

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 15, 2010



CONVENTION CENTER, 303 E. Acequia, Visalia CA 93291

Work Session 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. WORK SESSION AND ACTION ITEMS (as described)

- 4:10 p.m. 1. Annual Let's Make a Difference Day Power Point Presentation. **Receive public comment.**
- 4:20 p.m. 2. Fiscal Year 09/10 Report On City's Graffiti Abatement Program. **Receive public comment.**
- 4:30 p.m. 3. Adopt 2011 Retiree Health Care benefit contribution rates for 2011. **Receive public comment.**

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

ITEMS OF INTEREST

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

4. Conference with Real Property Negotiators (GC 54956.8)
Property: Portions of APN 081-160-011 (Plaza Drive and Hurley – no site address) and 081-130-013 (615 N. Plaza Drive)
Under Negotiation: Price, terms, and conditions of potential purchase
Negotiating Parties for Landowners: Stanley C. Bennett and Tamra A. Bennett
Negotiating Parties for City: Steve Salomon, Alex Peltzer, Adam Ennis, James Koontz, and Fred Lampe
5. Conference with Legal Counsel – Existing Litigation. (Subdivision (a) of G.C. §54956.9)
Name of Case:
Visalia Police Officers' Association vs. City of Visalia; City Council, City of Visalia
TCSC #10-239882
6. Public Employee Performance Evaluation (GC 54957)
Title: City Manager

CALL TO ORDER REGULAR SESSION

PLEDGE OF ALLEGIANCE

INVOCATION – Pastor Michael Lopes, Grace Community Church

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.*

7:00 p.m.

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. Report from Continuum of Care on the recent Project Homeless Connect events
8. **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) Reappointment of Evan Long to serve on the Delta Vector Control District Board of Directors.
 - c) Authorization for the City Manager to enter into a Memorandum of Understanding between The City of Visalia and The City of Tulare for the exchange of personnel to serve as a Hearing Officer during Code Enforcement Administrative Hearings.
 - d) Introduction of **Ordinance No. 2010-10** authorizing the lease of approximately 233 acres of land on 11 parcels at the Visalia Municipal Airport to Eric Shuklian for continued use for agricultural purposes. (**Ordinance 2010-10 required**)
 - e) Introduction of **Ordinance No. 2010-11** authorizing the lease of facilities at the Visalia Municipal Airport to D. Lancy Allyn for an Aircraft Storage Hangar. (**Ordinance 2010-11 required**)
 - f) Authorization to proceed with a Request for Proposal (RFP) for the development of a solar energy generating facility.
 - g) Authorization to amend the Water Conservation Plant design services contract with Parsons to reflect the change in focus and scope of the project. This amendment will be an increase of \$1,331,640 over the original contract amount of \$7,161,495. The new contract amount will be \$8,493,135. Funds are set aside in the Wastewater Enterprise.

- h) Authorize City Manager to execute a Restated Memorandum of Understanding between the County of Tulare, the Exeter Irrigations District, Lakeside Irrigation district, and Tulare Irrigation District to develop an Integrated Regional Water Management Plan for the Kaweah River Basin. Authorize the City Manager to submit a grant proposal as part of the Kaweah Basin IRWMP application to help fund a pipeline to deliver recycled wastewater to nearby users.
- i) Receive recommendation from the Parks and Recreation Commission regarding items related to the proposed future softball complex at Riverway Sports Park until the project becomes closer to reality.
- j) Authorization to allocate Federal Department of Housing & Urban Development – Community Development Block Grant (CDBG) funds in increments of \$15,000 per year over a five (5) year period to support Family Services and the Tulare Housing First Program in providing housing services for chronically homeless persons.
- k) First reading of **Ordinance 2010-19** amending Chapter 8.24, Fireworks, of the Visalia Municipal Code, updating the ordinance and allowing for the streamlining of the fireworks permit process and increasing the population ratio. **(Ordinance 2010-19 required)**
- l) Approve **Resolution 2010-76** authorizing the positions of Administrative Services Director and Benefit and Insurance Manager to represent the City of Visalia in the Excess Insurance Authority Joint Powers Authority. **(Resolution 2010-76 required)**
- m) Authorize the Recordation of the Final Map for Pheasant Ridge Unit No. 3C, located east of Preston Street at Modoc Avenue (15 lots) and the Annexation of Pheasant Ridge 3C into Landscape and Lighting District No. 05-19, Pheasant Ridge **(Resolutions 2010- and 20-10 required)**

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.*

Convene Jointly as the Visalia City Council and Visalia Redevelopment Agency Board to consider the following:

9. PUBLIC HEARING - Mooney Blvd. Corridor Zoning Study Amendments

The project pertains to certain properties in the City of Visalia located along or within ¼ mile of both sides of Mooney Boulevard between Noble Avenue and Visalia Parkway, and the south side of Caldwell Avenue between Sallee Street and Packwood Creek and consists of:

Certification of Negative Declaration 2010-73. *(Resolution 2010-70 required)*

General Plan Amendment No. 2010-08: A request by the City of Visalia to change the General Plan land use designation:

A: from Regional Retail Commercial to Shopping/Office Commercial, for all properties designated Regional Retail Commercial located on both sides of Mooney Boulevard between Beverly Drive and Walnut Avenue. **(Resolution 2010-71 required)**

B: from Professional/ Administrative Office to Shopping/Office Commercial, for all properties designated Professional/ Administrative Office located on the east side of Mooney Boulevard between Noble Avenue and Beverly Drive. *(Resolution 2010-72 required)*

C: from Regional Retail Commercial to Professional/ Administrative Office on property totaling approximately 2.8 acres, for all properties designated Regional Retail Commercial located on the south side of Walnut Avenue approximately 940 feet east of Mooney Boulevard. *(Resolution 2010-73 required)*

D: from Regional Retail Commercial to Professional/ Administrative Office on property totaling approximately 9.2 acres, for all properties designated Regional Retail Commercial located south of Beech Avenue and north of Whitendale Avenue approximately 550 feet west of Mooney Boulevard. *(Resolution 2010-74 required)*

Change of Zone No. 2010-09: A request by the City of Visalia to change the zoning designation:

A: from C-R (Regional Retail Commercial) to C-SO (Shopping/Office Commercial), for all properties zoned C-R located on both sides of Mooney Boulevard between Beverly Drive and Walnut Avenue. *(Ordinance 2010-12 required)*

B: from PA (Professional/ Administrative Office) to C-SO (Shopping/Office Commercial), for all properties zoned PA located on the east side of Mooney Boulevard between Noble Avenue and Beverly Drive. *(Ordinance 2010-13 required)*

C: from C-R (Regional Retail Commercial) to PA (Professional/ Administrative Office), for property totaling approximately 2.8 acres located on the south side of Walnut Avenue approximately 940 feet east of Mooney Boulevard. *(Ordinance 2010-14 required)*

D: from C-R (Regional Retail Commercial) to PA (Professional/ Administrative Office), for property totaling approximately 9.2 acres located south of Beech Avenue and north of Whitendale Avenue approximately 550 feet west of Mooney Boulevard. *(Ordinance 2010-15 required)*

Zoning Text Amendment No. 2010-10: A request by the City of Visalia to amend Title 17 of the Visalia Municipal Code (Zoning Ordinance):

A: to add definitions of certain retail uses that include convenience store, drug store / pharmacy, and supermarket / grocery store. *(Resolution 2010-75 required to deny; OR amendment Ordinance 2010-16 if approved)*

B: to add certain permitted and conditionally-allowed uses (including supermarkets 30,000 sq. ft. or smaller, car washes, and convenience stores) in the Regional Retail Commercial (C-R) zone and to add new categories (including dollar / variety stores and supercenters) to the list of allowed land uses. *(Ordinance 2010-16 required)*

C: to reduce the front and street-side setback standards to 20 feet for buildings and to require 25 feet for front and street-side landscaping for properties in the portion of Design District "A" that runs along Mooney Boulevard between Noble Avenue and Visalia Parkway. *(Ordinance 2010-17 required)*

D: to add procedures for granting up to a twenty (20) percent administrative reduction of the parking requirements for properties in the portion of Design District "A" that runs along Mooney Boulevard between Noble Avenue and Visalia Parkway. (*Ordinance 2010-18 required*)

Adjourn as Visalia City Council and Visalia Redevelopment Agency Board and remain seated as the Visalia City Council.

CLOSED SESSION REPORT (if any)

Upcoming Council Meetings

- 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
- Tuesday, January 18, 2011, 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
Agenda Item Transmittal**

Meeting Date: November 15, 2010

Agenda Item Number (Assigned by City Clerk): 1

Agenda Item Wording: Make a Difference Day Power Point Presentation

Deadline for Action:

Submitting Department: Parks and Recreation

Contact Name and Phone Number: Jim Bean, 713 -4564

Recommendation:

This is an information report only. No Council action is required.

Discussion:

On October 23, 2010, Visalia held our annual Make a Difference Day Event. The Parks and Urban Forestry and Building Division's staff along with over three hundred volunteers, planted trees, removed graffiti, and installed decomposed granite paths in the parks and riparian areas from 8 am to 11 am.

To make this event successful a committee was implemented approximately two months prior to the event, which consisted of City staff and Loraine Douglas, who was representing the Jesus Christ of Latter Day Saints Church. This is Loraine Douglas' first year working with City staff and providing project coordinators and volunteers for each project. Because of Loraine's efforts, the Jesus Christ of Ladder Day Saints Church provided approximately two hundred volunteers to assist with these projects. Their groups assisted with the Willow Creek Ponding Basin tree and plant planting project as well as tree planting and painting tables and arbors at Plaza Park. There were also volunteers from El Diamante High School, Redwood High School, Mt. Whitney High School, Soroptimist Club, Sunset Rotary Club City Council Members, and Park and Recreation Commissioners, just to name a few. Brain Kemp from the Urban Tree Foundation and Community Service and Employment Services (CSET) were also instrumental in preparing Willow Creek Ponding Basin site for the project, installing irrigation, pre-drilling holes for planting and had the trees and plants on site on the morning of the event. The volunteers planted approximately 800 trees and plants at these locations. The Make a Difference Day event was very successful due to planning by the subcommittee and the volunteers. The subcommittee consisted of Jim Bean, Jeff Fultz, David Pendergraft, Ray Palomino, Brian Kemp, Melissa Tracy, Loraine Douglas and Stephanie Bartsch.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time

(Min.):_15____

Review:

Dept. Head _____
(Initials & date required)

Finance _____ **N/A**
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.

Below are the projects that were completed on Make a Difference Day in Visalia:

1. Willow Creek Ponding Basin / Planted Trees and Plants
 - a. 269 volunteers participated including neighborhood residents and Jesus Christ of Latter Day Saints Church.
 - b. 807 hours of work completed.
 - c. Irrigation installed prior to event with Brian Kempf and Community Services. Employment Training work force.
 - d. 800 trees and plants were planted along the ponding basin area.
2. Plaza Park / Painted Arbors and Tables
 - a. 33 volunteers from the Jesus Christ of Latter Day Saints Church participated.
 - b. 132 hours of work completed.
 - c. 137 tables and benches and 4 arbors were painted and 42 trees were planted.
3. Downtown / Planted Trees
 - a. 31 volunteers participated including volunteers from Mt. Whitney Earth Club and Sunset Rotary Club
 - b. 62 hours of work completed.
 - c. 25 trees were planted in various locations downtown.
4. Santa Fe between Houston and Riggins / Removed Trash and Painted Graffiti
 - a. 35 volunteers participated consisting of Neighborhood Church members, Redwood High School Key Club and El Diamante High School Green Club.
 - b. 140 hours of work completed.
 - c. 60,000 square feet of block wall was painted to remove graffiti and 2 – 30 yard trash bins were removed full of trash.
5. Mill Creek Park / Spreading Mulch
 - a. 14 volunteers participated including volunteers from Redwood High School Interact Club.
 - b. 56 hours of work completed.
 - c. 300 yards of mulch was spread.
6. NE 4th Street & Houston / Neighborhood Clean-up
 - a. 18 volunteers participated including volunteers from Redwood High School Key Club and El Diamante Green Club.
 - b. 72 hours of work completed.
 - c. Neighborhood Clean-up Project
7. Soroptimist Park / Planted Annual Flowers
 - a. 4 volunteers participated from Soroptimist Club
 - b. 8 hours of work completed.
 - c. Annual flowers were planted

Attachments: Power Point presentation for Make a Difference Day

Recommended Motion (and Alternative Motions if expected):

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

City of Visalia

Let's Make a Difference Day



October 23, 2010

Coordinated By Parks & Recreation Department

- * Jim Bean, Parks & UF Manager
 - * Jeff Fultz, Parks Supervisor
 - * David Pendergraft, UF Supervisor
- * Ray Palomino, Bldg Services Coordinator
 - * Melissa Tracy, Sr. Office Asst.
 - * Loraine Douglas, LDS Church
- * Stephanie Bartsch, Neighborhood Church
 - * Brian Kempf, Urban Tree Foundation

Willow Creek Ponding Basin



- Church of Jesus Christ Latter Day Saints
- Neighborhood residents
- 269 volunteers



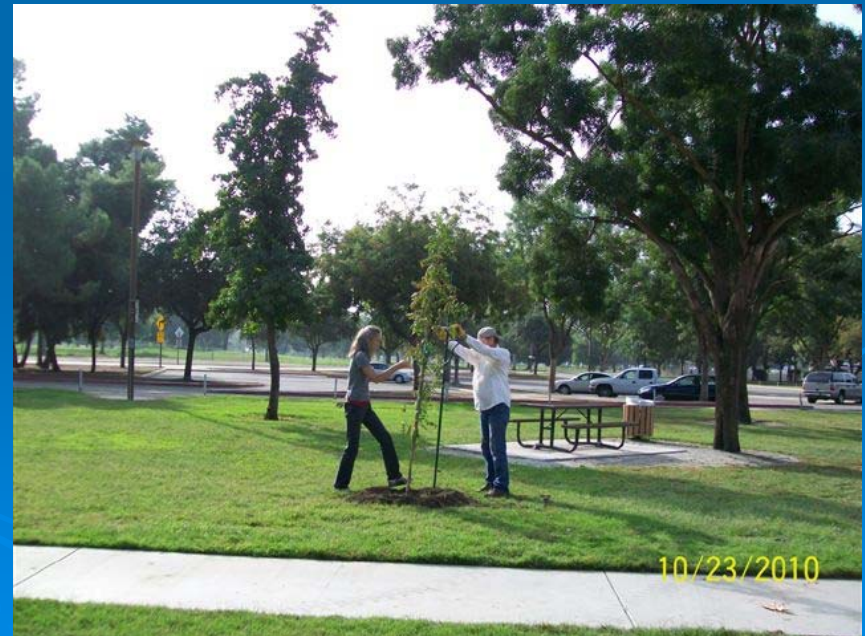
- 800 trees and plant were planted
- 807 project hours

Plaza Park

- Jesus Christ of Latter Day Saints Church participated



- 33 volunteers
- 137 tables and 4 arbors were painted
- 42 trees were planted
- 132 project hours



Downtown Visalia

- Mt. Whitney Earth Club & Sunset Rotary Club
- 31 volunteers
- 25 trees planted



Santa Fe Roadside Graffiti & Trash Removal



- Neighborhood Church
- Redwood High School Key Club
- El Diamante High School Green Club
- 35 volunteers
- 60,000 sq ft of block wall painted
- 140 project hours

Mill Creek Park



- Redwood High School Interact Club
- 14 volunteers



- 300 yards of mulch spread
- 56 project hours

NE 4th Street & Houston



- Redwood High School Key Club
- El Diamante Green Club
- 18 volunteers

- 1 30-yard trash can filled and removed
- 72 project hours



Soroptimist Park

- Soroptimist Club
- 4 volunteers



- Annual flowers planted
- 8 project hours



Success!



372 volunteers achieved 1277 total project hours
A special “THANK YOU” to all that participated!

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

Agenda Item Number (Assigned by City Clerk): 2

Agenda Item Wording: Fiscal Year 09/10 Report On City's Graffiti Abatement Program

Deadline for Action: None

Submitting Department: Parks and Recreation Department

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

Recommendation:

This is an information report only. No Council action is required.

Current Program:

The City of Visalia established a Graffiti Abatement Program in 1999. In September 2006, the program was transferred from the Visalia Fire Department to the Parks and Recreation Department with the Buildings and Parks Divisions supervising the removal of graffiti City-wide and in the Parks. In July 2010, the entire Graffiti Abatement Program was transferred to the Buildings Division.

This report covers graffiti removal activities from July 1, 2009 through June 30, 2010 under the supervision of the Buildings Division of the Parks and Recreation Department.

The graffiti abatement program consists of one supervisor, one hourly graffiti program coordinator and four (hourly) graffiti maintenance workers. The hourly employees work a maximum of 1,000 hours per year, so the removal workers have 4,000 hours available to remove graffiti City-wide and in the Parks.

The Parks and Recreation Department set the following goals for the program for Fiscal Year 2009-2010:

- **Remove reported graffiti within 48 hours**

Status: During FY 2008-2009, the department was averaging 4 days removal time. In July 2009, the program was increased from (3) three Graffiti Maintenance Workers to (4) four. The removal time has been within an average of 48 hours in FY 2009-2010.

- **Improve methods on graffiti removal**

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.

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

- **Increase participation of property owners**

Status: City staff is continuously improving communication and cooperation with property owners and groups who remove graffiti from residential and commercial establishments. In addition, the Graffiti Maintenance Workers this year pursued projects to reduce graffiti vandalism with friendly colors to match neighborhood backgrounds.

- **Promote public awareness of program**

Status: We continue to promote the graffiti hotline by posting the phone number on our city trucks, by enhancing our graffiti abatement web site to get the information out to the public, by participating in City promoted programs, and by the Graffiti workers communicating with the public at work sites.

- **Encourage Volunteer participation**

The City has established a list of volunteer groups and individuals that remove graffiti throughout the City of Visalia. In 2009, on the Annual Church Clean Up Day volunteers removed 40,000 square feet of graffiti. On Earth Day volunteers removed 20,000 square feet, and on Make a Difference Day, volunteers removed 47,000 square feet of graffiti. The program has 15 individual volunteers currently who removed approximately 8000 square feet of graffiti throughout Visalia in fiscal year 09/10.

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

Ray Palomino, the City's Building Services Coordinator supervises the citywide removal program with assistance from Donny MacLennan, Sr. Building Maintenance Technician. Ray and Donny have been instrumental in overseeing the removal program and scheduling the four hourly graffiti maintenance workers to achieve seven days per week of removal.

The Graffiti Maintenance Workers digitally photograph the graffiti (before and after). Graffiti photos are downloaded monthly to a CD and filed. The Graffiti Abatement Coordinator works closely with the Police Department and the District Attorney's office on restitution cases.

The Graffiti Abatement Coordinator works with volunteers to remove graffiti in the community. The program provides paint to volunteers who are willing to cover graffiti on public property that is tagged repeatedly. The Urban Forestry Division continues to plant vines along landscape

and lighting area walls to deter tagging. The graffiti maintenance workers will immediately remove graffiti close to schools and in highly visible areas if it is offensive or obscene.

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

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

Abatement of graffiti can be accomplished by removal with chemicals and power washer, painting over the graffiti, or by sand blasting the surface. From July 2009 through June 2010, the City's Graffiti Abatement Program crew removed or covered 682,972 square feet of graffiti City-wide and 220,547 square feet of graffiti in the City Parks. In Fiscal Year 2008-09 the program removed 577,643 square feet of graffiti. Funding for the citywide removal program comes from the Solid Waste Enterprise Fund.

In Fiscal Year 2008-2009 the graffiti removal was an average of 4 days. In Fiscal Year 2009-2010 the graffiti removal has been an average of 2 days.

In January 2009 council approved hiring a fourth hourly employee for the graffiti abatement program for Fiscal Year 2009-2010.

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

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

Prior Council/Board Actions: None

Committee/Commission Review and Actions: No action needed.

Attachments: Power Point Presentation

Recommended Motion (and Alternative Motions if expected):

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

CITY OF VISALIA



Graffiti Abatement Program
Fiscal Year 2009-2010

NOVEMBER 15, 2010

Graffiti Abatement Program

Background:

- **City of Visalia established a program in November 1999.**
- **The Parks & Recreation Department began managing the program in 2006 in the City Parks and Citywide.**

Graffiti Abatement Program

Current Program Staff:

- **One Part-Time (1,000 hr.) Program Coordinator**
- **Four Part-Time (1,000 hr.) Graffiti Maintenance Workers**

*(Each hourly Graffiti Maintenance Worker works 1000 hours a year---
a variable schedule, 20 hours per week—7 days a week removal)*

Who's In Charge . . .

Ray Palomino, Buildings Division

Supervises the Graffiti Abatement Program

Nancy Cunha, Program Coordinator

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

Graffiti Abatement Program Coordinator



Nancy Cunha

Responsibilities:

- Graffiti Hotline Phone calls
- Coordinates work orders
- Tracks monthly statistics, prepares reports, prepares restitution claims
- Tracks photos taken before and after on graffiti vandalism
- Promotes public awareness, collaborate with property owners
- Work with volunteers and other organizations
- Works closely with the Police Department
- Works with Code Enforcement, Traffic Safety, Solid Waste, Urban Forestry & Parks
- Works with Other Entities (Downtown Visalians, Cal Tran, Visalia Unified Schools, California Water District)

Graffiti Maintenance Workers



Jess Huerta – Eliseo Martinez – Victor Correa – Gary Priday

Methods of Removing Graffiti

Paint roller



Aerosol spray paint



Graffiti remover



Power wash



Sandblasting



GRAFFITI IN THE COMMUNITY



Ferguson at Dinuba Blvd (Hwy 63)



N. Encina & Vine



NE 3rd & Houston



Graffiti in our Parks

Whitendale Park



Skate Park



7 Oaks Park



CODE ENFORCEMENT COLLABORATION

Removed Over 9300 sq ft on Code Enforcement Properties



N. Douglas and Cain

Police Department Projects

Graffiti Abatement Program has direct communication with the Police Department on graffiti vandalism activity

FY 2009-10 9265 sq ft \$5400 in Restitution Pending



N. Giddings
and Oak



S. La Vida
and Bollinger



COMMUNITY INVOLVEMENT

Make a Difference Day - October 24, 2009 - Total 47,000 SqFt on 3 locations
S. Santa Fe & Caldwell (1 of 3 locations)



Church Clean Up Day - April 11, 2010
Total 40,000 SqFt on 3 locations



Earth Day - April 17, 2010
Total 20,000 SqFt on 1 location



GRAFFITI IS EVERYWHERE

ARTISTIC GRAFFITI



GANG RELATED GRAFFITI



MORE GRAFFITI EVERYWHERE

Road Barriers



Sidewalks



Traffic Signs



Trees



Rocks



Playground equipment



Statistical Information

Graffiti Abatement Program

	CITYWIDE		PARKS	
	FY 08-09	FY 09-10	FY 08-09	FY 09-10
Hours worked	2,000	3,000	1,000	1,000
Sq Ft Graffiti Removed	487,051	682,972	90,592	220,547
Total Sq Ft Graffiti Removed	FY 08/09	577,643	FY 09/10	903,519
Department Projects	38,375	173,811	5720	41,700
Community Projects- Church clean up, Earth Day, Make a Difference Day	76,573	112,400	0	2,700
Total Requests received	3,801	2651	770	559
Work Orders issued	2,090	2268	577	498
District 1 North		(1469)		(302)
District 2 South		(799)		(196)
Materials Used	Paint- 2538 Gals	Aerosol Paint-	697 cans	
	Sand- 13,900 lbs	Chemical Rmvr-	556 Gals	

Additional Efforts

- ◆ Downtown Visalians have a 24 hour removal goal and their own graffiti removal worker. (School St. to Mineral King; Johnson to Santa Fe)
- ◆ Cal-Trans removes graffiti on highways under their jurisdiction.
- ◆ Kiosk Contract Services Remove From City's Kiosks (New Directions, Sign Technology & Motivational Signs)



Additional Efforts

- ◆ The Graffiti Abatement maintenance workers assists the Traffic Safety, Solid Waste, Code Enforcement and Police Department with graffiti removal
- ◆ Supply property owners with paint to cover repeated graffiti tagging in their residential area.
- ◆ Work with volunteers that assist in covering up minor graffiti within the community.
- ◆ The Graffiti Abatement Department incorporated measures to help reduce graffiti vandalism with friendly colors to match background

CONTINUED EFFORTS

Reduce Graffiti Vandalism with friendly colors to match background



BEFORE



AFTER

Install vines in Landscape Districts



Improve upon Graffiti Inhibitors



Graffiti Program's Goals 2009-2010

Goals

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

Actual

1. 48 hour average removal time
2. Improved paint techniques, chemical removers/pressure wash, color matching, and restored
3. Increased property owner collaboration & Inter-Dept Projects
4. Increased Community contacts; participated in National Night Out
5. Community projects: Church Clean Up Days; Earth Day; Make A Difference Day.
6. Electronic photos; Statistical records; work orders kept 2 yrs

GRAFFITI HOTLINE 713-4451

City of Visalia
Agenda Item Transmittal

Meeting Date: November 15, 2010

Agenda Item Number (Assigned by City Clerk): 3

Agenda Item Wording: Retiree Health Benefit Contribution Rates for 2011.

Deadline for Action: None

Submitting Department: Administration - Finance

Contact Name and Phone Number:
Eric Frost, Admin. Services Director, 713-4474

Recommendation:

Staff recommends that Council:

- 1) Adopt 2011 retiree health care contribution rates sufficient to cover this year's \$108.80 increase per participant without any additional cost to the City;
- 2) Continue to apply the increase equally to retirees and dependents;
- 3) Offer a lesser increase for retirees with household income less than the social security full retirement age earnings limit for 2011, restricting this increase to 50% of the retiree contribution increase; and,
- 4) Make available to retirees a high deductible PPO which qualifies for a Health Savings Account for retirees not yet eligible for Medicare.

Current Rate Issues. The City's health plan costs are increasing 10.6% this next year after many years of much lower cost increases. The composite rate for the City's Preferred Provider Organization (PPO) or the Exclusive Provider Organization (EPO) will be \$1,135 a month. The High-Deductible Plan (HDP) cost will be \$919 a month. The City needs to address how retiree contribution rates will change this next year as plan costs increase. If the Council desires to act in a similar manner as they did last year, staff recommends:

- Retiree Health contribution rates would cover all increased costs;
- Costs would be equally shared by retirees and dependent contributions; and,
- Designated **Qualified** participants would be eligible for a lesser increase if they are: 1) Retirees with 15 years of service, 2) over the age of 65; and, 3) earning household income less than the Social Security Full Retirement Age earnings limit. **Qualified** participants would be eligible for an increase restricted to 50% of the increase of the

For action by:

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

For placement on which agenda:

- Work Session
 Closed Session

Regular Session:

- Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 30

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.

retiree contribution increase. (Last year, Council did not increase this group of individuals' contribution rate.)

Under the above guidelines, retirees proposed contribution rates would range from a low of \$46.61 a month (retiree only, over age 65, no dependents) to a high of \$456.60 a month (retiree (\$308.78) plus dependent (\$147.82), under age 65) for the City's various health plans based upon:

- 1) the plan the retiree chooses;
- 2) whether or not the retiree has dependents; and,
- 3) whether or not the retiree is of age to participate in Medicare.

The rate schedule shown in Table I, 2011 Contribution Rates, is based upon the parameters outlined above:

Table I
Proposed 2011 Monthly Contribution Rates

PPO and EPO Rates				High Deductible Rates			
		2010	2011			2010	2011
PPO/EPO	<65	247.48	308.78	HD	<65	102.91	125.13
	>65	211.74	273.04		>65	67.17	89.39
	Qualified	182.64	210.72		Qualified	38.07	46.61
Dependents	<65	86.52	147.82	Dependents	<65	86.52	108.74
	>65	50.78	112.08		>65	50.78	73.00
	Qualified	21.68	49.76		Qualified	21.68	30.22

Note: Qualified must be 1) 65 or older, 2) had 15 years of service; and, 3) below the income limit.

Notice that the High Deductible plan's rates are increasing by a much smaller amount.

This is due to some further plan changes being implemented in the high-deductible plan designed to save \$67.50 a month in costs. The principal high-deductible plan changes are increased deductibles from \$1,000 to \$1,500 for individuals or \$2,000 to \$3,000 for families and the inclusion of prescription drugs in the deductible.

The City began offering the high deductible plan a couple of years ago as a method to lower premium costs to employees and retirees. The high deductible plan benefits are less generous than the PPO or the EPO but the plan comes at a substantial discount compared to the other two plans.

Health Savings Account (HSA). In response to rising health costs, staff has revised the City's High Deductible plan so the plan can qualify for a Health Savings Account. All high deductible plan participants except those on Medicare may open a Health Savings Account. The participant is able to make contributions to their Health Savings Account on a tax deferred and potentially tax exempt basis either through a payroll deduction or direct contribution to their HSA account. In many cases, an individual who contributed the difference between the PPO premium and the High Deductible Premium to an HSA would be money ahead. For further information a brochure on Health Savings Accounts is attached.

It is important to note the implementation timeline for changing these contribution rates. Retirees are billed for their health care one month in advance. Because of timing, the earliest the City could make the new rates effective is Feb. 1, 2011. The proposed timeline would make any increases effective as of Feb. 1, 2011 as follows:

Retiree Health Care Contribution Change Calendar

Nov. 1 -30	Annual open enrollment period – retirees may remain in or select a new health plan
Early Nov.	Billing agent (EBS) sends out payment coupon due Dec. 1, 2010 for January 2011 Retiree Health Care contribution
Nov. 15	Council conducts a hearing on retiree contribution rates; sets 2011 rates
Nov. 16	Inform City's health billing agent (EBS) of retiree rates for 2011
Nov. 30	Retirees select which health plan they will participate in for 2011
Early Dec.	EBS sends retiree payment coupon book based upon health plan selected during open enrollment for payment due January 1 for period beginning Feb. 1, 2011.

In the past, Council has made an allowance for retirees of lower incomes. To qualify as lesser income the City has used the current Full Retirement Age Social Security household earnings limit which was \$37,680 in 2010. Because inflation is almost non-existent, this limit is not expected to change for 2011. While the number of retirees who might qualify for such allowances may be small (12 in this calendar year), the reduction in their premiums has been borne by the other participants. It is not a reasonable course of action to never apply any increase to this group. As a result, staff proposes that lesser income retirees receive a 50% reduction of any increase in annual premiums that is applied to other contribution increases.

In contrast, if the Council decided to subsidize retiree contribution rates by an additional \$10 a month, the City's increased cost would be \$28,000 a year. Employees are paying for \$50 a month of the increase. If the Council offered retirees a benefit similar to employees, the City's annual cost increase would be \$163,000. If the Council paid the full increase, the cost to the City would be about \$302,000 a year.

Basis for Retiree Health Care Benefits. The current retiree health benefit was granted to City of Visalia retirees in 1982 when the actual cost of the City's health care plan was considerably lower. At that time, the retirees were granted access to the health care plan but were required to pay the full cost. The City has continued to provide this benefit authorized by City Administrative Policy 301, which states:

“Retirees and their dependents are eligible for medical and vision benefits at a cost determined each year by the City.”

Over the years, the premiums charged to retirees have not been increased to match the actual cost of the health care plan. This has resulted in the City currently paying a subsidy of approximately \$2.0 million in direct premium cost and another \$700,000 in indirect subsidy caused by retiree health costs tending to be higher than employee cost. In an effort to control the rising cost of this subsidy, Council chose to increase 2010 retiree health care premiums without increasing the current City subsidy amount.

Current Structure of City's Health Care Plan. The City's health plan is self-funded. The rationale for such an approach is that the City can design its own health benefit structure and not pay a broker a health premium profit. The costing for the plan is done by estimating the

expected health plan cost for the year and dividing those costs over all health plan participants. Thus, the average per participant health plan cost does not adjust the premium by:

- 1) Number of dependents;
- 2) Age of participant or dependents.

As a result, the retiree and the active employee are calculated on the same basis. The fact of the matter is that the two groups have much different health costs, on average. Staff is working to refine the costing process but the average cost premium itself is biased towards showing lower premium costs for retirees than they actually have.

Summary. Health care is expensive. The City's contribution rates in the past have been fairly low compared to actual costs. At the same time, the City's plans provide good value compared to other alternatives. For example, the 2011 CalPERS Care Plan's monthly costs are:

Employee	\$ 819.18
Employee plus 1	\$1,638.36
Employee plus 2+	\$2,129.87

This year's cost increase is large but overall less than many other agencies' costs. To combat this increase, the City has developed a lower cost alternative that will offer a Health Savings Account for those that want a less costly monthly premium.

Prior Council / Board Actions:

Committee / Commission Review and Actions:

Alternatives:

Attachments: Treasury Brochure: Health Savings Accounts

Recommended Motions: I move to:

- 1) Adopt 2011 retiree health care contribution rates sufficient to cover this year's \$108.80 increase per participant without any additional cost to the City;
- 2) Continue to apply the increase equally to retirees and dependents;
- 3) Offer a lesser increase for retirees with household income less than the social security full retirement age earnings limit for 2011, restricting this increase to 50% of the retiree contribution increase; and,
- 4) Make available to retirees a high deductible PPO which qualifies for a Health Savings Account for retirees not yet eligible for Medicare.

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

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

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

Agenda Item Wording: Reappointment of Evan Long to serve on the Delta Vector Control District Board of Directors

Deadline for Action: N/A

Submitting Department: Administration

Contact Name and Phone Number: Leslie Caviglia 713-4317

Department Recommendation

Staff recommends that Evan Long be reappointed to serve as the Council's representative to the Delta Vector Control District Board of Directors through June 30, 2013.

Department Discussion

The Delta Vector Control District is a special district that works to enhance public health by controlling mosquitoes. This organization has been an important but somewhat anonymous agency for many years. More recently, the West Niles Virus outbreaks that have plagued the state the last several years have heightened public awareness of the District's role and required the District to provide an even higher level of monitoring and control as well as public information.

The City of Visalia is part of the district, and the Council appoints a representative to the Board of Directors. Evan Long has served as the Visalia City Council's representative since 2007 when he was appointed to fill an unexpired term. He has served as Chair of the District, and was active in the District's recent success initiative to raise funds for a new laboratory and accelerated disease testing. Mr. Long is willing to serve another term, and the Citizens Advisory Committee is recommending that Evan Long be appointed to represent Visalia on the Delta Vector Control District.

As a former Council Member, Evan is very familiar with the community, and as a former CDF official who served as the Fire Chief in Tulare County, he also has unique experience working with state and county processes, budgeting, and public safety. Staff believes that Evan Long has been and would continue to be an asset to the District, and a good representative of the Council.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head LBC
10/20/10

Finance N/A

City Atty N/A

City Mgr

The CAC considered this appointment at their November meeting and concurred with staff's recommendation that Evan Long be appointed for the term ending in June, 2013.

Prior Council/Board Actions:

Appointed Evan Long in April, 2007

Committee/Commission Review and Actions:

CAC recommendation – Nov, 2010

Alternatives:

Attachments:

Evan Long Application

Recommended Motion (and Alternative Motions if expected):

I move to appoint Evan Long to represent the City of Visalia on the Delta Vector Control District Board of Directors with his term to begin immediately and expire on June 30, 2011.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

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

Agenda Item Wording: Authorization for the City Manager to enter into a Memorandum of Understanding (MOU) between The City of Visalia and the City of Tulare for the exchange of personnel to serve as a Hearing Officer during Code Enforcement Administrative Hearings.

Deadline for Action: N/A

Submitting Department: Housing and Economic Development

Contact Name and Phone Number: Ricardo Noguera,
Housing and Economic Development Director, x. 4190
Tracy Robertshaw, Code Enforcement Officer, x. 4187

Department Recommendation: Staff recommends that Council authorize the City Manager to execute a Memorandum of Understanding (MOU) with the City of Tulare for the exchange of personnel to serve as Hearing officers during Administrative Hearings.

Summary/background: Housing and Economic Development Department Neighborhood Preservation Division personnel have held discussions with City of Tulare staff regarding entering into a Memorandum of Understanding for the exchange of personnel to serve as the other jurisdictions Hearing Officer as necessary. The City of Tulare is prepared to enter into such an agreement with the City pending City Councils approval.

The City of Visalia previously maintained a similar agreement with the County of Tulare. However, the County no longer employs personnel in the capacity of Code Enforcement. This has created a situation where the County no longer holds Administrative Hearings and therefore do not require a hearing officer nor do they have staff to serve as the City of Visalia's hearing officer.

The agreement will provide for trained impartial personnel to preside over the Administrative Hearings as scheduled monthly. There shall be no financial compensation for the services, just an exchange of personnel to serve as the Hearing Officer. The agreement can be terminated by either party to the agreement without cause within thirty (30) days advanced notice. An agreement has been approved by the City of Tulare City Council and is included with this report as attachment A.

This document last revised: 10/25/10

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.

Having an impartial well trained hearing officer familiar with “due process” should minimize the likelihood of decisions being appealed and minimize claims of partiality insomuch as there is no financial compensation involved with the exchange of personnel.

Prior Council/Board Actions: On August 21, 2006, Council approved a Memorandum of Understanding between the City of Visalia and the County of Tulare for the exchange of personnel to serve as the Hearing Officer during Administrative Hearings.

Committee/Commission Review and Actions:

Alternatives: To not enter into agreement with the City of Tulare for the exchange of personnel to serve as a Hearing Officer and contract out for the service or have a City employee act as the Hearing Officer

Attachments:

Memorandum of Understanding (MOU)

Recommended Motion (and Alternative Motions if expected): To authorize the City Manager to enter into a Memorandum of Understanding (MOU) with the City of Tulare for the exchange of personnel to serve as a Hearing Officer for each other as required.

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: N/A

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

Copies of this report have been provided to:

**MEMORANDUM OF UNDERSTANDING TO SHARE CODE ENFORCEMENT
STAFF FOR ADMINISTRATIVE HEARINGS**

This Agreement is entered into as of _____, 2010, between the City of Visalia and the City of Tulare, with reference to the following:

- A. WHEREAS, City of Visalia and City of Tulare each require the use of an impartial hearing officer to oversee administrative appeals of code enforcement citations; and
- B. WHEREAS, City of Visalia and City of Tulare desire to use code enforcement staff from outside their own jurisdiction as a hearing officer; and
- C. WHEREAS, by entering into this Agreement to share trained employees, each will have impartial hearing officers to preside over their respective code enforcement/compliance proceedings; and
- D. WHEREAS, City of Visalia and City of Tulare each agree that the hearing officer shall apply the applicable municipal code of City of Visalia or City of Tulare, along with state law, in deciding administrative appeals:

ACCORDINGLY, IT IS AGREED:

- 1. **SERVICES:** The City of Visalia and the City of Tulare agree that they shall exchange, on an informal basis arranged between the Division Managers, the services of their respective employees to preside over code enforcement proceedings in each other's jurisdiction as needed. Each party agrees their employer shall serve as an impartial hearing officer and issue decisions pursuant to the applicable municipal code of the City of Visalia or the City of Tulare and state law. The applicable municipal code is that of the City in which the code violation occurred. Each employee serving as hearing officer shall have the right to continue administrative hearings or request additional information concerning a case if, in the sole discretion of the person serving as hearing officer, additional information is needed to make a decision.
- 2. **PAYMENT:** The parties agree that no payment shall be requested or required for providing hearing officers to each other.
- 3. **DELEGATION:** The parties hereto delegate authority to delegate the personnel deemed suitable by the Managers identified in Paragraph 1. Each party agrees to provide employees that are familiar with state laws and regulations concerning code enforcement and the applicable municipal codes. The parties acknowledge that the anticipated commitment is approximately one day per month including the time necessary to review the cases. The

parties agree to make a copy of their municipal codes or other relevant information available for review upon request.

4. INDEMNIFICATION: The City of Visalia and the City of Tulare shall hold each other harmless, defend and indemnify their respective agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, arising out of the activities of their agents, officers and employees under the Agreement. This indemnification shall be provided by each party to the other party regarding its own activities undertaken pursuant to this Agreement, or as a result of the relationship thereby created, including any claims that may be made against either party by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, or any claims made against either party alleging civil rights violation by such party under Government Code Section 12930 et seq. (California Fair Employment and Housing Act). This indemnification obligation shall continue beyond the term of this agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.
5. TERMINATION: The parties will have the right to terminate this Agreement without cause by giving thirty (30) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. Termination of the Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities.
6. ENTIRE AGREEMENT: This Agreement represents the entire agreement between the City of Visalia and the City of Tulare as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.
7. NOTICES: Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

CITY OF VISALIA Neighborhood Preservation Division 315 E Acequia Visalia, CA 93291 Fax No: 559-713-4811	CITY OF TULARE Code Enforcement Division 800 S Blackstone Street Tulare, CA 93274 Fax No: 559-685-2397
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Notice delivered personally is effective when delivered. Notice sent by facsimile transmission is deemed received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address and or fax number by giving written notice pursuant to this paragraph.

8. CONSTRUCTION: This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall apply to address and interpret any uncertainty.
9. NO THIRD PARTY BENEFICIARIES INTENDED: Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.
10. GOVERNING LAW: This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this contract is made in and shall be performed in Tulare County California.
11. WAIVERS: The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party or either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.
12. ASSIGNMENT: This agreement may not be assigned by either party.
13. RECITALS: The Recitals to this Agreement are fully incorporated into and are integral parts of this Agreement.
14. CONFLICT WITH LAWS: This Agreement is subject to all applicable laws and regulations. If any provision of this agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases, the remainder of the Agreement shall continue in full force and effect.
15. FURTHER ASSURANCES: Each party agrees to execute any additional documents and to perform any further acts that may be reasonably required to affect the purposes of this Agreement.

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

CITY OF VISALIA

CITY OF TULARE

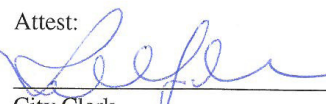
City Manager Date



City Manager Date

Attest:

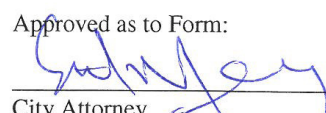
City Clerk Date

Attest:


City Clerk Date

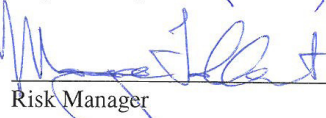
Approved as to Form:

City Attorney Date

Approved as to Form:


City Attorney Date

Risk Manager Date



Risk Manager Date

City of Visalia Agenda Item Transmittal

Meeting Date: November 15, 2010

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

Agenda Item Wording: Introduction of Ordinance No. 2010-10 authorizing the lease of approximately 233 acres of land on 11 parcels at the Visalia Municipal Airport to Eric Shuklian, at annual lease amount of \$25,182 for continued use for agricultural purposes. **(Ordinance 2010-10 required)**

Deadline for Action: None.

Submitting Department: Administration - Airport

Contact Name and Phone Number:
Mario Cifuentez, Airport Manager, 713-4480

Executive Summary:

City Staff recommends that Council authorize the City Manager to execute this lease agreement with Eric Shuklian. Mr. Shuklian has farmed the acreage for the past 13 years. He has greatly improved the land during his tenure, has well maintained the wells and pumps, has learned and complied with the Federal Aviation Administration (FAA) and the Transportation Security Administration (TSA) rules and regulations, and has turned unproductive land into farmable ground. Given the time and investment he has made in the property, and the difficulty of training a new farmer and their staff on the FAA and TSA requirements, staff is recommending that a new lease be entered into with Mr. Shuklian. The term of this agreement will be for five (5) years, with a five (5) year option. The lease rate will be \$25,182 per year, (approximately \$108/acre) adjusted annually based on the Consumer Price Index.

Background:

The Visalia Municipal Airport has approximately 233 acres, almost entirely located within the Airport Security Perimeter, which has typically been leased for agricultural purposes. Leasing this land for farming generates revenue for the airport. More importantly, leasing of the property for farming eliminates the need for the airport to expend funds for mowing or weed control of the property.

