

Visalia City Council Agenda

For the regular meeting of: MONDAY, October 5, 2009

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

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

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.

INTRODUCTION OF NEW EMPLOYEE

Introduction of new Financial Analyst in the Finance division by Eric Frost, Administrative Services Director.

WORK SESSION AND ACTION ITEMS (as described)

4:30 p.m.

Public Comment on Work Session and Closed Session Items -

4:35 p.m.

1. Update on funding options and authorization for the City Manager to release a Request for Proposals (RFP) to hire a design consultant for a new Animal Control Facility (ACF) to replace the existing ACF.

5:00 p.m.

2. Receive Joint Communications Project update and authorization for consultant to explore a standalone 9-1-1- Consolidated Dispatch Center.

5:15 p.m.

3. Authorization to enter into contract negotiations with the consultant team of Dyett & Bhatia for preparation of the General Plan Update and Program EIR (ref.: RFP-08-09-21)

4. *Item removed at the request of staff*

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)

5. *Item removed at the request of staff*
6. Conference with Legal Counsel – Anticipated Litigation
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9:
Two potential cases
7. Conference With Real Property Negotiators (G.C.§54956.8)
Property: 3.43 acres located at the NE corner of Road 68 and Caldwell Ave; APN: 118-02-0033
Under Negotiation: Lease agreement
Negotiating Parties for City: Steve Salomon, Mike Olmos, Chris Tavarez
Negotiating Parties for Property Owner: Stan Carrizosa and Randy Groom for VUSD

REGULAR SESSION

7:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION – Pastor Donn Shelton, Grace Community Church

SPECIAL PRESENTATIONS/RECOGNITION –

- Acknowledgement of Donjia Huffmon receiving the Certified Municipal Clerk (CMC) designation from the International Institute of Municipal Clerks
- Proclamation declaring October 19-23 , 2009 National Medical Assistant’s Week
- Proclamation declaring October 11-17, 2009 National Case Management Week

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 street name and city.

CHANGES TO THE AGENDA/ITEMS TO BE PULLED FOR DISCUSSION

8. **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) Authorization for the City Manager to enter into an Exclusive Negotiations Agreement (ENA) with Mill Creek Professional Center, LLC. for completion of pre-development due diligence and planning activities necessary for the negotiation of a Development Agreement for phased sale and development of city-owned land situated between Acequia, Mineral King, Stevenson and Conyer Streets. **Resolution 2009-43 required.**
- c) Notification of approval of a DUI grant application to the Sobriety Checkpoint Program, UC Berkeley - Traffic Safety Center, through the Governor's Office of Traffic Safety (OTS) and authorization for the City Manager to execute the grant agreement.
- d) Notification of approval of a grant application to the Click It or Ticket Mini-Grant program, UC Berkeley - Traffic Study Center, through the Governor's Office of Traffic Safety (OTS) and authorization for the City Manager to execute the grant agreement.
- e) Approval of the 2009/10 transit agreement with Tulare County.
- f) Authorization to place a lien for \$20,467.87 on real property located at 123 Arkle Street. **Resolution 2009-44 required.**
- g) Authorization to place a lien for \$4,805.25 on real property located at 717 N Santa Fe Street. **Resolution 2009-45 required.**
- h) Authorization to place a lien for 6,473.23 on real property located at 616 N Garden Street. **Resolution 2009-46 required.**
- i) Authorization to place a lien for \$4,327.93 on real property located at 1009 W Goshen. **Resolution 2009-47 required.**
- j) Authorize the City Manager to provide matching funds not to exceed \$5,000 to the Visalia Chamber of Commerce for marketing efforts on the Mooney Boulevard Corridor.
9. **PUBLIC HEARING** - Appeal of City Planner decision denying a Medical Marijuana Business Permit Application for Central Cali Caregivers to be located at 1101 E. Center Avenue.

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS

Upcoming Council Meetings

- Monday, October 19, 2009, 4:00 p.m. Work Session; Regular Meeting 7:00 p.m., Council Chambers 707 W. Acequia
- Monday, November 16, 2009, 4:00 p.m. Work Session; Regular Meeting 7:00 p.m., Council Chambers 707 W. Acequia
- Monday, November 23, 2009, (tentative) 5:30 p.m. Special Meeting, Council Chambers 707 W. Acequia

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

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

(TDD) 48-hours in advance of the scheduled meeting time to request signing services.

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

National Medical Assistants Week

Whereas, San Joaquin Valley College and the Registered Medical Assistants (RMA's) of American Medical Technologists (AMT) will celebrate National Medical Assistants Week, October 19 – 23, 2009; and

Whereas, the 2009 theme, "A Caring Touch that Means So Much" emphasizes their commitment as a vital member of the healthcare team; and

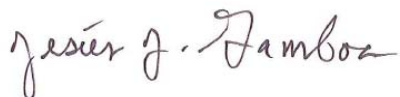
Whereas, a medical assistant is a multi-skilled professional who combines clinical and clerical responsibilities to assist in all aspects of medical practice; and

Whereas, RMA's have completed a national certification exam validating their knowledge, education, and experience in all aspects of medical assisting; and

Whereas, RMA's throughout the United States are promoting their profession in an effort to educate and inform the public and their allied health peers.

Now, Therefore, I, Jesus Gamboa, Mayor of the City of Visalia, do hereby proclaim the week of October 19 – 23, 2009, as "National Medical Assistants Week" and encourage all citizens to recognize medical assistants thanking them for their commitment to our health.

Dated: **October 5, 2009**



Jesus J. Gamboa, Mayor

National Case Management Week *October 11-17, 2009*

WHEREAS, the Case Management Society of America, CMSA, is an international organization of case managers and health care professionals committed to promoting the growth and value of case management and to support the evolving needs of the case management professional and individuals receiving health care in America; and

WHEREAS, the Case Management Society of America is celebrating its 19th year during the week of October 11-17, 2009, and the Central CA Chapter of the Case Management Society of America is celebrating its 14th year as an affiliate; and

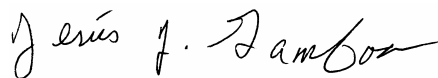
WHEREAS, during the week-long celebration, the Case Management Society of America recognizes case managers, educates the public about case management, and increases recognition of the significant contribution of case managers to quality healthcare for the patient, health care provider and payer; and

WHEREAS, case management is the catalyst of patient-centered care, serving as a critical communication link and an advocate amidst high tech care delivery and through the continuum of care; and

WHEREAS, the Case Management Society of American and the Central CA Chapter of CMSA is continuously exploring, engaging, and re-engineering worldwide a solution to global health care problems involving cost, quality and access of health care.

***NOW, THEREFORE BE IT RESOLVED** that I, Mayor Jesus Gamboa do hereby proclaim the week of October 11-17, 2009 National Case Management Week in the City of Visalia, and commend the organization, as well as the local affiliate, the Central California Chapter, the Case Management Society of America for their hard work and dedication to our community and the Golden State of California.*

Dated: October 5, 2009



Jesus Gamboa, Mayor

City of Visalia Agenda Item Transmittal

Meeting Date: October 5, 2009

Agenda Item Number (Assigned by City Clerk): 1

Agenda Item Wording: Update on Funding Options and Authorization for the City Manager to release a Request for Proposals (RFP) to hire a design consultant for a new Animal Control Facility (ACF) to replace the existing ACF.

Deadline for Action: None.

Submitting Department: Community Development and Administration Departments

Contact Name and Phone Number:

Paul Scheibel, AICP, Planning Services Manager, 713-4369
Mario Cifuentez, Airport Manager/Animal Control Contract Administrator, 713-4480
Adam Ennis, P.E, Engineering Services Manager, 713-4323
Rebecca Keenan, P.E., Civil Engineer, 713-4541
Melody Murch, Finance, 713-4379

Recommendation: It is recommended that the City Council:

1. Consider the options for funding the requested plans, specifications, and estimates work as well as that of the construction funding; and,
2. Authorize the City Manager to release an RFP to begin the selection and contract negotiation process to design a new ACF to replace the existing ACF that is located at the Visalia Airport. A Draft of the RFQ is attached as Exhibit "A".

Background:

New Animal; Control Facility- On December 4, 2008, the City Council approved the selection of the current ACF location at the Visalia Airport to be the location of the new ACF, based on the recommendations of the Subcommittee. This determination was made based on the potential for relatively low site improvement costs, it's already known as the SPCA/City ACF location, avoidance of land use conflicts, and high visibility from Hwy 99.

Between December 2008 and April 2009, the staff team, in conjunction with the Valley Oak Society for the Prevention of Cruelty to Animals (VOSPCA) staff conducted extensive research and analyses on contemporary shelter designs and functions. A new concept of a "campus" approach to designing and operating a facility was endorsed by both the City ACF Subcommittee in April 2009, and subsequently by the VOSPCA Board.

The campus approach separates the City's legally mandated animal control functions pursuant to state Health and Safety Code from those of the animal adoption and education outreach

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.) 20 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.

programs of the VOSPCA. It is anticipated that the construction of the site and the City building will precede construction of the VOSPCA building.

The Subcommittee and VOSPCA Board also affirmed the focus of designing an efficient, attractive state of the art facility that will markedly improve the environment for animals under the City's charge and ACF staff and volunteers, as well as attractiveness to the public. The Subcommittee also directed that the design consultant contract process focus on hiring an entity based on their expertise in design, with the fee proposal provided separately from the applicants' qualifications and concepts.

Expert assistance to the City with a construction-ready PS&E package is the "deliverable". Financing and construction of the site improvements and the City ACF building would be a separate latter phase of the project. This is due to the high degree of design evolution and almost constant interface between the City and the design consultant, and the advantage of maintaining a distinct separation between plan preparation and construction.

Review of Funding Options- The City Council on June 15, 2009, deferred release of an RFQ for six months (now identified as an RFP for consistency with City bidding procedures. Please see draft RFP, Exhibit 1) Staff requested the deferment due to budget uncertainties, with the resultant concern that the PS&Es could become outdated because the City could not accurately program construction funding on the heels of when the PS&E plans are completed. The report is provided as Exhibit 2.

The City Council vote on the deferment was 4-1, with Councilmember Shuklian voting no. Councilmember Shuklian explained that, despite Citywide budget problems, the new ACF project has been put off for too long, and should have a priority development timeline. In granting the deferment, the **City Council further directed staff to review the Capital Improvements Program (CIP) and report back within three months on a possible CIP re-prioritization strategy that would fund design and construction of the new ACF within three years.**

Funding Recommendations: The staff members of the Animal Control Facility project team and the Finance Division recommend that :

1. **Immediately authorize spending a portion of the \$521,880 allocated in the Capital Improvements program (CIP) for the new ACF architectural, operational, and construction plans to obtain "shovel-ready" status for potential near term (3-5 years out) future grant funding and/or to serve as a tangible marketing tool for fund-raising purposes.** This would also initiate the City's Conditional Use Permit (CUP) and California Environmental Quality Act (CEQA) review processes. Delaying the PS&E portion of the project until the full construction funds are secured carries the risk of not being able to capitalize on potential opportunities in a timely manner, such as federal grant funding (i.e. second round of the ARRA), or a successful philanthropic effort.
2. **Redirect funds from the following CIP General Fund projects, and transfer 100% of current funding to the ACF fund account as follows:**
 - a. **Community Signage - \$50,000-** This is for enhancing the east Hwy 198 corridor.. Staff believes this could be deferred to a future date without affecting the overall aesthetic character of this part of the City.
 - b. **High Speed Rail Study - \$50,000-** This is for designing a local feeder transit system for a potential high speed rail stop. The High Speed Rail Commission has elected to provide funding for this study without the need for local funds.

c. Update City Zoning Ordinance- \$25,000- Work on this project is not anticipated to begin in this fiscal year due to staffing constraints in favor of the priority effort being given to the comprehensive General Plan Update. This project could be added to the General Plan Update work program if necessary.

d. Agenda Management Software - \$25,000- Staff anticipates that the program will receive alternative funding through the federal stimulus program (ARRA) as an energy conservation grant.

The \$521,880 set aside in the CIP is anticipated to be more than that required for this first design phase of the process. However, transferring these additional funds identified above will ensure that money is committed solely for the ACF project. Unused funds from the design phase would be retained in the CIP account to help reduce the amount needed for construction later on.

3. The staff will return to the Council in approximately six months, when the plans are done, with long-range funding options. There are a number of variables which will become clearer during that time period. The City will work on a new contract with SPCA and during that time will examine on a cooperative basis the revenue streams and the agreements with other cities. We also intend to look at financing alternatives and fundraising options.

Staff is currently working with the VOSPCA and the other contract cities on agreements that will generate new revenues through better cost recovery and efficiencies in animal licensing. Staff will be bringing specific recommendations to the City Council in this regard within the next six months. In addition, having a tangible, shovel-ready project would likely stimulate contributions to the New ACF from philanthropic persons and organizations.

Next Steps: Following are the next steps to be taken once the City Council authorizes the RFP to move forward. Assuming authorization is given on October 5th, staff projects returning to City Council in approximately three months to award the contract.

- **Finalization and Distribution of the RFP.** The RFP will be finalized as to the dates of circulation and timelines, as well as for inclusion of any additional information directed by the City Council. The finalized RFP will then be distributed to individual firms who have requested such noticing, and in trade publications for this type of development.
- **RFP distribution and interviews.** Potential consultants will have 45 days to respond to the RFP – actual dates are to be determined. Upon closing of the distribution period, staff will establish a short list of consultants. The Subcommittee, comprised of Vice Mayor Link and Councilmember Shuklian, with assistance from City and VOSPCA staffs will conduct interviews of the top candidates and establish an order of preference.
- **Negotiate Consultant Fee.** City staff will negotiate the best terms and fee with the Subcommittee's first choice candidate.
- **City Council meeting to award contract.** City staff will return to the City Council with the Subcommittee's recommendation and the negotiated terms and fee. The City Council will be asked to allow the City Manager to enter into a contract with the consultant for a specified amount.

Committee/Commission Review and Actions: N.A.

Attachments:

- Exhibit "1" – Draft Request for Proposals
- Exhibit "2" – City Council Staff Report, June 15, 2009

- Exhibit “3” - Memorandum dated August 21, 2009
- Exhibit “4” - Conceptual Site Plan
- Exhibit “5” – Conceptual Floor Plan/ Space Allocation

Recommended Motion:

I move to accept the report and to authorize the City Manager to release a RFP to hire a design consultant for a new Animal Control Facility (ACF) to replace the existing ACF.

Environmental Assessment Status

CEQA Review: *No CEQA review is needed for the City Council to authorize the release of a Request for Qualifications.*

NEPA Review: *NA*

Copies of this report have been provided to:

- Subcommittee
- VOSPCA Board of Directors



CITY OF VISALIA REQUEST FOR PROPSALS RFP #09-XX-XX

Request for Proposals for Animal Control Facility Design Professional Services

Informational Conference:

On October XX, 2009 a conference will be held at City Hall, 707 West Acequia, Visalia, California, at 10:00 a.m. in the City's Council Chambers. This is an opportunity to ask questions regarding the program and the Request for Proposal requirements.

Submittal:

One (1) unbound original and four (4) copies must be received on or before: 3:00 p.m. on October XX, 2009

Addressed to:

Purchasing Division
707 W. Acequia, Visalia, CA 93291

Mark envelope:

RFP No. 09-XX-XX ACF Design Architect

Submissions received after the time and date stated above shall be returned unopened to the Consultant.

INQUIRIES:

Direct questions for clarification of this bid document to Purchasing Division (559) 713-4334, or Fax (559) 713-4802, or email purchasing@ci.visalia.ca.us. All questions must be received on or before October XX, 2009.



**CITY OF VISALIA
STATE OF CALIFORNIA
REQUEST FOR PROPOSALS
RFP 09-xx-xx**

SEALED PROPOSALS will be received by the Purchasing Division located at 707 West Acequia, Visalia, CA 93291, until **3:00 P.M., October XX, 2009** for:

Animal Control Facility Design Professional Services

An informational conference will be held on October XX, 2009, at City Hall, located at 707 West Acequia, Visalia, California 93291, **at 10:00 a.m.** in the City Council Chambers.

Contract documents may be inspected and obtained in the office of the Purchasing Division, 707 W. Acequia Ave., Visalia, California 93291 or by calling (559) 713-4334, or by FAX (559) 713-4802 or web site <http://www.visaliapurchasing.org>.

The City hereby affirmatively ensures that Minority Business Enterprises will be afforded full opportunity to respond to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, handicap, gender, or religion in any consideration leading to the award of contract.

The City also hereby affirmatively ensures that Disadvantaged Business Enterprises (DBE) will be afforded full opportunity to submit bids in response to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, disability, gender or religion in any consideration leading to the award of contract.

No qualified disabled person shall, on the basis of disability, be excluded from participating in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity leading to the award of a contract.

The right is reserved by the City of Visalia to reject any or all submittals, to waive any irregularities or informalities not affected by law, to evaluate the submittals and to award the contract according to the proposal which best serves the interests of said City.

Publication Dates: **October XX, 2009**
 October XX, 2009

TABLE OF CONTENTS

<u>TITLE</u>	<u>PAGES</u>
I. Introduction	4-5
A. Information	4
B. Background/Project Description	4
C. Purpose and Objective	5
D. Order of and Timeline for Completion of Work	5
E. RFP/Agreement Schedule	5
II. Scope of Services	6
A. Required Product	6
B. Services of the Consultant	6
C. City Responsibilities	6
III. Proposal Content and Format Requirements	6-9
A. General Information	7
B. Proposal Project Approach	7
C. Staff Qualifications and Related Experience	8
D. Proposed Fee Structure and Schedules	8
E. Conflict of Interest	9
IV. Consultant Selection Procedure	9-10
A. Criteria	9
B. Weight of Criteria	10
C. Background Check	10
D. Award of Contract	10
V. General Conditions	11-13
A. Important Notice	11
B. Contracting Agency	11
C. Legal Responsibilities	11
D. Permits and Licenses	11
E. Insurance	12
VI. Contract Requirements	13-17
A. Withdrawal of Request for	13
B. Rejection of Submittals	14
C. Evaluation/Award of Contract	14
D. Proposal Pricing Guidelines	15
E. Assignment of Contract	15
F. Termination of Contract	15
G. Right to Require Performance	16
H. Ethics in Public Contracting	16
I. Equal Employment Opportunity	16
J. Venue	17
K. Proprietary Information	17
L. Incurring Costs	17
VII. Attachments	18-29
Non-Collusion Affidavit	
Workers' Compensation Insurance Certificate	
Equal Employment Opportunity Compliance Certificate	
Sample Contract	
Conceptual Site and Space Allocation Plans	

I. INTRODUCTION

A. Information

The City of Visalia is requesting proposals from experienced architects and civil engineers to design a new state of the art, campus-style animal control facility (ACF). A preliminary conceptual design based on an already completed needs assessment estimates the City building portion of the facility will be approximately 17,250 sq.ft., with approximately 100 dog kennels and 100 cat cages. The successful candidate will translate these conceptual plans into a refined facility design, including site improvement and construction plans for the City portion of the facility. The successful candidate must have experience in design and preparation of construction plans of animal control facilities, veterinary hospitals, commercial kennels, or closely related projects.

