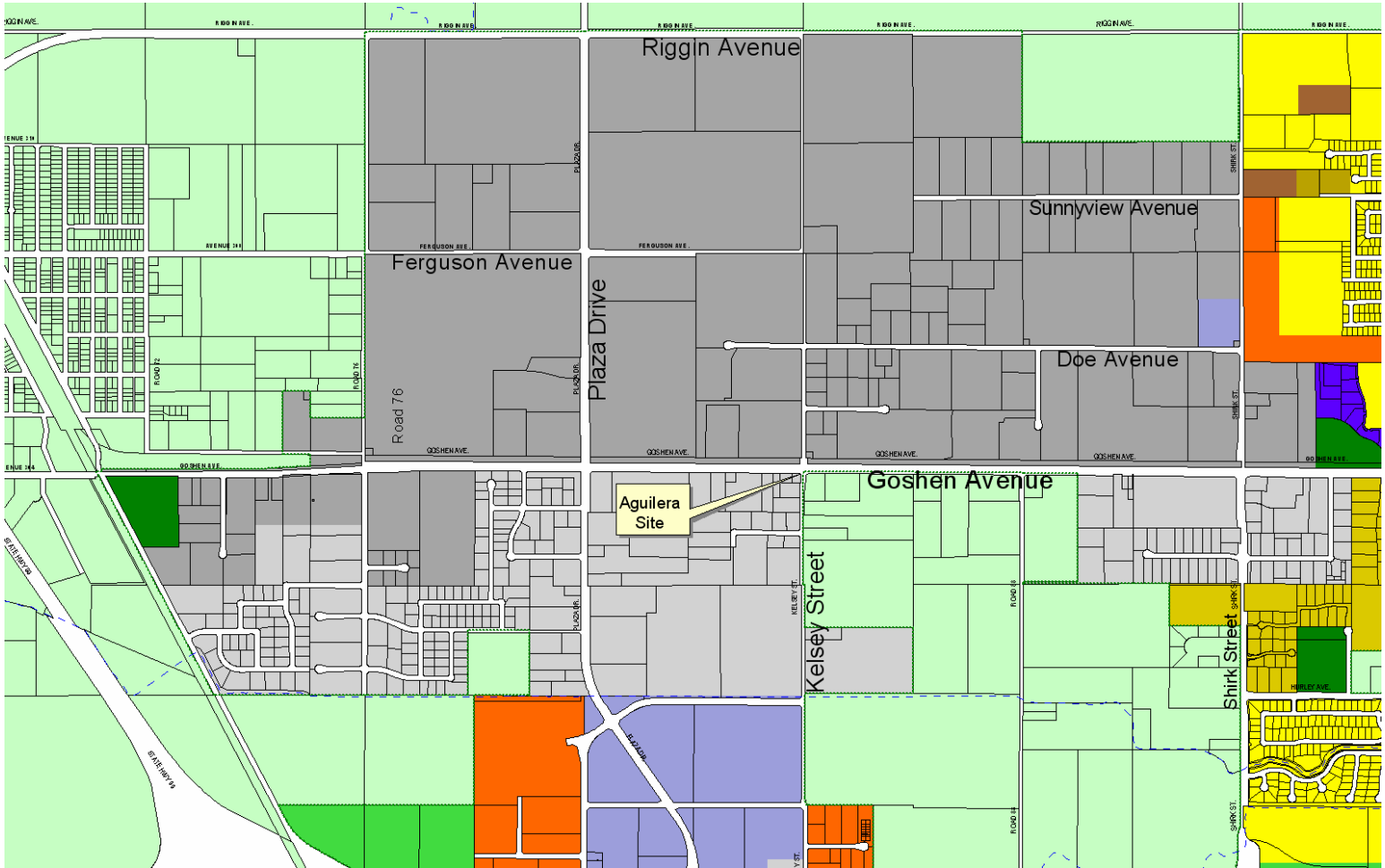
1. Parcel must be a corner property at arterial/arterial intersections or directly adjacent to a corner parcel with an existing fast food or sit down restaurant.

2. Up to two fast food or sit down restaurants may be located at an intersection and not be subject to the one mile distance requirement.

3. Cannot be located within one mile of an existing or approved fast food location with or without drive-through or sit down restaurant.

