

Visalia City Council Agenda



(Corrected as to Item 11j (item has not been removed from agenda as noted; and Item 11c should read Ordinance 2005-10, not 2005-19)

For the regular meeting of: Monday, July 18, 2005

Location: City Hall Council Chambers

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

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

Employee Introductions:

Community Development/Public Works Director Michael Olmos introduces Peter Spiro, Assistant Engineer and Rebecca Mustin, Support Services Assistant.

WORK SESSION AND ACTION ITEMS (as described)

4:00 p.m.

1. Presentation by Bill DeLain of Southern California Edison.
2. PUBLIC HEARING (continued from 6/13/05) – **Introduction of Ordinance 2005-09**
Adoption of Chapter 16.54 of the Municipal Code regarding Groundwater Overdraft Mitigation. The proposed ordinance establishes fees on new development and exiting pumping for municipal water supplies to implement programs to mitigate groundwater overdraft.
3. Review and appropriate action on the remaining 2005/06 Budget items:
 - a) Review of Non-profit operations for continued funding
 - b) Seven Oaks Bark Park
 - c) Fox Theater Request
 - d) Review of Valley Oaks Golf Course Operations
4. Progress Report and Discussion regarding Tulare County General Plan Update.

**Any items not completed prior to Closed Session may be continued to the evening session at the discretion of the Council.*

ITEMS OF INTEREST

CLOSED SESSION

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

5. Conference with Labor Negotiator
Employee Groups: Group M
Agency Negotiator: Jim Harbottle, Eric Frost, Janice Avila
6. Conference with Real Property Negotiators
Property: located north of Goshen Avenue and west of Roeben Street, portion of APNs 077-100-034 and 077-100-019
Under Negotiation: price, terms, conditions of purchase for storm drain acquisition
Negotiators: Steve Salomon, Michael Olmos, David Jacobs, Fred Machado
Pursuant to subdivision (b) of Section 54956.9 G.C.
7. Conference with Legal Counsel – Anticipated Litigation (2)
(Subdivision (b) of Gov. Code Section 54956.9)
8. Conference with Legal Counsel – Existing Litigation (2)
(Subdivision (a) of Gov. Code Section 54956.9)
Name of Case: City of Visalia v Harrah, et. al., TCSC No. 04-210016
Name of Case: Derouin v. City of Visalia, TCSC Case No. 04-211650
9. Public Employee Performance Evaluations
Title: City Manager
10. Public Employment
Title: Chief of Police

REGULAR SESSION

7:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION – Brian Malison, Christ Lutheran Church

SPECIAL PRESENTATIONS/RECOGNITION

Resolution of Commendation to Fire Inspector Vorisia Henderson.

Presentation Donation to the Visalia Parks and Recreation Foundation for Visalia Riverway Sports Park from American Youth Soccer Organization (AYSO).

CITIZENS REQUESTS - This is the time for members of the public to comment on any matter within the jurisdiction of the Visalia City Council. This is also the public's opportunity to request that a Consent Calendar item be removed from that section and made a regular agenda item for discussion purposes. Comments related to Regular or Public Hearing Items listed on this agenda will be heard at the time the item is discussed or at the time the Public Hearing is opened for comment. The Council Members ask that you keep your comments brief and

positive. Creative criticism, presented with appropriate courtesy, is welcome. The Council cannot legally discuss or take official action on citizen request items that are introduced tonight. In fairness to all who wish to speak tonight, each speaker from the public will be allowed three minutes (speaker timing lights mounted on the lectern will notify you with a flashing red light when your time has expired). Please begin your comments by stating and spelling your name and providing your address.

CHANGES TO THE AGENDA/ITEMS TO BE PULLED FOR DISCUSSION

11. CONSENT CALENDAR - Consent Calendar items are considered routine and will be enacted by a single vote of the Council with no discussion. For a Consent Calendar item to be discussed, or voted upon individually, it must be removed at the request of the Council.

a) Authorization to read ordinances by title only.

b) Approval of a contract for \$279,000 with the Visalia Chamber of Commerce to manage the City's Visitor and Convention Bureau through June 30, 2006.

c) **Introduction of the following Ordinance(s):**

1. **Ordinance 2005-10** granting an access easement over property located along the south fork of Mill Creek east of Shirk Street. APN 085-600-043.

d) **Second Reading of the following Ordinance(s):**

1. **Ordinance 2005-08** Change of Zone No. 2005-06 is a request by Mangano Homes to change the zoning from QP (Quasi Public) to R-1-6 (Single-family Residential) on 19 acres, located on the southeast corner of Demaree Street and Ferguson Avenue (APN: 089-020-020, 022).

e) Authorization for the Formation, Annexation, or Amendment of the following Landscape and Lighting District(s), and authorization *for the Recordation* of the final map(s) related thereto (if applicable):

1. Authorize the Recordation of the Final Map for West Park, Unit No. 1, located at the northeast corner of Akers Street and Visalia Parkway (153 lots) and the Formation of Landscape and Lighting District No. 05-15, West Park No. 1 & 2; **Resolution 2005-94 and 2005-95 required.**

2. Authorize the Recordation of the Final Map for Ashley Grove No. 10, located at the southwest corner of Riggins Avenue and Mooney Blvd. (64 lots) and the Formation of Landscape and Lighting District No. 05-17, Ashley Grove No. 10-12; **Resolution 2005-96 and 2005-97 required.**

f) Authorize the Recordation of the final map for the following:

1. Authorize the Recordation of the Final Maps for Silver Oaks Unit #2, (92 lots) and Silver Oaks Unit #3(85 lots) located Southwest corner of Demaree Street and Ferguson Ave.

- g) Intention to Form Open Space District No. 89, Riverwood Subdivision (257 lots), located at the northeast corner of Mineral King Ave and McAuliff Street, APN: 103-130-039, setting August 1, 2005, as the date of protest hearing. **Resolution No. 2005-98 required.**
- h) Authorization to enter into a contract with BJ Perch Construction, Inc. for Construction Manager at Risk services for the Northwest Fire Station and Training Facility.
- i) Approve **Resolution Number 2005-99** authorizing MBIA to receive sales tax data from the State Board of Equalization in order to audit the City of Visalia District Tax (Measure T).
- j) Request for sewer service to proposed residential subdivision to be located on the site now occupied by Sierra View Golf Course on the east side of Road 124 at Avenue 264 (Liberty Avenues.)
- k) Selection of the urban design firm Moule & Polyzoides as the most qualified consultant for the preparation of a Southeast Area Master Plan, and authorize negotiation of a contract for services.

12. Item removed from Agenda.

13. PUBLIC HEARING - on the proposed second amendment to the Community Development Block Grant and HOME Program FY 2004-05 Action Plan.

14. PUBLIC HEARING -

- a) **General Plan Amendment No. 2005-04** is a request by the Visalia Cemetery District to change the general plan land use designations on approximately 2 acres from Low Density Residential, Medium Density Residential, High Density Residential and Shopping Office Commercial to Public Institutional. **Resolution 2005-100 required.**
- b) **Change of Zone No. 2005-03** is a request by the Visalia Cemetery District to change the zoning on approximately 2 acres from R-1-6 (single Family Residential), R-M-2 (Medium Density Residential), R-M-3 High Density Residential) and C-SO (Commercial Shopping Office) to QP (Quasi Public). **Introduction of Ordinance 2005-11 required.**
- c) Certify Negative Declaration No. 2005-08.

The Visalia Public Cemetery is located at 1300 West Goshen Avenue, with the proposed actions on these adjacent properties (APN 093-062-009, 093-073-006, 093-073-008, 093-073-009, 093-073-011, 093-073-012, 093-083-001, 093-083-002, 093-083-003, 093-083-003, 093-083-027, 093-083-031, 093-091-023, 093-091-024, 093-091-023, 093-091-002, 093-091-004, 093-091-006, 093-091-007, 093-102-020), Visalia Public Cemetery, applicant.

15. PUBLIC HEARING -

- a) **General Plan Amendment No. 2005-01** is a request by Mangano Homes to change the general plan land use designations on approximately 18.2 acres from Public Institutional to Low Density Residential; **Resolution No. 2005-101 required.**
- b) **Change of Zone No. 2005-02** is a request by Mangano Homes to change the zoning on approximately 18.2 acres from QP to R-1-6; **Introduction of Ordinance 2005-12 required.**

- c) Certify Negative Declaration No. 2005-24.

The site is located on the southeast corner of Akers Street and Caldwell Avenue.

16. PUBLIC HEARING - for the initiation of proceedings of Annexation No. 2004-17 (Linwood-Ferguson): a request by American, Inc. to annex 15 parcels and right-of-way totaling 57.90 acres into the City of Visalia. The project is located on the east side of Linwood Street between Riggin Avenue and Ferguson Avenue in the County of Tulare. (APN: 077-180-001 through 008; 077-190-001 through 004, 006, 009, 010). **Resolution 2005-102 required.**

17. PUBLIC HEARING - **Change of Zone No. 2005-07** is a request by Bill Morgan to change the zoning on 14 acres from R-1-6 (Low Density Residential) to R-1-4.5 (Low Density Residential), **Introduction of Ordinance 2005-13 required.**

Certify Negative Declaration No. 2005-08.

The site is located on the east side of McAuliff Street approximately 200 feet south of Noble Avenue APN No. 101-060-008.

18. PUBLIC HEARING -

- a) General Plan Amendment No. 2002-13 is a request by Bill Morgan to change the land use designation on approximately 11 acres from Light Industrial to Low Density Residential. The site is located on the north side of the railroad tracks north of K Road and east of Santa Fe Street (APN 123-080-009, 019 and 020). **Resolution 2005-103 required.**
- b) **Introduction of Ordinance 2005-14** for Change of Zone No. 2002-12 A request by Bill Morgan to change the zoning on approximately 11 acres from IL (Light Industrial) to R-1-6 (Single-Family Residential). The site is located on the north side of the railroad tracks north of K Road and east of Santa Fe Street (APN: 123-080-009, 019, 020)
- c) Certify Negative Declaration No. 2005-39.

The project site is located on the north side of the railroad tracks north of K road and east of Santa Fe Street (APN 123-080-019 and 020). Bill Morgan, applicant.

19. PUBLIC HEARING -

- a) Certification of the Final Environmental Impact Report, prepared for the Elliott and Vander Weerd properties. The project area for the EIR is located east of Shirk Street and south of the Tulare Avenue alignment between Shirk Street and Roeben Avenue. State Clearinghouse No. 2004061090. **Resolution No. 2005-104 required.**
- b) Initiation of Proceedings for Annexation No. 2003-08 (Elliott East): A request to annex approximately 80 acres into the City of Visalia. **Resolution No. 2005-105 required.**
- c) General Plan Amendment No. 2003-20: A request to change the General Plan land use designation from Agriculture to Low Density Residential on 80 acres. **Resolution 2005-106 required.**

The projects are located east of Shirk Street and south of the Tulare Avenue alignment Between Shirk Street and Roeben Avenue in the City of Visalia (APN: 087-010-005, 006, 008) Centex Homes, applicant. Quad Knopf, agent.

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS

Upcoming Council Meetings

Monday, July 18, 2005

Monday, August 1, 2005

Monday, August 15, 2005

Work Session 4:00 p.m.

Regular Session 7:00 p.m.

City Hall Council Chambers

707 West Acequia Avenue

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.

MEMORANDUM
Dooley & Herr
Attorneys at Law, LLP

CONFIDENTIAL: ATTORNEY WORK PRODUCT

To: Steve Salomon & Mike Olmos

From: Daniel M. Dooley

Date: July 15, 2005

Re: Imposition of Fees on Grantee of Water Franchise as Mitigation Measure - (701-01-010) ITEM 2

We have completed research on whether the City may impose some sort of fee on California Water Company, its grantee of a water franchise, as a mitigation measure for over-pumping the City's aquifer, and if so, what procedures the City must follow.

BACKGROUND

The City of Visalia has previously granted a franchise to California Water Company (Cal Water). Cal Water pumps ground water from the City's aquifer to users within its territorial boundaries. The amount of water being pumped from the aquifer presently exceeds the amount of water being replenished by rainfall or other forms of groundwater replenishment. Presently, Cal Water is not engaged in any mitigation of the adverse effects of over-pumping. The City is looking for strategies to address this growing concern.

We have explored ways in which the City may impose a fee on Cal Water, as opposed to users or developers, and therefore, avoid the application of Proposition 218 and the Mitigation Fee Act.

ISSUES

There are three essential questions. First: May the City impose a fee on Cal Water to help curtail the adverse affects of over-pumping the City's aquifer? Second: If so, what procedures must the City follow to impose such a fee? Third: Are there any Public Utilities Code rules that prohibit or preempt the imposition of such a fee?

Issue One

May the City impose a fee on Cal Water to help curtail the adverse affects of over-pumping the City's aquifer?

Short answer: Yes, the City may impose a fee on Cal Water to help curtail the adverse affects of over-pumping the City's aquifer under its police powers, so long as the fee is a regulatory fee as opposed to a revenue raising tax.

Legal Authority

As it relates to water services, the Public Utilities Act generally sets rates and maintains authority for controlling the sale, and proceeds from sales, of water company assets. (See generally Pub. Util. Code, §§ 401,789.1, 2708.)

The Public Utilities Code at section 6203 provides authority for the City to adopt and enforce ordinances against Cal Water, the grantee of the water franchise. It states: "The legislative body may in such a franchise impose such other and additional terms and conditions not in conflict with this chapter, whether governmental or contractual in character, as in the judgment of the legislative body are to the public interest."

Section 6294 requires Cal Water to follow ordinances the City adopts, which are in exercise of its police powers. In pertinent part, it states: "The grantee of a franchise . . . shall construct, install, and maintain all pipes, conduits, poles, wires, and appurtenances in accordance and in conformity with all of the ordinances and rules adopted by the legislative body of the municipality in the exercise of its police powers and not in conflict with the paramount authority of the State,"

The police power of the City is its right to adopt regulations designed to promote the public convenience or the general prosperity, as well as regulations designed to promote the public health, the public morals, or the public safety. The provisions of California Constitution, article XI, section 7 authorize any city to "make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws."

Exercise of the police power must be reasonably related to a legitimate governmental purpose. (*Birkenfeld v. City of Berkeley* (1976) 17 Cal.3d 129, 159 [130 Cal.Rptr. 465].) The test as to whether a law enacted pursuant to the police power is arbitrary and discriminatory in its conception and application is whether it has any reasonable tendency to promote the public health, morals, safety or general welfare of the community. (*Carlin v. City of Palm Springs* (1971) 14 Cal.App.3d 706, 711-712 [92 Cal.Rptr. 535].)

While the police powers give the City authority to impose a fee upon Cal Water, this power does not come without limitations. Most importantly, the fee may not be a "special tax" and is more likely to be valid if designed as a "regulatory fee."

Government Code section 50076, by way of telling us what a special tax *is not*, helps to tells us what makes a fee a regulatory fee. It states a "special tax' shall not include any fee which does not exceed the reasonable cost of

providing the service or regulatory activity for which the fee is charged and which is not levied for general revenue purposes.”

The cases recognize that “tax” has no fixed meaning, and that the distinction between taxes and fees is frequently “blurred,” taking on different meanings in different contexts. (*Sinclair Paint Company v. Department of Health Services* (1997) 15 Cal.4th 866, 873 [937 P.2d 1350, 64 Cal.Rptr.2d 447].) In general, taxes are imposed for revenue purposes, rather than in return for a specific benefit conferred or privilege granted. Most taxes are compulsory rather than imposed in response to a voluntary decision to develop or to seek other government benefits or privileges. Compulsory fees may be deemed legitimate fees rather than taxes. (*Sinclair Paint Company v. Department of Health Services*, *supra*, 15 Cal.4th at p. 873.)

The most common example of a financial expression of the police power is the regulatory fee. Cases uniformly hold that to show a fee is a regulatory fee and not a special tax, the City “should prove (1) the estimated costs of the service or regulatory activity, and (2) the basis for determining the manner in which the costs are apportioned, so that charges allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on or benefits from the regulatory activity.” (*Sinclair Paint Company v. State Board of Equalization*, at p. 878; *United Business Commission v. City of San Diego* (1979) 91 Cal.App.3d 156, 165 [154 Cal.Rptr. 263]; *City of Dublin v. County of Alameda* (1993) 14 Cal.App.264 [17 Cal.Rptr.2d 845] *Rincon Del Diablo Municipal Water District v. San Diego County Water Authority* (2004) 121 Cal.App.4th 813, 823 [17 Cal.Rptr.3d 666].)

In *Sinclair Paint Company*, the court observed that, “under the police power, municipalities may impose fees for the purpose of legitimate regulation, and not mere revenue raising, if the fees do not exceed the reasonably necessary expense of the regulatory effort.” (*Sinclair Paint Company*, at p. 879.) By simple majority vote, the state Legislature enacted the Childhood Lead Poisoning Prevention Act. The Act provided evaluation, screening, and medically necessary follow-up services for children who were deemed potential victims of lead poisoning. The Act’s program was entirely supported by “fees” assessed on manufacturers or other persons contributing to environmental lead contamination. Plaintiff paint company filed suit, claiming the fees were actually “taxes” required to be enacted by a two-thirds vote of the Legislature. The court concluded that the fees fell squarely within a “category not dependent on government-conferred benefits or privileges, namely, regulatory fees imposed under the police power, rather than the taxing power.” (*Id.* at p. 875.) The court continued, stating that the Act imposed bona fide regulatory fees, not taxes, because the legislature imposed the fees to mitigate the actual or anticipated adverse effects of the fee payers’ operations, and under the Act the amount of the fees must bear a reasonable relationship to those adverse effects. (*Id.* at p. 869.)

In *United Business Commission*, the court held that an ordinance adopted by a city council, including the imposition of reasonable sign inspection fees, was a valid exercise of the city’s police power and that the sign inventory fee was a regulatory license fee and not enacted for the purpose of raising

revenue. (*United Business Commission v. City of San Diego, supra*, 91 Cal.App.3d at p. 162.) A city council enacted a comprehensive ordinance with the declared purpose of establishing the “legal framework for a comprehensive system for the regulation of on-premises signs” in the commercial and industrial zones within the city. Shortly after the enactment of the ordinance, the city started an inspection and inventory of all on-premises signs in the city in order to enforce and administer the sign ordinance. The plaintiffs contended that the fee was a tax or revenue-bearing measure for which the city’s charter did not provide authority to levy. Determining whether the actual purpose of an ordinance is regulatory or revenue-raising in nature is a question of fact. The court reasoned that if revenue is the primary purpose and regulation is merely incidental the imposition is a tax; while if regulation is the primary purpose the mere fact that incidentally a revenue is also obtained does not make the imposition a tax. In general, therefore, where the fee is imposed for the purpose of regulation, and the statute requires compliance with certain conditions in addition to the payment of the prescribed sum, such sum is a license proper, imposed by virtue of the police power; but where it is exacted solely for revenue purposes and its payment gives the right to carry on the business without any further conditions, it is a tax. The court continued that a regulatory fee cannot exceed the sum reasonably necessary to cover the costs of the regulatory purpose sought. Because the fee was designed to recover, as nearly as possible, the City’s direct cost of inventorying and bringing into conformance on-premises signs, and because the expenses involved were reasonably related to the regulatory goal involved, the fee was a valid regulatory fee. (*Id.* at pp. 270-271.)

Conclusion Issue One

Because the Public Utilities Code grants authority to the City to enact and enforce local ordinances in relation to its water franchise (Pub. Util. Code, § 6203) and also requires the grantee of a franchise (Cal Water) to comply with the City’s ordinances which are in exercise of its police powers (Pub. Util. Code, § 6294), and because the City has authority to exercise its police powers through the California Constitution (Cal. Const., art. XI, § 7), the City is authorized to impose a regulatory fee upon Cal Water, so long as the City proves (1) the estimated costs of the service or regulatory activity, and (2) the basis for determining the manner in which the costs are apportioned, so that charges allocated to the City bear a fair or reasonable relationship to the City’s burdens on or benefits from the regulatory activity.

Issue Two

What procedures must the City follow to impose such a fee?

Legal Authority

As indicated in Public Utilities Code section 6203, the City has authority to impose terms and conditions upon Cal Water, so long as they are not in conflict with any other provision of the Public Utilities Code. Section 6294 of

the Code specifically identifies the City's police power as a way of enacting such rules.

Conclusion Issue Two

Therefore, the City may adopt an ordinance to impose the regulatory fee upon Cal Water under its police powers, using the same procedures it would to adopt any other ordinance.

Issue Three

Are there any Public Utilities Code rules that prohibit or preempt the imposition of such a fee?

Legal Authority

Under the police power granted by the Constitution, cities have plenary authority to govern, subject only to the limitation that they exercise this power within their territorial limits and subordinate to state law. (Cal. Const., art. XI, § 7.) If otherwise valid local legislation conflicts with state law, it is preempted by such law and is void. (*Candid Enterprises, Inc. v. Grossmont Union High School District* (1985) 39 Cal.3d 878, 885 [705 P.2d 876, 218 Cal.Rptr. 309].) A conflict exists if the local legislation "duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication." (*Candid Enterprises, Inc., supra*, 218 Cal.Rptr. at p. 885.)

We have reviewed the Public Utilities Code and have not found any section that would allow the imposition of this particular type of fee or that would prohibit or preempt the City from imposing this type of regulatory fee upon Cal Water.

Conclusion Issue Three

There appear to be no conflicts between existing state law and the imposition of a regulatory fee, nor does there appear to be any Public Utilities Code rules that prohibit or preempt the City from imposing a regulatory fee upon Cal Water.

CONCLUSION

The City may impose a regulatory fee upon Cal Water to help mitigate the adverse affects of over-pumping, since maintaining adequate water supplies for residents falls within the Public Utilities Code section 6203 limitation of "in the public interest" and because such an ordinance is enforceable under the City's police powers since an adequate water supply is for the "general welfare" of the City.

To ensure the fee cannot be perceived as a revenue raising tax, the fee must mitigate the adverse effects of over-pumping and the fees must bear a reasonable relationship to the adverse effects of inadequate water supplies

(not exceed the reasonable cost of the services necessary for the activity for which the fee is charged). Additionally, the City may want to require Cal Water to comply with certain conditions in addition to the payment of the prescribed sum and explicitly link the conditions to the regulatory fee.

Since the City has the appropriate authority under its police powers, and since there does not appear to be any existing state law that would prohibit or preempt the imposition of such a fee, the City may follow its usual ordinance enacting procedures in this instance.

ORDINANCE NO. 2005-09

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF VISALIA AMENDING
TITLE 16, BY ADDING CHAPTER 16.54, SECTIONS 16.54.010 THROUGH 16.54.120,
RELATING TO GROUNDWATER OVERDRAFT MITIGATION FEES**

SECTION 1. The City of Visalia has identified the need to establish fees and other provisions in order to assist in the City's efforts of mitigating for the overdraft of groundwater resources associated with development of land within the City. In recognition of this need, and having considered a report prepared by the consulting engineering firm Provost & Pritchard, the City Council has determined to enact the following amendments to the Municipal Code.

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

SECTION 2. Amend Title 16, by inserting a new Chapter 16.54, to read as follows:

**Chapter 16.54
GROUNDWATER OVERDRAFT MITIGATION**

16.54.010 Legislative findings.

The City Council of the City finds determines and declares that:

- A. Local water resources are among the most precious resources of the City and surrounding area.
- B. Management of the water resources serving the residents of the City is critical to the long-term health, welfare and safety of the citizens of the City.
- C. The City's primary water supply is from underground water resources, which are being depleted by groundwater extraction in excess of groundwater replenishment ("groundwater overdraft").
- D. Conversion of land from agricultural to urban uses increases the local groundwater overdraft and has the potential to seriously deplete available groundwater resources over time.
- E. Provision of municipal water supplies by private water companies and utilities contributes substantially to the continuing groundwater overdraft.
- F. The impact of existing and proposed development on groundwater overdraft has been determined through a technical study prepared for the City by the consulting engineering firm of Provost & Pritchard, which study has been reviewed and considered by the City Council of the City prior to adoption of

this ordinance. The technical analysis provides the basis for the fees established by this ordinance.

- G. California Constitution, Article XI, Section 7, California Public Utilities Code Sections 6203 and 6294, Article III and XIV of the City Charter and objective 2.4 and policies 2.4.1 and 2.4.2 of the City's General Plan authorize the City to enact this ordinance.

16.54.020 Purpose.

The purpose of this ordinance is to assess impact fees upon new development and a volumetric fee upon existing urban water supplies to fund programs to mitigate the impact of such new development and existing water extractions upon conditions of groundwater over draft. Specifically, this ordinance is intended to fund activities and projects to mitigate impacts to conditions of groundwater overdraft. Such activities will include, but not be limited to, the following:

- A. Acquisition of surface water rights and surface water supplies.
- B. Development of groundwater recharge facilities.
- C. Reconfiguration of stormwater facilities designed to retain as much stormwater as possible within and near the City.
- D. Enhancement of cooperative programs with local water management agencies and companies.
- E. Development of more efficient water delivery systems.

Section 16.54.030 Short title, authority and applicability.

- A. This chapter shall be known and may be cited as the "City of Visalia Water Resource Management and Groundwater Overdraft Mitigation Fee Ordinance."
- B. The City Council of the City has the authority to adopt this chapter pursuant California Constitution, Article XI, Section 7, California Public Utilities Code Sections 6203 and 6294, Article III and XIV of the City Charter and objective 2.4 and policies 2.4.1 and 2.4.2 of the City's General Plan.
- C. This chapter shall apply in the incorporated area of the city to the extent permitted by Article XI of Section 7 of the Constitution of the state of California. (Prior code § 9554).

Section 16.54.040 Rules of construction.

- A. The provisions of this chapter shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.

- B. For the purpose of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply to the text of this chapter:
 - 1. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table, or illustrative table, the text shall control.
 - 2. The word “shall” is always mandatory and not discretionary; the word “may” is permissive.
 - 3. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the single, unless the context clearly indicates the contrary.
 - 4. The word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
 - 5. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or” or “either...or,” the con-junction shall be interpreted as follows:
 - a. “And” indicates that all the connected terms, conditions, provisions or events shall apply.
 - b. “Or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. “Either...or” indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
 - 6. The word “includes” shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of little kind or character.

Section 16.54.050 Imposition of groundwater mitigation fee on new development.

- A. Any person seeking to annex, subdivide or otherwise procure entitlement to develop property within the City, shall be required to pay the fee specified below.
 - 1. The initial fee shall be \$950.00 per acre of land to be developed.
 - 2. The obligation to pay the fee shall be made a condition of annexation or approval a tentative subdivision map or other entitlement for development.
 - 3. The fee required by this chapter shall be paid as a condition of final map approval or other final discretionary development approval. The fee paid shall be in addition to all other impact fees paid prior to issuance of a building permit.

- B. In lieu of payment of the fee specified in A. above, and with concurrence of the City, any person seeking to annex, subdivide or otherwise procure entitlement to develop property within the City may dedicate water rights to the City. The City, in its sole discretion, shall determine whether such dedication equals in value the amount of the fee otherwise applicable pursuant to A. above.

Section 16.54.060 Imposition of groundwater impact fee on providers of municipal water supplies, which include all residential, commercial and industrial water suppliers.

- A. Effective January 1, 2006, all municipal water suppliers providing water service in the City shall pay a groundwater impact mitigation fee of \$14.00 per acre foot of water pumped to provide such service.

- B. The fee shall be paid within 60 days of the end of each month. The payment shall be accompanied by a report of the volume of water pumped from each well utilized to provide water service within the City. Fees not paid within 30 days shall be subject to late fees and interest consistent with the City's standard practice.

- C. All municipal water suppliers shall maintain records of all pumping for the purpose of supplying water within the City. Such records shall identify the volume of water pumped from each well utilized to provide water service within the City. Such records shall be subject to inspection by the City during normal business hours after providing 5 working days notice of intent to inspect such records.

D. In lieu of payment of the fee specified in A. above, and with concurrence of the City, a municipal water supplier may dedicate water rights to the City. The City, in its sole discretion, shall determine whether such dedication equals in value the amount of the fee otherwise applicable pursuant to A. above.

Section 16.54.070 Computation of the amount of the fee.

The fees established by Sections 16.54.060 and 16.54.070 were determined by evaluating the impact of development on existing conditions of groundwater overdraft and calculating the cost of the water and facilities necessary to mitigate such impact. A technical study was prepared by a qualified consulting engineering company of all of the data available to make such determination.

Section 16.54.080 Use of funds.

All funds collected shall be used exclusively for the purposes specified in Section 16.54.020.

Section 16.54.090 Refund of fees paid.

If a building permit or permit for mobile home installation expires without commencement of construction, then the feepayer shall be entitled to a refund, without interest, of the fee paid plus a condition of its issuance; except, that the City shall retain three percent of the fee to offset a portion of the costs of collection and refund. The feepayer must submit an application for such refund to the city within thirty (30) days of the expiration of the permit. Within 20 working days of receipt of an application for refund the city shall issue a refund issue written findings as to why the refund shall not be made.

Section 16.54.100 Modification of the fee.

The City Council of the City may modify the fees established in Sections 16.54.050 and 16.54.060 annually by resolution if the assumptions utilized in calculating the fees have changed. The modifications adopted by resolution will not be based on a change in the method of calculating the fees. Absent action by the City Council to modify the fees by resolution, each April of each year the chief financial officer shall review the current Engineering News Record Construction Cost Index (ENRCCI) for the cities of Los Angeles and San Francisco, California. When the average of such indices differs from the average of the indices for the preceding

April 1st, the factor of increase or decrease shall be applied to the fees established in Sections 16.54.050 and 16.54.060.

Section 16.54.110 Penalty.

Any violation of this chapter shall be prosecuted in the same manner as misdemeanors are prosecuted and upon conviction the violator shall be punishable according to law; however, in addition to or in lieu of any criminal prosecution the city shall have the power to sue in civil court to enforce the provisions of this chapter. (Prior code § 9574)

Section 16.54.120 Severability.

If any section, phrase, sentence or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof. (Prior code § 9578)

SECTION 3. This Ordinance shall go into effect thirty (30) days from the date of adoption.

PASSED AND ADOPTED:

CITY OF VISALIA
GROUNDWATER MITIGATION POLICY
APPLICABLE TO ANNEXATION OF UNDEVELOPED LAND

PURPOSE:

Residents of the City rely upon groundwater supplies to meet their water demands. Studies commissioned by the City have demonstrated that conversion of land from agricultural uses to municipal uses creates an incremental additional extraction from the groundwater supplies underlying the City. The long-term implications of continued increases in groundwater extraction will cause diminishing groundwater supplies for the City. In an effort to mitigate these potential long-term impacts, the City is implementing a policy designed to create funds to develop mitigation programs, to acquire water supplies and develop facilities to maintain and enhance existing groundwater supplies.

BASIS FOR THE POLICY:

The City retained Provost & Pritchard (P&P) to analyze existing data regarding the potential incremental effect on groundwater supplies caused by conversion from agricultural to urban uses. That study, attached hereto, identifies an incremental additional adverse effect on groundwater supplies caused by conversion to urban uses of approximately two tenths (.2) of an acre foot per acre per year. This amount is in addition to an approximate one (1) acre foot per acre groundwater overdraft, which generally exists under the City in the present condition. In order to move toward groundwater supply equilibrium, the basis for the Groundwater Mitigation Fee is established at .28 acre feet per acre per year (in part to mitigate the existing condition of overdraft on the developing land).

The P&P report identifies a number of cost variables necessary to implement a program to mitigate groundwater impacts caused by urbanization.

GROUNDWATER MITIGATION FEE:

The initial Groundwater Mitigation Fee is set at \$1,391 per acre of land developed in the City of Visalia. The fee will be periodically reviewed based upon new information and adjusted by resolution adopted by the Council. The funds raised by this fee will be utilized to implement programs to acquire water or develop facilities to recharge groundwater supplies underlying the City of Visalia thereby mitigating the impact of additional urban development. In any particular circumstance a landowner or developer may provide water or facilities in-lieu of payment of the fee. In such cases, the staff will use the information developed by P&P to determine the appropriate credits against the fee to be applied for the water provided or the facilities constructed.

CONDITION OF ANNEXATION:

Payment of the Groundwater Mitigation Fee will be imposed as a condition of approval of annexation to the City. This condition will apply to all annexations of undeveloped land initiated after the date of adoption of this policy.

PAYMENT:

The Groundwater Mitigation Fee will be payable to City within thirty (30) days of adoption of a resolution by the Local Area Formation Commission (LAFCO) approving annexation to the City. In the event water or facilities are provided by the landowner or developer instead of the fee, the timing of transfer of such rights or facilities will be determined on a case by case basis. In no event will development entitlements or building permits issue prior to the payment of the fee or provision of the water or facilities.

RESOLUTION NO. 2004-__
(REGARDING GROUNDWATER MITIGATION POLICY
APPLICABLE TO ANNEXATION OF UNDEVELOPED LAND)

WHEREAS, the residents of the City of Visalia rely upon groundwater supplies as the source of supply to meet their water demands; and

WHEREAS, the City has adopted a program to acquire water for the benefit of Visalia and its residents; and

WHEREAS, the City has commissioned a report by Provost & Pritchard to evaluate the incremental effect on groundwater supplies caused by urban development; and

WHEREAS, such report established that the existing use of groundwater within the urban area of the City exceeds the replenishment of such groundwater supplies by approximately 1 acre foot per acre per year; and

WHEREAS, the report further demonstrates that urban development creates an additional use of groundwater beyond the annual replenishment by approximately .2 of an acre foot per year; and

WHEREAS, the report establishes the financial foundation for a program to replenish the groundwater supplies utilized by urban development, which will require substantial investment in water acquisition and facility development by the City; and

WHEREAS, the City Council desires to implement a policy to undertake acquisition of water supplies and development of facilities to mitigate the impacts on groundwater caused by urban development.

NOW, THEREFORE, be it resolved by the City Council of the City of Visalia as follows:

1. Council hereby adopts the Groundwater Mitigation Policy Applicable to Annexation of Undeveloped Land attached hereto as Exhibit 1 and directs staff to implement the Policy effective October 25, 2004 by imposing payment of the fee as follows:

MEMORANDUM
Dooley & Herr
Attorneys at Law, LLP

CONFIDENTIAL: ATTORNEY WORK PRODUCT

To: Visalia City Council
From: DANIEL M. DOOLEY
Date: July 9, 2004
Re: Water Acquisition Policies

I have been asked to prepare this memorandum to the Council to facilitate a study session regarding the potential policies the City could implement which would enhance water supply acquisition for the City of Visalia.

Cities have the obligation to determine, in a context of land use decisions, whether there will be sufficient water to meet the demands for the housing, industry, commerce, and other developments, as well as for other water dependent uses, including agriculture, recreation and environmental uses. Management of California's water supplies is largely the responsibility of an array of different federal, state, local and private entities including cities. Water suppliers other than cities must base their water supply facility planning on land use decisions of cities. Likewise cities and counties must base their land use planning decisions on information provided by water suppliers.

