

Regular Meeting Agenda

Visalia City Council



Mayor: Bob Link
Vice Mayor: Amy Shuklian
Council Member: Warren Gubler
Council Member: Mike Lane
Council Member: Steve Nelsen

Monday, November 1, 2010

Convention Center, 303 E. Acequia, Visalia CA 93291

Work Session and Joint Meeting with Planning Commission 4:00 p.m.

Closed Session 6:00 p.m. (or immediately following Work Session)

Regular Session 7:00 p.m.

4:00 p.m. INTRODUCTION OF NEW EMPLOYEE

Kathy Rouse, Administrative Assistant in Administration Department

SPECIAL PRESENTATION - Presentation of 2010 Corporate Games by Michelle Fitzgerald, Recreation Supervisor

4:15 p.m. CONVENE JOINT MEETING OF THE VISALIA CITY COUNCIL AND THE VISALIA PLANNING COMMISSION

WORK SESSION AND ACTION ITEMS (as described)

Public Comments related to Items that are listed on the Work Session agenda will be heard at the time that item is discussed.



1. Discussion and acceptance of the Existing Conditions Report (ECR) to the Comprehensive General Plan Update. **Receive public comment.** (The ECR document can be viewed at www.visaliageneralplanupdate.com)

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

ADJOURN JOINT MEETING AND REMAIN SEATED AS THE VISALIA CITY COUNCIL

6:00 p.m. CLOSED SESSION (immediately following Work Session)

2. Conference with Legal Counsel – Anticipated Litigation - Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 1 potential case
3. Conference with Real Property Negotiators (GC 54956.8)
Property: Water Supply Contract Acquisition
Negotiating Parties: Steve Salomon, Alex Peltzer, Sean Geivet
Under negotiation: Price and terms
4. Conference with Real Property Negotiators (GC 54956.8)
Property: Portions of APN 081-160-011 (Plaza Drive and Hurley – no site address), 081-130-013 (615 N. Plaza Drive), 081-160-007 (Plaza Drive and Hurley – no site address), 081-010-087 (700 N. Plaza Drive)
Under Negotiation: Price, terms, and conditions of potential purchase
Negotiating Parties for Landowners: Stanley C. Bennett and Tamra A. Bennett, for APN 081-160-011 and 081-130-013; Niniv Tamini and Mathew Bruno for 081-160-007; and Ugo Pasarelli for 081-010-087
Negotiating Parties for City: Steve Salomon, Alex Peltzer, James Koontz, and Fred Lampe
5. Conference with Real Property Negotiators (GC 54956.8)
Property: 300 E. Oak (APN 094-283-001)
Negotiating Parties: Steve Salomon, Ricardo Noguera, Alex Peltzer, P&B Pence, LLC; Scott Ellis, Equity Group
Under negotiation: Terms and Conditions of potential purchase
6. Conference with Real Property Negotiators (GC 54956.8)
Property: 522 River Way (APN 078-110-021)
Under Negotiation: Price, terms, and conditions of potential purchase
Negotiating Parties for Landowners: Sandra L. Spens
Negotiating Parties for City: Steve Salomon, Alex Peltzer, James Koontz, and Vince Elizondo

7:00 p.m. CALL TO ORDER REGULAR SESSION

PLEDGE OF ALLEGIANCE

INVOCATION – Pastor Paul Gendron, Workforce Chaplaincy

SPECIAL PRESENTATIONS/RECOGNITION

PUBLIC COMMENTS - *This is the time for citizens to comment on subject matters that are not on the agenda that are within the jurisdiction of the Visalia City Council.*

This is also the time for citizens to comment on items listed on the Consent Calendar or to request an item from the Consent Calendar be pulled for discussion purposes. Comments related to Regular or Public Hearing Items that are listed on this agenda will be heard at the time that item is discussed or at the time the Public Hearing is opened for comment.

In fairness to all who wish to speak tonight, each speaker from the public will be allowed three minutes (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. **CONSENT CALENDAR** - *Consent Calendar items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made and then the item will be removed from the Consent Calendar to be discussed and voted upon by a separate motion.*
- a) Authorization to read ordinances by title only.
 - b) Award Community Forest Maintenance Contract to West Coast Arborist to perform tree maintenance services.
 - c) Authorization to apply for Highway Safety Improvement Program (HSIP) 2010/11 grant.
 - d) Authorization to apply for CalGRIP (California Gang Reduction, Intervention & Prevention) grant funds through the State of California Emergency Management Agency.
 - e) Request authorization to file a Notice of Completion for the 2010 Major Street Overlays Project for a final contract amount of \$540,352.40.
 - f) Award Annual Weed and Pest Abatement Chemical Product Contract to Target Specialties Products per specifications of RFB 10-11-06.
 - g) Authorization to apply for Local Government Strategic Plan grant funds offered through Southern California Edison Company to develop an Energy Action Plan.
 - h) Second reading of Ordinance 2010-09, amending portions of Title 17 of the Visalia Municipal Code pertaining to Real Estate signs. **Ordinance 2010-09 required.**
 - i) Authorize the appropriation of \$120,000 for repairs to the Fueling Island at the City's Corporation Yard with funding to come from Solid Waste, Wastewater, Gas Tax and General Fund accounts.
 - j) Approval of a proposed 30 year lease for \$1/year with the Imagine U Children's Museum for property located on Douglas between Burke and Tipton and around the adjacent ponding basin for a walking trail, pursuant to the Museum receiving the California Outdoor Education grant for which they have applied.
 - k) Authorize the City Manager to execute the Memorandum of Understanding for Firefighters (City of Visalia Employee Bargaining Unit Group G) for the period July 1, 2010 through June 30, 2012.

REGULAR ITEMS AND PUBLIC HEARINGS - *Comments related to Regular Items and Public Hearing Items are limited to three minutes per speaker, for a maximum of 30 minutes per item, unless otherwise extended by the Mayor.*

8. **PUBLIC HEARING** - Appeal of the Planning Commission's denial of Conditional Use Permit No. 2010-09 and Variance No. 2010-04 filed by Verizon Wireless for a proposal to install a new 80 ft. telecommunications tower on property located on the north side of East Caldwell between South Stover Street and South Pinkham Street. **Resolutions 2010-68 and 2010-69 required.** *Continued from 9/7/10, 10/4/10 and 10/18/10.*

CLOSED SESSION REPORT (if any)

Upcoming Council Meetings

- Monday, November 15, 4:00 p.m. Work Session, 7:00 p.m. Regular Session - City Hall Council Chambers 707 W. Acequia
- Monday, December 6, 4:00 p.m. Work Session, 7:00 p.m. Regular Session - City Hall Council Chambers 707 W. Acequia
- Monday, December 20, 4:00 p.m. Work Session, 7:00 p.m. Regular Session - City Hall 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.

The City's newsletter, Inside City Hall, is published after all regular City Council meetings. To self-subscribe, go to http://www.ci.visalia.ca.us/about/inside_city_hall_newsletter.asp. For more information, contact Community Relations Manager Nancy Loliva at nloliva@ci.visalia.ca.us.

City of Visalia
Parks and Recreation Department

2010 Corporate Games

Objective:

- Promote health, fitness and wellness
- Encourage company involvement
- Boost morale, teamwork and company pride amongst employees
- Facilitate company interaction through competitive spirit
- Promote local businesses
- Enhance the quality of life for citizens of Visalia

History

- Corporate Games was first offered in 2008
 - 2008 6 teams
 - 2009 13 teams (7 new teams)
 - 2010 15 teams (5 new teams)

2010 Tournament Format

- 10 day tournament (October 6 – 15, 2010)
- 2 activities per day
- Teams earn points in each event they participate in that accumulate towards winning the Corporate Cup
- 1st, 2nd and 3rd place medals are awarded at each event

2010 Events

- 3 point contest
- 3 on 3 basketball
- 5K run
- 200M swim relay
- Bowling
- Darts
- Dodgeball
- Family Feud
- Golf
- Horseshoes
- Obstacle Course
- Rock Band on Xbox
- Soccer
- Table Tennis
- Texas Hold'Em
- Trivia Challenge
- Tug-of-War
- Ultimate Frisbee
- Volleyball
- Wiffleball



























Most Inspirational
Cal Water

Outstanding Sportsmanship
CH Robinson





2010 Champions – Visalia Unified School District

Community Involvement

- Events were hosted at:
 - Visalia Elks Lodge
 - Valley Oaks Golf Course
 - Howie & Sons Pizza
 - AMF Lanes in Visalia
 - Marriott Hotel
 - Mt. Whitney and Golden West

2010 Participants

- Ben-e-lect*
- Buckman-Mitchell*
- Butler Mfg*
- Cal Water*
- CH Robinson*
- City of Visalia
- CSET
- Family Healthcare Network
- Kaweah Delta
- Marriott
- Pro-Youth/Heart
- Quad Knopf
- Self Help Enterprises
- Visalia Community Bank
- Visalia Unified School District

* denotes new team for 2010 Corporate Games

Testimonials

- “I wanted to let you know how much fun Corporate Games has been for our company. I was hesitant to sign us up because I wasn’t sure how people would take to it and if we would get participation. We actually have people who are signing up for leagues now so they can be ready for next years Corporate Games and do much better than we have this year.
- “It has really brought our staff closer than I would have imagined it could and it has gotten our company’s name out more than advertising has done. In each event we are asked multiple times what service our company provides.”
- “This is a great idea you guys have had and I wanted to say thanks.”
- After an event one evening a company mentioned that this event has helped bring their office closer together and to re-establish relationships amongst co-workers
- “Thanks for all you do making these games fun for all!”

Thank You

Questions/Comments

City of Visalia
Memo



To: City Council
Planning Commission

From: Chris Young, Community Development Director
Paul Scheibel, AICP, Planning Services Manager
Brandon Smith, AICP, Senior Planner
Michael V. Dyett, FAICP, Dyett and Bhatia Consulting

Date: November 1, 2010

Re: Acceptance of the Existing Conditions Report (ECR) to the Comprehensive General Plan Update

Recommendation: Staff recommends that:

1. The Planning Commission and City Council review and discuss the contents of the Existing Conditions Report (ECR); and,
2. The City Council accept the ECR, and direct staff to begin Phase II (Alternatives and Evaluation) of the General Plan Update process.

Background: The comprehensive General Plan Update and Program Environmental Impact Report (EIR) was formally initiated in January 2010, with the award of the consulting contract for services from Dyett and Bhatia of San Francisco. The overall work program is comprised of eight major tasks in three Phases:

Phase I Visioning, Outreach, and Background Studies

- Task 1- Reconnaissance, Organization, Technical Data Gathering
- Task 2- Visioning and Issues Identification
- Task 3- Existing Conditions and Key Issues Report

Phase II Choices

- Task 4- Alternatives and Evaluation
- Task 5- Preferred Plan, Policy Framework

Phase III Draft General Plan and EIR

- Task 6 – Draft General Plan
- Task 7- Draft and Final EIR
- Task 8 – Community Review and Adoption

The completion and presentation of the ECR marks the completion of Phase 1 (Tasks 1 thru 3). Phase 1 featured technical data gathering, key Community stakeholders

interviews and public outreach and surveys, and compilation of the two efforts into the ECR. The 25-member General Plan Update Review Committee (GPURC) reviewed the ECR over the course of almost four months (from June to September), and endorsed this final draft to the City Council on September 14th.

This review proved invaluable in refining both the background data and the conclusions implicit with the information contained in the ECR. Once accepted (approved), it will serve as the common point of reference for the GPURC as it continues through the remaining phases of the General Plan Update. Assuming the City Council accepts the ECR on November 1st (with input from the Planning Commission, individual GPURC members, and the general public), the next Phase of the General Plan Update (Choices) will begin immediately. The Alternatives and Evaluation task of Phase 2 is anticipated last for approximately seven months, with all of Phase II expected to be completed in 13 months.

Discussion: The ECR is organized into seven broad categories that directly relate to key issues that need to be incorporated into the City's General Plan in order to guide our growth for the next twenty years or more. Each section provides an overview of the category and a technical portrayal of the City's situation relative to that particular category. Each category of discussion concludes with a series of informed insights about potential implications regarding the category. The insights represent a blending of empirical data such as demographic profiles, forecasts and projections such as growth rates, emerging themes derived from stakeholders interviews and public visioning and preference surveys, and state planning and environmental mandates and constraints.

It is important to note that the implications and conclusions contained in the ECR do not, nor are they intended to reflect any final decisions or preferences in favor of any position or entity or preferred concept or policy. The ECR is purposely limited to setting the stage for further analysis and testing of a full range of growth alternatives and Plan policies that are the task of the subsequent phases of the General Plan Update process.

Next Steps: Once the City Council accepts the ECR, the General Plan Update Team will begin Phase II of the process which concentrates on developing and testing possible growth scenarios in the form of potential land use patterns. This is a very dynamic phase of the process in that the GPURC will review several "Sketch Plan Alternatives" as part of the Alternatives and Evaluation task (Task 4). The sketch plan alternatives portray a range of growth and service options in the form of land use distribution patterns. Each of these Alternatives will offer varied land use solutions for addressing the key issues, opportunities, and constraints identified in Phase I.

This is a dynamic and complex process in that the GPURC will determine which of the Alternatives (or modified blend of Alternatives) offers the best opportunity for successful implementation- thus selecting the "Preferred Alternative" that will become the focus of detailed study in Task 5 (Preferred Plan, and Policy Framework), and will become the subject of the draft Environmental Impact Report (Program EIR). As with all phases of the General Plan Update process, extensive and continuous outreach, participation, and feedback among the GPURC, City Leaders, and citizen Stakeholders are built into the process timeline.

Phase II is expected to take about 13 months to complete. The preliminary sketch drawings that portray various Citywide land use options (Alternatives) will be presented to the GPURC in January-February 2011. The General Plan Update process and timeline schedule is provided as Attachment 2 of this report.

Prior Council/Board Actions: None

Committee/Commission Review and Actions:

On October 25, 2010, the Planning Commission reviewed the general contents of the ECR in preparation of this Joint worksession. As this was an informational Director's Report item only, no vote or formal position of the Planning Commission was taken.

On September 14, 2010, The General Plan Update Review Committee (GPURC) voted to accept the ECR with minor amendments to be made to the final version that is presented for acceptance by the City Council. These revisions have been incorporated into the October 2010, draft version that is the subject of this report.

Alternatives: In addition to accepting the ECR as presented, the City Council may:

1. Direct revisions to the ECR and accept it as amended; or
2. Refer the ECR back to the GPURC with appropriate direction.

Attachments: 1. October 2010 draft, Existing Conditions Report (ECR) (previously distributed to the City Council and Planning Commission)

2. General Plan Update schedule

Recommended Motion: I move to accept the Existing Conditions Report and direct staff to begin Phase II (Alternatives and Evaluation) of the General Plan Update process.

Alternative Motion 1: I move to accept the Existing Conditions Report with revisions as directed by the City Council, and direct staff to begin Phase II (Alternatives and Evaluation) of the General Plan Update process

Alternative Motion 2: I move to refer the Existing Conditions Report back to the GPURC with direction as appropriate.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 1, 2010

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

Agenda Item Wording Award Community Forest Maintenance Contract to West Coast Arborist to Perform Tree Maintenance Services (RFP #09-10-47)

Deadline for Action: November 1, 2010

Submitting Department: Parks and Recreation Department, Urban Forestry Division

Contact Name and Phone Number: David Pendergraft, Vince Elizondo, Parks & Urban Forestry Supervisor, 713-4295

Department Recommendation:

City Staff recommends that City Council authorize the City Manager to Award RFP #09-10-47 to West Coast Arborist to perform tree maintenance services.

Background:

City wide growth and Visalia's planting program of new trees has increased the tree inventory to more than 50,000 trees that are owned and maintained by the City. The most significant growth is in the new subdivisions where the maintenance is covered by lighting and landscape maintenance districts. West Coast Arborist Incorporated has been contracted with the City for the last five years to maintain Visalia's community forest. Their contract ended August 31, 2010 and in accordance with the Cities Purchasing Policy, all contracts will be re-bid after the fifth year.

Bid Analysis

Before the proposals were opened, staff developed bid criteria for the submitted proposals. Because this is a service contract, State law does not require the City to award a contract solely on low bid. The criteria will ensure that the bidder that is selected by the City is the "best value" for the community. Staff identified eight categories by which the proposals would be evaluated. The categories along with the percentage points are identified below.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

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.

Criteria	Max Value
1. Quality and Completeness of proposal	15 pts.
2. Corporate Capability	25 pts.
3. Reference Evaluation	25 pts.
4. Customer Service Evaluation	10 pts.
5. Information Management	20 pts.
6. Pruning Program	15 pts.
7. Community Forest Study	10 pts.
8. Fee Schedules	<u>15 pts.</u>
	135 pts.

Request for Proposals (RFP)

On May 18 and May 24, 2010, proposals were solicited by advertising in the Visalia Times Delta and by mailing RFP notices to several contractors. In addition, the RFP was posted on Bid-Net and approximately 150 letters were sent out to various companies that provide this service.

On May 25 and June 2, 2010, two mandatory pre-bid meetings were held in the City Council Chambers. Contractors that do not attend these meetings are ineligible to submit proposals for this contract. A total of six tree maintenance companies attended these meetings.

During the pre-bid meetings, staff reviewed the bid specifications, the community forest maintenance program, tree inventory, grid pruning, evaluation criteria and answered questions.

Request for Proposals, Response

On June 18, 2010, proposals were received from West Coast Arborist Incorporated and Sanchez Brothers Tree Service. These proposals were presented to an evaluation team to review against the established criteria as aforementioned. Each company was then interviewed and rated. Based on the information and references provided by each company, the evaluation team issued the following scores: West Coast Arborist Incorporated, 133.33 points and Sanchez Brothers Tree Service 76.33 points.

While both companies are very experienced in this field, both of their bids were very comparable. Sanchez Brothers Tree Service did not provide the requested information at the time of the interview to support the services they provide. Sanchez Brothers Tree Service is a Tulare based tree service, that has been serving Visalia and it's surrounding cities for the past nine years. Servicing local residents, businesses, churches, as well as state, federal and local governments, they are primarily a residential tree trimming company. After careful review and consideration, the evaluation team recommends that the contract be awarded to West Coast Arborist Incorporated.

West Coast Arborist Incorporated, an Anaheim based tree service, are experienced in grid pruning, tree inventory, GIS capabilities, safety training and safety documentation of their personnel. They provide Certified Arborists as project managers and require that all tree trimming staff be certified tree workers. They specialize in municipal right of way tree maintenance. The employees of West Coast Arborist fulfilling this contract all live in the Visalia area.

While West Coast Arborist Incorporated provides a broad spectrum of tree related services, the City will be using the company primarily for tree trimming services utilizing a grid pruning maintenance program. Maintaining our Urban Forest on a grid pruning system will insure that City maintained trees will be pruned and maintained every 4 to 5 years.

The contractual agreement is for a one-year period but can be extended by the City for a period not-to-exceed five years providing satisfactory performance is provided by West Coast Arborist Incorporated. In previous years the community Forest General Fund budget has been for \$125,000 per year. The budget has been recently reduced to \$100,000 per year. The services for this contract are budgeted and are not to exceed \$260,000 annually. The funding sources for the \$260,000 are General Fund - \$100,000, Landscape and Lighting Districts - \$100,000 and Storm/ Sewer Enterprise Fund - \$60,000. Annual price increase adjustments at time of renewal of contract are based on the Consumer Price Index.

Attachments;
West coast Arborist Cost Schedule
Sanchez Brothers Cost Schedule

Recommended Motion (and Alternative Motions if expected):
City staff recommends that the City Council authorize the City Manager to award RFP #09-10-47 to West Coast Arborist Inc. to perform tree maintenance services.

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)*

Sanchez

SCHEDULE OF COMPENSATION

DESCRIPTION	UNIT	UNIT PRICE
Annual Tree Trimming on District/Zone basis	per tree	\$46.00
SERVICE REQUESTS - Work performed on an individual basis		
FULL TRIM		
0-6" dbh	per tree	\$23.00
7-16" dbh	per tree	\$46.00
17-24" dbh	per tree	\$140.00
25-36" dbh	per tree	\$280.00
37" dbh & over	per tree	\$1120.00
TREE REMOVAL		
Tree and stump removal	per diameter inch	\$18.00
Tree removals over 36" dbh	per diameter inch	\$63.00
Stump only removal	per inch	\$5.00
PLANTING		
15 gallon tree	per tree	\$40.00
24 inch box tree	per tree	\$70.00
36 inch box tree	per tree	\$200.00
TREE WATER MONITORING	per tree	\$1.50
CREW RENTAL		
3 man crew with equipment	per hour	\$140.00
2 man crew with equipment	per hour	\$100.00
1 man crew with equipment	per hour	\$50.00
EMERGENCY RESPONSE		
1 man crew with equipment	per hour	\$100.00
TREE INVENTORY AND SOFTWARE PACKAGE	per tree site	\$5.00
GPS INVENTORY (30,000 trees)	total	\$20,000.00
TREE INVENTORY UPDATES	per tree site	\$0
TREE MASTER PLAN	lump sum	\$1,200.00
ARBORIST TREE EVALUATION REPORT	per tree site	\$5.00
MEETING WITH PROJECT MANAGER	per hour	\$0
PREPARING TRAFFIC CONTROL PLAN	per plan	\$0
EQUIPMENT RENTAL	per hour	\$250.00

SCHEDULE OF COMPENSATION

DESCRIPTION	UNIT	UNIT PRICE
Annual Tree Trimming on District/Zone basis	per tree	\$ 55.00
SERVICE REQUESTS – Work performed on an individual basis		
FULL TRIM		
0-6" dbh	per tree	\$ 40.00
7-16" dbh	per tree	\$ 80.00
17-24" dbh	per tree	\$ 200.00
25-36" dbh	per tree	\$ 400.00
37" dbh & over	per tree	\$ 600.00
TREE REMOVAL		
Tree & stump removal 0-35" dbh	per diameter inch	\$ 20.00
Tree & stump removal over 36" dbh	per diameter inch	\$ 36.00
Stump only removal	per inch	\$ 8.00
PLANTING		
15 gallon tree	per tree	\$ 135.00
24 inch box tree	per tree	\$ 250.00
36 inch box tree	per tree	\$ 800.00
TREE WATER MONITORING	per tree	\$ 4.00
CREW RENTAL		
3 man crew with equipment	per hour	\$ 165.00
2 man crew with equipment	per hour	\$ 110.00
1 man crew with equipment	per hour	\$ 55.00
EMERGENCY RESPONSE		
1-man crew with equipment	per hour	\$ 80.00
TREE INVENTORY AND SOFTWARE PACKAGE	per tree site	\$ 1.00
GPS INVENTORY (35,000 trees)	Total	\$ 70,000.00 (\$2/site)
TREE INVENTORY UPDATES (Adding new sites and/or work history)	per tree site	\$ -0-
TREE MASTER PLAN	Lump Sum	\$ 15,000.00
ARBORIST TREE EVALUATION REPORT	per tree site	\$ 450.00
MEETING WITH PROJECT MANAGER	per hour	\$ 55.00
PREPARING TRAFFIC CONTROL PLAN	per plan	\$ 450.00
EQUIPMENT RENTAL	per hour	\$ 55.00

ADDITIONAL SERVICES

DESCRIPTION	UNIT	UNIT PRICE
PALM TREE TRIMMING (Service Request)		
Coco palm, any size	per tree	\$ 40.00
Washingtonia palm, any size	per tree	\$ 55.00
Canary Island Date Palm, any size	per tree	\$ 175.00
ROOT PRUNING	linear foot	\$ 12.00
ROOT BARRIER INSTALLATION	linear foot	\$ 12.00

CONTRACTOR agrees to allow any other public agency (e.g., city, county district, public authority, public agency, municipality, and other political subdivision or public corporation) to have the option to participate in any award made as a result of this solicitation at the same prices. The City shall incur no financial responsibility in connection with any purchase by another public agency. The public agency shall accept sole responsibility for placing orders and making payments to the vendor.