An informational conference will be held on October XX, at 10:00 a.m. at City Hall, located at 707 W. Acequia, Visalia, CA 93291, in the Council Chambers. This is an opportunity for Consultants to ask questions about the program and the Request for Qualification requirements.

One (1) unbound original and four (4) copies of the proposals are to be submitted to the Purchasing Division, located at 707 W. Acequia, Visalia, CA 93291, on or before October XX, 2009, at 1:00 p.m.

This Request for Proposals is being issued by the City of Visalia Purchasing Department. Unless otherwise directed, all communications regarding this Request for Proposals should be directed to the Purchasing Division at (559) 713-4334, or fax (559) 713-4802. However, to prevent misinterpretations, the Purchasing Division would prefer that all questions be sent by email to purchasing@ci.visalia.ca.us.

Any revisions to the Request for Proposals will be issued and distributed as addenda. Consultants are specifically directed not to contact any other City personnel for meetings, conferences or technical discussions related to this Request for Proposals. Failure to adhere to this policy may be grounds for rejection of proposals.

B. Background/ Project Description

Current Situation: The City of Visalia is seeking to construct a new state-of-the-art, energy and labor efficient animal control facility (ACF) to replace its existing ACF. The existing ACF has become inadequate for the City's humane animal care requirements. The existing facility is located at the Visalia Airport and is managed by the Valley Oak Society for the Prevention of Cruelty to Animals (VOSPCA). VOSPCA currently conducts its administrative functions and community service activities (owner surrenders, pet adoptions, education and outreach, etc.) at the existing ACF. The existing ACF also provides facilities for four other cities in addition to the City of Visalia for which VOSPCA provides state-mandated animal control services under a separate city contract. The existing ACF handles approximately 15,000 animals per year with an average daily animal count of 170 dogs and cats. Presently, over 70% of the animals taken in are eventually euthanized after the mandatory four-day hold period.

The selected site is approximately a 4.6-acre area located on Hwy 99 Frontage Road in the Visalia Airport non-aviation area, adjacent north of the existing ACF. Access to the site is from Frontage Road that is to be improved along the project frontage. All utilities are available to the site except natural gas.

Future Vision: The new ACF is intended to encourage greater public access and participation to reduce the frequency of euthanasia, and to provide the healthiest and most humane care practical for animals under the City's charge. Based on a professionally prepared needs assessment, the City has determined the new facility should be initially sized to house up to 200 animals per day, with a buildout capability to house up to 300 animals per day.

The general design concept is for a shared “campus” style facility, wherein the City’s state mandated animal control functions will operate in a separate building from the VOSPCA-exclusive functions. The specific project is the City building, site improvements, and a finished building pad for future development and use by the VOSPCA (later phase, not a part of the project). The conceptual plan for the City’s portion of kenneling, care and administrative functions are shown in the Attachment.

The building aesthetics and site improvements are intended to be designed with a cost-efficient, sustainable, utilitarian design theme. Sustainable design features including passive energy and water conservation measures in construction, landscaping, maintenance and operations are vital to the overall project, but must be justifiable on a full cost recovery within basis.

The cleaning, ventilation, and animal handling components of the new ACF are expected to be the best available technology (BAT).

C. Timeline for Selection Process

The following is a summary of the selection process timeline:

RFQ Available to the public.....	TBD
Informational Conference at 10:00 a.m. @ 707 W Acequia	TBD
RFQ due at 1:00 pm @ 707 W Acequia	TBD
<i>Short list established/vendors notified</i>	<i>TBD</i>
<i>Interviews/Presentations-short-listed vendors(if required).....</i>	<i>TBD</i>
<i>Negotiate agreement.....</i>	<i>TBD</i>
<i>Award of contract @ City Council Meeting</i>	<i>TBD</i>
<i>Contract begins</i>	<i>TBD</i>

Italicized items and dates are at the City’s option. The City reserves the right to award contract solely on the basis of proposal content.

II. SCOPE OF SERVICES

The City of Visalia is seeking an experienced architect or civil engineer with a proven track record of achieving time and budget imperatives, to prepare final design and construction documents for the City’s new ACF. The overall project will be overseen by the Animal Control Facility Subcommittee consisting of two City Councilmembers and the Chairperson of the VOSPCA Board of Directors, and assisted by an interdisciplinary team of City and VOSPCA staff personnel.

The successful candidate consultant may include a team of sub-consultants. However, the consultant will retain “lead consultant” responsibilities through the life of the contract (Phases 1 and 2). The successful consultant is also encouraged to compete for the actual construction management of the ACF in the construction phase (Phase 3).

A. Services of the Consultant, Phase 1 (Preliminary Design)

1. Prepare a preliminary set of plans for review and approval by the Subcommittee:
 - a. Includes site, building, floor plan (space allocation), cleaning, mechanical, kenneling and all other specialized equipment and features as necessary.
 - b. Sustainability plan that includes active and passive energy conservation features, bioswale drainage retention, water efficient landscaping and shading.
 - c. Cost Estimate (minimum of four estimates) of the proposed initial project.
2. Copies of final approved preliminary plans (five copies) including: site plan, landscaping, architectural renderings, floor plan/space allocation, mechanical, furnishings and equipment, cost

estimate. Costs include all fees for preparation, printing, revisions of all documents and drawings for review and presentation.

3. Process preliminary project through City's Site Plan Review (SPR) process.
4. Participate in Conditional Use Permit (CUP) entitlement and environmental review processes (led by City Planning staff).
5. Obtain authorization to proceed to Phase 2 by the City Council.

B. Services of the Consultant, Phase 2 (Full Architectural Design Services)

1. Final construction design documents, Engineering, Building, and Fire and Planning Division plan checks.
2. Architectural renderings developed in AutoCad XX,
3. Bidding and Contract Administration documents prepared in Microsoft Word format.
4. City may choose to utilize the services of a construction management consulting firm, which may be selected at a later date.

C. Project Cost Estimate

A rough estimate of the total project budget is three million dollars (\$3,000,000). The City owns the project site.

D. Additional Documents

- The Needs Assessment, Feasibility, & Building Program Study for the City of Visalia & Valley Oak SPCA , Rev1, dated May, 2008.
- Phase 1 Environmental Site Analysis and Preliminary Geotechnical Report.

III. CONTENT AND FORMAT REQUIREMENTS

The following are requirements for the statements of qualifications. Respondents are requested to organize their submission into sections with tabs corresponding to the listed selection criteria as follows. You must provide the following information in the same sequence as below. A screening committee will evaluate the completeness of the response to the RFP.

A. General Information

- Firm name, address, telephone number and fax number.
- Representative or other person to contact for clarification of any item contained in the proposal. Include telephone and fax numbers if different from above.
- Specify type of organization (individual, partnership or corporation) and if applicable indicate whether you are:
 - a. Small Business.
 - b. Disadvantaged Business.
 - c. Minority and/or Women-Owned Business.
- Provide your Federal Tax ID Number and City of Visalia Business Tax Certificate Number.
- Provide surety information for all sureties – General and Automobile Liability, E/O and Worker's Compensation.

- References and Referrals

B. Staff Qualifications

This section should demonstrate the qualifications of all professional personnel who might be assigned to this project by providing resumes/experience summaries describing their education, credentials, related experience and their proposed roles for this contract. Note: Consultant may not substitute any member of the project team during the contract duration without prior written approval of the City.

C. Related Experience

Include descriptive information concerning the experience of the firm. Include information about previous projects that might be comparable, including the size and type of projects and the scope of services provided. In addition, provide references for the three (3) most comparable projects for which your firm has provided, or currently is providing, similar services.

List the projects in reverse chronological order and provide the following information for each project:

- Name of project
- Project location
- Brief project description
(type of construction, functional components, special design considerations)
- Name of project owner
- Name of project owner's contact person and telephone number (contact person, who, at the time of RFQ submittal, will be employed by the owner)
- Specific involvement (i.e., engineer, subconsultant, etc.)
- Actual cost vs. cost estimate
- Status of completion

D. Conflict of Interest

- Disclose any financial, business or other relationship with the City or any member of the City staff that may have an impact on the outcome of the project.
- List current clients who may have a financial interest in the outcome of the project

E. Optional Statement

Provide any additional information that would support selection of your organization for this project.

IV. CONSULTANT SELECTION PROCEDURE

Selection of the Consultant shall be generally based on the information provided by the Consultant in response to the Request for Proposals and any subsequent interviews that may be conducted. *Consultant interviews will be held solely at the option and discretion of the City of Visalia.* The process for selection shall occur in the following sequence:

- Review Submittals
- Establish a “short list” of three or more firms
- Interview “short-listed” firms (at the option and discretion of the City)
- Identify best qualified firm
- Negotiate a fee
- Award contract for Phase 1

The Animal Control Facility Subcommittee (Subcommittee) will evaluate the submittals, conduct interviews and make its recommendation to the Visalia City Council. The City may also elect to include members from the private sector, City or VOSPCA staffs in the selection process. Composition and creation of the selection Subcommittee and additional members is at the sole discretion of the City. Names of the Committee members will not be released prior to the time for interviews.

The Subcommittee will review the submittals for format to ensure conformance with the requirements of the RFQ and may select finalists to interview as a part of the evaluation process. The City does not guarantee that an interview will take place, thus reserving the right to select a consultant based solely on the information received in response to the RFQ. *Should an interview take place, the key personnel responsible for fulfilling the requirements of the project shall be required to be present for the interview.*

The firm determined by the Subcommittee to be the primary candidate will be asked to negotiate an agreement to be presented to the City Council for approval. Should the City be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price that the City determines to be fair and reasonable, then negotiations with that firm shall be formally terminated and negotiations shall be undertaken by the firm deemed to be the second most qualified, and so on until a contract agreement is reached.

A. Criteria

The Committee will address the following criteria in evaluation of the submittals in order to gauge the ability of a consultant to perform the contract as specified. The same general criteria will be used to judge both the statement of qualifications and the interview presentation, should the City choose to conduct interviews with short-listed firms.

Criteria	Explanation	Weight
Merit of Proposals Submittal / Presentation	Proposals submittal thoroughness	25%
Knowledge and Expertise	<ul style="list-style-type: none"> • Capability of personnel • Firm qualifications • Experience with similar ACF projects • Sustainable site and building design techniques • Incorporation of best management practices (BMT) in ACF facilities. 	35%
Record of Past Performance	<ul style="list-style-type: none"> • References • Ability to work effectively with the Subcommittee, City staff, other public agencies and related parties. • Demonstrated ability to complete work tasks within project timelines and budget. • Any design recognition. 	25%

Knowledge of Local Conditions	Project work in the Central Valley	15%
Other Factors Presented	As determined by review committee	5%

Prior to the award of contract, the City must be assured that the Consultant(s) selected has all of the resources required to successfully perform under the contract. This includes, but is not limited to, personnel with the skills required, equipment/materials and financial resources sufficient to provide services called for under the contract. If, during the evaluation process, the City is unable to assure itself of the candidate(s)'s ability to perform under the contract, if awarded, the City has the option of requesting from the candidate(s), any information that the City deems necessary to determine the candidate(s)'s capabilities. If such information is required, the candidate(s) will be notified and will be permitted seven (7) working days to submit the requested information.

B. Background Check

The City reserves the right to conduct a background inquiry of each Consultant which may include the collection of appropriate criminal history information, contractual and business associations and practices, employment histories and reputation in the business community. By submitting a statement of qualifications to the City, the Consultant consents to such an inquiry and agrees to make available to the City such books and records as the City deems necessary to conduct the inquiry.

C. Award of Contract

The City of Visalia reserves the right to reject any or all submittals, to waive any informality in any submittal, to sit in act as sole judge of the merit of each response submitted, to select a consultant, and to award in any manner which is more favorable to the City of Visalia. The successful firm will be required to execute a contract with the City of Visalia. A Draft Agreement has been included in this RFQ to alert Consultants to the provisions generally found in City contracts. The Draft Agreement may be altered from the enclosed form at the discretion of the City and without notice to consultant prior to award of contract. The City does not guarantee that the Final Agreement will duplicate the enclosed Draft Agreement.

V. GENERAL CONDITIONS

A. Important Notice

The City of Visalia will not be responsible for oral interpretations given by any City employee, representative, or others. Consultants are cautioned that any statements made that materially change any portion of the RFP documents shall not be relied upon unless subsequently ratified by a formal written amendment to the proposal document. The issuance of a written addendum is the only official method whereby interpretation, clarification, or additional information can be given. If any addenda are issued to this Request for Proposals, the City will attempt to notify all prospective vendors who have secured same. However, it will be the responsibility of each vendor, prior to submitting their proposals, to contact the Purchasing Division, located at 707 W. Acequia, Visalia, CA 93291, (559) 713-4334 to determine if addendums were issued and to make such addendum a part of the proposal.

B. Contracting Agency

The contract resulting from this Request for Proposals will be administered by the City of Visalia Community Development Department.

C. Legal Responsibilities

All submittals must be presented, filed, made, and executed in accordance with State of California and Federal laws relating to submittals for contracts of this nature whether the same or expressly referred to herein or not.

By submitting a statement of qualifications, consultant certifies that he or she will comply with all Federal laws and requirements, including but not limited to Equal Employment Opportunity, Disadvantaged Business Enterprise, Labor Protection and other laws and regulations applicable to contracts utilizing State and Federal funds.

D. Permits and Licenses

1. Business License Certificate

Possession of a City of Visalia Business Tax Certificate is not required for qualification submittals. *However, Consultant shall be required to possess, at his/her own expense, a valid and current City of Visalia Business Tax Certificate, prior to commencing work.* Fee is based on gross receipts for all business transactions in the City of Visalia. For additional information, contact the City of Visalia at (559) 713-4326.

2. Professional License

Consultant is to be licensed in accordance with the California Business and Professions Code and is to possess current professional registration and be licensed to perform work in the State of California.

3. Permits

Consultant shall be required to obtain and maintain at his/her own expense, any and all permits, licenses and certifications issued by any federal, state or local governmental agency, pertaining to, and necessary for providing the services required in this Request for Proposals.

E. Indemnification and Insurance

As respects acts, errors, or omissions in the performance of services, CONSULTANT agrees to indemnify and hold harmless CITY, its elected and appointed officers, employees, and CITY designated volunteers from and against any and all claims, demands, losses, defense costs, liability or consequential damages arising directly out of CONSULTANT's negligent acts, errors or omissions in the performance of his/her services under the terms of this Agreement; except to the extent those arise out of the negligence of CITY.

CITY agrees to indemnify and hold harmless CONSULTANT, its officers, employees, and designated volunteers from and against any and all losses, defense costs, liability or consequential damages to the extent arising out of CITY'S negligent acts, errors or omissions in the performance of this Agreement.

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

Without limiting CITY's right to indemnification, it is agreed that CONSULTANT shall secure prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:

- Workers' Compensation insurance as required by California statutes.
- 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).
- Professional liability insurance coverage, in an amount not less than One Million Dollars (\$1,000,000).
- 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.

Each insurance policy required by this Agreement shall contain the following clause:

"This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the City Clerk, City of Visalia, 707 W. Acequia, Visalia, CA 93291, with the exception of cancellation for non-payment of premium, in which case ten (10) days notice shall be given"

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

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

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

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

In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:

1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; or

2. Order CONSULTANT to stop work under this Agreement and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof; or
3. Terminate this Agreement.

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

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

The successful Consultant acknowledges by submission of statement of qualifications that he has fully informed himself of the contents and meaning of this hold harmless agreement and has so executed it with full knowledge thereof and that the terms are contractual and not a mere recital. These requirements shall also apply to any subcontractor whose hazards are not covered by the Consultant's insurance policies.

Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to, and approved by, the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City, its officials, employees, agents and Consultants; or the vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City.

Separate endorsements are required, naming the City as additional insured, for liability insurance and providing a waiver of subrogation for Worker's Compensation Insurance.

Said insurance shall contain a provision that coverage afforded under the policies will not be canceled unless and until thirty (30) days prior written notice has been given to the City.

The successful bidder shall maintain the insurance for the life of the contract. Endorsements are to be received and approved by the City before work commences. Should Consultant cease to have insurance as required during any time, all work by Consultant pursuant to this agreement shall cease until insurance acceptable to the City is provided.

VI. EXAMINATION OF CONTRACT REQUIREMENTS AND ACCEPTANCE OF RFP CONTENT

Before submitting a statement of qualifications, Consultants must satisfy themselves by personal examination of the RFP requirements and other contract documents, and by any other means as they may believe necessary, as to the actual conditions, requirements, and difficulties under which the work must be performed and to verify any representations made by the City of Visalia, upon which the offeror will rely.

The submission of a statement of proposals shall be considered conclusive evidence that the Consultant has carefully investigated all conditions that affect, or may at some future date affect, the performance of services covered by this solicitation, and is satisfied as to the character, quality, and quantities of work to be performed and as to the requirements of the RFP. Submission shall also be evidence that the

Consultant is familiar with directives that in any way affect prosecution of the work or persons engaged or employed in the work.

No Consultant shall at any time after submission of a statement of proposals make any claim or assertion that there was any misunderstanding or lack of information regarding the nature or amount of work necessary for satisfactory performance under the contract. If the Consultant receives an award as a result of this Request for Proposals, failure to have made such investigations and examinations will in no way relieve the Consultant from its obligations to comply in every detail with all provisions and requirements of the contract documents, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for claim whatsoever by the Consultant for additional compensation. Any errors, omissions, or discrepancies found in the specifications or other contract documents shall be called to the attention of the City and clarified prior to the submission of proposals.