4. Site must be located in the industrial park roughly defined as south of Riggan Avenue, west of Shirk to Highway 99 and north of the Hurley Avenue alignment. (Ord. 2000-02 § 1 (part), 2000)

5. *A drive-thru kiosk only, serving beverages but without foods prepared on the site, may be allowed on an improved arterial/collector intersection with approval of a conditional use permit (CUP) if the site is located on a legally existing underdeveloped parcel that is less than 12,000 square feet in net area. Such location shall not be subject to the one mile separation requirement specified in this Section A.3*



Zoning Map for the Core Area of the Industrial Park
 Dark Grey – Heavy Industrial
 Light Grey – Light Industrial
 Light Green – County Area

Exhibit “A”

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 15, 2007

Agenda Item Number (Assigned by City Clerk): 12

Agenda Item Wording: Public Hearing to approve the recommended expenditure of and appropriate the State of California 2007 Citizens Option for Public Safety (COPS) Program funds of \$226,411. Adopt Resolution 2007-87 regarding the grant to be executed.

Deadline for Action: October 15, 2007

Submitting Department: Police

Contact Name and Phone Number: Chief Bob Carden, ext. 4215 or Chuck Hindenburg, ext. 4250

Department Recommendation:

Council is recommended to approve and appropriate the proposed expenditure plan for the 2007 Citizens Option for Public Safety (COPS) Program funds (\$226,411) to be used to:

- Continue funding one police officer (detective) position to the Investigations Bureau - \$110,000
- Continue funding two Crime Prevention Assistant hourly employees - \$37,411
- Add one Police Records Specialist position to the Records Bureau - \$63,000
- i2 Analyst's Notebook 6 Crime Analysis Software - \$16,000

and adopt Resolution 2007-87 regarding the grant to be executed.

Summary/background: AB 3229 creates the Citizens Option for Public Safety Program (COPS). The bill allocates money to cities and counties for law enforcement and public safety purposes. The city was awarded Supplemental Law Enforcement Services Fund (SLESF) funds in the amount of \$226,411 for the year 2007. These funds will be deposited in and expensed from Fund 6311, Citizens Option for Public Safety (COPS). Meetings have been held with Department Staff to develop and finalize the recommendation for expenditure.

The City Council is responsible for appropriating SLESF funds. This money may only be spent on "front Line law enforcement services" and may not be used to supplant existing law enforcement services. "Front line law enforcement services" is not specifically defined, but it includes "anti-gang" and "community crime prevention programs." There is no provision in AB

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__

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

3229 permitting requests for funding to be made directly by community activists to the city council.

Continue Funding One Detective Position, Property Crimes Unit

One new detective position was added to the Property Crimes Unit using funds from the 2006 State COPS grant. This position is essential to assist the Department in reducing the increase in property crimes as well as potentially increasing the amount of property recovered. Salary, benefits, and training and operational supplies for the position will be approximately \$110,000 for FY 2007/2008. At the expiration of the COPS 2007 funding, the officer position may be absorbed into the General Fund budget through attrition of existing authorized positions, added to the allocated strength through the appropriate new position request process, or further extended with future grant funding.

Continue Funding two Part-time Crime Prevention Assistants

Two new Crime Prevention Assistant hourly positions were added to the Crime Prevention Unit using funds from the 2006 State COPS grant. These positions work a flexible schedule allowing them to attend evening and weekend events, greatly enhancing Department Crime Prevention efforts. The hourly personnel assist with and develop new Neighborhood Watch groups as well as strengthening current Neighborhood Watch programs. Also, it is the department's intention to implement a gang watch program using the current neighborhood watch system. These personnel work closely with different community groups and other city agencies, such as Recreation Department and Code Enforcement promoting Crime Prevention efforts in areas such as gang awareness. Future plans include promoting Disaster Preparedness by working with the American Red Cross, providing CERT training to our Neighborhood Watch groups and the community at large. They also schedule and coordinate Crime Prevention presentations of various topics. Hourly salary, car allowance, training and cell phones will be approximately \$37,411 for FY 2007/2008.

Add One New Police Records Specialist Position

The Paper Processing and Word Processing positions are critical positions in the Records Unit. They process officers' paperwork, prepare arrest packages, and type in-custody narratives for the District Attorney, Juvenile Hall and City Attorney's offices. The deadline for arrest packages to be complete is 10:00 AM each week day. If the deadlines are not met, suspects could be released from custody. Prior to opening the new precinct stations, these rotational positions were staffed by two people during the day shift (6AM-3PM), two people during swings (4PM-1AM), and two people during graveyards (8:00PM-4:30AM). This schedule was possible because we received approval to hire two additional Police Records Specialists in 2005 and one in 2006 to staff the new police precincts.

