



Gregorio Gomez, Mayor
Paul Boyer, Mayor Pro Tem
Don Rowlett, Council Member
Matt Sisk, Council Member
Leonel Benavides, Council
Member

AGENDA
Farmersville City Council
Regular Meeting
August 22, 2016 - 7:00 p.m.
Meeting held in Civic Center Council Chambers
909 W. Visalia Road Farmersville, California

1. Call To Order
2. Roll Call
3. Invocation
4. Pledge Of Allegiance
5. Public Comment

Provides an opportunity for members of the public to address the City Council on items of interest to the public within the Council's jurisdiction and which are not already on the agenda this evening. It is the policy of the Council not to answer questions impromptu.

Concerns or complaints will be referred to the City Manager's office. Speakers should limit their comments to not more than two (2) minutes. No more than twenty (20) total minutes will be allowed for Public Comment. For items which are on the agenda this evening, members of the public will be provided an opportunity to address the council as each item is brought up for discussion. Comments are to be addressed to the Council as a body and not to any individual Council Member.

6. Presentations

- 6.I. City Council Proclamation Recognizing September As Hydrocephalus Awareness Month And September 25, 2016 As Hydrocephalus Awareness Day.
City Council Proclamation Recognizing September as Hydrocephalus Awareness Month and September 25, 2016 as Hydrocephalus Awareness Day.

Documents:

[ITEM 6.I PROCLAMATION HYDROCEPHALUS AWARENESS.PDF](#)

7. Public Hearings

- 7.I. 7:00 PM Public Hearing: Draft Ordinance 478 Regulating Wireless Telecommunications Facilities.
Conduct a Public Hearing and take public testimony on draft Ordinance 478 regulating the construction and installation of wireless telecommunication facilities. Approve and waive First Reading and introduce by Title Only Ordinance 478 and advance to second reading and final adoption.

Documents:

[ITEM 7.I PUBLIC HEARING ORDINANCE 478.PDF](#)

- 7.II. 7:00 PM Public Hearing: Resolution 2016-036 Approving Supplemental Law

Enforcement Services Funds (SLESF) And Consideration Of Spending Plan.

Conduct a Public Hearing and take public testimony regarding Resolution 2016-036 approving Supplemental Law Enforcement Services Funds (SLESF) and consideration of spending plan.

Documents:

[ITEM 7.II PUBLIC HEARING RESOLUTION 2016-036 SLESF.PDF](#)

8. Consent Agenda

Under a CONSENT AGENDA category, a recommended course of action for each item is made. Any Council Member or Member of the Public may remove any item from the CONSENT AGENDA in order to discuss and/or change the recommended course of action, and the Council can approve the remainder of the CONSENT AGENDA.

8.I. Consideration Of Draft Meeting Minutes Of August 8, 2016 City Council Meeting.

Recommend review and approval of draft Meeting Minutes of August 8, 2016 City Council Meeting.

Documents:

[ITEM 8.I CC MTG MINUTES OF 08-08-16.PDF](#)

8.II. Second Reading And Adoption Of Ordinance 476

It is respectfully recommended that the City Council waive second Reading and adopt Ordinance 476 approving Zoning Ordinance Amendment 476 to amend the Farmersville Zoning Ordinance, thereby implementing several action plans of the 2016 Farmersville Housing Element.

Documents:

[ITEM 8.II SECOND READING AND ADOPTION OF ORDINANCE 476.PDF](#)

9. Discussion Action Items (New Business)

9.I. Presentation And Discussion Of Program Income From CDBG And HOME Programs.

Presentation and Discussion of Program Income from Community Development Block Grant (CDBG) and HOME Programs, with possible direction to Staff.

Documents:

[ITEM 9.I PROGRAM INCOME PRESENTATION AND DISCUSSION 08-22-16.PDF](#)

9.II. Termination Of Facility Use Agreement With Farmersville Senior Citizens Inc.

Recommend termination or nullification of Facility Use Agreement with Farmersville Senior Citizens Inc.

Documents:

[ITEM 9.II TERMINATION OF FACILITY USE AGREEMENT 08-22-16.PDF](#)

9.III. Consideration Of Equity Concern With Tulare Economic Development Corporation.

Recommend that City Council discuss concerns of fairness associated with Tulare

EDC proposal for August 24, 2016 and provide direction to the City's representative to the EDC in this matter.

Documents:

[ITEM 9.III EDC EQUITY CONCERN STAFF REPORT 08-22-16.PDF](#)

- 9.IV. City Representation On Greater Kaweah Sustainable Groundwater Agency.
Recommend City Council consideration or proposed representative for area cities on Board of Directors of emerging Greater Kaweah Sustainable Groundwater Agency.

Documents:

[ITEM 9.IV DISCUSSION OF REPRESENTATIVES FOR CITIES ON GSA 8-22-16.PDF](#)

10. Council Reports

10.I. City Council Member Reports

City Council Representatives to External / Internal

Organizations and Committees

Council of Cities:	Mayor Gomez Alternate: Councilmember Benavides
TCAG:	Mayor Gomez Alternate: Mayor Pro Tem Boyer
TCAG Rail Comm:	Councilmember Sisk
EDC:	Councilmember Benavides Alternate: Mayor Pro Tem Boyer
Delta Vector:	VACANT (Recruitment pending)
Home Loan Approval Committee:	Mayor Gomez & Councilmember Benavides
SJVAPCD:	Councilmember Benavides Alternate: Mayor Gomez
2016 Community Funding Ad-Hoc Committee	Mayor Gomez Councilmember Benavides Alternate: Councilmember Sisk

11. City Manager Report

12. City Attorney Report

13. Future Agenda Items

13.I. Future Agenda Items

Future Agenda Items – TBD: (Dates to Be Determined)

- 1) 2nd Reading and Final Adoption on Ordinance 478 Regarding Cell Facilities
- 2) Sports Park Notice of Completion (TBD)
- 3) Joint Workshop of City Council and Planning Commission Regarding Design Guidelines (TBD Oct 2016)
- 4) Agua 4 All - Water Program Resolution (Tentative)
- 5) 4th Quarter Financial Report FY 2015-2016
- 6) FY 2015-2016 Year End Financial Update

14. Adjourn To Closed Session Or Adjourn To Next Meeting

14.I. Closed Session

- 1) CLOSED SESSION: Conference with legal counsel – ANTICIPATED LITIGATION (Government Code § 54956.9(d)). Number of potential cases is: 1.

15. Reconvene To "Report Out" Of Closed Session And Adjournment

16. Footer

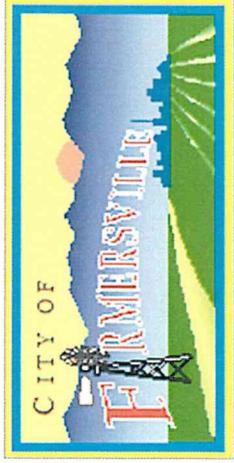
Documents:

[FARMERSVILLE CITY HALL FOOTER.PDF](#)

NOTICE TO PUBLIC

The City of Farmersville Civic Center and City Council Chambers comply with the provisions of the Americans with Disabilities Act (ADA). Anyone needing special assistance please contact City Hall at (559) 747-0458 please allow at least six (6) hours prior to the meeting so that staff may make arrangements to accommodate you.

Materials related to an item on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City's offices during normal business hours.



CITY OF FARMERSVILLE PROCLAMATION

PROCLAIMING SEPTEMBER AS HYDROCEPHALUS AWARENESS MONTH AND SEPTEMBER 25, 2016, AS HYDROCEPHALUS AWARENESS DAY.

WHEREAS: *Hydrocephalus is the buildup of fluid in the cavities (ventricles) deep within the brain. The excess fluid increases the size of the ventricles and puts pressure on the brain, caused most often by an obstruction preventing proper fluid drainage; and*

WHEREAS: *The pressure of too much cerebrospinal fluid associated with hydrocephalus can damage brain tissues and cause a large spectrum of impairments in brain function; and*

WHEREAS: *The medical community reports about one-of-every 500 children is born with this incurable condition; and*

WHEREAS: *In 2009, the United States Congress passed a Resolution designating the month of September as National Hydrocephalus Awareness Month; and*

WHEREAS: *The California Pediatric Hydrocephalus Foundation is dedicated to increasing public awareness of hydrocephalus and the needs of families parenting children diagnosed with hydrocephalus; and*

WHEREAS: *Emily Myers was diagnosed before birth with hydrocephalus and was born on January 7, 2015 to Nickolas and Maria Myers; and*

WHEREAS: *Nickolas lived in Farmersville for 20 years, Maria is a 6 year employee of La Mejor del Valle, and a majority of Emily's family are Farmersville residents; and*

WHEREAS: *Emily's parents have worked hard to raise awareness, one example is by participating in the Fresno Walk to End Hydrocephalus as Team Emily; now*

NOW, THEREFORE, I, Gregorio Gomez, Mayor of the City of Farmersville do hereby proclaim September 2016, as HYDROCEPHALUS AWARENESS MONTH and September 25, 2016, as HYDROCEPHALUS AWARENESS DAY in the City of Farmersville, and I encourage my fellow residents to join me in raising awareness of pediatric hydrocephalus and supporting efforts to learn more about its causes and treatment options.

BY THE CITY COUNCIL OF THE CITY OF THE CITY OF FARMERSVILLE

Date: August 22, 2016



City Council

Staff Report

TO: Honorable Mayor and City Council

FROM: John Jansons, City Manager *[Signature]*

DATE: August 22, 2016

SUBJECT: Public Hearing: Waive First Reading and Introduce by Title Only, draft Ordinance No. 478, amending Farmersville Municipal Code Chapter 12 proposing regulations and mitigation conditions for wireless telecommunication facilities in the City of Farmersville.

RECOMMENDED ACTION:

It is respectfully recommended that the City Council:

1. Conduct a Public Hearing and Take Public Testimony, and
2. Waive First Reading and Introduce by Title Only, draft Ordinance No. 478, amending Farmersville Municipal Code Chapter 12 proposing regulations and mitigation conditions for wireless telecommunication facilities in the City of Farmersville.

BACKGROUND:

A party has submitted an application to install a 123-foot high wireless telecommunication antenna within the right-of-way of Costner Street, immediately west of Farmersville Boulevard. The City's standards regarding such facilities are minimal so the City Council has directed staff to prepare an ordinance to establish standards for such installations.

ANALYSIS AND DISCUSSION:

As noted above, the City has received an application for an encroachment permit for installation of a 123-foot high wireless transmission tower in a dirt area within the street right of way on the north side of Costner Street immediately west of Farmersville Boulevard. There is concern that this installation will have negative impacts in terms of aesthetics and public safety as well as potentially negative impacts on future development in the downtown.

The city's existing regulations pertaining to these types of installations are minimal (and there is the possibility that additional applications could follow), so at the August 8, 2016 City Council meeting the Council directed staff to prepare an ordinance to establish standards to regulate wireless facilities within the right of way.

In the meantime, the City Council also adopted an urgency ordinance putting into place a 45 day moratorium on all applications for such facilities.

In terms of establishing standards and a review procedure, staff reviewed ordinances adopted by other cities and primarily used an ordinance adopted by Rancho Palos Verdes (in Southern California) as a template. The ordinance is proposed to be added to Chapter 12 of the Farmersville Municipal Code. This chapter pertains to "Streets, Sidewalks and Public Places". The ordinance is contained within the attached Resolution.

Key sections and features of the ordinance include:

Chapter 12.18.020 lists a number of definitions for terms related to wireless telecommunications facilities that are used in the ordinance.

Chapter 12.18.040 identifies processing requirements for applications. Most installations will be subject to a public hearing before the Planning Commission - similar to a Conditional Use Permit. All property owners within 300 feet will be notified of the hearing.

Chapter 12.18.050 lists the requirements for an application submittal. Among other requirements the City can require a justification study that demonstrates why there are no other feasible alternatives to establishment of a wireless antenna in the right-of-way. The City can also require photo simulations of the installation.

Chapter 12.18.070 establishes design standards for wireless facilities. Key standards include:

- Proposed antennas and associated equipment must be mounted on existing utility poles (power poles or telephone poles) or on existing street lights. Such installations may project no more than four feet above the top of the pole.

A new pole may be permitted but only when replacing an existing utility pole or street light pole, or an exception for a new pole (similar in height to existing utility poles or light poles) may be granted when no other options are available, however the new pole must be at least 90 feet away from any existing pole. The City can require a justification analysis for such an installation.

- Equipment shall be treated in a way to blend in with the existing pole and shall be made to be as minimally visible as possible.

- The City can require equipment (electrical boxes, equipment boxes, etc.) associated with an antenna be located underground.

- All such installations must comply with the City's noise ordinance.

Section 12.19.070 establishes conditions the City can apply to a project. Key among these are that the City can require insurance for the structure, naming the City as insured.

Section 12.18.110 establishes operation and maintenance standards the City can enforce.

Section 12.18.140 establishes that the permit for a wireless facility within the right-of-way will expire after ten years. The applicant may apply for a new permit to extend use of the facility. Unless that is done, however, the City can require the facility be removed by the applicant.

Section 12.18.170 establishes a process by which an applicant can request an exception to standards of the ordinance. To do so, the applicant must provide clear justification as to why they cannot comply with a particular standard.

Environmental Review

Adoption of the urgency ordinance is exempt from review for environmental impacts under the California Environmental Quality Act (CEQA) per Section 15061(b) (3) (amendments to regulations).

FISCAL IMPACT:

None

COORDINATION AND REVIEW:

The proposed Ordinance 478 has been coordinated and reviewed with the City Attorney, the City's planning consultant, and Planning Commission which unanimously approved enactment of Ordinance 478 following a Public Hearing by Planning Commission Resolution #2016-008 on August 17, 2016.

ALTERNATIVES:

None Proposed.

CONCLUSION:

It is respectfully recommended that the City Council:

1. Conduct a Public Hearing and Take Public Testimony, and
2. Waive First Reading and Introduce by Title Only, draft Ordinance No. 478, amending Farmersville Municipal Code Section Chapter 12 and proposing regulations and mitigation conditions for wireless telecommunication facilities in the City of Farmersville.

ATTACHMENT(S): 1

- 1) Draft Ordinance 478.

Respectfully Submitted By:



John Jansons
City Manager

DRAFT ORDINANCE NO. 478

AN ORDINANCE OF THE CITY OF FARMERSVILLE, CALIFORNIA, ADDING A NEW SUBSECTION ENTITLED “WIRELESS TELECOMMUNICATIONS FACILITIES” TO CHAPTER 18 OF THE FARMERSVILLE MUNICIPAL CODE TO PROVIDE UNIFORM AND COMPREHENSIVE REGULATIONS AND STANDARDS, ALONG WITH PERMIT REQUIREMENTS, FOR THE INSTALLATION OF WIRELESS TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY.

SECTION 1. Chapter 12 of the Farmersville Municipal Code is amended to establish Section 12.24 (Wireless Telecommunications Facilities in the Right-of-way) as follows:

12.18.010 Wireless Telecommunications Facilities in the Public Right-of-Way: Purpose.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in the city’s public right-of-way. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary (1) for the preservation of the public right-of-way in the city for the maximum benefit and use of the public, (2) to promote and protect public health and safety, community welfare, visual resources and the aesthetic quality of the city consistent with the goals, objectives and policies of the General Plan, and (3) to provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules and regulations.

12.18.020 Definitions.

“Accessory equipment” means any equipment associated with the installation of a wireless telecommunications facility, including but not limited to cabling, generators, fans, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

“Antenna” means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals.

“Cellular” means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.

“Code” means the Farmersville Municipal Code.

“Collocation” means the mounting or installation of transmission equipment on an eligible

support structure for the purpose of transmitting and/or receiving radio frequency signal for communication purposes.

“COW” means a “cell on wheels,” which is a wireless telecommunications facility temporarily rolled in or temporarily installed.

“Director” means the director of public works, or his or her designee.

“Facility(ies)” means wireless telecommunications facilities.

“Ground-Mounted” means mounted to a telecommunications tower.

“Modification” means a change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, changes in size, shape, color, visual design, or exterior material.

“Modification” does not include repair, replacement or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation.

“Monopole” means a structure composed of a pole or tower used to support antennas or related equipment. A monopole also includes a mono-pine, mono-palm and similar mono-poles camouflaged to resemble faux trees or other faux objects attached on a monopole (e.g. water tower).

“Mounted” means attached or supported.

“Located within the public right-of-way” includes any facility which in whole or in part, itself or as part of another structure, rests upon, in, over or under the public right-of-way.

“Pole” means a single shaft of wood, steel, concrete or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of this Code.

“Public right-of-way” means any public highway, public street or alley, public place in the city of Farmersville, either owned by the city or dedicated to the public for the purposes of travel. The term includes all or any part of the entire width of right-of-way, and above and below the same, whether or not such entire area is actually used for travel purposes.

“Sensitive uses” means any residential use, public or private school, day care, playground, and retirement facility.

“Telecommunications tower” means a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support wireless

telecommunications facility antennas.

“Utility Pole” means any pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission.

“Wireless telecommunications facility,” “facility” or “facilities” mean any facility that transmits and/or receives electromagnetic waves. It includes, but is not limited to, antennas and/or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development.

Exceptions: The term “wireless telecommunications facility” does not apply to the following:

- (a) Government owned and operated telecommunications facilities.
- (b) Emergency medical care provider-owned and operated telecommunications facilities.
- (c) Mobile services providing public information coverage of news events of a temporary nature.
- (d) Any wireless telecommunications facilities exempted from this Code by federal law or state law.

“Wireless telecommunications services” means the provision of services using a wireless telecommunications facility or a wireless telecommunications collocation facility, and shall include, but not limited to, the following services: personal wireless services as defined in the federal Telecommunications Act of 1996 at 47 U.S.C. §332(c)(7)(C) or its successor statute, cellular service, personal communication service, and/or data radio telecommunications.

12.18.030 Applicability.

- A. This chapter applies to the siting, construction or modification of any and all wireless telecommunications facilities proposed to be located in the public right-of-way as follows:
 1. All facilities for which applications were not approved prior to August 8, 2016 shall be subject to and comply with all provisions of this Chapter.
 2. All facilities for which applications were approved by the city prior to August 8, 2016 shall not be required to obtain a new or amended permit until such time as a provision of this code so requires. Any wireless telecommunication facility that was lawfully constructed prior to August 8, 2016 that does not comply with the standards, regulations and/or requirements of this Chapter, shall be deemed a nonconforming use and shall also be subject to the provisions of section 12.18.210.
 3. All facilities, notwithstanding the date approved, shall be subject immediately to the

provisions of this chapter governing the operation and maintenance (section 12.18.110), radio frequency emissions monitoring (section 12.18.120), cessation of use and abandonment (section 12.18.150), removal and restoration (section 12.18.160) of wireless telecommunications facilities and the prohibition of dangerous conditions or obstructions by such facilities (section 12.18.130); provided, however, that in the event a condition of approval conflicts with a provision of this Chapter, the condition of approval shall control until the permit is amended or revoked.

B. This chapter does not apply to the following:

1. Amateur radio facilities;
2. Over the Air Reception Devices (“OTARD”) antennas;
3. Facilities owned and operated by the city for its use;
4. Any entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement.

12.18.40 Wireless Telecommunications Facility Permit Requirements.

A. Major Wireless Telecommunications Facilities Permit.

All new wireless facilities or collocations or modifications to existing wireless facilities shall require a Major Wireless Telecommunications Facilities Permit subject to planning commission approval unless otherwise provided for in this chapter.

B. Administrative Wireless Telecommunications Facilities Permit.

1. An Administrative Wireless Telecommunications Facilities Permit, subject to the director’s approval, may be issued for collocations or modifications to existing facilities
2. In the event that the director determines that any application submitted for an Administrative Wireless Telecommunications Facilities Permit does not meet the criteria established in this Code, the director shall convert the application to a Major Wireless Facilities Permit application and refer it to the planning commission.

C. Other Permits Required. In addition to any permit that may be required under this chapter, the applicant must obtain all other required prior permits or other approvals from other city departments, or state or federal agencies. Any permit granted under this chapter is subject to the conditions and/or requirements of other required prior permits or other approvals from other city departments, state or federal agencies.

D. Eligible Applicants. Only applicants who have been granted the right to enter the public right-of-way pursuant to state or federal law, or who have entered into a franchise agreement

with the city permitting them to use the public right-of-way, shall be eligible for a permit to install or modify a wireless telecommunications facility or a wireless telecommunications collocation facility in the public right-of-way.

- E. Speculative Equipment Prohibited. The city finds that the practice of “pre- approving” wireless equipment or other improvements that the applicant does not presently intend to install but may wish to install at some undetermined future time does not serve the public’s best interest. The city shall not approve any equipment or other improvements in connection with a Wireless Telecommunications Facility Permit when the applicant does not actually and presently intend to install such equipment or construct such improvements.

12.18.050 Application for Wireless Telecommunications Facility Permit.

A. Application.

- 1. In addition to the information required of an applicant for an encroachment permit or any other permit required by this code, each applicant requesting approval of the installation or modification of a wireless telecommunications facility in the public right-of-way shall fully and completely submit to the city a written application on a form prepared by the director.
- 2. No applicant seeking to install wireless antennas shall seek an encroachment permit for fiber or coaxial cable only. Applicants shall simultaneously request fiber installation or other cable installation when seeking to install antennas in the right-of-way.

B. Application Contents The director shall develop an application form and make it available to applicants upon request. The supplemental application form for a new wireless telecommunications facility installation in the public right-of-way shall require the following information, in addition to all other information determined necessary by the director:

- 1. The name, address and telephone number of the applicant, owner and the operator of the proposed facility.
- 2. If the applicant is an agent, the applicant shall provide a duly executed letter of authorization from the owner of the proposed facility. If the owner will not directly provide wireless telecommunications services, the applicant shall provide a duly executed letter of authorization from the person(s) or entity(ies) that will provide those services.
- 3. If the facility will be located on or in the property of someone other than the owner of the facility (such as a street light pole, street signal pole, utility pole, utility cabinet, vault, or cable conduit), the applicant shall provide a duly executed written authorization from the property owner(s) authorizing the placement of the facility on or in the property owner’s property.
- 4. A full written description of the proposed facility and its purpose.

5. Detailed engineering plans of the proposed facility and related report prepared by a professional engineer registered in the state documenting the following:
 - a. Height, diameter and design of the facility, including technical engineering specifications, economic and other pertinent factors governing selection of the proposed design, together with evidence that demonstrates that the proposed facility has been designed to the minimum height and diameter required from a technological standpoint for the proposed site. A layout plan, section and elevation of the tower structure shall be included.
 - b. A photograph and model name and number of each piece of equipment included
 - c. Power output and operating frequency for the proposed antenna.
 - d. Total anticipated capacity of the structure, indicating the number and types of antennas and power and frequency ranges, which can be accommodated.
 - e. Sufficient evidence of the structural integrity of the pole or other supporting structure as required by the city.
6. A justification study which includes the rationale for selecting the proposed site; if applicable, a detailed explanation of the coverage gap that the proposed use would serve; and how the proposed use is the least intrusive means for the applicant to provide wireless service. Said study shall include all existing structures and/or alternative sites evaluated for potential installation of the proposed facility and why said alternatives are not a viable option.
7. Site plan(s) to scale, specifying and depicting the exact proposed location of the pole, pole diameter, antennas, accessory equipment, access or utility easements, landscaped areas, existing utilities, adjacent land uses, and showing compliance with section 12.18.070.
8. Scaled elevation plans of proposed poles, antennas, accessory equipment, and related landscaping and screening.
9. A completed environmental questionnaire.
10. If the applicant requests an exception to the requirements of this chapter (in accordance with section 12.18.170), the applicant shall provide all information and studies necessary for the city to evaluate that request.
11. An accurate visual impact analysis showing the maximum silhouette, color and finish palette and proposed screening for the facility, including scaled photo simulations from at least 3 different angles.

12. Completion of the radio frequency (RF) emissions exposure guidelines checklist contained in Appendix A to the Federal Communications Commission's (FCC) "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to determine whether the facility will be "categorically excluded" as that term is used by the FCC.
13. For a facility that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the city that certifies that the proposed facility, as well as any facilities that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts Effective Radio Power "ERP") for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
14. Copies of any documents that the applicant is required to file pursuant to Federal Aviation Administration regulations for the facility.
15. A traffic control plan when the proposed installation is on any street in a non-residential zone. The city shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g. crane).
16. A written description identifying the geographic service area for the subject installation including geographic and propagation maps, that identifies the location of the proposed facility in relation to all existing and planned facilities maintained within the city by each of the applicant, operator, and owner, if different entities, as well as the estimated number of potentially affected uses in the geographic service area. The applicant shall depict all locations anticipated for new construction and/or modifications to existing facilities, including collocation, within two years of submittal of the application. Longer range conceptual plans for a period of five years shall also be provided, if available.
 - a. In the event the applicant seeks to install a wireless telecommunications facility to address service coverage concerns, full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites;
 - b. In the event the applicant seeks to address service capacity concerns, a written explanation identifying the existing facilities with service capacity issues together with competent evidence to demonstrate the inability of those facilities to meet capacity demands.

20. Certification that applicant is a telephone corporation or a statement providing the basis for its claimed right to enter the right-of-way. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.
 21. An application fee, and a deposit for a consultant's review as set forth in paragraph E of this section in an amount set by resolution by the city council and in accordance with California Government Code section 50030.
 22. Any other information and/or studies determined necessary by the director may be required.
- C. Application Contents – Modification of Existing Facility. The content of the application form for a modification to an existing facility shall be determined by the director, and shall include but not be limited to the requirements listed in section 12.18.050(B) unless prohibited by state or federal law.
- D. Effect of State or Federal Law Change. In the event a subsequent state or federal law prohibits the collection of any information required by section 12.18.050(B), the director is authorized to omit, modify or add to that request from the city's application form with the written approval of the city attorney, which approval shall be a public record.
- E. Independent Expert. The director is authorized to retain on behalf of the city an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility. The review is intended to be a review of technical aspects of the proposed wireless telecommunications facility and shall address any or all of the following:
1. Compliance with applicable radio frequency emission standards;
 2. Whether any requested exception is necessary to close a significant gap in coverage and is the least intrusive means of doing so;
 3. The accuracy and completeness of submissions;
 4. Technical demonstration of the unavailability of alternative sites or configurations and/or coverage analysis;
 5. The applicability of analysis techniques and methodologies;
 6. The validity of conclusions reached or claims made by applicant;
 7. The viability of alternative sites and alternative designs; and
 8. Any other specific technical issues identified by the consultant or designated by the city.

9. The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule resolution. No permit shall be issued to any applicant which has not fully reimbursed the city for the consultants cost.

12.18.060 Review Procedure

- A. Pre-submittal Conference. Prior to application submittal, the city strongly encourages all applicants to schedule and attend a pre-submittal conference with Public Works Department staff to receive informal feedback on the proposed location, design and application materials. The pre-submittal conference is intended to identify potential concerns and streamline the formal application review process after submittal. Public Works Department staff will endeavor to provide applicants with an appointment within approximately five (5) business days after receipt of a written request.
- B. Notice; Decisions. The provisions in this section describe the procedures for approval and any required notice and public hearings for an application.
 1. Planning Commission Hearings. Any permit application under this chapter subject to planning commission approval shall require notice and a public hearing. Notice of such hearing shall be provided in accordance with Code section 17.96.030. The planning commission may approve, or conditionally approve, an application only after it makes the findings required in section 12.18.090.
 2. Director's Decision Notice. The director may approve, or conditionally approve, an application only after they make the findings required in section 12.18.080. Within five days after the director approves or conditionally approves an application under this chapter, the director shall provide notice of the decision to the applicant.
 3. Notice of Shot Clock Expiration. The city acknowledges there are federal and state shot clocks which may be applicable to a proposed wireless telecommunications facility. That is, federal and state law provide time periods in which the city must approve or deny a proposed wireless telecommunications facility. As such, the applicant is required to provide the city written notice of the expiration of any shot clock, which the applicant shall ensure is received by the city (e.g. overnight mail) no later than twenty (20) days prior to the expiration.
 4. Written Decision Required. All final decisions made pursuant to this chapter shall be in writing and based on substantial evidence in the written administrative record. The written decision shall include the reasons for the decision.
- C. Appeals. Any aggrieved person or entity may appeal a decision by the director or the planning commission as provided in accordance with the provisions in Code chapter 17.96.050. The appellate authority may hear the appeal *de novo*.

12.18.070 Requirements for Facilities within the Public Right-of-Way

- A. Design and Development Standards. All wireless telecommunications facilities that are located within the public right-of-way shall be designed and maintained as to minimize visual, noise and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the following:
1. General Guidelines.
 - a. The applicant shall employ screening, undergrounding and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually screened as possible, to prevent the facility from dominating the surrounding area and to minimize aesthetic impacts from surrounding properties all in a manner that achieves compatibility with the community.
 - b. Screening shall be designed to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise, and/or blend into the environment, including landscaping, color, and other techniques to minimize the facility's visual impact as well as be compatible with the architectural character of the surrounding buildings or structures in terms of color, size, proportion, style, and quality.
 - c. Any permit or approval issued by the City in violation of the requirements of this ordinance is void and of no effect.
 2. Traffic Safety. All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.
 3. Blending Methods. All facilities shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area and structures.
 4. Equipment. The applicant shall use the least visible equipment possible. Antenna elements shall be flush mounted, to the extent feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Unless otherwise provided in this section, antennas shall be situated as close to the ground as possible.
 5. Poles.
 - a. Facilities shall be located consistent with section 12.18.180 unless an exception pursuant to section 12.18.170 is granted.
 - b. Only pole-mounted antennas shall be permitted in the right-of-way. All other telecommunications towers are prohibited, and no new poles are permitted that are

not replacing an existing pole. (For exceptions see subparagraph (h) below and sections 12.18.170 and 12.18.200.)

- c. Utility Poles. The maximum height of any antenna shall not exceed forty-eight (48) inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than twenty-four (24) feet above any drivable road surface. All installations on utility poles shall fully comply with the California Public Utilities Commission general orders, including, but not limited to, General Order 95, as may be revised or superseded.
- d. Light Poles. The maximum height of any antenna shall not exceed four (4) feet above the existing height of a light pole. Any portion of the antenna or equipment mounted on a pole shall be no less than sixteen and a half (16 1/2) feet above any drivable road surface.
- e. Replacement Poles. If an applicant proposes to replace a pole in order to accommodate a proposed facility, the pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible.
- f. Pole mounted equipment, exclusive of antennas, shall not exceed six (6) cubic feet in dimension.
- g. An exception shall be required to place a new pole in the public right-of-way. If an exception is granted for placement of new poles in the right-of-way:
 - i. Such new poles shall be designed to resemble existing poles in the right- of-way near that location, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced.
 - ii. Such new poles that are not replacement poles shall be located at least ninety (90) feet from any existing pole to the extent feasible.
 - iii. A new pole justification analysis shall be submitted to demonstrate why existing infrastructure cannot be utilized and demonstrating the new pole is the least intrusive means possible including a demonstration that the new pole is designed to be the minimum functional height and width required to support the proposed facility.
- h. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the pole and shall be camouflaged or hidden to the fullest extent feasible. For all wooden poles wherein interior installation is infeasible, conduit and cables attached to the exterior of poles shall be mounted flush thereto and painted to match the pole.

7. Space. Each facility shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.
8. Wind Loads. Each facility shall be properly engineered to withstand wind loads as required by this Code or any duly adopted or incorporated code. An evaluation of high wind load capacity shall include the impact of modification of an existing facility.
9. Obstructions. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, incommode the public's use of the right-of-way, or safety hazards to pedestrians and motorists and in compliance with section 17.76.030 so as not to obstruct the intersection visibility triangle.
10. Public Facilities. A facility shall not be located within any portion of the public right-of-way interfering with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility.
11. Screening. All ground-mounted facility, pole-mounted equipment, or walls, fences, landscaping or other screening methods shall be installed at least eighteen (18) inches from the curb and gutter flow line.
12. Accessory Equipment. Not including the electric meter, all accessory equipment shall be located underground, except as provided below:
 - a. When above-ground is the only feasible location for a particular type of accessory equipment and will be ground-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five (5) feet and a total footprint of fifteen (15) square feet, and shall be fully screened and/or camouflaged, including the use of landscaping, architectural treatment, or acceptable alternate screening. Required electrical meter cabinets shall be screened and/or camouflaged.
 - b. In locations where homes are only along one side of a street, above-ground accessory equipment shall not be installed directly in front of a residence. Such above-ground accessory equipment shall be installed along the side of the street with no homes.
13. Signage. No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the city.
14. Lighting.
 - a. No facility may be illuminated unless specifically required by the Federal Aviation Administration or other government agency. Beacon lights are not permitted unless

- required by the Federal Aviation Administration or other government agency.
- b. Legally required lightning arresters and beacons shall be included when calculating the height of facilities.
 - c. Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhoods.
 - d. Unless otherwise required under FAA or FCC regulations, applicants may install only timed or motion-sensitive light controllers and lights, and must install such lights so as to avoid illumination impacts to adjacent properties to the maximum extent feasible. The city may, in its discretion, exempt an applicant from the foregoing requirement when the applicant demonstrates a substantial public safety need.
 - e. The applicant shall submit a lighting study which shall be prepared by a qualified lighting professional to evaluate potential impacts to adjacent properties.

15. Noise.

- a. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 PM and 7:00 AM.
- b. At no time shall equipment noise from any facility exceed an exterior noise level of fifty-five (55) dBA three (3) feet from the source of the noise if the facility is located in the public right-of-way adjacent to a business, commercial, manufacturing, utility or school zone; provided, however, that for any such facility located within five hundred (500) feet of any property zoned residential or improved with a residential use, such equipment noise shall not exceed forty-five (45) dBA.

16. RESERVED

- 17. Security. Each facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight or attractive nuisances. The director may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, a facility has the potential to become an attractive nuisance. Additionally, no lethal devices or elements shall be installed as a security device.
- 18. Modification. Consistent with current state and federal laws and if permissible under the same, at the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise and other impacts, including, but not limited to, undergrounding the equipment

and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

19. The installation and construction approved by a wireless telecommunications facility permit shall begin and be completed within six (6) months after its approval or it will expire without further action by the city.
- B. Conditions of Approval. In addition to compliance with the design and development standards outlined in this section, all facilities shall be subject to the following conditions of approval (approval may be by operation of law), as well as any modification of these conditions or additional conditions of approval deemed necessary by the director:
1. The permittee shall submit an as built drawing within ninety (90) days after installation of the facility.
 2. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the city. The permittee shall notify the city of any changes to the information submitted within thirty (30) days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
 - a. Identity, including the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility.
 - b. The legal status of the owner of the wireless telecommunications facility.
 3. The permittee shall notify the city in writing at least ninety (90) days prior to any transfer or assignment of the permit. The written notice required in this section must include: (1) the transferee's legal name; (2) the transferee's full contact information, including a primary contact person, mailing address, telephone number and email address; and (3) a statement signed by the transferee that the transferee shall accept all permit terms and conditions. The director may require the transferor and/or the transferee to submit any materials or documentation necessary to determine that the proposed transfer complies with the existing permit and all its conditions of approval, if any. Such materials or documentation may include, but shall not be limited to: federal, state and/or local approvals, licenses, certificates or franchise agreements; statements; photographs; site plans and/or as-built drawings; and/or an analysis by a qualified radio frequency engineer demonstrating compliance with all applicable regulations and standards of the Federal Communications Commission. Noncompliance with the permit and all its conditions of approval, if any, or failure to submit the materials required by the director shall be a cause for the city to revoke the applicable permits pursuant to and following the procedure set on in section 12.18.160.
 4. At all times, all required notices and/or signs shall be posted on the site as required by the

Federal Communications Commission, California Public Utilities Commission, any applicable licenses or laws, and as approved by the city. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.

5. Permittee shall pay for and provide a performance bond or other form of security approved by the city attorney's office, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and this code. The security instrument coverage shall include, but not be limited to, removal of the facility. (The amount of the security instrument shall be calculated by the applicant in its submittal documents in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.) Before issuance of any building permit, permittee must submit said security instrument.
6. If a nearby property owner registers a noise complaint, the city shall forward the same to the permittee. Said complaint shall be reviewed and evaluated by the applicant. The permittee shall have ten (10) business days to file a written response regarding the complaint which shall include any applicable remedial measures. If the city determines the complaint is valid and the applicant has not taken any steps to minimize the noise, the city may hire a consultant to study, examine and evaluate the noise complaint and the permittee shall pay the fee for the consultant if the site is found in violation of this chapter. The matter shall be reviewed by the director. If the director determines sound proofing or other sound attenuation measures should be required to bring the project into compliance with the Code, the director may impose conditions on the project to achieve said objective.
7. A condition setting forth the permit expiration date in accordance with section 12.18.140 shall be included in the conditions of approval.
8. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the director for the purpose of: (a) protecting the public health, safety, and welfare; (b) preventing interference with pedestrian and vehicular traffic; and/or (c) preventing damage to the public right-of-way or any adjacent property. The city may modify the permit to reflect such conditions, changes or limitations by following the same notice and public hearing procedures as are applicable to the underlying permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the city by the permittee.
9. The permittee shall not transfer the permit to any person prior to the completion of the construction of the facility covered by the permit, unless and until the transferee of the permit has submitted the security instrument required by section 12.18.070(B)(5).
10. The permittee shall not move, alter, temporarily relocate, change, or interfere with any

existing structure, improvement or property without the prior consent of the owner of that structure, improvement or property. No structure, improvement or property owned by the city shall be moved to accommodate a wireless telecommunications facility unless the city determines that such movement will not adversely affect the city or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the city's structure, improvement or property. Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide the city with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or property within the public right-of-way to be affected by applicant's facilities.

11. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.
12. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to city streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation and/or maintenance of a wireless telecommunications facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the city engineer. Such time period for correction shall be based on the facts and circumstances, danger to the community and severity of the disrepair. Should the permittee not make said correction within the time period allotted the city engineer shall cause such repair to be completed at permittee's sole cost and expense.
13. No facility shall be permitted to be installed in the drip line of any tree in the right-of-way.
14. Insurance. The permittee shall obtain, pay for and maintain, in full force and effect until the facility approved by the permit is removed in its entirety from the public right-of-way, an insurance policy or policies of public liability insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence and Four Million Dollars (\$4,000,000) in the aggregate, that fully protects the city from claims and suits for bodily injury and property damage. The insurance must name the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers as additional named insureds, be issued by an insurer admitted in the State of California with a rating of at least a A:VII in the latest edition of A.M. Best's Insurance Guide, and include an endorsement providing that the policies cannot be canceled or reduced except with thirty (30) days prior written notice to the city, except for cancellation due to nonpayment of premium. The insurance provided by permittee

shall be primary to any coverage available to the city, and any insurance or self-insurance maintained by the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers shall be excess of permittee's insurance and shall not contribute with it. The policies of insurance required by this permit shall include provisions for waiver of subrogation. In accepting the benefits of this permit, permittee hereby waives all rights of subrogation against the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers. The insurance must afford coverage for the permittee's and the wireless provider's use, operation and activity, vehicles, equipment, facility, representatives, agents and employees, as determined by the city's risk manager. Before issuance of any building permit for the facility, the permittee shall furnish the city risk manager certificates of insurance and endorsements, in the form satisfactory to the city attorney or the risk manager, evidencing the coverage required by the city.

15. Permittee shall defend, indemnify, protect and hold harmless city, its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the city, and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers to attack, set aside, void or annul, an approval of the city, planning commission or city council concerning this permit and the project. Such indemnification shall include damages of any type, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The city shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit city from participating in a defense of any claim, action or proceeding. The city shall have the option of coordinating the defense, including, but not limited to, choosing counsel after consulting with permittee and at permittee's expense.
16. Additionally, to the fullest extent permitted by law, the permittee, and every permittee and person in a shared permit, jointly and severally, shall defend, indemnify, protect and hold the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers harmless from and against all claims, suits, demands, actions, losses, liabilities, judgments, settlements, costs (including, but not limited to, attorney's fees, interest and expert witness fees), or damages claimed by third parties against the city for any injury claim, and for property damage sustained by any person, arising out of, resulting from, or are in any way related to the wireless telecommunications facility, or to any work done by or use of the public right-of-way by the permittee, owner or operator of the wireless telecommunications facility, or their agents, excepting only liability arising out of the sole negligence or willful misconduct of the city and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers.
17. Should the utility company servicing the facility with electrical service that does not

require the use of an above ground meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet and any related foundation within ninety (90) days of such service being offered and reasonably restore the area to its prior condition. An extension may be granted if circumstances arise outside of the control of the permittee.

18. Relocation. The permittee shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to city, if and when made necessary by (i) any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or above ground facilities including but not limited to sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by city or any other public agency, (ii) any abandonment of any street, sidewalk or other public facility, (iii) any change of grade, alignment or width of any street, sidewalk or other public facility, or (iv) a determination by the director that the wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way. Such modification, removal, or relocation of the facility shall be completed within ninety (90) days of notification by city unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a modified permit pursuant to the Code including applicable notice and hearing procedures. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the Code allow. In the event the facility is not modified, removed, or relocated within said period of time, city may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances including those of immediate or imminent threat to the public's health and safety, the city may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.
19. Permittee shall agree in writing that the permittee is aware of, and agrees to abide by, all conditions of approval imposed by the wireless telecommunications facility permit within thirty (30) days of permit issuance. The permit shall be void and of no force or effect unless such written consent is received by the city within said thirty (30) day period.
20. Prior to the issuance of any encroachment, permittee may be required to enter into a right-of-way agreement with the city in accordance with Section 12.18.100. "Permittee" shall include the applicant and all successors in interest to this permit.

12.18.080 Findings.

No permit shall be granted for a wireless telecommunications facility unless all of the following findings are made by the director:

- A. All notices required for the proposed installation have been given.

- B. The proposed facility has been designed and located in compliance with all applicable provisions of this chapter.
- C. If applicable, the applicant has demonstrated its inability to locate on existing infrastructure.
- D. The applicant has provided sufficient evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise agreement with the city permitting them to use the public right-of-way.
- E. The applicant has demonstrated the proposed installation is designed such that the proposed installation represents the least intrusive means possible and supported by factual evidence and a meaningful comparative analysis to show that all alternative locations and designs identified in the application review process were technically infeasible or not available.

12.18.090 Nonexclusive grant.

No permit or approval granted under this chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the city for any purpose whatsoever. Further, no approval shall be construed as any warranty of title.

12.18.100 Emergency Deployment.

A COW shall be permitted for the duration of an emergency declared by the city or at the discretion of the director.

12.18.110 Operation and Maintenance Standards.

All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards.

- A. Unless otherwise provided herein, all necessary repairs and restoration shall be completed by the permittee, owner, operator or any designated maintenance agent within forty-eight (48) hours:
 - 1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or
 - 2. After permittee, owner, operator or any designated maintenance agent receives notification from the city.
- B. Each permittee of a wireless telecommunications facility shall provide the director with the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator and the agent responsible for the maintenance of the facility ("contact information"). Contact information shall be updated within seven (7) days of any change.

- C. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:
1. General dirt and grease;
 2. Chipped, faded, peeling, and cracked paint;
 3. Rust and corrosion;
 4. Cracks, dents, and discoloration;
 5. Missing, discolored or damaged artificial foliage or other camouflage;
 6. Graffiti, bills, stickers, advertisements, litter and debris;
 7. Broken and misshapen structural parts; and
 8. Any damage from any cause.
- D. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the director.
- E. The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.
- F. Each facility shall be operated and maintained to comply with all conditions of approval. Each owner or operator of a facility shall routinely inspect each site to ensure compliance with the same and the standards set forth in this chapter.

12.18.120 RF Emissions and Other Monitoring Requirements.

The owner and operator of a facility shall submit within ninety (90) days of beginning operations under a new or amended permit, and every five years from the date the facility began operations, a technically sufficient report (“monitoring report”) that demonstrates the following:

- A. The facility is in compliance with applicable federal regulations, including Federal Communications Commission RF emissions standards, as certified by a qualified radio

frequency emissions engineer;

- B. The facility is in compliance with all provisions of this section and its conditions of approval.

12.18.130 No Dangerous Condition or Obstructions Allowed

No person shall install, use or maintain any facility which in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

12.18.140 Permit Expiration.

- A. Unless Government Code section 65964, as may be amended, authorizes the city to issue a permit with a shorter term, a permit for any wireless telecommunications facility shall be valid for a period of ten (10) years, unless pursuant to another provision of this Code it lapses sooner or is revoked. At the end of ten (10) years from the date of issuance, such permit shall automatically expire.
- B. A permittee may apply for a new permit within one hundred and eighty (180) days prior to expiration. Said application and proposal shall comply with the city's current code requirements for wireless telecommunications facilities.

12.18.150 Cessation of Use or Abandonment

- A. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for ninety (90) or more consecutive days unless the permittee has obtained prior written approval from the director which shall not be unreasonably denied. If there are two (2) or more users of a single facility, then this provision shall not become effective until all users cease using the facility.
- B. The operator of a facility shall notify the city in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within ten (10) days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the director of any discontinuation of operations of thirty (30) days or more.
- C. Failure to inform the director of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be

grounds for:

1. Litigation;
2. Revocation or modification of the permit;
3. Acting on any bond or other assurance required by this article or conditions of approval of the permit;
4. Removal of the facilities by the city in accordance with the procedures established under this Code for abatement of a public nuisance at the owner's expense; and/or
5. Any other remedies permitted under this Code.

12.18.160 Removal and Restoration – Permit Expiration, Revocation or Abandonment

- A. Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to its natural condition except for retaining the landscaping improvements and any other improvements at the discretion of the city. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the city. The facility shall be removed from the property, at no cost or expense to the city.
- B. Failure of the permittee, owner or operator to promptly remove its facility and restore the property within ninety (90) days after expiration, earlier termination or revocation of the permit, or abandonment of the facility, shall be a violation of this Code. Upon a showing of good cause, an extension may be granted by the director where circumstances are beyond the control of the permittee after expiration. Further failure to abide by the timeline provided in this section shall be grounds for:
 1. Prosecution;
 2. Acting on any security instrument required by this chapter or conditions of approval of permit;
 3. Removal of the facilities by the city in accordance with the procedures established under this Code for abatement of a public nuisance at the owner's expense; and/or
 4. Any other remedies permitted under this Code.
- C. Summary Removal. In the event the director or city engineer determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate

corrective action (collectively, “exigent circumstances”), the director or city engineer may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five (5) business days of removal and all property removed shall be preserved for the owner’s pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within sixty (60) days, the facility shall be treated as abandoned property.

- D. Removal of Facilities by city. In the event the city removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the city for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the city may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with this Code. Unless otherwise provided herein, the city has no obligation to store such facility. Neither the permittee, owner nor operator shall have any claim if the city destroys any such facility not timely removed by the permittee, owner or operator after notice, or removed by the city due to exigent circumstances.

12.18.170 Exceptions.

- A. The city council recognizes that federal law prohibits a permit denial when it would effectively prohibit the provision of personal wireless services and the applicant proposes the least intrusive means to provide such services. The city council finds that, due to wide variation among wireless facilities, technical service objectives and changed circumstances over time, a limited exemption for proposals in which strict compliance with this chapter would effectively prohibit personal wireless services serves the public interest. The city council further finds that circumstances in which an effective prohibition may occur are extremely difficult to discern, and that specified findings to guide the analysis promotes clarity and the city’s legitimate interest in well-planned wireless facilities deployment. Therefore, in the event that any applicant asserts that strict compliance with any provision in this chapter, as applied to a specific proposed personal wireless services facility, would effectively prohibit the provision of personal wireless services, the planning commission may grant a limited, one-time exemption from strict compliance subject to the provisions in this section
- B. Required Findings. The planning commission shall not grant any exemption unless the applicant demonstrates with clear and convincing evidence all the following:
1. The proposed wireless facility qualifies as a “personal wireless services facility” as defined in United States Code, Title 47, section 332(c)(7)(C)(ii);
 2. The applicant has provided the city with a clearly defined technical service objective and a clearly defined potential site search area;

3. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why any alternative location(s) or design(s) suggested by the city or otherwise identified in the administrative record, including but not limited to potential alternatives identified at any public meeting or hearing, are not technically feasible or potentially available; and
 4. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why the proposed location and design deviates is the least noncompliant location and design necessary to reasonably achieve the applicant's reasonable technical service objectives.
- C. Scope. The planning commission shall limit its exemption to the extent to which the applicant demonstrates such exemption is necessary to reasonably achieve its reasonable technical service objectives. The planning commission may adopt conditions of approval as reasonably necessary to promote the purposes in this chapter and protect the public health, safety and welfare.
- D. Independent Consultant. The city shall have the right to hire, at the applicant's expense, an independent consultant to evaluate issues raised by the exception and to submit recommendations and evidence in response to the application.

12.18.180 Location Restrictions.

Locations Requiring an Exception. Wireless telecommunications facilities are strongly disfavored in certain areas. Therefore the following locations are permitted when an exception has been granted pursuant to section 12.18.170:

- A. Public right-of-way of local streets as identified in the general plan if within the residential zones;
- B. Public right-of-way if mounted to a new pole that is not replacing an existing pole in an otherwise permitted location.

12.18.190 Effect on Other Ordinances.

Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of this Code. In the event of a conflict between any provision of this Chapter and other sections of this Code, this chapter shall control.

12.18.200 State or Federal Law.

- A. In the event it is determined by the city attorney that state or federal law prohibits discretionary permitting requirements for certain wireless telecommunications facilities, such requirement shall be deemed severable and all remaining regulations shall remain in full force and effect. Such a determination by the city attorney shall be in writing with citations to

legal authority and shall be a public record. For those facilities, in lieu of a minor conditional use permit or a conditional use permit, a ministerial permit shall be required prior to installation or modification of a wireless telecommunications facility, and all provisions of this Chapter shall be applicable to any such facility with the exception that the required permit shall be reviewed and administered as a ministerial permit by the director rather than as a discretionary permit. Any conditions of approval set forth in this provision or deemed necessary by the director shall be imposed and administered as reasonable time, place and manner rules.

- B. If subsequent to the issuance of the city attorney's written determination pursuant to (A) above, the city attorney determines that the law has changed and that discretionary permitting is permissible, the city attorney shall issue such determination in writing with citations to legal authority and all discretionary permitting requirements shall be reinstated. The city attorney's written determination shall be a public record.
- C. All installations permitted pursuant to this chapter shall comply with all federal and state laws including but not limited to the American with Disabilities Act.

12.18.210 Nonconforming Wireless Telecommunications Facilities in the Right-of-Way

- A. Nonconforming wireless telecommunications facilities are those facilities that do not conform to this chapter.
- B. Nonconforming wireless telecommunications facilities shall, within ten (10) years from the date such facility becomes nonconforming, be brought into conformity with all requirements of this article; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change in a conditional use, the owner shall comply with all applicable provisions of this Code at such time, to the extent the city can require such compliance under federal and state law.
- C. An aggrieved person may file an appeal to the city council of any decision of the director made pursuant to this section. In the event of an appeal alleging that the ten (10) year amortization period is not reasonable as applied to a particular property, the city council may consider the amount of investment or original cost, present actual or depreciated value, dates of construction, amortization for tax purposes, salvage value, remaining useful life, the length and remaining term of the lease under which it is maintained (if any), and the harm to the public if the structure remains standing beyond the prescribed amortization period, and set an amortization period accordingly for the specific property.”

SECTION 6. Severability. If any section, subsection, sub-chapter, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, sub-chapter, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more

sections, subsections, sub-chapters, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 7. The foregoing ordinance shall take effect after thirty (30) days from the date of the passage hereof. Prior to the expiration of fifteen (15) days from the passage hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code section 36933(c)(1) and a summary shall be published once in the _____, a newspaper of general circulation in the City of Farmersville, State of California, together with the names of the Council members voting for and against the same.

SECTION 8. Certification. The City Clerk of the City of Farmersville shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

SECTION 9. Applicability. This ordinance shall apply to all pending applications.

The foregoing Ordinance No. 478 was introduced at a regular meeting of the City Council of the City of Farmersville on the 22nd day of August, 2016, and was passed and adopted at a regular meeting of the City Council on the _____ day of _____, 2016, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

APPROVED:

Greg Gomez, Mayor
City of Farmersville

ATTEST:

Paul Boyer, City Clerk Pro Tem
City of Farmersville



City Council

Staff Report

TO: Honorable Mayor and City Council

FROM: Mario Krstic, Chief of Police *MJK*

DATE: August 22, 2016

SUBJECT: Resolution No. 2016-036: Public Hearing to request public input on proposed use of Supplemental Law Enforcement Services Funds (SLESF) and Consideration of Spending Plan Resolution

RECOMMENDED ACTION:

It is respectfully recommended that the City Council:

1. Conduct a Public Hearing and take any public testimony, and
2. Approve and Adopt draft Resolution No. 2016-036 Authorizing and establishing a spending plan for 2016 Citizens Option for Public Safety (COPS) Supplemental Law Enforcement Funds (SLESF).

BACKGROUND:

In the State's 2016 budget the Supplemental Law Enforcement Services Funds allocated to the City of Farmersville will remain at a minimum of \$100,000 per year. State law requires local agencies to hold a public hearing and receive public input on the proposed use of the Supplemental Law Enforcement Funds.

The Farmersville Police Department has utilized these funds for the filling of a police officer position and the purchase of related law enforcement equipment for the past several years

DISCUSSION:

Staff feels that the YSO position has been of mutual benefit to both the FUSD and FPD as well as the community. Having only a single YSO position causes it to get stretched thin covering six school sites and maintaining the second position assigned to the district will further enhance safety and security on our campuses as well as continued opportunities for the officers to become more involved with students, faculty and parents. Staff views this potential addition as a win-win for all involved.

COORDINATION & REVIEW:

This is a currently budgeted item for the Farmersville Police Department. Staff has reviewed the financial aspects of the allocation with the Finance Department as well as the City Manager's office.

FISCAL IMPACT:

This is currently budgeted for the Farmersville Police Department for the 2016/2017 fiscal year.

ALTERNATIVES:

This funding is an allocation as opposed to a grant. It is not competitive and the amount is fixed. This funding has been used to keep a police officer position filled and shifting the use of these funds would take funding away from that purpose potentially resulting in the loss of a much needed position. Staff sees no viable alternative to this spending plan.

CONCLUSION:

It is respectfully recommended that the City Council:

1. Conduct a Public Hearing and take any public testimony, and
2. Approve and Adopt draft Resolution No. 2016-036 Authorizing and establishing a spending plan for 2016 Citizens Option for Public Safety (COPS) Supplemental Law Enforcement Funds (SLESF).

ATTACHMENT(S): 2

- 1) Draft Resolution 2016-036
- 2) YSO Draft agreement with the FUSD

Respectfully Recommended:



Mario Krstic,
Chief of Police

Approved By:



John Jansons
City Manager

CITY OF FARMERSVILLE

DRAFT RESOLUTION NO. 2016-036

RESOLUTION OF THE FARMERSVILLE CITY COUNCIL ESTABLISHING A SPENDING PLAN FOR THE 2016 CITIZENS OPTION FOR PUBLIC SAFETY (COPS) SUPPLIMENTAL LAW ENFORCEMENT FUND (SLESF)

WHEREAS, The City of Farmersville is eligible to receive Supplemental Law Enforcement Services Funds pursuant to The State of California's Citizens Option for Public Safety funds in the minimum amount of \$100,000; and

WHEREAS, the City Council held a duly noticed public hearing on August 22, 2016 requesting public input on the proposed use of the SLESF funds; and

WHEREAS, The City Council finds it to be in the public interest to continue using these funds in the spirit intended by the State Legislature,

NOW, THEREFORE, BE IT RESOLVED BY THE FARMERSVILLE CITY COUNCIL that the following spending plan will be utilized for these funds:

1. Accept the State grant and continue funding one Police Officer position in fiscal year 2016/2017 and for the purchase of related law enforcement equipment.

UPON A MOTION BY COUNCILMEMBER _____ WITH A SECOND BY COUNCILMEMBER _____ APPROVED AND AND ADOPTED THIS 22th DAY OF AUGUST 2016 BY THE FOLLOWING VOTE:

AYES:
NAYS:
ABSTAIN:
ABSENT:

BY:

GREGORIO GOMEZ, MAYOR
CITY OF FARMERSVILLE

ATTEST:

PAUL BOYER, City Clerk Pro Tempore

**AGREEMENT FOR YOUTH SERVICES OFFICER
BETWEEN FARMERSVILLE UNIFIED SCHOOL DISTRICT
AND CITY OF FARMERSVILLE**

THIS AGREEMENT, is entered into as of July 1, 2016, between the CITY OF FARMERSVILLE, on behalf of the Farmersville Police Department, referred to as the CITY, and FARMERSVILLE UNIFIED SCHOOL DISTRICT, referred to as the SCHOOL DISTRICT, with reference to the following:

- A. The Parties mutually desire to maintain a Police Department Youth Services Officer (YSO), on the SCHOOL DISTRICT's campuses throughout fiscal years 2016-2017, 2017-2018, 2018-2019, for the purpose of providing police presence and services, providing support and direction to the youth and staff of the District, and providing criminal/juvenile investigative services.
- B. Pursuant to Education Code section 45103.1(b)(2), the services contracted are not available within the SCHOOL DISTRICT, cannot be performed satisfactorily by school district employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the school district.
- C. The parties are willing to enter into this Agreement upon the terms and conditions set forth;

ACCORDINGLY, IT IS AGREED:

- 1. **TERM:** This Agreement shall become effective July 1, 2016, and shall terminate on June 30, 2019, unless otherwise terminated as provided in the Agreement.
- 2. **SERVICES:** The CITY shall provide to the SCHOOL DISTRICT:
 - A. One YSO, assigned to the SCHOOL DISTRICT.
 - B. The YSO shall perform those specific services more particularly described in Exhibit A, which exhibit is made part of this Agreement by reference.
 - C. The YSO will be scheduled to be at the school of their respective assignment during the hours and times mutually agreed upon by the District and the City. Those times are usually during the school day, before school, during the lunch break and immediately after the school day come to an end.
 - D. Regarding time away from work for vacations, training or other time off from campus, reasonable efforts will be made by the management of the

City's Farmersville Police Department to schedule the YSO's time off at a time which least interrupts the day-to-day operations of the assigned campus.

- E. The YSO is a Peace Officer as defined in the California Penal Code and are employed by the City of Farmersville Police Department, answerable directly and solely to the Chief of Police or the Chief's designee and as such are supervised by Department management and his/her assigned first line supervisor.
- F. All persons providing the services to the SCHOOL DISTRICT provided for herein, shall be employees of the CITY and shall at all times be subject to the direct supervision and control of the Farmersville Police Department. The CITY shall have the sole responsibility of paying the salaries, taxes (including, but not limited to, federal Social Security taxes, and federal and California unemployment taxes), workers compensation insurance and all expenses related to each employee of the CITY.

3. RESPONSIBILITIES OF THE DISTRICT: The District agrees to provide the following:

- A. One parking stall in the parking lot for the Farmersville High School, Farmersville Junior High School, and Deep Creek Academy to be marked "Farmersville Police Department Vehicles Only."
- B. The SCHOOL DISTRICT shall maintain adequate office space on-site, along with a desk, telephone, school site radio, office supplies and a computer to access CITY and SCHOOL DISTRICT e-mail.
- C. The SCHOOL DISTRICT will designate a site administrator as the liaison to the YSO and provide a system of accountability conducive to the normal operations of both the City and the SCHOOL DISTRICT.
- D. In order to maintain the success of the program, the SCHOOL DISTRICT shall provide timely feedback to the supervising Chief of Police and designated SCHOOL DISTRICT Manager in those incidences where the SCHOOL DISTRICT may have concerns related to the performance of the assigned YSO, or questions related to the content of this agreement.

4. FINANCIAL OBLIGATIONS:

- A. The parties to this Agreement agree to the following financial obligations:

- 1) The District and the City hereby agree to share in the costs, salaries, benefits, vehicle maintenance and estimated overtime of one (1) YSOs (at the same pay level of a City Police Officer) each.
 - i. The City will fund one-twelfth (1/12) of the cost associated with one (1) YSO position, including salaries and benefits. Additionally, the City will fund one-hundred percent (100%) of all other costs associated with one (1) YSO position, including, but not limited to, training and equipment.
 - ii. The District will fund a flat rate of \$75,000 which is approximately eleven-twelfths- (11/12) of the cost associated with the one (1) YSO position, including salaries and benefits.
 - B. District costs for 2017-2018 and 2018-2019 shall be adjusted/increased by a 3-year moving average of the U.S. All Cities CPI, Mar to Mar Index, as published by the U.S., Bureau of Labor Statistics, and such costs shall also be increased based upon the final labor agreement reached between City and Peace Officers' bargaining unit.
 - C. The City of Farmersville will provide the District with an invoice at the end of each quarter for the costs noted above as they apply to that quarter. The District shall pay that invoice within 30 days to the City of Farmersville.
 - D. City will assume responsibility for all Program costs above District costs.
5. **INDEMNITY:** The SCHOOL DISTRICT and the CITY shall hold harmless, defend and indemnify each other, their agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, arising out of their activities or those of their agents, officers or employees under this Agreement. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.
6. **LOSS OF FUNDING:** It is understood and agreed that if the funding is either discontinued or reduced for this project for the CITY or SCHOOL DISTRICT, that the CITY or SCHOOL DISTRICT shall have the right to terminate this Agreement. In such event, the affected party shall provide the other party with at least Sixty (60) days prior written notice of such termination.
7. **EMPLOYEE STATUS:** It is mutually understood and agreed that the YSO at all times while carrying out this Agreement shall be acting as CITY employee(s) and shall have the status of independent contractor(s) as to the SCHOOL DISTRICT. The CITY shall retain the right to control and direct the services of the YSO assigned pursuant to this

Agreement, and shall retain the usual management rights, powers and authority of an employer over such employee.

8. **NOTICE:** Except as may otherwise be required by law, any notice to be given shall be in writing and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

CITY:

John Jansons
City Manager
City of Farmersville
909 W. Visalia Rd.
Farmersville, CA 93223
Fax No: (559) 747-6724
Confirming No: (559) 747-0458

SCHOOL DISTRICT:

Superintendent
Farmersville Unified School District
571 East Citrus
Farmersville, CA 93223
Fax No.: (559) 592-2203
Confirming No.: (559) 592-2010

Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address or phone or fax number by giving written notice pursuant to this paragraph.

9. **ASSIGNMENT:** No part of this Agreement may be assigned by either party without the prior written consent of the other party.

10. TERMINATION:

- A. Without Cause: Either party will have the right to terminate this Agreement without cause by giving ninety days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. Upon receipt of a notice of termination or cancellation, either party shall take immediate steps to stop performance and to cancel or reduce subsequent contract costs.

- B. With Cause: This Agreement may be terminated by either party should the other party:
- i. be adjudged a bankrupt, or
 - ii. become insolvent or have a receiver appointed, or
 - iii. make a general assignment for the benefit of creditors, or
 - iv. suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or
 - v. materially breach this Agreement.

For any of the occurrences except item (v.), termination may be effected upon written notice by the terminating party specifying the date of the termination. Upon a material breach, the Agreement may be terminated following the failure of the defaulting party to remedy the breach to the satisfaction of the non-defaulting party within FIVE (5) days of written notice specifying the breach. If the breach is not remedied within that FIVE (5) day period, the non-defaulting party may terminate the agreement on further written notice specifying the date of termination. If the nature of the breach is such that it cannot be cured within a 5 day period, the defaulting party may, submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting party consents to that proposal in writing, which consent shall not be unreasonably withheld, the defaulting party shall immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate upon written notice specifying the date of termination.

- C. Effects of Termination: Expiration or termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. The right to terminate this Agreement under this provision may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.
- D. Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of SCHOOL DISTRICT for which CITY's services are to be performed, may immediately suspend performance by CITY, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by CITY to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

11. ENTIRE AGREEMENT REPRESENTED: This Agreement represents the entire agreement between the CITY and the SCHOOL DISTRICT as to its subject matter and

no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

12. **HEADING:** Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the heading.
13. **CONSTRUCTION:** This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.
14. **NO THIRD PARTY BENEFICIARIES INTENDED:** Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.
15. **WAIVERS:** The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.
16. **CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party.
17. **FURTHER ASSURANCES:** Each party agrees to execute any additional documents and to perform any further acts which may be reasonable required to affect the purposes of this Agreement.
18. **ENTIRE AGREEMENT REPRESENTATED:** This Agreement represents the entire agreement between the CITY and the SCHOOL DISTRICT as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

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

CITY OF FARMERSVILLE

Date: _____

By _____

Title _____

“CITY”

FARMERSVILLE UNIFIED SCHOOL DISTRICT

Date: _____

By _____

Title _____

“School District”

EXHIBIT A

SCOPE OF SERVICES OF YOUTH SERVICES OFFICER

1. The YSO shall provide the following to the campus of his/her respective assignment as well as any campus/facility deemed necessary by the Chief of Police:
 - A. The primary YSO attire will be the police service uniform, with the only exception to this dress code being authorized by the Chief of Police or other designee of the Chief of Police.
 - B. City vehicles utilized by the YSO will be a marked police vehicle, provided by the City.
 - C. The YSO will work on his/her assigned campus at his/her primary workstation throughout the school year in a collaborative manner with the site administrators and staff maintaining the highest level of visibility possible.
 - D. The YSO may be called to duty off-campus only in the event that the Governor of the State of California, the President of the United States or the Chief of Police declares a serious emergency situation and no other resources are available or have been expended. Declare a state of emergency. Other short term absences from the assigned campus by the YSO may occur for administrative, training or other reasons as deemed desirable by the CITY, but only upon prior notice to the SCHOOL DISTRICT's Superintendent or designee.
 - E. The YSO will develop and maintain open communication and accountability with the administration of their assigned campus, and foster and maintain that accountability with the management of the school so the District is always aware of the YSO's status on/off campus.
 - F. The YSO will make a positive effort to interact with students as a representative of the Farmersville Police Department and act as an adult role model outside the classroom, on the playground, or during any school activity.
 - G. The YSO will utilize intervention, prevention or suppression skills with the students who are involved in criminal activity or are in need of special attention, counseling or enforcement.
 - H. The YSO will conduct investigations of criminal/juvenile related cases, where either the victim, witness or suspect attends the school of the YSO's assignment, whether the case is an on-site case or case which was assigned as a follow-up investigation.
 - I. The YSO will work with the SCHOOL DISTRICT to see that all critical information, involving criminal activity, shall be filtered to the schools.

- J. The YSO shall make every effort to see that school employees understand the instructional, investigative, or enforcement role of the YSO and how to best utilize the services provided by the CITY's Police Department.
- K. The YSO will provide bomb investigation and evacuation training to school site and appropriate district personnel.



Gregorio Gomez, Mayor
 Paul Boyer, Mayor Pro Tem
 Don Rowlett, Council Member
 Matt Sisk, Council Member
 Leonel Benavides, Council
 Member

DRAFT MEETING MINUTES

Farmersville City Council Regular Meeting

August 8, 2016 - 7:00 p.m.

Meeting held in Civic Center Council Chambers
 909 W. Visalia Road Farmersville, California

1. Call To Order

Meeting Called to Order by Mayor Pro Tem Paul Boyer at 7:02 PM

2. Roll Call

*Mayor Pro Tem Boyer and Councilmembers Sisk, Benavides and Rowlett - Present,
 Mayor Gomez - Absent (Excused).*

3. Invocation

Led by Councilmember Benavides

4. Pledge Of Allegiance

Led by Councilmember Sisk

5. Public Comment

Provides an opportunity for members of the public to address the City Council on items of interest to the public within the Council's jurisdiction and which are not already on the agenda this evening. It is the policy of the Council not to answer questions impromptu. Concerns or complaints will be referred to the City Manager's office. Speakers should limit their comments to not more than two (2) minutes. No more than twenty (20) total minutes will be allowed for Public Comment. For items which are on the agenda this evening, members of the public will be provided an opportunity to address the council as each item is brought up for discussion. Comments are to be addressed to the Council as a body and not to any individual Council Member.

A. Lucy Galvez of N Mathew Street informed the Council of her concerns about speeding on Costner Street between Shasta and Stevens.

City Manager will have Police Dept. look into this.

B. Alice Lopez of Farmersville informed the Council her continued concerns about Deep Creek Cemetery and said she had met with the City Manager about this. Who explained several of the issues involved, since it's not located in the city.

There was consensus by the Council for staff to bring forward information regarding Deep Creek cemetery at a future City Council meeting.

6. Consent Agenda

Under a CONSENT AGENDA category, a recommended course of action for each item is made. Any Council Member or Member of the Public may remove any item from the CONSENT AGENDA in order to discuss and/or change the recommended course of action, and the Council can approve the remainder of the CONSENT AGENDA.

6.I Draft Minutes Of July 11, 2016 City Council Meeting
Recommend approval of draft minutes of the July 11, 2016 City Council Meeting.

Documents: [ITEM 6.I JULY 11, 2016 DRAFT CITY COUNCIL MEETING MINUTES.PDF](#)

6.II Draft Minutes Of July 25, 2016 City Council Meeting
Recommend approval of draft minutes of July 25, 2016 City Council meeting.

Documents: [ITEM 6.II JULY 25, 2016 DRAFT CITY COUNCIL MEETING MINUTES.PDF](#)
[DEEP CREEK CEMETARY PHOTOS SUBMITTED 07-25-16.PDF](#)

6.III Warrant Register For Period July 1 To 31, 2016
Recommend approval of Warrant Register for the period July 1 through July 31, 2016.

Documents: [ITEM 6.III WARRANT REGISTER.PDF](#)

6.IV Resolutions 2016-026 Through 2016-037 Approving Engineer's Reports And Levying Assessments For Landscape, Lighting And Maintenance Districts

Recommend approval and adoption of Resolutions 2016-026 through 2016-037 Approving Engineer's Reports and Levying Assessments for Landscape, Lighting and Maintenance Districts.

Documents: [ITEM 6.IV LLMD RESOLUTIONS 2016-026 THRU 2016-037.PDF](#)

Consent Agenda Items 6.I through 6.IV approved by Motion of Benavides, with a 2nd by Sisk and Vote of 4-0-1 (Boyer, Sisk, Rowlett and Benavides in Favor, with Gomez absent and a vote of 3-0-1-1 (Sisk, Rowlett and Benavides in favor with Gomez absent and Boyer abstaining from Item 6.III Warrant Register pertaining to any Warrants for Self Help Enterprises.

7. Discussion Action Items (New Business)

7.I Draft Interim Urgency Ordinance #477 Pertaining To Wireless Antennas, Towers And Facilities In The Public Right-Of-Way

Recommend Approval of Draft Interim Urgency Ordinance #477 pertaining to Wireless Antennas, Towers and Facilities in the Public Right-of-Way.

Documents: [ITEM 7.I DRAFT INTERIM URGENCY ORD 477 WIRELESS TOWERS AND FACILITIES.PDF](#)

Introduction by City Manager Jansons, with comments by Deputy City Attorney Berry.

Motion to approve by Councilmember Benavides to approve with 2nd by Sisk, by vote of 4-0 (Boyer, Sisk Rowlett and Benavides in Favor with Gomez absent. By 4/5 Majority Urgency Ordinance 477 is approved.

8. Council Reports

Councilmember Benavides:

Reports tires being dumped next to his church and asks Public Works to remove. States that everything seems to be going in a good direction.

Councilmember Rowlett:
No Report

Councilmember Sisk:
No Report

Mayor Pro Tem Boyer:

*Request City Staff attend the School Board Meeting regarding the proposed School Resource Officer Contract.
Expresses his appreciation for the Police Department and Staff,
Provides update on attending the EDC meeting as the City's alternate.*

9. Council Committee Reports

City Council Representatives to External / Internal

Organizations and Committees

Council of Cities: Mayor Gomez
Alternate: Councilmember Benavides

TCAG: Mayor Gomez
Alternate: Mayor Pro Tem Boyer

TCAG Rail Comm: Councilmember Sisk

EDC: Councilmember Benavides
Alternate: Mayor Pro Tem Boyer

Delta Vector: VACANT (Recruitment pending)

Home Loan Approval Committee: Mayor Gomez & Councilmember Benavides

SJVAPCD: Councilmember Benavides
Alternate: Mayor Gomez

2016 Community Funding Ad-Hoc Committee
Mayor Gomez, Councilmember Benavides, Alternate: Councilmember Sisk

9. City Manager Report

City Manager Jansons reports on several items including:

*CSET's withdrawal from providing proposed services at Senior Center,
Met with Owners of 176 Birch regarding their repayment plan,
Shared e-mails received praising the police dept. and their staff,*

Submission of grant application for children's bike helmets, child car seats and smoke detectors.

Safety Inspection of apartments at Larry and Hester with good results,

Letter form the Building Industry Association (BIA) lobbying the Council for their support,

Upcoming USDA compliance visit of Community Center,

Scheduled to be in Sacramento on Monday for receipt of Assembly Proclamation from Asm. Devin Mathis re: Community for Child Well Being.

City Manager to attend School Board meeting on 8-9-16.

Next TCAG mtg. is Monday Aug 15.

10. City Attorney Report

None

11. Future Agenda Items

Future Agenda Items – TBD: (Dates to Be Determined)

1. Public Hearing for Supplemental Law Enforcement Services Funds 8-22
2. Public Hearing on Ordinance 478 Regarding Cell Facilities 8-22
3. 2nd Reading and Final Adoption of Zoning Ordinance Amendment (Housing Element) Ord 476. 8-22
4. Sports Park Notice of Completion (TBD)
5. Program Income Re-Use Opportunities (TBD)
6. Joint Workshop of City Council and Planning Commission Regarding Design Guidelines (10/2016).
7. Deep Creek Cemetery Information

12. Adjourn To Closed Session Or Adjourn To Next Meeting

Meeting Adjourned at 7:28 PM.

NOTICE TO PUBLIC

The City of Farmersville Civic Center and City Council Chambers comply with the provisions of the Americans with Disabilities Act (ADA). Anyone needing special assistance please contact City Hall at (559) 747-0458 please allow at least six (6) hours prior to the meeting so that staff may make arrangements to accommodate you.

Materials related to an item on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City's offices during normal business hours.



City Council

Staff Report

TO: Honorable Mayor and City Council

FROM: John Jansons, City Manager *[Signature]*

DATE: August 22, 2016

SUBJECT: Second Reading and Adoption of Ordinance 476, Approving Zoning Ordinance Amendment (ZOA) 2016-02 Implementing Housing Element.

RECOMMENDED ACTION:

It is respectfully recommended that the City Council waive second Reading and adopt Ordinance 476 approving Zoning Ordinance Amendment 476 to amend the Farmersville Zoning Ordinance, thereby implementing several action plans of the 2016 Farmersville Housing Element.

BACKGROUND:

The City Council adopted the 2016-2023 Farmersville Housing Element earlier this year. The Housing Element includes several action plans that call for amendments to the Zoning Ordinance concerning housing issues. The Planning Commission conducted a public hearing on these amendments on June 16, 2016 and unanimously voted to recommend approval.

ANALYSIS:

The Housing Element is a part of the City's General Plan, and is required by State law. The Housing Element establishes goals, objectives and action plans for the City to meet its housing needs through the year 2023.

Several action plans in the Housing Element call for the City to complete amendments to the Zoning Ordinance, so that it is consistent with State housing laws. These amendments include:

- Adding "Transitional Housing" and "Supportive Housing" as permitted uses in the R-1 (Single Family Residential) zone.
- Adopting a minimum density of 20 units per acre for parcels that are zoned RM-2.5 (Multi Family Residential).

An overview of each amendment is as follows:

1. Addition of special housing types as permitted uses in the Zoning Ordinance.

The following special housing types need to be added as “permitted land uses” in the R-1 Zone.

“Transitional Housing”

Transitional Housing is a type of housing that is essentially a “step up” from an emergency (homeless) shelter and is defined in state law as “buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.”

The action is to add “Transitional Housing” as a permitted use in the R-1 zone. Essentially a transitional home would be similar to a “group home” which is already permitted by right in the R-1 zone. It is expected that any such facilities would have the appearance and characteristics of a typical single family home and must be licensed by the State. Up to six individuals per parcel could be accommodated.

“Supportive Housing”

Supportive Housing is again regarded as a step up from Transitional Housing, and is defined in State law as having “no limit on length of stay, that is occupied by the target population as defined in subdivision (d) of Section 53260 (of the State Housing Code) and that is linked to on site or off site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and when possible, work in the community.” Again, this use will also be added as a permitted use in the R-1 zone and will also be treated as any other single family home.

2. Minimum Density Standard for the RM-2.5 zone

Another action plan from the Housing Element requires the City to establish a minimum density standard of 20 units per acre for residential development occurring in the RM-2.5 zone. The RM-2.5 zone is Farmersville’s “high density” residential zone – primarily intended for the development of multi-family developments (apartments).

State law now requires all cities to have at least one residential zone with standards that requires multi-family projects to achieve a density of at least 20 dwelling units per acre. The purpose of this law is to help facilitate the development of housing that is affordable to the community – on the assumption that more units per acre are more affordable than are fewer units.

The RM-2.5 zone was previously amended in 2011 to allow a maximum density of one dwelling unit per 1,700 square feet of lot area. This can theoretically allow up to 26 dwellings per acre, though the actual amount will usually be less once other requirements like setbacks, parking and lot coverage are factored into the design of a project.

Before the maximum density standard was amended in 2011 the highest density achieved by any project in Farmersville was 19.2 units per acre for the Farmersville Senior Apartments project on the west side of Farmersville Boulevard adjacent to the Public Works yard.

While Staff understands the State’s intent, there are several factors that should be considered in the establishment of a minimum density standard for the RM-2.5 zone, including:

- As it relates to affordability, state housing law is only concerned with “larger” parcels – those that can accommodate at least 16 multi-family units. In the RM-2.5 zone it would take a

parcel of at least 0.6 acre or larger to fit at least 16 units. Accordingly, the minimum density standard of at least 20 units per acre need not apply to smaller parcels (those zoned RM-2.5 and smaller than 0.6 acre (that cannot fit at least 16 units)). Therefore the proposed ordinance will apply only to larger parcels (at least 0.6 acre or more) that are zoned RM-2.5

- As noted above, other multi-family projects have been developed in Farmersville in the past and met State standards for affordability – even with densities less than 20 units per acre.

These include Gateway Village, Park Creek Village, Farmersville Senior Housing and Villa Del Rey among the most recent. With this in mind, staff is recommending the standard (of 20 units per acre) include a provision that would allow densities less than 20 units per acre if the developer can demonstrate the project can meet State affordability requirements (units can be made affordable to lower income households). This provision will not force projects into a density of at least 20 units per acre if such density is not needed to achieve affordability goals.

With the foregoing issues in mind the recommendation is to amend the RM-2.5 zone to stipulate a minimum density of 20 units per acre on lots larger than 0.6 acre, unless the applicant can demonstrate that affordability goals can be met with a lesser density. This is listed in Section 1 of the proposed ordinance.

Proposed Ordinance

The proposed ordinance is contained within the attached resolution. Key sections include: Section 1 (on page 1) amends the development standards section of the RM-2.5 zone to specify that development on lots over 0.6 acre must achieve a minimum density of 20 units per acre (unless the applicant can demonstrate that a lesser density can achieve affordability standards specified by the Farmersville Housing Element).

Section 2 (on page 3) amends the table of permitted uses for residential zones. The uses “Supportive Housing” and “Transitional Housing” have been added as permitted uses in the R-1 zone of this table.

The Public Hearing conducted on July 25, 2016 was duly noticed and there was no public comment received. This Ordinance 476 was approved and advanced to second reading and adoption at that time by a vote of 4-1 with Gomez, Boyer, Sisk, and Benavides in favor with Rowlett, opposed. A Summary of this proposed Ordinance was published on 8-10-16 in the Foothill Sun Gazette, a newspaper of general circulation in the City of Farmersville.

CONSISTENCY WITH ADOPTED GOALS, PLANS, AND PROGRAMS:

The proposed zoning text amendments are consistent with action plans contained in the 2016 Farmersville Housing Element – a component of the Farmersville General Plan.

FISCAL IMPACT:

If adopted there will be no fiscal impacts to the City. However if not adopted this could affect the City’s ability to obtain various types of grant funding from the State – since the State checks to ensure the City has adopted and is implementing its Housing Element.

CONCLUSION:

It is respectfully recommended that the City Council waive second Reading and adopt Ordinance 476 approving Zoning Ordinance Amendment 476 to amend the Farmersville Zoning Ordinance, thereby implementing several action plans of the 2016 Farmersville Housing Element.

ATTACHMENT(S): 1

1) Draft Ordinance #476

Approved By:



John Jansons
City Manager

DRAFT

ORDINANCE NO. 476

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE AMENDING TITLE 17 OF THE FARMERSVILLE MUNICIPAL CODE RELATING TO IMPLEMENTATION OF HOUSING GOALS OF THE FARMERSVILLE HOUSING ELEMENT

The City Council of the City of Farmersville does hereby ordain as follows:

Section 1. Chapter 17.32.040 F. 1. of the Farmersville Municipal Code is amended to read as follows:

F. Density

1. RM-2.5: The maximum density shall be one dwelling unit per 1,700 square feet of lot area. For lots of at least 0.6 acre in size there shall also be a minimum density of 20 units per acre (in addition to the maximum density of 1,500 square feet of lot area per dwelling) unless the applicant can demonstrate that a lesser density will achieve affordability standards contained in the Farmersville Housing Element.

Section 2. Chapter 17.40 of the Farmersville Municipal Code is amended to read as follows:

Chapter 17.40
RESIDENTIAL LAND USE TABLE

Sections:

- 17.40.010 Purpose
- 17.40.020 Table 1—Permitted uses
- 17.40.030 Special conditions

17.40.010 Purpose. The purpose of the Residential Land Use Table is to designate the residential uses permitted within each zone, subject to the development standards for such uses set forth in the articles describing those zones. (Ord. 319 SS1(part), 1987)

17.40.020 Table 1 – Permitted Uses. To determine in which zone a specific use is allowed:

- A. Find the use in the left hand column.
- B. Read across the table until either a “letter” or an “x” appears in one of the columns
- C. If a letter appears this means that the use is allowed in the zone represented by that column, but only if certain conditions are complied with. The conditions applicable to that use are those corresponding to the letter listed in Section 17.40.030.
- D. If an “x” appears to a column the use is allowed in the zone represented by that column without being subject to any of the conditions listed in Section 17.40.030.
- E. If neither a “letter” nor an “x” appears in a column, the use is not allowed in the zone represented by that column.
- F. The planning commission shall interpret the appropriate zone for any land use not specifically listed in the table, the finding shall be based on consistency with the purpose of the zone and that the use is of the same general character as that of the uses permitted in that zone.
- G. Overlay zones are not included in the table.

Intentional Page Break

TABLE 1
 RESIDENTIAL LAND USES

USES	ZONE			
	U-R	O-S	R-1	R-M
Above ground storage tanks for flammable or combustible fluids	b	b		
Accessory buildings and uses customarily appurtenant to a permitted use	x	x	x	x
Agricultural Employee Housing	x		x	x
Apartments and multiple family dwellings				x
Boarding and rooming houses				a
Churches	b	b	b	b
Day care centers			a	a
Duplexes				<u>x</u>
Emergency housing				x
Family day care homes			x	x
Foster homes			a	a
Guest houses	d		d	d
Home occupations	c		c	c
Manufactured and/or mobile homes on permanent foundations	x		x	x
Mobile home parks	b		b	b
Nursing and convalescent homes				b
Public and private schools	b		b	b
Residence for a caretaker or watchman	c		c	
Second attached residential unit			d	
Second detached residential unit			d	
Single-family dwellings	x		x	x
Temporary tract offices	c		c	c
Residential care homes for six or fewer persons			x	x
Residential care homes for seven to fourteen persons			b	b
Raising of fruit and nut trees, vegetables and horticultural specialties	x	x	b	b
Single Room Occupancy units				x
Supportive Housing			<u>x</u>	x
Transitional Housing			<u>x</u>	x

17.40.030 Special conditions

The following special conditions apply to those land uses indicated by corresponding letter in Table 1:

a. Conditional use permit required if for more than six guests, persons or dwelling units or in the case of day care facilities if more than twelve children including the provider's own children.

b. Conditional use permit required.

c. Accessory use, incidental to principal use.

d. The addition shall not exceed twenty-five percent of existing living area. "Living area" means the interior inhabitable area of a dwelling unit including basements and attics and shall not include a garage or any accessory structure. Subject to approval of the zoning administrator. May be approved without public hearing.

Section 3. This ordinance shall take effect thirty days after its adoption.

Section 4. The City Clerk is authorized and directed to cause this ordinance to be codified after its adoption.

Section 5. The City Clerk is further authorized and directed to cause this ordinance or a summary of this ordinance to be published once in a newspaper of general circulation published and circulated in the City of Farmersville within 15 days after its adoption. If a summary of this ordinance is published, then the City Clerk also shall cause a summary of the proposed ordinance to be published and a certified copy of the full text of the proposed ordinance to be posted in the office of the City Clerk at least five days prior to the Council's meeting at which the ordinance is adopted and again after the meeting at which the ordinance is adopted. The summary shall be approved by the City Attorney.

The foregoing Ordinance No. 476 was introduced at a regular meeting of the City Council of the City of Farmersville on the 25th day of July, 2016, and was passed and adopted at a regular meeting of the City Council on the _____ day of _____, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

Gregorio Gomez, Mayor
City of Farmersville

ATTEST:

Paul Boyer, City Clerk Pro Tem



City Council

Staff Report

TO: Honorable Mayor and City Council

FROM: John Jansons *JJ*

DATE: August 22, 2016

SUBJECT: CDBG and HOME Program Income.

RECOMMENDED ACTION:

It is respectfully recommended that the City Council hear a presentation from Staff on the regulations and permitted uses of Program Income derived from federally funded activities with possible direction to staff.

BACKGROUND:

At the request of Mayor Pro Tem Boyer, the City Council directed staff to facilitate a discussion about the regulations and permitted uses of Program Income derived from Federally-funded programs (CDBG or HOME activities).

DISCUSSION:

Program Income are repayments received by the City from previously grant funded activities associated with CDBG or the HOME program(s). The simplest example is if a first time homebuyer down payment assistance loan is repaid prior to its maturation, then the re-payment received by the City, as the note holder, is treated as Program Income (PI).

Typically, PI accumulated by a City needs to be spent down before the City is allowed to draw new grant funds from their current grant award.

One exception is the "\$35,000 rule", which allows an Agency with a PI balance of less than \$35,000 to use those funds as they see fit for general public benefit purposes without affecting their ability to utilize current grant period funds.

CDBG and HOME program staff from Self Help Enterprises, the City's contractor to deliver CDBG and HOME funded activities are present this evening to further elaborate on the rules and restrictions on PI and to address questions of the Council and assist in formulating a plan for the City Council to utilize PI for the public benefit of the residents of Farmersville.

In support of this discussion is **Attachment 1**, an overview of Program Income provided by the CA Department of Housing and Community Development.

COORDINATION & REVIEW:

This discussion has been coordinated with the City Finance Department, Community Development Department and the City's contractor for CDBG and HOME, Self Help Enterprises.

FISCAL IMPACT:

None

ALTERNATIVES:

None

CONCLUSION:

It is respectfully recommended that the City Council hear a presentation from Staff on the regulations and permitted uses of Program Income derived from federally funded activities with possible direction to staff.

ATTACHMENT: Program Income - Information and Guidelines.

Respectfully Submitted:



John Jansons
City Manager

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE**

Community Development Block Grant Program

2020 W. El Camino Ave, Suite 500
Sacramento, CA 95833
P. O. Box 952054, MS 500
Sacramento, CA 94252-2054
(855) 333-CDBG (2324) / FAX (916) 263-2762



**CDBG MANAGEMENT MEMORANDUM
Community Development Block Grant Program - Memorandum Number 14-05**

June 16, 2014

MEMORANDUM FOR: Non-Entitlement Jurisdictions Eligible for the State Community Development Block Grant (CDBG) Program

FROM: Thomas Brandeberry, CDBG Section Chief

SUBJECT: Program Income (PI) Rule Changes

This Management Memo (Memo) supersedes the following Program Income Memos: 10-03, 11-04 and 12-03. However, Memo 14-02 is still applicable.

Note: *The applicability of this memo also includes cities and counties that have gained entitlement status and cities within urban county agreements which have elected to continue to report their State CDBG PI to the State. See, "Jurisdictions Leaving or Entering the State CDBG Program with Program Income," page 11, for specific requirements/limitations.*

REGULATORY/STATUTE CITATIONS

- Section 104(j) Housing and Community Development Act (HCDA)
- §570.489 (e) Program Income
- §570.489 (f) Revolving funds

Introduction

This Memo outlines changes, **effective July 1, 2014**, to PI and RLA policies in the State CDBG Program.

Based on direction from HUD and technical assistance from HUD contractors, the Department has determined the State's present rules on Program Income (PI) and Revolving Loan Accounts (RLA) are out of compliance with CDBG federal statute and regulations. Policy and procedure changes must be made to resolve existing programmatic compliance issues related to the CDBG Final Rule (effective May, 2012), and with the State's current PI/RLA rules.

The changes that are necessary for the Department to operate in compliance are significant and range from changes in policy, to fully restructuring CDBG PI accounting and reporting

practices at both the State and local levels. These changes will impact all of our grantees in varying degrees, grantee with large PI balances most significantly.

For this reason, the Department completed six Roundtable meetings and two Advisory Committee meetings which: 1) discussed the significance of the changes; 2) gathered feedback on corrective options, and; 3) discussed how the options may be implemented so the HUD required Department policy can be formulated. The Department has also been in extensive consultation with HUD and HUD TA providers to ensure the policy will be in compliance and to make certain our grantees have the best available options to continue to complete valuable CDBG activities with their CDBG PI and RLA funds.

HUD understands the Department has a very large task to complete and that we cannot create the PI policy retroactively. Therefore, any changes in policies and procedures herein will have a **July 1, 2014 effective date**.

NOTE: The most significant rule change, effective July 1, 2014, is:

- ***Funds on-hand determined to be PI must be used prior to drawing down any awarded grant funds.***

Also Note: Based on the CDBG federal Final Rule change, all PI/RLF expenditures, along with activity accomplishments, must be entered into the Integrated Disbursements & Information System (IDIS) beginning July 1, 2011.

NEW POLICY - Revolving Loan Fund

REVOLVING LOAN FUND - HUD uses the term Revolving Loan *Fund* (RLF), not Revolving Loan *Account* (RLA), (which is a State term). The Department, to distinguish between past practices and those implemented with this Management Memo, effective July 1, 2014, is now using the HUD term "RLF."

As of July 1, 2014, all State RLAs are cancelled since HUD has determined the State's RLAs do not meet the RLF definition. This means that until a grantee follows the steps to create an eligible RLF outlined below *and receives the Department's approval for the RLF*, ***all funds on hand and within the grantee's loan portfolio are considered PI*** and, therefore, must be used prior to drawing down grant funds from any CDBG contracts.

REVOLVING LOAN FUNDS:

Grantees have the option to establish RLFs under these two RLF definitions only:

1. **Housing RLF:** Activities are limited to Homebuyer Assistance (13), Owner Occupied Rehab (14A), and Tenant Occupied Rehab (14B), and are limited to 1-4 Units. (Multi-family activities, or those with 5 or more units, are *not* considered part of the Housing RLF activities.)

2. Economic Development RLF: Activities are limited to Microenterprise Financial Assistance (18C) (no grants), and Business Assistance (18A) (limited to Special ED).

The above defined RLFs will allow grantees the maximum number of activities to capitalize the RLF and ensure the RFL will have sufficient funds to revolve.

RLF RULES:

- a. RLFs can only use financing instruments that revolve. Therefore, RLFs cannot fund **projects** that are **solely** grants or forgivable loans.
- b. A grantee cannot establish a RLF unless:
 - 1) the grantee has made loans in the past for the same RLF activity; **and**,
 - 2) the grantee has received loan payments from the same RLF activity.
- c. Funds within a RLF can only be from activities defined by the RLF, as listed above. This means RLF monies must go out in loans and come back as payments for the same RLF activity. Funds received for RLF activities cannot be “diverted.”
- d. Once a RLF has been established and approved by the Department, no funds can be used for any other CDBG activity, committed to any contract to supplement a grant funded project, or transferred to another RLF(except as noted below).
- e. Moving funds out of an RLF requires Department approval and will only be allowed under limited circumstances (for a natural disaster, for example). Once approved, the funds will be considered PI; and, therefore, must be used prior to drawing down grant funds. Additionally, this action could result in the Department cancelling the grantee’s RLF due to a lack of ability to revolve (insufficient funding).
- f. When calculating the 17% General Admin (21A) funds on the received PI in a given year, funds received for an RLF may not be included in this calculation.
- g. Associated Activity Delivery (AD) costs can only be reported and included in the definition of “revolving” when actual accomplishments are reported within the fiscal year. This means no AD may be charged to the RLF within a fiscal year if no loans were made within that fiscal year.
- h. When a grantee has been approved for an RLF, those funds must be placed within a separate set of accounts (grantee will be required to create a separate fund/ transaction number) for each approved RLF. *This will also require all other CDBG funds received from CDBG activities be accounted for as PI.*
- i. If a grantee has awarded grant funds for the same activity as their approved RLF and there are insufficient RLF monies to fund an entire activity, the grantee can “split-fund” a project (RLF funds first) when the project needs additional funds beyond the amount of RLF monies on-hand.

-
- j. *Projects funded solely with grants are not considered RLF and, therefore, can be funded with awarded grant funds. To qualify as an RLF eligible activity, there must be the possibility of repayment, so only deferred loans and performing loans are eligible.*
- k. Grantees cannot “bank” RLF monies. To remain eligible, a RLF must revolve. Thus, a grantee cannot have more than \$100,000 on hand in a RLF within a given fiscal year, without making at least one loan. Additionally, grantees may not have more than \$500,000 on hand even if making loans, each fiscal year. The Department will address these issues by issuing finding letters to the grantee which could result in the Department cancelling the grantee’s RLF, which immediately converts the funds to PI; and, therefore, must be used prior to drawing down grant funds.

Note: The Department reserves the right to cancel the grantee’s RLF and require the funds to be returned to the Department as a corrective action for significant, ongoing non-compliance with RLF rules.

STEPS: MOVING FROM RLA TO RLF

As of July 1, 2014, grantees do not have Revolving Loan Funds until the following has been completed. Thus, as of July 1, 2014, all funds on hand are considered PI and must be used prior to drawing down any grant funds.

As of July 1, 2014, the following steps must be followed to establish an RLF:

1. Grantee must decide if they wish to create one or both of the RLFs as replacement for their present RLAs. If not, the grantee must begin the new process of accounting for all current RLA funds and PI on hand as PI.
2. If the grantee decides to create one or both of the RLFs, they must:
 - a. Certify the amount of funds currently on hand which are from the same activity that the grantee wishes to fund each RLF;
 - b. Certify the amount of funds in their loan portfolio which have come from the same activity and will continue within the RLF when payments are received; and,
 - c. Certify the amount of funds, both on hand and within the loan portfolio, which are not from the same activity. This includes funds on hand, funds within the **RLA**, or funds within the loan portfolio where the grantee cannot identify the activity that generated the funds; these funds will be considered PI and must be accounted for as such.
3. The grantee must have approved guidelines for each activity within the RLF, as listed below. These RLFs are consistent with the CDBG Program’s “Combo” Activities:

Housing RLF:

- Owner Occupied Rehabilitation
- Tenant Occupied Rehabilitation (if allowed in the grantee’s program)

➤ Homebuyer Assistance

Economic Development RLF:

- Microenterprise Financial Assistance
- Special Economic Development Business Assistance

Note: Once the grantee has identified portfolio loans as being within an RLF, the loans must be individually coded to indicate they are part of the RLF, which will ensure any payments are correctly accounted for and reported into the RLF.

4. Complete all needed Board Resolutions and Citizen Participation requirements.

Note: Certification must be made, in writing on the grantee's letterhead, be signed by the Authorized Representative, and must be submitted to the Department with all supporting documentation.

5. The Department will provide a written decision on the RLF request. Until grantees receive the Department's written approval, the RLF does not exist and all CDBG revenue is considered PI and must be spent prior to requesting a draw of grant funds.

<i>NEW POLICY - Program Income When the Grantee has an <u>Active Contract</u></i>
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For the purpose of this section, an Active Contract means the grantee has an executed Standard Agreement (contract) for CDBG activities and the expenditure deadline has not passed.

ANNUAL PROGRAM INCOME RECEIVED THAT IS LESS THAN \$35,000

In May 2012 the CDBG federal Final Rule changed this amount from \$25,000 on all funds received by the grantee to \$35,000, *but clarified that it only applies to PI*. Any RLF funds must stay RLF and cannot be included in the \$35,000 calculation. The \$35,000 rule is found in the CDBG federal regulations defining when proceeds received from a CDBG activity are *not* considered PI. The \$35,000 is based on a fiscal year and since it applies only to PI, the rule now requires that grantees certify at the beginning of each fiscal year whether or not they intend to utilize the \$35,000 rule.

If a grantee does intend to use the \$35,000 rule, they must:

- a. When requesting grant funds, certify the amount of PI on hand that have been received during that fiscal year;
- b. Not expend any of these funds until the fiscal year is over, unless they received greater than \$35,000, at which point the grantee must expend the PI first prior to requesting any grant funds Use all PI carried over from the prior year;
- c. Use the PI once the amount of PI received reaches \$35,000 within the fiscal year; and,

- d. Have adequate accounting records to verify, to the Department's satisfaction, they received less than \$35,000 in CDBG PI in a given fiscal year. This must be reported on the semi-annual PI Reports.

If a grantee does not intend to use the \$35,000 rule, all revenue received (even if under the \$35,000 limit) is CDBG PI and must be used prior to requesting any grant funds.

Revised Funds Request forms are necessary to document the grantee's certification regarding the \$35,000 rule. Therefore, the Department will be releasing the Revised Funds Request forms under a separate Memo.

PI RETURNED TO THE STATE

Jurisdictions that have PI on hand and have not applied for or been awarded CDBG funds with the past three NOFAs will be required to submit a PI Expenditure Plan for their PI on hand. The plan must be submitted via the CDBG PI Waiver process, and if they do not initiate the request, the Department will send the grantee a letter requiring submission within a set time frame. If the grantee does not respond to the Department's letter, the grantee will be required to return all PI on hand to the Department, regardless of the amount of PI.

NEW PI RULES – (PI Revenue; not revenue from an approved RLF)

1. Program Income must be used prior to requesting a draw of grant funds from any contract. For example, if a grantee incurs costs on a grant funded project *and* has PI on hand, the PI must be used first and the grantee cannot request grant funds until all PI has been paid out.
2. Grantees cannot "commit" (or set aside) PI to an active contract; PI funding must be applied to the next CDBG cost to be paid.
3. PI Waiver projects (set aside PI funds) can only be approved if there is no active contract.
4. If the revenue cannot be associated with an approved, defined RLF, the funds will be considered PI and, therefore, must be used first.

STEPS: ACTIVE 2012 OR 2013 CONTRACTS

Approving PI waivers when a grantee has an active contract is out of compliance with CDBG federal regulations because PI Waivers are funded with PI and PI must be spent first.

As of July 1st, the Department will allow grantees to amend their current active contracts to add "Supplemental Activities." This will allow awarded grant funds that have been supplanted by PI to be used for programs and projects identified by the grantee. Since the

requirement of using PI first will likely result in contract funds being “left over” in the contract, “left over” funding will roll to the grantee’s Supplemental Activities, allowing the grantee an opportunity to complete additional CDBG eligible activities so that they do not lose the awarded funds due to having PI.

To initiate Supplemental Activities

- a. The grantee must complete and submit to the Department a “Supplemental Activity Inquiry Form,” signed by the Authorized Representative, along with any necessary supporting documentation.
- b. The Department will review the Supplemental Activity Inquiry Form for eligibility and meeting National Objective.
- c. If approved, the grantee will be required to complete the citizen participation process and submit a final resolution approving:
 - 1) the submission of the PI Supplemental Activity(ies); and,
 - 2) the amending of the grantee’s contract.
- d. Any approved waiver activities that have not been fully expended by July 1, 2014 must be added as “Supplemental Activities” through a contract amendment.

2014 CONTRACTS

Once a jurisdiction receives an award letter, the above steps must be taken to add any Supplemental Activities and/or existing waiver projects that have not been fully expended and are not identified as being added to an active 2012 or 2013 contract.

STEPS: FOR 2015 CONTRACTS

When a jurisdiction applies for funding under the 2015 CDBG NOFA, “Supplemental Activities” will be identified in the application if the jurisdiction wishes to have grant funds (if awarded) available to complete activities that would have been funded with PI . Including these activities in the contract will allow grant funds (if awarded) to roll to the Supplemental Activities, since if a jurisdiction has any PI on hand it must be used to complete the active contract activities before grant funds can be drawn. The amount of grant funds equal to the PI paid funds can be rolled into funding the Supplemental Activities. The 2015 NOFA will include the steps necessary to add “Supplemental Activities” to the application.

From 2015 and forward, PI waivers will not be added to active contracts. This means any PI waiver projects must be completed prior to drawing down grant funds since waivers are funded by PI, and PI must be expended first.

NEW POLICY - Program Income When the Grantee Does Not Have an Active Contract

When a jurisdiction does not have an active contract, the PI Waiver process will remain as it is. However, if a jurisdiction has an open PI Waiver and is awarded a contract, going forward after the CDBG 2015 NOFA, the PI Waiver will need to be completed **prior to** drawing down grant funds.

However, grantees must have an approved Reuse Plan to expend PI and/or RLF monies if the grantee has no active CDBG contract.

NEW POLICY – Additional Considerations

Note: The Department reserves the right, for any significant on-going non-compliance with RLF and/or Program Income rules, to cancel any RLFs and require the funds, both RLF and PI, to be returned to the Department.

GENERAL ADMINISTRATION (GA)

As of July 1, 2014:

Grantee can carry forward the GA balance from Fiscal Year PI Report covering Fiscal Year 2013-2014. The balance forwarded will be used to determine the **maximum available GA** funding cap in the next step below.

For PI funds received after July 1, 2014, grantees may calculate 17% of PI received (again, excluding RLF monies). This amount can be added to the amount on hand as of July 1, 2014 and will be considered as part of the **maximum available GA** funding cap.

No Active Contract

The grantee can expend the funds calculated above, with an approved Reuse Plan, up to the established **maximum available GA** funding cap, and may roll over this amount between fiscal years.

Active Contract

While grantees can continue to have a **maximum available GA** funding cap balance, they will not be able to “set-a-side” the funds as GA since PI must be used first. So that the grantee doesn’t lose this calculated GA, the Department will increase the grant GA when PI Waivers (being added to 2012-2014 contracts) and Supplemental Activities are approved.

While the grantee may continue to maintain a **maximum available GA** funding cap with active contracts, these funds may not be set aside to remain on hand given that all PI must be spent first.

Note: Planning (PTA) Studies cannot be funded with PI GA, Supplemental Activities or Waivers, because Planning and Technical Assistance (PTA) funding is included in the federal 20% Administration Cap and must meet a National Objective to be eligible. Thus, PTA studies can only be done through an awarded contract.

AGREEMENTS BETWEEN THE STATE AND THE GRANTEE

Per the CDBG Final Rule, no funds (PI, RLF or grant funds) may be spent unless an agreement (contract) has been established and executed. All PI Reuse Plans, effective immediately, must be voided since they are not in compliance with HUD PI and RLF rules. The following actions are being implemented to permit the expenditure of PI and RLF monies.

- For grantees amending 2012 and 2013 contracts: with the addition of Waivers and/or Supplemental Activities, all PI and RLF rules and requirements will be added to the contract during the amendment process.
- For 2014 Contract and forward: all PI and RLF rules and requirements will be included prior to contract execution.
- For jurisdictions with no Active Contracts: the Department will make available an updated PI Reuse Plan by July 30, 2014, which must be fully executed in order to spend any PI or RLF monies outside of an Active Contract.

CITIZEN PARTICIPATION

Federal regulations require grantees to address all projected activities for the upcoming NOFA application submission during the pre-submission Public Hearing. This includes all grant funded activities and PI/RLF activities and expenditures. All Public Notices and Agendas for the hearings must include PI and RLF proposed activities and expenditures, in addition to all proposed grant and Supplemental activities.

- For active 2012, 13 and 14 contracts where Waivers and Supplemental Activities will be added/included, a separate Public Hearing must be held for the projected activities and expenditures being added to the contract, and documentation of such must be submitted to the Department to complete the contract amendment process.
- Beginning with the 2015 NOFA and going forward, the pre-application submission Public Hearing must include all proposed activities and expenditures including grant funded activities, PI and RLF activities, and Supplemental Activities.

PROGRAM INCOME REPORTING

For fiscal 2013/14, the current PI Report Form, along with Grant Performance Reports (GPR) must be used. The reporting changes reflected in this memo will begin concurrent with the 2014/15 fiscal year.

The current PI Report Form will be used to close out this fiscal year (2013/14), along with a GPR that reports the PI/RLF accomplishments.

Beginning with fiscal 2014/15 new Setup/Completion Reports will be incorporated into the PI/RLF and Grant reporting requirements, as well as into the 2014 Standard Agreement. A Management Memo will be released separately on this subject in the near future.

All of the above will be will be addressed in trainings.

<i>NEW POLICY – Jurisdictions Leaving or Entering the State CDBG Program with Program Income</i>

Pursuant to 24 CFR 570.489(e)(3)(iii) and (iv) the Department is implementing the following policy and procedures for jurisdictions that have State CDBG PI.

24 CFR 570.489(e)(3)(iii) *Transfer of program income to Entitlement program.*

Jurisdictions that are entitlement communities or part of an urban agreement, or grantees that at a later date become an entitlement community or join a urban agreement, have the following options for PI and RLFs:

PI not associated with a RLF, the jurisdiction must:

1. Complete the process to certify they will be reporting the State PI into the Entitlement Programs process, including receipting the CDBG proceeds into IDIS, or,
2. Return all State CDBG Program Income to the Department, the amounts on hand as of July 1, 2014 and as it is received until all PI generated by State CDBG funding has been returned.

PI in an approved RLF:

Entitlement jurisdictions and those who are part of an urban agreement may keep their RLF(s) and monies within an RLF as long as the following is met:

1. They have a State Reuse Plan (agreement) signed by the Department and the City/County Authorized Representative.
2. Agree to immediately implement the RLF rules within this Memo and execute updated the Reuse Plan, as provided by the Department.

Note: the above must be complete prior to October 31, 2014 or all funds on-hand and within the loan portfolio that is from State CDBG activities will be consider PI and must be returned to the Department.

24 CFR 570.489(e)(3) (iv) *Transfer of program income of grantees losing Entitlement status.*

Upon entry into the State CDBG program, a unit of general local government that has lost or relinquished its Entitlement status must submit a letter to the department, signed by the Authorized Representative stating which of the following options the jurisdiction will be implementing. Keep in mind, that retaining Entitlement PI while participating in the State CDBG program will require PI reporting for both sets of funding. Entitlement PI and any PI generated by State CDBG fund cannot be comingled.

Within 90 days of leaving the Entitlement Program to join the State CDBG program, the jurisdiction must certify that it will either:

1. Retain program income generated under Entitlement grants and continue to comply with Entitlement program requirements for program income, including reporting it into IDIS or the urban county; or
2. Retain the program income and transfer it to the State CDBG program, in which case the jurisdiction must comply with the State's rules for PI and RLF address within this Memo, the Reuse Plan and Chapter 14 of the Grant Management Memo.

Establishing a RLF Decision Flow

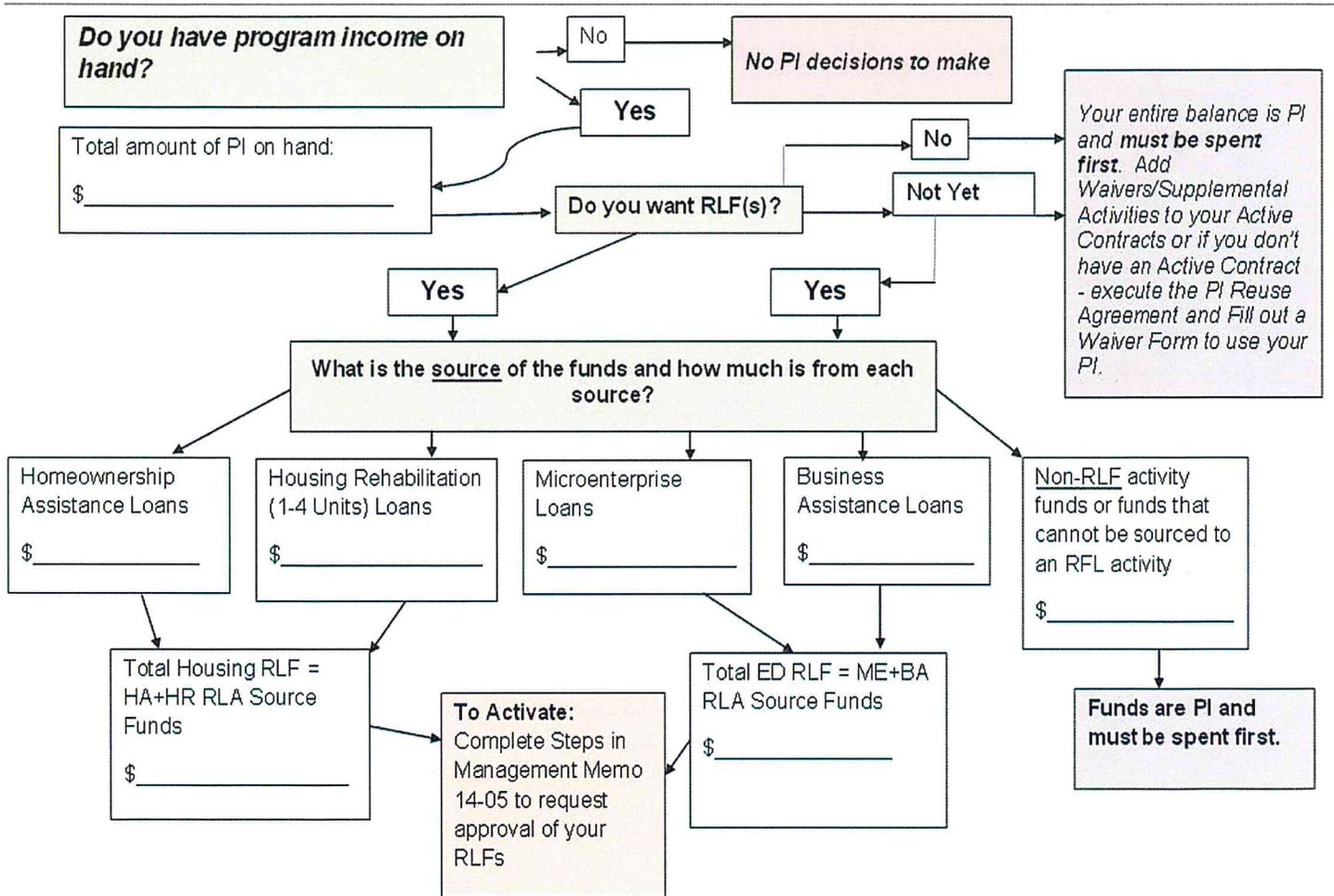
Decision Making

With a number of choices and decisions to make, the Department has a one page document that allows grantees to walk through the process. Please see Establishing a RLF Decision Flow, below.

Additionally, it is recommended that grantees contact the CDBG Representative with any questions regarding their particular circumstances:

<http://www.hcd.ca.gov/fa/cdbg/ContactUs.html>

ESTABLISHING A REVOLVING LOAN FUND - DECISION FLOW CHART





City Council

Staff Report

TO: Honorable Mayor and City Council
FROM: John Jansons, City Manager *JJ*
DATE: August 22, 2016
SUBJECT: Termination of Facility Use Agreement

RECOMMENDED ACTION:

It is respectfully recommended that the City Council terminate the Facility Use Agreement with Farmersville Senior Citizens Inc.,

BACKGROUND:

The City of Farmersville had approved a Facility Use Agreement (Attachment 1) with the Farmersville Seniors Inc. to allow for the City's proposed contractor, CSET to deliver services at the Farmersville Senior Center located at 444 Gene St.

On August 8, 2016 the City received notice from CSET (Attachment 2) that they had withdrawn their interest in serving as the City's contractor to provide services at the Farmersville Senior Center (the Center) due in part to a majority of the Center's membership not wanting CSET's services. As a result, the City is without a contractor and no longer requires the Facility Use Agreement which memorialized CSET's right to be on premise at the Center delivering services on behalf of the City.

DISCUSSION:

The purpose of the Facility Use Agreement was to facilitate the delivery of services by CSET on the City's behalf, which is now no longer needed. Should the City wish to partner with CSET in future for the delivery of senior services at a new location, then a new Facility Use Agreement or contract would be required at the time.

CONCLUSION:

It is respectfully recommended that the City Council terminate the Facility Use Agreement with Farmersville Senior Citizens Inc.,

ATTACHMENT(S): 2

- 1) Facility Use Agreement
- 2) Notice of Withdrawal from CSET

Respectfully Recommended:



John Jansons
City Manager



July 14, 2016

C/O Fereleen Schultz
FARMERSVILLE SENIOR CITIZENS, INC.
444 North Gene Street
Farmersville, California 93223

RE: Senior Center Use Agreement

Thank you for agreeing to allow the City of Farmersville to use your facility to provide CDBG-funded senior services. This correspondence is intended to confirm the terms of our understanding (“**Agreement**”) and is required in order for the City to secure CDBG funding. If your board of directors is in agreement, please have the appropriate officials sign at the bottom and return the original to us. If you desire a duplicate original, please sign two originals and we will return one to you after the City Council approves and signs.

1. This Agreement is entered into by and between City of Farmersville (“**CITY**”), as Licensee, and the FARMERSVILLE SENIOR CITIZENS, INC. (“**FSCI**”) as Licensor.

Description of Property

2. FSCI is the owner or lessee of certain real property situated in the City of Farmersville known as the Farmersville Senior Center and located at 444 North Gene Street, Farmersville, California (“**Senior Center**”).

Grant of License

3. In consideration for and in accordance with the terms and conditions of this Agreement, FSCI grants to the CITY a license to perform the following acts at the Senior Center:

- a. At no cost to the CITY, the CITY and its grant subrecipient and contractors shall have exclusive use of the Senior Center from Monday through Friday of each week between the hours of 9:00 a.m. and 1:00 p.m. for food services and programs which, at no cost to FSCI, will include the following activities beginning September 1, 2016 through October 31, 2018:

- Provide balanced meals and support diabetes management in the form of a lunch program servicing up to 25 elderly persons per day;
- Provide shelter from extreme summertime heat by offering an air conditioned setting during the hottest part of the day for up to 50 elderly individuals; and
- Provide social interaction to combat and prevent clinical depression in the elderly population. Activities such as the lunch program, art programs, quilting, and computer classes will be offered to up to 25 elderly individuals per day.

Other Rights and Obligations

4. The following incidental rights and obligations accompany the license and the use of the Senior Center:

- a. CITY or its authorized subrecipient or other designee shall have full and exclusive management authority over the Senior Center during the times of CITY's program use.
- b. During the times of CITY's program use the CITY shall be responsible for the cleanliness of all areas utilized including the restrooms.
- c. FSCI shall be exclusively responsible for payment of telephone, internet access, all utilities and janitorial services for the Senior Center.
- d. FSCI shall have exclusive use of the Senior Center when not in use by CITY.
- e. CITY shall not be obligated to provide facility management oversight, routine building, grounds maintenance and utility services although the City will, provide a stipend of up \$9,967 over 26 months (\$383 monthly) for utility expense associated with operating the facility as a Cooling Center and to offset other incidental utility costs such as gas, water, telephone or internet services in support of City sponsored activity delivery.

In exercising these rights and obligations, CITY must use reasonable care and may not unreasonably burden on the Senior Center.

License Non-assignable

5. This license is personal to the Licensee and shall not be assigned. No fee title or leasehold interest in the Senior Center is created or vested in the Licensee.

Term of License

6. This license shall be effective from September 1, 2016 through October 31, 2018.

Termination of License

7. Notwithstanding the above-referenced term, either party may terminate this Agreement with at least ninety (90) days prior written notice following the establishment of services period of six months. On or before the effective date of termination of this license, CITY and its Contractors or Agents shall remove all of its personal property from the Senior Center and shall leave the Senior Center to FSCI in good order and repair, reasonable wear and tear excepted.

Default

8. In the event CITY fails to comply with any of the material terms of this Agreement, this license may be revoked by FSCI upon CITY's receipt of written notice of the violation and its failure to begin to cure within fifteen (15) working days.

Subject To Funding

9. If funding for this Agreement is dependent on any state or federal grant or funds, CITY reserves the right to reduce the level of services to match reduced levels of funding, or at CITY's option, CITY may terminate this Agreement, should the funding source no longer be available or the amount be reduced.

Entire Agreement

10. This Agreement constitutes the entire agreement between FSCI and CITY relating to the subject matters discussed herein. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by all parties named above.

No Third-Party Beneficiaries Intended

11. Unless specifically set forth, the parties to this Agreement do not intend to provide any other person or entity other than a signatory hereto with any benefit or enforceable legal or equitable right or remedy.

If FARMERSVILLE SENIOR CITIZENS, INC., is in agreement with what is outlined in this letter, please sign and return with an original signature. Thank you for your willingness to work with us in this capacity.

Sincerely,

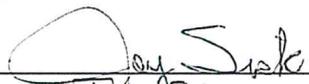


John Jansons, City Manager

OWNER/LESSOR

Corporations Code section 313 requires that contracts with a corporation be signed by both (1) the chairman of the Board of Directors, the president or any vice-president, and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer, unless the contract is accompanied by a certified copy of the corporation's Board of Directors' resolution authorizing the execution of the contract.

FARMERSVILLE SENIOR CITIZENS, INC. FARMERSVILLE SENIOR CITIZENS, INC.

 7/15/16  7-18-16

FERELEEN SCHULTZ Jay Sisk
Fereleen Schultz, President (date) (date)

Secretary,

[Please sign and print name above]

CFO, or assistant of either
[Please sign and print name above]

CITY:

APPROVED AS TO FORM:

 7/27/16 _____
Gregorio Gomez, Mayor (date) City Attorney or Deputy (date)

ATTEST:

City Clerk or Deputy (date)



August 8, 2016

Mr. John Jansons
City Manager
City of Farmersville
909 West Visalia
Farmersville, CA 93228

RE: CDBG Contract

Dear John,

CSET has been providing services in Tulare County for over 40 years and is made up of local individuals who care deeply and work hard for residents in all of our communities. Our mission is to inspire youth, families, and communities to achieve self-reliance through innovative pathways and collaboration.

After deep reflection and careful consideration, I must request that CSET be allowed to withdraw from the CDBG contract. We cannot in good conscience accept this contract for the Senior Center site, given the lack of support from community leadership and residents. Nor can we be the cause of another important organization withdrawing its services.

We will continue to support Farmersville families with energy and weatherization assistance, senior support services, workforce development and other safety-net services that may be needed in our community offices. Thank you for your belief in CSET, and we are hopeful that there will be other opportunities for us to work together for the good of Farmersville residents.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mary Alice Escarsega-Fechner".

Mary Alice Escarsega-Fechner
Executive Director



City Council

Staff Report

TO: Honorable Mayor and City Council
FROM: John Jansons, City Manager 
DATE: August 22, 2016
SUBJECT: Tulare Economic Development Corporation – Equity Concern

RECOMMENDED ACTION:

It is respectfully recommended that the City Council discuss and provide direction to the City's representative to the Tulare Economic Development Corporation regarding a recommendation to their Board to defer or waive membership dues for the City of Exeter.

BACKGROUND:

The City of Farmersville has been a long standing member of the Tulare Economic Development Corporation (EDC). The City current representative on the EDC Board of Directors is Councilmember Benavides and Mayor Pro Tem Boyer serves as the City's Alternate.

Since 1983, the EDC has served as the marketing and business recruitment organization representing the communities of Tulare County. The EDC represents itself as the regional leader of economic development by attracting, supporting and retaining business and industry for the communities of Tulare County.

The City of Farmersville's annual membership fee to belong to the EDC is \$6,459 calculated on pro rata share based upon the City's population.

DISCUSSION:

The EDC Board of Director typically meets monthly and their next Board of Director's meeting is Wednesday August 24, 2016.

One item on their upcoming agenda (Attachment 1, Page 7) proposes to defer the annual membership fee for the City of Exeter due to "Extenuating financial Circumstances of the City of Exeter".

The recommendation by EDC Staff to their board deserves pause and concern in that the City of Farmersville is also experiencing "extenuating financial circumstances" with a projected \$300,000 + deficit for Fiscal Year 2016-2017 due to the loss of grant funding for Public Safety. Yet, in spite

of that dire circumstance, the City of Farmersville paid its annual membership dues of \$6,459 in June to continue to be fully represented by the EDC.

With that in mind, it is recommended that the City Council provide direction to its representative to the EDC regarding the recommendation to defer Exeter's membership fee, and consider requesting a deferment or waiver of Farmersville's EDC dues and /or a reimbursement of the 2016-20176 fees paid by the City if Exeter is granted the deferral or waiver.

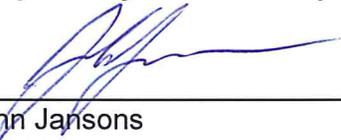
CONCLUSION:

It is respectfully recommended that the City Council discuss and provide direction to the City's representative to the Tulare Economic Development Corporation regarding a recommendation to their Board to defer or waive membership dues for the City of Exeter.

ATTACHMENT(S): 1

- 1) Tulare EDC August 24, 2016 Board Agenda Packet

Respectfully Submitted By:



John Jansons
City Manager



ECONOMIC DEVELOPMENT CORPORATION

s e r v i n g T u l a r e C o u n t y

Board of Directors

August 24, 2016 – 7:30 AM

Exeter Museum Gallery
125 S. B Street, Exeter, CA 93221

Chair

George Vasquez
Bank of the Sierra

Vice Chair

Monte Reyes
City of Porterville

Treasurer

Colby Wells
The Gas Company

Secretary

Teresa Boyce
City of Exeter

Immediate Past Chair

Craig Vejvoda
City of Tulare

Leonel Benavides
City of Farmersville

Brent Calvin
College of Sequoias

Dr. Rosa Carlson
Porterville College

Bill DeLain
DeLain Associates LLC

Greg Gonzales
City of Woodlake

Warren Gubler
City of Visalia

Scott Harness
City of Dinuba

Chuck Littlefield
Richard Best Transport

Vacant
City of Lindsay

Mike Porte
Newmark Grubb Pearson

Nick Seals
Seals-Biehle Contractors

Harroll Wiley
Workforce Investment Bd.

Dan Zoldak
Lars Andersen & Assoc.

1. Call to Order

- a. Self-Introductions
- b. Public Comment

2. Organizational Management

- a. Minutes of May 25 & July 27, 2016 (Action)
- b. July Financial Report (Action)
- c. Private Sector Investor Program (Presentation/Action)

3. Marketing & Communications

- a. Marketing & Communications Activity (Report)

4. Business Development

- a. Business Recruitment (Report)

5. Community Competitiveness

- a. Appointment to Measure R Citizens Oversight Committee (Action)

6. Closed Session

Government Code Section 54957
Public Employee Evaluation
Title: President & CEO

7. Reconvene from Closed Session

- a. Consideration of change to compensation and/or benefits as a result of performance evaluation (Action)

8. Good of the Order – Items for Future Discussion

9. Adjournment



Agenda Report – August 24, 2016

July 2016 Financial Report

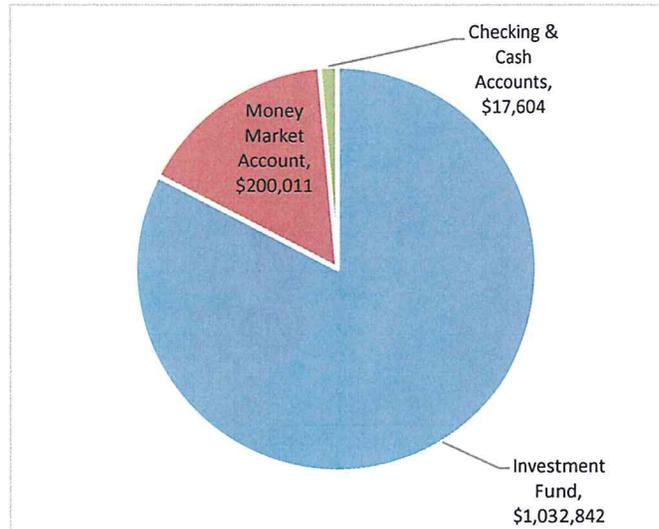
Recommendation

Board receive the July financial report; extend deferment of 2016-17 contribution by the City of Exeter due to extenuating financial circumstances; direct Administrative Committee to recommend mid-year budget changes to balance budget as needed.

Background

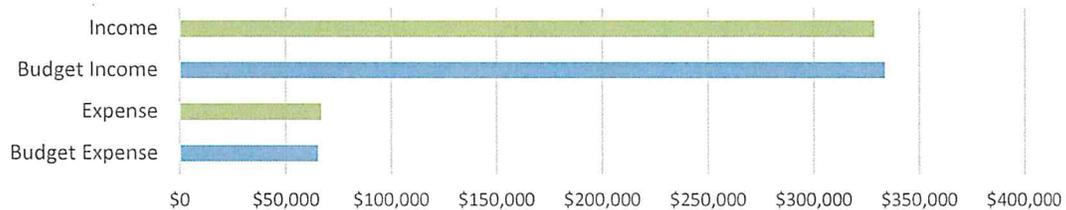
Balance Sheet/Cash Balance as of July 30, 2016

The EDC ended the month of July with cash on hand balance of \$217,611 and accounts receivable of \$45,378. The EDC's Investment Fund value as of July 30 was \$1,032,841. The chart on the right shows the designation of cash or equivalent asset funds as of July 30, 2016.



Income & Expenses

The Profit & Loss Budget Performance Report shows the EDC income and expense for the month of July. Income is primarily derived from public sector in the month of July and many annual expenses are also paid out during July, accounting for the high expense level.





Agenda Report – August 24, 2016

City of Exeter request

The City of Exeter has requested a deferment of their 2016-17 contribution due to the state of their budget and fiscal condition. The Administrative Committee has reviewed the request and recommends approval. Likewise, the Admin Committee is recommending the Board not make any budget adjustments until mid-year, at which time the Committee can evaluate the best alternatives to balance the budget and maintain program of work.

Business Incentive Fund Status

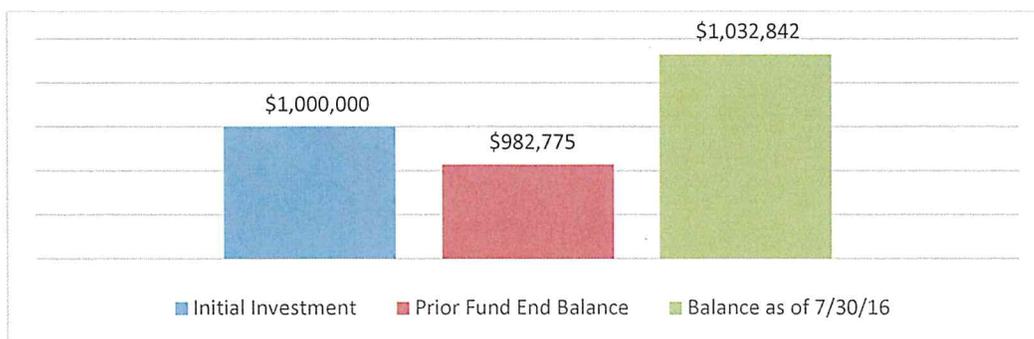
The following represents the status of the Business Incentive Fund as of July 30, 2016. The balance sheet has been changed to track the total amount designated for the incentive fund and is shown under “equity” account 3600 Net Assets – BIZ Fund (Designated). This will allow for better tracking of the funds designated for incentives, since some funds are in investments and some are held in cash.

Incentive Fund Balance	\$107,253
Project Proposals/Commitments	
Prospect #747-13	(\$25,000)
Prospect #798A-15	(\$10,000)
Prospects (not committed)	(\$5,000)
Fund balance after commitments	\$67,253

The incentive fund and activities will undergo annual review by the Administrative Committee at their September meeting and recommendations will be brought forth at the next Board meeting.

Investment Portfolio Status

The closing statement for July 30, 2016 reflected an ending value of \$1,032,841.50. The following chart provides a comparison of the fund status. As a result of increased value, the fund manager has been instructed to sell of \$30,000 of proceeds when the fund exceeds \$1,060,000 in value.





City Council

Staff Report

TO: Honorable Mayor and City Council

FROM: John Jansons, City Manager *[Signature]*

DATE: August 22, 2016

SUBJECT: Representative of Cities on the Greater Kaweah Groundwater Sustainability Agency

RECOMMENDED ACTION:

It is respectfully recommended that the City Council discuss a request from the City of Exeter to support Exeter Mayor Pro Tem Dale Sally's potential nomination to be the representative of area cities on the Board of the Greater Kaweah Groundwater Sustainability Agency, and if warranted, provide direction to staff.

BACKGROUND:

The City Manager of the City of Exeter has contacted the cities who are participating in the formation of Greater Kaweah Groundwater Sustainability Agency, to advocate for Mr. Sally to become a Board Member of the Agency representing the interests of municipalities as water purveyors on the new Agency's new Board of Directors.

DISCUSSION:

Mr. Randy Groom, City Manager of Exeter advocates for Mr. Sally to be the named to the Board seat reserved for municipalities due to Mr. Sally's interest in water issues, his professional background and his track record of thoughtful and responsible representation on various boards and committees over the years (see Attachment 1).

Likewise, Mayor Pro Tem Boyer has been an active participant, along with the Farmersville City Manager in all planning and coordination meetings in support of formation of a Greater Kaweah Groundwater Sustainability Agency and a Joint Power Authority tasked with implementing the Sustainable Groundwater Management Act.

The same attributes identified by Mr. Groom regarding Mr. Sally can be said of Mr. Boyer as well. With this said, the request to support Mr. Sally or someone else, deserves consideration of the City Council as a whole due to the importance of GSA implementation to the City of Farmersville as an sub-urban water supplier.

The request to support Mr. Sally's nomination appears to be receiving support of city staff in the City of Woodlake as of this writing (Attachment 2), but Farmersville is not aware of any formal consideration of Mr. Sally's nomination by the Woodlake City Council at this time..

CONCLUSION:

It is respectfully recommended that the City Council discuss a request from the City of Exeter to support Exeter Mayor Pro Tem Sally's potential nomination to be the representative of area cities on the Board of the Greater Kaweah Groundwater Sustainability Agency, and if warranted, provide direction to staff.

ATTACHMENT(S):

- 1) Correspondence from Mr. Groom in Support of Mr. Dale Sally.**
- 2) Correspondence regarding potential Woodlake support.**

Respectfully Recommended:



John Jansons
City Manager

John Jansons

From: Randy Groom <rgroom@exetercityhall.com>
Sent: Friday, August 12, 2016 4:45 PM
To: rlara@ci.woodlake.ca.us; John Jansons
Cc: Randy Groom
Subject: City Rep on GSA

Ramon and John –

It sounds like we are likely approaching the time when the cities who are parties to the Greater Kaweah GSA will need to designate a representative to sit on the board.

I normally don't push my councilmembers out in front of much, unless there is a compelling reason to do so. In this case, Exeter Mayor Pro Tem Dale Sally would seem to be a particularly well-suited candidate to represent our three cities on the board. With Dale's long history in the water field, as retired manager of both the Exeter and Ivanhoe Irrigation Districts, and with his education and experience as a farmer, a City Councilmember, and an active participant in water issues, in this case I do feel moved to lobby for him to serve in this role.

Dale is a very cautious and deliberate thinker. He researches issues and he reads the material that he is given. He is the one member of my council who can be consistently counted on to have thoughtful and appropriate questions on every issue. He is easy to get along with, but firm when necessary. He has established long-standing relationships with most of the people around the table at our GSA meetings, and it is my impression that he is both respected and well liked. He knows FAR more about water issues, agencies, and history than anyone else in our organization – staff or elected.

I am very open to your thoughts, questions, and suggestions. I have asked Dale if he would be willing to serve in this capacity, and as I expected he is.

Thanks for your consideration.

Randy Groom
City of Exeter

John Jansons

Attachment 2

From: Ramon Lara <rlara@ci.woodlake.ca.us>
Sent: Monday, August 15, 2016 3:48 PM
To: 'Randy Groom'; John Jansons
Subject: RE: City Rep on GSA

Randy, I spoke to Jason regarding your suggestion. He attends the water meetings for the City and he believes Mr. Sally would be a good choice. We personally don't have an issue with it. We will see what the feeling is from our Council.

Ramon

Farmersville City Hall
909 W. Visalia Road
Farmersville, CA 93223
(559) 747-0458
www.cityoffarmersville-ca.gov