Should the Consultant feel there has been a supplemental or oral modification, it shall be his responsibility to verify said modification in writing prior to submission of the proposal.

The contents of the statement of Proposals of the successful Consultant shall become contractual obligations if procurement action ensues. Failure to accept these obligations in a contractual agreement shall result in cancellation of award.

A. WITHDRAWAL OF REQUEST FOR PROPOSALS SUBMITTAL

Any Consultants submittal may be withdrawn at any time prior to the time fixed in the public notice for the receipt submittals, only by written request for the withdrawal of the Consultant filed with the Purchasing Division. The request shall be executed by the Consultant or his duly authorized representative. The withdrawal of a submittal does not prejudice the right of the Consultant to file a new submittal. No submittal may be withdrawn after the time fixed in the public notice for the receipt of Proposals.

B. REJECTION OF SUBMITTALS

Failure to meet the requirements of the RFQ may be cause for rejection of the submittal. The City may reject the submittal if it is deemed incomplete, contains irregularities of any kind or is offered conditionally. The City reserves the right to reject any and all submittals without cause.

The statement of Proposals is to be prepared in such a way as to provide a straightforward, concise delineation of the information requested. Submittals which contain false or misleading statements, or which do not support an attribute or condition claimed by the Consultant, may be cause for rejection of the submittal. If, in the opinion of the City, such information was intended to mislead the City in its evaluation of the Proposals, it will be cause for rejection of the submittal.

C. EVALUATION/AWARD OF CONTRACT

Evaluation and award of submittals will be based on the information called for in this RFQ. Brochures or other promotional presentations beyond that sufficient to submit a complete and effective statement of Proposals are not desired. Elaborate artwork, expensive paper or binders, and expensive visuals are not necessary.

The City of Visalia reserves the right to reject any or all submittals; to waive any requirements, both the City's and those proposed by the vendor; to waive any irregularities or informalities in any proposal or the RFQ process when it is in the best interest of the City to do so; to negotiate for the modification of any contract with mutual consent of the Consultant; to re-advertise for submittals, if desired; to sit and act as sole judge of the merit and Proposals of the service offered and; to evaluate in its absolute discretion, the Proposals of each vendor, so as to select the vendor which best serves the requirements of the City, thus

insuring that the best interest of the City will be served. Consultant's past performance and the City's assurance that each Consultant will provide service as proposal, will be taken into consideration when submittals are being evaluated.

The City may make such investigation as it deems necessary to determine the ability of a Consultant to furnish the required services, and the Consultant will furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any submittal if the evidence submitted by, or investigation of, such Consultant fails to satisfy the City that such Consultant is properly qualified to carry out the obligations of a contract and to deliver the services contemplated herein or; the submittal of any Consultant who has previously failed to perform properly, or complete on time, contracts of a similar nature. Any material misrepresentation or material falsification of information provided to the City in the Consultant's statement of Proposals, or at any point in the submittal evaluation process, including any interview conducted, is grounds for rejection of the submittal. In the event that the misrepresentation or falsification is not discovered until after any agreement is awarded, the agreement may be terminated at that time. A determination as to whether a misrepresentation or falsification of the proposal submission is material shall be made solely in the exercise of the City's sound discretion. The City expressly reserves the right to reject the proposal of any Consultant who is in default on the payment of taxes, licenses or other moneys due to the City of Visalia.

The award, if made, will be made within ninety (90) days from RFQ closing date. Consultant agrees and so stipulates in submitting this statement of Proposals, as though stated therein, and in any subsequent award of contract that:

1. Consultant is an independent Consultant, not an employee, agent, or officer of the City.
2. Contract, should it be awarded, shall be interpreted, construed, and given effect in all respects according to the laws of the State of California.
3. Should Consultant be awarded contract, Consultant shall not assign contract, or any part thereof, or any moneys due or to become due thereunder, without prior consent of the City.
4. Consultant shall indemnify and hold harmless the City, its officers, officials, employees, and agents from and against all claims, damages, losses, and expenses caused in whole or in part by any negligent act or omission of the Consultant, its consultants, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct by the City.
5. Consultant shall hold the City harmless from liability of any nature or kind, including cost and expenses for infringement or use of any copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the contract.
6. Consultant warrants that no gratuities, in the form of gifts, entertainment, or otherwise, were offered or given by the Consultant, to any officer or employee of the City with a view toward securing the contract or securing favorable treatment with respect to any determination concerning the performance of the contract. For breach or violation of this warranty, the City shall have the right to terminate the contract, either in whole or in part. The rights and remedies of the City provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under the contract.

D. ASSIGNMENT OF CONTRACT

No assignment by the vendor of the contract or any part hereof, or of funds to be received there under, will be binding upon the City unless such assignment had prior written approval and consent of the City. In the event the City gives such consent, the terms and conditions of the agreement shall apply to, and bind the party or parties to whom such work is assigned, sublet or transferred.

E. ETHICS IN PUBLIC CONTRACTING

Each Consultant, by submitting a statement of Proposals, certifies that it is not a party to any collusive action or any action that may be in violation of the Sherman Antitrust Act by submitting a statement of Proposals, the Consultant certifies that its submittal was made without fraud; that it has not offered or received any kickbacks or inducements from any other Consultant in connection with the request for Proposals; and that it has not conferred on any public employee, public member or public official having responsibility for this procurement transaction, any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value. The Consultant further certifies that no relationship exists between itself and the City or another person or organization that interferes with fair competition or constitutes a conflict of interest with respect to a contract with the City of Visalia.

Prior to the award of any contract, the potential consultant may be required to certify in writing to the Purchasing Division that no relationship exists between the Consultant and any City employee, officer, official or agent that interferes with fair competition or is a conflict of interest with respect to a contract with the City of Visalia.

More than one submittal from an individual, firm, partnership, corporation or association under the same or different names may be rejected. Reasonable grounds for believing that a Consultant has interest in more than one submittal for the work solicited may result in rejection of all submittals in which the Consultant is believed to have an interest.

F. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of the contract, Consultant agrees to the following:

1. Consultant shall comply with all the requirements, when applicable, of the California Fair Employment Practice Commission and provisions of, when applicable, all Federal, State of California, County of Tulare and City of Visalia laws and ordinances related to employment practices.
2. Consultant shall not discriminate against any employee or applicant for employment on the basis of race, religion, color, gender, age, handicap, national origin or ancestry, except when such a condition is a bona fide occupational qualification reasonably necessary for the normal operations of the Consultant. The Consultant agrees to post in conspicuous places, visible to the employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
3. Consultant, in all solicitations or advertisements for employees, placed by, or on behalf of the Consultant, shall state that Consultant is an Equal Opportunity Employer.

G. VENUE

Any contract resulting from this solicitation shall be governed by, and construed in accordance with, the laws of the State of California. Venue for any litigation arising out of the contract will be vested in Tulare County, California.

H. PROPRIETARY INFORMATION

The statements of Proposals received shall become the property of the City of Visalia and are subject to public disclosure. Information submitted by Consultants will be made available after City Council has approved award of contract. Consultants are to indicate any restrictions on the use of data contained in their submittals. Those parts of a submittal which are defined by the Consultant as business or trade secrets, as that term is defined in California Government Code, Section 6254.7, and are reasonably marked as "Trade Secrets", "Confidential" or "Proprietary" shall only be disclosed to the public if such disclosure is required or permitted under the California Public Records Act or otherwise by law. Consultants who indiscriminately and without justification identify most, or all, of their submittal as exempt from disclosure may be deemed non-responsive.

I. INCURRING COSTS

The City of Visalia is not liable for any cost incurred by Consultants in responding to this Request for Proposals.

NON-COLLUSION AFFIDAVIT

To Accompany Submittal

TO: THE CITY OF VISALIA

The undersigned, in submitting a proposal for performing the following work by contract, being duly sworn, deposes and says:

That he/she has not, either directly or indirectly, entered into any agreement, participate in any collusion, or otherwise taken any action in restraint of free competition in connection with such contract.

Work to be Done:

RFQ No.05-06-25 Civil Engineer and Landscape Architect for Civic Center Complex

Consultant's Name: _____

Signature of Consultant: _____

Title: _____

Business Address: _____

Place of Residence: _____

State of California
County of _____

On this _____ day of _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct
WITNESS my hand and official seal.

Signature _____ (Seal)

WORKERS' COMPENSATION INSURANCE CERTIFICATE

STATE OF CALIFORNIA)
) ss
CITY OF VISALIA)

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work under this contract.

Company: _____

Business Address: _____

Signature: _____

Name of Signing Official: _____

Title of Signing Official: _____

Date: _____

Company Seal:

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE CERTIFICATE

Equal Opportunity Clause

Unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Executive Orders 28925, 11114 or Section 204 of Executive Order 11246 of September 24, 1965, during the performance of each contract with the City of Visalia, the Consultant agrees as follows:

1. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin or political affiliation. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, gender, national origin or political affiliation. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The Consultant will, in all solicitations or advertisements for employees, placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, national origin or political affiliation.
3. The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or the workers' representative of the Consultants' commitments under Section 202 of Executive order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevancy orders of the Secretary of Labor.
5. The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and relevant orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the Consultant's non-compliance with the non-discrimination clauses of this subcontract or with any of such rules, regulations or orders, this subcontract may be canceled, terminated or suspended, in whole, or in part and the Consultant may be declared ineligible for further government contracts in accordance with the procedures authorized in accordance with Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or otherwise provided by law.
7. The Consultant will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that in the event the Consultant becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Consultant may request the United States to enter into such litigation to protect the interest of the United States.

Certification on Non-Segregated Facilities

The Consultant hereby certifies that it does not or will not maintain segregated facilities not permit its employees to work at locations where facilities are segregated on the basis of race, color, religion, gender, national origin or political affiliation.

Name of Firm

Authorized Signature

Date

SAMPLE CONTRACT

PROFESSIONAL SERVICES AGREEMENT CIVIL ENGINEER / LANDSCAPE ARCHITECT FOR CIVIL CENTER PROJECT

This Agreement, entered into this _____ day of _____, 2006, by and between the City of Visalia, hereinafter referred to as the "CITY", and _____ hereinafter referred to as the "CONSULTANT".

W I T N E S S E T H

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

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

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

NOW, THEREFORE, CITY and CONSULTANT agree as follows:

I. SERVICES TO BE PERFORMED BY THE CONSULTANT

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

II. TIME OF PERFORMANCE

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

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

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

III. COMPENSATION

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

IV. AUTHORIZED REPRESENTATIVE

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

V. TERMINATION

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

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

1. If the CONSULTANT fails to perform the services called for by this Agreement within time(s) specified herein or any extension thereof; or
2. If the CONSULTANT fails to make progress under this Agreement as to endanger performance of this Agreement in accordance with its terms, and does not correct such failure within a period of ten (10) days (or longer period as the CITY may authorize in writing) after receipt of notice from the CITY specifying such failure.

C. Post-Termination:

1. In the event the CITY terminates this Agreement with or without cause, the CITY may procure, upon such terms and such manner as it may determine appropriate, services similar to those terminated.
2. Except with respect to defaults of subconsultants, the CONSULTANT shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the CONSULTANT. Such causes include, but are not limited to, acts of God or of the public enemy, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather; but in the event the failure to perform is caused by the default of a subconsultant, the CONSULTANT shall not be liable for failure to perform, unless the services to be furnished by the subconsultant were obtainable from other sources in sufficient time and within budgeted resources to permit the CONSULTANT to meet the required delivery schedule or other performance requirements.
3. Should the Agreement be terminated with or without cause, the CONSULTANT shall provide the CITY with all finished and unfinished documents, data, studies, services, drawings, maps, models, photographs, reports, etc., prepared by the CONSULTANT pursuant to this Agreement.
4. Upon termination, with or without cause, CONSULTANT will be compensated for the services satisfactorily completed to the date of termination according to compensation provisions contained herein. In no event, shall the total compensation paid CONSULTANT exceed the total compensation agreed to herein.
5. If, after notice of termination of this Agreement, as provided for in this article, it is determined for any reason that the CONSULTANT was not in default under the provisions of this article, then the rights and obligations of the parties shall be the same as if the Agreement was terminated without cause.
6. Termination of this Agreement shall not terminate any obligation to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination activities.

VI. INTEREST OF OFFICIALS AND THE CONSULTANT

- A. No officer, member, or employee of the CITY who exercises any functions or responsibilities in the review or approval of this Agreement shall:

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

VII. NO PERSONNEL, AGENCY OR COMMISSION

The CONSULTANT warrants, by execution of this Agreement, that no personnel agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide established commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business. For breach or violation of this warranty, the CITY shall have the right to annul this Agreement without liability or, in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

VIII. SUBCONTRACTING

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

IX. INDEPENDENT CONTRACTOR

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

X. SPECIFICATIONS

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

XI. DOCUMENTS/DATA

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

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

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

XII. INDEMNIFICATION AND INSURANCE

- A. As respects acts, errors, or omissions in the performance of services, CONSULTANT agrees to indemnify and hold harmless CITY, its elected and appointed officers, employees, and CITY designated volunteers from and against any and all claims, demands, losses, defense costs, liability or consequential damages arising directly out of CONSULTANT's negligent acts, errors or omissions in the performance of his/her services under the terms of this Agreement, except to the extent those arise out of the negligence of CITY.
- B. CITY agrees to indemnify and hold harmless CONSULTANT, its officers, employees, and designated volunteers from and against any and all losses, defense costs, liability or consequential damages to the extent arising out of CITY'S negligent acts, errors or omissions in the performance of this Agreement.

- C. As respects all acts or omissions which do not arise directly out of the performance of services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, CONSULTANT agrees to indemnify, defend (at CITY's option), and hold harmless CITY, its elected and appointed officers, agents, employees, representatives, and volunteers from and against any and all claims, demands, defense costs, liability, or consequential damages of any kind or nature arising out of or in connection with CONSULTANT's (or CONSULTANT's subcontractors, if any) performance or failure to perform, under the terms of this Agreement; except to the extent those which arise out of the negligence of CITY.
- D. Without limiting CITY's right to indemnification, it is agreed that CONSULTANT shall secure prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:
1. Workers' compensation insurance as required by California statutes.
 2. Commercial general liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products and Completed Operations Liability, Broad Form Property Damage (if applicable), Independent Contractor's Liability (if applicable).
 3. Professional liability insurance coverage, in an amount not less than One Million Dollars (\$1,000,000).
 4. Comprehensive Automobile Liability coverage with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles and shall be provided by a business automobile policy.
- E. CITY'S Risk Manager is hereby authorized to reduce the requirements set forth above in the event he/she determines that such reduction is in the CITY'S best interest.
- F. Each insurance policy required by this Agreement shall contain the following clause:

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

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

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

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

- G. Prior to commencing any work under this Agreement, CONSULTANT shall deliver to CITY insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above. Within thirty (30) days of the execution date of this Agreement, CONSULTANT shall provide to CITY endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Said endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title. Should it be deemed necessary by CITY, it shall be CONSULTANT's responsibility to see that CITY receives documentation acceptable to CITY which sustains that the individual signing said endorsements is indeed authorized to do so by the insurance company. CITY has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.
- H. In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:
1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; or
 2. Order CONSULTANT to stop work under this Agreement and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof; or
 3. Terminate this Agreement.

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

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

XIII. NON-DISCRIMINATION

CONSULTANT and all subcontractors shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement.

XIV. MISCELLANEOUS PROVISIONS

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

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

CONSULTANT

Attention: _____

- F. Jurisdiction/Venue/Waiver Of Removal: This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in that State. Any action brought to interpret or enforce this Agreement, or any of the terms or conditions hereof, shall be brought in Tulare County, California. The CONSULTANT hereby expressly waives any right to remove any action to a county other than Tulare County as permitted pursuant to Section 394 of the California Code of Civil Procedure.
- G. Integration/Modification: This Agreement and each of the exhibits referenced herein, which are incorporated by reference, represents the entire understanding of the CITY and the CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by the CITY and the CONSULTANT.
- H. Conflict With Law: If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder of the Agreement shall be in full force and effect.

- I. Attorney's Fees: In the event either party commences any action, arbitration or legal proceedings for the enforcement of this Agreement, the prevailing party, as determined by the court or arbitrator, shall be entitled to recovery of its attorney's fees and court costs incurred in the action brought thereon.
- J. Construction: This Agreement is the product of negotiation and compromise on the part of each party and the parties agree, notwithstanding Civil Code Section 1654, that in the event of uncertainty the language will not be construed against the party causing the uncertainty to exist.
- K. Authority: Each signatory to this Agreement represents that it is authorized to enter into this Agreement and to bind the party to which its signature represents.
- L. Headings: Section headings are provided for organizational purposes only and do not in any manner affect the scope or intent of the provisions thereunder.

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

CITY OF VISALIA

CONSULTANT

City Manager

Approved as to Form

City Attorney

Risk Manager

Project Manager

Attachments:

- Exhibit "A": Scope of Work
- Exhibit "B": Project Fees
- Exhibit "C": Schedule of Fees for Professional Services
- Exhibit "D": Progress Payment Schedule

City of Visalia
Agenda Item Transmittal

Meeting Date: October 5, 2009

Agenda Item Number (Assigned by City Clerk): 2

Agenda Item Wording: Joint Communications Project Update & Authorization for Consultant to Explore a Standalone 9-1-1 Consolidated Dispatch Center

Deadline for Action: N/A

Submitting Department: Police / Fire

Contact Name and Phone Number: Police Chief Colleen Mestas, ext. 4215, Fire Chief Mark Nelson ext. 4218, Veronica McDermott ext. 4230

Department Recommendation: City Council Authorize Consultant chosen by the Dispatch Consolidation Selection Committee to Explore a Standalone 9-1-1 Consolidated Dispatch Center

Summary/background: At the May 18, 2009, City Council meeting, staff (Police & Fire) requested to proceed with participating in a multi-funded county-wide consolidated dispatch study. These efforts are the result of a partnership with City of Visalia and Tulare County Agencies seeking a qualified and experienced consultant to provide a thorough and comprehensive study on the potential for a consolidated dispatch center. City Council approved the request.