In July 2007 our department expanded from one main station to include two additional substations. The transfer of four (4) Records Unit employees to the substations, two of whom were evening typists, has greatly impacted the Records Unit's workload at Headquarters. Since the transition in July we have had numerous amounts of pending narratives awaiting transcription. The average daily number of pending narratives is 90; however at one point last month this amount exceeded 160. At this point our only means of transcribing the reports is to approve overtime. It is imperative that these reports be transcribed in a timely manner in order to forward them to the proper Investigative Units as well as to the Tulare County District Attorney's Office for prosecution.

As our city continues to grow, and with the continued hiring of police officers due to the passage of Measure T, it is essential that we staff the graveyard shift with a typist in order to manage the workload and meet daily deadlines. It is therefore recommended that we hire one additional Police Records Specialist to maintain our current level of service.

Salary, benefits, and training and operational supplies for the position will be approximately \$63,000 for FY 2007/2008. At the expiration of the COPS 2007 funding, the officer position may be absorbed into the General Fund budget through attrition of existing authorized positions, added to the allocated strength through the appropriate new position request process, or further extended with future grant funding.

i2 Analyst's Notebook 6 Crime Analysis Software

Currently, Visalia police personnel utilize antiquated products and practices to identify crime patterns. The lack of intelligence data makes it impossible to predict where criminal activity will occur and by whom. It is our responsibility to provide the most secure, accurate, and timely criminal intelligence to enhance the investigation, arrest, prosecution and conviction of criminal offenders.

We must embrace new technology to provide tactical and strategic analysis. Analyst's Notebook software will enable staff to study crime and criminal behavior. Using intelligence analysis can enable us to redirect our enforcement efforts and to effectively fight crime.

Visalia has been experiencing increased gang activity, aggravated assaults, and identity theft. i2 Notebook will assist in identifying and curtailing gang activity and other crime.

Multi-agency and multi-jurisdictional enforcement details can be enhanced by using Analyst's Notebook.

We also want to keep the community apprised of our efforts to combat gang and other criminal activity. Utilizing charts gives a visual representation of our progress.

The cost of the i2 software and training is approximately \$16,000.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives: Refuse the designated grant money.

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

Recommended Motion (and Alternative Motions if expected):

I move to approve the recommended expenditures of 2007 Citizens Option for Public Safety (COPS) Program funds, that \$226,411 be appropriated in recognition of the grant, and to adopt Resolution 2007-87 regarding the grant to be executed.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

RESOLUTION NO. 2007- 87
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.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 15, 2007

Agenda Item Number (Assigned by City Clerk): 13

Agenda Item Wording: Request by the County of Tulare To Participate in the Planning Process for the proposed Mooney Grove Park Master Plan.

Submitting Department: Park & Recreation Department

Contact Name and Phone Number: Vincent Elizondo, 713-4367

Department Recommendation: That the City Council allocate \$25,000 as the City's share towards the Mooney Grove Park Master Plan project being administered by the County of Tulare. Funds will be allocated from the general fund reserve.

Background:

As the Council is aware, a meeting was held on September 24, 2007 in Visalia to discuss a number of regional planning issues including the potential for light rail, bike trails, and the Mooney Grove Master Plan, which included discussion regarding potential water recharge opportunities.

This meeting included the Visalia City Council, Tulare City Council, Tulare County Board of Supervisors, the Kaweah Delta Water Conservation District, and the Tulare Irrigation District.

As a result of this meeting, each agency appointed representatives to meet and specifically discuss the Mooney Grove Master Plan project. Councilman Collins was appointed to represent the City of Visalia with Mayor Jesus Gamboa serving as the alternate.

On Monday, October 8, the appointed representatives from each agency met at the Tulare County Board of Supervisors conference room to discuss the Mooney Grove Master Plan process review; review Draft Scope of Work; discussion of cost commitments; and review draft support resolutions.

The preliminary cost for a comprehensive master plan for Mooney Park is estimated to be between \$150,000 and \$250,000. The master plan process will be administered by the County of Tulare and an outline of the proposed scope of work is included with this agenda report.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 5

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

According to County of Tulare statistics, Mooney Grove Park attracted 831,000 visitors in 2006. As a regional park, residents from all over the County use the park for a variety of different purposes including recreation, education, and cultural activities. Many of these park users are residents of the City of Visalia.

Each agency has been asked to financially participate in the master plan process.

Attachments: Draft Project Scope of Work for Mooney Grove Park Master Plan

Recommended Motion (and Alternative Motions if expected): That the City Council allocate \$25,000 as the City's share towards the Mooney Grove Park Master Plan project being administered by the County of Tulare. Funds will be allocated from the general fund reserve.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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