Mr. Shuklian began farming the property in 1997 after the previous tenant declared bankruptcy and abandoned the property. At that time, the City issued an RFP and Mr. Shuklian was the only grower to respond, despite the bid being advertised in the Times-Delta and specific outreach being made to 25 growers.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.) 10 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.

When renewing leases, the Airport has established a practice of renegotiating new agreements with existing tenants, unless the tenant is not in compliance with the terms of the Agreement or another party has already expressed an interest in leasing the property and/or improvements. Council has affirmed this practice over the years with several tenants at the airport. Mr. Shuklian has farmed the acreage for the past 13 years and has been a valued tenant who is able to comply with the Federal regulations involved in farming in a secure area, which warranted renegotiating a new agreement. Consequently, an RFP was not issued prior to renegotiating this agreement.

Federal Requirements:

Mr. Shuklian is knowledgeable of the operational and security requirements involved with farming on a commercial service airport. He trains all of his employees and contractors on the procedures necessary to maintain compliance with FAA and TSA regulations. The federal regulations limit the mobility of personnel and equipment inside the fence. Personnel and equipment must remain at least 75 feet away from all taxiways and navigational aids, which means that often times, the personnel must go outside of the perimeter fencing and enter at another gate to access an adjacent parcel. Any subcontractors providing farm labor must be supervised by Mr. Shuklian or his employees at all times. Any gates used to access the airfield must be closed at all times when not moving equipment in or out. Often times, this means an operator must remain by the gate until several pieces of equipment have entered and then secure the gate before continuing on to a specific area inside the airport.

New Rent Basis:

The new rent of \$25,182 will provide \$7,582.00 in additional annual revenue for the Airport Enterprise Fund. At a per acre rate of approximately \$108, the rate for the airport property is only slightly less than the \$116 per acre that the City receives for the former Blain property located on the east side of Visalia. The former Blain property is comprised of adjacent parcels that are easy to farm, while the airport farmland is neither ideal, nor even typical farmland. The total acreage is comprised of eleven (11) different sections that are not contiguous to one another, which makes the acreage difficult to cultivate, irrigate and harvest. Prior to the current grower's tenancy, the acreage had become overgrown with weeds and in response to an RFP issued to secure a tenant, several farming operations labeled the property as "barely farmable". The acreage comes with significant covenants and restrictions due to FAA regulations. The new rate was determined based on historical information, published land values for similar type ground, consultation with the University of California Extension Farm Advisor, current and expected activities on the airport, along with the requirements of the Federal Aviation Administration.

Often times this type of ag land rent is based on production and price. It is harder to assess a lease value for this land in that manner because of the complicating factors including quality of the land, size and number of the parcels, which are not continuous, and the FAA and TSA regulations that must be adhered to. Several of the sections of land are split by airport lighting arrays, taxiways, and FAA buildings and/or equipment structures, making irrigation difficult. Because of possible wildlife attractants, the operator is limited to the types of crops that can be grown lateral to the runway and adjacent to the runway safety areas. Currently, the 2 crops that can be grown are cotton and alfalfa. While prime ag land might generate \$125 to \$200/acre, depending on the production year, it is difficult to use those figures to set the lease rate for limited use ag land on the airport because of all of the previously mentioned factors.

This lease is for 5 calendar years, with an option for one successive term of 5 years. The first annual rent payment is due upon commencement of the lease, with each subsequent payment being due on or before each anniversary of the lease. The lessee is responsible for all utility charges, routine maintenance of the pumps that serve the 3 airport wells, fuel and/or utility costs for the pumps and up to \$1000 annually for repairs of the pumps. The wells are used solely for the irrigation of crops at the airport and Mr. Shuklian has continuously maintained the pumps in very good working order over the life of the previous lease.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives: Not authorizing the City Manager to execute the agreement would lead to the loss of revenue for the airport fund and increased maintenance costs for controlling weeds and grasses.

Attachments: Airport Ground Lease Agreement, Ordinance Authorizing the lease

Recommended Motion:

Move introduction of Ordinance No. 2010-10 authorizing the lease of 233 acres of property on 11 parcels at the Visalia Municipal Airport to Eric Shuklian for agricultural purposes.

Environmental Assessment Status

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

NEPA Review: *NA*

Copies of this report have been provided to:

ORDINANCE NO. 2010-10

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF VISALIA**

**AUTHORIZING THE LEASE OF APPROXIMATELY 233 ACRES AT THE
VISALIA MUNICIPAL AIRPORT
TO ERIC SHUKLIAN FOR AGRICULTURAL PURPOSES**

WHEREAS, the City of Visalia owns certain property generally located southeast of the intersections of highways 99 and 198, commonly referred to as the Visalia Municipal Airport, and,

WHEREAS, the City of Visalia desires to lease approximately 233 acres of the property to Eric Shuklian, a sole proprietorship, for agricultural purposes, and,

WHEREAS, said lease for agricultural purposes is of benefit to the Visalia Municipal Airport based on the revenue generation and maintenance of airport property, and,

WHEREAS, Eric Shuklian has farmed the property for the past 13 years and has been a model tenant, respective of the airport operational guidelines.

Be it ordained by the Council of the City of Visalia,

Section 1. The City Manager of the City of Visalia be, and is hereby authorized to execute on behalf of the City of Visalia, that certain Airport Ground Lease Agreement by and between the City of Visalia as Lessor and Eric Shuklian, a sole proprietorship, as Lessee.

Section 2. This ordinance shall go into effect thirty (30) days after its passage.

AIRPORT GROUND LEASE AGREEMENT

This Ground Lease Agreement made and entered into this _____ day of _____, 2010 by and between the City of Visalia, Municipal Corporation of the State of California, hereinafter referred to as "LESSOR" and Eric Shuklian, hereinafter referred to as "LESSEE".

For and in consideration of the payment of rent, taxes, and other charges and of performance of the covenants and conditions hereinafter set forth, LESSOR hereby Leases to LESSEE the real property located at the Visalia Municipal Airport and situated in the City of Visalia, County of Tulare, State of California, more particularly described as set forth in Exhibit "A" attached hereto and made a part hereof.

1. DEMISED PREMISES

A. Definition - Except as expressly provided to the contrary in this Lease, reference to "Demised Premises" is to the described land plus any described appurtenances, including any improvements (including LESSEE's improvements), now or hereafter located on the Demised Premises, without regard to whether ownership of the improvements is in the LESSOR or in the LESSEE.

B. Description - The Demised Premises consists of several parcels of unimproved property, more particularly located as designated on Exhibit "A" attached hereto and made a part hereof and, containing approximately 233 acres, plus any improvement subsequently made thereto or thereon, whether made by LESSOR or LESSEE.

2. TERM

A. The term of this Ground Lease Agreement shall be for a period of five (5) years commencing on the 1st day of December, 2010 and ending on the 30th day of November, 2015, unless sooner terminated as provided for herein.

B. In addition, LESSEE shall have the right, but not the obligation, to extend the original term of this Lease by one (1) additional period of five (5) year each, provided LESSEE shall not be in default of any term of condition contained herein at the time of exercising said options. LESSEE shall provide LESSOR with written notification of LESSEE's intent to exercise each option period within sixty (60) days of the end of the then current term. Provided LESSOR determines LESSEE is not in default of any term or condition, LESSEE and LESSOR shall execute an amendment to this Lease amending and extending the Lease term for the appropriate amount of time. All other terms and conditions, unless otherwise agreed to shall remain in full force and effect.

3. LEASE RENT

A. INITIAL MINIMUM RENT - LESSEE shall pay without abatement, deduction or affect, a net minimum annual rent of Twenty Five Thousand One Hundred and Eighty-Two Dollars (\$25,182.00), all due and payable in annual payments beginning on the 1st day of December, 2010 and continuing thereafter throughout the entire term of this agreement.

B. RENT ADJUSTMENTS. The minimum annual rent shall be adjusted each and every year, beginning on the first anniversary date of the Lease term, to reflect the percentage change in the Consumer Price Index. For purposes of this agreement, the Consumer Price Index shall be the California Consumer Price Index (all urban consumers, all items) as released by the California Division of Labor Statistics and Research. Said adjustment shall be calculated as follows: The minimum annual rent in effect immediately prior to the anniversary date in question shall be multiplied by one plus the percentage increase in the Consumer Price Index for the last month released prior to such anniversary, as compared to the same month one year prior, the result of such calculation constituting the new minimum annual rent. In no event shall the minimum annual rent be decreased.

The Consumer Price Index as used herein is based on the 1982-84=100 index. Should the Division of Labor Statistics and Research change the 1982-84=100 index, the above referenced formula shall be converted to reflect said change.

C. In the event LESSEE is delinquent in remitting the rent by the tenth (10th) day following the anniversary date of the Lease term, then the rent not paid when due shall bear interest at the rate of eighteen percent (18%) per annum from the date due until paid.

4. TAXES AND ASSESSMENTS; "PUBLIC CHARGES"

A. Obligation of LESSEE - From and after the date of execution of this Ground Lease Agreement, LESSEE shall pay or cause to be paid all real estate taxes, assessments, and other governmental charges, general and special, ordinary and extraordinary, of any kind and nature whatsoever applicable to LESSEE's possessory interest in the leased Premises, (in accordance with California Revenue and Taxation Code Section 107.6) as created and established by this Ground Lease Agreement, and the building improvements thereon, including but not limited to assessments for public improvements or benefits which shall for any period subsequent to the execution of this Ground Lease Agreement and during the term hereof be assessed, levied or imposed upon or become due and payable and a lien upon said possessory interest and building and improvements thereon (specifically accepting therefrom any and all surface rights, if any, held or used by others who may have or claim any of the same, LESSEE assuming no liability whatsoever for the taxes, general and special assessments or other charges levied or assessed thereon), all of which taxes, assessments, levies and other governmental charges to be paid by LESSEE are referred to in this Ground Lease Agreement as "public charges"; provided however that if by law any such public charges are payable or may at the option of the taxpayer be paid in installments (whether or not

interest shall accrue on the unpaid balance of such public charge), LESSEE may make such payments in installments as the same respectively become due and before any fine, penalty, or cost may be added thereto for the nonpayment of any such installment; and provided further that any public charges relating to a fiscal period of the taxing authority expiring after the termination of expiration of this Ground Lease Agreement, any part of which fiscal period is included within the time prior to termination of expiration of this Ground Lease Agreement, all such public charges shall be paid, assessed, levied or posed upon or become due and payable by apportioned between the parties.

B. Time of Payment - All payments to be made by LESSEE pursuant to the provisions hereof shall be made before any fine, penalty, interest or cost may be added thereto for the non-payment thereof; and the LESSEE shall furnish LESSOR within sixty (60) calendar days after the dates when the same are payable as herein provided with official receipts or other evidence satisfactory to LESSOR that such public charges or excise on rents or other tax or assessments in lieu thereof as aforesaid has to the extent of the aforesaid, been paid.

C. Contest - LESSEE may contest the legal validity or amount of any public charges for which LESSEE is responsible under this Ground Lease Agreement and may institute such proceedings as LESSEE considers necessary. If LESSEE contests any such public charges, LESSEE may withhold or defer payment or pay under protest but shall protect LESSOR and the Premises from any lien by adequate surety bond or other appropriate security.

D. Exclusions - LESSEE's obligation to pay public charges levied or charged against said possessory estate or buildings or improvements or against specified personal property, shall not include the following whatever they may be called: business income or profit taxes levied or assessed against LESSOR by federal, state or other governmental agencies; estate, succession, inheritance, or transfer tax of LESSOR; or

corporation, franchise, or profit taxes imposed on any owner of the fee title of the Premises.

E. Evidence of Payment - The certificate, advise, or bill of the appropriate official designated by law to make or issue the same to receive payment of any such public charge shall be prima facie evidence that such public charge is due and unpaid at the time of the making or issuance of such certificate, advise, or bill; and the written receipt of such official shall be prima facie evidence that the public charge therein described has been paid. LESSEE shall authorize and instruct the assessing authority to forward to LESSEE all bills covering such paid public charge.

5. USE OF PREMISES

LESSEE shall use said Premises for the purpose of growing agricultural crops and related activities and for no other purpose without the prior written consent of LESSOR. All crops grown on the subject premises must have prior approval of the Airport Manager to assure conformance with FAA guidelines. LESSEE shall be responsible, at all times, for the activities and conduct of their employees to assure conformance with FAA guidelines, non-interference of airport operations and non-interference with the adjacent farming operations. No animals of any kind may be brought onto the Premises. LESSEE shall conform to all Airport rules and regulations. LESSOR does not warrant or guarantee that the Premises are fit for LESSEE's use hereunder.

6. BUSINESS LICENSE

LESSEE shall obtain, if necessary, a business license as paid by all persons and/or entities in similar circumstances.

7. RESERVATION OF MINERAL RIGHTS TO LESSOR

All oil, gas, and mineral rights are expressly reserved from this Ground Lease Agreement.

8. ACCESS RIGHTS

A. LESSOR reserves the right to enter upon any portion of the leased Premises at any time during the Ground Lease Agreement term to inspect the same and to exercise any function that might arise concerning the operation of the Visalia Municipal Airport (Airport) and/or City of Visalia. LESSEE shall provide the Airport Manager with a key(s) to any lock that LESSEE places on any gate(s) restricting access to the Premises. ALL GATES PROVIDING ACCESS TO VISALIA MUNICIPAL AIRPORT ARE TO BE KEPT LOCKED FOR AIRPORT SECURITY PURPOSES. IF GATES ARE FOUND TO BE UNLOCKED AND FINES IMPOSED BY THE FEDERAL AVIATION ADMINISTRATION, THESE FINES WILL BE PASSED THROUGH TO THE LESSEE.

B. LESSEE, LESSEE's employees, agent and subcontractors shall have access to the Premises without notice to LESSOR twenty-four (24) hours a day, seven (7) days a week, at no charge.

9. UTILITIES

LESSEE shall be responsible for all utility charges. Any easement necessary for such power or other utilities will be at a location acceptable to LESSOR and the servicing utility company.

10. PUMPS

LESSEE shall be responsible for the continued routine maintenance, fuel, and/or utility costs, and up to \$1,000 in repairs for each and every Lease year during the entire lease term, of the three (3) irrigation pumps as shown on Exhibit B. LESSEE is satisfied that at the commencement of this Lease Agreement, the irrigation well and pump provides an adequate supply of water for the leased Premises. In the event that ground water levels lower to a point that bores need lowering or the wells need to be drilled deeper, the LESSOR shall be

responsible for all costs incurred. LESSOR shall also be responsible for all major repairs and/or replacement of LESSOR's pump.

11. WITHDRAWAL

LESSEE agrees that at any time LESSOR determines usage of the leased Premises or any portion thereof is required for parks, airport, street or other public purpose, LESSOR shall have the right to terminate or withdraw a portion thereof without payment for damage or loss, provided LESSEE is notified in writing 12 months prior to the termination or withdrawal. LESSOR shall also have the right to terminate this Ground Lease Agreement or withdraw any portion thereof with less than 12 months notice provided LESSOR shall reimburse LESSEE for crop loss as follows:

- A.** AVERAGE harvestable crop per acres as per the Tulare County Agricultural Advisor, multiplied by the affected number of acres.
- B.** TIMES - Acreage current price per unit of crop, multiplied by number of units.
- C.** EQUALS - Total estimated gross income, less average harvesting expenses.

EXAMPLE: Two bales per acre at 500 lbs per bale = 1,000 lbs X acres affected (1.5 acres) = 1,500 lbs X price per lb (\$.60) = \$900 LESS harvesting costs (\$100 per acre X 1.5 acres affected) = \$750

12. ASSIGNMENT AND SUBLETTING

The LESSEE may not assign or otherwise transfer this Ground Lease Agreement or sublet any portion of said Premises without the prior written consent of LESSOR.

13. MODIFICATIONS

It is further agreed by and between the parties hereto that any alterations, modifications, or additions on the leasehold Premises by LESSEE can only be instituted by first obtaining the written approval of LESSOR of the plans, locations and specifications of said change. LESSEE agrees to provide LESSOR one set of "as built" plans for said changes within 60 days of

completion. No leasehold encumbrance or deed of trust shall be permitted as a result of LESSEE's actions on the leasehold Premises.

14. SIGNS

LESSEE further agrees that it will not paint or erect any signs on the Premises unless such signs are first approved in writing by the LESSOR. Any signs located on the Premises shall be in compliance with the City of Visalia's sign and zoning ordinances as the same shall be in effect from time to time.

15. APPEARANCE

LESSEE shall maintain their facilities to the reasonable satisfaction of the LESSOR and in such a manner that said facilities will be neat and well kept in appearance and a credit to the airport. LESSEE understands and agrees that LESSEE shall keep all fences and areas within two (2) feet of the same, free and clear of all weeds, trash and rubbish.

16. LESSOR'S MAINTENANCE

LESSOR shall have no obligation for any maintenance of the Demised Premises.

17. LESSEE'S MAINTENANCE

LESSEE shall maintain all irrigation facilities, including the maintenance and repair of pipelines, risers, gates, etc., in such a manner as to confine water within the boundaries of the fields. LESSEE shall be responsible for the shredding and tilling of cotton stalks and other agricultural stubble during the term of the Ground Lease Agreement including those stalks and stubble from the final crop of the last year of said Ground Lease Agreement, and in accordance with applicable State and County of Tulare statutes, ordinances and regulations. LESSEE agrees that no burning of stubble or any other matter shall take place during said Ground Lease Agreement term.

18. CONDEMNATION

LESSOR shall also have the right to terminate this Lease as of the date of condemnation of the Property.

If the Premises are taken under any right of condemnation, LESSEE shall not be entitled to any and all awards of payment made in the condemnation proceedings in respect to any damage to LESSEE's leasehold interests in the Premises and the improvements thereon.

19. REGULATIONS AND SPECIAL CONDITIONS

LESSEE shall not conduct, or allow to be conducted upon the Premises, any dangerous or hazardous activities, or any activities considered to be a nuisance to the airport or its tenants and neighbors, and LESSEE agrees to abide by all applicable F.A.A. and U.S. Government rules and regulations, including, but not limited to the following:

A. The LESSEE for himself, his heirs, personal representatives, successors in interest and assigns, as a part of the considerations hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the premises described herein for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted programs of the Department of Transportation and as said regulations may be amended.

B. The LESSEE for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

(1) No person on the grounds of race, color, sex, age or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of said facilities; and

(2) That in the construction of any improvements on, over or under such land and the furnishing or services hereon, no person on the grounds of race, color, sex, age or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination; and

(3) That the LESSEE shall use the demised Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted programs of the Department of Transportation, as said Regulations may be amended.

C. It is understood and agreed that nothing contained herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

D. LESSEE agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service, provided, that LESSEE may make reasonable and nondiscriminatory discount, rebates, or other similar types of price reductions to volume purchasers.

E. The LESSOR reserves the right (but shall not be obligated to LESSEE) to maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport, together with the right to direct and control all activities of the LESSEE in this regard.

F. The LESSOR reserves the right to further develop or improve the landing area and all publicly owned air navigation facilities of the airport as it sees fit, regardless of the desires or views of the LESSEE, and without interference or hindrance.

G. The LESSOR reserves the right to take any action it considers necessary to protect aerial approaches of the airport against obstruction, together with the right to prevent LESSEE from erecting, or permitting to be erected, any building or other structure on the airport which in the opinion of the LESSOR would limit the usefulness of the airport or constitute a hazard to aircraft.

H. During the time of war or national emergency the LESSOR shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly owned air navigation facilities and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this Lease, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.

I. It is understood and agreed that the rights granted by this Lease will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the airport.

J. There is hereby reserved to the LESSOR, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for passage of aircraft in the airspace above the surface of the Premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the airport.

K. The Lease shall become subordinate to provisions of any existing or future agreement between the LESSOR and the United States of America, or any agency thereof relative to the operation, development, or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.

L. LESSEE agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building is planned for the leased Premises, or in the event of any planned modification of alteration of any present of future building or structure situated on the leased Premises. Any future construction, modification, or alteration shall be in compliance with the Airport Master Plan and will be subject to airport approval.

M. The LESSEE by accepting this expressly agrees for itself, its successors, and assigns that it will not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the land leased hereunder above the limits specified in Part 77 of the Federal Aviation Regulations. In the event the aforesaid covenants are breached, LESSOR reserves the right to enter upon the land leased hereunder and to remove the offending structure or object or cut the offending tree, all of which shall be at the expense of the LESSEE.

20. UNITED STATES GOVERNMENT

This Ground Lease Agreement and all the provisions hereof shall be subject to whatever right the United States government now has or in the future may have or acquire affecting the control, operation, regulation and taking over of said airport or the exclusive or non-exclusive use of the airport by the United States or by any other action by said government which would substantially frustrate the purposes of this Ground Lease Agreement. In the event of any such action by the United States government either party may elect to be relieved of any obligation under the Ground Lease Agreement.

21. CURRENT AND FUTURE AIRPORT REGULATIONS

This Ground Lease Agreement and all rights conferred thereby shall at all times be subject to current and future regulations governing any and all activities at the Visalia Municipal

Airport to the same extent that such current and future regulations govern the activities of all persons using the facilities of the Visalia Municipal Airport and occupying structures thereon.

22. MARKING AND LIGHTING REQUIREMENTS

LESSEE shall be responsible for compliance with all marking and lighting requirements of the Federal Aviation Administration ("FAA") and the FCC, including, but not limited to those requirements for marking and lighting of vehicles and equipment. Should LESSOR be cited because the Premises is not in compliance and, should the LESSEE fail to cure the conditions of noncompliance, LESSOR may either terminate this Ground Lease Agreement or proceed to cure the conditions of noncompliance at LESSEE'S expense, which amounts may be added to the Rent.

23. INSURANCE - LIABILITY

Throughout the term, at LESSEE's sole cost and expense, LESSEE shall keep or cause to be kept in force, for the mutual benefit of LESSOR and LESSEE, comprehensive broad form general public liability insurance against claims and liability for personal injury, death, or property damage arising from the use, occupancy, disuse, or condition of the Premises, improvements, or adjoining areas or ways, providing protection for bodily injury or death to any one person, at least \$1,000,000 for any one accident or occurrence, and at least \$1,000,000 for property damage. Also throughout the Ground Lease Agreement terms, at LESSEE's sole cost and expense, LESSEE shall keep or cause to be kept in force, workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than \$1,000,000 per accident.

24. INSURANCE - GENERAL REQUIREMENTS

All insurance required by express provision of this Ground Lease Agreement shall be carried only in responsible insurance companies licensed to do business in the State of California. All such policies shall be nonassessable and shall contain language, to the extent

obtainable, to the effect that (1) any loss shall be payable notwithstanding any act or negligence of LESSOR that might otherwise result in a forfeiture of the insurance, (2) the insurer waives the right of subrogation against LESSOR and against LESSOR's agents and representatives and the LESSOR waives the right of subrogation against LESSEE and against LESSEE's agents and representatives, (3) the policies are primary and noncontributing with any insurance that may be carried by LESSOR, and (4) they cannot be canceled or materially changed except after 30 calendar days written notice by the insurer to LESSOR or LESSOR's designated representative. (5) LESSOR shall be named an additional insured. LESSEE shall furnish LESSOR with binders representing all insurance required by this Ground Lease Agreement. At the expiration of the term, LESSOR shall reimburse LESSEE prorate for all prepaid premiums on insurance required to be maintained by LESSEE, and LESSEE shall assign all LESSEE's right, title and interest in that insurance to LESSOR. LESSEE may effect for its own account any insurance not required under this Ground Lease Agreement. LESSEE may provide by blanket insurance covering the Premises and any other location or locations any insurance required or permitted under this Ground Lease Agreement provided it is acceptable to all mortgages. LESSEE shall deliver to LESSOR, in the manner required for notices, copies or certificates of all insurance policies required by this Ground Lease Agreement, together with evidence satisfactory to LESSOR of payment required for procurement and maintenance of the policy, within the following limits:

- A.** For insurance required at the commencement of this Ground Lease Agreement, within 30 calendar days after the execution of this Ground Lease Agreement;
- B.** For insurance becoming required at a later date, at least 15 calendar days before the requirement takes effect, or as soon thereafter as the requirement, if new, takes effect.
- C.** For any renewal or replacement of a policy already in existence, at least 30 calendar days before expiration or other termination of the existing policy.

D. If LESSEE fails or refuses to procure or to maintain insurance as required by this Ground Lease Agreement or fails or refuses to furnish LESSOR with required proof that the insurance has been procured and is in force and paid for, LESSOR shall have the right at LESSOR's election and on 5 day notice, to procure and maintain such insurance. The premiums paid by LESSOR shall be treated as added rent due from LESSEE with interest at the rate of 18 percent per year, to be paid on the first day of the month following the date on which the premiums, stating the amounts paid and the names of the insurer or insurers, and interest shall run from the date of the notice.

25. INDEMNIFICATION

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

LESSOR hereby agrees to and shall protect, indemnify, and hold harmless the LESSEE and all officers, agents, representatives, and employees thereof from any and all liability, claims, or damages of whatsoever kind or character, including attorneys' fees and costs of all types incurred in defense of any of the said parties from said claims or liability, because of or

arising out of, directly or indirectly, the acts or omissions of the LESSOR, LESSOR's independent contractors, employees, representatives, agents and invitees, and the passive or active negligent acts or omissions of the LESSEE or its officers, agents, representatives, and employees while acting within the scope of their duties regarding work to be performed pursuant to this Ground Lease Agreement. Said indemnification and hold harmless provisions shall be in full force and effect regardless of whether or not there shall be insurance policies covering and applicable to such damages, claims, or liability. This agreement shall be binding upon the LESSOR whether or not there are any allegations of fault, negligence, or liability of the indemnities hereunder.

26. DEFINITION OF DEFAULT BY LESSEE

Each of the following events shall be a default by LESSEE and a breach of this Ground Lease Agreement

- A.** Abandonment or surrender of the Premises or of the leasehold estate, or failure or refusal to pay when due any installment of rent or any other sum required by this Ground Lease Agreement to be paid by LESSEE, including but not limited to the Public Charges set forth herein, or to perform as required or conditioned by any other covenant or condition of this Ground Lease Agreement.
- B.** The subjection of any right or interest of LESSEE to attachment, execution, or other levy, or to seizure under legal process, if not released within 10 calendar days provided that the foreclosure of any mortgage permitted by provisions of this Ground Lease Agreement relating to purchase or construction improvements shall be construed as a default within the meaning of this paragraph.
- C.** The appointment of a receiver to take possession of the Premises, or improvements, or of LESSEE's interest in the Leasehold estate, or of LESSEE's operation on the Premises for any reason, including but not limited to, assignment for

benefit of creditors or voluntary or involuntary bankruptcy proceedings, but not including receivership (1) pursuant to administration of the estate or any deceased or incompetent LESSEE, or (2) instituted by LESSOR, the event of default being not the appointment of a receiver at LESSOR's instance, but the event justifying the receivership, if any.

D. An assignment by LESSEE for the benefit of creditors or the filing of a voluntary or involuntary petition by or against LESSEE under any law for the purpose for adjudication of LESSEE's liabilities; or for reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency; unless the assignment or proceeding, and all consequent orders, adjudication, custody and supervision are dismissed, vacated, or otherwise permanently stayed or terminated within 30 calendar days after the assignment, filing or other initial event.

E. Failure to maintain said Premises as required pursuant to the terms of the Ground Lease Agreement.

F. Failure to provide insurance binders/certificates pursuant to paragraphs 23 and 24.

27. NOTICE OF DEFAULT

As a precondition to pursuing any remedy for an alleged default other than a failure to provide adequate insurance as described in paragraphs 23 and 24, by LESSEE, LESSOR shall, before pursuing any remedy, give written notice of default to LESSEE and to all qualifying subtenants whose names and addresses were previously given to LESSOR in a notice or notices from LESSEE. A qualifying subtenant is a subtenant in possession under an existing sublease which is proper under this Ground Lease Agreement. If the alleged default is nonpayment of rent, taxes, or other sums to be paid by LESSEE as provided in the paragraph on rent, or elsewhere in this Ground Lease Agreement directed to be paid as rent, LESSEE shall have 10 calendar days after notice is given to cure the default. For the cure of any other default, LESSEE shall act promptly and diligently after the notice to commence to cure the

default and shall have 10 calendar days after notice is given to complete the cure plus any additional period that LESSOR agrees is reasonably required for the curing of the default. After expiration of the applicable time for curing a particular default, or before the expiration of that time in the event of emergency, LESSOR may at LESSOR's election, but is not obligated to, make any payment required of LESSEE under this Ground Lease Agreement or perform or comply with any covenant or condition imposed on LESSEE under this Ground Lease Agreement and the amount so paid, plus the reasonable cost of any such performance or compliance, plus interest on such sum at the rate of 12% per year from the date of payment, performance, or compliance (herein called "Act"), shall be deemed to be additional rent payable by LESSEE within 30 calendar days following the giving of notice of the Act. No such Act shall constitute a waiver of default or of any remedy for default or render LESSOR liable for any loss or damage resulting from any such Act.

28. REMEDIES IN THE EVENT OF DEFAULT

If any default by LESSEE shall continue uncured, following notice of default as required by this Ground Lease Agreement, for the period applicable to the default under the applicable provision of this Ground Lease Agreement, LESSOR has the following remedies in addition to all other rights and remedies provided by law or equity, to which LESSOR may resort cumulatively or in the alternative.

LESSOR may at LESSOR's election terminate this Ground Lease Agreement by giving LESSEE written Notice of Termination. On the giving of the Notice, all of LESSEE's right in the Premises and in all improvements shall terminate in the time frame set forth in the Notice of Termination. Promptly after notice of termination, LESSEE shall surrender and vacate the Premises and all improvements in broom-clean condition, and LESSOR may reenter and take possession of the Premises and all remaining improvements and eject all parties in possession or eject some and not others or eject none; provided that no subtenant qualifying under nondisturbance provisions of this Ground Lease Agreement shall be ejected.

Termination under this paragraph shall not relieve LESSEE from the payment of any sum then due to LESSOR or from any claim for damages previously accrued or then accruing against LESSEE. LESSOR may at LESSOR's election reenter the Premises, and, without terminating this Ground Lease Agreement, at any time and from time to time relet the Premises and improvements or any part of parts of them for the account and in the name of the LESSEE or otherwise. Any reletting may be for the remainder of the term or for a longer or shorter period. LESSOR may execute any leases made under this provision either in LESSOR's name or in LESSEE's name and shall be entitled to all rents from the use, operation, or occupancy of the Premises or improvements or both. LESSEE shall nevertheless pay to LESSOR on the due dates specified in this Ground Lease Agreement the equivalent of all sums required of LESSEE under this Ground Lease Agreement, plus LESSOR's expenses, less the avails of any reletting or attornment. No act by or on behalf of LESSOR under this provision shall constitute a termination of this Ground Lease Agreement unless LESSOR gives LESSEE notice of termination.

LESSOR may at LESSOR's election use LESSEE's personal property and trade fixtures or any of such property and fixtures without compensation and without liability for use or damage, or store them for the account and at the cost of LESSEE.

LESSOR shall be entitled to LESSOR's election to each installment of rent or to any combination of installments for any period before termination, plus interest at the rate of 18 percent per year from the due date of each installment. Avails of reletting or attorned subrents shall be applied, when received, as follows: (1) to LESSOR to the extent that the avails for the prior covered do not exceed the amounts due and charged to LESSEE for the same period, and (2) the balance to LESSEE. LESSOR shall make reasonable efforts to mitigate LESSEE's liability under this provision. LESSOR shall be entitled to LESSOR's election to damages in the following sums: (1) all amounts that would have fallen due as rent between the time of termination of this Ground Lease Agreement and the time of the claim, judgment, or other award, less the avails of all relettings and attornments and less all amounts by which LESSOR

shall reasonably have mitigated those rental losses, plus interest on the balance at the rate of 12 percent per year, and (2) the “worth” at the time of the claim, judgment, or other award, of the amount by which the unpaid rent for the balance of the term exceeds the then fair rental value of the Premises minus any amounts of rental loss which LESSEE proves could be reasonably avoided. “Worth”, as used in this provision, is computed by discounting the total at the discount rate of the Federal Reserve Bank of San Francisco at the time of the Claim, Judgment, or award, plus one percent interest.

29. WAIVER OF DEFAULT

No waiver of default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition . No waiver, benefit, privilege, or service voluntarily given or performed by either party shall give the other any contractual right by custom, estoppel, or otherwise. The subsequent acceptance of rent pursuant to this Ground Lease Agreement shall not constitute a waiver of any preceding default by LESSEE other than default in the payment of the particular rental payment.

30. NOTICES

As used in this Ground Lease Agreement, notice includes but is not limited to the communications of notice, request, demand, approval, statement, report, acceptance, consent, waiver, and appointment. No notice of the exercise of any option or election is required unless the provision giving the election or option expressly requires notice. Unless the provision of this Ground Lease Agreement on rent direct otherwise, rent shall be sent in the manner provides for giving notice.

A. Writing. All Notices must be in writing, provided that no writing other than the check or other instruments representing the rent payment itself need accompany the payment of rent.

B. Delivery. Notice is considered given either (a) when delivered in person to the recipient named as below, or (b) on the date shown on the return receipt after deposit in the United States mail in a sealed envelope or container, either registered or certified mail, return receipt requested, postage and postal charges prepaid, addressed by name and address to the party or persons intended as follows:

Notice to LESSOR: City of Visalia
City Clerk
707 E. Acequia
Visalia, CA 93291

Copy to: City of Visalia
Airport Manager
9501 Airport Drive
Visalia, CA 93277

Notice to LESSEE: Eric Shuklian
10222 1st Ave.
Hanford, CA 93230

C. Change of recipient or address - Either party may, by notice given at any time or from time to time, require subsequent notices to be given to another individual person, whether a party or an officer or representative, or to a different address, or both. Notices given before actual receipt or notice of change shall not be invalidated by the change.

D. Recipient named - Each recipient named must be an individual person. If more than one recipient is named, delivery of notice to any one such recipient is sufficient. If none of the recipient named in the latest designation of recipient is available for delivery in person, and if the notice addressed by mail to each recipient named in the latest designation of recipient is returned to the sender undelivered, notice shall be sufficient if sent by mail as above to the party as named in this Ground Lease Agreement, unless the name or identity of the party has changed as permitted in this Ground Lease

Agreement and proper notice of the change has been given, in which event the notice shall be sufficient if sent by mail as above to the party named in the latest designating party, and the notice is considered given when the first attempt to give notice was properly made.

31. SURRENDER ON TERMINATION

At the expiration or earlier termination of the term, LESSEE shall surrender to LESSOR the possession of the Premises. Surrender or removal of improvements, fixtures, trade fixtures, and improvements shall be as directed in provisions of this Ground Lease Agreement on ownership of improvements at termination. LESSEE shall leave the surrendered Premises properly disced, leveled, and cleared of debris and weeds and any other property in good condition except as provided to the contrary in provisions of this Ground Lease Agreement on maintenance and repair of improvements. All property that LESSEE is required to surrender shall become LESSOR's property at the termination of the Ground Lease Agreement. All property that LESSEE is not required to surrender but that LESSEE does abandon shall, at LESSOR's election, become LESSOR's property at termination. If LESSEE fails to surrender the Premises at the expiration or sooner termination of this Ground Lease Agreement, LESSEE shall defend and indemnify LESSOR for all liability and expense resulting from the delay or failure to surrender, including, without limitation, claims made by any succeeding tenant founded on or resulting from LESSEE's failure to surrender.

32. HOLDING OVER

This Ground Lease Agreement shall terminate without further notice at expiration of the term. Any holding over by LESSEE after expiration shall not constitute a renewal or extension or give LESSEE any rights in or to the Premises, except that LESSEE's tenancy shall thereafter be on a month-to-month term with rent being payable on the first day of each month, rental payment being one twelfth (1/12) of the amount of annual rent.

33. MISCELLANEOUS

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

B. If any provision of this Ground Lease Agreement is invalid or unenforceable with respect to any party, the remainder of this Lease or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision to this Ground Lease Agreement shall be valid and enforceable to the fullest extent permitted by law.

C. This Ground Lease Agreement shall be binding on and inure to the benefit of the successors, transferees in title, and permitted assignees of the respective parties.

D. This Ground Lease Agreement shall be governed by the laws of the State of California.

E. In any case where the approval or consent of one party hereto is required, requested or otherwise to be given under this Ground Lease Agreement, such party shall not unreasonably delay or withhold its approval or consent.

F. All Riders and Exhibits annexed hereto form material parts of this Ground Lease Agreement.

G. Time of the Essence: Time is of the essence in the performance of each provision of this Ground Lease Agreement.

H. Implementation Clause: To carry into full force and effect each and every agreement, condition, covenant and terms contained in this Ground Lease Agreement, each party agrees that he and she will execute and deliver any and all documents, assignments, releases, receipts and other documents reasonably required by the other without undue delay or expense.

I. Cooperation: LESSOR and LESSEE agree to provide any further documentation and to cooperate in any way necessary to carry out the basic intent of the Ground Lease Agreement.

J. Venue: The parties agree that the contract is to be performed in Tulare County, and any action arising out of the contract will be venued in Tulare County. The parties agree to submit themselves to the jurisdiction of the court in any action relating to this Ground Lease Agreement or the enforcement or interpretation hereof. LESSEE expressly waives any right to remove any action from Tulare County which he might have pursuant to Section 394 of the Code of Civil Procedure.

K. Effective Date: This Ground Lease Agreement shall be and become effective as of the date its execution as set forth above.

L. Waiver: No waiver of any breach of any term, condition or provision of this Ground Lease Agreement shall constitute a waiver of any other breach of any other term, condition or provision. No consent of one party to any departures by the other shall be effective unless such waiver shall be in writing and shall be signed by the non-waiving party or a duly authorized agent thereof and the same shall be effective only for a period, on the conditions and for the specific instances and purposes specified in such writing. No notice to or demand to the non-waiving party in any case shall entitle the

non-waiving party to any other for further notice or demand in similar or other circumstances.

M. Attorney's Fees: If either party brings any action or proceeding to enforce, protect, or establish any right or remedy, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs. Non-judicial, alternative dispute resolution is not an action or proceeding for the purpose of this provision.

N. Binding on Successors: Subject to the provisions of this Ground Lease Agreement on assignment and subletting, each and all of the covenants and conditions of this Ground Lease Agreement shall be binding on and shall inure to the benefit of the heirs, successors, executors, administrators, assigns, and personal representatives of the respective parties.

O. The terms of the Agreement are the product of negotiation between the parties and the parties agree, notwithstanding Civil Code Section 1654, that in the event of uncertainty the language of the Agreement will not be construed against the party causing the uncertainty to exist.

P. Execution in Counterparts: This Ground Lease Agreement may be executed in counterparts, each of which shall be deemed an original, but all which taken together shall constitute but one and the same instrument.

Q. Title or Captions: Titles or captions contained in this Ground Lease Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of the Lease or the intent of any provision hereof.

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

Eric Shuklian, LESSEE

Dated: _____, 2010 by: _____
Eric Shuklian

CITY OF VISALIA, LESSOR

Dated: _____, 2010 by: _____
Steven M. Salomon, City Manager

APPROVED AS TO FORM:

Dated: _____, 2010 by: _____
Alex Peltzer, City Attorney

Dated: _____, 2010 by: _____
Eric Frost, Risk Management

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

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

Agenda Item Wording: Introduction of Ordinance No. 2010-11 authorizing the lease of facilities at the Visalia Municipal Airport to D. Lancy Allyn for an Aircraft Storage Hangar. **(Ordinance 2010-11 required)**

Deadline for Action: None.

Submitting Department: Administration - Airport

Contact Name and Phone Number:

Mario Cifuentez, Airport Manager, 713-4480

Recommendation:

City Staff recommends that Council authorize the City Manager to execute this lease agreement with D. Lancy Allyn. Dr. Allyn has been a tenant in this facility for the past 29 years. The term of this agreement will be for five (5) years. The lease rate will be \$766.50 per month, adjusted annually based on the Consumer Price Index.

Background:

Earlier this year, the ground lease for the facility at the airport known as the Allyn Hangar expired and the tenant has been occupying the facility on a month to month basis as a new lease was negotiated. In accordance with the provisions of the FAA grant assurances, airport staff has negotiated a new lease agreement with Dr. Allyn that contains a fair market rental value of \$766.50 per month for the facility, with annual lease rate adjustments. The new lease rate will provide over \$1,100 in new annual revenue to the airport enterprise fund and brings the rent up to the same fair market value as paid for other similar facilities at the airport.

This lease agreement covers the ground and all improvements including the hangar and storage space as well as the ramp area. The previous lease agreement with Dr. Allyn was outdated and contained an annual lease rate below that rate that other tenants are paying for similar facilities. FAA grant assurances require that all tenants pay fair market rates for property and facilities on the airport. Since the last lease was negotiated, the Airport has implemented a policy of reviewing all lease rates at the time of expiration. If lease rates are below what other tenants are paying for comparable facilities, the airport compares the facilities and services provided and sets the lease rate accordingly to establish a fair market rate on a per square foot basis and insure that all tenants are paying like rates for like facilities. Dr. Allyn has leased the facility since 1981 and desires to continue to lease the facility for the storage of his Lear 28 aircraft. He has agreed to the rent adjustment and all other covenants in the lease.

For action by:

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

For placement on which agenda:

- Work Session
- Closed Session

Regular Session:

- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.) 10 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.

Prior Council/Board Actions: Council has previously approved the original ground lease and subsequent facility lease with Dr. Allyn.

Committee/Commission Review and Actions:

Attachments: Airport Ground Lease Agreement, Ordinance Authorizing the lease

Recommended Motion:

Move introduction of Ordinance No. 2010-11 authorizing the lease of .4 acres of property and improvements at the Visalia Municipal Airport to D. Lancy Allyn.

Environmental Assessment Status

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

NEPA Review: *NA*

Copies of this report have been provided to:

ORDINANCE NO. 2010-11

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA

AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT BETWEEN THE CITY OF VISALIA AND D. LANCY ALLYN FOR THE LEASE OF PROPERTY AT THE VISALIA MUNICIPAL AIRPORT

WHEREAS, the City of Visalia owns and operates certain real property commonly referred to as the Visalia Municipal Airport; and

WHEREAS, the City of Visalia desires to lease said property to a tenant for the purpose of operating an aircraft storage facility at the Visalia Municipal Airport; and

WHEREAS, D. Lancy Allyn is a longtime tenant of the Visalia Municipal Airport and desires to continue to remain a tenant; and

WHEREAS, the City of Visalia and D. Lancy Allyn desire to enter into a lease agreement for said Demised Premises; and

WHEREAS, the said Demised Premises is more particularly shown on Exhibit A attached hereto and described as .4 acres of airport property.

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

Section 1. The City Manager of the City of Visalia be, and is hereby authorized to execute on behalf of the City of Visalia, that certain Lease Agreement by and between the City of Visalia as Lessor and D. Lancy Allyn, as Lessee,

Section 2. This ordinance shall go into effect thirty (30) days after its passage.

AIRPORT LEASE AGREEMENT

This Lease Agreement made and entered into this _____ day of _____, 2010, by and between the City of Visalia, a Municipal Corporation of the State of California, hereinafter referred to as "LESSOR" and D. Lancy Allyn, hereinafter referred to as "LESSEE".

For and in consideration of the payment of rent, taxes, and other charges and of performance of the covenants and conditions hereinafter set forth, LESSOR hereby Leases to LESSEE the real property located at the Visalia Municipal Airport and situated in the City of Visalia, County of Tulare, State of California, more particularly and legally described as set forth in Paragraph 1.B. below.

1. DEMISED PREMISES

A. Definition - Except as expressly provided to the contrary in this Lease, reference to "Demised Premises" is to the described land plus any described appurtenances, including any improvements, now or hereafter located on the Demised Premises, without regard to whether ownership of the improvements is in the LESSOR or in the LESSEE.

B. Description - The real property situated in the City of Visalia, County of Tulare, State of California which is described as follows:

All that portion of Section 32, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, in the City of Visalia, County of Tulare, State of California, described as follows:

Beginning at the Southeast corner of said Section 32, thence North 0⁰ 20' 36" West along the East line of said Section 32 1088.31 feet; thence North 45⁰ 14' 48" West, 3392.74 feet; thence North 44⁰ 39' 36" East, 303.22 feet; To the true point of beginning; thence continuing North 44⁰ 39' 36" East, 232.63 feet; thence South 28⁰ 56' 39" East, 112.29 feet; thence South 61⁰ 09' 00" West, 186.55 feet; thence North 67⁰ 16' 42" West, 59.04 feet to the true point of beginning.

