

Visalia City Council Agenda



For the regular meeting of: MONDAY, November 16, 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.

WORK SESSION AND ACTION ITEMS (as described)

4:00 p.m.

Receive Public Comment on Work Session and Closed Session Items -

1. Annual Visalia Rawhide Baseball Club Operation & Maintenance Report for 2009. **Receive public comment.**
2. Valley Oaks Golf Course Annual Report. **Receive public comment.**
3. Review and comment on final Oval Park Caltrans Study and authorize staff to initiate a CDBG Program amendment to allocate \$90,000 for engineering and related work. **Receive public comment.**
4. Annual Graffiti Abatement Report for FY 2008-09. **Receive public comment.**

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. Conference with Legal Counsel – Anticipated Litigation
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9:
One potential case

6. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (G.C. §54956.8)
Property: 435 N. Burke Street (APN: 094-250-031)
Under Negotiation: Approval of Appraisal; Purchase terms and conditions
Negotiating Parties for City: Steve Salomon, Michael Olmos, Chris Young, Adam Ennis, Colleen Carlson
Negotiating Parties for Seller: Charles Raibley

REGULAR SESSION

7:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION – Rev. Jo-Ren MacDonald, Visalia Buddhist Temple

SPECIAL PRESENTATIONS/RECOGNITION

- Recognition of Mayor Jesus Gamboa and Council Member Greg Collins for their service on the Visalia City Council

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.

7. INFORMATION and ACTION ITEMS

- a) Receive Planning Commission Action Agenda for the meeting of November 9, 2009. (No Action Required)
- b) Status Report on the Sports Park Phase II.
- c) Authorize the City Manager to enter into a five (5) year agreement with Visalia Youth Baseball for the use of Riverway Sports Park Baseball Complex for the purpose of youth baseball.
- d) Authorize the City Manager to enter into a five (5) year agreement with Visalia Little League National for the use of Riverway Sports Park Baseball Complex for the purpose of youth baseball.

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) Authorize the City Manager to enter into a five (5) year agreement with Visalia Youth Softball Association for the continued use of Whitendale Park for the purpose of youth softball.
 - c) Update on the intent to file by the Californians to Protect Local Taxpayers and Vital Services, seeking a signature ballot measure, the Local Taxpayer, Public Safety and Transportation Protection Act, scheduled for the November 2010 statewide ballot.
 - d) Proposal to amend the City's Pocket Park Policy, which was originally adopted by the City Council February 7, 2005, eliminating the practice of utilizing the City's general fund as the financing mechanism for constructing new pocket parks.
 - e) Authorization to enter into a Memorandum of Understanding, as contractor, with the Visalia Unified School District to extend the Neighborhood Youth Counselor Program; and to renew a Memorandum of Understanding with Proteus, Inc. as sub-contractor for the Neighborhood Youth Counselor Program for the remainder of FY 09/10 (Jan 2010-June 2010) and FY 10/11.
 - f) *Removed from agenda.*
 - g) Adoption of the 2009 Short Range Transit Plan.
 - h) Authorize the City Manager to pursue a coalition with community partners including Kaweah Delta Health Care District and Visalia Unified School District in promoting health and wellness.
 - i) Authorization to enter into agreement with the County of Tulare for the maintenance of Road 100 (Akers Road) between Modoc Ditch and Avenue 320.
 - j) Authorization to award Bid No. 09-10-13, Supply and Delivery of Chlorine Cylinders, to JCI Jones Chemicals Inc. for a bid price of \$499.00 per ton.
 - k) Authorizing the application for Grant Funds in the amount of approximately \$330,000.00 for the 2008-09 Environmental Enhancement and Mitigation (EEM) Program and designating the City Manager as the agent to negotiate, execute and submit all necessary documentation pertaining to the planting of trees, under story plants, and irrigation around various ponding basins and Modoc ditch and Mill Creek trails. **Resolution 2009-55 required.**
 - l) Authorization to file a Notice of Completion for the Village Park-Wittman Center renovation project located at Pearl Street. Project No. 3011-0-72-0-9865 for the work completed by Dale Atkins Construction at a final cost of \$236,568.13.

- m) Authorization to file Notice of Completion for Pinkham Ranch a subdivision (containing 18 single family lots), located on the west side of Pinkham Street, approximately 200 feet south of Laura Avenue
 - n) Issuance of a written report describing the measures taken to alleviate the condition which led to adoption of Ordinance 2009-07, an urgency ordinance establishing a moratorium on medical marijuana dispensaries and collective or cooperative cultivation and distribution enterprises.
 - o) Appointment of Michael Kreps, Rob Cox, Cary Winslow, Brett Taylor, and Rosalinda Verde to the North Visalia Neighborhood Advisory Committee.
 - p) Authorization to submit a non-binding letter of intent to participate in the Energy Technology Assistance Program which could provide funding for energy retrofits on municipal buildings.
 - q) Authorize submittal of a collaborative application for AARA Grant funds to establish the VIEW Comprehensive Residential Building Retrofit Program.
 - r) Authorization to conduct a design contest for the plaques on the Santa Fe Bridge.
 - s) Authorization to be a Gold Sponsor (\$10,000) for the Visalia stage of Amgen Tour of California bicycle race (as requested by the local organizing committee spearheaded by the Chamber of Commerce).
 - t) Authorize the City Manager to retain the law firm of Sawyers and Holland to represent the City in water exchange negotiations with Tulare Irrigation District
9. ***Postponed until January 11, 2010 at request of applicant - PUBLIC HEARING*** -Appeal of the Planning Commission's denial of Variance No. 2009-10 by Ad Art Sign Company and Visalia Properties to erect a 35-foot high/72 square foot double face freestanding sign for the Orchard Supply Hardware store located in the C-R (Regional Retail Commercial) Zone. The site is located at 2230 West Walnut Avenue. (APN: 095-134-045 & 046). Resolution No. 2009-51 required. *Postponed from October 19, 2009 at request of applicant.*
10. **PUBLIC HEARING** - To consider extending for 10 months and 15 days the urgency interim zoning ordinance establishing a moratorium on medical marijuana dispensaries and collective or cooperative cultivation and distribution enterprises. This extension is being processed pursuant to California Govern Medical Marijuana and adopt extension of urgency Ordinance 2009-09 for a moratorium on medical marijuana. ***4/5th vote required. Ordinance 2009-09 required.***
11. **HEARING** - To consider and adopt a Resolution of Necessity to acquire a portion of the following property by eminent domain: 1933 S. Mooney Blvd., Visalia, CA (APN: 095-134-024 & 030). **Resolution 2009-56 required.**
12. **PUBLIC HEARING** - First reading of **Ordinance 2009-10** for sale of City property located at the east side of McAuliff Street at Mill Creek Parkway/Race Street (Portion of APN 103-320-11). **Ordinance 2009-10 required.**
13. Update on Solid Waste diversion programs and activities. **Receive public comment.**

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS

Upcoming Council Meetings

- Monday, November 23, 2009 5:30 p.m. Special Meeting (Tentative) Council Chambers, 707 W. Acequia
- Tuesday, December 1, 2009, 6:00 p.m. Special Meeting, (Tentative) Council Chambers 707 W. Acequia
- Monday, December 7, 2009, 4:00 p.m. Work Session; Regular Meeting 7:00 p.m., Council Chambers 707 W. Acequia
- Monday, December 21, 2009, 4:00 p.m. Work Session; Regular Session 7:00 p.m., 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.

City of Visalia
Agenda Item Transmittal

Meeting Date: November 16, 2009

Agenda Item Number (Assigned by City Clerk): 1

Agenda Item Wording: Annual Operation & Maintenance Report on the Visalia Rawhide Baseball Club For 2009

Deadline for Action: N/A

Submitting Department: Parks & Recreation Department

Contact Name and Phone Number: Vincent Elizondo, Director of Parks & Recreation, 713-4367

Department Recommendation:

That the City Council accept this annual operation and maintenance report on the Visalia Rawhide baseball Club; accept public testimony; and provide direction, if any, on the future operation of the baseball park.

Background Information:

On December 28, 2007, the City of Visalia entered into a nine (9) year agreement with the TOP OF THE THIRD, INC. to operate the Recreation Park baseball park for the purposes of providing Minor League Baseball in Visalia. Currently, TOP OF THE THIRD, INC. operates the Visalia Rawhide baseball club, the single-A affiliate of the Arizona Diamondbacks and a long-standing member of the California League.

The agreement will terminate on December 31, 2016. TOP OF THE THIRD, INC. has the right to renew this agreement for six (6) years by providing a sixty-day (60) written notice to the City of Visalia prior to the termination of the nine-year agreement.

On September 21, 2009, the Visalia City Council approved a Notice of Completion for the Recreation Park baseball stadium renovation project. The final total project cost was \$11,500,000. The City of Visalia was recently given the **Best Ballpark Renovation Award** in professional baseball by Ballpark Digest. Visalia won in the division for minor league parks while the Kansas City Royals' new-look Kaufmann Stadium won the award for major league ballparks.

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

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.

2009 Visalia Rawhide Baseball Season:

As previously mentioned, the Visalia Rawhide participates in the California League, which includes five teams in the Northern Division and five teams in the Southern Division. The Rawhide, members of the Northern Division, finished with a fine 39-31 record in the 1st half, but struggled in the 2nd half with a 25-45 record. Overall, the Rawhide were 64-76 in 2009.

In 2009, the Visalia Rawhide attracted an all-time franchise record of 105,405 fans attending games at the ballpark averaging 1,525 baseball fans per game. This broke the previous record established in 1947 of 104,311. The attendance is calculated using Professional Baseball Guidelines, and is the same for all 200 minor league and major league clubs. The attendance figure includes tickets sold, complimentary tickets, discounted tickets, tickets for major league scouts, etc.

TOP OF THE THIRD, INC. officials think the increased attendance numbers are due to a renovated stadium with much nicer fan amenities; a new brand to promote (Rawhide vs Oaks); and improved marketing efforts.

Annual Rent/Ticket Revenue Sharing:

On February 25, 2008, the City Council amended the agreement with the TOP OF THE THIRD, INC. to initiate the rent and ticket revenue sharing program with the Rawhide from the 2009 season to the 2010 season. This was done due to the change in scope (downsizing) of the original construction project; the uncertainty of timetables related to the construction project; and the belief that some aspects of the construction project would not be fully ready in time for the 2009 season.

Revenue sharing to the City is based on total annual gross receipts of the Rawhide. Examples include all ticket sales; all food and beverage concessions (including alcohol sales); advertising revenue; Rawhide team store revenues, etc. The City receives 5% of total annual gross receipts that exceed \$1 million but are less than \$1.5 million; 7.5% of the amount that exceeds \$1.5 million and is less than \$2 million; and 10% of all revenues that exceed \$2 million.

The Ticket Tax for 2010 will be based on the following formula: \$1 per regular priced ticket, \$2 per premium ticket, and 50 cents for berm (open grass) seating. This ticket tax is for actual tickets sold, and shall not be paid on “complimentary” tickets or traded tickets. Complimentary or traded tickets are limited to no more than 15% of total tickets issued.

The amount of \$5,250 in the table below under “Other Events” is actual revenue based on non-Rawhide baseball rentals of the ballpark during the non-baseball season through November 6, 2009 of this year. This is an ideal time to lease out the indoor Hall of Fame Club building for private rentals; promote concerts; local high school baseball rentals; charitable events; or other types of special events during the off-season. The projected revenue for 2010 for non-Rawhide rental income is \$12,000.

And finally, the City continues to work with a local broker (as authorized by the City Council on July 13, 2009) to lease the City managed space of 1,433 sq. ft., located on the first floor of the Giddings Street structure facing the street. The City has had several interested parties and continues to try and negotiate a deal. The estimated annual revenue from leasing this space is estimated to be roughly \$12,000 for 2010.

The following table illustrates what the revenue sharing program would have generated in income in 2009 had the agreement been in effect. The table also provides a forecast of projected revenues for the 2010 calendar year.

As an overall goal, TOP OF THE THIRD, INC. has an objective to work closely with the City of Visalia to enhance the marketing efforts for the ballpark. This includes City assistance with distributing pocket schedules, printed materials, directional signage to the ballpark, etc.

	2009	2010 est.
Rawhide Revenues	\$1,260,000	\$1,380,000
Attendance	105,000	115,000
Revenue Sharing To City	\$13,000	\$19,000
Ticket Tax to City	\$78,750	\$86,250
Other Events	\$5,250	\$12,000
Leasable Space	\$0,000	\$12,000
Total City Revenue	\$ 97,750	\$ 129,250

Facility Improvements by TOP OF THE THIRD, INC:

Each year, in accordance with the agreement, the TOP OF THE THIRD, INC. is responsible for making a minimum of \$10,000 worth of improvements to the ballpark. In 2009, the improvements were estimated to be over \$200,000 with the majority of the improvement costs being allocated to the new skyboxes and shade canopies behind the home plate grandstands; the new red barn in right center field; the new Cowbell Section along the right field line; the renovated older concessions stands; and the new “Kids Area” behind the right center field fence.

Facility Maintenance & Repairs:

Each year, in accordance with the agreement, the TOP OF THE THIRD, INC. is responsible to provide the City with financial information related to the field maintenance and repairs of the stadium. The following is a summary of the information provided to the City:

1. Field maintenance and expenses totaled roughly \$48,000 for 2009. These expenses are attributed to the field maintenance salary; irrigation repair; field striping; field light replacements; and general baseball infield grooming for games. Per the agreement, the City pays for the first \$40,000 of operational expenses related to field maintenance and expenses.
2. Facility maintenance and repairs for the ballpark totaled roughly \$57,000 for 2009. These expenses are for air conditioning and heating repairs; electrical repairs; plumbing repairs; painting; and various vandalism repairs (broken windows). Per the agreement, the City pays for the first \$20,000 of operational expenses related to facility maintenance and repairs. The remaining balance can also be credited towards the lessor’s annual electrical consumption billing.

Utilities:

This document last revised: 11/13/09 10:09:00 AM

Utilities to operate the ballpark include electricity, natural gas, and water (which includes sewer and refuse) charges. The billing period for these utilities is March 15 through September 30 --- i.e. the traditional baseball season. For the 2009 season, the Rawhide accumulated a \$71,785.35 utility bill; \$2,193.16 for natural gas charges; and \$4,884.27 for water charges. Per the agreement, the City pays for the first \$34,590.00 of utility electrical charges, meaning the Rawhide will have a total utility liability of \$44,272.78 for the 2009 baseball season. For comparison purposes, the utility liability for the Rawhide in 2008 was \$15,050.49. The costs to cool, heat, and operate the new building structure on the Giddings Street side of the ballfield has tripled the utility costs of the Rawhide.

The City of Visalia is financially responsible for all utility charges during the non-baseball season months of October 1 though March 14.

Gould Evans Associates, LC Annual Report:

Minor League Baseball requires that a playing facility comply with certain minimum baseball playing standards. This is done to assist in the effort to protect players from potential injuries. In many cases, top prospects that come to Visalia have signed contracts worth millions of dollars and the parent club has a strong vested interest to protect their players from getting injured.

Each year Gould Evans Associates, LC prepares a report on various ballparks throughout the country. In September 2009 the firm presented the City of Visalia with its findings from their most recent inspection. In their last report, Gould Evans cited eight areas as major areas of concern. The City will continue to work with the Rawhide to try and alleviate these areas of concern. An Executive Summary is enclosed for your review as part of this report. A response to the Gould Evans report by Rawhide team owner Tom Seidler is also enclosed for your review.

Future Long-Term CIP Projects:

The Rawhide has identified several long-term CIP projects that would benefit the City in relation to the future operation of the ballpark. These projects have been identified in the past but funding continues to be the primary challenge. The projects as recommended by MLB for player safety include:

1. Replace the aging outfield fencing in the left field and left center field areas of the ballpark. The fencing from the right center field entry gate to the right field foul pole was all replaced as part of the renovation project.
2. Improvements to the playing surface for the baseball players. Some areas of the park continue to be uneven making it dangerous for the players to run or field baseballs.
3. Renovate or replace the athletic field lighting system in the ballpark. The lighting standards are the original poles and lighting fixtures have been replaced as necessary to keep the lighting system functional. The system is much improved but still in need of major repairs

The projects being recommended by the Rawhide for fan comfort include the following by priority:

4. Install a new state-of-the art video board in left center field for enjoyment by the fans and the players. The new board can be used for announcements, commercials, video replay, highlights and live feeds of other activities around the country, etc.
5. Improvements to the existing parking lot north of the ballpark; establishing newer parking lots to the west of the stadium; and working to revitalize the neighborhoods around the ballpark.
6. As identified in the original master plan renovation design for the ballpark, eliminate the dirt mounds behind the backstop and rebuild the grandstand area to include new skyboxes and a new announcer's booth and multi-media area.

City staff will not be making a recommendation to fund any major capital improvement projects as outlined above for the upcoming fiscal budget period 2010-2012. However, consideration will be made for minor improvements that may be necessary in relation to safety improvements for the players.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 16, 2009

Agenda Item Number (Assigned by City Clerk): 2

Agenda Item Wording: Valley Oaks Golf Course Operation and Maintenance Annual Report

Deadline for Action: N/A

Submitting Department: Parks & Recreation

Contact Name and Phone Number: Jeannie Greenwood, Recreation Manager, 713-4042

Department Recommendation:

City staff recommends that the City Council accept the Valley Oaks Golf Course Annual Report and acknowledge CourseCo's request to exercise their first option for an additional five (5) years.

Background Information:

In January, 2000, the City Council changed the Valley Oaks Golf Course management from a City employee operated course to a private contract management course. The City entered into a ten (10) year agreement (with two additional 5 year options) with CourseCo, Incorporated to manage the complete operation of the course and all facilities. CourseCo signed an agreement to operate the course on January 17, 2000.

The City had a number of objectives when it contracted out the operation of the facility, with the primary objective of providing quality golf experiences at a reasonable price while maintaining the course as a self-sustaining enterprise fund. Fortunately, Council has been able to draw on the experience of CourseCo and their knowledge of the golfing industry to put the course in a better financial picture as well as improve course maintenance.

Extension of Lease

The original term of the contract will expire January 31, 2010 and CourseCo has submitted a letter (Attachment A) notifying the City that they will be exercising their option to extend the Management Agreement for the operation of Valley Oaks Golf Course. This extension allows CourseCo to continue operations and management of the golf course until January 31, 2015.

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

Review:

Dept. Head _____
(Initials & date required)

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(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.

Fiscal Analysis:

Rounds

This annual report represents the time period of July 1, 2008 through June 30, 2009. During this time period, the golf course saw 70,645 rounds of play. This is a decrease from the previous year by 6,475 rounds, or 9%. This is slightly higher than CourseCo's other courses that experienced, on average, a 5% decrease. Based on data available, Northern California courses in general saw a range of results from no decrease to a 20% reduction in rounds. CourseCo representatives believe that the decrease in rounds is indicative of the recession that we are experiencing state wide, and to some extent, the addition of a new golf course in our market area. From a fiscal standpoint, the course continues to cover it's operational costs and make progress on debt payoff.

Chart I, Rounds Played – provides a nine year history of rounds played under CourseCo's operation. In 2009, the number of rounds played decreased by 6,475 rounds and the average revenue captured per round increased by \$.15.

Chart I
Rounds Played

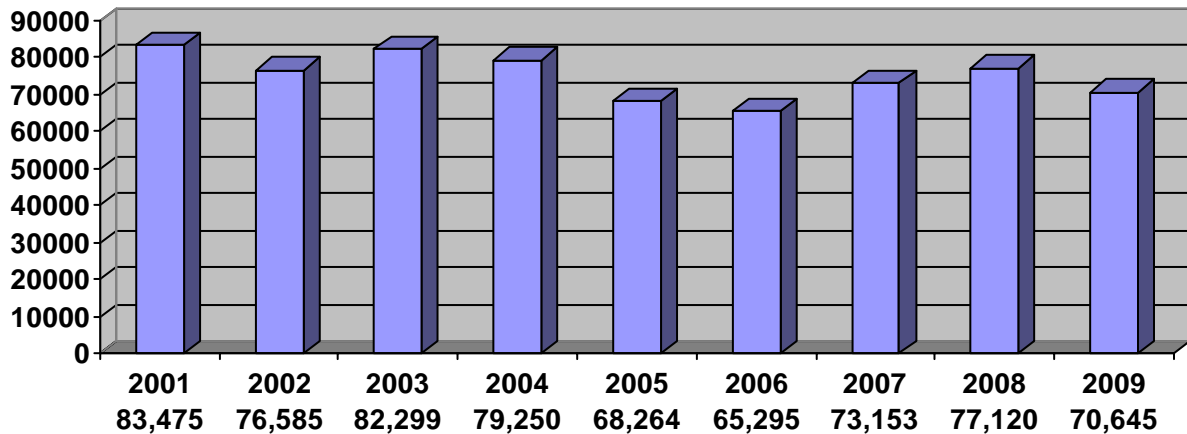


Table 1 – CourseCo Operating Results Summary provides an accounting of revenues and expenses for the last five (5) years of operation. At last year’s Council meeting, City staff reported that the course was on pace to perform similar to the 2004-2005 fiscal year. As you can see by the summary below, the course was able to perform better than anticipated. The \$198,949 increase in operating expenses from fiscal year 2007 to 2008 comes from several factors. An increase in the National Minimum Wage caused higher wage costs across the board. During this time, we also saw gas prices skyrocket which passed on an increase in the cost of goods and services. The third factor was a decision to invest more funds into the maintenance of the course. This decision has been very beneficial as the course condition has dramatically improved in the last two years. A full accounting of CourseCo’s nine years of operation is represented in Attachment 2.

**Table 1
CourseCo Operating Results Summary**

	2004-05	2005-06	2006-07	2007-08	2008-09
Total Income	2,109,273	2,123,921	2,430,454	2,741,951	2,521,844
Operating Expenses	1,801,782	1,770,071	1,896,165	2,140,216	2,159,960
Net From Operations (used for debt service)	307,491	353,850	534,289	601,735	361,884
Rounds	68,264	65,295	73,153	77,120	70,645
Avg. Income Per Round	\$30.90	\$32.70	\$33.22	\$35.55	\$35.70

Golf Course Debt

The golf course has two types of debt:

General Fund Loan Payoff – debt accumulated prior to CourseCo assuming operation of the course. This debt was incurred as a result of Council approved capital improvements, primarily the addition of 9 holes at Valley Oaks Golf Course in the mid 90’s (The Lakes course opened in 1996).

Capital Improvement Surcharge (CIS) – in 2003, the Council authorized a Capital Improvement Surcharge for the purpose of upgrading or replacing capital assets at the golf course. As directed by Council, this surcharge is used solely for capital expenditures at the golf course.

Both loans are advances from the General Fund and accrue interest at the City’s portfolio earning’s rate plus 1%.

Table II , Status of Debt Payments shows that the course was able to utilize Capital Improvement Surcharge funds to pay interest and principal on the CIP loan. Unfortunately, the course did not generate enough revenue to make strides on the General Fund Loan this year.

Table II
Status of Debt Payments
Fiscal Year 08/09

<i>Loan Balances</i>	CIP Credit Line	General Fund Loan
Beginning Balance 7/1/08	265,208	2,639,572
CIP Expenses 08/09	560,756	
Principal Reduced / (Increased)	237,373	(22,090)
Interest Paid	9,881	167,823
Ending Balance 6/30/09	587,333	2,661,662
CIP Surcharge Collected	247,254	

The CIP Credit Line is dedicated to Valley Oaks Golf Course improvements. All revenue derived from the CIP surcharge is to be used for improvements and equipment. (Note that the CIP Surcharge revenues equal CIP Debt Payments made.)

The \$560,756 increase in the CIP loan this past fiscal year reflects the purchase of the new golf cart fleet and the purchase of equipment previously approved by the Council.

In past years, the golf course has made significant improvements in paying down the General Fund Loan. Prior to CourseCo managing the course, the City operated the golf course. In the mid 1990s, the course was expanded to include an additional 9 holes. During the construction, the golf course fund suffered several years of operating losses. These operating losses and golf course expansion costs represent the General Fund debt as shown in Table II.

The accumulated general fund debt for the nine hole expansion at the end of 2000 was approximately \$3.5 million. The debt balance at the end of 2009 is \$2.6 million. Paying off the General Fund Loan continues to be a major goal for the course.

City Council originally authorized the CIP Loan to be a line of credit up to \$800,000. In September 2004, staff recommended that the Council allow the golf course to use the City's available cash to finance capital equipment purchases, specifically golf carts. These had historically been leased by CourseCo. This action allowed the line of credit to be increased up to \$1.3 million. In 2007, City Council again authorized an increase for the upcoming irrigation project bringing the current credit line up to \$2.6 million.

Irrigation Project

At the December 15, 2007 City Council meeting, Council approved the replacement of the irrigation system for the Valley and Oaks courses and appropriated \$1.7 million for said project. On January 20, 2009, Council further authorized the City Manager to enter into an agreement with CourseCo to manage the irrigation project. CourseCo has worked with an architectural firm and has submitted plans and specifications for this project to the City. It is anticipated that this project will go out to bid the end of this month and come back to Council for award late January or early February, 2010.

Once completed, the CIP debt will be close to \$2.3 million. This will put a hold on other capitol improvement projects until this debt amount can be paid down.

Golf Cart Fleet Replacement

During this reporting period, the golf course purchased 100 new golf carts to replace the existing fleet at Valley Oaks Golf Course. This improvement replaced carts that were in need of repair and/or replacement and allowed the course to keep twenty carts that were in good condition, expanding the fleet to 120 carts. As tournament play and rounds increase, we now have more capacity for cart rentals resulting in additional revenue generation.

Use of Private Golf Carts

In November, 2000, Council approved a 5-year phase out of private golf cart privileges at the Valley Oaks Golf Course. Under the provisions of Council's decision, 43 private cart owners at that time were "grandfathered in" and allowed to use their carts at the course until November, 2005.

On October 17, 2005, Council authorized a 5 year extension for private cart privileges for those "grandfathered in" at the November, 2000 decision. At that time, there were 17 cart owners still using their own carts with an average of 12 users purchasing private cart permits in any one month. This extension will expire on October 31, 2010.

Valley Oaks Golf Course Advisory Committee

In 2007, CourseCo was asked to expand upon the existing Evaluation Committee to form a Golf Course Advisory Committee. This committee has been meeting since December, 2008 and is comprised of representation from all facets of users including men, women, youth, City Staff, tournament groups and park supporters. The group serves in an advisory capacity to City and CourseCo staff and meets monthly to discuss course maintenance, operational issues, complaints and future plans for the course. This group meets the second Tuesday of each month.

Prior Council/Board Actions:

September 7, 2004 – Council authorized the first year of a six (6) year CIP plan for Valley Oaks Golf Course.

July 18, 2005 – Council authorized an increase in the CIP loan to allow the cancellation of leases on capital equipment and conversion to City funded purchases through the CIP surcharge revenue.

Committee/Commission Review and Actions:

January 17, 2000 City executed an agreement with CourseCo for the operation of the Valley Oaks Golf Course.

June 2, 2003 Council authorized annual increase in the Capitol Improvement Surcharge.

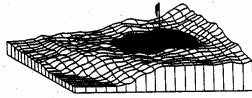
October 17, 2005 Council approved a 5 year extension of private cart privileges to existing private cart owners, to expire on October 31, 2010.

Recommended Motion (and Alternative Motions if expected):

Accept the Valley Oaks Golf Course Annual Operation and Maintenance Report and acknowledge CourseCo's request to exercise their first option for an additional five (5) years of management of the Valley Oaks Golf Course.

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)*

Attachment 1



COURSECO, INC
Golf Course Management & Development

March 16, 2009

Mr. Vincent A. Elizondo
Ms. Jeannie L. Greenwood
Anthony Community Center
345 N. Jacob Street
Visalia, Ca. 93291

Re: Extension of Term – Valley Oaks Golf Course

Dear Vince and Jeannie:

Pursuant to Article 2, Section 2.2, Visalia Golf, LLC ("Visalia Golf") hereby notifies the City of Visalia ("City") that it is exercising its first option to extend the Management Agreement between the City and Visalia Golf dated January 17, 2000 (the "Contract"). The exercise of this first option to will become effective on February 1, 2010 and will extend the contract through January 31, 2015 on the same terms and conditions more fully set forth in the Contract.

It has been our pleasure to have worked for nearly a decade with the City of Visalia in managing Valley Oaks. Great progress has been made toward our early joint objectives of solvency and facility improvement. We are proud of our partnership with the City, and the soundness of that foundation will be our greatest resource in tackling the very testing times Valley Oaks and the golf industry is facing. The City's commitment to continuous improvement is gratifying. We will work hard to continue to justify your confidence.

Sincerely,

Tom Isaak
President

cc Steve Salomon

**Valley Oaks Golf Course
CourseCo Operating Results
Comparison Summary
2000 Thru 2009**

Revenue	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009
Green Fees	654,081	703,181	739,007	758,730	730,259	739,007	822,534	881,348	793,907
Monthly Tickets	287,781	275,475	310,562	286,001	232,097	222,385	236,596	230,066	215,308
CIP Surcharge	80,844	95,981	123,420	158,496	170,665	195,885	219,459	269,920	247,254
Cart Fees	351,501	387,628	413,199	414,075	374,682	384,940	454,228	494,709	486,444
Range	106,423	109,421	122,379	119,196	120,411	113,892	151,180	204,498	205,403
Merchandise	100,216	95,081	123,972	151,981	156,714	137,014	153,867	202,044	206,285
Food/Beverage	257,935	276,525	280,780	301,386	303,445	315,806	365,470	427,660	332,011
Other	13,766	7,735	5,969	17,592	21,000	14,992	27,120	31,706	35,232
Total Income	1,852,547	1,951,027	2,119,288	2,207,457	2,109,273	2,123,921	2,430,454	2,741,951	2,521,844
Cost of Goods Sold	179,041	179,994	193,142	239,088	223,153	208,694	270,400	315,502	308,966
Operating Expenses	1,260,409	1,382,108	1,450,639	1,530,253	1,578,629	1,561,377	1,625,765	1,824,714	1,850,994
Net From Operations	413,097	388,925	475,507	438,116	307,491	353,850	534,289	601,735	361,884
CIP Distribution	80,844	95,081	123,420	158,496	170,665	195,885	219,459	269,920	247,254
Balance Distribution	332,253	293,844	352,087	279,620	136,826	157,965	314,830	331,815	114,630
Total Distribution	413,097	388,925	475,507	438,116	307,491	353,850	534,289	601,735	361,884
Rounds	83,475	76,585	82,299	79,250	68,264	65,295	73,153	77,120	70,645
Average Income Per	\$22.19	\$25.48	\$25.75	\$27.85	\$30.90	\$32.70	\$33.22	\$35.55	\$35.70

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 16, 2009

Agenda Item Number (Assigned by City Clerk): 3

Agenda Item Wording: Review and comment on final Oval Park Caltrans Study and authorize staff to initiate a CDBG Program amendment to allocate \$90,000 for engineering and related work.

Deadline for Action: None

Submitting Department: Housing & Economic Development Department

Contact Name and Phone Number: Ricardo Noguera, Housing & Economic Development Director 713-4190; Chris Young, Assistant Community Development Director 713-4392

Department Recommendation: Two recommendations for Council to consider:

1. Accept and provide direction on this Final Oval Park Caltrans Study
2. Authorize staff to initiate a CDBG Program amendment to reallocate up to \$90,000 in CDBG funds reserved for the Oval Park to complete engineering drawings and environmental studies required for completion of the traffic improvements.

Summary/Background: In September 2007, the City of Visalia was awarded a Caltrans Environmental Justice-Context Sensitive Transportation Planning Grant for the Oval Park area. The City received formal approval to proceed in selecting a consultant in April 2008. The purpose of the grant was to devise a plan which would improve traffic safety conditions in the immediate area surrounding the Oval Park. The total grant awarded from Caltrans was \$135,000 and the City provided a \$15,000 match.

On September 15, 2008, the City selected TPG Consulting, Inc. to complete a Traffic Study and Needs Assessment Report for the Oval Park Study Area. This followed the release of a Request For Proposals (RFP) and interviews with consultants. TPG's consultant team consists of RRM Design Group and C-SET. TPG's focus is on project management, traffic engineering and consideration of pedestrian and bicyclist safety and access issues. RRM focused on land use

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.

planning and landscape design issues. C-SET focused on public outreach and facilitation of public meetings and workshops.

Over the fourteen (14) months, the consulting team has held public workshops, community stakeholder meetings and presentations before the Parks & Recreation Commission, Northern Visalians and the City Council. Extensive outreach has been conducted and representatives from both the City and Caltrans have been in attendance.

Two Options Devised: Through a series of workshops held, two design options were developed. These workshops involved extensive community involvement and input in devising the options. The first option included the rerouting of State Highway 63 around the west side of the park; closure of some streets on the east side entering the park; and conversion of the east roadway traversing the park to a large public plaza. There would also be amenities included in the Oval Park. The second option maintained the road in its' current alignment but closed off the street just south of the Oval Park Service Building. This Plan included a large plaza immediately south of the building and road closures and smaller plazas in front of the commercial buildings near North Court Street. While these two options represented significant public input and created plenty of outdoor gathering space, they were not well received by the property and business owners surrounding the park.

Concerns from Property & Business Owners Surrounding the Park: In April, it became clear that many of the property and business owners were not comfortable with the first two options. Between May and October, city staff held a total of six (6) small group meetings with property and businesses owners. At these meetings, staff provided a detailed presentation of the two options and their input was encouraged. Property and business owners raised concerns about the impact of the proposed street closures on their operations. The owners also did not support the creation of public plazas. They were concerned about spreading existing problems associated with loitering, public drinking and drug activity in the area.

A New Plan is Born: Following the meetings with the property and business owners, staff met with TPG and directed them to incorporate these new comments into their design. Listed below are key "features" of the new design:

- ◆ Does not close any streets.
- ◆ Creates two lanes on the east side of the park.
- ◆ Creates a bicycle lane around the perimeter of the park and along North Court Street.
- ◆ Does not add public plazas.
- ◆ Creates several colored crosswalks with the possible addition of new signage and flashing lights to identify pedestrian paths.
- ◆ Widens sidewalks surrounding the park to encourage more pedestrian usage.
- ◆ Creates bulb outs which reduces distance for pedestrians crossing the roadway resulting in a safer environment for those persons traveling on foot.
- ◆ Minimizes traffic conflicts by adding "pork chops" or striped sections on roads connecting to North Court Street.

- ◆ Includes the addition of new street lights in the surrounding area.

It is important to note that this new Plan does not include the Oval Park. Discussion on future use of the Oval Park will be taken up once the traffic improvements are implemented and new funding sources are identified for the park.

Additional Input from Property and Business Owners

Three additional meetings were held to ensure property and business owners had ample opportunity to review and discuss the new plan. Meetings were held on Thursday, September 17th; October 28th and November 5, 2009. There were few concerns with this new design. However, they did request for staff to consider installing a traffic signal at the entrance of the park; and along North Locust near Pine Street; and the addition of new street lights in the surrounding neighborhood.

Next Steps: Staff have met with Caltrans officials and incorporated their recommended changes in the Final Plan. Upon acceptance of this Plan by Council, staff will complete the following next steps:

1. After amendment is approved, utilize CDBG funds to release a Request For Proposal (RFP) for the selection of an engineering firm to complete drawings and necessary environmental documents associated with the road improvements;
2. Investigate potential funding sources for the implementation phase;

Prior Council/Board Actions:

- Council Status Report on the Two Alternative Plans: May 18, 2009
- Council approval of contract with TPG: August 18, 2008

Committee/Commission Review and Actions: None

Alternatives: None recommended

Attachments:

- New Plan for the Oval Park Area

Recommended Motion (and Alternative Motions if expected): Two recommendations for Council to consider:

Accept and provide direction on this Final Oval Park Caltrans Study

Reallocate up to \$90,000 in CDBG funds reserved for the Oval Park to complete engineering drawings and environmental studies required for completion of the traffic improvements.

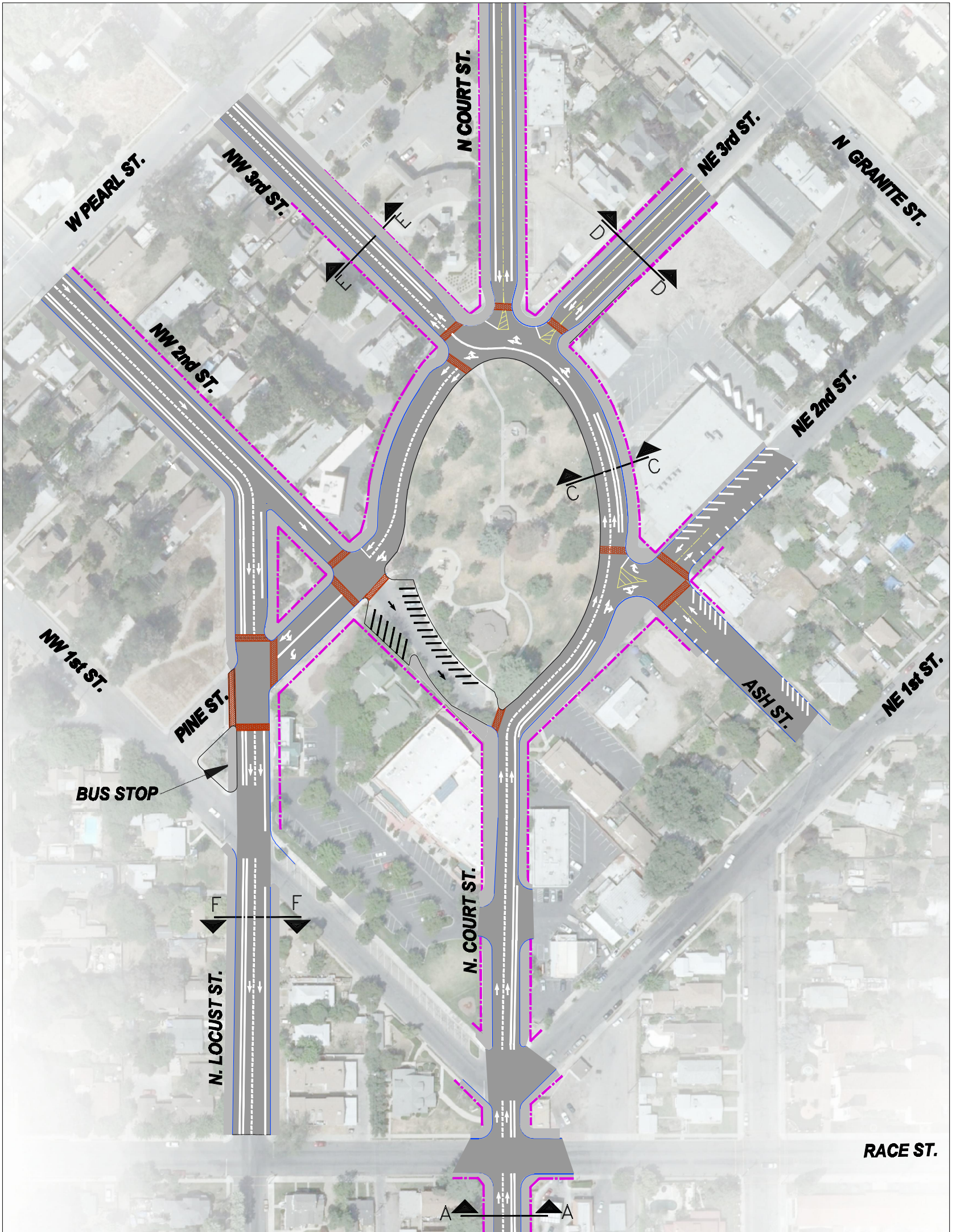
Environmental Assessment Status

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:



PROPOSED STUDY AREA PLAN - ROADWAY FEATURES

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 16, 2009

Agenda Item Number (Assigned by City Clerk): 4

Agenda Item Wording: Fiscal Year 08/09 Report On City's Graffiti Abatement Program

Deadline for Action: None

Submitting Department: Parks and Recreation Department

Contact Name and Phone Number: Jim Bean, 713-4564 or Ray Palomino, 713-4169

Current Program:

In September 2006, the graffiti abatement program was transferred from the Visalia Fire Department to the Buildings Division of the Parks and Recreation Department. The graffiti abatement program consists of two supervisors, one hourly graffiti program coordinator and three (hourly) graffiti maintenance workers. The hourly employees work a maximum of 1,000 hours per year, so the citywide removal crew has 3,000 hours available. This report covers graffiti removal activities from July 1, 2008 through June 30, 2009, under the coordination of the Buildings Division of the Parks and Recreation Department.

During the current reporting period, the City-wide removal personnel spent 3,000 hours on graffiti removal.

The Parks and Recreation Department set the following goals for the program for Fiscal Year 2008-2009:

- **Remove reported graffiti within 48 hours**

Status: Since October 2007 the removal time has increased from 2 days to an average of 4 days. This is due to increased graffiti and increased square footage areas that are requiring removal.

- **Improve methods on graffiti removal**

Status: The city has established a list of select colors that are used throughout the city and we have added a second high pressure sprayer to allow versatility for each crew.

- **Increase participation of property owners**

Status: City staff is continuously improving communication and cooperation with property owners and groups who remove graffiti from residential and commercial establishments.

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.

- **Promote public awareness of program**

Status: We continue to promote the graffiti hotline by posting the phone number on our city trucks and by enhancing our graffiti abatement web site to get the information out to the public.

- **Encourage Volunteer participation**

The city has established a list of volunteer groups and individuals that remove graffiti throughout the City of Visalia. In 2008, on Make a Difference Day, volunteers removed 25,000 square feet of graffiti.