The Dispatch Consolidated Selection Committee will hire a consultant within the next few weeks. Initially, there was consideration to locate this joint venture in the proposed new Visalia Police Department Public Safety Building. While this is a significant undertaking and still has momentum, the potential for grant funding could be easier to access with a stand-alone center. With this option, the consultant will be more effective with the ability to design a function-specific center. It is highly probable that the construction of a 9-1-1 center separate from the proposed Public Safety Building would simplify the building and funding logistics; thereby, expediting the entire process altogether. Therefore, staff recommends that the consultant also explores additional sites for a standalone 9-1-1 Consolidated Dispatch Center.

The attached map details potential locations.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

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.): 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.

Attachments: Dispatch Consolidation Power Point Presentation

Recommended Motion (and Alternative Motions if expected): Authorize consultant to explore additional sites for a standalone 9-1-1 Consolidated Dispatch Center.

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:

County-wide Consolidated Dispatch Update



*A Partnership of City of Visalia &
Tulare County Agencies*



Presented by Committee Members

Overview

- **May 2009 – Sub-committee received authorization to proceed with a consolidated dispatch study with Visalia as lead.**
 - **Eleven (11) agencies throughout the County agreed to participate:**
 - ♦ **Tulare Co Sheriff's Office**
 - ♦ **Visalia Police Department**
 - ♦ **Tule River Indian Reservation**
 - ♦ **Woodlake Police Department**
 - ♦ **Farmerville Police Department**
 - ♦ **Tulare Co Consolidated Ambulance Dispatch**
 - ♦ **Tulare Co Fire Department**
 - ♦ **Visalia Fire Department**
 - ♦ **Tulare County Probation**
 - ♦ **Woodlake Fire Department**
 - ♦ **Exeter Police Department**
- **A cost sharing formula was developed based upon calls for service to share costs for a study.**

Overview – cont.

- **June 2009 - Request for Proposal (RPP No. 08-09-59) was developed & submitted to City Purchasing for posting.**
 - **Scope of Work Includes:**
 - ♦ *Project Initiation & Team Orientation*
 - ♦ *Interview Personnel*
 - ♦ *Understand Current Facilities & Issues*
 - ♦ *Governance Review*
 - **Review governance options**
 - Strong central authority
 - Joint Powers
 - New Entity (utility model)
 - **Define Governance vehicle**
 - Define requirements & issues related to new governance charter, participation, contributions, equity, performance expectations, equitable disengagement, etc.

Overview – cont.

◆ *Determine Collocation Alternatives, Facility & Operational Requirements/Costs*

- **Determine & document standalone & collocated requirements/needs, including:**
 - **Facility needs & space requirements supporting future growth for 9-1-1 call taking, radio dispatch, logging records, computer systems (CAD/RMS) & radio equipment**
 - **Investigate alternative sites (land or existing space) available for construction of a new facility, i.e., standalone 9-1-1 center, as an additional option**
 - **Two possible sites adjacent to proposed Public Safety building location.**
 - **Standalone center could simplify the building & funding logistics.**
 - **Explore alternate funding sources for consolidated center (9-1-1 funds, state, federal grants).**
- **Prepare a financial analysis based upon the operational options available**

◆ *Develop & Present Final Report*

◆ *Other Considerations*

- **Develop triggers for future expansion**
- **Data Storage & retrieval recommendations**
- **Reporting Process/workflow recommendations**

Overview – cont.

- **Mutual Aid Agreements**
- **Recommendations for integrating private industry with government**
- **Integration of various public safety agencies' police service practices**
- **Redundancy**

- **Timeline**
 - **July 31st – RFP Made available to the public**

 - **August 19th – Proposer Conference held**
 - **Six (6) consultants in attendance**

 - **September 11th – RFP Process Closed**
 - **Seven (7) proposals received (short list established/firms notified)**
 - **Alta Vista Group (Cool, CA)**
 - **RCC Consultants (San Bernardino, CA)**
 - **RW Management Group (Menasha, WI)**
 - **Calpro Hom & Dong Architects (Sacramento, CA)**
 - **Matrix Consultants, (Palo Alto, CA)**
 - **TriDate Systems (Arlington, VA)**
 - **Deltawrx (Woodland Hills, CA)**

Overview – cont.

- **September 25th – October**
 - **Selection Committee currently reviewing proposals:**
 - **Chief Steve Sunderland, County Fire**
 - **Pat Aldrich, Probation**
 - **Captain Dave Williams, TCSO**
 - **Jay Jones, County IT**
 - **Randy Smith, Exeter PD**
 - **Danny Wristen, VFD**
 - **Veronica McDermott, VPD**
 - **October 8th– Selection Committee to rate proposals**
 - **October (date not yet determined) – interview top consultants**
 - **November – Award contract**
 - **December – Contract begins (6 months)**

Questions?

City of Visalia Agenda Item Transmittal

Meeting Date: October 5, 2009

Agenda Item Number (Assigned by City Clerk): 3

Agenda Item Wording: Requesting City Council authorization for staff to enter into contract negotiations with the consultant team of Dyett & Bhatia for preparation of the General Plan Update and Program EIR. (ref.: RFP-08-09-21)

Deadline for Action: None.

Submitting Department: Community Development Dept. –
Planning Division

Contact Name and Phone Number:

Brandon Smith, AICP, Senior Planner 713-4636
Paul Scheibel, AICP, Planning Services Manager 713-4369

Recommendation: The General Plan Update Review Committee (GPURC) recommends that the City Council authorize staff to enter into contract negotiations with the consultant team of Dyett & Bhatia for preparation of the General Plan Update and Program EIR. If negotiations are successful, staff will return to Council in the future with a final scope of work and cost proposal, and request Council authorization at that time to execute a contract for this work.

Dyett & Bhatia is the top-ranked consultant firm among those interviewed by the Committee on September 9, 2009. Committee members who served on the Interview Panel recognized top-ranked Dyett & Bhatia for the strong project manager, experience in preparing General Plans for Central Valley communities, and for their innovative public participation program.

This recommendation received unanimous approval at the GPURC meeting held on September 24, 2009.

Summary of Top-Ranked Team: Dyett & Bhatia is a San Francisco-based planning consultant firm with over 30 years of experience of California, including the preparation of general plans for more than 50 California cities. Their experience includes recent General Plan updates for the Central Valley communities of Porterville (repeat customers in 1989 & 2008), Lemoore, Turlock, and Lodi.

According to their submitted proposal, Dyett & Bhatia would lead all aspects of the General Plan Update, including community outreach, visioning, policy identification, and EIR preparation. The proposal's Project Understanding and Overall Approach sections (included as attachments to this report) summarize the firm's understanding of key issues as conveyed by the GPURC. A total estimated time frame of three years is proposed for the completion of the General Plan and EIR (a phasing plan and schedule, taken from the proposal, is attached to this report). Leslie Gould is

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.) 15 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.

identified as the Principal-in-charge and project manager. She is currently leading the preparation of General Plans in the Cities of Turlock and Pacifica.

Dyett & Bhatia proposes a consultant team that includes the following sub-consultants that will provide specialized services and land knowledge to the Update process:

Omni-Means (<u>Visalia</u>)	Transportation Planning
Provost & Pritchard (<u>Visalia</u>)	Civil Engineering & Infrastructure
Economic & Planning Systems (Berkeley)	Economic & Fiscal Analysis
Jones & Stokes (Sacramento)	Environmental Consultants
Urban Green (San Francisco)	Sustainability Consultants

Negotiation Process: If the City Council approves the recommendation, staff will begin negotiating with Dyett & Bhatia for a final price to be contracted between the City and the consultant. The consultant's cost bid and work program will be used by staff to establish work and price deal points. Negotiation will allow staff to discuss consultant vs. staff responsibilities for labor and examine any other ongoing costs, in an effort to minimize the cost of the contract.

If no agreement is made on a price, staff would enter into negotiations with the second highest-ranked consultant. If no agreement is made on a price with the second highest-scoring consultant, staff would enter into negotiations with the third highest-ranked consultant.

Once a final scope of work and price are agreed upon with the consultant, authorization will be sought from the City Council to approve and fund the contract.

Background on Consultant Selection:

Short list developed from 13 consultants

On June 1, 2009, the City Council authorized releasing a RFP for the preparation for a General Plan Update and Program EIR by a qualified consultant team. RFP-08-09-21 was circulated for about 45 days - from June 23, 2009, to August 4, 2009. During this period 13 proposals were received by consultants based throughout California.

Two rounds of evaluations were held by Sub-committees assembled by GPURC members in order to select the top-ranked firm. The Proposal Screening Sub-committee, consisting of Council member Greg Collins, Planning Commissioner Larry Segrue, and City staff Fred Brusuelas and Paul Scheibel, was assembled to evaluate the 13 proposals using the criteria outlined in the RFP and rank the top consultant candidates. The five highest-ranked candidates proceeded to interviews.

Interviews held for top 5 consultants

Interviews were held on September 9, 2009. The following nine Committee members served as voting members on the Interview Panel.

<i>Vice Mayor Link (chair)</i>	<i>City Council</i>
<i>Council Member Collins</i>	<i>City Council</i>
<i>Larry Segrue (vice chair)</i>	<i>Planning Commission</i>
<i>Bob Brown</i>	<i>Waterways and Trails Committee</i>
<i>Carla Calhoun</i>	<i>Parks & Recreation Commission</i>
<i>Darlene Mata</i>	<i>Visalia Community Forum</i>
<i>Dirk Holkeboer</i>	<i>Citizens Advisory Committee</i>
<i>Jim Robinson</i>	<i>Visalia Economic Development Council</i>
<i>Josh McDonnell</i>	<i>Visalia Chamber of Commerce</i>

After all candidates were interviewed, the Panel and staff convened for discussion and tallying of points from the Panel's evaluation forms. Presentations were scored using the criteria outlined in the RFP.

The top three consultants receiving the most points, ranked in order of most points received, were:

1. *Dyett & Bhatia*
2. *The Planning Center*
3. *EDAW / AECOM*

The Purchasing Division later reviewed the evaluation forms and verified the top-ranked consultants.

Cost Schedules: Following the rankings, the sealed cost schedules provided by the top three consultants were then examined for the first time by City staff. The costs all fell within the \$1.0 to \$1.5 million price range anticipated for the General Plan and Program EIR Update. In addition, the cost schedule submitted by top-ranked firm, Dyett & Bhatia, produced the median cost of the top three consultants.

The cost agreed upon between the City and consultant will cover the full cost of the consultant delivering a General Plan and Program EIR document.

Budgeting: In the 2008/09 and 2009/10 fiscal year budgets combined, there is \$962,250 currently budgeted for updating components of the General Plan. This figure represents \$860,000 for the overall Update effort, and \$102,250 specifically for the Parks & Recreation Element. No money has been spent on these accounts to date. Amounts are broken down as follows:

<u>General Plan Update</u>	(General Fund #0011/Project #8078)	\$100,000 (FY 2008/09)
		\$350,000 (FY 2009/10)
	Money unfrozen for FY 2008/09	\$250,000*
	Budget Revision	\$160,000*
<u>Parks & Rec Element Update</u>	(Fund #1211/Project #9931)	<u>\$102,250</u>
		\$962,250

*The un-frozen \$250,000 and additional \$160,000 were both approved by City Council as part of the mid-cycle budget adjustments on May 18, 2009.

The money that is currently budgeted is less than the costs schedules proposed by the top three consultants. If council authorizes negotiations, staff will work with Dyett and Bhatia to achieve a work program satisfactory to the Council and community and as close to the currently budgeted amount (\$962,250) as possible.

The current economic crisis and unstable revenue sources may cause the City to suspend and resume work on the General Plan Update as necessary. The Request for Proposals stipulated that work programs and budgets submitted in the proposals should allow for work to progress in increments, and allow for efforts to be consolidated if needed.

Cost Recovery: Staff anticipates that a method for recouping the cost of the General Plan Update and EIR is critical to the project's successful completion. A commonly used and legally defensible method would be to impose a proportional fee applicable to future development aided by the General Plan Update. A modernized program for recouping General Plan Update costs will be prepared and submitted to Council for consideration when the Update is adopted

Alternatives: The City Council can not enter into negotiations and determine another course of action.

Prior Council/Board Actions: NA

Committee/Commission Review and Actions: NA

Attachments:

Excerpts from Dyett & Bhatia's Proposal to prepare General Plan Update & EIR

- Project Understanding
- Overall Approach
- Phases of Work and Schedule

Recommended Motion:

I move to authorize staff to enter into contract negotiations with the General Plan Update consultants, starting with the top-ranked consultant by the General Plan Update Review Committee.

Environmental Assessment Status

CEQA Review: *No CEQA review is needed for the City Council to authorize entering into contract negotiations.*

NEPA Review: *NA*

Copies of this report have been provided to:

- Dyett & Bhatia

City of Visalia
Agenda Item Transmittal

Meeting Date: October 5, 2009

Agenda Item Number (Assigned by City Clerk): 8b

Agenda Item Wording: Authorize the City Manager to enter into an Exclusive Negotiations Agreement (EDA) with Mill Creek Professional Center, LLC, for completion of pre-development due diligence and planning activities necessary for the negotiation of a Development Agreement for approval by the City Council for the phased sale and development of city-owned land situated between Acequia, Mineral King, Stevenson and Conyer Streets.

Deadline for Action: None

Submitting Department: Housing & Economic Development Department

Contact Name and Phone Number: Ricardo Noguera, Housing & Economic Development Director 713-4190

Department Recommendation: Approve an Exclusive Negotiations Agreement (ENA) between Mill Creek Professional Center, LLC ("Developer") and the City for completion of pre-development due diligence and planning activities necessary for the negotiation of a Development Agreement for approval by City Council for the phased development of city-owned property bounded by Acequia Avenue (north); Mineral King (south); Stevenson Avenue (east); and Conyers Street (west).

Summary/Background: Over the past few years, the City has been planning for the development of an area referred to as "West Downtown" or the City Hall West boundaries. The area bounded by Acequia to Mineral King (north-south) and Stevenson to Conyers (east-west) is the planned development area (excludes existing two-story office building situated at southwest corner of Acequia and Conyer streets). On August 20, 2008, the City released a Request For Proposal (RFP) to private developers interested in acquiring the planned development area for the development of medical offices, a parking structure, a hotel, and a commercial-residential mixed use project. The City's interview team selected Paloma Development as the preferred developer for the project. On February 9, 2009, City Council authorized staff to negotiate with the development team consisting of experienced downtown

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.

developers, investors and realtors including: Harvey May, Tom Gaebe, Jody Graves and Doug Lawrence. This development team subsequently formed Mill Creek Professional Center, LLC (Development Team) which is the entity with whom the City will be negotiating. Over the past seven (7) months, staff has held several meetings with the development team in order to craft an ENA. The ENA represents the first major step toward the negotiations of a development agreement and eventual development of the site.

The Exclusive Negotiations Agreement (ENA) Process: ENAs are typically crafted in order to identify and describe the key elements of a development deal and allow the parties to complete their due diligence and planning before negotiating a binding development agreement. The ENA also offers the development team protections from the City negotiating with other parties during this period. The duration of this ENA is 270 days (approximately 9 months) and has limited flexibility to be extended in the event the City so desires. The contents of an ENA normally require developers to conduct pre-development activities such as: site planning, architectural drawings, market analysis, land use and zoning analysis, environmental studies and financial assessments to determine the viability of a project.

This ENA calls for the Development Team to complete the following at “their expense” during the 270-day period:

1. A Site Plan depicting development of a multi-phase mixed-use development on the planned development area, consisting of a professional office (medical), residential, and/or retail buildings, all of which will be served by a parking structure that will be incrementally funded by each phase of the mixed-use development. The first phase will consist of acquisition of city property and development of the medical offices by the Development Team. The development agreement will include limited options for the Development Team to acquire property and develop the remaining phases of the project.
2. Designs, elevations and other documentation identifying improvements and facilities for the Phase I development including square footage of the proposed office building and construction schedule.
3. Analysis of parking requirements for the development, including proposed use of parking in-lieu. It is anticipated that city staff and the Development Team will negotiate payment of an additional parking garage surcharge for each phase of the development to support funding of an eventual parking structure. The amount of the surcharge shall be negotiated between the City and developer as part of a future development agreement.

This ENA calls for the City to complete the following at its expense during the 270-day period:

1. Timely review and comment on all plans submitted by the Development Team.
2. Prepare a draft development agreement setting forth the terms and conditions for the acquisition and development by the Development Team for Phase I with options for later phases.

3. Completion of an Appraisal. The City will complete the appraisal and reserves the right to update as necessary.

Next Steps: If the City Council authorizes the ENA, over the next nine months, the City and Development Team will endeavor to negotiate a development agreement for your approval which will clearly define how the project will be developed; financed; the schedule under which the first phase must be completed and options for subsequent phases must be exercised, and other issues pertaining to the respective rights and obligations of the Development Team and the City. During this period, the development team can prepare the necessary environmental and planning review. This period also allows the developer time to secure financing for the first phase of the project and recruitment of tenants.

Prior Council/Board Actions:

- Original release of an RFP in October 2007;
- On August 20, 2008 second RFP was released;
- On February 9, 2009 Council selected Paloma Development to negotiate an Exclusive Negotiations Agreement

Committee/Commission Review and Actions: None

Alternatives: None recommended

Attachments:

- Aerial of the two block area
- Exclusive Negotiations Agreement (ENA)

Recommended Motion (and Alternative Motions if expected): Approve an Exclusive Negotiations Agreement (ENA) between Mill Creek Professional Center, LLC (“developer”) and the City for completion of pre-development activities on city-owned surface parking lots bounded by Acequia Avenue (north); Mineral King (south); Stevenson Avenue (east); and Conyers Street (west).

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: N/A

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

Copies of this report have been provided to:

RESOLUTION NO. 2009- 43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA

WHEREAS: the City of Visalia, a political subdivision of the State of California,

WHEREAS, On August 20, 2008, the City of Visalia released a Request For Proposal (RFP) seeking a developer to acquire and develop medical/office buildings and a parking structure on city-owned land bounded by Acequia, Mineral King, Stevenson and Conyer streets;

WHEREAS, On February 9, 2009, the City Council selected the Paloma Development Team (a.k.a. Mill Creek Professional Center, LLC) to negotiate an Exclusive Negotiations Agreement (ENA) with the City in order to complete necessary pre-development activities at the project location;

WHEREAS, between February and September 2009, the City has conducted several meetings with the development team in order to negotiate the terms of an ENA;

WHEREAS, the two parties have agreed on terms described in detail in the attached ENA and therefore wish to finalize this agreement;

NOW, THEREFORE, BE IT RESOLVED THAT:

I, Steve Salomon, City Manager/City Clerk of the City of Visalia, hereby certify that the foregoing Resolution No. _____ was duly and regularly passed and adopted by the City Council of the City of Visalia at a meeting thereof held on October 5, 2009, and that the foregoing is a full and correct copy of said resolution.