2. TERM

A. The term of this Lease shall be for a period of five (5) years commencing on the 1st day of December 2010 and ending on the 30th day of November, 2015, unless sooner terminated as provided for herein.

3. LEASE RENT

A. INITIAL MINIMUM RENT - LESSEE shall pay without abatement, deduction or affect, a net minimum annual rent of Nine Thousand One Hundred Ninety-eight dollars (\$9,198.00), all due and payable in equal monthly installments of Seven Hundred Sixty-Six Dollars and fifty cents (\$766.50) beginning on the 1st day of December, 2010 and continuing thereafter throughout the entire term of this agreement.

B. RENT ADJUSTMENTS. The minimum annual rent shall be adjusted each and every year, beginning on the first anniversary date of the Lease term, to reflect the percentage change in the Consumer Price Index. For purposes of this agreement, the Consumer Price Index shall be the California Consumer Price Index (all urban consumers, all items) as released by the California Division of Labor Statistics and Research. Said adjustment shall be calculated as follows: The minimum annual rent in effect immediately prior to the anniversary date in question shall be multiplied by one plus the percentage increase in the Consumer Price Index for the last month released prior to such anniversary, as compared to the same month one year prior, the result of such calculation constituting the new minimum annual rent, payable in 12 monthly equal installments as provided in subdivision A. hereof. In no event shall the minimum annual rent be decreased.

The Consumer Price Index as used herein is based on the 1982-84=100 index. Should the Division of Labor Statistics and Research change the 1982-84=100 index, the above referenced formula shall be converted to reflect said change.

C. In the event LESSEE is delinquent in remitting the rent by the tenth (10th) day of each and every month throughout the entire Lease term, then the rent not paid when due shall bear interest at the rate of eighteen percent (18%) per annum from the date due until paid.

4. TAXES AND ASSESSMENTS: "PUBLIC CHARGES"

A. Obligations of LESSEE: From and after the date of execution of this Lease, LESSEE shall pay or cause to be paid all real estate taxes, assessments, and other governmental charges, general and special, ordinary and extraordinary, of any kind and nature whatsoever applicable to the possessory interest of LESSEE in the Demised Premises, as created and established by this Lease, and the building improvements thereon, including but not limited to assessments for public improvements or benefits which shall for any period subsequent to the execution of this Lease and during the term hereof be assessed, levied or imposed upon or become due and payable and a lien upon said possessory interest and building and improvements thereon (specifically excepting therefrom any and all subsurface rights, if any, held or used by others who may have or claim any of the same, LESSEE assuming no liability whatsoever for the taxes, general and special assessments or other charges levied or assessed thereon), all of which taxes, assessments, levies and other governmental charges to be paid by LESSEE are referred to in this Lease as "public charges"; provided however, that if by law any such public charges are payable or may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such public charge), LESSEE may make such payments in installments as the same respectively become due and before any fine, penalty, or cost may be added thereto for the non-payment of any such installment; and provided further that any public charge relating to a fiscal period of the taxing authority expiring after the termination or expiration of this Lease, any part of which fiscal period is included within the time prior to termination or

expiration of this Lease, shall (whether or not during the period prior to termination or expiration of this Lease such public charge shall be paid, assessed, levied or posed upon or become due and payable) be apportioned between the parties.

B. Time of Payment: All payments to be made by LESSEE pursuant to the provisions hereof shall be made before any fine, penalty, interest or cost may be added thereto for the non-payment thereof; and the LESSEE shall furnish LESSOR within sixty (60) days after the dates when the same are payable, as herein provided, with official receipts or other evidence satisfactory to LESSOR that such public charges or excise on rents or other tax or assessments in lieu thereof as aforesaid has, to the extent of the aforesaid, been paid.

C. Contest: LESSEE may contest the legal validity or amount of any public charges for which LESSEE is responsible under this Lease and may institute such proceedings as LESSEE considers necessary. If LESSEE contests any such public charges, LESSEE may withhold or defer payment or pay under protest but shall protect LESSOR and the Demised Premises from any lien by adequate surety bond or other appropriate security.

LESSOR appoints LESSEE as LESSOR's attorney in fact for the purposes of making all payments to any taxing authorities and for the purpose of contesting any such public charge.

D. Exclusions: LESSEE's obligation to pay public charges levied or charged against said possessory estate or buildings or improvements or against specified personal property, shall not include the following whatever they may be called: business income or profit taxes levied or assessed against LESSOR by federal, state or other governmental agencies; estate, succession, inheritance, or transfer taxes of LESSOR; or corporation, franchise, or profit taxes imposed on any owner of the fee title of the Demised Premises.

E. Evidence of Payment: The certificate, advise or bill of the appropriate official designated by law to make or issue the same and to receive payment of any such public charge shall be prima-facie evidence that such public charge is due and unpaid at the time of the making or issuance of such certificate, advise, or bill; and the written receipt of such official shall be prima-facie evidence that the public charge therein described has been paid. LESSOR shall authorize and instruct the assessing authority to forward to LESSEE all bills covering such said public charge.

5. USE OF DEMISED PREMISES

A. Defined - LESSEE shall have the right and obligation to use said premises for the purpose of aircraft storage and aircraft maintenance. Aircraft stored in the hangar will be registered with the Airport Manager. LESSEE shall not have the right or obligation to use the Demised Premises for any other purpose whatsoever, nor shall LESSEE provide any other service without express written consent of the LESSOR.

B. Use Obligation - LESSEE shall actively and continuously use and operate the Demised Premises for the limited and particular exclusive use as expressly provided for above, except for failure to so use caused by reason of wars, strikes, riots, civil commotion, acts of public enemies, and acts of God. Said activities and continuous use and operation enhances the value of the Visalia Municipal Airport, provides needed public service, provides additional employment, taxes, and other benefits to the general economy. LESSEE, however shall not and is expressly prohibited from using the Demised Premises for any other purpose or use whatsoever whether it is purported to be in addition to or in lieu of the particular exclusive use set forth above.

C. In addition, LESSEE shall have the right to sublease a portion, not to exceed 50%, of the demised premises provided that any sublease shall require the prior written consent of the LESSOR. LESSOR further agrees to not arbitrarily withhold said

consent. Any request for the payment of additional consideration to the LESSOR as a condition to granting consent to a sublease shall be considered arbitrary. Further, the consent of the LESSOR shall not be required as to any sublease to any entity in which the principals of the LESSEE own at least 50% of such entity.

6. ENTRY BY LANDLORD - LESSOR and its authorized representatives, employees, contractors or subcontractors shall have the right to enter the premises at any time in case of an emergency, and otherwise upon 72 hours written notice, to inspect the same, to assure compliance with the terms and conditions of this Rental Agreement, to assure compliance with Visalia Municipal Airport Rules and Regulations, to perform LESSOR's required maintenance and repairs, perform fire safety and code compliance inspections, and perform pest control. Written notice will be provided by the Landlord excepting emergency situations. LESSEE further hereby waives any claim for inconvenience to or interference with LESSEE's use of the premises including any loss of occupancy or quiet enjoyment. LESSEE agrees to furnish the LESSOR with a duplicate key or the combination to enter the premises for the purposes listed above.

7. UTILITIES - LESSEE shall be responsible for all utility charges and costs associated with the use of said utilities.

8. BUSINESS LICENSE - LESSEE shall obtain a business license as paid by all people in similar circumstances, within the City of Visalia.

9. RESERVATION OF MINERAL RIGHTS TO LESSOR - All oil, gas, and mineral rights are expressly reserved from this Lease.

10. ASSIGNMENT - The LESSEE shall not assign or transfer the whole or any part of this Lease or any interest herein, nor the whole or any part of the Demised Premises, nor contract for the management or operation of the whole or any part of the Demised Premises, nor permit the occupancy of any part thereof by any other person, nor permit transfer of the Lease or possession of the Demised Premises by merger, consolidation or dissolution, nor permit sale of a controlling interest in the voting stock in said corporation. Nothing herein contained shall be construed to prevent the occupancy of said Demised Premises by any employee or business invitee of LESSEE.

11. LESSEE'S ACCESS - LESSEE shall have, subject to modification in the sole discretion of LESSOR, unrestricted right of access to all taxiways, runways and public facilities of the airport and LESSOR shall maintain taxiways sufficient for the use of aircraft to the boundary of the Demised Premises and vehicle access to Demised Premises. (This is subject to change depending on where on the airport the Demised Premises is located.)

12. REPAIRS AND MAINTENANCE -

A. Throughout the Lease term, LESSEE shall, at LESSEE's sole cost and expense maintain the Demised Premises with the exception of major structural repair and maintenance as set forth below, and all improvements now existing and hereafter erected thereupon in good condition and repair, ordinary wear and tear excepted and in accordance with all applicable rules, laws, ordinance, orders and regulations of federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials. LESSEE shall promptly and diligently repair, restore, and replace as required to maintain or comply as above, or to remedy all damage to or destruction of all or any part of the improvements.

B. Throughout the Lease term, LESSOR shall, at LESSOR's sole cost and expense, maintain the major structural portion of the premises, including the exterior of the building, hangar doors, utilities up to the building, paving and fencing. It shall be LESSOR's sole responsibility to determine whether a maintenance or repair is "major structural" and the responsibility of LESSOR, or, normal maintenance and repair and the responsibility of LESSEE as set forth above.

13. OWNERSHIP OF IMPROVEMENTS - Throughout the term of this Lease, all improvements identified above, shall be owned by LESSOR. LESSEE shall not remove any improvements from the Demised Premises nor waste, destroy, or modify any improvements on the Demised Premises, except as permitted by this Lease. The parties covenant for themselves and all persons claiming under them that the improvements are personal property.

14. APPEARANCE - LESSEE shall maintain the Demised Premises to the reasonable satisfaction of the LESSOR, and in such a manner that said Premises will be neat and well kept in appearance and a credit to the airport.

15. WARRANTIES - GUARANTEES - COVENANTS - LESSOR makes no warranty, guarantee, covenant, including but not limited to covenants of title and quiet enjoyment, or averment of any nature whatsoever concerning the condition of the Demised Premises, including the physical condition thereof, or any condition which may affect the Demised Premises, and it is agreed that LESSOR will not be responsible for any loss, damage or cost which may be incurred by LESSEE by reason of any such condition or conditions.

16. INSURANCE - BUSINESS INTERRUPTION AND EXTRA EXPENSE COVERAGE - Throughout the term of this Lease, at LESSEE's sole cost and expense, LESSEE shall keep or

cause to be kept in force, for the mutual benefit of LESSOR and LESSEE, a policy of insurance against "Business Interruption and Extra Expense" from loss or damage resulting from hazards to owned or non-owned property which prevents normal operations from continuing. Such coverage shall be on an Actual Loss Sustained basis, in an amount equal to at least one (1) years expected operating profit before taxes (calculated according to generally accepted accounting principles consistently applied) plus expenses, including LESSEE's financial obligation to LESSOR, that necessarily continue notwithstanding the business interruption. The insurance shall also provide Extended Period of Indemnity provisions for payment of loss until normal operations resume.

17. INSURANCE - FIRE - Throughout the term of this Lease, at LESSEE's sole cost and expense, LESSEE shall keep or cause to be kept insured for the mutual benefit of the LESSOR, the LESSEE and the holder of any security interest therein, all improvements to the Demised Premises erected thereupon by the LESSEE, against loss or damage by fire and such other risks as are now or hereafter included in extending coverage endorsements in common use for commercial structures, including vandalism or malicious mischief. The amount of the insurance shall be sufficient to prevent either LESSOR or LESSEE from becoming a coinsurer under the provisions of the policies, but in no event shall the amount be less than the "Full Actual Replacement Value". Full Actual Replacement value, as used herein, means the cost of repairing, replacing, or reinstating, including demolishing, any item or property with materials of like kind and quality in compliance with any law or ordinance regulating repair or construction at the time of loss, without deduction for physical, accounting, or any other depreciation. LESSOR shall not carry any insurance the effect of which, would be to reduce the protection or payment to LESSEE under any insurance that this Lease obligates LESSEE to carry. If any dispute, whether the amount of insurance complies with the above, cannot be resolved by agreement, LESSOR may, not more often than once every 24 months, request the carrier of the insurance then in force to determine the full insurable value as defined in this provision, and the resulting

determination shall be conclusive between the parties for the purpose of this paragraph. LESSEE may include the holder of any mortgage on the leasehold or on the fee or both as a loss payee; on the LESSOR's notice of demand LESSEE shall include the holder of any mortgage on the fee as a loss payee to the extent of that mortgage interest. LESSOR shall, at LESSEE's cost and expense, cooperate fully with LESSEE to obtain the largest possible recovery, and all policies of fire extended coverage insurance required by LESSOR shall provide that the proceeds shall be paid to LESSEE as follows:

- A. The proceeds shall be deemed to be held in trust by the recipient to the uses and purposes prescribed by this Lease.
- B. Payments of the proceeds for repair, restoration, or reconstruction of improvements shall be made monthly on LESSOR's certificates until the work is completed and accepted.
- C. Any insurance proceeds remaining after complying with the provisions of this Lease relating to maintenance, repair, and reconstruction of improvements shall be the LESSEE's sole property.

18. INSURANCE - LIABILITY - Throughout the term of this Lease, at LESSEE's sole cost and expense, LESSEE shall keep or cause to be kept in force, for the mutual benefit of LESSOR and LESSEE, comprehensive broad form general liability insurance against any and all claims and liability for personal injury, death, or property damage arising out of the use, occupancy, disuse or condition of the Demised Premises, personal property thereon, improvements or adjoining areas of ways, providing combined single limit of at least One Million Dollars (\$1,000,000.00), for any one accident or occurrence, for bodily injury or death to one or more persons, and at least Five Hundred Thousand Dollars (\$500,000.00) for Property damage.

19. INSURANCE - WORKERS COMPENSATION - LESSEE shall maintain Worker's Compensation insurance with statutory limits, and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000.00) per accident or occurrence.

20. INSURANCE - GENERAL REQUIREMENTS - All insurance required by express provisions of this Lease shall be carried only in responsible insurance companies licensed to do business in the State of California. All such policies shall be nonassessable and shall contain language, to the extent obtainable, to the effect that:

- A.** Any loss shall be payable notwithstanding any act or negligence of LESSOR that might otherwise result in a forfeiture of the insurance.
- B.** The insurer waives the right of subrogation against LESSOR and against LESSOR's agents and representatives.
- C.** The policies are primary and noncontributing with any insurance that may be carried by LESSOR.
- D.** The policies cannot be canceled or materially changed except after 30 written days notice by the insurer to LESSOR or LESSOR's designated representative.
- E.** LESSEE shall furnish LESSOR with copies of all such policies promptly on receipt of them, or with certificates evidencing the insurance. Before commencement of the Lease, LESSEE shall furnish LESSOR with binders representing all insurance requirements by this Lease. LESSEE may effect for its own account any insurance not required under this Lease. LESSEE may provide by blanket insurance covering the Demised Premises and any other location or locations any insurance required or permitted under this Lease provided it is acceptable to all mortgagees. LESSEE shall deliver to LESSOR, in the manner required for notices, copies of certificates of all insurance policies required by this Lease, together with evidence satisfactory to

LESSOR of payment required for procurement and maintenance of the policy, within the following time limits:

1. For insurance required at the commencement of this Lease, within 30 days after execution of this Lease;
2. For insurance becoming required at a later date, at least 15 days before the requirements takes effect, or as soon thereafter as the requirement, if new, takes effect;
3. For any renewal or replacement of a policy already in existence, at least 30 days before expiration or other termination of the existing policy.

F. LESSOR, and LESSOR's elected and appointed officials, agents, representatives, and employees are to be named as additional insureds under the policy(ies).

If LESSEE fails or refuses to procure or to maintain insurance as required by this Lease or fails to furnish LESSOR with required proof that the insurance has been procured and is in force and paid for, LESSOR shall have the right, at LESSOR's election and on five (5) days notice to LESSEE, to procure and maintain such insurance. The premiums paid by LESSOR shall be treated as added rent due from LESSEE with interest at the rate of 18% per year, to be paid on the first day of the month following the date on which the premiums were paid. LESSOR shall give prompt notice of the payment of such premiums, stating the amounts paid and the names of the insurer or insurers, and interest shall run from the date of the notice.

21. INDEMNIFICATION - LESSEE agrees to and shall defend and indemnify LESSOR and LESSOR's elected and appointed officials, agents, representatives and employees against all claims, liability, loss and expense caused or incurred by reason of injury to person or property, or both, including without limitation, injury to the person or property of LESSEE, its agents, officers and employees, arising out of the condition of the Demised Premises or any operations

thereof conducted thereupon or therefrom caused by any act or omission or commission by LESSEE, its agents, officers, employees, or invitees, or any other cause whatsoever, or caused by LESSOR, its agents, officers, employees, or invitees, or any other cause whatsoever, specifically to include the sole active negligence of LESSOR, its agents or employees.

22. DEFINITION OF DEFAULT BY LESSEE - Each of the following events shall be a default by LESSEE and a material breach of this Lease.

A. Abandonment or surrender of the Demised Premises or of the leasehold estate, or failure or refusal to pay when due any installment of rent or any other sum required by this Lease to be paid by LESSEE, or to perform as required or conditioned by any other covenant or condition of this Lease.

B. The subjection of any right or interest of LESSEE to attachment, execution, or other levy, or to seizure under legal process, if not released within 10 days provided that the foreclosure of any mortgage permitted by provisions of this Lease relating to purchase or construction of improvements shall not be construed as a default within the meaning of this paragraph.

C. The encumbrance of the Leases, leasehold estate and improvements thereon without the express written consent of LESSOR.

D. The appointment of a receiver to take possession of the Demised Premises, or improvements or of LESSEE's interest in the leasehold estate, or of LESSEE's operation on the Demised Premises for any reason, including but not limited to, assignment for benefit of creditors or voluntary or involuntary bankruptcy proceedings, but not including receivership (1) pursuant to administration of the estate of any deceased or incompetent LESSEE, or (2) instituted by LESSOR, the event of default being not the appointment of a receiver at LESSOR's insistence, but the event justifying the receivership, if any.

E. An assignment by LESSEE for the benefit of creditors or the filing of a voluntary or involuntary petition by or against LESSEE under any law for the purpose of adjudication of LESSEE's liabilities; or for reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency; unless the assignment or proceeding, and all consequent orders, adjudications, custodies, and supervisions are dismissed, vacated, or otherwise permanently stayed or terminated within 30 days after the assignment, filing or other initial event.

F. Failure to maintain said Demised Premises as required pursuant to the terms of this Lease.

23. NOTICE OF DEFAULT - As a precondition to pursuing any remedy for an alleged default by LESSEE, LESSOR shall, before pursuing any remedy, give notice of default to LESSEE and to all qualifying subtenants whose names and addresses were previously given to LESSOR in a notice or notices from LESSEE. A qualifying subtenant is a subtenant in possession under an existing sublease which is proper under this Lease.

If the alleged default is nonpayment of rent, taxes, or other sums to be paid by LESSEE as provided in the paragraph on rent, or elsewhere in this Lease directed to be paid as rent, LESSEE shall have 10 days after notice is given to cure the default. For the cure of any other default, LESSEE shall promptly and diligently after the notice commence to cure the default and shall have 10 days after notice is given to complete the cure plus any additional period that is reasonably required for the curing of the default. After expiration of the applicable time for curing a particular default, or before the expiration of that time in the event of emergency, LESSOR may at LESSOR's election, but is not obligated to, make any payment required of LESSEE under this Lease or perform or comply with any covenant or condition imposed on LESSEE under this Lease and the amount so paid plus the reasonable cost of any such performance or compliance, plus interest on such sum at the rate of 10% per year from the date of payment, performance, or compliance (herein called "Act"), shall be deemed to be

additional rent payable by LESSEE with the next succeeding installment of rent. No such Act shall constitute a waiver of default or of any remedy for default or render LESSOR liable for any loss or damage resulting from any such Act.

24. REMEDIES IN THE EVENT OF DEFAULT - If any default by LESSEE shall continue uncured, following notice of default as required by this Lease, for the period applicable to the default under the applicable provision of this Lease, LESSOR has the following remedies in addition to all other rights and remedies provided by law or equity, to which LESSOR may resort cumulatively or in the alternative:

A. LESSOR may, at LESSOR's election, terminate this Lease by giving LESSEE notice of termination. On the giving of the notice, all LESSEE's right in the Demised Premises and in all improvements shall terminate. Promptly after notice of termination, LESSEE shall surrender and vacate the Demised Premises and all improvements in broom-clean condition, and LESSOR may re-enter and take possession of the Demised Premises and all remaining improvements and eject all parties in possession or eject some and not others or eject none; provided that no subtenant qualifying under nondisturbance provisions of this Lease shall be ejected. Termination under this paragraph shall not relieve LESSEE from the payment of any sum then due to LESSOR or from any claim for damages previously accrued or then accruing against LESSEE.

B. LESSOR may, at LESSOR's election, re-enter the Demised Premises, and, without terminating this Lease, at any time and from time to time relet the Demised Premises and improvements or any part or parts of them for the account and in the name of the LESSEE or otherwise. LESSOR shall apply all rents from reletting as in the provision on assignment of subrents. Any reletting may be for the remainder of the term or for a longer or shorter period. LESSOR may execute any Leases made under this provision either in LESSOR's name or in LESSEE's name and shall be entitled to all rents from the use, operation, or occupancy of the Demised Premises or improvements

or both. LESSEE shall nevertheless pay to LESSOR on the due dates specified in this Lease the equivalent of all sums required of LESSEE under this Lease, plus LESSOR's expenses, less the avails of any reletting or attornment. No act by or on behalf of LESSOR under this provision shall constitute a termination of this Lease unless LESSOR gives LESSEE notice of termination.

C. LESSOR may, at LESSOR's election, use LESSEE's personal property and trade fixtures or any of such property and fixtures without compensation and without liability for use or damage, or store them for the account and at the cost of LESSEE.

D. LESSOR shall be entitled, at LESSOR's election, to each installment of rent or to any combination of installments for any period before termination, plus interest at the rate of 10 percent per year from the due date of each installment. Avails of reletting or attorned subrents shall be applied, when received, as follows: (1) to LESSOR to the extent that the avails for the period covered do not exceed the amount due and charged to LESSEE for the same period, and (2) the balance to LESSEE. LESSOR shall make reasonable efforts to mitigate LESSEE's liability under this provision. LESSOR shall be entitled at LESSOR's election to damages in the following sums: (1) all amounts that would have fallen due as rent between the time of termination of this Lease and the time of the claim, judgment, or other award, less the avails of all relettings and attornments and less all amounts by which LESSOR shall reasonably have mitigated those rental losses, plus interest on the balance at the rate of 10 percent per year, and (2) the "worth" at the time of the claim, judgment, or other award, of the amount by which the unpaid rent for the balance of the term exceeds the then fair rental value of the Demised Premises, or the higher/lower of the fair rental value unencumbered by the Lease and improvements. "Worth", as used in this provision, is computed by discounting the total at the discount rate of the Federal Reserve Bank of San Francisco at the time of the claim, judgment, or award, plus one percent. LESSOR shall not be considered to be in default under this Lease unless (1) LESSEE has given notice specifying the default and

(2) LESSOR has failed for 10 days to cure the default, if it is curable, or to institute and diligently pursue reasonable corrective or ameliorative acts for noncurable defaults. LESSEE waives the protections of Civil Code Sections 1932 and 1933.

25. WAIVER OF DEFAULT - No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by either party shall give the other any contractual right by custom, estoppel, or otherwise. The subsequent acceptance of rent pursuant to this Lease shall not constitute a waiver of any preceding default by LESSEE other than that default in the payment of the particular rental payment.

26. LEASE ENCUMBRANCE - LESSEE understands and agrees that it cannot encumber the Lease, leasehold estate and the improvements thereon by a deed of trust, mortgage or other security instrument to assure payment of any promissory note of LESSEE without the prior express written consent of the LESSOR in each instance, which consent shall be at the sole and exclusive discretion of the LESSOR. If any deed of trust, mortgage or other security instrument that encumbers the Lease, leasehold estate and the improvements thereon is entered into by LESSEE without LESSOR's prior express written consent, LESSOR shall have the right to declare this Lease in default.

27. EMINENT DOMAIN - If the whole or a substantial part of the Demised Premises hereby leased shall be taken by any public authority under the power of eminent domain, the term of this Lease shall cease as to the part taken, from the day the possession of that part shall be taken for any public purpose, and the rent shall be paid up to that day, and from that day LESSEE shall have the right either to cancel this Lease and declare the same null and void or to continue in possession of the remainder of the same under the terms herein provided, except that the rent shall be reduced in proportion to the amount of the Demised Premises taken. All

damages awarded for such taking shall belong to and be the property of the LESSOR whether such damages shall be awarded as compensation for diminution in value to the leasehold or to the fee of the Demised Premises herein leased, LESSEE's only remedies being the election of cancellation or reduction in rent; provided, however, that LESSOR shall not be entitled to any award made for the taking of any installation or improvements on the Demised Premises belonging to LESSEE.

28. QUITCLAIM OF LESSEE'S INTEREST UPON TERMINATION - Upon termination of this Lease for any reason, including but not limited to termination because of default by LESSEE, LESSOR may request and, if requested, LESSEE shall execute, acknowledge and deliver to LESSOR within thirty (30) days after receipt of written demand thereof, a good and sufficient deed whereby all right, title and interest of LESSEE in the Demised Premises is quitclaimed to LESSOR. Should LESSEE fail or refuse to deliver the required deed to LESSOR, LESSOR may prepare and record notice reciting the failure of LESSEE to execute, acknowledge and deliver such deed and said notice shall be conclusive evidence of the termination of the Lease and of all rights of LESSEE or those claiming under LESSEE in and to the Demised Premises.

29. ATTORNEYS' FEES - If either party brings any action or proceeding to enforce, protect, or establish any right or remedy, the prevailing party shall be entitled to recover reasonable attorneys' fees. Arbitration is not an action or proceeding for the purpose of this provision.

30. NOTICES - As used in this Lease, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, and appointment. No notice of the exercise of any option or election is required unless the provision giving the election or option expressly requires notice. Unless the provision of this Lease on rent direct otherwise, rent shall be sent in the manner provided for giving notice.

A. Writing. All Notices must be in writing, provided that no writing other than the check or other instruments representing the rent payment itself need accompany the payment of rent.

B. Delivery. Notice is considered given either (a) when delivered in person to the recipient named as below, or (b) on the date shown on the return receipt after deposit in the United States mail in a sealed envelope or container, either registered or certified mail, return receipt requested, postage and postal charges prepaid, addressed by name and address to the party or persons intended as follows:

Notice to LESSOR: City of Visalia
 City Clerk
 707 W. Acequia
 Visalia, CA 93291

Copy to: City of Visalia
 Airport Manager
 9501 Airport Drive
 Visalia, CA 93277

Notice to LESSEE: D. Lancy Allyn
 470 Greenfield Ste. 35
 Hanford, CA 93230

C. Change of recipient or address. Either party may, by notice given at any time or from time to time, require subsequent notices to be given to another individual person, whether a party or an officer or representative, or to a different address, or both.

Notices given before actual receipt of notice of change shall not be invalidated by the change.

D. Recipient named. Each recipient named must be an individual person. If more than one recipient is named, delivery of notice to any one such recipient is sufficient. If none of the recipients named in the latest designation of recipient is available for delivery in person, and if the notice addressed by mail to each recipient named in the latest designation of recipient is returned to the sender undelivered, notice shall be sufficient if sent by mail as above to the party as named in this Lease, unless the name or identity of the party has changed as permitted in this Lease and proper notice of the change has been given, in which event the notice shall be sufficient if sent by mail as above to the party named in the latest designating party, and the notice is considered given when the first attempt to give notice was properly made.

31. REGULATIONS - LESSEE shall not conduct, or allow to be conducted upon the Demised Premises, any dangerous or hazardous activities, or any activities considered to be a nuisance to the airport or its tenants and neighbors, and LESSEE agrees to abide by all applicable F.A.A. and U.S. Government rules and regulations, including, but not limited to the following:

A. The LESSEE for himself, his heirs, personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the Demised Premises for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted programs of the Department of Transportation and as said Regulations may be amended.

B. The LESSEE for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

1. No person on the grounds of race, color, sex, age or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of said facilities; and

2. That in the construction of any improvements on, over or under such land and the furnishing or services thereon, no person on the grounds of race, color, sex, age or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination; and

3. That the LESSEE shall use the Demised Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted programs of the Department of Transportation, and as said Regulations may be amended.

C. It is understood and agreed that nothing contained herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

D. LESSEE agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service, provided, that LESSEE may make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

E. The LESSOR reserves the right (but shall not be obligated to LESSEE) to maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport, together with the right to direct and control all activities of the LESSEE in this regard.

F. The LESSOR reserves the right to further develop or improve the landing area and all publicly owned air navigation facilities of the airport as it sees fit, regardless of the desires or views of the LESSEE, and without interference or hindrance.

G. The LESSOR reserves the right to take any action it considers necessary to protect aerial approaches of the airport against obstructions, together with the right to prevent LESSEE from erecting, or permitting to be erected, any building or other structure on the airport which in the opinion of the LESSOR would limit the usefulness of the airport or constitute a hazard to aircraft.

H. During the time of war or national emergency the LESSOR shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly owned air navigation facilities and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this Lease, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.

I. It is understood and agreed that the rights granted by this Lease will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the airport.

J. There is hereby reserved to the LESSOR, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for passage of aircraft in the airspace above the surface of the Demised Premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the airport.

K. The Lease shall become subordinate to provisions of any existing or future agreement between the LESSOR and the United States of America, or any agency thereof relative to the operation, development, or maintenance of the airport, the

execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.

32. CURRENT AND FUTURE AIRPORT REGULATIONS - This Lease and all rights conferred thereby shall at all times be subject to current and future regulations governing any and all activities at the Visalia Municipal Airport to the same extent that such current and future regulations govern the activities of all persons using the facilities of the Visalia Municipal Airport and occupying structures thereon.

33. MODIFICATIONS - It is understood and agreed by and between the parties hereto that any alterations, modifications, or additions to the structural improvements, including landscaping and the paint colors, on the leasehold Demised Premises by the LESSEE can only be instituted by first obtaining written approval of the LESSOR of the plans, locations and specifications of said structural changes. Alterations, modifications, or additions to the interiors of the improvements shall not be considered structural, provided LESSEE agrees to provide LESSOR one set of "as built" plans for said changes within 60 days of completion.

34. SIGNS - LESSEE agrees that no signs will be painted or erected on the subject Demised Premises unless such signage is first approved in writing by LESSOR and is also approved by the City of Visalia in its governmental capacity. All signage painted or erected on the subject Demised Premises or off-site signage for the benefit or use of LESSEE, shall be in compliance with the City of Visalia ordinance related to signs, zoning and building regulations.

35. AFFECT OF ILLEGALITY - The invalidity or illegality of any provision shall not affect the remainder of the Lease.

36. RELOCATION - LESSOR shall have the right upon six (6) months notice to relocate LESSEE to another location, on airport property. LESSOR shall be responsible for the cost of moving fixed equipment including hangar to the new location. LESSEE agrees that LESSOR will pay no penalties, relocation allowances, damages, or other fees except as stipulated. LESSOR agrees that the rental fees will remain as stated in this contract, should a relocation become necessary, for the balance of the term.

37. TERMINATION RIGHTS - The LESSEE shall have the right to terminate this LEASE in the event the LESSOR exercises the right of paragraph 35. LESSEE shall have the right to terminate this Lease any time during the sixty (60) day period following receipt of notice of relocation.

38. SURRENDER ON TERMINATION - At the expiration or earlier termination of the term, LESSEE shall surrender to LESSOR the possession of the Demised Premises. Surrender or removal of improvements, fixtures, and trade fixtures shall be as directed in above provisions of this Lease on ownership of improvements at termination. LESSEE shall leave the surrendered Demised Premises and any other property in good and broom-clean condition except as provided to the contrary in provisions of this Lease on maintenance and repair of improvements. All property that LESSEE is required to surrender shall become LESSOR's property at the termination of the Lease. All property that LESSEE is not required to surrender but that LESSEE does abandon shall, at LESSOR's election, become LESSOR's property at termination. If LESSEE fails to surrender the Demised Premises at the expiration or sooner termination of this Lease, LESSEE shall defend and indemnify LESSOR from all liability and expense resulting from the delay or failure to surrender, including, without limitation, claims made by any succeeding tenant founded on or resulting from LESSEE's failure to surrender.

39. HOLDOVER - This Lease shall terminate without further notice at expiration of the Lease term. Any holding over by LESSEE after either expiration or termination shall not constitute a renewal or extension, or give LESSEE any rights in and to the Demised Premises, unless as provided in paragraph 2B above. If LESSEE, with LESSOR's consent, remains in possession of the Demised Premises after expiration or termination of the term or after the date in any notice given by LESSOR to LESSEE terminating this Lease, such possession by LESSEE shall be deemed to be a month-to-month tenancy terminable on thirty (30) days' notice given at any time by either party. During any such month-to-month tenancy, LESSEE shall continue to pay all rent required by this Lease. All other provisions of this Lease, except those pertaining to term, shall apply to the month-to-month tenancy.

40. TIME IS OF THE ESSENCE - Time is of the essence of each and all of the terms and provisions of this Lease and this Lease shall inure to the benefit of and be binding upon the parties hereto and any successors of LESSEE as fully and to the same extent as though specifically mentioned in each instance, and all covenants, stipulations and agreements in this Lease shall extend to and bind any successors, assigns and sublessees of LESSEE.

41. ACCEPTANCE OF DEMISED PREMISES - By signing this Lease, LESSEE represents and warrants that LESSEE has independently inspected the Demised Premises and made all tests, investigations and observations necessary to satisfy itself of the condition of the Demised Premises. LESSEE agrees it is relying solely on such independent inspection, tests, investigations and observations in making this Lease. LESSEE further acknowledges that the Demised Premises are in the condition called for by this Lease, and that LESSEE does not hold LESSOR responsible for any defects in the Demised Premises.

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

43. ABSTRACT OF LEASE - This is the final paragraph and abstract of the Lease dated _____, 2010, by and between the City of Visalia, LESSOR and D. Lancy Allyn, LESSEE, concerning the Demised Premises described in Paragraph 1.B. herein.

For good and adequate consideration, LESSOR leases the Demised Premises to LESSEE, and LESSEE hires from LESSOR, for the term and on the provisions contained in the Lease including, without limitation, provisions prohibiting assignment, subleasing, and encumbering said Lease without the express written consent of LESSOR in each instance, all as more specifically set forth in this abstract by this reference.

The term is five (5) years, beginning on the 1st day of December, 2010 and ending on the 30th day of November, 2015.

This abstract is not a complete summary of the Lease. Provisions in the abstract shall not be used in interpreting the Lease provisions. In the event of conflict between the abstract and other parts of the Lease, the parts contained within the Lease shall control. Execution hereof constitutes execution of the Lease itself.

44. VENUE

This contract is to be construed by the laws of the State of California with venue only in Tulare County, or the United States District Court for the Eastern District of California.

D. Lancy Allyn, LESSEE

Dated: _____, 2010 by: _____
D. Lancy Allyn

CITY OF VISALIA, LESSOR

Dated: _____, 2010 by: _____
Steven M. Salomon, City Manager

APPROVED AS TO FORM:

Dated: _____, 2010 by: _____
Alex Peltzer, City Attorney

Dated: _____, 2010 by: _____
Eric Frost, Risk Management

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

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

Agenda Item Wording: Authorization to proceed with a Request for Proposal (RFP) for the development of a solar energy generating facility.

Deadline for Action: None

Submitting Department: Public Works

Contact Name and Phone Number:

Andrew Benelli, Public Works Director,	713-4340
Jim Ross, Public Works Manager,	713-4182
Tim Fosberg, Financial Analyst,	713-4565
Kim Loeb, Natural Resource Conservation Mgr.,	713-4530

Department Recommendation

Staff recommends issuing a Request for Proposals (RFP) to solicit proposals from companies seeking land for the development of solar power. The City has land that would allow the installation of solar panels without negatively impacting current or likely future uses.

Discussion:

The City has a long standing commitment to energy efficiency, energy management, and renewable energy resources. Also, the City is also looking for ways to increase revenue and facilitate renewable energy generation. This can be accomplished by leasing City land for the purposes of generating solar power.

Recently, a solar development firm approached the City with a proposal to lease City land for the development of a generating facility. Staff determined that it would not be appropriate to consider a single proposal without allowing other firms the opportunity to make a proposal. The RFP process is similar to soliciting bids, but the best vendor is selected based on the overall proposal not necessarily on the lowest or highest bid.

The City has two sites that are large enough to offer for a lease of this nature. Two sites currently being discussed are Basin 4, a 160-acre ponding basin located near Caldwell and Road 48 (west of the Water Conservation Plant) and the second site is 80 acres of percolation ponds at the Water Conservation Plant.

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.

Basin 4 was recently annexed into the City. Staff currently feels that the solar panels would have little impact on the usefulness of the basin, but will further research to ensure the compatibility of these two uses.

Other municipalities are also discovering this additional revenue from energy and solar related projects. For example, the City of Porterville leased 34 acres for solar panels for a term of 26 years. The City of Firebaugh recently agreed to a power purchase agreement with an organization to construct and operate a solar generating facility with the City agreeing to purchase the electricity for 15 years with the right to buy the equipment at the end of the lease. The City of Phoenix leased 1,457 acres for 25 years for solar panels and had over 70 people attend the Proposal Conference. In Riverside County over 5,950 acres are being processed for development as solar power generating facilities.

Staff recommends that the City issue a Request for Proposals for the leasing of land for the installation of solar panels. The proposals received may offer several different types of compensation for occupying City owned property. Some municipalities and landowners are executing conventional property leases with monthly or annual cash payments. Other owners are agreeing to profit sharing or a payment in cheap or free power. Some owners are consenting to power purchase agreements where they use the power at a reduced rate (below Edison's rate) and own the generating facility at the end of the lease. A committee will be formed to evaluate the proposals and present a recommendation to the Council.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected): Authorize the City Manager to issue a Request for Proposals (RFP) for the development of solar power generating facilities on City owned property.

Environmental Assessment Status

CEQA Review:
NEPA Review:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

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

Agenda Item Wording: Authorization to amend the Water Conservation Plant design services contract with Parsons to reflect the change in focus and scope of the project. This amendment will be an increase of \$1,331,640 over the original contract amount of \$7,161,495. The new contract amount will be \$8,493,135. Funds are set aside in the Wastewater Enterprise.

Deadline for Action: none

Submitting Department: Public Works

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

Department Recommendation:

It is recommended that Council authorize staff to amend the Water Conservation Plant design services contract with Parsons to reflect the change in focus and scope of the project.

This amendment will be an increase of \$1,331,640 over the original contract amount of \$7,161,495. The new contract amount will be \$8,493,135, which is approximately 9% of the expected project construction cost of \$98 million, and well below the 10-15% design fee normally expected for a project of this complexity. Funds are set aside in the Wastewater Enterprise to cover this increase.

Summary/background:

The City of Visalia Water Conservation Plant (WCP) operates under a discharge permit issued by the State Water Resources Control Board (SWRCB) and administered by the Regional Water Quality Control Board (RWQCB, or Regional Board) in Fresno.

In September 2006, the WCP was issued its current permit, which replaced the one in effect since 1995. The new permit imposed several new restrictions on plant discharges. In order to comply with these new limitations, a major plant upgrade project is required.

In May 2009, the City contracted with Parsons for engineering services related to the design of the Water Conservation Plant (WCP) upgrades. The project scope of work was separated into three parts, described below. To avoid unnecessary delays, Council approved all three parts of the contract as a package. However, written approval from the City was required prior to Parsons proceeding with each Part of the project.

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.

- Part 1: Pre-design and associated services: Fee: \$704,301
Part 1 served to refine the scope of the project and laid the foundation for the Part 2 design effort. In Part 1, Parsons conducted a detailed evaluation of and identified deficiencies within the plant processes and facilities. They also modeled and identified the most appropriate treatment technologies upon which to base the design.
- Part 2: Detailed design services: Fee: \$5,166,816
Part 2 represents the bulk of the design work, where project plans and specifications, suitable for construction, are developed.
- Part 3: Engineering services during construction: Fee: \$1,290,378
Part 3 services begin after Part 2 design is completed. Services will include preparation of construction bid documents, submittal review and approval, start-up support, preparation of a plant-wide operations manual, preparation of As-built drawings, etc.

The original project presented for bidding was one that would upgrade the existing WCP processes to meet the City's discharge permit requirements. Treated effluent would be discharged, via a pipeline, to Basin 4 for disposal through evaporation and percolation.

Concurrent with Parsons' pre-design effort, the City contracted with Provost and Pritchard to identify how best to utilize the treated effluent. That effort led to a refocusing of the treatment plant project from one of "treat and dispose" to one of "treat and reuse". This was formalized in December 2009 when Council authorized Parsons to begin design of the project utilizing Membrane Bio-reactor (MBR) filtration technology, with the goal of 100% effluent reuse.

The re-defining of the project resulted in a significant change on scope for the Part 2 design phase of the project. This was not unexpected. The contract states:

"It is understood that the Scope for Parts 2 and 3 will be revisited upon selection of the WCP upgrade alternatives and water recycling option and that an adjustment in compensation for Parts 2 and 3 may be necessary."

As a result of pre-design work done in Part 1, Parsons has identified 23 out of scope items that they are now requesting be formalized in a contract amendment. A detailed explanation of each item is attached, along with the background information and associated fee.

A brief summary is listed below, with each item falling into one of six general categories.

Documentation

Items listed in this category are either required by regulatory agencies or to facilitate the WCP upgrade project.

Item 1: Preparation of Report of Waste Discharge Fee: \$32,918

The City's current Wastewater Discharge permit expires in September 2011. There are several construction and discharge milestones within that permit that the City will not meet. At a February 10, 2010 meeting with the Regional Water Quality Control Board (RWQCB), the City was advised that the deadlines can be adjusted provided the City submits a Report of Waste Discharge (RWD) that adequately describes the current project and provides evidence of significant movement towards compliance. This RWD will also begin the process of renewing the City's discharge permit which is set to expire in 2011.

Item 2: Delete Master Plan Update: Credit: <32,918>

At a February 10, 2010 meeting with the City and Parsons, the RWQCB stated that the existing master plan does not need to be updated with new project information provided they receive the RWD in its place as described in Item 1. Preparation of a supplement to the 2008 Master Plan was included in the original scope and fee for the project.

Item 3: Prepare Title 22 Engineering Report: Fee: \$49,377

As part of the current project, City is planning to implement tertiary treatment with a full-scale water recycling. At a meeting with the City and Parsons on February 10, 2010, the DPH stated that a Title 22 Engineering Report for the recycled water uses associated with the WCP Upgrades project needs to be prepared and submitted for their review and approval.

Item 4: Prepare FEMA Flood Zone Evaluation Report: Fee: \$21,000

Work done in Part 1 revealed that the existing WCP facilities and proposed upgrades lie within the FEMA designated flood Zone "A." Zone "A" is defined as an area with a 1% annual chance of flooding, but where a detailed analysis has not been performed. Subsequently, no depths or base flood elevations are shown within these zones. Base elevations are needed to properly protect the WCP from a 100-year flood as required by the RWQCB.

The work will be performed in two phases. The first phase will include a simplified FEMA evaluation that is sometimes sufficient to establish appropriate flood elevations. If that effort is rejected by FEMA, which is likely to be the case, the second phase will build on the phase 1 work to include a more comprehensive evaluation. Fee for phase 1 evaluation is \$4200. Fee for phase 2, if necessary, is \$16,800.