The program process begins with the Graffiti Abatement Program Coordinator who takes information from the Graffiti Hotline and prepares location and description work orders for the removal workers. Nancy Cunha is the hourly Graffiti Abatement Program Coordinator. She is located at the Corporation Yard on North Ben Maddox. Nancy also receives written removal requests from the Police Department. Besides taking hotline information, the coordinator works with commercial property owners to have them remove the graffiti on their property. Nancy has been very successful in enlisting the support of property management companies to have their contractors remove graffiti. In difficult situations, she works with business owners and our removal crew to provide the necessary work on private commercial property. The coordinator has worked hard to develop relationships with commercial property owners, property management companies and with the public.

Ray Palomino, the City's Building Services Coordinator and Jeff Fultz, Park Maintenance Supervisor, supervises the citywide removal program with assistance from Joe Cote, Sr. Maintenance Technician. Ray, Jeff and Joe have been instrumental in overseeing the removal program, scheduling the three hourly graffiti maintenance workers to achieve six days per week of removal.

The citywide graffiti maintenance workers digitally photograph the graffiti (before and after). Graffiti photos are downloaded monthly to a CD and a copy is provided to the Police Department. The Graffiti Abatement Coordinator works with the District Attorney's office on restitution cases.

The Graffiti Abatement Coordinator works with volunteers to remove graffiti in the community. The program provides paint to volunteers who are willing to cover graffiti on public property that is tagged repeatedly. The Urban Forestry Division continues to plant vines along landscape and lighting area walls to deter tagging. The graffiti maintenance workers will immediately remove graffiti in highly visible areas if it is offensive or obscene.

The citywide program utilizes three vehicles, two 1-ton trucks, and a 1/2 ton truck. Both one-ton trucks are fitted with a high-pressure sprayer and one of them also has a sand blaster mounted on the flat bed.

In addition to City efforts, an employee with the Downtown Visalians removes graffiti in the downtown area usually within 24 hours. Visalia Unified School District removes graffiti on school property by 7:00 AM daily. Most residential property owners prefer to remove the graffiti themselves, however if the removal worker is unable to contact the property owner then they will usually remove the graffiti. The graffiti removal workers assist the Traffic Engineering Division by removing graffiti from traffic signs and they also assist the Solid Waste Division by covering up graffiti on enclosures and refuse containers.

Abatement of graffiti can be accomplished by removal with chemicals and power washer, painting over the graffiti, or by sand blasting the surface. From July 2007 through June 2008, the City's Graffiti Abatement Program crew removed or covered 591,748 square feet of graffiti at a cost of \$106,610. From July 2008 through June 2009, the program removed or covered

577,643 square feet of graffiti at a cost of \$113,440. In Fiscal Year 2006-07 the program removed 418,000 square feet of graffiti. Over the past two years the program has seen a forty-two percent increase which warrants the hiring of an additional hourly employee for Fiscal Year 2009-10. The additional personnel would allow us to get removal time back to our goal of removal within 48 hours. Funding for the citywide removal program comes from the Solid Waste Enterprise Fund.

Since October 2007, our response time to remove graffiti with the current resources (three 1000 hour employees) had increased from 2 days to an average of 4 days in Fiscal Year 2008-2009.

In January 2009 council approved hiring a fourth hourly employee for the graffiti abatement program for Fiscal Year 2009-2010, which would reduce the removal time to 48 hours or less.

On July 1, 2009, our fourth hourly employee was hired for the graffiti abatement program. The graffiti removal time is now averaging less than 48 hours since we have added this additional hourly employee.

On July 1, 2009, we transferred the entire Graffiti Abatement Program to Ray Palomino, Building Services Coordinator, to be managed because the program's vehicles, equipment and staffing could be managed more efficiently under one direction.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: No action needed.

Attachments: Power Point Presentation

Recommended Motion (and Alternative Motions if expected):

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

CITY OF VISALIA



Graffiti Abatement Program Fiscal Year 2008-2009

November 16, 2009

Graffiti Abatement Program

Background:

- **Program transferred from Fire Department to Parks & Recreation in September 2006.**
- **The Buildings & Parks Divisions began managing the program in 2006 in the City Parks and Citywide.**
- **On July 1, 2009, the entire graffiti abatement program was transferred to the Buildings Division.**
- **This program is funded from Solid Waste Enterprise Fund**

Graffiti Abatement Program

Current Program Staff:

- **One 1,000 hour Graffiti Abatement Program Coordinator**
- **Four 1,000 hour Graffiti Maintenance Workers**

(Each hourly employee works 20 hrs per week, 1000 hrs per year)

Who's In Charge . . .

Ray Palomino, Buildings Division

Supervises the Graffiti Maintenance Program in the Buildings Division. (Effective 7/1/09 supervises entire Graffiti Abatement Program.)

Nancy Cunha, Program Coordinator

Staffs the Graffiti Hotline and generates work orders, tracks photos and maintains records of graffiti before and after removal, promotes public awareness of program and coordinates volunteer participation to remove graffiti.

Graffiti Abatement Program Coordinator



Nancy Cunha

Responsibilities:

- Graffiti Hotline calls
- Police pass along requests
- Coordinates work orders
- Collaborates with property owners and works with other organizations
- Tracks monthly statistics, prepares reports; tracks photos taken before and after on graffiti vandalism
- Promotes public awareness; attends Neighborhood Preservation Committee monthly meetings
- Works with Code Enforcement and other Departments city-wide.

Graffiti Maintenance Workers



Ruben Gonzales – Victor Correa – Gary Friday – Eliseo Martinez

Graffiti Program's Goals

08/09

Goals

1. 48 hour removal time
2. Continue improving methods on graffiti removal, color matching
3. Continue collaboration with property owners
4. Continue promoting public awareness of program
5. Continue to increase Volunteer participation
6. Documentation

Actual

1. 96 hour average
2. Improved paint techniques, chemical removers/pressure wash, and color matching
3. Increased property owner collaboration
4. Increased Community contacts
5. Annual Community projects: Make a Difference Day; Oval and Jefferson Park area clean up efforts.
6. Electronic photos; Statistical records; work orders kept

Statistical Information

Graffiti Abatement Program

	BUILDINGS		PARKS	
	FY 07-08	FY 08-09	FY 07-08	FY 08-09
Hours worked	2,000	2,000	1,000	1,000
Sq ft removed or covered	518,247	487,051	73,501	90,592
Total square footage removed	FY 07/08	591,748	FY 08/09	577,643
Total Hotline calls & Police requests received	3,872	3,801	1,177	770
Work Orders issued	3,484	2,090	1,034	577
Program Cost	\$72,715	\$77,850	\$33,895	\$35,590
Total Costs	FY 07/08	\$107,610	FY 08/09	\$113,440

Additional Efforts

- ◆ Downtown Visalians have a 24 hour removal goal and their own graffiti removal worker. (School St. to Mineral King; Johnson to Santa Fe)
- ◆ The Buildings Division graffiti maintenance workers assists the Traffic Safety, Solid Waste and Code Enforcement Divisions in their graffiti removal.
- ◆ Cal-Trans removes graffiti on highways under their jurisdiction.

Additional Efforts

- ◆ Kiosk Contract Services (New Directions, Motivational Signs, & Sign Technology) remove Graffiti from City's Kiosks.
- ◆ Supply property owners with paint to cover repeated graffiti tagging in their residential area.
- ◆ Work with volunteers that assist in covering up minor graffiti within the community.

GRAFFITI ABATEMENT

S. Mooney & Nicholas



N. Rinaldi & Switzer



GRAFFITI IS EVERYWHERE

Road Barriers



Traffic Signs



Trees



Ditch Barriers



Sidewalks



Glass Doors



GRAFFITI IS EVERYWHERE

Utility Boxes



Trash Dumpsters



Playground Equipment



Community Mailboxes



New Fences



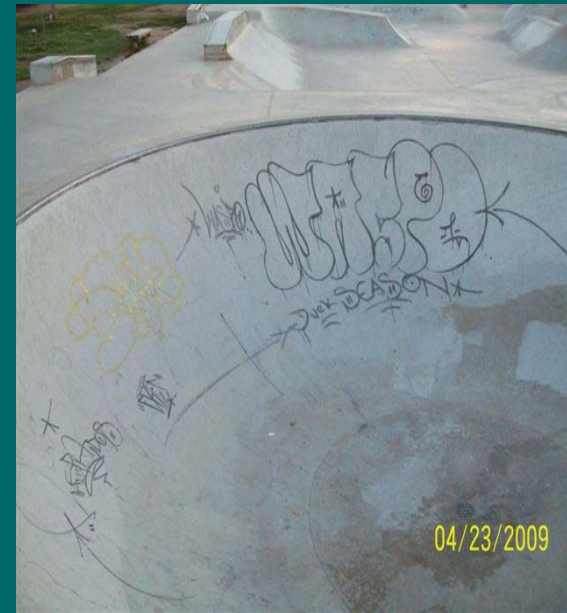
Old Fences



GRAFFITI CAN BE SMALL, LARGE, and GANG RELATED



Graffiti at the Skate Park



Power washing Picnic Tables Prior to Painting



COMMUNITY INVOLVEMENT

Oval Park Area Clean Up Day



Neighborhood Church Work Day



COMMUNITY INVOLVEMENT

El Diamante Key Club



Code Enforcement Project



GRAFFITI REMOVAL, COST COMPARISON OF METHODS



Comparison of a 1,300 sq ft wall using two methods of removal

Method 1

Apply 2 gallons of Elephant Snot over graffiti: \$180

Power Wash: \$20

Total cost of removal: \$200

Method 2

Clean wall must be prepared with Anti-graffiti sealant. Initial cost : \$320 + \$20 Labor

Remove graffiti with graffiti cleaner: \$95 + \$20 Labor

Power wash: \$20

Reapply Anti-graffiti sealant: \$320 + \$20 labor

Total cost of removal: \$475

Future Program Needs

FY 2009 - 10

- ❑ In FY 09-10, our fourth 1000 hour employee was hired on July 1, 2009.
- ❑ This Fiscal Year, the program will continue its efforts in reducing the graffiti removal time from 4 days to an average of less than 48 hours.
- ❑ Equipment needs for FY 09-10, One ton truck, power washer, sand blaster.
- ❑ Continue to work with property owner on the installation of vegetation on block walls.

ACTION

PLANNING COMMISSION AGENDA

CHAIRPERSON:
Lawrence Segrue



VICE CHAIRPERSON:
Adam Peck

COMMISSIONERS PRESENT: Lawrence Segrue, Terese Lane, Adam Peck, Roland Soltesz, Vincent Salinas

MONDAY NOVEMBER 9, 2009; 7:00 P.M., CITY HALL WEST, 707 WEST ACEQUIA, VISALIA CA

- | | |
|---|---|
| 7:00 TO 7:00 | 1. THE PLEDGE OF ALLEGIANCE |
| 7:00 TO 7:01
No one spoke | 2. CITIZEN'S REQUESTS - The Commission requests that a 5-minute time limit be observed for requests. Please note that issues raised under Citizen's Requests are informational only and the Commission will not take action at this time. |
| 7:01 TO 7:01 | 3. CITY PLANNER AGENDA COMMENTS – No comments |
| 7:01 TO 7:01 | 4. CHANGES TO THE AGENDA – No changes |
| 7:01 TO 7:02
No Consent Calendar items | 5. CONSENT CALENDAR - All items under the consent calendar are to be considered routine and will be enacted by one motion. For any discussion of an item on the consent calendar, it will be removed at the request of the Commission and made a part of the regular agenda. |
| 7:02 TO 7:08

Approved as recommended (Peck, Salinas) 5-0

Open: 7:06
Close: 7:07

Spoke:
1. Ed Canvasser | 6. PUBLIC HEARING– Brandon Smith

a. Conditional Use Permit No. 2009-40: a request by Dr. Steven Serrins and Mike Fistolera (property owners), to allow a Planned Development with non street-fronting parcels in the C-N (Neighborhood Commercial) Zone. The site is located on the northeast corner of Caldwell Avenue and Stover Street. (APN: 126-700-042)

b. Tentative Parcel Map No. 2009-06: a request by Dr. Steven Serrins and Mike Fistolera (property owners), to subdivide 1.16 acres into four parcels and a non-developable common lot in the C-N (Neighborhood Commercial) Zone. The site is located on the northeast corner of Caldwell Avenue and Stover Street. (APN: 126-700-042) |
| 7:08 TO 7:25

Approved as recommended (Peck, Salinas) 5-0 | 7. PUBLIC HEARING – Brandon Smith

a. Conditional Use Permit No. 2009-39: a request by Donahue Schriber Realty Group L.P. and Donahue Schriber Asset Management Corporation, to amend Conditional Use Permit No. 2007-14 by allowing a revised Planned Development with non |

Spoke:
1. Jan Paterson

street-fronting parcels in the C-CM (Community Commercial) Zone. The site is located within the Orchard Walk Specific Plan area, on the northeast corner of Dinuba Boulevard and Riggin Avenue. (APN 079-310-009, 012, 013, 014)

- b. Tentative Parcel Map No. 2009-05: a request by Donahue Schriber Realty Group L.P. and Donahue Schriber Asset Management Corporation, to re-subdivide 10.90 acres into six parcels in the C-CM (Community Commercial) Zone. The site is located within the Orchard Walk Specific Plan area, on the northeast corner of Dinuba Boulevard and Riggin Avenue. (APN 079-310-009, 012, 013, 014)

7:25 TO 8:02

Approved as recommended with changes to wording in condition (Soltesz, Salinas) 5-0

Open: 7:06
Close: 7:07

Spoke:
1. John Hyde

8:02 TO 8:06

8. PUBLIC HEARING – Paul Bernal

Conditional Use Permit No. 2009-33: A request by John Hyde, to allow live entertainment and dancing within the existing Strings Italian Café in the C-R (Regional Retail Commercial) zone. The site is located at 1971 West Caldwell Avenue. (APN: 126-061-045)

9. DIRECTOR'S REPORT/PLANNING COMMISSION DISCUSSION:

- City Planner, Fred Brusuelas, gave farewells to Commission and Staff.

The Planning Commission meeting may end no later than 11:00 P.M. Any unfinished business may be continued to a future date and time to be determined by the Commission at this meeting. The Planning Commission routinely visits the project sites listed on the agenda.

For the hearing impaired, if signing is desired, please call (559) 713-4359 twenty-four (24) hours in advance of the scheduled meeting time to request these services. For the visually impaired, if enlarged print or Braille copy is desired, please call (559) 713-4359 for this assistance in advance of the meeting and such services will be provided as soon as possible following the meeting.

**THE NEXT REGULAR MEETING WILL BE HELD ON MONDAY, NOVEMBER 23, 2009
CITY HALL COUNCIL CHAMBERS, 707 WEST ACEQUIA**

8:06 TO 8:06
Motion to Adjourn (Segrue, Peck) 5-0

City of Visalia Agenda Item Transmittal

Meeting Date: November 16, 2009

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

Agenda Item Wording: Update on Phase II of the Visalia Riverway Sports Park

Deadline for Action: N/A

Submitting Department: Parks & Recreation

Contact Name and Phone Number: Vincent Elizondo, Director of Parks & Recreation, 713-4367

Background Information:

A groundbreaking ceremony was held on Friday morning, March 20, at the Visalia Riverway Sports Park for the project kick-off to the much anticipated second phase of the project.

The Riverway Sports Park, located on North Dinuba Boulevard, is an 83 acre parcel which first opened to the public on August 25, 2007.

The initial phase of the sports complex included 46 acres of development featuring 10 regulation sized soccer fields (three are lighted); three large group picnic areas; two restroom/concession facilities; two playgrounds; an interactive water feature; parking improvements; and a host of other general park amenities.

The soccer complex receives tremendous use by both adult and youth soccer players. The youth orientated AYSO soccer program alone has over 1,500 participants in the program. The three picnic areas continue to be very popular on weekends and Holidays, with over 200 reservations made to use these facilities during the 2009 calendar year.

Phase II of the park, roughly 12 acres, will be devoted primarily to providing youth baseball fields to meet the growing demand by youth sports groups for more competitive playing fields in the community. The next phase will feature a new lighted four field baseball complex that can accommodate local, regional, and state tournament play.

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.

The proposed fields will meet playing specifications as provided by both Cal Ripken Youth Baseball and Visalia Little League. Aside from play during the spring by these organizations, the fields can also be utilized for less competitive programs and other user groups during the summer and fall seasons as well.

Phase II will also include additional concession and restroom facilities; the lighting of two more soccer fields (which means a total of five fields will now be lighted all along the southern boundary of the park); the lighting of the BMX facility; and additional parking lot and roadway improvements.

The Grand Opening for Phase II of the park is expected to be in February or March, 2010, just in time for the new youth baseball season. After many months of negotiations, City staff will be proposing the approval of facility use agreements for both Cal Ripken and Little League National at tonight's City Council meeting. These two entities will be the primary users of the facility during the spring months. It is anticipated that over 1,500 youth baseball players will be served by the facility.

Earlier in the year (January 2009), the Council awarded a contract to Applegate-Johnston Inc. of Modesto to build Phase II of the sports park for the bid amount of \$3,157,411.00. The City received 13 proposals for the contract, in a highly competitive bid environment. The funding to build the park comes from park developer impact fees and long accumulated general fund reserves earmarked for this community project.

Prior City Council Actions:

Committee/Commission Review and Actions:

Attachments:

Recommended Motion (and Alternative Motions if expected):

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Update on the
Visalia Riverway Sports Park
Phase II

Presented To
Visalia City Council

November 16, 2009

A stylized, layered mountain range graphic in shades of teal and blue, located in the bottom right corner of the slide.

Visalia Riverway Sports Park Phase II – 4 Youth Baseball Fields

Plan Legend

- A. Lighted BMX Track
- B. Lighted Soccer Field (210' x 930')
- C. Lighted Softball Diamond Complex
- D. Lighted Youth Baseball Diamond Complex
- E. Accessible Creative Play
- F. Interactive Children's Water Feature
- G. Community Center / Gym
- H. Events Courtyard
- I. Group Picnic Area
- J. Multi-Use Open Space
- K. Informal Picnic Area
- L. Multi-Use Path with Security Lighting
- M. Future Connection to St. John's River Parkway
- N. Park Entry Monumentation and Signage
- O. Park Access Road
- P. Plaza Drop Off
- Q. Parking
- R. Concession / Storage / Restroom Building
- S. Maintenance Facility
- T. Public Transit Stop



Riverway Sports Park – Phase II



Visalia Riverway Sports Park Project Design, Mgt. & Construction

- ◆ HLA Group, Sacramento, CA.
 - ◆ Swinerton Mgt., Fresno, CA
 - ◆ Applegate-Johnston Inc., Modesto, CA
 - ◆ City Parks & Recreation Staff: Don Stone
- 

Riverway Sports Park Phase II

Groundbreaking: March 20, 2009



Riverway Sports Park Phase II

Groundbreaking: Cal Ripken & Little League



Riverway Sports Park Phase II

Early Construction: Grading & Utilities



Riverway Sports Park Phase II

New Parking Facilities



Riverway Sports Park Phase II

Concession Stand/Restrooms



Riverway Sports Park Phase II

Concession Stand/Restrooms



Riverway Sports Park Phase II

Main Entrance & Courtyard



Riverway Sports Park Phase II

Dugouts, Spectator Seating, & Bullpens



Riverway Sports Park Phase II

Dugouts, Spectator Seating, & Bullpens



Riverway Sports Park Phase II

Warm-Up Areas & Playing Fields



Riverway Sports Park Phase II

Bullpen Area



Riverway Sports Park Phase II

Playing Field & Warm-Up Area



Riverway Sports Park Phase II

Backstops, Fencing & Turf



Riverway Sports Park Phase II

Open Space Areas



Riverway Sports Park Phase II

Open Space Areas



Riverway Sports Park Phase II 2 New Soccer Fields With Lights



Riverway Sports Park Phase II

New Lights For The BMX Park



Visalia Riverway Sports Park

Phase II – 4 Youth Baseball Fields

- ◆ Phase II budget is \$4.8 million; 12 acres
- ◆ Status: 90% Complete; Dec. 1
- ◆ Bid & Council Award: January 20, 2009
- ◆ Grand Opening: Spring 2010 (Feb or Mar)

City Council Consent Agenda

November 16, 2009

- ◆ Approve 5 Year Facility Use Agreement with Cal Ripken Youth Baseball To Utilize the Visalia Riverway Sports Park
 - ◆ Approve 5 Year Facility Use Agreement with Little League National Baseball To Utilize the Visalia Riverway Sports Park
- 

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 16, 2009

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

Agenda Item Wording: Authorize the City Manager to enter into a five (5) year agreement with Visalia Youth Baseball for the use of Riverway Sports Park Baseball Complex for the purpose of youth baseball.

Deadline for Action:

Submitting Department: Parks & Recreation

Contact Name and Phone Number:

Jeannie Greenwood, Recreation Manager (559) 713-4042

Department Recommendation: City Staff recommends that the City Council authorize the City Manager to enter into a five (5) year agreement with Visalia Youth Baseball for the use of Riverway Sports Park Baseball Complex for the purpose of youth baseball.

Summary Information:

Visalia Youth Baseball has been providing youth baseball in Visalia for twelve (12) years. Currently, Visalia Youth Baseball utilizes baseball facilities located at Linwood School. The current operation at the school site causes a great amount of congestion to the residential area surrounding the school. As the largest youth baseball program in Visalia with over 900 participants, Visalia Youth Baseball is in need of a larger facility space to operate.

Riverway Sports Park Phase II will create four (4) lighted youth baseball diamonds with restroom and concession facilities. The new baseball complex is expected to open in the spring of 2010. City staff has been working with representatives from Visalia Youth Baseball and Little League National to bring the two local organizations into the new complex.

The attached agreement is the product of negotiations between City staff and Visalia Youth Baseball. This agreement will allow Visalia Youth Baseball to utilize all four fields and the concession facility at Riverway Sports Park on Mondays, Wednesdays, Thursdays, Saturdays and Sundays for the purpose of regular season play. It also grants the designation of field #1 as Visalia Youth Baseball's "Home Field". The agreement further grants use for tournament play and a fall baseball league. In addition to the use of the baseball complex, Visalia Youth

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.

Baseball is requesting use of one (1) soccer field where portable backstops can be placed for younger division play.

As this will be a shared use facility, City staff has worked with both Visalia Youth Baseball and Little League National to coordinate use. This agreement represents a split schedule with Visalia Youth Baseball utilizing the facility five (5) days per week and Little League National utilizing the additional two (2) days. Each organization will assist in the maintenance of the facility and the concession stand has been designed to allow for separate storage and equipment for each organization. Both organizations have been flexible during negotiations and understand the need for continued cooperation and communication related to sharing the facility. It will be City staff's role to continue this cooperative relationship with and between users and mediate if needed.

In exchange for the above referenced use, Visalia Youth Baseball shall pay the City an annual maintenance fee of \$2,500 per year. Visalia Youth Baseball realizes that it is in the best interest of their organization as well as the City's to have nice, well maintained facilities. With this in mind, Visalia Youth Baseball has also agreed to provide in-kind improvements to the facility in an amount equal to \$3,000 per year. For the first year of this agreement, this contribution will be made by providing three (3) scoreboards for the facility. Visalia Youth Baseball will work with City staff to determine future improvements.

Maintenance of the facility will be shared between the City and Visalia Youth Baseball. The City will be responsible for regular grounds maintenance, including maintenance of the irrigation system, mowing the outfields, fertilization and weed and rodent control. Visalia Youth Baseball shall be responsible for the maintenance and grooming of the infields.

The term of the agreement is for five (5) years with an additional five (5) year option. This represents the first ten (10) years of a long relationship with Visalia Youth Baseball at Riverway Sports Park.

Prior Council/Board Actions:

Committee/Commission Review and Actions: Approved for submittal to Council by the Parks and Recreation Commission on October 20, 2009.

Alternatives:

Attachments: Proposed agreement.

Recommended Motion (and Alternative Motions if expected):
That the City Council authorize the City Manager to enter into a five (5) year agreement with Visalia Youth Baseball for the use of Riverway Sports Park Baseball Complex for the purpose of youth baseball.

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:

FACILITY USE AGREEMENT

Visalia Youth Baseball (VYB) / City of Visalia

Riverway Sports Park Youth Baseball Complex

THIS FACILITY USE AGREEMENT made and entered into as of the _____ of _____ 2009, by and between the CITY OF VISALIA, a Municipal Corporation, hereinafter referred to as “CITY” and VISALIA YOUTH BASEBALL, hereinafter referred to as “VYB”;

WITNESSETH:

For and in consideration of the covenants and agreements hereinafter contained on the part of VYB to be kept and performed, and in consideration of the field maintenance costs to be paid to CITY as hereinafter set forth, CITY hereby lets, leases and demises to VYB, and VYB hereby hires and takes from CITY, a portion of that certain real property situated in the City of Visalia, County of Tulare, State of California, commonly known as Visalia Riverway Sports Park, including the use of four (4) baseball fields and the shared use of the concession stand and restroom facilities as identified in Attachment A.

1. TERM

The term of this FACILITY USE AGREEMENT is 5 years, commencing on the first Saturday in February 2010 and ending on the fourth Saturday in June 2014.

2. OPTION

The parties may, by mutual agreement in writing, extend this FACILITY USE AGREEMENT for one successive term of five (5) years upon the same terms and conditions which are set forth herein for the original term of this FACILITY USE AGREEMENT, excepting there from, the annual field maintenance fees which shall be subject to renegotiation. If VYB desires to so extend this FACILITY USE AGREEMENT, it shall give CITY written notice not later than ninety (90) days prior to the expiration of the term of this FACILITY USE AGREEMENT.

3. FIELD MAINTENANCE COSTS

VYB shall pay CITY an annual field maintenance fee of \$2,500 per year all due and payable on or before the 1st day of April of each year during the term of the FACILITY USE

AGREEMENT. In addition to said annual maintenance fee, VYB shall provide in-kind improvements to the baseball fields, concession stand, or general baseball park area on an annual basis in an amount equal to \$3,000 per year. In the 1st year, VYB will be providing 3 scoreboards which are an in-kind value of \$_____. In years 2 through 5 of this agreement, VYB shall provide \$3,000 of in-kind improvements, subject to the approval of the CITY, and shall provide an itemized listing of said improvements including all materials costs and labor rates. Said improvements shall be completed in accordance with paragraph 12 of this FACILITY USE AGREEMENT.

4. USE

For the first year of this FACILITY USE AGREEMENT, VYB shall have use of four (4) lighted baseball diamonds, on Mondays, Wednesdays and Thursdays from 3:00 p.m. until 10:00 p.m. and on Saturdays and Sundays from 8:00 am. until 10:00 p.m. VYB shall have use of the facilities the first three Saturdays in February of each year for the purpose of tryouts. The above days and times of use shall be in effect during regular season league play. Regular season play shall begin the first week in March and commence the fourth week in May. For use in years two through five of this agreement, VYB shall submit a schedule of proposed use by December 31 of each year. CITY guarantees that VYB shall be given, at minimum, the same number of days in subsequent years. CITY also agrees that VYB shall have exclusive use of the premises for three tournaments per year for post season play, providing six-month written notice is provided to the CITY. CITY agrees that VYB will have exclusive use of the ball fields on Sundays during the months of September and October from 9:00 am-10:00 pm for their fall ball program. VYB will need to submit a facility use permit for soccer fields rentals during their league or tournament play. VYB acknowledges that the CITY or a CITY authorized user may use the premises during the FACILITY USE term, on those dates and times that VYB is not using the premises.

VYB shall, when reasonable accommodations can be made, permit the CITY to use any portion or area of the premises not being used by VYB on days when VYB's baseball teams have games scheduled, provided that said use by CITY does not conflict with VYB's use of said premises.

CITY acknowledges and permits, without revocation, the right for VYB to charge "gate" or admission to the facility for the purpose of post season tournament play only. VYB acknowledges that there will not be any "gate" or admission charge for regular season play or

any charges for parking.

Should additional days become available at the Baseball Complex, VYB shall be given priority above other potential users to gain use of those additional days under the same terms and conditions set forth in this FACILITY USE AGREEMENT.

CITY shall have the right of access to the subject premises at all times. VYB agrees to use the premises and property which are the subject of this FACILITY USE AGREEMENT, exclusively in connection with the operation of the Visalia Youth Baseball league and its related activities.

The CITY reserves the right to cancel any scheduled use by VYB in the case of excessive rain before or during a scheduled event. The City has a vested interest in protecting the park turf from damage and protecting the public interest by preventing any potential injuries related to excessive moisture on the park grounds. Representatives from the City and VYB will meet prior to an event, if feasible, to assess the conditions of the park and determine what can be done to protect the turf and/or public interest. The final decision to cancel an event will be determined by the City's Director of Parks & Recreation or his/her designee.

5. CONCESSION STAND

VYB is exclusively responsible for the operation of the concession stand and for the direction and control of all volunteers and/or employees employed in such concession operations during VYB's designated and agreed upon times to operate at the facility. VYB will be responsible for all direct utility costs associated with operating the concession stand. VYB acknowledges that other entities will be utilizing said facility during times NOT designated for VYB, and that accommodations have been arranged for so that inventory items can be stored and locked during unused times. Both VYB and CITY shall ensure that the concession stand is left clean and in good repair after each use. In the operation of said concession stand, VYB shall comply with all applicable permits and requirements set forth by the Tulare County Health and Human Services Agency. The electrical expense of the concession stand shall bear a pro-rata responsibility with other entities utilizing the facility. As VYB has requested to operate the concession stand five (5) of seven (7) days during the season, and whereas the concession stand will generate costs year-round related to maintaining refrigeration units and other such equipment, VYB shall reimburse CITY seventy five (75) percent of the direct electrical cost for each month of the year. CITY will invoice VYB quarterly for this expense with payments due within thirty (30) days of

invoice. The CITY shall not be responsible for damage and/or theft of personal property of VYB.

6. RESTROOMS

CITY shall be responsible for routine and ordinary cleaning and stocking the restrooms for each day of scheduled use. For the purpose of this agreement, routine and ordinary cleaning shall consist of one service per day. If restrooms need additional servicing beyond the once per day provided by City, VYB shall be responsible for re-stocking and cleaning the restrooms (including supplies).

7. INSTALLATION OF SIGNS AND/OR BANNERS

During the term of this AGREEMENT, VYB shall have the following rights in regard to installation and removal of signs and/or banners:

Signs and/or banners must be placed upon designated areas only and must face the interior of the premises only. No signage shall be allowed to be displayed facing the Sports Park or Riverway Drive. Any sign and/or banner installed, operated and maintained by VYB will be VYB's total financial responsibility. Prior to installation of any signs and/or banners, VYB shall obtain the written approval of the CITY as to the banner size, design and location. Banners may be displayed seasonally and must be removed at the end of each year's lease dates. VYB shall obtain any and all necessary permits from the City Planning Division in compliance with the City of Visalia Municipal Code Chapter 17.84 sections 17.48.010 et seq.

8. UTILITIES:

VYB will be responsible for the direct cost of ball field lights for the purpose of its baseball league, events or programs. VYB's ball field light use will be calculated and VYB will be charged a proportional share of the utility cost. CITY shall bill VYB quarterly for such use; payments must be received within 30 days of invoice. VYB shall provide refuse service, at their own expense, during their months of use.

9. STORAGE:

VYB shall be allowed to maintain storage/maintenance containers (sea train) subject to CITY approval in an area designated by CITY for such use. Containers may not to exceed 20'x8' and

must comply with CITY standards as to size, location, maintenance/condition and color of such storage container(s). The City is not responsible for damage and/or theft to VYB property while stored at the facility.

10. VYB MAINTENANCE

VYB shall assume responsibility for all maintenance, damage, repair and upkeep of the aforementioned premises during VYB use, excepting CITY's maintenance and upkeep as set forth in paragraph 11, page 5. VYB agrees to immediately notify CITY (within 48 hours) of any damage to the premises including such items as the concession stand or restroom, fixtures, equipment, grounds, landscaping, sprinklers and irrigation, so that CITY may determine whose responsibility it is to repair or replace and determine the manner in which the repair or replacement is to be completed. Furthermore, CITY shall have sole discretion in determining whether the damage or destruction mentioned above resulted from or in connection with VYB. Preparation of playing fields (field lines, bases, etc.) prior to games will also be the responsibility of VYB. Throughout the FACILITY USE term, VYB shall agree to maintain its personal property (portable equipment, storage units, etc.) in a manner agreeable to CITY. VYB shall be responsible for picking up and disposing of trash and litter after each use. This shall include all areas within the baseball complex, including spectator areas, bleachers, dugouts and restrooms. VYB shall also be responsible for any repair or maintenance resulting from vandalism and/or graffiti during the baseball season on equipment or structures that are owned by VYB. Said graffiti removal shall be completed in accordance with the current Ordinance governing graffiti removal in the City of Visalia.

11. GROUNDS MAINTENANCE

CITY shall be responsible for regular grounds maintenance, including maintenance of the irrigation system, regular (once per week) mowing of the outfields and fertilizing, spraying for weeds, and gopher/rodent control, throughout the calendar year. CITY shall also be responsible for major structural repairs and/or capital improvements to the premises which are the subject of this FACILITY USE AGREEMENT. CITY shall have the sole discretion of determining what constitutes major structural and/or capital improvements. CITY further agrees to be responsible for the damages and/or repairs caused by organizations, groups and/or special events held on the premises and scheduled by the City of Visalia. VYB will be responsible for the mowing,

detailed trimming and grooming of the four infield areas throughout the calendar year.

12. IMPROVEMENTS

As set forth in paragraph 3, VYB shall have the opportunity to make certain improvements to the premises and property which is the subject of this FACILITY USE AGREEMENT, provided that VYB obtains the prior written approval of CITY for any such improvements. Said improvement requests shall be submitted in writing with detailed plans and specifications. All improvements remain subject to approval by the CITY, and, once completed, VYB shall provide an itemized listing of said improvements including all materials costs and labor rates. Upon the expiration of this FACILITY USE AGREEMENT, and any extension thereof, all such improvements shall automatically revert to CITY's ownership. Should the CITY elect to require VYB to remove said improvements, VYB shall do so and return the property to its original condition, allowing for reasonable and normal wear.

13. SECURITY

VYB shall provide security and supervision at all scheduled activities, including crowd control, at a level satisfactory to CITY, sufficient to insure adequate protection of the premises which are the subject of this FACILITY USE AGREEMENT. This shall include the presence of VYB Board Members while games are in progress.

14. ASSIGNMENT

VYB shall not assign, mortgage, sublet or otherwise transfer any interest in this FACILITY USE AGREEMENT to any person, firm or corporation during the term of this FACILITY USE AGREEMENT or any extension thereof without the written consent of CITY first had and obtained.

15. INDEMNIFICATION:

VYB hereby agrees to and shall defend, protect, indemnify, and hold harmless the CITY and all officers, agents, representatives, and employees thereof from any and all liability, claims, or damages of whatsoever kind or character, including attorneys fees and costs of all types incurred in defense of any of the said parties from said claims or liability, because of or arising out of, directly or indirectly, the acts or omissions of VYB, VYB'S independent contractors, employees, representatives, agents, and invitees, and the passive or active negligent acts or

omissions of the CITY or its officers, agents, representatives, and employees while acting within the scope of their duties regarding work to be performed pursuant to this Lease. Said indemnification and hold harmless provisions shall be in full force and effect regardless of whether or not there shall be insurance policies covering and applicable to such damages, claims, or liability. This FACILITY USE AGREEMENT shall be binding upon VYB whether or not there are any allegations of fault negligence or liability of the indemnities hereunder.

16. INSURANCE REQUIREMENTS:

It is further understood and agreed that VYB shall secure and maintain during the term of this FACILITY USE AGREEMENT, and any renewal thereof, a policy of commercial general liability and property damage insurance, naming the CITY as co-insured, with a single combined liability limit of \$1,000,000.00, and property damage limits of not less than \$1,000,000.00, insuring against all liability of VYB and its authorized representatives arising out of and in connection with VYB's use or occupancy of the premises. All general liability insurance and property damage insurance shall insure performance by VYB of the indemnity provisions of paragraph 15. CITY shall be named as additional insureds, and the policy shall contain cross liability endorsements, and an endorsement requiring 30 days written notice from the insurance company to all parties before cancellation or change in the coverage, scope or amount of any policy. Such policy, or a certificate of the policy, together with evidence of payment of premiums, shall be delivered to CITY at the commencement of the term, and on renewal of the policy not less than 30 days before expiration of the term of the policy. VYB, at its own cost, shall be responsible for maintaining a policy of insurance covering its personal property located on the premises. Also throughout the FACILITY USE term, at any time VYB employs any person(s), VYB shall, at VYB's sole cost and expense, keep or cause to be kept in force workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than \$1,000,000.00 per accident.

17. DISCRIMINATION

VYB for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person on the grounds of race, color, sex, handicap, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said premises.

18. TERMINATION

In addition to any other provision in this FACILITY USE AGREEMENT, this FACILITY USE may be canceled or terminated upon the following:

- A. This FACILITY USE AGREEMENT and the tenancy hereby granted may be terminated or canceled at any time by either party hereto by giving to the other party not less than one year prior written notice, provided said one year notice is given between September and March of any year of this FACILITY USE.
- B. This FACILITY USE AGREEMENT shall terminate automatically if either party hereto fails to remedy any breach or any term or condition of this FACILITY USE AGREEMENT within sixty (60) days after receiving written demand from the other party to do so. If however, either party is diligently proceeding in good faith to eliminate such default, then the period for correction shall be extended for such length of time as is reasonably necessary to complete such correction.
- C. VYB agrees at the end of the FACILITY USE term or in the event of an early termination, as provided for herein, to quit and deliver up said premises in as good condition as they are now, ordinary wear and tear excepted.

19. QUIET ENJOYMENT

CITY does hereby covenant and agree that upon the performance of all covenants by VYB as herein provided, VYB shall peaceably and quietly hold and enjoy said premises during the term of this FACILITY USE AGREEMENT and any extension thereof except as otherwise provided hereupon the termination of this FACILITY USE AGREEMENT or any extension thereof.

20. AMENDMENT

This FACILITY USE AGREEMENT may be amended at any time by mutual agreement of the parties in writing.

21. NOTICE

All notices to be given by VYB pursuant to this FACILITY USE AGREEMENT shall be mailed to City of Visalia, Parks & Recreation Department, 345 North Jacob Street, Visalia California

93291; and all notices to be given to VYB pursuant to this FACILITY USE AGREEMENT shall be mailed to VYB c/o VYB League President, at PO Box 8064, Visalia, CA 93290-8064. For the purpose of this FACILITY USE, VYB shall designate one point of contact with which the CITY shall coordinate the use of fields, maintenance concerns and other communications. This representative or a designee in his /her absence will be the only authorized agent of VYB to coordinate use throughout each season.

22. ENTIRE AGREEMENT

This FACILITY USE contains the entire AGREEMENT between the parties. No promise, representation, warranty, or covenant not included in this FACILITY USE has been or is relied on by either party. Each party has relied on his/her own examination of this FACILITY USE, counsel of its own advisors, and warranties, or representations, or covenants in the FACILITY USE itself. The failure or refusal of either party to inspect the premises or improvements, to read the FACILITY USE or other documents, or to obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such reading, inspection, or advice.

IN -WITNESS WHEREOF, the parties have executed this FACILITY USE AGREEMENT as of the date first above written.

VISALIA YOUTH BASEBALL

CITY OF VISALIA

VYB Board President Date

Steve Salomon, City Manger Date

ATTEST

APPROVED AS TO FORM:

VYB Board Member Date

City Attorney Date

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 16, 2009

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

Agenda Item Wording: Authorize the City Manager to enter into a five (5) year agreement with Visalia Little League National for the use of Riverway Sports Park Baseball Complex for the purpose of youth baseball.

Deadline for Action:

Submitting Department: Parks & Recreation

Contact Name and Phone Number:

Jeannie Greenwood, Recreation Manager (559) 713-4042

Department Recommendation: City Staff recommends that the City Council authorize the City Manager to enter into a five (5) year agreement with Visalia Youth Baseball for the use of Riverway Sports Park Baseball Complex for the purpose of youth baseball.

Summary Information:

Visalia Little League National has been providing youth baseball in Visalia since 1970. Currently, the Little League National program utilizes baseball facilities located at Green Acres School and has 600 participants.

Riverway Sports Park Phase II will create four (4) lighted youth baseball diamonds with restroom and concession facilities. The new baseball complex is expected to open in the spring of 2010. City staff has been working with representatives from Visalia Little League National and Visalia Youth Baseball to bring the two local organizations into the new complex.

The attached agreement is the product of negotiations between City staff and Visalia Little League National. This agreement will allow Visalia Little League National to utilize all four fields and the concession facility at Riverway Sports Park on Tuesdays and Fridays for the purpose of regular season play. The agreement further grants use of two weekends per year for tournament play.

As this will be a shared use facility, City staff has worked with both Visalia Little League National and Visalia Youth Baseball to coordinate use. This agreement represents a split schedule with Visalia Youth Baseball utilizing the facility five (5) days per week and Little League National

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.

utilizing the additional two (2) days. Each organization will assist in the maintenance of the facility and the concession stand has been designed to allow for separate storage and equipment for each organization. Both organizations have been flexible during negotiations and understand the need for continued cooperation and communication related to sharing the facility. It will be City staff's role to continue this cooperative relationship with and between users and mediate if needed.

In exchange for the above referenced use, Visalia Little League National shall pay the City an annual maintenance fee of \$500 for the first year and \$1,000 per year after. Visalia Little League National realizes that it is in the best interest of their organization as well as the City's to have nice, well maintained facilities. With this in mind, Visalia Little League National has also agreed to provide in-kind improvements to the facility in an amount equal to \$1,500 per year. For the first year of this agreement, this contribution will be made by providing one (1) scoreboard for the facility. Visalia Little League National will work with City staff to determine future improvements.