The CITY, at its option and with CONTRACTOR concurrence, may renew this contract for additional five year periods, in one year increments, on the same terms and conditions as provided herein. This option may be exercised only if the CONTRACTOR demonstrates superior performance in the provision of tree maintenance services during the prior five year contract term, assuming all of the annual renewal options were awarded.

City of Visalia Agenda Item Transmittal

Meeting Date: November 1, 2010

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

Agenda Item Wording: Authorize Engineering Staff to apply for Highway Safety Improvement Program (HSIP) 2010/2011 grant

Deadline for Action: November 1, 2010

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:

Adam Ennis, Engineering Services Manager, 713-4323
Chris Tavarez, Management Analyst, 713-4540;
Chris Young, Community Development Director, 713-4392
Eric Bons, Senior Civil Engineer, 713-4350

Department Recommendation: Support and authorize Engineering Staff to apply for 2010/2011 HSIP grant for 1) Ben Maddox and Douglas Avenue new signals and 2) Giddings Street and Mineral King Avenue signal modifications and designate the City Engineer to sign any required forms to pursue and accept this funding if awarded.

Summary: The Engineering Department has compiled safety data for potential projects that fit the specific guidelines of the HSIP and focus on improving safety for vehicles, bicyclists and pedestrians. Due to the limited amount of funding available, Cal Trans recommends a limited number of applications per local agency. Projects are strongly scored based on accident history and proposed solutions to making an area safer. Staff does not foresee any major obstacles to having these projects delivered expeditiously as asked for by Cal Trans. Letters of support will be sought from community groups, elected officials and other supportive parties.

Staff has ranked these projects in order of the traffic history ratio, project delivery schedule and perceived importance. Department Staff seeks concurrence from Council on the list of projects to be submitted.

1. **Ben Maddox Way and Douglas Avenue signal improvements**
 - Estimated project costs \$275,000
 - No existing signal and high traffic volume on Ben Maddox Way
 - Highest accident history among current studied intersections
2. **Giddings Street and Mineral King Avenue signal modifications**
 - Estimated project costs \$250,000
 - Traffic Signals could be upgraded to increase safety

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

City Mgr _____
(Initials Required)

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

- **Second highest accident history and near a high school**

Background: On September 3, 2010, Caltrans announced a call for HSIP projects based upon anticipated federal safety funding out of the SAFETEA-LU program in the 2010/2011 Federal fiscal year. Caltrans expects \$50 million to be apportioned to local agencies throughout the state. The intent of HSIP is to focus on publicly-owned roadway, bicycle/pedestrian pathway, or trail projects that improve the safety of users. Projects ready to be constructed “expeditiously” and deliver highly needed safety improvements are the intended projects of this grant. These Federal grants have a 90% project cost funding capacity and require a 10% local match. The maximum eligible reimbursement for a single project is \$900,000 (a total project cost of \$1 million). Grant applications are due to Caltrans by December 9, 2010.

Staff requests that if a project is awarded, an appropriation for the local match portion be authorized from the Gas Tax Fund (1111), unless a prior allocation for the project is already in place at the time of award. Any amount to be appropriated would be 10% of the project application’s Engineer’s Estimate as required for acceptance of grant funding.

Last year (2009/2010) the City was awarded funding for the number one priority project submitted for New Signal Improvements at Mooney Boulevard and Goshen Avenue at a cost of \$346,500 with \$298,000 of HSIP funding. This project had many safety concerns and had strong support from the Visalia Unified School District due to the proximity of schools and the District’s bus yard. The funding was programmed in the 2010/2011 federal fiscal year which started October 1, 2010. Work is underway on the project and staff is currently working on a “Request for Authorization” to proceed on the project making it eligible for Federal reimbursement of expenditures.

Prior Council/Board Actions: none

Committee/Commission Review and Actions: none

Alternatives: Not apply for HSIP grant

Attachments:

Exhibit 1: Ben Maddox Way and Douglas Avenue,
Exhibit 2: Giddings Street and Mineral King Avenue

Recommended Motion (and Alternative Motions if expected):

I move to:

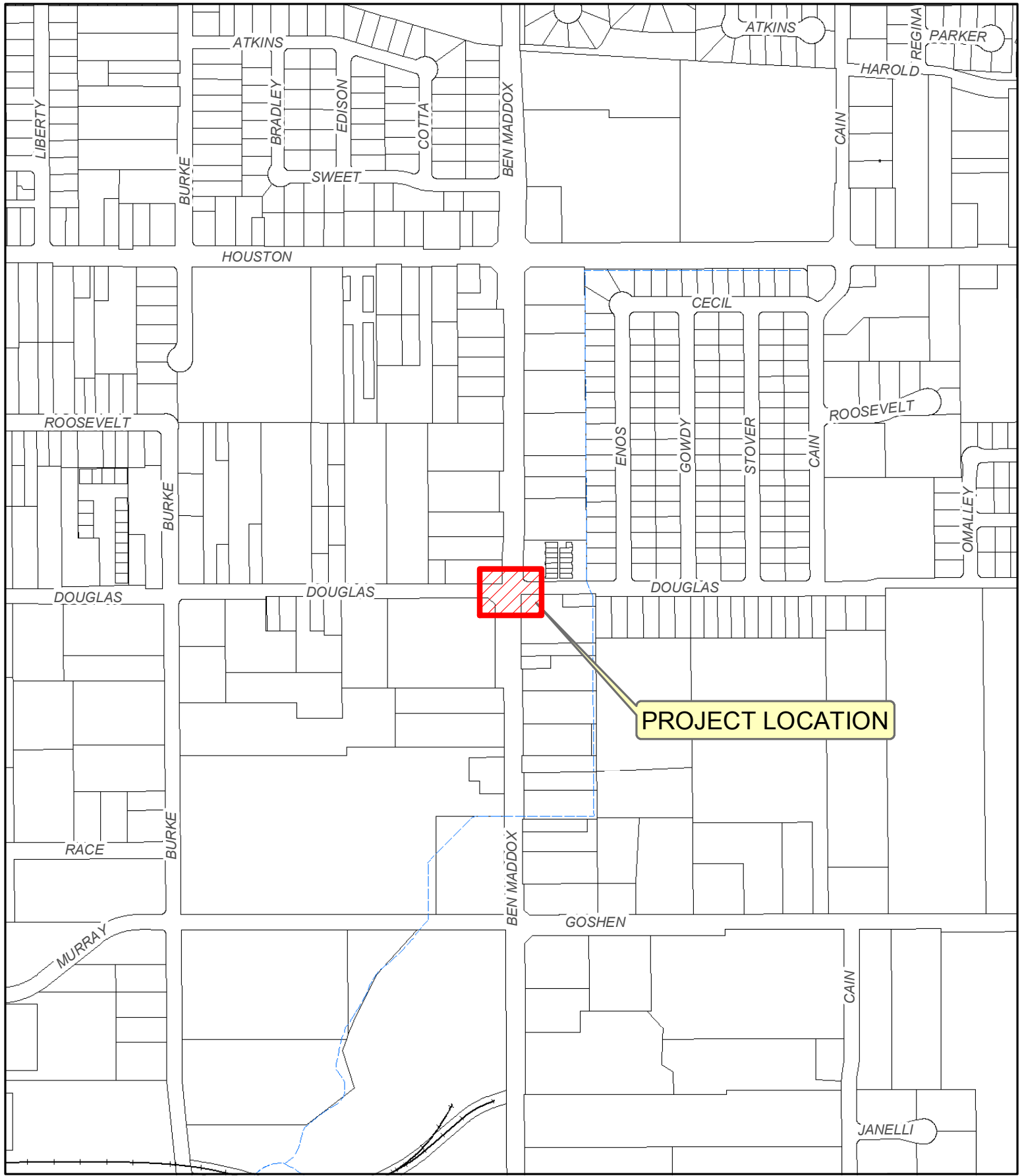
- Support and authorize the Engineering Staff to apply for HSIP grants for 2010/2011 as recommended and;
- Authorize the City Engineer to sign all necessary forms to pursue and accept any awarded funding, and;
- Appropriate matching funds as required for funding acceptance from Gas Tax Fund if any project is awarded.

Environmental Assessment Status

CEQA Review: n/a

NEPA Review: To be completed for each project selected

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)*

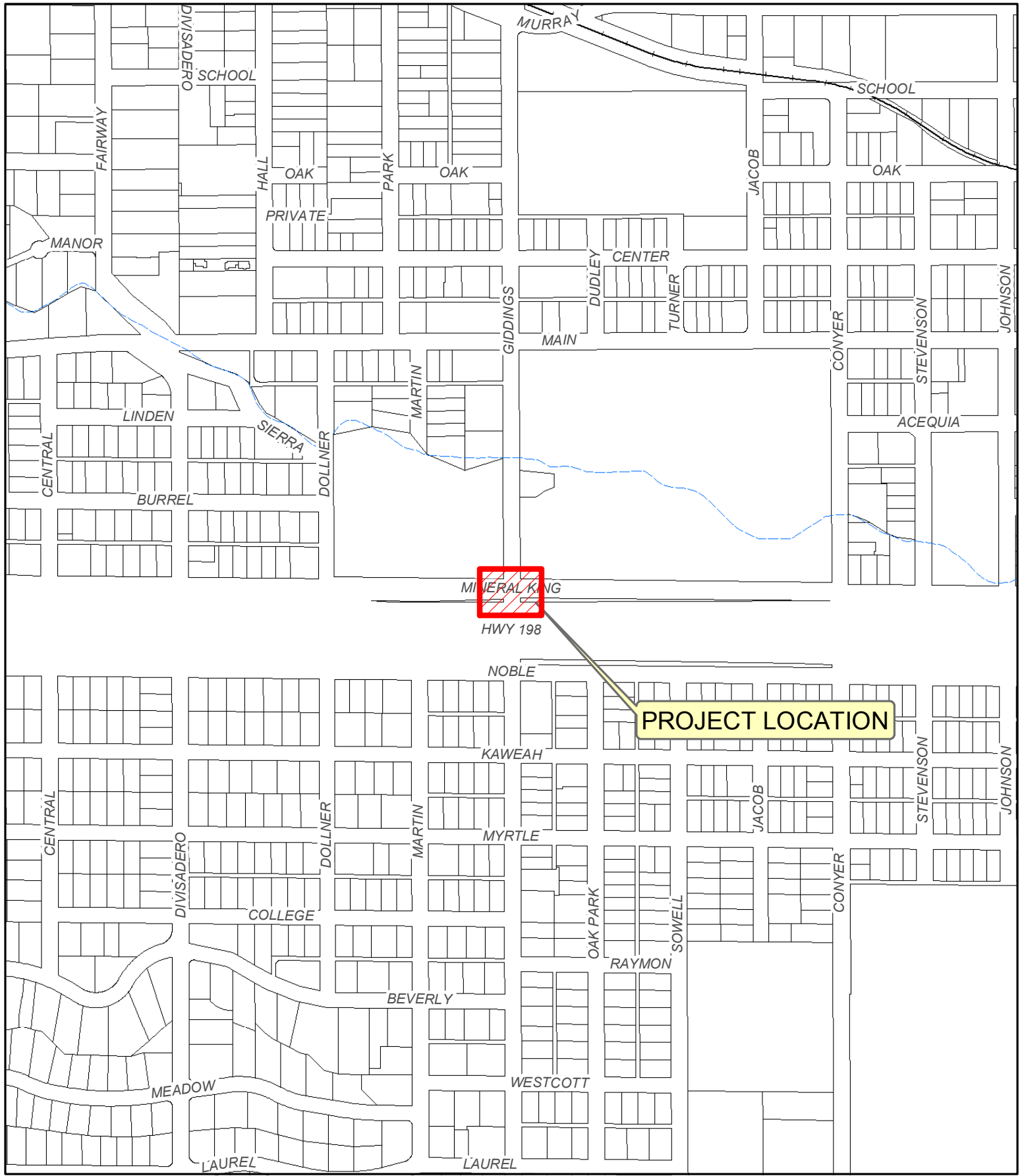


Ben Maddox Way and Douglas Avenue New Signal



EXHIBIT #1

Scale: 1"=500'



Giddings Street and Mineral King Avenue Signal Modification

EXHIBIT #2



Scale: 1"=500'

City of Visalia Agenda Item Transmittal

Meeting Date: November 1, 2010

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

Agenda Item Wording: Council authorization for the City of Visalia to apply for CalGRIP (California Gang Reduction, Intervention & Prevention) grant funds through the State of California Emergency Management Agency.

Deadline for Action: November 8, 2010

Submitting Department: Police

Contact Name and Phone Number:
Chief of Police Colleen Mestas: 713-4215
Lieutenant Jason Salazar: 713-4102

Department Recommendation: It is recommended that the Council authorize the Department to apply for CalGRIP funding that would provide state funds to hire a Police Officer for assignment as a middle school Youth Services Officer in the Visalia Unified School District.

Summary/background: The State of California Emergency Management Agency is releasing funding in the form of grants under the CalGRIP (California Gang Reduction, Intervention & Prevention) Program. These funds are intended to assist California cities in their efforts to address community gang issues through proactive measures by one of, or a combination of, strategies to include; suppression, intervention, and/ or prevention.

Applicants for this grant must be in the form of a municipal city government. The funding term of the current CalGRIP RFP grant process will run from January 1, 2011 through December 31, 2012 (24 mos). The maximum possible reward to the City through this grant would be \$400,000.00. Applicants for this grant must provide a dollar-for-dollar match (cash or in-kind) of the funds requested. Additionally, 20% of the awarded grant amount must be contributed by the applicant city government to a local community based organization to support gang prevention/intervention efforts.

The City of Visalia, as the primary applicant for this grant, does so in cooperation with the Visalia Unified School District (VUSD) as a primary stakeholder in our efforts against gang activity in the greater Visalia area.

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.

The Department and the VUSD have partnered over the course of the last 35 years to provide Youth Service Officers (YSO) to high schools within the Visalia Unified School District. Youth Service Officers have been an integral part of youth and gang intervention, prevention and suppression efforts for the City and VUSD throughout the course of this partnership. In 1999, this partnership expanded to include the addition of Youth Service Officers at each of Visalia's five (5) high schools and four (4) middle schools. These officers were funded through a 50/50 partnership between the Department and the VUSD. Unfortunately, due to budgetary concerns for the 2010/2011 school year, the four middle-school YSO positions were eliminated.

The elimination of the middle-school YSO positions has had a negative impact on the Department and VUSD alike. Middle-school YSO's handled on average 140 calls for service per month on the middle-school campuses and played an important role in developing positive police/youth relationships and intervening with at-risk youth at those campus locations. Additionally, the elimination of these positions requires high school YSO's to divide duties between their assigned high school campuses and middle-school campuses, or requires patrol personnel to handle calls for service at those campuses.

This grant application will seek state funding to pay for one (1) police officer position over the course of the next two years (January 2011 to December 2012) to include salary, benefits and equipment. This position will then be assigned as a middle-school Youth Service Officer in order to address this need as identified by the Department and VUSD. This middle-school Youth Service Officer will provide police services on assigned middle-school campuses as well as direct intervention/ prevention services to at-risk and/ or gang involved youth on those school campuses.

At the conclusion of the grant funding period, the City would need to: 1) absorb this position into the General Fund either by adding a position or absorbing through attrition; 2) terminate the position; or 3) seek additional grant funding to continue the position.

In order to meet the required 100% match requirement (cash or in-kind), the Department will assign an existing police officer, transferred from the Patrol Division (not grant funded), as a middle-school Youth Service Officer with responsibilities that mirror that of the grant funded officer. This will provide two (2) Youth Service Officers to provide service to four VUSD middle-school campuses. The Visalia Unified School District has agreed to fund 50% of this "match" police officer position consistent with the current funding arrangement with the existing high school YSO's.

This grant requires that 20% of the grant funds awarded to the City be contributed to a community based organization (for example a maximum \$400,000 award would provide \$320,000 to the City project and \$80,000 to the CBO). The monies necessary to meet this requirement are budgeted into the grant application and do not require additional funds from the City outside of the grant. The Department and the Visalia Unified School District have opted to partner with Pro-Youth Heart, an organization that provides after school services to VUSD school sites and parental education through PACT (Parents And Children Together) and PIQE (Parents Institute for Quality Education). Pro-Youth Heart is a member of both the Tulare County Gang Prevention Task Force and the City of Visalia's Multi-Agency Gang Intervention Task Force. The programs and efforts represented through Pro-Youth Heart are also consistent with strategic objectives identified by the Multi-Agency Gang Intervention Task Force; to increase opportunities/ activities for youth, increase parental involvement in order to prevent gang involvement in youth, and to promote educational improvement and opportunities in Visalia's youth.

During the summer of 2010, the Visalia Police Department Gang Suppression Unit conducted gang awareness classes for Pro-Youth Heart volunteers during their summer training session. Additionally, the Gang Suppression Unit has presented and supported Pro-Youth Heart's parenting courses (PACT) and continues to provide assistance and presentations to support Pro-Youth Heart's commitment to preventing youth involvement in gang activity through a pro-youth, pro-education, and pro-family approach. The existing relationship between the VUSD and Pro-Youth Heart through after school services and the PIQE program, make Pro-Youth Heart an obvious partner with whom to expand gang reduction, intervention, prevention opportunities to make a better Visalia for our youth.

This relationship will result in the dedication of 20% of grant funds awarded to the City towards supporting Pro-Youth Heart programs. The YSO's assigned to middle-schools through this grant project will provide additional police participation in Pro-Youth Heart after school sites and through gang prevention/ intervention training to Pro-Youth Heart volunteers and parenting programs.

The City of Visalia, as primary applicant, will serve as chair of the grant advisory council represented by members of the Visalia Unified School District, Pro-Youth Heart and other gang task force partners.

The Department requests that Council authorize the application for these grant monies contingent upon signed agreements from the involved entities to carry out their responsibilities to the project both in terms of implementation and financial contributions.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives: City of Visalia not apply for CalGRIP grant funds.

Attachments: N/A

Recommended Motion (and Alternative Motions if expected): I move that the City of Visalia, as primary applicant, apply jointly with the Visalia Unified School District for grant funds through the California Emergency Management Agency CalGRIP 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 1, 2010

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

Agenda Item Wording: Request authorization to file a Notice of Completion for the 2010 Major Street Overlays Project with the final contract amount of \$540,352.40 (Project No. 3011-9225).

Deadline for Action: None

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:

Chris Young, Community Development Director, 713-4392
Michael Carr, Sr. Transportation Planner, 713-4595

Department Recommendation: Staff recommends that the City Council authorize filing a Notice of Completion for the 2010 Major Street Overlays Project. All work has been completed by the contractor, (Glen Wells Construction Company, Inc.) with the final contract amount of \$540,352.40.

Summary: The 2010 Major Street Overlays Project resurfaced and striped the following sections of roadway:

- Noble Avenue (Walmart entrance to Pinkham)
- Walnut Avenue (Court Street to Santa Fe Street)
- Akers Street (Hillsdale Avenue to Hurley Avenue)
- Akers Street - southbound lanes (North side of the train tracks to Buena Vista Avenue)
- Ben Maddox Way (Walnut Avenue to Tulare Avenue)
- Riggin Avenue (Linwood Street to Kayenta Street)

Background: On June 7, 2010, Council awarded the 2010 Major Street Overlays Project to Glen Wells Construction Company, Inc. of Visalia for the contract price of \$534,940.45. The project budget for this project was \$875,000 and was funded by the American Recovery and Reinvestment Act (ARRA), (including the total cost of this contract, City of Visalia project management, and all inspections, surveying and testing).

There were only three change orders required to complete this project with a cost increase totaling \$15,480.68. This represents a 2.89% increase over the originally awarded contract. The change orders were all reviewed and approved by the Change Order Committee and entailed the following work:

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.): 1Min.

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.

Sidewalk, curb and gutter and handicap ramp at Casa Grande drive approach on Walnut Avenue.

This change order was for extra work requested by City of Visalia Project Manager to replace a badly-broken section of sidewalk, curb and gutter at the entrance to the Casa Grande Senior Housing at 347 E. Walnut Avenue that was not in the original scope. This addition resulted in an increase in project cost of \$5,411.95.