Generally a city's general plan must address water supply as part of the conservation and safety elements. The discussion of water supply must be consistent with the land use and other mandatory elements. The portion of the conservation element related to water supplies must be developed in coordination with any county-wide water agency and with all district and city agencies that have developed, served, controlled, or conserved water for any purpose within the county or city for which the plan is prepared. Coordination includes discussion and evaluation of any water supply and demand of information if that information has been submitted by the water agency to the city or county.

All urban water suppliers, including qualifying cities, must prepare Urban Water Management Plans pursuant to provisions of the California Water Code. In the case of the City of Visalia, it is not an urban water supply planner, however, California Water Company, which provides water deliveries to customers within the city limits, is an urban water supply planner and has prepared an Urban Water Management Plan. Unfortunately, the Urban

Water Management Plan prepared by California Water Company only identifies groundwater as a source of the long-term water deliveries within the City of Visalia.

The City of Visalia lies within the Kaweah St. Johns Watershed. The groundwater underlying this Watershed is in a condition of overdraft, which means groundwater extractions in the Watershed exceed the groundwater replenishment on an average annual basis. Consequently, over time groundwater levels will continue to drop and the cost of providing water service to the citizens of the City of Visalia will increase.

The City of Visalia has in recent years, pursuant to direction from the City Council, become much more active in developing strategic relationships with respect to enhancement of water supplies for the citizens of the community. The City has entered into agreements with the Kaweah Delta Water Conservation District and the Tulare Irrigation District, which agreements are designed to enhance the long-term water supplies for the City of Visalia. As a part of the agreement with the Kaweah Delta Water Conservation District, the City imposed a monthly connection fee which is designed to facilitate the acquisition of water supplies for the City of Visalia in collaboration with the District. Policy and technical working groups including the City of Visalia and the Kaweah Delta Water Conservation District have been working since the implementation of that agreement to identify appropriate projects and water supplies that can be acquired on behalf of the City of Visalia.

Many of the lands which have been and are being annexed to the City of Visalia have historically been served with surface water supplies that have been delivered to such lands by mutual water companies owning water rights to the Kaweah or St. Johns Rivers. In many cases the landowners seeking annexation own shares of stock in these companies and may no longer have a use for the water right which attaches to such stock ownership. Consequently, there is an opportunity through the imposition of annexation agreements for the City to acquire such shares of stock and the attendant water rights as a condition of annexation.

In other cases, lands which are being annexed are served strictly with groundwater resources and do not have surface water rights from the Kaweah or St. Johns Rivers available to them. Consequently, the irrigation of these agricultural lands, or the subsequent use of water by urban development, will continue to exacerbate the condition of overdraft in the Kaweah St. Johns Watershed. There are opportunities at the time of annexation and/or development to impose certain conditions on the annexations or development which would mitigate the long term contribution to groundwater overdraft by provision of water to these lands.

Based upon the foregoing background, I submit the following potential actions for consideration by the Visalia City Council:

1. Annexation Conditions. The City of Visalia could establish a policy requiring the dedication of any surface water rights attached to lands being

annexed as a condition of annexation. Such a policy would require that water rights held by the owners of lands being annexed to the City be dedicated to the City upon submittal of applications for development of such property as a means of mitigating long-term potential overdraft from groundwater supplies that would be caused by the diversion of previously applied surface water on such lands to other lands outside the city limits. Such policy would be imposed via an annexation agreement which would establish a condition requiring dedication of shares of stock in mutual water companies or other water rights attached to such property at the time of development.

2. Purchase of Water Rights. In lieu of dedication of existing surface water rights held by the landowner, a landowner could acquire and dedicate other water rights to the City of Visalia as a condition of annexation for the purpose of mitigating groundwater overdraft that would be continued as a result of urban development of the property. The dedication of such water rights would be subject to an annexation agreement similar to those described in number 1 above and would occur at the time of applications for development of the property in question.

3. Fees In Lieu of all Water Right Dedications. To the extent that a landowner seeking annexation does not have water rights available to dedicate to the City's mitigation for groundwater overdraft that would be created by urban development of the property, the landowner could agree, pursuant to an annexation agreement, to pay fees at the time of development of the properties sufficient to allow the City in cooperation with the Kaweah Delta Water Conservation District to acquire water for the purpose of mitigating such impacts. In order to implement a fee of this nature, it will be necessary for the City to make determinations regarding the contribution of overdraft conditions created by development of the property and establish a fee schedule which would enable the City to acquire sufficient water supplies and develop appropriate facilities to replenish groundwater in the area for the development.

Items number 1 & 2 can be implemented relatively quickly upon establishment of a policy by the City Council. These items would simply impose a condition on annexation requiring an annexation agreement whereby such water rights would be dedicated to the City upon development of the property. Item number 3 would take some technical analysis in order to establish the amount of overdraft impact created by development of the property and an establishment of appropriate fee schedule to allow the City to acquire water supplies to mitigate such impact. While it would take some time to complete the technical analysis to implement this policy, it could be implemented in a relatively short order.

If the Council desires to implement such a policy, it is the recommendation of the City Attorney's office that you authorize us to enter into discussions with those that would be affected by this policy in order to work out appropriate details to ensure that the policy can be efficiently enacted.

MEMORANDUM
Dooley Herr Carlson & Peltzer
Attorneys at Law, LLP

CONFIDENTIAL: ATTORNEY WORK PRODUCT

To: Visalia City Council

From: Daniel H. Dooley

Date: July 15, 2005

Re: Agenda Item 3, Groundwater Mitigation Options
(Our file: 701-01-010)

I am providing this Memo to set the stage for a work session discussion of various options that the City Council has to undertake programs to mitigate the existing groundwater overdraft underlying the City of Visalia.

Attached to this Memo are four items, which provide you advance information with respect to the issues to be discussed. They are:

1. A copy of a Power Point Presentation that will be presented by Richard Moss of Provost and Pritchard, which documents the technical analysis Provost and Pritchard undertook to determine the extent of groundwater overdraft underlying the City of Visalia and the incremental additional overdraft created by conversion of open space lands to urban uses;
2. A copy of my July 9, 2004 Memo to the Council discussing the groundwater mitigation issues;
3. A copy of a draft Groundwater Mitigation Fee Policy proposal that was subsequently presented to the Council; and
4. A copy of a January 14, 2005 Memo to Steve Salomon and Mike Olmos in which we analyzed the potential for the City of adopt an Ordinance requiring payment of a groundwater fee based upon water extraction by water providers within the city limits of the City of Visalia. The substance of this analysis is that the City has the authority to impose a pump fee which collects money to support mitigation of groundwater overdraft created by the various pumping that occurs in and around the City of Visalia. While this Memo focuses primarily on the authority of the City to impose a pump fee on

California Water Company, it also supports the authority of the City to generally apply a pumping fee to assist and remedy in groundwater overdraft conditions underlying the City.

The analysis done by Provost and Pritchard establishes two matters. First, there is an existing condition of overdraft underlying the City of Visalia of approximately 1 acre-foot per acre per year. Secondly, there is an incremental additional groundwater affect of approximately 2/10 of an acre-foot per acre per year when land is converted from agricultural or open space uses to urban uses.

The Provost and Pritchard analysis also provides an analysis of what it would cost to remedy the incremental impact created by conversion of lands from open space or agricultural uses to urban uses and establishes the technical basis for determining what an appropriate fee would be to help alleviate existing conditions of overdraft underlying the City of Visalia.

RECOMMENDATION

Staff recommends that the Council authorize the preparation a groundwater mitigation fee policy and ordinance, which does two things. First, it should provide for the collection of a groundwater mitigation fee at the development stage to offset the incremental additional groundwater overdraft impact created by development. Secondly, it should impose a fee on pumping within the City of Visalia which is based upon the volume of water pumped and which is designed to assist the City in mitigating the existing conditions of overdraft underlying the City.

MEMORANDUM

Dooley Herr & Peltzer Attorneys at Law, LLP

To: Visalia City Council

From: Daniel M. Dooley

Date: July 14, 2005

Re: Groundwater Mitigation Ordinance

Attached is a proposed Ordinance Chapter 16.54 of the City of Visalia Municipal Code, which provides the basis for the implementation of a groundwater mitigation fee.

The fee has two components, one which would attach to annexations or applications for development entitlements and a second, which will impose a volume metric charge on existing pumping for municipal water supplies within the City limits of Visalia. These fees are consistent with the direction the Council has previously given staff regarding this matter.

Attached hereto are copies of two Memos which were previously provided to the Council regarding the recommendations of staff and the conclusions of a study of groundwater impacts prepared by Provost and Pritchard, consulting engineers. The fees proposed by the Ordinance are \$950.00 per acre for lands being annexed or for which owners are seeking development entitlements and \$14.00 per acre-foot for pumping to provide municipal water supplies within the City limits. Additionally, the Ordinance provides an opportunity for those seeking annexation or development entitlements, or those providing municipal water service, to provide water in lieu of payment of the fee. Such in lieu payment would be subject to a separate agreement at the time of approval of the annexation or other development entitlements, or with those providing municipal water service.

Council and the City have received comments from Cal Water regarding the draft ordinance. The City Attorney met with Cal Water representatives and discussed their concerns on June 20, 2005. The proposed ordinance has been modified to reflect some of the issues they raised.

Their comments also questioned the City's authority to enact this ordinance. Specifically, Cal Water's comments address two areas: (1) authority cited in ordinance in support of its enactment, and (2) compliance with Proposition 218 requirements.

- Regarding Public Utilities Code sections 6203 and 6294, Cal Water suggests that “in dealing with franchises, the courts have said that a city has no power directly or indirectly to exact a franchise fee other than for use of the city’s streets and other property.” This proposition is true, if the proposed fee is somehow a component of or otherwise amounts to a franchise fee. This proposition fails, however, because it ignores the fact that the above PUC sections simply allow the city to enact “additional terms and conditions,” “governmental or contractual,” *related to* the administration of a franchise. This fee does not involve the franchise, but rather relates to mitigating impacts from the service provided by the business.
- Regarding Article III of the City Charter, Cal Water argues that water operations are not included within powers to engage in the “municipal affairs” of the City, but rather are “proprietary functions” not considered municipal affairs as required by Article III. Clearly, a fee to support a program to mitigate impacts created by water service providers to the City’s water supply source falls within the scope of “Municipal affairs.”
- Regarding the police power provisions, Cal Water’s argument is somewhat disjointed and largely unsupported. The basic point seems to be that this ordinance runs afoul of the exercise of the power, and does not benefit the City’s public interest, because it would extend to water pumped outside the City’s jurisdictional boundaries, and would also confer positive benefits outside those boundaries. In the first instance, the argument seems to be that while there may be police power authority to regulate “use,” that power does not extend to delivery. However, it seems clear that this fee is directly related to that water which gets used in the City from a groundwater supply which the City, at least in part, overlies. The distinction that Cal Water attempts to make, based on consideration of all the facts, does not negate the fact that the fee relates first and foremost to “uses” involving the City’s water supply source within its jurisdictional boundaries and for the benefit of its citizenry.
- Cal Water argues that the “fee or charge” for purposes of Prop 218. There are no citations offered in support of this proposition, nor do we find support for the argument. Article 13D, Section 6(c) excepts from its requirements “fees for water service.” Even if this fee were to be considered to be outside the scope of this exception, as Cal Water suggests, there is also a requirement that the fee must have relation to or be an incident of property ownership. There is clearly no property ownership component here. This is a fee on a business, the business is that of water service, and the fee funds a program to mitigate impacts from the service provided.
- Cal Water alternatively argues that the fee is actually “an assessment levied on the exercise of water rights, which are a form of real property,” and that the City must follow Prop 218 procedures for this assessment. There are no citations offered in support of this

proposition, nor have we found any. This argument also fails in large part for the same reasons as the first Prop 218 argument. Cal Water's ability to exercise its purported water rights is neither implicated nor impeded, and the fee has no direct relation to any such rights. The fee is on the service provided to the City's inhabitants, and has been made directly proportional to the extent of that service and the costs to fund mitigation for its impacts.

We believe the City has the authority and has developed the appropriate technical justification for enactment of the proposed ordinance

Recommendation

Staff recommends that the Council approve the 1st reading of Ordinance, Chapter 16.54 as proposed.

City of Visalia Agenda Item Transmittal

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording: Review and appropriate action on the remaining 2005/06 Budget items

Deadline for Action: July 18, 2005

Submitting Department: Administrative Services

Contact Name and Phone Number: Eric Frost, x4474, Gus Aiello, x4423, Ruth Martinez, x4327

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

Department Recommendation:

That the City Council considers the following items and act appropriately:

1. A Golf Course update; and,
2. Several miscellaneous items, including:
 - a. A review of the Non-profit groups for continued funding;
 - b. A request to allocate \$6,500 for improvements to the Seven Oaks dog park at Tulare, between Edison and Ben Maddox; and,
 - c. A request for \$10,000 from the Fox Theater in their effort to refurbish the Theater as part of the Theater's 75th Anniversary.

Discussion:

Background. The City Council set its budget last year when it adopted a two-year budget. On June 20th, the Council reviewed the budget and made a number of adjustments based upon current revenues and needs. The discussion this evening is to complete that review and take actions as appropriate. Originally, Staff was to present some information about Transportation CIP related projects. That has postponed because the information was not complete. Staff intends to bring that information to Council shortly, hopefully at their August 1, 2005 meeting. However, Council as part of its ongoing review processes adjusts the budget through-out the year.

Since the June 20th meeting, the State of California has adopted their budget. In one sense, the City has felt it has faired well. However, this is only due to some perverse history. For the last several years, cities have struggled with their own budgets and then had to struggle with what the State would do to local governments. As a result, the cities feel "fortunate" when not under attack from State government.

This year's budget appears to not take any more money than was planned from cities. However, Visalia will give an additional \$1.3 million to the State of California this year. This is on top of an annual ERAF (Education Revenue Augmentation Fund) contribution of approximately \$2 million that the City makes to fund State commitments. The ERAF is a vestige the State's early 1990s bad budget days. But the commitment has never gone away, a constant reminder that City finances are substantially influenced if not controlled by the State.

The reason to remind everyone of this history is that although the State has balanced this year's budget, it is looking at a \$5 billion structural deficit coming into July of 2006. In other words, if nothing changes over this next year, expenses and revenues do not increase or decrease, the State will have a \$5 billion hole to fill.

Filling that budgetary hole will be hard. And many factors will work to make the budgetary abyss worse, such as, a slowing economy, increasing cost pressures and a desire to provide more governmental programs.

These State budget facts alone should give all pause going forward. However, Visalia has at least two additional problems to face:

- a General Fund budget that plans to use \$2.3 million of PERS reserves to pay current year retirement plan costs; and,
- a number of large capital projects that will probably cost more than is anticipated.

The 05/06 budget plan assumes that the City will use its PERS reserve to pay for a portion of PERS costs. The City a number of year's ago set up this reserve to smooth out spikes in retirement costs. However, the plan must also include a time when the reserves will not be used. Therefore, increased, ongoing revenues must soon replace the use of reserves. The City will need to carefully consider this issue as it moves forward.

Secondly, the City is embarking on a large number of General Fund supported projects. Construction costs have escalated dramatically over the last several years. Although it is uncertain that costs exceed current budgets, more often than not, the City has found planned budgets to be inadequate because of recent changes in the construction industry. As a result, staff is working on methods to improve reporting and costing to at least alert Council of the magnitude of such changes.

The bottom-line is that a number of factors point to the necessity of remaining fiscally conservative in moving forward.

General Fund Analysis

Table I, FY 05/06 General Fund Budget Forecast, is from the June 20th Council meeting item on the City's budget with additions from the July 11, 2005 Council meeting. Council directed a number of amendments to the budget which resulted in committing in excess of \$1.2 million towards various initiatives, namely:

Table I
 FY 05/06 General Fund Budget Forecast
 (All Amounts in Millions)

	<u>Orig. Budget</u>	<u>Forecas t</u>	<u>Chang e</u>
Revenues			
Current	43.7	46.0	2.3
One-time	0.0	1.0	1.0
Internal Reimbursements	16.1	16.1	0.0
Total	59.8	63.1	3.3
Expenditures			
Departmental	57.8	58.0	0.2
CIP	4.9	6.9	2.0
Transfers/Debt	4.1	4.1	0.0
Total	66.8	69.0	2.2
Rev. Over/(Under) Exp.	(7.0)	(5.9)	1.1
Planned Use of Reserves			
Operational (PERS and Emergency)	4.0	2.2	(1.8)
Capital (ie, Sports Park and CIP)	3.0	5.1	2.1
Total	7.0	7.3	0.3
Remaining Resources	0.0	1.4	1.4
Adopted Budget Recommendations		(1.2)	
Net Remaining *	0.0	0.2	

- \$120,000 for **increased outside professional serves** to improve site plan review and meet the continuing demands of the development community. The weekly site plan meetings have increased from 2-3 hours to 8 hours. Staff now platoons into the meetings and “Now Serving” numbers are posted to manage the flow of applicants. Outside help will help staff prepare for these meetings and improve application processing. This approach is recommended instead of directly hiring a planner and engineer in order to avoid a long-term commitment to employees. Funding will come from continued, elevated development fees.
- \$85,000 for **an Associate Planner** to begin preliminary work on the City’s General Plan. The City implemented a new planning fee this last year to fund work on the City’s General Plan. The City plans to employ consultants to work on the plan next fiscal year for what promises to be a multi-year project. However, much preliminary work needs to be done to before hiring a consultant which can begin now with the addition of this planning position.
- \$86,200 for **two Police records specialist**, identified as the number one need by police management, are necessary to reduce the cycle time between the initial report of a crime and the assignment of that crime to the appropriate detective as well as improving other police record keeping. The last increase police records specialist allocations occurred some 10 years ago.

- \$146,500 for **two additional Police Officers**, replacing two of the four grant funded police officer positions that will discontinue during the fiscal year, one immediately and the other in December. Police management has recommended that all four positions be replaced. However, budget constraints lead to the reduced recommendation and point out the problem with grants: grants end and ongoing revenues may not be available. No police officers will be laid off because grant funded officers will be transitioned into open positions.
- \$73,250 to cover ½ the budget year for **two additional police officer grant-funded positions** whose funding was scheduled to end in December of 2005.
- \$448,087 to **address improved Fire Response in the Southeast Area of Visalia** (\$343,087) as outlined in a special report to Council on July 11, 2005. The plan envisions reassigning a Downtown truck company to an engine in the Whitendale station, backfilling the truck with an engineer immediately and accelerating the Measure T hiring for 4 new firefighters from July 2006 to October or November of this year. The plan will also require the reassignment of all the “floating” firefighters to a crew. With reassignment of all the floaters to crews, the Fire Department will see an increase in overtime (approximately \$105,000 for FY 05/06). Overtime costs will need to be monitored, but some increase was always expected when the “floater” positions were assigned to crews.
- \$15,000 for ongoing, hourly **clerical support for the Council and City Manager’s office** needed to fully staff the administrative offices as they move to the Transit Center sometime this summer.
- \$11,600 for increased **Park Maintenance for two new parks** coming on line this year. The City is about to operate the new Cherry Meadow Park and a yet unnamed park at Burk and Monte Vista. Each of these parks will cost approximately \$5,800 a year in additional mowing, janitorial and utility costs.
- \$9,600 for increased **Park Maintenance for Jefferson and Whitendale** Parks to support use of those facilities for league play fields. As the community grows and increased demand is placed on open space, Jefferson and Whitendale have become organized play fields. Park and Recreation recommends increasing the mowing contract for these area from once every two weeks to once a week, increasing the care given to these facilities.
- \$152,700 to begin funding **an annual rent or depreciation charge for City Hall West occupancy**. The City Council is working towards building a New City Hall. One strategy for paying for the building would be to assess a rental or depreciation charge for its own space and setting aside that rental charge in the Civic Center Reserve fund. The proposed charge would be for City Hall West at \$1 per square foot per month. City Hall East currently makes an annual payment towards debt service as that facility was originally purchased as part of the 1996 Convention Center Debt refinancing. However, when that debt is repaid in 2020, those funds can also be put into the building replacement fund.
- \$25,000 to **refurbish the Stonebrook Park Well**. The park currently has a well that is failing. The well is not gravel packed, thus allowing dirt to flake off into the well,

sometimes stopping the water flow. The options open to the City are to refurbish the well or connect to CalWater. Connecting to CalWater would cost \$17,000; however, the annual operating cost is approximately \$6,500 compared to \$2,700 a year for the City well. In a little more than two years, the operating cost savings for the City Well would pay for the cost differential.

- \$60,000 for **improved Recreation Management Software system**. The Recreation Department uses a DOS based computer program which maintains the Recreation Departments class and park registrations. This system is from the early 1990s, does not support internet registration and does not compare well to other systems. Recreation purposes converting the current system to Class software, the most commonly used recreation system on the market with over 200 California users. The major benefits of the system are:
 - support internet and phone registration
 - better integration of systems which supports a quicker registration and retrieval of information. For example, the current system might take 5 minutes to register for a class while the new system may take as little as 1 minute to register.
 - improved management system reporting which will support improved decision making by the Recreation Department management
 - improved databases which reduce support requirements
 - better software customer support to resolve system problems

The cost is \$31,000 for acquisition, \$21,600 for installation and training, \$7,400 ongoing maintenance.

Table II, General Fund Changes shows that the amendment costs \$1,232,800.

General Fund	<u>Ongoing</u>	<u>Dev. Fees</u>	<u>Capital/ one- time</u>	<u>Total</u>
1) Site Plan Professional Help		120.0		120.0
2) Associate Planner/ General Plan		85.0		85.0
3) Police Records Clerks	86.2			86.2
4) Police Officers	146.5			146.5
4a) Grant Funded Officers, part year	73.2			73.2
5) Southeast Area Fire and Overtime	123.0		325.0	105.0
6) Administration Help	15.0			15.0
7) New Park Maintenance	11.6			11.6
9) Whitendale/Jefferson Park	9.6			9.6
9) City Hall Rent	152.7			152.7
10) Stonebrook Park Well			25.0	25.0
11) Recreation Software	7.4		52.6	60.0
General Fund	625.2	205.0	402.6	1,232.8

Collectively, these actions address various needs of the City. Finance's main concern is that ongoing financial commitments did not exceed the ability of the General Fund to support from

ongoing revenues. In June, Finance had projected that approximately \$500,000 was available for ongoing programs. Council's actions have added some \$125,000 more than targeted. Care should be taken to limit any additional, ongoing costs.

The final miscellaneous requests for Council to consider are the following:

1) **Non-Profit Report.** A report from Parks and Recreation Director Vince Elizondo on the status of Non-profits funded by the City. Council directed staff and the CAC to review the operations of the non-profits. This assessment confirmed that the non-profits merited second year funding. Further, the CAC desires to improve the review, measuring each non-profit's progress against stated goals.

Although unsolicited, several non-profits requested additional funds. Staff stated that the purpose of the review was continued funding, not increased funding. However, the requests for funds were as follows: \$20,000 more for both the Boys and Girls Club and Heart; an additional \$4,300 to Proteus.

Staff believes that the funding for the non-profits should follow a two-year cycle which provides certainty in funding. However, to add funds now to the various non-profits would seem unfair to those non-profits that did not submit requests, believing the funding cycle was for two years.

As an alternative to staff's recommendation, Council could authorize a cost of living increase of 4 percent. Such an adjustment would cost about \$8,000. A more substantial contribution probably merits more lengthy review.

2) **\$6,500 for Capital Improvements to the Seven Oaks Dog Park Improvements.** Don Stone has prepared the attached memo outlining some improvements to the Seven Oak's Dog Park. The improvements are designed to make the park more useable and safer for the local dog owners.

3) **\$10,000 in a One-time Contribution to the Fox Theater.** The Fox Theater is approaching its 75th anniversary and has presented a request to the City of Visalia for \$10,000. The proposed use for the funds is as follows:

Clock Restoration - \$650. The Fox Theater has begun working on repair the clock mechanism. The workman repairing the clock believes that the \$650 budget will be sufficient to pay for the repairs.

Movie Screen Sound System - \$6,500. The theater currently uses a public address system to broadcast the sounds for movies and other events. The sound system is dated and inadequate. Movie theaters today use a sound system that is located behind the screen. The Fox Theater has contacted a firm in Fresno who has indicated that to provide that type of sound system would cost approximately \$6,500. In the long run, a complete system replacement will probably cost \$50,000; however, the board is phasing in this replacement.

Live Performance Sound System - \$3,500 (\$2,850 from City). To improve the sound system for live performances, the Fox proposes purchasing a used sound system from Celebrant Singers. The Celebrant Singers have reduced the number of touring groups that they have and are willing to sell the equipment to the Fox at a substantial discount.

If these last two items are one-time expenses and Council found they meet community needs, the requests would fit within the City's expressed budget parameters.

Summary

The above actions focus solely on the City. However, the City functions within a larger context. Although the State of California has adopted its budget this year, the structural deficit projected for next year is \$5 billion. The City will receive increased monies for roads, money that has been postponed for at least three years due to State fiscal challenges. It also appears that property tax receipts will increase by several \$100,000 more than originally anticipated. However, problems remain on the horizon and actions should be taken with care. Although a number of recommendations have been made, efforts have also been made to minimize long-term commitments because the City still struggles with cost containment.

Prior Council/Board Actions: June 20, 2005, budget amendments. Special meeting, July 11, 2005, Fire issues.

Committee/Commission Review and Actions:

Alternatives:

The Council could decline further budget amendments;

Fund a select few of the additional requests; or,

Provide a cost of living increase of 4% (\$8,000) to the funded non-profits.

Attachments:

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

That the Council:

- 1) accept the financial report;
- 2) appropriate \$6,500 for improvements at the Seven Oaks Bark Park; and,
- 3) award \$10,000 to the Fox Theater for improvements to this community structure.

(or add the following:)

- 4) provide a cost of living increase of 4% (\$8,000) to the now funded, non-profits.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No
Review and Action: Prior:
Required:

NEPA Review:

Required? Yes No
Review and Action: Prior:
Required:

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

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 3d

Agenda Item Wording: Valley Oaks Golf Course Update

Deadline for Action: N/A

Submitting Department: Administrative Services

Contact Name and Phone Number: Mario Cifuentez II, x4480

For action by:

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

For placement on which agenda:

Work Session
 Closed Session
Regular Session:
 Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 20

Department Recommendation and Summary:

Recommendation

That the City Council accept the Valley Oaks Golf Course report and take the following actions:

- Approve the 2005-10 Golf Course Capital Improvement Program plan which anticipates the use of the CIP surcharge and fund the first year of the program;
- Accept this golf report on Debt Status of the Valley Oaks Golf Course
- Continue with the planned elimination of the private golf cart usage in November 2005, as previously approved by Council.
- Authorize staff to move forward with the analysis of monthly ticket structures at the course and look into the option of utilizing other pricing structures.

Summary:

Financial Results. Approximately five (5) years ago, the City Council changed the Valley Oaks Golf Course management from a City employee operated course to a private contract management course. The City entered into an agreement with CourseCo, Incorporated to manage the complete operation. CourseCo signed an agreement to operate the course on January 17, 2000.

The City had a number of objectives when it contracted out the operation of the facility, with the primary objective being to provide a quality golfing experience at a reasonable price, while maintaining the course as a self-sustaining enterprise fund. Fortunately, Council was able to draw on the expertise of CourseCo and their knowledge of the golfing industry, to put the course in a better financial picture as well as improved course maintenance. Council has previously given CourseCo the authority to adjust rates as necessary to meet industry trends and insure that the course remains financially sound.

From an operating standpoint, the course has generally met its objective of paying operating costs with a surplus to pay for capital and debt. The major concern is the enterprise's progress on paying down the debt.

This year, however, the course has had a substantial decline in rounds, leading to a substantial drop in net income. The course has generally averaged close to 80,000 rounds a year. This year rounds were a few more than 68,000. This drop in business is due to two factors: exceptionally rainy season and a general industry drop in rounds. The rain factor should probably be less this next year. But the general decline in golf business is more troubling.

Table I
Valley Oaks Golf Course
Comparison Summary
2000 Thru 2005

	2000- 2001	2001- 2002	2002- 2003	2003- 2004	2004- 2005 Not Final	Totals
Revenue						
Green Fees	654,081	703,181	739,007	758,730	730,259	3,585,258
Monthly Tickets	287,781	275,475	310,562	286,001	232,097	1,391,916
CIP Surcharge	80,844	95,981	123,420	158,496	170,665	629,406
Cart Fees	351,501	387,628	413,199	414,075	374,682	1,941,085
Range	106,423	109,421	122,379	119,196	120,411	577,830
Merchandise	100,216	95,081	123,972	151,981	156,714	627,964
Food/Beverage	257,935	276,525	280,780	301,386	303,445	1,420,071
Other	13,766	7,735	5,969	17,592	21,000	66,062
Total Income	1,852,547	1,951,027	2,119,288	2,207,457	2,109,273	10,239,592
Cost of Goods Sold	179,041	179,994	193,142	239,088	223,153	1,014,418
Operating Expenses	1,260,409	1,382,108	1,450,639	1,530,253	1,578,629	8,804,669
Net From Operations	413,097	388,925	460,560	438,116	307,491	1,700,698
CIP Distribution Balance	80,844	95,081	123,420	158,496	170,665	457,841
Distribution	332,253	293,844	352,087	279,620	141,826	1,257,804
Total Distribution	413,097	388,925	460,560	438,116	312,491	1,700,698
Rounds	83,475	76,585	82,299	79,250	68,264	
Average Income Per Round	\$22.19	\$25.48	\$25.75	\$27.85	\$30.90	

One positive factor, however, is that the average income per round has continued to increase. To combat this problem, CourseCo has recommended increased marketing. They recommend sharing a marketing person between several courses to bring in additional rounds and keep

costs in check. The potential cost is between \$15-20,000 a year. Given that an additional 500 rounds per year would about pay for the position, the investment appears to be good management decision, but will need to be watched.

Nevertheless, the course has covered its operating costs. The question that remains is its ability to pay down its debt.

Debt Analysis

The golf course has two types of debt: debt incurred after CourseCo became the golf course's operator and debt incurred prior to CourseCo. After CourseCo assumed control of the golf course, the Council authorized a CIP (Capital Improvement Program) surcharge for the purpose of upgrading or replacing capital assets at the Golf Course. The one restriction that the Council placed upon CIP surcharges was that they must be used for new capital at the golf course, in other words, capital acquired after CourseCo management began operations. Both loans are advances from the General fund and accrue interest at the City's portfolio earning's rate plus 1%.

As a result, the City accounts for the Golf Course's debt in two categories: CIP Surcharge and Prior or Bond Debt. Table II, Golf CIP Surcharge Loan, shows the fund's CIP debt activity for the last 5 years.

Table II
GOLF CIP SURCHARGE LOAN

	2000	2001	2002	2003	2004	2005	TOTAL
BEGINNING BALANCE	-	447,012	662,357	777,100	754,726	480,807	
Additional Loan*	440,605	289,698	126,567	-	-	417,274	1,274,144
Principal Paid		(74,353)	(11,824)	(22,374)	(273,919)	(130,021)	(512,491)
Interest Accrued	6,407	38,253	49,016	40,668	25,570	25,183	185,097
Interest Paid		(38,253)	(49,016)	(40,668)	(25,570)	(23,886)	(177,393)
ENDING BALANCE	447,012	662,357	777,100	754,726	480,807	769,357	769,357

*Additional \$500,000 Advance authorized by Council September 7, 2004 increasing advance limit to \$1.3m.

During the five year period, the Golf Course has borrowed \$1,274,144, repaid interest as agreed to and paid down principal so that the current outstanding CIP loan is \$769,357. Originally, the City Council authorized the CIP Loan to be a line of credit up to \$800,000. Last year in September, staff recommended that the Council allow the golf course to use the City's available cash to finance golf carts and turf equipment, noted as an additional loan on Table I. The action essentially allowed the line of credit to be up to \$1.3 million.

The Bond or Prior debt is more problematic. Prior to CourseCo managing the course, the City ran the golf course. In the 1990s, the course was expanded to include an additional 9 holes. At

the same time, however, the golf course fund suffered several years of operating losses. These operating losses and golf course expansion costs represent the Bond debt as shown in Table III, Golf Course Assumed Debt.

Table III
Golf Course Assumed Debt

BOND PAYOFF:	2000	2001	2002	2003	2004	2005	TOTAL
BEGINNING BALANCE	3,325,000	3,497,426	3,323,291	3,155,003	3,100,506	3,184,159	3,325,000
PRINCIPAL(PAID)/INC	-	(174,135)	(168,288)	(54,497)	83,653	(49,631)	(362,898)
INTEREST ACCRUED	172,426	218,865	224,712	165,008	166,353	212,376	1,159,740
INTEREST PAID	-	(218,865)	(224,712)	(165,008)	(166,353)	(127,196)	(902,134)
ENDING BALANCE	3,497,426	3,323,291	3,155,003	3,100,506	3,184,159	3,219,707	3,219,707

The accumulated debt at the end of 2000 was \$3.5 million. The projected debt balance at the end of 2005 is \$3.2 million. Repayment, although progressing, is progressing slowly. The golf course is on a course to repay the debt by 2026, a 21 year debt repayment plan. This is much slower than the original 15 year amortization but improving. Staff will work with CourseCo to improve this situation, but golf's long-term debt remains a problem.

Capital Needs. City staff is working with CourseCo staff in evaluating the state of the golf course and has prepared a proposed five (5) year CIP program for the Valley Oaks Golf Course, that is attached for Council review. Since the City is in the middle of the 2-year budget cycle, it is staff's recommendation that Council approve just the first year of the CIP program and authorize CourseCo. to use revenue from the CIP surcharge to complete the following CIP projects in FY 05/06, namely:

FY 2005/06

- \$25,000 to complete Electrical Improvements to the Golf Cart Storage Barn. This project is needed to provide for recharging of additional carts added to the fleet.
- \$10,000 to design and engineer upgrades and repairs to the irrigation system on the original 18 holes which is old and frequently in need of repair.
- \$40,000 to construct a patio cover over the existing patio area located adjacent to the clubhouse to provide for a covered outdoor eating area and a location to host banquets and receptions.

The other proposed projects in the five (5) year plan would need further Council approval at a later date but are listed to give Council a look at future needs for the golf course.

Usage of Golf Carts. In October of 2004, CourseCo, the management company for Valley Oaks Golf, took delivery of 100 new golf carts as part of its equipment replacement schedule. The delivery of 100 carts marked an increase to the fleet size of 20 carts. Historically, the golf course has maintained a fleet of 80 carts for rentals. CourseCo decided to increase the fleet last year in light of a growing trend of more players using carts instead of walking. The increase in fleet size will accommodate the needs of the public better and increase the revenue to the course generated from golf cart rentals.

Once the new fleet was delivered and put into use, it became apparent that the current electrical system for the cart house could not provide adequate supply to charge the carts. The current system can accommodate approximately 85 carts charging simultaneously. Any attempts to charge additional carts at the same time results in the electrical system shutting down.

Additionally, per Council's previous decision, the use of private golf carts at Valley Oaks is scheduled to be eliminated in November 2005. This will result in an additional demand on the number of rental carts at the course. In the update to Council in September 2004, it was reported that Valley Oaks Golf Course was issuing an average 30 passes per month for the remaining allowed private carts. The original number of private carts was approximately 45. Since that time, several owners have sold their carts anticipating the phase out date of November 2005 leaving 19 cart owners left with permission. Of those 19, CourseCo averages 12-15 permits per month. If Council were to reverse its previous decision and allow the current users to continue to use their private carts, that action would be an about-face to the other golfers who have already sold their carts in anticipation of the November 2005 deadline.

The decision by Council to eliminate the usage of private carts was based largely upon the recommendation of CourseCo. In November 2000. CourseCo. still maintains the position that the elimination of private golf carts at Valley Oaks Golf Course is in the best financial interest of the course. A letter supporting that position is attached to this report. If Council does not feel that the elimination of the private carts is still the best course of action, staff would recommend that Council limit the use of private carts to those currently authorized to use them and for an additional period not to exceed two (2) years.

History has shown that, on the average, users that buy passes on a monthly basis play approximately ten (10) rounds per month. CourseCo already sells a discount punch card for golf carts at a rate of \$8.75 per round. If Council chooses to reverse its decision, staff would recommend that Council authorize CourseCo to increase the monthly rate for private carts from \$70 per month to \$87.50 per month reflecting the actual average usage of private carts. The increase in this rate equates to an average of \$1.75 per round, but would bring those fees in line with what other users at the course pay for cart usage.

Monthly Ticket Charges:

As directed by Council in September 2004, CourseCo began charging a \$5 per ticket non-resident charge for Monthly tickets. While the fee did not result in a marked increase in revenue, it did serve its purpose, which was to identify that only 2-3 non-residents buy monthly tickets in an average month.

Also reported to Council in September was a report that showed monthly ticket holders, which comprise approximately 27% of the annual revenue stream, were playing approximately 48% of the total rounds played annually. While both staff and CourseCo. support the idea of providing affordable golf to its patrons, we also believe that a discount can be passed on to a greater segment of the market through a discount punch card. Like the punch cards already used for

golf carts, these punch cards would give a set discount off of the regular rate for purchasing a certain number of rounds. For example, a player could buy a 10 round punch card that would be good for 10 rounds of golf anytime with no expiration date at a discount percentage to be determined.

This approach is more common than the City's current method and will assist the golf operator in trying to fully use the golf course asset. However, the concept deserves further review before being presented to Council. With Council's approval, CourseCo and staff will work to bring back a different pricing scheme which will improve marketing but designed to be revenue neutral on the whole.

Recommendations

In conclusion and based upon the aforementioned summary, staff recommends that Council:

- Approve the Golf Course Capital Improvement Program;
- Accept this golf report on Debt Status for the Valley Oaks Golf Course;
- Continue with the planned elimination of the use of private Golf Carts in November 2005; and
- Authorize staff and CourseCo to move forward with the analysis of monthly ticket structures at the course, look into such options as utilizing discount punch cards in lieu of the monthly tickets, reporting back to Council after the analysis is complete, probably around the first of the year.

Prior Council/Board Actions:

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

Committee/Commission Review and Actions:

Alternatives:

Attachments: Five year CIP budget, CourseCo recommendation on the phase out of private golf carts.

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

That the City Council:

- approve the proposed capital items for FY 05/06;
- Accept the golf report
- continue with the planned elimination of private golf carts in November 2005.
- authorize staff to move forward with the analysis of the monthly ticket structures.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No
Review and Action: Prior:
Required:

NEPA Review:

Required? Yes No
Review and Action: Prior:
Required:

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

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

City of Visalia
Agenda Item Transmittal

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 4

Agenda Item Wording: Progress Report and Discussion regarding Tulare County General Plan Update.

Deadline for Action: None

Submitting Department: Community Development/Public Works

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

Contact Name and Phone Number: Mike Olmos 713-4332

Recommendation and Summary: The purpose of this work session is to provide an update to Council regarding the progress of the Tulare County General Plan Update and to discuss the “growth scenarios” currently being considered in the update process. Council comments on the growth scenarios and other issues related to the County’s General Plan update are invited. Staff recommendations are provided at the end of the report.

Background:

As Council is aware, Tulare County is currently updating its General Plan (GP). This is the first comprehensive GP update conducted by the County since its initial land use plan was adopted in 1965.

The County’s GP Update process began approximately 1 ½ years ago. The process will take 3 to 4 years to complete. A consulting team has been hired by the County to assist County staff in the process. Firms comprising the consulting team include Mintier and Associates, RACESTUDIO (Bruce Race), URS, Applied Development Economics, Omni-Means, and Land Use Associates. Mintier and Associates was the lead firm on the consulting team for the Fresno County Comprehensive General Plan Update completed around the year 2000.

To date, the GP Update process has included preparation of a draft background report identifying existing conditions, a series of public workshops conducted in various locations throughout the County, work sessions with the County Planning Commission and Board of Supervisors, and a series of meetings with a Technical Advisory Committee

(TAC). Members of the TAC include representatives of County departments, local organizations (Farm Bureau, Sequoia Riverlands Trust, UC Extension, Building Industry Association, U.S. Forest Service, and others), cities, and members at large. Visalia is represented on the TAC by Mike Olmos, Director of Community Development and Public Works.

Population Projections:

The GP update will establish a framework to accommodate growth in the County to the year 2030. Population projections for the update have been prepared using the Year 2000 Census as base year information. The projected population in Tulare County for the year 2030 is 630,000 persons. The 2000 Census calculated the County's population in 2000 at 368,021 persons. Therefore, the GP update will plan for a population increase of 261,979 persons above the base year 2000 population to the year 2030.

As a point of information, the State Department of Finance estimated the population of Tulare County as of January 1, 2005, to be 409,571 persons.

Land Use Concept Alternatives:

The consulting team initially developed three land use concept alternatives (growth scenarios). Each of these alternatives is a conceptual strategy upon which the County's GP update can be based. The strategies present different scenarios on percentage distribution of population growth between cities and unincorporated communities and rural lands, and on potential geographical distribution. The three strategies are described as follows:

City Centered Growth: This alternative directs 75% of future population growth to the cities and 25% to unincorporated communities and unincorporated rural areas. The premise behind this alternative is that cities have urban amenities, utilities/services, financing mechanisms and other urban facilities in place to better accommodate population growth.

Community Oriented Growth: This alternative directs 50% of future population growth to the cities and 50% population growth to unincorporated communities and rural areas. This alternative would encourage population growth in rural communities, under the assumption that increased growth will bring urban amenities to these communities and help them improve their well-being.

Proportional Growth: This alternative directs 70% of population growth to cities and 30% to unincorporated communities and rural areas. This population distribution is very close to that which existed in 2000, when 70.2% of the County's population (258,463 persons) lived in the cities and 29.8% lived in unincorporated communities and rural areas (109,558 persons). (For information purposes, the State Department of Finance estimates that on January 1, 2005 63.3% of the County's population (409,871 persons) lived in the cities (259,637 persons) and 36.7% lived in unincorporated communities and rural areas (150,234 persons).

At the most recent Technical Advisory Committee meeting on June 29, 2005, County staff and consultants proposed, and the TAC agreed, to set aside the Community Oriented Growth and Proportional Growth alternatives as not being feasible. This conclusion may have stemmed from past TAC discussion that it is not feasible to direct large amounts of

population growth to rural communities and areas. The reasons stated by the TAC were lack of necessary infrastructure in many unincorporated communities, difficulties being experienced by rural communities in achieving economic sustainability (Cutler-Orosi is an example), transportation needs to cities providing medical, educational, shopping and other services, and related environmental impacts from potential County-wide sprawl.

After the two alternatives were set aside, the consultants introduced two new alternatives:

Highway 99 Centric Growth: This new alternative will focus on directing growth to the cities and to communities and areas along the Highway 99 corridor, and perhaps the Highway 65 corridor.

Focused Community Growth: This new alternative will focus on directing growth to the cities and selected unincorporated communities. Selected unincorporated communities will meet certain criteria yet to be established, but may include such factors as being located on or near major transportation corridors, having efficient access to cities, having potential to provide necessary infrastructure and utilities, and meeting geographic needs for population distribution around the County. Examples of focused communities around Visalia may include Goshen and Ivanhoe.

Information on the two new alternatives (including proposed population distributions) is still being developed by the consultants and is not yet available.

Discussion:

During the TAC meetings, the City of Visalia has continually favored and argued for the City Centered alternative for several reasons:

- The eight cities have infrastructure, financing mechanisms, planning systems, and urban services to accommodate projected growth, more so than unincorporated communities.
- Even with population increases, rural unincorporated communities will struggle to provide the necessary infrastructure and services to accommodate growth. They will also struggle to achieve financial sustainability and independence (again, Cutler-Orosi is an example). Further, because they will not have proper urban infrastructure, zoning and urban design controls, these communities will not be able to achieve efficient urban densities. Inefficient land use will have adverse impacts on agricultural lands in the County and will make the provision of infrastructure and urban services more costly to provide and maintain.
- Directing growth to rural communities will require residents of those communities to travel to cities for jobs, educational opportunities, shopping, medical services, and governmental services. Unless effective County-wide transit or light rail systems are planned, traffic from these communities will impact highways and local roads, and will cause increased air pollution.

Attached is a table provided by the consultants during the June 29 TAC meeting (see Attachment 1). The table analyzes the population growth capacity available in the rural communities and incorporated cities. For purposes of the table, growth capacity is primarily calculated using undeveloped land available in existing city limits and

unincorporated lands within designated Urban Area Boundaries (UABs) of cities and rural communities.

As noted earlier, the projected population increase in the County to the year 2030 is 261,979 persons over the base year 2000 population of 368,021 persons. The table indicates available population growth capacity of the UABs of the eight incorporated cities is 826,514 persons. UABs for the rural communities provide further available capacity for 124,360 persons; however, the rural communities will be hampered by lack of urban services and infrastructure. Nonetheless, using this land supply analysis, it is clear that cities have more than sufficient land inside city limits and UABs to accommodate future population growth in the most effective manner for our county.

Revenue Sharing:

Growth, particularly in the commercial sector, is a significant revenue source for cities. Growth can generate sales tax and property tax revenue, along with increasing population based disbursements such as certain transportation dollars. Tulare County has struggled financially in the past to a greater extent than most of the cities. If a City Centered alternative is implemented, the County will look to the cities for revenue sharing agreements to help the County meet its financial obligations. Revenue sharing is worth considering because the cities will not be well served if the County continues to struggle financially and it will help focus attention during the GP update process on effective land use planning rather than on revenue generating land use opportunities. Further, revenue sharing should be discussed on a regional level, including the County and all cities, perhaps through the Tulare County Association of Governments.

Recently, the County Planning Commission and Board of Supervisors approved the Baker project, a subdivision of 58 acres into 19 rural residential lots located on the west side of Ben Maddox Way, north of the St. John's River. This site is within Visalia's Urban Area Boundary and 165,000 Urban Development Boundary. The City opposed the project due to inefficient development density and the expectation the site would eventually develop in the City at much higher density. The Board's decision will eventually hamper the Visalia's future growth planning in the northeast area. On the other hand, the Board felt obligated to allow the project to proceed due to the existing County zoning. Discussions regarding possible revenue sharing should include commitments by the Board to remove County rural residential zoning within city UABs where such zoning will conflict with city general plans.

The Finance Department has prepared an analysis to identify the financial implications to the County of low density rural residential development versus higher density urban-style development in the City. The analysis is shown in attached Table 1- Property Tax Value of Rural Compared to Urban Development for County. The analysis concludes that under the existing tax allocation structure, higher density development in the City generates three times the tax revenue for the County, despite the County collecting a much lower tax rate within City limits.

Recommendations:

Based on the above discussion, staff suggests several recommendations for Council consideration:

1. The cities have not yet “weighed in” on the County’s General Plan Update. Now that growth alternative scenarios have been developed and are being discussed, it is appropriate for the City of Visalia to formally express its support for a City Centered growth scenario for Tulare County. This should be done in the form of a letter from Council to the Board of Supervisors. The other cities in the County should be encouraged to participate in the letter.
2. The current City Centered alternative establishes a population distribution percentage of 75% to the cities and 25% to unincorporated communities and rural areas. Due to the regional benefits of directing future growth to the cities, the percentage of population growth directed to the cities should be higher. For example, according to Mintier and Associates, Fresno County, in its recent GP update, established a distribution of 93% to the cities and 7% to unincorporated areas. Visalia and other cities should press for a higher population distribution to the cities under the City Centered scenario.
3. There exist within Visalia’s UAB unincorporated lands zoned by the County for Rural Residential uses. Due to land supply constraints and increasing land costs in and near the City, these rural lands are now being sought by developers for development of rural residential lots. These projects inefficiently utilize land and will inhibit the City’s ability to implement our General Plan and achieve urban densities in these outlying areas in the future. This condition will constrain the City as we attempt to plan for future growth in a City Centered growth scenario. Council should authorize staff to submit a request to the Board of Supervisors to reclassify rural residential zoning around the City to a zone category that will defer future development controls to the City.
4. Given the County’s financial concerns, it is likely that consideration of the City Centered alternative with an effective population distribution may be overshadowed by the County’s need for growth related revenue stream. Council should direct the City Manager to initiate discussions with the County and other cities regarding possible future revenue sharing.

Committee/Commission Review and Actions: None

Prior Council/Board Actions: None

Alternatives: None recommended.

Attachments: Attachment A – Growth Distribution Table

Table 1 – Property Tax Comparison

Copy of June 29, 2005 power point presentation to TAC

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): Per the Recommendations Section.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$	
Amount Budgeted: \$	Lost Revenue: \$	
New funding required: \$	New Personnel:	\$
Council Policy Change: Yes_____ No_____		

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? No
Review and Action: Prior:
Required:

NEPA Review:

Required? No
Review and Action: Prior:
Required:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

Table I
Property Tax Value of Rural Compared to Urban Development for County

	<u>County Rural Development</u>	<u>City Urban Development</u>
<u>Assumptions</u>		
Land - acres	58	58
Lots (5 units/acre)	19	290
Acres per lot, gross	3.05	0.20
Price per lot w/house	\$750,000	\$300,000
<u>Property Tax</u>		
Assessed Value of Development	\$14,250,000	\$87,000,000
Taxable Value @ 1%	\$142,500	\$870,000
Tax Value to County @ 22% in County and 12% in City of total tax	\$31,350	\$104,400
Net gain to County from City Development		<u><u>\$73,050</u></u>

From strictly a revenue generation perspective, however, the County is better off encouraging development inside cities because the development tends to be more intensive, thus yielding greater tax revenue. Table I, Property Tax Value of Rural Compared to Suburban Development for the County, compares two types of development and their eventual revenue impact to the County of Tulare. One scenario develops 58 acres to County rural standards which generates approximately \$31,000 a year. The other scenario generates three times the tax revenue for the County, despite the County collecting a much lower rate within City limits. Strictly on a tax generation perspective, the County collects far more taxes per acre within the City than without.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: June 20, 3005

Agenda Item Number (Assigned by City Clerk): 11b

Agenda Item Wording: Approval of a contract for \$279,000 with the Visalia Chamber of Commerce to manage the City's Visitor and Convention Bureau through June 30, 2006.

Deadline for Action: July 1, 2005

Submitting Department: Administration

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

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

Department Recommendation and Summary:

It is recommended that the City Council approve a \$279,000 contract with the Visalia Chamber of Commerce to manage the Convention and Visitor's Bureau for fiscal year 2005-2006.

At the Council's May 16 meeting, the Council accepted the recommendations from the Visitor's Task Force, which included combining the two separate Bureaus into a single Bureau that would initially be managed by the Visalia Chamber of Commerce.

The Task Force also made several other recommendations that are included in the proposed contract:

***Provisions for the Visalia Convention and Visitor's Bureau to become a separate entity** - The contract calls for it to be run as a separate entity, for the finances to be kept separate, for the paperwork to be filed for a non-profit organization within the first 12 months and for a plan to be established within the first 6 months for the Bureau to manage its own operations within 2 years.

***Work with a Management Oversight Committee** – The contract calls for the Bureau to work with the Committee including setting up and meeting with the members on a regular basis, working with the members to set specific goals and objectives based on industry standards, discussing and setting marketing strategies and providing regular progress reports. The Committee members will be brought forward to Council approval on July 18.

***Specific Goals and Objectives** – The contract also calls for the Bureau to set specific goals and objectives, including reporting standards that are based on industry standards. The goals and objectives are to be set with the Management Oversight Committee and presented to the City by September 15, 2005.

***Hospitality Industry Involvement** – The contract calls for the Bureau to invite the hotels and convention center to participate in trade shows and sales trips.

***Mini Tours** – The contract requires the Bureau to develop and promote mini-tours of the area as recommended by the Task Force.

***Web-Site** – The contract calls for the development of a separate web site that promotes Visalia as a convention and tourist destination spot

Budget:

The basic budget for management of the Bureau is \$239,000, which is the amount previously allotted the two Bureaus, plus \$5,000 as a cost of living adjustment. As discussed at the May 16 meeting, there will be some initial start-up costs to establish the new entity, develop a logo, a web site and new marketing materials. It is recommended that up to \$40,000 be allotted for this purpose. The contract requires prior-approval for expenditure of these funds and for the Chamber to be reimbursed for the expenses.

The Chamber requested additional funds for overhead and management; however, it was agreed that any further increase would be presented to the Management Oversight Committee for their input and recommendation before being brought forward for Council consideration.

The Chamber is currently recruiting for a new Convention Bureau Sales Manager and anticipates being fully staffed by the end of the summer. The City and the Chamber are working cooperatively to smoothly transition the Convention Bureau materials and contacts, and the Convention Bureau staff anticipates accompanying the new Sales Manager on the first few sales trips to make introductions and confirm the Visalia connection.

Prior Council/Board Actions:

May 16, 2005 – The Council approved the recommendations of the Visitor's Task Force

Committee/Commission Review and Actions:

Alternatives:

Attachments:

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

I move to approve the \$279,000 contract with the Visalia Chamber of Commerce to operate the Visalia Convention and Visitor's Bureau through June 30, 2005, and to cover initial start-up costs.

PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF VISALIA
AND
THE VISALIA CHAMBER OF COMMERCE

This PROFESSIONAL SERVICES AGREEMENT (hereinafter "AGREEMENT") is made and entered into in the City of Visalia, Tulare County, State of California, this _____ day of _____, by and between VISALIA CHAMBER OF COMMERCE (hereinafter "CHAMBER"), and the CITY OF VISALIA, a municipal corporation of the State of California (hereinafter "CITY").

RECITALS

WHEREAS, the parties enter into this AGREEMENT on the basis of the following facts, understandings and intentions:

WHEREAS, CITY is a public body, corporate and politic, organized and existing under the laws of the State of California; and

WHEREAS, CITY, pursuant to California Government Code Sections 37103 and 53060, is authorized and empowered to contract for professional services in the performance of its duties and functions; and

WHEREAS, CHAMBER is a non-profit corporation, organized and existing under the laws of the State of California; and

WHEREAS, CITY desires to secure certain professional services of the CHAMBER to assist it with the administration of its Convention and Visitors Bureau which would consist of, but not necessarily be limited to, the items of work described as "Scope of Work" in Exhibit "A" and hereinafter referred to as the "PROJECT"; and

WHEREAS, CHAMBER represents it is qualified and willing to provide such professional services pursuant to the terms and conditions of this AGREEMENT.

NOW, THEREFORE, IT IS AGREED as follows:

ARTICLE 1

Purpose/CITY Commitment

- 1.1 Purpose: The purpose of this AGREEMENT is to secure professional services to administer the CITY'S Convention and Visitors Bureau.
- 1.2 Commitment: In furtherance of the purpose of this AGREEMENT, CITY will, within a reasonable time following execution of this AGREEMENT, relocate

“tourist information” street signs to direct traffic to the CHAMBER’S temporary site at the Visalia Convention Center, and once completed, to the Chamber’s new site on the southeast corner of Oak and Santa Fe, subject to provision 17.3 hereof.

NOW, THEREFORE, IT IS AGREED as follows:

ARTICLE 2

Services to Be Performed by CHAMBER

2.1 Services:

- a. Authorized Scope of Work: CHAMBER agrees to administer, from CHAMBER’S location, the CITY’S Convention and Visitors Bureau in a manner consistent with the objectives and directives described in Exhibit “A”, which is attached hereto and incorporated herein by reference.
- b. Additional Services: Incidental work, and the rate therefore, related to the PROJECT not provided for in Exhibit “A” shall be agreed to in writing by CITY and CHAMBER prior to commencement of such work.

ARTICLE 3

Representations and Warranties by CHAMBER

3.1 Representations and Warranties: CHAMBER represents and warrants to CITY that:

- A. CHAMBER is qualified to provide the professional services for the PROJECT and is licensed by all public entities having jurisdiction over the CHAMBER and the PROJECT;
- B. CHAMBER has become familiar with the PROJECT and the local conditions affecting same;
- C. CHAMBER is an independent contractor and not a subcontractor, agent or employee of CITY.

ARTICLE 4

Covenants by CHAMBER

4.1 Covenants By CHAMBER:

- A. CHAMBER will maintain all necessary licenses, permits or other authorizations necessary for the PROJECT until the CHAMBERS' services required hereunder end by expiration of the term and/or extension thereof, or are terminated as hereinafter provided;
- B. CHAMBER assumes full responsibility to CITY for the improper acts and omissions of its consultants or others employed or retained by the CHAMBER in connection with the PROJECT; and
- C. CHAMBER presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required hereunder.
- D. CHAMBER will not discriminate against any employee, or applicant for employment, because of race, color, religion, sex, marital status, or national origin. CHAMBER will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, marital status, or national origin.
- E. CHAMBER will provide to CITY's staff quarterly updates on the PROJECT'S progress and to the City Council an annual progress report which will address the status and effectiveness of the services provided pursuant to this AGREEMENT, and offer recommendations as to how the purpose of this AGREEMENT can be more effectively achieved, if any.

ARTICLE 5

Commencement of Services/Term of AGREEMENT

- 5.1 Commencement: CHAMBER shall continue work on PROJECT following approval of this AGREEMENT. CITY will give CHAMBER notice of approval in writing pursuant to the NOTICE article contained in this AGREEMENT.
- 5.2 Term: The term of this AGREEMENT shall be effective upon signing and continue until June 30, 2006.

ARTICLE 6

Compensation to CHAMBER by CITY

6.1 Compensation:

- A. Total Compensation: For services performed pursuant to this AGREEMENT, CITY agrees to pay and CHAMBER agrees to accept as full payment for PROJECT the sum of TWO HUNDRED AND THIRTY-NINE THOUSAND DOLLARS.
- B. Payment of Compensation: Half of the payment from CITY to CHAMBER shall be made in a lump sum payable upon execution of this contract. The remaining payment will be made by January 15, 2006.
- C. Start Up Costs: The CITY agrees to also provide up to FORTY THOUSAND DOLLARS for one-time start up costs in the first year including webpage development, logo development, marketing collateral, literature and stationary. Expenses shall be pre-approved by the CITY.
- D. Payment of Expenses: The CHAMBER will be reimbursed within 30 days upon submission of copies of the invoices of the pre-approved expenses.

ARTICLE 7

Indemnification

- 7.1 Indemnification: CHAMBER agrees to indemnify and hold CITY and its officers, agents, employees and assigns harmless from any liability imposed for injury (as defined by Government Code section 810.8¹), whether arising before or after completion of work hereunder, or in any manner directly or indirectly caused, occasioned or contributed to, or claimed to be caused, occasioned or contributed to, in whole or in part, by reason of any act or omission, including strict liability or negligence of CHAMBER, or of anyone acting under CHAMBER's direction or control or on its behalf, in connection with or incident to, or arising out of the performance of this AGREEMENT.

It is the intent of the parties that CHAMBER will indemnify, defend, and hold harmless CITY and its officers, agents, employees, and assigns, from any and all claims, demands, costs, suits or actions as set forth above regardless of the existence of passive concurrent negligence, on the part of the CITY or anyone acting under its direction or control or on its behalf.

This indemnity and hold harmless provision, insofar as it may be adjudged to be against public policy, shall be void and unenforceable only to the minimum

¹ Gov't Code Section 810.8 states: "Injury' means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to his person, reputation, character, feelings or estate, of such nature that it would be actionable if inflicted by a private person."

extent necessary so that the remaining terms of this indemnity and hold harmless provision may be within public policy and enforceable.

ARTICLE 8

Insurance

8.1 Insurance: With respect to performance of work under this AGREEMENT, CHAMBER shall maintain insurance as described below:

- A. Worker's Compensation: Worker's compensation insurance with statutory limits, and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per accident.
- B. Commercial General Liability Insurance: Commercial general liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include products/completed operations liability, owner's and contractor's protective, blanket contractual liability, personal injury liability, and broad form property damage coverage. Such insurance shall:
 - 1. Name CITY, its appointed and elected officials, officers, employees and agents as additional insureds;
 - 2. Be primary with respect to any insurance or self-insurance programs maintained by CITY;
 - 3. Provide that such insurance shall not be materially changed, terminated or allowed to expire except on thirty (30) days prior written notice to CITY.

This insurance shall be maintained from the time work first commences until this AGREEMENT is terminated if an occurrence policy form is used. If a claims-made policy is used, coverage shall be maintained during the AGREEMENT term and for a period extending five (5) years beyond the AGREEMENT date. CHAMBER shall replace such certificates for policies expiring prior to completion of work under this AGREEMENT and shall continue to furnish certificates five (5) years beyond the AGREEMENT term, when CHAMBER utilizes claims-made form(s).

- C. Failure to Maintain Insurance: If CHAMBER for any reason fails to maintain insurance coverage which is required pursuant to this AGREEMENT, the same shall be deemed a material breach of contract. CITY, at its sole discretion, may terminate this AGREEMENT and obtain damages from CHAMBER resulting from said breach. Alternatively, CITY may purchase such required insurance coverage, and without

further notice to CHAMBER, may deduct from sums due CHAMBER hereunder any premium costs advanced by CITY for such insurance.

ARTICLE 9

Authorized Representative of CITY

- 9.1 Representative: The CITY MANAGER of CITY shall represent CITY in all matters pertaining to the services to be rendered under this AGREEMENT, except where approval of the CITY COUNCIL of the CITY is specifically required.

ARTICLE 10

Termination of AGREEMENT

10.1 Termination:

- A. CITY may terminate this AGREEMENT, for good cause, by giving at least fifteen (15) days notice to CHAMBER in writing pursuant to the NOTICE article contained in this AGREEMENT specifying the effective date of termination. If this AGREEMENT is terminated by CITY for good cause, CHAMBER shall reimburse CITY, within twenty (20) days of termination, on a pro rata basis, for the period from the date of termination to the year's end for which it was paid. Circumstances that warrant "good cause" include, but are not limited to:
1. If CHAMBER fails to perform the services called for by this AGREEMENT within the manner specified herein; or
 2. If CHAMBER fails to perform the services called for by this AGREEMENT or so fails to make progress as to endanger performance of this AGREEMENT in accordance with its terms, and in either of these two (2) circumstances does not correct such failure within a period of ten (10) days (or longer period as CITY may authorize in writing) after receipt of notice from CITY specifying such failure.
- B. In the event CITY terminates this AGREEMENT in whole or in part as provided in Paragraph "A" above, CITY may procure, upon such terms and such manner as it may determine appropriate, services similar to those terminated.

ARTICLE 11

Interest of Officials and CHAMBER

11.1 Interest of Officials and CHAMBER:

- A. No officer, member, or employee of CITY or other public official of the governing body of CITY who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the aforesaid work shall:
1. Participate in any decision relating to this AGREEMENT which effects his personal interest or the interest of any corporation, partnership, or association in which he has, directly or indirectly, any interest; or
 2. Have any interest, direct or indirect, in this AGREEMENT or the proceeds thereof during his tenure or for one year thereafter.
- B. CHAMBER hereby covenants that it has, at the time of the execution of this AGREEMENT, no interest, and that it shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this AGREEMENT. CHAMBER further covenants that in the performance of this work, no person having any such interest shall be employed by it.
- C. CHAMBER warrants by execution of this AGREEMENT, that no personnel agency has been employed or retained to solicit or secure this AGREEMENT upon a contract or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide established commercial or selling agencies maintained by the CHAMBER for the purpose of securing business. For breach of violation of this warranty, CITY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT without liability or, the price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 12

Documents Related to AGREEMENT

- 12.1 Ownership of Documents: All original papers and documents produced as a result of this AGREEMENT, or acquired in furtherance of this AGREEMENT, shall become the property of CITY. In addition, CITY shall be provided with access and use of any other papers and documents consistent with the purpose and scope of services covered by this AGREEMENT.

ARTICLE 13

Subcontracting

- 13.1 Subcontracting: CHAMBER shall not subcontract or otherwise assign any portion of work to be performed under this AGREEMENT without the prior written approval of CITY.

ARTICLE 14

Successors and Assigns

- 14.1 Successors and Assigns: This AGREEMENT shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties. CHAMBER shall not assign, delegate or transfer the rights and duties under this AGREEMENT or any part thereof, without the prior written consent of CITY.

ARTICLE 15

Independent Contractor

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

ARTICLE 16

Notices

- 16.1 Notices. Any notice, demand, or communication required or permitted to be given by the terms of this AGREEMENT, or by any law or statute, may be given by either party by depositing said notice, demand, or communication in the U.S. Mail, postage prepaid, addressed to the other at the party's address or any new address provided by such party in writing to the other. Service of said notice, demand, or communication shall be complete five (5) calendar days after deposit of said notice, demand, or communication in the mail.

Notices and communication concerning this AGREEMENT shall be sent to the following addresses:

CITY
CITY of Visalia
Attn: City Clerk
707 W. Acequia
Visalia, CA 93291

CHAMBER
Visalia Chamber of Commerce
Attn: President/CEO
720 W. Mineral King Avenue
Visalia, CA 93291

Either party may, by notice to the other party, change the address specified above. Service of notice of change of address shall be complete when received at the designated address.

ARTICLE 17

Miscellaneous Provisions

- 17.1 Contract Enforcement and Amendment: The City Manager of CITY shall be responsible for the enforcement of this AGREEMENT on behalf of CITY and shall be assisted therein by those officers and employees of CITY having duties in connection with the administration thereof.
- 17.2 Amendment: This AGREEMENT may be modified only by further written agreement between the parties. Any such modification shall not be effective unless and until executed by CHAMBER and, in the case of CITY (unless otherwise specifically authorized herein), until approved by the CITY COUNCIL and executed by the City Manager of CITY or such other official as the CITY COUNCIL may designate.
- 17.3 CHAMBER Site/Signs: As of July 1, 2005, the Chamber will maintain its business site at the Visalia Convention Center, 303 E. Acequia. It is understood that the CHAMBER will relocate to the southeast corner of Oak and Santa Fe in 2006. The CHAMBER agrees to provide CITY with sixty (60) calendar days written notice of its intent to relocate and confirmation of the location of the said move. In the event CHAMBER should relocate again, within a reasonable time

following its relocation, it shall, at its expense, relocate “tourist information” street signs to direct traffic to the CHAMBER’s new location, in coordination with the CITY Public Works Department. Additionally, CHAMBER agrees to maintain its site in a neat, presentable manner.

17.4 Legal Actions:

- a. Institution of Legal Actions: Legal actions concerning the terms, interpretation and enforcement of this AGREEMENT must be instituted and maintained in the Superior Court of the County of Tulare, State of California.
- b. Applicable Law: The laws of the State of California shall govern the interpretation and enforcement of this AGREEMENT.
- c. Acceptance of Service of Process: In the event that any legal action is commenced by CITY against CHAMBER, service of process on CHAMBER shall be sufficient if made either on CHAMBER’S Executive Director or in such other manner as may be provided by law and shall be valid whether made within or without the State of California.

17.5 Attorneys’ Fees: In the event either party commences legal proceedings for the enforcement of this AGREEMENT, the prevailing party shall be entitled to recovery of its attorney’s fees, litigation expenses, and court costs incurred in the action brought thereon. Attorney’s fees and litigation expenses shall include without limitation costs of preparation and discovery and retaining expert witnesses, and such fees and expenses shall be payable whether or not the litigation proceeds to final judgment. “Prevailing party” shall be defined as the party with a net monetary recovery, a defendant in whose favor a dismissal is entered, a defendant where neither plaintiff nor defendant obtains any relief, and a defendant as against those plaintiffs who do not recover any relief against that defendant. When any party recovers other than monetary relief and in situations other than as specified herein, the prevailing party shall be as determined by the court.

17.6 Cumulative Rights and Remedies: Except as otherwise expressly stated in this AGREEMENT, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies.

17.7 Entire AGREEMENT: This AGREEMENT constitutes the entire agreement and understanding between the parties hereto and integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations and/or proposals, oral or written, and all other communications between the parties with respect to the subject matter of this AGREEMENT. All waivers of

the provisions of this AGREEMENT must be in writing and signed by the appropriate authorities of CITY or CHAMBER.

- 17.8 Partial Invalidity: If any provision of this AGREEMENT shall be held invalid, such invalidity shall not affect the other provisions hereof, and to this extent, the provisions of this AGREEMENT are intended to be and shall be deemed severable. The parties shall agree, if reasonably practicable, upon provisions that are equivalent from an economic point of view to replace any provision, which is determined to be invalid.
- 17.9 Consent; Reasonableness: Except as otherwise specifically set forth herein, in the event that either CITY or CHAMBER shall require the consent or approval of the other party in fulfilling any agreement, covenant, provisions, or condition contained in this AGREEMENT, such consent or approval shall not be unreasonably withheld, conditioned, or delayed by the party from whom such consent or approval is sought.
- 17.10 Authority: CHAMBER and it's signator represent that the signator holds the position set forth below his/her signature and that the signator is authorized to execute this AGREEMENT on behalf of CHAMBER and to bind CHAMBER hereto.
- 17.11 Assignment of Contract: This AGREEMENT, or any part thereof, shall not be assigned, hypothecated, sold, alienated or transferred by CHAMBER or by operation of law or otherwise, and will not be recognized to create any liability upon CITY, with the sole exception, and unless the prior written approval of CITY has been obtained.
- 17.12 No Third Party Beneficiaries: Notwithstanding any other provision of this AGREEMENT to the contrary, nothing herein is intended to create any third party beneficiaries to this AGREEMENT, and no person or entity other than CITY, CHAMBER, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this AGREEMENT.
- 17.13 Interpretation/Headings: The headings/captions are for convenience and reference only and are not intended to define or limit the scope of any provision and shall have no effect on the Agreement's interpretation. When required by the context of this AGREEMENT, the singular shall include the plural.

IN WITNESS WHEREOF, the parties hereto have entered into this AGREEMENT on the date first written above.

CITY OF VISALIA

VISALIA CHAMBER OF COMMERCE

By: _____
Steven M. Salomon
City Manager

By: _____
Mike Cully, President/CEO

ATTEST:

City Clerk

APPROVED AS TO FORM:

Attorney for CITY

Risk Manager

EXHIBIT "A"

The work contracted for under this AGREEMENT is intended to generate and enhance tourism and convention attraction in CITY. The work by the Convention and Visitor's Bureau, under the administration of the CHAMBER, shall generally include, but not be limited to:

- **Organizational Matters**

Operate the Bureau as a separate entity known as the Visalia Convention and Visitor's Bureau (VCVB).

Form a separate, non-profit organization before June, 2006 officially establishing the VCVB.

Maintain a separate fiscal accounting for the Bureau and include a financial report in the quarterly reports.

Work with the Management Oversight Committee appointed by the City Council including setting up and meeting with the members on a regular basis, working with the members to set specific goals and objectives based on industry standards, providing members with information as requested, discussing and setting marketing strategies, and providing regular progress reports.

Provide the CITY with specific goals and objectives for the Bureau no later than September 15, 2005, including accountability standards based on accepted industry standards..

Present to the CITY within 6 months from the date of this contract a plan and timeline for the VCVB to manage its own operations within 2 years.

- **Organizational Membership**

Maintain memberships in important and effective organizations that are in the business of tourism and convention attraction following an analysis of the benefits versus the cost effectiveness of doing so. Examples of important industry organizations include, but are not limited to:

- a. Travel Industry of America
- b. California Travel Industry of America
- c. National Tour Association
- d. Central Valley Tourism Association
- e. State Office of Tourism - California Connection
- f. California Society of Association Executives (CSAE)
- g. Society of Government Meeting Planners (SGMP)
- h. Religious Conference Management Association (RCMA)
- i. Hospitality Sales & Marketing Association International (HSMIAI)
- j. Meeting Planners International (MPI)

The benefit derived from the foregoing memberships consists primarily of the ability to generate tour and convention leads through attendance at industry trade shows.

Additionally, in some instances, trade publications are made available exclusively to members. Membership also promotes interaction with people and organizations with similar interests in tourism and convention attraction.

An analysis regarding the benefit of membership in each association shall be included in the annual report including an assessment on whether continued membership is worthwhile.

- **Trade Show Attendance**

Attend important and effective trade and travel shows associated with the business of tourism and convention attraction and following an analysis of the benefits versus the cost effectiveness of doing so and the degree to which the City of Visalia's exposure will be enhanced. It is important that close connection be established with Visalia hotels and the Convention Center. Representatives should be invited and encouraged to participate with the Bureau at each trade show. Examples of important industry trade shows include:

- a. Travel Industry of America International Annual Pow Wow
- b. National Tour Association Annual Meeting
- c. Central Valley Tourism Association Quarterly Meetings
- d. California Connection Tourism Bi-Annual Meetings
- e. California Society of Association Executives (CSEA)
- f. Society of Government Meeting Planners (SGMP)
- g. Hospitality Sales & Marketing Association International (HSMIAI)
- h. Meeting Planners International (MPI)
- i. Religious Conference Management Association (RCMA)
- j. Any other trade show meetings CHAMBER believes will further the purposes of this AGREEMENT.

A report on each tradeshow should be included in each quarterly report and an overall analysis of tradeshow activity should be included in the annual report. The analysis on the benefit of each show should examine the return on investment of each show including the number of leads generated, number of proposals requested and other industry standards.

- **Marketing Trips**

It is important that previous contacts with meeting planners be continued, especially those established with the meeting planners in the Sacramento area. The Bureau staff should generally make at least monthly sales trips to the Sacramento area and should also develop a strategy for developing the southern California market. Visalia hotel and Convention Center staffs should be invited to participate. A review of the success of these trips should be included in the quarterly and annual reports.

- **Brochures and Publications**

Bureau will maintain, enhance and distribute tourism brochures and publications. Copies of new publications should be included in the quarterly and annual report. Said publication include:

- a. Visitors Guide,
- b. Hotel & Restaurant Guide,
- c. General interest/information brochure promoting Visalia and its attractions with information on Sequoia and Kings Canyon National Parks, and continue to print/produce an adequate number of the brochures and publications to distribute to the public and to provide to CITY'S Convention Center and City Manager's Office so that each location may distribute same to the public.

- **Advertisement**

Bureau to continue to advertise in publications that enhance Visalia tourism and convention attraction. An analysis of the benefits versus the cost effectiveness of each ad and the degree to which the City of Visalia's exposure will be enhanced, and copies of the ads, should be included in the quarterly and annual reports.

- **Walk-On/Bus Tours**

Bureau to continue to conduct walk-on tours with bus companies to the extent feasible and to refer these walk-on tours to local, Visalia hotels and attractions. Bureau to focus on attracting large tour company bus tours through attendance at tradeshow, marketing, direct mail/advertising, telemarketing and in cooperation with local Visalia hotels.

- **Convention Servicing**

Bureau to continue servicing conventions including arranging, upon request, for tours, spousal activities, special events, housing, and fulfilling other special requests by the convention organizer.

- **National Park Promotion**

Bureau to maintain contacts with National Parks and feature parks to enhance tourism.

- **Mini-Tours**

Bureau to develop and promote a series of mini-tours such as those described in the Sequoia Regional Visitors Council marketing report.

- **Web Site**

Bureau to establish a dedicated VCVB website separate from the Chamber promoting conventions and tourism and thereafter maintain, enhance and promote the Bureau web site.

- **Tracking System**

Bureau to create system to track tourism, to the best of its ability, in coordination with local hotels, through walk-in traffic, through 1-800 calls and through responses to advertising. The product of Bureau's tracking efforts shall be included in the quarterly and annual progress reports.

- **Visitor Site**

CHAMBER to staff and maintain a Visitor Information Center at their current or any future site, near their common entrance, for the express purpose of receiving and directing visitors to destinations, services, attractions and amenities and to generally promote Visalia. This Visitor Information Center will be open and available during the Chamber's usual and normal business hours.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 11c

Agenda Item Wording: First Reading of Ordinance 2005-10 granting an access easement over property located along the south fork of Mill Creek east of Shirk Street. APN 085-600-043

Deadline for Action: none

Submitting Department: Community Development
and Public Works

Contact Name and Phone Number: David Jacobs – 713-4492

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.

Department Recommendation and Summary: Staff recommends the City Council authorize the first reading of Ordinance 2005-10 granting an access easement to Kaweah Delta Water Conservation District over property located along the south fork of Mill Creek east of Shirk Street.

Kaweah Delta Water Conservation District (KDWCD) has requested an access easement across property offered to the City in an irrevocable offer of Dedication dated August 11, 1987. The offer was later accepted by the City through the Oakwest Subdivision located at the southeast corner of Shirk Street and Hurley Avenue. The requested easement is 25 feet wide and approximately 1880 feet long. The proposed KDWCD access easement is needed to construct and maintain a flow measurement flume in South Mill Creek immediately downstream of the future Preston Street Crossing. The Flume is being constructed as part of a cooperative program between KDWCD and the City for flood control and storm water purposes. KDWCD owns the creek channel where the measurement flume will be located, but needs an easement from the City to provide vehicular access to the flume site.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: none

Alternatives: N/A

Attachments: Ordinance, Location map

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to authorize the first reading of the Ordinance 2005-10 granting an access easement to Kaweah Delta Water Conservation District.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$0	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No x
Review and Action: Prior:
Required:

NEPA Review:

Required? Yes No
Review and Action: Prior:
Required:

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

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

ORDINANCE NO. 2005-10
GRANTING AN EASEMENT TO
KAWEAH DELTA WATER CONSERVATION DISTRICT
BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: The City of Visalia owns all the legal and beneficial interest in certain real property commonly referred to as APN 085-600-043, and

Section 2: Said real property is more particularly and legally described in Exhibit "A" attached hereto and made a part hereof

Section 3: The City Council of the City of Visalia, having considered evidence submitted in oral and written form, finds the granting of an access easement across said real property will not adversely effect the said real property, and

Section 4: The City of Visalia wishes to grant an access easement to Kaweah Delta Water Conservation District on said real property, and

Section 6: This ordinance shall become effective thirty days after passage hereof.

PASSED AND ADOPTED:

Bob Link, Mayor

ATTEST:

APPROVED BY CITY ATTORNEY:

Steven M. Salomon, City Clerk

Daniel M. Dooley

Exhibit A

The South 25 feet of an irrevocable offer of dedication in favor of the City of Visalia, Recorded August 11, 1987 as Document No. 45147 in Book 4601, Page 878, Official Records Tulare County Recorder, accepted by the Map Oakwest Subdivision – Unit No. 5 in the County of Tulare, State of California as per Map recorded in Book 40, Page 28 of Maps, in the office of the County Recorder of said County.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number: 11d(1)

Agenda Item Wording:

Public hearing for:

1. Second Reading of Change of Zone No. 2005-06. A request by Mangano Homes to change the zoning from QP (Quasi-Public) to R-1-6 (Single-Family Residential) on 19 acres. The site is located on the southeast corner of Demaree Street and Ferguson Avenue (APN: 089-020-006) Ordinance No. 2005-08 required.

Deadline for Action: None

Submitting Department: Community Development - Planning

Contact Name and Phone Number: Jason Pausma, Associate Planner (559) 713-4348

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

Recommendation and Summary: Staff recommends that the Council approve the second reading of Change of Zone 2005-06. The City Council held a public hearing on this item on June 20, 2005 and approved the first reading of the zone change along with the accompanying amendment to the General Plan.

If the second reading for this change of zone is approved, approximately 19 acres of QP (Quasi-Public) zoned land will be re-designated to R-1-6 (Single-Family Residential) zoned land. The new designation is proposed to be used for a 73 acre single-family subdivision.

If the change of zone is approved at the second reading, it will become effective 30 days from July 18, 2005.

Committee/Commission Review and Actions:

The Planning Commission held a public hearing on May 23, 2005 and recommended approval of General Plan Amendment No. 2005-05 and Change of Zone No. 2005-06 on a 4-0 vote. During the public hearing, one person spoke to the item. Bob Dowds, the applicant spoke in support of the proposed general plan amendment and change of zone.

Prior Council/Board Actions:

On June 20, 2005 the City Council approved General Plan Amendment No. 2005-05 in conjunction with the first hearing of Change of Zone No. 2005-06.

Alternatives:

None recommended

Attachments:

- Zoning Map
- Ordinance No. 2005-08
- Location Map

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to approve the second reading of Ordinance No. 2005-08, approving Change of Zone No. 2005-06.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue:	\$
Amount Budgeted: \$	Lost Revenue: \$	
New funding required: \$	New Personnel:	\$
Council Policy Change: Yes _____ No _____		

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes

Review and Action: Prior: A Negative Declaration was certified at the first hearing for this change of zone.

Required:

NEPA Review:

Required? No

Review and Action: Prior:

Required:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

ORDINANCE NO. 2005-08

AN ORDINANCE OF THE CITY OF VISALIA, RECOMMENDING APPROVAL OF CHANGE OF ZONE NO. 2005-06, TO CHANGE THE ZONING FROM QP (QUASI PUBLIC) TO R-1-6 (SINGLE-FAMILY RESIDENTIAL) ON APPROXIMATELY 19 ACRES FOR THE DEVELOPMENT OF A SINGLE FAMILY RESIDENTIAL SUBDIVISION.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: The Planning Commission of the City of Visalia has recommended to the City Council Change of Zone No. 2005-06, to change the zoning from QP (Quasi Public) to R-1-6 (Single Family Residential), for the development of a single family residential subdivision for Mangano Homes, on the southeast corner of Ferguson Avenue and Demaree Street APN 089-020-006, City of Visalia.

Section 2: This property and Zoning Map of the City of Visalia is hereby amended to show said property changes.

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

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 11e(1)

Agenda Item Wording: Authorize the Recordation of the Final Map for West Park, Unit No. 1, located at the northeast corner of Akers Street and Visalia Parkway (153 lots) and the Formation of Landscape and Lighting District No. 05-15, West Park No. 1 & 2 (Resolution Nos. 05-94 and 05-95 required).

APN: 119-070-62, 63, 64

Deadline for Action: August 1, 2005

Submitting Department: Community Development & Public Works

Contact Name and Phone Number:

Andrew Benelli 713-4340
Greg Dais 713-4164

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

Department Recommendation and Summary:

Final Map

Staff recommends that City Council approve the recordation of the final map for West Park, Unit No. 1 containing 153 single family residential lots. All bonds, cash payments, subdivision agreement and final map are in the possession of the City as follows: 1) An executed subdivision agreement; 2) Faithful Performance Bond in the amount of \$2,611,116.29 and Labor and Material Bond in the amount of \$1,305,558.15; 3) cash payment of \$357,285.87 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 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.

Landscape & Lighting

Staff recommends that the City Council: adopt Resolution No. 05-94 Initiating Proceedings for Formation of Assessment District No. 05-15, West Park No 1 & 2; adopt the Engineer's Report as submitted; and adopt Resolution No. 05-95 confirming the Engineer's Report, ordering the improvements and levying the annual assessments.

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.

The Landscape and Lighting Act allows for the use of summary proceedings when all the affected property owners have given their written consent. This process waives the requirement for a public hearing since the owners of this development have given their written consent to form this district. This development is planned to be done in several phases.

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 West Park subdivision was approved by the Planning Commission on April 26, 2004. The tentative map will expire on April 26, 2006.

Alternatives: N/A

Attachments: Resolution Initiating Proceedings; Clerk's Certification; Resolution Ordering the Improvements; Exhibits "A", "B", "C", "D"

City Manager Recommendation:

Recommended Motions (and Alternative Motions if expected):

"I move to authorize the recordation of the Final Map for West Park, Unit No. 1 and I move to adopt Resolution No. 05-94 Initiating Proceedings for Formation of Assessment District No. 05-15 "West Park No. 1 & 2 " and adopt Resolution No. 05-95 Ordering the Improvements for Assessment District No. 05-15 "West Park No. 1 & 2."

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No

Review and Action: Prior:
Required:

NEPA Review:

Required? Yes No

Review and Action: Prior:
Required:

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

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

RESOLUTION NO. 05-94

RESOLUTION INITIATING PROCEEDINGS
FOR FORMATION OF
ASSESSMENT DISTRICT 05-15
WEST PARK No. 1 & 2
(Pursuant to Landscape and Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council proposes to form 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 areas, shrub areas, irrigation systems, trees, block walls, pocket parks and any other applicable equipment or improvements.
2. The proposed district shall be designated "Assessment District No. 05-15, City of Visalia, Tulare County, California" and shall include the land shown on the map designated "Assessment Diagram, Assessment District No. 05-15, City of Visalia, Tulare County, California", which is on file with the City Clerk and is hereby approved and known as "West Park No. 1 & 2".
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. 05-15
WEST PARK No. 1 & 2
(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. 05-15, City of Visalia, Tulare County, California" confirmed by the City Council of the City of Visalia on the 18th day of July, 2005 by its Resolution No. 05-94 & 95

This document is certified, and is filed with you, pursuant to Section 22641 of the Streets and Highways Code.

RESOLUTION NO. 05-95

RESOLUTION ORDERING IMPROVEMENTS FOR
ASSESSMENT DISTRICT NO. 05-15
WEST PARK NO. 1 & 2
(Pursuant to the Landscape & Lighting Act of 1972)

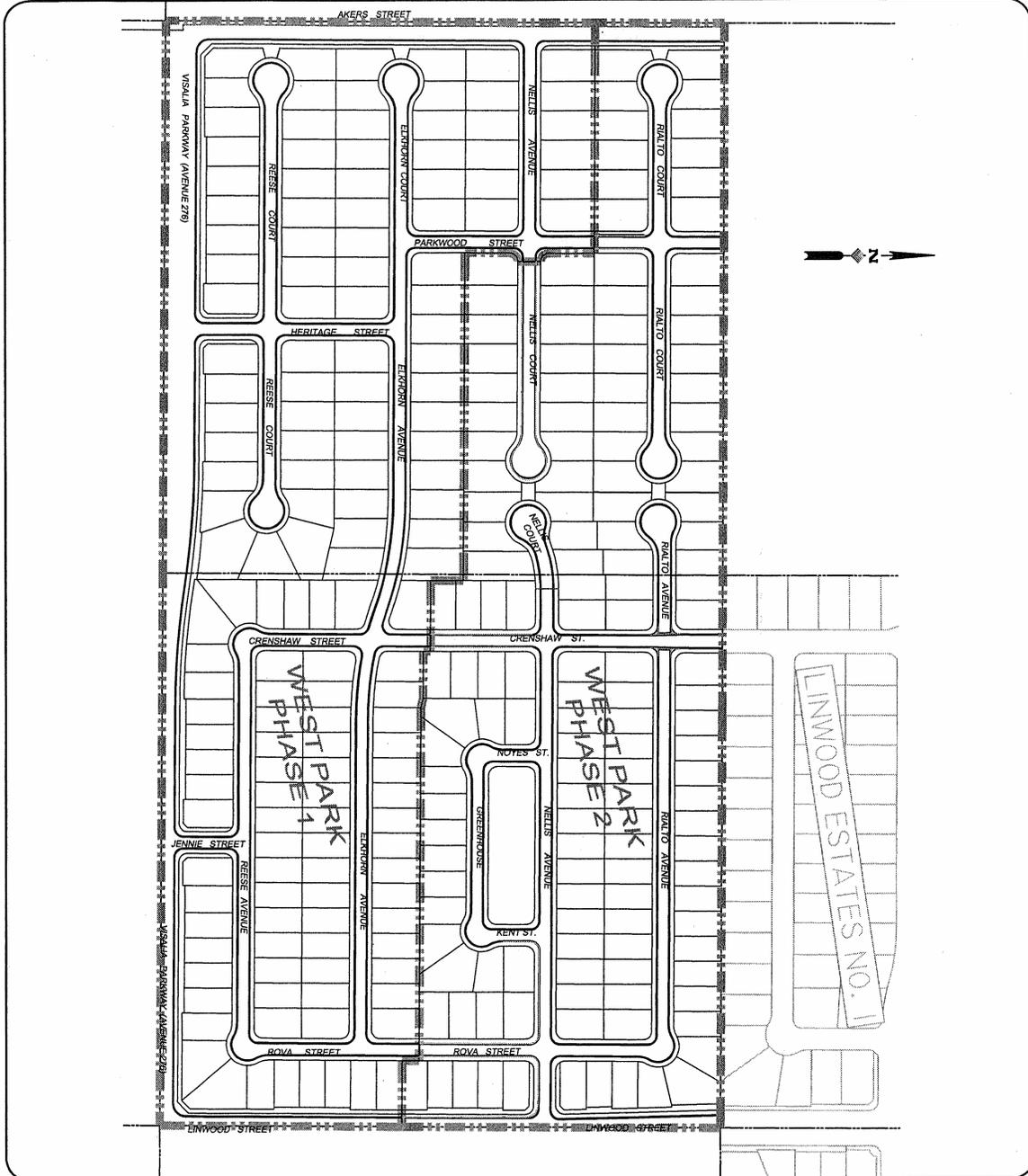
NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council adopted its Resolution Initiating Proceedings for "Assessment District No. 05-15, 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. Owners of all land within the boundaries of the proposed landscape and lighting district have filed their consent to the formation of the proposed district, and to the adoption of the Engineer's Report and the levy of the assessments stated therein.
4. The City Council hereby orders the improvements and the formation of 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 2005-06.
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 "A"

Assessment Diagram Assessment District No. 05-15 City of Visalia, Tulare County, California



PLOT DATE:
JOB NO. 04817
DWG. NAME: 04817-EXHIBIT
SCALE: NONE
SHEET NO.: 1 OF 1

IMPROVEMENT FOR:
CENTEX HOMES

WEST PARK UNIT 1 & 2

PREPARED BY:

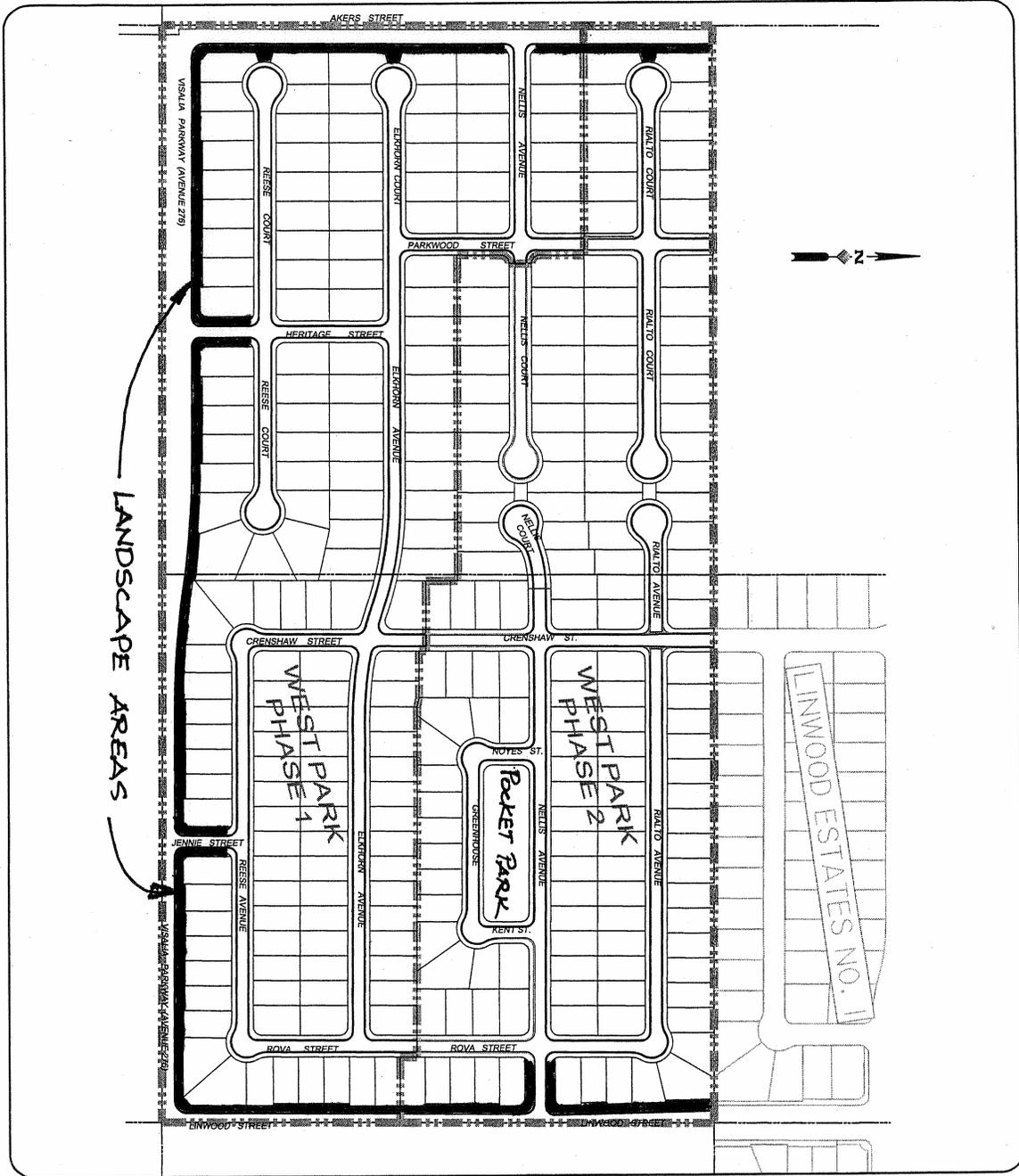
Quad Knopf
5110 W. CYPRESS AVE.
P.O. BOX 3699
VISALIA, CA 93278
TEL: (559) 733-0440
FAX: (559) 733-7821

DRW BY: L.B. CHK BY: D.D.

L:\Projects\2004\04817\VCAD\IMPROVEMENTS\04817-02-03-CP.dwg 3/1/2005 3:40:28 PM PST

Exhibit "B"

Landscape Location Diagram West Park No. 1 & 2



PLOT DATE:
 JOB NO. 04817
 DWG. NAME: 04817-EXHIBIT
 SCALE: NONE
 SHEET NO.: 1 OF 1

IMPROVEMENT FOR:
CENTEX HOMES

WEST PARK UNIT 1 & 2

PREPARED BY:

Quad Knopf
 5110 W. CYPRESS AVE.
 P.O. BOX 3699
 VISALIA, CA 93278
 TEL: (559) 733-0440
 FAX: (559) 733-7821

DRW BY: L.B. CHK BY: D.D.

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Exhibit "C"

Tax Roll Assessment
West Park No. 1 & 2
Fiscal Year 2005-06

<u>APN #</u>	<u>Assessment</u>	<u>Owner</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$221.25	To Be Assigned	05-1501	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1502	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1503	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1504	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1505	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1506	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1507	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1508	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1509	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1510	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1511	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1512	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1513	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1514	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1515	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1516	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1517	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1518	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1519	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1520	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1521	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1522	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1523	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1524	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1525	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1526	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1527	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1528	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1529	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1530	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1531	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1532	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1533	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1534	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1535	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1536	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1537	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1538	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1539	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1540	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1541	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1542	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1543	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1544	West Park No. 1

Exhibit "C"

Tax Roll Assessment
West Park No. 1 & 2
Fiscal Year 2005-06

To Be Assigned	\$221.25	To Be Assigned	05-1590	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1591	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1592	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1593	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1594	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1595	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1596	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1597	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1598	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1599	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15100	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15101	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15102	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15103	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15104	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15105	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15106	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15107	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15108	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15109	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15110	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15111	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15112	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15113	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15114	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15115	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15116	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15117	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15118	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15119	West Park No. 1
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To Be Assigned	\$221.25	To Be Assigned	05-15121	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15122	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15123	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15124	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15125	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15126	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15127	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15128	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15129	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15130	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15131	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15132	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15133	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15134	West Park No. 1

Exhibit "C"

Tax Roll Assessment
West Park No. 1 & 2
Fiscal Year 2005-06

To Be Assigned	\$221.25	To Be Assigned	05-15135	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15136	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15137	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15138	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15139	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15140	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15141	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15142	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15143	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15144	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15145	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15146	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15147	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15148	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15149	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15150	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15151	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15152	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-15153	West Park No. 1
To Be Assigned	\$221.25	To Be Assigned	05-1501	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1502	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1503	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1504	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1505	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1506	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1507	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1508	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1509	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1510	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1511	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1512	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1513	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1514	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1515	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1516	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1517	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1518	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1519	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1520	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1521	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1522	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1523	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1524	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1525	West Park No. 2

Exhibit "C"

Tax Roll Assessment West Park No. 1 & 2 Fiscal Year 2005-06

To Be Assigned	\$221.25	To Be Assigned	05-1526	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1527	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1528	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1529	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1530	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1531	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1532	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1533	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1534	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1535	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1536	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1537	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1538	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1539	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1540	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1541	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1542	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1543	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1544	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1545	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1546	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1547	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1548	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1549	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1550	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1551	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1552	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1553	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1554	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1555	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1556	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1557	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1558	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1559	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1560	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1561	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1562	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1563	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1564	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1565	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1566	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1567	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1568	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1569	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1570	West Park No. 2

Exhibit "C"

Tax Roll Assessment West Park No. 1 & 2 Fiscal Year 2005-06

To Be Assigned	\$221.25	To Be Assigned	05-1571	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1572	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1573	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1574	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1575	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1576	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1577	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1578	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1579	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1580	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1581	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1582	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1583	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1584	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1585	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1586	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1587	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1588	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1589	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1590	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1591	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1592	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1593	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1594	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1595	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1596	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1597	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1598	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-1599	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15100	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15101	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15102	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15103	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15104	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15105	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15106	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15107	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15108	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15109	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15110	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15111	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15112	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15113	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15114	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15115	West Park No. 2

Exhibit "C"

Tax Roll Assessment
West Park No. 1 & 2
Fiscal Year 2005-06

To Be Assigned	\$221.25	To Be Assigned	05-15116	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15117	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15118	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15119	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15120	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15121	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15122	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15123	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15124	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15125	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15126	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15127	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15128	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15129	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15130	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15131	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15132	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15133	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15134	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15135	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15136	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15137	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15138	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15139	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15140	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15141	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15142	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15143	West Park No. 2
To Be Assigned	\$221.25	To Be Assigned	05-15144	West Park No. 2

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-15
West Park No. 1 & 2
Fiscal Year 2005-06

General Description

This Assessment District is located at the northeast corner of Akers Street and Visalia Parkway. Exhibit "A" is a map of Assessment District 05-15. This District includes the maintenance of turf areas, shrub areas, irrigation systems, trees, block walls, pocket parks and any other applicable equipment or improvements. The maintenance of irrigation systems and block walls 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 297.

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 purpose of pocket parks is to offer small open space/recreational venues of a more passive or intimate nature that serves residents within or adjacent to a planned residential development. The maintenance of the landscape areas, street lights, pocket parks 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, pocket parks 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, pocket parks and street lights. The lots not adjacent to landscape areas, block walls, pocket parks 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, pocket parks and any other applicable equipment or improvements.

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-15
West Park No. 1 & 2
Fiscal Year 2005-06

The quantities and estimated costs are as follows:

Description	Unit	Amount	Cost per unit	Total Cost
LANDSCAPE LOTS				
Turf Area	Sq. Ft.	25,470	\$0.180	\$4,584.60
Shrub Area	Sq. Ft.	58,790	\$0.180	\$10,582.20
Trees	Each	301	\$25.00	\$7,525.00
POCKET PARKS				
Turf Area	Sq. Ft.	45,140	\$0.180	\$8,125.20
Shrub Area	Sq. Ft.	730	\$0.180	\$131.40
Trees	Each	53	\$25.00	\$1,325.00
Electricity	Sq. Ft.	130,130	\$0.008	\$1,041.04
Water	Sq. Ft.	130,130	\$0.050	\$6,506.50
Trees In Local Street Parkways	Each	356	\$25.00	\$8,900.00
Street Lights	Each	54	\$105.00	\$5,670.00
Project Management Costs	Lots	297	\$18.00	\$5,346.00
TOTAL				\$59,736.94
10% Reserve Fund				\$5,973.69
GRAND TOTAL				\$65,710.63
COST PER LOT				\$221.25

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:

$$A_{max} \text{ for any given year "n"} = (\$65,710.63) (1.05)^{(n-1)}$$

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.

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-15
West Park No. 1 & 2
Fiscal Year 2005-06

Example 1. The estimated year four cost of maintaining the improvements in the district is \$71,624.59 [a 9% increase over the base year estimated cost of \$65,710.63]. The maximum annual assessment for year four is \$76,068.27 [$A_{\max} = (\$65,710.63)^{(4-1)}$ (1.05)]. The assessment will be set at \$71,624.59 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 \$74,253.01 [a 7% increase over the previous year assessment and a 13.0% increase over the base year estimated cost of \$65,710.63]. 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 \$1,485.06 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 \$76,068.27 [$A_{\max} = (\$65,710.63)^{(4-1)}$ (1.05)]. The year four assessment will be set at \$74,253.01 plus the deficit amount of \$1,485.06 which equals \$75,738.07 [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.

Example 3. The estimated year four cost of maintaining the improvements in the district is \$71,624.59 [a 9% increase over the base year assessment of \$65,710.63] and damage occurred to the masonry wall raising the year five expenses to \$80,166.97 [a 22% increase over the previous year assessment]. The year five assessment will be capped at \$78,787.05 (a 10% increase over the previous year) and below the maximum annual assessment of \$79,871.68 [$A_{\max} = (\$65,710.63)^{(5-1)}$ (1.05)]. The difference of \$1,379.92 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.

Andrew Benelli
Assistant Director Engineering

RCE 50022

Date

City of Visalia Agenda Item Transmittal

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 11e(2)

Agenda Item Wording: Authorize the Recordation of the Final Map for Ashley Grove No. 10, located at the southwest corner of Riggin Avenue and Mooney Blvd. (64 lots) and the Formation of Landscape and Lighting District No. 05-17, Ashley Grove No. 10 (Resolution Nos. 05-96 and 05-97 required).

APN: 089-101-002

Deadline for Action: August 1, 2005

Submitting Department: Community Development & Public Works

Contact Name and Phone Number:

Andrew Benelli, Assistant Director 713-4340
Greg Dais, Assistant Engineer 713-4164

Department Recommendation and Summary:

Final Map

Staff recommends that City Council authorize the recordation of the final map for Ashley Grove No. 10 containing 64 single family lots. All bonds, cash payments, subdivision agreement and final map are in the possession of the City as follows: 1) An executed subdivision agreement; 2) Faithful Performance Bond in the amount of \$523,930.00 and Labor and Material Bond in the amount of \$261,965.00; 3) cash payment of \$121,031.82 distributed to various accounts; and 4) Final Map. The applicant on this project is Sme Builders.

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 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.

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

Landscape & Lighting

Staff recommends that the City Council: adopt Resolution No. 05-96 Initiating Proceedings for Formation of Assessment District No. 05-17, Ashley Grove No. 10; adopt the Engineer’s Report as submitted; and adopt Resolution No. 05-97 confirming the Engineer’s Report, ordering the improvements and levying the annual assessments.

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, trees on local streets and pavement 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.

The Landscape and Lighting Act allows for the use of summary proceedings when all the affected property owners have given their written consent. This process waives the requirement for a public hearing since the owners of this development have given their written consent to form this district. This development is planned to be done in several phases.

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.

On September 7, 2004, Council approved the Street Maintenance Assessment Policy establishing guidelines and processes for placing street maintenance costs into assessment districts.

Committee/Commission Review and Actions: The tentative subdivision map for Ashley Grove No. 10 subdivision was approved by the Planning Commission on January 24, 2005. The tentative map will expire on January 24, 2007.

Alternatives: N/A

Attachments: Resolution Initiating Proceedings; Clerk’s Certification; Resolution Ordering the Improvements; Exhibits “A”, “B”, “C”, “D”

City Manager Recommendation:

Recommended Motions (and Alternative Motions if expected):

“I move to authorize the recordation of the Final Map for Ashley Grove No. 10 and I move to adopt Resolution No. 05-_____ Initiating Proceedings for Formation of Assessment District No. 05-17 “Ashley Grove No. 10” and adopt Resolution No. 05-_____ Ordering the Improvements for Assessment District No. 05-17 “Ashley Grove No. 10.”

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No

Review and Action: Prior:
Required:

NEPA Review:

Required? Yes No

Review and Action: Prior:
Required:

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

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

RESOLUTION NO. 05-96

RESOLUTION INITIATING PROCEEDINGS FOR
ASSESSMENT DISTRICT 05-17
ASHLEY GROVE NO. 10
(Pursuant to Landscape and Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council proposes to form 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 areas, shrub areas, irrigation systems, trees, block walls, pavement on local streets and any other applicable equipment or improvements.
2. The proposed district shall be designated Assessment District No. 05-17, City of Visalia, Tulare County, California, and shall include the land shown on the map designated "Assessment Diagram, Assessment District No. 05-17, City of Visalia, Tulare County, California", which is on file with the City Clerk and is hereby approved and known as "Ashley Grove No. 10-12".
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. 05-17
ASHLEY GROVE NO. 10
(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. 05-17, City of Visalia, Tulare County, California" confirmed by the City Council of the City of Visalia on the 18th day of July, 2005 by its Resolution No. 05-96 & 97

This document is certified, and is filed with you, pursuant to Section 22641 of the Streets and Highways Code.

RESOLUTION NO. 05-97

RESOLUTION ORDERING IMPROVEMENTS FOR
ASSESSMENT DISTRICT NO. 05-17
ASHLEY GROVE NO. 10
(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. 05-17, 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. Owners of all land within the boundaries of the proposed landscape and lighting district have filed their consent to the formation of the proposed district, and to the adoption of the Engineer's Report and the levy of the assessments stated therein.
4. The City Council hereby orders the improvements and the formation of 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 2005-06.
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 Ashley Grove No. 10

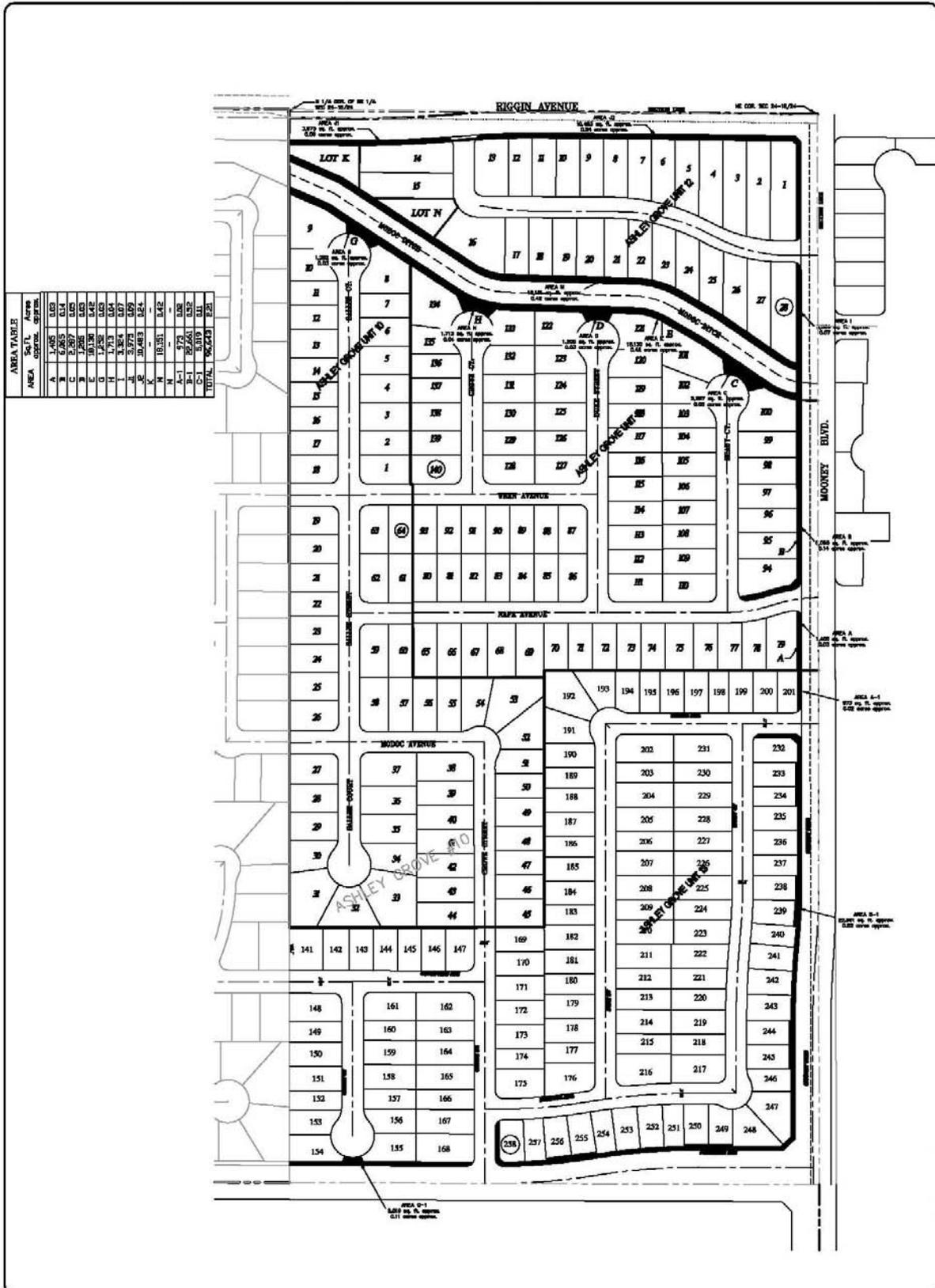


Exhibit "C"

Tax Roll Assessment
Ashley Grove No. 10
Fiscal Year 2005-06

<u>APN #</u>		<u>Owner</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$336.65	To Be Assigned	05-1701	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1702	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1703	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1704	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1705	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1706	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1707	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1708	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1709	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1710	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1711	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1712	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1713	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1714	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1715	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1716	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1717	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1718	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1719	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1720	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1721	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1722	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1723	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1724	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1725	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1726	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1727	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1728	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1729	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1730	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1731	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1732	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1733	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1734	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1735	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1736	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1737	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1738	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1739	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1740	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1741	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1742	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1743	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1744	Ashley Grove No. 10

Exhibit "C"

Tax Roll Assessment
Ashley Grove No. 10
Fiscal Year 2005-06

To Be Assigned	\$336.65	To Be Assigned	05-1745	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1746	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1747	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1748	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1749	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1750	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1751	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1752	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1753	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1754	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1755	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1756	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1757	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1758	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1759	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1760	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1761	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1762	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1763	Ashley Grove No. 10
To Be Assigned	\$336.65	To Be Assigned	05-1764	Ashley Grove No. 10

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-17
Ashley Grove No. 10
Fiscal Year 2005-06

General Description

This Assessment District (District) is located at the southwest corner of Riggan Avenue and Mooney Blvd. Exhibit "A" is a map of Assessment District 05-17. This District includes the maintenance of turf areas, shrub areas, irrigation systems, trees, block walls, pavement on local streets 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 maintenance of pavement on local streets includes preventative maintenance by means including, but not limited to overlays, chip seals/crack seals and reclamite (oiling). The total number lots within the district are 297.

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 and to concurrently have an adequate funding source for the maintenance of all internal local streets within the subdivision, the City Council has determined that landscape areas, street lights, block walls and all internal local streets 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, street lights and pocket parks. The lots not adjacent to landscape areas, block walls and street lights benefit by the uniform maintenance and overall appearance of the District. All lots in the District have frontage on an internal local street and therefore derive a direct benefit from the maintenance of the local streets.

Estimated Costs

The estimated costs to maintain the District includes the costs to maintain turf areas, shrub areas, irrigation systems, trees, block walls, pavement on local streets and any other applicable equipment or improvements. The regular preventive maintenance of pavement on local streets is based on the following schedule: Chip Seal on a 15 year cycle; Overlays on a 10 year cycle; Crack Seal on an 8 year cycle and Reclamite on a 6 year cycle.

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-17
Ashley Grove No. 10
Fiscal Year 2005-06

The estimated quantities and estimated costs are as follows:

<u>Description</u>	<u>Unit</u>	<u>Estimated Amount</u>	<u>Cost per unit</u>	<u>Total Cost</u>
Turf Area and Shrub Area	Sq. Ft.	116,790	\$0.180	\$21,022.20
Shrub Area	Sq. Ft.	0	\$0.180	\$0.00
Water	Sq. Ft.	116,790	\$0.050	\$5,839.50
Electricity	Sq. Ft.	116,790	\$0.008	\$934.32
Trees In Landscape Lots	Each	295	\$25.00	\$7,375.00
Trees In Local Street Parkways	Each	355	\$25.00	\$8,875.00
Street Lights	Each	60	\$105.00	\$6,300.00
Chip Seal (15 year cycle)	Sq. Ft.	317,503	\$0.190	\$4,021.70
Crack Seal (8 year cycle)	Sq. Ft.	317,503	\$0.02933	\$1,164.16
Reclamite (6 year cycle)	Sq. Ft.	317,503	\$0.0211110	\$1,117.13
Overlays (10 year cycle)	Sq. Ft.	317,503	\$0.65	\$20,637.70
Project Management Costs	Lots	297	\$18.00	\$5,346.00
TOTAL				\$82,632.72
10% Reserve Fund				\$8,263.27
10% for estimated quantities				\$9,089.60
GRAND TOTAL				\$99,985.59
COST PER LOT				\$336.65

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:

$$A_{max} \text{ for any given year "n"} = (\$99,985.59) (1.05)^{(n-1)}$$

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.

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 05-17
Ashley Grove No. 10
Fiscal Year 2005-06

Example 1. The estimated year four cost of maintaining the improvements in the district is \$108,984.29 [a 9% increase over the base year estimated cost of \$99,985.59]. The maximum annual assessment for year four is \$115,745.82 [$A_{\max} =$
 $(4-1)$
 $(\$99,985.59) (1.05)$]. The assessment will be set at \$108,984.29 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 \$112,983.72 [a 7% increase over the previous year assessment and a 13.0% increase over the base year estimated cost of \$99,985.59]. 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 \$2,259.67 will restore the reserve fund to a level of 10%. This amount is recognized as a deficit. The maximum
 $(4-1)$
annual assessment for year four is \$115,745.82 [$A_{\max} = (\$99,985.59) (1.05)$]. The year four assessment will be set at \$112,983.72 plus the deficit amount of \$2,259.67 which equals \$113,026.85 [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.

Example 3. The estimated year four cost of maintaining the improvements in the district is \$108,984.29 [a 9% increase over the base year assessment of \$99,985.59] and damage occurred to the masonry wall raising the year five expenses to \$121,982.42 [a 22% increase over the previous year assessment]. The year five assessment will be capped at \$119,882.72 (a 10% increase over the previous year) and below the maximum annual assessment of \$121,533.11 [$A_{\max} =$
 $(5-1)$
 $(\$99,985.59) (1.05)$]. The difference of \$2,099.70 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.

Andrew Benelli
Assistant Director Engineering

RCE 50022

Date

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 11f(1)

Agenda Item Wording: Authorize the Recordation of the Final Maps for Silver Oaks Unit #2,(92 lots) and Silver Oaks Unit #3(85 lots) located at the Southwest corner of Demaree Street and Ferguson Ave.

Deadline for Action: July 18, 2005

Submitting Department: Community Development & Public Works

Contact Name and Phone Number:

Andrew Benelli 713-4340
Peter Spiro 713-4256

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

Department Recommendation and Summary:

Final Map

Staff recommends that City Council authorize the recordation of the final map for Silver Oaks Unit #2 containing 92 Lots and Silver Oaks Unit #3 containing 82 Lots. All bonds, cash payments, subdivision agreement and final map are in the possession of the City as follows: 1) An executed subdivision agreements. 2) Faithful Performance Bond in the amount of \$749,401.88 and Labor/Material Bond in the amount of \$374,700.94 for Unit #2, and Faithful Performance Bond in the amount of \$894,792.48 and Labor/Material Bond in the amount of \$447,396.24 for Unit #3. 3) cash payment for Unit #2 of the amount of \$160,337.73, and cash payment for Unit #3 of the amount of \$170,869.90 distributed to various accounts, and 4) Final Maps. Unit # 2 is owned and being developed by Mangano Homes, while Unit # 3 is owned and being developed by Reynen & Bardis Communities.

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 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.

Landscape & Lighting

On June 20 2004, Council approved the formation of the Landscaping and Lighting district No. 05-16 Silver Oaks, that covered the Silver Oaks Subdivision with all its Units. Hence, Staff determined that there is no need for any annexation procedures.

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, trees on local streets and pavement 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.

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.

On September 7, 2004, Council approved the Street Maintenance Assessment Policy establishing guidelines and processes for placing street maintenance costs into assessment districts.

Committee/Commission Review and Actions: The tentative subdivision map for Silver Oaks subdivision was approved by the Planning Commission on September 07, 2004. The tentative map will expire on September 07, 2006.

Alternatives: N/A

Attachments: N/A

City Manager Recommendation:

Recommended Motions (and Alternative Motions if expected):

“I move to authorize the recordation of the Final Map for Silver Oaks Unit #2 and the Final Map for Silver Oaks Unit #3.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No

Review and Action: Prior:
Required:

NEPA Review:

Required? Yes No

Review and Action: Prior:
Required:

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

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

City of Visalia
Agenda Item Transmittal

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 11g

Agenda Item Wording: Intention to Form Open Space District No. 89, Riverwood Subdivision (257 lots), located at the northeast corner of Mineral King Ave and McAuliff Street, APN:103-130-039, setting August 1, 2005, as the date of protest hearing. Resolution No. 2005-98 required.

Deadline for Action: July 18, 2005

Submitting Department: Community Development Department

Contact Name and Phone Number:

Andrew Benelli 713- 4340
Peter Spiro 713-4256

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

Department Recommendation and Summary: That the City Council adopt Resolution No. 2005-98, stating the intent to form Open Space District No. 89 Riverwood Subdivision (257 lots), located at the northeast corner of Mineral King Ave and McAuliff Street, APN:103-130-039, setting August 1, 2005, as the date of protest hearing. The property is owned and being developed by Centex Homes.

Discussion: In 1988 City Council adopted an update to the original 1979 Northeast Area Specific Plan. The specific plan lays the groundwork for required public improvements specific to the Northeast area and the maintenance thereof. The improvements consist of sidewalks/bike paths, center medians, frontage landscaping and decorative block walls. Policies 5 and 6 of Goal 5 of the specific plan speak to the issue of formation of maintenance districts and collection of fees for all development in the Northeast Plan area.

The Planning Commission has approved Tentative Subdivision Map No. 5466, for the property located at the northeast corner of Mineral King Ave and McAuliff Street. This property is a mix of single and multi-family project and is owned by one owner. One of the conditions of the tentative parcel map requires the formation of an open space maintenance district for the maintenance of amenities within the Northeast Specific Plan area. As noted above, the Specific Plan requires open space maintenance districts to be established for the purpose of maintaining amenities such as landscaping along public streets, walkways, crosswalks, parking areas, drainage facilities, parkways, lighting, and sprinkler systems. The owner of the property has petitioned the City to form the open space maintenance district.

The resolution of intention is the first step in the formation of a special district. If adopted, a hearing would be held on August 1, 2005 after which the Council may adopt a resolution forming the district.

Prior Council/Board Actions: None

This document last revised 7/15/05 9:37 AM
By author: Peter Spiro

Committee/Commission Review and Actions: Planning Commission approved Riverwood Tentative subdivision map #5466 on November 22,2004.

Attachments: Resolution, Location Sketch and owner's petition

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected) That the City Council adopt Resolution No. 2005-98, stating the intent to form Open Space District No. 89, Riverwood subdivision and setting August 1, 2005, as the date of protest hearing.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue:\$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review: Categorically Exempt

Required?

Review and Action: Prior:
Required:

NEPA Review:

Required?

Review and Action: Prior:
Required:

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

April 19, 2004 will be the date of the protest hearing for this item.

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

RESOLUTION NO. 2005-98

A RESOLUTION OF THE VISALIA CITY COUNCIL
A RESOLUTION OF INTENTION TO FORM
OPEN SPACE DISTRICT NO. 89
RIVERWOOD SUBDIVISION ,APN#103-130-039

BE IT RESOLVED by the City Council in the City of Visalia, California, that:

1. In its opinion, the public interest and convenience require, and it is the intention of said Council to order the formation of a maintenance district in a portion of said City, pursuant to Title 12. Chapter 12.40 of the Ordinance Code of the City of Visalia, to be designated "Open Space District No. 89", by which name it shall hereafter be referred to and all subsequent proceedings, including the proceedings for the levy and collection of charges.
2. Said maintenance district, and the boundaries thereof, benefited and to be assessed for the maintenance and operation of improvements hereinafter referred to, are situated in the Northeast Specific Plan Area, City of Visalia, County of Tulare, State of California, and are particularly described on the attached map , and by this reference incorporated herein.
3. It is ordered that the expense of maintaining and operating parks and parkways, and appurtenance thereto, including, but not limited to, walkways, crosswalks, steps, safety zones, parking areas, platforms, seats, statuary, fountains, certain fencing, drainage facilities; poles, posts, wire, lights, conduits, tunnels, ramps and other suitable or necessary appliances for the purposed of lighting said places or public ways; water mains or sprinkler systems; and ornamental planning including lawns, shrubs and trees, all as now exist or may hereafter be constructed in or for said Maintenance District, and a benefit to said Maintenance District but not to benefit the City of Visalia as a whole, including the cost of necessary repairs, replacements, fuel, power, electric current, care, supervision and any and all other items necessary for the proper maintenance and operation thereof, shall be charged to the owners of residential units within said Maintenance District above described, which district said Council hereby determined will be a district benefited by the maintenance and operation of said improvements and that the amounts so charged are to be collected through billing by the City or with property taxes collected by the County of Tulare.
4. Such maintenance shall include all special landscaped areas including the road median and other special landscaped areas. At this time, the cost to the district per parcel per month is not established. The cost shall be established and adopted by separate resolution.
5. The City Clerk is hereby directed to be caused to be mailed notice of the adoption of this resolution, postage prepaid to all persons owning real property and/or residential units which will be within said proposed Maintenance district whose names and addresses appear on the last equalized County Assessor's role, including the role of State assessed property, (or as known to the Clerk, said mailing to be completed at least 10 days prior to the date set for the hearing).

6. Notice is hereby given that Monday, August 01, 2005, at the hour of 7:00 p.m., in the regular meeting place of the City Council, City Hall Council Chambers, 707 W. Acequia Ave., Visalia, California, are hereby fixed as time and place when and where and all persons having any objection to the formation of said Open Space District No. 89, or to the extent of said Maintenance District, or both, may appear before said Council and show cause why the formation of said proposed Maintenance District should not be carried out in accordance with this resolution of intention.

Open Space District No. 89, being a division of parcel 1 of lot line adjustment No. 2004-34, with the city planner's approval decision recorded January 31, 2005, as Doc.No. 2005-0009997, T.C.R., situated in the southeast quarter of Section 27, Township 18 South, Range 25 East, M.D.B. & M.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 11h

Agenda Item Wording: Authorization to enter into a contract with BJ Perch Construction, Inc. for Construction Manager at Risk services for the Northwest Fire Station and Training Facility

Deadline for Action: July 18, 2005

Submitting Department: Finance and Fire

Contact Name and Phone Number:

Gus Aiello, 713-4423
Doyle Sewell, 713-4486

For action by:

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

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
 - Consent Calendar
 - Regular Item
 - Public Hearing

Est. Time (Min.): ____

Department Recommendation:

That City Council awards a contract to BJ Perch Construction, Inc. for construction manager at risk services for the Northwest Fire Station and Training Facility.

Summary:

Years 1 and 2 of the Measure T plan include the acquisition of land and construction of a Fire Station and Training Facility in the Northwest area of Visalia. The total estimated cost to complete the project is \$4,918,921. Of this amount, \$1,672,433 is funded from Measure T and \$3,246,488 is funded from Fire impact fees.

The City has acquired 5 acres of land on the corner of Shirk Avenue and the future Ferguson Avenue. The next step is to design and construct the facility. At Council's request, City staff issued a Request for Qualifications (RFQ) for construction manager at risk services. Six firms responded to the RFQ and City staff is recommending a contract with BJ Perch Construction, Inc. to manage the Northwest Fire Station and Training Facility project.

Discussion:

On April 4, 2005, Council approved pursuing using a construction manager (CM) at risk concept to manage the Northwest Fire Station and Training Facility. The CM at risk method is beneficial because the facility has not been designed and the CM firm can manage the project from design through construction and close out. The construction manager works with the City to develop an agreed-upon design and then provides the City with a guaranteed maximum price (GMP) to deliver the Fire Station and Training Facility. The City has the option to accept the GMP, negotiate it, or pursue a traditional bidding method whereby the City would solicit bids using the completed plans. If the latter is chosen, the City would be required to pay the CM firm's design fee of \$34,000.00, plus any design firm costs.

A Request for Qualifications was issued to interested firms and six (6) responses were received on May 27th. The firms that submitted responses were (in alphabetical order):

- ABS Consulting, Inc. in association with Willdan and O'Connor Construction Management
- Bernards Builders
- BJ Perch Construction, Inc. in association with CM Construction Services
- Kitchell
- SC Anderson, Inc.
- Seals/Biehle General Contractors

A review committee consisting of City staff from Administration, Buildings Department, Finance and Fire interviewed all six firms. Although all six were qualified to manage the project, the list was reduced to three for further discussion. After conducting further interviews with the three finalists, staff recommends awarding a contract to BJ Perch Construction, Inc. In the final analysis, the interview panel felt that BJ Perch Construction in association with CM Construction Services will best be able to work cooperatively with City staff to deliver a quality design, resulting in a quality finished product.

Some of the highlights of the proposal presented by BJ/CM include:

- The City as a partner throughout the entire project and being consulted on major decisions such as the choice of a design team. City staff will participate in the selection and interview process of a design team and will work with BJ/CM and the chosen design firm to ensure all the project needs are met.
- All bids will be open publicly to ensure trade awards are made to the lowest responsive bidders.
- The BJ/CM team brings a proven background in both design and construction management.

Upon execution of a contract, BJ/CM will contract with a designer approved by City staff. After a plan has been completed, BJ/CM and the City will negotiate a GMP to complete the project.

Major Deal Points:

The City of Visalia has never used a construction manager at risk delivery method. Perhaps one of the most important issues in using this method is the manner in which the contract is structured. For the Northwest Fire Station project, the contract will include the following deal points:

- Single source contract; the City enters into one agreement with BJ Perch Construction, Inc.
- BJ Perch Construction, Inc. holds and manages all design, consultant and trade contracts
- The City has the ability to direct and participate in the design and design firm selection in conjunction with BJ/CM by participating in the interview process and attending meetings with BJ/CM and the design firm to communicate all the needs of Fire Department
- All trade bids are publicly bid and opened to ensure the City concurs with its purchasing policy, which relies on the lowest responsible bidder

- Upon completion of a design, a negotiated guaranteed maximum price will be agreed upon to complete the project
- An “open book policy” whereby the City has access to all costs detail to ensure we are getting the most competitive pricing
- All project costs are auditable by City staff
- Either party may cancel the contract with a 30 day notice

The stipulations noted above provide the opportunity for City staff to play an integral role in the design and be directly involved in overall project, without having to manage the design or construction contracts. City staff is confident in the ability of BJ Perch Construction, Inc. in association with CM Construction Services to deliver a top quality Fire Station and Training Facility within budget.

If, at the end of the design phase, the City prefers to use the traditional City bidding process, all work products resulting from the design will be owned by the City for a fee of \$34,000.00 plus agreed upon design firm expenses. The fee quoted by BJ/CM to deliver a complete set of construction documents includes the following services:

Preconstruction Services

- Site plan review
- Value analysis
- Construability review
- Drawing coordination
- Material selection
- Scheduling services
- Professional liability insurance

Cost Estimating Services

- Three (3) detailed estimates of schematic design, design development and construction documents

Prior Council/Board Actions:

April 4, 2005 – Council approval for Staff to pursue an alternative delivery method such as construction manager at risk concept for the development of the Northwest Fire Station.

Committee/Commission Review and Actions:

Alternatives:

Staff can issue a Request for Proposals (RFP) for design services, then another RFP for a construction manager.

Attachments:

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

That the City Council awards a contract to BJ Perch Construction, Inc. for construction manager at risk services for the Northwest Fire Station and Training Facility.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes____ No____	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No

Review and Action: Prior:
Required:

NEPA Review:

Required? Yes No

Review and Action: Prior:
Required:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

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: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 11i

Agenda Item Wording: Approve Resolution Number 2005-99 authorizing the State Board of Equalization to release sales tax revenue data to MBIA in order to audit the City of Visalia District Tax (Measure T).

Deadline for Action: None

Submitting Department: Administration - Finance

Contact Name and Phone Number:

Gus Aiello 713-4423

For action by:

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

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
 - Consent Calendar
 - Regular Item
 - Public Hearing

Est. Time (Min.): ____

Recommendation:

Staff recommends that Council approve Resolution 2005-99 authorizing the State Board of Equalization (SBE) to release sales tax revenue data to MBIA in order to audit the City of Visalia's District Tax (Measure T). This would allow MBIA to audit the revenues to ensure proper allocation to the City of Visalia.

Summary & Discussion:

The City currently contracts the services of MBIA to audit the sales and use tax revenue passed through from the SBE to the City. With the passage of the 0.25% Measure T district tax, there is potential that revenue may be recovered from business that may not be reporting the correct amount of tax or allocating the tax incorrectly. Staff is recommending that the audit services be expanded to include the Measure T sales tax revenues. The resolution is required by the SBE in order for the SBE to release the sales tax data to MBIA for audit.

MBIA will audit the Measure T district tax in conjunction with the City's regular sales and use tax audit service. The fee for their service is a contingent basis whereby MBIA would charge 25% of the "found" revenue for three quarters prior to correcting a found discrepancy and six quarters following the finding, similar to the City's current agreement with MBIA to audit the Bradley Burns (0.95%) local portion of the sales tax revenues.

MBIA has been successful in the past, locating several businesses whose sales tax payments were misallocated. Although the fee for the service is relatively high at 25%, these are revenues that would have otherwise been lost. Further, SBE will only allow corrections to go back three (3) quarters. Therefore, if the corrections are not made promptly, any misallocated revenues are lost forever.

Prior Council/Board Actions:

Approved Resolution 88-54 Authorizing MMRC, formerly MRC, to provide Sales Tax Audit and Information Services.

Committee/Commission Review and Actions:

Alternatives:

Attachments:
Resolution 2005-__.

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):
Move to Approve Resolution Number 2005-99 authorizing the State Board of Equalization to release sales tax revenue data to MBIA in order to audit the City of Visalia District Tax (Measure T).

Financial Impact

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

Budget Recap:

Total Estimated cost: \$	New Revenue:	\$
Amount Budgeted: \$	Lost Revenue:\$	
New funding required:\$	New Personnel:	\$
Council Policy Change: Yes_____ No_____		

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:
Required? Yes No
Review and Action: Prior:
 Required:

NEPA Review:
Required? Yes No
Review and Action: Prior:
 Required:

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

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

RESOLUTION NO. 2005-99

A Resolution Authorizing the Examination of Transactions (Sales) and Use Tax Records

WHEREAS, pursuant to Ordinance No. 3.24 of the City of Visalia and Section 7270 of the Revenue and Taxation Code, the City entered into a contract with the State Board of Equalization to perform all functions incident to the administration and operation of the Transactions and Use Tax Ordinance; and

WHEREAS, the City deems it desirable and necessary for authorized representatives of the City to examine confidential transactions and use tax records of the State Board of Equalization pertaining to transactions and use taxes collected by the Board for the District pursuant to that contract; and

WHEREAS, Section 7056 of the Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Board of Equalization records and establishes criminal penalties for the unlawful disclosure of information contained in or derived from, the transactions and use tax records of the Board;

NOW, THEREFORE IT IS RESOLVED AND ORDERED AS FOLLOWS:

Section 1. That the City Manager or an officer or employee of the City of Visalia designated in writing by the City of Visalia City Council to the State Board of Equalization is hereby appointed to represent the City with authority to examine transactions and use tax records of the Board pertaining to transactions and use taxes collected for the City by the Board pursuant to the contract between the City and the Board. The information obtained by examination of Board records shall be used only for purposes related to the collection of the City's transactions and use taxes by the Board pursuant to the contract.

***Section 2.** That the (District's Responsible Officer) or other officer or employee of the District designated in writing by the (Legislative Authority of the District) to the Board of Equalization is hereby appointed to represent the District with authority to examine those transactions and use tax records of the Board for purposes related to the following governmental functions of the District:

- a) Review of sales tax records to ensure proper allocation and remittance to the District.
- b) Economic development
- c) Other governmental functions as required by the District

The information obtained by examination of Board records shall be used only for those governmental functions of the District listed above.

***Section 3.** That MBIA MuniServices Company is hereby designated to examine the transactions and use tax records of the Board of Equalization pertaining to transactions and use taxes collected for the District by the Board. The person or entity designated by this section meets all of the following conditions:

- a) has an existing contract with the District to examine those transactions and use tax records;
- b) is required by that contract to disclose information contained in, or derived from those transactions and use tax records only to the officer or employee authorized under Section 1 (or Section 2) of this resolution to examine the information;
- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;
- d) is prohibited by that contract from retaining the information contained in, or derived from those transactions and use tax records after that contract has expired.

***Section 4.** That this resolution supersedes all prior resolutions of the _____ (*District*) adopted pursuant to subdivision (b) of Revenue and Taxation Section 7056.

* Include in resolution only if applicable.

BE IT FURTHER RESOLVED that the information obtained by examination of Board records shall be used only for purposes related to the collection of District's transactions and use taxes by the Board pursuant to the contracts between the District and Board.

Introduced, approved and adopted this _____ day of _____, 200__.

(Name & Title)

(Attest)

(Signature)

(Date)

City of Visalia Agenda Item Transmittal

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 11j

Agenda Item Wording:

Request for sewer service to proposed residential subdivision to be located on the site now occupied by Sierra View Golf Course on the east side of Road 124 at Avenue 264 (Liberty Avenue).

Deadline for Action:

July 18, 2005

Submitting Department:

Community Development and Public Works

Contact Name and Phone Number

Andrew Benelli, Asst. Dir. Comm. Dev. / Public Works 713-4340
Michael Olmos, Dir. Comm. Div. / Public Works 713-4332

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 15 Min.

Department Recommendation and Summary:

Staff recommends that Council authorize staff to negotiate an agreement with Mangano Homes to provide sewer service for the development of the Sierra View Golf Course site into a residential neighborhood. Upon completion of the negotiations, the item will be brought back to Council to request authorization to execute the agreement.

The City Manager has received a request from Mangano Homes asking the City of Visalia to provide sewer service to a proposed residential subdivision that will be located at the site now developed as Sierra View Golf Course. The golf course is located south of Visalia on the east side of Road 124 near Liberty Avenue (Avenue 264). A map showing the location of the proposed subdivision is attached to this report. Mangano Homes is proposing removing the golf course and dividing the property into 148 new parcels. The lots will be approximately one-half acre in size, except that five lots along Road 124 will be over one acre. They are also requesting that the forty existing homes be allowed to connect to the City system. A copy of letter requesting service is attached to this report (the letter is from John Dutton, with Provost and Prichard, on behalf of Mangano Homes).

The site of the proposed development is outside of the City's 165,000 Urban Development Boundary and is partially outside of the City's Urban Area Boundary. The Urban Area Boundary follows the Avenue 264 alignment which bisects the development. The property is zoned PD-RA (Planned Development – Rural Residential) in Tulare County's General Plan. The minimum lot size in PD-RA zoning is 12,500 square feet. The County generally requires lots this size to have a community water and sewer system. Larger lots could be developed with individual septic systems. The developer has indicated that they can get water service from California Water Company. The Tentative Subdivision Map will have to be approved by Tulare County before the project can move forward.

Mangano Homes is proposing construction of a pipeline, including a force main and lift station, from the subdivision to connect to the City's trunk line in Visalia Parkway. The Visalia Parkway trunk line is currently under construction and should be completed by fall 2005. The City's Sewer System Master Plan does not provide for service in the area of Sierra View Golf Course. The southern boundary of planned sewer service is Avenue 272. Additional analysis is needed to determine if the collection system has excess capacity available to serve this area. If capacity is not available, the service area for this trunk line could be modified to add this area by eliminating a comparable area that was planned to be served. It may be possible to shift an area that was planned to be served by the Visalia Parkway Trunk Line to a trunk line that has excess capacity.

The request also includes City operation and maintenance services for the collection system, the lift station, and the force main. Staff will require an analysis to determine if the maintenance costs would be higher than the costs within the City because of the lift station maintenance and because of the remote location. If costs are higher, staff will recommend that the future residents pay a sewer service rate to fund these costs.

Recently the City of Visalia opposed a rural residential subdivision on unincorporated land located on the west side of Ben Maddox Street, north of the St. John's River (Baker Project). The Baker site is located within the City's 165,000 UDB. Despite the City's objection, the Board of Supervisors approved the Baker project, primarily due to the existing rural residential zoning. It is likely that the County will approve the Sierra View project for similar reasons. The provision of sewer service to the project will enable the City to negotiate conditions on the project to benefit communitywide planning efforts to the extent possible.

Recommendation:

Staff recommends that the City Council authorize staff to negotiate sewer service for this project. If authorized, staff will negotiate with the developer on several issues, including the following:

1. Encourage a housing mix that increases density and makes more efficient use of the site.
2. Negotiate installation of gravity flow lines where authorized by the Sewer Master Plan.
3. Execution of irrevocable consent to annex Agreements as a condition of sewer service.
4. The developer to fund a study to establish a fair monthly sewer rate that includes lift station maintenance costs.
5. The developer to fund a study to determine if excess capacity is available in the Visalia Parkway Trunk Line.

If negotiations are successfully concluded, staff will return the matter to Council with a request to authorize execution of the agreement.

Prior Council/Board Actions:

N/A

Committee/Commission Review and Actions:

N/A

Alternatives:

Deny the request for sewer service.

Attachments:

- Exhibit A, Letter from Provost & Pritchard
- Exhibit B, Project Location Map
- City of Visalia, Sewer System Master Plan, Page 5-11
- Urban Area Boundary Map

Recommended Action: Move to authorize staff to negotiate an agreement with Mangano Homes for the City to provide sewer service to the proposed subdivision at Sierra View Golf Course.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost:	\$0	New Revenue:	\$
Amount Budgeted:	\$0	Lost Revenue:	\$
New funding required:	\$0	New Personnel:	\$
Council Policy Change:	___ No___		

Environmental Assessment Status

CEQA Review:

Required? Yes No

Review and Action: Prior:
Required:

NEPA Review:

Required? Yes No

Review and Action: Prior:
Required:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 11k

Agenda Item Wording:

Selection of the urban design firm Moule & Polyzoides as the most qualified consultant for the preparation of a Southeast Area Master Plan, and authorize negotiation of a contract for services.

Deadline for Action: None

Submitting Department: Community Development – Planning

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

Contact Name and Phone Number:

Paul Scheibel, Principal Planner (559) 713-4369.

Michael Olmos, Director of Community Development and Public Works (559) 713-4332.

Southeast Area Master Plan Task Force Recommendation and Summary:

The Southeast Area Master Plan Task Force (Task Force) recommends that the City Council direct the City Manager to enter into negotiations with the firm of Moule & Polyzoides for a consulting services contract to prepare the Southeast Area Master Plan for the City of Visalia. Staff further recommends that Council authorize the negotiations to include the expansion of the study area to include the approximately 950-acre area located east of Lovers Lane, between K Street and the Avenue 272 alignment to the eastern boundary of the 129,000 Urban Development Boundary (UDB).

The Task Force concluded the process of selecting a preferred consultant on July 11, 2005, with the unanimous recommendation of the Moule & Polyzoides Planning consulting firm of Pasadena California. The Task Force selected this firm over the other three similarly qualified candidates on the basis of its demonstrated expertise in translating the emerging development concepts of “New Urbanism” and “form-based” zoning into highly successful built projects in numerous locations in the Central Valley, the State of California, and the United States.

Moule & Polyzoides’ work program includes background studies, EIR preparation, an interactive community outreach process (charrette), design and document preparations, and an implementation framework. The consultant’s work program cost estimate is \$673,200.

Background

The Task Force was formed by direction of the City Council on October 18, 2004. Task Force is comprised of City Council members Deissler and Kirkpatrick, and Planning Commission members Logan and Thompson, representatives of the Visalia Unified School District and the development community, the project area property owners (including Kaweah Delta Health Care District). The Task Force is assisted by a comprehensive team of City staff agencies, including Engineering, Traffic, Utilities, Parks and Recreation, Building and Safety, and Planning.

The Southeast Area Master Plan project area comprises 850 acres generally bounded by Caldwell Avenue, Lovers Lane, Avenue 272, and Santa Fe Street. The area is outside of the current City limits, but is within the City’s 129,000 Urban Development Boundary. The area is

sparsely inhabited, and is used primarily for farming. The area is generally level, and has several watercourses and native valley oak tree groves extending from the northeast to the southwest.

The conceptual plan for development of the area is for a pedestrian-oriented series of residential neighborhoods with a variety of densities and product types, including mixed uses. The villages would emphasize superior site and architectural design, and connectivity among homes, commercial nodes, and public places such as schools and parks. The Plan is expected to take from 18 months to two years to complete and be considered along with any additional implementing entitlements for adoption by the City Council (Environmental Impact Report certification, General Plan and Zoning Amendments, Annexation proceedings).

On June 29, 2005, the Task force interviewed three candidate firms in addition to Moule & Polyzoides: BMS Design Group, Dyett & Bhatia, both of San Francisco; and Project Design Consultants of San Diego. The preliminary cost estimates submitted to the Task Force for similar design, environmental, and implementation services by these firms ranged from \$580,810 (Dyett & Bhatia), \$639,625 (BMS Design Group), to \$753,910 (Project Design Consultants). The Task selected Moule & Polyzoides and Dyatt & Bhatia to continue in the selection process. The Task Force directed staff to conduct reference checks on the two candidates. On July 11, staff presented the results of the reference checks, with the conclusion that Moule & Polyzoides were particularly successful in similar projects, and are the most qualified to achieve success with the Southeast Area Master Plan project.

Expansion of Study Area

During the review of proposals by the Task Force, staff discussed the possibility of expanding the master plan area to include the undeveloped area to the east of the original master plan area (see location on aerial map exhibit). This area is also within the City's 129,000 UDB, and would benefit from being master planned. Staff anticipates cost savings if a larger area is master planned together, rather than as two separate plans. If Council agrees, staff will include in the negotiations with Moule & Polyzoides, the master planning of the expansion area. The agreement will be brought back to Council for authorization to execute.

Cost Reimbursement

The costs of the Plan's preparation will be borne by the City. Staff will undertake the process for the City to recover its costs through a reimbursement procedure that applies a proportionate fee at the issuance of building permits in new projects in the Plan area. Council action to establish the reimbursement fee will be requested at the time that Council considers authorization of contract with Moule & Polyzoides.

ALTERNATIVES:

The Council may affirm the Task Force recommendation, or it may direct staff to terminate the selection and negotiation process, or it may direct staff to modify the scope of work and to re-open the invitations for proposal process.

ATTACHMENTS:

- Aerial Map of the Southeast Area Master Plan project area and proposed expansion area.
- Consultant's Proposal

City Manager Recommendation:

Recommended Motion:
Motion to Approve Project: I move to direct the City Manager to enter into negotiations with the firm of Moule & Polyzoides for a consultant's contract to prepare the Southeast Area Master Plan for the City of Visalia, including the expansion area east of Lovers Lane, between K Street and the Avenue 272 alignment.

Financial Impact

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

Budget Recap:

Total Estimated cost: \$673,200	New Revenue:	\$
Amount Budgeted: \$	Lost Revenue:	\$
New funding required: \$	New Personnel:	\$
Council Policy Change: Yes____ No____		

Copies of this report have been provided to: Southeast Area Master Plan Task Force

Environmental Assessment Status

CEQA Review:
Required? No.
Review and Action: Prior:
Required:

NEPA Review:
Required? No
Review and Action: Prior:
Required:

Tracking Information:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 13

Agenda Item Wording: Public Hearing on the proposed second amendment to the Community Development Block Grant and HOME Program FY 2004-05 Action Plan

Deadline for Action:

Submitting Department: Community Development & Public Works

Contact Name and Phone Number:

Michael Olmos, Community Development & Public Works
Director, 713-4332

Fred Brusuelas, Community Development & Public Works
Assistant Director

Bob Nance, Economic & Redevelopment Manager, 713-4511
Cass Cook, Senior Administrative Analyst, 713-4298

Department Recommendation and Summary:

Staff recommends, upon holding a public hearing to take public testimony and comments, the City Council:

- Approve and adopt the proposed second amendment to the Community Development Block Grant and HOME Program FY 2004-05 Action Plan; and
- Authorize staff to make the appropriate budget adjustments.

The net change of these actions authorizes an additional \$135,996 of CDBG funds to projects to meet community needs.

Background:

The US Department of Housing & Urban Development (HUD) administers the Community Development Block Grant (CDBG) and HOME programs that distribute federal funds to promote affordable housing, economic development and public improvement projects and programs to benefit low-income families and persons with special needs. HUD has designated the City of Visalia as an entitlement city by virtue of having a population exceeding 50,000 residents. This designation allows Visalia to receive CDBG and HOME Program funds without having to annually apply for the grants. Table I, Fiscal Resources 2004-05, details the resources available to the City.

For action by:

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

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
 - Consent Calendar
 - Regular Item
 - Public Hearing

Est. Time (Min.): 5

Table I			
Fiscal Resources 2004-2005			
	CDBG	HOME	Total
Grant	1,413,000	574,355	1,987,355
Program Income	600,000	1,550,000	2,150,000
Total	2,013,000	2,124,355	4,137,355

Program income is generated from loan payments and house refinancing activities from previous CDBG and HOME Program loans.

On May 3, 2004, the City Council adopted the 2004-2005 Annual Action Plan for the use of Federal CDBG and HOME Program funds. The budget was based upon anticipated projects, programs and activities to be undertaken during the fiscal year. On November 15, 2004, the City Council authorized the first amendment to the 2004-2005 Annual Action Plan. Changes in project costs and Council priorities have necessitated the reallocation of the CDBG and HOME Program funds and adopting an amendment in accordance with HUD regulations. Significant growth in HOME program income has triggered the implementation of more housing projects. A summary of projects as well as the projected budget for program years 2005-2009 has been included in this item as Attachment A.

Proposed Action Plan Amendment – Budget Amendment

The following summary shows the proposed amendment to the current 2004-2005 Action Plan budget, as shown in Table II, Proposed 2004-2005 Action Plan Amendment.

Table II			
PROPOSED 2004-2005 ACTION PLAN AMENDMENT (CDBG)			
	BALANCE JULY 1, 2004	PROPOSED AMENDMENT	AMENDED PROJECT BALANCE
PROJECT (Proposed Increase)			
JOB CREATION	1,004	248,996	250,000
SENIOR HOME MINOR REPAIRS	-	87,000	87,000
TOTAL	1,004	335,996	337,000
PROJECT (Decrease)			
VISALIA CHILDREN'S LIBRARY	200,000	(200,000)	-
NET CHANGE		135,996	
PROPOSED 2004-2005 ACTION PLAN AMENDMENT (HOME)			
	BALANCE JULY 1, 2004	PROPOSED AMENDMENT	AMENDED PROJECT BALANCE
PROJECT (Proposed Increase)			
ROBINWOOD COURT 10 AFFORDABLE HOUSING UNITS (TCHA)	-	800,000	800,000
PROJECT (Decrease)			
SENIOR HOME MINOR REPAIRS	87,000	(87,000)	-
HOME BUYER'S ASSISTANCE PROGRAM	400,000	(200,000)	200,000
2005 PROPERTY ACQUISITION	927,405	(513,000)	414,405
NET CHANGE		0	

A line item discussion of the proposed amendment follows:

Proposed Increases

1- Job Creation: CDBG funds are annually committed to job creation projects. The purpose of the funds is to assist businesses and industries seeking to remain or expand in Visalia. When a qualifying company comes to Visalia, staff analyzes the budget and presents projects to the City Council for approval. City staff is currently negotiating with a company interested in locating a distribution center in the Visalia Industrial Park. The company's proposed investment and employment levels will exceed the City's adopted policy thresholds of \$30 million investment and 100 jobs created for use of CDBG Job Creation Funds. Should the company select to build in Visalia, an agreement for use of the CDBG Job Creation Funds will be prepared and brought to the City Council for approval. A similar process and agreements were done for both the Jo-Ann Stores distribution center and the CIGNA retention/expansion projects. The proposed Amendments will facilitate the use of the CDBG Job Creation funds in a timely manner.

2- Senior Home Minor Repairs: Funds for this program were originally budgeted from the HOME grant. It was recently determined that HOME funds are ineligible to pay for this program. Therefore, \$87,000 of CDBG funds need to be budgeted to cover the expenses for 2004-2005. This program was budgeted with CDBG funds for the 2005-2006 fiscal year.

3- Robinwood Court- 10 Affordable Housing Units (TCHA): The \$800,000 of funds will assist the Tulare County Housing Authority in acquiring 10 affordable housing units on Robinwood Avenue near the Visalia Medical Clinic. The project will consist of 5 two-bedroom units and 5 three-bedroom units. Rents for the units will fall in the \$600 range.

Proposed Decrease

4- Visalia Children's Library: The City previously committed \$500,000 for rehabilitation and improvement of the historic Downtown Public Library. The CDBG grant was originally the source of the \$500,000. Since the adoption of the 2004-2005 Action Plan, Council adopted a Facilities Impact Fee. A portion of the revenues from the fee will be used in place of the CDBG grant.

5- Homebuyers Assistance: Production in the Homebuyer's assistance program has decreased over the past few years. Therefore, funds are available to be moved from this program to the affordable housing project. Staff will come back to Council in August with recommendations to amend the program to increase production.

5- Property Acquisition: Currently there is not a demand on the \$513,000 that is to be used for the affordable housing project. The remaining balance of \$414,000 is sufficient for the upcoming property acquisition projects.

Prior Council / Board Actions:

This document last revised: 06/01/05
By author: Cass Cook

May 3, 2004 2004-2005 Annual Action Plan adopted by Council
November 15, 2004 Authorized first amendment to the 2004-2005 Annual Action Plan

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments: CDBG & HOME 6 year budgets

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):
Upon holding a Public Hearing:
I move the City Council:

- Approve and adopt the proposed second amendment to the Community Development Block Grant and HOME Program FY 2004-05 Action Plan; and
- Authorize staff to make the appropriate budget adjustments.

Financial Impact

Funding Source:

CDBG AND HOME PROGRAM FUNDS – REALLOCATION OF FUNDS

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes____	No__x__

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes No X

Review and Action: Prior:
Required:

NEPA Review:

Required? Yes No X

Review and Action: Prior:
Required:

Tracking Information: Staff to make the appropriate budget adjustments and proceed with the projects, programs and activities in accordance with the adopted budget as amended.

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number: 14

Agenda Item Wording:

Public hearing for:

1. **General Plan Amendment No. 2005-04.** is a request by the Visalia Public Cemetery to change the General Plan land use designations on approximately 2 acres from Low Density Residential, Medium Density Residential, High Density Residential and Shopping Office Commercial to Public Institutional. Resolution No. 2005-100 required.
2. **First Reading of Change of Zone No. 2005-03.** is a request to change the zoning on approximately 2 acres from R-1-6 (Single Family Residential), R-M-2 (Medium Density Residential), R-M-3 High Density Residential) and C-SO (Commercial Shopping Office) to QP (Quasi Public). Ordinance No. 2005-11 required.
3. Certify Negative Declaration No. 2005-08.

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

The Visalia Public Cemetery is located at 1300 West Goshen Avenue, with the proposed actions on these adjacent properties (APN 093-062-009, 093-073-006, 093-073-008, 093-073-009, 093-073-011, 093-073-012, 093-083-001, 093-083-002, 093-083-003, 093-083-027, 093-083-031, 093-091-023, 093-091-024, 093-091-023, 093-091-002, 093-091-004, 093-091-006, 093-091-007, 093-102-020), Visalia Public Cemetery, applicant.

Deadline for Action: None

Submitting Department: Community Development and Public Works Department - Planning

Contact Name and Phone Number: Andrew J. Chamberlain, Senior Planner (559) 713-4003

Recommendation and Summary: The Planning Commission recommends that the City Council approve General Plan Amendment No. 2005-04 and Change of Zone No 2005-03. The proposed action would change the land use designation on approximately 2 acres (19 parcels shown in Exhibits "A" and "C") from Low Density Residential, Medium Density Residential, High Density Residential and Shopping Office Commercial to Public Institutional. It would also change the zoning from R-1-6, R-M2, R-M-3 and C-SO to QP (Quasi Public), to allow the expansion of the existing cemetery facility as shown in Exhibit "A". Exhibit "B" is the Master Plan Area which was approved by the Planning Commission as a Conditional Use Permit on May 9th, 2005. All of the properties which are subject to the requested GPA and COZ are contained within the Master Plan Area.

Committee/Commission Review and Actions:

The Planning Commission held a public hearing on May 9, 2005 and recommended approval of General Plan Amendment No. 2005-04 and Change of Zone No. 2005-03 (4-0, Commissioner Salinas Absent). Conditional Use Permit No. 2005-08 was also approved at this meeting. The CUP established the Master Plan Area shown in Exhibit "B", and provided for the relocation of the shop area to the southeast corner of the site. The relocation of the shop is dependent upon the approval of this GPA/COZ request, since the southeast corner is still zoned for residential.

During the public hearing one person spoke with concerns related to the appearance of the proposed expansion area along Rinaldi Street. They did not like the existing chain link fence along Rinaldi Street. They were pleased to find out that the same type of pilasters and wrought iron that is along Goshen Avenue would be used along Rinaldi Street.

Related Projects:

Conditional Use Permit No. 2005-08, approved by the Planning Commission on May 9, established the Master Plan area for the Cemetery District shown in Exhibit "B", and approved the relocation of the shop area. The relocation of the shop is dependent upon the approval of this GPA/COZ request, since the southeast corner is still zoned for residential. Another component of the Master Plan is to request that the City abandon Turner Street south of Grove Street to act as an access to the proposed shop area. This would be done as a separate action to the City Council based upon approval of the pending GPA and COZ.

The Master Plan represents a 20 year planning area and includes properties that are not owned by the Cemetery District. The District plans to acquire properties as they come on the market, and bring groups of them forward for future zone changes to Quasi Public.

Prior Council/Board Actions:

None.

Alternatives:

None recommended

Attachments:

- Resolution and Ordinance
- Exhibit "A" – Visalia Public Cemetery District Rezone & Conditional Use Permit
- Exhibit "B" – Visalia Public Cemetery District 20 Year Master Plan
- Exhibit "C" – Parcels for GPA and COZ
- Environmental Document
- General Plan Land Use Map

- Zoning Map
- Aerial Map
- Location Map
- Planning Commission Staff Report

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to certify Negative Declaration No. 2005-08 and approve General Plan Amendment No. 2005-04, Change of Zone No. 2005-03 by introduction of Ordinance No. 2005-11, and adoption of Resolution No. 2005-100.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue:	\$
Amount Budgeted: \$	Lost Revenue: \$	
New funding required: \$	New Personnel:	\$
Council Policy Change: Yes_____ No_____		

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes

Review and Action: Prior:

Required: A Negative Declaration has been prepared for the project. It will need to be certified prior to a decision on the project.

NEPA Review:

Required? No

Review and Action: Prior:

Required:

Tracking Information:

Anticipated schedule of review: City Council 2nd reading - August 1, 2005

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number: 15

Agenda Item Wording:

Public hearing for:

1. **General Plan Amendment No. 2005-01.** is a request by Mangano Homes to change the general plan land use designations on approximately 18.2 acres from Public Institutional to Low Density Residential. Resolution No. 2005-101 required.
2. **First Reading of Change of Zone No. 2005-02.** is a request to change the zoning on approximately 18.2 acres from QP to R-1-6, Ordinance No. 2005-12 required.
3. Certify Negative Declaration No. 2005-24.

The site is located on the southeast corner of Akers Street and Caldwell Avenue.

Deadline for Action: None

Submitting Department: Community Development and Public Works Department - Planning

Contact Name and Phone Number: Andrew J. Chamberlain, Senior Planner (559) 713-4003

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

Recommendation and Summary: The Planning Commission recommends that the City Council approve General Plan Amendment No. 2005-01 and Change of Zone No 2005-02. The proposed action would change the land use designation on approximately 18.2 acres from QP (Quasi Public) to R-1-6 (Low Density Residential). The site is approximately half of the 40 acre site located at the southeast corner of Akers Street and Caldwell Avenue. The northern half of the site is proposed for a church facility in the future. A tentative subdivision map has been reviewed through the Site Plan Review process, but the tentative map has not been filed for Planning Commission review. It should be noted that the subject area is within Zone "D" of the Airport Master Plan which designates the maximum density for the area as 8 units per acre, which is within the 2 to 10 unit per acre range in the Low Density Residential designation.

Addition of Residential Units in Non-Designated Areas Towards UDB:

The General Plan Amendment and Change of Zone, if approved, will include the creation of residential units in an area not previously identified or designated for Residential land uses. Over the past few years, the City Council has approved other General Plan Amendments which have converted areas not cited for residential growth to residential designations in various locations around the City. Examples of this include the conversion of Business Research Park

(BRP) designations at Highway 198/McAuliff and Shirk/Riggin, and the Elliott Project being considered with tonight's agenda. When such General Plan Amendments are approved, they contribute towards reaching the 129,000 population criteria for the City's Urban Development Boundary, but do not promote the buildout of existing residential designations at an equal pace.

Staff recommends that this issue shall be addressed as a prelude to the General Plan Land Use Element Update which is proposed to begin in 2006. Specifically, Staff would conduct a review of the land use changes over the past several years which have created new residential land be compiled, and calculate the estimated population increase in these new areas. The figure would be added to the population milestones set for the expansion of the 129,000 and 165,000 Urban Development Boundaries (UDB). This would extend the period of time that the current UDB will be effective, and enable the City to delay moving to the next growth ring due to additional units being provided in the current UDB.

Committee/Commission Review and Actions:

The Planning Commission held a public hearing on May 9, 2005 and recommended approval of General Plan Amendment No. 2005-01 and Change of Zone No. 2005-02 (4-0, Commissioner Salinas absent).

During the public hearing one neighbor to the east of the site in the Hunters Crossing Subdivision spoke to the item questioning the value of the homes to be built. Bob Dowds, representing Mangano Homes spoke in favor of the items.

Related Projects:

None

Prior Council/Board Actions:

None.

Alternatives:

None recommended

Attachments:

- Resolution and Ordinance
- Environmental Document
- General Plan Land Use Map
- Zoning Map
- Aerial Map
- Location Map
- Planning Commission Staff Report

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to certify Negative Declaration No. 2005-24 and approve General Plan Amendment No. 2005-01, Change of Zone No. 2005-02 by introduction of Ordinance No. 2005-12, and adoption of Resolution No. 2005-101.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes____ No____	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes

Review and Action: Prior:

Required: A Negative Declaration has been prepared for the project. It will need to be certified prior to a decision on the project.

NEPA Review:

Required? No

Review and Action: Prior:

Required:

Tracking Information:

Anticipated schedule of review: City Council 2nd reading - August 1, 2005

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 16

Agenda Item Wording: Public hearing for the initiation of proceedings of Annexation No. 2004-17 (Linwood-Ferguson): a request by American, Inc. to annex 15 parcels and right-of-way totaling 57.90 acres into the City of Visalia. The project is located on the east side of Linwood Street between Riggin Avenue and Ferguson Avenue in the County of Tulare. (APN: 077-180-001 through 008; 077-190-001 through 004, 006, 009, 010). Resolution No. 2005-____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.): 10

Deadline for Action: None

Submitting Department: Community Development and Public Works Dept. - Planning

Contact Name and Phone Number: Brandon Smith, Associate Planner 713-4636

Department Recommendation and Summary:

Staff is recommending that the City Council initiate a 57.90-acre annexation that will bring existing single-family residences and vacant land planned for the development of single-family residences into the City limits. If approved by Council, Staff would then file an application for annexation with the Local Agency Formation Commission (LAFCO).

Description of Site

Annexation No. 2004-17 (Linwood-Riggin) is an approximately 57.90-acre annexation of privately-owned property and the right-of-ways for portions of Riggin Avenue and Linwood Street. Currently, there are 12 rural single-family residences on the subject site, which are developed at not less than 1 unit per 2 acres of land. Some of the residences have extensive grounds and mature landscaping, and contain accessory structures such as guest houses, swimming pools, tennis courts, and pens for horses and cows. In addition to the mature landscaping, there are oak trees scattered throughout the subject area.

There are also approximately 20 acres of contiguous, undeveloped property located on the northwest corner of the subject site (the southeast corner of Riggin Ave. and Linwood St.). Project applicant American Inc. and property owner Tony Peters both intend to further develop this vacant land consistent with the underlying designation of Low Density Residential on the

This document last revised 7/15/05 9:45 AM

By author: Brandon Smith

File location and name: H:\(1) AGENDAS for Council\071805\Item 16 Annex 2004-17.doc

site. To date, Staff has formally received an application for a Tentative Subdivision Map for a 6.42-acre site owned by Mr. Peters. The Map proposes to subdivide the 6.42-acre parcel into ten parcels (see attachment). A public hearing date has not yet been set for the Tentative Subdivision Map. No conceptual plans have been received for the remaining portion of the vacant area represented by American, Inc.

If the Council has any comments pertaining to the subdivision map as shown, Staff requests that the Council refer these comments to Planning Staff. Concerns expressed by Council will be considered as part of the tentative subdivision map process.

The site is within the City's current Urban Development Boundary. The City's General Plan designates approximately 24 acres of the annexation site for Residential Low Density land use designation (R-1-6 zone), approximately 12 acres of the site for Residential Medium Density land use designation (R-M-2 zone), and approximately 20 acres of the site for Rural Residential land use designation (R-A zone). Both the Residential Medium Density and Rural Residential designations are developed and are not anticipated to be further developed. The current City limit line is located on the south boundary and on portions of the west and east boundaries of the site. The site does not contain any land that is under a Williamson Act Land Conservation Contract.

County Islands

The subject annexation originally came to Staff as an annexation with only 38 acres of consented land. Staff saw that the annexation as proposed would create a largely developed county island to the west and a largely undeveloped area substantially surrounded by City limits to the east. In response, Staff sent out letters to property owners in the County jurisdiction surrounding the site. These letters included a survey, polling whether property owners would support, oppose, or be neutral to annexation if the City were to pursue annexation of these areas. Based on the responses, it was determined that there would not be significant support to include both potential county islands with the request. Since LAFCO policy allows for a limited amount of unconsented properties to be included in an annexation request (the assessed valuation of the unconsented properties must be less than that of the consented properties), Staff extended the boundaries of the annexation and included properties to make the boundaries of the annexation flush with Linwood Street and Riggin Avenue. However, Staff could not prevent the creation of two County islands through this annexation.

The westerly County island is a 61-acre island generally located on the north side of Ferguson Avenue between Linwood and Akers Streets. This island would be comprised of 17 contiguous parcels ranging in size from 1 to 5 acres each, with the exception of a 24-acre parcel containing a horse ranch with stables. Properties inside this County island are rural residential in character, each containing a single residence.

The easterly County island is an 83-acre island generally bound by Riggin Avenue, Demaree Street, and Ferguson Avenue. This island would be comprised of 5 contiguous parcels that are largely undeveloped, containing orchards, row crops, and oak trees. There are five rural residences scattered throughout the area. A majority of the area within this County island is land that is actively under the Williamson Act. At the time of its establishment, the City formally protested the creation of the preserve, though only a portion of the area was within one mile of the City limits at the time of protest. If the island is created, the County would continue to manage the agriculture preserve and land conservation contract on the site.

Prior to moving forward with this annexation, City Staff met with LAFCO Staff to discuss the creation of these islands. While LAFCO Staff did express concern over the resulting County islands, LAFCO did not oppose City Staff moving forward with the annexation. A pre-consultation notice for the annexation was subsequently sent to LAFCO for consideration, though LAFCO Staff did not have any comments regarding the annexation.

Annexation Agreement

Staff has determined that project will be subject to the General Plan Maintenance Fee. American Inc., who represents 14 acres of land projected for development, will be invoiced \$4,060 in fees. Tony Peters, who represents 5 acres of land proposed for development, will be invoiced for \$1,450. These fees must be paid upon approval of the annexation by LAFCO. Staff has included a condition that the applicants shall sign and enter into an annexation agreement with the City to memorialize the General Plan Maintenance Fee, groundwater mitigation fees, and other impact fees applicable to the annexation. The signed agreement must be returned to Staff before the City will lodge an application for annexation to LAFCO.

Environmental Findings

When initiating an annexation, the Council is required to make an environmental finding, in accordance with the California Environmental Quality Act (CEQA). Staff is recommending that the Council certify Negative Declaration No. 2005-063, which was prepared for the annexation and for subsequent development on the vacant areas represented by the applicants. The Negative Declaration document is attached.

If Council adopts the resolution, Staff will prepare an annexation application and file it with LAFCO.

Prior Council/Board Actions: None.

Committee/Commission Review and Actions: On July 11, 2005, the Planning Commission found that the annexation is consistent with the General Plan.

Alternatives: As an alternative, Council has the option of not initiating the annexation process.

Attachments:

- Resolution for Annexation
- Annexation Map
- Proposed Subdivision Map on portion of Annexation area
- Pre-Consultation Comments by Tulare County LAFCO
- Negative Declaration No. 2005-063
- Location Sketch

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

I move to adopt Resolution No. 2005-____, certifying Negative Declaration No. 2005-063, initiating Annexation 2004-17 (Linwood-Ferguson), and authorizing Staff to make application to the Tulare County Local Agency Formation Commission.

Financial Impact

Funding Source:

Account Number: None. Annexation application fees are being paid by the property owner.

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____	No_X__

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes

Review and Action: Prior:

Required: Negative Declaration No. 2005-063 must be certified in conjunction with initiation of the annexation.

NEPA Review:

Required? No

Review and Action: Prior:

Required:

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

Signed resolution for Annexation to Tulare Co. LAFCO:

Deliver to contact person by Monday, July 25, 2005

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

RESOLUTION NO. 2005-_____

A RESOLUTION OF APPLICATION BY THE CITY OF
VISALIA REQUESTING THE TULARE COUNTY LOCAL
AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS
FOR ANNEXATION 2004-17 (LINWOOD-FERGUSON)

WHEREAS, the City Council of the City of Visalia, desires to initiate proceedings for annexation to said city of territory described on the attached legal description; and

WHEREAS, the Council of the City of Visalia desires to annex said territory to the City of Visalia for the following reasons: The annexation will contribute to and facilitate orderly growth and development of both the City and the territory proposed to be annexed; will facilitate and contribute to the proper and orderly layout, design and construction of streets, gutters, sanitary and storm sewers and drainage facilities, both within the City and within the territory proposed to be annexed; and will provide and facilitate proper overall planning and zoning of lands and subdivision of lands in said City and said territory in a manner most conducive of the welfare of said City and said territory; and

WHEREAS, this proposal is made pursuant to the Cortese-Knox-Hertzburg Local Government Reorganization Act of 2000, commencing with Section 56000 of the Government Code of the State of California; and

WHEREAS, the territory proposed to be annexed is inhabited; and

WHEREAS, the Visalia Planning Commission reviewed this proposal on July 11, 2005, and found it to be consistent with the General Plan; and

WHEREAS, the City Council hereby makes the following findings with regard to the project:

1. The annexation is consistent with the policies and intent of the General Plan.
2. There is no evidence before the Planning Commission that the proposed project will have any potential for adverse effects on wildlife resources, as defined in Section 711.2 of the Department of Fish and Game Code.
3. An Initial Study was prepared for this project, consistent with CEQA, which disclosed that environmental impacts are determined to be not significant, and Negative Declaration No. 2005-063 is hereby certified.
4. The site is within the Sphere of Influence of Visalia and within Visalia's current Urban Development Boundary.
5. The site is not located within an agricultural preserve or Land Conservation Contract.
6. The Council finds that the General Plan Maintenance Fee for this annexation will be \$5,510.00 which shall be paid upon approval of the annexation by LAFCo.

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

1. The potential environmental effects of the proposed annexation have been reviewed and the Environmental Coordinator of the City of Visalia has determined that the proposal falls within the scope of issues and impacts addressed in Negative Declaration No. 2005-063, and that no mitigation measures are required.
2. Application is hereby made to the Executive Officer of the Local Agency Formation Commission, County of Tulare, State of California, as proposed in the Proposal Questionnaire, as described in the legal description entitled "Annexation No. 2004-17 (Linwood-Ferguson)", and as illustrated in the map entitled "Annexation No. 2004-17 (Linwood-Ferguson)".
3. Proceedings shall be taken for this annexation proposal pursuant to Title 5, Division 3, Part 3 of the California Government Code and other relevant provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
4. Upon annexation, the territory shall be zoned R-1-6, R-M-2, and R-A, consistent with the pre-zonings designated by the General Plan Land Use Map.
5. The City Clerk of the City of Visalia is authorized and directed to file a certified copy of this resolution with the Executive Officer of Tulare County LAFCO.
6. Prior to City lodging an application to LAFCO on behalf of applicant(s), applicant(s) shall enter into an annexation agreement with City which memorializes the required fees, policies, and conditions applicable to the annexation.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number: 17

Agenda Item Wording:

Public hearing for:

1. **First Reading of Change of Zone No. 2005-07.** is a request to change the zoning on 14 acres from R-1-6 (Low Density Residential) to R-1-4.5 (Low Density Residential), Ordinance No. 2005-13 required.
2. Certify Negative Declaration No. 2005-08.

The site is located on the east side of McAuliff Street, approximately 200 feet south of Noble Avenue, APN No. 101-060-008.

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

Deadline for Action: None

Submitting Department: Community Development and Public Works Department - Planning

Contact Name and Phone Number: Andrew J. Chamberlain, Senior Planner (559) 713-4003

Recommendation and Summary: The Planning Commission recommends that the City Council approve Change of Zone No 2005-07. The proposed action would change the zoning on approximately 14 acres from R-1-6 to R-1-4.5. The result of the proposed action is to increase the lot yield from approximately 65 lots in the R-1-6 zone to 77 lots in the R-1-4.5 zone as shown in the proposed subdivision map in Exhibit "A". The lots would range in size from 4,500 to 9,464 square feet with the average lot size on the proposed subdivision map being 5,345 square feet, with a lot density of approximately 5.5 units per acre.

The applicant would also include an open space lot of 6,890 square feet as an amenity for the subdivision. Staff is recommending to the Planning Commission that the open space contain some basic amenities including meandering sidewalks, benches, and a tot lot or gazebo in addition to the required landscaping and irrigation. Staff will also seek reconfiguration of the open space to make it more usable. The open space would be maintained through the landscaping and lighting act district for the subdivision.

The subdivision, known as DeeLynna Ranch Tentative Subdivision, is scheduled for a public hearing at the Planning Commission on July 25, 2005, but will be re-scheduled for map revisions if the change of zone is not approved by Council.

Committee/Commission Review and Actions:

The Planning Commission held a public hearing on June 13, 2005 and recommended approval of Change of Zone No. 2005-07 on a 3-0 vote (Commissioners Perez and Salinas absent). The Planning Commission found that the proposed change to R-1-4.5 was consistent with the General Plan land use designation of Low Density Residential. General Plan Policy 4.1.18 provides for up to 7 units per acre (R-1-4.5 zone) for infill and other specific plan areas outside of the Northeast Specific Plan area upon recommendation of the Planning Commission and approval of the City Council. The Planning Commission felt that this parcel represented an infill parcel with development to the north, south and east, and the Visalia Unified School District farm property to the west.

During the public hearing, no persons spoke in opposition to the requested zone change.

Related Projects:

None

Prior Council/Board Actions:

None

Alternatives:

None recommended

Attachments:

- DeeLynna Ranch Tentative Subdivision Map
- Ordinance
- Environmental Document
- General Plan Land Use Map
- Zoning Map
- Aerial Map
- Location Map
- Planning Commission Staff Report

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to certify Negative Declaration No. 2005-08 and approve Change of Zone No. 2005-07 by introduction of Ordinance No. 2005-13.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes

Review and Action: Prior:

Required: A Negative Declaration has been prepared for the project. It will need to be certified prior to a decision on the project.

NEPA Review:

Required? No

Review and Action: Prior:

Required:

Tracking Information:

Anticipated schedule of review: City Council 2nd reading - August 1, 2005

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: July 18, 2005

Agenda Item Number: 18

Agenda Item Wording:

Public hearing for:

1. General Plan Amendment No. 2002-13 is a request by Bill Morgan to change the land use designation on approximately 11 acres from Light Industrial to Low Density Residential. The site is located on the north side of the railroad tracks north of K Road and east of Santa Fe Street (APN 123-080-009, 019 and 020). Resolution No. 2005-103 required.
2. First Reading of Change of Zone No. 2002-12 A request by Bill Morgan to change the zoning on approximately 11 acres from IL (Light Industrial) to R-1-6 (Single-Family Residential). The site is located on the north side of the railroad tracks north of K Road and east of Santa Fe Street (APN: 123-080-009, 019, 020) Ordinance No. 2005-14 required.
3. Certify Negative Declaration No. 2005-39.

Deadline for Action: None

Submitting Department: Community Development - Planning

Contact Name and Phone Number: Jason Pausma, Associate Planner (559) 713-4348

Recommendation and Summary: On June 13, 2005 the Planning Commission recommended that the Council approve General Plan Amendment No. 2002-13 and Change of Zone 2002-12. The amendment and change of zone are being proposed in order to accommodate a new 45 acre single-family residential subdivision. The proposed action would change the land use designation on approximately 11 acres from Light Industrial to Low Density Residential.

The proposed change in land use and zoning will change approximately 11 acres of Light Industrial (IL Zone) designated land to Low Density Residential (R-1-6 Zone). A 7.5 acre Light Industrial zoned parcel will remain south of this project, and 6 acres of Light Industrial zoned land will remain north of this project (see the attached Zoning Map). Changing the zone westward to Santa Fe Street will allow the subdivision to have another access point to a major street. Without the connection to Santa Fe Street, the subdivision would have only one access / exit point onto Walnut Avenue (see attached Willow Springs Tentative Subdivision Map).

This application will not change all of the Light Industrial zoned land in this area. 13.5 acres will remain zoned Light Industrial. 6 acres on the north side of this project, east of Santa Fe Street is owned by a separate property owner, and contains a light industrial warehouse building which is not proposed to change. The 7.5 acres south of this site, on the north east corner of K Road

For action by:

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

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): 20

and Santa Fe Street is currently proposed to be converted to a mini-storage facility, which is a permitted use in the Light Industrial zone.

Committee/Commission Review and Actions:

The requested Change of Zone and General Plan Amendment originally went to the Planning Commission for review on January 27, 2003. The public hearing was continued indefinitely due to concerns about possible contaminated soil from the operations and processing of olives at the former olive processing facility. A Phase 1 Environmental report was issued in June of 2004. Pursuant to the recommendations contained in the Phase 1 Environmental Site Assessment, Geo-Phase Environmental, Inc. conducted further investigation of the subject site by collecting a series of soil samples from depths as great as 27 feet and submitting them to a laboratory for analytical testing. This information is summarized in a report dated June 7, 2004, attached.

The report concluded the low levels of olive brine found at the site of the former olive processing plant do not constitute a hazardous release and are not hazardous to human health if ingested. However, the condition of the soil does render the affected parts of the property unsuitable for residential use due to the soil conditions that are unsuitable for growing many trees and other domestic flora. The applicant has indicated to staff that measures will be taken to ensure the suitability of this site for residential landscaping. These measures include adding two to five feet of clean fill dirt, as this site is located in a flood zone. The applicant has also contacted ASR Engineering, Inc., and in a letter dated June 10, 2005 (attached) ASR Engineering indicated that other products like DeSalt and DeSalt Plus have been shown to improve soil quality impacted by brines. Remediation of soil conditions to ensure that landscaping or trees will thrive will be recommended as a condition of approval on the tentative map.

The Planning Commission held a public hearing on June 13, 2005 and recommended approval of General Plan Amendment No. 2002-13 and Change of Zone No. 2002-12 on a 3-0 vote (Commissioners Perez and Salinas absent). During the public hearing, two persons spoke to the item. Mike Lane, the applicant's agent spoke in support of the proposed general plan amendment and change of zone. Christine Watson, a neighboring resident spoke in opposition to the project, citing concerns about possible contamination of the soil on the site of the former olive processing plant. She refused to give her address, and produced a soil sample in a glass jar, claiming it to be contaminated soil from the subject site. After she spoke, it was reiterated that a Phase 1 Environmental Assessment and additional subsequent soil testing had been performed on this site.

Prior Council/Board Actions:

None.

Alternatives:

The Willow Springs Tentative Subdivision map has not been reviewed by the Planning Commission. The Council can choose to revise the Change of Zone and General Plan Amendment applications to include other land uses such as Medium Density Residential along the narrow strip of land north of the rail road tracks just east of Santa Fe Street. Medium Density Residential could be appropriate adjacent to and dividing two Light Industrial Zoned properties. If this request is revised, the changes would be referred to the Planning Commission for consideration of changes.

Attachments:

- Resolution and Ordinance
- Land Use Map
- Zoning Map
- Aerial Photo
- Reduced Copy of Proposed Willow Springs Tentative Subdivision Map
- June 7, 2004 Preliminary Soil Investigation Report
- June 2, 2004 Phase 1 Environmental Site Assessment Summary
- June 10, 2005 Letter from ASR Engineering, Inc.
- Environmental Document
- Location Map
- Planning Commission Staff Report

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to certify Negative Declaration No. 2005-39 and approve General Plan Amendment No. 2002-13 and Change of Zone 2002-12 by adoption of Resolution No. 2005-103 and Ordinance No. 2005-14.

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue:\$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required? Yes

Review and Action: Prior:

Required: A Negative Declaration has been prepared for the project. It will need to be certified prior to a decision on the project.

NEPA Review:

Required? No

Review and Action: Prior:

Required:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

ORDINANCE NO. 2005-14

AMENDING THE ZONING MAP OF THE CITY OF VISALIA CHANGING THE ZONING FROM IL (LIGHT INDUSTRIAL) TO R-1-6 (SINGLE-FAMILY RESIDENTIAL) ON APPROXIMATELY 11 ACRES ON THE NORTH SIDE OF THE RAILROAD TRACK NORTH OF K ROAD, ON THE EAST SIDE OF SANTA FE STREET; BILL MORGAN, APPLICANT

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: The Planning Commission of the City of Visalia has recommended to the City Council changes to the Zoning Map of the City of Visalia that would change the zoning from IL (Light Industrial) to R-1-6 (Single-Family Residential) on 11 acres on the north side of the railroad tracks north of K Road, east of Santa Fe Street; APN123-080-009, 019, 020; City of Visalia; and

Section 2: This property and Zoning Map of the City of Visalia is hereby amended to show said property changes.

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

RESOLUTION NO. 2005-103

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,

APPROVING GENERAL PLAN AMENDMENT NO. 2002-13, A REQUEST TO CHANGE THE LAND USE DESIGNATION FROM LIGHT INDUSTRIAL TO LOW DENSITY RESIDENTIAL ON 11 ACRES, LOCATED ON THE NORTH SIDE OF THE RAILROAD TRACKS NORTH OF K ROAD, ON THE EAST SIDE OF SANTA FE STREET.

WHEREAS, an application for General Plan Amendment No. 2002-13, requested by Bill Morgan to change the General Plan Land Use Designation from Light Industrial to Low Density Residential, located on the north side of the railroad tracks north of K Road, on the east side of Santa Fe Street. APN: 123-080-009, 019, 020; 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 June 13, 2005; 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 recommended approval of the general plan amendment; and

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice held a public hearing before said Council on July 18, 2005; and

WHEREAS, the City Council of the City of Visalia finds the general plan amendment to be in accordance with Section 17.54.080 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, an Initial Study was prepared which disclosed that no significant environmental impacts would result from this project, and no mitigation measures would be required.

NOW, THEREFORE, BE IT RESOLVED that a Negative Declaration was prepared consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia approves the proposed General Plan Amendment based on the following specific findings and based on the evidence presented:

1. That the land use changes proposed and recommended in General Plan Amendment No. 2002-13 would result in an efficient land use pattern, consistent with the area's surrounding residential land uses.
2. That an Initial Study was prepared for this project, consistent with CEQA, which disclosed that environmental impacts are determined to be not significant, and that Negative Declaration No. 2005-39 is hereby adopted.

3. That the General Plan Amendment is consistent with the intent of the General Plan and Zoning Ordinance, 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 no evidence before the City Council that the proposed projects will have any potential for adverse effects on wildlife resources, as defined in Section 711.2 of the Department of Fish and Game Code.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia approves the General Plan Amendment described herein, in accordance with the terms of this resolution under the provisions of Section 17.54.070 of the Ordinance Code of the City of Visalia and based on the above findings.

City of Visalia Agenda Item Transmittal

Meeting Date: July 18, 2005

Agenda Item Number (Assigned by City Clerk): 19

Agenda Item Wording:

CONTINUED ITEM FROM JUNE 20, 2005:

a) Certification of the Final Environmental Impact Report, prepared for the Elliott and Vander Weerd properties. The project area for the EIR is located east of Shirk Street and south of the Tulare Avenue alignment between Shirk Street and Roeben Avenue. State Clearinghouse No. 2004061090. Resolution No. 2005-104 required.

b) Initiation of Proceedings for Annexation No. 2003-08 (Elliott East): A request to annex approximately 80 acres into the City of Visalia. Resolution No. 2005-105 required.

c) General Plan Amendment No. 2003-20: A request to change the General Plan land use designation from Agriculture to Low Density Residential on 80 acres. Resolution No. 2005-106 required.

The projects are located east of Shirk Street and south of the Tulare Avenue alignment between Shirk Street and Roeben Avenue in the City of Visalia (APN: 087-010-005, 006, 008)

Centex Homes, applicant. Quad Knopf, agent.

Deadline for Action: None

Submitting Department: Community Development and Public Works Dept. - Planning

Contact Name and Phone Number:

Brandon Smith, Associate Planner – 713-4636

Fred Brusuelas, Assistant Director of Community Development and Public Works – 713-4364

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 min

DEPARTMENT RECOMMENDATION AND SUMMARY:

The Planning Commission recommends that the City Council certify the Environmental Impact Report (EIR) prepared for the Elliott and Vander Weerd Property Project. The Planning Commission also recommends that the City Council approve General Plan Amendment No. 2003-20, and initiate proceedings for Annexation No. 2003-08 (Elliott East).

PROJECT SUMMARY

The project described within the EIR is the development of a 232-unit mixed product residential subdivision and a 5.3-acre City Park on an 80-acre site at the southwest corner of Roeben Street and Tulare Avenue. The EIR Certification, General Plan Amendment, and Annexation are the first entitlements needing approval to facilitate the development of the entire 80-acre site. The General Plan Amendment is a request to change the General Plan land use designation on the entire project site from Agriculture to Low Density Residential. The Low

Density Residential designation would be consistent with the entire project's proposed residential and park uses. The Annexation is a request to annex the entire project area considered in the EIR, including the right-of-way for Shirk Street which borders the project area. Altogether, the annexation area consists of approximately 80 acres. On May 23, 2005, the Planning Commission made a recommendation of approval and finding of consistency for the General Plan Amendment and Annexation, and recommended that the Council certify the EIR which applies to the entire 80 acre site. The conceptual site plan for the entire 80 acre site is shown on Exhibit "A".

Subsequent entitlements needed for the project after certification of the EIR include the Cancellation of a Williamson Act Contract covering 60 acres of the project site, Tentative Subdivision Maps for the creation of 206 residential lots, and Conditional Use Permit(s) for the allowance of duplexes on corner lots, for a Planned Residential Development with private gated streets, and for the proposed parks. These entitlements will require approval by the Planning Commission and/or City Council before ground may be broken on the project. Specific details regarding the two subdivisions and park proposed by the project and shown conceptually in Exhibit "A" would be discussed and evaluated in future staff reports.

The project is being requested by Centex Homes, who represent 60 acres of the project site (the area with the exclusion of the northeast quarter), owned by Margaret Elliott. Centex Homes has filed for a 185-unit subdivision entitled "The Summit" on the 60 acres, which would be processed upon certification of the EIR. A 47-unit subdivision entitled "Rose Estates" is planned for the remaining 20 acres of the project site owned by Ron and Rosalinda Vander Weerd. This subdivision, consisting of 24 ½-acre gated lots and 23 townhouses would be developed separately. Quad Knopf was contracted by Centex Homes to prepare the EIR that considers the entire 80-acre area, for which the City of Visalia would act as the lead agency. The EIR was reviewed and revised by in-house staff and CEQA consultant Heidi Tschudin hired by the City to ensure that the document is a comprehensive environmental analysis meeting the requirements of the City Environmental Guidelines and CEQA.

Currently, the site is in agricultural use, and contains croplands and tree orchards. The Persian Irrigation Ditch crosses through the southeast portion of the site. This ditch will not be modified by the project, and will be preserved by the surrounding development of a City Park. On the north, the site includes a meandering portion of Packwood Creek, with some native oak trees scattered along both sides of the creek. Two residences are located between the ditch and Roeben Street, and will be removed with the project.

GENERAL PLAN AMENDMENT

The proposed General Plan Amendment will change approximately 80 acres of land use designation from Agriculture to Low Density Residential. The proposed conceptual plan shown as Exhibit "A" demonstrates how the proposed Low Density Residential designation is consistent with specific goals and policies of the Land Use Element as it pertains to the proposed residential development.

Following are selected objectives and policies which the General Plan Amendment encourages:

2.1 PRESERVATION OF NATURAL FEATURES

Objective

- A. Preserve and enhance natural and rural features such as waterways, Valley Oaks, and agriculture as significant assets and community resources.

Implementing Policies

- 2.1.1 Preserve selected waterways as identified in the Conservation, Open Space, Recreation & Parks Element for flood protection, irrigation water conveyance, riparian habitat, and open space, where possible, for active and passive outdoor recreation.

2.2 RESOURCE CONSERVATION

Implementing Policies

- 2.2.1 Require new developments to incorporate flood water detention basins into project designs where consistent with the Storm Drainage Master Plan. Large basins shall serve as wetland habitat for extended periods where appropriate.

Analysis: The subject site includes a portion of Persian Ditch, which is identified in the Conservation, Open Space, Recreation & Parks Element as a community waterway. Approval of the General Plan Amendment would allow for the preservation and enhancement of this portion of the ditch, and would allow for the creation of a City Park around the ditch, acting as a permanent open space around the ditch. The City Park would incorporate a low flow pond, along with a pump that would transfer storm water to an existing retention basin on Walnut Avenue. Also, three Valley Oaks on the site will be preserved and maintained in accordance with the City's oak tree preservation ordinance. One displaced tree will be replaced per the City's protected rate in the general area of displacement.

4.1 RESIDENTIAL LAND DEVELOPMENT AND LAND USE

Objectives

- A. Ensure adequate land area is available for future housing needs.
 - B. Encourage efficient residential development.
 - C. Encourage development of comprehensively planned, compact, well-integrated areas for single-family and multi-family residential development using schools, neighborhood parks, and open space conservation facilities as key planning components.
 - D. Provide new residential areas that offer a variety of housing densities, types, sizes, costs and locations to meet projected demand throughout the community.
 - E. Identify locations for multi-family developments which are accessible to major transportation routes, mass transit facilities, commercial areas, schools, and recreation facilities.
- 4.1.2 Encourage the use of site development techniques which ensure that a good mix of housing types is provided through such methods as inclusion of duplexes in low density areas where they can be made to be compatible with surrounding development.
- 4.1.7 Ensure that natural and open space features such as Valley Oak trees and community waterways are treated as special site amenities which are to be preserved and enhanced in conformity with the Open Space, Conservation, Recreation and Parks Element.

Analysis: Approval of the General Plan Amendment for Low Density Residential land would allow for the sustaining of land for future housing needs. The conceptual plan shown in the EIR, which shows the future development plan for the Low Density Residential site, directly integrate

the objectives and policies which are stated above, such as including a mix of housing types and inclusion of duplexes on corner lots.

4.1.17 Rural Residential areas shall be designated to provide opportunities for residential dwellings in conjunction with small-scale farming and animal husbandry or in a semi-rural setting ... Densities of up to 2 units per acre may be permitted by conditional use permit in the following locations:

b. West side of Roeben Road between Tulare and Walnut.

Analysis: The excerpt of the General Plan Policy above gives an allowed location for rural residential land use designations at a density of 2 units per acre, but does not state that the area must be used exclusively for rural residential purposes. Existing rural residential subdivisions south of the site (i.e. Savannah Heights) have developed in accordance with this policy. Thus, the proposed general plan amendment would not be inconsistent with this policy.

ADDITION OF RESIDENTIAL UNITS IN NON-DESIGNATED AREAS TOWARDS UDB

The General Plan Amendment and Change of Zone, if approved, will include the creation of residential units in an area not previously identified or designated for Residential land uses. Over the past few years, the City Council has approved other General Plan Amendments which have converted areas not cited for residential growth to residential designations in various locations around the City. Examples of this include the conversion of Business Research Park (BRP) designations at Highway 198/McAuliff and Shirk/Riggin, and the Quasi-Public designation at Akers/Caldwell being considered with tonight's agenda. When such General Plan Amendments are approved, they contribute towards reaching the 129,000 population criteria for the City's Urban Development Boundary, but do not promote the buildout of existing residential designations at an equal pace.

Staff recommends that this issue shall be addressed as a prelude to the General Plan Land Use Element Update which is proposed to begin in 2006. Specifically, Staff would conduct a review of the land use changes over the past several years which have created new residential land be compiled, and calculate the estimated population increase in these new areas. The figure would be added to the population milestones set for the expansion of the 129,000 and 165,000 Urban Development Boundaries (UDB). This would extend the period of time that the current UDB will be effective, and enable the City to delay moving to the next growth ring due to additional units being provided in the current UDB.

ANNEXATION

Staff finds that annexation of the land into the City would be consistent with City policies, as the site is within the City's current Urban Development Boundary and adjacent to City limits on the east side and a portion of the south side of the site.

If the Council takes the recommended action of certifying the EIR and initiating the annexation, Staff would be lodging an application for annexation to the Tulare County LAFCO (Local Agency Formation Commission). Before Staff will file the application with LAFCO, property owners will be required to sign a Pre-Annexation Agreement which will memorialize the following conditions applicable to the annexation:

- Payment of all associated impact fees at the time that final subdivision maps are recorded and/or building permits are issued in association with the proposed project;
- Compliance with the policies and fees contained within the Groundwater Mitigation Ordinance if adopted by City Council;

- Payment of the General Plan Maintenance Fees upon approval of the annexation by Tulare County LAFCO. Staff has determined that a total of \$22,620 in fees would be associated with the Elliott East Annexation based on 28 acres of developable land in the annexation area;
- Indemnification of the property owners and its successors to the City, its officers, elected officials, employees, and agents with respect to the cancellation of the Williamson Act Contracts covering the site.

FUTURE IMPROVEMENTS TO SHIRK STREET

The annexation will include a portion of the Shirk Street right-of-way; however the City has already entered into an Agreement with Tulare County on November 23, 2004 which allows the City to maintain and improve Shirk Street between Highway 198 and Caldwell Avenue while the street is still under County jurisdiction.

As stated in the EIR, the project will contribute to an increase of daily trips on Shirk Street. Moreover, the addition of 232 residential units by the project will generate transportation impact fees that will accelerate the need for improvements for the segments of Shirk Street located outside of the project area to the north and south. The Circulation Element identifies Shirk Street as an Arterial-status street, and is therefore able to be improved through the use of transportation impact fees.

ENVIRONMENTAL IMPACTS

In accordance with the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) was prepared to determine whether the comprehensive project would result in any significant environmental impacts. A Draft EIR was delivered to the State Clearinghouse and mailed out to agencies, organizations and interested individuals on December 20, 2004 for an initial 45-day public review period. A notice was also published in the Visalia Times Delta notifying the public of the availability of the Draft EIR and soliciting review and comments. After further public noticing, the review period was extended 13 days to allow for a public hearing for verbal or written comments before the Planning Commission. The public hearing was held before the Planning Commission on February 15, 2005 to obtain comments on the Draft EIR. The public review period ended coinciding with the Planning Commission public hearing on February 15, 2005.

The Draft EIR evaluated the impacts resulting from the proposed project. Impacts to Aesthetics, Biological Resources, Cultural Resources, Hazards / Hazardous Materials, Hydrology / Water Quality, Land Use, Noise, Traffic, and Utilities and Service Systems were all found to be less than significant or had no impact before any mitigation measures were introduced.

Impacts to the following resources were determined to be less than significant with the implementation of mitigation measures, as described on page ES-5 of the Draft EIR:

- | | |
|----------------------|-----------------------------|
| ◆ Aesthetics | ◆ Hydrology / Water Quality |
| ◆ Air Quality | ◆ Noise |
| ◆ Cultural Resources | ◆ Public Service |
| ◆ Geology / Soils | ◆ Transportation / Traffic |

The Draft EIR determined that unavoidable significant impacts will result from the project in the following areas, as described on page ES-24 of the Draft EIR:

- ◆ Agriculture – Loss of prime farmland (unavoidable and cumulative significant impacts)
- ◆ Agriculture – Conversion of 80 acres of farmland to non-agricultural use (significant impacts)
- ◆ Air Quality – Operational Air Emissions (unavoidable and cumulative)

The impacts to the above environmental resources were not able to be reduced or eliminated to a level of less than significant. As lead agency, the City of Visalia may determine that the benefits of the proposed project outweigh the unavoidable adverse effects. In order to make this determination, a Statement of Overriding Considerations must be prepared and included in the record of project approval. The Statement of Overriding Considerations has been prepared and is included in the resolution certifying the EIR (see attached).

A Final EIR has also been prepared which responds to all comments received on the Draft EIR in writing and verbally at the public hearing. In accordance with CEQA, the Final EIR was made available to all persons, agencies, and organizations commenting on the Draft EIR on May 13, 2005 for a ten day review period prior to the certification of the EIR by the City Council.

MITIGATION MEASURES FOR LOSS OF AGRICULTURAL LAND

The Final EIR states that the loss of prime agricultural farmland is a significant unavoidable impact generated from the project, and that no mitigation measure(s) can reduce the impacts to a less than significant level. In describing possible mitigation for this field, the Draft EIR (on page 3-15 of the document) makes reference to strategies contained in the EIR for the Visalia General Plan Land Use Element Update, but does not require pursuing any specific mitigation. (See “Errata” Section below regarding page 3-15 of the Draft EIR.)

One such strategy was for the City to initiate a program for the long-term preservation of prime farmland through the establishments of easements on prime farmland outside of the City’s Urban Development Boundaries. Such program would be coordinated through a regional planning agency such as a Council of Governments or other body formed by a Joint Powers Agreement. To date, no such program has been formally adopted.

When Council certifies the Final EIR, a Statement of Overriding Conditions will be adopted that states that the public benefits of the project outweigh the unavoidable adverse environmental effects of the project.

If the Council desires that a form of mitigation for the loss of agricultural land be carried out, the Council could require the purchase of conservation easements in the region of the project site as mitigation for the proposed project. Such mitigation would be carried out either by establishing a per-acre impact fee assessed to new development, or requiring that the applicant purchase the conservation easements directly from a land conservation organization. The mitigation measure, if recommended, would have to be added to the project’s Final EIR, and must be specified in Council’s recommendation to certify the EIR.

The Planning Commission, at their May 23, 2005 public hearing to consider the Elliott EIR, did consider the mitigation option but did not make any recommendation on requiring additional mitigation to compensate for the loss of agricultural land. The Commission recommended adoption of a Statement of Overriding Considerations for agricultural land impacts.

ERRATA SHEET

After the public circulation of the Final EIR to the Elliott Property, it came to Staff’s attention that the strategies for agricultural mitigation contained in the Final EIR of the Land Use Element

Update were inappropriately referenced in the Elliott EIR. The strategies included on page 3-15 in the Elliott EIR were the strategies listed in the Draft EIR for the Land Use Element Update, and were not the adopted strategies in the Final EIR (see Exhibit "B"). Staff is therefore recommending that the City Council certify the Environmental Impact Report prepared for the Elliott and Vander Weerd Property with an Errata Sheet that conforms the strategies for agricultural mitigation to those contained in the Final EIR of the Land Use Element Update.

CORRESPONDENCE RECEIVED AFTER COMMENT PERIOD

Following the close of the public comment period for the Elliott and Vander Weerd EIR, correspondence was received by Staff from the Visalia Unified School District (VUSD) and from Councilmember Kirkpatrick.

Correspondence from VUSD dated June 3, 2005 (see Exhibit "C") requests that the City of Visalia consider adding a designation for an elementary school site in a half-square mile area that includes the project site. The correspondence dated June 3, 2005 was not written directly in response to the Elliott EIR, even though the 320-acre area referenced by the letter includes the 80-acre project site. However, this recent correspondence provides more detail than the written correspondence prepared by VUSD on February 1, 2005 for the Elliott EIR during its public comment period. The February 1 commenting letter states that the elementary school serving the area (Veva Blunt Elementary School) is currently at capacity enrollment. The recent June 3 letter details the critical overcrowding conditions at the school warranting the construction of another school in the area. In response to the more recent letter, the City will be considering placement of an elementary school site in the surrounding vicinity when study commences on the future West 198 Area Land Use Plan, which includes the critical area identified by VUSD. Staff has discussed the upcoming West Highway 198 Comprehensive Plan with VUSD Staff, and the City and VUSD have agreed that school facilities for this area should be considered as part of the comprehensive plan process.

Correspondence from Councilmember Kirkpatrick addresses several questions with regard to mitigation for farmland and the future Williamson Act contract cancellation (see Exhibit "D"). Further discussion on these topics is addressed in the following paragraphs.

The Elliott EIR does not specifically recommend a mitigation measure that preserves an equivalent amount of agricultural land lost by this project alone. The Elliott EIR acknowledges that the effects of the loss of prime agricultural land were previously discussed in the General Plan Land Use Element Update EIR, and states that the mitigation measures included in the Land Use Element Update EIR (see Exhibit "B") are suitable strategies for the loss of agricultural land by the Elliott project, and therefore should be recommended. These strategies have been followed as City policy since the 2020 Plan was adopted.

The Land Use Element Update EIR contains a Mitigation Monitoring Program for the measures, specified for Agriculture Resources. In 2003, the City successfully implemented Measure 4.2-4 with the approval of the Urban Development Boundary (UDB) expansion to the 129,000 growth ring. This measure relied on using UDBs and buildout thresholds to carry out phased development concentric from the City's core. It should be noted that that expansion to the 129,000 growth ring did not occur until late 2003 instead of 2000 as anticipated in the 2020 Plan, due to slowed population growth in the 1990s.

Measure 4.2-1, which calls for the creation of a Prime Farmland Preservation Program to be coordinated through a regional planning agency and implemented together by the City and Tulare County, would be implemented once thresholds for certain criteria were met. According

to the Mitigation Monitoring Program, these criteria include the rate of prime farmland conversion within the Urban Growth Boundaries (UGB), availability of lands outside of the UGB, and success of farming efforts on alternate sites. As previously discussed, this program has not been initiated as of yet. Council could consider directing staff to contact TCAG and Tulare County to initiate discussions on this subject.

Measure 4.2-2, which speaks towards increasing residential densities, which can be completed within an open time-frame based on the inventory of area with adequate public utilities and services and based on the rate of farmland conversion. In more recent years, the City has seen this mitigation fulfilled in several different circumstances. Most notably, the City has been experiencing a trend of small-lot subdivisions in the R-1 zone that typically average 7 units per acre – many of them at infill locations. Such subdivisions currently under construction include Avalon by Centex (Demaree/Riggin), Turnberry Place by Bill Beneyan (Akers/Caldwell), and Bella Serra by Mangano Homes (Akers/Goshen). The City has now responded to this growing trend by drafting a Small Lot Subdivision Ordinance to address standards of setbacks, parking, and open space. In addition to responding to this trend, the City has allowed for increased residential densities on several sites not previously cited for residential use, such as the former BRP zones. Also, the City in coordination with other local entities has taken various actions to encourage and sustain a viable housing market in the downtown. These actions include but are not limited to the downtown expansion of the Kaweah Delta Hospital, the construction of the Oak Meadows senior apartments, and approving mixed use development downtown.

The Elliott site, along with other undeveloped parcels in the area identified for the West 198 Land Use Study area between Goshen and Walnut Avenues, have been inside the 98,700 UDB since the Land Use Element Update was adopted in 1991. These lands, which contain a General Plan land use designation of Agriculture, were not offered as mitigation for farmland conversion in the Land Use Element Update EIR. Rather, these properties were protected by mitigation and a land use policy which called for a Right-to-Farm ordinance.

WILLIAMSON ACT CONTRACT

If upon adoption of the Elliott EIR the subject annexation is approved by the Tulare County LAFCO, the City will succeed to 60 acres of Williamson Act contracted land on the site. Prior to any development on the site, this Williamson Act Contract and Agriculture Preserve must be removed from the site. As indicated in the Elliott EIR, the project applicant intends to cancel the Contract and Preserve by means of Govt. Code Sections 51280 through 51287, in which the applicant will be responsible for paying a cancellation fee equal to 12.5% of the fair market value of the property as determined by the County Assessor. The Govt. Code requires that specific findings must be made to the Department of Conservation if an applicant petitions to cancel a contract (see page 3-16 of the Draft EIR). Upon receiving the findings by the City, the Department of Conservation (DOC) must evaluate and respond to these findings. The Code also requires that the Council or other approving body must consider the findings before making final action towards removing the contract.

It is important to note that if the General Plan Amendment towards Low Density Residential land uses is approved and the property is annexed into the City, the site cannot be developed consistent with the underlying zoning until the Council authorizes the cancellation of the Williamson Act Contract and disestablishment of the Agricultural Preserve. These requests would likely come before the Council in Fall 2005 if the EIR is adopted. If findings to cancel the Williamson Act Contract cannot be made, the site will remain in agricultural use until the contract expires in 2014 pursuant to the Notice of Non-Renewal recorded on June 10, 2003.

The Elliott EIR has been prepared to consider impacts associated with the development of a proposed residential project on the site and the entitlements needed to facilitate the project. Impacts related to the Cancellation of a Williamson Act Contract on 60 acres within the project area are considered in the EIR; however the EIR is not required to evaluate the specific findings which must be made to the DOC to support the removal of lands from contract. The Elliott EIR only briefly discusses these findings; a more detailed analysis will be prepared for consideration by the DOC.

In 2004, the DOC was noticed of the preparation of the Elliot EIR, which included the removal of contracted lands in its project description. The DOC responded in writing to the Draft EIR in a letter dated February 4, 2005; the letter along with a response is contained in the Final EIR.

Not considering the land located inside the West 198 Land Use Study Area, there is no land equivalent in size to the project site either west of Akers Street or in the southwest quadrant of the City that is available for residential development at this time. Several acres of non-contracted land are located inside the West 198 Area; however these areas are bordered on one or less sides by existing residential development. Staff cannot confirm that the non-contracted land to the north of the project site is "earmarked" for development. To date, no site plan reviews have been received for this area. Additionally, development of the land to the north and west can only occur consistent with the future comprehensive land use study cited for this area authorized by Council.

Prior Council/Board Actions: In January 2004, the City Council held a work session which included discussion about processing applications for general plan amendment in the West 198 Scenic Corridor Area. At the work session, the Council directed Staff to allow the Elliot and Vander Weerd project and the Tiffany Ranch Phase II project to proceed, and that any future projects received in the area would not be processed until a comprehensive land use study was completed for the area.

On June 20, 2005, the City Council moved on a 5-0 vote to continue this item to July 18, 2005. A public hearing was not opened for the item.

Committee/Commission Review and Actions:

The Planning Commission held a public hearing for the above listed actions on May 23, 2005. Following the hearing the Planning Commission voted to recommend to the City Council that the EIR be certified, the General Plan Amendment be approved, and that the annexation be initiated on a 4-0 vote (Salinas - absent).

During the public hearing, six individuals spoke to the item. Gary Brookshire, a neighboring resident who lives on Shirk Street, voiced concern on the increased traffic count on Shirk Street. John Schouten, a resident of the Savannah Heights subdivision located south of the site, stated that he was led to believe the area would develop at 2 units per acre according to General Plan Land Use Policy 4.1.17b, and voiced dissatisfaction with the density of the project. Mr. Schouten also questioned the future of the subdivision wall which divides his property and the project site. The wall on the north side of the Savannah Heights subdivision was constructed 5 feet south of the property line to allow for an easement to agricultural operations on the subject site. David Anderson, a resident of the Savannah Heights subdivision, also voiced concern regarding traffic and the location of the subdivision wall between his property and the project site.

In response to concerns related to traffic, Assistant Community Development & Public Works Director Fred Brusuelas explained how development impact fees paid through the construction of the project would progress the development of the overall City circulation system consistent with the Circulation Element. Mr. Brusuelas also noted that Shirk, Tulare, and Roeben frontages along the site would be constructed to City standards for arterials and collectors, and that construction of the project may displace Shirk St. traffic south of Tulare Ave. by improving overall circulation.

Mike Knopf and Harry Tow, both from Quad Knopf, and Cliff Ronk from Centex Homes, all spoke in favor of the project. Mike Knopf demonstrated to the Commission through aerial photos how the proposed project would be consistent with existing residential development to the north and south that extends as far west as Shirk Street.

After the close of the public hearing, Commissioner Perez made a motion to recommend certification and approval of the items to the City Council. Commissioner Thompson seconded the motion.

Alternatives:

1. The City Council may continue the item until the Council approves a comprehensive land use plan for the West Hwy. 198 area. Council had recently directed the Open Space Task Force to begin meeting and develop recommendations for open space and setbacks along the scenic corridor, in response to the survey presentation made to Council on June 6, 2005. Council also directed that a task force be formed to help formulate a comprehensive land use plan for the Agriculture-designated lands along West Hwy. 198 between Goshen and Walnut Avenues. The plan will establish a comprehensive land use pattern and development policies for the area including infrastructure needs (schools, fire facilities, etc.), and will include a financing plan to cover the costs for the placement of city infrastructure, and other public improvements serving the area.
2. The City Council may modify the recommendations of the Planning Commission.
3. The City Council may deny the requested actions.

Exhibits:

Resolutions

Exhibit "A" - Overall Conceptual Plan

Exhibit "B" - "Agricultural Mitigation Measures" from the Final EIR of the General Plan Land Use Element Update

Exhibit "C" – Correspondence from Visalia Unified School District, June 3, 2005

Exhibit "D" – Correspondence from Councilmember Kirkpatrick

Location Map

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

1. I move to certify the Environmental Impact Report prepared for the Elliott and Vander Weerd Property, Resolution No. 2005-104.
2. I move to approve General Plan Amendment No. 2003-20, Resolution No. 2005-105
3. I move to initiate proceedings on Annexation No. 2003-08 (Elliott East), Resolution No. 2005-106

Copies of this report have been provided to:

Environmental Assessment Status

Financial Impact

Funding Source:

Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

CEQA Review:

Required? Yes

Review and Action: Prior:

The Draft and Final copies of the Environmental Impact Report for the Elliott and Vander Weerd Property, State Clearinghouse No. 2004061090, have been circulated for public review consistent with CEQA Guidelines. On May 23, 2005, the Planning Commission recommended that the EIR be certified by the City Council.

Required: Certification of the EIR is required by the City Council.

NEPA Review:

Required? No

Review and Action: Prior:

Required:

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

Signed resolution for Annexation to Tulare Co. LAFCO:

Deliver to contact person by Tuesday, July 5, 2005

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

RESOLUTION NO. 2005-104

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA CERTIFYING THE ENVIRONMENTAL IMPACT REPORT FOR THE ELLIOTT AND VENDER WEERD PROPERTY PROJECT.

STATE CLEARINGHOUSE # 2004061090

WHEREAS, The City Council of the City of Visalia has reviewed and considered the Final Environmental Impact Report prepared for the Elliott and Vander Weerd Property Project; and,

WHEREAS, the Draft Environmental Impact Report (Draft EIR) was released on December 20, 2004 for circulation; and,

WHEREAS, the Planning Commission of the City of Visalia, after ten (10) days published notice did hold a public hearing to obtain public comment for the Draft Environmental Impact Report on February 15, 2005; and

WHEREAS, the Final Environmental Impact Report was released on May 13, 2005, and consists of the Draft EIR and the revisions of, and additions to, the Draft EIR; the written comments and recommendations received on the Draft EIR; the written responses of the City of Visalia to significant environmental points raised in the review and consultation process; errata to the foregoing; and other information added by the City of Visalia as specified in the record; and

WHEREAS, the Planning Commission of the City of Visalia, after ten (10) days notice held a second public hearing for the Final Environmental Impact Report on May 23, 2005; and

WHEREAS, the Planning Commission of the City of Visalia did recommend that the City Council of the City of Visalia certify the Environmental Impact Report prepared for the Elliott and Vander Weerd Property, SCH# 2004061090, on May 23, 2005 in conjunction with recommending the approval of General Plan Amendment No. 2003-20 and recommending the initiation of proceedings for Annexation No. 2003-08 (Elliott East); and,

WHEREAS, the California Environmental Quality Act (CEQA) required that, in connection with the approval of a project for which an EIR has been prepared which identified one or more significant effects, the decision making body make certain findings regarding those effects.

NOW, THEREFORE, BE IT RESOLVED, that the City Council finds that the Elliott and Vander Weerd Property Project Environmental Impact Report, SCH# 2004061090 was prepared consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines.

BE IT FURTHER RESOLVED that the City Council certify the Elliott and Vander Weerd Property Project Environmental Impact Report, SCH# 2004061090 based on the following specific findings and based on the evidence presented:

1. That full and fair public hearings have been held on the Environmental Impact Report and the City Council having considered all comments received thereon, said Environmental Impact Report is hereby determined to be adequate and complete; and said Environmental Impact Report is hereby incorporated herein by reference.
2. That the City Council hereby determines, in connection with the recommended adoption of the proposed General Plan Amendment and Annexation for the Elliott and Vander Weerd Property Project, that the Final Environmental Impact Report (FEIR) for those actions has been prepared in compliance with the California Environmental Quality Act (CEQA) and the state and local

environmental guidelines and regulations; that it has independently reviewed and analyzed the information contained therein, including the written comments received during the EIR review period and the oral comments received at the public hearing; and that the Final EIR represents the independent judgment of the City of Visalia, as Lead Agency for the project.

3. That the City Council does hereby find and recognize that the Final EIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft EIR and also incorporates text changes to the EIR based on information obtained by the City since the Draft EIR was issued. The City Council does hereby find and determine that such changes and additional information are not significant new information as that term is defined under the provisions of the California Environmental Quality Act because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the project and they do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the Draft EIR have been proposed that would lessen significant environmental impacts of the project; and no feasible alternatives considerably different from those analyzed in the Draft EIR have been proposed that would lessen the significant environmental impacts of the project.
4. That there is no evidence before the City Council that the proposed project will have any potential for adverse effects on wildlife resources, as defined in Section 711.2 of the Department of Fish and Game Code.
5. That the City Council does hereby make the following findings with respect to the unavoidable significant effects on the environment resulting from the project, as identified in the Final Environmental Impact Report, with the stipulation that all information in these findings is intended as a summary of the full administrative record supporting the Final Environmental Impact Report.

Agriculture

1. **Impact:** The project will result in the loss of prime farmland and will convert eighty acres of farmland to non-agriculture use. (Significant Unavoidable)
2. **Mitigation:** No feasible mitigation available.
3. **Finding:** There is no feasible mitigation measure available that would reduce or avoid the significant loss of agricultural land if the project is implemented. The proposed project will result in a loss of approximately eighty acres of prime farmland.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be significant and unavoidable.

The proposed project will change the zoning on the property from agriculture to residential and result in a loss of approximately eighty acres of prime farmland. The impact of conversion of agricultural land to urban use is a significant unavoidable impact. This impact was identified in both the City's Land Use Element Update EIR and the West Visalia Specific Plan for which the City Council adopted a Statement of Overriding Considerations. No mitigation measures are feasible to reduce this impact to less than significant. These facts support the City's finding to adopt a Statement of Overriding Considerations.

Air Quality

1. **Impact:** Operational Air Emissions (Significant Unavoidable)
2. **Mitigation:** The mitigation measures found in the table entitled Enhanced and Additional Control Measures for Construction Emissions of PM10, provided by the San Joaquin Valley Air Pollution Control District (Table 3.3-6 of the Draft EIR), and those found in the results of the CARB URBEMIS 2002 for Windows 7.4.2 Report (Appendix D of the Draft EIR) shall be implemented. With mitigation, the impacts cannot be reduced to a level of less than significant, therefore remain a significant unavoidable impact.

3. **Finding:** Long-term operation air quality impacts from the proposed project will not exceed the threshold of significance of ten tons per year for individual projects with the mitigation measures identified. However, the project will generate emissions that contribute to the existing non-attainment status of ozone and PM10, which is considered a cumulatively significant impact.
4. **Facts in Support of Finding:** The following facts indicate that the identified impact will be significant and unavoidable.

Impacts from operational activities associated with the proposed project (vehicles) are 3.7 tons per year of reactive organic gas and 4.1 tons per year of nitrous oxide. These levels are below the ten tons per year threshold determined by the San Joaquin Valley Unified Air Pollution Control District and are therefore not significant. However, the project will generate emissions that contribute to the existing non-attainment status of ozone and PM10, which is considered a cumulatively significant impact. Although the project provides for mitigation, no amount of mitigation measures would eliminate the impact to air quality. These facts support the City's finding to adopt a Statement of Overriding Considerations.

6. That environmental, economic, social, and other consideration and benefits derived by development of the project override the unavoidable environmental effects of the project and make infeasible the project alternatives which would eliminate or further reduce adverse impacts on the displacement of existing residents and businesses. A summary of the comparisons of the project alternatives is listed below and in Chapter 4 of the Environmental Impact Report is hereby incorporated herein by reference.

No Project Alternative

Description: The No Project Alternative consists of not building at the subject site and the site would remain designated and zoned Agriculture. There would be no project related impacts with this alternative.

Comparison: The "No Project" No Development alternative would leave the project site in its present condition. Existing agricultural operations would remain along with the two existing residences. With the exception of water consumption, none of the impacts associated with construction and operational activities would occur if the no project alternative were selected. No additional vehicle trips would be generated over present conditions, nor would noise and air quality impacts occur with selection of this alternative. In addition, this alternative would have no impact with regard to visual resources, land use, public services (except water consumption), energy, utilities, land use, hazardous materials, biological resources, or cultural resources.

Regarding water demand, the proposed project would result in a lesser amount of on-site water consumption than does the site under agricultural production. Consequently, from the perspective of water consumption, the proposed project is environmentally superior to the No Development Alternative.

Finding: This alternative is environmentally superior to the proposed project in all respects but water consumption. However, the No Development Alternative would not meet any of the project objectives.

Alternative Design – Higher Density Alternative

Description: The Higher Density Alternative consists of constructing the same number of dwelling units on half of the acreage (40 acres). This alternative site would consist of the eastern half of the project site.

Comparison: The Higher Density Alternative would result in lesser levels of impacts in many of the categories. Development of the project on less acreage would require less land to be removed from agricultural use, less lineal feet of infrastructure, and lower levels of stormwater runoff. Impacts to

traffic would be similar to those associated with the project, except that traffic volumes would be redistributed as a result of the alternative. Roeben Road would serve as the primary entry and exit point for the project, and therefore LOS on nearby streets and intersections would be higher, requiring more mitigation measures. For the remaining impact categories, the impacts would be similar under the higher density alternative and the proposed project.

Finding: This alternative would result in less environmental impacts in many of the environmental categories while failing to reduce only one of the unavoidable significant impacts. This alternative would meet most of the basic project objectives including: single-family residential, multifamily residential and duplex units and parkland.

Alternative Design – Alternative Site

Description: This alternative is the construction of the project on three parcels approximately three miles northeast of the proposed project site. The three parcels, approximately 80 acres in size, are located in a County island south of Riggins and east of Mooney.

Comparison: Locating the project on a site of similar size would result in no change of most of the impact categories, such as population, noise, air quality, hydrology, biological resources, cultural resources, and infrastructure. Land use impacts would be different based on the alternative land use designations, jurisdiction, and Williamson Act contract status. This particular site would also require a General Plan Amendment and Annexation, but would not require cancellation of any Williamson Act contract. Traffic impacts are found to be similar to the proposed project, and would not place any intersections at a failing LOS based on current levels.

Finding: This alternative would result in similar environmental impacts in most of the environmental categories. This alternative would also attain most of the basic project objectives including: single-family residential, multifamily residential and duplex units and parkland.

Alternative Design – Infill Site Alternative

Description: This alternative is similar in size to the proposed project at approximately 76 acres. This site is located on the eastern side of town within the City limits. The site consists of nine parcels and is between Douglas and Goshen 1,250 feet east of Ben Maddox.

Comparison: Like the alternative site described above, locating the project on an “infill” site would result in no change in many of the impact categories, such as noise, air quality, hydrology, biological resources, cultural resources, and infrastructure. Land use impacts would be less than those associated with the proposed project, since no entitlements for a change in land use status are needed. Tentative Subdivision Maps and Conditional Use Permits would be needed. Impacts to traffic would be worse at this site, and would require mitigation to the intersections at Ben Maddox/Goshen and Lovers Lane/Goshen to account for the increase in LOS.

Finding: This alternative would result in similar environmental impacts in most of the environmental categories while reducing two of the unavoidable significant project impacts. Only one impact (traffic) is worse under this alternative. This alternative attains most of the basic project objectives including: single-family residential, multifamily residential and duplex units and parkland.

7. MITIGATION MONITORING PROGRAM:

Attached to this Resolution as “Attachment “A”, and incorporated and adopted as part of this Resolution herein is the Mitigation Monitoring Program for the Elliott and Vander Weerd Property Project. The program identifies impacts of the Project and corresponding mitigation, and designates responsibility for monitoring the implementation of the identified mitigation measures to ensure they are carried out as intended.

BE IT FURTHER RESOLVED that the City Council adopts the following Statement of Overriding Considerations for the Elliott and Vander Weerd Property Project:

STATEMENT OF OVERRIDING CONSIDERATIONS

The City of Visalia City Council hereby finds that this project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant unavoidable impacts resulting from the project are acceptable in light of environmental, economic, social or other considerations set forth herein because the benefits of the project outweigh the significant and adverse effects of the project to Agriculture and Air Quality identified in the findings.

The City Council has considered the Environmental Impact Report, the public record of the proceedings on the proposed project as well as oral and written testimony received, and does hereby determine that implementation of the project as specifically provided in the project documents would result in the following substantial public benefits:

1. Regional Housing Needs – Development of the site, which would yield a total of 232 new dwelling units, would allow the City to further its goal of meeting State-mandated Regional Housing Needs for multiple income levels.
2. Implement and Reinforce the City’s Concentric Growth Strategy – The development of the subject site for residential use will assist in the preservation of land to be converted to residential use farther from the core area of the City and located outside of the City’s Urban Growth Boundaries. This is consistent with the concentric growth policies of the City.
3. High Quality Design Standards – The high design standards to be adopted as part of the proposed project will ensure the continued development of quality residential projects which further the objectives and policies contained in the City’s Land Use Element.
4. Provide needed Recreation and Open Space Areas to the Community – The community has identified the need for recreational services for the City’s diverse population as a priority. The 5.3-acre City Park will provide a quality facility which also preserves and enhances a portion of a community waterway located on the project site.

The City Council has weighed the above benefits of the proposed project against its unavoidable environmental risks and adverse environmental effects identified in the Environmental Impact Report and hereby determines that those benefits outweigh the risks and adverse environmental effects and further determines that those risks and environmental effects are acceptable.

BE IT FURTHER RESOLVED that the City Council hereby determines that the Final Environmental Impact Report prepared for the Elliott and Vander Weerd Property Project is adequate and complete pursuant to the requirements of the California Environmental Quality Act, and so certifies it.

Mitigation Monitoring Plan

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
Aesthetics							
3.1.2.1	Scenic Vistas or Scenic Highway	3-6	3.1.2.1	<p>Landscaping plans for the proposed project shall be developed and designed to preserve existing features of the surrounding development and internal components of the project consistent with the City's General Plan and the West Visalia Specific Plan policies. The applicant shall consult with the City and the plans shall be reviewed and approved by the City of Visalia Community Development Department prior to approval of project site grading plans.</p> <p>If solid fence and walls are used, the color and material used will blend with the features of the surrounding area.</p>	Less Than Significant	City Engineering Department	Pre-Construction

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				Continuous fences and walls shall be softened with landscaping. Solid fence and wall designs will be included in landscaping plans.			
3.1.2.2	Removal of One Mature Valley Oak Tree	3-7	3.1.2.2	<ul style="list-style-type: none"> ▪ Replacement of the mature valley oak will be at a rate of three trees of at least 15-gallon size for each six inches of diameter breast height (DBH) for each tree removed. Those replacement trees will be placed along Shirk Road to the extent possible. 	Less Than Significant	City Engineering Department	Construction
Agricultural Resources							
3.2.2.1	Prime Farmland	3-15	3.2.2.1	The City's strategies for mitigating these impacts are contained in the FEIR for the Visalia General Plan Land Use Element update (reference Section 4.2.4, Page 4-42). These include the following:	Significant Unavoidable and Cumulatively Significant	City of Visalia Community Development Department	Pre-Construction

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<ul style="list-style-type: none"> <li data-bbox="926 367 1241 898">▪ The city should adopt a program of prime farmland conservation which provides for purchase of equivalent acreages of conservation easements over prime lands outside the UGB. The costs of the program could be recovered through impact fees assessed to new development. <li data-bbox="926 935 1241 1399">▪ Increase residential density by allowing corner duplexes or similar measures to reduce the need for acres of prime land for urbanization. Pursue a program of long-term regional farmland preservation in cooperation with farming interests, Tulare County and 			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>surrounding communities to purchase development rights and establish easements for equivalent acreage outside of the Urban Growth Boundary to compensate for development on prime agricultural land within the Urban Growth Boundary.</p> <ul style="list-style-type: none"> ▪ A Right-to-Farm Ordinance should be adopted. ▪ Implement a growth management system which would utilize phased development and focus on protecting large blocks of agriculturally productive land. <p>Several additional potential mitigation measures have been</p>			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				referenced by the State Department of Conservation, including establishment of permanent agricultural conservation easements, or payment of mitigation fees to local, required or statewide organizations for farmland conservation. One of these above potential mitigation measures could be used to reduce the severity of the impact but would not reduce it to a level of insignificance.			
3.2.2.2	Agricultural Zoning and Williamson Act	3-16	None	None	No Impact	None	N/A
Air Quality							
3.3.2.1	Construction Emissions	3-26	3.3.2.1	Air quality impacts shall be mitigated with implementation of the SJVAPCD Regulation VIII Control Measures in effect at the time of construction. To further	Less Than Significant	San Joaquin Valley Air Pollution Control District	Construction

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>reduce construction equipment-related and construction traffic-related impacts, the mitigation measures found in Table 3.3-6 shall be implemented. The project will also be constructed in phases and take between four and five years to complete. The construction related mitigation measures are as follows:</p> <p>Soil Disturbance: Apply soil stabilizers to inactive areas Soil Disturbance: Replace ground cover in disturbed areas quickly Soil Disturbance: Water exposed surfaces – 2x daily Off-road Diesel Exhaust: Use aqueous diesel fuel Off-Road Diesel Exhaust: Use diesel</p>			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				particulate filter Off-Road Diesel Exhaust: Use cooled exhaust gas recirculation (EGR) On-Road Diesel Exhaust: Use aqueous diesel fuel On-Road Diesel Exhaust: Use diesel particulate filter On-Road Diesel Exhaust: Use cooled exhaust gas recirculation (EGR) Stockpiles: Cover all stock piles with tarps Unpaved Roads: Water all haul roads 2x daily Unpaved Roads: Reduce speed on unpaved roads to < 15 mph Worker Trips: Use shuttle to retail establishments @ lunch Off-Road Diesel Exhaust: Use aqueous diesel fuel Off-Road Diesel Exhaust: Use diesel particulate filter			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				Off-Road Diesel Exhaust: Use cooled exhaust gas recirculation (EGR) Off-Road Diesel Exhaust: Use aqueous diesel fuel Off-Road Diesel Exhaust: Use diesel particulate filter Off-Road Diesel Exhaust: Use cooled exhaust gas recirculation (EGR) On-Road Diesel Exhaust: Use aqueous diesel fuel On-Road Diesel Exhaust: Use diesel particulate filter On-Road Diesel Exhaust; Use cooled exhaust gas recirculation (EGR) Worker Trips: Use shuttle to retail establishments @ lunch Worker Trips: Use shuttle to retail establishments @ lunch Worker Trips: Use			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				shuttle to retail establishments @ lunch			
3.3.2.2	Operational Air Emissions	3-29	3.3.2.2	The mitigation measures found in Table 3.3-6, and those found in Appendix D shall be implemented.	Significant Unavoidable and Significant Cumulative	San Joaquin Valley Air Pollution Control District	Construction
Biological Resources							
3.4.2.1	Impact to Special Status Species	3-34	3.4.2.1	The <i>Dissemination of Standard Recommendations for the Protection of the San Joaquin kit fox Prior to or During Ground Disturbance</i> (USFWS June 29, 1999 #1-1-99-TA-1534) will be followed.	Less Than Significant	City of Visalia Community Development Director	Construction
3.4.2.2	Impact to Nesting Raptors	3-34	3.4.2.2	The following measures are proposed in the event that hawks establish nests within the 11 valley oaks prior to or during project construction. <ul style="list-style-type: none"> ▪ Red-tail hawk breeding begins in March and 	Less Than Significant	City of Visalia Community Development Department	Construction

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>continues through June. Eggs are generally laid March through April with incubation lasting 28 to 32 days and the young hawks fledging 40 to 45 days later. Prior to any activity that will impact valley oaks on the project site, a biologist should evaluate the trees to determine if nesting is occurring.</p> <ul style="list-style-type: none"> ▪ If nesting raptors are detected on the project site, an appropriate construction buffer will need to be established around the nest tree(s). Typical buffers for nesting raptors can be upwards of 250 feet or significantly more from the nest tree. The actual size of the buffer 			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>would depend on the species of hawk, topography, and type of construction activity that would occur in the vicinity of the nest.</p> <ul style="list-style-type: none"> ▪ Removal of the nest tree will not be allowed until all young hawks have fledged. 			
Cultural Resources							
3.5.2.1	Cultural Resources	3-37	3.5.2.1	<p>Prior to construction of the project, a qualified professional archaeologist shall conduct a field survey to determine if cultural resources exist. Additionally, should buried cultural resources be discovered during construction, the project contactor shall immediately halt all work within 50-feet of the find until a qualified professional</p>	Less Than Significant	City of Visalia Community Development Department	Pre-Construction

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>archaeologist can be consulted to evaluate the find and implement appropriate mitigation measures. Should human skeletal remains be encountered, State law requires immediate notification of the County Coroner. Should the County Coroner determine that such remains are in an archaeological context, the Native American Heritage Commission in Sacramento shall be notified immediately, pursuant to State law, to arrange for Native American participation in determining the disposition of such remains.</p>			
Geology/Soils							
3.6.2.1	Seismicity, Soil Instability or Incompatible Soil Types	3-41	3.6.2.1	<ul style="list-style-type: none"> ▪ The project shall be designed in compliance with Title 24 of the Uniform Building Code, Earthquake 	Less Than Significant	City of Visalia Community Development Department	Construction

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>Requirements for Seismic Zone Three, and shall be inspected by City building inspectors during the construction phase.</p> <ul style="list-style-type: none"> ▪ The project shall be designed by a registered engineer to resist any seismic-related impacts, including liquefaction. ▪ Infrastructure shall either be re-covered and compacted with native soils as existing or trenched in paved right-of-way and re-covered with pavement. ▪ The project shall be designed for the appropriate soil type by a registered engineer to resist spreading, subsidence, or 			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				collapse.			
Hydrology and Water Quality							
3.8.2.2	Construction Water Quality Impacts	3-46	3.8.2.2	Prior to the issuance of grading permits, the project applicant shall prepare a SWPPP to be administered through all phases of grading and project construction. The SWPPP shall incorporate BMPs (i.e., stabilize site entrances and access roads, install inlet protection at down gradient inlets, install perimeter sediment controls, etc.) to ensure that potential water quality impacts during construction phases are minimized. The SWPPP shall address spill prevention and include countermeasure pans describing measures to ensure proper collection and disposal of all pollutants handled or produced on the site during construction, including sanitary	Less Than Significant	City of Visalia Community Development Department	Pre-Construction

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				wastes, cement, and petroleum products. The SWPPP shall be submitted to the Central Valley Regional Water Quality Control Board and to the City for review and approval. In addition, a Notice of Intent will be submitted to the State Water Resources Board to obtain a General Storm Water Permit for construction activities.			
3.8.2.3	Operational Surface Water Quality	3-47	3.8.2.3	The project applicant shall implement BMPs to ensure that long-term water quality is protected. The BMPs shall be designed, constructed and maintained to meet a performance standard established by the City. The City or project applicant shall retain a qualified specialist to monitor the effectiveness of the BMPs selected. Monitoring activities,	Less Than Significant	City of Visalia Community Development Department	Construction

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>along with funding for monitoring, shall be established and shall include (but not be limited to) initial setup, yearly maintenance, and yearly monitoring.</p> <p>During project operation, the project (applicant) shall implement actions and procedures established to reduce the pollutant loadings in storm drain systems. The two main categories of these BMPs are "source control" and "treatment control." Source control BMPs are usually the most effective and economical in preventing pollutants from entering storm and non-storm runoff. Source control BMPs that are relevant to the project and shall be implemented include:</p> <p>a) Public</p>			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>Education/Participation activities. Information shall be provided to new project residents and tenants regarding pollution prevention.</p> <p>b) Materials Use Controls, which include good housekeeping practices (storage, use and cleanup) when handling potentially harmful materials, such as cleaning materials, fertilizers, paint, and where possible using, safer alternative products.</p> <p>c) Material Exposure Controls, which prevent and reduce pollutant discharge to storm water by minimizing the storage of hazardous materials</p>			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>(such as pesticides) on site, storing materials in a designated area, installing secondary containment, conducting regular inspections, and training employees and subcontractors.</p> <p>d) Material Disposal and Recycling, which includes storm drain system signs and stenciling with language to discourage illegal dumping of unwanted materials. Residents shall be notified of household hazardous waste and used oil recycling at collection centers and round-up activities conducted by the City.</p> <p>e) Spill Prevention and</p>			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>Cleanup activities which are directed toward reducing the risk of spills during the outdoor handling and transport of chemicals, and toward developing plans and programs to contain and rapidly clean up spills before they get into a storm drain system. This BMP also deals with the prevention and reduction of pollution from vehicle leaks and spills from vehicles during transport, as well as aboveground storage tanks.</p> <p>f) Illegal Dumping controls. The Covenants, Conditions, and Restrictions (CC&R's) for the project shall include</p>			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>a prohibition on the dumping of waste products (solid waste/liquid waste and yard trash) into storm drain systems, open space areas, and creeks.</p> <p>g) Stormwater pollution source controls shall be conditioned to provide a permanent storm drain message “No Dumping – Flows to Creek” or other approved message at each storm drain inlet. This may be accomplished with a stamped concrete impression (for curbs) or manufactured colored tiles, which are epoxied in place adjacent to the inlet (for parking lots and areas without curbs).</p>			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>h) Street and storm drain maintenance activities. These activities control the movement of pollutants and remove them from pavements through catch basin cleaning, storm drain flushing, street sweeping, and by regularly removing illegally dumped material from storm channels and creeks. (The City of Visalia would be responsible for regular storm drain maintenance within the public right-of-way; grease traps and other stormwater quality control devices on private property shall be maintained by the property owners.)</p>			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
Noise							
3.11.2.1	Construction Noise	3-60	3.11.2.1	Noise producing equipment used during construction shall be restricted to the hours from 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturday and Sunday. Also, effective mufflers shall be fitted to gas- and diesel-powered equipment.	Less Than Significant	City of Visalia	Operations
3.11.2.2	Roadway Traffic Noise	3-61	3.11.2.2	<i>A 7-foot concrete masonry block wall will be built around the perimeter of the project site (including landscaping) to minimize noise impacts from each roadway. Two-story residence noise is addressed by ensuring compliance with a 45 db interior.</i>	Less Than Significant	City of Visalia	Construction
Public Service							
3.13.2.3	Public Schools	3-67	3.13.2.3	Funding for schools and impacts for school	Less Than Significant	City of Visalia	Pre-Construction

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>facilities impacts is preempted by State law (Proposition 1A/SB 50, 1998, Government Code Section 65996) which governs the amount of fees that can be levied against new development. These fees are used to construct new schools. Payment of fees authorized by the statute is deemed "full and complete mitigation." Project proponents will pay school impact fees per School District standards.</p>			
Transportation/Traffic							
3.15.2.1	Traffic Increases by 500 Vehicles Per Day	3-75	3.15.2.1	<p>It is recommended that as part of the project, the project's frontages along Shirk, Tulare and Roeben be constructed to City standard for arterials or collectors as appropriate. In addition, the project will pay its fair share of the development of the</p>	Significant Unavoidable	City of Visalia and Caltrans	Pre-Construction

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>overall city and state circulation system through the payment of the City's Development Impact Fee. This fee is to be paid to the City at the time of the issuance of building permits and is used by the City to make improvements to city and state highway facilities within the community. Pursuant to City policy, some portions of the improvements to the proposed project's frontages along Shirk, Tulare and Roeben are eligible for reimbursement credit with respect to the Development Impact Fees. Those credits, if any, will be determined at the time the Tentative Map is approved by the City.</p>			
3.15.2.2	Result in a Level of Service below LOS D for any street segment	3-75	3.15.2.2	<p>The implementation of mitigation measure #3.15.2.1. Furthermore, it is clear</p>	Significant and Unavoidable	City of Visalia and Caltrans	Pre-Construction

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
	or intersection in the City or its Sphere of Influence			<p>from the analysis of 2030 conditions that the intersection of Shirk Road at the SR 198 eastbound ramp will fall below City and Caltrans LOS standards with the build out of the City's General Plan. The City has plans to improve Shirk Road through the interchange area as part of its long range Circulation Element. Those improvements should be planned to maximize the capacity through the interchange, and if possible, remediate the projected conditions at the eastbound ramp intersection. According to the Traffic Impact Study, Caltrans had originally undersized the interchange. Suggested design considerations could include an additional lane to the off-ramp, dual southbound left</p>			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>turn lanes or additional north/south through lanes through the interchange. The proposed project will, with any of these options, mitigate the impact to LOS to less than significant and pay its prorated share of the necessary improvements to the interchange through its payment of the City's Development Impact Fees. The City's updated Circulation Element has planned for upgrades to this intersection and the project proponents will contribute their prorated fair share towards the upgrades with payment of the City's development impact fees.</p> <p>According to Caltrans, the SR 198 interchange at Shirk Avenue was designed to</p>			

Impact Number	Impact	EIR Page #	Mitigation Number	Mitigation Measure	Level of Significance After Mitigation	Monitoring Agency	Timing
				<p>accommodate rural land uses and will require improvements such as signalization or bridge widening in the future. Caltrans recommends establishing a “pro-rata share” based on land use generation to be included as a condition of the Tentative Subdivision Map approval since the interchange is not listed in the City’s Transportation Impact list of projects. Caltrans recommended that the City also include the interchange in the City’s traffic impact fee program for these or other future improvements.</p>			

RESOLUTION NO. 2005-106

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA, APPROVING GENERAL PLAN AMENDMENT NO. 2003-20, A REQUEST TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM AGRICULTURE TO LOW DENSITY RESIDENTIAL ON 80 ACRES LOCATED EAST OF SHIRK STREET AND SOUTH OF THE TULARE AVENUE ALIGNMENT BETWEEN SHIRK STREET AND ROEBEN AVENUE IN THE CITY OF VISALIA (APN: 087-010-005, 006, 008). CENTEX HOMES, APPLICANT; QUAD KNOPF, AGENT.

WHEREAS, an application has been filed by Centex Homes (Quad Knopf, agent) for General Plan Amendment No. 2003-20, a request to change the General Plan land use designation from Agriculture to Low Density Residential on 80 acres. The site is located east of Shirk Street and south of the Tulare Avenue alignment between Shirk Street and Roeben Avenue in the City of Visalia (APN: 087-010-005, 006, 008); and

WHEREAS, a Draft Environmental Impact Report (Draft EIR) for the Elliott and Vander Weerd Property Projects, was released on December 20, 2004 for circulation considering the impacts of the General Plan Amendment; and

WHEREAS, the Planning Commission of the City of Visalia, after ten (10) days published notice did hold a public hearing to obtain public comment for the Draft Environmental Impact Report on February 15, 2005; and

WHEREAS, the Final Environmental Impact Report was released on May 13, 2005, and consists of the Draft EIR and the revisions of, and additions to, the Draft EIR; the written comments and recommendations received on the Draft EIR; the written responses of the City of Visalia to significant environmental points raised in the review and consultation process; errata to the foregoing; and other information added by the City of Visalia as specified in the record; and

WHEREAS, the Planning Commission of the City of Visalia, after ten (10) days notice held a second public hearing for the Final Environmental Impact Report on May 23, 2005; and

WHEREAS, the Planning Commission of the City of Visalia found General Plan Amendment to be in accordance with Section 17.54.070 of the Zoning Ordinance of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing on May 23, 2005; and

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice held a public hearing before said Council on June 20, 2005; and

WHEREAS, the City Council certified that the Final Environmental Impact Report for the Elliott and Vander Weerd Property Project, SCH 2004061090, was prepared consistent with the California Environmental Quality Act (CEQA) and City of Visalia Environmental Guidelines on June 20, 2005; and

WHEREAS, the California Environmental Quality Act (CEQA) required that, in connection with the approval of a project for which an EIR has been prepared which identified one or more significant effects, the decision making body make certain findings regarding those effects; and

WHEREAS, the City Council adopted a statement of over-riding considerations for the project; and

WHEREAS, the City Council of the City of Visalia finds the General Plan Amendment to be in accordance with Section 17.54.070 of the Zoning Ordinance of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing on June 20, 2005.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Visalia approves the proposed General Plan Amendment based on the following specific findings and based on the evidence presented:

1. That an Environmental Impact Report, SCH# 2004061090, prepared for the Elliott and Vander Weerd Property Project, has been prepared in response to actions on the property, including a request for General Plan Amendment to change the land use designation of the site from Agriculture to Low Density Residential.
2. That the change in the land use designation from Agriculture to Low Density Residential is consistent with the intent of the Land Use Element of the General Plan.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia approves the General Plan Amendment described herein, in accordance with the terms of this resolution under the provisions of Section 17.54.070 of the Ordinance Code of the City of Visalia and based on the above findings.

RESOLUTION NO. 2005-105

A RESOLUTION OF APPLICATION BY THE CITY OF
VISALIA REQUESTING THE TULARE COUNTY LOCAL
AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS
FOR ANNEXATION 2003-08 (ELLIOTT EAST)

WHEREAS, the City Council of the City of Visalia, desires to initiate proceedings for annexation to said city of territory described on the attached legal description; and

WHEREAS, the Council of the City of Visalia desires to annex said territory to the City of Visalia for the following reasons: The annexation will contribute to and facilitate orderly growth and development of both the City and the territory proposed to be annexed; will facilitate and contribute to the proper and orderly layout, design and construction of streets, gutters, sanitary and storm sewers and drainage facilities, both within the City and within the territory proposed to be annexed; and will provide and facilitate proper overall planning and zoning of lands and subdivision of lands in said City and said territory in a manner most conducive of the welfare of said City and said territory; and

WHEREAS, this proposal is made pursuant to the Cortese-Knox-Hertzburg Local Government Reorganization Act of 2000, commencing with Section 56000 of the Government Code of the State of California; and

WHEREAS, the territory proposed to be annexed is uninhabited; and

WHEREAS, the Visalia Planning Commission reviewed this proposal on May 23, 2005, 2005, and found it to be consistent with the General Plan; and

WHEREAS, a Final Environmental Impact Report (EIR) (State Clearinghouse No. 2004061090) was prepared and certified by the Visalia City Council on June 20, 2005 for the Elliott and Vander Weerd Property Project, which includes the proposed annexation, consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines.

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

1. The annexation area is within the current Urban Development Boundary and is designated for urban development by the City Land Use Element.
2. The annexation area is within Visalia's Urban Development Boundary and is designated for urban development by the County of Tulare Land Use Element.
3. The annexation area is within the City of Visalia Sphere of Influence.
4. The annexation is consistent with the policies and intent of the General Plan.
5. The annexation area is uninhabited.
6. Portions of the site are currently in an agricultural preserve and under a Land Conservation Contract. The owner of the site has filed a notice of nonrenewal with the County of Tulare.
7. The Council finds that the General Plan Maintenance Fee for this annexation will be \$22,620.00 which shall be paid upon approval of the annexation by LAFCo.

8. That on June 20, 2005, the City Council certified that the Final Environmental Impact Report for the Elliott and Vander Weerd Property Project (State Clearinghouse No. 2004061090) was prepared consistent with the California Environmental Quality Act (CEQA) and City of Visalia Environmental Guidelines.
9. That there is no evidence before the Council that the proposed project will have any potential for adverse effects on wildlife resources, as defined in Section 711.2 of the Department of Fish and Game Code.

BE IT FURTHER RESOLVED that the Council of the City of Visalia requests the following actions:

1. That application is hereby made to the Executive Officer of the Local Agency Formation Commission (LAFCO), County of Tulare, State of California, as proposed in the Proposal Questionnaire, as described in the legal description entitled "Annexation No. 2003-08 (Elliott East)", and as illustrated in the map entitled "Annexation No. 2003-08 (Elliott East)".
2. That proceedings shall be taken for this annexation proposal pursuant to Title 5, Division 3, Part 3 of the California Government Code and other relevant provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
3. The City Clerk of the City of Visalia is authorized and directed to file a certified copy of this resolution with the Executive Officer of Tulare County LAFCO.
4. That upon annexation, the entire territory excluding public right-of-ways shall be zoned Single-family Residential, 6,000 square feet minimum lot size (R-1-6) consistent with the General Plan Land Use Element.
5. The Council hereby succeeds to the agricultural preserve contract encumbering portions of the site.
6. The Council hereby requests waiver of the conducting authority proceedings in accordance with Government Code Section 56663(c).
7. Upon annexation and subsequent development of the site, the project developer shall comply with any water acquisition policies and fees which are subject to the property.
8. Upon approval of the annexation by the Tulare County LAFCO, the property owner shall pay the General Plan Maintenance Fees which are subject to the property.
9. The property owners agree to indemnify, defend (at City's option), and hold harmless the City of Visalia and their officers, employees, and agents (including attorney's fees and costs) from any action brought against the City regarding its administration of the agricultural preserve and related Williamson Act contracts as they relate to the property being annexed.
10. Prior to City lodging an application to LAFCO on behalf of applicant(s), applicant(s) shall enter into an annexation agreement with City which memorializes the required fees, policies, and conditions applicable to the annexation.