Maintenance of the facility will be shared between the City and Visalia Little League National. The City will be responsible for regular grounds maintenance, including maintenance of the irrigation system, mowing the outfields, fertilization and weed and rodent control. Visalia Little League National shall be responsible for the maintenance and grooming of the infields during their use.

The term of the agreement is for five (5) years with an additional five (5) year option. This represents the first ten (10) years of a long relationship with Visalia Little League National at Riverway Sports Park.

Prior Council/Board Actions:

Committee/Commission Review and Actions: Approved for submittal to Council by the Parks and Recreation Commission on October 20, 2009.

Alternatives:

Attachments: Proposed agreement.

Recommended Motion (and Alternative Motions if expected):

That the City Council authorize the City Manager to enter into a five (5) year agreement with Visalia Little League National for the use of Riverway Sports Park Baseball Complex for the purpose of youth baseball.

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:

FACILITY USE AGREEMENT

Visalia Little League National (VLLN) / City of Visalia

Riverway Sports Park Youth Baseball Complex

THIS FACILITY USE AGREEMENT made and entered into as of the ____ of _____ 2009, by and between the CITY OF VISALIA, a Municipal Corporation, hereinafter referred to as “CITY” and VISALIA LITTL LEAGUE NATIONAL, hereinafter referred to as “VLLN”;

WITNESSETH:

For and in consideration of the covenants and agreements hereinafter contained on the part of VLLN to be kept and performed, and in consideration of the field maintenance costs to be paid to CITY as hereinafter set forth, CITY hereby lets, leases and demises to VLLN, and VLLN hereby hires and takes from CITY, a portion of that certain real property situated in the City of Visalia, County of Tulare, State of California, commonly known as Visalia Riverway Sports Park, including the use of four (4) baseball fields and the shared use of the concession stand and restroom facilities as identified in Attachment A.

1. TERM

The term of this FACILITY USE AGREEMENT is 5 years, commencing on the first Tuesday in March 2010 and ending on the fourth Saturday in June 2014.

2. OPTION

The parties may, by mutual agreement in writing, extend this FACILITY USE AGREEMENT for one successive term of five (5) years upon the same terms and conditions which are set forth herein for the original term of this FACILITY USE AGREEMENT, excepting there from, the annual field maintenance fees which shall be subject to renegotiation. If VLLN desires to so extend this FACILITY USE AGREEMENT, it shall give CITY written notice not later than

ninety (90) days prior to the expiration of the term of this FACILITY USE AGREEMENT.

3. FIELD MAINTENANCE COSTS

VLLN shall pay CITY an annual field maintenance fee of \$500.00 the first year and \$1,000.00 years 2 through 5 per year all due and payable on or before the 1st day of April of each year during the term of the FACILITY USE AGREEMENT. In addition to said annual maintenance fee, VLLN shall provide in-kind improvements to the baseball fields, concession stand, or general baseball park area on an annual basis in an amount equal to \$1,500 per year. In the 1st year, VYB will be providing 1 scoreboards which are an in-kind value of \$_____. In years 2 through 5 of this agreement, VYB shall provide \$1,500 of in-kind improvements, subject to the approval of the CITY, and shall provide an itemized listing of said improvements including all materials costs and labor rates. Said improvements shall be completed in accordance with paragraph 12 of this FACILITY USE AGREEMENT.

4. USE

For the first year of this FACILITY USE AGREEMENT, VLLN shall have use of four (4) lighted baseball diamonds, on Tuesdays, and Fridays from 3:00 p.m. until 10:00 p.m. The above days and times of use shall be in effect during regular season league play. Regular season play shall begin the first week in March and commence the fourth week in May. For use in years two through five of this agreement, VLLN shall submit a schedule of proposed use by December 31 of each year. CITY guarantees that VLLN shall be given, at minimum, the same number of days in subsequent years. CITY also agrees that VLLN shall have exclusive use of the premises for two weekends per year for tournament play, providing six-month written notice is provided to the CITY. VLLN acknowledges that the CITY or a CITY authorized user may use the premises during the FACILITY USE term, on those dates and times that VLLN is not using the premises.

VLLN shall, when reasonable accommodations can be made, permit the CITY to use any portion or area of the premises not being used by VLLN on days when VLLN's baseball teams have games scheduled, provided that said use by CITY does not conflict with VLLN's use of said premises.

CITY acknowledges and permits, without revocation, the right for VLLN to charge “gate” or admission to the facility for the purpose of post season tournament play only. VLLN acknowledges that there will not be any “gate” or admission charge for regular season play or any charges for parking.

CITY shall have the right of access to the subject premises at all times. VLLN agrees to use the premises and property which are the subject of this FACILITY USE AGREEMENT, exclusively in connection with the operation of the Visalia Little League National and its related activities.

The CITY reserves the right to cancel any scheduled use by VLLN in the case of excessive rain before or during a scheduled event. The City has a vested interest in protecting the park turf from damage and protecting the public interest by preventing any potential injuries related to excessive moisture on the park grounds. Representatives from the City and VLLN will meet prior to an event, if feasible, to assess the conditions of the park and determine what can be done to protect the turf and/or public interest. The final decision to cancel an event will be determined by the City’s Director of Parks & Recreation or his/her designee.

5. CONCESSION STAND

VLLN is exclusively responsible for the operation of the concession stand and for the direction and control of all volunteers and/or employees employed in such concession operations during VLLN’s designated and agreed upon times to operate at the facility. VLLN will be responsible for all direct utility costs associated with operating the concession stand. VLLN acknowledges that other entities will be utilizing said facility during times NOT designated for VLLN, and that accommodations have been arranged for so that inventory items can be stored and locked during unused times. Both VLLN and CITY shall ensure that the concession stand is left clean and in good repair after each use. In the operation of said concession stand, VLLN shall comply with all applicable permits and requirements set forth by the Tulare County Health and Human Services Agency. The electrical expense of the concession stand shall bear a pro-rata responsibility with other entities utilizing the facility. As VLLN has requested to operate the concession stand five (2) of seven (7) days during the season, and whereas the concession stand will generate costs year-round related to maintaining refrigeration units and other such

equipment, VLLN shall reimburse CITY seventy five (25) percent of the direct electrical cost for each month of the year. CITY will invoice VLLN quarterly for this expense with payments due within thirty (30) days of invoice. The CITY shall not be responsible for damage and/or theft of personal property of VLLN.

6. RESTROOMS

CITY shall be responsible for routine and ordinary cleaning and stocking the restrooms for each day of scheduled use. For the purpose of this agreement, routine and ordinary cleaning shall consist of one service per day. If restrooms need additional servicing beyond the once per day provided by City, VLLN shall be responsible for re-stocking and cleaning the restrooms (including supplies).

7. INSTALLATION OF SIGNS AND/OR BANNERS

During the term of this FACILITY USE AGREEMENT, VLLN shall have the following rights in regard to installation and removal of signs and/or banners:

Signs and/or banners must be placed upon designated areas only and must face the interior of the premises only. No signage shall be allowed to be displayed facing the Sports Park or Riverway Drive. Any sign and/or banner installed, operated and maintained by VLLN will be VLLN's total financial responsibility. Prior to installation of any signs and/or banners, VLLN shall obtain the written approval of the CITY as to the banner size, design and location. Banners may be displayed seasonally and must be removed at the end of each year's lease dates. VLLN shall obtain any and all necessary permits from the City Planning Division in compliance with the City of Visalia Municipal Code Chapter 17.84 sections 17.48.010 et seq.

8. UTILITIES:

VLLN will be responsible for the direct cost of ball field lights for the purpose of its baseball league, events or programs. VLLN's ball field light use will be calculated and VLLN will be charged a proportional share of the utility cost. CITY shall bill VLLN quarterly for such use;

payments must be received within 30 days of invoice. VLLN shall provide refuse service, at their own expense, during their months of use.

9. STORAGE:

VLLN shall be allowed to maintain storage/maintenance containers (sea train) subject to CITY approval in an area designated by CITY for such use. Containers may not to exceed 20'x8' and must comply with CITY standards as to size, location, maintenance/condition and color of such storage container(s). The City is not responsible for damage and/or theft to VLLN property while stored at the facility.

10. VLLN MAINTENANCE

VLLN shall assume responsibility for all maintenance, damage, repair and upkeep of the aforementioned premises during VLLN use, excepting CITY's maintenance and upkeep as set forth in paragraph 11, page 5. VLLN agrees to immediately notify CITY (within 48 hours) of any damage to the premises including such items as the concession stand or restroom, fixtures, equipment, grounds, landscaping, sprinklers and irrigation, so that CITY may determine whose responsibility it is to repair or replace and determine the manner in which the repair or replacement is to be completed. Furthermore, CITY shall have sole discretion in determining whether the damage or destruction mentioned above resulted from or in connection with VLLN. Preparation of playing fields (field lines, bases, etc.) prior to games will also be the responsibility of VLLN. Throughout the FACILITY USE term, VLLN shall agree to maintain its personal property (portable equipment, storage units, etc.) in a manner agreeable to CITY. VLLN shall be responsible for picking up and disposing of trash and litter after each use. This shall include all areas within the baseball complex, including spectator areas, bleachers, dugouts and restrooms. VLLN shall also be responsible for any repair or maintenance resulting from vandalism and/or graffiti during the baseball season on equipment or structures that are owned by VLLN. Said graffiti removal shall be completed in accordance with the current Ordinance governing graffiti removal in the City of Visalia.

11. GROUNDS MAINTENANCE

CITY shall be responsible for regular grounds maintenance, including maintenance of the irrigation system, regular (once per week) mowing of the outfields and fertilizing, **spraying for weeds, and gopher/rodent control**, throughout the calendar year. CITY shall also be responsible for major structural repairs and/or capital improvements to the premises which are the subject of this FACILITY USE AGREEMENT. CITY shall have the sole discretion of determining what constitutes major structural and/or capital improvements. CITY further agrees to be responsible for the damages and/or repairs caused by organizations, groups and/or special events held on the premises and scheduled by the City of Visalia. Visalia Youth Baseball will be responsible for the mowing, detailed trimming and grooming of the four infield areas throughout the calendar year.

12. IMPROVEMENTS

As set forth in paragraph 3, VLLN shall have the opportunity to make certain improvements to the premises and property which is the subject of this FACILITY USE AGREEMENT, provided that VLLN obtains the prior written approval of CITY for any such improvements. Said improvement requests shall be submitted in writing with detailed plans and specifications. All improvements remain subject to approval by the CITY, and, once completed, VLLN shall provide an itemized listing of said improvements including all materials costs and labor rates. Upon the expiration of this FACILITY USE AGREEMENT, and any extension thereof, all such improvements shall automatically revert to CITY's ownership. Should the CITY elect to require VLLN to remove said improvements, VLLN shall do so and return the property to its original condition, allowing for reasonable and normal wear.

13. SECURITY

VLLN shall provide security and supervision at all scheduled activities, including crowd control, at a level satisfactory to CITY, sufficient to insure adequate protection of the premises which are the subject of this FACILITY USE AGREEMENT. This shall include the presence of VLLN Board Members while games are in progress.

14. ASSIGNMENT

VLLN shall not assign, mortgage, sublet or otherwise transfer any interest in this FACILITY USE AGREEMENT to any person, firm or corporation during the term of this FACILITY USE AGREEMENT or any extension thereof without the written consent of CITY first had and obtained.

15. INDEMNIFICATION:

VLLN hereby agrees to and shall defend, protect, indemnify, and hold harmless the CITY and all officers, agents, representatives, and employees thereof from any and all liability, claims, or damages of whatsoever kind or character, including attorneys fees and costs of all types incurred in defense of any of the said parties from said claims or liability, because of or arising out of, directly or indirectly, the acts or omissions of VLLN, VLLN'S independent contractors, employees, representatives, agents, and invitees, and the passive or active negligent acts or omissions of the CITY or its officers, agents, representatives, and employees while acting within the scope of their duties regarding work to be performed pursuant to this Lease. Said indemnification and hold harmless provisions shall be in full force and effect regardless of whether or not there shall be insurance policies covering and applicable to such damages, claims, or liability. This FACILITY USE AGREEMENT shall be binding upon VLLN whether or not there are any allegations of fault negligence or liability of the indemnities hereunder.

16. INSURANCE REQUIREMENTS:

It is further understood and agreed that VLLN shall secure and maintain during the term of this FACILITY USE AGREEMENT, and any renewal thereof, a policy of commercial general liability and property damage insurance, naming the CITY as co-insured, with a single combined liability limit of \$1,000,000.00, and property damage limits of not less than \$1,000,000.00, insuring against all liability of VYB and it's authorized representatives arising out of and in connection with VLLN's use or occupancy of the premises. All general liability insurance and property damage insurance shall insure performance by VLLN of the indemnity provisions of paragraph 15. CITY shall be named as additional insureds, and the policy shall contain cross liability endorsements, and an endorsement requiring 30 days written notice from the insurance company to all parties before cancellation or change in the coverage, scope or amount of any

policy. Such policy, or a certificate of the policy, together with evidence of payment of premiums, shall be delivered to CITY at the commencement of the term, and on renewal of the policy not less than 30 days before expiration of the term of the policy. VLLN, at its own cost, shall be responsible for maintaining a policy of insurance covering its personal property located on the premises. Also throughout the LEASE term, at any time VLLN employs any person(s), VLLN shall, at VLLN's sole cost and expense, keep or cause to be kept in force workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than \$1,000,000.00 per accident.

17. DISCRIMINATION

VLLN for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person on the grounds of race, color, sex, handicap, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said premises.

18. TERMINATION

In addition to any other provision in this FACILITY USE AGREEMENT, this FACILITY USE may be canceled or terminated upon the following:

- A. This FACILITY USE AGREEMENT and the tenancy hereby granted may be terminated or canceled at any time by either party hereto by giving to the other party not less than one year prior written notice, provided said one year notice is given between September and March of any year of this FACILITY USE.
- B. This FACILITY USE AGREEMENT shall terminate automatically if either party hereto fails to remedy any breach or any term or condition of this FACILITY USE AGREEMENT within sixty (60) days after receiving written demand from the other party to do so. If however, either party is diligently proceeding in good faith to eliminate such default, then the period for correction shall be extended for such length of time as is reasonably necessary to complete such correction.

- C. VLLN agrees at the end of the FACILITY USE term or in the event of an early termination, as provided for herein, to quit and deliver up said premises in as good condition as they are now, ordinary wear and tear excepted.

19. QUIET ENJOYMENT

CITY does hereby covenant and agree that upon the performance of all covenants by VLLN as herein provided, VLLN shall peaceably and quietly hold and enjoy said premises during the term of this FACILITY USE AGREEMENT and any extension thereof except as otherwise provided hereupon the termination of this FACILITY USE AGREEMENT or any extension thereof.

20. AMENDMENT

This FACILITY USE AGREEMENT may be amended at any time by mutual agreement of the parties in writing.

21. NOTICE

All notices to be given by VLLN pursuant to this FACILITY USE AGREEMENT shall be mailed to City of Visalia, Parks & Recreation Department, 345 North Jacob Street, Visalia California 93291; and all notices to be given to VLLN pursuant to this FACILITY USE AGREEMENT shall be mailed to VLLN c/o VLLN. _(mailing address)_____ For the purpose of this FACILITY USE , VLLN shall designate one point of contact with which the CITY shall coordinate the use of fields, maintenance concerns and other communications. This representative or a designee in his /her absence will be the only authorized agent of VLLN to coordinate use throughout each season.

22. ENTIRE AGREEMENT

This FACILITY USE contains the entire AGREEMENT between the parties. No promise, representation, warranty, or covenant not included in this FACILITY USE has been or is relied on by either party. Each party has relied on his/her own examination of this FACILITY USE, counsel of its own advisors, and warranties, or representations, or covenants in the FACILITY

USE itself. The failure or refusal of either party to inspect the premises or improvements, to read the FACILITY USE or other documents, or to obtain legal or other advise relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such reading, inspection, or advise.

IN -WITNESS WHEREOF, the parties have executed this FACILITY USE AGREEMENT as of the date first above written.

VISALIA YOUTH BASEBALL

CITY OF VISALIA

VLLN Board President Date

Steve Salomon, City Manger Date

ATTEST

APPROVED AS TO FORM:

VLLN Board Member Date

City Attorney Date

City of Visalia Agenda Item Transmittal

Meeting Date: November 16, 2009

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

Agenda Item Wording: Authorize the City Manager to enter into a five (5) year agreement with Visalia Youth Softball Association for the continued use of Whitendale Park for the purpose of youth softball.

Deadline for Action:

Submitting Department: Parks & Recreation

Contact Name and Phone Number:

Jeannie Greenwood, Recreation Manager (559) 713-4042

Department Recommendation: City Staff recommends that the City Council authorize the City Manager to enter into a new five (5) year agreement with Visalia Youth Softball Association for the use of Whitendale Park for the purpose of youth softball.

Summary/background:

Visalia Youth Softball Association (VYSA) has been playing softball at Whitendale Park for over 30 years. They are the oldest charter member of girl's ASA softball in the Central Valley providing softball for over 450 girls ages 5-16.

The existing fifteen (15) year agreement with VYSA expired earlier this year (April 2009). As this agreement was for such a long term, City staff felt the need to meet with representatives of VYSA to re-negotiate terms and conditions to make them consistent with current agreement standards.

The attached agreement is the product of negotiations between City staff and Visalia Youth Softball Association. This agreement will allow Visalia Youth Softball Association to continue the exclusive use of all four fields and the concession facility at Whitendale Park for the purpose of girls softball play.

For the past 15 years, VYSA has paid \$250 per year in field maintenance fees. As the costs to maintain the facility have increased significantly over the last 15 years, the City has asked VYSA to increase their annual field maintenance contribution. In exchange for the above referenced use, Visalia Youth Softball Association shall pay the City an annual maintenance fee of \$500 for the first year. This amount will increase by \$250 each subsequent year of this

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.

agreement, amounting to a total maintenance fee of \$1,500 in year five of this agreement. Visalia Youth Softball Association realizes that it is in the best interest of their organization as well as the City's to have nice, well maintained facilities. With this in mind, VYSA has also agreed to provide in-kind improvements to the facility in an amount equal to \$2,500 per year. Visalia Youth Softball Association will work with City staff to determine improvements.

Maintenance of the facility will be shared between the City and Visalia Youth Softball Association. The City will be responsible for regular grounds maintenance, including maintenance of the irrigation system, mowing the outfields, fertilization and weed and rodent control. VYSA shall be responsible for the maintenance and grooming of the infields.

The term of the agreement is for five (5) years with an additional five (5) year option. This represents an additional ten (10) years of the City's relationship with Visalia Youth Softball Association at Whitendale Park.

Prior Council/Board Actions:

Committee/Commission Review and Actions: Approved for submittal to Council by the Parks and Recreation Commission on October 20, 2009.

Alternatives:

Attachments: Proposed agreement.

Recommended Motion (and Alternative Motions if expected):

That the City Council authorize the City Manager to enter into a new five (5) year agreement with Visalia Youth Softball Association for the use of Whitendale Park for the purpose of youth softball.

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:

FACILITY USE AGREEMENT

Visalia Youth Softball Association (VYSA) / City of Visalia

Whitendale Park Softball Agreement

THIS LEASE AGREEMENT made and entered into as of the ____ of _____ 2009, by and between the CITY OF VISALIA, a Municipal Corporation, hereinafter referred to as “CITY” and VISALIA YOUTH SOFTBALL ASSOCIATION, hereinafter referred to as “VYSA”;

WITNESSETH:

For and in consideration of the covenants and agreements hereinafter contained on the part of VYSA to be kept and performed, and in consideration of the field maintenance costs to be paid to CITY as hereinafter set forth, CITY hereby lets, leases and demises to VYSA, and VYSA hereby hires and takes from CITY, a portion of that certain real property situated in the City of Visalia, County of Tulare, State of California, commonly known as Whitendale Park, including the use of four (4) Softball fields and restroom facilities as identified in Attachment A.

1. TERM

The term of this LEASE AGREEMENT is 5 years, commencing on the first Saturday in February 2010 and ending on the fourth Saturday in July 2014.

2. OPTION

The parties may, by mutual agreement in writing, extend this FACILITY USE for one successive term of five (5) years upon the same terms and conditions which are set forth herein for the original term of this FACILITY USE AGREEMENT, excepting there from, the annual field maintenance fees which shall be subject to renegotiation. If VYSA desires to so extend this FACILITY USE AGREEMENT, it shall give CITY written notice not later than ninety (90) days prior to the expiration of the term of this FACILITY USE AGREEMENT.

3. FIELD MAINTENANCE COSTS

VYSA shall pay CITY an annual field maintenance fee of \$500 the first year, \$750.00 the second year, \$1,000.00 the third year, \$1,250.00 the fourth year, and \$1,500.00 per year for the fifth year of the agreement. All fees are due and payable on or before the 1st day of April of each year during the term of the FACILITY USE AGREEMENT. In addition to said annual maintenance fee, VYSA shall provide in-kind improvements to the softball fields, or general softball park area on an annual basis in an amount equal to \$2,500 per year. In Kind improvements must be subject to the approval of the CITY, and shall provide an itemized listing of said improvements including all materials costs and labor rates. Said improvements shall be completed in accordance with paragraph 12 of this FACILITY USE AGREEMENT.

4. USE

For the first year of this FACILITY USE AGREEMENT, VYSA shall have use of four (4) softball diamonds, Monday through Friday from 3:00 p.m. until 9:00 p.m. and Saturday and Sunday from 7:00 a.m. -9:00 p.m. The above days and times of use shall be in effect during regular season league play. Regular season play shall begin the first week in March and commence the fourth week in May. For use in years two through five of this agreement, VYSA shall submit a schedule of proposed use by December 31 of each year. CITY guarantees that VYSA shall be given, at minimum, the same number of days in subsequent years. CITY also agrees that VYSA shall have exclusive use of the premises for four weekends per year for tournament play, providing three-month written notice is provided to the CITY. VYSA acknowledges that the CITY or a CITY authorized user may use the premises during the FACILITY USE term, on those dates and times that VYSA is not using the premises.

VYSA shall, when reasonable accommodations can be made, permit the CITY to use any portion or area of the premises not being used by VYSA on days when VYSA's softball teams have games scheduled, provided that said use by CITY does not conflict with VYSA's use of said premises.

CITY acknowledges and permits, without revocation, the right for VYSA to charge "gate" or admission to the facility for the purpose of post season tournament play only. VYSA

acknowledges that there will not be any “gate” or admission charge for regular season play or any charges for parking.

CITY shall have the right of access to the subject premises at all times. VYSA agrees to use the premises and property which are the subject of this FACILITY USE AGREEMENT, exclusively in connection with the operation of the Visalia Youth Softball Association and its related activities.

The CITY reserves the right to cancel any scheduled use by VYSA in the case of excessive rain before or during a scheduled event. The City has a vested interest in protecting the park turf from damage and protecting the public interest by preventing any potential injuries related to excessive moisture on the park grounds. Representatives from the City and VYSA will meet prior to an event, if feasible, to assess the conditions of the park and determine what can be done to protect the turf and/or public interest. The final decision to cancel an event will be determined by the City’s Director of Parks & Recreation or his/her designee.

5. CONCESSION STAND

VYSA is exclusively responsible for the operation of the concession stand and for the direction and control of all volunteers and/or employees employed in such concession operations during VYSA’s designated and agreed upon times to operate at the facility. VYSA will be responsible for all direct utility costs associated with operating the concession stand. VYSA shall comply with all applicable permits and requirements set forth by the Tulare County Health and Human Services Agency. The CITY shall not be responsible for damage and/or theft of personal property of VYSA.

6. RESTROOMS

CITY shall be responsible for routine and ordinary cleaning and stocking the restrooms for each day of scheduled use. For the purpose of this agreement, routine and ordinary cleaning shall consist of one service per day. If restrooms need additional servicing beyond the once per

day provided by City, VYSA shall be responsible for re-stocking and cleaning the restrooms

9. STORAGE:

VYSA shall be allowed to maintain storage/maintenance containers (sea train) subject to CITY approval in an area designated by CITY for such use. Containers may not to exceed 20'x8' and must comply with CITY standards as to size, location, maintenance/condition and color of such storage container(s). The City is not responsible for damage and/or theft to VYSA property while stored at the facility.

10. VYSA MAINTENANCE

VYSA shall assume responsibility for all maintenance, damage, repair and upkeep of the aforementioned premises during VYSA use, excepting CITY's maintenance and upkeep as set forth in paragraph 11, page 5. VYSA agrees to immediately notify CITY (within 48 hours) of any damage to the premises including such items as restroom, fixtures, equipment, grounds, landscaping, sprinklers and irrigation, so that CITY may determine whose responsibility it is to repair or replace and determine the manner in which the repair or replacement is to be completed. Furthermore, CITY shall have sole discretion in determining whether the damage or destruction mentioned above resulted from or in connection with VYSA. Preparation of playing fields (field lines bases, etc.) prior to games will also be the responsibility of VYSA. Throughout the FACILITY USE term, VYSA shall agree to maintain its personal property (portable equipment, storage units, etc.) in a manner agreeable to CITY. VYSA shall be responsible for picking up and disposing of trash and litter after each use. This shall include all areas within the softball complex, including spectator areas, bleachers, dugouts and restrooms. VYSA shall also be responsible for any repair or maintenance resulting from vandalism and/or graffiti during the softball season on equipment or structures that are owned by VYSA. Said graffiti removal shall be completed in accordance with the current Ordinance governing graffiti removal in the City of Visalia.

11. GROUNDS MAINTENANCE

CITY shall be responsible for regular grounds maintenance, including maintenance of the

irrigation system, regular (once per week) mowing of the outfields and fertilizing, spraying for weeds and insects, and gopher/rodent control, throughout the calendar year. CITY shall also be responsible for major structural repairs and/or capital improvements to the premises which are the subject of this FACILITY USE AGREEMENT. CITY shall have the sole discretion of determining what constitutes major structural and/or capital improvements. CITY further agrees to be responsible for the damages and/or repairs caused by organizations, groups and/or special events held on the premises and scheduled by the City of Visalia. Visalia Youth Softball Association will be responsible for the grooming of the four infield areas throughout the calendar year.

12. IMPROVEMENTS

As set forth in paragraph 3, VYSA shall have the opportunity to make certain improvements to the premises and property which is the subject of this FACILITY USE AGREEMENT, provided that VYSA obtains the prior written approval of CITY for any such improvements. Said improvement requests shall be submitted in writing with detailed plans and specifications. All improvements remain subject to approval by the CITY, and, once completed, VYSA shall provide an itemized listing of said improvements including all materials costs and labor rates. Upon the expiration of this FACILITY USE AGREEMENT, and any extension thereof, all such improvements shall automatically revert to CITY's ownership. Should the CITY elect to require VYSA to remove said improvements, VYSA shall do so and return the property to its original condition, allowing for reasonable and normal wear.

13. SECURITY

VYSA shall provide security and supervision at all scheduled activities, including crowd control, at a level satisfactory to CITY, sufficient to insure adequate protection of the premises which are the subject of this FACILITY USE AGREEMENT. This shall include the presence of VYSA Board Members while games are in progress.

14. ASSIGNMENT

VYSA shall not assign, mortgage, sublet or otherwise transfer any interest in this FACILITY

USE AGREEMENT to any person, firm or corporation during the term of this FACILITY USE AGREEMENT or any extension thereof without the written consent of CITY first had and obtained.

15. INDEMNIFICATION:

VYSA hereby agrees to and shall defend, protect, indemnify, and hold harmless the CITY and all officers, agents, representatives, and employees thereof from any and all liability, claims, or damages of whatsoever kind or character, including attorneys fees and costs of all types incurred in defense of any of the said parties from said claims or liability, because of or arising out of, directly or indirectly, the acts or omissions of VYSA, VYSA'S independent contractors, employees, representatives, agents, and invitees, and the passive or active negligent acts or omissions of the CITY or its officers, agents, representatives, and employees while acting within the scope of their duties regarding work to be performed pursuant to this Lease. Said indemnification and hold harmless provisions shall be in full force and effect regardless of whether or not there shall be insurance policies covering and applicable to such damages, claims, or liability. This FACILITY USE AGREEMENT shall be binding upon VYSA whether or not there are any allegations of fault negligence or liability of the indemnities hereunder.

16. INSURANCE REQUIREMENTS:

It is further understood and agreed that VYSA shall secure and maintain during the term of this FACILITY USE AGREEMENT, and any renewal thereof, a policy of commercial general liability and property damage insurance, naming the CITY as co-insured, with a single combined liability limit of \$1,000,000.00, and property damage limits of not less than \$1,000,000.00, insuring against all liability of VYSA and it's authorized representatives arising out of and in connection with VYSA's use or occupancy of the premises. All general liability insurance and property damage insurance shall insure performance by VYSA of the indemnity provisions of paragraph 15. CITY shall be named as additional insureds, and the policy shall contain cross liability endorsements, and an endorsement requiring 30 days written notice from the insurance company to all parties before cancellation or change in the coverage, scope or amount of any policy. Such policy, or a certificate of the policy, together with evidence of payment of premiums,

shall be delivered to CITY at the commencement of the term, and on renewal of the policy not less than 30 days before expiration of the term of the policy. VYSA, at its own cost, shall be responsible for maintaining a policy of insurance covering its personal property located on the premises. Also throughout the FACILITY USE term, at any time VYSA employs any person(s), VYSA shall, at VYSA's sole cost and expense, keep or cause to be kept in force workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than \$1,000,000.00 per accident.

17. DISCRIMINATION

VYSA for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that no person on the grounds of race, color, sex, handicap, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said premises.

18. TERMINATION

In addition to any other provision in this FACILITY USE AGREEMENT, this FACILITY USE may be canceled or terminated upon the following:

- A. This FACILITY USE AGREEMENT and the tenancy hereby granted may be terminated or canceled at any time by either party hereto by giving to the other party not less than one year prior written notice, provided said one year notice is given between September and March of any year of this FACILITY USE.
- B. This FACILITY USE AGREEMENT shall terminate automatically if either party hereto fails to remedy any breach or any term or condition of this FACILITY USE AGREEMENT within sixty (60) days after receiving written demand from the other party to do so. If however, either party is diligently proceeding in good faith to eliminate such default, then the period for correction shall be extended for such length of time as is reasonably necessary to complete such correction.
- C. VGASA agrees at the end of the FACILITY USE term or in the event of an early

termination, as provided for herein, to quit and deliver up said premises in as good condition as they are now, ordinary wear and tear excepted.

19. QUIET ENJOYMENT

CITY does hereby covenant and agree that upon the performance of all covenants by VYSA as herein provided, VYSA shall peaceably and quietly hold and enjoy said premises during the term of this FACILITY USE AGREEMENT and any extension thereof except as otherwise provided hereupon the termination of this FACILITY USE AGREEMENT or any extension thereof.

20. AMENDMENT

This FACILITY USE AGREEMENT may be amended at any time by mutual agreement of the parties in writing.

21. NOTICE

All notices to be given by VYSA pursuant to this FACILITY USE AGREEMENT shall be mailed to City of Visalia, Parks & Recreation Department, 345 North Jacob Street, Visalia California 93291; and all notices to be given to VYSA pursuant to this FACILITY USE AGREEMENT shall be mailed to VYSA c/o VYSA. _(mailing address)_____ For the purpose of this FACILITY USE, VYSA shall designate one point of contact with which the CITY shall coordinate the use of fields, maintenance concerns and other communications. This representative or a designee in his /her absence will be the only authorized agent of VYSA to coordinate use throughout each season.

22. ENTIRE AGREEMENT

This FACILITY USE contains the entire AGREEMENT between the parties. No promise, representation, warranty, or covenant not included in this FACILITY USE has been or is relied on by either party. Each party has relied on his/her own examination of this FACILITY USE, counsel of its own advisors, and warranties, or representations, or covenants in the FACILITY USE itself. The failure or refusal of either party to inspect the premises or improvements, to read

the FACILITY USE or other documents, or to obtain legal or other advise relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on such reading, inspection, or advise.

IN -WITNESS WHEREOF, the parties have executed this FACILITY USE AGREEMENT as of the date first above written.

VISALIA YOUTH BASEBALL

CITY OF VISALIA

VYSA Board President Date

Steve Salomon, City Manger Date

ATTEST

APPROVED AS TO FORM:

VGASA Board Member Date

City Attorney Date

City of Visalia Agenda Item Transmittal

Meeting Date: Nov. 16, 2009

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

Agenda Item Wording: Update on the intent to file by Californians to Protect Local Taxpayers and Vital Services, seeking a signature ballot measure, the Local Taxpayer, Public Safety and Transportation Protection Act, scheduled for the November 2010 statewide ballot.

Deadline for Action: Nov. 16, 2009

Submitting Department: Administration

Contact Name and Phone Number: Nancy Loliva, 713-4535, Michael Olmos, 713-4332.

Department Recommendation: Accept the update on the intent to file by Californians to Protect Local Taxpayers and Vital Services, seeking a signature ballot measure, the Local Taxpayer, Public Safety and Transportation Protection Act, scheduled for the November 2010 statewide ballot.

Summary/background: On Oct. 20, a coalition named Californians to Protect Local Taxpayers and Vital Services, which includes the League of California Cities, local government, transportation and public transit leaders, filed an initiative ballot measure -- called the Local Taxpayer, Public Safety and Transportation Protection Act -- with the California Attorney General's office. The League is working to have this measure placed on the statewide ballot for November 2010. **If passed by the voters, the measure would close loopholes and prevent the State from borrowing, raiding or otherwise redirecting local government (local taxes, property taxes, redevelopment), transportation (HUTA and Prop. 42 funds) and public transit funds.**

More than 300 city officials participated in a summit this summer with over 200 colleagues from the school boards and counties to focus on the need for state governance and fiscal reform. At that summit, participants selected "Local Revenue Protection" as the highest reform priority.

In addition, at the League of California Cities' annual conference last month in San Jose, voting delegates unanimously voted to support the League's co-sponsorship of a ballot measure for November 2010 to tighten protections of city and transportation revenues. The need for this measure comes after the state came dangerously close to stealing \$1 billion in local gas tax

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.

revenues and actually did borrow \$2 billion in local property taxes from local governments, seized billions in redevelopment agency funds and took \$697 million of transit funds.

The ballot measure, filed by the Coalition, would do the following:

Prohibit the State from taking, borrowing or redirecting local taxpayer funds dedicated to public safety, emergency response and other vital local government services (including redevelopment). The measure would close loopholes to prevent the taking of local taxpayer funds currently dedicated to cities, counties and special districts. It would also revoke the State's authority to borrow local government property tax funds or divert local redevelopment funds.

Protect vital, dedicated transportation and public transit funds from state raids. The measure would prevent State borrowing, taking or redirecting of the state sales tax on gasoline (Prop. 42 funds) and Highway User Tax on gasoline (HUTA) funds that are dedicated to transportation maintenance and improvements. It would also prevent the State from redirecting or taking public transit funds.

Filing the measure with the Attorney General's office is the first step to qualify a measure for the November 2010 ballot and secure voter approval. The Coalition will receive the official Title and Summary in late November or early December 2009 and, at that point, can proceed with collecting the approximately 1 million signatures needed to qualify for the November ballot.

With the State continuing to raid and borrow local government, transit and transportation funds, this measure is needed to protect taxpayers and the vital local government and transportation services that support our quality of life and economy.

The Coalition will provide updates to its partners as the process moves forward. If the effort proceeds, a strong grassroots and fundraising effort will be needed. Of critical importance will be to determine whether to support gathering signatures and filing one of the measures based on the strength of interest and commitment to signature gathering and fundraising by city officials.

Staff will periodically update Council on this effort as it progresses.

Prior Council/Board Actions:

Committee/Commission Review and Actions: NA

Alternatives: None recommended.

Recommended Motion (and Alternative Motions if expected): Accept the update on the intent to file by the League of California Cities and Associates, seeking a signature ballot measure, the Local Taxpayer, Public Safety and Transportation Protection Act, scheduled for the November 2010 statewide ballot.

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:



www.savelocalservices.com

Questions & Answers About the Local Taxpayer, Public Safety and Transportation Protection Act

WHAT IS YOUR MEASURE AND WHAT DOES IT PROPOSE TO DO?

The Local Taxpayer, Public Safety and Transportation Protection Act is a constitutional amendment that we are working to place on California's November 2010 statewide ballot. The initiative would stop the State from raiding or borrowing funding for local public safety, transportation, transit and other essential local government services. Specifically, the measure would:

- ✓ **Prohibit the State from taking, borrowing or redirecting local taxpayer funds dedicated to public safety, emergency response and other vital local government services.** The measure would close loopholes to prevent the taking of funds currently dedicated to cities, counties, special districts and redevelopment agencies. It would also end the State's fiscally irresponsible practice of borrowing local government property tax funds.
- ✓ **Protect vital, dedicated transportation and public transit funds from State raids.** The measure would prevent State borrowing, taking or redirecting of the state sales tax on gasoline (Prop 42 funds) and Highway User Tax on gasoline (HUTA) funds that voters have dedicated to transportation maintenance and improvements. It would also prevent the State from redirecting or taking public transit funds.
- ✓ **Protect local taxpayers** by keeping more of our local tax dollars local where there's more accountability to voters, and by ensuring once and for all that our gas taxes go to fund road improvements. The measure also reduces pressure for local tax and fee increases that become necessary when the State redirects local funds.

WHY IS IT NEEDED?

Unfortunately, the State has continued its irresponsible practice of taking and borrowing local taxpayer dollars and dedicated transportation funds. The 2009/10 state budget borrows and takes approximately \$5 billion in city, county, transit, redevelopment and special district funds this year despite the fact that voters have overwhelmingly passed ballot measures to keep local funding at the local level to provide essential local services. This year's raids and previous, ongoing state raids and borrowing jeopardize the services Californians need most, including police, fire and emergency 911 services; local economic development and redevelopment; mass transit like buses and commuter rail; and transportation improvements like road repairs and congestion relief. We need to pass this measure to protect these vital local services from State raids and borrowing.

ISN'T FUNDING FOR LOCAL GOVERNMENT AND TRANSPORTATION ALREADY PROTECTED FROM STATE RAIDS?

California voters have overwhelmingly passed separate measures to prevent the State from raiding local government and transportation funds. However, each and every year the State attempts to take or borrow local government, transportation and transit funding using loopholes, or illegal funding diversions that have only been stopped after expensive and lengthy court battles. This year alone, the Legislature:

- Borrowed approximately \$2 billion in property taxes from local governments, despite no clear path to repay these funds.

- Took \$2.05 billion in local redevelopment funds, despite a recent Superior Court ruling that says these types of raids are unconstitutional.
- Shifted \$910 million in transit funding away from local transit agencies. The courts have since ruled these types of raids are unconstitutional.
- Voted to take more than \$1 billion of the local government share of the Highway User Tax (HUTA) to repay state bond debt (but the measure stalled in Assembly). These are funds that have always been used to finance local road repairs and maintenance.
- Took action to eliminate the state sales tax on gasoline (Prop 42 funds) and HUTA and replace with a gasoline "fee" that would have no constitutional protection from future raids by the legislature (the Governor ultimately vetoed this measure).
- Threatened to borrow Prop 42 transportation funds to address the State's deficit.

Our measure would close loopholes in current law that the legislature has exploited to take or divert local funds. And it would tighten sections of the law to prevent illegal State funding raids of local government and transportation funds before they happen.

WHY DOES YOUR MEASURE PREVENT THE STATE FROM BORROWING LOCAL GOVERNMENT AND TRANSPORTATION FUNDS?

The local government revenue protection measure in 2004 (Prop 1A) and the transportation revenue protection measure in 2006 (Prop 1A) included provisions that allow the State to borrow these funds during fiscal emergencies. However, after several budget cycles it is clear that these borrowing provisions are not only bad for local governments and transportation services, but fiscally irresponsible for the State. Borrowing these dedicated funds only plunges our state deeper into debt because the funds must to be repaid, *with interest* within three years.

The borrowing was meant to provide an outlet in short-term budget emergencies, but it's instead being used to paper over structural budget problems. For example, the State has no clear way to pay back the \$2 billion plus interest in local property taxes that the State is borrowing as part of this year's 2009-2010 State budget, yet lawmakers borrowed these funds anyway.

What's more, because the State has the authority to borrow local government and transportation funds, it creates mass uncertainty for cities and counties who need to plan and pass their local budgets, and for transportation and transit planners who aren't sure if they can rely on these revenues in any given year.

DOES THIS MEASURE INCREASE OR DECREASE REVENUES FOR LOCAL GOVERNMENTS OR FOR TRANSPORTATION AND TRANSIT?

This measure does not increase or decrease the existing revenues that are dedicated to local government, transportation and transit funds. It simply prevents the State from borrowing or raiding *existing* local government, transportation and transit revenues that voters have dedicated to these services.

WON'T THIS MAKE OUR STATE'S BUDGET SYSTEM EVEN WORSE BY FURTHER PUTTING A LOCK BOX ON BILLIONS OF DOLLARS IN FUNDING?

First, these are revenues that have historically been dedicated to cities, counties and special districts to fund local government services. It's fiscally irresponsible for State Government to raid funds from local governments.

Second, it's important to remember that these are funds that voters have **ALREADY** dedicated to local government, transportation and transit services. We are not dedicating any **NEW** funding for these services, but instead ensuring

that the will of voters is upheld by protecting local government and transportation funds from further State raids and borrowing.

This reform is fiscally responsible and a key step in long-term reform for California. The State has gotten itself into this deep fiscal mess in large part because lawmakers have relied on budget gimmicks like tapping into voter-protected funds and borrowing which only pushes our problems into the future.

HOW DOES THIS MEASURE FIT INTO THE NEED FOR BROAD REFORM OF STATE GOVERNMENT IN CALIFORNIA?