Add Variable Message Boards (VMBs) to the Traffic Control Plan

The City of Visalia required the contractor to add Variable Message Boards to the Traffic Control Plan for this project in an effort to increase notice to the motoring public as to when to expect work to be done on the roadways and to expect delays during construction. A total of 11 boards were used, and 9 new message signs were made and placed on the job. The increase to the contract cost was \$9,591.93.

Adjustment of quantities at line item unit prices

Following is a list of changes to the line item quantities made during the course of this contract:

1. Asphalt Concrete increased from 6001 tons to 6125 tons
2. Tack Coat decreased from 22 tons to 6.52 tons
3. Traffic Loops increased from 57 to 59
4. Adjust Manholes decreased from 45 to 42
5. Barrier Curb and Gutter increased from 81 to 117 LF
6. 4-foot Concrete Sidewalk increased from 42 to 65 LF

These changes in quantities resulted in a net contract increase of \$476.80.

Prior Council/Board Actions: Award of contract on June 7, 2010.

Committee/Commission Review and Actions: None

Alternatives: None

Attachments: Location Map, Contract Line Item Bids, Ownership Disclosure Form

Recommended Motion (and Alternative Motions if expected):

I move to authorize staff to file a Notice of Completion for the 2010 Major Street Overlays Project with the final contract amount of \$540,352.40.

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

Notice of Completion to be filed with County Records Office through City Engineer's office.

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 1, 2010

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

Agenda Item Wording Award annual Weed and Pest Abatement Chemical Product contract to Target Specialties Products per specifications of RFB 10-11-06.

Deadline for Action: November 1, 2010

Submitting Department: Parks and Recreation Department, Parks Division

Contact Name and Phone Number:
Jeff Fultz, Park Supervisor, 713-4426

Department Recommendation:

Staff recommends that Target Specialty Products be awarded the annual weed and pest abatement materials contract for Parks and Urban Forestry Divisions at an annual cost of \$124,096.00

Background:

The current weed and pest abatement materials and chemical contract with Target Specialty Products has expired and per the Cities Purchasing Policy, all contracts will be re-bid after the fifth year of any contract. These products are used for weed and pest management in our Parks and Urban Forestry areas throughout the City of Visalia.

On July 27, 2010 and August 3, 2010 bids were solicited by advertising in the Visalia Times Delta and by mailing bid notices to contractors. In addition, the bid was also posted on Bid- Net July 27, 2010 and approximately 28 letters were sent out to various companies located between Fresno and Bakersfield

Four contractors submitted bids as shown below in attachment one.

Staff has reviewed the bids from all four venders

- 1) There are no local venders to consider.
- 2) Where product substitutions were made, staff verified the substitution was appropriate.
- 3) All bids required clarification. The bid document was unclear on what the "unit price" was to be given. Some bidders listed "container cost", others listed "per gallon cost" and others used a combination of the two in their bid.

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 VE 10/25/10
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

- 4) Once unit prices were standardized and evaluated, Univar was the lowest bidder.
- 5) The lowest bidder (Univar) provided “no bid” price for six products.
- 6) To evaluate for items listed as “no bid”, staff evaluated how the bid ranking would be impacted in two scenarios. (See Attachment 1)
 - a. The product could be purchased using the highest price of the other bidders.
 - b. The product could be purchased using the lowest price of the other bidders.
- 7) When “no bids” are taken into consideration, Target Specialty Products is the low bidder in both scenarios by about \$2,000 to \$6,000 and is the most qualified bid, at \$124,096.00.

Additionally, during the last contract period, Target Specialty Products vendor performance was excellent.

Annual price increase adjustments at the time of renewal of this contract are based on the Consumer Price Index.

The contractual agreement is for a one-year period, but can be extended by the City for a period not-to-exceed five years, providing satisfactory performance is provided by Target Specialty Products. The services for this contract are budgeted in the Park and Urban Forestry Maintenance fund 0011-31322-544600, and will not need a budget amendment.

Recommended Motion (and Alternative Motions if expected): Staff recommends that Target Specialty Products be awarded the Annual Weed and Pest Abatement Chemical Contract.

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)*

Attachments #1

Chemical Name	Base Bids				Missing Products			
	Target	Wilber Ellis	Univar	John Deere	Target	Wilber Ellis	Univar	John Deere
Blazon 2.5 gal jug	\$ 1,013	\$ 775	\$ 988	\$ 1,049	\$ 1,013	\$ 775	\$ 988	\$ 1,049
Fusilade 1 gal jug	\$ 1,180	\$ 957	\$ 1,394	\$ 1,579	\$ 1,180	\$ 957	\$ 1,394	\$ 1,579
Turfmark 2.5 gal jug	\$ 159	\$ 132	\$ 153	\$ 175	\$ 159	\$ 132	\$ 153	\$ 175
Gowan Sedghammer 1.3 oz.	\$ 176	\$ 153	\$ -	\$ 275	\$ 176	\$ 153	\$ -	\$ 275
Gordon's Mecomec 2.5 gal jug	\$ 117	\$ 105	\$ 111	\$ 264	\$ 117	\$ 105	\$ 111	\$ 264
Syngenta Reward 2.5 gal jug	\$ 36,376	\$ 36,376	\$ 35,600	\$ 33,608	\$ 36,376	\$ 36,376	\$ 35,600	\$ 33,608
Monsanto Round-up PROMAX 1.67 gal jug	\$ 48,503	\$ 55,599	\$ 54,476	\$ 113,263	\$ 48,503	\$ 55,599	\$ 54,476	\$ 113,263
MSMA- Plus 6 (not registered in CA - 1/1/11)	\$ 116	\$ -	\$ 127	\$ 175	\$ 116	\$ -	\$ 127	\$ 175
Merit 75 WP 2 oz bottle	\$ 99	\$ 101	\$ 99	\$ 169	\$ 99	\$ 101	\$ 99	\$ 169
Gordon's Speed Zone 1 gal jug	\$ 272	\$ 243	\$ 270	\$ 369	\$ 272	\$ 243	\$ 270	\$ 369
Bayer Advance Rose and Flower Systemic 8 lbs	\$ -	\$ -	\$ -	\$ 106	\$ -	\$ -	\$ -	\$ 106
Aqua-Tron Granular 10 lb. Monterey Floral Brand Fruit Eliminator 1 gal jug	\$ 493	\$ -	\$ -	\$ 504	\$ 493	\$ -	\$ -	\$ 504
Pennant Liquid 2.5 gal jug	\$ 1,924	\$ -	\$ 2,090	\$ 4,071	\$ 1,924	\$ -	\$ 2,090	\$ 4,071
Dow Agro Science Dimension 2EW 2.5 gal jug	\$ 2,000	\$ 2,143	\$ -	\$ 2,916	\$ 2,000	\$ 2,143	\$ -	\$ 2,916
Dow Agro Science Surflan AS Ornamental 2.5 gal	\$ -	\$ -	\$ 1,482	\$ 2,129	\$ -	\$ -	\$ 1,482	\$ 2,129
Pendulum 3.3 EC 2.5 gal jug	\$ 413	\$ 442	\$ 438	\$ 1,098	\$ 413	\$ 442	\$ 438	\$ 1,098
Prokoz Surflan AS 2.5 gal jug	\$ 6,250	\$ 4,145	\$ 6,898	\$ 8,870	\$ 6,250	\$ 4,145	\$ 6,898	\$ 8,870
Mirage Dye Blue 1 gal jug	\$ 275	\$ -	\$ -	\$ 330	\$ 275	\$ -	\$ -	\$ 330
Wilco Gopher Getter type II 454 gm. Bottle	\$ 280	\$ 187	\$ 313	\$ 525	\$ 280	\$ 187	\$ 313	\$ 525
Wilco Ground Squirrel Bait 20 lb. can	\$ 378	\$ 291	\$ 438	\$ 706	\$ 378	\$ 291	\$ 438	\$ 706
Metaldehyde 3.5G 50 lb. bag	\$ 75	\$ 71	\$ 71	\$ 101	\$ 75	\$ 71	\$ 71	\$ 101
No-Foam-B 1 gal jug	\$ 76	\$ 83	\$ 77	\$ 84	\$ 76	\$ 83	\$ 77	\$ 84
Monsanto Aqua Master 2.5 gal jug	\$ 5,950	\$ 6,725	\$ 6,950	\$ 4,600	\$ 5,950	\$ 6,725	\$ 6,950	\$ 4,600
Monsanto Aqua Master 30 gal jug	\$ 5,930	\$ 6,500	\$ 6,750	\$ 4,600	\$ 5,930	\$ 6,500	\$ 6,750	\$ 4,600
Rely 200 2.5 gal jug	\$ 10,347	\$ 8,211	\$ -	\$ -	\$ 10,347	\$ 8,211	\$ -	\$ -
Oryzalin 4 Pro 2.5 gal jug	\$ 1,500	\$ 1,642	\$ 1,655	\$ 2,099	\$ 1,500	\$ 1,642	\$ 1,655	\$ 2,099
	\$ 124,096	\$ 125,057	\$ 120,567	\$ 184,043	\$ 124,096	\$ 125,057	\$ 120,567	\$ 184,043
	Price with missing products assumed equal to most expensive supplier				Price with missing products equal to least expensive supplier			
	106	175	275	10347	106	116	153	8211
	2129	106	106		1482	106	106	
		504	504			493	493	
		4071	2916			1482	2000	
		2129	330			275	275	
		330	10347				8211	
Totals	\$126,331	\$ 132,372	\$ 135,045	\$ 194,390	\$ 125,684	\$ 127,529	\$ 131,805	\$ 192,254

City of Visalia Agenda Item Transmittal

Meeting Date: November 1, 2010

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

Agenda Item Wording: Authorization to apply for Local Government Strategic Plan grant funds offered through Southern California Edison Company to develop an Energy Action Plan.

Deadline for Action: November 1, 2010

Submitting Department: Administration / Natural Resource Conservation

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 apply for Local Government Strategic Plan grant funds offered through Southern California Edison Company to develop an Energy Action Plan.

Summary:

Southern California Edison Company (SCE) has issued a request for proposal to local governments for grant funds to develop strategic plans centered on energy efficiency. Staff requests authorization to submit a proposal to SCE for \$75,540 to develop an Energy Action Plan for the City. This amount will cover the full cost of plan development including City staff time.

Background:

The California Public Utilities Commission (CPUC) adopted the California Long-Term Energy Efficiency Strategic Plan (CEESP) in 2008. The CEESP "sets forth a statewide roadmap to maximize achievement of cost - effective energy efficiency in California's electricity and natural gas sectors between 2009 and 2020, and beyond."

To help pay for implementation of CEESP strategies envisioned for local governments, the CPUC has worked with the investor owned utilities including SCE to make Public Goods Funds available through competitive bid for this purpose. To this end, SCE issued a request for proposal for local government strategic plan strategies.

The City is part of the Valley Innovative Energy Watch (VIEW) local government – investor owned utility partnership. The VIEW partnership provides the opportunity for the City to receive incentives from SCE and Southern California Gas Company for implementation of energy

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 LC 10/26/10
(Initials & date required)

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

City Mgr _____
(Initials Required)

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efficiency measures. To maintain the City's "silver tier" level, the City must take actions that further the CEESP strategies, including the development of an Energy Action Plan.

The Plan will guide the City's short- and long-term objectives of becoming more energy efficient and reducing peak and total energy usage, thereby saving the City money. Staff anticipates the Energy Action Plan would address the following:

- Energy use at municipal facilities
- Energy use citywide
- State, federal, and other agency energy goals
- City of Visalia energy plan goals
- Identification of next steps
- Municipal implementation strategies
- Citywide implementation strategies

The Energy Action Plan will utilize information obtained through the pending Comprehensive Energy Audit, which was authorized by the City Council at its September 7, 2010, meeting.

The City's proposal will request \$75,540 of Public Goods Funds offered through SCE's solicitation to develop an Energy Action Plan. Up to \$50,000 of the funds would be used to hire a professional energy consultant to assist staff in developing the plan and \$25,540 would be used to cover staff time.

Prior Council/Board Actions:

September 7, 2010 – Authorization to prepare a request for proposal for energy efficiency audit using Energy Efficiency & Conservation Block Grant funds.

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected):

I move to authorize staff to apply for Local Government Strategic Plan grant funds offered through Southern California Edison Company to develop an Energy Action Plan.

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 1, 2010

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

Agenda Item Wording: Second reading for adoption of Ordinance No. 2010-09, approving Zoning Text Amendment No. 2010-07: An application by the City of Visalia to amend portions of Title 17 of the Visalia Municipal Code Zoning Ordinance Section 17.48 (signs), pertaining to real estate signs.

Deadline for Action: None

Submitting Department: Community Development Dept.
Planning Division

Contact Name and Phone Number:

Andrew Chamberlain, Senior Planner, 713-4003
Paul Scheibel, AICP, Planning Services Manager, 713-4369

Recommendation: Staff recommends that the City Council conduct the second reading for adoption of Ordinance No. 2010-09, as revised.

Summary: At the City Council meeting on October 18, 2010, the City Council directed staff to do the following regarding the amendments proposed (amendments proposed on October 18, 2010) to the Visalia Municipal Code, Zoning Ordinance Section 17.48 (signs):

- Allow that the real estate sign portion of the ordinance amendment proceed to second reading. This will implement the allowance for up to six temporary real estate sales (open house) signs to be placed in the public right of way. Total face area of sign (each side) shall not exceed 24 inches by 36 inches size with a maximum height of 36 inches. For further details see attached Exhibit "A" (Ordinance 2010-09).
- Referred the subdivision signs portion of the proposed amendments back to the Planning Commission
- As part of the referral of the subdivision sign ordinance, include the termination of the Subdivision Kiosk Sign Program (ZO Section 17.48.040 U).

Background: The City Council voted by a 3-1 vote (CM Lane – No, Mayor Link – Absent) to introduce only the real estate sign portion of the ordinance amendment, and to refer the subdivision signage portion back to the Planning Commission. With regard to 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.): 0

Review:

Dept. Head CY 10/25/10
(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.

subdivision signs portion of the ordinance amendment, the Council did not reach a consensus on several of the proposed changes. Further, the City Council expressed its desire that termination of the Subdivision Kiosk Sign Program (ZO Section 17.48.040U) be included in this ordinance amendment.

In referring all but the real estate signage portion back to the Planning Commission, the City Council directed that the revised portions of the subdivision sign ordinance amendments consider reduced numbers of signs (from four to two), reduced sign area (from 32 sq.ft. to 16sq.ft.), and limitations on height. The City Council also indicated that the ordinance amendment also consider related ordinance provisions such as temporary banners, already allowed on-site signs, and non-signage devices (such as balloons and bounce houses), along with immediate termination of the Subdivision Kiosk Sign Program.

The Council directions noted above will be included in a revised subdivision signage ordinance that will be processed thru the Planning Commission in an upcoming public hearing.

Final adoption of the real estate signs portion of the ordinance amendment will result in allowance by right of temporary real estate signs for open house events with limitations including numbers of signs, placement and size as contained in Ordinance No. 2010-09.

Previous City Council Actions

On October 18, 2010, the City Council approved the changes to allow temporary real estate signs, 3-1 (Lane – No, Link – Absent), and remanded the subdivision signs back to the Planning Commission. The City Council discussed these items at Study Sessions on April 19, 2010, May 17, 2010, and July 12, 2010.

Committee/Commission Review and Actions:

Planning Commission action on August 23, 2010, voted to recommend approval of the subdivision and real estate signage amendments.

Alternatives: The City Council may:

1. Conduct the second reading of Ordinance No. 2010-09;
2. Take no action

Attachments:

1. Ordinance No 2010-09 (as revised)

Recommended Motion (and Alternative Motions if expected):

I move to approve the second reading for adoption of Ordinance No. 2010-09 for Zoning Text Amendment No. 2010-07, as revised.

Environmental Assessment Status

CEQA Review: This action consists of amending the regulations for temporary signs which will not result in a change of land use or density whereby the proposed changes are

considered Catorgically Exempt under Section 15305 and a Catorgical Exemption was prepared for this project, consistent with the California Environmental Quality Act (CEQA). (Catorgical Exemption No. 2010-53)

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

Copies of this report have been provided to:

Planning Commission

Home Builder's Association

Tulare County Association of Realtors

Visalia Chamber of Commerce Governmental Affairs Committee

ORDINANCE NO. 2010- 09

AN ORDINANCE OF THE CITY OF VISALIA, APPROVING ZONING ORDINANCE TEXT AMENDMENT NO. 2010-07, TO AMEND PORTIONS OF TITLE 17 OF THE VISALIA MUNICIPAL CODE PERTAINING TO REAL ESTATE SIGNS, AMENDING ZONING ORDINANCE SECTION 17.48.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: The Planning Commission of the City of Visalia recommends that the City Council adopt Zone Text Amendment No. 2010-07, and find it to be in accordance with Section 17.44.070 of the Zoning Ordinance of the City of Visalia.

Section 2: The Zoning Ordinance is hereby amended as presented in Exhibit "A" to provide flexibility for the use of temporary real estate signs.

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

EXHIBIT – A
Ordinance 2010-09

VMC 17.48.070 (B)

17.48.070 (5)

5. Temporary Open House Signs

(a) For the purposes of this section, “Temporary Real Estate Open House Sign” means a temporary sign that solely indicates that property, or a portion thereof, is for sale, and provides directions to and information regarding the property.

(b) All Temporary Real Estate Open House Signs are subject to the following conditions:

1. Size. The total face area of the signs shall not exceed twenty-four (24) inches by thirty six (36) inches in size.
2. Height. The vertical distance measured from ground level to the highest point of such sign or sign structure or other support shall not exceed three (3) feet.
3. Limit. No more than (6) six Temporary Real Estate Open House Signs per property for sale may be posted within the public right-of-way.
4. Type. Temporary Real Estate Open House Signs shall be an A-frame or “in ground light weight wire based” signs, shall be maintained in good condition at all times, and shall be constructed out of materials normally used in professional signage. No balloons or flags or similar devices may be affixed to a Temporary real Estate Open House Sign.
5. Location. No Temporary Real Estate Open House Sign may be placed, used or maintained:
 - (1) On trees, traffic signs or utility poles, nor be placed in such a manner as to obstruct the view of any official public sign.
 - (2) On private property or public right-of-way if the location obstructs, impedes or otherwise disturbs the safe and convenient use by the public of any street or sidewalk.
 - (3) In or on any roadway area or center median area.
 - (4) Within 18” from face of curb.
 - (5) On streets undergoing construction.
 - (6) On streets being utilized for special events.
 - (7) Within five (5) feet of the beginning of the curb return of any intersection, weather the intersections have marked or unmarked crosswalks.

6. Time. Signs shall only be displayed during the “open house” and not earlier than 8 am; and must be removed no later than dusk or 6 pm, whichever is earlier.

7. Identification Required. Every person who places or maintains a Temporary Real Estate Open House Sign shall have his/her name and telephone number on or affixed to the sign.

City of Visalia
Agenda Item Transmittal

Meeting Date: November 1, 2010

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

Agenda Item Wording: Authorize the appropriation of \$120,000 for repairs to the Fueling Island at the City's Corporation Yard (\$72,000 Solid Waste, \$6,000 Wastewater, General Fund \$18,000, Gas Tax \$24,000).

Deadline for Action: December 15, 2010

Submitting Department: Administration/Finance Division

Contact Name and Phone Number:

Andrew Benelli, Public Works Director,	713-4340
Michael Morgantini, Fleet Maint. Supervisor,	713-4182
Tim Fosberg, Financial Analyst,	713-4565

Department Recommendation

Staff is recommending that City Council appropriate \$120,000 to repair the City's fueling island at the Corporation Yard. The recommended repairs include removing the existing underground tank, purchasing and installing a new above ground tank with new dispensing and monitoring systems. In addition, an above ground tank recently received from the City's Transit Maintenance Facility would be installed for diesel.

Discussion:

The City maintains a fueling station at the Corporation Yard that primarily serves the vehicles stationed there. Currently there is one 15,000 gallon underground fuel tank at the Yard with two compartments. One compartment is 10,000 gallon and is used for diesel, and the other is 5,000 gallons used for unleaded. The fueling station was upgraded ten years ago to meet EPA regulations at that time, and the fuel tank along with the dispensing and monitoring equipment was replaced. The tank's interior wall is made of steel and the exterior wall is made of fiberglass.

During the last annual required integrity testing, a leak in the outer containment wall was discovered. As this was not known when the current fiscal year budget was approved, no appropriation was included for repairs. The interior tank has not leaked, so no fuel has escaped but state law requires the outer tank to be pressure tested and air tight. Gravel was removed from around the tank to locate the hole and it was discovered that the hole is directly under the tank.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 5 min.

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 tank remains uncovered and exposed to the weather. Currently the tank is still in use which can be challenging for fuel drops and the fueling of vehicles. The County of Tulare is waiting on the secondary containment testing, which is needed for the City to return to compliancy.

Two options have been identified. One is to repair the tank by lifting it out and patching the hole. The downside would be that the integrity of the tank could not be ensured and that the tank could crack during re-installation or by settling of the ground. With this option, the fuel island would need to be shut down during repairs.

The other option, recommended by staff, is to eliminate the underground fuel tank and install a new above ground tank. The regulatory agencies recommend that under ground fuel tanks be eliminated in favor of above ground tanks. Additionally, above ground tanks reduce required testing (and associated costs) and any leakage is easier to detect. These above ground tanks could be easily relocated if the need should arise to relocate the Corporation Yard's fueling station. Also, if the City Hall West's fueling island was out of service, the Corporation Yard's fueling island would be able to handle the City's fleet.

Staff recommends installing a 10,000 gallon, two compartment above ground tank. One compartment (5,000 gallons) would be for unleaded fuel and the other compartment (5,000 gallons) would be specially set up to allow for E-85 / renewable fuel or any other type of fuel. With this option, the fuel island would continue to be operational, with down time being less than one day.