City Manager/City Clerk

PASSED AND ADOPTED this 5th day of October, 2009, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jesus Gamboa, Mayor

ATTEST:

Steve Salomon, City Manager/City Clerk

EXCLUSIVE NEGOTIATION AGREEMENT

THIS EXCLUSIVE NEGOTIATION AGREEMENT (the “**Agreement**”) is entered into by and between the City OF VISALIA (the “**City**”) and Mill Creek Professional Center, LLC, a California limited liability company (the “**Developer**”), and is dated and effective as of October __, 2009 (the Developer and the City are collectively referred to herein as the “**Parties**”). In consideration of the mutual covenants and agreements contained herein, the parties hereby agree as follows:

RECITALS AND REPRESENTATIONS

- A. Developer and City desire to enter into negotiations concerning the development of a multi-phase, mixed-use development consisting of professional office, residential, and/or retail buildings, all of which will be served by a parking structure that will be incrementally funded by each phase of the mixed-use development (the “**Project**”), as shown on the map provided with Developer’s proposal (the “**Site**”), which is attached hereto as **Exhibit A**.
- B. The City previously distributed a Request for Proposal for development of the Site, and based upon the proposal submitted by Developer, the City Council has selected Developer as the entity with which to negotiate the terms for an agreement for development of the Project on the Site.
- C. The Parties acknowledge that the purpose of this Agreement is to provide Developer with an exclusive right to negotiate with the City the terms of a development agreement for the acquisition by Developer of real property on the Site necessary for development of professional office building comprising the first phase of the Project (the “**Phase I Development**”), along with an exclusive option or options to negotiate an agreement or agreements for the acquisition by Developer of additional real property on the Site necessary for development of the subsequent phases of the Project.
- D. The Parties intend that during and for the period of negotiations set forth herein (the “**Negotiation Period**”) each will perform certain actions and fulfill certain obligations and responsibilities under this Agreement in accordance with the terms herein, and the Schedule of Performance attached hereto as **Exhibit B**.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

I. PURPOSE OF AGREEMENT

- A. Preparation by Developer of Conceptual Plans for the development of the Project on the Site and preparation by City of an appraisal of the value of the real property on the Site to be designated for the Phase I Development. "Conceptual Plans" required under this Agreement are described and set forth more fully in Section III.
- B. Negotiation by the Parties of a development agreement which provides for, among other things, the following: (1) the acquisition by Developer of the real property on the Site designated for the Phase I Development; (2) the coordination of the planning, design and construction of the Phase I Development and potential future phases of the Project to maximize its compatibility with the abutting and adjacent uses and to minimize new, adverse environmental, traffic and other impacts on the abutting and adjacent current or future uses; (3) to delegate to Developer various obligations and responsibilities for the acquisition of the real property for the Phase I Development and the performance of other predevelopment activities, including, without limitation, performing environmental investigations; (4) to delegate responsibilities and obligations with regard to the design and construction of the Phase I Development and potential future phase of the Project at the Developer's sole cost; (5) such other provisions regarding participation and responsibilities of the Parties necessary to further the purpose of developing the Phase I Development and potential future phases of the Project and meeting all legal requirements of the Parties.

II. EXCLUSIVE RIGHT TO NEGOTIATE

- A. City hereby grants to Developer, and developer hereby accepts, the right to exclusively negotiate with City the terms of a development agreement for the acquisition by Developer of real property on the Site to be designated for the Phase I Development, in accordance with the Conceptual Plans required by this Agreement. The terms of the agreement shall also include an option or options to negotiate a future development agreement or agreements for the acquisition by Developer of additional real property on the Site for development of potential future phases of the Project. The exclusive right to negotiate contemplated by this agreement shall continue in full force and effect until its expiration on the two hundred seventieth (270TH) day following execution of this Agreement or earlier termination of this Agreement as provided herein.

- B. By the dates set forth in the Schedule of Performance attached as **Exhibit B**, Developer shall develop and submit the Conceptual Plans, as defined in Section III(B) herein, for the Project. Subsequent to the submittal of the proposed Conceptual Plans, City shall review and comment on proposed Conceptual Plans within the time limits set forth in the Schedule of Performance. Should the Parties fail to complete Conceptual Plans which are mutually acceptable, either Party may terminate this Agreement as provided in Section IV(B)(2). To the extent that City's requested changes reasonably require an extension on the deadlines in the Schedule of Performance, the Schedule of Performance shall be so extended; provided, however, that such extensions shall not extend the term of this Agreement.
- C. The Parties agree, so long as this agreement is in effect, to negotiate diligently and in good faith to prepare an agreement to be entered into by City and Developer with regards to the objectives described herein. During the term of this Agreement, City agrees not to negotiate for the development of the Site, or any portion thereof, with any party other than Developer.
- D. If Developer requests an extension of the term of this agreement, then any such extension shall be granted, if at all, at the City's sole discretion.
- E. If, at the end of the terms of this Agreement, or any extension thereof, each party has acted in good faith and no uncured breach of this Agreement has occurred or is continuing, and Developer has not signed and submitted an agreement mutually acceptable to Developer and City, then this Agreement shall automatically expire and terminate, and the City and Developer agree that they shall have no further rights or obligations under this Agreement.

III. NEGOTIATION TASKS

- A. The Developer shall provide the City with copies of all reports, studies, analyses, plans, and similar documents, prepared or commissioned by Developer with respect to this Agreement and the development of the Project on the Site, promptly upon completion. The City shall provide the Developer with copies of all reports, studies, analyses, plans, and similar documents, prepared or commissioned by City with respect to this Agreement and the development of the Project on the Site, promptly upon completion.

B. By the time set forth in the Schedule of Performance, Developer shall submit to City the proposed Conceptual Plans, which shall include the following:

1. A site plan that includes the exact location of the real property on the Site necessary for the proposed Phase I Development of the Project, and which also incorporates additional opportunities on the remaining portion of the Site for mixed use development projects which are either office, retail or residential in nature, with potential phasing for said additional development opportunities. The site plan should also include a parking structure capable of serving all future development on the Site. The site plan should also identify minimal parking on the portion of the Site identified for the Phase I Development, entry and exit points for the Site, traffic circulation for the Site, public improvements necessary for the Phase I Development and potential future phases of the Project, adjacent buildings, and conceptual landscaping for the Site and Mill Creek.
2. Designs, elevations and other documentation identifying the improvements and facilities for the Phase I Development, including but not limited to, the following information: (a) the proposed square footage of the professional office building comprising the Phase I Development, (b) the proposed square footage of the portion of the real property on the Site necessary for the Phase I Development, (c) appropriate fenestration and amenities associated with a Class A office building, and (d) and a proposed construction schedule.
3. Developer shall provide adequate documentation demonstrating the anticipated parking space requirements, per the City's Municipal Code, for the Phase I Development, along with a proposed plan for satisfying approximately 75% of the total parking space requirement through the City's parking in-lieu ordinance. In addition to the parking in-lieu fee (the "PIL fee") required by the ordinance, Developer shall be required to pay a per space parking garage surcharge (the "Surcharge") which will be dedicated to financing for a future parking garage anticipated for the Project.
 - a. The amount of the Surcharge, and the scope of the rights to be acquired by Developer in the future parking garage for the Project by payment of the Surcharge, shall be negotiated by City and Developer as part of the development agreement required herein for the Phase I Development.

b. Should Developer agree to develop and own the parking garage contemplated for a future phase of the Project, City would agree to refund Developer's PIL Fee and PIL Surcharge upon execution of a development agreement with City which contemplates construction of the parking garage for the Project by the Developer, provided that Developer satisfies the Phase I Development parking space requirements through the dedication of the required number of spaces in the parking garage.

c. Should the parking garage contemplated for the Project be developed by the City or an individual or entity other than Developer, then Developer's PIL Fee and Surcharge will be used to fund construction of the parking garage, and developer will be able to meet its Phase I Development parking requirements through an interest in the parking garage which will be further defined in the development agreement for the Phase I Development.

d. In the event that neither Developer, City, nor a third party develop a parking garage on the Site within ten (10) years from the issuance to Developer of a certificate of occupancy for the Phase I Development, then City shall refund to Developer the Surcharge, along with any interest accrued thereon, to Developer. City will retain the PIL Fee in satisfaction of Developer's parking requirements for the Phase I Development.

C. By the time set forth in the Schedule of Performance, City shall review and provide Developer with comments on the Conceptual Plans detailing any proposed revisions or requests for additional information or analyses. The City Manager shall act as the point of contact for all submittals by Developer. By the time set forth in the Schedule of Performance, Developer shall submit final Conceptual Plans in accord with City's comments.

D. By the time set forth in the Schedule of Performance, City shall submit to Developer a draft development agreement setting forth the terms and conditions for the acquisition and development by Developer of real property on the Site necessary for the Phase I Development, which shall include an exclusive option or options to negotiate a future development agreement or agreements for the acquisition by Developer of additional real property on the Site necessary for development of the subsequent phases of the Project.

- E. The appraisal upon which the purchase price and/or other consideration to be paid by Developer for the portion of the real property on the Site necessary for the Phase I Development will be provided by the City by the time set forth in the Schedule of Performance. The City reserves the right, in its sole discretion, to update the appraisal at any time prior to execution of a development agreement with Developer. Any costs, fees and charges associated with the appraisal for the value of the land shall be paid solely by the City. The selection of the appraiser and the type of appraisal report for the Site shall be at the sole discretion of City, which shall reasonably consider Developer's input as to such selection.
- F. By the time set forth in the Schedule of Performance, Developer and City staff shall come to a mutual agreement on the terms, conditions and final form of the development agreement for the Phase I Development referenced above in Subsection (C), and Developer shall execute and deliver to City an executed copy of the said agreement. City shall present said agreement to the City Council for its review and approval by the time set forth in the Schedule of Performance.

IV. GENERAL PROVISIONS

- A. It is the intention of the Parties that successful compliance with the terms of this Agreement will lead to the development of an agreement or agreements between the Parties that will result in the disposition of some or all of the Site to the Developer for development of the Project. However, by its execution of this Agreement, the City is not committing itself to or agreeing to undertake: (1) the sale of real property to the developer; or (2) any other activities requiring the subsequent independent exercise of discretion by the City. Similarly, by its execution of this Agreement, Developer shall not be obligated to acquire any portion of the Site prior to approval by the City of an agreement or agreements for same. Execution of this Agreement by the Parties is merely an agreement to enter into a period of exclusive negotiations according to the terms hereof, reserving final discretion and approval by the City as to the sale or development of any real property owned by City, and all proceedings and decisions in connection therewith.
- B. This Agreement may be terminated by either City or Developer prior to its automatic expiration under either of the following circumstances:

1. If either City or Developer fails to timely perform any of its obligations hereunder or is otherwise in material default under this Agreement, then the non-defaulting party may terminate this Agreement after thirty (30) day written notice and reasonable opportunity to cure; provided, however, if any default is not reasonably curable within thirty (30) days, then the allegedly defaulting party shall not be in default, and this Agreement shall not terminate, if the allegedly defaulting party promptly notifies the other that the alleged default cannot be cured within thirty (30) days, provides mutually acceptable assurances that steps to cure the default will be undertaken and such party, in fact, commences to cure such default within such thirty (30) day period and prosecutes same to completion.
 2. If, subsequent to such time as designated in the Schedule of Performance for City to provide Developer with comments on Developer's draft Conceptual Plans, Developer or City cannot agree on the content of the Conceptual Plans, then either City or Developer may terminate this Agreement upon written notice to the other prior to the automatic expiration of the Agreement. City and Developer agree that upon such termination, they shall have no further rights or obligations under this Agreement.
- C. All notices, requests and other communications under this Agreement shall be in writing, and shall be (a) delivered personally, (b) sent via facsimile, or (c) mailed, certified or registered mail, return receipt requested, postage prepaid, deposited in Tulare County, California and addressed as follows:

City: City of Visalia
425 East Oak Street, Suite 301
Visalia, CA 93291
Attention: City Manager

Developer: Mill Creek Professional Center, LLC, a
California limited liability company
222 N. Garden Street, Suite 200
Visalia, CA 93291
Attention: _____

Personally delivered notices shall be deemed given upon actual personal delivery to the intended recipient. Facsimile notices shall be deemed given upon completion of transmission to the receiving

facsimile machine. Mailed notices shall be deemed given upon the earliest of three (3) business days after deposit into the United States mail, registered or certified with postage fully prepaid, or the date of actual receipt as evidenced by the return receipt. All notices of default in order to be effective must state with reasonable specificity (a) the nature of the default, (b) the actions which the defaulting party must take to cure such default, and (c) the time in which such actions must be taken.

- D. Developer and City each represent that they have not engaged any broker, agent or finder in connection with this transaction and the Parties agrees to hold each other harmless for any claim by any broker, agent or finder retained by or claimed through Developer or City.
- E. Except as provided herein, Developer and City shall be responsible for their own costs and expenses in connection with any activities and negotiations undertaken in connection with the performance of the obligations specified by this Agreement.
- F. This Agreement shall be construed in accordance with the laws of the State of California.
- G. In the event any action is taken by either Developer or City to enforce this Agreement, the prevailing party shall be entitled to recover from the other party its actual attorneys' fees and costs.
- H. The City shall maintain the authority to implement this Agreement through the City Manager, or his designated representative. The City Manager shall have the authority to issue interpretations, waive provisions, and/or enter into certain amendments of this Agreement on behalf of the city so long as such actions do not materially or substantially change the uses or concept of the Project, or add to the costs incurred or to be incurred by the City.
- I. This Agreement may not be assigned without the prior written approval of the City, which may withhold approval in its sole discretion.
- J. Time is of the essence of every portion of this Agreement in which time is a material part.
- K. This Agreement contains the entire understanding and agreement of the Parties, integrates all of the terms and conditions mentioned herein and incidental hereto, and supersedes all negotiation or

previous agreements between the Parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

[End of Text. Signature Page Follows]

**SIGNATURE PAGE TO THE
DEVELOPMENT AGREEMENT
FOR THE PROJECT**

IN WITNESS WHEREOF, the City and Developer have executed this Agreement as of the date and at the place set out on page 1, and all pages hereof have been initialed by Developer and a representative of the City.

City of Visalia

Steve Salomon, City Manager

ATTEST:

Donjia Huffmon, Chief Deputy City Clerk

APPROVED AS TO FORM:

Alex M. Peltzer, City Attorney

Mill Creek Professional Center, LLC,
a California limited liability company

By: _____

APPROVED AS TO FORM:

_____, Attorney for Developer

EXHIBIT "A"

SITE MAP

EXHIBIT "B"

SCHEDULE OF PERFORMANCE

	Days after Effective Date of this Agreement
City approves and executes this Agreement	0
City provides Developer with Appraisal for property necessary for Phase I Development	100
Developer provides City with Draft Conceptual Plans	120
City provides Developer with comments on Draft Conceptual Plans	150
Developer provides City with Final Conceptual Plans	175
City provides Developer with Draft Development Agreement for Phase I Development	190
Developer Approves and Executes Final Development Agreement for Phase I Development	250
City Council Approves and City Manager Executes Final Development Agreement for Phase I Development	270

City of Visalia Agenda Item Transmittal

Meeting Date: October 5, 2009

Agenda Item Number (Assigned by City Clerk): 8c

Agenda Item Wording: Notification of approval of a DUI grant application to the Sobriety Checkpoint Program, UC Berkeley – Traffic Safety Center, through the Governor’s Office of Traffic Safety (OTS) and authorization for the City Manager to execute the grant agreement.

Deadline for Action: October 5, 2009

Submitting Department: Police

Contact Name and Phone Number: Police Chief Mestas, ext 4215, or Sgt. Brian Winter, ext 4232

Department Recommendation: It is recommended that the council authorize the City Manager to execute an agreement with the Sobriety Checkpoint Program, UC Berkeley - Traffic Safety Center, through the Governor’s Office of Traffic Safety (OTS).

Summary/background: The grant application was modified and we received notification of the changes on 9-17-09. OTS has been working out the grant specifics, and the application has already been submitted.

The DUI enforcement mini-grant will allow the Visalia Police Department to conduct 12 additional DUI checkpoints. This provides all overtime salaries for all officers and personnel involved in the activities.

The DUI enforcement mini-grant will provide up to \$82560.60 with no matching funds required by the City of Visalia. The funding period for this grant is October 1, 2009 through September 30, 2010.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions:

Alternatives: Refuse grant funding if awarded.

Attachments: None

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 CM 9/22/09
Finance EF 9/22/09

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

City Mgr _____

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

Recommended Motion (and Alternative Motions if expected): I move that the Council authorize the City Manager to execute the grant agreement with the Sobriety Checkpoint Program, UC Berkeley – Traffic Safety Center, through the Governor’s Office of Traffic Safety (OTS).

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 5, 2009

Agenda Item Number (Assigned by City Clerk): 8d

Agenda Item Wording: Notification of approval of a grant application to the Click It or Ticket Mini-Grant program, UC Berkeley – Traffic Safety Center, through the Governor’s Office of Traffic Safety (OTS) and authorization for the City Manager to execute the grant agreement.

Deadline for Action: October 5, 2009

Submitting Department: Police

Contact Name and Phone Number: Police Chief Mestas, ext 4215, or Sgt. Brian Winter, ext 4232

Department Recommendation: It is recommended that the council authorize the City Manager to execute an agreement with the Click It or Ticket Mini-Grant program, UC Berkeley - Traffic Safety Center, through the Governor’s Office of Traffic Safety (OTS).

Summary/background: The grant application was applied for and notification was made to the Police Department advising of our acceptance to the program.

The Click It or Ticket mini-grant will allow the Visalia Police Department to conduct enforcement activities specifically aimed at occupant protection and restraint. This provides all overtime salaries for all officers and personnel involved in the activities.

The Click It or Ticket mini-grant will provide up to \$21,402 with no matching funds required by the City of Visalia. The funding period for this grant is October 1, 2009 through September 30, 2010.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions:

Alternatives: Refuse grant funding if awarded.