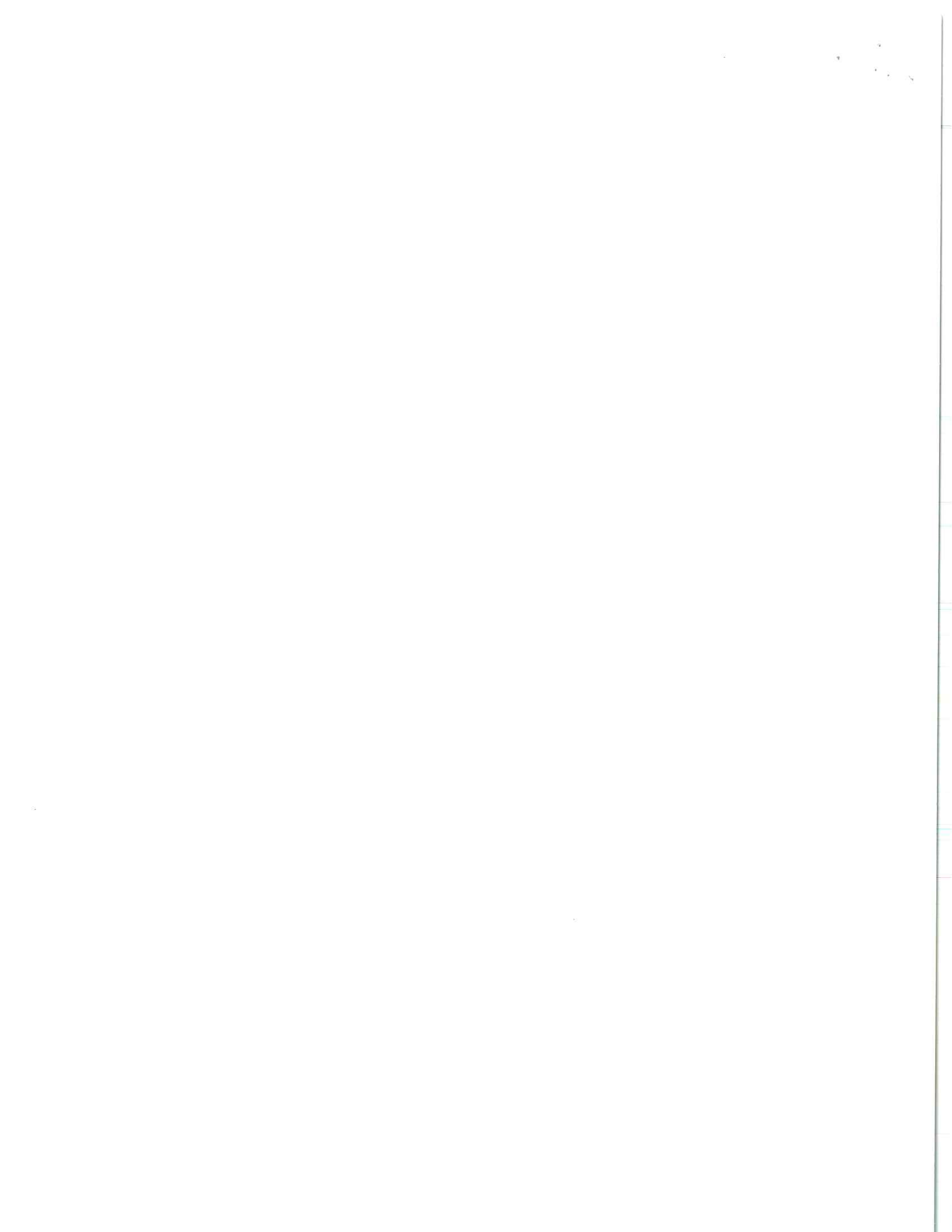
This measure is a necessary and responsible first step toward fiscal reform in California. Virtually everyone agrees that State reforms must include the restoration of more local control over local tax dollars, and moving services closer to the people at the local level. This measure ensures local control, predictability, and accountability for local tax dollars that are used to provide the most essential local services.

WILL THIS MEASURE IMPACT FUNDING FOR PUBLIC SCHOOLS, HEALTHCARE OR OTHER SERVICES?

No. This measure does not take away funding from schools or any other service funded by the State because it only protects EXISTING funds that are already dedicated to local services like public safety and transportation. And this measure in no-way alters Proposition 98, which guarantees funding levels for K-14 schools.

HOW WILL THIS MEASURE IMPACT TAXPAYERS?

This measure provides further protections for *existing* revenues that voters have already dedicated to local government, transportation and transit services. It does not increase taxes. In fact, this measure protects taxpayers by keeping more of our tax dollars local where they're more accountable. And this measure decreases pressure for local tax and fee increases at the local government level that become needed when the state takes local revenues and local governments are forced to look for new revenues to protect vital services.



City of Visalia Agenda Item Transmittal

Meeting Date: November 16, 2009

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

Agenda Item Wording: Proposal to amend the City's Pocket Park Policy which was originally adopted by the City Council on February 7, 2005, eliminating the practice of utilizing the City's general fund as the financing mechanism for constructing new pocket parks.

Deadline for Action: N/A

Submitting Department: Parks & Recreation

Contact Name and Phone Number: Vincent Elizondo, Director of Parks & Recreation, 713-4367

Department Recommendation:

That the City Council amend the City's Pocket Park Policy which was originally adopted by the City Council on February 7, 2005, eliminating the practice of utilizing the City's general fund as the financing mechanism for constructing new pocket parks. This new policy will become effective after December 1, 2009, and will not be applicable to any previously approved residential project.

Background Information:

On February 7, 2005, the Visalia City Council adopted a new Pocket Park Development Standard policy. This policy defined a pocket park; the minimal design features to be included in a pocket park; and how a pocket park would be financed. The original policy is included in this staff report as an attachment.

The policy was adopted based on the work and recommendations of the Development Standards Task Force, the Parks and Recreation Commission, and the Planning Commission. The Task Force had a total of 12 committee members.

This new policy led to the development of a number of new pocket parks throughout the newer developed areas of Visalia. These parks do not have formal park names. Examples include the two pocket parks in the Shannon Ranch development in northern Visalia; four pocket parks in the Fieldstone Oaks development in northwest Visalia; a pocket park in the West Park development in southwest Visalia; a pocket park in the Park Place development in southeast Visalia; and a pocket park in the Willow Creek development in northeast Visalia.

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.

It should be emphasized that the development of new pocket parks is completely optional on the part of the residential developer.

Financing A Pocket Park:

The policy states that if a developer desires to include a pocket park in their development, then the funding of construction and maintenance of the pocket park will be reimbursed through the formation of a Lighting and Landscaped District over the project site.

More specifically, *“the City will finance the park development over a 20 year term through a General Fund loan. Interest on the loan will be set at the prime rate. At the conclusion of the term, the district will be dissolved.”*

The concern expressed by City Council and the City staff is given the current fiscal state of the City’s general fund, that the practice of financing the construction of these pocket parks through the general fund should be terminated.

Recommendation:

In the past, the City has offered to finance pocket parks through lighting and landscaping maintenance assessment districts (LLMAD) with the General Fund providing the initial funding. City staff is proposing that this past practice be discontinued and developers pay for the construction of pocket parks as part of their private development. This new policy will become effective after December 1, 2009 for any new tentative maps. This new policy will not be applicable to any previously approved subdivision maps.

Prior City Council Actions: Adopted the Pocket Park Policy on February 7, 2005

Committee/Commission Review and Actions: None

Attachments: Original Pocket Park Development Standard Policy adopted February 7, 2005.

Recommended Motion (and Alternative Motions if expected):

That the City Council amend the City’s Pocket Park Development Standard policy which was originally adopted by the Council on February 7, 2005, eliminating the practice of utilizing the City’s general fund as the financing mechanism for constructing new pocket parks. This new policy will be initiated after December 1, 2009 and will not be applicable to any previously approved residential project.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 16, 2009

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

Agenda Item Wording: Request Council approval to enter into a Memorandum of Understanding, as contractor, with the Visalia Unified School District to extend the Neighborhood Youth Counselor Program; and to renew a Memorandum of Understanding with Proteus, Inc. as sub-contractor for the Neighborhood Youth Counselor Program for the remainder of FY 09/10 (Jan 2010-Jun 2010) and FY 10/11.

Deadline for Action: December 31, 2009

Submitting Department: Police

Contact Name and Phone Number:

Lieutenant Jason Salazar, 713-4102
Christine Statton, CFO VUSD, 730-7532
Juan Guerrero, Proteus, 733-5423

Department Recommendation: It is recommended that the City Council authorize the Department, as contractor, to enter into a Memorandum of Understanding with the Visalia Unified School District for the purposes of extending the Neighborhood Youth Counselor gang intervention/prevention program through FY 10/11 and to renew a Memorandum of Understanding with Proteus, Inc., as sub-contractor, to provide Neighborhood Youth Counselor services to the VUSD, community youth centers, and the Multi-Agency Gang Intervention Task Force.

Summary/background: In Spring 2007, the Multi-Agency Gang Intervention Task Force, co-chaired by the Visalia Police Department and Visalia Unified School District, implemented a three-pronged approach to gangs consisting of suppression, intervention, and prevention. A number of suppression and prevention programs were in operation at that time, to include: MAGNET, Visalia PD Gang Suppression Unit, GREAT Program, LOOP Bus, and a limited version of the Neighborhood Youth Counselor model at the Wittman Center. Gang intervention was determined to be a critical element of efforts aimed at reducing gang violence in our community, and an element that had limited resources.

With this in mind, the City of Visalia partnered with other stakeholders involved in the Multi-Agency Gang Intervention Task Force to apply for grant funds made available in August 2007 through the CalGRIP (California Gang Reduction Intervention Prevention) Program. This grant

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 5

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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application was successful and the City of Visalia was awarded grant monies to expand the Neighborhood Youth Counselor model by hiring six (6) part-time NYC's to serve the VUSD and community youth centers with gang intervention services. The City of Visalia's CalGRIP grant project would be funded for the period of April 1, 2008 through December 31, 2009.

During that period of time, the stakeholders in the Multi-Agency Gang Intervention Task Force were able to make great strides in reducing gang violence in Visalia. This has been accomplished by employing a three-pronged consisting of gang suppression, gang intervention, and gang prevention efforts. Gang-related violence in 2009 shows the following reductions from 2007 numbers:

- Gang-related homicides (-66%)
- Gang-related assault w/ deadly weapons (-63%)
- Gang-related drive-by shootings (-80%)
- Juvenile arrests are also down 25% in 2009 when compared to 2008 statistics.

The objectives of the City of Visalia CalGRIP grant project sought to provide services to 300 at-risk Visalia youth during the grant period, to include; at least 30 youth leaving gangs, provide 150 youth with job training, and to demonstrate academic improvement in at least 150 youth. To date, the CalGRIP funded Neighborhood Youth Counselor project has provided gang intervention services to 281 Visalia youth, 142 of which have demonstrated a changed attitude towards gang involvement, and 122 youth have received employment services through the NYC facilitated Step-Up Jobs Program. Additionally, 174 at-risk CalGRIP youth have demonstrated academic improvement/ advancement through a coordinated effort between the VUSD and NYC mentoring activities. In addition to increased academic improvement/ advancement, the VUSD also reports declines in suspensions and expulsions compared to years past.

The focus of these intervention activities has been to provide mentoring relationships with at-risk youth on Visalia school campuses, in community youth centers, and in Visalia neighborhoods. The NYC's facilitate the operations of the Step Up Jobs training program, mentor youth at the aforementioned sites, facilitate group sessions on school campuses, and conduct home visits to involve parents and siblings in the intervention process.

Although significant progress has been made to reduce gang involvement and gang violence in Visalia, there remains a great deal of work to be done. Gangs continue to be an area of great concern with regards to public safety and more importantly their impact on Visalia's youth. It is imperative that the efforts of the Multi-Agency Gang Intervention Task Force maintain forward momentum in suppression, intervention, and prevention in order to continue making progress against gang violence and for Visalia's youth.

The Visalia Unified School District has earmarked funds received through the Federal Government via the American Recovery and Reinvestment Act to be applied towards extending the Neighborhood Youth Counselor program beyond the CalGRIP grant expiration date of December 31, 2009. These funds would cover the operating cost of the NYC program for the remainder of FY 09/10 (Jan 1, 2010 to June 30, 2010) and for Fiscal Year 10/11. The City would enter into a Memorandum of Understanding to act as Contractor for the VUSD to continue providing Neighborhood Youth Counselor gang intervention/ mentoring services to at-risk youth via the Multi-Agency Gang Intervention Task Force, community youth centers, and to the Visalia Unified School District. In turn, the City would renew its Memorandum of Understanding with Proteus, Inc. as sub-contractor for the City, to provide five (5) Neighborhood

Youth Counselors for gang intervention services to community youth centers and VUSD campuses.

Budget:

This project will be funded entirely through the use of American Recovery and Reinvestment Act monies awarded to the Visalia Unified School District and will fund five (5) Neighborhood Youth Counselors at 75% time (salaries, benefits, and all associated overhead costs).

Proteus, Inc. has provided the following operational costs for the continuance of the Neighborhood Youth Counselor project:

Operational Period	Cost
January 1, 2010 to June 30, 2010	\$83,000.00
July 1, 2010 to June 30, 2011	\$167,000.00
Total Project Cost:	\$250,000.00

Prior Council/Board Actions: Prior approval for City of Visalia to accept CalGRIP grant monies and to enter into Memorandums of Understanding with Multi-Agency Gang Intervention Task Force members (including VUSD & Proteus, Inc.) to provide Neighborhood Youth Counselor gang intervention services by sub-contracting with Proteus, Inc. for NYC services.

Committee/Commission Review and Actions: N/A

Alternatives: Deny approval of MOU between City of Visalia and Visalia Unified School District, and MOU between City of Visalia and Proteus, Inc. for five (5) Neighborhood Youth Counselors. This would result in the conclusion of the NYC program effective December 31, 2009 upon expiration of CalGRIP grant funding.

Attachments: N/A

Recommended Motion (and Alternative Motions if expected): I move that the City Council authorize the Police Department to enter into a Memorandum of Understanding with the Visalia Unified School District and Proteus, Inc. for the purposes of providing Neighborhood Youth Counselor gang intervention services to at-risk youth utilizing Federal American Recovery and Reinvestment Act funding through FY 10/11.

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:

**OPERATING AGREEMENT
BETWEEN
CITY OF VISALIA
AND
PROTEUS INC.**

This agreement is made and entered into between the **City of Visalia** (contractor) and **Proteus, Inc.** (subcontractor) and shall be in effect from **January 1, 2010** through **June 30, 2011**.

I. PUPROSE:

The following parities are identified as:

The **City of Visalia**, a public government entity, hereafter referred to as "*contractor.*"

Proteus Inc., a non-profit, community-based organization, hereafter referred to as "*sub-contractor.*"

The purpose of this agreement is:

The City of Visalia designates Proteus Inc. as the lead agency for providing Neighborhood Youth Counselor gang intervention services funded by the American Recovery & Reinvestment Act, a partnership between the City of Visalia and Visalia Unified School District.

This Agreement is entered into by both parties with the express understanding that Proteus and their employees will perform all services required by this Agreement as an independent contractor. Proteus, Inc., its officers, and its employees, are not to be construed as employees of the City. Proteus, Inc. will be solely responsible for paying all required state and federal taxes, withholdings, and complying with all laws that impact the Proteus employees providing services under this Agreement.

Proteus Inc. and the City will work together to provide gang prevention and intervention services under the Neighborhood Youth Counselor program, which serves the Visalia Unified School District Service area (Visalia, Goshen, Ivanhoe and Linnell Camp).

The following sites have been designated as locations for Neighborhood Youth Counselor intervention activities, for a total of five (5) part-time NYC's:

Primary:

1. Golden West High School
2. El Diamante High School
3. Redwood High School
4. Mt. Whitney High School
5. Sequoia High School

Secondary:

6. (4) District Middle Schools
7. Charter Alternatives Academy
8. Community Youth Centers

II. HOLD HARMLESS CLAUSE:

The subcontractor agrees to indemnify and save harmless CITY and its officers, officials, agents, employees and assigns from and against any and all claims, demands, suits, loss, damage, injury and liability, including cost and expenses incurred in connection therewith, resulting from, arising out of, or in any way connected with the performance of this Agreement, including delivery and unloading of supplies and equipment, regardless of the passive, concurrent negligence on the part of the CITY or anyone acting under its direction or control or on its behalf. It is further the intent of the parties that this indemnification requirement is not intended to relieve the CITY from liability for the active negligence of the CITY, its officers, appointed and elected officials, agents and employees. This hold harmless clause is in no way an admission of liability on the part of the CITY, or any of its officers, officials, agents or employees.

This indemnity and hold harmless provision, insofar as it may be adjudged to be against public policy, shall be void and unenforceable only the minimum extent necessary so that the remaining terms of this indemnity and hold harmless provision may be within public policy and enforceable.

III. MODIFICATION:

Any modification to this agreement shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.

IV. TERMINATION:

Either party may terminate their participation in this MOU in whole, or in part, upon 30 days written notice or in accordance with contract requirements with or without cause. If the contractor provides a notice of termination with description of cause and the subcontractor provides remedy to said cause that is satisfactory to the contractor, the contract may continue.

V. INSURANCE:

A. Required Policies: PROTEUS agrees to immediately secure and maintain during the Term of this Agreement, and prior to commencement of any work hereunder, insurance coverage as follows:

- 1.) Worker's Compensation: Worker's Compensation Insurance with statutory limits and Employer's Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per incident. Such insurance shall comply with all applicable state laws.
- 2.) Commercial General Liability and Property Damage: 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 products/completed operations liability, owner's and contractor's protective, blanket contractual liability, personal injury liability, and broad form property damage coverage.
- 3.) Commercial Automobile Public Liability and Property Damage: Automobile Public Liability and Property Damage Insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence.

- 4.) Board of Director's Insurance: Board of Director's Insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence.
- B. Additional Insured: The General Liability/ Property Damage and Automobile Liability/ Property Damage policies shall:
- 1.) Name CITY, its appointed and elected officials, officers, employees and agents as additional insureds;
 - 2.) Be primary with respect to any insurance or self-insurance programs maintained by CITY;
 - 3.) Shall apply separately to each insured against whom claims is made or suit is brought, except with respect to limits of insurer's liability;
 - 4.) Contain standard cross-liability provisions.
- C. No Material Change. Termination or Expiration Without Notification: Each required policy shall provide that such insurance shall not be materially changed, terminated or allowed to expire except on thirty (30) days prior written notice to CITY.
- D. No Subrogation: Each required policy shall be endorsed to include a waiver of subrogation against the CITY, its officers, officials, agents, and employees.
- E. Duration: This insurance shall be maintained during the Term of this Agreement until the Term expires, if an occurrence policy form is used. If a claims-made policy is used, coverage shall be maintained during the Agreement Term and for a period extending five (5) years beyond the Agreement Term. PROTEUS shall replace such certificates for policies expiring prior to the expiration of the Term of this Agreement and shall continue to furnish certificates five (5) years beyond the Agreement Term, when PROTEUS utilizes claims-made form(s).
- F. Failure to Maintain Insurance: If PROTEUS for any reason fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of this

Agreement. CITY, at its sole discretion, may terminate this Agreement and obtain damages from PROTEUS resulting from said breach. Alternatively, CITY may purchase such required insurance coverage, and without further notice to PROTEUS, may deduct from monies agreed to be provided to PROTEUS hereunder any premium costs advanced by CITY for such insurance.

V. ROLES AND RESPONSIBILITIES:

The City of Visalia (contractor) shall:

1. Provide staff (Youth Officers and others) to assist with Neighborhood Youth Counselor program services.
2. Work with subcontractor to meet all program objectives.
 - a. Regarding time away from work for vacations, training or other time off from campus, reasonable efforts will be made by the management of the City & Proteus, Inc. to schedule the NYC's time off at a time which least interrupts the day-to-day operations of the various campuses.
3. Assist the NYC in identifying children at risk or in need of services.
4. Regularly attend Advisory Council and Task Force Meetings.
5. Work with subcontractor to submit reports to the Visalia Unified School District in a timely manner.
6. Compensate subcontractor the actual costs for services rendered, up to **\$250,000.00**, over the course of this agreement (January 2010 through June 2011). Any and all costs associated with this project exceeding the aforementioned contracted amount will be the sole responsibility of subcontractor.
7. Compensate subcontractor the actual costs for services rendered on a quarterly basis upon receipt of invoice for said services.

Each NYC, through Proteus Inc. (sub contractor) shall provide the following to any campus/ facility/ youth/ neighborhood deemed necessary by the City:

1. Coordinate and oversee all program objectives.
2. Prepare program policies and procedures for staff and will develop on-going training opportunities for new and existing staff.
3. Maintain accurate reporting (programmatic and fiscal) records, will be responsible for contract compliance, and will provide copies and access of

these reports and records to the contractor as required to meet monthly VUSD reporting requirements.

4. Provide the contractor with a quarterly invoice, detailing actual costs for services rendered.
5. Work with Visalia Unified School District site supervisors to closely monitor Neighborhood Youth Counselor (NYC) staff.
6. Work in close coordination with the Visalia Unified School District to provide program services and coordinate trainings and school meetings.
 - a. Develop and maintain linkages with other organizations working with at-risk youth.
 - b. Establish eligibility and assess students/ youth goals and barriers.
 - c. Refer students/ youth to appropriate resources.
 - d. Recruit students/ youth through personal contacts and presentations.
 - e. Coordinate alcohol, drug and community workshops.
 - f. Perform student/ youth follow-ups and counseling through home visits.
 - g. Collect data and prepare periodic and monthly reports as required.
 - h. Provide outreach to parents and neighborhoods, home visits, and parent education.
 - i. Each NYC will work on the secondary school campus throughout the school year in a collaborative manner with the site administrators and staff.
 - j. Short term absences from the duties of the NYC may occur for administrative, training or other reasons as deemed necessary by the City.
 - k. NYC's will develop and maintain open communication and accountability with the administration of the various campuses, and foster and maintain accountability with the management of the District. NYC's will work within District established procedures and policies.
 - l. Meet weekly with District administrative and counseling staff for identification of students needing services, contacting parents and providing parent education.
 - m. Participate in District provided training on school programs and help link school programs with Community Centers.
 - n. NYC's will make a positive effort to interact with students and act as an adult role model outside the classroom, on the playground, in neighborhoods, and during school activities.

- o. NYC's will work with the District, specifically the Student Services Division, to see that all critical information (possibly involving criminal activity) shall be filtered to the schools.
 - p. All NYC's will make school site visits during the hours and times recommended by the school's principal and mutually agreed upon by the District and the City. Those times are usually during the school day, and may also include times before school, during the lunch break and immediately after the school day comes to an end.
7. Conduct background checks and comply with regulations set forth in Public Resources Code 5164 for any Proteus, Inc. staff to provide services and/ or support in City of Visalia facilities.
 8. Provide Proteus, Inc. staff with basic office supplies; including: notebook, pen, stapler, calculator, city maps, paper, photo copies, telephone, etc.
 9. Provide Proteus, Inc. staff with one computer to track and maintain customer information. The maintenance, upkeep and data/materials contained on said computer shall be the sole responsibility of Proteus, Inc. No technical support will be provided by the City of Visalia.
 10. Provide one cell phone for Proteus, Inc. staff.

The parties have executed this agreement by the signatures of their authorized representatives on the dates indicated:

Michael E. McCann, CEO
Proteus, Inc.

Steven Salomon, City Manager
City of Visalia

Date

Date

Address:

Phone:

**PERIOD COVERING
JANUARY 1 2010 – JUNE 30 2010
JULY 1 2010 – JUNE 30 2011**

CONTRACT AND AGREEMENT BETWEEN:

CITY OF VISALIA

AND

VISALIA UNIFIED SCHOOL DISTRICT

FOR

**VISALIA POLICE DEPARTMENT CONTRACTED SERVICES
WITH**

NEIGHBORHOOD YOUTH COUNSELORS

JANUARY 1, 2010

This agreement is entered into, and recognized as a vital working partnership agreement, on the 1st day of January 2010 through June 30, 2011, between the City of Visalia Police Department, referred to as the “City”, and the Visalia Unified School District, referred to as the “District”.

RECITALS

Whereas, the Parties mutually desire to maintain **Neighborhood Youth Counselors (NYC's)** working with the **District's** students and their families from January 1, 2010 through June 30, 2011, for the purpose of providing youth counselor presence and services, providing gang intervention services, reducing gangs and gang activity in Visalia, and providing support and direction to the youth and staff of the District.

Whereas, the Parties further desire to maintain **NYC** presence on the campuses and in the communities of five of the District's High Schools: Golden West High School, El Diamante High School, Mt. Whitney High School, Redwood High School, and Sequoia High School. Additionally, the Parties desire to maintain **NYC** presence on each of the four District Middle Schools, and at Charter Alternatives Academy. This represents a total of **five (5) part-time NYC's** for the purpose of providing youth counselor presence, gang intervention services, outreach to parents and neighborhoods, home visits, parent education, and support and direction to youth and students.

Whereas, the continuance of the **Neighborhood Youth Counselors** Program by the District and the City for 18 months is expected to improve the attendance, grades and behavior of the students on the campuses who have demonstrated problems at school, home and in the community; and,

Whereas, the Parties are willing to enter into this agreement upon the terms and conditions set forth:

NOW THEREFORE BE IT AGREED AS FOLLOWS:

I. The City shall provide to the District:

- A. Five (5) part-time **NYC's** to serve at the five District High Schools specified above, the District's four Middle Schools, Charter Alternatives Academy, and to serve in the respective neighborhoods and communities.
- B. All **NYC's** will make school site visits during the hours and times recommended by the schools principal and mutually agreed upon by the District and the City. Those times are usually during the school day, and may also include times before school, during the lunch break and immediately after the school day comes to an end.
- C. Regarding time away from work for vacations, training or other time off from campus, reasonable efforts will be made by the management of the **City** to schedule the **NYC's** time off at a time which least interrupts the day-to-day operations of the various campuses.
- D. Scheduled monthly meetings between partners of the gang advisory council (Gang Intervention Task Force) to support the NYC program and discuss strategies, timetables and implementation of activities.

- E. Follow up referrals of individuals seeking to leave the gang lifestyle.
- F. All persons providing the services to the **NYC** program, provided for herein, shall be employees of the **City** or shall be contracted by the **City**. The **City** shall have the sole responsibility of contracting for the payment the salaries, taxes (including, but not limited to, federal Social Security taxes, and federal and California unemployment taxes), workers compensation insurance and all expenses related to each **NYC**, including costs for Training and Equipment.

II. Each NYC shall provide the following to any campus/facility/youth/neighborhood deemed necessary by the City:

- A. Develop and maintain linkages with other organizations working with at-risk youth.
- B. Establish eligibility and assess students/youth goals and barriers.
- C. Refer students/youth to appropriate resources.
- D. Recruit students/youth through personal contacts and presentations.
- E. Coordinate alcohol, drug and community workshops.
- F. Perform student/youth follow-ups and counseling through home visits.
- G. Collect data and prepare periodic and monthly reports as required.
- H. Provide outreach to parents and neighborhoods, home visits, and parent education.
- I. Each **NYC** will work on the secondary school campus throughout the school year in a collaborative manner with the site administrators and staff.
- J. Short term absences from the duties of the **NYC** may occur for administrative, training or other reasons as deemed necessary by the **City**.
- K. **NYC's** will develop and maintain open communication and accountability with the administration of the various campuses, and foster and maintain accountability with the management of the **District**. **NYC's** will work within **District** established procedures and policies.
- L. **NYC's** will make a positive effort to interact with students and act as an adult role model outside the classroom, on the playground, in neighborhoods, and during school activities.
- M. **NYCs** will work with the **District**, specifically the **Student Services Division**, to see that all critical information (possibly involving criminal activity) shall be filtered to the schools.

III. The District shall agree to the following:

- A. Attend and participate in monthly gang advisory council (Gang Intervention Task Force) meetings.
- B. **District** administrative and counseling staff will work with **NYC's** in weekly meetings for identification of students needing services, contacting parents and providing parent education.
- C. Provide academic and social interventions for students identified with needs.
- D. Provide training for **NYC's** on school programs and help link school programs with Community Centers.
- E. The Principal of each site shall designate a site administrator as the liaison to the **NYC** and provide a system of accountability which the **NYC** can follow which is conducive to the normal operations of both the **City** and the **District**.

IV. Financial Agreements:

- A. The parties to this Agreement agree to the following financial obligations:
 - 1. The **District** will pay a contracted sum to the **City** for the 18 months of service. The cost will remain fixed at the amount agreed upon below.
- B. The City of Visalia will provide the District with an invoice at the end of each quarter for the costs noted above as they apply to that quarter. The District shall pay that invoice within 30 days to the City of Visalia.
- C. The cost breakdown for the 18-month **NYC Program** IS AS FOLLOWS:

	1/1/10-6/30/10	FY 10-11	TOTAL
Visalia Unified School District	\$83,000	\$167,000	\$250,000

- D. City would assume responsibility for all Program costs or any increased costs above District costs identified above.

V. Miscellaneous Provisions:

- A. This agreement shall commence on **January 1, 2010** and continue in full force through **June 30, 2011**.
- B. This agreement may be terminated at any time by either party upon 90 days prior written notice to the other party.
- C. The City and the District shall hold harmless, defend, and indemnify each other from and against any liability, claims, and actions, costs, damages, or losses from injury including death to any persons, or damage to any property as a result of any act or omission of the indemnifying party or its employees or agents in the performance of activities under this agreement.

D. Any notice to be given hereunder, shall be written and given by either personal delivery or by first class mail, postage pre-paid and addressed as follows:

City of Visalia:

**Colleen Mestas
Chief of Police
Visalia Police Department
303 S. Johnson
Visalia, CA 93291**

District:

**Stan A. Carrizosa
Superintendent
Visalia Unified School District
5000 W. Cypress Avenue
Visalia, CA 93277**

- E. This Agreement shall not be changed, altered, or modified unless the parties hereto agree to such alteration, change, or modification in writing and is signed by all parties.
- F. This Agreement may not be assigned or transferred by either party without the prior written consent of the other parties.

IN WITNESS WHEREOF, the parties have executed this Contract and Operational Agreement on the day and year written below.

DATED: _____

**City of Visalia
Colleen Mestas**

DATED: _____

**Visalia Unified School District
Stan A. Carrizosa**

City of Visalia Agenda Item Transmittal

Meeting Date: November 16, 2009

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

Agenda Item Wording: 2009 Short Range Transit Plan Adoption.

Deadline for Action: November 16, 2009

Submitting Department: Administration Department – Transit Division

Contact Name and Phone Number:

Monty Cox, Transit Manager, 713-4591
Leslie Caviglia, Deputy City Manager, 713-4317

Department Recommendation: Adopt the 2009 Short Range Transit Plan.

Summary: The Short Range Transit Plan is a five year planning document that is a required document for federal and state transit funding. The plan takes into consideration current conditions and future projects, including demographics, to project future transit needs. This plan is a somewhat conservative plan given the uncertain funding situation at both the state and federal level. It does have three phases of possible expansion. The first two phases, revising the schedule based on current traffic conditions and making two of the route bi-directional, were implemented by Council this summer based on the draft report. The third phase calls for expanded service area into the Southeast quadrant and introduces the first in a series of satellite transfer centers. This third phase will be brought for Council consideration if and when demand decrees and funding is available.

The study assess current operations, which were found to be in line with current industry standards, projects operating and capital budgets for future years, and potential funding for implementation of the full plan.

Background: In fiscal year 2008, the City contracted with Moore Associates to conduct a Short Range Transit Plan study. The purpose of this study is to evaluate the performance of the City's transit services, make recommendations regarding service changes, develop a five-year operating plan, capital plan and financial plan, and provide these in a combined document.

Given the transit funding uncertainties, staff worked with the consultant to develop a conservative five year plan. It does not call for aggressive transit growth over the next five years. In fact, it calls for a modest increase in 2009, which Council agreed to implement earlier this year, based on the draft plan, prior to the start of the school year. It also calls for several relatively minor increases that may be recommended for Council consideration if appropriate transit funding is available.

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 LBC 11809
(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.

Once adopted, this required plan becomes the basis for programming federal, state and local transit funding as well as budgeting for all transit services.

Since the Transit Division is an Enterprise Fund, no general funds were used to fund this study. The \$7.6 million transit budget is funded as follows:

State Local Transportation Funds	40%
Federal Transit Funding	25%
Passenger Fares	13%
Measure R	9%
State Transit Funding	8%
National Park Service (<i>Internal Sequoia Shuttle</i>)	7%

Due to the dynamic nature of transit funding, especially in these strained economic times, the consultant provided three operational alternatives that can be implemented in stages as funding is identified:

- Alternative A: Revise all bus schedules to reflect current operating conditions and improve on-time performance. Increase frequency along major routes. (*Implemented in summer, 2009 with Council approval*).
- Alternative B: Do Alternative A along with the addition of bi-directional service along Routes 7 & 8. (*Implemented in summer, 2009 with Council approval, Route 7 travels along the Lincoln Oval, Court, Riggins and Demaree; Route 8 now travels along Ben Maddox, St. Johns Parkway, Lovers Lane and Noble.*)
- Alternative C: Do Alternatives A & B along with the addition of an expanded service area into the Southeast quadrant and introduce the first in a series of satellite transfer centers. (*Defined in more detail later in the report.*)

The consultant recommended a capital improvement program that included an inventory of all vehicles, amenities and facilities currently in use, as well as a strategy for the development of additional capital resources over the next five years to support enhancements to the system and increase bus ridership. The plan includes a bus stop element, a facilities element, and a bus purchase schedule that supports the three alternatives.

The capital plan details the funding sources, capital projects, and projected capital costs required to meet the recommended improvements in the plan. This plan recommends the City increase the size of the fixed route fleet from 30 to 35 transit buses. The Financial Plan forecasts the expenditures necessary to implement the recommendations in the plan. There are three separate financial plans that are associated with the three different alternatives. The revenue sources include dedicated federal formula funds, discretionary federal funds, Local Transportation Funds, Measure R funds and funds from agreements with other agencies. These alternatives will allow the City flexibility depending on the amount of funding the City is able to obtain within the next five years. This flexibility is required because of recent fluctuations and declining State Transit Assistance.

The Short Range Transit Plan did a thorough evaluation of the existing transit services and recommended a new Performance Measurement System. In the past, the same standards were applied to all fixed routes; however, in the new plan it is proposed that the routes be classified as Trunk Lines (high historic ridership, frequency, and redundancy); Life-lines (low ridership, limited frequency, little or no redundancy) or Regular (in between trunk or life lines), and that future performance measurements be calculated accordingly since the route characteristics are markedly different. The performance measures are based on industry standards

The following table lists the performance standards with the actual calculated results of each based on industry standards.:

Objective	Performance Measure	Actual Performance	Standard
Minimize Operating Cost	Operating cost per hour	\$50	\$50
	Operating Cost per Passenger	\$2.93	\$3.50
	Farebox Recovery	20.8%	20%
Maximize use of Funding	Annual Ridership Growth	5.7%	3.5%
	Passengers Per Hour	17.1*	20.0
	Passengers Per Mile	1.3	1.0

**This performance is not met because of service level increases over the past couple of years which have not yet matured. It generally takes three years for an expanded or new service to reach full ridership maturity.*

The Study included a demand analysis which looked at the demographics of the service area and the impact of those demographics on the services provided. The service area is the Visalia Urbanized Area which includes the cities of Visalia, Farmersville and Exeter as well as the community of Goshen. The following chart shows the services that are provided within the Visalia Urbanized Area:

Public Transit		Commuter Service	Private Transportation Service	
Fixed-Route	Demand-Response	Vanpool	Bus Lines	Taxis
Visalia City Coach	Visalia Dial-A-Ride	South Valley Rideshare	Amtrak	Yellow Cab Co.
Visalia Town Trolley	Tulare County Dial-A-Ride		Orange Belt Stages	Pronto Taxi
Loop Route	Exeter Dial-A-Ride		Greyhound	American Cab Co.
Tulare County Area Transit				ABC Taxi
KART				
Sequoia Shuttle				

All these services come to the Visalia Transit Center which serves as the hub of transit activity in the region with the exception of Exeter Dial-A-Ride which does not go outside the City of Exeter. The study also considers the economic profile of the service area.

The plan takes into consideration demographic information including age, gender, median income, and educational level of the population, population growth history and future projections, unemployment rates, commute patterns, home values, median rent, percentage of home ownership, and housing costs related to income.

Based on the information gathered, the consultant made conclusions about future ridership levels. The consultant also considered future transit demand within the framework of the Circulation Element. This document offered policies to address specific goals, some of which are related to public transit such as:

1. *Consider all modes of transportation as an integral component of the city's transportation system. The modes include mass transit (public and private bus, passenger rail, and taxi system) air transportation and non-motorized transportation (pedestrian and bicycle)*
2. *Develop and promote alternative transportation strategies designed to reduce vehicle trips and improve traffic flow*
3. *Participate in and assist with coordinating regional efforts which integrate the city's transportation system with 1998 Regional Transportation Plan (RTP).*

Given the rapid growth in Visalia, there has been the federal and state funding for bus service to increase to meet much of this new demand. Once new growth begins to occur again, there will be increasing demand to increase and address new development as well as infill areas. Several strategies need to be included in this process including a focus on future land-use planning efforts, transportation demand management, facility and equipment improvements, regional coordination, ADA strategy, and marketing. In addition, state and federal funding sources will need to be monitored carefully and any service increases will need to be based on available transit funding.

The service evaluation looked at many statistics and compared the results from the past five years. Fluctuations in operating costs are due to variations in federal auditor accounting procedures and carry over costs from previous fiscal years. The following table illustrates some of these fixed route performance indicators:

Performance Measure	FY 2003/04	FY 2004/05	FY 2005/06	FY 2006/07	FY 2007/08
Operating Cost	\$2,061,869	\$2,309,501	\$3,286,832	\$2,999,314	\$3,996,854
<i>percent change</i>		12.0%	42.3%	-8.7%	33.3%
Fare Revenue	\$498,316	\$543,461	\$578,640	\$735,219	\$832,290
<i>percent change</i>		9.1%	6.5%	27.1%	13.2%
Vehicle Service Hours	56,396	69,160	73,411	73,948	79,937
<i>percent change</i>		22.6%	6.1%	0.7%	8.1%
Vehicle Service Miles	803,631	959,425	1,000,124	966,894	1,040,731
<i>percent change</i>		19.4%	4.2%	-3.3%	7.6%
Passengers	1,039,219	1,184,088	1,329,146	1,292,530	1,366,373
<i>percent change</i>		13.9%	12.3%	-2.8%	5.7%
Performance Indicator					
Operating Cost/VSH	\$36.56	\$33.39	\$44.77	\$40.56	\$50.00
<i>percent change</i>		-8.7%	34.1%	-9.4%	23.3%
Operating Cost/VSM	\$2.57	\$2.41	\$3.29	\$3.10	\$3.84
<i>percent change</i>		-6.2%	36.5%	-5.6%	23.8%
Operating Cost/Passenger	\$1.98	\$1.95	\$2.47	\$2.32	\$2.93
<i>percent change</i>		-1.7%	26.8%	-6.2%	26.1%
Passengers/VSH	18.43	17.12	18.11	17.48	17.09
<i>percent change</i>		-7.1%	5.8%	-3.5%	-2.2%
Passengers/VSM	1.29	1.23	1.33	1.34	1.31
<i>percent change</i>		-4.6%	7.7%	0.6%	-1.8%
Farebox Recovery	24.2%	23.5%	17.6%	24.5%	20.8%
<i>percent change</i>		-2.6%	-25.2%	39.2%	-15.1%
Fare/Passenger	\$0.48	\$0.46	\$0.44	\$0.57	\$0.61
<i>percent change</i>		-4.3%	-5.1%	30.7%	7.1%

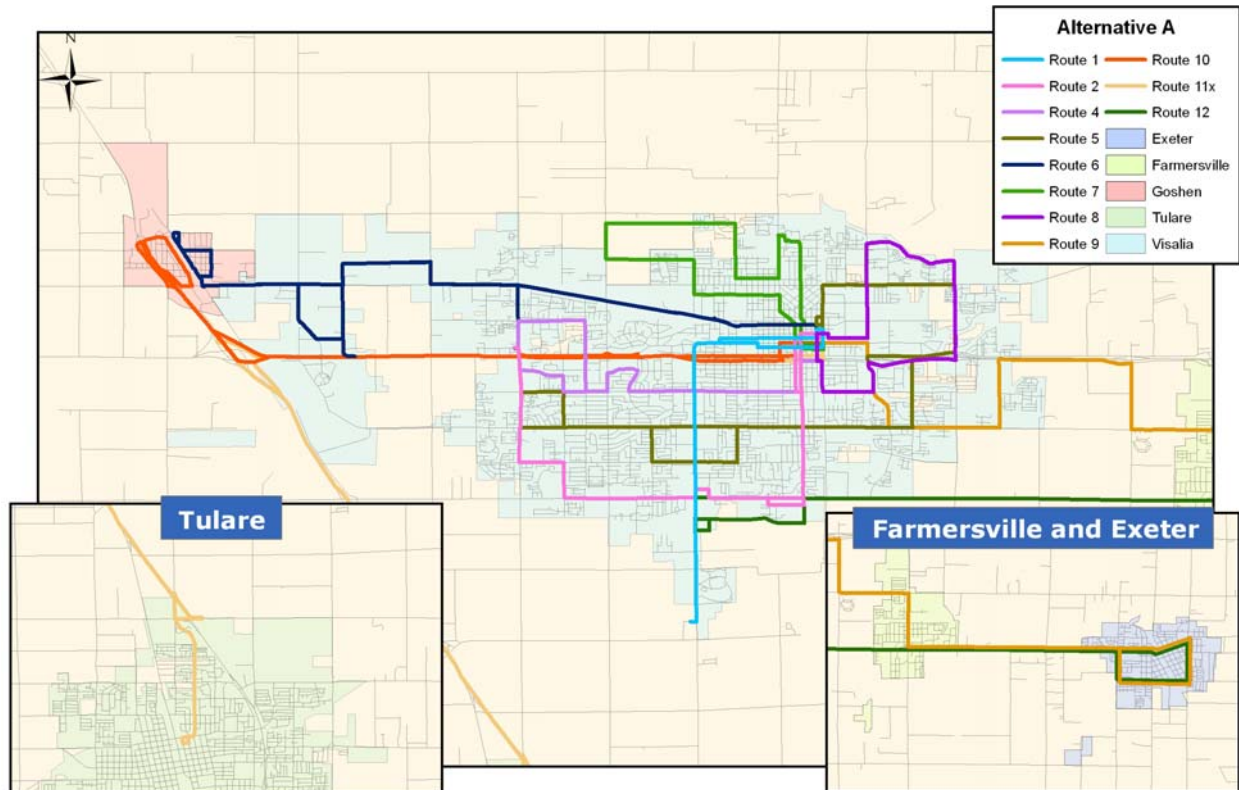
Consultant Recommendations

Given the unpredictability of transit funding in recent years, the consultant elected to make recommendations in a three tiered approach with each tier addressing a higher cost threshold. (See next page)

Alternative A

Proposed Alternative A includes the following recommendations:

- No changes to the existing Visalia City Coach route network.
- Amend operating schedules to reflect actual running times and prevailing operating conditions. (i.e., ridership, traffic conditions, etc.)
- Increase frequency along Route 1 from 20 to 15 minutes.
- Increase frequency along Route 9 from 90 to 45 minutes.