Item 5: Provide aerial survey of city Walnut orchard: Fee: \$7,245

The original scope of work stated that the WCP aerial survey would include features within the WCP boundary. At the request of the City, the entire property, including the 900 acre farm property, was surveyed to provide detailed photogrammetric mapping. This information has proven valuable in designing the recycled water piping, and will be helpful in future decisions concerning the orchard property.

Water reuse

Items listed in this category are the result of the City's water exchange and/or recycling efforts.

Item 6: Additional geotechnical investigation, Effluent pipelines: Fee: \$11,130

Additional structures within the WCP boundary and the additional southern discharge pipeline necessitated additional borings to determine soil structure and engineering requirements.

Item 11: Additional geotechnical investigation, Irrigation pipelines: Fee: \$420

The expanded recycled water distribution network necessitated additional borings to determine soil structure and engineering requirements.

Item 12: Additional environmental work along new irrigation pipelines: Fee: \$31,448

The original scope was to environmentally clear the proposed facilities within the footprint of the existing WCP at a project level and discuss the limited recycled water conveyance facilities at a programmatic level. The increased water recycling effort and associated expansion of the distribution system requires biological and cultural resources surveys for the pipeline alignments to environmentally clear these facilities at a project level.

Item 13: Additional Survey / design, Effluent pipelines & regulating reservoir: Fee: \$118,125

As a result of the City's water exchange efforts, the design of the discharge pipeline system is more involved than originally proposed. For example, there is one additional effluent pipeline, the pipelines are larger in diameter, connections are more complicated, there are more ditch crossings, flow meters, and outlet structures, and a regulating reservoir is now part of the scope of work in order to serve users at a more consistent rate.

Item 14: Additional Survey and design, Recycled Water irrigation pipelines: Fee: \$3,150

As a result of the City's water reuse efforts, the design of the recycled water distribution system is more involved than originally proposed. For example, the pipelines are larger in diameter, connections are more complicated, more of the pipelines are in paved streets, and there are additional turnouts and meters. The additional fee for this item is almost completely offset by a corresponding savings realized by the shorter total length of required pipelines.

Plant deficiencies

Items listed in this category are intended to address deficiencies discovered during the system evaluation conducted during the Part 1 evaluation.

Item 17: Relocate electrical and control equipment: Fee: \$163,876

The age and ongoing maintenance requirements associated with the existing electrical and control equipment necessitates relocating these functions. The electrical conduits, wiring, and motor control centers servicing the existing Administration Building are underrated for their current applications and are unsafe in their present condition and location. The instrumentation terminal blocks, wiring, and programmable logic controllers (PLCs) are rapidly becoming obsolete and are difficult to repair. Relocating these functions will allow the City to mitigate the large recurring operation and maintenance expenditures associated with this existing equipment.

This work will detail the wire routing of each power cable and all associated instruments to the PLCs and motor control centers (MCCs) with minimum impact to the existing wiring. Parsons will also prepare the detailed design plans & specifications for a new electrical/SCADA Control Building in the digester area of the WCP.

Item 18: Upgrade existing PLC controllers & extend new fiber optic network Fee: \$54,046

The ten existing PLCs are outdated and do not have sufficient capabilities to accommodate the complex control requirements of the new treatment processes or to communicate via Ethernet over a fiber optic loop. Parsons will design a state-of-the-art control system to consolidate the currently scattered control centers into a single and efficient SCADA system. This plant-wide communications system upgrade will rely on a new Fiber Optic Ethernet network and will facilitate future expansion and provide for the most reliable and cost-effective control system.

Item 19: New operations control center at the administration building Fee: \$21,663

To enhance plant operation and control capability and to provide for redundancy, Parsons will provide SCADA capabilities at the Administration Building in addition to the one at the new Control Building. This work will also include interior design services to make the control center function as a public "welcome center". This task will extend the fiber optic loop to the building and incorporate monitoring and control capabilities of the plant-wide SCADA system.

Pre-selection

In order to minimize future design changes, Council authorized staff to pre-select six major components of the project. The original scope of work included only pre-selection of the MBR equipment.

Item 7: Sludge Disintegration Equipment pre-selection Fee: \$65,836

Sludge disintegration is a relatively new (5 years old) technology for increasing methane gas production from anaerobic sludge digestion while simultaneously decreasing the quantity of residual solids produced. The currently accepted method for accomplishing the same thing is termed "two phase digestion" (TPD). Conversion of the existing WCP to TPD was included in the original project scope, and design of this conversion will continue. However, TPD comes with increased operational difficulties and a significant increase in operational time, attention and effort. If the sludge disintegration process proves successful, the City could save an estimated \$2 million in initial construction costs and will avoid the increased staffing requirements generally associated with TPD..

At a meeting with Parsons on April 9, 2010, WCP staff expressed interest in investigating this technology. However, because it is a relatively new technology, Staff did not want to be "the guinea pig". Parsons prepared an RFP that is significantly more complicated than others because the equipment supplier will be required to undergo a "test" period. If the equipment fails the test, it will be removed by the supplier, and the City will receive a 100% refund. This RFP is scheduled to close on 11/12/10.

Item 8: High Speed Turbo Type Aeration Blower pre-selection Fee: \$20,698

There are several competing equipment technologies available to provide the required aeration, each with its own design and layout requirements. To avoid design changes further along in the project, the City requested that Parsons prepare the required bid package in order to pre-select the aeration blower system.

This pre-selection has been completed, and on August 16, 2010, the City awarded a contract to K-Turbo in the amount of \$1,237,190..

Item 9: Screw or Rotary Presses for Sludge Dewatering, pre-selection Fee: \$41,148

From project conception, screw presses have been the system of choice for sludge dewatering at the Visalia WCP. However, following demonstration testing at the WCP of a competing rotary press dewatering technology, the City asked Parsons to prepare a pre-selection bid document including both screw presses and rotary presses.

This pre-selection has been completed, and is being presented to Council on November 15, 2010 for award to FKC in the amount of \$794,610.

Item 10: Ultra-violet disinfection system, pre-selection Fee: \$41,148

The original scope of work included continued use of the existing chlorine contact basins and gaseous feed chlorination system to disinfect WCP effluent. However, during preparation of the pre-design report, it was determined that UV disinfection is a more cost-effective technology when used in conjunction with MBRs. Since the UV disinfection designs offered by DPH-approved manufacturers are very different, the City and Parsons agreed that the UV disinfection equipment should be pre-selected. Preparation of this bid document is complete and the RFP is currently open for bids.

Item 22: Energy recovery system, pre-selection Fee: \$89,066

During pre-design, it was discovered that the sale price of the 300 kW fuel cells, the technology of choice for this project, increased by nearly 100%. Other available fuel cell models do not provide the flexibility to incrementally ramp up the power production over the next 20 years in relation to increasing gas generation. Because of this market restructuring, fuel cells are no longer the obvious technology of choice.

After evaluating various technologies, it became clear that micro-turbines are the only proven alternative to fuel cells for this project. Pre-selection of the energy recovery system is necessary to help prevent additional project changes in the future.

New in-plant processes

During the Part 1 evaluation of the existing facilities, several deficiencies were identified that must be corrected.

Item 15: New Inter-stage Pump Station: Fee: \$129,437

When a detailed hydraulic analysis was performed as part of the pre-design report, it was determined that the wastewater would not flow properly between the primary and secondary portions of the WCP because there was not enough hydraulic grade to accommodate peak flows. This major hydraulic bottleneck was not previously identified. To correct this deficiency, an inter-stage pump station must be constructed between the primary and secondary parts of the plant. This facility will be designed to accommodate peak flows of 44 mgd and will be easily expandable to 52 mgd peak flows

Item 16: New Pre-fabricated collections shop building: Fee: \$55,768

During preparation of the pre-design report, it was determined that the most appropriate location for the new septage receiving station was at the location currently occupied by the existing 2000 sq.ft. collections shop building. This building has been expanded and remodeled several times over the years, and is simply not functional as a maintenance building. Therefore, a new building needs to be constructed to replace the existing building. This building will provide for the functions of the collections system staff and will be about 12,000 square feet in size, with about 6,400 square feet of enclosed shop/storage area and 5,600 square feet of open-sided covered storage area.

Item 20: Design of new Sludge Disintegration system:: Fee: \$55,768

As described in Item 7, the City is pre-selecting a sludge disintegration system as a method for possibly increasing gas production from the digesters while simultaneously decreasing the quantity of digested sludge produced. Since the manufacturer will only be supplying the equipment itself, Parsons needs to provide the necessary design services to support the proper installation of the equipment.

Item 21: Design of new Ultra-violet Disinfection system:: Fee: \$102,303

As described in Item 10, the City is pre-selecting UV disinfection equipment to treat the entire design flow for water reclamation. Parsons original scope of work includes continued use of the existing chlorine contact basins and gaseous feed system to disinfect an average daily flow of 5 mgd for water reclamation. Parsons original sheet count includes a total of 3 drawings to cover modifications to the existing disinfection system as opposed to the 14 drawings needed to design the installation for the UV disinfection facility. Therefore, a net total of 11 drawings worth of effort is required to accommodate the change in direction for the design.

Solar

Late in the pre-design phase, the City requested that Parsons include provisions for a 1 MW solar photovoltaic system. Because the scope of work and actual design effort is not well understood, Parsons has provided a “best guess” fee estimate. Expenditures on this effort will be tracked separately from other tasks, and Parsons will be paid on a time and materials basis for this task. Unused funds for this task will not be allocated to other tasks, and will be retained by the City.

Item 23: Management & preparation of Design-build document for solar system: Fee: \$248,988

Based on a June 24, 2010 meeting with City management, Parsons will provide engineering services to help secure funding and facilitate implementation of an approximate 1 megawatt (MW) solar energy system at the WCP. It is anticipated that the solar energy system would be installed under the design-build method of project delivery using a combination of Southern California Edison (SCE) incentives, funds available through the Department of Energy (DOE) or other agencies, and State Revolving Fund (SRF) loans.

As part of this task, Parsons will

- research and advise the City on the available federal, state, and local funding mechanisms available for solar energy systems including SCE incentives, funds available through the DOE or other agencies.
- complete the application process with the SRF and/or other funding agencies identified above.
- complete the SCE application process, and submit proper documentation to SCE in order to receive SCE incentive payments.
- develop electric interconnection scenario and discuss with SCE, in conjunction with the City. When all parties have agreed on the proper method of electrical interconnection, Parsons will provide the necessary interconnection agreement documentation to SCE.
- prepare a technical memorandum (TM) summarizing the results of the above items. The TM will also describe the process and requirements for developing a request for proposal package to complete the solar energy project under a design-build method of project delivery. The TM will evaluate alternative locations for the solar system and recommend the best location in conjunction with the City.
- prepare a request for proposal (RFP) package to complete the solar energy project under a design-build method of project delivery. The RFP will contain performance specifications for the solar energy equipment plus the necessary preliminary engineering drawings and specifications to adequately support the solar energy equipment installation. The RFP will also contain appropriate criteria for evaluating the submitted proposals. Parsons will assist the City in the proposer prequalification process and in advertising the design-build RFP package for bidding.
- assist the City in reviewing and evaluating the proposals and will make a recommendation to the City regarding selection and award
- Parsons will assist the City in providing oversight of the design-build contractor during construction and startup of the solar energy project.

In total, the above items represent a contract modification of \$1,331,640, or 18.5% of the original contract value of \$7,161,495. The new contract value is \$8,493,135. This is approximately 9% of the expected project cost, which is well below the 10-15% design fee normally expected for a project of this complexity.

Recommendation:

It is recommended that Council authorize staff to amend the engineering design services contract with Parsons to reflect the change in focus and scope of work for the Water Conservation Plant upgrade project. Original contract value is \$7,161,495. The net increase of the 23 out of scope items is \$1,331,640. The new contract value is \$8,493,135.

**Water Conservation Plant Upgrade Project
Parsons Design Contract, Amendment No. 1
Summary Table**

Item No.	Description	Fee
Documentation items		
1	Preparation of Report of Waste Discharge	32,918
2	Delete Master Plan Update:	-32,918
3	Prepare Title 22 Engineering Report:	49,377
4	Prepare FEMA Flood Zone Evaluation Report:	21,000
5	Provide aerial survey of city Walnut orchard:	7,245
Water Reuse items		
6	Additional geotechnical investigation, Effluent pipelines:	11,130
11	Additional geotechnical investigation, Irrigation pipelines:	420
12	Additional environmental work along new irrigation pipelines:	31,448
13	Additional Survey / design, Effluent pipelines & regulating reservoir:	118,125
14	Survey and design, Recycled Water irrigation pipelines:	3,150
Plant Deficiency items		
17	Relocate electrical and control equipment:	163,876
18	Upgrade existing PLC controllers & extend new fiber optic network	54,046
19	New operations control center at the administration building	21,663
Pre-selection items		
7	Sludge Disintegration Equipment pre-selection	65,836
8	High Speed Turbo Type Aeration Blower pre-selection	20,698
9	Screw or Rotary Presses for Sludge Dewatering, pre-selection	41,148
10	Ultra-violet disinfection system, pre-selection	41,148
22	Energy recovery system, pre-selection	89,066
New In-plant Process items		
15	New Inter-stage Pump Station:	129,437
16	New Pre-fabricated collections shop building:	55,768
20	Design of new Sludge Disintegration system::	55,768
21	Design of new Ultra-violet Disinfection system::	102,303
Solar Energy		
23	Management & preparation of Design-build document for solar system:	248,988
Total		1,331,640

Prior Council/Board Actions:

May, 2009: Award of contract to Parsons
December 2009: Approval of water recycling project
August 2010: Award of various pre-selection RFPs

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Parsons document: Amendment No. 1 Detail, Additional Scope of Work Items

Recommended Motion (and Alternative Motions if expected):

Move to authorize staff to execute Amendment No. 1 with Parsons to reflect the change in focus and scope of the Water Conservation Plant upgrade project. Amendment No. 1 is an increase of \$1,331,640. The new contract amount will be \$8,493,135.

Environmental Assessment Status

CEQA Review: N/A

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:

AMENDMENT NO. 1 DETAIL

To the Professional Services Agreement For the City of Visalia Water Conservation Plant Upgrades

ADDITIONAL SCOPE OF WORK ITEMS

As requested by the City of Visalia (City), the following paragraphs provide brief descriptions of the scope of work and background for additional items related to Amendment No. 1 for the Water Conservation Plant (WCP) Upgrades project.

As specified in the Agreement, it was anticipated that the final scope for Part 2 - Detailed Design Services would be adjusted after the physical facilities at the WCP and the water recycling option were defined during Part 1 - Predesign and Associated Services. Originally the City planned to produce only 5 million gallons per day (mgd) of recycled water for nearby landscape irrigation users, but now under the current project, 22 mgd of recycled water will be produced for additional users including the Tulare Irrigation District (TID) in a potential surface water exchange under an interagency agreement. Therefore the recycled water production and distribution systems as proposed are different and much larger than originally envisioned. The City also decided to upgrade the plant-wide instrumentation and control system and install a 1 megawatt solar energy system under the current project.

The upgrade and expansion as summarized in the Preliminary Design Report (PDR) and included in the current design in progress will consist of the following major facilities:

- New septage receiving station
- New interstage pump station
- New fine screens
- Modified aeration basins
- New aeration blowers
- New membrane bioreactor (MBR) basins
- New MBR blowers and building
- New ultraviolet disinfection system
- Over 7 miles of recycled water pipelines (including TID discharge pipeline) with regulating reservoir and pump station
- New sludge disintegration system
- Additional anaerobic sludge digester
- New sludge dewatering facilities
- Modified sludge drying beds
- New odor removal biofilter
- New biomass energy recovery system (fuel cells or microturbines)
- New plant-wide fiber optic and SCADA system
- New electrical/SCADA control building
- New prefabricated collections shop building
- Replacement administration building with LEED™ concept
- New solar energy system

As committed, Parsons will design at no change in fee and schedule, the 22 mgd WCP upgrade using the MBR process selected by the City instead of the conventional activated sludge and filtration processes for 22 mgd as originally proposed. This amendment consists of modifications to several

existing contact scope items over and above use of the MBR process plus a number of new scope items as requested by the City.

**Item 1. ADD Task 2, Subtask 2.1
Prepare Report of Waste Discharge**

Scope of Work: Parsons will prepare a Report of Waste Discharge (RWD) for the proposed WCP Upgrades project suitable for submittal to the Central Valley Regional Water Quality Control Board (RWQCB). Parsons will submit electronic and three hard copies of the draft RWD for the City's review and prepare the final report by incorporating City's comments. Electronic and three hard copies of the final RWD will be submitted to the City.

Background: Although the existing Waste Discharge Requirements do not mandate removal of WCP effluent from Mill Creek, the City will have to meet very stringent ammonia-nitrogen and chlorine limits and continue with toxicity testing if it doesn't remove creek discharge by March 25, 2011. Because of these stringent limitations, the City has chosen to eliminate discharge to Mill Creek. At a meeting with the City and Parsons on February 10, 2010, the RWQCB stated that they are willing to adjust the deadline provided they receive a RWD that adequately describes the current project.

Estimated Effort and Cost (See Exhibit 1): \$32,918

**Item 2. DELETE Task 2, Subtask 2.1
Prepare Master Plan Update**

Scope of Work: Parsons will delete the preparation of a supplement to the 2008 Master Plan prepared by Carollo Engineers as suggested by the City.

Background: At a meeting with the City and Parsons on February 10, 2010, the RWQCB stated that the master plan does not need to be updated provided they receive the RWD in its place as described in Item 1. Preparation of a supplement to the 2008 Master Plan was included in the original scope and fee for the project.

Estimated Effort and Cost (See Exhibit 1): -\$32,918 (credit)

**Item 3. NEW Task 2, Subtask 2.5
Prepare Title 22 Engineering Report**

Scope of Work: Parsons will prepare a Title 22 Engineering Report as required by the California Department of Public Health (DPH) for the various uses of recycled water as proposed under the current WCP Upgrades project.

Background: In place of Mill Creek discharge, the City is planning to implement tertiary treatment with a full-scale water recycling program. At a meeting with the City and Parsons on February 10, 2010, the DPH stated that a Title 22 Engineering Report for the recycled water uses associated with the WCP Upgrades project needs to be prepared and submitted for their review and approval. In the report, the full potential for 22 mgd worth of water recycling needs to be taken into consideration. The City did not include this report in the original scope of work considering the potential change in end users due to finalization of the strategy to maximize use of recycled water.

Estimated Effort and Cost (See Exhibit 1): \$49,377

Item 4. NEW Task 2, Subtask 2.6 Prepare FEMA Flood Zone Evaluation and Report

Scope of Work: Parsons, through subconsultant Provost & Pritchard, proposes to perform the detailed analyses required to determine the minimum base flood elevations (BFE) for the WCP's affected area(s). A report will be prepared of the flood zone evaluation for use during construction of the currently planned WCP upgrade and expansion and kept on file at the WCP for future reference.

The work will be performed in two phases. The first phase will include the FEMA evaluation with a simplified letter report and will incorporate the following subtasks:

- Review existing documentation of flood protection if available (LOMR, County permit, flood studies, and City permits).
- Review client provided site drawings and existing topographic surveys of the site.
- Provide limited topographic survey of the site and surrounding area if necessary. The purpose is to document elevation changes between the project site and the source of flooding that will affect the distribution of floodwaters.
- Perform a simplified engineering evaluation to FEMA requirements. An engineer will review maps and other information gathered and perform an evaluation using the appropriate simplified techniques which will identify the flood protection needed for this project if possible.
- Prepare a letter indicating the Base Flood Elevation for the project site. A letter will be prepared including the flood map per the City of Visalia's requirements.

The fee for the FEMA evaluation and simplified letter report is \$4,000 (subconsultant) + \$200 (5% markup) = \$4,200.

The second phase will include a more comprehensive approach if deemed necessary following completion of the first phase. The second phase will incorporate the following subtasks:

- Meet with the City to review the project requirements for the second phase.
- Review existing records and documentation of flood protection (LOMR, County records, flood studies, etc.).
- Meet with local water districts and County Flood Manager to discuss 100 year flood events and the impact on their facilities and surrounding areas.
- Perform supplemental topographic surveying.
- Perform calculations and run computer hydraulic modeling to determine Base Flood Elevation.
- Prepare a flood report including site plan, flood maps, USGS quad map, calculations and exhibits.

If the simplified letter report in the first phase is found to be inadequate, the fee for the detailed FEMA evaluation and report is an additional \$16,000 (subconsultant) + \$800 (5% markup) = \$16,800. Work completed for the first phase will be used in the second phase if the more comprehensive approach becomes necessary.

Background: Through Parsons preliminary investigation, the City recently became aware that the existing WCP facilities and proposed upgrades lie within the FEMA designated flood Zone "A." Zone "A" is defined as an area with a 1% annual chance of flooding, but where a detailed analysis has not been performed. Subsequently, no depths or base flood elevations are shown within these zones. Base elevations are needed to properly protect the WCP from a 100-year flood as required by the RWQCB.

Estimated Effort and Cost (See Exhibit 1 and Attachment 1): \$20,000 (subconsultant) + \$1,000 (5% markup) = \$21,000

**Item 5. MODIFY Task 4
Provide Additional Survey for WCP**

Scope of Work: At the request of the City, Cornerstone Engineering (a subconsultant to Parsons) flew the entire 800-acre area owned by the City and provided detailed photogrammetric mapping for the WCP plus the area to the south.

Background: The original scope of work stated that the WCP survey would only include features within the WCP boundary. As a result, more effort was required for this task than originally envisioned.

Estimated Effort and Cost (See Exhibit 1 and Attachments 2 and 3): \$27,500 - \$20,600 = \$6,900 (subconsultant) + \$345 (5% markup) = \$7,245

**Item 6. MODIFY Task 5
Provide Additional Geotechnical Investigation for WCP, Discharge Pipeline, and Percolation Basin No. 4**

Scope of Work: Parsons' team member Kleinfelder is subcontracted to perform geotechnical work both within the WCP and outside the WCP. Within the WCP, under their proposed scope, Kleinfelder would drill borings at 12 locations and excavate test pits at 7 locations instead of drilling borings at 17 locations as in their original scope. Similarly, under their proposed scope, Kleinfelder would drill borings at 9 locations and excavate test pits at 10 locations along the discharge pipelines from the WCP to Basin No. 4 and TID and within the proposed regulating basin, plus take 3 pavement cores along Road 68 in order to determine the existing pavement sections, instead of drilling borings at 10 locations along the discharge pipeline from the WCP to Basin No. 4.

Background: Kleinfelder's subcontracted work with Parsons has been affected both within the WCP and outside the WCP. Within the WCP, the current facilities site plan has changed somewhat from that included in the contract, causing Kleinfelder to adjust the number of borings and test pits within the plant site. Outside the WCP, the original scope of work did not include TID as a potential user of recycled water from the WCP. The additional pipeline to TID necessitates additional borings, test pits, and pavement cores from Kleinfelder to properly evaluate the soils for this new portion of the project.

Estimated Effort and Cost (See Exhibit 1 and Table Below): \$46,500 - \$35,900 = \$10,600 (subconsultant) + \$530 (5% markup) = \$11,130

Category	Original Scope	New Scope
Borings at WCP	17 @ \$1065 = \$18,100	12 @ \$1065 = \$12,780
Test Pits at WCP	0	7 @ \$911 = \$6,380
Borings along Pipelines	10 @ \$940 = \$9,400	9 @ \$940 = \$8,460
Test Pits along Pipelines	0	10 @ 911 = \$9,110
Pavement Cores	0	3 @ \$456 = \$1,370
Testing at Basin No. 4	Original Scope = \$8,400	New Scope = \$8,400
Total	\$35,900	\$46,500

**Item 7. NEW Task 8, Subtask 8.A
Prepare Preselection Bid Document for New Sludge Disintegration Equipment for Digester Performance Enhancement**

Scope of Work: Parsons will prepare equipment procurement documents for use in selecting sludge disintegration equipment for the project. Steps to be taken to prepare the equipment procurement documents (bid packages) to select a manufacturer include:

- Recommending criteria for manufacturers to be included in the selection process.
- Developing a list of manufacturers that comply with the requirements for the project.
- Coordinating with the City's staff and system manufacturers to develop and advertise the bidding documents.

Parsons will assist the City in the evaluation of the technical portions of the bid offers received. Following the receipt of bid offers Parsons will, at the request of the City, provide a written recommendation on the bids for the sludge disintegration equipment for consideration by the City.

Background: At a meeting with Parsons on April 9, 2010, WCP staff expressed interest in investigating sludge disintegration as a method for increasing gas production from the digesters while simultaneously decreasing the quantity of digested sludge produced. Since there are several competing sludge disintegration technologies in the marketplace, it is necessary to prepare a preselection bid document to determine the most appropriate manufacturer for this project. Preparation of this bid document was not included in the original scope and fee for the project. In addition, this is not a typical preselection RFP: it is more difficult to prepare because it is a new technology and additional vendor coordination is required to ensure proper responses; and proposal review is more complicated due to the performance guarantee and other evaluation factors.

Estimated Effort and Cost (See Exhibit 1): \$65,836

Item 8. NEW Task 8, Subtask 8.B Prepare Bid Document for Preselection of High Speed Turbo Type Aeration Blowers

Scope of Work: Parsons will prepare a bid document for preselection of high speed turbo (HST) blowers or equivalent air supply blowers (such as the integrally geared single stage centrifugal blowers manufactured by Turblex) to select the most viable and cost effective blowers for the air supply system of the activated sludge portion of the MBR process. Steps to be taken to prepare the equipment procurement documents (bid packages) to select a manufacturer include:

- Recommending criteria for manufacturers to be included in the selection process.
- Developing a list of manufacturers that comply with the requirements for the project.
- Coordinating with the City's staff and system manufacturers to develop and advertise the bidding documents.

Parsons will assist the City in the evaluation of the technical portions of the bid offers received. Following the receipt of bid offers Parsons will, at the request of the City, provide a written recommendation on the bids for the aeration blowers for consideration by the City.

Background: Parsons original scope of work includes designing the air supply system by using conventional single-stage centrifugal or equivalent blowers. Such high efficiency blowers are commonly used for the air supply system, but these require an electrical system at 4,160 V (medium voltage service). However, the City's decision not to upgrade the existing 480 V electrical system to medium voltage service (4,160 V) imposed a restriction on the size of the air blower motors and thus the type of blowers that could be used for this project. Only HST blowers and the new integrally geared single stage centrifugal blowers could meet the project objectives for the air supply system.

Both the voltage limitation at the WCP and the competitive emergence of HST and integrally geared blowers required Parsons to prepare a different and much more extensive preselection package than original envisioned in the contract scope of work. Parsons cost shown below is based on only the *additional* effort needed to prepare the final preselection bid document for the new aeration blowers.

Estimated Effort and Cost (See Exhibit 1): \$20,698

Item 9. NEW Task 8, Subtask 8.C

Prepare Preselection Bid Document for the Selection of Screw or Rotary Presses for Sludge Dewatering

Scope of Work: Parsons will prepare a bid document for preselection of the most viable digested sludge dewatering equipment considering various models of screw and rotary presses. Steps to be taken to prepare the equipment procurement documents (bid packages) to select a manufacturer include:

- Recommending criteria for manufacturers to be included in the selection process.
- Developing a list of manufacturers that comply with the requirements for the project.
- Coordinating with the City's staff and system manufacturers to develop and advertise the bidding documents.

Parsons will assist the City in the evaluation of the technical portions of the bid offers received. Following the receipt of bid offers Parsons will, at the request of the City, provide a written recommendation on the bids for the sludge dewatering equipment for consideration by the City.

Background: In accordance with the 2008 Master Plan's recommendation to have screw presses as the system of choice for sludge dewatering at the Visalia WCP, Parsons original scope of work considered use of screw presses for digested sludge dewatering. This did not require developing a preselection bid document and bid evaluation. However, following demonstration testing at the WCP of a competing rotary press dewatering technology, the City asked Parsons to prepare a preselection bid document including both screw presses and rotary presses.

Estimated Effort and Cost (See Exhibit 1): \$41,148

Item 10. NEW Task 8, Subtask 8.D

Prepare Preselection Bid Document for Ultraviolet (UV) Disinfection Equipment

Scope of Work: Parsons will prepare a bid document for preselection of the most viable UV disinfection equipment considering the various manufacturers of low-pressure, high-intensity open-channel configurations that have been approved by the California DPH. Steps to be taken to prepare the equipment procurement documents (bid packages) to select a manufacturer include:

- Recommending criteria for manufacturers to be included in the selection process.
- Developing a list of manufacturers that comply with the requirements for the project.
- Coordinating with the City's staff and system manufacturers to develop and advertise the bidding documents.

Parsons will assist the City in the evaluation of the technical portions of the bid offers received. Following the receipt of bid offers Parsons will, at the request of the City, provide a written recommendation on the bids for the UV disinfection equipment for consideration by the City.

Background: Parsons original scope of work includes continued use of the existing chlorine contact basins and gaseous feed system to disinfect an average daily flow of 5 mgd for water reclamation. This reclaimed water flow of 5 mgd was recommended in the 2008 Master Plan and did not require developing a preselection bid document and bid evaluation. However, during preparation of the PDR, it was determined that UV disinfection is a more cost-effective technology when used in conjunction with MBRs to treat the entire design flow of 22 mgd for water reclamation. Since the UV disinfection designs offered by DPH-approved manufacturers are very different, the City and Parsons agreed that the UV disinfection equipment should be preselected. Preparation of this bid document was not included in the original scope and fee for the project.

Estimated Effort and Cost (See Exhibit 1): \$41,148

Item 11. MODIFY Task 10

Provide Additional Geotechnical Investigation for Irrigation Pipelines and Future Trunk Sewer Pipe Bore

Scope of Work: Under their proposed scope, Parsons’ team member Kleinfelder would drill borings at 8 locations along irrigation pipelines and take 5 pavement cores along Plaza Drive in order to determine the existing pavement sections instead of drilling borings at 10 locations along irrigation pipelines and no pavement cores as in their original scope. This change in the scope of work led to a minor change in Kleinfelder’s fee.

Background: Although the total length of the irrigation pipelines is somewhat less than originally anticipated, a larger percentage of the irrigation pipelines will be constructed under existing pavement. This necessitates a fewer number of borings but five (5) new pavement cores from Kleinfelder to properly evaluate the soils for this portion of the project.

Estimated Effort and Cost (See Exhibit 1 and Table Below): \$19,400 - \$19,000 = \$400 (subconsultant) + \$20 (5% markup) = \$420

Category	Original Scope	New Scope
Borings along Pipelines	10 @ \$940 = \$9,400	8 @ \$940 = \$7,520
Borings at SR 99	3 @ \$3200 = \$9,600	3 @ \$3200 = \$9,600
Pavement Cores	0	5 @ \$456 = \$2,280
Total	\$19,000	\$19,400

Item 12. MODIFY Task 11

Provide Additional Environmental Services for Extended Recycled Water Discharge and Irrigation Pipelines

Scope of Work: Parsons team member ICF International (ICFI) would provide additional environmental services required for the extended project scope, particularly with the discharge and irrigation pipelines. The additional environmental services effort required for this task is more than originally envisioned in the following areas:

- Environmental project management.

- Incorporation of an analysis of a proposed water agreement between the City and TID into the Environmental Impact Report.
- Conduction of biological and cultural resources surveys for the recycled water conveyance facilities.

Background: The original scope of work did not include TID as a potential user of recycled water from the WCP. Also, the original scope of work assumed that ICFI was to environmentally clear the proposed facilities within the footprint of the existing WCP at a project level and only discuss the proposed recycled water conveyance facilities at a programmatic level. Therefore, biological and cultural resources surveys for the recycled water conveyance alignments were not part of the original scope of work and are now necessary to environmentally clear these facilities at a project level.

Estimated Effort and Cost (See Exhibit 1 and Attachment 4): \$239,262 - \$209,312 = \$29,950 (subconsultant) + \$1,498 (5% markup) = \$31,448

Item 13. MODIFY Task 12

Provide Additional Survey and Design Services for New Discharge Pipelines and Regulating Reservoir

Scope of Work: Parsons team member Provost & Pritchard will prepare the detailed design (plans and specifications) for about 1.9 miles of pipeline to TID’s receiving ditch and another 1.9 miles of pipeline up to Mill Creek crossing to Basin No. 4, while the original scope of work included only 3.5 miles of discharge pipeline to Basin No. 4. The new scope of work for both pipelines will require development of about 43 drawings while the original scope of required only 24 drawings. The new scope of work includes ditch crossings and design of simple outlet structures for both discharge pipelines.

Under the original scope of work, Provost & Pritchard planned on 24 drawings for the discharge pipeline system to Basin No. 4. Their current plan is based on 19 drawings for the discharge pipeline system to Basin No. 4 and 24 drawings for the discharge pipeline system and regulating reservoir to TID, for a total of 43 drawings.

Background (See Table Below): The original scope of work did not include TID as a potential user of recycled water from the WCP. In addition, the design of the discharge pipeline system is more involved than originally envisioned: the pipelines are larger in diameter and the connections are more complicated; there are more ditch crossings and additional flow meters and outlet structures; and a regulating reservoir is now part of the scope of work. Please refer to the table on the following page for the estimated effort and cost.

Improvement	Original Quantity	Proposed Quantity
Discharge Pipeline to Basin 4, Crossings, Structures, Etc.		
Pipe – Length and Diameter	18,430’ of 48”	10,093’ of 60”
Slide Gate Structures	3 - Gate Structures	3 - Gate Structures
Flow Meter Structure	1 Structure & Meter	1 - Structure & Meter
Outlet Structures	3 - Basin 4, Pond 2, Pond 3	3 - Basin 4, Pond 2, Pond 3
Rd 68/Mill Creek Crossing	1 time	1 time
Basin 4 Ditch Weir Structure	0	1 Structure
TID Pipeline, Regulating Basin, Crossings,		

Structures, Etc.		
Pipe – Length and Diameter	0	10,268' (8,000' Paved) of 60"
Regulating Basin with Control Structures and Spillway Protection	0	1 - Double Cell Basin
Evans Ditch Crossing	0	2 times
Flow Meter Structure	0	1 Structure
Outlet Structure	0	1 Structure

Estimated Effort and Cost (See Exhibit 1, Table Below, and Attachment 5): \$314,500 - \$202,000 = \$112,500 (subconsultant) + \$5,625 (5% markup) = \$118,125

Description	Fee for Original Scope	Fee for New Scope
Discharge Pipeline to Basin 4, Crossings, Structures, Etc.		
Basin 4 - Survey, ROW Coordination, Easement and Title Search, Etc.	\$51,000	\$34,500
Discharge Pipeline to Basin 4 - PS&E	\$136,000 (24 drawings)	\$85,500 (19 drawings)
TID Pipeline, Regulating Basin, Crossings, Structures, Etc.		
TID - Survey, ROW Coordination, Easement and Title Search, Etc.	0	\$51,000
TID Pipeline PS&E including Retrofit of Regulating Basin in Pond 2	0	\$128,500 (24 drawings)
Basin 4/TID ROW Support	\$15,000	\$15,000
Totals	\$202,000	\$314,500

Item 14. MODIFY Task 12

Provide Detailed Design Services for Additional/Extended Landscape Irrigation Pipelines, Turnouts, and Meters

Scope of Work: Parsons team member Provost & Pritchard will provide the detailed design (plans and specifications) required for the new landscape irrigation pipelines, turnouts, and meters. The revised scope of work will require additional survey, research, and coordination, but only about 22 drawings while the original scope of work would have required 24 drawings.

Background: Since the development of the original scope of work, there have been some changes and additions to the recycled water distribution lines for landscape irrigation, particularly with the locations, sizes, and connections of the irrigation pipelines. Thus, the design of the low head irrigation pipeline system is more involved than originally envisioned: the pipelines are larger in diameter and the connections are more complicated; more of the pipelines are in paved streets; and there are additional turnouts and meters. (The seven turnouts with metered flow include three turnouts for the two farm operations south of the airport, two metered turnouts to the golf course ponds, one turnout to the Plaza

Park pond, and one metered turnout connecting to the existing pipeline serving farmland south of the WCP). However, this additional effort is generally compensated for by the shorter total length of required pipelines. Please refer to the table on the following page for the net estimated effort and cost.

Improvement	Original Quantity	Proposed Quantity
Irrigation Pipelines		
Pipe – Length and Diameter (includes Hwy 198 pipe for original quantity only)	12,180' of 24"; 9,150' of 18" Total Length – 21,330'	14,731' of 36"; 2,266' of 30"; 1,504' of 18" Total Length – 18,501'
Farm Turnouts w/ Meter	4 Turnouts	7 Turnouts
Bore Under RR and Hwy 99	24" Carrier Pipe in casing	36" Carrier Pipe in casing

Estimated Effort and Cost (See Exhibit 1, Table Below, and Attachment 5): \$269,000 - \$266,000 = \$3,000 (subconsultant) + \$150 (5% markup) = \$3,150

Description	Fee for Original Scope	Fee for New Scope
Irrigation Pipelines		
Irrigation Pipe East - Preliminary Design, Survey, Research & Coordination	\$97,000	\$112,000
Irrigation Pipe East - PS&E	\$154,000 (24 drawings)	\$142,000 (22 drawings)
Irrigation Pipe East - ROW Support	\$15,000	\$15,000
Totals	\$266,000	\$269,000

**Item 15. NEW Task 12, Subtask 12.6
Provide Design Services for New Interstage Pump Station at WCP**

Scope of Work: Parsons will prepare the detailed design (plans & specifications) for a new interstage pump station between the primary and secondary portions of the WCP required by the hydraulic grade line for the design flows (22 mgd annual average and 44 mgd peak wet weather flow). Parsons will properly site this facility and ensure that it can be easily expanded to accommodate the ultimate peak flow of 52 mgd. Parsons estimates that a total of about 14 drawings will be needed to complete the new interstage pump station design.

Background: When a detailed hydraulic analysis was performed as part of the PDR, Parsons determined that the wastewater would not flow properly between the primary and secondary portions of the WCP. In particular, there was not enough hydraulic grade to accommodate the proposed peak flow of 44 mgd. This major hydraulic bottleneck was not identified in the 2008 Master Plan. Parsons recommended, with subsequent City approval, that an interstage pump station be constructed between the primary and secondary parts of the plant.

Estimated Effort and Cost (See Exhibit 1): \$129,437

**Item 16. NEW Task 12, Subtask 12.7
Provide Design Services for New Prefabricated Collections Shop Building**

Scope of Work: Parsons will prepare the detailed design (plans and specifications) for a new prefabricated collections shop building for the WCP. This building will provide for the functions of the collections system staff and will be about 12,000 square feet in size, with about 6,400 square feet of enclosed shop/storage area and 5,600 square feet of open-sided covered storage area. The exterior of this prefabricated building will be specified to match with the existing prefabricated building at the WCP. Design of this building will include all necessary utility connections (piping, HVAC, electrical) and will require preparation of about 6 design drawings plus specifications appropriate for a prefabricated building.

Background: During preparation of the PDR, the City requested that a new septage receiving station be constructed at the location currently occupied by the existing collections shop building. Therefore, a new collections shop building needs to be designed and constructed to replace the existing building. The City has suggested a location at the south of the plant, west of the existing maintenance shop building.

Estimated Effort and Cost (See Exhibit 1): \$55,768

Item 17. NEW Task 12, Subtask 12.8

Provide Investigation and Design Services for Relocation of Existing Electrical and Control Equipment from the Existing Administration Building to New Locations; Provide Design Services for New Electrical/SCADA Control Building

Scope of Work: The age and ongoing maintenance requirements associated with the existing electrical and control equipment necessitates relocating these functions. To accomplish this, Parsons will investigate connections to the existing PLC's and MCC motor starters in the existing administration building and develop a design to relocate these closer to the equipment and/or new Electrical/SCADA Control Building. The design will also provide a plan to keep the existing equipment in operation during the relocation installation. The design will detail the wire routing of power cables and the associated instruments to the new PLC's and MCC motor starters with minimum impact to the existing wiring. The existing controls will be phased out as soon as the new controls are activated. Parsons will also prepare the detailed design (plans & specifications) for a new electrical/SCADA Control Building for the WCP. This air conditioned CMU building will be about 400 square feet in floor plan and will match the architectural theme for the new Administration Building. Design of this building, including routing of necessary electrical conduits and fiber optic cables, will require preparation of about 6 design drawings.

To avoid interruption of the plant operation during construction, it will be necessary to replace the existing PLC1 and PLC2 with a new PLC1 in the new Electrical/SCADA Control Building to be located west of Digester Nos. 1 and 2 and a new PLC2 in the new MCC building to be located east of the primary sedimentation tanks. The instruments associated with the digesters and currently connected to the existing PLC1 and PLC2 will be connected to either the new PLC1 or the closest existing Remote I/O rack (P1-2 or P1-3) in the digester area. The equipment and instruments associated with the primary sedimentation tanks and fresh water system currently connected to the existing PLC1 and PLC2 will be connected to the new PLC2. Parsons will provide I/O lists, PLC programming instructions, and control descriptions for the I&C Contractor to program the new PLC1 and PLC2 for the associated equipment. The PLC controls will be expanded to include remote control of the primary sedimentation equipment.

Background: This item accommodates the City's need to relocate electrical and control functions out of the existing Administration Building. Specifically, the electrical conduits, wiring, and motor control centers are underrated for their current applications and are generally considered unsafe in their present location. Similarly, the instrumentation terminal blocks, wiring, and PLCs are rapidly becoming

obsolete and are difficult to repair. Relocating these functions will allow the City to mitigate the large recurring operation and maintenance expenditures associated with this existing equipment.

Estimated Effort and Cost (See Exhibit 1): \$163,876

Item 18. NEW Task 12, Subtask 12.9

Provide Design Services to Upgrade Existing Programmable Logic Controllers (PLCs) and Extend the Fiber Optic Loop to the Existing 10 PLCs

Scope of Work: Parsons will design the upgrade to the 10 existing PLCs which do not have sufficient capabilities to accommodate the complex control requirements of the new treatment processes and to communicate via Ethernet over a fiber optic loop. These upgrades will provide the treatment plant with state-of-the-art control instrumentation and consolidate the currently scattered control centers into a single and efficient SCADA system.

The design will provide the requirements to upgrade the PLC hardware, software and communication cabling. The design will also provide a plan to demolish the PLC's no longer required in the plant upgrade. PLC1 in the existing Administration Building will be replaced with an Allen-Bradley ControlLogix PLC with Ethernet communication. The three Remote I/O racks (P1-2, P1-3 and P1-4) associated with PLC1 will be upgraded to ControlLogix I/O. PLC10 in the Headworks Building will also be upgraded to a ControlLogix PLC with Ethernet communication. The Remote I/O rack (P10-2) associated with PLC10 will be upgraded to ControlLogix I/O with Ethernet communication. The Grit Separator PLC4 and GBT Building PLC20 will be upgraded to Allen-Bradley CompactLogix PLC's with Ethernet communication.

These upgrades consist of removing the existing PLC racks and installing the ControlLogix or CompactLogix racks. Parsons will provide detailed wire lists for the Contractor to tag the existing I/O wiring, disconnect and reconnect to the new I/O cards. Parsons will provide the I/O lists and PLC programming instructions for the software conversions. The PLC processors in the two GBT PLC's (PLC5 and PLC12) will be upgraded to Allen-Bradley SLC 5/05 processors with Ethernet communication. These two upgrades consists of replacing the existing Allen-Bradley SLC 5/04 processor with the SLC 5/05 processor. Parsons will prepare the PLC programming instructions for the software conversions. Parsons will provide assembly drawings depicting the installation of a new fiber optic transceiver in each PLC and Remote I/O enclosures.

The upgrade to ControlLogix or CompactLogix PLCs requires exchanging the entire rack with new processors and new I/O cards. Each card connector wiring will need to be disconnected and reconnected to the new card connectors per drawings and wire lists prepared by Parsons. The PLC racks involved are PLC1, PLC4, PLC10, and P20. The Remote I/O racks involved are P1-2, P1-3, P1-4, and P10-2. A drawing will be prepared for each of the listed racks to show the removal of the existing rack and the installation of the new ControlLogix or CompactLogix rack. In addition, the existing PLC programs will be uploaded by the Contractor and edited to conform to the ControlLogix or CompactLogix PLC programming software, then downloaded onto the new processor and tested per Parsons' drawings and instructions.

The upgrade to SLC 5/05 processors requires exchanging the SLC 5/04 processor with a new SLC 5/05 processor in the existing PLC rack. The PLC racks involved are PLC5 and PLC12. A drawing will be prepared for each of the listed racks to show the removal of the existing processor and installation of the new processor. In addition, the existing PLC programs will be uploaded by the Contractor and revised for Ethernet communications, then downloaded onto the new processor and tested per Parsons' drawings and instructions.

Parsons will design the new Fiber Optic Ethernet network as the backbone for the plant wide control system communications. The existing Allen-Bradley Data Highway Plus (DH+) communications between the PLC's and SCADA workstations throughout the plant is older and slower technology. The same is true with the existing Allen-Bradley Remote I/O communications between the PLC's and associated remote I/O racks. Ethernet communications has become an industry standard because of its reliability and speed. In a plant environment, utilizing fiber optic media results in a more robust system than the existing copper wiring cabling. In the case of a severed connection, communication cabling in a fault-tolerant ring topology (or loop) allows communication to continue on the network. Parsons will provide installation drawings and specifications for the Fiber Optic Ethernet network cabling. The Ethernet network will connect all the plant PLC's and Remote I/O's in a fault-tolerant ring topology along with the SCADA workstations located throughout the plant.

Background: During preparation of the PDR, the City requested that Parsons upgrade the existing and outdated control system (PLCs) to state-of-the-art PLCs with a fiber optic loop and make it compatible with the new control system to be built under the current WCP upgrade project. Parsons original scope was to provide a fiber optic link only for the new equipment and not integrate all of the existing equipment at this time. This plant-wide PLC and SCADA system upgrade will facilitate future expansion and also provide for the most reliable and cost-effective operation and maintenance at the WCP.

Estimated Effort and Cost (See Exhibit 1): \$54,046

Item 19. NEW Task 12, Subtask 12.10

Provide Design Services for Plant-wide Operation and Control Capabilities at the Administration Building

Scope of Work: To enhance the plant operation and control capability and to provide for redundancy, Parsons will provide SCADA capabilities at the Administration Building in addition to the one at the new Control Building. The design will provide the requirements to install and configure two SCADA workstations in the control room within the Administration Building. The design will specify the workstation area, workstation computers, large monitor screens, and uninterruptible power supply. Parsons will provide a control room layout with the applicable SCADA equipment. This task will require extending the fiber optic loop to the Administration Building and incorporating monitoring and control capabilities at this building in the plant-wide SCADA system.

Background: During preparation of the PDR, the City requested that a new workstation with the above amenities be included in the design, while it was not planned in the original scope of work.

Estimated Effort and Cost (See Exhibit 1): \$21,663

Item 20. NEW Task 12, Subtask 12.11

Provide Design Services for the Installation of New Sludge Disintegration System

Scope of Work: Parsons will provide design services to support the installation of the new sludge disintegration system to be preselected by the City in Item 7. The design will include the necessary civil, mechanical, structural, electrical, and I & C drawings and specifications to provide for a 22 mgd layout and 18 mgd worth of equipment installation in the existing gravity belt thickener (GBT) building and/or the open area just north of this building. Parsons estimates that a total of about 6 drawings will be needed to design the installation for the new sludge disintegration system.

Background: As described in Item 7, the City is preselecting a sludge disintegration system as a method for possibly increasing gas production from the digesters while simultaneously decreasing the quantity of digested sludge produced. Since the manufacturer will only be supplying the equipment itself, Parsons needs to provide the necessary design services to support the proper installation of the equipment.

Estimated Effort and Cost (See Exhibit 1): \$55,768

Item 21. NEW Task 12, Subtask 12.12

Provide Design Services for New Ultraviolet (UV) Disinfection Facility at WCP

Scope of Work: Parsons will prepare the detailed design (plans & specifications) for a new UV disinfection facility at the WCP. The design will include the necessary civil, mechanical, structural, electrical, and I & C drawings and specifications to provide for a 22 mgd open-channel layout and 18 mgd worth of equipment installation in the area just west of the proposed MBR treatment facilities. Parsons estimates that a total of about 14 drawings will be needed to design the installation for the UV disinfection facility.

Background: As described in Item 10, the City is preselecting UV disinfection equipment to treat the entire design flow for water reclamation. Parsons original scope of work includes continued use of the existing chlorine contact basins and gaseous feed system to disinfect an average daily flow of 5 mgd for water reclamation. Parsons original sheet count includes a total of 3 drawings to cover modifications to the existing disinfection system as opposed to the 14 drawings needed to design the installation for the UV disinfection facility. Therefore, a net total of 11 drawings worth of effort is required to accommodate the change in direction for the design.

Estimated Effort and Cost (See Exhibit 1): \$102,303

Item 22. MODIFY Task 13

Provide Additional Engineering Services for Management and Preparation of a Design-Build Document for Fuel Cells or Microturbines

Scope of Work: Due to recent changes in pricing and availability of fuel cells as explained below, the City agreed with Parsons' recommendation to evaluate both fuel cells and microturbines in the PDR and then develop the design-build document to include both technologies. As a result, more effort is required for this task than originally anticipated. In addition to the energy recovery system itself, Parsons will consider the design of a low pressure gas holder to store gas produced from the digesters. This could be a double or triple PVC membrane on a concrete platform or a typical spherical shaped steel or concrete structure. As detailed in the PDR TM-10, gas storage is critical for a well functioning digester gas system, especially when considering fuel cells for power generation. Fuel cells are not efficient when turned down in capacity to match the fuel production. If required, Parsons estimates that a total of about 6 drawings will be needed to complete the new digester gas storage system design.

Background: In accordance with the 2008 Master Plan's recommendation to have fuel cells as the system of choice for power generation at the Visalia WCP, during predesign Parsons contacted the two well known and recognized fuel cell manufacturers, Fuel Cell Energy (FCE) and United Technologies Corporation (UTC). Based on our discussions, we learned that UTC currently does not have a fuel cell system suitable for digester gas applications. In addition, we found that FCE increased (almost doubled) the sale price on their popular 300 kW model, which was the first choice for this project. FCE's next larger model is a 1,400 kW fuel cell, which does not provide the flexibility to incrementally ramp up the power production in relation to increasing gas generation from 2012 - 2032. Parsons discussed

these findings with the City and documented the issues and recommendations in the Predesign Report as part of TM-10 – Renewable Energy System Sizing, Location, and Procurement Strategy.

Parsons then explored alternative power generation strategies including internal combustion (IC) engines and microturbines. IC engines were ruled out due to their inability to meet impending stricter air pollution regulations which require after treatment to meet the proposed limits. After-treatment technologies such as Selective Catalytic Reduction (SCR) or Oxidative Catalysts (OxCAT) are not proven on digester gas and are prone to immature failure due to impurities in the digester gas. So, microturbines became the only proven alternative to fuel cells for this project.

Parsons contacted and met with the two major microturbine manufacturers, Capstone and Ingersoll Rand. We then performed a life cycle cost analysis, including development of simple payback periods, which compared fuel cells with microturbines for two delivery methods: City Owned versus Third Party Owned. This analysis required research into the available and proposed incentives and grants for microturbines from both Federal and State entities. Parsons is continuing discussions with both fuel cell and microturbine manufacturers to keep abreast of the dynamic market conditions while working on the development of a design-build RFP.

Estimated Effort and Cost (See Exhibit 1): \$89,066

Item 23. NEW Task 13.A

Provide Engineering Services for Management and Preparation of a Design-Build Document for Solar Energy System

Scope of Work: Based on a meeting with City management and staff on June 24, 2010, Parsons will provide engineering services to help secure funding and facilitate implementation of an approximate 1 megawatt (MW) solar energy system at the WCP. It is anticipated that the solar energy system would be installed under the design-build method of project delivery using a combination of Southern California Edison (SCE) incentives, funds available through the Department of Energy (DOE) or other agencies, and State Revolving Fund (SRF) loans. Steps to be taken to provide a stand-alone design-build scope of work package include the following:

- Parsons will research and advise the City on the available federal, state, and local funding mechanisms available for solar energy systems including SCE incentives, funds available through the DOE or other agencies, and SRF loans. A total of 40 hours has been allocated for this item.
- Parsons will assist the City as needed to complete the application process with the SRF and/or other funding agencies identified above. A total of 20 hours has been allocated for this item.
- Parsons will complete the SCE Step 1 Reservation Request Form and assist the City with the Reservation Request Form submittal to SCE.
- Parsons will develop up to three electric interconnection scenarios and discuss them with SCE in conjunction with the City. When all parties have agreed on the proper method of electrical interconnection, Parsons will provide the necessary interconnection agreement documentation to SCE.
- Parsons will prepare a technical memorandum (TM) summarizing the results of the above items. The TM will also describe the process and requirements for developing a request for proposal package to complete the solar energy project under a design-build method of project delivery. The TM will evaluate up to two alternative locations for siting the solar energy system at the WCP and recommend the best location in conjunction with the City.
- Parsons will prepare a request for proposal (RFP) package to complete the solar energy project under a design-build method of project delivery. The RFP will contain performance

specifications for the solar energy equipment plus the necessary preliminary engineering drawings and specifications to adequately support the solar energy equipment installation. The RFP will also contain appropriate criteria for evaluating the submitted proposals. Parsons will assist the City in the proposer prequalification process and in advertising the design-build RFP package for bidding.

- Following receipt of design-build proposals, Parsons will assist the City in reviewing and evaluating the proposals against the criteria developed above. Parsons will make a recommendation to the City regarding selection and award of a design-build contract for the project.
- Following award of a design-build contract, Parsons will complete the SCE Step 2 application process and assist the City with the application submittal to SCE. This process involves submitting written documentation that the RFP and contract award milestones have in fact been achieved according to the previously agreed upon schedule.
- Parsons will assist the City in providing oversight of the design-build contractor during construction and startup of the solar energy project. This will include review of up to ten (10) submittals and up to fifteen (15) requests for information (RFIs) and making up to four (4) visits to the site to inspect the progress of construction and startup and to verify project completion.
- Parsons will complete the SCE Step 3 application process and assist the City with the application and backup documentation submittal to SCE for obtaining the solar energy project cost incentives.

Background: Considering the overall goal to optimize renewable energy at the WCP in a cost-effective manner, the City recently expressed interest in installing a solar energy system and requested that Parsons provide engineering services to help secure funding and facilitate implementation of an approximate 1 megawatt (MW) solar energy system at the WCP through management and preparation of a design-build document.

Estimated Effort and Cost (See Exhibit 1): \$236,388 + \$12,000 (subconsultant) + \$600 (5% markup) = \$248,988

City of Visalia Agenda Item Transmittal

Meeting Date: November 15, 2010

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

Agenda Item Wording: Authorize City Manager to execute a Restated Memorandum or Understanding between the County of Tulare, Exeter Irrigation District, the City of Lindsay, and Kaweah Delta Water Conservation District, and adding Lakeside Irrigation District, Tulare Irrigation District and the City of Tulare to develop an Integrated Regional Water Management Plan for the Kaweah River Basin. Authorize the City Manager to submit a grant proposal as part of the Kaweah Basin IRWMP application to help fund a pipeline to deliver recycled wastewater to nearby users.

Deadline for Action: None

Submitting Department: Public Works and Natural Resource Conservation

Contact Name and Phone Number:

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

Department Recommendation:

Staff recommends that the City Council authorize the City Manager to execute a Restated Memorandum of Understanding (MOU) between the County of Tulare, Exeter Irrigation District, the City of Lindsay, and Kaweah Delta Water Conservation District, and adding Lakeside Irrigation District, Tulare Irrigation District, and the City of Tulare to develop an Integrated Regional Water Management Plan (“IRWMP”) for the Kaweah River Basin. Additionally, authorize the City Manager to submit a grant proposal as part of the Kaweah Basin IRWMP application to help fund a pipeline to deliver recycled wastewater to nearby users.

Summary/background:

The Regional Water Management Planning Act of 2002 authorizes and encourages local agencies and mutual water companies to develop IRWMPs. Proposition 84, which the voters approved in 2006, allocated funds for Natural Resource Conservation, Safe Drinking Water, Flood Control, Water Quality and Water Supply Projects, and State and Local Parks. There are significant grant funds available that were approved by Proposition 84. The grants are

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.): 05

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.

competitive and basins with a completed IRWMP have a better chance at receiving grant funds than basins that do not have IRWMP. The local agencies participating in the MOU plan to work together to develop an IRWMP for the Kaweah Basin.

On November 19th 2007, the City Council authorized the City Manager to execute a MOU between the County of Tulare, Exeter Irrigation District, the City of Lindsay, and Kaweah Delta Water Conservation District. The restated MOU adds Tulare Irrigation District, Lakeside Irrigation District, and the City of Tulare as additional parties to the agreement.

Kaweah Delta Water Conservation District (KDWCD) will be the lead agency responsible for preparing the IRWMP. The Restated MOU requires the Parties to contribute toward the cost of developing the IRWMP. KDWCD has retained Keller Engineering to prepare the Plan. Keller's fee is \$50,000. Each of the agencies participating will be required to contribute \$3,000 toward the cost of the Plan. KDWCD has agreed to pay a greater share toward the \$50,000.

City staff has been working with KDWCD to prepare a grant application for Proposition 84 funds. The grants are competitive and the Kaweah Basin projects will be competing against other basins in the region. Staff recommends submitting an application to help fund the cost of building a pipeline to deliver recycled water from the City's water conservation plant to local agricultural users. The recycled water would be provided in trade for surface water delivered to the east side of the City when not needed for irrigation. This water will be used to recharge the ground water aquifer.

The City's proposal would likely be bundled with other projects as part of the Kaweah Basin IRWMP grant proposal. The amount of the grant request has not been determined and the grants are structured to allow awards that are less than the requested amount. It is unlikely that the Proposition 84 grant will be large enough to pay the entire cost of the pipeline. The total cost of the pipeline is now allocated to be paid from wastewater enterprise capital so any grant awards will result in a savings for the City and the rate payers.

Prior Council/Board Actions:

On November 19th 2007, the City Council authorized the City Manager to execute a MOU between the County of Tulare, Exeter Irrigation District, the City of Lindsay, and Kaweah Delta Water Conservation District.

Committee/Commission Review and Actions:

N/A

Alternatives:

None recommended

Attachments:

Copy of Memorandum of Understanding to prepare IRWMP

Recommended Motion (and Alternative Motions if expected): Authorize the City Manager to execute a Revised Memorandum of Understanding between the County of Tulare, Exeter Irrigation District, the City of Lindsay, Kaweah Delta Water Conservation District, Lakeside Irrigation District, Tulare Irrigation District, and the City of Tulare to develop an Integrated Regional Water Management Plan ("IRWMP") for the Kaweah River Basin. Also authorize the City Manager to submit a grant application to help fund a pipeline to deliver reclaimed wastewater to local agricultural users.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

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

Agenda Item Wording: Receive recommendation from the Parks & Recreation Commission to table any action on the softball complex at the Riverway Sports Park until the project becomes closer to reality.

Submitting Department: Parks and Recreation

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

Recommendation:

Receive recommendation from the Parks & Recreation Commission to table any action on the softball complex at the Riverway Sports Park until the project becomes closer to reality.

Background Information:

Several months ago the City Council referred a couple of issues to the Parks & Recreation Commission related to the adult softball program in Visalia. The questions are outlined below:

- A. Should the adult softball program be moved to the new sports park or remain at Plaza Park?
- B. What should the length of the fences be at the new sports park for softball --- 225' for youth play or 300' which would suffice for both youth and adult softball play.

Commission Discussion:

The Commission reviewed these questions as a regular agenda item at both their June and July 2010 meetings. The action and recommendation by the Commission was to ***“table any action until the softball complex is closer to a reality”***. At this point, the complex is 4-6 years away, maybe longer. The Commission felt pretty strongly that it may be premature to finalize recommendations right now when scenarios could change in the future --- many years away.

One challenge with the future site of the softball fields at Riverway is the current large storm pond that exists. There is no definite timeline when the storm line will be extended to the west and when a permanent storm basin will be developed.

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

For placement on which agenda:
 Work Session
 Closed Session

Regular Session:
 Consent Calendar
 Regular Item
 Public Hearing

Est. Time
(Min.):_15____

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

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

City Mgr _____
(Initials Required)

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The other uncertainty lies with future trends related to both adult and youth softball? What will participation numbers look like in 4 to 6 years? Future recreational trends and needs may play a role in how future softball fields are developed. There is also some thought that maybe the future softball complex should be developed into additional youth baseball fields --- instead of softball fields --- to accommodate that growing sport.

Once the proposed complex is within 1-2 years of potential development, and well ahead of the final design period, the Commission will conduct an intensive community assessment on the potential best use for that area in the sports park. The results of this assessment will be formulated into recommendations for consideration by the City Council.

Recommended Motion (and Alternative Motions if expected):

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

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

Agenda Item Wording: Authorization to allocate Federal Department of Housing & Urban Development – Community Development Block Grant (CDBG) funds in increments of \$15,000 per year over a five (5) year period to support Family Services and the Tulare Housing First Program in providing housing services for chronically homeless persons.

Deadline for Action: November 15, 2010

Submitting Department: Housing and Economic Development Department

Contact Name and Phone Number:

Ricardo Noguera, Housing & Economic Development Director 713-4190; Nancy Renovato, Senior Administrative Analyst 713-4462

Department Recommendation:

1.) Authorize the City Manager to reserve a total of \$75,000 in US Department of Housing & Urban Development – Community Development Block Grant (CDBG) funds to support Family Services and the Tulare Housing First Program (THF). The reservation would consist of yearly increments in the amount of \$15,000 over a five year period and allocated through the Annual Action Plan beginning in Fiscal Year 2011/2012.

2.) Authorize the City Manager to provide a Letter of Commitment and Support for the amount of \$75,000 over a five-year period to Family Services.

Summary/background:

The Tulare Housing First (THF) Program is a Permanent Supportive Housing (PSH) Program which was originally established in the City of Tulare in partnership with Family Services. Family Services is a non-profit organization who helps children, adults, and families throughout Tulare County through direct services, advocacy, counseling, education and training to break the cycle of violence, encourage self-reliance, and promote healthy decision-making among people of all incomes and nationalities.

In 2008, Tulare was awarded a total of \$185,100 to provide 5 Shelter Plus Care vouchers. The program is structured to specifically serve the chronically homeless. The voucher functions similar to a Section 8 voucher; the client pays 30% of their income towards housing; these funds are paid directly to Family Services. The Agency then pays 100% of a negotiated monthly rent & utilities to the landlord on behalf of the tenant (formerly homeless household).

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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A Chronically Homeless Person is an unaccompanied homeless individual with a disabling condition or a family with at least one adult member who has a disabling condition who has either been continuously homeless for a year or more OR has had at least four (4) episodes of homelessness in the past three (3) years. This type of population will more than likely never recover or be capable of living independently; however, this program offers an opportunity and a sense of normalcy to those who desire to get off the streets.

Currently, the City of Tulare provides \$15,000 a year to the THF Program to fund approximately one-third of a Case Manager position to manage this program. If approved, the case manager would provide services to a minimum of fifteen families to become a functioning individual/family with the tools to successfully remain in permanent housing. Other services provided by the Case Manager include; mental and health counseling, job search, and life skills training such as maintaining a bank account, paying bills, and shopping.

The City of Tulare is proposing to expand the THF Program to include a partnership with the cities of Visalia and Porterville to apply for a minimum of 15 vouchers, and develop a program to be administered in the participating cities. The Shelter Plus Care application must be for five (5) years in the initial term and will be eligible for annual renewals thereafter. It is proposed that each of the three participating jurisdictions contribute \$15,000/year over a period of five years to fund the Case Manager position to coordinate and oversee the supportive services program; clients, and administer the program. If funded, a minimum of five (5) vouchers would be assigned to each of the participating cities, and the remaining vouchers would be available based on need. The Case Manager will rotate between the three cities, and will coordinate and oversee the supportive needs of the program's clients, and administer the program.

The City of Tulare is requesting that each partnering City provide a letter of commitment and support with the value of the contribution; \$75,000 over (5) years. As the initiating City, Tulare will take the lead in the application process, monthly reviews of the program & implementation, complete annual reports to HUD, and the required draw requests.

HUD Fulfillment

The City's 2010/2014 Consolidated Plan requires that any Substantial Change to the Plan be amended. Prior to allocating the aforementioned funds, staff will complete an amendment to the Con Plan; conduct a Public Hearing and complete the required Environmental Review for the project. It is also proposed to include this new activity as part of the 2011/12 Action Plan.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives: None recommended

Attachments: None

Recommended Motion (and Alternative Motions if expected): City Council hereby:

1.) Authorize the City Manager to reserve a total of \$75,000 in CDBG funds to support Family Services and the Tulare Housing First Program (THF). The reservation would consist of yearly increments in the amount of \$15,000 over a five year period and allocated through the Annual Action Plan beginning in Fiscal Year 2011/2012.

2.) Authorize the City Manager to provide a Letter of Commitment and Support for the amount of \$75,000 over a five-year period to Family Services.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

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

Agenda Item Wording: First reading of **Ordinance 2010-19** amending Chapter 8.24, Fireworks, of the Visalia Municipal Code, updating the ordinance and allowing for the streamlining of the fireworks permit process and increases the population ratio.
(Ordinance 2010-19)

Deadline for Action: N/A

Submitting Department: Fire Department

Contact Name and Phone Number:
Charlie Norman, Battalion Chief, 713-4265

Recommendation: That the City Council accepts this information and adopts the amendments to Ordinance Chapter 8.24, Fireworks, of the Visalia Municipal Code.

Summary: An ordinance amendment would provide for a seamless transition of the fireworks permitting process. The amendments would require the fireworks vendors to process the majority of application requirements and submit them to the Fire Department. Currently, Fire Department Staff processes all of the applications. Also, this amendment would increase the population/booth ratio from 3,500 to 4,000 to help moderate the increase in new fireworks booths. It should be noted, this will not decrease the number of currently permitted booths.

Background/Discussion: Each spring Fire Department Staff spends a large commitment of staff time assisting local fireworks booth applicants in the process of mandated permit paperwork. Any errors or omissions committed by the applicant during the process are checked for accuracy by Fire Department Staff. This process is extremely time consuming for both City Staff as well as the applicant.

With the proposed amendments; the fireworks vendors would be responsible for processing all paperwork prior to final submission to the City of Visalia. This would provide a more efficient operation for both staff and the applicant.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time min.: 15

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

Fire Department Staff met with various Fire Service Agencies throughout the Valley and local fireworks vendors to obtain information on the elements of the proposed ordinance changes. After review; it appears a majority of departments will utilize this process.

Fire Department Staff has received feedback from the vendors and non-profits of fireworks booths, complaining of the past increase in fireworks booths. There has been an increase in additional booths due to the increase in population in our City. This has resulted in the decrease in profits for non-profit organizations. Staff is recommending increasing the population ratio from 1 booth per 3,500 to 1 booth per 4,000. We currently have 29 booths in the City and with the new population ratio we would allow up to 31 booths, compared to 36 with the existing ordinance.

In addition, the proposed ordinance contains other changes. The ordinance revises the items to be submitted in a booth application. In particular, applicants will be required to describe how their fireworks will be stored. The new ordinance requires fireworks to be stored in a metal cargo style container or in a manner separately approved by the Fire Department. Applicants will be required to inform the Fire Department where the fireworks will be stored along with describing the type of storage container. In the past the fire department has been unaware of where fireworks are being stored. Applicants will also be required to provide security for their fireworks while they are being stored.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Ordinance 2010-19

Attachment 1 – Proposed Municipal Code Chapter 8.24

Attachment 2 – Existing Municipal Code Chapter 8.24

Recommended Motion (and Alternative Motions if expected): I move to approve the first reading of **Ordinance 2010-19**, the revisions to Visalia Municipal Code Chapter 8.24 regulating the sale of fireworks within the City of Visalia.

ORDINANCE NUMBER 2010 -19

**REVISING VISALIA MUNICIPAL CODE
CHAPTER 8.24 - FIREWORKS**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: Consistent with its control over municipal affairs and the powers vested in the City of Visalia through the California Constitution, the City of Visalia is authorized to secure and promote the public health, comfort, safety and welfare of its citizenry. Therefore, the City Council of the City of Visalia hereby revises Chapter 8.24 of Title 8 of the Municipal Code. The revised version of this Chapter is attached hereto as Attachment "1" and made a part hereof.

Section 2: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not effect the validity or enforceability of the remaining sections, subsections, subdivision, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Visalia hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 3: Construction. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section 4: Effective Date. This Ordinance shall take effect thirty days after its adoption.

Section 5: Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED AND ADOPTED:

Bob Link, Mayor

ATTEST:

Donjia Huffmon, Chief Deputy City Clerk

APPROVED AS TO FORM

BY CITY ATTORNEY:

City Attorney

Chapter 8.24

FIREWORKS

Sections:

- [8.24.010](#) Definitions.
- [8.24.020](#) Permits.
- [8.24.030](#) Applicants for pyrotechnic public display permits.
- [8.24.035](#) Applicants for permit to sell safe and sane fireworks.
- [8.24.040](#) Permits for pyrotechnic displays.
- [8.24.050](#) Permits for retailers of safe and sane fireworks.
- [8.24.060](#) Regulations.
- [8.24.070](#) Fireworks stand construction.
- [8.24.075](#) Storage of safe and sane fireworks
- [8.24.080](#) Revocation of permit.
- [8.24.090](#) Appeal.

8.24.010 Definitions.

Whenever used in this chapter, unless a different meaning clearly appears from the context, the words set out in this section shall have the following meanings:

“Active List” means the current list of eligible organizations that qualify for the opportunity to obtain a permit to sell safe and sane fireworks with in the city.

“Dangerous fireworks” means any fireworks specified as such in the State Fireworks Law, currently the California Health and Safety Code Sections 12505 et seq. and such other fireworks as may be determined to be dangerous by the State Fire Marshal.

“Eligible organization” means any local nonprofit organization whose principal place of business is located in the city of Visalia and which is exempt from federal income tax pursuant to the provisions of Internal Revenue Code Section 501(C) (3), (4), (6), (7), (8), (10), or (19).

Organizations authorized to sell safe and sane fireworks prior to the effective date of this ordinance, must have their principal place of business located within the boundaries of the Visalia Unified School District.

“Person” means any individual, partnership, corporation, organization or association of any nature whatsoever.

“Safe and sane fireworks” means any fireworks which do not come within the definition of “dangerous fireworks.” (Health and Safety Code Section 12529)

“Stand” means any building, booth, counter, or other structure of a temporary nature used in the sale or offering for sale of fireworks pursuant to a permit duly issued.

“Vendors” means any agency that sells safe and sane fireworks to retailers (Eligible organization). All vendors shall comply with all sections of the city’s municipal codes, Title 19, California Fire Code, and all other State Fire Marshal’s regulations.

“Waiting List” means a list of organizations waiting, as to be placed on the Active List.

8.24.020 Permits.

The fire prevention division of the fire department may, upon due application, issue a permit to an eligible organization for the following:

A. Pyrotechnic display or displays of fireworks in the public parks or other suitable open place;

B. Retailers of safe and sane fireworks.

1. It is unlawful for any person to sell or offer for sale or expose for sale within the city any fireworks in violation of this chapter or without having a valid permit there for in accordance with the provisions of this chapter.

2. Permits to sell safe and sane fireworks shall be issued by the fire department, upon applications there for, only to nonprofit eligible organizations and only after those organizations have met all the applicable requirements set forth in this chapter.

3. Any eligible organization desiring to sell safe and sane fireworks in the city shall make application to be placed on the waiting list at the fire department. Priority will be given new applications filed with the Chief of the fire department accompanied by a twenty-five dollar (\$25.00) deposit to be returned when approval is given, and on the basis of date filed, which shall be recorded on the waiting list. The waiting list will be kept at the City of Visalia Fire Administration Office for review upon request by organizations located within the City of Visalia.

4. The application for placement on the waiting list shall be signed by a bona fide officer of the eligible organization, wherein the officer, on behalf of the organization and its agents, agrees to abide by state law and administrative regulations and all the stipulations of this code, if permission to operate a fireworks stand be granted to the organization. (Ord. 9921 § 2 (part), 1999)

8.24.030 Applicants for pyrotechnic public display permits.

The applicants for such permits shall comply with and be governed by the provisions set forth in Title 19, California Administrative Code, Sub-Chapter 6, Article 6. (Ord. 9921 § 2 (part), 1999)

8.24.035 Applicants for permit to sell safe and sane fireworks.

Applicants for permits to sell safe and sane fireworks must be an eligible organization as defined in Section 8.24.010.

A. There shall not be more than one retail stand for each permittee. No organization shall submit more than one application. Submittal or more than one application shall be grounds for denial of all applications.

B. New applicants for retailer permits will be accepted and approval will be granted only when an established organization now eligible to engage in the business discontinues their operation, or the population ratio of one stand per four thousand (4,000) population allows the addition of one or more stands.

C. Priority will be given to new organizations on the waiting list who have filed with the chief of the fire department accompanied by a twenty-five-dollar (\$25.00) deposit to be returned when approval is given, and on the basis of date filed, as recorded on the waiting list. (Ord. 9921 § 2 (part), 1999)

8.24.040 Permits for pyrotechnic displays.

The applicants for such permits shall comply with and be governed by the provisions set forth in Title 19, California Administrative Code, Sub-Chapter 6, Article 6. (Ord. 9921 § 2 (part), 1999)

8.24.050 Permits for retailers of safe and sane fireworks.

All applications for permit to sell at retail safe and sane fireworks shall comply with and be governed by the provisions set forth in Title 19, California Administrative Code, Sub-Chapter 6, Article 5, and in addition shall be governed by the following.

A. Applications for permits to sell safe and sane fireworks by eligible organizations shall be made on forms to be furnished by the fire chief or his/her designee, shall be signed under penalty of perjury by the applicant and shall require the following information and documents:

1. The application for permit shall contain the name, address and telephone number of the nonprofit organization for which application is made; evidence of tax exempt status pursuant to provisions of the Internal Revenue Code cited in Section 8.24.010 (definition of eligible organization); and the name and address of its officers. The application shall also contain the

location of the proposed fireworks sales, and the method and location of fireworks storage. The application shall be signed by a bona fide officer of the eligible organization, wherein the officer, on behalf of the organization and its agents, agrees to abide by state law and administrative regulations and all the stipulations of this code.

2. A dimensioned site plan (not to scale) containing all of the following;
 - * Drawing that indicates all areas within one hundred feet (100') of the proposed fireworks stand.
 - * Drawing that indicates all areas within one hundred feet (100') of the proposed and storage container cited in Section 8.24.075. Storage containers shall be at least thirty feet (30') from any building or structure. For alternative storage locations see section 8.24.075 (H) & (I).
 - * Drawing that indicates all adjacent buildings, property lines; ignitable materials, grass or vegetation is not within thirty feet (30') of the fireworks stand.
 - * Drawing that indicates any gasoline pump or distribution point is at least one hundred feet (100') from the fireworks stand.
 - * Drawing that indicates the fireworks stand location is at least ten feet (10') from any public roadway, or public sidewalk.
 - * Drawing that shows all utilities, curb cuts and/or driveways and identifying the nearest fire hydrants.
 - * Drawings shall show all tarps or canopies, with out prior approval tarps or canopies will not be permitted.
 - * Satellite drawings with dimensional overlay are an acceptable alternative to traditional drawings.

3. A written authorization from the owner of the location or person in lawful possession thereof, if other than the applicant, for the locating of the business upon his or her property. Written authorization must be notarized within the same year of the application.

4. Prior to issuance of a permit, the eligible organization shall submit a certificate of insurance for general liability in an amount no less than one million dollars (\$1,000,000.00) combined bodily injury and property damage for each occurrence. This insurance shall name the city of Visalia, its officers, agents, elected officials, employees and volunteers as additional insured's. This insurance shall be primary with respect to any insurance or self-insurance programs maintained by the city. The certificate must specify the time, location, and dated to be covered by the policy. The applicant shall save, hold harmless and indemnify the city, its officers, agents, elected officials, employees and volunteers from all claims, demands, damages, judgments, costs or expenses that may at any time arise from or is any way related to any work performed by the applicant. The certificate must be provided to the fire department no later than May 1st of the subject year or such other time as the Fire Chief may allow.

5. A fifty-dollar (\$50.00) fee must be deposited with the city. Upon approval of the permit, the fee will become a clean-up surety to be forfeited to the city in the event the permittee fails to remove said stand, equipment and rubbish from the premises upon which the stand is located before twelve noon on July 15th of the year for which said permit is granted, to be retained by the city until such time the permit is either revoked by the city or the applicant discontinues their operation.

6. A copy of the organization's State Fire Marshal's license to sell safe and sane fireworks shall be included with the application.

7. Approval from the public works department of the city that operation of the fireworks stand at the proposed location will not present any substantial hazard to vehicular or pedestrian traffic.

B. During the application process there will be important timelines set to insure that the applications for permit to sell safe and sane fireworks are completed and accurate before issuing. The firework venders are responsible for submitting all application to the city, and insuring that the organizations that they represent are prepared for the process. The timelines and process for submitting an application for a permit to sell safe and sane fireworks is as follows;

1. Within the first week of January the fire department will send a letter of congratulations to the organizations that were awarded the opportunity to participate in the application process to sell safe and sane fireworks within the city in accordance with Section 8.24.050.

2. The organizations that received the congratulations letter from the fire department shall contact a state approved fireworks vender to start the application process.

3. Completed applications shall be returned to the fire department by appointment only, no later than last full week in April of each year. All appointments must be made in advance by the firework vender of the organizations choosing.

4. Changes and or corrections to the applications must be submitted by appointment only, for an additional operational permit fee, on the fourth (4th) Thursday in the month of May. No documents or applications will be accepted after 5:00 pm. If there is any incorrect or missing documentation after this date and time the permit will be denied.

5. Unforeseen changes after the fourth (4th) Thursday in the month of May must be evaluated by the Fire Chief. The evaluation is to determine if the situation classifies as unforeseen defined in section 8.24.010, and also to determine if the city has an adequate amount of time to process the application. If changes to the permit are granted, the organization will be required to pay an additional operational permit fee.

6. A representative from each non-profit organization shall attend a firework safety meeting that has been approved by the Visalia Fire Department. The firework safety meeting shall have all safety material approved and attendance must be verified by the Visalia Fire Department.

C. When all the application requirements have been completed, and the fireworks stand location has been approved, the fire department shall authorize erection of a fireworks stand and shall authorize the city finance department to collect the permit fee from the qualified organization by completing Part 1 of the permit form. Each qualified organization shall pay for a current operational permit pursuant to the California Fire Code. The permit shall be for only one stand per eligible organization. Upon receipt of payment, finance department and the applicant shall complete Part 2 of the permit and forward it to the fire department for delivery as stated below.

D. Permits will be effective and Part 3 completed only when delivered by the fire department to the organization after fire departments, or its representative's, final inspection of the stand shows compliance with all requirements of this chapter. Permits may be issued with conditions to ensure that the business will be operated in a safe and legal manner, will not disturb the peace and quiet of the neighborhood and will not constitute an undue burden on city resources. The permit shall then be posted in a conspicuous place within the stand during the hours the stand is in operation.

E. If any organization which, in the previous year, obtained and held a fireworks permit fails to apply promptly or does not successfully complete the application process by May 1st the organization will be removed from the fire permit active list and must reapply to go on the waiting list. The next existing eligible organization at the top of the waiting list kept by the fire department shall be notified and given the opportunity to apply for a firework permit the following year.

8.24.060 Regulations.

A. Those fireworks which are classified as “dangerous fireworks” under Section 12505 of the California Health and Safety Code are prohibited, except that such fireworks as are defined and classified as “safe and sane fireworks” in Section 12529 of the California Health and Safety Code may be displayed, sold and used pursuant to the provisions of this chapter and not otherwise.

B. No permit holder shall shout, make any outcry, blow a horn, ring a bell or use any other sound device including any loudspeaker, radio or amplifying system where sound of sufficient volume is emitted or produced there from capable of being plainly heard upon the streets, alleys, parks or other public places.

C. Any permit issued pursuant to this chapter shall be nontransferable, and shall be valid only as to the applicant and location provided on the application for such permit, or as set forth in Section 8.24.020. If an organization on the active list splits into two splits into two individual groups, the group that retained the 501 (c)(3)-(19) Non-profit Federal Tax ID number on record that matches the previously approved permit will be eligible to retain their fireworks permit. The group that does not retain the 501 (c)(3)-(19) shall apply to be placed on the fire departments waiting list. In the instance where neither group retained the 501 (c)(3)-(19) Non-profit Federal Tax ID number then neither group will be eligible for the firework permit and both organizations must apply to be placed on the waiting list.

D. Except as expressly permitted by and in accordance with the provisions of this code, the sale, offer to sell, advertising or display of merchandise on any street or sidewalk in the city is prohibited.

E. All retail sales of safe and sane fireworks shall be permitted only from a temporary fireworks stand and the sale from any other building or structure is prohibited.

F. No fireworks stand shall be located within one hundred feet of any gasoline storage or gasoline pump or any garage or within forty (40) feet of any other building, or within six hundred (600) feet of any other fireworks stand.

G. No stand shall be placed closer than twenty (20) feet to a side or rear property line nor closer than forty (40) feet to any other building or structure or closer than ten feet (10') from any public roadway, public sidewalk, unless waived by the building and fire authorities.

G. 1. If any organizations location that had been previously approved in the prior year to the approval of this document that can not comply with these requirements found in 8.24.060 (F) & (G) will be permitted to apply for a variance. All variances will be evaluated by the City of Visalia Fire Chief.

H. Fireworks stands will be allowed only on property in the city which has commercial or industrial zoning. Public safety, ingress, egress, and adequate parking will be additional factors considered by the fire department before approving any site for fireworks sales.

I. A twenty foot (20') area surrounding the fireworks stand and fireworks storage container must be kept clear of empty boxes, trash and debris.

J. If a toilet is not immediately available during all open or sale hours of the fireworks stand, then an approved chemical one must be provided.

K. Each stand shall be provided with not less than two 2-A 10 BC-type fire extinguishers, underwriter approved, in good working order, with an up-to-date inspection tag indicating that the fire extinguisher has been serviced within the past year and easily accessible for use in case of fire.

L. No person shall light, or cause or permit to be lighted, any fireworks or any other article or material within any such stand, or within fifty (50) feet thereof.

M. No smoking shall be allowed in any stand or within fifty (50) feet thereof. "No Smoking" signs shall be prominently displayed.

N. All weeds and combustible material shall be cleared from the location of the stand, including a distance of at least twenty (20) feet surrounding the stand.

O. There shall be at least one adult in attendance during the open or sale hours of the fireworks stand. No minor under the age of eighteen (18) shall be permitted in a stand.

P. All permits must be posted in a conspicuous place.

Q. Fireworks shall be sold only between the hours of nine a.m. and eleven p.m. daily from July 1st through July 4th.

R. Permittee shall strictly comply with all provisions of the State Fireworks Law (Sections 12500 et seq. of the Health and Safety Code).

S. Generators and all other fuel fired equipment may not be operated within twenty feet (20') of a firework stand. All electrical wiring shall comply with Section 8.24.070 (D).

T. Night security personnel accommodations shall not be closer than twenty-five (25) feet from the fireworks stand.

U. No fireworks shall be placed in any fireworks stand until a permit for such stand has been issued by the city. Permits are not valid until an inspection of the stand has been conducted and permit has been sign by fire personal.

V. Any person who receives a notice to correct any violation of these regulations or any other condition of the permit, and who fails to correct such violation within the time prescribed in the notice, may be assessed a fee not exceeding the city's cost of reinspection in accordance with Section 8.24.050(B) of this code.

W. There shall be allowed up to one fireworks stand for every four-thousand (4,000) persons in the city. City population shall be based on annual population figures provided to the state of California by the city as of January 1st of each year. The Visalia Fire Department Fire Chief reserves the right to freeze the number of fireworks stands allowed within the city at any time due to staffing restrains.

X. Each application shall contain a description of the site desired. Applicant must obtain permission of the owner.

Y. Vehicles may not be parked within ten feet (10') of a fireworks stand. Provide cones or blockage to indicate a "NO PARKING" area within ten feet (10') of the fireworks stand;

Z. Fireworks signs, each application shall contain a description of all desired signage. All signage must be approved during application process.

8.24.070 Fireworks stand construction.

All retail sales of safe and sane fireworks shall be permitted only from within a temporary fireworks stand, and the sale from any other building or structure is prohibited.

A. Fireworks stands need not comply with the provisions of the building code of the city except that the building official, or his/her designee, shall have authority to require that stands be constructed in a manner which will reasonably insure the safety of attendants and patrons.

B. Each stand must have at least two exits. The maximum fireworks stand length shall be no longer than thirty two feet (32'), and the floor area shall not exceed three hundred twenty square feet (320).

C. The front of all fireworks stands shall be completely enclosed from the counter to the roof with hardware wire cloth. Openings to permit delivery of merchandise to prospective customers shall not be larger than twelve (12) inches by eighteen (18) inches.

D. All electrical wiring, including that from the power source, shall be installed to the satisfaction of the building inspector. Electrical connections shall be at least twelve (12) feet above ground when subject to foot traffic and sixteen (16) feet when subject to automobile traffic.

E. All tarps or canopies shall be shown on site plan drawing for approval. Without prior approval tarps or canopies will not be permitted.

F. The fireworks stand shall be removed from the temporary location by twelve noon on July 15th, and all accompanying litter shall be cleared from said location on or before said time.

8.24.075 Storage of safe and sane fireworks.

All organizations applying for a permit to sell safe and sane fireworks shall submit drawings indicating the location of the firework storage, the container in which the fireworks will be stored within, and must comply with the following.

A. No person or persons shall store safe and sane fireworks within the city without going through the permit process detailed in this chapter 8.24.

B. Storage of fireworks in residential neighborhoods is prohibited.

C. All storage of safe and sane fireworks shall be located at the approved retail sales location. For alternative storage locations see 8.24.075 (H) (I).

D. All fireworks being stored at a retail location must be stored in an inter-modal container (metal cargo style containers) only, at a distance of no less than thirty feet (30') from the fireworks stand and all other buildings or structures. For alternative storage containers see 8.24.075 (H) (I).

E. Security shall be provided for all storage of fireworks located within the city. Night security personnel accommodations shall not be closer than twenty-five (25) feet from the fireworks stand and or storage containers.

F. An Orange placard shall be located on all visible sides of storage unit. The Orange placard must be a minimum of 8"x 8" inches in size.

G. Storage of fireworks in trucks or vans will be permitted during hours of sale only. The truck or van carrying or storing the fireworks shall be removed from the sales area and all fireworks must be placed in the pre-approved storage container located in its pre-approved location.

H. The fire code official is authorized to approve an alternative storage method where the Fire Chief finds that the proposed method is satisfactory and complies with the intent of the provisions of this chapter, and that the method offered is at least the equivalent of that prescribed in this chapter in its effectiveness to provide safety to the citizens of the city and the emergency personnel that may respond if there was a fire.

I. All alternative storage methods must be submitted in writing and approved by the Fire Chief prior to the fireworks application deadline cited in Section 8.24.050 (B) (3).

8.24.080 Revocation of permit.

Any violation of this chapter or other city ordinances, or the terms and conditions of the permit, or state law or administrative regulations, or safety rules of the fire department shall be grounds for immediate revocation of the permit. All officers, agents, and employees of the eligible organization shall be responsible for compliance with all provisions of this chapter. (Ord. 9921 § 2 (part), 1999)

8.24.090 Appeal.

A. Should any applicant be dissatisfied with the decision of the Fire Chief or his/her designee not to grant a permit or to revoke a permit, then said applicant may, no later than ten days after notice of such decision is deposited in the United States mail addressed to the applicant or permittee at the address provided on the application, make written objection to the City Manager setting forth the grounds for dissatisfaction, whereupon the City Manager shall hear said objections at a scheduled meeting no later than three weeks following the filing of the objection with the City Clerk. The applicant shall be given written notice no less than three days prior to said hearing. The City Manager may, upon said hearing, sustain, suspend or overrule the decision of the Fire Chief or his/her designee, which decision shall be final and conclusive.

B. Pending the hearing before the City Manager, the decision of the Fire Chief or his/her designee shall remain in full force and effect and any reversal thereof by the City Manager shall not be retroactive but shall take effect as of the date of the City Manager's decision.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

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

Agenda Item Wording: Approve **Resolution 2010-76** authorizing the positions of Administrative Services Director and Benefit and Insurance Manager to represent the City of Visalia in the Excess Insurance Authority Joint Powers Authority. **Resolution 2010-76 required)**

Deadline for Action: November 2010

Submitting Department: Administrative Services

Contact Name and Phone Number: Eric Frost, x4474

Department Recommendation: Approve **Resolution 2010-76** authorizing the positions of Administrative Services Director and Benefit and Insurance Manager to represent the City of Visalia in the Excess Insurance Authority Joint Powers Authority. **(Resolution 2010-76 required)**

Summary/background: Since 2005, the City of Visalia has participated in the EIA Health program. A number of cities and counties jointly participate in this program to share risks and jointly purchase services in order to obtain favorable pricing. The key element in this program is that the insurance pool purchases the right to Blue Cross pricing, dramatically lowering the cost of health insurance to members. The insurance pool also provide actuarial services on pricing each entity's health plan as well as technical advice on how to best handle risk questions.

The history of the City's health premium increases are shown in Table I, City of Visalia Health Plan Rate Increases Since Joining EIA Health.

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.

Table I
City of Visalia Health Plan Rate Increases Since Joining EIA Health.

<u>Calendar Year</u>	<u>Rate Increase</u>
2005	0.0%
2006	10.2
2007	0.0
2008	4.9
2009	3.8
2010	-0.5
2011	<u>10.6%</u>
Average	4.1%

Table I shows that over the last 6 years, the City's health insurance costs have risen a cumulative 29% or 4.1% per year.

The current EIA Health entities are found in Table II, Excess Insurance Authority Health Joint Powers Members.

Table II
Excess Insurance Authority Health Joint Powers Members

County

- + Calaveras County
- + Merced County
- + Santa Barbara County
- + Tehama County

Public Entity

- + City of Huntington Beach
- + City of Irvine
- + City of Merced
- + City of Oceanside
- + City of Redding
- + City of Santa Rosa
- + City of Visalia
- + City of Yuba City
- + GSRMA
- + Special District Risk Management Authority (SDRMA)
- + Superior Court of California, County of Santa Barbara

EIA has asked that the City appoint, by resolution, who can act on the City's behalf. Staff recommends that the positions of Administrative Services Director and Benefits and Insurance Manager be the City's representatives at EIA Health meetings.

Prior Council/Board Actions: Council Action to join EIA Health, December 13, 2004.

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected): I move to approve **Resolution 2010 -76** authorizing the Administrative Services Director or the Benefit and Insurance Manager to act of the behalf of the City of Visalia when working with EIA health.

Copies of this report have been provided to:

RESOLUTION NO. 2010-76

A RESOLUTION DELEGATING AUTHORITY TO THE ADMINISTRATIVE SERVICES DIRECTOR OR THE BENEFIT AND INSURANCE MANAGER TO ACT ON BEHALF OF THE CITY OF VISALIA

WHEREAS, the CSAC Excess Insurance Authority (Authority) has determined that it is necessary for each member of the Authority to delegate to positions authority to act on the member's behalf in matters relating to the member and the Authority; and

WHEREAS, except as to those actions that must be approved by the CITY OF VISALIA, such delegation of authority is necessary in order to carry out the purposes and functions of the Authority with its members; and

WHEREAS, in order to ensure positions are delegated with authority to act on the member's behalf in matters relating to the member and the Authority, action by the member's governing body is necessary; and

NOW THEREFORE, BE IT RESOLVED by the CITY OF VISALIA as follows:

Except as to actions that must be approved by the CITY OF VISALIA, the Administrative Services Director or the Benefit and Insurance Manager are hereby appointed to act in all matters relating to the member and the Authority.

PASSED AND ADOPTED by the City of Visalia this 15 day of November, 2010, by the following vote:

AYES:

ABSENT:

NOES:

ATTEST:

_____ Clerk/Secretary to the Board

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

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

Agenda Item Wording: Authorize the Recordation of the Final Map for Pheasant Ridge Unit No. 3C, located east of Preston Street at Modoc Avenue (15 lots) and the Annexation of Pheasant Ridge 3C into Landscape and Lighting District No. 05-19, Pheasant Ridge (Resolution Nos. 10-_____ and 10-_____ required). APN: 077-760-026

Deadline for Action: N/A

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:

Chris Young, Community Dev. Director - 713-4392
Doug Damko, Senior Civil Engineer - 713-4268

Recommendation: Staff recommends that City Council authorize the recordation of the final map for Pheasant Ridge Unit No. 3C containing 15 lots; adopt Resolution No. 2010-__ Initiating Proceedings for Annexation to Assessment District No. 05-19, "Pheasant Ridge"; and adopt Resolution No. 2010-__ Ordering the Improvements and Levying the Annual Assessments for Assessment District No. 05-19 "Pheasant Ridge."

Summary: All bonds, cash payments, subdivision agreement and final map are in the possession of the City as follows: 1) An executed subdivision agreement; 2) Cash Deposit in-lieu of Faithful Performance Bond in the amount of \$126,750.80 and Cash Deposit in-lieu of Labor and Material Bond in the amount of \$63,375.40; 3) cash payment of \$52,421.96 distributed to various accounts; and 4) Final Map.

The Faithful Performance Bond covers the cost of constructing the public improvements noted in the subdivision agreement and the Labor and Material Bond covers the salaries and benefits as well as the materials supplied to install the required public improvements. As required by the Subdivision Ordinance, the Faithful Performance Bond covers 100% of the cost of the public improvements. The Labor and Material Bond is valued at 50% of the Faithful Performance Bond. A Maintenance Bond valued at 10% of the cost of the public improvements will be required prior to recording the Notice of Completion. The Maintenance Bond is held for one year after the recording and acts as a warranty for the public improvements installed per the subdivision agreement. The cash payment covers Development Impact Fees such as storm

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

water acquisition, waterways, sewer front foot fees and any outstanding plan check and inspection fees. The plan check and inspection fees are estimated at the beginning of the final map process and are not confirmed until the subdivision agreement is finalized. Differences are due in cash at the time of City Council approval of the final map.

Background: The City of Visalia has been allowing the developers of subdivisions to form assessment districts under the Landscape and Lighting Act of 1972, and now under Proposition 218, in lieu of using homeowners associations for the maintenance of common features such as landscaping, irrigation systems, street lights and trees on local streets. The maintenance of these improvements is a special benefit to the development and enhances the land values to the individual property owners in the district.

On November 7, 2005 City Council approved the formation of a Landscape and Lighting District for Pheasant Ridge. This district included the area for all phases of the Pheasant Ridge tentative map. This established at the onset of this development that the landscape and lighting district would be built in phases and the cost for maintenance would be shared equally among all the property owners for all phases of Pheasant Ridge. The purpose behind this was to bring future annexations to the Council without having to get permission from the owners in each developed phase to add additional lots to the district. The City would only need permission from the owners in each developed phase if the annexation of the new phase would cause the per lot assessment to increase.

The Landscape and Lighting Act allows for the use of summary proceedings when all the affected property owners have given their written consent to waive the requirement for a public hearing. The notice period is also waived. The owner of this development has given their written consent to waive the public hearing and form this district. The use of summary proceedings allows for the initiation of proceedings and the final formation action of the assessment district to be acted upon together as separate resolutions.

Prior Council/Board Actions: The City has been allowing the use of the Landscape and Lighting Act of 1972 for maintaining common area features that are a special benefit and enhance the subdivision.

Committee/Commission Review and Actions: The tentative subdivision map for Pheasant Ridge subdivision was approved by the Planning Commission on October 25, 2004. The tentative map will expire on October 25, 2011.

Alternatives: N/A

Attachments: Location Map, Resolution Initiating Proceedings; Clerk's Certification; Resolution Ordering the Improvements; Exhibits "A", "B", "C", "D"

Recommended Motions (and Alternative Motions if expected):

“I move to authorize the recordation of the Final Map for Pheasant Ridge Unit No. 3C and I move to adopt Resolution No. 2010-__ Initiating Proceedings for Annexation to Assessment District No. 05-19 “Pheasant Ridge” and adopt Resolution No. 2010-__ Ordering the Improvements and Levying the Annual Assessments for Assessment District No. 05-19 “Pheasant Ridge.”

Copies of this report have been provided to:

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)*

RESOLUTION NO. 2010-_____

RESOLUTION INITIATING PROCEEDINGS
FOR ANNEXATION TO
ASSESSMENT DISTRICT 05-19
Pheasant Ridge
(Pursuant to Landscape and Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council proposes to annex to an assessment district pursuant to the Landscaping & Lighting act of 1972 (Section 22500 and following, Streets & Highways Code) for the purpose of the following improvements:

Maintenance of turf, shrub area, irrigation systems, trees, walls and any other applicable equipment or improvements.
2. The district, including the annexation, shall continue with the designation established with the initial formation, which is "Assessment District No. 05-19, City of Visalia, Tulare County, California" and shall include the land shown on the map designated "Assessment Diagram, Assessment District No. 05-19, City of Visalia, Tulare County, California", which is on file with the City Clerk and is hereby approved and known as "Pheasant Ridge".
3. The City Engineer of the City of Visalia is hereby designated engineer for the purpose of these formation proceedings. The City Council hereby directs the Engineer to prepare and file with the City Clerk a report in accordance with Article 4 of Chapter 1 of the Landscape & Lighting Act of 1972.

PASSED AND ADOPTED:

CLERK'S CERTIFICATION TO COUNTY AUDITOR

ASSESSMENT DISTRICT NO. 05-19
Pheasant Ridge
(Pursuant to Landscaping & Lighting Act of 1972)

TO THE COUNTY AUDITOR OF THE COUNTY OF TULARE:

I hereby certify that the attached document is a true copy of that certain Engineer's Report, including assessments and assessment diagram, for "Assessment District No. 05-19, City of Visalia, Tulare County, California" confirmed by the City Council of the City of Visalia on the 15th day of November, 2010 by its Resolution No. 2010-__.

This document is certified, and is filed with you, pursuant to Section 22641 of the Streets and Highways Code.

RESOLUTION NO. 2010-__

RESOLUTION ORDERING THE IMPROVEMENTS
AND THE ANNEXATION TO
ASSESSMENT DISTRICT NO. 05-19
Pheasant Ridge
(Pursuant to the Landscape & Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council adopted its Resolution Initiating Proceedings for Assessment District No. 05-19, City of Visalia, Tulare County, California, and directed the preparation and filing of the Engineer's Report on the proposed formation.
2. The Engineer for the proceedings has filed an Engineer's Report with the City Clerk.
3. The owner of all land within the boundaries of the proposed annexation area to the landscape and lighting district have filed their consent to be annexed into the district, and to the adoption of the Engineer's Report and the levy of the assessments stated therein.

As stated in the Engineer's Report, the assessment amounts for the existing lots within the district will remain unchanged with the proposed annexation.

4. The City Council hereby orders the improvements and the annexation to the assessment district described in the Resolution Initiating Proceedings and in the Engineer's Report.
5. The City Council hereby confirms the diagram and the assessment contained in the Engineer's Report and levies the assessment for the fiscal year 2010-11.
6. The City Council hereby forwards the following attachments to Tulare County Recorder's Office for recordation:
 - a. Clerk's Certification to County Auditor
 - b. Resolution Initiating Proceedings
 - c. Resolution Ordering Improvements
 - d. Engineer's Report:
 - Exhibit A - Assessment Diagram showing all parcels of real property within the Assessment District
 - Exhibit B - Landscape Location Diagram
 - Exhibit C - Tax Roll Assessment
 - Exhibit D - Engineer's Report

PASSED AND ADOPTED

Exhibit "B"

Landscape Location Diagram
Pheasant Ridge

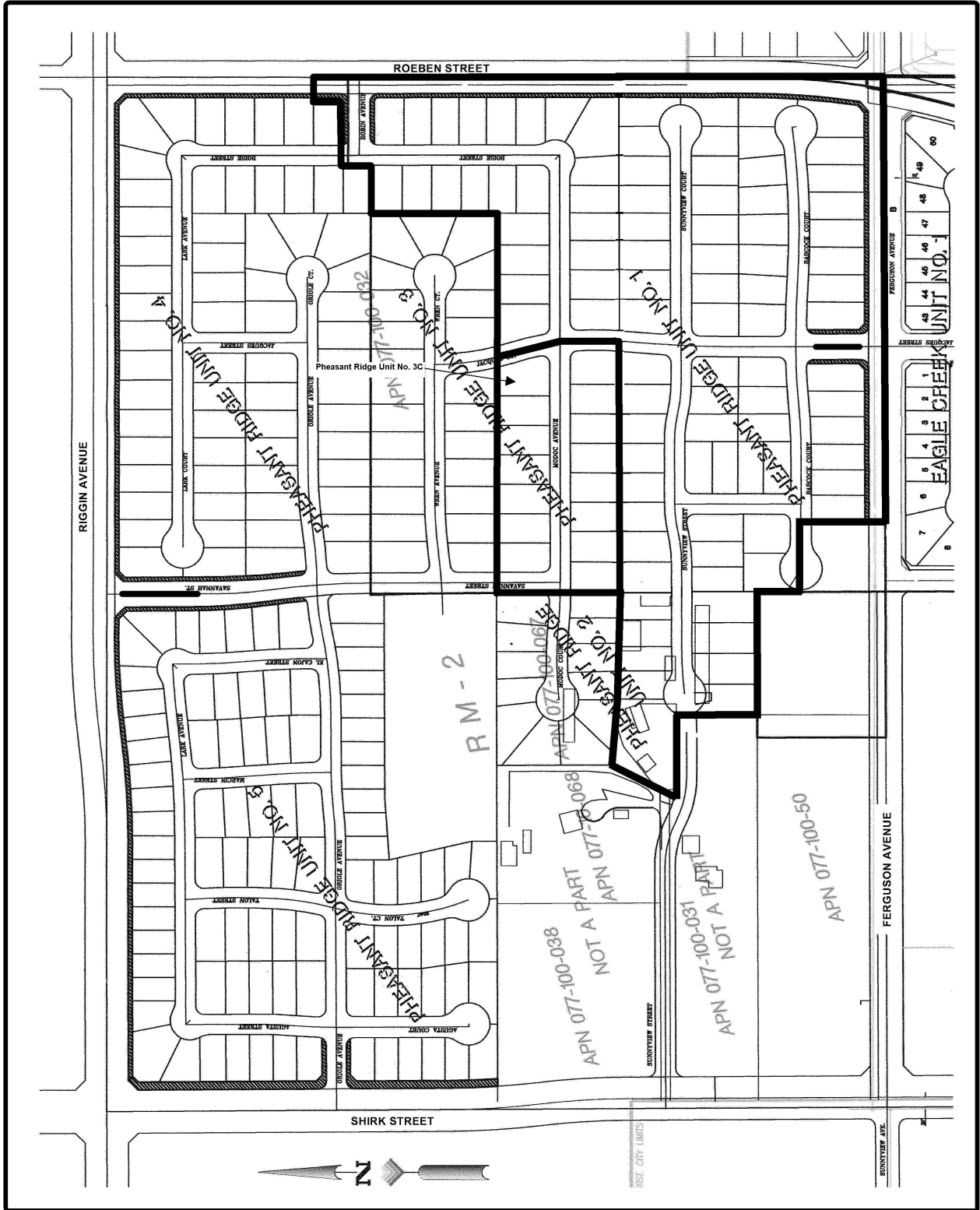


Exhibit "C"

Tax Roll Assessment
Pheasant Ridge
Fiscal Year 2010-11

<u>APN #</u>	<u>Assessment</u>	<u>Owner</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$387.85	McMillin Homes	05-19095	05-19 Pheasant Ridge
To Be Assigned	\$387.85	McMillin Homes	05-19096	05-19 Pheasant Ridge
To Be Assigned	\$387.85	McMillin Homes	05-19097	05-19 Pheasant Ridge
To Be Assigned	\$387.85	McMillin Homes	05-19098	05-19 Pheasant Ridge
To Be Assigned	\$387.85	McMillin Homes	05-19099	05-19 Pheasant Ridge
To Be Assigned	\$387.85	McMillin Homes	05-19100	05-19 Pheasant Ridge
To Be Assigned	\$387.85	McMillin Homes	05-19101	05-19 Pheasant Ridge
To Be Assigned	\$387.85	McMillin Homes	05-19102	05-19 Pheasant Ridge
To Be Assigned	\$387.85	McMillin Homes	05-19103	05-19 Pheasant Ridge
To Be Assigned	\$387.85	McMillin Homes	05-19104	05-19 Pheasant Ridge
To Be Assigned	\$387.85	McMillin Homes	05-19105	05-19 Pheasant Ridge
To Be Assigned	\$387.85	McMillin Homes	05-19106	05-19 Pheasant Ridge

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-19
Pheasant Ridge
Fiscal Year 2010-11

General Description

This Assessment District (05-19, Pheasant Ridge) is located at the northwest corner of Ferguson Avenue and Roeben Street. Exhibit "A" is a map of Assessment District 05-19. This District includes the maintenance of turf areas, shrub areas, irrigation systems, trees, block walls and any other applicable equipment or improvements. The maintenance of irrigation systems and block includes, but is not limited to, maintaining the structural and operational integrity of these features and repairing any acts of vandalism (graffiti, theft or damage) that may occur. The total number lots within the district are 304.

Determination of Benefit

The purpose of landscaping is to provide an aesthetic impression for the area. The lighting is to provide safety and visual impressions for the area. The block wall provides security, aesthetics, and sound suppression. The maintenance of the landscape areas, street lights and block walls is vital for the protection of both economic and humanistic values of the development. In order to preserve the values incorporated within developments, the City Council has determined that landscape areas, street lights and block walls should be included in a maintenance district to ensure satisfactory levels of maintenance.

Method of Apportionment

In order to provide an equitable assessment to all owners within the District, the following method of apportionment has been used. All lots in the District benefit equally, including lots not adjacent to landscape areas, block walls and street lights. The lots not adjacent to landscape areas, block walls and street lights benefit by the uniform maintenance and overall appearance of the District.

Estimated Costs

The estimated costs to maintain the District includes the costs to maintain turf areas, shrub areas, irrigation systems, trees, block walls and any other applicable equipment or improvements.

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-19
Pheasant Ridge
Fiscal Year 2010-11

The quantities, estimated costs and per lot annual assessment for all 5 phases of the Pheasant Ridge tentative map are as follows:

<u>Description</u>	<u>Unit</u>	<u>Amount</u>	<u>Cost per unit</u>	<u>Total Cost</u>
Turf Area	Sq. Ft.	59,648	\$0.180	\$10,736.64
Shrub Area	Sq. Ft.	59,648	\$0.180	\$10,736.64
Water	Sq. Ft.	119,296	\$0.050	\$5,964.80
Electricity	Sq. Ft.	119,296	\$0.008	\$954.37
Trees In Landscape Lots	Each	332	\$25.00	\$8,300.00
Trees In Local Street Parkways	Each	422	\$25.00	\$10,550.00
Street Lights	Each	71	\$105.00	\$7,455.00
Chip Seal (15 year cycle)	Sq. Ft.	554,122	\$0.190	\$7,018.88
Crack Seal (8 year cycle)	Sq. Ft.	554,122	\$0.029333	\$2,031.76
Reclamite (6 year cycle)	Sq. Ft.	554,122	\$0.02111	\$1,949.68
Overlays (10 year cycle)	Sq. Ft.	554,122	\$0.650	\$36,017.93
Project Management Costs	Lots	304	\$18.00	\$5,472.00
 TOTAL				<hr/> \$107,187.69
10% Reserve Fund				\$10,718.77
 GRAND TOTAL				<hr/> \$117,906.46
ANNUAL PER LOT ASSESSMENT				<hr/> <hr/> \$387.85

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-19
Pheasant Ridge
Fiscal Year 2010-11

Annual Cost Increase

This assessment district shall be subject to a maximum annual assessment (A_{\max}) for any given year "n" based on the following formula:

$$A_{\max} \text{ for any given year "n"} = (\$117,906.46) (1.05)^{(n-1)}$$

where "n" equals the age of the assessment district with year one (1) being the year that the assessment district was formed;

The actual annual assessment for any given year will be based on the estimated cost of maintaining the improvements in the district plus any prior years' deficit and less any carryover. In no case shall the annual assessment be greater than maximum annual assessment as calculated by the formula above. The maximum annual increase for any given year shall be limited to 10% as long as the annual assessment does not exceed the maximum annual assessment as calculated by the formula above.

The reserve fund shall be maintained at a level of 10% of the estimated annual cost of maintaining the improvements in the district. If the reserve fund falls below 10%, then an amount will be calculated to restore the reserve fund to a level of 10%. This amount will be recognized as a deficit and applied to next year's annual assessment.

Example 1. The estimated year four cost of maintaining the improvements in the district is \$125,518.04 [a 9% increase over the base year estimated cost of \$117,906.46]. The maximum annual assessment for year four is \$136,491.47 [$A_{\max} = (\$117,906.46) (1.05)^{(4-1)}$]. The assessment will be set at \$128,518.04 because it is less than the maximum annual assessment and less than the 10% maximum annual increase.

Example 2. The estimated year four cost of maintaining the improvements in the district is \$133,234.30 [a 7% increase over the previous year assessment and a 13.0% increase over the base year estimated cost of \$117,906.46]. The reserve fund is determined to be at a level of 8% of the estimated year four cost of maintaining the improvements in the district. An amount of \$2,664.69 will restore the reserve fund to a level of 10%. This amount is recognized as a deficit. The maximum annual assessment for year four is \$136,491.47 [$A_{\max} = (\$117,906.46) (1.05)^{(4-1)}$]. The year four assessment will be set at \$133,234.20 plus the deficit amount of \$2,664.69 which equals \$135,898.99 [a 9% increase over the previous year assessment] because it is less than the maximum annual assessment and less than the 10% maximum annual increase.

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-19
Pheasant Ridge
Fiscal Year 2010-11

Example 3. The estimated year four cost of maintaining the improvements in the district is \$128,518.04 [a 9% increase over the base year assessment of \$117,906.46] and damage occurred to the masonry wall raising the year five expenses to \$143,845.88 [a 22% increase over the previous year assessment]. The year five assessment will be capped at \$141,369.85 (a 10% increase over the previous year) and below the maximum annual assessment of \$143,316.04 [$A_{\max} = (\$117,906.46) (1.05)^{(5-1)}$]. The difference of \$2,476.03 is recognized as a deficit and will be carried over into future years' assessments until the masonry wall repair expenses are fully paid.

City Engineer Certification

I hereby certify that this report was prepared under my supervision and this report is based on information obtained from the improvement plans of the subject development.

Douglas S. Damko
Sr. Civil Engineer

RCE 59445

Date

**City of Visalia
Agenda Item Transmittal**

Meeting Date: November 15, 2010

Agenda Item Number: 9

Agenda Item Wording: Mooney Blvd. Corridor Zoning Study Amendments consisting of:

Certification of Negative Declaration No. 2010-73. (*Resolution 2010-70 required*)

General Plan Amendment No. 2010-08: A request by the City of Visalia to change the General Plan land use designation:

A: From Regional Retail Commercial to Shopping/Office Commercial, for all properties designated Regional Retail Commercial located on both sides of Mooney Boulevard between Beverly Drive and Walnut Avenue. (***Resolution 2010-71 required***)

B: From Professional/Administrative Office to Shopping/Office Commercial, for all properties designated Professional/Administrative Office located on the east side of Mooney Boulevard between Noble Avenue and Beverly Drive. (***Resolution 2010-72 required***)

C: From Regional Retail Commercial to Professional/Administrative Office on property totaling approximately 2.8 acres, for all properties designated Regional Retail Commercial located on the south side of Walnut Avenue approximately 940 feet east of Mooney Boulevard. (***Resolution 2010-73 required***)

D: From Regional Retail Commercial to Professional/Administrative Office on property totaling approximately 9.2 acres, for all properties designated Regional Retail Commercial located south of Beech Avenue and north of Whitendale Avenue approximately 550 feet west of Mooney Boulevard. (***Resolution 2010-74 required***)

Change of Zone No. 2010-09: A request by the City of Visalia to change the zoning designation:

A: From C-R (Regional Retail Commercial) to C-SO (Shopping/Office Commercial), for all properties zoned C-R located on both sides of Mooney Boulevard between Beverly Drive and Walnut Avenue. (***Ordinance 2010-12 required***)

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.): 45

Review:

Dept. Head cy 11-9
(Initials & date required)

Finance n/a
City Atty kr 11-8
(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.

B: From PA (Professional/Administrative Office) to C-SO (Shopping/Office Commercial), for all properties zoned PA located on the east side of Mooney Boulevard between Noble Avenue and Beverly Drive. **(Ordinance 2010-13 required)**

C: From C-R (Regional Retail Commercial) to PA (Professional/Administrative Office), for property totaling approximately 2.8 acres located on the south side of Walnut Avenue approximately 940 feet east of Mooney Boulevard. **(Ordinance 2010-14 required)**

D: From C-R (Regional Retail Commercial) to PA (Professional/Administrative Office), for property totaling approximately 9.2 acres located south of Beech Avenue and north of Whitendale Avenue approximately 550 feet west of Mooney Boulevard. **(Ordinance 2010-15 required)**

Zoning Text Amendment No. 2010-10: A request by the City of Visalia to amend Title 17 of the Visalia Municipal Code (Zoning Ordinance):

A: To add definitions of certain retail uses that include convenience store, drug store / pharmacy, and supermarket / grocery store. **(Resolution 2010-75 required to deny; OR Amendment to Ordinance 2010-16 if approved)**

B: To add certain permitted and conditionally-allowed uses (including supermarkets 30,000 sq. ft. or smaller, car washes, and convenience stores) in the Regional Retail Commercial (C-R) zone and to add new categories (including dollar / variety stores and supercenters) to the list of allowed land uses. **(Ordinance 2010-16 required)**

C: To reduce the front and street-side setback standards to 20 feet for buildings and to require 25 feet for front and street-side landscaping for properties in the portion of Design District "A" that runs along Mooney Boulevard between Noble Avenue and Visalia Parkway. **(Ordinance 2010-17 required)**

D: To add procedures for granting up to a twenty (20) percent administrative reduction of the parking requirements for properties in the portion of Design District "A" that runs along Mooney Boulevard between Noble Avenue and Visalia Parkway. **(Ordinance 2010-18 required)**

The project pertains to certain properties in the City of Visalia located along or within approximately ¼ mile of both sides of Mooney Boulevard between Noble Avenue and Visalia Parkway, and the south side of Caldwell Avenue between Sallee Street and Packwood Creek.

Deadline for Action: None

Submitting Department: Community Development Department & Economic Development Department

Contact Name and Phone Number:

Chris Young, Community Development Director, 713-4392
Ricardo Noguera, Housing and Economic Dev. Director, 713-4190
Paul Scheibel, AICP, Planning Services Manager, 713-4369
Brandon Smith, AICP, Senior Planner, 713-4636

Recommendation: The Planning Commission recommends that the City Council and Community Redevelopment Agency:

1. **Adopt** Negative Declaration No. 2010-73 by adoption of Resolution No. 2010-70 .
2. **Approve** General Plan Amendment No. 2010-08 by adoption of Resolution Nos. 2010-71, 2010-72, 2010-73, and 2010-74.
3. **Approve** Change of Zone No. 2010-09 by adoption of the first reading of Ordinance Nos. 2010-12, 2010-13, 2010-14, and 2010-15.
4. **Approve** Zoning Text Amendment Nos. 2010-10B, 2010-10C, and 2010-10D by adoption of the first reading of Ordinance Nos. 2010-16, 2010-17, and 2010-18.
5. **Deny** Zoning Text Amendment No. 2010-10A by adoption of Resolution No. 2010-75.

Background/Summary: The project focuses on the Mooney Boulevard Corridor. For the purposes of this project, the Mooney Corridor is defined as all land currently zoned C-R along Mooney Boulevard, including adjacent side streets like Monte Vista Avenue and Fairway Street.

The proposed General Plan and Zoning Ordinance amendment focus on providing regulatory relief to businesses attempting to locate on Mooney Boulevard. Generally, the revised standards are more consistent with the actual types of uses currently occupying the Corridor. The Zoning Ordinance text amendments eliminate or reduce the potential that businesses wanting to locate to the Corridor will be unable to because of development standard restrictions, parking requirements, or building setback requirements. In other words, the revisions proposed will generally reduce the zoning "red tape", making it easier for a business to locate on Mooney Boulevard.

On October 25, 2010, the Planning Commission held a public hearing on the package of amendments. The Commission voted 4-0-1 (Soltesz absent) to recommend approval of all amendments except for ZTA 2010-10A related to new definitions that would be placed into the Zoning Ordinance. The Commission then voted 3-1-1 (Salinas against, Soltesz absent) to recommend denial of ZTA 2010-10A.

There are 12 specific proposed General Plan and Zoning Ordinance changes, which can be grouped into the following five categories:

1. General Plan designations and Zoning Map
2. Use Definitions
3. Zoning Matrix
4. Building Setbacks
5. Parking Space Requirements

The following table summarizes each of the proposed amendments, along with the page numbers where that revision is discussed in other reports:

	Project No.	Effect	PC Rec.	Draft Council Resolution or Ordinance No.	Additional Discussion
General Plan designations and Zoning Map	GPA 2010-08A	Changes Regional Retail area north of Walnut Ave. to Commercial/Shopping Office	Approval	Reso. 2010-71	Mooney Study p. 4-1, PC Staff Report p. 8
	GPA 2010-08B	Changes Professional/Administrative Office area between Walnut and Beverly Dr. to Commercial/Shopping Office	Approval	Reso. 2010-72	Mooney Study p. 4-1, PC Staff Report p. 8
	GPA 2010-08C	Changes Regional Retail area near Mooney and Walnut Ave. to Professional/Administrative Office	Approval	Reso. 2010-73	Mooney Study p. 4-5, PC Staff Report p. 10
	GPA 2010-08D	Changes Regional Retail area near Mooney between Beech and Whitendale to Professional/Administrative Office	Approval	Reso. 2010-74	Mooney Study p. 4-5, PC Staff Report p. 10
	COZ 2010-09A	Changes C-R Zoning north of Walnut Ave. to C-SO Zoning	Approval	Ord. 2010-12	Mooney Study p. 4-1, PC Staff Report p. 8
	COZ 2010-09B	Changes PA Zoning between Walnut and Beverly Dr. to C-SO Zoning	Approval	Ord. 2010-13	Mooney Study p. 4-1, PC Staff Report p. 8
	COZ 2010-09C	Changes C-R Zoning near Mooney and Walnut Ave. to PA Zoning	Approval	Ord. 2010-14	Mooney Study p. 4-5, PC Staff Report p. 10
	COZ 2010-09D	Changes C-R Zoning area near Mooney between Beech and Whitendale to PA Zoning	Approval	Ord. 2010-15	Mooney Study p. 4-5, PC Staff Report p. 10
Definitions	ZTA 2010-10A	Add new Definitions of certain uses to the Zoning Ordinance, including a definition for supermarkets.	Denial	Reso. 2010-75	Mooney Study p. 3-1, PC Staff Report p. 11
Matrix	ZTA 2010-10B	Makes changes to the Zoning Matrix, specifically in the C-R zone	Approval	Ord. 2010-16	Mooney Study p. 3-5, PC Staff Report p. 12
Setbacks	ZTA 2010-10C	Reduces Front Yard setbacks on Mooney Blvd from 35 feet to 20 feet for buildings and 25 feet for parking areas	Approval	Ord. 2010-17	Mooney Study p. 5-1, PC Staff Report p. 14
Parking	ZTA 2010-10D	Provides parking relief up to 20% of the required number of spaces for buildings undergoing expansion or change of use on Mooney Blvd.	Approval	Ord. 2010-18	Mooney Study p. 6-1, PC Staff Report p. 14

Discussion:

1. General Plan designations and Zoning Map

The purpose of the proposed general plan land use designation and zoning map changes is to make the City's policies better fit the existing built environment. For example, the parcels and buildings north of Walnut Avenue on the Mooney Corridor are much smaller than those south of Walnut Avenue. There are mostly stand-alone buildings north of Walnut Ave., whereas south of Walnut Ave. there are mostly buildings organized as shopping centers. Changing the zoning north of Walnut Ave. to C-SO will allow a mix of uses that is better suited to the stand-alone buildings that are there. This area will continue to be an important part of the Mooney Corridor mix of uses, just as adjacent offices that are zoned PA are an important part of the mix.

The other change involves changing two areas currently zoned C-R to PA. The two areas are developed with office buildings and the C-R zone does not allow every type of use that might want to occupy an office building. The PA zone, would allow the full range of office uses, thus providing the property owners to the opportunity to market to a greater range of potential tenants. Again, the area will still be an important piece of the Mooney Corridor because it brings employees to the area who then shop and eat at lunchtime or before/after work. The Planning Commission recommended approval of all the changes.

2. Use Definitions

The proposed definitions to be added to the Zoning Ordinance generated the most discussion at the Planning Commission meeting. The definitions were proposed to clarify how the Zoning Ordinance interpreted the use categories that businesses fall into. This is especially important for stores that sell food. Now that a number of big box retail stores sell groceries, there has been a greater need for interpretation of just what constitutes a grocery store and/or supermarket.

While recognizing the need for a more precise means of interpretation, the majority of the Planning Commission was concerned about the fact that the definitions would apply to all parts of the City, not just along Mooney Blvd. Since the Mooney Study did not focus on other areas of the City, the Commission was concerned that these definitions may have unintended consequences in other parts of the City. Therefore, the Commission recommended that the definitions portion of the proposal (ZTA 2010-10A) be denied. Since a number of the definitions were brand new to the Zoning Ordinance, like supercenters and warehouse clubs, those uses which were proposed to be added to the Zoning Matrix were removed from the Council version proposed for approval in ZTA 2010-10B.

3. Zoning Matrix

A series of Zoning Matrix revisions are proposed to allow more uses onto Mooney Boulevard that will complement each other. As discussed in the Mooney Corridor Zoning Study, the proposed Zoning Matrix changes will allow more uses on Mooney that, by themselves, may not be considered regional retail uses. However, their presence compliments the regional retail uses and completes the mix of commercial uses that work together to create the synergy that draws shoppers from the region. One example of this is the recent addition of Visalia Unified School District's new charter school. The students at the school will go to the nearby

restaurants that are also there to serve shoppers and travelers. The school brings students and teachers to Mooney Boulevard, who in turn become shoppers. Another example is a large pet store that wants to also provide veterinary services. Currently, this service is not allowed on Mooney Boulevard. The pet store believes that providing veterinary services will increase sales of its goods; they recognize that the combination of uses will bring more people to their store. For this reason, a number of uses that currently are not allowed are being recommended for inclusion in the C-R zone. The specific uses are identified in the draft Ordinance regarding Zoning Matrix changes.

As mentioned above, a number of speakers and the Commissioners themselves discussed grocery stores in great detail at the Planning Commission hearing. The recommendation of the Planning Commission is to allow grocery stores / supermarkets that are less than 30,000sq.ft. in size in the C-R zone. Currently, no supermarkets are allowed in the C-R zone.

4. Building Setbacks

The recommendation is for new or expanding buildings on the Mooney Corridor to have a front and street side building setback of 20 feet, instead of the current 35 feet. This will allow more flexibility in designing sites and especially help smaller vacant parcels, where it can sometimes be difficult to construct a building along with the required parking, while still meeting all setback requirements. The new standard for parking lot setbacks would be 25 feet, resulting in 25 feet of landscaping between the street and parking lots, instead of the current 35 feet. The Planning Commission recommended approval of these modifications.

5. Parking Space Requirements

This proposed modification to the parking space requirements on the Mooney Corridor adds another tool for the City to work with property owners when circumstances find a site a little short of meeting the parking space requirements. It allows expanding buildings or buildings undergoing a change in use that results in a higher parking requirement to request up to a 20% reduction in the parking space requirements. In an example from a few years ago, a building that had been built for retail use was going to be used as an office. The required number of parking spaces for offices is higher than for retail uses. In order to meet the requirements of the Zoning Ordinance, the property had to remove existing landscaping to add two more parking spaces and then get a Zone Variance for four more spaces. The proposed change to the Ordinance allows staff to reduce the required amount of spaces if certain criteria are met. The maximum allowed reduction is 20% of the standard requirement. Property desiring a greater reduction can still apply for Zoning Variance. The Planning Commission recommended approval of this proposal.

Background of Request: Visalia's largest commercial area, the Mooney Blvd. Corridor, has seen a steady rise in building vacancies as retail spending has decreased. When the City Council began the General Plan Update process in 2009, they also stated a desire to take positive steps to increase customer purchases and reduce building vacancies on Mooney Blvd. to benefit existing and new businesses. The focus was placed on the City Zoning Ordinance since amendments to the Ordinance could be made more quickly than waiting for the General Plan Update process to be completed.

On February 16, 2010, the City Council authorized the preparation of a Mooney Blvd. Corridor Zoning Study. After a number of successful public outreach efforts, the completed Study was

presented to the City Council on August 16, 2010. The Council considered the conclusions and recommendations contained in the Study and directed staff to initiate Zoning Text and Map amendments as necessary to implement the Study's recommendations.

Public Outreach: Quad Knopf and City staff representatives met with the Mooney Blvd. Coffee Klatch Committee, a group organized by the Visalia Chamber of Commerce, on May 18, 2010. They also met with a group of business owners led by Don Wright, owner of Wright's Hallmark, to further gather ideas and concepts. The main theme that came from these meetings was the need to fill vacant buildings with new businesses of any type of use that can bring people to Mooney Blvd. who may then shop at multiple businesses at this acknowledged destination point.

Quad Knopf staff also initiated a number of one-on-one discussions with Mooney business owners and employees, local realtors, and commercial developers. All believe that Mooney Blvd. is a unique destination, but that it needs to stay vibrant to compete with other regional retail areas in Tulare/Kings Counties that have better freeway visibility. A number of people commented about how Mooney Blvd. north of Walnut Avenue has a different look and feel compared to Mooney Blvd. south of Walnut Avenue.

An open house was held at the Visalia Mall on June 26, 2010, to allow shoppers and other Mooney Blvd. visitors to express their opinions about Mooney Blvd. Of those from the public that provided their opinions, most wanted to discuss the types of uses that were allowed on Mooney Blvd. Here is a summary of the comments received at the Open House.

- Most commenters wanted a wider range of retail commercial business on Mooney Blvd.
- There was a split opinion regarding supermarkets on Mooney Blvd. Some believed that having supermarkets on Mooney Blvd. would help attract more customers to the Corridor, while others believed the opposite - that supermarkets would do nothing to encourage shopping at other stores.
- Commenters believed there is plenty of parking on Mooney Blvd., except during the holiday shopping season.
- Most commenters support including more office and medical uses. The employees of these uses are seen as potential customers of the commercial uses.

Relation to General Plan: The 1991 General Plan Update designated Mooney Boulevard for regional retail uses and directed that uses that were not regional in nature should be discouraged. The 1993 citywide Zoning Ordinance update implemented these policies by creating the C-R Zone and limiting a number of uses that were considered to not be regional retail uses. As was discussed in the Mooney Boulevard Corridor Zoning Study, the changing commercial market and competition from other regional centers in the Tulare/Kings County area requires a modification of the strategy for the appropriate mix of commercial uses. Other uses that are not considered regional draws by themselves are now seen as necessary when mixed synergistically with other commercial businesses that draw from a regional area.

Environmental Findings: An Initial Study was prepared for the project consistent with the California Environmental Quality Act (CEQA). The Initial Study disclosed that environmental

impacts are determined to be not significant. Therefore, Negative Declaration No. 2010-73 was prepared for adoption at the time that the project is acted upon by the City Council

Prior Council/Board Actions: On February 16, 2010, the City Council authorized the preparation of a Mooney Boulevard Corridor Zoning Study that would identify zoning amendments that could provide an immediate benefit to existing and new uses along the Mooney Corridor. The City Council reviewed the Mooney Boulevard Corridor Zoning Study on August 16, 2010, and initiated the proposals that are set forth in this agenda item.

Committee/Commission Review and Actions: On October 25, 2010, the Planning Commission held a public hearing on the package of amendments. The Commission voted 4-0-1 (Soltesz absent) to recommend approval of all amendments except for ZTA 2010-10A related to new definitions that would be placed into the Zoning Ordinance. The Commission then voted 3-1-1 (Salinas against, Soltesz absent) to recommend denial of ZTA 2010-10A.

Alternatives: As an alternative to approving only the portions of the project recommended by the Planning Commission, the Council could also approve the entire project, including the Zoning definitions in ZTA 2010-10A that were recommended for denial by the Planning Commission.

Attachments:

- Resolutions and Ordinances
- Planning Commission Staff Report (resolutions omitted with exception to Reso. 2010-47 for use definitions and Reso. 2010-48 for zoning matrix)
- Negative Declaration No. 2010-73
- Correspondence
- Exhibit A - General Plan Land Use Map (Colored map)
- Exhibit B - Zoning Map (Colored map)
- Exhibit C - Design District A (Colored map)
- Exhibit D - Aerial Photo of Mooney Blvd. (Colored map)

Recommended Motion (and Alternative Motions if expected):

I move to:

Certify Negative Declaration No. 2010-73 by adoption of Resolution No. 2010-70.

Approve General Plan Amendment No. 2010-08 by adoption of Resolution Nos. 2010-71, 2010-72, 2010-73, and 2010-74.

Approve Change of Zone No. 2010-09 by adoption of the first reading of Ordinance Nos. 2010-12, 2010-13, 2010-14, and 2010-15.

Approve Zoning Text Amendment No. 2010-10B, 2010-10C, and 2010-10D by adoption of the first reading of Ordinance Nos. 2010-16, 2010-17, and 2010-18.

Deny Zoning Text Amendment No. 2010-10A pertaining to use definitions by adoption of Resolution No. 2010-75.

Environmental Assessment Status

CEQA Review: An Initial Study and Negative Declaration have been prepared for use with this project, consistent with the California Environmental Quality Act (CEQA). It must be certified prior to the initiation of the annexation.

NEPA Review: None

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)*

All Ordinances approved will be brought back to the Council for approval of the second reading on December 6, 2010. Ordinance changes will be effective 30 days after approval of the second reading.

Copies of this report have been provided to:

- Planning Commission
- Don Wright, Mooney Blvd. Business Association
- Lisa Salazar, Visalia Chamber of Commerce
- Glenn Morris, Visalia Chamber of Commerce
- Raymond Macareno, Hispanic Chamber of Commerce
- Harvey May
- Cathy Reilly

Public hearing notices have been sent to:

- Don Wright, Mooney Blvd. Business Association
- Lisa Salazar, Visalia Chamber of Commerce
- Glenn Morris, Visalia Chamber of Commerce
- Raymond Macareno, Hispanic Chamber of Commerce
- Nancy Lockwood, Visalia Economic Development Corporation
- Harvey May
- Cathy Reilly

All property owners affected by the GPA/COZ/ZTA, as well as those within a 300' radius of the affected areas.

List of Draft Resolutions and Ordinances

- Resolution No. 2010-70 (*Certify Negative Declaration*)
- Resolution No. 2010-71 (*Regional Retail Commercial to Commercial Shopping Office*)
- Resolution No. 2010-72 (*Professional Admin. Office to Commercial Shopping Office*)
- Resolution No. 2010-73 (*Regional Retail Commercial to Professional Admin. Office*)
- Resolution No. 2010-74 (*Regional Retail Commercial to Professional Admin. Office*)
- Ordinance No. 2010-12 (*C-R to C-SO*)
- Ordinance No. 2010-13 (*PA to C-SO*)
- Ordinance No. 2010-14 (*C-R to PA*)
- Ordinance No. 2010-15 (*C-R to PA*)
- Denial Resolution No. 2010-75 (*Zoning Definitions*)
- Ordinance No. 2010-16 (*Zoning Matrix*)
- Ordinance No. 2010-17 (*Design District A Setbacks*)
- Ordinance No. 2010-18 (*Design District A Parking*)

RESOLUTION NO. 2010-70

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA ADOPTING NEGATIVE DECLARATION NO. 2010-73, WHICH EVALUATES ENVIRONMENTAL IMPACTS FOR GENERAL PLAN AMENDMENT NO. 2010- 08, CHANGE OF ZONE NO. 2010-09 AND ZONING TEXT AMENDMENT NO. 2010-10

WHEREAS, General Plan Amendment No. 2010-08, Change of Zone No. 2010-09, and Zoning Text Amendment No. 2010-10 are City initiated actions to change the land use designations and zoning primarily along the Mooney Boulevard Corridor, and to modify the text of the Zoning Ordinance in ways that primarily affect the Mooney Boulevard Corridor; and

WHEREAS, an Initial Study was prepared which disclosed that no significant environmental impacts would result from the project, and that no mitigation measures would be required for the project; and

WHEREAS, on the basis of this Initial Study, a Negative Declaration has been prepared and noticed for public review and comment for the project pursuant to the California Environmental Quality Act of 1970 (CEQA), as amended; and

WHEREAS, any comments received during the advertised comment period were reviewed and considered in accordance with provisions of CEQA; and

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a public hearing before said Council on November 15, 2010 for the Projects; and

WHEREAS, the City Council of the City of Visalia considered the Initial Study and Negative Declaration and found that the Initial Study and Negative Declaration contain and reflect the independent judgment of the City of Visalia; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Visalia finds that the Negative Declaration was prepared consistent with the California Environmental Quality Act (CEQA) and the City of Visalia Environmental Guidelines.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia hereby finds, on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment and hereby certifies Negative Declaration No. 2010-73, which evaluates environmental impacts for General Plan Amendment No. 2010-08, Change of Zone No. 2010-09, and Zoning Text Amendment No. 2010-10. The documents and other material which constitute the record of the proceedings upon which the decisions based are located at the office of the City Planner, 315 E. Acequia Avenue, Visalia, California, 93291.

RESOLUTION NO. 2010-71

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA
APPROVING GENERAL PLAN AMENDMENT NO. 2010-08A, A REQUEST BY THE CITY OF
VISALIA TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM REGIONAL
RETAIL COMMERCIAL TO SHOPPING/OFFICE COMMERCIAL FOR ALL PROPERTIES
DESIGNATED REGIONAL RETAIL COMMERCIAL ALONG BOTH SIDES OF MOONEY
BOULEVARD BETWEEN BEVERLY DRIVE AND WALNUT AVENUE

WHEREAS, General Plan Amendment No. 2010-08A is a City initiated action to change the land use designation from Regional Retail Commercial to Shopping/Office Commercial for all properties designated Regional Retail Commercial along both sides of Mooney Boulevard between Beverly Drive and Walnut Avenue; and

WHEREAS, the General Plan Amendment was initiated in response to a report titled City of Visalia Mooney Boulevard Corridor Zoning Study (August 2010) that the City of Visalia City Council reviewed on August 16, 2010; and

WHEREAS, the Planning Commission of the City of Visalia, after twenty-one (21) days published notice, held a public hearing before said Commission on October 25, 2010; and

WHEREAS, the Planning Commission of the City of Visalia considered the general plan amendment in accordance with Section 17.54.070 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, the Planning Commission of the City of Visalia recommended approval of the general plan amendment by adoption of Planning Commission Resolution No. 2010-39 on October 25, 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 November 15, 2010; and

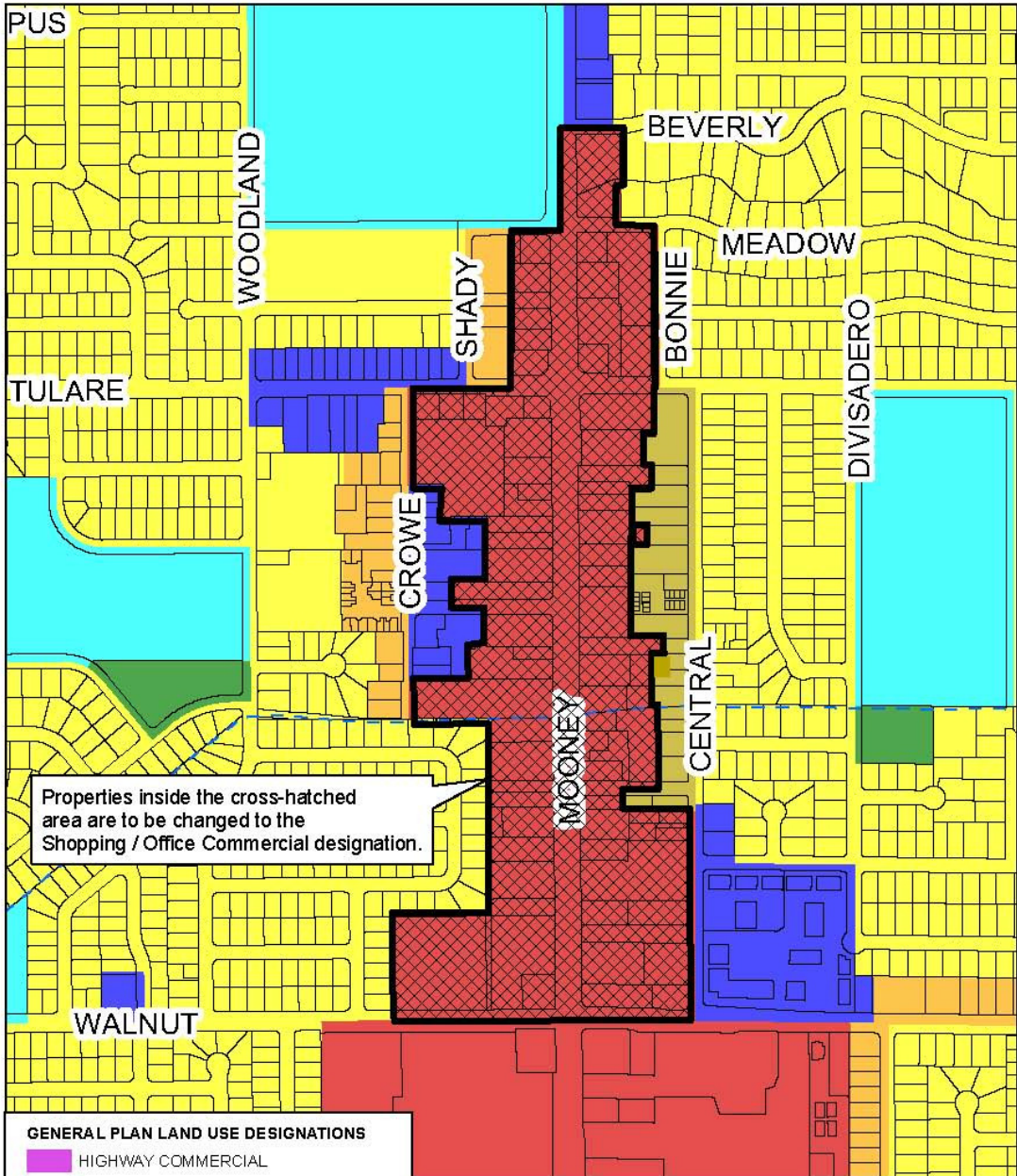
WHEREAS, an Initial Study was prepared that disclosed that no significant environmental impacts would result from the project, and that no mitigation measures would be required for the project.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Visalia hereby makes the following findings with regard to General Plan Amendment No. 2010-08A:

1. No significant environmental impacts would result from this project, and no mitigation measures would be required. Negative Declaration No. 2010-73 was certified pursuant to City of Visalia Resolution No. 2010-70.
2. That the City Council of the City of Visalia has considered the proposed General Plan Amendment along with evidence contained in the Mooney Boulevard Corridor Zoning Study, staff reports, and testimony presented at the public hearing in accordance with Section 17.54.080 of the Zoning Ordinance of the City of Visalia.

3. That the proposed General Plan Amendment is consistent with the goals, objectives and policies of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That the proposed land use designation of Shopping/Office Commercial would be compatible with existing land uses and land use designations in the surrounding vicinity.
5. That there is a distinct difference between the existing buildings along Mooney Blvd. that are north of Walnut Avenue from those that are south of Walnut Avenue. The buildings north of Walnut Avenue are generally smaller and are more often stand-alone sites, as opposed to multi-building shopping centers. This section of Mooney Blvd. is more similar in its size and design to other commercial areas in the city that are designated Shopping/Office Commercial. Changing the land use designation in this section of Mooney Blvd. to Shopping/Office Commercial will allow more uses that generally prefer smaller buildings to locate within the area, thereby encouraging commercial occupancies.

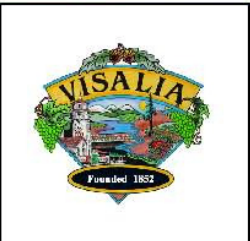
BE IT FURTHER RESOLVED that the City Council of the City of Visalia hereby approves General Plan Amendment No. 2010-08A as described in Exhibit A based on the above findings and evidence in the record, in accordance with the terms of this resolution and under the provision of Section 17.54.080 of the Ordinance Code of the City of Visalia.



GENERAL PLAN LAND USE DESIGNATIONS

	HIGHWAY COMMERCIAL
	REGIONAL RETAIL COMMERCIAL
	SHOPPING / OFFICE COMMERCIAL
	PROFESSIONAL / ADMIN OFFICE
	PARK
	PUBLIC INSTITUTIONAL
	RESIDENTIAL HIGH DENSITY
	RESIDENTIAL LOW DENSITY
	RESIDENTIAL MEDIUM DENSITY

EXHIBIT A
 Resolution No. 2010-71
 GPA No. 2010-08A



1:7,200

RESOLUTION NO. 2010-72

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA
APPROVING GENERAL PLAN AMENDMENT NO. 2010-08B, A REQUEST BY THE CITY OF
VISALIA TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM
PROFESSIONAL ADMINISTRATIVE OFFICE TO SHOPPING/OFFICE COMMERCIAL ON
PROPERTIES LOCATED ON THE EAST SIDE OF MOONEY BOULEVARD, BETWEEN
NOBLE AVENUE AND BEVERLY DRIVE

WHEREAS, General Plan Amendment No. 2010-08B was initiated by the City of Visalia to change the General Plan land use designation from Professional Administrative Office to Shopping/Office Commercial located on the east side of Mooney Boulevard, between Noble Avenue and Beverly Drive; and

WHEREAS, the General Plan Amendment was initiated in response to a report titled City of Visalia Mooney Boulevard Corridor Zoning Study (August 2010) that the City of Visalia City Council reviewed on August 16, 2010; and

WHEREAS, the Planning Commission of the City of Visalia, after twenty-one (21) days published notice, held a public hearing before said Commission on October 25, 2010; and

WHEREAS, the Planning Commission of the City of Visalia considered the general plan amendment in accordance with Section 17.54.070 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, the Planning Commission of the City of Visalia recommended approval of the general plan amendment by adoption of Planning Commission Resolution No. 2010-40 on October 25, 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 November 15, 2010; and

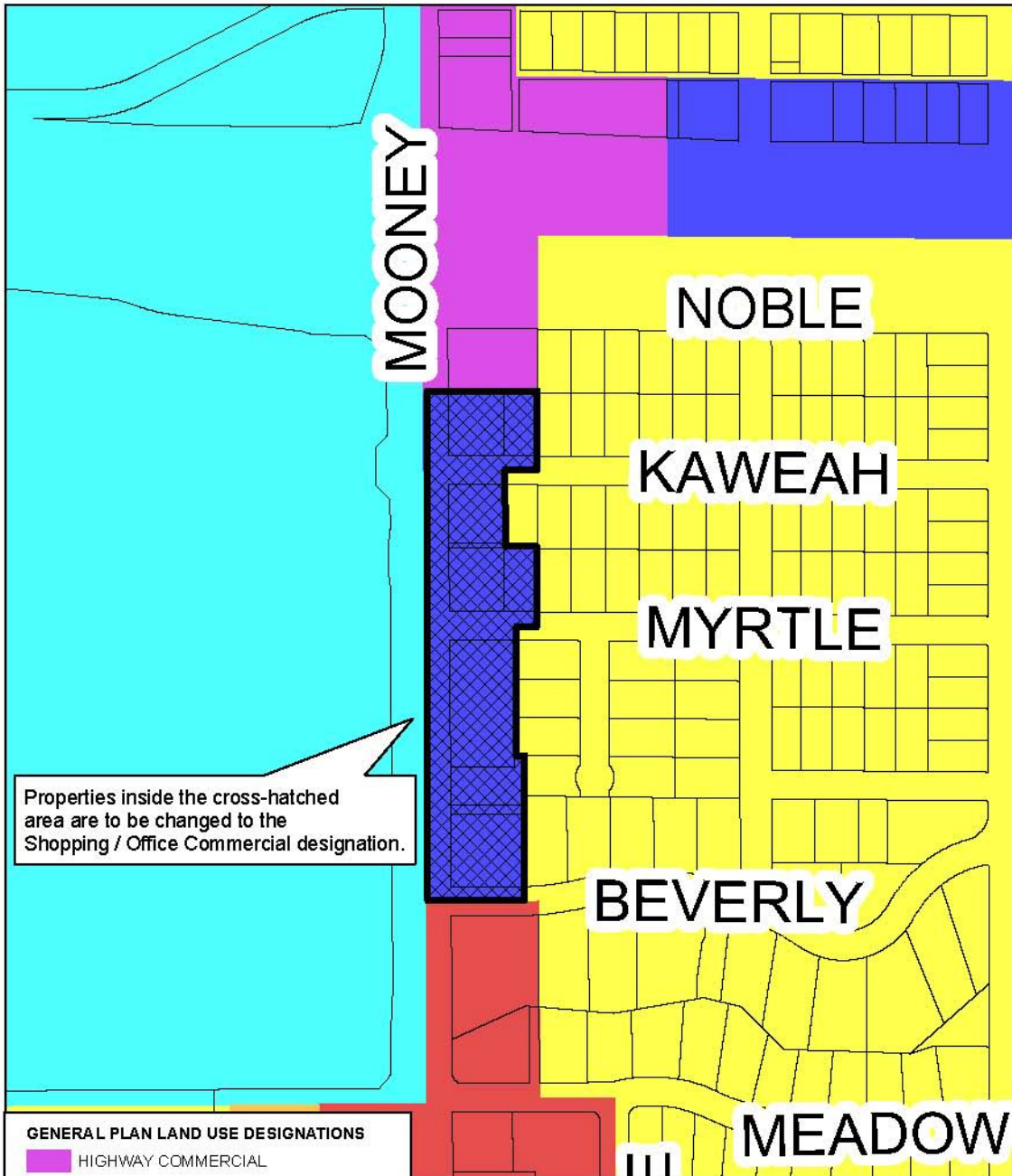
WHEREAS, an Initial Study was prepared that disclosed that no significant environmental impacts would result from the project, and that no mitigation measures would be required for the project.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Visalia hereby makes the following findings with regard to General Plan Amendment No. 2010-08B:

1. No significant environmental impacts would result from this project, and no mitigation measures would be required. Negative Declaration No. 2010-73 was certified pursuant to City of Visalia Resolution No. 2010-70.
2. That the proposed General Plan Amendment is consistent with the intent of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
3. That the proposed land use designation of Shopping/Office Commercial would be compatible with existing land uses and land use designations in the surrounding vicinity.

4. That the land use change in this section of Mooney Blvd. from Professional Administrative Office to Shopping/Office Commercial would be more consistent with existing uses in the section and will allow more opportunities for additional commercial uses to locate there. The General Plan Amendment will also allow more uses that generally prefer smaller buildings to be able to locate within the area, thereby encouraging commercial occupancies.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia hereby approves General Plan Amendment No. 2010-08B as described in Exhibit A based on the above findings and evidence in the record, in accordance with the terms of this resolution and under the provision of Section 17.54.080 of the Ordinance Code of the City of Visalia.



GENERAL PLAN LAND USE DESIGNATIONS

- HIGHWAY COMMERCIAL
- REGIONAL RETAIL COMMERCIAL
- SHOPPING / OFFICE COMMERCIAL
- PROFESSIONAL / ADMIN OFFICE
- PARK
- PUBLIC INSTITUTIONAL
- RESIDENTIAL HIGH DENSITY
- RESIDENTIAL LOW DENSITY
- RESIDENTIAL MEDIUM DENSITY

EXHIBIT A
 Resolution No. 2010-72
 GPA No. 2010-08B



1:3,600

RESOLUTION NO. 2010-73

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA
APPROVING GENERAL PLAN AMENDMENT NO. 2010-08C, A REQUEST BY THE CITY OF
VISALIA TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM REGIONAL
RETAIL COMMERCIAL TO PROFESSIONAL ADMINISTRATIVE OFFICE FOR PROPERTIES
LOCATED ON THE SOUTH SIDE OF WALNUT AVENUE APPROXIMATELY 940 FEET EAST
OF MOONEY BOULEVARD

WHEREAS, General Plan Amendment No. 2010-08C was initiated by the City of Visalia to change the General Plan land use designation from Regional Retail Commercial to Professional Administrative on property totaling approximately 2.8 acres, located on the south side of Walnut Avenue approximately 940 feet east of Mooney Blvd.; and

WHEREAS, the General Plan Amendment was initiated in response to a report titled City of Visalia Mooney Boulevard Corridor Zoning Study (August 2010) that the City of Visalia City Council reviewed on August 16, 2010; and

WHEREAS, the Planning Commission of the City of Visalia, after twenty-one (21) days published notice, held a public hearing before said Commission on October 25, 2010; and

WHEREAS, the Planning Commission of the City of Visalia considered the general plan amendment in accordance with Section 17.54.070 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, the Planning Commission of the City of Visalia recommended approval of the general plan amendment by adoption of Planning Commission Resolution No. 2010-41 on October 25, 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 November 15, 2010; and

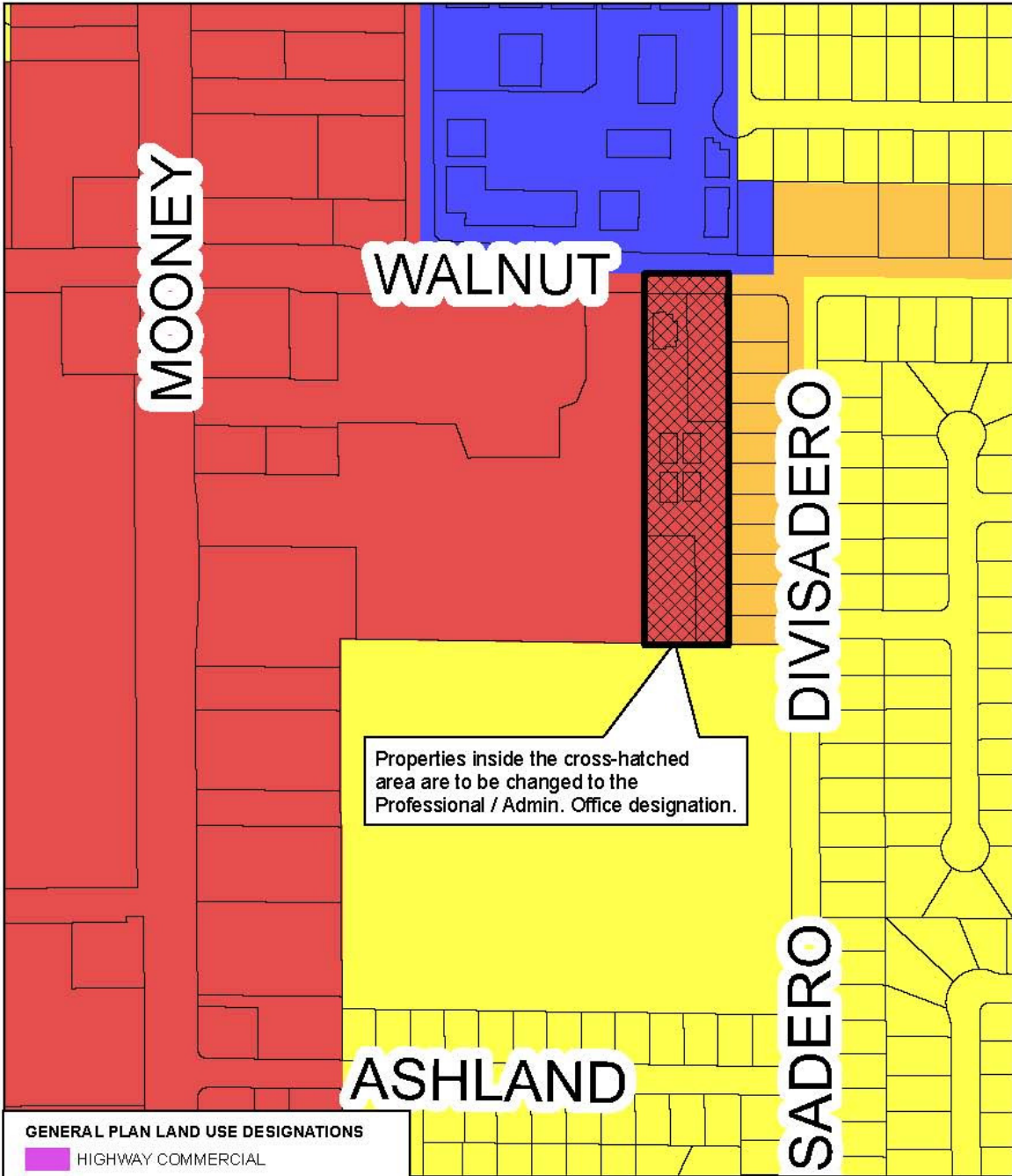
WHEREAS, an Initial Study was prepared that disclosed that no significant environmental impacts would result from the project, and that no mitigation measures would be required for the project.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Visalia hereby makes the following findings with regard to General Plan Amendment No. 2010-08C:

1. No significant environmental impacts would result from this project, and no mitigation measures would be required. Negative Declaration No. 2010-73 was certified pursuant to City of Visalia Resolution No. 2010-70.
2. That the proposed General Plan Amendment is consistent with the intent of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
3. That the proposed land use designation of Professional Administrative Office would be compatible with existing land uses and land use designations in the surrounding vicinity.

4. That the General Plan land use designation change will allow more opportunities for additional office and medical offices uses to locate there. The General Plan Amendment will also solidify the area as a use buffer between the regional commercial and single-family residential uses.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia hereby approves General Plan Amendment No. 2010-08C as described in Exhibit A based on the above findings and evidence in the record, in accordance with the terms of this resolution and under the provision of Section 17.54.080 of the Ordinance Code of the City of Visalia.



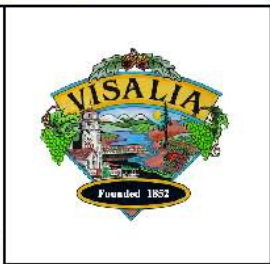
Properties inside the cross-hatched area are to be changed to the Professional / Admin. Office designation.

GENERAL PLAN LAND USE DESIGNATIONS

	HIGHWAY COMMERCIAL
	REGIONAL RETAIL COMMERCIAL
	SHOPPING / OFFICE COMMERCIAL
	PROFESSIONAL / ADMIN OFFICE
	PARK
	PUBLIC INSTITUTIONAL
	RESIDENTIAL HIGH DENSITY
	RESIDENTIAL LOW DENSITY
	RESIDENTIAL MEDIUM DENSITY

EXHIBIT A
 Resolution No. 2010-73
 GPA No. 2010-08C

1:3,600



RESOLUTION NO. 2010-74

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA APPROVING GENERAL PLAN AMENDMENT NO. 2010-08D, A REQUEST BY THE CITY OF VISALIA TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM REGIONAL RETAIL COMMERCIAL TO PROFESSIONAL ADMINISTRATIVE OFFICE FOR PROPERTY LOCATED APPROXIMATELY 550 FEET WEST OF MOONEY BLVD., SOUTH OF BEECH AVENUE, AND NORTH OF WHITENDALE AVENUE

WHEREAS, General Plan Amendment No. 2010-08D was initiated by the City of Visalia to change the General Plan land use designation from Regional Retail Commercial to Professional Administrative Office for property totaling approximately 9.2 acres located approximately 550 feet west of Mooney Blvd., south of Beech Avenue, and north of Whitendale Avenue; and

WHEREAS, the General Plan Amendment was initiated in response to a report titled City of Visalia Mooney Boulevard Corridor Zoning Study (August 2010) that the City of Visalia City Council reviewed on August 16, 2010; and

WHEREAS, the Planning Commission of the City of Visalia, after twenty-one (21) days published notice, held a public hearing before said Commission on October 25, 2010; and

WHEREAS, the Planning Commission of the City of Visalia considered the general plan amendment in accordance with Section 17.54.070 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, the Planning Commission of the City of Visalia recommended approval of the general plan amendment by adoption of Planning Commission Resolution No. 2010-42 on October 25, 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 November 15, 2010; and

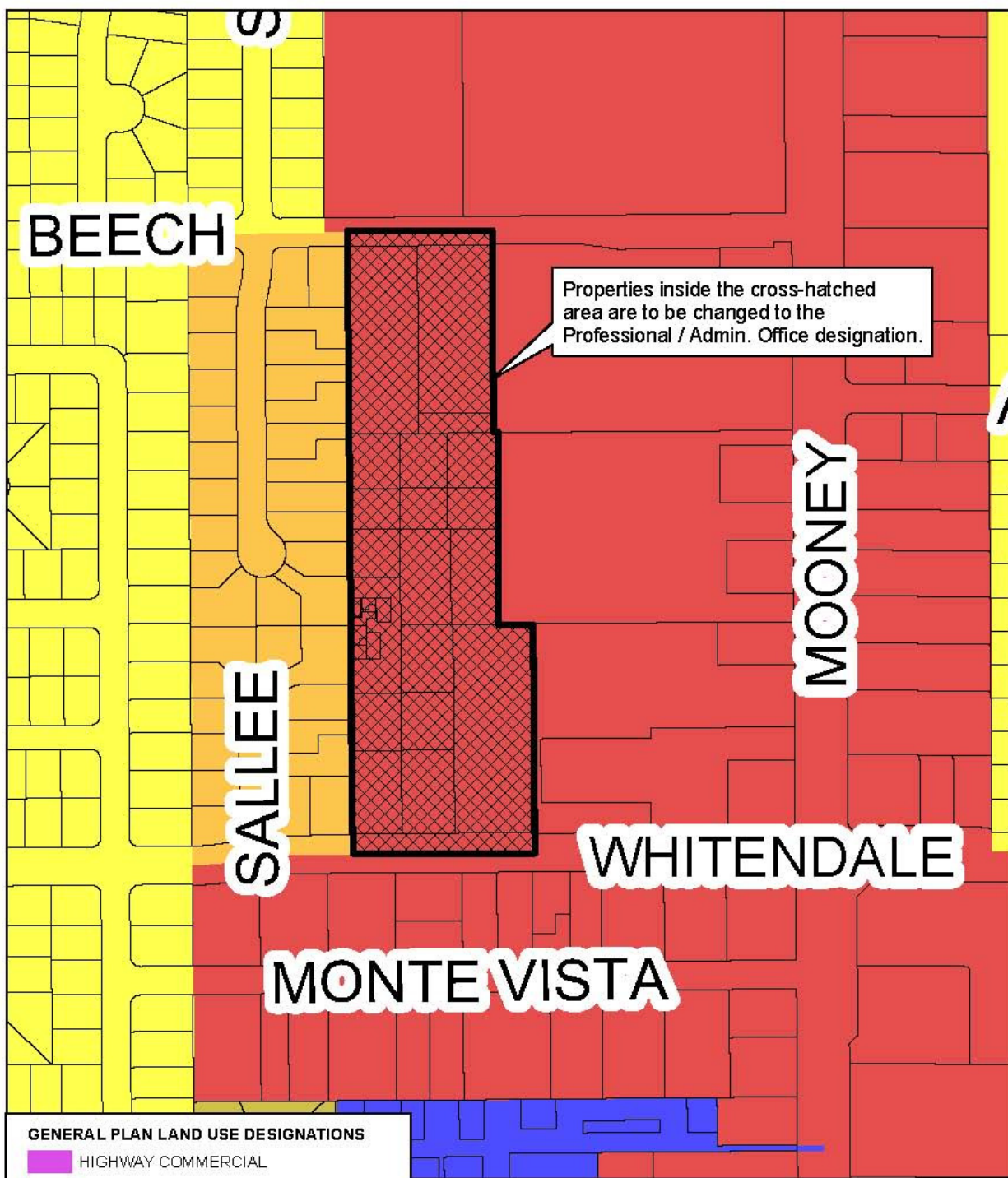
WHEREAS, an Initial Study was prepared that disclosed that no significant environmental impacts would result from the project, and that no mitigation measures would be required for the project.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Visalia hereby makes the following findings with regard to General Plan Amendment No. 2010-08D:

1. No significant environmental impacts would result from this project, and no mitigation measures would be required. Negative Declaration No. 2010-73 was certified pursuant to City of Visalia Resolution No. 2010-70.
2. That the proposed General Plan Amendment is consistent with the intent of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

3. That the proposed land use designation of Professional Administrative Office would be compatible with existing land uses and land use designations in the surrounding vicinity.
4. That the General Plan land use designation change will allow more opportunities for additional office and medical offices uses to locate there. The General Plan Amendment will also solidify the area as a use buffer between the regional commercial and single-family residential uses.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia hereby approves General Plan Amendment No. 2010-08D as described in Exhibit A based on the above findings and evidence in the record, in accordance with the terms of this resolution and under the provision of Section 17.54.080 of the Ordinance Code of the City of Visalia.



GENERAL PLAN LAND USE DESIGNATIONS

	HIGHWAY COMMERCIAL
	REGIONAL RETAIL COMMERCIAL
	SHOPPING / OFFICE COMMERCIAL
	PROFESSIONAL / ADMIN OFFICE
	PARK
	PUBLIC INSTITUTIONAL
	RESIDENTIAL HIGH DENSITY
	RESIDENTIAL LOW DENSITY
	RESIDENTIAL MEDIUM DENSITY

EXHIBIT A
 Resolution No. 2010-74
 GPA No. 2010-08D

1:3,600



ORDINANCE NO. 2010 -12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA APPROVING CHANGE OF ZONE NO. 2010-09A, A REQUEST BY THE CITY OF VISALIA TO CHANGE THE ZONING FROM C-R (REGIONAL RETAIL COMMERCIAL) TO C-SO (SHOPPING/OFFICE COMMERCIAL) FOR ALL PROPERTIES ZONED C-R ALONG BOTH SIDES OF MOONEY BOULEVARD BETWEEN BEVERLY DRIVE AND WALNUT AVENUE

WHEREAS, Change of Zone No. 2010-09A was initiated by the City of Visalia to change the zoning from C-R (Regional Retail Commercial) to C-SO (Shopping/Office Commercial) for all properties zoned C-R along both sides of Mooney Blvd. between Beverly Drive and Walnut Avenue; and

WHEREAS, the City Council of the City of Visalia finds as follows:

1. That no significant environmental impacts would result from this project, that no mitigation measures would be required, and that the City Council certified Negative Declaration No. 2010-73 by Resolution No. 2010-70.
2. The City of Visalia considered the Change of Zone in accordance with Section 17.44.090 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff reports and testimony presented at the public hearing.
3. That the proposed Change of Zone is consistent with the goals, objectives and policies of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That there is a distinct difference between the existing buildings along Mooney Blvd. that are north of Walnut Avenue from those that are south of Walnut Avenue. The buildings north of Walnut Avenue are generally smaller and are more often stand-alone sites, as opposed to multi-building shopping centers. This section of Mooney Blvd. is more similar in its size and design to other commercial areas in the city that are zoned C-SO. Changing the zoning in this section of Mooney Blvd. from C-R to C-SO will allow more uses that generally prefer smaller buildings to be able to locate within the area, thereby encouraging commercial occupancies.
5. That the development standards of Design District A will remain compatible with the established development patterns and setbacks on adjacent properties.

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a public hearing before said Council on November 15, 2010.

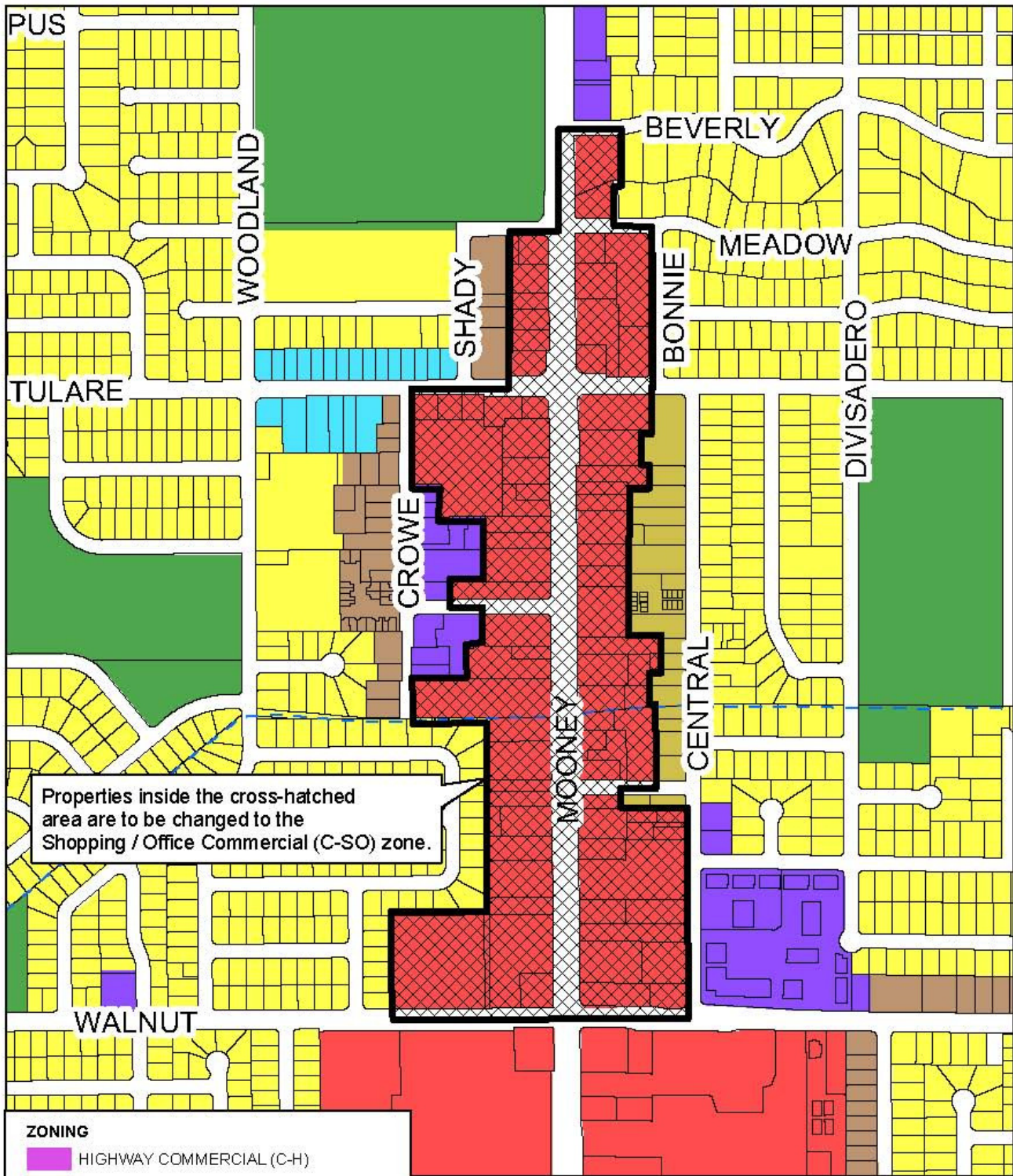
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

SECTION 1: On October 25, 2010, the Planning Commission recommended that the City Council of the City of Visalia approve Change of Zone No. 2010-09A.

SECTION 2: The official Zone Map of the City of Visalia shall be amended to show all properties currently zoned C-R (Regional Commercial) along both sides of Mooney Blvd.

between Beverly Drive and Walnut Avenue be zoned C-SO (Commercial Shopping/Office).
See attached Exhibit A.

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



ZONING

- HIGHWAY COMMERCIAL (C-H)
- REGIONAL RETAIL COMMERCIAL (C-R)
- SHOPPING / OFFICE COMMERCIAL (C-SO)
- OFFICE CONVERSION (OC)
- PROFESSIONAL / ADMIN. OFFICE (PA)
- QUASI-PUBLIC (QP)
- SINGLE-FAMILY RESIDENTIAL (R-1-6)
- MULTI-FAMILY RESIDENTIAL (R-M-2)
- MULTI-FAMILY RESIDENTIAL (R-M-3)

EXHIBIT A
Ordinance No. 2010-12
COZ No. 2010-009A



1:7,200

ORDINANCE NO. 2010 -13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA
APPROVING CHANGE OF ZONE NO. 2010-09B, A REQUEST BY THE CITY OF VISALIA TO
CHANGE THE ZONING FROM PA (PROFESSIONAL ADMINISTRATIVE OFFICE) TO C-SO
(SHOPPING/OFFICE COMMERCIAL) FOR ALL PROPERTIES ZONED PA ON THE EAST SIDE
OF MOONEY BOULEVARD BETWEEN NOBLE AVENUE AND BEVERLY DRIVE

WHEREAS, Change of Zone No. 2010-09B was initiated by the City of Visalia to change the zoning from PA (Professional Administrative Office) to C-SO (Shopping/Office Commercial) for all properties zoned PA on the east side of Mooney Blvd. between Noble Avenue and Beverly Drive; and

WHEREAS, the City Council of the City of Visalia finds as follows:

1. That no significant environmental impacts would result from this project, that no mitigation measures would be required, and that the City Council certified Negative Declaration No. 2010-73 by Resolution No. 2010-70.
2. The City of Visalia considered the Change of Zone in accordance with Section 17.44.090 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff reports and testimony presented at the public hearing.
3. That the proposed Change of Zone is consistent with the goals, objectives and policies of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That the zone change in this section of Mooney Blvd. from PA to C-SO would be more consistent with existing uses in the section and will allow more opportunities for additional commercial uses to locate there. The Change of Zone will also allow more uses that generally prefer smaller buildings to be able to locate within the area, thereby encouraging commercial occupancies.
5. That the development standards of Design District A will continue to be compatible with the established development patterns and setbacks on adjacent properties.

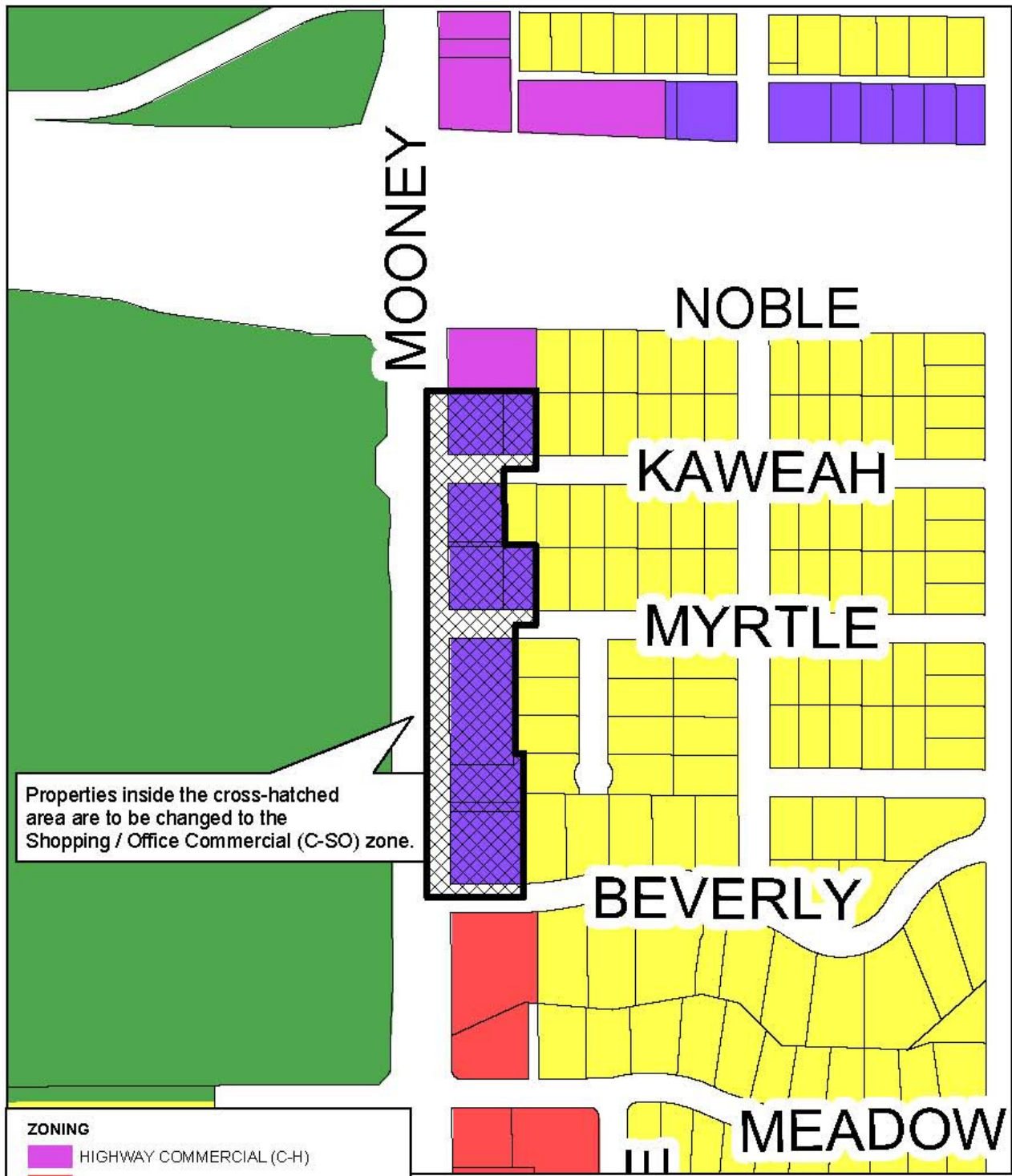
WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a public hearing before said Council on November 15, 2010.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

SECTION 1: On October 25, 2010, the Planning Commission recommended that the City Council of the City of Visalia approve Change of Zone No. 2010-09B.

SECTION 2: The official Zone Map of the City of Visalia shall be amended to show all properties currently zoned PA on the east side of Mooney Blvd. between Noble Avenue and Beverly Drive to be zoned C-SO (Commercial Shopping/Office). See attached Exhibit A.

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



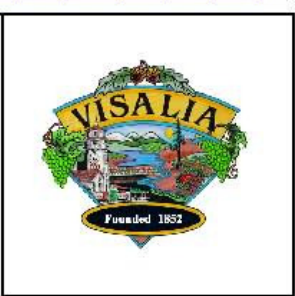
Properties inside the cross-hatched area are to be changed to the Shopping / Office Commercial (C-SO) zone.

ZONING

	HIGHWAY COMMERCIAL (C-H)
	REGIONAL RETAIL COMMERCIAL (C-R)
	SHOPPING / OFFICE COMMERCIAL (C-SO)
	OFFICE CONVERSION (OC)
	PROFESSIONAL / ADMIN. OFFICE (PA)
	QUASI-PUBLIC (QP)
	SINGLE-FAMILY RESIDENTIAL (R-1-6)
	MULTI-FAMILY RESIDENTIAL (R-M-2)
	MULTI-FAMILY RESIDENTIAL (R-M-3)

EXHIBIT A
 Ordinance No. 2010-13
 COZ No. 2010-09B

1:3,600



ORDINANCE NO. 2010 -14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA
APPROVING CHANGE OF ZONE NO. 2010-09C, A REQUEST BY THE CITY OF VISALIA TO
CHANGE THE ZONING FROM C-R (REGIONAL RETAIL COMMERCIAL) TO PA
(PROFESSIONAL ADMINISTRATIVE OFFICE) FOR PROPERTY ON THE SOUTH SIDE OF
WALNUT AVENUE APPROXIMATELY 940 FEET EAST OF MOONEY BOULEVARD

WHEREAS, Change of Zone No. 2010-09C was initiated by the City of Visalia to change the zoning from C-R (Regional Retail Commercial) to PA (Professional Administrative Office) for property located on the south side of Walnut Avenue approximately 940 feet east of Mooney Boulevard; and

WHEREAS, the City Council of the City of Visalia finds as follows:

1. That no significant environmental impacts would result from this project, that no mitigation measures would be required, and that the City Council certified Negative Declaration No. 2010-73 by Resolution No. 2010-70.
2. The City of Visalia considered the Change of Zone in accordance with Section 17.44.090 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff reports and testimony presented at the public hearing.
3. That the proposed Change of Zone is consistent with the goals, objectives and policies of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That changing the zoning in this area will allow more opportunities for additional office and medical offices uses to locate there, and that the Change of Zone will also solidify the area as a use buffer between the regional commercial and single-family residential uses.
5. That the development standards of Design District A will continue to be compatible with the established development patterns and setbacks on adjacent properties.

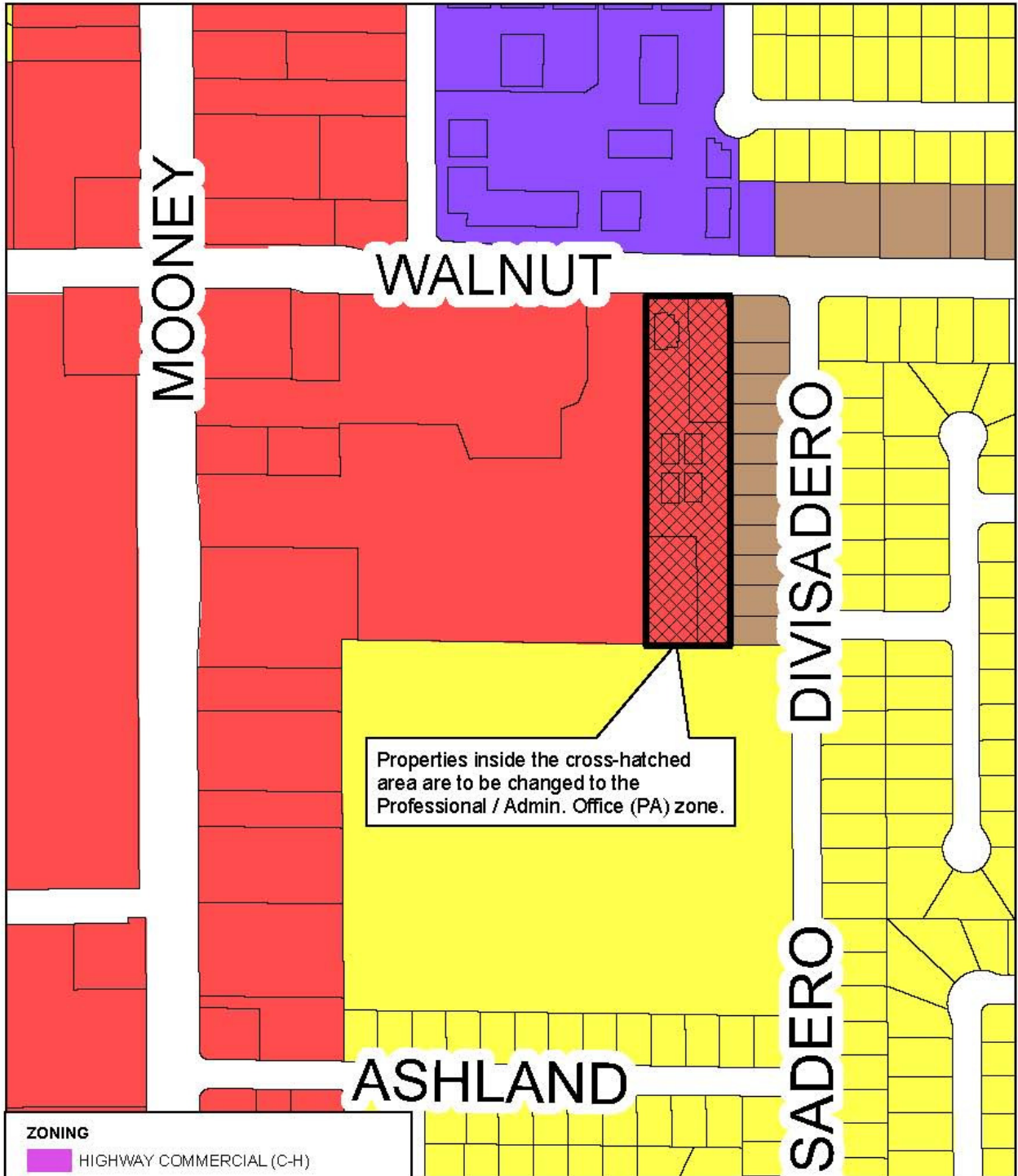
WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a public hearing before said Council on November 15, 2010.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

SECTION 1: On October 25, 2010, the Planning Commission recommended that the City Council of the City of Visalia approve Change of Zone No. 2010-09C.

SECTION 2: The official Zone Map of the City of Visalia shall be amended to show all properties developed with office buildings currently zoned C-R (Regional Commercial) located on the south side of Walnut Avenue approximately 940 feet east of Mooney Boulevard be zoned PA (Professional Administrative Office). See attached Exhibit A.

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



Properties inside the cross-hatched area are to be changed to the Professional / Admin. Office (PA) zone.

ZONING	
	HIGHWAY COMMERCIAL (C-H)
	REGIONAL RETAIL COMMERCIAL (C-R)
	SHOPPING / OFFICE COMMERCIAL (C-SO)
	OFFICE CONVERSION (OC)
	PROFESSIONAL / ADMIN. OFFICE (PA)
	QUASI-PUBLIC (QP)
	SINGLE-FAMILY RESIDENTIAL (R-1-6)
	MULTI-FAMILY RESIDENTIAL (R-M-2)
	MULTI-FAMILY RESIDENTIAL (R-M-3)

EXHIBIT A
 Ordinance No. 2010-14
 COZ No. 2010-09C

1:3,600



ORDINANCE NO. 2010 -15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA
APPROVING CHANGE OF ZONE NO. 2010-09D, A REQUEST BY THE CITY OF VISALIA TO
CHANGE THE ZONING FROM C-R (REGIONAL RETAIL COMMERCIAL TO PA
(PROFESSIONAL ADMINISTRATIVE OFFICE) FOR PROPERTY LOCATED APPROXIMATELY
550 FEET WEST OF MOONEY BLVD., SOUTH OF BEECH AVENUE, AND NORTH OF
WHITENDALE AVENUE

WHEREAS, Change of Zone No. 2010-09D was initiated by the City of Visalia to change the zoning from C-R (Regional Retail Commercial) to PA (Professional Administrative Office) for property totaling approximately 9.2 acres located approximately 550 feet west of Mooney Blvd., south of Beech Avenue, and north of Whitendale Avenue; and

WHEREAS, the City Council of the City of Visalia finds as follows:

1. That no significant environmental impacts would result from this project, that no mitigation measures would be required, and that the City Council certified Negative Declaration No. 2010-73 by Resolution No. 2010-70.
2. The City of Visalia considered the Change of Zone in accordance with Section 17.44.090 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff reports and testimony presented at the public hearing.
3. That the proposed Change of Zone is consistent with the goals, objectives and policies of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That changing the zoning in this area will allow more opportunities for additional office and medical offices uses to locate there, and that the Change of Zone will also solidify the area as a use buffer between the regional commercial and single-family residential uses.
5. That the development standards of Design District A will continue to be compatible with the established development patterns and setbacks on adjacent properties.

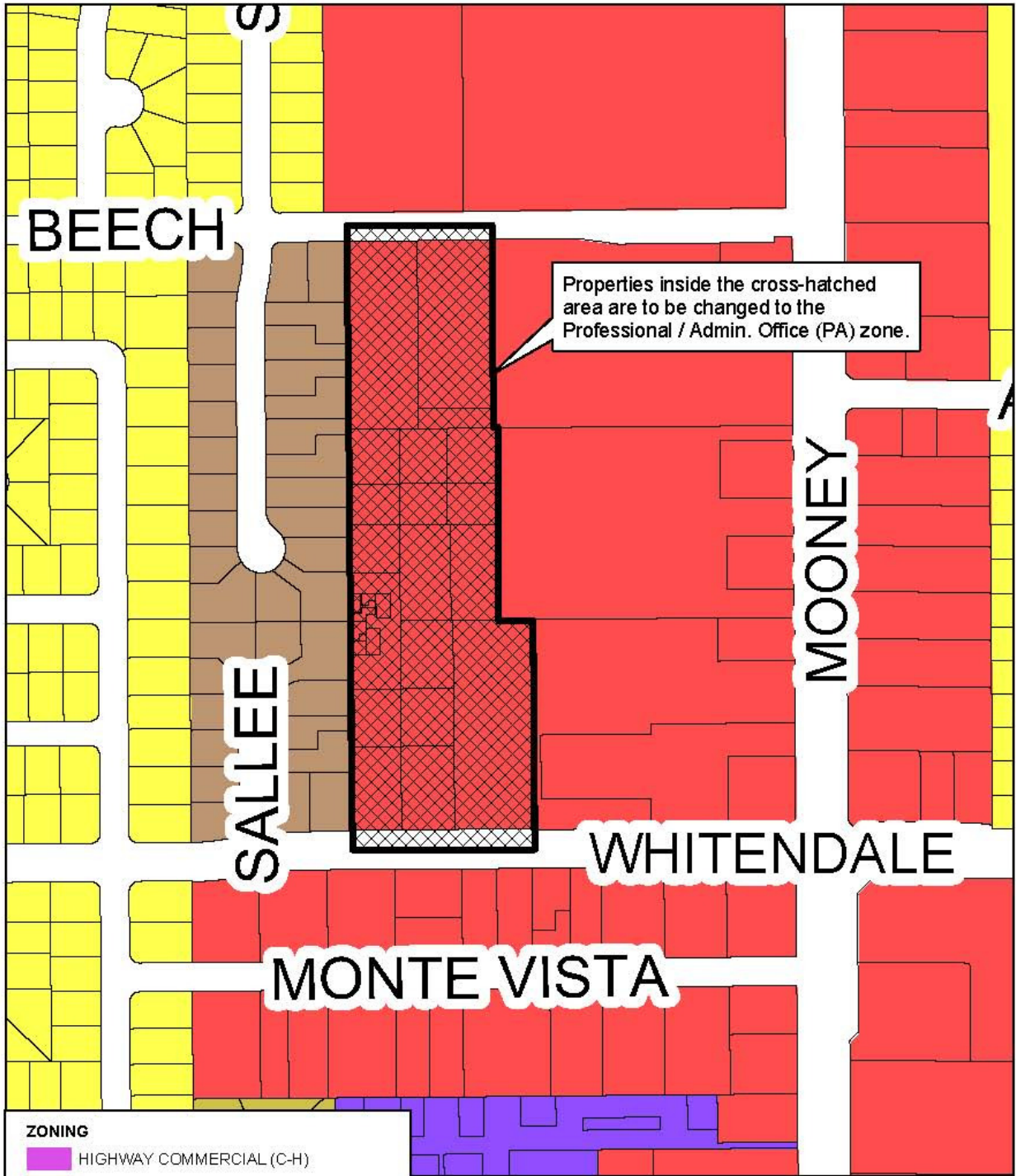
WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a public hearing before said Council on November 15, 2010.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

SECTION 1: On October 25, 2010, the Planning Commission recommended that the City Council of the City of Visalia approve Change of Zone No. 2010-09D.

SECTION 2: The official Zone Map of the City of Visalia shall be amended to show all properties developed with office buildings currently zoned C-R (Regional Commercial) located approximately 550 feet west of Mooney Blvd., south of Beech Avenue, and north of Whitendale Avenue be zoned PA (Professional Administrative Office). See attached Exhibit A.

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

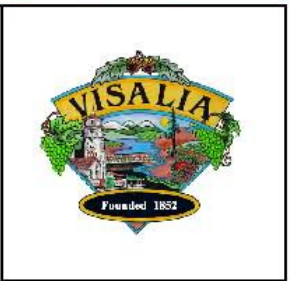


ZONING

	HIGHWAY COMMERCIAL (C-H)
	REGIONAL RETAIL COMMERCIAL (C-R)
	SHOPPING / OFFICE COMMERCIAL (C-SO)
	OFFICE CONVERSION (OC)
	PROFESSIONAL / ADMIN. OFFICE (PA)
	QUASI-PUBLIC (QP)
	SINGLE-FAMILY RESIDENTIAL (R-1-6)
	MULTI-FAMILY RESIDENTIAL (R-M-2)
	MULTI-FAMILY RESIDENTIAL (R-M-3)

EXHIBIT A
 Ordinance No. 2010-15
 COZ No. 2010-09D

1:3,600



RESOLUTION NO. 2010-75

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,
DENYING ZONING TEXT AMENDMENT NO. 2010-10A, A REQUEST BY THE CITY OF
VISALIA TO AMEND SECTION 17.04.030 OF THE VISALIA MUNICIPAL CODE (ZONING
ORDINANCE) TO ADD DEFINITIONS OF CERTAIN LAND USES

WHEREAS, a Zoning Ordinance Text Amendment request was filed by the City of Visalia, to add definitions of certain land uses in the Visalia Zoning Ordinance, the specific text being identified in Exhibit A herein; and

WHEREAS, the Zoning Text Amendment was filed in response to a report titled City of Visalia Mooney Boulevard Corridor Zoning Study (August 2010) that the City of Visalia City Council reviewed on August 16, 2010; and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice, did hold a public hearing before said Commission on October 25, 2010; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Visalia hereby makes the following findings based upon the Planning Commission recommendation for denial, the staff reports, and evidence presented at the public hearing:

1. That the proposed amendment would affect zoning in the entire city and not just the Mooney Blvd. Corridor area.
2. That the City Council is concerned that there may be unintended consequences associated with adopting these definitions at this time.
3. That it is more appropriate to review the proposed definitions and their effect on City policy and procedures with the General Plan Update process and any Zoning Ordinance amendments that would accompany or follow the General Plan Update.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia hereby denies Zoning Ordinance Text Amendment 2010-10A as provided in Exhibit A, in accordance with the terms of this resolution and under the provisions of Section 17.44.090 of the Ordinance Code of the City of Visalia.

EXHIBIT A

Resolution No. 2010-75
ZTA 2010-10A

The following text is hereby added to VMC Section 17.04.030. All existing text in Section 17.04.030 is intended to remain. Text being added is shown in **bold**.

VMC 17.04.030

The definitions set forth in this chapter shall apply to this title.

"Convenience Store" means a retail establishment with a primary emphasis on selling basic food, beverage and tobacco products at accessible locations and times, and can also include a quick serve restaurant (QSR) or a delicatessen. Establishments for which sales of alcohol comprises the majority of gross sales shall not be considered a "convenience store". See "liquor store".

"Convenience Store with Service Station" or **"Service Station with Convenience Store"** means a retail establishment in which a "convenience store" and a "service station" are co-located on the same site.

"Drug Store/Pharmacy" means a retail establishment that specializes in selling a range of prescription and over-the-counter medications, that may or may not also sell health and beauty items, toiletries, and consumable goods, and that may or may not also provide basic health and photo processing services directly to consumers on a walk-in basis.

"Supermarket/Grocery Store" means an establishment with a primary emphasis on selling general lines of food products, including fresh and prepared meats, poultry and seafood, canned and frozen foods, fresh fruits and vegetables, and various dairy products.

"Dollar/Variety Store" means a retail establishment selling a broad range of general merchandise, including apparel, automotive parts, dry goods, and food products at deeply discounted prices.

"Specialty Food Store" means an establishment that specializes in retail sales of certain food products such as meat, seafood, health food, baked goods, nuts, dairy products, coffee, tea, soft drinks and other foods. Establishments for which sales of products sold for immediate consumption comprise the majority of gross sales shall not be considered "specialty food stores".

"Supercenter" means a retail establishment usually located in a department store-style structure selling a wide selection of merchandise and grocery products at discounted prices.

"Warehouse Club" means a retail establishment usually located in a warehouse-style structure selling a wide selection of merchandise and grocery products at discounted prices to customers who must pay a membership fee to shop there.

ORDINANCE NO. 2010 -16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA
APPROVING ZONING TEXT AMENDMENT NO. 2010-10B, A REQUEST BY THE CITY OF
VISALIA TO AMEND PORTIONS OF SECTION 17.18.050 OF THE VISALIA MUNICIPAL
CODE (ZONING ORDINANCE) TO REVISE THE LIST OF ALLOWED AND CONDITIONAL
USES IN THE REGIONAL RETAIL COMMERCIAL (C-R) ZONE

WHEREAS, a Zoning Ordinance Text Amendment request was filed by the City of Visalia, to revise the list of allowed and conditional uses in the Regional Retail Commercial (C-R) zones in the Visalia Zoning Ordinance, the specific text being identified in Exhibit A herein; and

WHEREAS, the City Council of the City of Visalia finds as follows:

1. That no significant environmental impacts would result from this project, that no mitigation measures would be required, and that the City Council certified Negative Declaration No. 2010-73 by Resolution No. 2010-70.
2. The City of Visalia considered the Zoning Text Amendment in accordance with Section 17.44.090 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff reports and testimony presented at the public hearing.
3. That the proposed Zoning Text Amendment is consistent with the goals, objectives and policies of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That the proposed amendment is consistent with the objectives, purpose and intent of Zoning Ordinance Section 17.02.020 by fostering a workable relationship among land uses, promoting the stability of existing land uses which conform to the district in which they occur, and ensuring that public and private lands ultimately are used for purposes which are appropriate and most beneficial for the city;
5. That the amendment will expand the number of uses allowed in the Regional Retail Commercial (C-R) zone while retaining the zone's focus of including uses that are primarily a regional commercial draw.

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a public hearing before said Council on November 15, 2010.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

SECTION 1: On October 25, 2010, the Planning Commission recommended that the City Council of the City of Visalia approve Zoning Text Amendment No. 2010-10B.

SECTION 2 - List of uses as permit (P), conditional (C), and temporary conditional (T): Section 17.18.050 of the Visalia Municipal Code, pertaining to the list of permitted, conditional, and temporary conditional uses, shall be amended to read as follows (bold underline indicate new provisions; strikethrough indicates deleted provisions):

The following matrix represents all the permitted and conditional uses in the commercial, office, and industrial zone districts.

REPLACE THIS PAGE WITH THE 14-PAGE ZONING MATRIX (Excel file)

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

ORDINANCE NO. 2010 -17

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA
APPROVING ZONING TEXT AMENDMENT NO. 2010-10C, A REQUEST BY THE CITY OF
VISALIA TO AMEND PORTIONS OF SECTION 17.30.160 OF THE VISALIA MUNICIPAL CODE
(ZONING ORDINANCE) TO REDUCE THE FRONT AND STREET-SIDE SETBACK
STANDARDS TO 20 FEET FOR BUILDINGS AND REQUIRE 25 FEET FOR FRONT AND
STREET-SIDE LANDSCAPING IN DESIGN DISTRICT A

WHEREAS, a Zoning Ordinance Text Amendment request was filed by the City of Visalia, to amend the development standards applicable to a portion of Design District A in the Visalia Zoning Ordinance; and

WHEREAS, the City Council of the City of Visalia finds as follows:

1. That no significant environmental impacts would result from this project, that no mitigation measures would be required, and that the City Council certified Negative Declaration No. 2010-73 by Resolution No. 2010-70.
2. That the City of Visalia considered the Zoning Text Amendment in accordance with Section 17.44.090 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff reports and testimony presented at the public hearing.
3. That the proposed Zoning Text Amendment is consistent with the goals, objectives and policies of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That the proposed amendment is consistent with the objectives, purpose and intent of Zoning Ordinance Section 17.02.020 by fostering a workable relationship among land uses, promoting the stability of existing land uses which conform to the district in which they occur, and avoiding a concentration of structures adjoining each other or juxtaposed too closely together in close proximity to each other.
5. That the amendment will establish greater consistency between the setback development standards and actual building setbacks for the majority of existing buildings in Design District A, and will potentially allow for a greater density of building space to be constructed on the limited land along Mooney Blvd. and other land within Design District A while still requiring a landscaped setback from adjacent streets.

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a public hearing before said Council on November 15, 2010.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

SECTION 1: On October 25, 2010, the Planning Commission recommended that the City Council of the City of Visalia approve Zoning Text Amendment No. 2010-10C.

SECTION 2 – Design standards – Design district A): Section 17.30.160 of the Visalia Municipal Code, pertaining to development standards for property located within Design district A, shall be amended to read as follows (bold italics indicate new provisions):

The following development standards shall apply to property located in district A. See Chapter 17.24 for additional BRP zone design standards:

- A. Building height: fifty (50) feet.
- B. Required yards:
 - 1. Front: thirty-five (35) feet minimum;
 - 2. Side: zero;
 - 3. Street side on corner lot: twenty-five (25) feet minimum;
 - 4. Side yards abutting an R-A, R-1 or R-M district: fifteen (15) feet minimum;
 - 5. Rear: zero;
 - 6. Rear yards abutting an R-A, R-1 or R-M district: fifteen (15) feet minimum.
 - 7. ***Within the portion of Design district A that runs along Mooney Boulevard from Noble Avenue to Cameron Avenue and along Caldwell Avenue from Sallee Street to Packwood Creek, including where Design district A is located on both sides of Fairway Street, Monte Vista Avenue, Sunnyside Avenue, and Dorothea Avenue, the required Front yard shall be twenty (20) feet minimum and the required Street side on corner lot shall be twenty (20) feet minimum.***
- C. Parking as prescribed in Chapter 17.34.
- D. Site area: five acre minimum.
- E. Landscaping:
 - 1. Front: thirty-five (35) feet minimum;
 - 2. Street side on corner lot: twenty-five (25) feet;
 - 3. Side: five feet (except where a building is on sided property lines);
 - 4. Rear: five feet minimum. (Prior code § 7466)
 - 5. ***Within the portion of Design district A that runs along Mooney Boulevard from Noble Avenue to Cameron Avenue and along Caldwell Avenue from Sallee Street to Packwood Creek, including where Design district A is located on both sides of Fairway Street, Monte Vista Avenue, Sunnyside Avenue, and Dorothea Avenue, the required Front yard landscaping shall be twenty-five (25) feet minimum.***

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

ORDINANCE NO. 2010-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA APPROVING ZONING TEXT AMENDMENT NO. 2010-10D, A REQUEST BY THE CITY OF VISALIA TO AMEND PORTIONS OF SECTION 17.30.160 AND ADDING SECTION 17.34.120 TO CHAPTER 17.34 OF THE VISALIA MUNICIPAL CODE (ZONING ORDINANCE) TO ADD PROCEDURES TO GRANT UP TO A 20 PERCENT ADMINISTRATIVE REDUCTION TO THE PARKING REQUIREMENTS FOR PROPERTIES WITHIN PORTIONS OF DESIGN DISTRICT A

WHEREAS, a Zoning Ordinance Text Amendment request was filed by the City of Visalia, to allow the City Planner or his/her designee to grant up to a 20 percent reduction in the off-street parking space requirements in the Visalia Zoning Ordinance, the specific text being identified in Exhibit A herein; and

WHEREAS, the City Council of the City of Visalia finds as follows:

1. That no significant environmental impacts would result from this project, that no mitigation measures would be required, and that the City Council certified Negative Declaration No. 2010-73 by Resolution No. 2010-70.
2. That the City of Visalia considered the Zoning Text Amendment in accordance with Section 17.44.090 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff reports and testimony presented at the public hearing.
3. That the proposed Zoning Text Amendment is consistent with the goals, objectives and policies of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That the proposed amendment is consistent with the objectives, purpose and intent of Zoning Ordinance Section 17.02.020 by fostering a workable relationship among land uses, promoting the stability of existing land uses which conform to the district in which they occur, promoting a safe, effective traffic circulation system, and requiring adequate off-street parking and truck loading facilities;
5. That the amendment will encourage building reuse and expansion along Mooney Blvd. by providing an administrative procedure to more flexibly enforce the City off-street parking space requirements

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice, held a public hearing before said Council on November 15, 2010.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

SECTION 1: On October 25, 2010, the Planning Commission recommended that the City Council of the City of Visalia approve Zoning Text Amendment No. 2010-10D.

SECTION 2 – Design standards – Design district A): Section 17.30.160 of the Visalia Municipal Code, pertaining to development standards for property located within Design district A, shall be amended to read as follows (bold italics indicate new provisions):

The following development standards shall apply to property located in district A. See Chapter 17.24 for additional BRP zone design standards:

- A. Building height: fifty (50) feet.
- B. Required yards:
 - 1. Front: thirty-five (35) feet minimum;
 - 2. Side: zero;
 - 3. Street side on corner lot: twenty-five (25) feet minimum;
 - 4. Side yards abutting an R-A, R-1 or R-M district: fifteen (15) feet minimum;
 - 5. Rear: zero;
 - 6. Rear yards abutting an R-A, R-1 or R-M district: fifteen (15) feet minimum.
- C. Parking as prescribed in Chapter 17.34. ***New uses within existing buildings or expansions of existing buildings located within the portion of Design district A that runs along Mooney Blvd. from Noble Ave. to Visalia Parkway and along Caldwell Avenue from Sallee Street to Packwood Creek, including where Design District A is located on both sides of Fairway Street, Monte Vista Avenue, Sunnyside Avenue, and Dorothea Avenue, may be eligible for an administrative parking reduction per Section 17.34.120.***
- D. Site area: five acre minimum.
- E. Landscaping:
 - 1. Front: thirty-five (35) feet minimum;
 - 2. Street side on corner lot: twenty-five (25) feet;
 - 3. Side: five feet (except where a building is on sided property lines);
 - 4. Rear: five feet minimum. (Prior code § 7466)

SECTION 3 – Off-street Parking: Chapter 17.34 of the Visalia Municipal Code, pertaining to off-street parking requirements, shall be amended to add new Section 17.34.120, reading as follows (bold italics indicate new provisions):

A. New uses locating in existing buildings or in an expansion of existing buildings shall not be prohibited because of a lack of off-street parking spaces if all the following requirements are met:

- 1. The use is located within the portion of Design District A that runs along Mooney Blvd. from Noble Ave. to Visalia Parkway and along Caldwell Avenue from Sallee Street to Packwood Creek, including where Design District A is located on both sides of Fairway Street, Monte Vista Avenue, Sunnyside Avenue, and Dorothea Avenue.***
- 2. The use is located in an existing building or shopping center that previously contained a use for which adequate parking was required on site; or the use is located in a building or shopping center that is being expanded from its original size, and the expansion results in the use not providing the required number of spaces.***

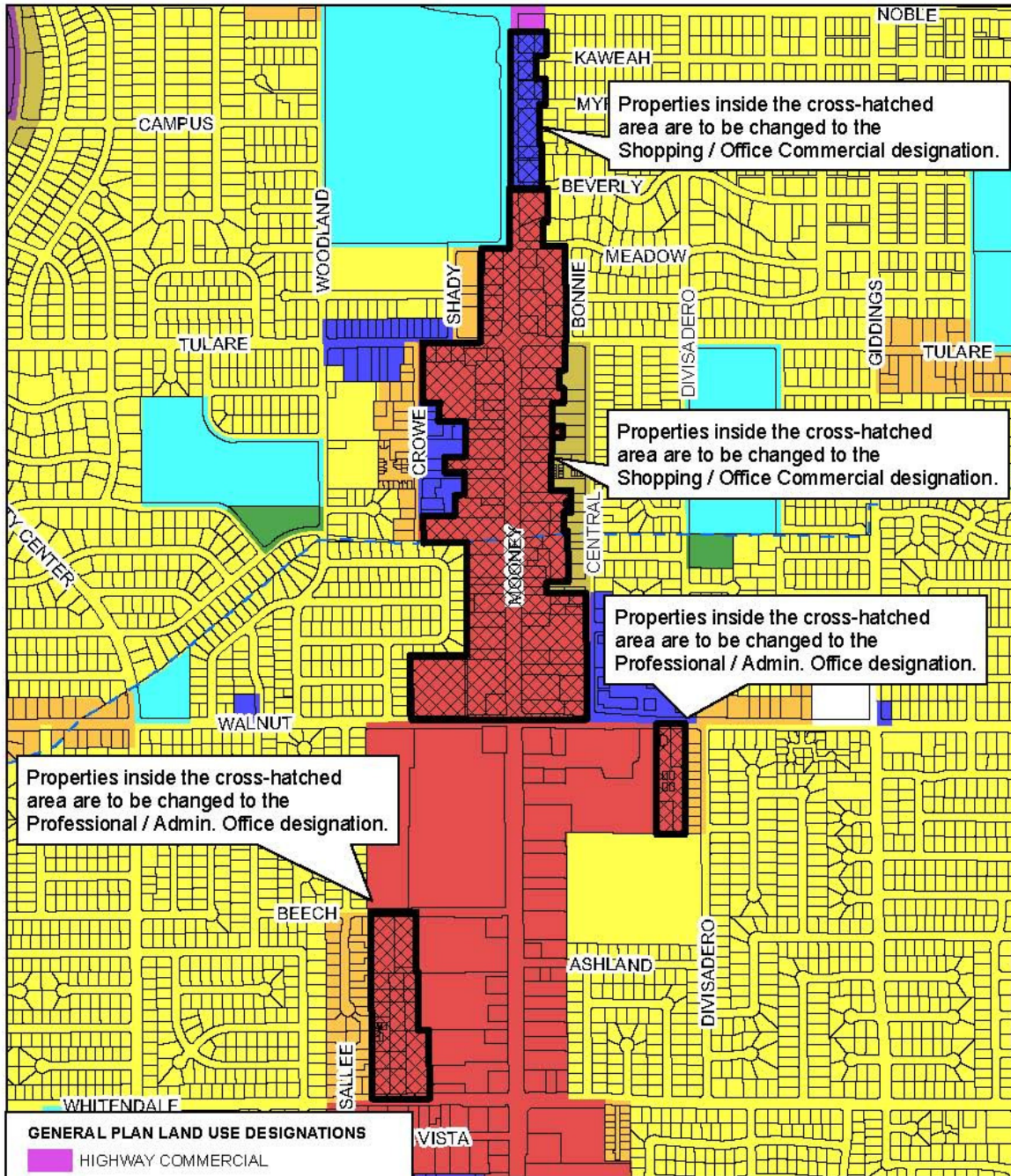
- 3. The number of off-street parking spaces provided is more than the required number of off-street parking spaces multiplied by 80% (provided spaces > required spaces x 80%).**
- 4. The design of the parking area meets existing improvement standards as determined by the Site Plan Review Committee.**
- 5. The required amount of handicapped accessible parking spaces is provided. The required amount of handicapped spaces shall be calculated based upon the standard required amount of parking before reduction.**
- 6. An acknowledgement has been filed in a form acceptable to the city planner stating that the property owner accepts and desires the reduced on-site parking standards. Where a use's parking space requirement is calculated as part of a shopping center per Section 17.34.020(F)(14) and/or where there is an existing shared parking agreement in effect all property owners within the shopping center or subject to the shared parking agreement shall also first agree to the reduced parking standard.**

SECTION 4: This ordinance shall become effective 30 days after passage hereof.

INSERT PLANNING COMMISSION STAFF REPORT HERE

THEN INSERT NEGATIVE DECLARATION NO. 2010-73 HERE

THEN INSERT ANY CORRESPONDENCE RECEIVED HERE



GENERAL PLAN LAND USE DESIGNATIONS

	HIGHWAY COMMERCIAL
	REGIONAL RETAIL COMMERCIAL
	SHOPPING / OFFICE COMMERCIAL
	PROFESSIONAL / ADMIN OFFICE
	PARK
	PUBLIC INSTITUTIONAL
	RESIDENTIAL HIGH DENSITY
	RESIDENTIAL LOW DENSITY
	RESIDENTIAL MEDIUM DENSITY

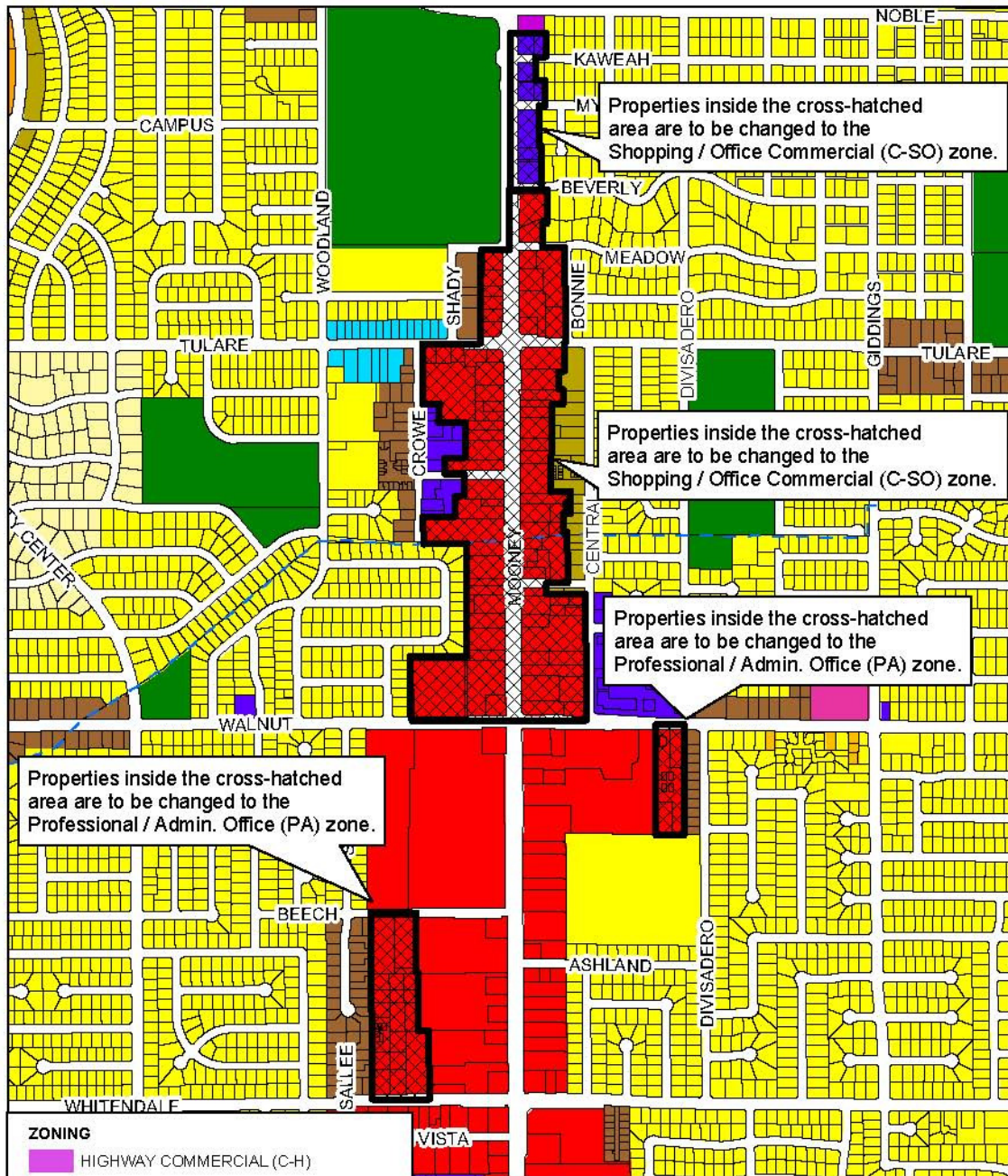


Exhibit "A"

General Plan
Land Use Map
With Proposed
Amendments

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ZONING

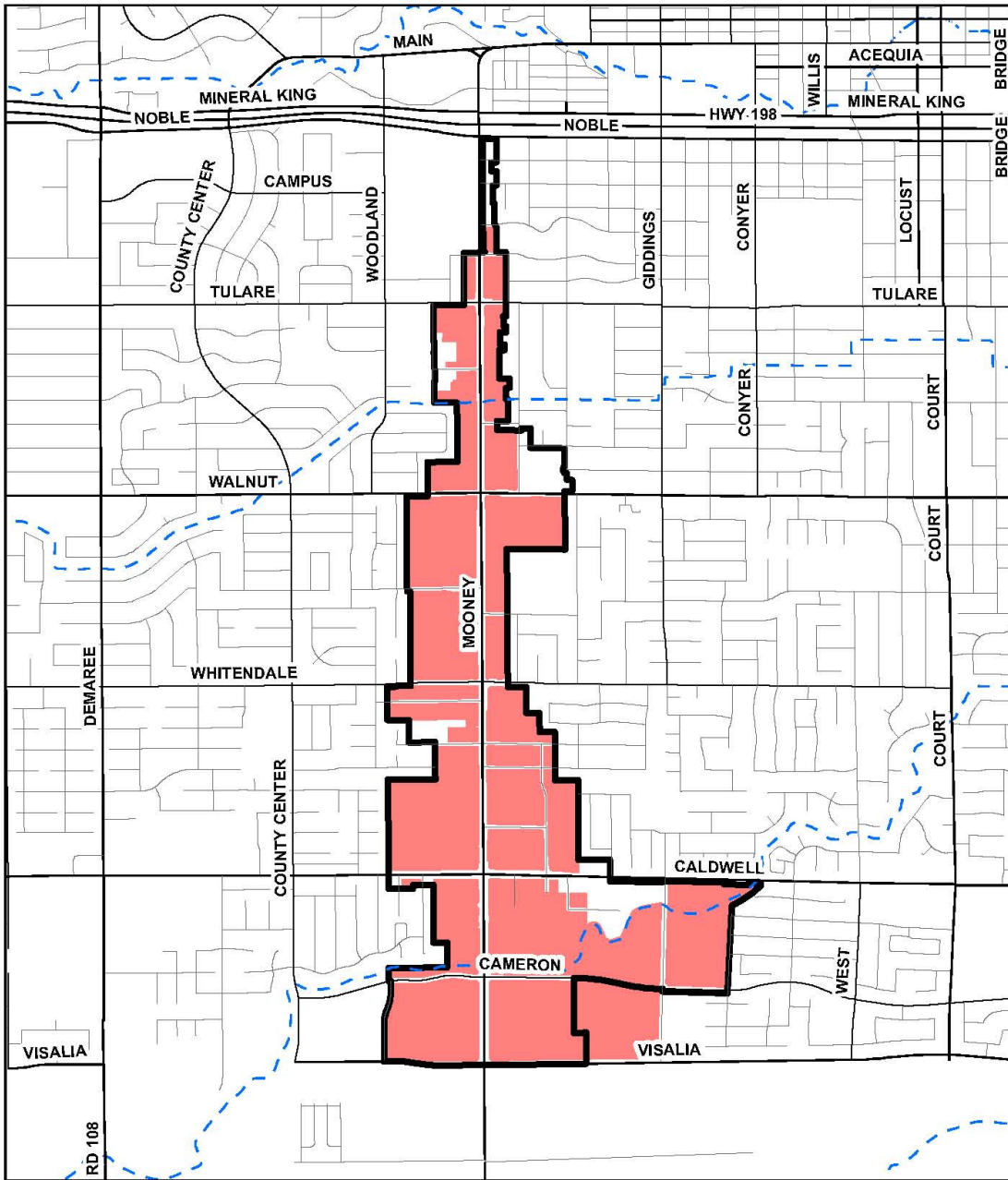
	HIGHWAY COMMERCIAL (C-H)
	REGIONAL RETAIL COMMERCIAL (C-R)
	SHOPPING / OFFICE COMMERCIAL (C-SO)
	OFFICE CONVERSION (OC)
	PROFESSIONAL / ADMIN. OFFICE (PA)
	QUASI-PUBLIC (QP)
	SINGLE-FAMILY RESIDENTIAL (R-1-6)
	MULTI-FAMILY RESIDENTIAL (R-M-2)
	MULTI-FAMILY RESIDENTIAL (R-M-3)

Exhibit "B"

**Zoning Map
With Proposed
Amendments**

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 DESIGN DISTRICT A
 REGIONAL RETAIL COMMERCIAL (C-R) ZONE



Exhibit "C"

Design District Map



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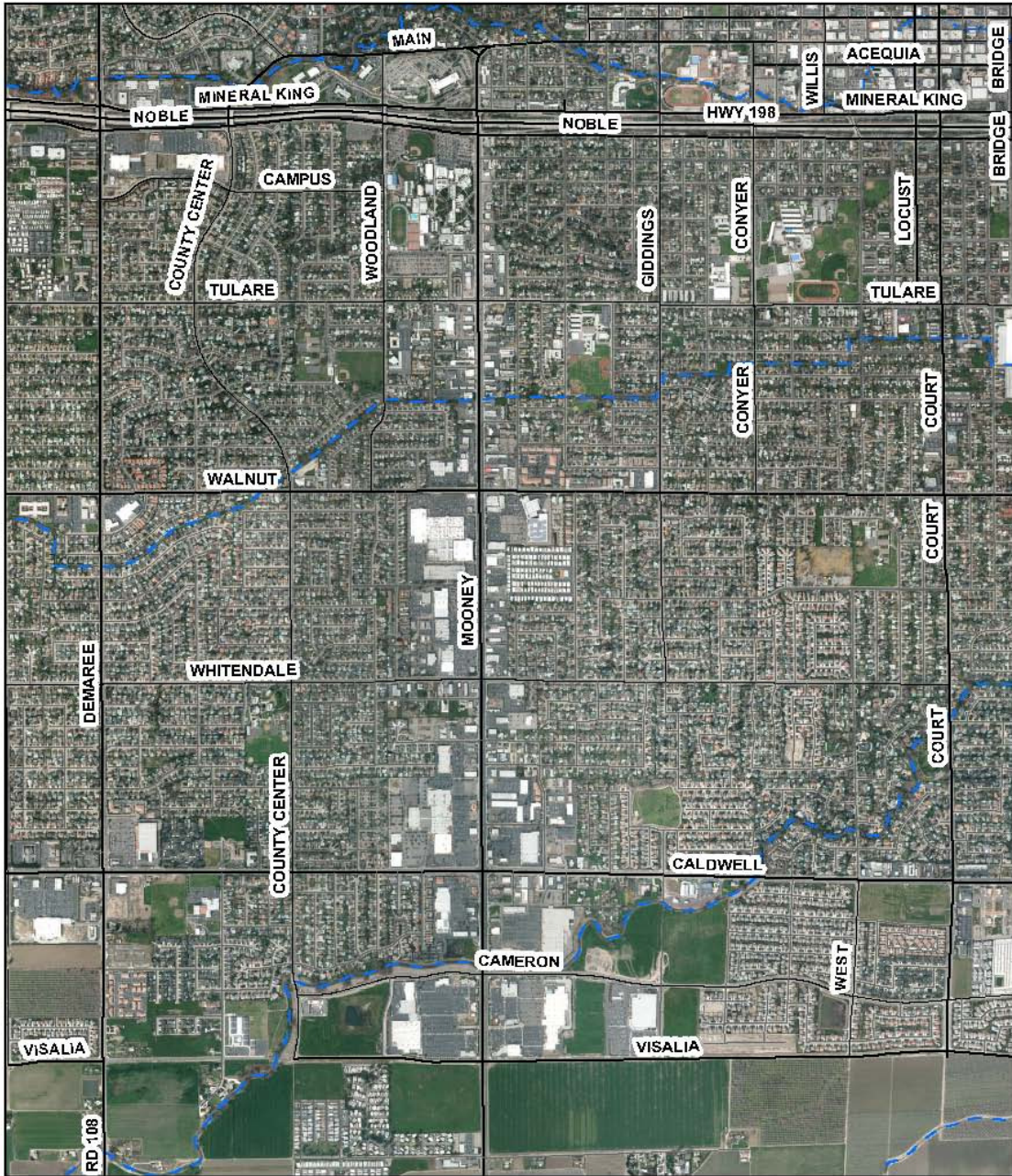


Exhibit "D"

Aerial Map of Mooney Blvd Corridor



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