Attachments: None

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 CM 9/22/09

Finance EF 9/22/09

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

City Mgr _____

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

Recommended Motion (and Alternative Motions if expected): I move that the Council authorize the City Manager to execute the grant agreement with the Click It or Ticket mini-grant program, UC Berkeley – Traffic Safety Center, through the Governor’s Office of Traffic Safety (OTS).

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 5, 2009

Agenda Item Number (Assigned by City Clerk): 8e

Agenda Item Wording: Approval of the 2009/10 transit agreement with Tulare County.

Deadline for Action: October 5, 2008.

Submitting Department: Administration – Transit Division

Contact Name and Phone Number:

Monty Cox 713-4591

Department Recommendation: Approve the 2009/10 transit agreement with Tulare County and authorize the City Manager to execute the necessary documents.

Summary/background: This agreement is an annual agreement between the City of Visalia and Tulare County to provide Visalia City Coach (VCC) service to the unincorporated areas of the greater Visalia Urbanized Area contiguous to the City, including Goshen.

The agreement includes a transfer of \$309,753 from the County to the City equal to the County portion of the VCC service provided. Of this amount \$176,634 is transferred from the County's portion of the Local Transportation Fund and the remainder \$133,119 is comprised of federal funds and farebox revenues which the City collects and retains. This \$309,753 covers the service to Goshen and the other county pockets within the Visalia Urbanized Area. It does not include any service to Farmersville or Exeter as this will be addressed through separate agreements with those cities.

Various formulas are used to determine the percentage of service provided to the County and then this percentage is applied to the entire VCC budget to determine the County's share. The formulas were developed the first year of the annual agreement in 1981 and updated each year since. The formulas are based on a percentage of the ridership who reside in the County (5% for Fixed Route & 8% for Dial-A-Ride), a multiplier factor adjusting for the distance to get to and from the County (1.3), and the number of service hours expended within the County areas(10%). The funds are taken from the County's share of the Federal Transit Administration (FTA) Section 5307, County Local Transportation Fund and farebox revenues.

The County's costs are based on the actual operating costs as outlined in the new contract with MV Transportation.

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.

Prior Council/Board Actions: Since 1981, the City and County have entered into annually updated agreements for the provision and coordination of public transit services in the Visalia Urbanized Area.

Committee/Commission Review and Actions: None

Alternatives: The City could elect not to service the unincorporated sections of the Visalia Urbanized Area, requiring the County to find an alternate provider. Such action could result in less efficiency and increased costs in the Visalia Region.

Attachments: Copy of the Agreement

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move that the City Council approve the 2009/10 Transit Agreement between the City of Visalia and the County of Tulare providing Visalia City Coach (VCC) service to the unincorporated sections of the greater Visalia Urbanized Area contiguous to the City, and authorize the City Manager to execute the necessary documents.

Financial Impact

Funding Source:

Account Number:

Budget Recap:

Total Estimated cost: \$0	New Revenue: \$ 0
Amount Budgeted: \$ 0	Lost Revenue:\$
New funding required:\$	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 5, 2009

Agenda Item Number (Assigned by City Clerk): 8f

Agenda Item Wording: Authorization to place a lien for \$20,467.87 on real property located at 123 S Arkle Street.

Resolution 2009 -

Deadline for Action: None

Submitting Department: Housing and Economic Development Department

Contact Name and Phone Number:

Ricardo Noguera, HEDD Director, 713-4190
Tracy Robertshaw, Code Enforcement Officer 713-4187

Department Recommendation: Approval of request to lien property located at 123 South Arkle Street Visalia.

Summary/background:

On January 3, 2007, an inspection of the property was conducted based on numerous complaints from neighboring properties concerning the condition of the property and transient problems at the location. During the inspection the property was found to be unsecured and there were large amounts of garbage on the inside and the outside of the residence. The neighbors advised that the property had been abandoned for many years and the location of the property owner is unknown. A Notice and Order to secure the house and clean the residence was sent to the property owner on record. In addition, the house was posted as "Unsafe to Occupy." The property was not secured in the time frame required in the Notice and Order and the property was boarded by Code Enforcement.

On March 21, 2007, an inspection was once again conducted. The property was found to be in the same condition. Contact was made with the utility companies and information was received that the utilities had been disconnected for nearly one year. The mailing address for the property owner that the utility company had on file was 123 South Arkle Street.

On April 9, 2007, the property was once again unsecured and transient activity was confirmed. The property was again boarded by Code Enforcement.

On December 7, 2007 the property was again unsecured and once again boarded by Code Enforcement. A search for the property owner was conducted through newspaper

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.

advertisements, death certificate searches, parole, and probation and a Policy of Insurance of Record Title (PIRT) request from the Title Company. The research was unsuccessful in locating an alternate address or location of the property owner of record.

On July 2, 2009, the Visalia Fire Department responded to a fire in the backyard of the property. The fire in the backyard was caused by a transformer that malfunctioned. However, because of the tall dead grass and the large amounts of garbage that was in the yard, the fire spread across the property causing damage to the structure on the parcel as well as neighboring properties.

On July 16, 2009, an Abatement Warrant was obtained by Tulare County Superior Court for the removal of the residence and detached garage.

On August 11, 2009, the residence, the detached garage and all junk, trash and vegetation was removed from the parcel.

The lien amount of \$20,467.87 was established based on the following incurred costs associated with the abatement of the property:

- **Legal Fees- \$1,495.00**
- **Demolition and Abatement- \$17,112.15 (including asbestos removal)**
- **10% Administrative Fee, \$1,860.72**

Prior Council/Board Actions: None

Committee/Commission Review and Actions:

Alternatives: Leave the title to the property clouded but, do not place a lien on the property.

Attachments:

1. Resolution 2009-44
2. Nuisance Abatement Warrant
3. Before and after pictures of the parcel
4. Vicinity map of the location for residence
5. Aerial maps of the location of the residence

Recommended Motion (and Alternative Motions if expected): Staff proceed with placing a lien on the real property at 123 South Arkle in Visalia for the abatement of the property.
Resolution 2009 -

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: N/A

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

Copies of this report have been provided to:



REPORT AND ASSESSMENT LIST

Date: September 22, 2009

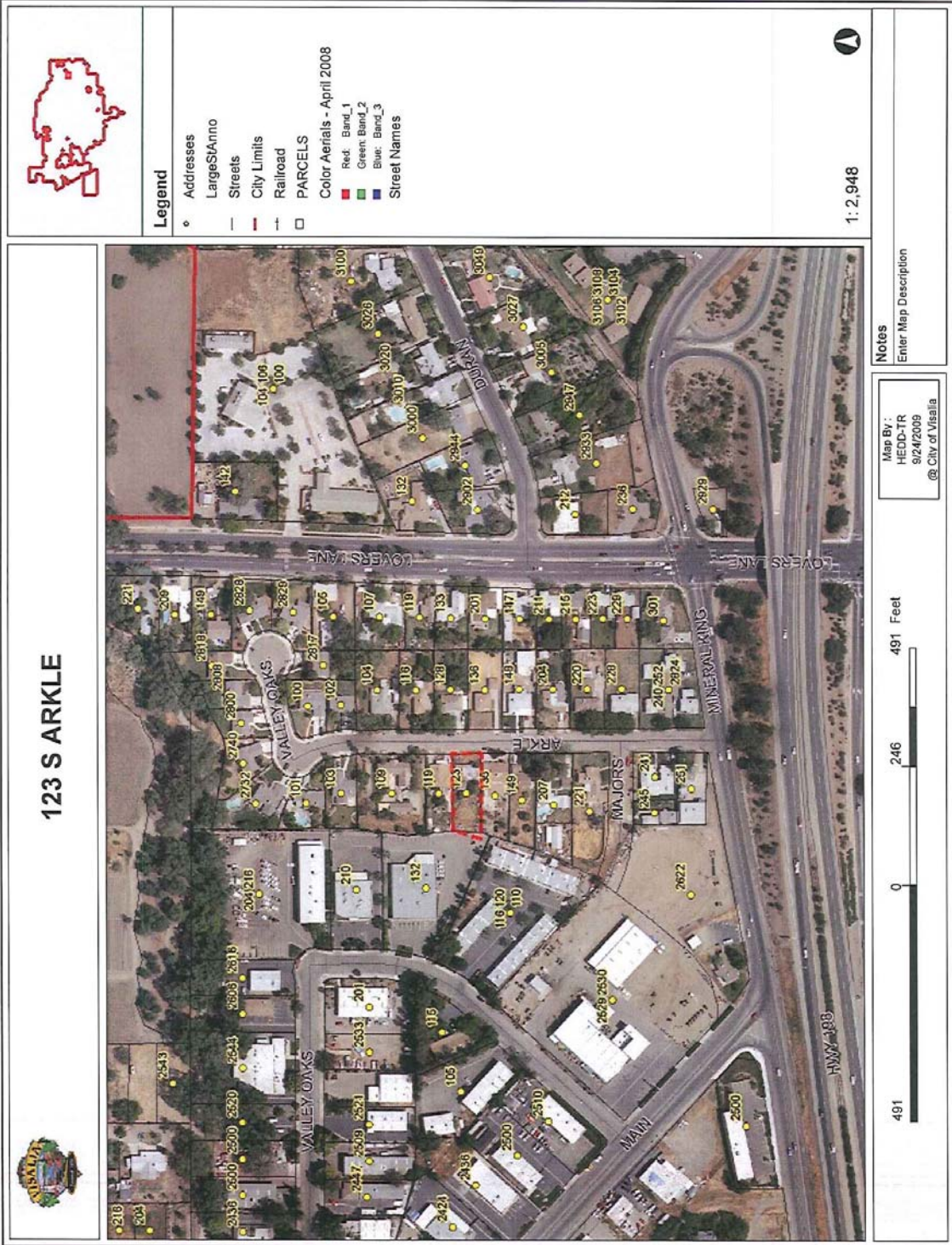
Property Address: 123 S Arkle

Assessor Parcel Number: 098-081-012

DESCRIPTION OF WORK COMPLETED BY CITY	COST OF WORK	REVENUE	TOTAL
Legal Fees	1,495.00		1,495.00
Demolition & Abatement	17,112.15		17,112.15
10% Administrative Fee	1,860.72		1,860.72
TOTAL BALANCE OWED	20,467.87		20,467.87


Signature





1 James D. Koontz # 210092
2 DOOLEY, HERR, PELTZER & RICHARSON
3 Attorneys at Law, LLP
4 100 Willow Plaza, Suite 300
5 Visalia, California 93291
6 Telephone: (559) 636-0200
7
8 Attorneys for City of Visalia

FILED
TULARE COUNTY SUPERIOR COURT
VISALIA DIVISION

JUL 31 2009

LARAYNE CLEEK, CLERK
BY: *Rachel Miller*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF TULARE**

11 In the Matter of the Application of:) Case No. **09-233660**
12 City of Visalia, for a Warrant to)
13 Abate a Public Nuisance)
14 Located at 123 Arkle Street)
15 City of Visalia (APN:098-081-012-000))
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

NUISANCE ABATEMENT
WARRANT
[Code Civ. Proc. § 1822.50]

THE PEOPLE OF THE STATE OF CALIFORNIA, TO ANY CODE
ENFORCEMENT OFFICER OF THE CITY OF VISALIA:

Upon affidavit and good cause shown to the Court,

YOU ARE HEREBY COMMANDED to abate a public nuisance located at
123 Arkle Street, Visalia, California, APN 098-081-012-000, and more
particularly described as, "The North 43 Feet of Lot 14 and the South 15 Feet of
Lot 13, Measured along the East Line of the Pennebaker Subdivision No. 1, as per
Map recorded in Book 19, Page 35 of Maps in the Office of the County Recorder of
Said County."

YOU ARE AUTHORIZED to enter the premises described above to abate
the public nuisance as authorized under the holding of *Gleaves vs. Waters* (1985)
175 Cal.App.3d 413, 419: "Accordingly we hold that in the absence of consent or
exigent circumstances, government officials engaged in the abatement of a public
nuisance must have a warrant to enter any private property where such entry

LAW OFFICES
DOOLEY, HERR, PELTZER
& RICHARDSON LLP
100 Willow Plaza
Suite 300
Visalia, CA 93291
(559) 636-0200

1 would invade a constitutionally protected privacy interest." The *Gleaves* case
2 authorized the use of the inspection warrant procedure found in Code of Civil
3 Procedure Section 1822.50, et seq., to be used for both inspection **and** abatement
4 of a nuisance. The use of such warrants to conduct abatement was upheld in
5 *Flahive v. City of Dana Point* (1999) 72 Cal.App.4th 241, 245. The City of Visalia
6 Municipal Code authorizes abatement as a remedy to an administrative
7 enforcement order in Section 1.13.050 subsection (F).

8 **YOU ARE HEREBY COMMANDED** to enter the premises described above
9 within fourteen (14) days from the effective date of this Warrant, and you are
10 directed to abate the nuisances existing thereon as follows:

11 1. The building structure must be demolished and all debris, trash,
12 fire hazards, and weeds must be removed. Prior to demolition an asbestos report
13 from the San Joaquin Valley Unified Air Pollution Control District is required.

14 2. This public nuisance abatement shall be conducted pursuant to
15 Code of Civil Procedure Section 1822.56 in a reasonable manner for the purpose
16 of ensuring compliance with all applicable laws.

17 3. Notice shall be given to the owner at least twenty-four (24) hours
18 before this warrant is executed by posting a copy of this Warrant at the property
19 in a clearly visible location. The public nuisance abatement may be made
20 between the hours of 8:00 a.m. and 6:00 p.m. of any day following such notice.

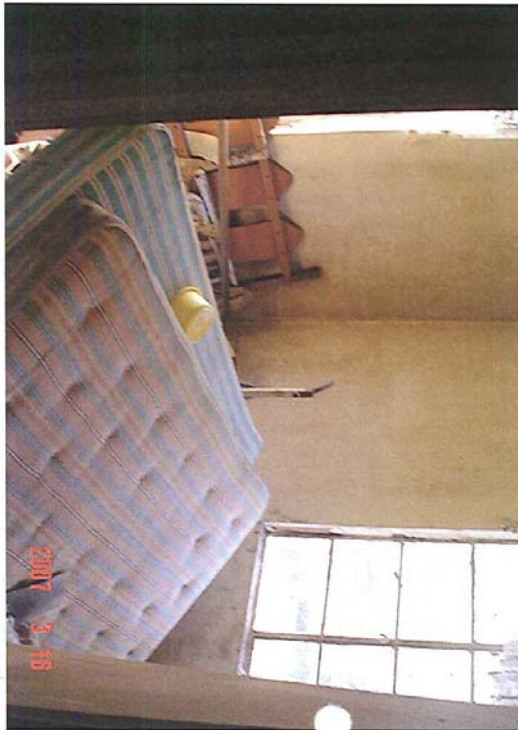
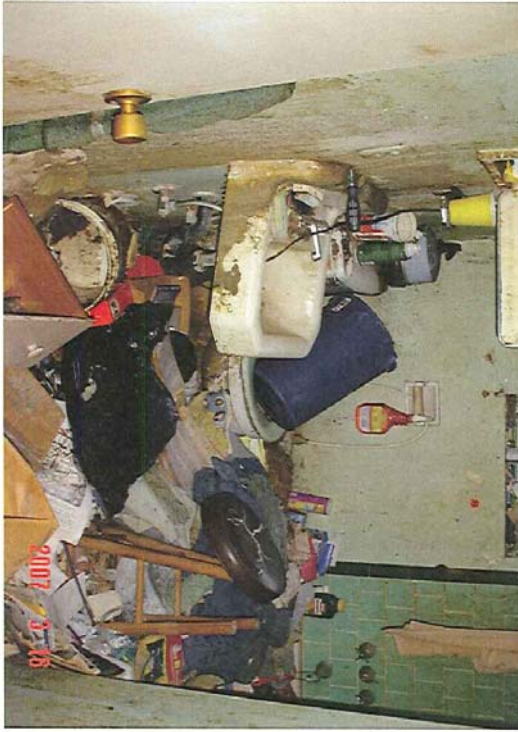
21 4. This warrant will be effective from the date hereof for a period not to
22 exceed fourteen (14) days.

23 Given under my hand this 31st day of July, 2009.

24
25 
26 _____
27 Judge of the Tulare County Superior Court
28

LAW OFFICES
OOOLEY, HERR, FELTZER,
& RICHARDSON LLP
100 Willow Plaza
Suite 300
Visalia, CA 93291
(559) 636-0200









RESOLUTION NO. 2009-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA CONFIRMING THE REPORT OF THE CHIEF BUILDING OFFICIAL REGARDING ASSESSMENTS OF ABATEMENT COST AT 123 SOUTH ARKLE STREET IN THE CITY OF VISALIA FOR WHICH AN UNINHABITABLE SINGLE FAMILY DWELLING HAS BEEN ABATED AND POSED A THREAT TO HEALTH AND SAFETY.

WHEREAS, the properties in the City of Visalia described by assessor parcel number and street address in Exhibit "A" were determined to be in violation of the Visalia Municipal Code which prohibits maintaining open and abandoned dilapidated structures which constitute public nuisances: and

WHEREAS, notices and orders of the City of Visalia Building Department, as provided in Chapter 8.40.010 of the Visalia Municipal Code, were provided to the recorded owners of the aforementioned properties; and

WHEREAS, the properties in question were duly posted as provided in Chapter 1.13.030B (3) (a) of the Visalia Municipal Code; and

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

1. That the Chief Building Official caused work to be performed by contractors for removal of public nuisances and submitted and filed with the City Clerk a Report and Assessment List which described the costs incurred by the City to abate such public nuisances and which is attached hereto as Exhibit "A", and made a part hereof by this reference.

2. The costs incurred and described in the Report and Assessment list, attached here to as Exhibit "A" are hereby confirmed.

3. The cost of Abating and Removing a substantial threat to public health & safety as described in Exhibit "A", are hereby made a lien and special assessment against said properties and the Chief Building Official is directed to notify the property owner of and record the lien created herein as required under Government Code Section 38773.1(b) - (c).

4. That the City Attorney is hereby authorized to commence any action necessary for collecting the sum due including foreclosure on the lien established herein as provided for in Government Code Section 38773.1 (c).