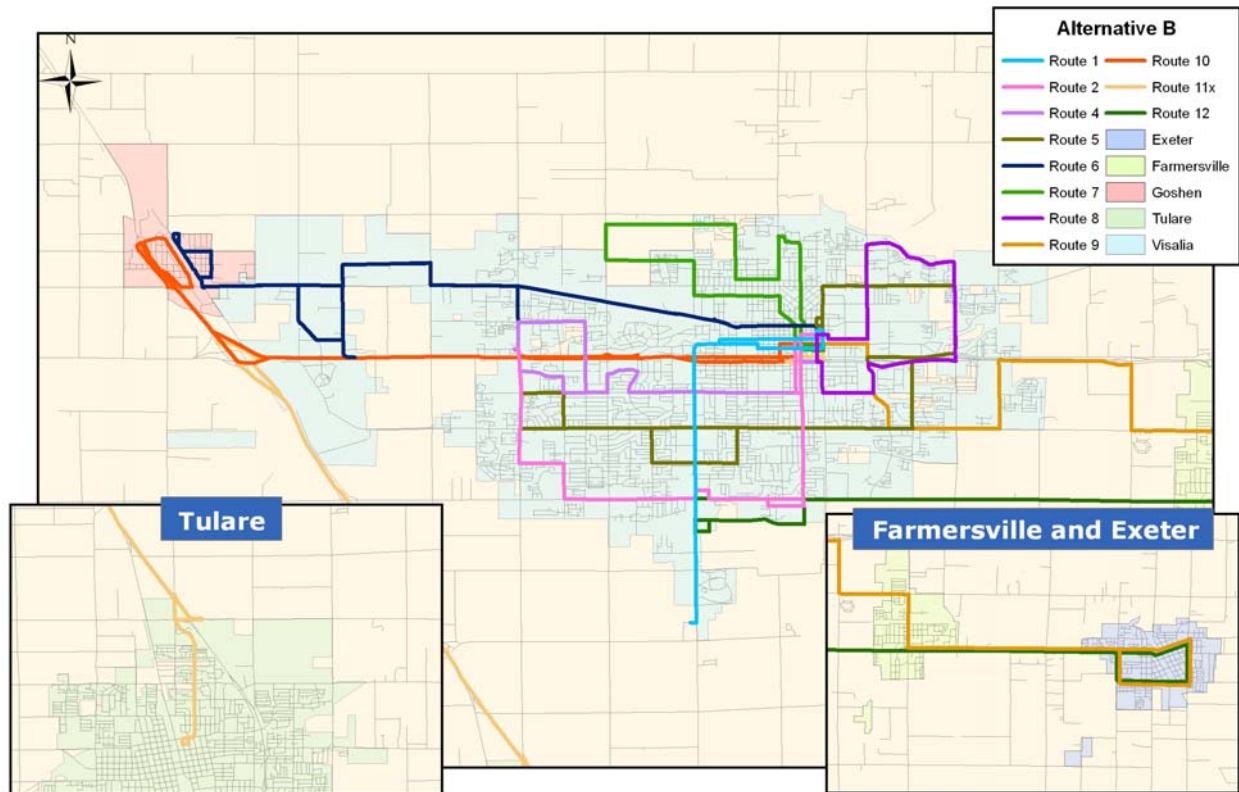


Alternative B

Proposed Alternative B includes the following recommendations in addition to those proposed in Alternative A:

- Introduce bi-directional service along Routes 7 and 8.

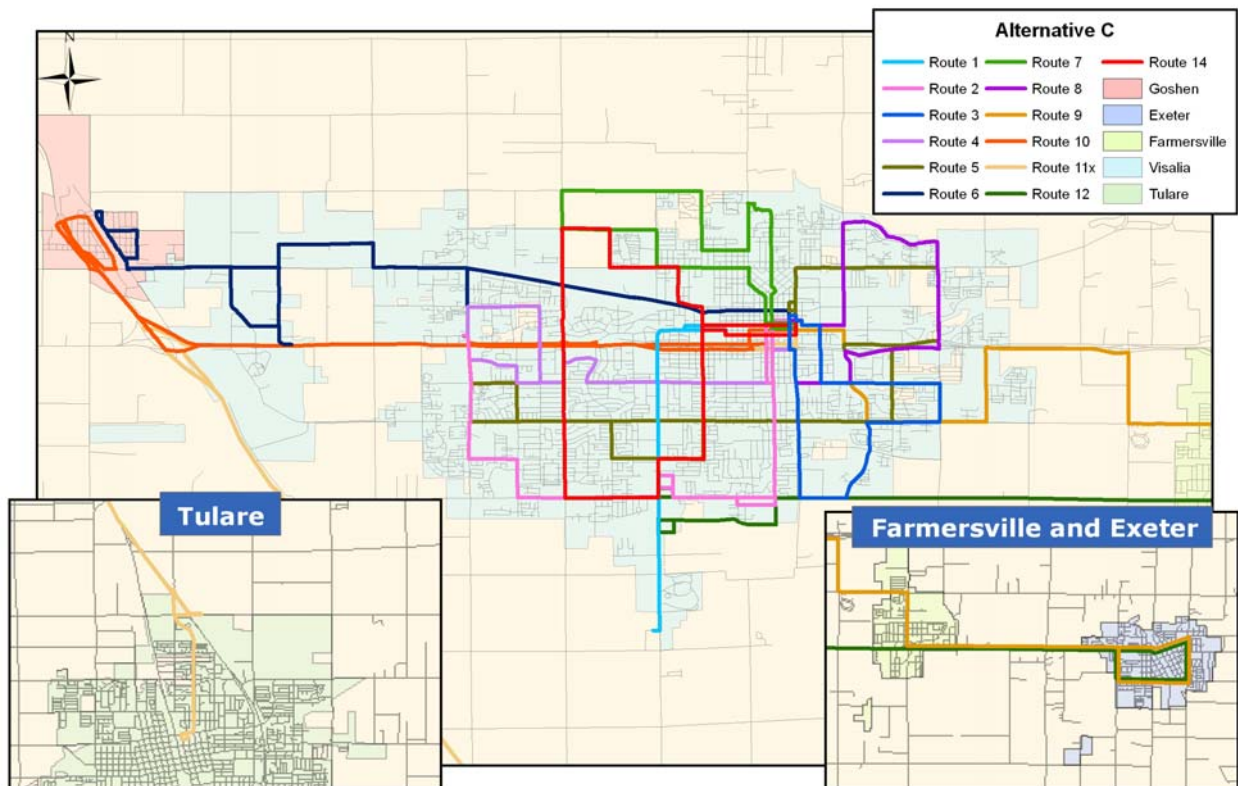
- Extend weekday service day to midnight
- Extend Sunday service day to 8:00 p.m.
- Amend operating schedules to reflect actual running times and prevailing operating conditions. (i.e., ridership, traffic conditions, etc.).
- Eliminate Route 10 and increase frequency along Route 6 to 30 minutes.



Alternative C

Proposed Alternative C includes the following recommendations in addition to those proposed in Alternatives A and B. This is the only section of the plan that is yet to be implemented. If demand and available funding warrants it, staff will bring forward recommendations for increases for Council consideration.

- Expand service into southeastern Visalia through Route 3.
- Introduce Route 14 serving neighborhoods along Demaree Street.
- Implement satellite transfer centers at Ferguson/Demaree and Caldwell/Mooney.
- Explore the possibility of introducing limited-stop service between Visalia and Tulare along Mooney Boulevard.



Capital and Financial Plans

This study includes a Capital Plan forecasting capital costs associated with implementing recommendations within the Capital Improvement Program, and a Financial Plan estimating the cost of implementing each of the scenarios outlined. The Capital Plan includes an inventory of all vehicles, amenities and facilities currently in use; as well as, a strategy for the development of additional resources across the next five years. Currently, the transit fleet includes thirty fixed route buses, eleven Dial-A-Ride buses, six trolleys and nineteen Sequoia Shuttle buses. While the number of Dial-A-Ride, Trolley and Shuttle buses will remain the same over the next five years; the number of fixed route buses will vary depending on the alternative chosen A, B or C.

There are three different financial plans that correspond to the three operating scenarios. They are included in the full plan and provide flexibility for the Council to adjust the transit program to keep it in line with available transit funding.

Once adopted, this plan will be implemented in steps with specific action approved by the Council,. Some of these recommended change have already taken place with Council approval including the revision of the routes to meet current traffic patterns, and expansion of Routes 7 & 8 in August to include two way service. Implementation of the remainder of this plan will likewise be incrementally brought to Council at the appropriate time.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives: N/A

Attachments: Final Short Range Transit Plan

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to adopt the 2009 Short Range Transit Plan.

City of Visalia Agenda Item Transmittal

Meeting Date: November 16, 2009

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

Agenda Item Wording:

Authorize the City to pursue a Health & Wellness Coalition with community partners.

Deadline for Action:

Submitting Department: Parks and Recreation

Contact Name and Phone Number:

Bob Link	Vice Mayor	713-4512
Greg Collins	Council Member	713-4512
John Bradley	Recreation Supervisor	713-4585

Department Recommendation:

That the City Council direct the City Manager to pursue a coalition with community partners, including, but not limited to, Kaweah Delta Health Care District and Visalia Unified School District to promote health and wellness in our community. The coalition will explore needs and promote existing health and wellness offerings in the community.

Summary/background:

On August 28, 2009, City Council Community Based Planning Committee representatives Bob Link and Greg Collins met with Kaweah Delta Health Care District Board Members Carl Anderson and Jody Graves to discuss City/KDHCD common issues. A potential partnership opportunity was identified in the area of Health and Wellness. After this meeting, Councilmen Link and Collins asked the City Manager to pursue the idea of Health and Wellness partnerships.

In October 2009, Steve Salomon and Lindsay Mann (CEO of Kaweah Delta Health Care District) met with Stan Carrisoza (Visalia Unified School District superintendent) to discuss potential partnerships between the three organizations.

A subsequent meeting between the three organizations launched the discussion of developing a community health and wellness coalition. It was determined that Obesity is an epidemic and that the organizations could combine resources as available to further health, wellness and active lifestyles in our community.

This document last revised: 11/13/09 11:07:00 AM

Page 1

File location and name: H:\(1) AGENDAS for Council - DO NOT REMOVE\2009\111609\Item 8h Health and Wellness Coalition.doc

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 vae 11/13/09
(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.

At this meeting, it was understood that financial resources were not available, but each organization could share resources in the way of existing health committees, programs, and future grant applications. It was also recommended that the organizations find a way to highlight existing health and wellness efforts that are currently available to the public.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected):

The City Council directs the City Manager to pursue a coalition with community partners, including, but not limited to, Kaweah Delta Health Care District and Visalia Unified School District to promote health and wellness in our community. Further, the coalition will explore needs and promote existing health and wellness offerings in the community.

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: November 16, 2009

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

Agenda Item Wording: Authorization to enter into agreement with the County of Tulare for the maintenance of Road 100 (Akers Road) between Modoc Ditch and Avenue 320.

Deadline for Action: N/A

Submitting Department: Community Development Department / Planning Division

Contact Name and Phone Number:

Brandon Smith, Senior Planner	713-4636
Michael Olmos, Assistant City Manager	713-4332

Staff Recommendation: City staff recommends that the City Council:

1. Authorize the City Manager to execute an Agreement between the City of Visalia and County of Tulare (attached herein as Exhibit "A") whereby the City will assume maintenance of an approximately ½-mile portion of Road 100 (Akers Street) under County jurisdiction, located between Modoc Ditch and Avenue 320, effective when a school facility opens on the northwest corner of Akers Street and Riggin Avenue.

An executed agreement was made a condition of approval by the Local Agency Formation Commission (LAFCO) for Visalia Annexation No. 2007-03 requested by Visalia Unified School District. The condition is the last outstanding requirement before the annexation can be recorded.

If the agreement is not entered into, then the annexation requested by Visalia Unified School District cannot be completed.

Project Background: The School District has purchased 160 acres at the northwest corner of Akers Street and Riggin Avenue for the planned development of a new multi-school campus, including a high school, middle school, and support services. The School District anticipates that the first school in the complex will be constructed in the next five to ten years. The future school facilities on this site would result in increased traffic on Road 100 by students who reside in County jurisdiction to the north.

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 _____ 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.

Properties to be annexed include the school site and the site's adjoining frontage on Road 100, from Riggin Avenue to the crossing at Modoc Ditch. When annexation is complete, the City of Visalia will own and maintain this segment of roadway. The last 1/2-mile portion of Akers Street heading north from the crossing at Modoc Ditch to its terminus at Avenue 320 would be owned by the County (see location map attached as Exhibit "B").

On April 6, 2009, the City Council approved initiating annexation proceedings of the school site and adjoining right-of-way with the Tulare County LAFCO.

LAFCO Requirement of a Maintenance Agreement: The LAFCO Commission considered the annexation on June 3, 2009. During the public comment period, the Commission raised issue with impacts resulting directly from the project on the County portion of Road 100. The Commission, seeing that the additional traffic generated from a City project would cause above-average wear on the roadway, felt it was necessary to address this issue before granting approval to the annexation.

The City formally responded to this issue in a letter to LAFCO staff dated July 27, 2009. Acknowledging an increased amount of traffic on Road 100 with the project, the City said it was willing to negotiate a shared maintenance agreement with the County of Tulare. Such an agreement would only take effect once classes or extra-curricular activities commence on the site.

On August 5, 2009, the LAFCO Commission approved the annexation with the condition that the City and County have entered into such a maintenance agreement.

Discussion: Staff does not object to entering into a maintenance agreement with the County, as indicated in the letter directed to LAFCO staff dated July 27, 2009. The City and County have entered into maintenance agreements on other County road segments that receive a substantial amount of City destination and pass-through trips. One such segment is Shirk Road between Highway 198 and Caldwell Avenue. Also, Road 100 between Riggin Avenue and Avenue 320 was recently repaved and striped by the County using Measure R funds.

The maintenance agreement, attached herein as Exhibit "A", was been prepared by County staff. It is modeled from road maintenance agreements used in other similar situations between cities and the County.

Prior Council Actions: On April 17, 2009, the City Council initiated the annexation proceedings with the Tulare County LAFCO. A related General Plan Amendment was also approved by City Council to change the General Plan Land Use designation on the site from Urban Reserve to Public Institutional.

Attachments: Exhibit "A" – Road 100 Maintenance Agreement
Exhibit "B" – Location Map

Recommended Motion (and Alternative Motions if expected):

I hereby move to authorize the City Manager to execute an Agreement between the City of Visalia and County of Tulare whereby the City will maintain Road 100 between Modoc Ditch and Avenue 320, upon the completion of a school facility at the northwest corner of Akers Street and Riggins Avenue.

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: November 16, 2009

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

Agenda Item Wording: Authorization to award Bid No. 09-10-13, Supply and Delivery of Chlorine Cylinders, to JCI Jones Chemicals Inc. for a bid price of \$499.00 per ton.

Deadline for Action: none

Submitting Department: Public Works

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

Department Recommendation: It is recommended that Council authorize staff to award RFB No. 09-10-13, Supply and Delivery of Chlorine Cylinders, to JCI Jones Chemicals Inc. for a bid price of \$499.00 per ton.

Summary/background:

Bulk chlorine is delivered to the Water Conservation Plant (WCP) where it is utilized to provide disinfection to treated effluent prior to disposal.

The City issued a request for bids to supply chlorine to the WCP. Two bids were received.

<u>Company</u>	<u>Location</u>	<u>Bid Price</u>
JCI Jones Chemical, Inc	Torrence, CA	\$499.00 per ton
Sierra Chemical Co.	Sparks, NV	\$521.06 per ton

JCI Jones Chemical, Inc. has supplied chlorine to the WCP for the past five years. There have been no negative experiences while dealing with this company.

This is a one year contract, renewable for up to four consecutive one year periods, for a maximum term of five years. Given an average daily use of about one ton, the value of this contract is approximately \$182,000 per year. Staff recommends that Council authorize staff to award this contract.

Prior Council/Board Actions:

This document last revised: 11/13/09 12:57:00 PM

Page 1

File location and name: H:\(1) AGENDAS for Council - DO NOT REMOVE\2009\111609\Item 8j chlorine award.doc

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.

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected):

Move to authorize staff to award RFB # 09-10-13, Supply and Delivery of Chlorine Cylinders, to JCI Jones Chemicals Inc. for a bid price of \$499.00 per ton.

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: November 16, 2009

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

Agenda Item Wording: Adoption of Resolution No. 2009-55 authorizing the application for Grant Funds in the amount of approximately \$330,000.00 for the 2008-09 Environmental Enhancement and Mitigation (EEM) Program and designating the City Manager as the agent to negotiate, execute and submit all necessary documentation pertaining to the planting of trees, under story plants, and irrigation around various ponding basins and Modoc ditch and Mill Creek.

Deadline for Action: Resolution Submission Deadline – January 6, 2009.

Submitting Department: Recreation and Parks

Contact Name and Phone Number: Brian Kempf 786-9677, Vince Elizondo 713-4367, Andrew Benelli 713-4340

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent

Calendar

Regular Item
 Public Hearing

Est. Time (Min.): _____

Department Recommendation: Staff recommends that the City Council adopt Resolution No. 2009-55 authorizing the application for Grant Funds in the amount of \$330,000.00 under the Environmental Enhancement and Mitigation Grant Program for the purpose of planting 850 trees and 600 under story plants around two Ponding Basins, Mill Creek and Modoc Creek trails and designate the City Manager as the City agent to negotiate, execute and submit all necessary documentation pertaining to the project. An 11% match of \$36,300 that will come from Measure R and or gas tax funds is required.

Summary: Staff is requesting authorization to apply for grant funds to plant approximately 850 trees and 600 under story plants on city property. Planting sites shall include Houston ponding basin located on Houston Ave with frontage along Goshen Ave., Creek Side ponding basin located on Mc Auliff and Murray, along Modoc Ditch from the St Johns River to Court St, and Mill Creek from Akers Ave to 500 ft. east.

The grant proposal includes funds for project management, trees, under story plants, stakes, irrigation materials, and labor.

The project is a partnership with the Urban Tree Foundation and Community Services Education and Training (CSET), Tulare County Conservation Crop (TCC) and the City of Visalia. Brian Kempf of the Urban Tree Foundation will oversee the project and TCC will provide the labor to execute the project. As with past projects volunteers will be enlisted to participate in the project.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives: Take no action or deny the recommendation. If said request is denied, staff will not apply for grant funding.

Attachments: Resolution No. 2009-55

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): Move to adopt Resolution No. 2009-55 authorizing the submission of an application for Grant Funds in the amount of \$330,000 under the Environmental Enhancement and Mitigation Grant Program for the purpose of planting of trees, under story plants, and irrigation at the Houston Ave ponding basin located on Houston Ave, Creek Side ponding basin located on Mc Auliff and Murray, along Modoc Ditch from the St Johns River to Court St, and Mill Creek from Akers Ave to 500 ft. east designating the City Manager as the agent to negotiate, execute and submit all necessary documentation pertaining to the project. An 11% match of \$36,300 that will come from Measure R and or gas tax funds.

Financial Impact

Funding Source: TBD
Account Number: _____ (Call Finance for assistance)

Budget Recap – Phase 1:

Total Estimated cost: \$330,000.00	New Revenue:	
Amount Budgeted: \$-0-	Lost Revenue:\$	
New funding required: \$36,300.00 beginning FY 10-12	Personnel:	\$
Council Policy Change: Yes___ No__		

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required?	Yes	No	Cat. Exempt
Review and Action:	Prior: Required: The project does not involve the expansion of any existing uses.		
NEPA Review:			
Required?	Yes	No	No
Review and Action:	Prior: Required:		

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

RESOLUTION 2009 -55

Resolution No:
RESOLUTION OF THE

(GOVERNING BODY)

OF _____ APPROVING
(NONPROFIT ORGANIZATION/SPECIAL PURPOSE LOCAL AGENCY)

THE APPLICATION FOR GRANT FUNDS FOR THE ENVIRONMENTAL
ENHANCEMENT AND MITIGATION PROGRAM UNDER THE SECTION 164.56 OF
THE STREETS AND HIGHWAYS CODE FOR THE FOLLOWING PROJECT:

(PROJECT NAME)

WHEREAS, the Legislature of the State of California has enacted AB 471 (Chapter 106 of the Statutes of 1989), which is intended to provide \$10 million annually for a period of 10 years for grant funds to local, state and federal agencies and nonprofit entities for projects to enhance and mitigate the environmental impacts of modified or new public transportation facilities; and

WHEREAS, the Resources Agency has established the procedures and criteria for reviewing grant proposals and is required to submit to the California Transportation Commission a list of recommended projects from which the grant recipients will be selected; and

WHEREAS, said procedures and criteria established by the Resources Agency require a resolution certifying the approval of application by the applicant's governing body before submission of said application to the State; and

WHEREAS, the application contains assurances that the applicant must comply with; and

WHEREAS, the applicant, if selected, will enter into an agreement with the State of California to carry out the environmental enhancement and mitigation project;

NOW, THEREFORE, BE IT RESOLVED THAT THE

(GOVERNING BODY)

1. Approves the filing of an application for the Environmental Enhancement and Mitigation Program for grant assistance.

2. Certifies that said applicant will make adequate provisions for operation and maintenance of the project.

3. Appoints _____ as agent of
(NAME AND TITLE)

the _____ to
(NONPROFIT ORGANIZATION/SPECIAL PURPOSE LOCAL AGENCY)

RESOLUTION (continued)

conduct all negotiations, execute and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project.

Approved and Adopted the _____ day of _____,
2_____.

I, the undersigned, hereby certify that the foregoing Resolution Number
_____ was duly adopted by the

(GOVERNING BODY)

following roll call vote:

Ayes:

Noes:

Absent:

(CLERK/SECRETARY FOR THE GOVERNING BODY)

City of Visalia Agenda Item Transmittal

Meeting Date: November 16, 2009

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

Agenda Item Wording: Request authorization to file a Notice of Completion for the Village Park-Wittman Center renovation project located at Pearl Street in north central Visalia, Project No. 3011-0-72-0-9865, for the work completed by Dale Atkins Construction at a final cost of \$236,568.13.

Deadline for Action: None

Submitting Department: Parks and Recreation Department

Contact Name and Phone Number: Vincent Elizondo, Director of Parks & Recreation, 713-4367

Department Recommendation: Authorize staff to file a Notice of Completion on Project No. 3011-0-72-0-9865 for the Village Park-Wittman Center renovation project located at Pearl Street in north central Visalia, for the work completed by Dale Atkins Construction at a final cost of \$236,568.13.

Project Summary:

On March 16, 2009, the City Council awarded a contract to Dale Atkins Construction of Visalia to renovate Village Park and the adjacent Wittman Community Center on Pearl Street in north central Visalia for a bid amount of \$190,800.00. The project was financed using State Park Bond Act monies (Proposition 40) and Community Development Block Grant (CDBG) monies.

On June 15, 2009, due to additional project funds being available, the Council increased the scope of the project by an additional amount of \$57,500 to install new playground equipment (labor only); install project landscaping; and install new evaporative (swamp) coolers in the community center.

At the August 3, 2009 Council meeting, the Council approved an additional \$56,500 for the project to complete some additional work at the project site including the renovation 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.): 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.

outdoor basketball court concrete slab surface; the addition of new picnic tables; new park signage; and a new shade shelter for the center entrance.

As previously mentioned, the original Atkins contract amount was \$190,800.00. The Atkins contract had the following change orders totaling \$45,768.00 for a final contract total amount of \$236,568.13.

A description of the ten change orders are outlined below:

1. Grade change around new playground area (\$4,765.54)
2. Provide and install one (1) 3' x 4' truncated dome mat (\$414.34)
3. Minor kitchen renovations to meet current code (\$1,284.44)
4. Omit 6" x 6" kitchen opening header (- \$219.38)
5. New paint in multi-purpose room and kitchen (\$4,640.00)
6. Paint existing stairs, framework and railing (\$1,450.00)
7. Vinyl composition floor tile inlays on indoor basketball court (\$3,940.00)
8. Provide and install new structural mounts for indoor basketball standards (\$1,434.60)
9. Provide and install new ADA concrete entry ramp at south entry to center (\$3,350.59)
10. Provide and install park landscaping (\$24,708.00) – **approved by City Council**

Remaining Project Work:

A few aspects of the project are still remaining to be completed but were not part of the contract for Dale Atkins. The two projects still in progress are the basketball court surface renovation and the new shade structure over the entry way.

Prior Council/Board Actions: Award of construction project to Dale Atkins Construction of Visalia on March 16, 2009; revision of project scope on June 15, 2009; and final project scope revisions on August 3, 2009.

Committee/Commission Review and Actions:

Alternatives: None

Attachments: None

Recommended Motion (and Alternative Motions if expected):

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

City of Visalia Agenda Item Transmittal

Meeting Date: November 16, 2009

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

Agenda Item Wording: Request authorization to file a Notice of Completion for Pinkham Ranch. This subdivision (containing 18 single family lots) is located on the west side of Pinkham Street, approximately 200 feet south of Laura Avenue.

Deadline for Action: November 16, 2009

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:

Chris Young, Assistant Community Dev. Director – 713-4392
David Bruce, Engineering Inspector - 713-4188

Department Recommendation:

City staff recommends that City Council give authorization to file a Notice of Completion for the Pinkham Ranch Subdivision.

Summary/background: All the necessary improvements for this subdivision have been completed and are ready for acceptance by the City of Visalia with the exception of several minor “punch list” items. This Notice of Completion will not be forwarded for recordation by the County until these items have been completed. A letter acknowledging this (signed by the developers) is attached. The developer is scheduled to complete these improvements by November 20, 2009. The subdivision was developed by Todd Plumbing. Todd Plumbing has submitted a maintenance bond in

the amount of \$21,326.92 as required by the Subdivision Map Act to guarantee the improvements against defects for one year. The Landscaping and Lighting District #09-01 for this subdivision was created together with the tentative map. Therefore, no further resolutions or actions were necessary to annex this subdivision into its own landscaping & lighting district.

Prior Council/Board Actions: Final Map (and Landscape and Lighting District formation) recording was approved at Council meeting of April 20, 2009.

Committee/Commission Review and Actions: The tentative subdivision map for Pinkham Ranch was approved by Planning Commission on March 24, 2008.

Alternatives: N/A

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1 Min.

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

Attachments: Developer Disclosure Form and Location sketch/vicinity map.
Letter of Acknowledgement

Recommended Motion (and Alternative Motions if expected):

I hereby authorize filing a Notice of Completion for public improvements only for Pinkham Ranch subdivision once the City Engineer has verified that all public improvements have been completed.

Environmental Assessment Status

CEQA Review: Environmental finding completed for tentative subdivision map.

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: November 16, 2009

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

Agenda Item Wording: Issuance of a written report describing the measures taken to alleviate the condition which led to adoption of Ordinance No. 2009-07, an urgency ordinance establishing a moratorium on medical marijuana dispensaries and collective or cooperative cultivation and distribution enterprises.

Deadline for Action: November 23, 2009

Submitting Department: Community Development/City Attorney

Contact Name and Phone Number: Mike Olmos 713-4332

Department Recommendation: Staff recommends Council authorize the issuance of the attached written report for Ordinance 2009-07 in compliance with Government Code Section 65858.

Summary/background: On October 19, 2009, Council adopted an Ordinance No. 2009-07, pursuant to California Government Code Section 65858, establishing a moratorium on medical marijuana dispensaries. A copy of the urgency ordinance is attached. The ordinance contains detailed findings on the conditions leading to the adoption of the ordinance.

Section 65858 specifies that an urgency ordinance can be adopted for an initial period of 45 days, at which time the urgency ordinance will expire. Ordinance 2009-07 was adopted on October 19, 2009 and will expire on December 3, 2009. The section further provides that an urgency ordinance can be extended for an additional period of 10 months and 15 days, following a noticed public hearing and adoption of further findings. A public hearing has also been scheduled for the November 16 agenda for Council to consider an extension of the urgency ordinance.

Section 65858 further specifies that 10 days prior to expiration of an urgency ordinance, or any extension, the legislative body must issue a written report describing the measures taken to alleviate the condition which led to adoption of the urgency ordinance. As Ordinance 2009-07 was adopted pursuant to Section 65858, a written report is required to be issued by Council 10 days before the initial ordinance expires on December 3.

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.

Attached is the recommended written report for Ordinance 2009-07. Staff recommends that Council authorize the issuance of the necessary written report.

Prior Council/Board Actions: Council adopted Ordinance 2009-07 on October 19, 2009.

Committee/Commission Review and Actions: None

Alternatives: None recommended – written report is required by Section 65858.

Attachments:

1. October 19, 2009 Staff Report
2. Ordinance 2009-07
3. Draft Written Report for Ordinance 2009-07

Recommended Motion (and Alternative Motions if expected): I move to authorize the issuance of the written report for Ordinance 2009-07

Environmental Assessment Status

CEQA Review: NA

NEPA Review: NA

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: NA

CITY OF VISALIA

WRITTEN REPORT FOR ORDINANCE NO. 2009-07, AN URGENCY ORDINANCE ESTABLISHING A MORATORIUM ON MEDICAL MARIJUANA DISPENSARIES AND COLLECTIVE OR COOPERATIVE CULTIVATION AND DISTRIBUTION ENTERPRISES

DATE OF ISSUANCE: NOVEMBER 16, 2009

This written report has been prepared and issued pursuant to California Government Code Section 65858 for City of Visalia Ordinance No. 2009-07, an urgency ordinance establishing a moratorium on medical marijuana dispensaries and collective and cooperative cultivation and distribution enterprises. Ordinance No. 2009-07 was adopted by the Visalia City Council on October 19, 2009 and will expire on December 3, 2009.

In 1996, the voters in California approved Proposition 215, entitled the Compassionate Use Act of 1996, which authorized the use of medical marijuana in the State of California. In 2004, the State of California enacted SB 420, known as the Medical Marijuana Program, to clarify the scope of the Compassionate Use Act and to authorize cities to adopt and enforce rules for medical marijuana consistent with the legislation.

Pursuant to SB 420, in 2006, the City of Visalia adopted an ordinance establishing a permit process for medical marijuana businesses and setting zoning rules for these uses. This ordinance is known as the City of Visalia Medical Marijuana Business Ordinance.

Since the Medical Marijuana Business Ordinance was enacted in 2006, significant new developments have occurred in this field as the judicial courts and California Attorney General have helped refine the statutory requirements for medical marijuana. The Attorney General has issued an updated opinion in August of 2008 and several court cases have emerged in California which provided further clarification on medical marijuana implementation efforts. Other court cases are currently underway which may also provide clarification of medical marijuana statutes.

The City of Visalia Medical Marijuana Business Ordinance, adopted in 2006, is not consistent with the 2008 Attorney General opinion and with court cases that have occurred after the adoption of the City's ordinance. As such, any permits issued pursuant to the Medical Marijuana Business Ordinance may potentially allow medical marijuana facilities to operate in violation of State law and expose operators of these facilities to potential criminal prosecution. The moratorium authorized by Ordinance 2009-07 has enabled the City of Visalia staff and City Attorney to begin a comprehensive review of the Attorney General Opinion and applicable court cases to eventually determine recommended revisions to the Medical Marijuana Business Ordinance to achieve compliance with State law.

In that the amount of work needed to complete the necessary research, draft recommended ordinance amendments, and undertake the necessary adoption process will take several months, the revisions to the Medical Marijuana Business Ordinance will not be completed within the 45 day moratorium period authorized by Ordinance No. 2009-07. As such, it will be necessary to request the City Council approve an extension of the moratorium to provide sufficient time for this work to be completed. The request for extension of time will be presented to the Visalia City Council on November 16, 2009.

City of Visalia Agenda Item Transmittal

Meeting Date: November 16, 2009

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

Agenda Item Wording: Appointment of Michael Kreps, Rob Cox, Cary Winslow, Brett Taylor, and Rosalinda Verde to the North Visalia Neighborhood Advisory Committee.

Deadline for Action: N/A

Submitting Department: Police

Contact Name and Phone Number: Lieutenant Perry Phipps,
713-4103

Department Recommendation: It is recommended that Michael Kreps, Rob Cox, Cary Winslow, Brett Taylor, and Rosalinda Verde be appointed to the North Visalia Neighborhood Advisory Committee (NVNAC) to fill vacant positions.

Summary/Background: The North Visalia Neighborhood Advisory Committee has reviewed the available applications and has interviewed the candidates. Based on this information the committee recommended to the Citizen's Advisory Committee that Michael Kreps, Rob Cox, Cary Winslow, Brett Taylor, and Rosalinda Verde be appointed to fill five (5) vacant positions on the North Visalia Neighborhood Advisory Committee. The CAC reviewed the recommendation, and agreed with the NVNAC's recommendation.

Michael Kreps has been a resident of Visalia for approx. 36 years and is a business owner as an architect. Mr. Kreps has been actively involved in the community. His commitment to the community is characterized by his current position as the President of the Downtown Visalian's, board membership with Able Industries, and his assistance with the Good News Center. Mr. Kreps would like to build a stronger relationship with the Downtown and Oval Park business owners and to help with the revitalization efforts on the North side of Visalia.

Rob Cox has been a resident of Visalia for over 28 years. Mr. Cox has demonstrated his involvement to better the community by volunteering for the Visalia Emergency Aid for the past 11 years and National Make a Difference Day for the past 7 years. Mr. Cox is currently the manger for the American Cancer Society. Mr. Cox has earned his Bachelor of Science Degree in Organizational Communication, with minors in Political Science and Sociology. His interest in

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.

community development and his desire to assist with developing the north side of Visalia has motivated him to seek this appointment.

Cary Winslow has been a resident for 63 years and is a current property owner in the Lincoln Oval Park area. Mr. Winslow is also a past NVNAC member (1980's-1990's). He has also been actively involved in the recent Cal-Trans traffic study for the improvement of the area around the Lincoln Oval Park. Mr. Winslow is very familiar with the north side of Visalia and can be considered a spokesperson for the Oval Park area. If appointed, Mr. Winslow would like to help improving the quality of life and reputation of the Oval Park area.

Brett Taylor has been a resident of Visalia for 28 years and is actively involved in coaching football at Redwood High School, volunteering for the Make a Difference Day events, Boy Scouts, and his church. Mr. Taylor is fluent in Spanish and has a Bachelor of Science Degree from Fresno State. If appointed Mr. Taylor would like to be involved in the revitalization efforts of north Visalia.

Rosalinda Verde has been a resident of Visalia for 18 years. Ms. Verde has earned a Bachelor of Arts Degree in music, with a minor in Spanish, from Point Loma University. An example of Ms. Verde's desire to help others is her work for an organization building homes in poverty stricken areas of Mexico. Ms. Verde has expressed her devotion to Visalia and if appointed would like to help in making Visalia a better place to live.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

July, 2009 – Notified by CAC of recommendation approval.

Alternatives: Positions remain vacant.

Attachments: Five Committee applications

Recommended Motion (and Alternative Motions if expected): I move to appoint Michael Kreps, Rob Cox, Cary Winslow, Brett Taylor, and Rosalinda Verde to the North Visalia Neighborhood Advisory Committee for the recommended 2 year terms.

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: November 16, 2009

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

Agenda Item Wording: Authorization to submit a non-binding letter of intent to participate in the Energy Technology Assistance Program which could provide funding for energy retrofits on municipal buildings.

Deadline for Action: November 16, 2009

Submitting Department: Administration

Contact Name and Phone Number:

Kim Loeb, Natural Resource Conservation Manager 713-4530
Leslie Caviglia, Deputy City Manager 713-4317

Department Recommendation: Authorize staff to submit a non-binding letter of intent to participate in the Energy Technology Assistance Program.

Summary/background:

The U.S. Department of Energy (DOE) has allocated American Recovery and Reinvestment Act of 2009 (ARRA) grant funds to the California Energy Commission (CEC) for the State Energy Program (SEP).

Energy Solutions (ES), an energy efficiency program contractor, is submitting an application for funding of its Energy Technology Assistance Program (ETAP) through the SEP California Municipal and Commercial Building Targeted Measure Retrofit Program in partnership with the Association of Bay Area Governments, the Local Government Commission, and other contractors.

The City was recommended for participation in this program by the Local Government Commission. ES plans to request \$8 million of ARRA funds and has identified potentially \$12 million additional funds for the ETAP program.

The ETAP program would be expected to work as follows:

- ES provides auditing services to determine which SEP measures are appropriate for City facilities. Measures would include:
 - Bi-level lighting with occupancy sensors for stairwells, parking garages and lots, and stairwells

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 LBC 111209
(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.

- Task ambient lighting
 - Wireless lighting controls
 - Wireless HVAC controls
- ES provides a business analysis for the installation of the measure(s)
 - Business case includes SEP incentives, utility incentives, and other financing opportunities
 - Payback period for measures expected to be in the 3-4 year range (depends on how funds are leveraged)
 - Note: SEP incentives may not cover entire cost of the measures – other funds such as our pending Energy Efficiency and Conservation Block Grant funds, utility rebates and incentives, and possibly low-interest loans offset by utility bill savings may be leveraged with the SEP funds
- City decides which measure(s) to implement
- ES manages contractors, installation process, etc
 - In essence, ES serves as the City’s representative, and helps the City to make sure the measures are being installed properly and on time

Complete ETAP program details will be provided to Council at a future meeting should ES be successful in its SEP application. At that time, Council will be requested to authorize a Resolution to participate in the program. Presently, staff is asking Council to authorize a non-binding letter of intent to participate in the program.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected):
 I move to authorize submittal of a letter of intent to participate in the Energy Technology Assistance Program.

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: November 16, 2009

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

Agenda Item Wording: Authorize submittal of a collaborative application for ARRA grant funds to establish the VIEW Comprehensive Residential Building Retrofit Program.

Deadline for Action: November 16, 2009

Submitting Department: Administration

Contact Name and Phone Number:

Kim Loeb, Natural Resource Conservation Manager 713-4530
Leslie Caviglia, Deputy City Manager 713-4317

Department Recommendation: Authorize submittal of a collaborative application for ARRA grant funds to establish the VIEW Comprehensive Residential Building Retrofit Program.

Summary/background:

The U.S. Department of Energy (DOE) has allocated American Recovery and Reinvestment Act of 2009 (ARRA) grant funds to the California Energy Commission (CEC) for the State Energy Program (SEP).

The CEC prefers to contract with a local government agency as the prime contractor for a regional local-government consortium. This application will be for the City to serve as the prime contractor for the Valley Innovative Energy Watch (VIEW) local-government partnership with Southern California Edison (Southern California Gas will join January 1, 2010). Local-government partners are City of Visalia, City of Tulare, City of Porterville, City of Woodlake, City of Farmersville, Tulare County, City of Hanford, and Kings County. The program would also include CSET and Proteus. Other partners include the San Joaquin Valley Clean Energy Organization (SJVCEO oversees the VIEW Partnership) and Enalays, an energy efficiency implementation contractor recommended by the SJVCEO.

The purpose of the proposed program will be two-fold. The program will provide a step-by-step process to provide homeowners and occupants of single- and multi-family residential buildings energy efficiency retrofits to reduce energy demand and greenhouse gas emissions while significantly reducing homeowners' or renters' energy bills. The program will accomplish this by re-training workers and youth to implement the residential energy efficiency retrofits. Enalays, the energy efficiency contractor, will work with local non-profit organizations CSET and Proteus

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

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 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head LBC110809
(Initials & date required)

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

City Mgr _____
(Initials Required)

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to set up the training programs. CSET, Proteus, and local re-trained contractors will implement the energy efficiency retrofits.

This program will also be integrated into the CaliforniaFIRST AB 811 solar and energy efficiency financing program. Council expressed interest in participating in the CaliforniaFIRST program at its October 19, 2009, meeting. This would provide additional funding to complete whole-house retrofits including installation of rooftop solar energy systems.

Enalysis will conduct most of the program administrative functions under contract to the City including the reporting required by the CEC. Funds will be available from the grant to cover any administrative burden incurred by the City. The amount to be requested from the CEC is \$7 million.

The proposed program will benefit the citizens of Visalia, as well as the citizens of the other VIEW Partnership jurisdictions in Tulare and Kings Counties, by providing energy efficiency retrofits on residential buildings which will reduce energy demand in the area (including peak-energy demand), reduce greenhouse gas emissions, provide re-training for contractors impacted by the economic and building slowdown, and bring Federal ARRA funds to the local area.

Should the application be accepted by the CEC, complete program details will be presented to Council with request for a resolution authorizing participation in the program.

Prior Council/Board Actions:

Council authorized declaration of interest in participating in the CaliforniaFIRST solar energy efficiency financing program at its October 19, 2009, meeting.

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected):

I move to authorize submittal of a collaborative application for ARRA grant funds to establish the VIEW Comprehensive Residential Building Retrofit Program

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: November 16, 2009

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

Agenda Item Wording: Authorization to conduct a design contest for the plaques on the Santa Fe Bridge

Deadline for Action: N/A

Submitting Department:

Contact Name and Phone Number:

Leslie Caviglia, 713-4317

Department Recommendation

It is recommended that the City Council authorize staff to conduct a design contest for the plaques on the Santa Fe Bridge.

Department Discussion

The design for the Santa Fe Bridge includes four circular sites where art is to be placed. The thought, and design, assumes these will be bronze.

The bridge budget includes design and casting costs. Rather than paying for a graphic designer to develop the art, staff is proposing to work with the Arts Consortium to hold a contest for the design(s) that would be cast and displayed on the bridge. The prize would be \$1,000, and the winning artist would need to be a Tulare County resident in an effort to encourage local artists. It is thought than offering a \$1,000 prize will be less expensive than hiring a graphic designer. In addition, such a contest would be in keeping with the Cultural Arts Plan adopted by the Council in 2008.

The thought is to have the artwork created by a firm that can do line bronze work rather than a raised, cast piece of art. It is less expensive, can be created from a relatively simple line art drawing, and is suppose to be less susceptible to vandalism.

The contractor has been consulted and he is confident the plaques can be installed so they can't be removed without excess force (like those at the Parking structures). Staff has also worked to find a casting process that is harder to deface, and less expensive to replace, if necessary/desired.

The contest rules and art guidelines would be developed with the assistance of at least two experienced artists from the Visalia Arts Consortium. Three representatives from this organization would also be part of the judging panel, as well as two staff members and two Council members.

For action by:

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

For placement on which agenda:

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Review:

Dept. Head LBC110809

Finance

City Atty

City Mgr

Thoughts regarding the contest:

1. Participating artists must live in Tulare County
2. The artwork must reflect a local characteristic (Historical, flora, farming, local people, locations, etc.)
3. Submitted artwork may include a single design, two designs (two would be used on two different pillars), or four different designs' (one on each pillar)
4. The winning artist will be an artist with whom an agreement is reached regarding modification to the final line drawing in order to accommodate the final creation process and to optimize the quality of the final product.
5. The winning artist must agree that their artwork may be modified to optimize final production.
6. If agreement cannot be reached with the first artist, the next artist in line will be worked with. The process will continue until final artwork is developed.
7. The City may choose not to use any of the submissions and may choose to use another piece of art. In such case, no prize will be awarded.
8. Artwork subject should be readily recognizable.
9. Entries will be judged based on quality of design, quality of execution, transferability to final product, local relevancy, and readily identifiable by the judging panel.
10. City doesn't guarantee that the artwork will remain displayed, or that it will be repaired or replaced if defaced.

If approved, the Arts Consortium Chair asked to appoint members to work with City staff. The City Attorney will also be consulted prior to releasing the final artist call in an effort to avoid artist rights issues.

The hope is to release the call approximately Dec. 1, close it Jan. 15, announce the winner by Feb. 1 and have the final work cast and installed.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected):

I move to authorize staff to conduct a contest for the plaque design for the Santa Fe Bridge.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 16, 2009

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

Agenda Item Wording: Authorization to be a Gold sponsor (\$10,000) for the Visalia stage of the Amgen Tour of California bicycle race as requested by the local organizing committee which is being spearheaded by the Chamber of Commerce.

Deadline for Action: N/A

Submitting Department: Administration

Contact Name and Phone Number: Leslie Caviglia, 713-4317

Department Recommendation:

It is recommended that the City of Visalia become a Gold sponsor (\$10,000) for the Visalia stage of the Amgen Tour of California bicycle race start in downtown Visalia on Thursday, May 20, 2010. The Committee anticipates needing to raise \$70,000-80,000 to cover the costs associated with hosting the Tour.

Summary/background:

Earlier this year the Amgen Tour of California released a Request for Proposal to selected cities in California. This year's Tour included a start in Visalia that resulted in International exposure, including a centerfold photo in Sports Illustrated, visitors from around the world, and thousands of spectators lining the streets of Visalia. In addition to the international exposure, the Tour was also an economic stimulus that resulted in additional business for hotels, restaurants, printers and other local businesses. Following this successful stage in Visalia, the organizing committee, which is being spearheaded by the Visalia Chamber of Commerce, decided to make another bid for Visalia to be part of this international sporting event.

The Tour of California is a eight-day, 14-city event that has become the largest sporting and spectator event in California. World-class athletes from as many as 18 teams will take the roads, streets and highways of California. Many of the racers are the same athletes who participate in the Tour de France and the Olympics.

As one of the stage cities, the Local Organizing Committee (LOC) coordinating event activities in Visalia leading up to and including race day. The Committee includes representatives from a number of entities, including the Southern Sierra Cyclists who have organize the Sequoia

For action by:

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

For placement on which agenda:

Work Session
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Regular Session:

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Est. Time (Min.): _____

Review:

Dept. Head LBC110809
(Initials & date required)

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

City Mgr _____
(Initials Required)

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Cycling Classic. There are a number of costs that the LOC is required to cover, including lodging costs for the advance crew, meals for the crew and teams, logistical and facility costs, safety, waste collection, etc.

In addition, the LOC, in conjunction with the CVB, is looking to offer hotel packages for cyclists and cycling enthusiasts, which will include opportunities to ride part of the route, or to ride with local riders prior to the race, and possible some or all of the route to the General Sherman Tree made famous by Johnathan Vaughters of Team Garmin-Slipstream. There will also be a number of special events leading up to the race, several of which will also support the activities of the local Jeff Barnes Brain Injury Foundation, which provides bicycle helmets to local riders.

The LOC is seeking private sponsorships in an effort to raise the \$70,000-\$80,000 anticipated to be needed to fund the event activities. In a letter received October 30, 2009, the Committee officially asked the City to become a Gold Sponsor for \$10,000. (Letter attached).

The \$10,000 would come from several funds in the Administration budget including General Community Support.

Prior Council/Board Actions:

Aug. 18, 2008 – Council authorized the Mayor to send a letter of support.

November 17, 2008 – Council authorized a Gold Sponsorship for local stage of the 2009 Tour

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Letter from the Local Organizing Committee.

Recommended Motion (and Alternative Motions if expected):

I move to approve \$10,000 to become a Gold Sponsor of the Amgen Tour of California.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 16, 2009

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

Agenda Item Wording:

Authorize the City Manager to retain the law firm of Sawyers and Holland.

Deadline for Action: None

Submitting Department: Public Works

Contact Name and Phone Number:

Andrew Benelli, Public Works Director, 713-4340
Kim Loeb, Natural Resource Conservation Manager, 713-4530

Department Recommendation and Summary:

Authorize the City Manager to enter into a professional services agreement with the law firm of Sawyers and Holland to represent the City in water exchange negotiations with Tulare Irrigation District.

Background:

On September 8, 2009, the City Council authorized staff to begin negotiations with Tulare Irrigation District (TID) to prepare a water exchange agreement. The City would deliver treated wastewater year round into TID's system and in return TID would deliver surface water to the City for ground water recharge when they have excess water available. TID would also assist the City in managing the City's other water assets.

This would be a long-term agreement, likely 20 years. Design decisions regarding the proposed \$60+ million water conservation plant improvements will be directly affected by the agreement in terms of reuse of the treated wastewater. Therefore, it is prudent to have the assistance of an expert attorney who has the perspective to help negotiate the best agreement to serve the City and TID's long-term interests.

City Attorney Alex Peltzer (Dooley, Peltzer and Herr) has a conflict of interest because he acts as general council to both the City and TID. There are five or six law firms in the Central Valley that are routinely involved in irrigation water rights, transfers and exchanges; however, few have attorneys with the right expertise but who are not encumbered with potential conflicts of interest with Tulare County irrigation districts.

For action by:

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

For placement on which agenda:

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Est. Time (Min.): 5

Review:

Dept. Head _____
Date _____

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

City Mgr _____
(Initials Required)

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Two such attorneys were highly recommended by City Attorney Peltzer and by Dick Moss, the City's consultant for water issues. City staff met with both attorneys and determined that Gary Sawyers with Sawyers and Holland would be the best attorney to represent the City in the TID water exchange. Staff believes that Mr. Sawyers has the right demeanor and approach to assist the City in negotiating the best agreement without jeopardizing the current good working relationship between the City and TID.

Sawyers and Holland are well qualified to work on this project. They have represented Fresno Irrigation District in negotiations with the City of Fresno for surface water purchases. They were also involved in the San Joaquin River Settlement with Dan Dooley (previous City Attorney). Gary Sawyers specializes in water transfer negotiations and does not accept cases involving litigation or criminal prosecution. Sawyers and Holland is a small firm with two attorneys, two paralegals and administrative staff. Mr. Sawyers has committed to personally conduct the work for the City. Staff recommends an agreement for Mr. Sawyers time not-to-exceed \$19,500.

The negotiations team will first prepare a Letter of Intent that will be reviewed and approved by the City Council and the TID Board. The Letter of Intent will detail many of the terms of the agreement but will not be a legally binding document. If the terms are acceptable to both groups, then a formal agreement will be prepared and presented to the City Council and the TID Board for final approval. Staff estimates that the agreement will be completed in approximately 120 days.

Prior Council/Board Actions: On September 8, 2009, the City Council authorized staff to begin negotiating the framework of a water exchange agreement with Tulare Irrigation District. A copy of that staff report is attached.

Committee/Commission Review and Actions: None

Alternatives: Dooley, Peltzer and Herr could represent the City. However, the City Council and the TID Board would have to accept and waive their conflict of interest. A different law firm could be retained to represent the City.

Attachments: Resume of Gary W. Sawyers; City Council staff report from September 8, 2009, authorizing staff to begin negotiating the framework of a water exchange agreement with Tulare Irrigation District.

Recommended Motion (and Alternative Motions if expected): Authorize the City Manager to enter into a professional services agreement with the law firm of Sawyers and Holland to represent the City in water exchange negotiations with Tulare Irrigation District.

Environmental Assessment Status

CEQA Review: None

NEPA Review: None required.

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

None.

Item 9

Postponed until January 11, 2010 at the request of the Applicant.

City of Visalia
Agenda Item Transmittal

Meeting Date: November 16, 2009

Agenda Item Number (Assigned by City Clerk): 10

Agenda Item Wording: Public Hearing to consider extending for 10 months and 15 days the urgency interim zoning ordinance establishing a moratorium on medical marijuana dispensaries and collective or cooperative cultivation and distribution enterprises. This extension is being processed pursuant to California Government Code Section 65858 (4/5s *vote required for passage*).

Ordinance No. 2009-09

Deadline for Action: December 3, 2009

Submitting Department: Community Development/City Attorney

Contact Name and Phone Number: Mike Olmos 713-4332
Alex Peltzer 636-0200

Department Recommendation: Staff recommends Council adopt Ordinance 2009-09 extending for a period of 10 months and 15 days the moratorium on medical marijuana dispensaries and collective or cooperative cultivation and distribution enterprises.

Summary: On October 19, 2009, Council adopted an Ordinance No. 2009-07, pursuant to California Government Code Section 65858, establishing a moratorium on medical marijuana dispensaries and cultivation /distribution enterprises.

Section 65858 specifies that an urgency ordinance can be adopted for an initial period of 45 days, at which time the urgency ordinance will expire. Ordinance 2009-07 was adopted on October 19, 2009 and will expire on December 3, 2009. The section further provides that an urgency ordinance can be extended for an additional period of 10 months and 15 days, following a noticed public hearing and adoption of further findings. A

For action by:

City Council
 Redev. Agency Bd.
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 VPFA

For placement on which agenda:

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Regular Session:

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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.

public hearing has been noticed for the November 16 agenda for Council to consider an extension of the urgency ordinance.

Background:

In 1996, the voters in California approved Proposition 215, entitled the Compassionate Use Act of 1996, which authorized the use of medical marijuana in the State of California. In 2004, the State of California enacted SB 420, known as the Medical Marijuana Program, to clarify the scope of the Compassionate Use Act and to authorize cities to adopt and enforce rules for medical marijuana consistent with the legislation.

Pursuant to SB 420, in 2006, the City of Visalia adopted an ordinance establishing a permit process for medical marijuana businesses and setting zoning rules for these uses. This ordinance is known as the City of Visalia Medical Marijuana Business Ordinance.

Since the Medical Marijuana Business Ordinance was enacted in 2006, significant new developments have occurred in this field as the judicial courts and California Attorney General have helped refine the statutory requirements for medical marijuana. The Attorney General has issued an updated opinion in August of 2008 and several court cases have emerged in California which provided further clarification on medical marijuana implementation efforts. Other court cases are currently underway which may also provide clarification of medical marijuana statutes.

The City of Visalia Medical Marijuana Business Ordinance, adopted in 2006, is not consistent with the 2008 Attorney General opinion and with court cases that have occurred after the adoption of the City's ordinance. As such, any permits issued pursuant to the Medical Marijuana Business Ordinance may potentially allow medical marijuana facilities to operate in violation of State law and expose operators of these facilities to potential criminal prosecution. The moratorium authorized by Ordinance 2009-07 has enabled the City of Visalia staff and City Attorney to begin a comprehensive review of the Attorney General Opinion and applicable court cases to eventually determine recommended revisions to the Medical Marijuana Business Ordinance to achieve compliance with State law.

In addition to reviewing recent court cases and administrative materials, there are numerous pending actions that relate to this matter. For example, the City of Fresno has banned all medical marijuana-related businesses by adopting an ordinance that requires compliance with federal laws - because all marijuana use, cultivation, possession and distribution is illegal under federal law, the Fresno ordinance effectively bans all medical marijuana business. The Fresno ordinance is currently being tested in a court case in Fresno County. Also, the City of Los Angeles is in the middle of a multi-pronged approach aimed at closing the majority of the large number of medical marijuana dispensaries that have opened in that city in recent years. Among the steps being taken in Los Angeles is the consideration of a new comprehensive ordinance, which was introduced last the first week in November, and the continuation of an abatement effort aimed at closing medical marijuana shops that can be shown to be operating outside the

protections of the Compassionate Use Act, and therefore illegal even under California law. A final example of recent activity in this area is the consideration by the County of Tulare of a sweeping regulatory system for medical marijuana businesses in the county. Although this system would be similar in scope to the ordinance the City of Visalia adopted in 2006, it would not go into effect unless federal law were changed to legalize medical marijuana – until then, all medical marijuana businesses would arguably be illegal uses under county zoning laws and subject to being abated (i.e. closed).

The resolution of these matters will help establish the bounds of appropriate local controls and the alternatives available to the City of Visalia for reasonably regulating medical marijuana. Given the amount of time and legal resources being expended on this issue in other communities throughout the state, it makes little sense for the City of Visalia to attempt to revise its regulatory framework until some of these issues have been further refined in the courts.

The amount of work needed to complete the necessary research, to draft recommended ordinance amendments, to allow other cases throughout the state to come some resolution, and then to undertake the necessary adoption process of whatever regulatory systems prove to be acceptable under the law will take several months. In light of that, the revisions to the Medical Marijuana Business Ordinance will not be completed within the 45 day moratorium period authorized by Ordinance No. 2009-07. As such, it will be necessary to request the City Council approve an extension of the moratorium to provide sufficient time for this work to be completed.

Staff recommends that Council adopt attached Ordinance No. 2009-09 extending the urgency ordinance an additional 10 months and 15 days. Pursuant to G.C. Section 65858, adoption will require a 4/5s Council vote.

Prior Council/Board Actions: Council adopted Ordinance 2009-07 on October 19, 2009.

Committee/Commission Review and Actions: None

Alternatives: None recommended.

Attachments:

1. Ordinance 2009-09

Recommended Motion (and Alternative Motions if expected): I move to adopt Ordinance 2009-09 extending for a period of 10 months and 15 days the moratorium on medical marijuana dispensaries and collective or cooperative cultivation and distribution enterprises.

Requires a 4/5s vote

Environmental Assessment Status

CEQA Review: NA

NEPA Review: NA

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: NA

ORDINANCE NO. 2009-09

**AN INTERIM ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF VISALIA EXTENDING A MORATORIUM ON THE ESTABLISHMENT
OF ANY NEW MEDICAL MARIJUANA BUSINESSES**

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

SECTION 1 – Preamble and Findings.

- A. The voters of the State of California in 1996 approved proposition 215 (codified as California Health and Safety Code section 11362.5, et seq. and entitled “The Compassionate Use Act of 1996”).
- B. In 2004, the State Legislature enacted SB 420 to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other government bodies to adopt and enforce rules and regulations consistent with SB 420.
- C. The City of Visalia, by and through its City Council has adopted a Medical Marijuana Business Ordinance, consisting of Chapter 5.66 of Title 5 (Business Regulations) creating regulations regarding the operation of “Medical Marijuana Dispensaries” and other forms of “Medical Marijuana Businesses” within the City of Visalia, Chapter 8.64 of Title 8 (Health and Safety) creating regulations regarding the “Public Use and Consumption of Medical Marijuana,” and Chapter 17.64 of Title 17 (Zoning) restricting the location of Medical Marijuana Businesses.
- D. Since adoption of the Medical Marijuana Business Ordinance, the courts of the State of California and the United States, and the California Attorney General, have had occasion to consider, establish and refine, the appropriate definitions of terms that are contained in the Compassionate Use Act and SB 420, and that are used in the Visalia Medical Marijuana Business Ordinance. In particular, such authorities have resulted in changes, refinements and additions to the definitions of “primary caregiver”, “collective” and “cooperative” activities of “qualified patients”, and other similar terms.
- E. The City has reviewed these authorities and determined that definitions contained in the Visalia Medical Marijuana Business Ordinance may not be fully consistent with the above-noted later enacted authorities. The City has further determined that current applicants for a Medical Marijuana Business Ordinance may be able to establish conformance with the Medical Marijuana Business Ordinance but will not be in conformance with the above-stated state laws in that the activity does not constitute an action that is consistent with, and therefore protected by, the Compassionate Use Act or SB 420. Because of this, City staff has recommended that the City Council consider immediate changes to the Medical Marijuana Business Ordinance to ensure that no Medical Marijuana Business is allowed to be established in the City of Visalia unless it can be confirmed that it is consistent with state law.
- F. Section 65858 of the California Government Code provides that the legislative body of a city may enact an urgency interim ordinance prohibiting uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body or planning department is considering or studying or intends to study within a reasonable time.
- G. The specific changes to the Medical Marijuana Business Ordinance that the Council will consider have not yet been formulated. Adoption of changes to a City ordinance

normally require at least two public readings, and can only be made effective 30 days after adoption.

- H. If the normal procedures for considering and adopting changes to the Medical Marijuana Business Ordinance are followed, it is likely that two pending applications for a Medical Marijuana Business Permit, and any other application that may be submitted in the near future, will have to be considered and may be approved before the contemplated changes can be made effective. In such event, it is likely that businesses or other entities conducting medical marijuana dispensing or cultivating activities will be approved pursuant to the current ordinance even though they are likely to be subject to prosecution for violating state law in that they are neither primary caregivers or collective or cooperative associations of qualified patients.
- I. Numerous cities in the State of California have adopted ordinances prohibiting medical marijuana dispensaries. As a significant number of cities including cities in central California have prohibited or heavily regulated medical marijuana dispensaries there is a substantially increased likelihood that such establishments will seek to locate in the City of Visalia, particularly if the City of Visalia ordinance on this subject is more expansive than what would be allowed under state laws.
- J. The health, safety and welfare of the people of the City of Visalia are threatened by businesses or other establishments that violate state law, particularly in relation to the cultivation and distribution of a substance that is illegal pursuant to federal laws. The health, safety and welfare of the people of the City of Visalia are further threatened by uses that are allowed to be established that are inconsistent with later established laws.
- K. To address the apparent conflict in laws as well as the community and statewide concerns regarding the establishment of medical marijuana dispensaries it is necessary for the City of Visalia to study the recent changes, additions or refinements to the definitions of "primary caregiver", "collective" and "cooperative" activities of "qualified patients", and other similar terms, and to determine appropriate changes to the Visalia Medical Marijuana Business Ordinance.
- L. Based on the foregoing the City Council finds that issuing permits business licenses or other applicable entitlements providing for the establishment and or operation of medical marijuana business, including dispensaries or collective or cooperative cultivation of marijuana, prior to the completion of the City of Visalia's study of the recent definitional changes, refinements or additions, and the resulting changes to Visalia ordinances that should be considered poses a current and immediate threat to the public health safety and welfare and that therefore a temporary moratorium on the issuance of such permits, licenses and entitlements is necessary.
- M. In order to address the above-identified threat, the City Council enacted a 45-day interim ordinance in accordance with Section 65858 of the California Government Code and in accordance with the pertinent provisions of the City's Charter.
- N. Court cases and other actions, which have the potential provide significant guidance to the issues that need to be determined in order to arrive at a desirable set of revisions to the Medical Marijuana Ordinance, continue to develop in communities throughout California. The outcome of these actions will provide valuable guidance to future decisions of the City Council on this topic.
- O. These actions have not concluded during the period of time the initial interim ordinance has been in effect, and are not likely to conclude within the next 6-10 months. Therefore, there continues to be good cause to prevent the establishment of uses that would conflict with the contemplated future changes to the City's ordinances, including the City's zoning ordinance.

SECTION 2 – Extension of Original 45-day Moratorium

Ordinance No. 2009-07, and the moratorium established therein, is hereby extended for an additional period of 10 months and 15 days. In addition to the findings indicated above, the Council further readopts and reaffirms all findings included in Ordinance No. 2009-07.

SECTION 3 – Council Direction to Staff

The City Council hereby directs the Planning Division and the City Attorney to consider and study possible changes to the Visalia Medical Marijuana Ordinance, including possible changes to the zoning provisions of the Visalia Municipal Code, to bring such ordinance into conformance with recent authority relating to the definition of “primary caregiver,” “qualified patient” and “collective” or “cooperative” of “qualified patients” as those terms are used in the Compassionate Use Act and SB 420.

PASSED AND ADOPTED:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 16, 2009

Agenda Item Number (Assigned by City Clerk): 11

Agenda Item Wording:

A hearing to consider and adopt a Resolution of Necessity on the following properties:

1933 S. Mooney Blvd., Visalia, CA (APN:095-134-024 & 030)

Resolution 2009-56 required

Deadline for Action: None

Submitting Department: Public Works/Engineering

Contact Name and Phone Number:

Steve Salomon, City Manager: 713-4312
Michael Olmos, Assistant City Manager: 713-4332
Chris Young, Assistant Community Dev. Director: 713-4392
Adam Ennis, Engineering Services Manager: 713-4323
Alex Peltzer, City Attorney: 636-0200

Recommendation:

Staff recommends adopting a Resolution of Necessity (Resolution 2009-56) regarding the following properties:

1933 S. Mooney Blvd., Visalia, CA (APN:095-134-024 & 030)

Project Summary/background:

The City is seeking to acquire small strips of land from the parcel at the northwest corner of Mooney and Walnut, owned by members of the Barbis Family (specifically, Katherine Barbis, John Barbis, Mary Jane (Barbis) Abercrombie, and Dane A. Paras). The property is necessary for the completion of, the Mooney Boulevard intersection improvement project at Walnut Avenue, which is being coordinated with Caltrans' Mooney Boulevard widening project pursuant to Cooperative Agreement No. 06-1361, and is necessary to achieve Caltrans' required Level of Service "D" or better.

To improve traffic flow through the intersection, the plans include having dual left turn lanes and a single right turn lane onto Mooney Boulevard with two through lanes in each direction. A new bus turnout lane will be installed near the northwest corner of the intersection on the north side of Walnut Avenue.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 5

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

No new medians will be installed in Walnut, and all existing drive approaches will remain. The plans include City installation of new concrete curb, gutter, and sidewalk along the new rights-of-way and any public utility services that are disrupted will be relocated and reconnected.

Since 2000, staff has coordinated with Caltrans and various consultants to identify the parameters of the project, conducted the environmental review, prepared improvement drawings, determined required encroachment permits, identified affected landowners, prepared legal descriptions of the needed right of way, and commissioned appraisals of the right-of-way strips and interests. Landowners have been contacted and apprised of the proposed project and were invited to participate in the appraisal process.

Adoption of the proposed resolution of necessity will not interrupt our efforts to secure an equitable settlement and will assist staff in the continuation of the orderly sequence of events required to meet construction schedules.

Summary of Negotiations:

This is the second set of right of way easements that is being acquired from the subject property owners. (For a description of the various easements, please see Exhibit 1 (overview map) and Exhibit 2 (Resolution of Necessity with attached property legal descriptions).) The first set of acquisitions was accomplished by CalTrans as part of the Mooney project. Since discovery of the need for additional right of way in January of 2009, the City has been in discussions with the property owners, and although the owners did not express opposition to the plan of acquisition, since late July of 2009, the property owners have now stated their reluctance to agree to the acquisition. A formal offer, based on an appraisal, covering all of the area described in Exhibit 1 and the Resolution of Necessity was submitted to the property owners in early October. There has been no response to the City's offer.

Details of Property Necessary to Be Acquired:

Upon commencement of acquisition work in December, 2007 through January, 2008, City and CalTrans staff believed it would not be necessary to acquire property or easements for the Project from these owners based on an Irrevocable Offer to Dedicate Real Property that was granted to City at the time of development of the In N Out Burger restaurant in 1993/1994. The area subject to the Irrevocable Offer is relatively large and was thought to be (and still would be) more than sufficient to provide the land necessary to support all aspects of the project, including all utility relocation work now being contemplated. Unfortunately, the irrevocable offer that was granted by the property owners at that time included an expiration clause of 10 years. Therefore, in order to move forward with the project, it became necessary to negotiate the acquisition of right of way for the expansion.

CalTrans in 2008 obtained a smaller portion of right of way consisting of small strips of frontage on Mooney as well as Walnut. This area was expected to be sufficient for all expansion plans (CalTrans' Mooney project as well as the City's Walnut project) as they had been established at that time. Since then, however, project planners (CalTrans, City and Edison) have discovered the need for three small additional areas of right of way: 1) Additional utility right of way for CalTrans for the purpose of installing signal light control facilities; 2) new Edison pole and overhang easements to enable the relocation of the 85-foot tall 66kv transmission lines to the north side of Walnut from their current south-side location; and 3) a very small area of additional City pedestrian right of way necessary to provide ADA sidewalk clearance around the new Edison transmission pole, as well as an additional six inches of right of way for retaining wall

purposes. These areas have been surveyed and are the areas offered to be acquired in October of this year, as noted above. They are discussed in detail below:

- 1) CalTrans Signal Facilities: An additional 5 feet of right of way along the arc that forms the corner of Mooney and Walnut is being sought in order to have sufficient room to install signal control lines and boxes. These facilities were initially planned to be installed within the sidewalk area, but the narrowness of the sidewalks necessitated acquisition of additional area for this purpose.
- 2) Edison Transmission Line Easements: As noted on Exhibit 1, the City is seeking to acquire one pole easement and an "overhead line" easement. The pole easement is located at the west end of the property; the overhead line easement is a narrow strip (ranging from 12 to 9 feet in depth) along the southern edge of the subject property. All of these areas are within the area that would have been acquired by the City pursuant to the now-expired irrevocable offer of dedication.

Until late last year, Edison had been planning on keeping the current medium voltage electric transmission lines (66 kv) that are located on the south side of Walnut on that side of the street and simply moving them approximately 10 feet further south to allow for the required expansion. (Most of the smaller distribution level lines are being taken underground in a related undergrounding project, which means that with this project, only three transmission lines will remain.) However, it was discovered by that the poles and transmission lines could not be simply moved further south on the south side of Walnut Avenue at Mooney Boulevard as had originally been planned. Instead, Edison has developed a new plan for relocation of the power lines to the north side of Walnut, necessitating the acquisition of the overhead line easement from the subject property.

A number of factors caused Edison to develop this new plan. First, the initial transmission line relocation plan contemplated the removal of the Union Bank building and relocation of the business due to what was believed to be a weight bearing wall jutting into the needed right of way area. With the building gone, there would be a clear path for the relocated transmission lines. However, after review by a structural engineer and Union Bank, it was learned that the piece jutting into the needed right of way was not structural and could be removed without causing the destruction of the rest of the building. The fact that the Union Bank building will remain in place means that the medium voltage 66 kv lines, should they stay on the south side of the intersection, would have to cross directly over the northern edge of the building, a design that does not satisfy Edison's standards. Second, it was discovered that one of the poles that would be necessary for the initial plan (keeping the lines on the south side of the intersection) directly overlies a City main storm drain line, and the footings necessary for the pole would interfere with this line. This would have made it necessary to relocate this planned pole, and the only place for the pole to move would be into the parking lot of the building on the southeast corner of Mooney and Walnut (the Weatherby's property). That property had already experienced significant loss of parking from earlier right of way acquisitions related to this project. (Please see correspondence from Edison project design staff regarding a listing of the physical problems with the south side location of the project, attached as Exhibit 3).

By comparison, moving the poles and the transmission lines to the north side of the intersection involves none of the above-noted property impacts (i.e., the relocation would not cause lines to be installed over occupied buildings, would not cause the loss of parking and would not interfere with city storm drain facilities. Easements have been

acquired through willing-seller negotiations on all properties impacted other than the subject property. The overhead line easement, which includes an extra 7 feet of sway and maintenance area in which lines will not actually be situated, is well within the area the property owner has already once dedicated to the City, and the existing buildings and all other improvements are at least 20 feet from even the expanded right of way line (which itself is at least seven feet from any power line). Exhibits 4 and 5 of this report provide an aerial overview of the impacts of the south side transmission line alignment and the absence of impacts to the north side alignment. Exhibits 6 and 7 show the interference with the Union Bank building should the lines be relocated on the south side of the intersection instead of the proposed north side alignment.

- 3) Additional City Right of Way – in addition to the CalTrans and Edison easements being acquired, the City needs to acquire a small six inch deep sliver to facilitate the installation of landscape retaining walls. After project finalization, it was discovered that the subject property features a mounded landscape design, which needs to be accommodated by the project. The additional six inches of right of way makes this possible. In addition, a small (12 s.f.) area is needed to install a sidewalk in order to move pedestrians around the new transmission pole.

Eminent Domain Process: On October 3, 2009, after many months of working with owners' principal and their counsel, staff made the statutorily required offer to purchase the needed property interests. To date, staff has been unable to reach a reasonable conclusion with the owners (in fact, the owners have not provided any response to the offer other than to question the necessity of the relocation of the transmission lines to their side of the street). Therefore, staff recommends that Council authorize the use of eminent domain and adopt a Resolution of Necessity to begin that process. Although we are proceeding with the eminent domain process, staff will nevertheless continue to work to negotiate a reasonable settlement.

Findings Required to Adopt Resolution of Necessity: The City Council may adopt a resolution of necessity only after giving notice to each person whose property is to be acquired by eminent domain that it intends to adopt a resolution of necessity and that they have a right to appear at such hearing and be heard on the proposed resolution. Notice was given by first class mail to property owners and their attorney, Glenn Stanton.

Additionally, in order to adopt the Resolution, Council must make the following findings:

1. The public interest and necessity require the proposed Project;
2. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
3. The property described in the resolution is necessary for the proposed project;
4. That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

The intersection project is a component of the 2001 Circulation Element Update. Existing and future traffic operations have been quantified through the determination of "Level of Service" (LOS). This is a quantitative measure of traffic operating conditions, whereby a letter grade "A" through "F" is assigned to an intersection or roadway segment representing progressively worsening traffic conditions. The Circulation Element Update identifies LOS "D" as the desired minimum LOS threshold. An October 17, 2000 Traffic Operations Analysis prepared by Omni Means Engineers indicate as of the date of that study the intersections were operating at LOS "D" or better during the weekday AM, midday, and PM peak hour and during the weekend peak

hour periods. When volumes were forecasted for Year 2020 utilizing the Tulare county Association of Governments regional travel demand forecast model and when reconciled with the City's General Plan growth expectations, these same intersections were expected to operate at poor LOS conditions during different times of the day as follows:

Intersection	Control Type	AM Peak LOS	Midday Peak LOS	PM Peak LOS	Weekend Peak LOS
Mooney/Walnut	Signal	D	F	F	F

The proposed intersection projects are expected to result in the following improved LOS and thereafter are determined have been determined necessary:

Intersection	Control Type	AM Peak LOS	Midday Peak LOS	PM Peak LOS	Weekend Peak LOS
Mooney/Walnut	Signal	C	D	D	D

The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury. A variety of alternatives for each intersection were studied and intersections alternatives developed in a document entitled Summary of recommended Intersection Improvements prepared by Omni Means dated February 15, 2001. A no-build alternative is not feasible. The proposed project is required and designed to be consistent with and mitigate impacts identified in the City's General Plan Circulation Element and Land Use Element and Environmental Impact Reports associated with each each (State Clearing House Numbers 95032056 and 90020160).

As indicated above, the proposed project addresses anticipated level of service deficiencies.

The property interests relating to 1933 S. Mooney Blvd. (APN:095-134-024&030) described in the proposed Resolution is necessary for the proposed project. The intersection electrical design requires that a high voltage line currently on the south side of Walnut Avenue be shifted to the north side thus requiring pole, overhead, and pedestrian easements from the parcels. This is necessary in order to avoid placing a high voltage line over a building (Union Bank) while maintaining the road alignment, and to avoid significant impacts to either the City's main storm drain line or additional private parking on the Weatherby's parcel. Small right of way areas are also needed to accommodate a traffic control box and landscape retaining curbing. The alignment and width of the intersection is needed to accommodate the dual left-hand turn lanes from Walnut Avenue to Mooney Blvd. to a width which will accommodate the turning radius required by large trucks and busses. Any reduction in the take would shorten the radius, causing larger trucks to edge into the thru traffic lane causing automobiles to back up at the intersection.

Staff recommends Council consider the information above which supports the Resolution of Necessity and proceed to adopt it.

Funding Sources: The Project is assigned project number 3011-00000-720000-0-9270 and is being funded by a combination of local funding sources including gas tax and transportation impact fees.

Prior Council/Board Actions:

- 1999/2000 -- Capital Improvement Project #1241-00000-720000-0-9270
- March 4, 2002 -- Adopted Mitigated Negative Declaration for Project (Resolution #2002-12)
- January 7, 2008 – Council approved appraisals and authorized negotiations regarding other Mooney at Walnut intersection properties

Committee/Commission Review and Actions: None

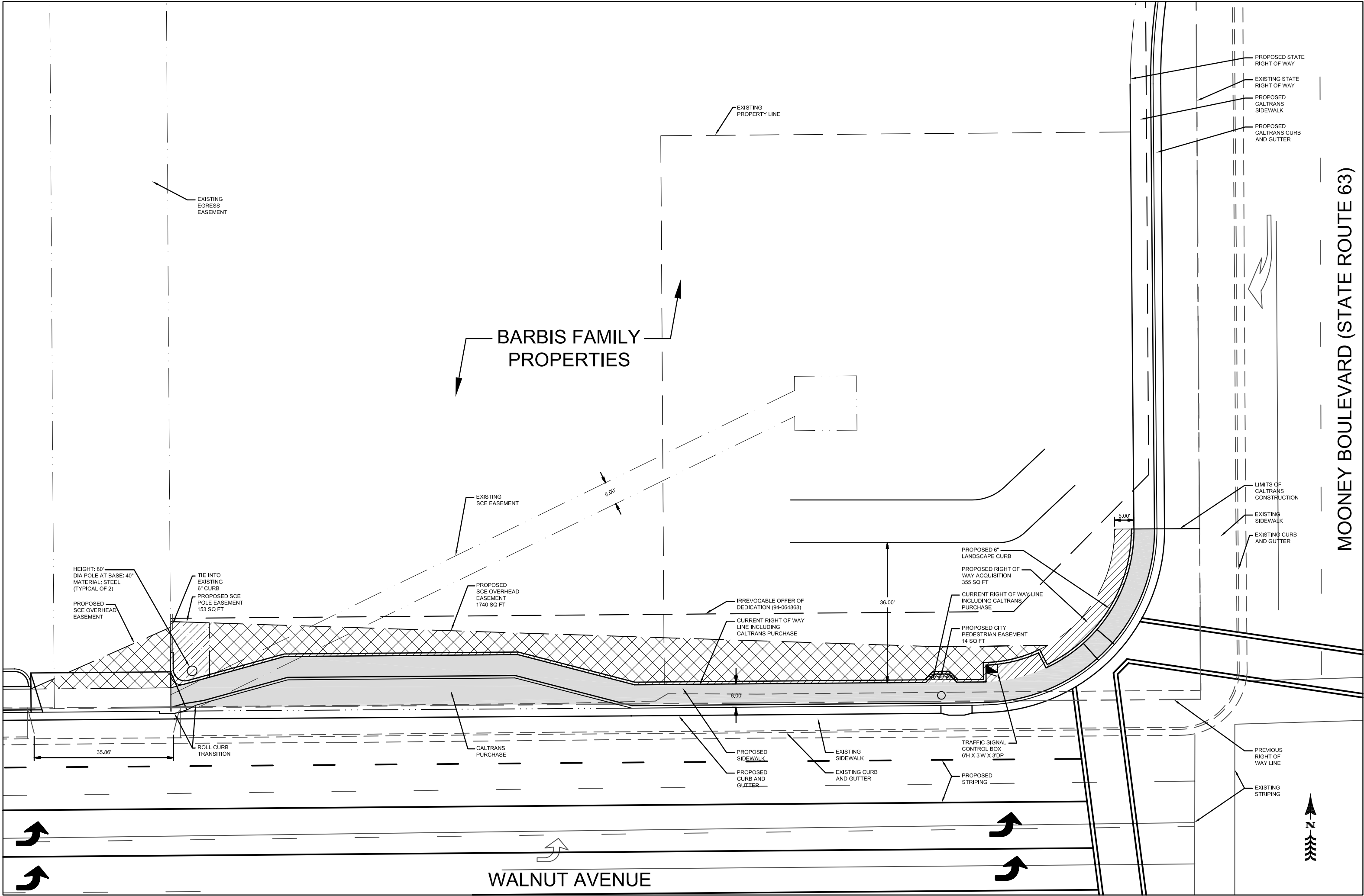
Attachments:

1. Overview Map of Areas to be Acquired
2. Resolution of Necessity with Exhibits "RES. OF NEC. EX1A-EX5B"
3. Edison Email explaining transmission line policy
4. Aerial demonstrating North Alignment (Recommended)
5. Aerial demonstrating South Alignment (Not Recommended)
6. Exhibit showing impact to Union Bank Building

Recommended Motion (and Alternative Motions if expected): I move to adopt Resolution of Necessity No. 2009-56.

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)*

MOONEY BOULEVARD (STATE ROUTE 63)



BARBIS FAMILY PROPERTIES

WALNUT AVENUE



- PROPOSED STATE RIGHT OF WAY
- EXISTING STATE RIGHT OF WAY
- PROPOSED CALTRANS SIDEWALK
- PROPOSED CALTRANS CURB AND GUTTER

- LIMITS OF CALTRANS CONSTRUCTION
- EXISTING SIDEWALK
- EXISTING CURB AND GUTTER

HEIGHT: 80'
DIA POLE AT BASE: 40"
MATERIAL: STEEL
(TYPICAL OF 2)
PROPOSED SCE OVERHEAD EASEMENT

TIE INTO EXISTING 6" CURB
PROPOSED SCE POLE EASEMENT 153 SQ FT

PROPOSED SCE OVERHEAD EASEMENT 1740 SQ FT

IRREVOCABLE OFFER OF DEDICATION (94-064868)

CURRENT RIGHT OF WAY LINE INCLUDING CALTRANS PURCHASE

PROPOSED 6" LANDSCAPE CURB

PROPOSED RIGHT OF WAY ACQUISITION 355 SQ FT

CURRENT RIGHT OF WAY LINE INCLUDING CALTRANS PURCHASE

PROPOSED CITY PEDESTRIAN EASEMENT 14 SQ FT

TRAFFIC SIGNAL CONTROL BOX 6'H X 3'W X 3'DP

ROLL CURB TRANSITION

CALTRANS PURCHASE

PROPOSED SIDEWALK

PROPOSED CURB AND GUTTER

EXISTING SIDEWALK

EXISTING CURB AND GUTTER

PROPOSED STRIPING

PREVIOUS RIGHT OF WAY LINE

EXISTING STRIPING

CITY OF VISALIA
 RESOLUTION OF NECESSITY
 RESOLUTION NO. 2009-_____

WHEREAS, the City of Visalia (hereinafter referred to as “City”) is a municipal corporation and charter law city organized and existing pursuant to the laws of the State of California; and,

WHEREAS, City proposes to acquire the following property interests in parcels identified as Assessor’s Parcel Numbers: 095-134-024 and 030:

1. An overhead electric easement encompassing 2042.73 square feet (*see* RES. OF NEC. EX 1A and 1B, p.1 & p.2);
2. A utility pole easement encompassing a 155.41 square foot area along the southwestern edge of the property (*see* RES. OF NEC. EX 2A and 2B);
3. A pedestrian easement around the pole located within the Caltrans right of way area toward the eastern edge of the property encompassing 12.48 square feet (*see* RES. OF NEC. EX 3A and 3B, p.1 & p.2);
4. A right of way acquisition consisting of 287.11 square feet for the five foot area behind the back of walk along the southeastern corner of the property and within which the traffic control box will be situated (*see* RES. OF NEC. EX 4A and 4B, p.1 & p.2);
5. A right of way acquisition for 8” wide retaining curb running west-east adjacent to back of sidewalk consisting of 151.04 square feet (*see* RES. OF NEC. EX 5A and 5B, p.1 & p.2).

The interests above are legally described and graphically depicted in the identified exhibits which are attached hereto and incorporated herein by reference;

WHEREAS, the owners of record listed on the County’s last equalized tax roll are:

APN 095-134-024	APN: 095-134-030
John Barbis – 16.670%	John Barbis – 16.670%
Mary Barbis – 16.670%	Mary Barbis – 16.670%
Katherine T. Barbis Family Ltd. Partnership – 33.330%	Katherine T. Barbis Family Ltd. Partnership – 33.330%
Danae A. Paras, Trustee THE DANA E. PARAS SEPARATE PROPERTY TRUST DATED 1/29/01 – 33.330%	Danae A. Paras, Trustee THE DANA E. PARAS SEPARATE PROPERTY TRUST DATED 1/29/01 – 33.330%
With tax bill to: Danae A. Paras, Trustee 3907 S. Rova Street Visalia, CA 93277	With tax bill to: Danae A. Paras, Trustee c/o CSK O’Reilly Auto Parts #4064 P.O. Box 19063 Phoenix, AZ 85005-9063

; and

WHEREAS, City proposes to widen Walnut Avenue at Mooney Boulevard and improve the intersections consistent with the adopted circulation element for the purpose of improving circulation to achieve Caltrans required Level of Service “D” or better and thus improving the safety of vehicular and pedestrian traffic; and,

WHEREAS, it is necessary for City to obtain the properties herein described in order to complete the widening of Walnut Avenue at Mooney Boulevard and intersection improvements, which widening necessitates the relocation of electric utility facilities, pedestrian sidewalk improvements, landscaping retaining improvements and traffic control facilities, among other things; and,

WHEREAS, City has obtained an appraisal of the property and easements to be acquired and offered to purchase the property and easements at the appraised price from the owners of record of the subject property pursuant to the provisions of California Government Code Section 7267.2, which offers, to date, have not been accepted; and,

WHEREAS, the owners of record were notified of a hearing on this resolution at least 15 days before the hearing date, and were given an opportunity to appear and be heard pursuant to Code of Civil Procedure section 1245.235.

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

1. The officers of City are authorized and directed to cause the appropriate civil litigation to be instituted to acquire for City by condemnation the real property and easements owned by the parties identified above, identified by the County Assessor as parcel numbers: 095-134-024 and 030 (commonly known as 1933 S. Mooney Blvd., Visalia, CA), which property and easements are more fully described in Exhibits 1A; 1B, p1 & 1B, p2; 2A; 2B; 3A; 3B, p1 & 3B, p2; 4A; 4B, p1 & 4B, p2; 5A; 5B, p1 & 5B, p2.

2. The public use and purpose of the project for which such lands and interest in such lands are to be acquired is for right of way for and construction of streets, roads, curbs, gutters and storm and sewage conveyance facilities and electrical utility facilities; and for the improvement of the public safety for pedestrian and vehicular travel and circulation, which are specific purposes and activities of City pursuant to City's Charter. (CCP¹ § 1245.230 (a)).
3. City has authority, pursuant to the Charter of the City of Visalia, article III, section 2(5), to acquire property by eminent domain necessary to carry out its purposes under the Eminent Domain Law comprising Part 3, Title 7, of the Code of Civil Procedure, commencing with Section 1230.010.
4. The City Council of City has found and determined that (CCP § 1245.230 (c)):
 - a. The public interest and necessity require the proposed project (CCP § 1245.230 (c)(1));
 - b. The proposed project is planned or located in the manner that will be the most compatible with the greatest public good and the least private injury (CCP §1245.230 (c)(2));
 - c. The property described in this Resolution is necessary for the proposed project (CCP § 1245.230 (c) (3));
 - d. Pursuant to Government Code section 7267.2, City hired The Hopper Company to appraise the property interests and easements identified herein to establish an amount which it believes to be just compensation therefore. Said appraisals and the basis therefore were approved and adopted by City and a written offer to purchase said property and

¹ References herein to CCP sections shall be to sections of the Calif. Code of Civil Procedure.

easements was made to the true owners of the property, as described above (CCP § 1245.230 (c) (4));

e. Pursuant to the requirements of CCP section 1245.235, the City provided written notice to the owner of record of City’s intention to consider adoption of this resolution and of the owner’s right to appear and be heard on matters related to City’s intentions.

PASSED AND ADOPTED:

STEVEN M. SALOMON, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF VISALIA)

I, Steven M. Salomon, City Clerk of the City of Visalia, certify the foregoing is the full and true Resolution _____ passed and adopted by the Council of the City of Visalia at a regular meeting held on _____.

Dated:

STEVEN M. SALOMON, CITY CLERK

By Donjia Huffmon, Chief Deputy City Clerk

EXHIBITS:

- 1A and 1B, p1 & p2: An overhead electric easement
- 2A and 2B: A utility pole easement
- 3A and 3B, p1 & p2: A pedestrian easement
- 4A and 4B, p1 & p2: A right of way acquisition
- 5A and 5B, p1 & p2: A retaining curb acquisition

EXHIBIT A

OVERHEAD ELECTRIC EASEMENT

Across

APN 095-134-024 & 030, PARAS TRUST PROPERTY

A portion of the real property described in the Grant Deed to Danae A. Paras, as Trustee of the Danae A. Paras Separate Property Trust, recorded on February 15, 2001 as Document Number 2001-0011934, Tulare County Official Records, situate within the Southeast Quarter of Section 36, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, lying within the City of Visalia, County of Tulare, State of California more particularly described as follows:

COMMENCING at the Southeast corner of said Section 36; thence South 89°31'56" West 320.00 feet, along the South line of said Southeast Quarter of said Section 36; thence North 00°21'51" West 45.10 feet to the point of intersection of the West line of said real property to Paras and the North line of Parcel 84775-2 as described in the Final Order of Condemnation, Parcels #84775-1, 2, recorded on February 4, 2009, as Document Number 2009-0006710, said point being the **POINT OF BEGINNING**; thence North 00°21'51" West 17.08 feet along said West line; thence leaving said West line, South 88°07'22" East 198.65 feet; thence North 89°11'52" East 27.18 feet to the beginning of a non-tangent curve, concave to the Northwest, having a radius of 34.04 feet, to which point a radial line bears South 29°31'53" East; thence 17.27 feet Southwesterly along said curve, through a central angle of 29°03'49"; thence South 00°28'04" East 5.00 feet to a point on said North line of Parcel 84775-2; thence along said North line the following four courses:

- 1) South 89°31'56" West 89.79 feet;
- 2) North 75°31'36" West 31.05 feet;
- 3) South 89°31'56" West 60.00 feet;
- 4) South 74°36'02" West 30.38 feet to the **POINT OF BEGINNING**.

Said description contains 2,042.73 s.f. (0.0469 Ac.) more or less.

The basis of bearings for the above description is identical to that as shown on that certain Record of Survey, filed for record in Book 20 at Page 17, Official Records of the County of Tulare, State of California, and is based on found monuments at the East quarter corner and the Southeast corner of Section 36, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, the bearing of which is North 00°21'51" West.

The land described hereon is shown on the attached plat and by reference made a part hereof.

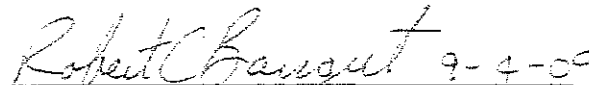
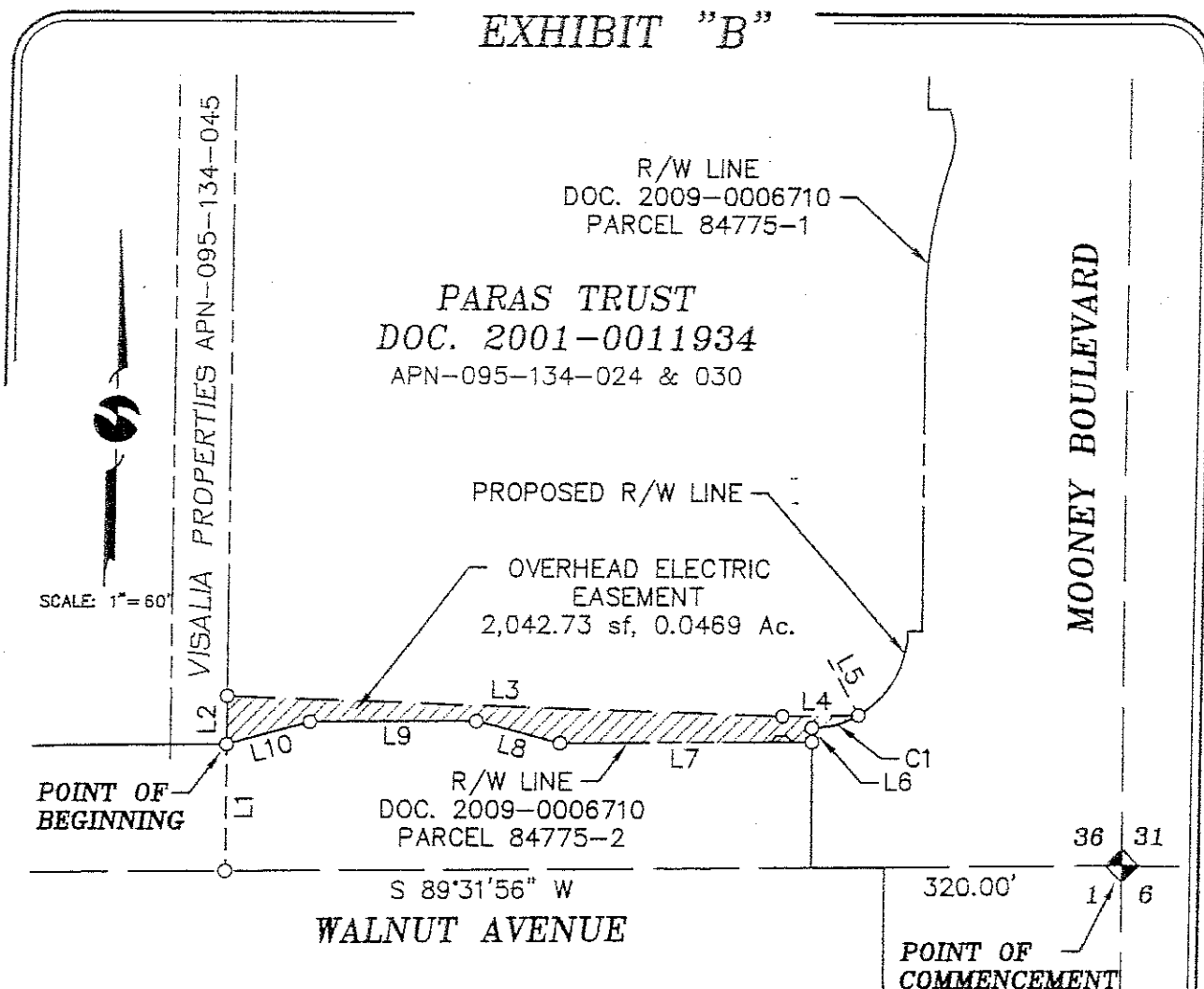

Robert C. Bangert LS 5250 Date
License Expiration Date: 12-31-09



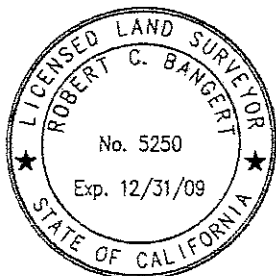
EXHIBIT "B"



LEGEND

OVERHEAD ELECTRIC EASEMENT TO SOUTHERN CALIFORNIA EDISON COMPANY

○ CALCULATED POINT



Robert C Bangert 9-4-09

ROBERT C. BANGERT LS 5250 DATE
LICENSE EXPIRATION DATE: DECEMBER 31, 2009

PARAS TRUST

S.C.E. OVERHEAD ELECTRIC EASEMENT
MOONEY BLVD. WIDENING

SHT. 1 OF 2

EXHIBIT "B"

LINE TABLE		
LINE	BEARING	LENGTH
L1	N 00°21'51" W	45.10'
L2	N 00°21'51" W	17.08'
L3	S 88°07'22" E	198.65'
L4	N 89°11'52" E	27.18'
L5	S 29°31'53" E (R)	
L6	S 00°28'04" E	5.00'
L7	S 89°31'56" W	89.79'
L8	N 75°31'36" W	31.05'
L9	S 89°31'56" W	60.00'
L10	S 74°36'02" W	30.38'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	29°03'49"	34.04'	17.27'

PARAS TRUST

**S.C.E. OVERHEAD ELECTRIC EASEMENT
MOONEY BLVD. WIDENING**

SHT. 2 OF 2

K:\PRJ\396\396LG022.dwg 9/3/2009 7:20:23 PM PBT

RES. OF NEC. EX 1B, p2



EXHIBIT A

POLE EASEMENT

Across

APN 095-134-024 & 030, PARAS TRUST PROPERTY

A portion of the real property described in the Grant Deed to Danae A. Paras, as Trustee of the Danae A. Paras Separate Property Trust, recorded on February 15, 2001 as Document Number 2001-0011934, Tulare County Official Records, situate within the Southeast Quarter of Section 36, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, lying within the City of Visalia, County of Tulare, State of California more particularly described as follows:

COMMENCING at the Southeast corner of said Section 36; thence South 89°31'56" West 320.00 feet, along the South line of said Southeast Quarter of said Section 36; thence North 00°21'51" West 45.10 feet to the point of intersection of the West line of said real property to Paras and the North line of Parcel 84775-2 as described in the Final Order of Condemnation, Parcels #84775-1, 2, recorded on February 4, 2009, as Document Number 2009-0006710, said point being the **POINT OF BEGINNING**; thence North 00°21'51" West 17.08 feet along said West line; thence leaving said West line, South 88°07'22" East 10.01 feet; thence South 00°21'51" East 14.00 feet to a point on said North line of Parcel 84775-2; thence South 74°36'02" West 10.35 feet along said North line to the **POINT OF BEGINNING**.

Said description contains 155.41 s.f. (0.0036 Ac.) more or less.

The basis of bearings for the above description is identical to that as shown on that certain Record of Survey, filed for record in Book 20 at Page 17, Official Records of the County of Tulare, State of California, and is based on found monuments at the East quarter corner and the Southeast corner of Section 36, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, the bearing of which is North 00°21'51" West.

The land described hereon is shown on the attached plat and by reference made a part hereof.

Robert C. Bangert 9-4-09
Robert C. Bangert LS 5250 Date
License Expiration Date: 12-31-09

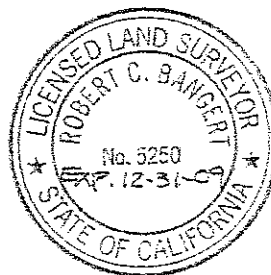
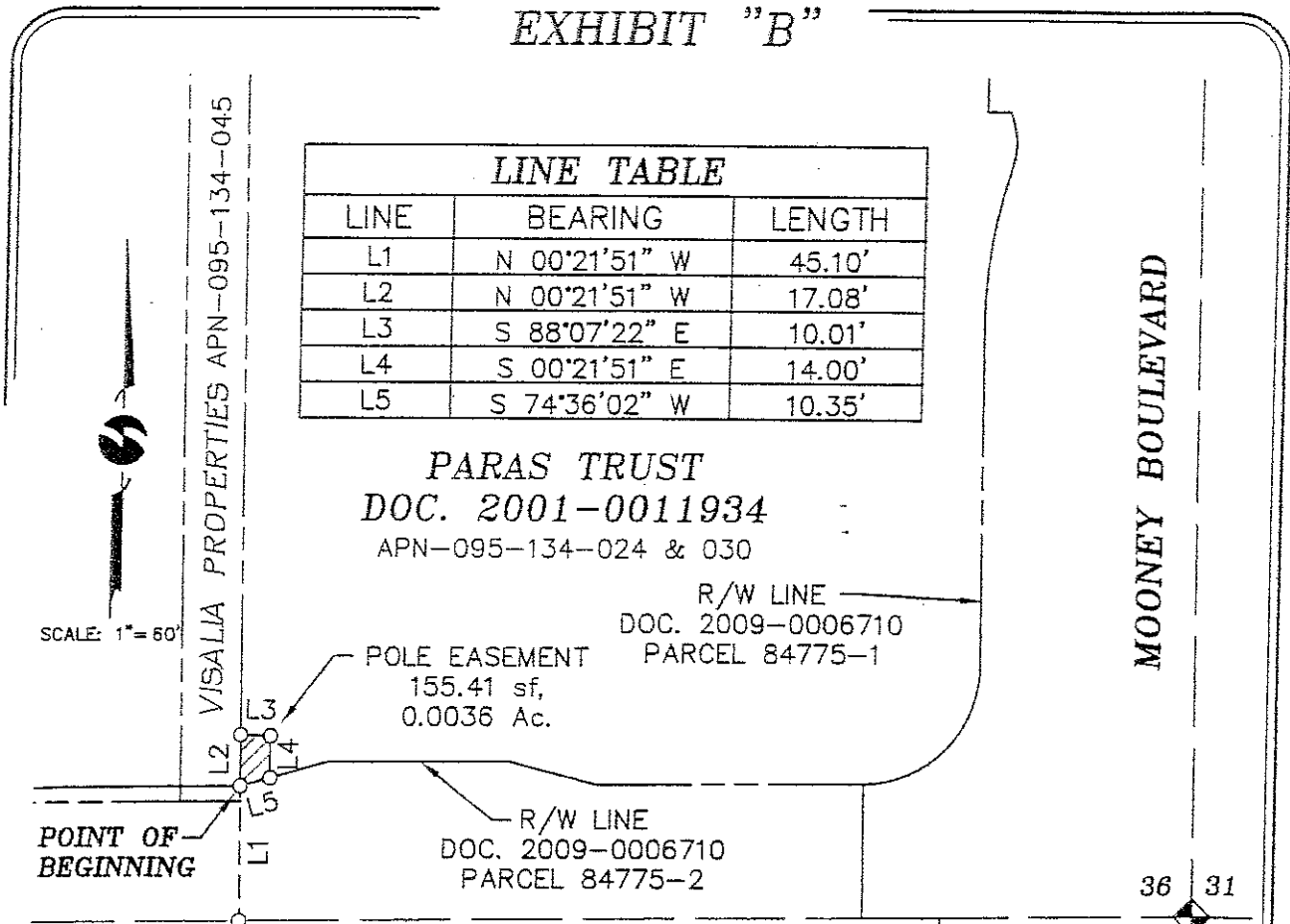


EXHIBIT "B"



LINE TABLE		
LINE	BEARING	LENGTH
L1	N 00°21'51" W	45.10'
L2	N 00°21'51" W	17.08'
L3	S 88°07'22" E	10.01'
L4	S 00°21'51" E	14.00'
L5	S 74°36'02" W	10.35'

PARAS TRUST
DOC. 2001-0011934
 APN-095-134-024 & 030

R/W LINE
 DOC. 2009-0006710
 PARCEL 84775-1

POLE EASEMENT
 155.41 sf,
 0.0036 Ac.

R/W LINE
 DOC. 2009-0006710
 PARCEL 84775-2

SCALE: 1" = 60'


POINT OF BEGINNING

MOONEY BOULEVARD

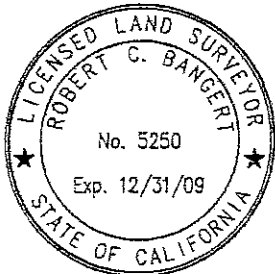
S 89°31'56" W
WALNUT AVENUE

POINT OF COMMENCEMENT
 S.E. CORNER
 SECTION 36
 T. 18 S., R. 24 E.

LEGEND

 POLE EASEMENT TO SOUTHERN CALIFORNIA EDISON COMPANY

○ CALCULATED POINT



Robert C. Bangert 9-4-09
 ROBERT C. BANGERT LS 5250 DATE
 LICENSE EXPIRATION DATE: DECEMBER 31, 2009

PARAS TRUST

S.C.E. POLE EASEMENT
MOONEY BLVD. WIDENING

EXHIBIT A

PEDESTRIAN EASEMENT

Across

APN 095-134-024 & 030, PARAS TRUST PROPERTY

A portion of the real property described in the Grant Deed TO Danae A. Paras, as Trustee of the Danae A. Paras Separate Property Trust, recorded on February 15, 2001 as Document Number 2001-0011934, Tulare County Official Records, situate in the Southeast Quarter of Section 36, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, lying within the City of Visalia, County of Tulare, State of California more particularly described as follows:

COMMENCING at the Southeast corner of said Section 36: thence South 89°31'56" West 110.76 feet, along the South line of said Southeast Quarter of said Section 36: thence leaving said South line, North 00°28'04" West 44.92 feet to a point on the North line of Parcel 84775-2 as described in the Final Order of Condemnation, Parcels #84775-1, 2, recorded on February 4, 2009, as Document Number 2009-0006710; thence South 89°31'56" West 6.86 feet along said North line to the **POINT OF BEGINNING**; thence continuing along said North line, South 89°31'56" West 8.00 feet; thence leaving said North line, North 44°31'56" East 3.01 feet; thence North 89°31'56" East 3.75 feet; thence South 45°28'04" East 3.01 feet to the **POINT OF BEGINNING**.

Said description contains 12.48 s.f. (0.0003 Ac.) more or less.

The basis of bearings for the above description is identical to that as shown on that certain Record of Survey, filed for record in Book 20 at Page 17, Official Records of the County of Tulare, State of California, and is based on found monuments at the East quarter corner and the Southeast corner of Section 36, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, the bearing of which is North 00°21'51" West.

The land described hereon is shown on the attached plat and by reference made a part hereof.

Robert C. Bangert 9-4-09
Robert C. Bangert LS 5250 Date
License Expiration Date: 12-31-09

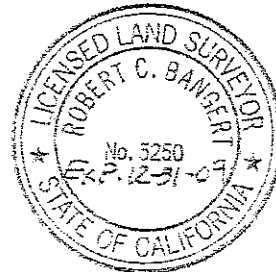
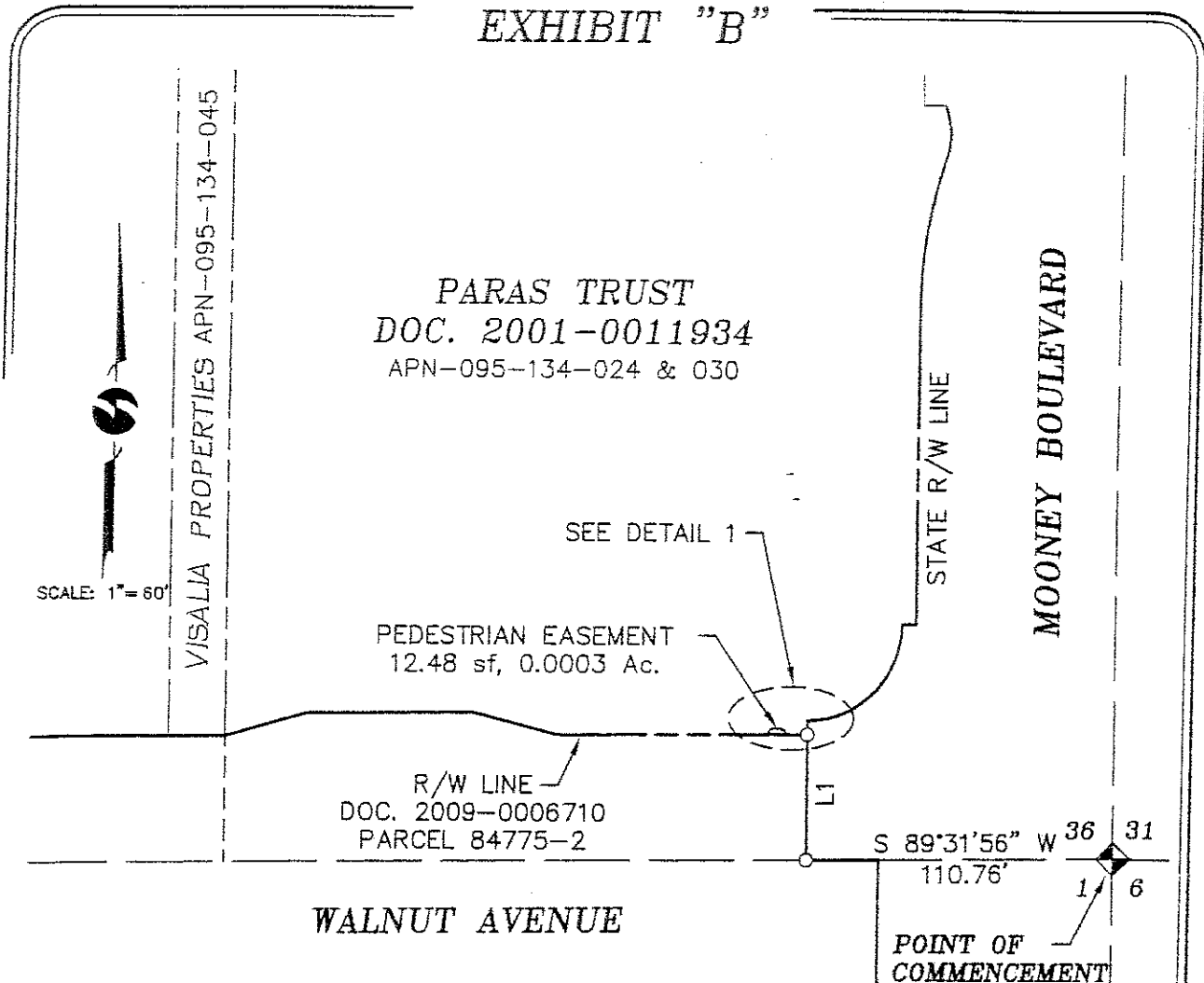


EXHIBIT "B"



SCALE: 1" = 60'

VISALIA PROPERTIES APN-095-134-045

PARAS TRUST
DOC. 2001-0011934
APN-095-134-024 & 030

SEE DETAIL 1

PEDESTRIAN EASEMENT
12.48 sf, 0.0003 Ac.

R/W LINE
DOC. 2009-0006710
PARCEL 84775-2

STATE R/W LINE

MOONEY BOULEVARD

WALNUT AVENUE

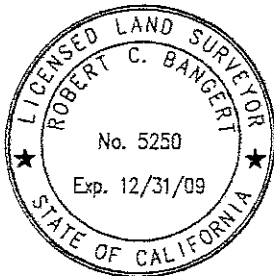
S 89°31'56" W 36
110.76' 31
1 6

POINT OF
COMMENCEMENT
S.E. CORNER
SECTION 36
T. 18 S., R. 24 E.

LEGEND

 PEDESTRIAN EASEMENT TO
CITY OF VISALIA

 CALCULATED POINT



Robert C. Bangert 9-4-09
ROBERT C. BANGERT LS 5250 DATE
LICENSE EXPIRATION DATE: DECEMBER 31, 2009

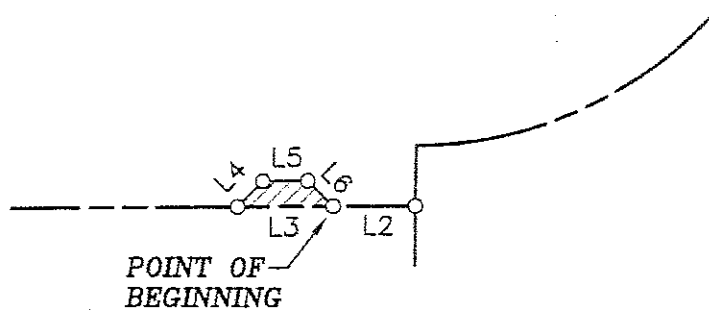
PARAS TRUST

PEDESTRIAN EASEMENT
MOONEY BLVD. WIDENING

SHT. 1 OF 2

K:\PRJ\396\396LG026.dwg 9/3/2009 7:25:25 PM PDT

EXHIBIT "B"



DETAIL 1
N.T.S.

LINE TABLE		
LINE	BEARING	LENGTH
L1	N 00°28'04" W	44.92'
L2	S 89°31'56" W	6.86'
L3	S 89°31'56" W	8.00'
L4	N 44°31'56" E	3.01'
L5	N 89°31'56" E	3.75'
L6	S 45°28'04" E	3.01'

PARAS TRUST

PEDESTRIAN EASEMENT
MOONEY BLVD. WIDENING

SHT. 2 OF 2

K:\PRJ\396\396LGD26.dwg 3/3/2009 7:26:25 PM PDT

RES. OF NEC. EX 3B, p2

EXHIBIT A

RIGHT OF WAY ACQUISITION

APN 095-134-024 & 030, PARAS TRUST PROPERTY

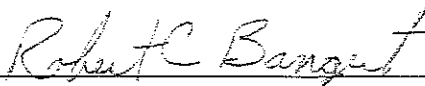
A portion of the real property described in the Grant Deed to Danae A. Paras, as Trustee of the Danae A. Paras Separate Property Trust, recorded on February 15, 2001 as Document Number 2001-0011934, Tulare County Official Records, situate within the Southeast Quarter of Section 36, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, lying within the City of Visalia, County of Tulare, State of California more particularly described as follows:

COMMENCING at the Southeast corner of said Section 36; thence South 89°31'56" West 110.76 feet, along the South line of said Southeast Quarter of said Section 36 to a point on the East line of Parcel 84775-1 as described in the Final Order of Condemnation, Parcels #84775-1, 2, recorded on February 4, 2009, as Document Number 2009-0006710; thence North 00°28'04" West 44.92 feet along said East line to the **POINT OF BEGINNING**; thence leaving said East line, North 00°28'04" West 5.00 feet to the beginning of a non-tangent curve, concave to the Northwest, having a radius of 34.04 feet, to which point a radial line bears South 00°28'04" East; thence 53.49 feet Northeasterly along said curve, through a central angle of 90°01'41"; thence North 89°30'15" East 5.00 to a point on said East line of Parcel 84775-1, said point being the beginning of a non-tangent curve, concave to the Northwest, having a radius of 39.04 feet, to which point a radial line bears North 89°30'15" East; thence 61.35 feet Southwesterly along said curve and East line, through a central angle of 90°01'41" to the **POINT OF BEGINNING**.

Said description contains 287.11 s.f. (0.0066 Ac.) more or less.

The basis of bearings for the above description is identical to that as shown on that certain Record of Survey, filed for record in Book 20 at Page 17, Official Records of the County of Tulare, State of California, and is based on found monuments at the East quarter corner and the Southeast corner of Section 36, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, the bearing of which is North 00°21'51" West.

The land described hereon is shown on the attached plat and by reference made a part hereof.

 9-4-09
Robert C. Bangert LS 5250 Date
License Expiration Date: 12-31-09

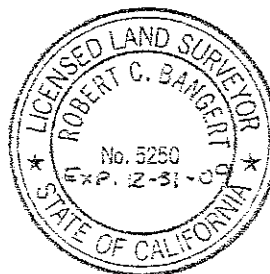
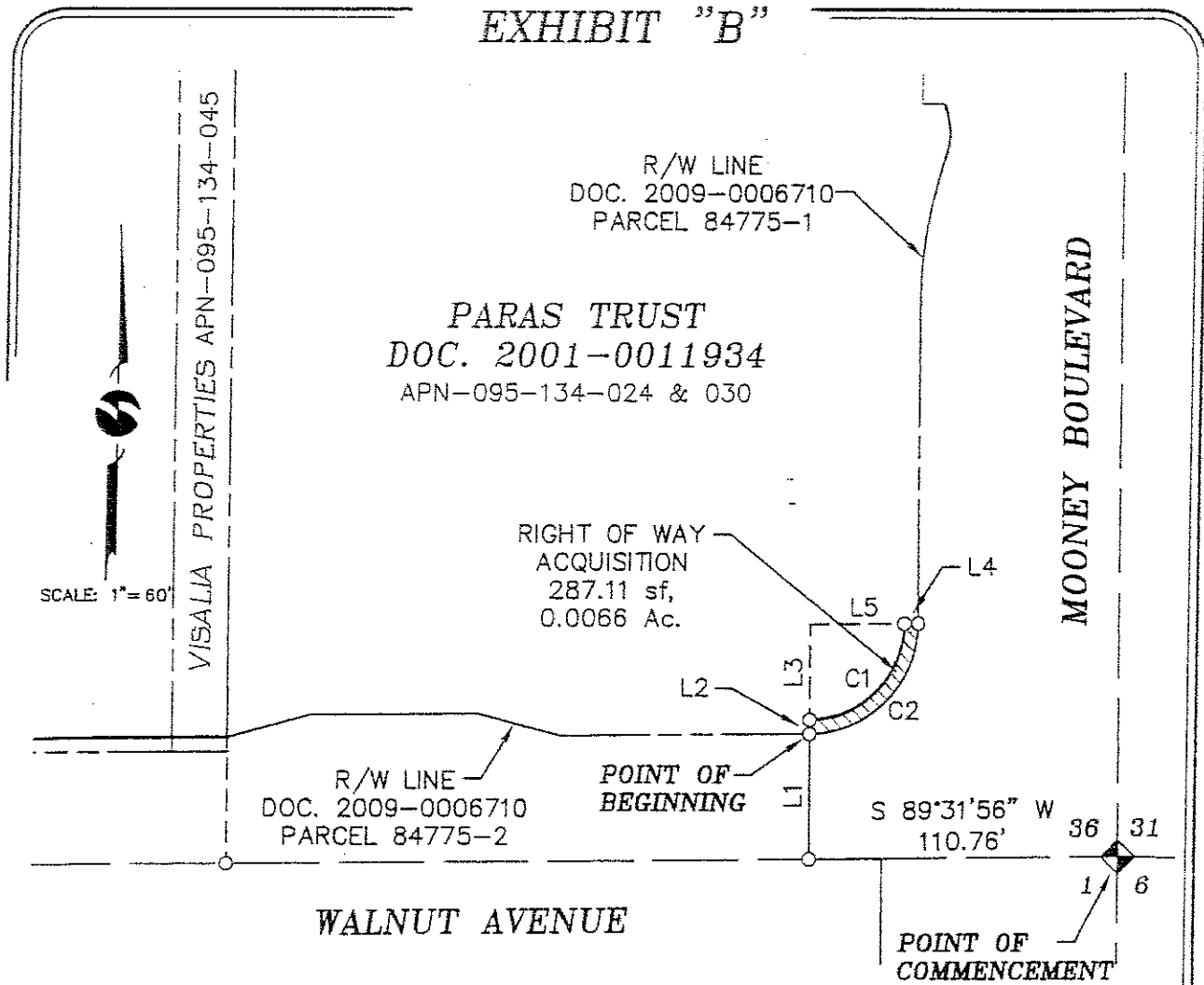


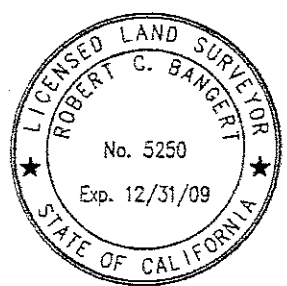


EXHIBIT "B"



LEGEND

-  RIGHT OF WAY ACQUISITION
-  CALCULATED POINT



Robert C. Bangert 9-4-09
 ROBERT C. BANGERT LS 5250 DATE
 LICENSE EXPIRATION DATE: DECEMBER 31, 2009

PARAS TRUST

RIGHT OF WAY ACQUISITION
MOONEY BLVD. WIDENING

SHT. 1 OF 2

EXHIBIT "B"

LINE TABLE

LINE	BEARING	LENGTH
L1	N 00°28'04" W	44.92'
L2	N 00°28'04" W	5.00'
L3	S 00°28'04" E (R)	
L4	N 89°30'15" E	5.00'
L5	N 89°30'15" E (R)	

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH
C1	90°01'41"	34.04'	53.49'
C2	90°01'41"	39.04'	61.35'

PARAS TRUST

RIGHT OF WAY ACQUISITION
MOONEY BLVD. WIDENING

SHT. 2 OF 2

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RES. OF NEC. EX 4B, p2



EXHIBIT A

RIGHT OF WAY ACQUISITION

APN 095-134-024 & 030, PARAS TRUST PROPERTY

A portion of the real property described in the Grant Deed to Danae A. Paras, as Trustee of the Danae A. Paras Separate Property Trust, recorded on February 15, 2001 as Document Number 2001-0011934, Tulare County Official Records, situate in the Southeast Quarter of Section 36, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, lying within the City of Visalia, County of Tulare, State of California more particularly described as follows:

COMMENCING at the Southeast corner of said Section 36, thence South 89°31'56" West 110.76 feet, along the South line of said Southeast Quarter of said Section 36; thence leaving said South line, North 00°28'04" West 44.92 feet to a point on the North line of Parcel 84775-2 as described in the Final Order of Condemnation, Parcels #84775-1, 2, recorded on February 4, 2009, as Document Number 2009-0006710, said point being the **POINT OF BEGINNING**; thence along said North line, South 89°31'56" West 6.86 feet; thence leaving said North line, North 45°28'04" West 3.01 feet; thence South 89°31'56" West 3.75 feet; thence South 44°31'56" West 3.01 feet to a point on said North line; thence along said North line the following four courses: 1) South 89°31'56" West 74.94 feet; 2) North 75°31'36" West 31.05 feet; 3) South 89°31'56" West 60.00 feet; 4) South 74°36'02" West 30.38 feet to a point on the West line of said real property to Paras; thence along said West line, North 00°21'51" West 9.13 feet; thence leaving said West line, North 89°31'56" East 0.67 feet; thence South 00°21'51" East 4.35 feet to the beginning of a curve to the left, having a radius of 3.00 feet; thence 5.50 feet Easterly along said curve through a central angle of 105°02'07"; thence North 74°36'02" East 25.69 feet; thence North 89°31'56" East 60.17 feet; thence South 75°31'36" East 31.05 feet; thence North 89°31'56" East 74.57 feet; thence North 44°31'56" East 3.01 feet; thence North 89°31'56" East 4.30 feet; thence South 45°28'04" East 3.01 feet; thence North 89°31'56" East 6.58 feet; thence South 00°28'04" East 0.67 feet to the **POINT OF BEGINNING**.

Said description contains 151.04 s.f. (0.0035 acres) more or less.

The basis of bearings for the above description is identical to that as shown on that certain Record of Survey, filed for record in Book 20 at Page 17, Official Records of the County of Tulare, State of California, and is based on found monuments at the East quarter corner and the Southeast corner of Section 36, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, the bearing of which is North 00°21'51" West.

The land described hereon is shown on the attached plat and by reference made a part hereof.

Robert C. Bangert 9-8-09
Robert C. Bangert LS 5250 Date
License Expiration Date: 12-31-09

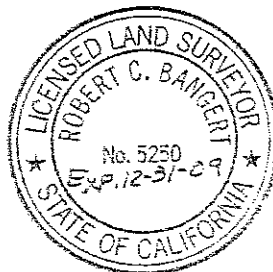
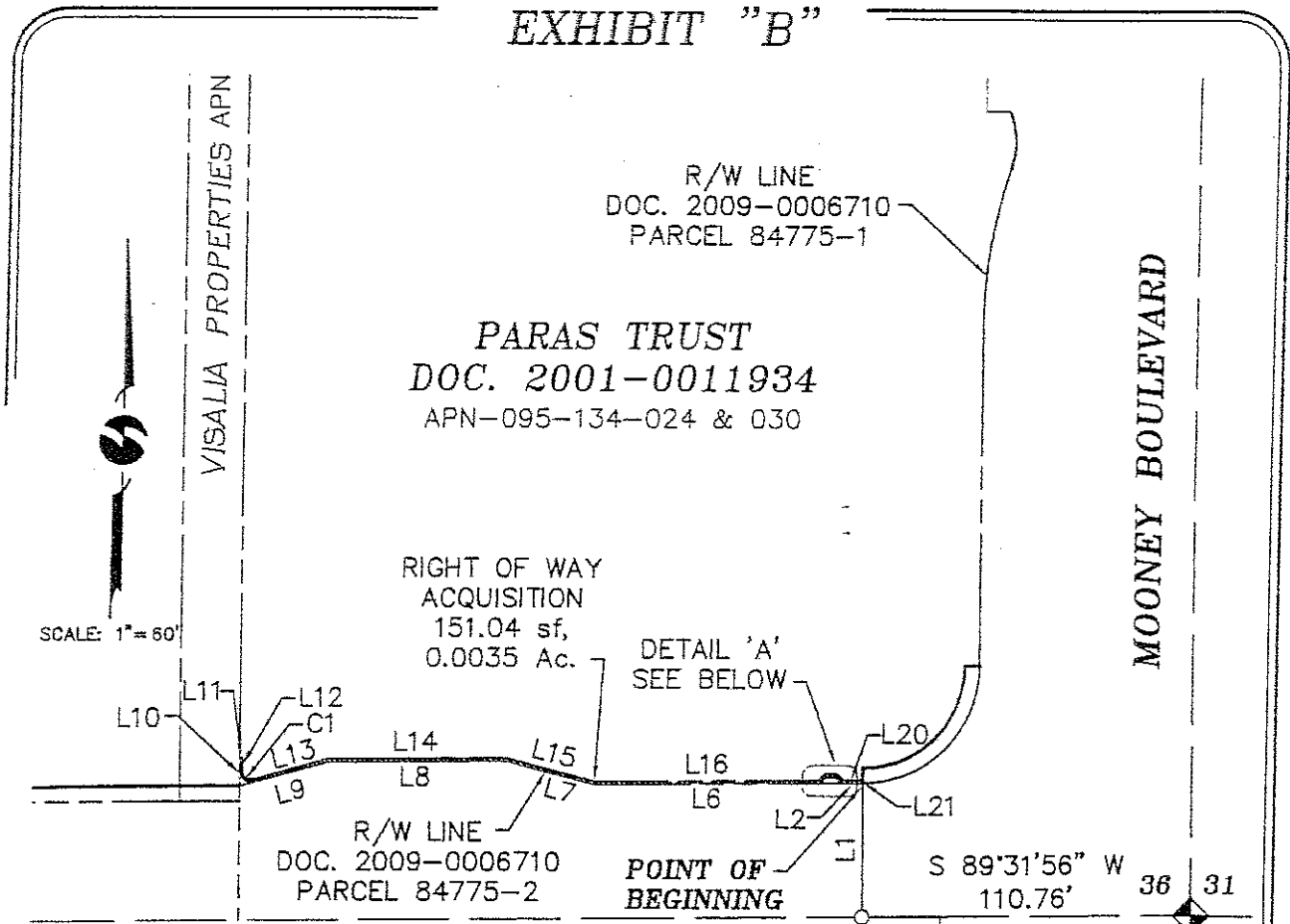


EXHIBIT "B"




SCALE: 1"=60'

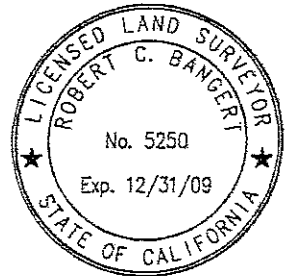
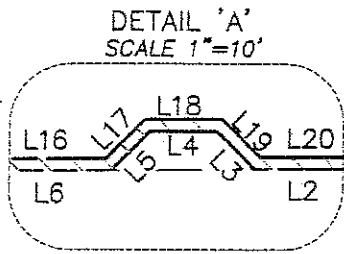
DETAIL 'A'
SEE BELOW

S 89°31'56" W
110.76'

POINT OF COMMENCEMENT
S.E. CORNER
SECTION 36
T. 18 S., R. 24 E.

LEGEND

 RIGHT OF WAY ACQUISITION



Robert C. Bangert 9-8-09
ROBERT C. BANGERT LS 5250 DATE
LICENSE EXPIRATION DATE: DECEMBER 31, 2009

PARAS TRUST

RIGHT OF WAY ACQUISITION
MOONEY BLVD. WIDENING

SHT. 1 OF 2

EXHIBIT "B"

<i>LINE TABLE</i>		
LINE	BEARING	LENGTH
L1	N 00°28'04" W	44.92'
L2	S 89°31'56" W	6.86'
L3	N 45°28'04" W	3.01'
L4	S 89°31'56" W	3.75'
L5	S 44°31'56" W	3.01'
L6	S 89°31'56" W	74.94'
L7	N 75°31'36" W	31.05'
L8	S 89°31'56" W	60.00'
L9	S 74°36'02" W	30.38'
L10	N 00°21'51" W	9.13'
L11	N 89°31'56" E	0.67'
L12	S 00°21'51" E	4.35'
L13	N 74°36'02" E	25.69'
L14	N 89°31'56" E	60.17'
L15	S 75°31'36" E	31.05'
L16	N 89°31'56" E	74.57'
L17	N 44°31'56" E	3.01'
L18	N 89°31'56" E	4.30'
L19	S 45°28'04" E	3.01'
L20	N 89°31'56" E	6.58'
L21	S 00°28'04" E	0.67'

<i>CURVE TABLE</i>			
CURVE	DELTA	RADIUS	LENGTH
C1	105°02'07"	3.00'	5.50'

PARAS TRUST

**RIGHT OF WAY ACQUISITION
MOONEY BLVD. WIDENING**

SHT. 2 OF 2

From: Stan.Hack@sce.com [mailto:Stan.Hack@sce.com]
Sent: Friday, October 30, 2009 8:38 AM
To: Adam Ennis; Chris Young; Michael Carr
Cc: Cynthia.Calem@sce.com; Glenn.Larson@sce.com; William.Delain@sce.com;
Ron.Cirbus@sce.com
Subject: Mooney & Walnut

Hi Adam,

The following are some reasons it has been a long standing policy and planning practice for Southern California Edison to avoid all high voltage conductors to exist directly above buildings whether commercial, industrial or private. This is in reference to the relocation of 66,000 volt Transmission line to accommodate the improvements of the intersection of Mooney Ave. and Walnut Blvd. Also listed is some reasons the pole line was designed to remain on the north side of Walnut, heading west then crossing diagonally to the south side near OSH and continuing west on the south side.

Safety of building maintenance workers including roofers, painters, window washers, and general contractors, etc. If this was allowed, we would have to maintain a safe distance of the 66,000 volt Transmission line above the building and would require excessive pole heights. This in turn would create a new set of problems, including a greater exposure to wind load caused failures, and a broader area of exposure to fallen poles, conductor and equipment.

Safety of the general public. A fire on the building may cause a wide spread outage in the City of Visalia with the smoke and/or flames relaying the circuit. A wide spread outage would effect street lights and signals that are there for traffic safety in the City of Visalia including along a Caltrans controlled State Highway. A fire on the building also may cause the conductor or poles to fail. The conductors could fall directly on said building and would energize what it comes in contact with. This is severely dangerous to anyone in, on or near the building. If the poles fail and fall toward the building, there is danger of the building collapsing catastrophically. If the pole fails and fall toward Mooney or Walnut, this would also be catastrophic with the disruption of one of the busiest intersections in Visalia, and a great danger to the traveling public.

Restrictions to any improvements to the building. And easement would be required over the building and would restrict the property owner from adding a story, erecting a sign, erecting a flag pole or installing anything that would add height to the existing building (e.g. air conditioning units).

Diminished emergency access to poles and conductors by Edison. The poles and conductor would only be able to be accessed from the street side in an emergency. This affects Edison's commitment to service reliability.

Liability. With this amount of exposure over a building, Edison would take on an additional amount of liability that would not otherwise have.

This project was originally designed with the understanding that this building (Union Bank) was to be removed. This now is not the case. This project has been re-designed to avoid the crossing over top of the building. There is a greater set back of buildings and much less disruption on the north side. In fact the only disruption on the north side is some landscaping in front of In-N-Out.

With this re-design, it also avoided a **severe impact to Weatherby's Furniture**. An easement would be required from the property owner and this business would lose a lot of their customer parking and severely disrupt their business operations. It also avoided and easement required from OSH for a guy stub and anchor. OSH has been uncooperative with early discussions of easements.

Storm drain to be relocated. With the south alignment, the storm drain on the southeast corner would be required to be relocated to make room for a pole.

The north alignment and crossing back to the south side of Walnut close to OSH will be the least amount of impact to the public, businesses and the City of Visalia as a whole. **Most importantly it is the safest with the least amount of exposure.**

Thank You,
Stan Hack

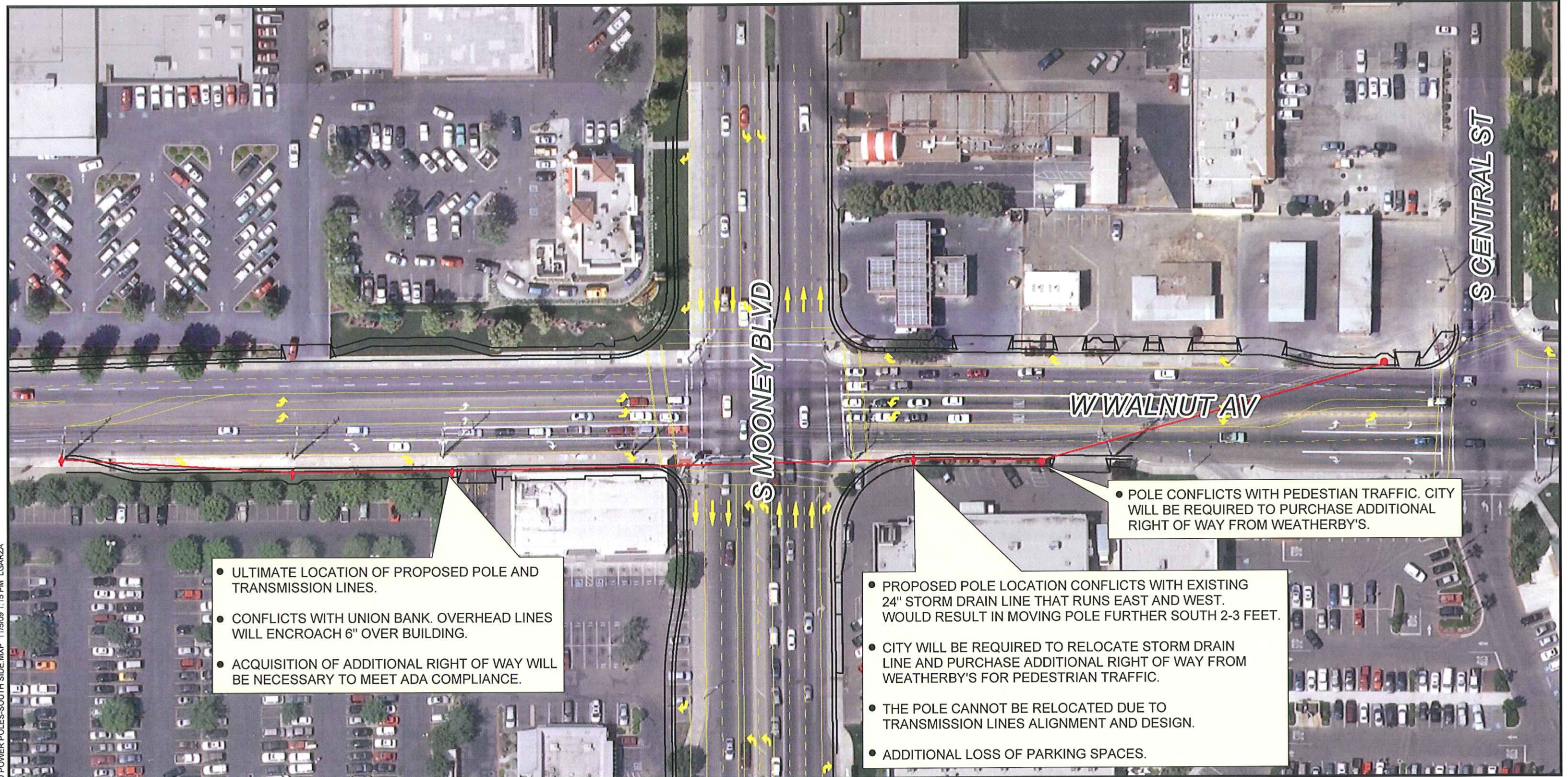
Transmission Estimator

Northwest Design / San Joaquin Valley

(559) 684-3762 / Fax. 73762

07:00 – 15:30

C:\LAND PROJECTS\04-9270 MOONEY-WALNUT\PROPOSED POWER POLES-SOUTH SIDE.MXP 11/15/09 1:15 PM LGARZA



- ULTIMATE LOCATION OF PROPOSED POLE AND TRANSMISSION LINES.
- CONFLICTS WITH UNION BANK. OVERHEAD LINES WILL ENCROACH 6" OVER BUILDING.
- ACQUISITION OF ADDITIONAL RIGHT OF WAY WILL BE NECESSARY TO MEET ADA COMPLIANCE.

- POLE CONFLICTS WITH PEDESTIAN TRAFFIC. CITY WILL BE REQUIRED TO PURCHASE ADDITIONAL RIGHT OF WAY FROM WEATHERBY'S.

- PROPOSED POLE LOCATION CONFLICTS WITH EXISTING 24" STORM DRAIN LINE THAT RUNS EAST AND WEST. WOULD RESULT IN MOVING POLE FURTHER SOUTH 2-3 FEET.
- CITY WILL BE REQUIRED TO RELOCATE STORM DRAIN LINE AND PURCHASE ADDITIONAL RIGHT OF WAY FROM WEATHERBY'S FOR PEDESTRIAN TRAFFIC.
- THE POLE CANNOT BE RELOCATED DUE TO TRANSMISSION LINES ALIGNMENT AND DESIGN.
- ADDITIONAL LOSS OF PARKING SPACES.

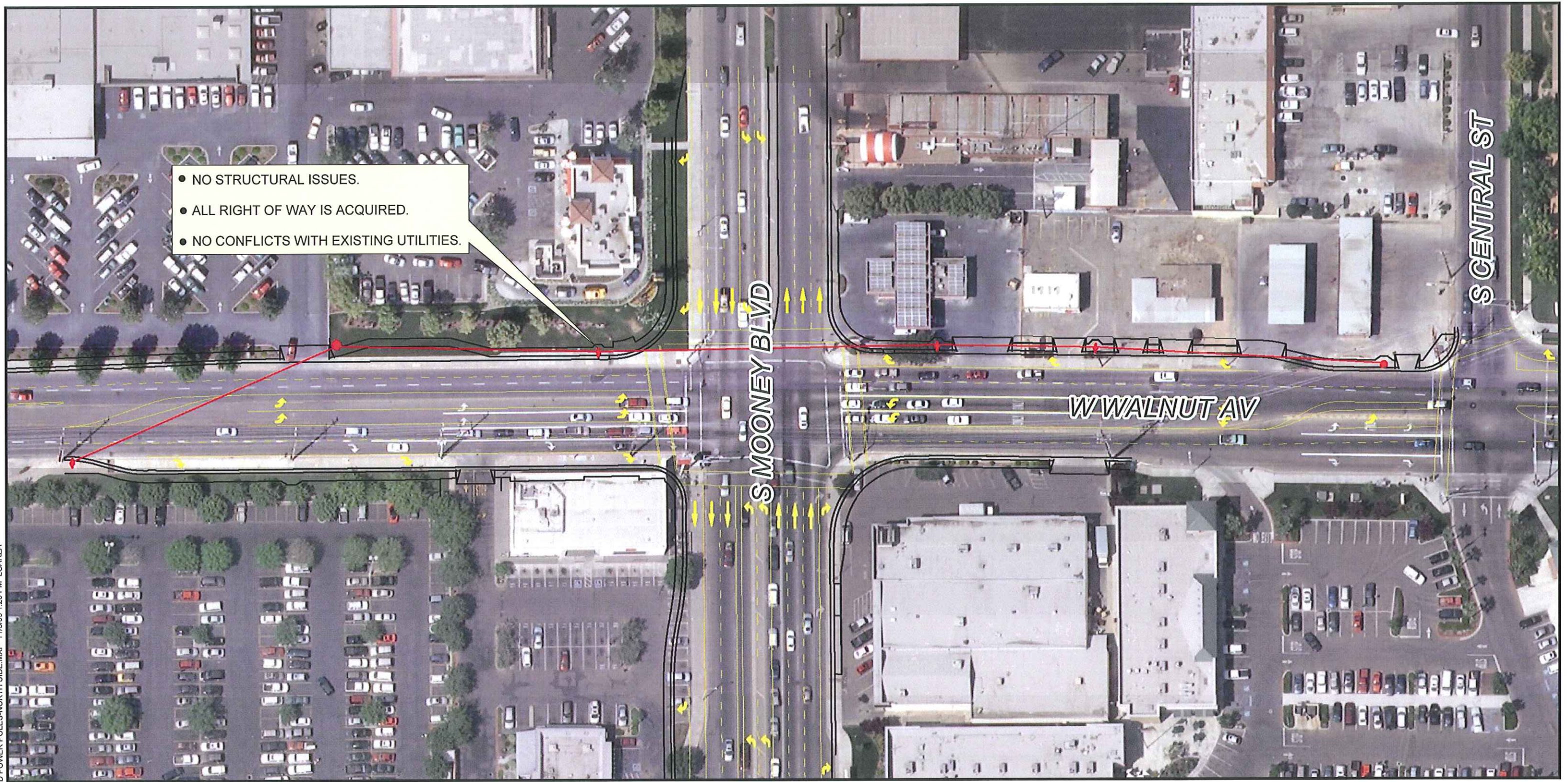
Legend

—	OVERHEAD LINE
—	POWER POLE
—	CURB
—	MEDIAN
—	BACK OF WALK
—	FACE OF WALK
—	DRIVE APPROACH
—	PLANTER

1241-00000-720000-0-9270-2004
 PROPOSED POWER POLES
 INSTALLED ON SOUTH SIDE (NOT RECOMMENDED)



- NO STRUCTURAL ISSUES.
- ALL RIGHT OF WAY IS ACQUIRED.
- NO CONFLICTS WITH EXISTING UTILITIES.

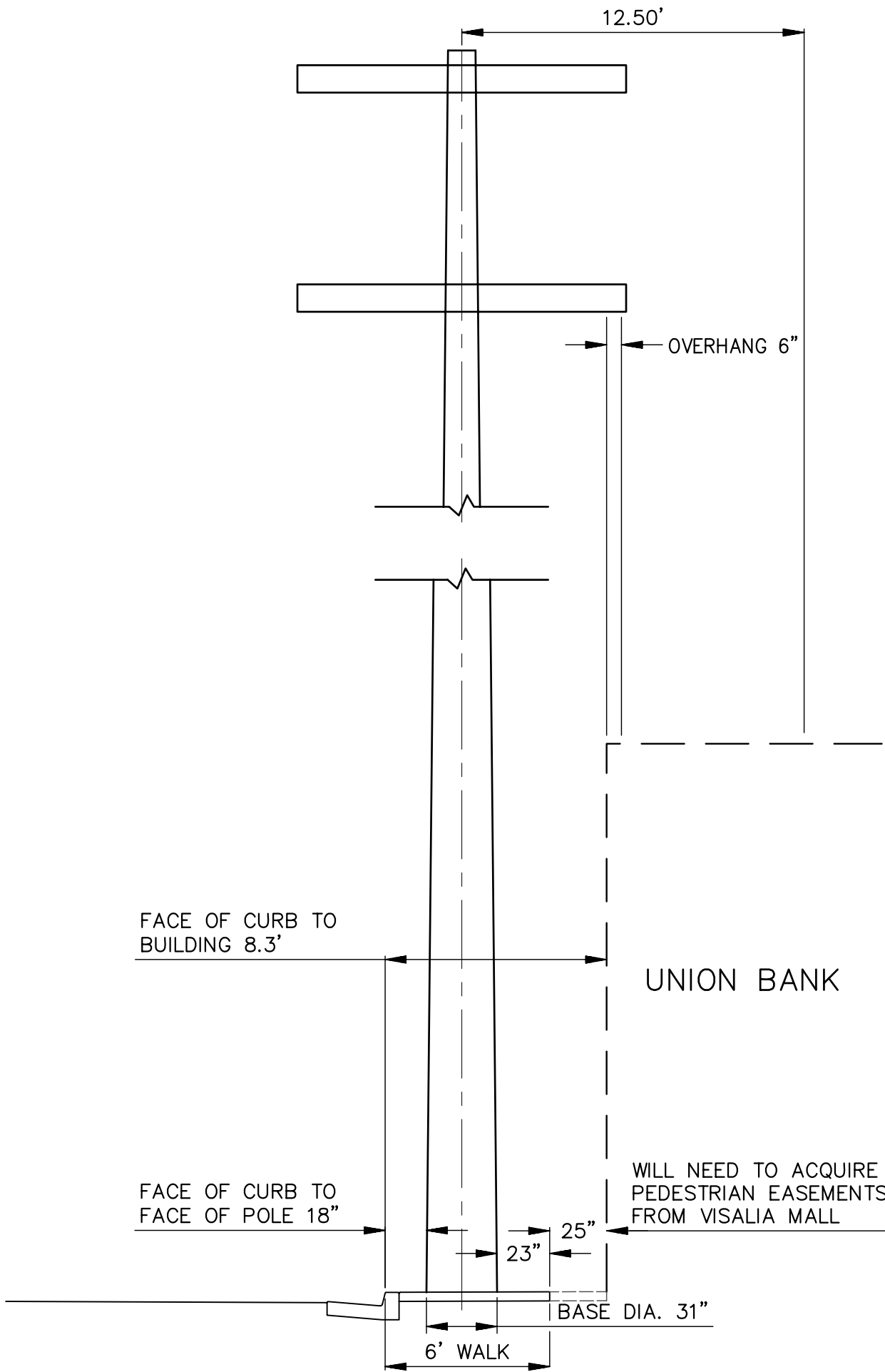


C:\LAND PROJECTS\04-9270 MOONEY-WALNUT\PROPOSED POWER POLES-NORTH SIDE.MXP 11/5/09 1:20 PM LGARZA

Legend	
	OVERHEAD LINE
	POWER POLE
	CURB
	MEDIAN
	BACK OF WALK
	FACE OF WALK
	DRIVE APPROACH
	PLANTER

1241-00000-720000-0-9270-2004
 PROPOSED POWER POLES
 INSTALLED ON NORTH SIDE (RECOMMENDED)







**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 16, 2009

Agenda Item Number (Assigned by City Clerk): 12

Agenda Item Wording:

PUBLIC HEARING: First reading of Ordinance 2009-10 for sale of City property located at the east side of McAuliff Street at Mill Creek Parkway/Race Street (Portion of APN 103-320-11)

Deadline for Action: Not Applicable

Submitting Department: Administration/Community Development

Contact Name and Phone Number:

Mike Olmos, Assistant City Manager: 713-4332
Chris Tavarez, Management Analyst, 713-4540

Department Recommendation:

PUBLIC HEARING: First reading of Ordinance 2009-10 authorizing the sale of City property located at the east side of McAuliff Street at Mill Creek Parkway/Race Street (Portion of APN 103-320-11).

Summary/Background:

California Water Service Company is interested in purchasing a portion of APN 103-320-11 located on the east side of McAuliff Street at Mill Creek Parkway.

Staff has had an appraisal completed by The Hopper Company showing an appraised value of \$1.85 per square foot for 110,879 square feet or \$205,126 and worked with Cal Water on an appropriate preliminary site plan. The land was originally purchased with Transportation Impact Fees (1241 Fund) during the development of McAuliff through the site and the proceeds from the sale will be deposited into the same fund. The portion of interest to Cal Water is a wedge-shaped parcel of approximately 2.5 acres on the north side of the future extension of Mill Creek Parkway/Race Street. Cal Water plans to develop a well and a 30-35 foot high, 2-million gallon water storage tank on the subject property. This well and storage tank will increase the water distribution capabilities of Cal Water and help enhance services to residents.

Visalia's Circulation Element designates Mill Creek Parkway as a Collector Street, which stops at the McAuliff Street alignment. Any future extension of Mill Creek Parkway/Race Street to the east of McAuliff will most likely be a Local Street designation. Right-of-way for extension of Mill Creek Parkway/Race Street to the east of McAuliff Street will be reserved as requested by Engineering Staff on the south side of the proposed Cal Water well site. Cal Water as a condition of the sale has been asked to design the site with the intention that Race Street would be built out in the future. Other requirements would be installation of concrete landscape curb at the location of the future curb and gutter and to have complete frontage with fencing and landscaping.

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 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.

The estimated cost of the build out of curb, gutter and street paving for 137 feet of Race Street along the site frontage is \$36,700. Half of the estimated cost for build out of Race Street would be required to help offset the cost the City will bear when the street is built out, which would require a deposit of \$18,350 from Cal Water. This deposit would be paid at the close of escrow. Future connection of Race Street to McAuliff would improve circulation in the area and allow for future densification of development in this rural residential area.

A temporary City storm drain basin exists on the site, which Cal Water wishes to retain to use for storage of water. Cal Water has advised the site with the existing drainage basin is well suited for their needs to add a well and tank and could provide more water than most other sites through direct draw and storage. The existing storm drain line connection to the basin that connects to Mill Creek will be capped off during the current McAuliff extension project over Mill Creek.

Cal Water has prepared a preliminary site plan (Attachment 2), including landscaping, that was reviewed by Engineering and Planning Staff. Cal Water has indicated that they are willing to handle the outreach to the surrounding neighbors during the site plan development process. They have agreed to provide screening landscaping for the site, subject to City approval of the landscape plans.

Staff requests that Council approve the 1st Public Hearing regarding the sale of this property and staff will bring back on December 7, 2009 for the 2nd Public Hearing and final approval.

Prior Council/Board Actions:

N/A

Attachments:

1. Ordinance No. 2009-10
2. Cal Water Preliminary/Draft Site Plan

Recommended Motion (and Alternative Motions if expected):

I move to:

1. Approve first reading of Ordinance 2009-10 authorizing the sale of real property of the south portion of APN 103-320-11 at Mc Auliff Street and Mill Creek Parkway

Environmental Assessment Status

N/A

ORDINANCE NO. 2009-10

**AUTHORIZING SALE OF REAL PROPERTY TO
CALIFORNIA WATER SERVICE COMPANY**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: The City of Visalia owns all the legal and beneficial interest in certain real property commonly referred to as the northeast corner of Mc Auliff Street and Mill Creek Parkway, Visalia, California (APN: 103-320-011) and has determined to convey a portion of it to California Water Service Company, and

Section 2: Said real property is located in the area at the northeast corner of Mc Auliff Street and Mill Creek Parkway/Race Street alignment intersection and the portion to be conveyed to Buyers is more particularly and legally described in Exhibit "A-1", in Purchase and Sale Agreement , and

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

Section 4: Said City Council finds and determines that said portion of the real property should be sold, and

Section 5: The City of Visalia wishes to sell and Buyers wish to purchase said real property and the rights and entitlement, based on terms and conditions to be set forth in a Purchase and Sale Agreement and Escrow Instructions.

Section 6: Having found the subject property to have no further public use or necessity, the Council hereby authorizes the transfer of ownership in and to said described portion of the real property to Buyers or their vestee as per the terms and conditions of the above-mentioned agreement.

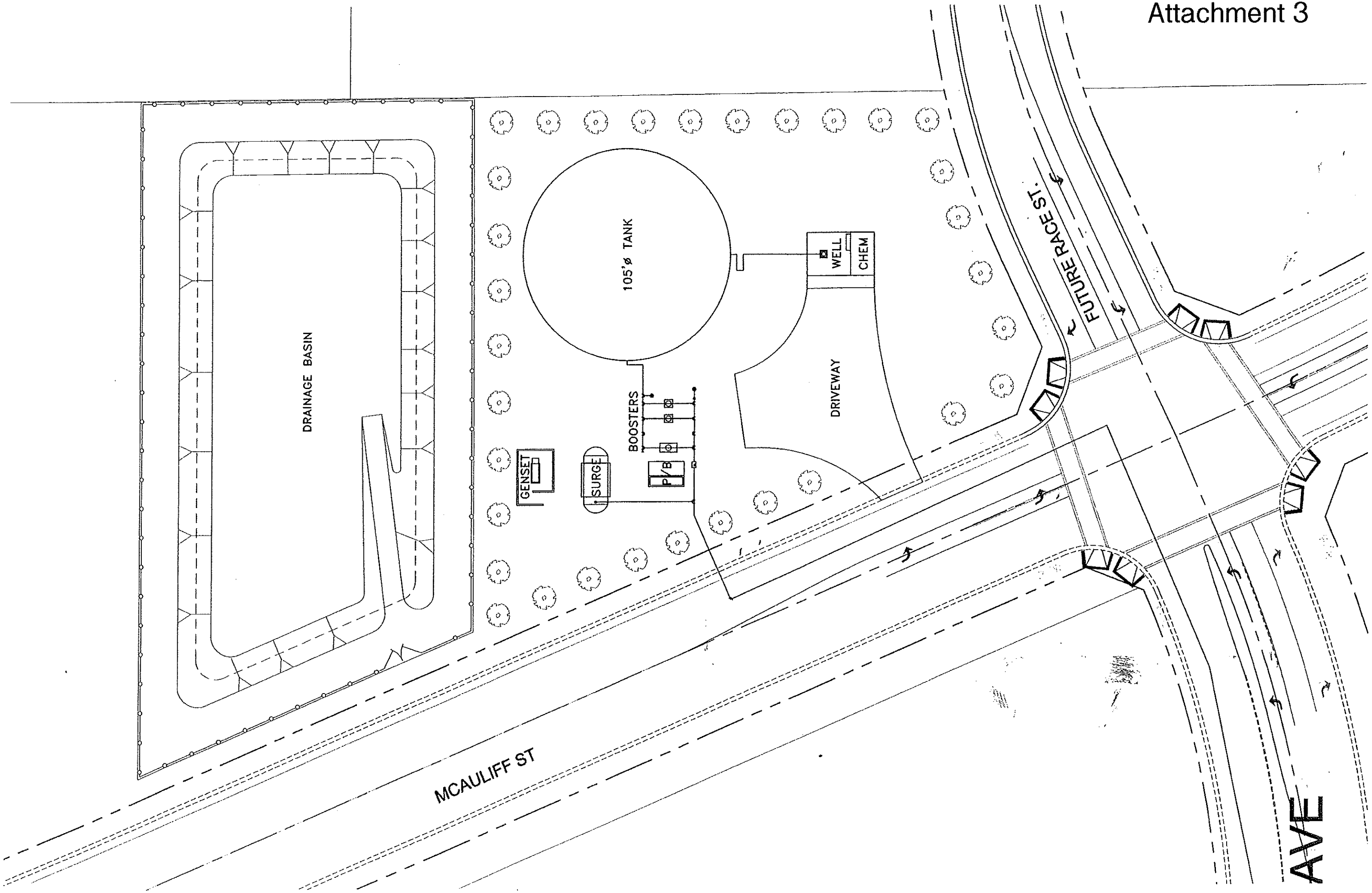
Section 7: This ordinance shall become effective thirty days after passage hereof.

PASSED AND ADOPTED:

_____, MAYOR

ATTEST BY: _____

APPROVED BY CITY ATTORNEY: _____



City of Visalia Agenda Item Transmittal

Meeting Date: November 16, 2009

Agenda Item Number (Assigned by City Clerk): 13

Agenda Item Wording: Update on solid waste diversion programs and activities.

Deadline for Action: N/A

Submitting Department:

Contact Name and Phone Number:

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

Summary/background: Update to Council on solid waste diversion programs, Consolidated Waste Management Authority (CWMA) participation, and the Construction and Demolition Recycling Program (C&D).

The main topics discussed in this report are:

- The Consolidated Waste Management Authority (CWMA) is meeting its mandated recycling goal. The current maximum Pounds per Person per Day (PPD) of waste going to the landfill allowed is 6.2 PPD (approximately 50% diversion) and the CWMA is significantly better than required with 4.4 PPD (approximately 65% diversion) for 2008.
- Over the last three years an average of 3,000 tons of waste per year has been sent by the CWMA to Long Beach to a Waste to Energy plant where it is burned and converted to energy. This helps lower the amount of waste taken to the landfills.
- The CWMA implemented a food waste composting pilot program in partnership with Tulare County Compost and Biomass and the City of Visalia. About 1,000 residents were asked to participate in the six-month pilot program.
- The Construction and Demolition (C&D) program recycled over 25,000 tons of material in 2008, and over 50% of the material taken to the landfill as potential C&D material was removed from the landfill and recycled.

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

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.

Background:

The City's Solid Waste Division provides collection services for garbage, recyclable material and green waste for both residential and commercial accounts within the City of Visalia. The Solid Waste Division currently has fifty-five employees and operates sixty trucks. The residential customers are provided with split cans for garbage and recyclable material. The City also provides them with containers for green waste. The residential accounts are all serviced with automated side-loader trucks. Most of the commercial accounts have bins that hold from two to six yards of trash. The commercial bins are serviced with automated front-loader trucks. The Solid Waste Division also supplies twenty- and thirty-yard roll-off bins for construction projects and industrial accounts.

Most of the City's solid waste trucks are powered by compressed natural gas (CNG). There are currently thirty-three CNG trucks and twenty-seven diesel trucks. The City has a grant (Federal Highway Funds) to purchase nine more CNG trucks in 2010 and three more CNG trucks in 2011. The solid waste fleet will be ninety percent powered by alternative fuel by late 2011 and running one-hundred percent on alternative fuels by 2015. The City owns a CNG fast fill station on Cain Street and also has infrastructure to fill fifty CNG vehicles overnight (slow fill) in the Corporation Yard.

Consolidated Waste Management Authority (CWMA)

The City of Visalia belongs to a Joint Powers Authority (CWMA) for the purpose of aggregating diversion streams and taking advantage of collective diversion processes. The CWMA's members include the cities of Visalia, Tulare, Exeter, Dinuba, Lindsay, Farmersville, Porterville, and also the unincorporated areas of Tulare County. The CWMA is the reporting agency to the State, and as such is required by the California Integrated Waste Management Board (CIWMB) to have recycling programs in place and implemented.

The CWMA is structured with a board member representative from each member, a Senior Staff group with a representative from each member, and a support staff group with a representative from each member. There is also a Management Analyst employee that coordinates activities and meetings and oversees the support staff. This employee is paid, housed and supervised at the City of Visalia, but the CWMA reimburses Visalia for all the employee costs.

The CWMA is heavily involved in education, and actively strives to educate the public about recycling through events and activities in conjunction with the members. Senior staff and support staff are present at schools, fairs and other events throughout the member cities and provide recycling containers for events along with recycling cans for offices and businesses.

Mandated Recycling

The State of California requires municipalities to divert from the landfills at least fifty-percent of all solid waste collected. The State does not require recycling but instead allows the municipalities to establish their own programs to accomplish the diversion goals. The California Integrated Waste Management Board (CIWMB) oversees the diversion programs, and has established benchmarks for each entity to meet. In 2007, the CIWMB changed the benchmark calculations and based the mark upon Pounds (of waste taken to the landfill) per Person per Day (PPD).

The State of California has set the benchmark for Visalia and the other CWMA members at a maximum allowable 6.2 pounds (of waste taken to the landfill) per person per day. In other words, each person in Visalia is allowed to deposit no more than 6.2 pounds of trash in the landfill each day. The total amount of waste recycled or diverted by each person is irrelevant as

long as it is recycled in some allowable manner. The threshold of 6.2 pounds approximately equals fifty percent diversion from the amount of waste generated in the base year of 2007. In 2007, the CWMA members generated 5.2 pounds per person per day. In 2008, the CWMA members decreased the volume that they delivered to the landfills to 4.4 pounds per person per day. This equates to about a sixty-five percent diversion rate (about sixty-five percent of generated waste for the CWMA as a whole is diverted away from the landfills and recycled or reclaimed in some allowable manner). This means the CWMA is well below the established benchmark of 6.2 PPD, and over the last two reporting years has significantly increased their diversion rate (diverted more away from the landfills).

Table 1

Reporting-Year 2008 Calculation Results (Per Capita)			
		<u>Target</u>	<u>Actual</u>
2007	The Calculated Disposal Rate (pounds/person/day):	6.2	5.2
2008	The Calculated Disposal Rate (pounds/person/day):	6.2	4.4

Waste to Energy

The CWMA coordinates a Waste to Energy program that delivers trash to Long Beach to be burned in a plant that generates electricity. Trash that is burned for energy is considered by the State to have been diverted from the landfill and counts towards diversion goals. The table below shows the waste material that has been taken to the Long Beach Waste to Energy plant since the CWMA started deliveries in 2005. As shown in the table below, the CWMA sends about 3,000 tons of waste to Long Beach per year. Other entities from this area also send material to the Long Beach facility directly and are included in the table below with their corresponding amounts sent.

In 2008, the CWMA sent 2,931 tons to the Long Beach Waste to Energy plant. In addition to the material sent by CWMA, several of the member cities also sent material. Many of the member cities use contract haulers. The cities require that the contract haulers divert fifty percent of the waste stream, so the hauler fulfills that requirement by sending material to the Long Beach plant. Visalia did not independently send any additional waste material but did contribute to the material sent by CWMA. The combined total waste material for 2008 was 12,128 tons. See Table 2 for more information.

Table 2
**Consolidated Waste Management Authority
Waste to Energy Report**

Year	CWMA	Tulare County Landfill <i>(Reported from Long Beach as received)</i>	Exeter	Farmersville	Licensed Private Haulers <i>(Delivered Tonnage-Unincorporated areas)</i>	Total Tons
2005	672	-			-	672
2006	3,361	2,273			5,404	11,038
2007	3,199	2,295			6,943	12,437
2008	2,931	1,670	60	70	7,397	12,128
2005-08 GRAND TOTAL	10,163	6,238	60	70	19,744	36,275

Residential Recycling

Sunset Waste has been processing the City’s recyclables since June, 2000. The current contract is for a fifteen-year term and will end in June, 2015. The recyclables are collected by City operators and unloaded at Sunset’s facility at 1707 W. Goshen Avenue. The trucks that service residential customers are equipped for split cans and haul both garbage and recyclables. The trucks unload the garbage at the landfill and then go to Sunset’s yard to unload the recyclables. The City is paying Sunset to process the recyclables. Sunset does not compensate the City for the value of the recyclables that are collected.

Twice a year Sunset Waste performs a composition study on the recyclable materials the City delivers to them. The study determines what percent of the recycled material collected by the City is actually suitable to be recycled. Any material that is not suitable to be recycled is taken to the landfill and is considered the residual. The last composition study was conducted in July 2009. The composition study shows that both the commercial and residential residual waste amounts have dropped from the previous study. Commercial waste residual went down from 9.52% to 9.37%, and residential dropped from a previous 25.89% to 23.33%. This means there is less trash being picked up with the recyclables. The Solid Waste division periodically inspects the split cans and green waste cans for trash or other material that cannot be recycled. Warning notices (tags) are left on any containers that are contaminated. Any accounts that have a second violation are fined. The ongoing tagging program has helped significantly in lowering the residual trash in the recycle loads. By keeping residual trash low in the recyclable loads, the City keeps costs down with Sunset and is able to take more clean loads there instead of having recycle loads refused because they are too contaminated and having to take them to the landfill instead.

Commercial Recycling

Assembly Bill 32 (AB32) requires reduction in greenhouse gases (GHG), so the Air Resource Board (ARB) through the California Integrated Waste Management Board (CIWMB) is developing a rule requiring mandatory recycling for commercial accounts of a certain size and waste stream volume in order to reduce the GHG emitted by landfills. The rule is to be developed by 2010. There are 24,000 commercial businesses in California that generate over half of the statewide solid waste. Reductions in Green House Gas emissions can be realized from solid waste management by recovering traditional recyclable materials from the commercial waste stream with the goal to remanufacture these materials, thus reducing the

Green House Gas emissions from multiple phases of product production including extraction of raw materials, reprocessing and manufacturing. The Scoping Plan for AB 32 requires that regulations are adopted by January 1, 2011.

The City of Visalia currently has approximately 3,400 commercial accounts and Solid Waste staff is already actively pursuing those accounts to promote recycling. The City Council recently approved a new fee schedule that provides a reduced rate for picking up commercial recyclable materials versus trash. A new service is now being offered to businesses that don't have room for a second bin to collect recyclables. City staff developed a divided bin that collects both trash and recyclable material similar to the residential split cans. Staff is not aware of any other cities offering this service. The "split bin" is used to promote recycling in places where the bin enclosure is too small for two bins. This split bin is one bin split into two sections with separate lids that can be locked for dumping. When trash is picked up, the recycling lid is locked so only trash is emptied and vice-versa.

Green Waste Composting

The City collects green waste for composting from residential and commercial accounts. In 2008 the City collected over 40,000 tons of green waste. The green waste program makes a significant contribution to the City's diversion efforts. The City delivers green waste to two different vendors; Tulare County Biomass (not owned by the County) and Wood Industries.

The CWMA is conducting a pilot program to determine if some types of food waste can be added to the green waste containers and processed into compost. Tulare County Biomass is a partner in this program. Small plastic containers have been delivered to about 950 residences in Visalia. The customers are being asked to place fruits, vegetables, and other food products in with the rest of their green waste. Some soiled cardboard and paper containers that are not suitable for recycling can also be composted. Some examples are pizza boxes, ice cream containers, and paper towels. The program is scheduled to run for six months. The data collected will help determine feasibility and costs for a program citywide.

Construction and Demolition (C&D) Program

The City of Visalia's C&D program started in 2006 and has been a successful program. Construction and demolition projects that meet certain criteria must apply for a City C&D permit that requires them to recycle at least 50% of the debris generated by the activity. City staff monitors compliance by collecting weight tickets from permit holders and meeting with the customers and haulers to ensure the material is being recycled. In 2008, 97% of the construction and demolition material processed through C&D permits was reported as recyclable and only 3% was reported delivered to the landfill as waste. City staff actively looks for places that will take different types of material like gypsum, lights, styrofoam, etc., and passes that information along to the customers doing construction and demolition work.

Even though the Visalia C&D permit program indicates that 97 percent of the reported waste material is recycled, there is still an additional amount of C&D material delivered to the landfill outside of the permit process that is not monitored. The landfill material comes from projects that are not required to obtain a C&D permit and from projects that do not apply for building permits (homeowners and unlicensed contractors).

In 2008, the CWMA reported the following by member for C&D tonnages delivered to the landfill. These tonnages represent all C&D taken to the landfills, permitted or not, by all haulers.

Table 3

Member	Tons
County	13,529
Dinuba	296
Exeter	634
Farmersville	526
Lindsay	679
Porterville	3,999
Tulare	5,330
Visalia	10,973
Additional material picked up by CARTS	<u>12,864</u>
TOTAL	48,830

The Cedar Avenue Recovery Transfer Station (CARTS), located in Fresno, removes all the construction and demolition material delivered to the County landfills and takes it to their recovery facility in Fresno. There, they sort out residuals and recycle the rest. In 2008, CARTS collected 48,830 tons of potential C&D material from the County's landfills. CARTS processed and sorted the material and was able to recycle 25,025 tons. The remaining 23,805 tons was returned to the landfill as residual (not recyclable). This translates into about 51.2% of the potential C&D material being recycled. As efforts to promote recycling in this area are improved the percent of material actually recycled is expected to increase also.

Summary:

The City of Visalia continues to be proactive toward recycling and continues to divert tonnages away from the landfills at an increasing rate. As part of the CWMA, Visalia and the other members are well ahead of State mandated diversion requirements and the CWMA continues to try to find new ways to divert tonnages away from the landfills.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected):

No motion required; information only.