Diesel fueling will be done by using a 10,000 gallon above ground diesel fuel tank recently received from the City's Transit division. The City's Transit Maintenance Facility (located next to the Corporation Yard) has a fueling island that services their fleet of buses, which includes two 10,000 gallon above ground diesel tanks. Due to the City's conversion of buses from diesel to CNG fuel, only one diesel tank is now needed. Therefore, during the current expansion of the Maintenance Facility, one of the two tanks was moved to the Corporations Yard's fueling island.

In conjunction with these repairs, it is recommended to replace the old and outdated dispensing and monitoring systems. The new dispensing system will allow for the City to efficiently manage our fuel usage. Also, parts are not available for the existing monitoring equipment, and now is the time to replace it with newer technology.

Estimated Costs:

The following costs are estimated, but are anticipated to be reasonably close. The cost to repair the tank is approximately \$30,000. Alternatively, the cost to abandon the current underground site and install a new above ground tank is approximately \$80,000. The approximate estimated costs to install the tank from Transit is \$10,000 and the new dispensing and monitoring systems would cost approximately \$30,000. Therefore the total estimated cost to install a new above ground tank (10,000 gallon), install the above ground tank obtained from Transit, and replace the dispensing and monitoring systems is \$120,000.

It is not anticipated to find fuel leakage or soil contamination at the site, as the hole was in the outer wall with water leaking into the inner wall and not fuel leaking out, however if contaminants are found in the ground, any remediation costs are not included in the estimated costs.

Staff recommends the repair costs be allocated based on the amount of fuel use at the fuel island. The heaviest users are enterprise funds (mainly Solid Waste) which accounts for 65%, with the remaining repair costs allocated to the General Fund. The following Table #1 – Allocation of Fuel Island Repairs specifically lists the funds that will be paying for the repairs and their respective percentage amount.

Table 1
Allocation of Fuel Island Repairs
Corporation Yard

Fund	Divison	Percentage	Estimated Costs
Enterprise Funds:			
Solid Waste	Residential	44443	40%
" "	Roll Off	44444	5%
" "	Front Load	44445	15%
			<u>60%</u>
Wastewater	Sewer Maint.	43435	5%
			<u>5%</u>
	Enterprise Sub-total		65%
General Fund:			
Police	Administration	21201	5%
Parks & Rec.	Parks	31322	5%
" "	Buildings	31323	5%
			<u>5%</u>
	General Fund Sub-total		15%
Special Revenue Fund:			
Gas Tax	Streets	31324	15%
" "	Traffic Maint.	31326	5%
			<u>5%</u>
	Gas Tax Sub-total		20%
			<u>20%</u>
	Total		100%
			<u>\$ 120,000</u>

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives: Options Included Above

Attachments: Attachment A – Project Scope

Recommended Motion (and Alternative Motions if expected): Move to authorize the appropriation of \$120,000 for repairs to the Fueling Island at the City's Corporation Yard.

Attachment A

PROJECT SCOPE

A. Install new electrical and plumbing to an existing 10,000 gallon AGT

1. Install new electrical conduit and wiring from existing electrical panel for new fueling system.
2. Install new product piping to fuel dispensers from AGT.
3. Install new 1" gravity flow fueling point for emergency use.
4. Install new safety poles around fuel tank pad.
5. Install new monitoring system and connect to existing Inform Software and install, with one tank probe (diesel). *

B. Install one 10,000 gallon split compartment AGT

1. Install new 10,000 gallon fire guard split (5k / 5k) compartment AGT with low fill and phase 1 vapor system, phase 2 vapor systems with double wall vapor pots, phase 2 vapor hoses and nozzle assemblies. Two OPW clock gauges and risers. *
2. One compartment of the split tank has to be installed for E85 fuel.
3. Use existing turbine from the unleaded UGT, for the unleaded gas compartment (AGT).
4. Install new electrical conduit and wiring from existing electrical panel for new fueling system.
5. Install new double wall product piping to fuel dispensers from AGT.
6. Install new 1" gravity flow fueling point for emergency use.
7. Install new safety poles around fuel tank pad.
8. Install two new Incon tank probes (1 – Unleaded, 1- E85) *

C. Install four new one-product remote fuel dispensers

1. Remove all existing fueling dispensers and double wall piping.
2. Install four new one-product, one-hose, single dispenser, internal filter, remote dispenser, island oriented, 10:1 volume pulser & explosion-proof junction box:
3. Connect to existing Gasboy system.

D. Remove one 15,000 gallon split UGT

1. Transfer existing fuel to new AGT. (City will have tank at low fuel level)
2. Remove tank as per Tulare County Environmental Health Dept. requirements.
3. Transport tank and receive Hold Harmless Agreement for disposal of the UGT
4. Contractor to remove existing Healy VP-100 vac motor & vapor tank & credit City for the sales value.
5. If contamination is found and the project cannot be completed, the percentage of work completed will be payable by the City. The cost of demobilization will also be the City's responsibility.
6. Back fill and compact only (Utilize existing aggregate first).

SAME DAY TASKS

In an effort to have the down-time for the fueling station to be less than one day, the following tasks are to be followed. (Again, the goal is to switch from using the existing UGT to using both the AGT in the SAME DAY.)

BEFORE the UGT is disconnected, have both AGT ready to be placed in service by having,

1. The electrical and plumbing operational for both AGT
2. The new monitoring systems operational for both AGT
3. The new fuel dispensers operational for both AGT
4. The fuel transfer device on site for same day transition
5. The fuel transferred to AGT and fueling station is placed back in service. (Note: the UGT will be disconnected as needed during the same day transition to AGT)

City of Visalia Agenda Item Transmittal

Meeting Date: November 1, 2010

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

Agenda Item Wording: Approval of a proposed 30 year lease for \$1/year with the Imagine U Children's Museum for property located on Douglas between Burke and Tipton, and around the adjacent ponding basin for a walking trail, pursuant to the Museum receiving the California Outdoor Education grant for which they have applied.

Deadline for Action: Nov. 1, 2010

Submitting Department: Administration

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

Department Recommendation: It is recommended that the Council approve a 30 year lease for \$1/year with the Imagine U Children's Museum for property located on Douglas between Burke and Tipton, and around the adjacent ponding basin for a walking trail, pursuant to them receiving the California Outdoor Education grant for which they have submitted.

Summary:

Imagine U Museum has applied to the State of California for an Outdoor Education Facility grant. In keeping with the grant's requirement that a land tenure agreement be provided before the final grant can be fully considered, staff is recommending that the City Council approve this lease, providing the Museum receives the California Outdoor Education grant. If it receives the grant, it will cover a majority of the on and off site construction costs at this site. The original Letter of Intent required the building to be completed and operational by January, 2012. The agreement called for the City to provide the unimproved real property, and for all improvements, both on and off site, to be constructed at the direction of and at the sole cost of the Museum. In 2008, that timeframe was extended to September, 2012. If they do not receive this grant, the lease will be null and void, and the City will no longer be committed to preserving the location for the Museum. This voluntary release of the land by the Museum has been written into the proposed agreement, which has been reviewed by their Board Chair, Project Manager, and Attorney.

The City currently has a Letter of Intent (LOI) with the Museum that was originally approved by City Council in January, 2006. The LOI agrees to lease the former Soroptimist Park site on Douglas Street, between Burke and Tipton, to the Museum as the location for their new facility. In addition, the currently LOI calls for approximately 2.3 acres around the adjacent ponding basin to be included for a walking trail. The LOI also spells out specific provisions that must be

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 LBC10/10

Finance

City Atty

City Mgr:

met, including a feasible on-going operation's plan, funding for construction, and a timeline for facility completion. The LOI has been extended twice, and while the Museum has architectural plans for the facility, without this grant, it does not have the financial resources to build and operate the museum as currently designed.

Department Discussion

In 2006, the Visalia City Council authorized a Letter of Intent between the City of Visalia and Imagine U Children's Museum for a long term lease on approximately half of the approximately 2.3 acres located on the south side of Douglas Avenue between Burke and Santa Fe streets for the construction of a new children's museum facility. In 2008, the Letter of Intent was revised to give the Museum more time to complete the requirements spelled out in the Letter of Intent, including the preparation of a feasible operation's plan, and funding to construct the proposed museum.

In accordance with the 2008 Letter of Intent, the Imagine U Board agreed to submit a financially feasible plan for fully constructing and operating the new building for the City's review and approval. The plan needs included a feasible plan for capital fund raising, and a viable operations funding program.

The Letter of Intent specifically required that, as part of the review and approval process, the capital fundraising and operations plans be reviewed by a panel comprised of the Visalia City Manager, the Visalia Administrative Services Director, and the Executive Director of United Way. This panel reviewed a revised operation's plan in 2009, and provided the Museum's Board with recommendations for developing a more comprehensive plan that would include a phasing in of anticipated revenues, and development of a larger capital fund that would include funding to cover at least a portion of the operations during the initial start up of the new facility. Design plans for the new building have been completed.

The Letter of Intent was revised again in 2010. The Museum had indicated they were going to apply for the State's Outdoor Education Facilities Grant, which could be enough funding to construct a majority of the Museum as currently designed. The Council agreed to the revised Letter of Intent in June of this year; however, the State of California will not accept a Letter of Intent. The City and the Museum must have a fully executed lease before the final funding decisions are made for the Museum to be considered. The City Attorney has drafted the lease in accordance with the usual and customary provisions for long-term leases between the City and non-profit entities, including insurance, maintenance, utility costs, disposition of the facility and land back to the City if the Museum should cease operation before the end of the 50 year time frame, and use of the facility by the City for up to four special events and 100 hours of programming a year. A copy of the full proposed lease is attached.

About ImagineU Museum:

The Mission of the ImagineU is to provide multicultural, hands-on learning experiences in a fun environment which are based on current education standards to assist children in expanding their knowledge in areas such as science, reading and health.

The Museum began in 2002 as the vision of founder Angela Reyna. It is a non-profit organization that operates at a temporary location on Main Street. The Museum serves several thousand children and their families every year, and is a destination for many school field trips for schools throughout the County.

Alternatives: Not approve the lease.

Attachments: Proposed Lease

Recommended Motion (and Alternative Motions if expected):

Approval of a proposed 30 year lease for \$1/year with the Imagine U Children's Museum for property located on Douglas between Burke and Tipton and around the adjacent ponding basin for a walking trail, pursuant to the Museum receiving the California Outdoor Education grant for which they have applied.

PROPERTY LEASE

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By author: Leslie Caviglia

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City of Visalia – Children’s Museum of the Sequoia’s

This agreement is entered into _____ between **City of Visalia, a** municipal corporation and charter law city (hereinafter “Landlord” or “City”), as lessor, and **Children’s Museum of the Sequoia’s dba ImagineU Museum** (hereinafter “Museum” or “Tenant”), as lessee.

THIS AGREEMENT IS ENTERED INTO WITH RESPECT TO THE FOLLOWING FACTS:

1. Museum seeks to lease the property located on the south side of Douglas Avenue between Burke and Santa Fe Streets, in the City of Visalia, (“Premises”). The Premises consist of unimproved real property. Museum intends to construct facilities on the Premises as detailed in its application for a Nature Education Facility Grant from the California State Parks. All on-site and off-site improvements including, but not limited to streets, curb, gutter, sidewalk, landscaping, parking, utilities and building improvements, shall be constructed at the direction of and at the sole cost of Museum upon issuance of applicable permits. The City shall not be responsible for the costs to construct or maintain any on-site or off-site improvements.

2. In addition, Museum seeks to have a license to access the City-owned ponding basin that is located south and adjacent to the Premises, (“Ponding Basin Property”) for use as an educational walking path (“Walking Path”). The walking path area is limited to the area outside of the high water mark surrounding the basin and inside of the Tipton Street easement on the west side of the property and basin, and inside the property lines on the north and the south sides of the basin and property. The storm drain/detention basin will continue to be the main purpose of the Ponding Basin Property, but the perimeter of the basin on the property will be accessible to the Museum for the purpose of the Walking Path. Museum shall not have access to the Walking Path area at times when water in the ponding basin exceeds the fence line, and any other time the City deems necessary for health and safety reasons (including, but not limited to high water, water contamination, wild life disease, etc.) or temporary maintenance purposes. Museum is responsible for the construction of all Walking Path improvements. The Walking Path must comply with all City requirements. Said design must not conflict with the main purpose of the Ponding Basin, and must ensure that surface flows drain to the basin.

3. Landlord desires to lease the subject property to Museum, and Museum desires to lease the subject property from Landlord, on the terms and conditions set forth herein.

IT IS THEREFORE AGREED AS FOLLOWS:

Term of Lease. The term of this lease shall be for 30 years. In addition, Museum shall have the optional right to extend this lease twice each under the same terms for an additional 10 years. Meaning, if both options are exercised, this Lease may last for 50 total years. Museum may exercise the option by notifying Landlord in writing six months prior to the expiration of the current lease term. Additional lease

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By author: Leslie Caviglia

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extensions shall require the mutual consent of both parties.

4.

Museum's intent is to move ahead with the proposed new construction if it receives the Nature Education Facility Grant from the California State Parks. If the Nature Education Facility Grant is not received, then the Museum will transition to another plan at another location and this lease shall be null and void.

5. **Rental Rate. Monthly Rent.** During the term of this lease, Museum agrees to pay to Landlord \$1 a year for the life of the lease and Museum agrees to be solely responsible for all maintenance of the facility including all landscaping and other site improvements on the Premises, including all maintenance of the landscape, signage site improvements and buildings, and the Walking Path. Museum, at its option, may pay the rent in advance for the term of this lease.

6. **Condition of Premises.** Museum acknowledges the Premises consist of unimproved real property and that Museum will be solely responsible for the construction of all required improvements. In addition, Museum acknowledges that the Ponding Basin Property shall always remain in use primarily as a storm water drainage/detention facility and that Museum is solely responsible for the construction and maintenance of the Walking Path.

7. **Use of Premises.** Museum shall use the Premises and Walking Path as a nature educational facility, children's museum, and related activities, or as otherwise approved by Landlord in writing.

Museum agrees that City shall be entitled to use the subject property and the facility for up to four special events per year and up to one-hundred hours of programming per year. City and Museum agree that these events will be reasonably scheduled in advance by City and be subject to a facility use agreement to be agreed upon by the parties after the improvements are constructed by the Museum.

8. **Compliance with Law.** Museum shall comply with all laws and regulations, whether federal, state or local, relating to Museum's use and occupancy of the subject property, whether such laws and regulations are now in force or hereinafter enacted at Museum's sole cost and expense.

9. **Utilities.** Museum shall promptly pay, as they become due, all charges for water, sewer, gas, electricity, telephone, and any other utilities or services furnished directly to or used by Museum on or about the subject property, including but not limited to any connection or hook-up fees and any penalties for discontinued or interrupted service.

10. **Maintenance by Museum.** Except as otherwise expressly provided in this lease, Museum shall, at its own cost and expense, keep and maintain the Premises and Walking Path in good repair. Museum agrees that it will prepare and follow a maintenance schedule for the facility, the grounds, and the Walking Path after the improvements are constructed. This maintenance schedule shall be in compliance

with all applicable City standards and policies.

11. Maintenance by Landlord. Landlord shall not be responsible for the maintenance of the property or any improvements constructed by the Museum during the term of this Lease.

12. Taxes. Museum shall pay before they become delinquent all taxes, assessments, or other charges levied or imposed by any government entity on the furniture, trade fixtures, plant equipment and other personal property placed by Museum in or about the Premises or the Walking Path.

Museum shall pay before they become delinquent any and all real property taxes, assessments, fees, or other charges levied or imposed by any government entity on the Premises due to or related to any project, venture, or activity conducted by the Museum.

Museum shall also pay all possessory taxes, sales taxes, assessments, fees, or other charges levied or imposed by any government entity on any project, venture, or activity conducted by Museum on the Premises.

13. Inspection by Landlord. Museum shall permit the representatives of Landlord to enter the subject property at reasonable times for the purpose of inspecting the subject property and doing other lawful acts that may be necessary to protect Landlord's interest in the subject property or to perform its duties under this lease.

14. Ponding Basin. City shall, at all times, be allowed to access the Ponding Basin Property as necessary for City purposes.

City shall, at all times have the ability to install or to repair pipes which lead into or out of the storm drain basin without having to pay any damages to Museum due to the work by the City. City shall make all reasonable repairs to the Walking Path caused by the City's work when City has completed its work to the storm drain basin. City shall not be required by the Museum to repair the trail to any specific level only to make reasonable repairs as necessary to restore the Walking Path.

17. Surrender of Premises. On expiration or sooner termination of this lease, Museum shall promptly surrender and deliver the Premises and the Walking Path to Landlord.

18. Termination if Museum Ceases to Operate Facility. Should the improvements be constructed and Museum cease to use the property as a children's museum/nature educational facility or Museum ceases to exist as a non-profit organization then this Lease shall terminate and all improvements constructed on the Premises and for the Walking Path shall become the sole property of the City.

19. Indemnity. Museum agrees to indemnify and hold Landlord and the property of Landlord, including the subject property, free and harmless from any and all claims, liability, loss, damage, or expenses resulting from Museum's use and occupation of the subject property, including, without limitation, any claim, liability, loss or damage arising by reason of:

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- (a) The death or injury of any person or persons, including the employees, agents, licensees, or invitees of Museum, or by reason of the damage to or destruction of any property, including property owned by Museum or its employees, agents, licensees, or invitees, and caused or allegedly caused by some act or omission of Museum or of some agent, contractor, employee, licensee, invitee, or sub-lessee of Museum on the subject property;
- (b) Any work performed on the subject property or materials furnished to the subject property at the request of Museum or its agents;
- (c) Museum's failure to perform any provision of this lease or to comply with any legal duty or any requirement imposed on Museum or the subject property by any duly authorized government agency or political subdivision.

Upon the written request of Landlord, Museum shall assume the defense of any suit or action brought against Landlord, its agents or employees, alleging any claim for loss or damage under the terms of this paragraph, and Museum shall pay all expenses, including attorneys fees, incurred by Landlord in defending and settling all claims and liabilities against which Museum indemnifies Landlord herein.

City agrees to indemnify and hold Museum free and harmless from any and all claims, liability, loss, damage, or expenses resulting solely from City's Ponding Basin operations. To the extent the parties are jointly liable they agree to bear their respective share of proportionate liability and indemnify each other as to any amounts above their respective proportion of liability. Museum agrees that it shall be solely responsible for securing the Walking Path from the Ponding Basin.

20. Liability Insurance. Museum shall, at its own cost and expense, maintain during the entire term of this lease a broad-form comprehensive coverage policy of public liability insurance, issued by an insurance company authorized to conduct business in the State of California, insuring Museum and Landlord against loss or liability caused by or connected with Museum's use and occupation of the subject property in amounts not less than one million dollars (\$1,000,000.00).

The policy of insurance described herein shall be primary and noncontributory with any policies carried by Landlord. Museum shall furnish to Landlord a certificate of insurance evidencing the maintenance of the public liability insurance policy described herein. This certificate of insurance shall provide that Museum's coverage cannot be canceled or materially changed unless at least 30 days' prior written notice of cancellation or change shall have been mailed by the insurance company to Landlord at the address set forth herein.

21. Museum shall maintain at its own cost and expense an insurance policy or policies issued by an insurance company authorized to conduct business in the State of California, insuring for their full replacement value all fixtures, equipment, tenant improvements to the subject property, inventory and other personal property

owned by Museum, against all perils included within the classification of fire, extended coverage, vandalism, malicious mischief and special extended perils (i.e. "all risk" as such term is used in the insurance industry). This insurance policy shall be maintained during the term of this lease. In no event shall Landlord be deemed to have an obligation to insure the personal property of Museum against damage or destruction by fire, theft or the elements.

22. Total Destruction of Premises. Should the subject property or any buildings located thereon be so far destroyed by any cause not the fault of Museum or any person in or about the subject property with the consent, express or implied, of Museum that they cannot be repaired or restored to their former condition within 120 calendar days or at a cost not exceeding 30 percent of the total replacement cost of the buildings, Museum may at its sole option either;

- (a) Continue this lease in full force and effect by repairing and restoring, at Museum's own cost and expense, the building to its former condition; or
- (b) Terminate this lease by giving Landlord written notice of such termination.

23. Insurance Proceeds. Any insurance proceeds received by Museum because of the total or partial destruction of the Premises or any improvements located thereon shall be the sole property of Museum, free from any claims of Landlord, and may be used by Museum for whatever purpose Museum may desire.

24. Assignment and Subleasing. Museum shall not encumber, assign or otherwise transfer this lease or any interest in this lease without first obtaining the written consent of Landlord.

25. Default by Museum. The occurrence of any of the following events shall constitute a default by Museum under the terms of this agreement:

- (a) Failure to pay rent when due, if this failure continues for 30 days after Landlord's service of a notice to pay rent or quit;
- (c) Failure to abate a nuisance on the project, or to discontinue or prevent any activity by Museum or Museum's employees, agents or invitees which creates harm or a risk of harm to other employees, agents or invitees; or
- (d) Failure to perform any other provision of this lease if the failure to perform is not cured within 30 days after written notice has been served upon Museum. If the default cannot be reasonably cured within 30 days, Museum shall not be in default of this lease if it commences to cure the default within the 30 day period and diligently and in good faith continues in its efforts to cure the default.

Should Museum default in the performance of any of the covenants and conditions contained in this agreement, Landlord may, in addition to the remedy specified in the

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preceding paragraph, reenter and regain possession of the subject property in the manner provided by the laws of unlawful detainer of the State of California then in effect.

26. Insolvency of Museum. The insolvency of Museum as evidenced by a receiver being appointed to take possession of all or substantially all of the property of Museum, or the making of a general assignment for the benefit of creditors by Museum, shall terminate this lease and entitle Landlord to reenter and regain possession of the subject property .

27. Private Business Improvement District. This property may be included in a private business improvement district and the Museum agrees to participate in such improvement district and be solely responsible for any such fees or charges associated the private business improvement district.

28. Cumulative Remedies. The remedies given to Landlord in this lease shall not be exclusive but shall be in addition to all remedies now or hereafter allowed by law.

29. Waiver of Breach. The waiver by Landlord of any breach by Museum of any of the provisions of this lease shall not constitute a continuing waiver or a waiver of any subsequent breach by Museum either of the same or another provision of this lease.

30. Attorney's Fees. Should any litigation be commenced between the parties to this agreement concerning the subject property, this agreement, or the rights and duties of either in relation to this agreement, the prevailing party in such litigation shall be entitled, in addition to any other relief to which it may be entitled, to a reasonable sum as and for its attorney's fees, including expert witness fees, in such litigation.

31. Notices. Any and all notices (including three day notices to pay rent or quit) or other communications required or permitted by this lease to be served on either party hereto, shall be in writing and shall be deemed duly served when personally delivered to an authorized representative of the party to whom the notice is directed, or in lieu of such personal service when deposited in the United States mail, registered or certified mail, postage prepaid, addressed as follows:

Landlord;	City of Visalia	Tenant:	Imagine U Museum
	Attn: City Manager		Attn: Executive Director
	707 W. Acequia		P.O. Box 688
	Visalia, CA 93291		Visalia, CA 93279

Either party may change its address for the purpose of this section by giving written notice of such change to the other party in the manner provided herein.

32. Binding on Successors. This lease shall be binding on and shall inure to the benefit of the heirs, personal representatives, successors or assigns of the parties hereto, but nothing in this section shall be construed as a consent by Landlord to any

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assignment of this lease.

33. Partial Invalidity. Should any provision of this lease be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions shall remain in full force and effect.

34. Sole and Only Agreement. This instrument constitutes the sole and only agreement between Landlord and Museum respecting the subject property and correctly sets forth the obligations of Landlord and Museum to each other as of its date. Any agreement or representations respecting the subject property or their leasing by Landlord to Museum not expressly set forth in this instrument are null and void.

35. Time of Essence. Time is expressly declared to be the essence of this lease.

36. Captions. The headings or titles to the paragraphs of this lease are not a part of this lease and shall have no effect upon the construction or interpretation of any part thereof. This instrument contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by an agreement in writing signed by all of the parties hereto or their respective successors in interest.

Executed at Visalia, California,

LANDLORD
City of Visalia

TENANT
Children’s Museum of the Sequoia’s

By _____
City Manager

By _____

Date: _____

Date: _____

Approved as to form:

By _____
City Risk Manager

By _____
City Attorney

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City of Visalia Agenda Item Transmittal

Meeting Date: November 1, 2010

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

Agenda Item Wording: Authorize the City Manager to execute the Memorandum of Understanding for Firefighters (City of Visalia Employee Bargaining Unit Group G for the period July 1, 2010 through June 30, 2012).

Deadline for Action: November 1, 2010

Submitting Department: Administrative Services

Contact Name and Phone Number: Diane Davis, Human Resources Manager, 713-4575 and Eric Frost, Administrative Services Director, 713-4474.

Department Recommendation:

That Council authorizes the City Manager to execute a Memorandum of Understanding by and between the City of Visalia and Firefighters (City of Visalia Employee Bargaining Unit Group G) for the period July 1, 2010 through June 30, 2012.

Summary/background:

In early March, 2010, the City's negotiation team began the negotiations process with Group G for their MOU that was set to expire on June 30, 2010. Because of difficult fiscal conditions, the City asked for wage concession from Group G. In October, the City and Group G came to a tentative agreement, and on October 18, 2010, City staff presented the tentative agreement to Council for consideration and authorization. On October 27, 2010, Group G's membership voted to accept the tentative agreement which calls for the following:

- **Term of Contract:** Two years
- **Contract Date:** July 1, 2010 through June 30, 2012
- **Salary:** No increase through June 30, 2012

- **PERS:**

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.

- A second-tiered retirement system. All new sworn fire employees hired will be covered in the 3% at 55 PERS plan. The effective date of the second-tiered retirement system would be made effective as soon as allowed by PERS.
- For new employees, retirement benefit will be calculated based upon last three years of salary or highest 36 consecutive months instead of the single highest year.
- **Holiday Pay:**
 - Holiday pay will be reduced from 5.5 shifts to 4 shifts.
- **Annual Comp Time Grant:**
 - The annual 12 hour comp time grant will be discontinued as of January 1, 2011
- **Disability Avoidance Program:**
 - The Disability Avoidance Program will discontinue as of July 1, 2011. The health club membership will discontinue as of Nov. 1, 2010. A final DAP payment will be made covering the January to June 2010 period on December 10, 2010.
- **Trial 48/96 Schedule:**
 - Between January 1, 2011 and April 1, 2011, the City will begin a trial 48/96 work schedule. The maximum continuous number of hours a firefighter may work will be 72 hours.

Prior Council/Board Actions: October 18, 2010, closed session item, tentatively approving Group G MOU.

Committee/Commission Review and Actions:

Alternatives:

Attachments: Group G Memorandum of Understanding, July 1, 2010 through June 30, 2012.

Recommended Motion (and Alternative Motions if expected):

I move authorization for the City Manager to execute the Memorandum of Understanding by and between the City of Visalia and the Firefighters (City of Visalia Employee Bargaining Unit Group G) for the period July 1, 2010 through June 30, 2012.

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:

Memorandum of Understanding

**By and Between the City of Visalia and
Visalia Firefighters Association (IAFF Local 3719) –
(City of Visalia Employee Bargaining Unit Group G –
Firefighters, Fire Engineers, Fire Captains,
Firefighter Trainees, Firefighter Paramedics, Fire
Engineer Paramedics, Fire Captain Paramedics)**



July 1, 2010 – June 30, 2012

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ARTICLE 1: TERMS AND CONDITIONS

The Visalia Firefighters Association and their affiliates (herein referenced to as "Association") and representatives of the City of Visalia (herein referenced to as the "City") have met and conferred in good faith regarding wages, hours and other terms and conditions of employment of employees in the Group "G" bargaining unit, have freely exchanged information, opinions and proposals and have reached agreement on the following matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500-3510).

ARTICLE 2: AUTHORIZED AGENTS AND RECOGNITION

Section 1: Authorized Agents

For the purpose of administering the terms and provisions of this Memorandum of Understanding, the following authorized agents have been designated:

City of Visalia
City Manager or his/her designee
707 W. Acequia
Visalia, CA 93291

Visalia Firefighters Association – Group "G"
Association President
309 S. Johnson
Visalia, CA 93291

The Association shall be responsible for keeping current the name, address and telephone number of the designated representative and a list of persons authorized to act on its behalf or receive service in its name.

Section 2: Recognition

The City recognizes and expressly acknowledges the Association as the exclusive collective bargaining representative and employee organization for employees covered by this Memorandum of Understanding, the employees in Group "G." Represented classifications for Group "G" consist of full-time, regular, Firefighter Trainee, Firefighter, Firefighter Paramedic, Fire Engineer, Fire Engineer Paramedic, Fire Captain and Fire Captain Paramedic in the Visalia Fire Department.

ARTICLE 3: CITY RIGHTS

As defined in the Visalia Municipal Code, Section 2.40.050, the rights of the City include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commission and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

ARTICLE 4: ASSOCIATION RIGHTS

Section 1: Payroll Deductions

The Association may have the regular dues deductions of its members (or service fees) within the Group "G" bargaining unit deducted from employees' paychecks under procedures as follows:

The Association shall be granted permission by the City Manager to have the regular dues of its members deducted from their paychecks, in accordance with procedures prescribed herein.

Dues deduction shall be for a specified amount and shall be made only upon the written authorization of the member provided by the Association to the City. The Association shall be responsible for processing all dues-related paperwork.

The Association agrees to indemnify and hold the City harmless from any liabilities, which may arise as a result of an application of this Article. The request for deductions shall be made on City approved authorization cards in accordance with applicable state law. The Association will pay the City's standard administrative fees for the payroll deductions, currently 45 cents (\$0.45) per deduction per employee (as set in the City's Rates and Fees document).

Section 2: Employee Rights

As defined in the Visalia Municipal Code, Section 2.40.040, employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations including, but not limited to, wages, hours and other terms and conditions of employment.

Employees of the City shall also have the right to refuse to join or participate in the activities of the employee organizations and shall have the right to represent

themselves individually in their employment relations with the City. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by any employee organizations because of the exercise of these rights.

Section 3: Advance Notice

Except in cases of emergency as provided below in this section the Association, if affected, shall be given reasonable advance notice of ordinance, resolution, rule or regulation directly and primarily relating to matters within the scope of representation proposed to be adopted by the City and shall be given the opportunity to meet with the appropriate management representatives. Circumstances generating such notice shall include any proposed change to job descriptions or reclassifications directly affecting classifications currently represented by the Association. In cases of emergency, the City shall make its best effort to notify the Association on the first business day after the emergency.

Section 4: Release Time

City employees who are official representatives of the Association shall be given reasonable time off with pay (at the regular hourly rate of pay in all instances) to attend formal meet and confer sessions, grievance or discipline meeting with management representatives. The Association shall notify the Employee Relations Officer of the names of the employees who are official representatives of the Association. Such representatives shall notify their supervisors in writing on the first business day after a meeting has been scheduled of the dates of excused absences. This advance notice may be waived by the Employee Relations Officer. The number of employees excused for meet and confer sessions shall not exceed four (4). Time allowed off before and after scheduled negotiations shall be limited to two (2) hours respectively. Under no circumstances will overtime be paid for an employee's attendance at a negotiations session. Attendance at negotiations sessions that occur on an employee's day off or before or after regular work hours is strictly voluntary.

Members of this group shall be afforded one hundred and forty-four (144) hours per year in a "training bank" to be used in units of not less than four (4) hours, with no more than two employees off shift at any given time, for training related to Association business. Association members will be responsible for ensuring coverage of their own shifts well in advance of such time off, and the Department shall not incur overtime costs for covering such shifts.

ARTICLE 5: DISCRIMINATION

1. The parties agree that no person employed or applying for employment shall be discriminated against because of race, color, religion, disability, medical condition, national origin, ancestry, marital status, gender, sexual orientation, or age, except where such is determined to be a bona fide

occupational qualification, after consideration of reasonable accommodation factors and relation to essential job duties of the provision.

2. Neither the City nor the Association shall interfere with, intimidate, coerce or discriminate against City employees who exercise their right to form, join or participate in the activities of the Association. Neither the City nor the Association shall interfere with, intimidate, coerce, or discriminate against City employees because they exercise their right not to form, join, or participate in the activities of the Association.

ARTICLE 6: WAGES AND OTHER RELATED ISSUES

Section 1: Salaries & Wages

There will be no salary range adjustments for unit classifications during the term of this Agreement.

Section 2: Merit Increases

- A. The performance of each employee is reviewed annually, and overall performance and salary level shall be appraised, in detail. The merit of employee performance as reported on such appraisals will determine the salary increase to be given, if any. For all salary adjustments in this group, this process shall occur on or before June 30th.
- B. Employees who are being compensated at the top of the salary range for their classification are not eligible to receive merit increases.
- C. Employees are eligible to receive up to a five percent (5%) increase per year based upon the merit of their performance. This merit increase consideration allows an individual employee's salary to increase within the range established for his/her job classification.
- D. Per City of Visalia Personnel Policy, #201, employees are eligible to receive up to a ten percent (10%) maximum salary increase per fiscal year based on any combination of salary increases including, but not limited to, annual salary range compensation adjustments, merit increases, promotional increases, and reclassifications.
- E. At this time, the General Compensation Policy, as it relates to the timing of merit raises, applies to all employees, whether or not they belong to a bargaining unit. Timing of merit raises is left to the discretion of the Department within the general bounds defined above, and in the General Compensation Policy.

- F. All other provisions of the General Compensation Policy shall apply to merit increases.

Section 3: Specialty/Incentive Pay

Employees qualified and certified as Hazardous Material Technicians/Specialists and currently serving in such capacity shall receive additional annual compensation (paid the first full pay period in June of each year for the fiscal year then ending), based upon the following criteria:

	Actively Assigned	Not Assigned
With Class A	\$2,000	\$1,000
Without Class A	\$1,600	\$800

All employees receiving Hazardous Materials compensation will make every effort to maintain Class A license status and agree to undergo testing as required.

Section 4: Bilingual Pay

Association members are eligible for bilingual pay provided that they successfully demonstrate proficiency in a qualified foreign language. The City shall maintain and administer a testing process based upon accepted industry standards that allows an Association member to demonstrate proficiency in the language as it is used in everyday practice. Bilingual pay shall be \$900 per year, paid on the pay period that includes July 1 of each year. Currently, the qualifying languages are Spanish and Laotian, and the dialects of Hmong, Lahu and Mien.

ARTICLE 7: DAYS AND HOURS OF WORK; OVERTIME

Section 1: Work Schedule

- A. Appointing Authority: The appointing authority shall fix the hours of work with due regard for the convenience of the public and laws of the State and the City. The standard work schedule for shift personnel in the Fire Department shall be fifty-six (56) hours per week.
- B. Shift trades shall be allowed per Visalia Fire Department Standard Operating Procedure (hereinafter referred to as "SOP") Division 1, Section 2, Article 15. Any change to this SOP shall require the two parties to meet and confer.
- C. Attachment B summarizes the agreement between the parties regarding the pay and classification adjustments and/or conversions that are made when a Fire Captain moves from shift assignment to a 40-hour work week Administrative assignment, as established and authorized by the Fire Chief.

Section 2: 48/96 (Trial) Schedule

The City and Association agree to a one (1) year pilot program, with a targeted implementation date of January 1, 2011. The implementation date shall not exceed April 1, 2011, and the pilot program will end one (1) calendar year after the actual implementation date, during which the work schedule for employees involved in fire protection activities will be a "48/96 work schedule." Although this is a temporary pilot program, the parties agree that nothing in this pilot program is designed to evade FLSA overtime requirements.

During the period of the pilot program, the City and Association agree:

Shifts shall be designated "A," "B," and "C." Each working tour shall be forty-eight (48) hours' duration. Tours shall commence at 0800 hours (8:00 am) and terminate at 0800 hours (8:00 am), 48 hours later.

The applicable work period for purposes of determining Fair Labor Standards Act (FLSA) overtime shall be a one-hundred eighty-two (182) hour, twenty-four (24) day work period. Employees on the 182 hour/24 day work period shall receive premium overtime compensation at the rate of one and one-half (1.5) times their "regular rate of pay," for all time actually worked in excess of 182 hours worked in a 24-day work period.

Sleep time while on duty shall be included in compensable hours of work.

The maximum allowable continuous work hours is capped at 72 hours, with a minimum 12-hour period thereafter before the employee returns to any duty. For emergency assignments, excluding order back, an exception to the maximum continuous duty may be approved by the Fire Chief or his/her designee.

Employees will not make any selections of 2011 vacation dates until the pilot period is in place.

No later than sixty days prior to the end of the 48/96 pilot program work schedule, the City and Association will meet at least once to evaluate the pilot program. The pilot program shall become the standard work schedule if both the City and the Association agree in writing to make the pilot program the standard work schedule for shift personnel in the Fire Department. In the event both parties do not agree in writing to maintain the 48/96 work schedule, the standard work schedule for shift personnel in the Fire Department shall revert to the non-48/96/"Kelly" work schedule that is currently in place.

The 48/96 pilot program work schedule may be terminated by either the City or Association at any time during the pilot period with 60 days advance written notice to the other respective party. In the event either

party exercises its right to terminate the pilot program, after the 60-day notice period has expired the standard work schedule for shift personnel in the Fire Department shall revert to the non-48/96/"Kelly" work schedule that is currently in place.

Section 3: Overtime

- A. Overtime shall be defined and calculated pursuant to the City of Visalia Personnel Policy #203, except as provided herein related to implementation of a 48/96 pilot program work schedule.
- B. Authorization: Supervisors approval to work overtime must be obtained prior to working overtime hours.

Section 4: Call-Back Compensation

As provided for in City of Visalia Personnel Policy #205 – Call Back Policy:

- A. When an employee returns to work because of a department request made after the employee has completed his/her normal work shift, the employee shall be credited with two (2) hours of pay plus any hours of work in excess of two (2) hours in which the employee is continuously engaged in work for which he/she was called back.
- B. "Call-back" time is overtime and shall be paid in accordance with overtime pay provisions described herein and in City of Visalia Personnel Policy #203.
- C. The two-hour minimum shall apply only when an employee is required to physically return to work (e.g. Leave home or another off duty location) in order to perform required duties. An employee who performs work after regular work hours, but who is not required to leave home, shall be compensated in accordance with overtime pay provisions.

Section 5: Acting Engineer/Acting Captain Pay

As provided for in the Visalia Fire Department SOPs:

ACTING ENGINEER

- A. Purpose. When deemed necessary to maintain minimum staffing and prevent overtime, Firefighters will work as acting Fire Engineers.
- B. Criteria. In order for a Firefighter with the Visalia Fire Department to be eligible to work as an Acting Fire Engineer, and receive the out-of-classification pay, the Firefighter must first meet the following criteria:
 - 1. Training

The Firefighter must successfully complete the Visalia Fire Department's Acting Engineer's Certification Course.

The Firefighter must be proficient in driving each type of apparatus in service within the Visalia Fire Department, including fire engines, airport crash/fire rescue vehicles, and ladder trucks.

The Firefighter must be proficient in the operation of fire pumps utilized by such vehicles as described above, and in the case of ladder trucks, be proficient in the smooth operation of the hydraulically controlled components used for fire suppression or victim rescue.

2. License

The Firefighter must hold a Class B Driver's License from the California Department of Motor Vehicles.

3. In-Service Training

Those individuals who are currently working as Acting Fire Engineers, and who have completed Visalia Fire Department's Acting Engineer Certification, are eligible to receive the out-of-classification pay provided they have fulfilled the 96-hour in-service requirement and can document such time from the Visalia Fire Department log books.

C. Rotation. When a Firefighter is needed to work as an acting Fire Engineer, and the Firefighter on the affected crew has met the training criteria, he/she will work in the Acting Engineer position. If there is more than one qualified Firefighter on the affected crew, a rotation will be used to give all qualified personnel equal opportunity. If an Acting Engineer is needed and the Firefighter on the affected crew is not qualified, a qualified person will be moved to that crew at the discretion of the affected supervisors.

D. Compensation. Under this policy, if an acting Fire Engineer works in such capacity twelve (12) or more hours in a given shift, he/she will be compensated at the acting rate for those hours worked. If he/she happens to serve as acting Fire Engineer the entire 24-hour shift, he/she will be compensated for the full 24-hour period. However, if he/she serves eight (8) hours of a shift, for example, he/she will not be compensated at the acting rate.

ACTING CAPTAIN

- A. Purpose. When deemed necessary to maintain minimum staffing and prevent overtime, Fire Engineers and/or Firefighters will work as acting Fire Captains.
- B. Criteria. In order for a Fire Engineer and/or Firefighter with the Visalia Fire Department to be eligible to work as an Acting Fire Captain and receive out-of-classification pay, the Fire Engineer and/or Firefighter must first meet the following criteria:
 - 1. Must successfully complete the Visalia Fire Department's Acting Captain Certification.
 - 2. Must then or have previously (documented) performed satisfactorily in the capacity of Acting Fire Captain for 180 hours.
 - 3. Must receive a recommendation from their Captain and Battalion Chief indicating that he/she should receive acting pay as he/she has the skills to provide the necessary supervisory responsibility.
- C. Rotation. When a Fire Engineer and/or Firefighter is needed to work as an Acting Fire Captain, and the Fire Engineer and/or Firefighter on the affected crew has met the training criteria, he/she will work in the Acting Captain position. If there is more than one qualified Fire Engineer and/or Firefighter on the affected crew, a rotation will be used to give all qualified personnel equal opportunity. If an Acting Captain is needed and the Fire Engineer and/or Firefighter on the affected crew is not qualified, a qualified person will be moved to that crew at the discretion of the affected supervisors.
- D. Compensation. Under this policy, if an Acting Fire Captain works in such capacity twelve (12) or more hours in a given shift, he/she will be compensated at the acting rate for those hours worked. If he/she happens to serve as acting Fire Captain the entire 24-hour shift, he/she will be compensated for the full 24-hour period. However, if he/she serves eight (8) hours of a shift, for example, he/she will not be compensated at the acting rate.

Section 6: Return to Work

Return from week-long training – Employees returning to work from 5-day, out-of-town training assignments will return to regular shift work as follows:

- A. If the employee returns by or before 1300 hours on the day of his/her regularly scheduled shift, then the employee shall report to work by 2100 hours.

- B. If the employee returns to work after 1300 hours on the day of his/her regularly scheduled shift, then the employee shall report to work on the next regularly scheduled shift.

ARTICLE 8: PARAMEDIC PROGRAM

Section 1: Program Duration

The Paramedic Program is intended as an ongoing permanent function within the Fire Department and is being included as part of the MOU. It is understood that the Paramedic Program will necessarily be subject to the same evaluation and maintenance process as other essential services within the organization.

Section 2: Paramedic Recruitment/Training/Certification Maintenance

- A. The City will hire Paramedics certified by Central California Emergency Medical Services Authority (CCEMSA), OR
- B. The City has bore and will continue to bear the entire cost of the initial training and initial certification of "Regular Firefighters" from the "Interest List" established in 2004 at the establishment of the Paramedic Program. After all "Regular Firefighters" from the "Interest List" have completed their training, the City will no longer be obligated to provide Paramedic certification training to any employee, AND
- C. The City will bear the training costs necessary for all Department Paramedics in the organization to maintain their certification, regardless of rank.

Section 3: Participation

For purposes of the Paramedic Program, Firefighters who attained status as regular employees on or before February 9, 2004 are described as "Regular Firefighters." Firefighters who became regular employees after February 9, 2004 are described as "New Hires."

- A. "Regular Firefighters" v. "New Hires"

"Regular Firefighters" who participated in the implementation of the Paramedic Program have been and shall be treated differently than "New Hires."

"Regular Firefighters" who placed their names on the "Interest List" and participated or will participate in the initial Paramedic certification program have and will do so without risk of losing or otherwise altering any portion of their employment status. Any "Regular Firefighter" who does not successfully complete the initial Paramedic certification program or otherwise fails to obtain Paramedic certification shall have the right to remain as a Firefighter without negative ramifications associated with his/her unsuccessful attempt to complete the program or obtain certification.

Further, subject to the three-year commitment set forth below, any “Regular Firefighter” who is reclassified to Firefighter/Paramedic shall have the right to revert to Firefighter, without penalty, should he/she choose to terminate his/her participation in the Paramedic Program. It is understood that an affected employee who reverts to his/her former position shall receive compensation and benefits commensurate with that former position.

“New Hires” are not entitled to any of the rights as described above for “Regular Firefighters” and are subject to the City of Visalia Personnel Policy Guidelines relating to voluntary demotions.

B. Employee Job Performance

Nothing in this section shall alter, prevent, diminish or otherwise affect the duties of management to properly evaluate, discipline or dismiss employees based on job performance.

Section 4: Selection of Participants

All “Regular Firefighters” who placed their names on the “Interest List” remain eligible to participate in the City provided Paramedic certification program until he/she has either completed the program or has chosen not to participate further. All “New Hires” who participate in any City provided Paramedic certification program offered will be selected on the basis of seniority. Seniority will be based on time with Visalia Fire Department.

Section 5: Three-year Commitment

“Regular Firefighters” reclassified as Firefighter/Paramedics will serve in that capacity for a minimum of three years following his/her certification. However, any Firefighter/Paramedic who wishes to terminate his/her participation in the program prior to the completion of the three-year commitment may be granted a “hardship” reversion to his/her former position by the Fire Chief, who has sole discretion in the matter.

Section 6: Reclassification: Firefighter to Firefighter/Paramedic

Firefighters who are certified as Paramedics will automatically be reclassified to the position of Firefighter/Paramedic as of the date of certification with CCEMSA and after written proof of his/her certification is provided to the City.

Section 7: Compensation

A. The salary range for the classification of Firefighter/Paramedic is established at 10% above that of Firefighter.

- B. The City will maintain a classification and job description of Fire Engineer/Paramedic and Fire Captain/Paramedic. The salary range for each of these classifications will be maintained at 5% above that of Fire Engineer and Fire Captain, respectively. Employees who are certified Paramedics and serve in Fire Engineer or Fire Captain classifications will automatically receive the 5% differential. Said employee will retain that salary differential as long as he/she maintains his/her Paramedic certificate and is certified to practice in Tulare County.

- C. The Fire Department will use the Firefighter Paramedic classification in the primary caregiver role whenever possible. In the event that Firefighter Paramedic staffing is not available, the Fire Department will make every effort to use the Fire Engineer Paramedic classification in the primary caregiver role. In an effort to maintain the Fire Captain Paramedic in a command role on emergency scenes, the Fire Captain Paramedic will be used as a last resort in the primary paramedic role. However, in order to maintain their paramedic skills, Engineer Paramedics and Captain Paramedics must act as primary paramedic on at least six (6) shifts per year as assigned by Fire Administration. The responsibility for assuring that Engineer Paramedics and Captain Paramedics have the opportunity to act as primary paramedic on at least six (6) shifts per year shall be the obligation of Fire Administration. No Engineer Paramedics or Captain Paramedics shall be adversely impacted as a result of the failure of Fire Administration to assure that such employee had an opportunity to act as the primary paramedic on at least six (6) shifts.

ARTICLE 9: ALLOWANCES FOR WORK RELATED EXPENDITURES

Section 1: Uniforms and Uniform Maintenance

- A. The City shall provide the necessary uniforms, boots and safety equipment as needed to perform the job. The City shall also provide uniform cleaning.

ARTICLE 10: EMPLOYEE BENEFITS AND RETIREMENT

Section 1: Medical/Dental/Vision

- A. Medical, Dental and Vision benefits (including employee co-payments) in place shall remain in effect at their current levels, except as modified each plan year. All unit employees shall continue to contribute for medical/dental/vision insurance in accordance with the current contribution rate schedule based on the selected health plan, taken as a bi-weekly payroll deduction. This payment is in addition to established amounts paid for dependent coverage. The current contribution rate schedule is shown in Attachment A of this MOU.

- B. Group "G" members agree to share increases in future health plan costs over the current cost (if any) by up to 50%. In no case, however, will the cost sharing be increased more than \$50 per month per year of this agreement. For reference, the current cost is set out in Attachment A.
- C. Group "G" agrees to participate in an Employee Health Benefits Committee (EHBC). The purpose of the EHBC is to cooperatively manage the City's Health Benefits Plan by providing oversight on the plan's resources, remain fiscally sound, provide the best benefits available to employees given available resources, improve administration of the plan, and make appropriate recommendations for change as researched and considered by the Committee. The EHBC is made up of all bargaining groups and City management. The EHBC does not replace collective bargaining agreements. Employee representatives are only empowered to act to the extent authorized by their respective agreements.
- D. Increases in health plan costs, if any, may be paid via changes in the health plan as confirmed by the plan's actuary, if agreed to by 5 of the 6 units (5 bargaining groups plus city management). In the event that approved plan changes exceed the employee cost increases, 75% of excess plan savings costs will be credited to the employees' contribution for current or future health plan cost increases.
- E. The current spouse of a retiree of this group that survives said retiree will, upon the death of the retiree, be allowed to maintain the health and vision coverage then afforded to retirees in accordance with the current contribution rate schedule (Attachment A), so long as the spouse was covered at the time of the retiree's death. The surviving spouse shall not be allowed to add new dependents to the coverage.
- F. The City will provide and maintain a Section 125 Flexible Spending Account (FSA) Program as defined by, and in compliance with, the Internal Revenue Code. Such plan shall allow Group "G" employees to take advantage of benefit tax deductions for insurance premiums, out-of-pocket medical expenses, dependent day care, and any other expense allowable under the plan.

All unit employees will automatically be enrolled to participate in the FSA, by having their employee health care contribution and dependent health care contribution run through this program as a pre-tax benefit, unless the employee specifically opts out of the program during the City's open enrollment period.

Section 2: California Public Employees Retirement System (PERS)

- A. For current employees, the City shall maintain in effect the 3% @ 50 PERS Retirement Program with final compensation for PERS retirement

purposes based on the single highest earning year. The City will implement a two-tiered retirement system, and all new Association members hired on or after the implementation date will be covered in the 3 % @ 55 PERS plan.

Upon implementation of the two-tiered retirement plan, new Association member's final compensation for PERS retirement purposes will be calculated based on an average of the retiring employee's three highest earning years, rather than on the single highest earning year. The implementation effective date of the two-tiered retirement system will be made effective as soon as allowed by PERS. Until that time, all new employees will be covered under the 3% @ 50 PERS Retirement Program.

- B. The City will implement the optional in-service death benefit (Pre-retirement Optional Settlement Death Benefit, section 21548) which provides the surviving spouse the same retirement benefit as if the employee had retired at the time of death.

Section 3: Long Term Disability Insurance

- A. By prior agreement, long term disability coverage is currently provided through the Association. Association members shall be responsible for all costs associated with this coverage. The Association shall assume full responsibility for this program and shall indemnify and hold harmless the City for any and all claims arising from the Association-provided long term disability program. (For reference, prior to the Association providing this coverage, the City paid \$28.00 per month per employee and the City increased group salaries by that amount at the time the Association assumed responsibility for providing the coverage.) The City and the Association may meet and confer during the term of the agreement should the Association desire for their members as a group to return to the City's coverage.

Section 4: Disability Avoidance Program

- A. The Disability Avoidance Program (DAP) will be discontinued effective July 1, 2010 and corresponding health club membership paid by the City on behalf of employees will be discontinued as of November 1, 2010.

To complete the payment for this year's DAP program, an individual will have had to test in at least one of the two testing events this year. No minimum number of visits will be required this year. The highest test result will be used to determine the level of payment for the year. For this year, the payment will then be divided in one-half. The payment will be made on December 10, 2010.

- B. The chief shall have the discretion as to the maintenance and placement of exercise equipment at all Fire Department facilities.

ARTICLE 11: OTHER PAY AND PAID LEAVES

Section 1: Fire Certificate Pay

- A. The City will implement pay for those employees holding and maintaining Fire Certificates as follows:

Fire Officer: 3% salary adjustment

Chief Officer: an additional 2% salary adjustment (to a total of 5%)

Section 2: Holidays

The following days shall be designated official City holidays:

New Years Day	January 1
Martin Luther King Jr. Birthday	Designated day in January
Presidents Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 st Monday in September
Veterans Day	November 11
Thanksgiving Day	Designated Thursday in November
Friday after Thanksgiving	
Christmas Day	December 25

Non-shift City employees are granted one floating holiday per calendar year.

- A. Holiday leave shall be provided pursuant to City of Visalia Personnel Policy #303, except as noted herein.

Per City of Visalia Personnel Policy #303, in lieu of the holidays and floating holidays recognized by the City, Association shift personnel will receive five and one-half (5 ½) shift days in pay annually, in the first full pay period in November of each year (note the month is a departure from that specified in City of Visalia Personnel Policy #303). As of November 2011, the rate of holiday pay will be reduced to four (4) shifts annually.

For employees that have a Monday through Friday standard work schedule, holidays falling on a Saturday will be observed on the Friday immediately preceding the holiday, and holidays falling on a Sunday will be observed on the Monday immediately following the holiday.

ARTICLE 12: VACATION

Group "G" Employees receive vacation benefits consistent with the provisions of City of Visalia Personnel Policy #304.

Pursuant to Policy #304, employees who are required to work 24-hour shift assignments in the Fire Department accrue annual leave at the following rates:

Continuous Service

<u>Months</u>	<u>Years</u>	<u>Accrual</u>
0-12	0-1 year of service	5 shifts per year
13-36	2-3 years of service	6 shifts per year
37-96	4-8 years of service	7 shifts per year
97-180	9-15 years of service	8 shifts per year
180+	16 or more years of service	10 shifts per year

An employee will stop earning additional vacation leave once the employee reaches twice his/her annual accrual amount. No additional vacation leave will be earned until an employee's vacation accumulation drops below twice the annual accrual amount.

New employees are eligible for vacation benefits after 6 months of service with preapproval of their supervisor.

ARTICLE 13: SICK LEAVE

Section 1: Sick Leave

- A. Group "G" Bargaining Unit Employees receive sick leave time consistent with the provisions of the current City of Visalia Personnel Policy #305.
- B. Shift employees shall accrue one (1) shift of sick leave for every two (2) months of service – for a total of six (6) shifts per year. Shift employees may use five (5) shifts for personal leave as Personal Leave for family emergencies and/or illnesses.
- C. Employees must be employed for at least six (6) months in order to be eligible for the sick leave benefit.
- D. Except as otherwise provided in this agreement, all employee benefits will continue during sick leave under the same terms and conditions as if the employee were at work provided the employee has sufficient paid leave.
- E. After accumulating a total of more than four hundred eighty (480) hours of sick leave, a regular full-time employee in this group may elect to be paid at one-half (1/2) his/her regular rate of pay for a maximum of seventy-two (72) hours less any sick leave used during the designated year from

November 1 to October 31. Payment of such sick leave buy-back will be included in the pay check received in the middle of December.

Section 2: Family Care & Medical Leave

The City will provide family and medical care leave for eligible employees, in accordance with the Federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) and City of Visalia Personnel Policy #316.

ARTICLE 14: COMPENSATORY TIME OFF

The practice of providing 12 hours of compensatory time hours annually will be eliminated as of January 1, 2011.

ARTICLE 15: PERSONNEL PRACTICES

Section 1: Probationary Period

The initial (new hire) probationary period for members of this group will be for eighteen (18) months and otherwise subject to the provisions of the City of Visalia Personnel Policy #110. The probationary period applicable to promotional appointments shall remain at twelve (12) months.

Section 2: Safety Reporting Procedure

Safety reporting shall be conducted in accordance with the City's existing Injury and Illness Prevention Program.

Section 3: Drug Free Work Place

The City and Association agree that they are committed to providing and maintaining a drug free work place in accord with the Drug Free Work Place Act of 1988. It is understood that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the work place and that violation of this provision will subject the employee to disciplinary action. It is also agreed that every reasonable effort will be made to inform employees about the dangers of drug abuse in the work place, the availability of any counseling or rehabilitation, as well as the Employee Assistance Program, and that disciplinary action may be imposed upon employees for drug abuse violations occurring in the work place or affecting work performance and/or safety.

Section 4: Jury Duty

The employee will receive his/her base pay for up to twenty days of jury duty service per calendar year. The City will continue the employee's regular

paycheck. The employee will keep any monies received from jury duty and will supply documentation of jury time served to the Finance Department.

Procedure:

- A. The employee shall present to his/her supervisor, the initial subpoena or other document which gives instructions to report for jury empanelment upon receipt.
- B. Upon selection for jury duty, the employee shall notify his/her supervisor verbally, and advise him/her of the estimated length of the trial.
- C. Upon reporting for court duty, the employee shall notify the court that he/she wishes to waive any monies or stipend awarded by the court system for his/her service. However, the employee will be eligible to claim and receive the mileage reimbursement provided by the court system.
- D. The employee shall report for jury duty each day as instructed by the court. At times the employee may be released from jury service during normal working hours; when this is the case, the employee shall be required to be at work, when practical.
- E. The employee's supervisor may require an attendance slip verifying his/her actual days of service. If an attendance slip is required, it should be attached to the employee's time card to complete that record.

ARTICLE 16: DIRECT DEPOSIT

The City of Visalia requires employees to participate in direct deposit for payroll purposes, and all payroll checks will be paid via direct deposit.

ARTICLE 17: GRIEVANCE PROCEDURE

I. PURPOSE

To resolve conflict and to provide an appeal process for any regular full-time or regular part-time employee who feels that he or she has been personally adversely affected by the interpretation, application or administration of this Memorandum of Understanding of the City of Visalia Personnel Policy Guidelines.

Matters which are not subject to the Grievance Policy include the following:

- Discipline, including reprimand, suspension, demotion and discharge.
- Any defenses to discipline, such as an alleged failure to follow City Corrective Counseling (Discipline) procedures [such defenses must be raised in the appropriate disciplinary proceeding, and may not be separately grieved].
- Complaints concerning equal employment opportunity, affirmative action, or sexual harassment, which are subject to the procedures in the City of Visalia Personnel Policies #101 and #120.
- Other matters for which a specific method of review is provided by law, by the rules and regulations of the City Council or by administrative regulations and procedures of this City are not within the scope of this Grievance Policy.
- Matters of concern to an employee which are not eligible for the procedures set forth in either City of Visalia Personnel Policy #101 Equal Employment Opportunity/Affirmative Action, Policy #116 Corrective Counseling Policy (Discipline), Policy #117 Grievance Policy or Policy #120 Sexual Harassment, may be addressed to the Human Resources Director or his/her designee.

II. COVERAGE

Any regular full-time employee (including any promoted probationary employee) who wishes to appeal management decisions made relative to interpretation or administration of the aforementioned areas, may do so in accordance with the provisions of this article.

A probationary employee may not file a grievance under this article, except that a probationary employee who feels personally adversely affected by the application specifically of probationary rules and/or policies to himself or herself can grieve such rule or policy application in accordance with this article.

III. DEFINITIONS

A. Grievance

A Grievance is an allegation by an employee that he/she has been personally adversely affected by the interpretation, application or administration of this Memorandum of Understanding or the City of Visalia Personnel Policy Guidelines.

B. Grievant

A Grievant may be any regular full-time or regular part-time employee of the City of Visalia.

C. Immediate Supervisor

An Immediate Supervisor is the lowest level administrator having immediate jurisdiction over the Grievant.

IV. PROCEDURE

A. Informal Level

Prior to filing a formal Grievance, that Grievant must attempt to resolve the matter informally. This informal process should begin with an informal conference between the Grievant and the Immediate Supervisor within ten (10) calendar days of the alleged incident giving rise to the Grievance.

B. Formal Level

1. Level I – Supervisor Review

If the Grievance is not resolved informally, the Grievant shall present the relevant facts in writing to the Immediate Supervisor within ten (10) calendar days of the date of the informal conference.

The Grievance should clearly state:

- 1) The facts of the Grievance,
- 2) The basis for the Grievant's objection,
- 3) The remedy desired.

The supervisor shall communicate a decision in writing to the Grievant within ten (10) calendar days from the date the Grievance was received by the Supervisor. Within the above time limits, either party may request a meeting, with the other, to discuss or clarify any facts/concerns regarding the Grievance.

2. Level II – Department Head Review

In the event the Grievant is not satisfied with the decision of the Supervisor, an appeal may be made to the Department Head within ten (10) calendar days from the date the

decision was rendered. Such appeal must be made in writing and include; 1) a copy of the original Grievance, 2) a copy of the decision rendered, and 3) a concise statement of the reasons for the appeal.

The Department Head shall communicate a decision in writing to the Grievant within ten (10) calendar days from receipt of the appeal by the Department Head. Within the above time limits, either party may request a meeting, with the other, to discuss or clarify any facts/concerns regarding the Grievance.

3. Level III – Mediation Step

If the Grievance is not resolved after Level II, as an alternative to proceeding directly to Level IV, City Manager decision, the Grievance may be submitted to mediation. A request for mediation may be presented in writing to the Human Resource Manager within ten (10) calendar days from the date a decision was rendered at Level II. As soon as practicable thereafter, or as otherwise agreed to by the parties, a mediator shall hear and attempt to mediate a resolution to the Grievance. A request for mediation will automatically suspend the normal processing of a Grievance until the mediation process is completed. The mediation process shall be optional, and any opinion expressed by the mediator shall be informal and shall be considered advisory to the City Manager. State Mediation and Conciliation Service shall be utilized for this mediation process.

4. Level IV – City Manager Decision

If the Grievance is not resolved in the mediation step (Level III) the City Manager (or designee) may render a decision solely on the basis of a review of the record; or may arrange a meeting between those affected before rendering within twenty (20) calendar days of notification that the mediation step was unsuccessful.

ARTICLE 18: EDUCATIONAL/TUITION ASSISTANCE PROGRAM & EMPLOYEE RECOGNITION PROGRAM

As set forth in City of Visalia Personnel Policy #312, the City provides educational/tuition assistance to its regular employees for the purpose of continuing education. The City will provide up to \$1,200 per fiscal year per employee to help defray education expenses. Up to one-half of this amount may be used for lodging expenses necessary for out-of-town training.

Association members shall continue to be eligible to participate in the City's Employee Incentive: Award for Extraordinary Performance program, as defined in City of Visalia Personnel Policy #317, with a maximum annual benefit of up to \$300 (per calendar year).

ARTICLE 19: PEACEFUL PERFORMANCE CLAUSE

The parties hereto recognize and acknowledge that the services performed by the City employees covered by this Agreement are essential to the public health, safety, and general welfare of the residents of the City of Visalia.

In the event of any work stoppage, during the term of this agreement, whether by the Association or by any member of the bargaining unit, the Association by its officers, shall immediately declare in writing and publicize that such work stoppage is illegal and unauthorized, and further direct its members in writing to cease the said conduct and resume work. Copies of such written notice shall be personally served upon the City. In the event of any work stoppage, the Association shall promptly and in good faith perform the obligations of this paragraph, and providing the Association had not otherwise authorized, permitted or encouraged such work stoppage, the Association shall not be liable for any damages caused by the violation of the provision. However, the City shall have the right to discipline, to include discharge, any employee who instigates, participates in, or gives leadership to, any work stoppage activity herein prohibited, and the City shall have the right to seek full legal redress, including damages, as against any such employee.

ARTICLE 20: MAINTENANCE OF BENEFITS

Except as provided or noted herein, all rights and all benefits which are presently enjoyed by all affected employees of this group, within the scope of representation, shall remain in full force and effect during the term of this agreement, unless modified through an amendment to this agreement, or until a new Memorandum of Understanding is agreed upon.

ARTICLE 21: FULL UNDERSTANDING, MODIFICATION, WAIVER

The waiver of any breach, term or condition of this Memorandum of Understanding by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

ARTICLE 22: SEPARABILITY

If any provisions of this Memorandum of Understanding are held to be contrary to law by a court of competent jurisdiction, such provisions will not affect the validity

of the remaining provisions except to the extent permitted by law, and all other provisions will continue in full force and effect.

ARTICLE 23: TERM OF CONTRACT

This Memorandum of Understanding shall be for a period of two (2) years commencing on July 1, 2010 and ending on June 30, 2012. The parties agree to commence negotiations on the successor agreement no less than sixty (60) days prior to the expiration date of this Memorandum of Understanding.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the date stated below

FOR THE CITY OF VISALIA

FOR THE ASSOCIATION-GROUP "G"

By: _____

By: _____

Dated: _____

Dated: _____

By: _____

By: _____

Dated: _____

Dated: _____

City of Visalia

Memo



To: City Council

From: Chris Young, Community Development Director (713-4392)
Paul Scheibel, AICP, Planning Services Manager (713-4369)
Paul Bernal, Senior Planner (713-4025)

Date: November 1, 2010

Re: **Public Hearing on the Appeal of the Planning Commission's denial of Conditional Use Permit No. 2010-09 and Variance No. 2010-04 Verizon Wireless & Appellant's Appeal Withdraw of Variance No. 2010-04**

This item was continued from the October 18, 2010, City Council public hearing meeting at the request of the appellant. The October 18th staff report (Exhibit "1" of this memorandum) is unchanged since the continuance.

The two corresponding resolutions, identified as Exhibits "2" and "3" of this memorandum (i.e., Resolutions Nos. 2010-68 & 2010-69) have been amended to reflect the October 18th continuance and November 1st City Council hearing date and are located beginning on page 7 of this report.

The appellant has since submitted a letter dated October 28, 2010, (attached to this memorandum) requesting to withdraw their appeal on Variance No. 2010-04, and provided amended Conditional Use Permit (CUP) project materials (attached to this memorandum) for a proposed 60-foot tall cell tower.

Staff has considered the withdrawal of the appeal for Variance No. 2010-04, and the revised CUP project for a 60-foot monopole. Staff has concluded that the revision to the monopole height would not substantially overcome the Planning Commission's findings that the tower could impede the 24-acre site's ability to achieve its best and highest residential development potential if the cell tower were approved and constructed at the proposed location. Therefore, the recommendation to deny the appeal of the denial of CUP No. 2010-09 remains the same as provided in detail in the staff report dated October 18, 2010 (see Exhibit "1" of this memorandum).



October 28, 2010

Planning Division
City of Visalia
315 E. Acequia Avenue
Visalia, CA 93291
(559) 713-4440
Attn: Paul Bernal

RE: Variance No. 2010-04
Project located at 1748 East Caldwell Avenue
APN: 126-120-064

Dear Mr. Bernal:

On behalf of Verizon Wireless, I respectfully request to withdraw the appeal on Variance No. 2010-04, that is scheduled to be heard at the November 1, 2010 City Council hearing.

I am still working on a revised site plan and elevation for your review, as well as revised photosimulations. I aim to deliver those items to you under separate cover tomorrow.

A revised Operational Statement is attached for your review.

Please contact me if you have any questions.

Regards,

A handwritten signature in blue ink that reads 'Jennifer Walker'.

Jennifer Walker
SAC Wireless
Project Manager
Representing Verizon Wireless
4412 Harlin Way
Sacramento, CA 95682
(916) 601-1123
jennifer.walker@sacw.com

Verizon – E Caldwell

Address: 1748 E Caldwell Avenue, Visalia, CA 93292

APN: 126-120-064

Operational Statement

This Conditional Use Permit application is being submitted by Jennifer Walker of SAC Wireless on behalf of Verizon Wireless and pertains to 24.24 acres of property located at 1748 E Caldwell Avenue, Visalia, CA 93292, APN 126-120-064, and is zoned R-1-6.

Verizon Wireless is requesting authorization to install a new collocatable wireless telecommunications facility.

The proposed development will consist of:

- ❖ (1) new 60'-tall collocatable (available for future wireless carriers) monopole.
- ❖ (9) panel antennas mounted at the 56' and 48' antenna centerlines – overall height is 60'.
- ❖ Outdoor equipment cabinets and a generator will be contained within a 20' x 40' lease area, surrounded by an 8'-tall fence.
- ❖ The subject site is zoned R-1-6. No guy wires are proposed. No advertizing signs or logos are proposed, other than emergency contact and site information.

The existing site is currently used for Ingram Equipment Company shops and orchards. The property owner has indicated that he has no intention of selling or redeveloping the property.

This wireless telecommunications facility will be operational 24 hours a day, 7 day a week receiving and transmitting phone calls, text messages, email messages and data. A facility of this nature is an unoccupied communications facility requiring only occasional site visits by Verizon technicians to fine tune or replace equipment on an as needed basis.

This project will bring new and greatly improved Verizon Wireless coverage to the City of Visalia. Verizon's main objective is to provide coverage to the southeast portion of Visalia, which experiences a high volume of complaints and high dropped call instances, especially the newly developed residential areas and roadways that surround the subject site.

verizonwireless

E. CALDWELL

SITE NUMBER: 193513

1748 EAST CALDWELL AVENUE
VISALIA, CA 93292



WIRELESS

11300 SORRENTO VALLEY RD. SUITE 230
SAN DIEGO, CA 92121
OFFICE: (858) 229-6828

PHOTOSIMULATION VIEW 1

EXISTING

EXISTING 82'-0" HIGH UTILITY
POLE

EXISTING 66'-0" HIGH POLE
W/ WHIP ANTENNA @ 107'-0"
HIGH



NEW VERIZON ANTENNAS, 3 ANTENNAS
PER SECTOR, (3) SECTORS WITH A TOTAL
OF 9 ANTENNAS MOUNTED ON NEW
VERIZON 60'-0" HIGH SLIMLINE POLE



verizonwireless

E. CALDWELL

SITE NUMBER: 193513

1748 EAST CALDWELL AVENUE
VISALIA, CA 93292



11300 SORRENTO VALLEY RD. SUITE 230
SAN DIEGO, CA 92121
OFFICE: (858) 229-6828

PHOTOSIMULATION VIEW 2

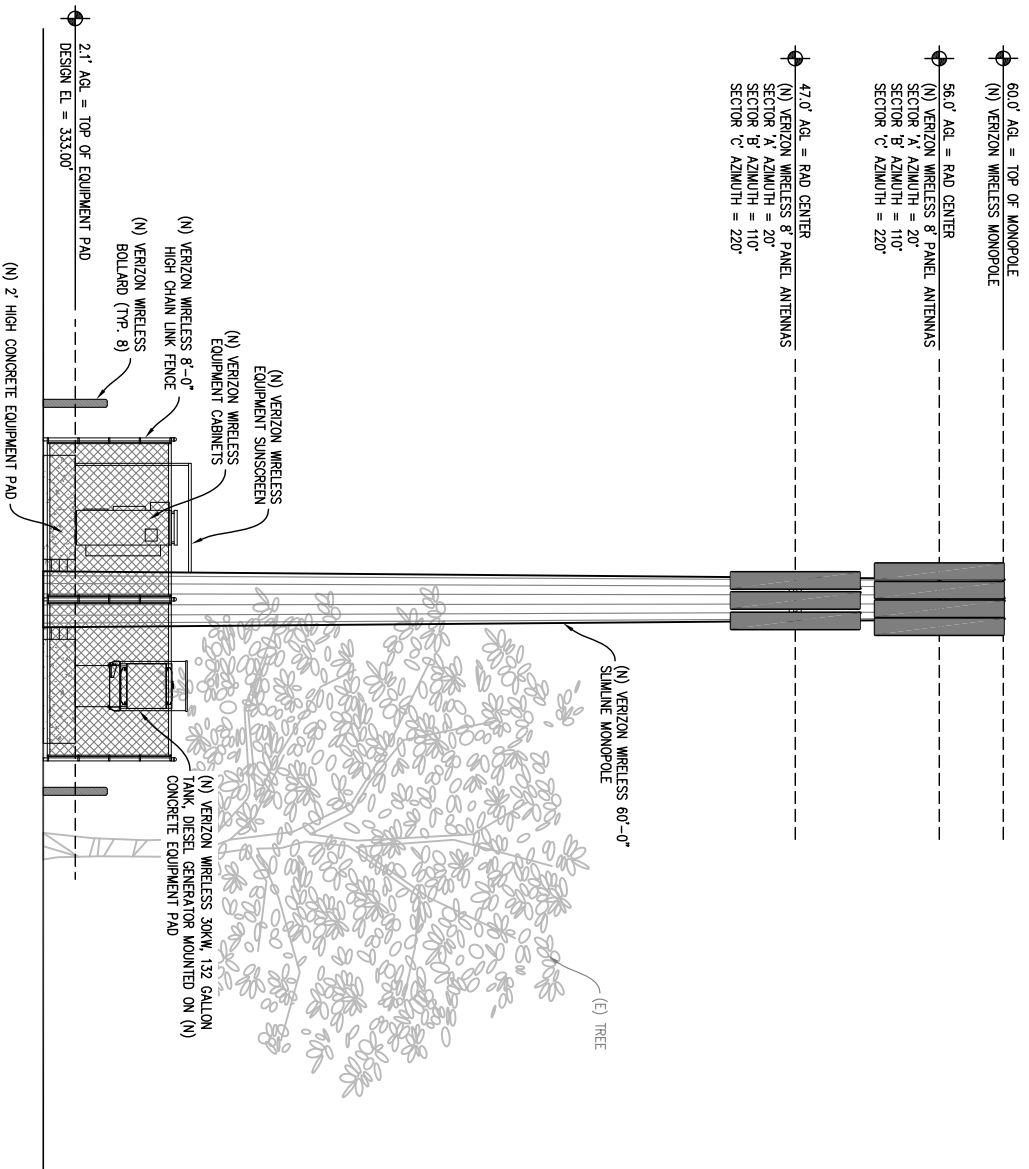
EXISTING



NEW VERIZON ANTENNAS, 3 ANTENNAS
PER SECTOR, (3) SECTORS WITH A TOTAL
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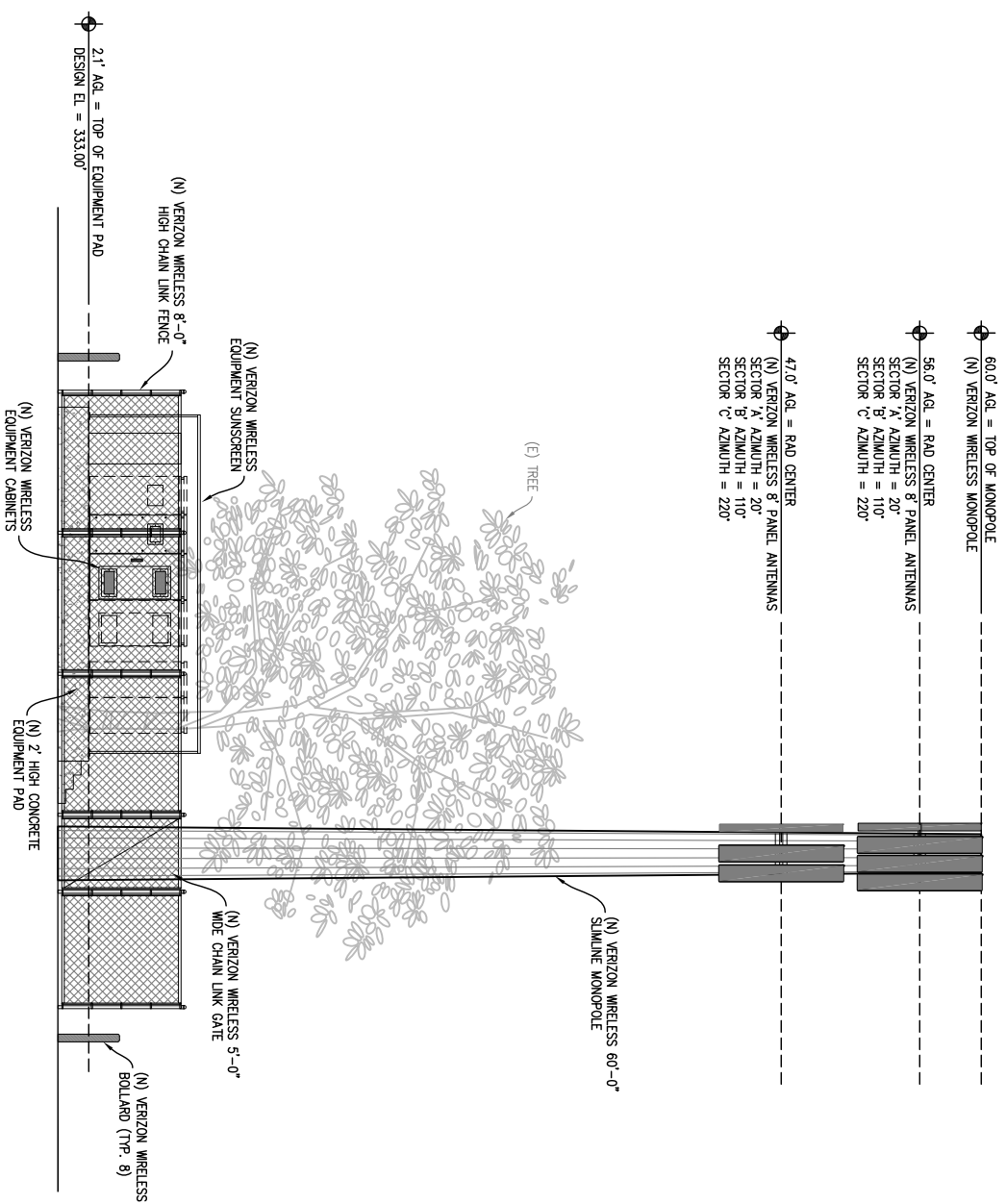
SOUTH ELEVATION VIEW



SCALE: 1" = 6'

1

WEST ELEVATION VIEW



SCALE: 1" = 6'

2

ISSUE STATUS

REV/	DATE	DESCRIPTION	BY
0	11/02/09	PRELIMINARY	DL
1	12/01/09	90% ZONING	DA
2	12/07/09	REV EISEMENTS	DA
3	01/15/10	93% ZONING	DA
4	03/16/10	RELOCATE SITE	DA
5	05/19/10	REVISE SITE LAYOUT	DA
6	05/27/10	REVISE SITE LAYOUT	DA
7	08/31/10	REV ACCESS ESM'T WIDTH	DA
8	10/29/10	REV POLE	HJ

SDC
WIRELESS
11300 SORRENTO VALLEY RD., SUITE 230
SAN DIEGO, CA 92121
Tel: (619) 552-0134
Fax: (619) 552-0134

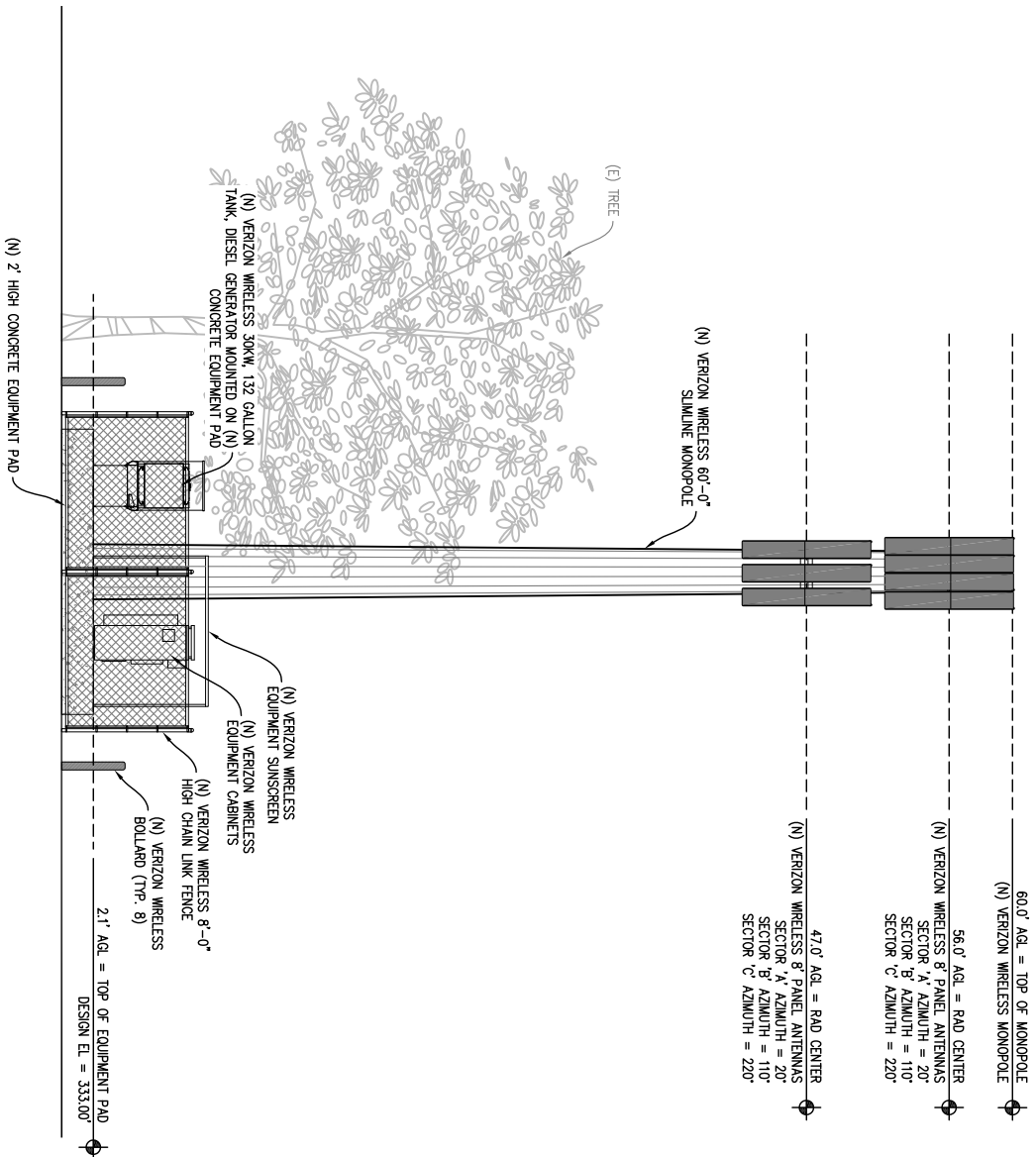
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verizonwireless
2785 MITCHELL DRIVE, BLDG 9
WALNUT CREEK, CA 94598

193513
E. CALDWELL
1748 E CALDWELL AVE
VISALIA, CA
TULARE COUNTY

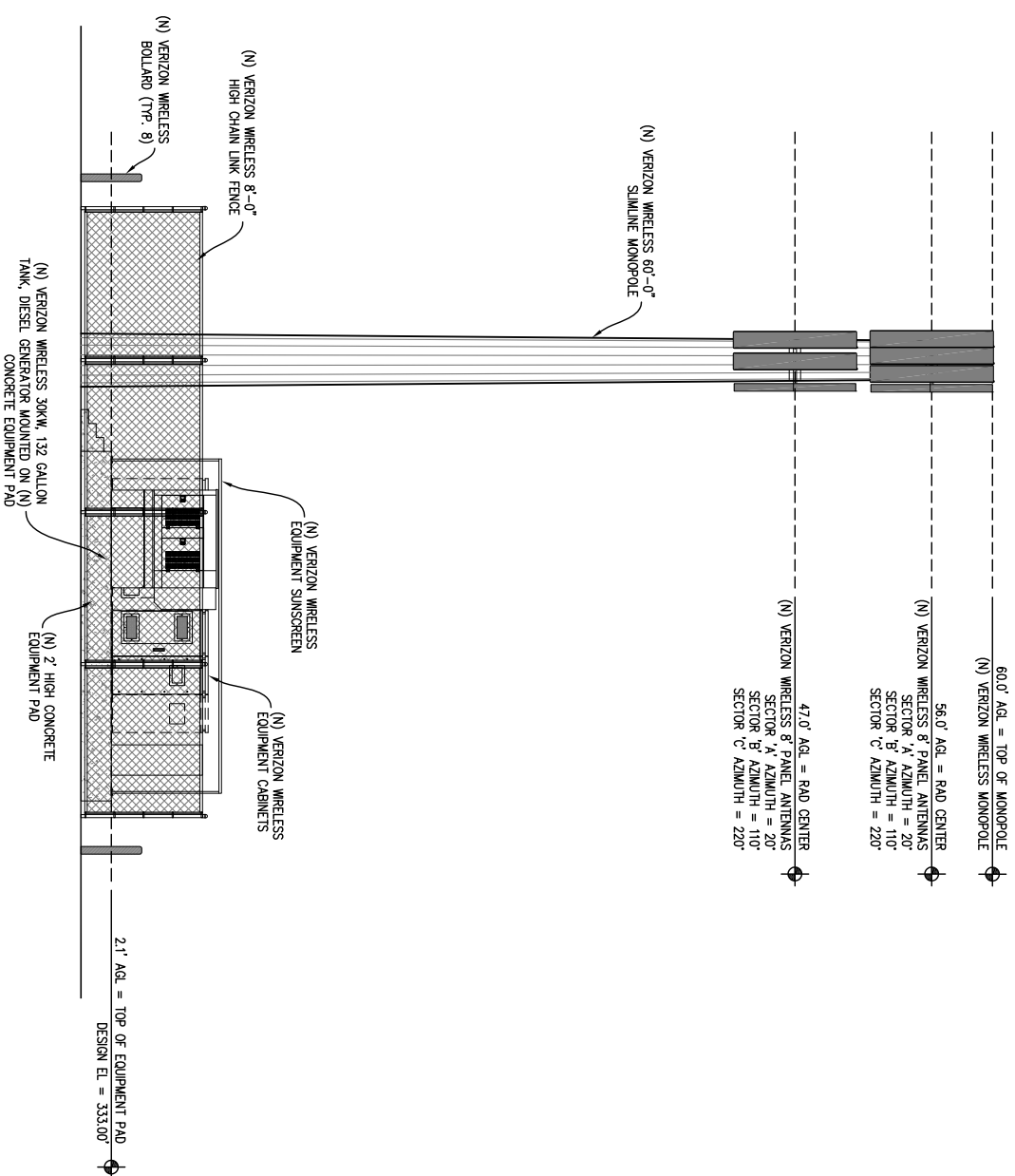
SHEET TITLE:
ELEVATION
VIEWS
A-3

NORTH ELEVATION VIEW



SCALE: 1" = 6'

EAST ELEVATION VIEW



SCALE: 1" = 6'

REV.	DATE	DESCRIPTION	BY
0	11/02/09	PRELIMINARY	DL
1	12/01/09	90% ZONING	DL
2	12/07/09	REV EASEMENTS	DL
3	01/15/10	95% ZONING	DL
4	03/16/10	RELOCATE SITE	DL
5	05/19/10	REVISE SITE LAYOUT	DL
6	05/27/10	REVISE SITE LAYOUT	DL
7	08/31/10	REV ACCESS ESWT WIDTH	DL
8	10/29/10	REV POLE	HL

SDC
WIRELESS
11300 SOMERITO VALLEY RD, SUITE 200
SAN DIEGO, CA 92121
Tel: (619) 525-0194
Fax: (619) 525-0194

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verizonwireless
2785 MITCHELL DRIVE, BLDG 9
WALNUT CREEK, CA 94598

193513
E. CALDWELL
1748 E CALDWELL AVE
VISALIA, CA
TULARE COUNTY

SHEET TITLE:
ELEVATION
VIEWS
A-4

City of Visalia
Agenda Item Transmittal

Meeting Date: October 18, 2010 (continued from September 7, 2010, at the request of staff and October 4, 2010, at the request of the applicant)

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording:

Public hearing for:

Appeal of the Planning Commission's denial of Conditional Use Permit No. 2010-09 and Variance No. 2010-04 Verizon Wireless: The Planning Commission denied the proposal to install a new 80-ft. telecommunications tower, with 12 antenna panels, and outdoor equipment cabinets and back-up generator located at the base of the tower. The site is zoned R-1-6 (Single-Family Residential, 6,000 sq. ft. min. site area). The site is located on the north side of East Caldwell between South Stover Street and South Pinkham Street. (APN: 126-120-064). **Resolution Nos. 2010-___ and 2010-___, required.**

Deadline for Action: Per Visalia Municipal Code Section 17.02.045.B, an appeal before the City Council must be heard within 30 days of the appeal filing date. This appeal was filed on August 19, 2010, requiring the appeal to be heard by September 7, 2010. Per Visalia Municipal Code Section 17.02.045.B, an appeal before the City Council must be heard within 30 days of the appeal filing date. The deadline for the appeal being heard may be extended at the request of the applicant at the discretion of the City Council.

This appeal was filed on August 19, 2010, and the City and appellant have requested three extensions. Staff recommends that the City Council make a final decision on this appeal at the October 18, 2010, City Council meeting.

Contact Name and Phone Number:

Chris Young, Community Development Director (559) 713-4392
Paul Scheibel, AICP, Planning Services Manager (559) 713-4369
Paul Bernal, Senior Planner (559) 713-4025

Submitting Department: Community Development - Planning

Department Recommendation: Staff recommends that the City Council adopt the resolution denying Conditional Use Permit No. 2010-09 without prejudice; and, in addition, that the City Council adopt the resolution denying Variance No. 2010-04. Per Visalia Municipal Code (VMC) Section 17.42.140, denied variances cannot be re-filed under any circumstances within one year. Denying the CUP without prejudice would allow the applicant to re-file a CUP application on that site, but at no taller than the maximum height of 60-feet, as allowed by the Zoning Ordinance.

Denying the CUP without prejudice would allow the applicant to work with the affected neighborhood and potentially re-file a CUP application for the same or substantially the same conditional use on the same or substantially the same site without having to wait one year from

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: 60 min

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

the date of denial. This does not apply to the variance if the variance request is denied. Denial of the variance application requires a one year wait from the date of denial of filing the same or substantially the same variance application on the same or substantially same site.

Existing City Code Standards: The City does not have a telecommunications ordinance that could otherwise set locational and design criteria for cell tower facilities. Also, cell towers such as the facility that is the subject of this Appeal, are not specifically addressed in the City's Zoning Matrix of Allowed Uses as a specific use. Consequently, the City classifies cell towers by line item 154 "Communication Equipment Building".

The Zoning Ordinance allows Communication Equipment Buildings as a permitted use in four zones within the City (C-CM, C-S, I-L, and I-H) and as a conditional use in residential zones, quasi-public zones, and in most commercial zones.

While this Appeal is to be considered in the context of existing City ordinances, policies and precedents, the City Council may determine that it is desirable and appropriate to direct staff to research and prepare a telecommunications ordinance as a separate action. Additionally, this is the first cell tower proposal of vacant residentially zoned property. However, staff and the City Attorney do not believe this fact constitutes a precedent either for or against the subject of this appeal hearing. A more detailed discussion of this final point is provided on page 5 of this report.

Planning Commission Votes: The Planning Commission's votes were 2-2 (Segrue and Soltesz Yes, Lane and Peck No, Salinas Absent) for both the Conditional Use Permit and Variance requests. A tie vote constitutes an effective denial for a Planning Commission action.

The Commissioners voting to approve the request cited the precedent of the City's previous approvals for similar facilities. The Commissioners voting to deny the project questioned the necessity and value of the increased tower height and concern for the future development potential of the 24-acre residentially zoned site.

The applicant (now appellant) testified that the cell tower location and height are necessary to provide adequate service coverage to the southeast part of the City, and the cell tower height would provide the added benefit for facilitating a co-location capability, as was requested by City staff after the Site Plan Review state of project review.

The Commission heard testimony in opposition to the project from 14 citizens residing in the general project area. The resident's opposition was based primarily on the aesthetic impacts of the cell tower, and the potential adverse effects on the value and quality of their neighborhoods. Concerns regarding potential health impacts were raised, but not considered by the Planning Commission at the advice of the City Attorney who cited federal law that preempts local jurisdictions on health considerations regarding cell tower facilities.

Background on Conditional Use Permit No. 2010-08 & Variance No. 2010-04: The CUP is a request by Verizon Wireless to allow the installation of a co-locatable wireless telecommunications tower, with 12 antenna panels, outdoor equipment cabinets and back-up generator. The Variance is a request to allow an 80-foot tall cell tower in the R-1-6 (Single-Family Residential, 6,000 sq. ft. min. site area) zone. A pole or antenna is allowed to be beyond the height limit prescribed by the regulations for the zone in which the site is located by an additional 25 feet for a maximum allowable height of 60-feet, pursuant to Section 17.32.020 of the VMC. Verizon attest the 80-foot height is necessary for the cellular tower to service Verizon Wireless customers in the surrounding area while also facilitating a second set of panel antennas (co-location) on Verizon's monopole. The Planning Commission staff report is included as Exhibit 2.

Planning Commission Hearing: The Planning Commission opened and continued the public hearing on July 26, 2010, and continued CUP No. 2010-09 & Variance No. 2010-04 to the August 9, 2010 Planning Commission meeting (due to a request to re-notice the public hearing).

During the August 9, 2010, public hearing, the Planning Commission heard staff's presentation followed by the applicant regarding the proposed cell tower. During the public hearing, 14 residents from the surrounding neighborhood spoke in opposition to the project. Their issues related to visual blight, relocation of the tower to commercially zoned property, and locating proposed antenna panels on existing towers.

The Planning Commissioners stated that they did not have an issue with cell towers on properties zoned for residential development. However, the Commissioners expressed concerns related to Verizon's necessity for additional cell tower height beyond the 60-foot allowance, and the impact the cell tower would have on the future viability of developing the 24-acre site with single-family homes.

The Planning Commission also considered the testimony and several options including approving the cell tower but denying the Variance application action (which would lower the cell tower height to 60-feet); approving a "stealth" tower design such as a tree or architectural tower; and relocation to another part of 24-acre site. In the end, the Commission vote effectively denied the project entirely. Failure to gain a majority vote resulted in automatic denial of the proposed Conditional Use Permit and Variance application requests.

Appeal Filing By Verizon: On August 19, 2010, the City Clerk staff received the appeal filing. The reasons for the appeal are stated by the appellant as follows (see Exhibit "1" for the appeal statement). In addition, on October 12, 2010, the appellant provided supplemental materials in support of their position. This is included complete as it was received by the City as Exhibit "D" of this report.

1. Development of the proposed R-1-6 site was not imminent.
2. The proposed tower height is based on Verizon's technical requirements.
3. Verizon's need for a tower in the area to provide cell phone coverage.
4. The item should have been continued to allow for additional outreach with the neighborhood.

Issue 1 Development of the proposed R-1-6 site was imminent:

The appellant contends the Planning Commission's statements implied future development of the site was imminent and therefore resulted in the Commissions denial.

Relevant Planning Commission Determination:

The Planning Commission stated concerns regarding the viability of future residential development of the 24-acre site. The Commission noted that there was a non-conforming use on site but the primary concern was determining if the site could ever achieve maximum residential development if the cell tower were approved and constructed at the proposed location. The Commission cited the City's effort in trying to maximize residential infill development when possible, and approval of the cell tower could potentially discourage residential infill development in this area. Staff noted that a development setback of 80-feet from future residential lots was included as Conditions of Approval, but the two opposing Commissioners determined the impact of the cell tower on future residential development justifies denial of the cell tower at this location.

Issue 2 The tower height is based on Verizon's needs:

The appellant contends that Verizon's need of an 80-foot cell tower is based on the needs for cellular phone coverage in this area of the community. The requested height was not based on staff's recommendation for co-location but Verizon's determination that an 80-foot tower is required to provide the maximum coverage between this proposed tower and other Verizon cell towers. However, Verizon was agreeable to allow co-location opportunities with other cell phone providers on the same tower.

Relevant Planning Commission Determination:

The Planning Commission considered this issue. The Commission questioned whether additional cell tower height actually resulted in other cellular phone companies co-locating onto taller towers. Staff responded that three previous CUP and Variance entitlements for additional cell tower height were approved and that one of those towers has more than one cellular phone company using the tower. This tower is located at 2411 North Dinuba Boulevard. It should be noted, there are other structures in the City of Visalia that have multiple cellular phone companies. These towers and/or structures include the radio transmission towers located on Woodland Street and Caldwell Avenue, the top of the Marriott Hotel, and water tower in the industrial park.

Staff informed the Planning Commission that co-location opportunities are encouraged by staff when feasible, and that staff's support of the additional cell tower height would not constitute an unfair precedent in conflict of the Zoning Ordinance and previous approvals of similar facilities.

The Commission deliberated the location and height of the proposed cell tower and could not come to a majority consensus on the request for the 80-foot cell tower. Two Commissioners stated their concerns that additional cell tower height does not necessarily lead to co-location opportunities as originally intended. In addition, two Commissioners could not support the Variance findings to support the additional height, and no evidence to support Verizon's need for a tower at this location.

Issue 3 Verizon's need for a tower in the area to provide cell phone coverage:

The appellant contends statements were made after the public hearing was closed that questioned Verizon's need for coverage in this area and misunderstood Verizon's technology in determining site and tower height requirements.

Relevant Planning Commission Determination:

During the Planning Commission discussion, the issue on whether a cell tower was needed at this location was raised. There was not a majority consensus by the Commission regarding this issue as two Commissioners stated that they did not have an issue with Verizon's request for a cell tower at this location. The Commission did not deliberate any further on this issue other than to note that past Commission reviews on cell phone towers were analyzed based on land use impacts and did not call to the applicants business or technological decisions into question.

Issue 4 The item should have been continued to allow for additional outreach with the neighborhood:

The appellant contends that the Planning Commission should have considered continuing the item which would have allowed the appellant and residents to try to resolve issues raised during the public hearing rather than denying the project.

Relevant Planning Commission Determination:

The Planning Commission, upon receiving input from staff, the applicant, and the neighborhoods concluded that there was no favorable sentiment from the residents for the tower being in their neighborhoods. Further there would not be a strong majority consensus among Commissioners to either approve or deny the project. This was evident based on a motion presented by Commissioner Soltesz which was a motion to approve only the Conditional Use Permit. The motion failed to gain a second to support the motion. Ultimately, the Commission was split on the issue and it became apparent that continuing the item for a full Commission vote would still most likely generate an appeal to the City Council.

Prohibition on Filing New Conditional Use Permit and Variance Applications

Per Zoning Code Section 17.38.050., following the denial of a conditional use permit application or the revocation of a conditional use permit, no application for a conditional use permit for the same or substantially the same conditional use on the same or substantially the same site shall

be filed within one year from the date of denial or revocation of the permit unless such denial was a denial without prejudice by the Planning Commission or City Council.

Furthermore, per Zoning Code Section 17.42.140., following the denial of a variance or exception application or the revocation of a variance or exception, no application for the same or substantially the same site shall be filed within one year of the date of denial of the variance or exception application or revocation of the variance or exception.

Cell Tower Locations

A record search of City files has disclosed there were 32 Site Plan Review submittals for cell towers and/or equipment in the City of Visalia over the course of a 10 year period (2000-2010). Of these Site Plan Review submittals, 14 of these resulted in either a CUP and/or Variance application submittal. Of these 15 CUP/Variance applications, only one cell tower was approved on land zoned for residential use. This cell tower was approved by the Planning Commission on August 9, 2010 (CUP No. 2010-010 & Variance No. 2010-05) and is located on the Visalia First Church property (southwest corner of Caldwell and Linwood).

Although the approved cell tower at the Visalia First Church property is the first cell tower recently approved on a R-1-6 zoned site, this approval does not set a precedent for either approving or denying cell towers on property zoned for residential use. The Zoning Ordinance identifies "Telecommunications Equipment Building" as a "conditionally" permitted use in the R-1 zone, and does not require "Telecommunications Equipment Building" be co-located with non-residential type uses (i.e., church site) in the R-1 zone.

It should be noted, the large telecommunication tower located at 1919 South Woodland Street is on property zoned for residential use but the tower was constructed circa 1940. There was a CUP approval in 1991 that allowed a cellular phone company to install equipment on and around the tower for the purpose of cellular phone use.

The remaining towers that were approved and constructed within the past 10 years include five cell towers constructed in the Q-P zone, two cell towers located in the C-R zone, two cell towers located in the C-S zone, three cell towers in the CSO zone, and one cell tower in the PA zone. There are other locations in the City where cellular equipment is located but did not require discretionary action. Cellular equipment can be found on water towers in the light industrial zone, on other telecommunication/radio towers, and at the top of the Marriot Hotel and Bank of the Sierra buildings.

This cell tower request (i.e., CUP No. 2010-09 & Variance No. 2010-04) is the first cell tower applied for in a residential zone that is not located on an existing church site.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: The Planning Commission held a public hearing on August 9, 2010, denying Conditional Use Permit No. 201-09 and Variance No. 2010-04 on a 2-2 vote.

Alternatives: The City Council may:

1. Overturn the decision of the Planning Commission and approve Conditional Use Permit No. 2010-09 and Variance No. 2010-04; or
2. Approve Conditional Use Permit No. 2010-09 limiting the cell tower height to 60-feet, and deny Variance No. 2010-04; or
3. Refer the matter back to the Planning Commission; or
4. Continue the matter to a future City Council hearing for additional information if necessary.

Attachments:

- Resolutions upholding the denial of Conditional Use Permit No. 2010-09 without prejudice, and denying Variance No. 2010-04 – pg. 6
- Exhibit “1” – Appeal of Planning Commission Action dated August 18, 2010 – pg. 11
- Exhibit “2” – Planning Commission Staff report dated August 9, 2010 – pg. 14
- Exhibit “A” –Site Plans for Verizon cell tower – pg. 49
- Exhibit “B” – Verizon cell tower elevations – pg. 52
- Exhibit “C” – Photosimulation of proposed Verizon cell tower – pg. 54
- Exhibit “D” – Supplemental material provided by the appellant dated October 12, 2010

Recommended Motion: I move to deny the appeal and deny Conditional Use Permit No. 2010-09 without prejudice by adopting Resolution No. 2010 - ____, and deny Variance No. 2010-04 by adopting Resolution No. 2010 - ____.

Alternative Motion 1: I move to overturn the decision of the Planning Commission and approve Conditional Use Permit No. 2010-09 and Variance No. 2010-04.

Alternative Motion 2: I move to approve Conditional Use Permit No. 2010-09 limiting the cell tower height to 60-feet, and deny Variance No. 2010-04.

Alternative Motion 3: I move to refer the matter back to the Planning Commission.

Alternative Motion 4: I move to continue the matter to a future City Council hearing for additional information if necessary.

Environmental Assessment Status

CEQA Review: No action needs to be taken on an environmental document subject to Section 15270 of the California Environmental Quality Act. However, if the City Council approves the conditional use permit and variance as requested by the applicant, this project is categorically exempt from the provisions of CEQA under Section 15303 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA)

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)*

Copies of this report have been provided to:

Planning Commission

Appellant

Persons providing written correspondence on the matter

RESOLUTION NO. 2010-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA DENYING THE APPEAL AND DENYING CONDITIONAL USE PERMIT NO. 2010-09 WITHOUT PREJUDICE, A REQUEST BY VERIZON WIRELESS TO INSTALL A NEW 80-FT. TELECOMMUNICATIONS TOWER, WITH 12 ANTENNA PANELS, AND OUTDOOR EQUIPMENT CABINETS AND BACK-UP GENERATOR LOCATED AT THE BASE OF THE TOWER. THE SITE IS ZONED R-1-6 (SINGLE-FAMILY RESIDENTIAL, 6,000 SQ. FT. MIN. SITE AREA) AND IS LOCATED ON THE NORTH SIDE OF EAST CALDWELL BETWEEN SOUTH STOVER STREET AND SOUTH PINKHAM STREET.
(APN: 126-120-064)

WHEREAS, Conditional Use Permit No. 2010-09, A request by Verizon Wireless to install a new 80-ft. telecommunications tower, with 12 antenna panels, and outdoor equipment cabinets and back-up generator located at the base of the tower. The site is zoned R-1-6 (Single-Family Residential, 6,000 sq. ft. min. site area) and is located on the north side of East Caldwell between South Stover Street and South Pinkham Street. (APN: 126-120-064); and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice did hold a public hearing before said Commission on July 26, 2010, and continued said hearing to August 9, 2010; and

WHEREAS, the Planning Commission of the City of Visalia, after conducting a public hearing, and denied Conditional Use Permit No. 2010-09 & Variance No. 2010-04; and

WHEREAS, an appeal of the Planning Commission's denial of Conditional Use Permit No. 2010-09 pertaining to error or abuse of discretion by the Planning Commission in its action and pertaining to the Commission's actions not being supported by evidence in the record was received on August 19, 2010; and

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice held a public hearing before said Council on September 7, 2010 and ultimately continued said hearing to November 1, 2010; and

WHEREAS, the City Council finds the denial of Conditional Use Permit No. 2010-09 was made in accordance with Chapter 17.38 (Conditional Use Permits) of the City of Visalia, based on the evidence contained in the staff report and testimony presented at the public hearing.

WHEREAS, if Conditional Use Permit No. 2010-09 is denied without prejudice, no action needs to be taken on an environmental document subject to Section 15270 of the California Environmental Quality Act.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Visalia makes the following specific findings based on the evidence presented:

1. That the proposed project will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
2. That the proposed conditional use permit is not consistent with the policies and intent of the General Plan and Zoning Ordinance. Specifically, the project is not consistent with the required findings of Zoning Ordinance Section 17.38.110:
 - The proposed location of the conditional use permit is not in accordance with the objectives of the Zoning Ordinance and the purposes of the zone in which the site is located.

- The proposed location of the conditional use and the conditions under which it would be operated or maintained will be detrimental to the public health, safety, or welfare, nor materially injurious to properties or improvements in the vicinity
3. Conditional Use Permit No. 2010-09 is denied, no action needs to be taken on an environmental document subject to Section 15270 of the California Environmental Quality Act.

BE IT FURTHER RESOLVED that the City Council hereby denies Conditional Use Permit No. 2010-09 without prejudice on the real property here in above described in accordance with the terms of this resolution under the provisions of Section 17.38.110 of the Ordinance Code of the City of Visalia.

RESOLUTION NO. 2010-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA UPHOLDING THE PLANNING COMMISSION'S DENIAL OF VARIANCE NO. 2010-04, A REQUEST BY VERIZON WIRELESS TO INSTALL A NEW 80-FT. TELECOMMUNICATIONS TOWER, WITH 12 ANTENNA PANELS, AND OUTDOOR EQUIPMENT CABINETS AND BACK-UP GENERATOR LOCATED AT THE BASE OF THE TOWER. THE SITE IS ZONED R-1-6 (SINGLE-FAMILY RESIDENTIAL, 6,000 SQ. FT. MIN. SITE AREA) AND IS LOCATED ON THE NORTH SIDE OF EAST CALDWELL BETWEEN SOUTH STOVER STREET AND SOUTH PINKHAM STREET. (APN: 126-120-064)

WHEREAS, Variance No. 2010-04, A request by Verizon Wireless to install a new 80-ft. telecommunications tower, with 12 antenna panels, and outdoor equipment cabinets and back-up generator located at the base of the tower. The site is zoned R-1-6 (Single-Family Residential, 6,000 sq. ft. min. site area) and is located on the north side of East Caldwell between South Stover Street and South Pinkham Street. (APN: 126-120-064); and

WHEREAS, the Planning Commission of the City of Visalia, after conducting a public hearing, and denied Conditional Use Permit No. 2010-09 & Variance No. 2010-04; and

WHEREAS, an appeal of the Planning Commission's denial of Variance No. 2010-04 pertaining to error or abuse of discretion by the Planning Commission in its action and pertaining to the Commission's actions not being supported by evidence in the record was received on August 19, 2010; and

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice held a public hearing before said Council on September 7, 2010 and ultimately continued said hearing to November 1, 2010; and

WHEREAS, the City Council finds the denial of Variance No. 2010-04 was made in accordance with Chapter 17.42 (Variances and Exceptions) of the City of Visalia, based on the evidence contained in the staff report and testimony presented at the public hearing.

WHEREAS, if Variance No. 2010-04 is denied, no action needs to be taken on an environmental document subject to Section 15270 of the California Environmental Quality Act.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Visalia makes the following specific findings based on the evidence presented:

1. That the strict or literal interpretation and enforcement of the Zoning Ordinance would not result in practical difficulty or unnecessary hardship inconsistent with the objectives of the Zoning Ordinance.

The cell tower variance request for additional height (i.e., 80-feet) can not be supported because of the visual aesthetics impacts of the cell tower and its potential effects on the value and quality of the surrounding and future neighborhoods.

2. That there are no exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property, which do not apply to the other properties classified in the same zone.

The cell tower variance request for additional height (i.e., 80-feet) can not be supported because of the visual aesthetics impacts of the cell tower and its potential effects on the value and quality of the surrounding and future neighborhoods.

3. That the strict or literal interpretation and enforcement of the ordinance would not deprive the applicant of privileges enjoyed by the owners of the other properties classified in the same zone.

The cell tower variance request for additional height (i.e., 80-feet) can not be supported because of the visual aesthetics impacts of the cell tower and its potential effects on the value and quality of the surrounding and future neighborhoods.

4. That the granting of the variance would constitute a grant of special privilege inconsistent with the limitations on other properties in the same zone.

The cell tower variance request for additional height (i.e., 80-feet) can not be supported because of the visual aesthetics impacts of the cell tower and its potential effects on the value and quality of the surrounding and future neighborhoods.

5. That the granting of the variance would be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

The approval of this variance would be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity. The cell tower variance request for additional height (i.e., 80-feet) can not be supported because of the visual aesthetics impacts of the cell tower and its potential effects on the value and quality of the surrounding and future neighborhoods.

BE IT FURTHER RESOLVED that the City Council hereby denies Variance No. 2010-04 on the real property here in above described in accordance with the terms of this resolution under the provisions of Section 17.42.110 of the Ordinance Code of the City of Visalia.