5. That the property owner named in said Exhibit "A" may pay, or cause to be paid, the charges stated therein at the office of the Finance Department, 707 W. Acequia, Visalia, California, at any time prior to the time the lien imposed under Government Code Section 38773.1 and Visalia Municipal Code Section 8.40.020 is foreclosed or placed on the property tax rolls for collection as described in paragraph 6 below.

6. At the discretion of the City Attorney, and in the event such charges assessed and confirmed against the property as listed in Exhibit "A" are not paid in full prior to collection or foreclosure, such assessment or balance due remaining thereof, may be recorded on the assessment roll, and said assessment shall constitute a special assessment against and a lien upon the property. The amount of said assessments remaining unpaid against the property will then be entered and extended on the property tax roll, and pursuant to law, the County tax collector shall include such amounts on the tax bill applicable to the property for collection therein.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 5, 2009

Agenda Item Number (Assigned by City Clerk): 8g

Agenda Item Wording: Authorization to place a lien for \$4,805.25 on real property located at 717 N Santa Fe Street. **Resolution 2009- 45**

Deadline for Action: None

Submitting Department: Housing and Economic Development Department

Contact Name and Phone Number:

Ricardo Noguera, HEDD Director, 713-4190
Tracy Robertshaw, Code Enforcement Officer, 713-4187

Department Recommendation: Approval of request to lien property located at 717 North Santa Fe Street Visalia.

Summary/background:

On April 25, 2007, an inspection of the property was conducted by Code Enforcement in response to complaints that the property was vacant and transients had broken into it and were living in the residence. The inspection confirmed the complaint and the house was boarded and posted as unsafe to occupy.

Once the structure was determined to be unsafe to occupy and substandard the title to the property was clouded with the Tulare County Recorder's Office.

On May 18, 2007, an inspection was conducted and the property was once again unsecured and people were living in the residence. Code Enforcement Officer Doug Elliott was able to make contact with the bank and was advised that the bank, Town and Country, would resecure the property.

On May 21, 2007, the property was still unsecured and transients were once again in the residence and were arrested by Visalia Police Department.

On August 7, 2007, the property was still unsecured and Notice and Order was sent to the bank listed at the owner of the property requiring that they secure the property within seven days.

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.

On August 20, 2007, an inspection of the property confirmed that the property owner did not comply with the Notice and Order, the property was still unsecured and transients were arrested in the home by Visalia Police Department.

May 31, 2008, the property had been once again broken into and was resecured by Code Enforcement.

June 6, 2008, Visalia Police Department arrested transients from inside of the residence. The house was resecured.

July 16, 2008, the property was once again occupied by transients. Code Enforcement rescued the residence.

On August 26, 2008, transients were arrested from inside of the home and there was evidence that a fire had damaged the interior of the residence. The property was resecured by Code Enforcement.

On August 1, 2009, the Visalia Fire Department responded to a structure fire at the property.

As a result, an inspection was conducted on the property on August 3, 2009. Major damage was sustained to the structure from the fire on August 1, 2009, and the property was posted as "Unsafe to Occupy." Pictures were provided to the Chief Building Official, Dennis Lehman. Mr. Lehman declared the building dangerous and ordered that it be removed immediately based on the safety hazard that it posed. Due to the fact that the bank has refused to assist in maintaining the property and the dangerous condition of what remained of the structure, the building was summary abated and removed immediately. The amount of the abatement cost is requested to be placed as a lien on the parcel.

The lien amount of \$4805.24 was established based on the following incurred costs associated with the abatement of the property:

- **Demolition of Structure- \$3,845.05.**
- **Cost Recovery Fees For Staff Time- \$523.35.**
- **10% Administrative Fee- \$436.84.**

Prior Council/Board Actions: None

Committee/Commission Review and Actions:

Alternatives: Leave the title to the property clouded but, do not place a lien on the property.

Attachments:

1. Resolution 2009-45
2. Two Photographs of fire damaged residence
3. Vicinity map of the location for residence
4. Aerial map of the location of the residence

Recommended Motion (and Alternative Motions if expected): Staff proceeds with placing a lien on the real property at 717 North Santa Fe Street in Visalia for the abatement of the property. **Resolution 2009 -**

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: N/A

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

Copies of this report have been provided to:



REPORT AND ASSESSMENT LIST

Date: September 22, 2009

Property Address: 717 N. Santa Fe St

Assessor Parcel Number: 094-084-019

DESCRIPTION OF WORK COMPLETED BY CITY	COST OF WORK	REVENUE	TOTAL
Compliance Inspection	523.35		523.35
Demolition & Abatement	3,845.05		3,845.05
10% Administrative Fee	436.84		436.84
TOTAL BALANCE OWED	4805.24		4805.24


Signature







717 N SANTA FE



Map By:
HEDD:TR
9/24/2009
@ City of Visalia

Notes
Enter Map Description

1:2,948



- Legend**
- Addresses
 - Largest/Anno
 - Streets
 - - - City Limits
 - Railroad
 - PARCELS
 - Street Names



717 N SANTA FE



Map By: HEDD/TR 9/24/2009 @ City of Visalia

Notes
Enter Map Description

1:2,948



- Legend**
- Addresses
 - LargeStanno
 - Streets
 - City Limits
 - + Railroad
 - PARCELS
 - Color Aerials - April 2008
 - Red: Band 1
 - Green: Band 2
 - Blue: Band 3
 - Street Names

RESOLUTION NO. 2009-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA CONFIRMING THE REPORT OF THE CHIEF BUILDING OFFICIAL REGARDING ASSESSMENTS OF ABATEMENT COST AT 717 N SANTA FE STREET IN THE CITY OF VISALIA FOR WHICH A FIRE DAMAGED UNINHABITABLE SINGLE FAMILY DWELLING HAS BEEN ABATED AND POSED A THREAT TO HEALTH AND SAFETY.

WHEREAS, the properties in the City of Visalia described by assessor parcel number and street address in Exhibit "A" were determined to be in violation of the Visalia Municipal Code which prohibits maintaining open and abandoned dilapidated structures which constitute public nuisances: and

WHEREAS, notices and orders of the City of Visalia Building Department, as provided in Chapter 8.40.010 of the Visalia Municipal Code, were provided to the recorded owners of the aforementioned properties; and

WHEREAS, the properties in question were duly posted as provided in Chapter 1.13.030B (3) (a) of the Visalia Municipal Code; and

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

1. That the Chief Building Official caused work to be performed by contractors for removal of public nuisances and submitted and filed with the City Clerk a Report and Assessment List which described the costs incurred by the City to abate such public nuisances and which is attached hereto as Exhibit "A", and made a part hereof by this reference.

2. The costs incurred and described in the Report and Assessment list, attached hereto as Exhibit "A" are hereby confirmed.

3. The cost of Abating and Removing a substantial threat to public health & safety as described in Exhibit "A", are hereby made a lien and special assessment against said properties and the Chief Building Official is directed to notify the property owner of and record the lien created herein as required under Government Code Section 38773.1(b) - (c).

4. That the City Attorney is hereby authorized to commence any action necessary for collecting the sum due including foreclosure on the lien established herein as provided for in Government Code Section 38773.1 (c).

5. That the property owner named in said Exhibit "A" may pay, or cause to be paid, the charges stated therein at the office of the Finance Department, 707 W. Acequia, Visalia, California, at any time prior to the time the lien imposed under Government Code Section 38773.1 and Visalia Municipal Code Section 8.40.020 is foreclosed or placed on the property tax rolls for collection as described in paragraph 6 below.

6. At the discretion of the City Attorney, and in the event such charges assessed and confirmed against the property as listed in Exhibit "A" are not paid in full prior to collection or foreclosure, such assessment or balance due remaining thereof, may be recorded on the assessment roll, and said assessment shall constitute a special assessment against and a lien upon the property. The amount of said assessments remaining unpaid against the property will then be entered and extended on the property tax roll, and pursuant to law, the County tax collector shall include such amounts on the tax bill applicable to the property for collection therein.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 5, 2009

Agenda Item Number (Assigned by City Clerk): 8h

Agenda Item Wording: Authorization to place a lien for \$6,473.23 on real property located at 616 N Garden Street. **Resolution 2009-46**

Deadline for Action: None

Submitting Department: Housing and Economic Development Department

Contact Name and Phone Number:

Ricardo Noguera, HEDD Director, 713-4190
Tracy Robertshaw, Code Enforcement Officer, 713-4187

Department Recommendation: Approval of request to lien property located at 616 North Garden Street Visalia.

Summary/background:

On July 27, 2009, the Visalia Fire Department responded to a structure fire at a multi-family building, located at 616 North Garden Street in Visalia. The fire damage to the structure was significant and very little was left of the building. After the fire was extinguished, neighbors were rummaging through debris and removing items.

As a result, pursuant to Visalia Municipal Code 15.44.150, which states that "*whenever any condition on a property or premises causes or constitutes an imminent or immediate danger to the health or safety of the public or person, the enforcement officer or his/her authorized representative shall have the authority to summarily and without notice abate the property,*" Chief Building Official, Dennis Lehman, determined that the structure sustained extensive damage and was a complete loss; in addition, it posed a safety hazard which required immediate removal. Since the property was deemed an immediate threat to public safety, what was left of the structure was summarily abated and removed from the parcel.

On July 28, 2009, Code Enforcement Officer Doug Elliott met with the property owner's insurance agent, Scott Mauldin, at the parcel. Mr. Elliott advised the agent that what was left of the building was removed due to the danger that it posed to the community.

On July 28, 2009, Neighborhood Preservation Manager Tim Burns contacted the property owner and also advised him that the remainder of the structure was removed due to the danger

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 _____ **N/A**
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.

that it posed to the community. The property owner was provided with a bill August 5, 2009, of the removal costs. To date, he has not contacted this office or provided payment.

Once the structure was determined to be dangerous and substandard the title to the property was clouded with the Tulare County Recorder's Office.

The lien amount of \$6,473.23 was established based on the following incurred costs associated with the abatement of the property:

- **Demolition Of Structure- \$5,378.08**
- **Cost Recovery Fees For Staff Time- \$506.67**
- **10% Administrative Fee- \$588.48**

Prior Council/Board Actions: None

Committee/Commission Review and Actions:

Alternatives: Leave the title to the property clouded but, do not place a lien on the property.

Attachments:

1. Resolution 2009-46
2. Two Photographs of fire damaged residence
3. Vicinity map of the location for residence
4. Aerial map of the location of the residence

Recommended Motion (and Alternative Motions if expected): Staff proceeds with placing a lien on the real property at 616 North Garden Street in Visalia for the abatement of the property.
Resolution 2009 - 46

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: N/A

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

Copies of this report have been provided to:



REPORT AND ASSESSMENT LIST

Date: September 22, 2009

Property Address: 616 N. Garden Street

Assessor Parcel Number: 094-094-020

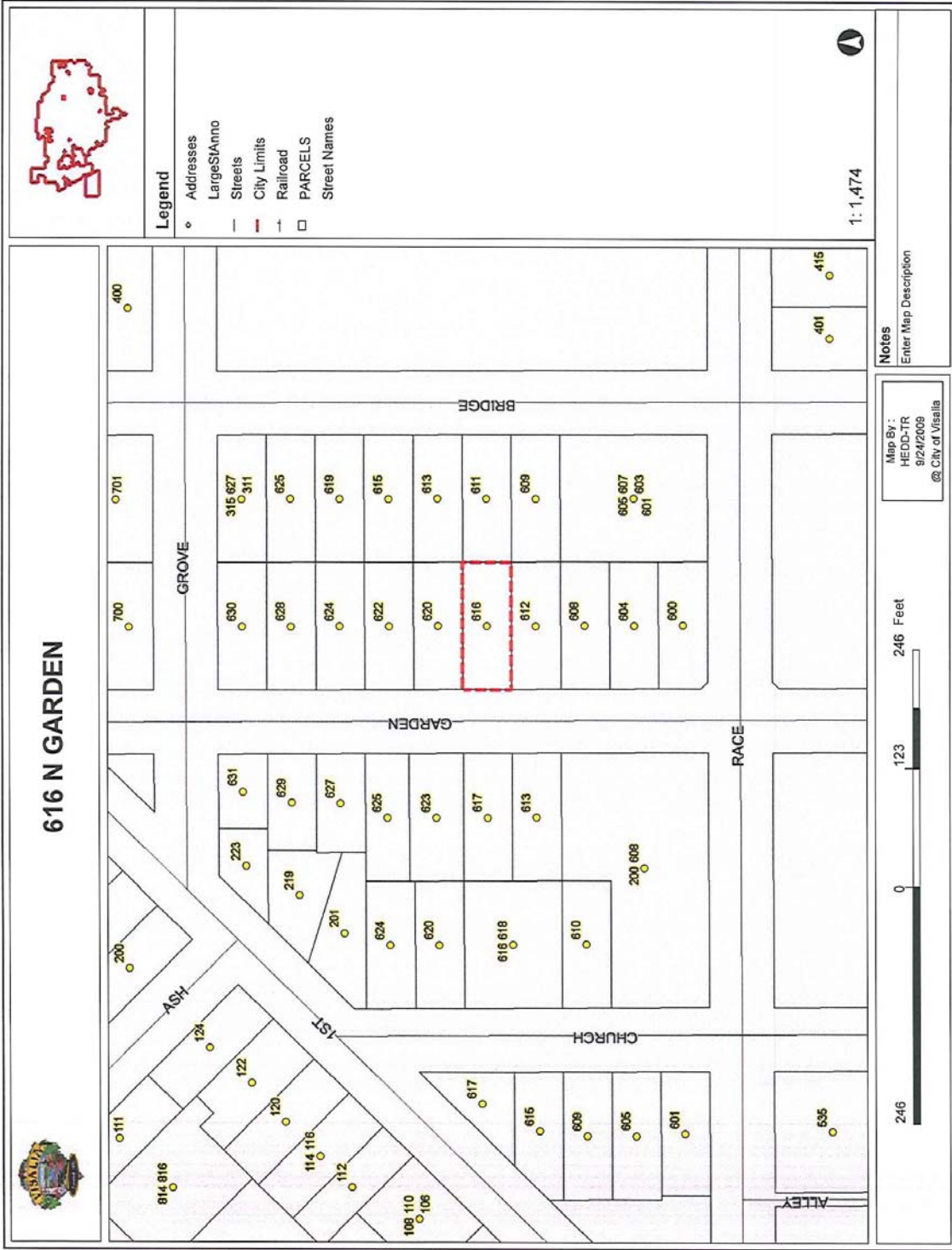
DESCRIPTION OF WORK COMPLETED BY CITY	COST OF WORK	REVENUE	TOTAL
Compliance Inspection/Staff Cost Recovery	506.67		506.67
Demolition & Abatement, Substandard Housing	\$5,378.08		5,378.08
10% Administrative Fee	588.48		588.48
TOTAL BALANCE OWED	6,473.23		6,473.23


Signature









RESOLUTION NO. 2009-46

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA CONFIRMING THE REPORT OF THE CHIEF BUILDING OFFICIAL REGARDING ASSESSMENTS OF ABATEMENT COST AT 616 N. GARDEN STREET IN THE CITY OF VISALIA FOR WHICH A FIRE DAMAGED UNINHABITABLE MULTI- FAMILY DWELLING HAS BEEN ABATED AND POSED A THREAT TO THE HEALTH AND SAFETY.

WHEREAS, the properties in the City of Visalia described by assessor parcel number and street address in Exhibit "A" were determined to be in violation of the Visalia Municipal Code which prohibits maintaining open and abandoned dilapidated structures which constitute public nuisances: and

WHEREAS, notices and orders of the City of Visalia Building Department, as provided in Chapter 8.40.010 of the Visalia Municipal Code, were provided to the recorded owners of the aforementioned properties; and

WHEREAS, the properties in question were duly posted as provided in Chapter 1.13.030B (3) (a) of the Visalia Municipal Code; and

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

1. That the Chief Building Official caused work to be performed by contractors for removal of public nuisances and submitted and filed with the City Clerk a Report and Assessment List which described the costs incurred by the City to abate such public nuisances and which is attached hereto as Exhibit "A", and made a part hereof by this reference.

2. The costs incurred and described in the Report and Assessment list, attached hereto as Exhibit "A" are hereby confirmed.

3. The cost of Abating and Removing a substantial threat to public health & safety as described in Exhibit "A", are hereby made a lien and special assessment against said properties and the Chief Building Official is directed to notify the property owner of and record the lien created herein as required under Government Code Section 38773.1(b) - (c).

4. That the City Attorney is hereby authorized to commence any action necessary for collecting the sum due including foreclosure on the lien established herein as provided for in Government Code Section 38773.1 (c).

5. That the property owner named in said Exhibit "A" may pay, or cause to be paid, the charges stated therein at the office of the Finance Department, 707 W. Acequia, Visalia, California, at any time prior to the time the lien imposed under Government Code Section 38773.1 and Visalia Municipal Code Section 8.40.020 is foreclosed or placed on the property tax rolls for collection as described in paragraph 6 below.

6. At the discretion of the City Attorney, and in the event such charges assessed and confirmed against the property as listed in Exhibit "A" are not paid in full prior to collection or foreclosure, such assessment or balance due remaining thereof, may be recorded on the assessment roll, and said assessment shall constitute a special assessment against and a lien upon the property. The amount of said assessments remaining unpaid against the property will then be entered and extended on the property tax roll, and pursuant to law, the County tax collector shall include such amounts on the tax bill applicable to the property for collection therein.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 5, 2009

Agenda Item Number (Assigned by City Clerk): 8i

Agenda Item Wording: Authorization to place a lien for \$4,327.93 on real property located at 1009 W Goshen Avenue. **Resolution 2009 - 47**

Deadline for Action: None

Submitting Department: Housing and Economic Development Department

Contact Name and Phone Number:

Ricardo Noguera, HEDD Director, 713-4190
Tracy Robertshaw, Code Enforcement Officer, 713-4187

Department Recommendation: Approval of request to lien property located at 1009 West Goshen Avenue, Visalia.

Summary/background:

On June 3, 2007, the Visalia Fire Department responded to a fire at a vacant dwelling. The fire damage was limited to two bedrooms. The property was boarded and secured by code Enforcement. Notices were mailed to the property owner of record and were returned as undeliverable.

On January 16, 2009, the property was once again unsecured. An inspection of the property revealed a strong odor of smoke. The Visalia Fire Department responded to the residence and found that a small pile of paper had been burning in the basement but was out prior to entry and was the source of the smoke odor. The property was once again secured. Notices were sent to the property owner of record and were returned as undeliverable.

Contact was made with the neighbor on the north side of the property. She advised that both property owners were deceased. However, she had no further information. A title search of the property was conducted but did not reveal any additional information concerning a current owner.

In August 2009, a concerned neighbor contacted Code Enforcement and advised that the detached garage was in serious disrepair and the roof was collapsing. He advised that children were playing in the structure and transients were often staying the structure as well. An inspection of the property confirmed that the roof was collapsing and there was very little of the

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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exterior walls in tact. There was graffiti on the interior as well as garbage and debris that would indicate the structure was being used. However, the residence is still secured and has not suffered any further damage.

As a result of the condition of the detached building, Chief Building Official, Dennis Lehman determined that the garage posed a danger and should be immediately demolished. Research of the property confirms that there is still no current information on the property owner. The detached structure was summarily abated and demolished based on the danger that it posed to the public. In addition, the tall dead weeds were removed to reduce the fire danger. The single family residence on the parcel was left in tact since it has remained secure and poses no danger at this time.

Once the structure was determined to be dangerous and substandard the title to the property was clouded with the Tulare County Recorder's Office.

The lien amount of \$4,327.93 was established based on the following incurred costs associated with the abatement of the property:

- **Demolition Of Residence- \$3,153.36**
- **Cost Recovery Fees For Staff Time- \$681.12**
- **Administrative Fee (Title Search Fee)-\$100.00**
- **10% Administrative Fee, \$393.45**

Prior Council/Board Actions: None

Committee/Commission Review and Actions:

Alternatives: Leave the title to the property clouded but, do not place a lien on the property.

Attachments:

1. Resolution 2009-47
2. Photographs of structure
3. Photographs of cleared area of parcel
4. Vicinity map of the location for residence
5. Aerial maps of the location of the residence

Recommended Motion (and Alternative Motions if expected): Staff proceeds with placing a lien on the real property at 1009 W Goshen in Visalia for the abatement of the property.

Resolution 2009 - 47

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: N/A

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

Copies of this report have been provided to:



REPORT AND ASSESSMENT LIST

Date: September 22, 2009

Property Address: 1009 W. Goshen Ave

Assessor Parcel Number: 093-242-009

DESCRIPTION OF WORK COMPLETED BY CITY	COST OF WORK	REVENUE	TOTAL
Compliance Inspection/Cost Recovery	681.12		681.12
Title Search Fee	100.00		100.00
Demolition & Abatement	3,153.36		3,153.36
10% Administrative Fee	393.45		393.45
TOTAL BALANCE OWED	4,327.93		4,327.93

Julie Perena
Signature









1009 W GOSHEN AVENUE



Map By:
HEDO-TR
9/24/2009
@ City of Visalia

Notes
Enter Map Description

1:1474



- Legend**
- Addresses
 - LargeSt Anno
 - Streets
 - City Limits
 - Railroad
 - PARCELS
 - Street Names



1009 W GOSHEN AVENUE



Map By: HEDD-CTR 9/24/2009 @ City of Visalia

Notes: Enter Map Description



- Legend**
- Addresses
 - LargeStAnno
 - Streets
 - City Limits
 - Railroad
 - PARCELS
 - Color Aerials - April 2008
 - Red: Band_1
 - Green: Band_2
 - Blue: Band_3
 - Street Names

1:1,474



RESOLUTION NO. 2009-47

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA
CONFIRMING THE REPORT OF THE CHIEF BUILDING OFFICIAL
REGARDING ASSESSMENTS OF ABATEMENT COST AT 1009 W GOSHEN
STREET IN THE CITY OF VISALIA FOR WHICH A DANGEROUS DETACHED
GARAGE HAS BEEN ABATED AND POSED A THREAT TO HEALTH AND SAFETY.**

WHEREAS, the properties in the City of Visalia described by assessor parcel number and street address in Exhibit "A" were determined to be in violation of the Visalia Municipal Code which prohibits maintaining open and abandoned dilapidated structures which constitute public nuisances: and

WHEREAS, notices and orders of the City of Visalia Building Department, as provided in Chapter 8.40.010 of the Visalia Municipal Code, were provided to the recorded owners of the aforementioned properties; and

WHEREAS, the properties in question were duly posted as provided in Chapter 1.13.030B (3) (a) of the Visalia Municipal Code; and

WHEREAS, the property owner's whereabouts are unknown and there has been no response to notices; and

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

1. That the Chief Building Official caused work to be performed by contractors for removal of public nuisances and submitted and filed with the City Clerk a Report and Assessment List which described the costs incurred by the City to abate such public nuisances and which is attached hereto as Exhibit "A", and made a part hereof by this reference.

2. The costs incurred and described in the Report and Assessment list, attached hereto as Exhibit "A" are hereby confirmed.

3. The cost of Abating and Removing a substantial threat to public health & safety as described in Exhibit "A", are hereby made a lien and special assessment against said properties and the Chief Building Official is directed to notify the property owner of and record the lien created herein as required under Government Code Section 38773.1(b) - (c).

4. That the City Attorney is hereby authorized to commence any action necessary for collecting the sum due including foreclosure on the lien established herein as provided for in Government Code Section 38773.1 (c).

5. That the property owner named in said Exhibit "A" may pay, or cause to be paid, the charges stated therein at the office of the Finance Department, 707 W. Acequia, Visalia, California, at any time prior to the time the lien imposed under Government Code Section 38773.1 and Visalia Municipal Code Section 8.40.020 is

foreclosed or placed on the property tax rolls for collection as described in paragraph 6 below.

6. At the discretion of the City Attorney, and in the event such charges assessed and confirmed against the property as listed in Exhibit "A" are not paid in full prior to collection or foreclosure, such assessment or balance due remaining thereof, may be recorded on the assessment roll, and said assessment shall constitute a special assessment against and a lien upon the property. The amount of said assessments remaining unpaid against the property will then be entered and extended on the property tax roll, and pursuant to law, the County tax collector shall include such amounts on the tax bill applicable to the property for collection therein.

City of Visalia Agenda Item Transmittal

Meeting Date: October 05, 2009

Agenda Item Number (Assigned by City Clerk): 8j

Agenda Item Wording: Authorize the use of matching funds not to exceed \$5,000 to the Visalia Chamber of Commerce to support marketing efforts along the Mooney Boulevard Corridor for the holiday season.

Deadline for Action: October 5, 2009

Submitting Department: Housing & Economic Development

Contact Name and Phone Number: Ricardo Noguera, Housing & Economic Development Director

Department Recommendation: Authorize the use of matching funds not to exceed \$5,000 to the Visalia Chamber of Commerce to support marketing efforts for the holiday season along Mooney Boulevard.

Background: Over the past year, the Mooney Boulevard Corridor has undergone considerable construction improvements by Caltrans and the City in order to improve circulation through the addition of two more lanes (for a total of three in each direction) and the addition of left turn lanes at appropriate intersections. This work is expected to be completed some time in late 2010.

The Visalia Chamber of Commerce in collaboration with the City and Caltrans officials began meeting with Mooney Boulevard businesses several months ago in order to keep businesses and property owners informed as to construction plans and schedules during the process. These monthly meetings have served a positive purpose to bring new energy to the Corridor and begin tackling other issues of interest to the business community. Recently, the "Coffee Klatch" members (Mooney Boulevard merchants) have devised a plan to market the corridor for the holiday season. They are seeking to create an advertising campaign for Mooney Boulevard and seeking financial assistance from the City. Staff are in favor of supporting this campaign because the Mooney Boulevard merchants have been meeting consistently for the past several months and have demonstrated the desire to market the Corridor comprehensively and collaboratively. This also represents the merchants first real collaboration.

Holiday Shopping Advertising Proposal: The Chamber's original intent with the Coffee Klatch was to serve as a sounding board for construction updates by Caltrans and city staff

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)

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during the construction period. These monthly meetings have offered area business an opportunity to network, be kept abreast of construction activities and to meet their neighbors.

The Mooney Boulevard merchants have formulated a strategy to maximize marketing and sales along the Corridor during the upcoming holiday season. In an effort to boost sales during the upcoming holiday season, the Chamber is offering the following:

1. Mooney Boulevard Coupon Directory. This will enable businesses to advertise and offer discounts to shoppers;
2. Advertising Campaign. Ads will be placed in the Times-Delta and Valley Voice to promote the Coupon Directory;
3. On-Line Copy of the Directory. A website will also be developed to promote the coupon directory;
4. Editorial Campaign. This will be included with the advertisements, articles from elected officials and prominent business leaders.

The intent with the Coupon Directory is to highlight the Mooney Boulevard Corridor and its merchants and businesses and encourage shoppers and visitors in the surrounding communities to patronize the Corridor during the holiday season.

City's Role: City staff play an active role in attending the monthly Coffee Klatch and have played an integral role in the recruitment and establishment of Macy's and other retailers. The City will also provide a matching grant in an amount not to exceed \$5,000 to the Visalia Chamber of Commerce based on contributions received from private parties. These funds will be used to cover costs for advertising, printing and production of the website. The Chamber has pledged to raise approximately \$14,000 for a total marketing budget of \$19,000 (see attached Mooney Boulevard Holiday Promotional Campaign).

Prior Council/Board Actions: None

Committee/Commission Review and Actions: N/A

Funding Sources: General Fund – Economic Development 0011-18109-55-2000

Alternatives: Do not provide funding support.

Attachments:

- Mooney Boulevard Holiday Promotional Campaign

Recommended Motion (and Alternative Motions if expected): Authorize the use of matching funds not to exceed \$5,000 to the Visalia Chamber of Commerce to support marketing efforts for the holiday season along Mooney Boulevard.

Environmental Assessment Status

CEQA Review: n/a

NEPA Review: n/a

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

Copies of this report have been provided to:

City of Visalia
Agenda Item Transmittal

Meeting Date October 5, 2009

Agenda Item Number (Assigned by City Clerk): 9

Agenda Item Wording: Appeal of City Planner decision denying a Medical Marijuana Business Permit Application for Central Cali Caregivers to be located at 1101 E. Center Avenue.

Deadline for Action: October 5, 2009

Submitting Department: Community Development Department

Contact Name and Phone Number:

Fred Brusuelas City Planner, Comm. Dev. Assistant Director
713-4364

Department Recommendation: Uphold City Planner decision to deny Medical Marijuana Business Permit Application for Central Cali Caregivers for 1101 E. Center Street.

Summary/background: Based upon provisions of the California 1996 Companionate Use Act (Proposition 215) and Senate Bill 420 (Medical Marijuana Program Act) the City Council amended the Visalia Municipal Code by adopting regulations pertaining to Medical Marijuana. Added to the Municipal Code were Chapter 5.66 Medical Marijuana Dispensaries; Chapter 8.64 Public Use/Consumption of Medical Marijuana and Chapter 17.64 Medical Marijuana Businesses.

Provisions of the Municipal Code authorize the City Planner to approve or deny Medical Marijuana Business Permit Applications. To date there are no approved medical marijuana dispensaries in the Visalia city limits. In addition, there are no other applications pending for medical marijuana permit consideration, however, there have been numerous inquires regarding establishment of dispensaries.

Application Submittal: Bryan Ray Ruiz, applicant for Central Cali-Caregivers, submitted an application to establish a Medical Marijuana Dispensary. The application submitted was a Medical Marijuana Business Permit to operate a Medical Marijuana Dispensary at 1101 E. Center Avenue Suite "C". Upon processing of the application it was determined by staff that the applicant did not comply with all the applicable provisions of the Visalia Municipal Code regulating Medical Marijuana.

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.

Grounds for Denial: Provisions of the Visalia Municipal Code Section 5.66.090 "Grounds for denial of permit" were used by city staff to determine compliance with the Visalia Municipal Code. The following findings were made:

A. A Medical Marijuana Business Permit Application was submitted to the City of Visalia on June 11, 2009 by Bryan Ruiz, owner of Central Cali Caregivers.

B. The application was deemed complete by the City Planner on July 13, 2009 after verifying that several required exhibits not submitted with the application packet had been previously submitted.

C. The application identified employees of Central Cali Caregivers as: Bryan Ruiz, Ray Ruiz and Carolyn Ruiz.

D. The applicant, as required by the Municipal Code, submitted information to the Visalia Police Department to conduct a background check for the applicant and employees.

E. A Visalia Police Department form filled out by the applicant indicated that the following are applicants and employees of Central Cali Caregivers: Brian Ruiz, Applicant; Ray Ruiz, Applicant, Carolyn Ruiz, Employee; Carrol Masters, Employee; and Desiree Stuhaan, Employee

F. A check of the Medical Marijuana Business Permit Application and the Visalia Police Department information revealed three additional employee names were not listed on the application submittal to the City Planner.

G. The application identified suppliers of all marijuana products as: "Grass Roots" 1077 Post San Francisco; "Sanctuary" 669 O'Farrell San Francisco; and Harborside Health Center 1840 Embarcadero Oakland, California. Absent from the list of suppliers was Mr. Masters marijuana garden at 4021 Ashland Avenue.

H. Two Visalia Police Officers on July 7, 2009 responded to a marijuana plant theft at 4021 W. Ashland the residence of Carrol Masters who was identified as an employee of Central Cali Caregivers.

I. Narcotics detectives also responded to 4021 W. Ashland on July 7, 2009 and discovered outdoor marijuana growing in the rear yard of the property. It was determined that the marijuana plant grow for Mr. Masters was authorized by a physicians letter not to exceed 80 plants provided the plants were for personnel use.

J. Mr. Masters revealed to investigators that he did not use marijuana, and that he did not intend to use the marijuana growing in his backyard for the personal use purposes authorized by his physician's letter pursuant to proposition 215. Mr. Masters stated that the plants were to be given to a medical marijuana distributorship. Mr. Bryan Ruiz, applicant of Central Cali Caregivers, was present with Mr. Masters at his property when Mr. Masters was interviewed by Visalia Narcotics Detectives, and also informed those Visalia Detectives that the marijuana plants being grown on Mr. Masters property were specifically for the purpose of being sold to his medical marijuana business that was currently in permit processing.

K. It was determined that the marijuana plants growing on the site violated the Visalia Municipal Code that requires marijuana plants be grown within an enclosed and secured structure.

L. On July 8, 2009 Mr. Masters was sent a NOTICE AND ORDER TO ABATE MUNICIPAL CODE VIOLATION from Visalia Code Enforcement in which a date of August 14, 2007 was given to comply with the municipal code by erecting an enclosed structure.

Conclusion: Based upon the aforementioned findings it has been determined that the applicant, Central Cali Caregiver has:

1. Has failed to identify in its application (a) the identities of all employees for the proposed Medical Marijuana Business, and (b) the identities of all suppliers of Medical Marijuana products for the Medical Marijuana Business. This is grounds for denial pursuant to VMC Section 5.66.090(C) which authorizes denial of an application where “the applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.”
2. Has violated the Visalia Municipal Code by growing Medical Marijuana for business purposes without first obtaining a proper permit, and thereby conducting a Medical Marijuana Business at a location in the City of Visalia where Medical Marijuana Businesses are not allowed.

Section 5.66.040 states that “it shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city the operation of a Medical Marijuana Business unless the person first obtains and continues to maintain in full force and effect a Medical Marijuana Business permit from the city as herein required. “Medical Marijuana Business” is defined in section 5.66.020 as “any Medical Marijuana Dispensary; any cultivation and/or processing of medical marijuana operations by primary caregivers for three or more qualified patients or persons with identification cards; or collective or cooperative cultivation operations.” In addition, Chapter 17.64 specifically prohibits the establishment of medical Marijuana Businesses in residential zones. The admitted efforts of Central Cali Caregivers and its employee to cultivate marijuana on its employee’s property for purposes of distributing that marijuana at a dispensary is an un-permitted Medical Marijuana Business operating in a zone of the City of Visalia where a Medical Marijuana Business is not allowed. His is a clear violation of the above referenced provisions of the Visalia Municipal Code.

This is grounds for denial of the dispensary permit application pursuant to VMC Section 5.66.090, Subsection (B) which authorizes denial where “the applicant has violated any local or state law, statute, rule or regulation relating to Medical Marijuana Business.” This is also grounds for denial pursuant to Subsection (D) which authorizes denial where the applicant or its employee, is “engaged in misconduct related to the qualifications, functions or duties of a permittee”. This is also grounds for denial pursuant to Subsection (F) which authorizes denial where “the applicant has committed any act, which, if done by a permittee, would be grounds for suspension or revocations of a permit.” Finally, this is also grounds for denial pursuant to Subsection (H) which authorizes denial where “the Medical Marijuana Business does not comply with the standards of the City Municipal Code.”

3. Has in conjunction with an employee, Violated the Visalia Municipal Code by growing Medical Marijuana in violation of VMC Section 8.64.040, which requires that growing of Medical Marijuana occur in a “secure, locked and fully enclosed structure”, not withstanding the actions taken to correct the violation, is grounds for denial pursuant to VMC Sections 5.66.090(B), (D), (F) and (H) each of which are described above.

For these reasons Central Cali Caregivers was issued a written permit denial from the City Planner on August 24, 2009 (attached) informing them that its request for a Medical Marijuana Business permit was denied.

Visalia Police Department: The Visalia Police Department upon review of the findings supported the City Planner decision to deny the Medical Marijuana Business Permit Application request.

Right of Appeal:

Pursuant to the Visalia Municipal Code Section 5.566.100 any person aggrieved by the decision of the City Planner to deny a Medical Marijuana Business Permit may appeal the decision to the City Council. The City Council may reverse, affirm or modify with conditions the actions of the City Planner Decision. Should the City Council deny the applicants appeal, the applicant may submit another application after a one year period of time as stated in the Visalia Municipal Code 5.66.130.

Prior Council/Board Actions: The City Council on September 7, 2009 authorized public hearing notices of the appeal be sent to property owners within 1,000 feet of the subject site.

Alternatives: Approve the appeal as requested by Central Cali Caregivers.

Attachments: City Planners Denial Letter
Applicants Appeal Letter
Location Map

Recommended Motion (and Alternative Motions if expected):

I move to uphold the action of the City Planner and deny the appeal for Central Cali Caregivers.

Environmental Assessment Status

CEQA Review: Not Applicable

NEPA Review: Not Applicable

Copies of this report have been provided to: