

TO: Mayor and City Council Members

FROM: Rob Hunt, City Manager

SUBJECT: July 20, 2021 Agenda Items

DATE: July 15, 2021

TIME ESTIMATES - Time estimates are provided as part of the Council's effort to manage its time at Council meetings. Listed times are estimates only and are subject to change at any time, including while the meeting is in progress. The Council, by consensus, reserves the right to use more or less time on any item, to change the order of items and/or to continue items to another meeting. Particular items may be heard before or after the time estimated on the agenda. This may occur in order to best manage the time at a meeting or to adapt to the participation of the public.

5:00 p.m.

I. CALL TO ORDER CLOSED SESSION

II. CITIZEN COMMENTS - Comments from the public are limited to items listed on the agenda (GC 54954.3a). Speakers will be allowed three minutes. Please begin your comments by stating and spelling your name and providing your city of residence.

III. ADJOURN TO CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION(S):

- (a) 54956.9(d)(1) Conference with Legal Counsel – Existing Litigation (1) [Submitted by: M. Jeffcoach] Name of Case: City of Tulare v. Del Lago Place, TCSC Case No. 286863
- (b) 54957 Public Employment
Title: City Manager

IV. RECONVENE CLOSED SESSION

V. CLOSED SESSION REPORT (if any)

VI. ADJOURN CLOSED SESSION

6:00 p.m. (Public Hearing, must begin at specified time)

VII. CALL TO ORDER REDISTRICTING PUBLIC HEARING

VIII. CITIZEN COMMENTS - Comments from the public are limited to items listed on the agenda (GC 54954.3a). Speakers will be allowed three minutes. Please begin your

comments by stating and spelling your name and providing your city of residence.

IX. REDISTRICTING PUBLIC HEARING (2 of 4)

- a. Public Hearing to receive input from the Community regarding the Redrawing of Election District Boundaries receive a report from staff on the redistricting process and permissible criteria to be considered to redraw same. [Submitted by: R. Hunt, R. Yoder & NDC]** Every ten years, cities with by-district election systems must use new census data to review and, if needed, redraw district lines to reflect how local populations have changed. This process, called redistricting, ensures all districts have nearly equal population. The redistricting process for the City of Tulare must be completed by April 17, 2022.

The City adopted its current district boundaries on June 5, 2012, when the voters approved a charter amendment instituting by-district elections starting in November 2012. The current district boundaries are based on 2010 census data as required by law. The districts must now be redrawn using the 2020 census data and in compliance with the FAIR MAPS Act, which was adopted by the California legislature as AB 849 and took effect January 1, 2020.

Under the Act, the council shall draw and adopt boundaries using the following criteria in the listed order of priority (Elections Code 21621(c)):

1. Comply with the federal requirements of equal population and the Voting Rights Act
2. Geographically contiguous
3. Undivided neighborhoods and “communities of interest” (socio-economic geographic areas that should be kept together)
4. Easily identifiable boundaries
5. Compact (do not bypass one group of people to get to a more distant group of people)
6. Shall not favor or discriminate against a political party

Once the prioritized criteria are met, other traditional districting principles can be considered, such as:

1. Minimize the number of voters delayed from voting from 2022 to 2024
2. Respect voters’ choices / continuity in office
3. Future population growth

By law, the City must hold at least four public hearings that enable community members to provide input on the drawing of district maps:

- At least one hearing must occur before the city draws draft maps
- At least two hearings must happen after the drawing of draft maps

- The fourth hearing can happen either before or after the drawing of draft maps
- City staff or consultants may hold a public workshop instead of one of the required public redistricting hearings

To increase the accessibility of these hearings, cities and counties must take the following steps:

- At least one hearing must occur on a Saturday, Sunday, or after 6 p.m. on a weekday
- If a redistricting hearing is consolidated with another local government meeting, the redistricting hearing portion must begin at a pre-designated time
- Local public redistricting hearings should be made accessible to people with disabilities

The purpose of this public hearing is to inform the public about the districting process and to hear from the community on what factors should be taken into consideration while creating district boundaries. The public is requested to provide input regarding communities of interest and other local factors that should be considered while drafting district maps. A *community of interest* under the relevant Elections Code 21621(c) is “a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation.”

Possible features defining community of interest might include, but are not limited to:

- A. School attendance areas;
- B. Natural dividing lines such as major roads, hills, or highways;
- C. Areas around parks and other neighborhood landmarks;
- D. Common issues, neighborhood activities, or legislative/election concerns; and
- E. Shared demographic characteristics, such as:
 - (1) Similar levels of income, education, or linguistic insolation;
 - (2) Languages spoken at home; and
 - (3) Single-family and multi-family housing unit areas.

Next Steps

On Tuesday, January 18, 2022, at 6:15 p.m. the City Council will conduct Public Hearing #3 to seek additional public input and provide direction on criteria to be considered while drafting district maps. Following that hearing, draft district maps and proposed election sequencing will be posted to the City’s website and available at City Hall.

Public Hearing #4 is scheduled for Tuesday, February 15, 2022 at 6 p.m. to consider draft maps are yet to be determined depending on release of the delayed U.S. Census data and state prisoner population adjusted counts. A representative

National Demographics Corporation will be physically present for both of these hearings.

Boundaries cannot be adopted earlier than August 1, 2021 and must be adopted before April 17, 2022. However, the U.S. Census Bureau has indicated they will not release date before September 30, 2021.

It is anticipated to finalize the new boundaries on or before April 5, 2022. **Staff recommends Council hold the public hearing and receive input from the Community regarding the Redrawing of Election District Boundaries receive a report from staff on the redistricting process and permissible criteria to be considered to redraw same, as requested.**

X. ADJOURN REDISTRICTING PUBLIC HEARING

7:00 p.m. (or immediately following Redistricting Public Hearing)

XI. CALL TO ORDER REGULAR SESSION

XII. PLEDGE OF ALLEGIANCE AND INVOCATION

XIII. CITIZEN COMMENTS

This is the time for citizens to comment on subject matters, not on the agenda within the jurisdiction of the Tulare City Council. The Council Members ask that you keep your comments brief and positive. Creative criticism, presented with appropriate courtesy, is welcome. The Council cannot legally discuss or take official action on citizen request items that are introduced tonight.

This is also the time for citizens to comment on items listed under the Consent Calendar or to request an item from the Consent Calendar be pulled for discussion purposes. Comments related to general business/city manager items or public hearing items will be heard at the time the item is discussed or at the time the Public Hearing is opened for comment.

*In fairness to all who wish to speak, each speaker will be allowed **three minutes**, with a maximum time of 15 minutes per item, unless otherwise extended by Council. Please begin your comments by stating and spelling your name and providing your city of residence.*

XIV. COMMUNICATIONS [Time estimate: 7:15 p.m. to 7:20 p.m.]

Communications are to be submitted to the City Manager's Office 10 days prior to a Council Meeting to be considered for this section of the Agenda. No action will be taken on matters listed under communications; however, the Council may direct staff

*to schedule issues raised during communications for a future agenda. Citizen comments will be limited to **three minutes**, per topic, unless otherwise extended by Council.*

XV. CONSENT CALENDAR [Time estimate: 7:20 p.m. to 7:30 p.m.]

All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar to be discussed and voted upon by a separate motion.

- (1) Authorization to read ordinances by title only.**
- (2) Approve minutes of July 6, 2021 special/regular meeting(s). [Submitted by: R. Yoder]** The minutes of July 6, 2021 special/regular meeting(s) are submitted for your approval. **Staff recommends Council approve as presented.**
- (3) Authorize the City Manager to execute a Public Improvement Agreement and Release with SE Land, LLC and Sunmet Juice Company, LLL. [Submitted by: M. Zamora]** The City purchased property from a third party under a purchase agreement dated December 13, 2007. Under that agreement, the City was to construct and install certain improvements to the property. The City has yet to complete the improvements.

The City has now negotiated with the new owners of the property for the construction and installment of the improvements. The improvements to be made are as follows:

- construct and install a public street east of subject property with curb, gutter and storm drain inlets on either side of the street.
- construct and install curb, gutter and storm drain inlets within the southern border of the existing Rankin Avenue within the southern border of the existing Rankin Avenue extending east to west from the future road to Hosfield Drive.

Pursuant to the agreement, Sunmet must improve the property to a permanent condition that doubles the fair market value within seven (7) years of the date of this Agreement before the City must complete the above improvements. **Staff recommends Council authorize the City Manager to execute a Public Improvement Agreement and Release with SE Land, LLC and Sunmet Juice Company, LLL, as presented.**

- (4) Accept as complete the contract with 99 Pipeline, Inc. of Porterville, CA for work on Project EN0086, a street and utility improvement project on Tulare Avenue. Authorize the City Engineer to sign the Notice of Completion, and**

direct the City Clerk to file the Notice of Completion with the Tulare County Recorder's Office. [Submitted by: N. Bartsch] This Capital Improvement Project addressed pavement, utility infrastructure, and ADA sidewalk improvements on Tulare Ave. between West St. and the Union Pacific Railroad. The project brought substandard and deteriorated water, sewer and surface water infrastructure up to current standards. This project was included in the approved 2019-2024 Capital Program budget.

On March 17, 2020, the City Council awarded a contract to 99 Pipeline, Inc. of Porterville, CA in the amount of \$4,799,800.62.

The project was funded through a combination of Gas Tax, CDBG, Water, Sewer and Surface Water funds.

A summary of contract costs is as follows:

| | | |
|-----------------------------------|-----------------------|----------|
| Approved Contract Amount: | \$4,799,800.62 | |
| Bid Item Quantity Adjustments | \$ - 54,291.23 | (-1.13%) |
| Contract Change Orders – Various: | <u>\$ 5,225.71</u> | (-0.11%) |
| Total Construction Contract Cost: | \$4,750,735.19 | |

Additional work consisted of changes made by the Streets, Water and Sewer Departments due to unforeseen and differing field conditions, replacement of additional damaged curb and gutter, aesthetic improvements to the ADA curb ramps, necessary ADA upgrades to the signal equipment at West St., and other various bid item quantity adjustments. Alternatively, deducts were taken due to material and workmanship that failed to meet the required specifications, but was found to be in the best interest of the City to remain in place. Additionally, the Contractor reimbursed the City for added inspection and testing costs associated with additional time spent on the project.

All work required of 99 Pipeline, Inc. under this contract has been completed in accordance with the approved plans and specifications. The contractor has also provided the required Maintenance Bond in the amount equal to 10% of the final contract amount. **Staff recommends Council accept as complete the contract with 99 Pipeline, Inc. of Porterville, CA for work on Project EN0086, a street and utility improvement project on Tulare Avenue. Authorize the City Engineer to sign the Notice of Completion, and direct the City Clerk to file the Notice of Completion with the Tulare County Recorder's Office, as presented.**

- (5) Accept Grant of Easement for water main purposes from GGH 1, LLC, a Delaware Limited Liability Company and IN-N-OUT Burgers, a California Cooperation, for the repair and maintenance of an onsite water main associated with the Prosperity Center Development and authorize the City**

Manager or designee to sign the Certificate of Acceptance for same.

[Submitted by: M. Miller] GGH 1 and IN-N-OUT are in the process of developing a commercial property known as Prosperity Center. Prosperity Center is located on the south side of Prosperity Avenue between Laspina Street and Brentwood Street. As part of the development, the City water main was extended on site to serve multiple parcels within the development. As such, an easement in favor of the City for the repair and maintenance of said water main is required. Attached is a copy of the easement and Certificate of Acceptance. **Staff recommends Council accept Grant of Easement for water main purposes from GGH 1, LLC, a Delaware Limited Liability Company and IN-N-OUT Burgers, a California Cooperation, for the repair and maintenance of an onsite water main associated with the Prosperity Center Development and authorize the City Manager or designee to sign the Certificate of Acceptance for same, as presented.**

- (6) **Award and authorize the City Manager to sign a contract with Jaxon Enterprises, DBA Deer Creek Asphalt (Deer Creek), of Redding, CA in the amount of \$49.10/ton for ½” Hot Asphalt Concrete; subject to minor conforming or clarifying changes acceptable to the City Attorney.**

[Submitted by: T. Whitfield] As a part of the City’s Pavement Management Program, the Streets Division annually programs transportation funding for minor street repair projects such as reclamite, fiber seal, chip seal, or overlay project to stabilize and extend the life of city streets. This is a maintenance project that is independent from any of the Capital Projects currently scheduled and approved and will be funded from the annual Transportation Pavement Management program.

Through the annual Pavement Management program, there is approximately \$300,000 available for minor street repair projects. A contract for the ½” Hot Asphalt Concrete, in addition to the previously approved cold mix with oil, would give staff the ability to do 4-5 overlay projects at a cost of approximately \$282,000 over the next few months before the weather gets cold. A list of the proposed overlay streets is attached (Attachment A). An overlay project can be completed by City staff using the new paver that was purchased in April 2019. This also locks in the price for material used for pothole patching for one year.

Similar overlay projects were completed as follows in 2019/2020 and these streets have held up well since that time. Staff anticipates that this project will extend the life of the selected locations between eight and ten years.

- 1) Enterprise Street from Avenue 208 to 700’ north
- 2) Oakmore from Ave. 228 to Tulare Avenue
- 3) Turner Drive form Foster Drive to city limit
- 4) Pacific Ave. from De La Vina to Mooney Blvd.
- 5) Paige Ave. from Pratt to 800’ west of I Street

6) Intersection of Paige and Pratt

The City's Purchasing Policy (Section 4, page 18, C) allows for the use of "Cooperative Purchasing or Piggy-Back" contracts to take advantage of competitively bid purchasing if it would "provide the City with benefits". Awarding this contract to Deer Creek allows staff to move forward in an expeditious manner to complete this work while the weather allows it, because this product has recently been competitively bid by another public agency.

Tulare County awarded a contract for the purchase of the 1/2" Hot Asphalt Concrete to Deer Creek in April of 2020 after advertising for competitive bids. Deer Creek has agreed to hold the prices for those same products through June 30, 2022 as follows:

- 1) 1/2" Hot Asphalt Concrete \$49.10 per ton

The bid proposal (Attachment B), and the subsequent contract between the County of Tulare and Deer Creek are attached (Attachment C). **Staff recommends Council award and authorize the City Manager to sign a contract with Jaxon Enterprises, DBA Deer Creek Asphalt (Deer Creek), of Redding, CA in the amount of \$49.10/ton for 1/2" Hot Asphalt Concrete; subject to minor conforming or clarifying changes acceptable to the City Attorney, as presented.**

XVI. SCHEDULED CITIZEN OR GROUP PRESENTATIONS [Time estimate: 7:30 p.m. to 7:45 p.m.]

- (1) Community & Economic Development Update.**

XVII. MAYOR/COUNCIL REPORTS OR ITEMS OF INTEREST – G.C. 54954.2(3) [Time estimate: 7:45 p.m. to 8:00 p.m.]

XVIII. GENERAL BUSINESS

Comments related to General Business Items are limited to three minutes per speaker, for a maximum of 30 minutes per item, unless otherwise extended by the Council.

- (1) Public Hearing:** [Time estimate: 8:00 p.m. to 8:20 p.m.]

- a. Public hearing to adopt Resolution 2021-35 regarding placing costs of constructing utility connections and/or sidewalk, curb, gutter, and driveway construction on property rolls in installments. [Submitted by: D. Thompson]** In 1997, Board of Public Utilities and City Council approved resolutions authorizing the adoption of the provisions of Streets and Highways Code Sections 5870 et seq., under the 1911 Act. These provisions provide

for the financing of certain public works related costs and declaring the repayment of same to be assessed against property owners and placed on the property tax rolls.

Twenty-seven agreements have been entered into with various parties for the City of Tulare to construct and finance connections, primarily to city sewer services, and place those costs on property tax rolls in installments. Prior to sending the assessments to the County of Tulare, a public hearing is required to allow anyone objecting and wanting to address the City Council. **Staff recommends Council adopt Resolution 2021-35 regarding placing costs of constructing utility connections and/or sidewalk, curb, gutter, and driveway construction on property rolls in installments, as presented.**

- b. Public hearing to adopt Resolution 2021-36 confirming diagram and landscape maintenance assessments and levying assessments for fiscal year 2021-22 and authorize the City Manager to execute a Compliance Certification and Hold Harmless Statement in connection thereto. [Submitted by: M. Miller]** Each year City Council is required to set landscape maintenance assessments for the upcoming fiscal year. On July 6, 2021, Council adopted Resolution of Intention 2021-33 setting July 20, 2021 as the public hearing date to adopt landscape maintenance assessments for fiscal year 2021-22, and directing the City Engineer to file the required Engineers Report with the City Clerk.

The public hearing will allow for property owners within each of the twenty-five landscape districts to comment on the proposed Fiscal Year 21-22 assessment for their district. The proposed assessments compare to the prior fiscal year as follows:

- five districts are proposed to decrease,
- ten districts are proposed to increase,
- five districts would experience no change from the prior year,
- one district will be assessed for the first time, and
- four districts have not yet completed any improvements requiring maintenance, and therefore do not have any proposed assessments.

For the ten districts that would experience an increase in assessment, none of the proposed assessments exceed the rate approved by property owners at the time of their formation. Therefore, with regard to Proposition 218 requirements, they do not constitute an assessment increase that would trigger the need for property owner approval by ballot.

A copy of the Engineers Report is attached for reference. The Compliance Certification and Hold Harmless Statement is required to be signed by the City Manager upon approval of the Council, and submitted to the County in

conjunction with the assessments. **Staff recommends Council adopt Resolution 2021-36 confirming diagram and landscape maintenance assessments and levying assessments for fiscal year 2021-22 and authorize the City Manager to execute a Compliance Certification and Hold Harmless Statement in connection thereto, as presented.**

(2) City Manager:

- a. Consider the cancellation or rescheduling of Tulare City Council meeting scheduled for Tuesday, September 21, 2021, due to the League of California Cities Annual Conference scheduled Wednesday, September 22 through Friday, September 24, 2021, in Sacramento. [Submitted by: R. Hunt]** The League of California Cities Annual Conference is scheduled to begin at 8 a.m. and runs from Wednesday, September 22, through Friday, September 24, 2021, in Sacramento, California.

Mayor Mederos, Vice Mayor Sayre and Council Member Sigala are registered to attend and are traveling on Tuesday, September 21, 2021. Resulting in less than a quorum to conduct that meeting.

Staff seeks Council's direction on the consideration of cancelling or rescheduling the September 21, 2021, meeting. **Staff recommend Council consider the cancellation or rescheduling of Tulare City Council meeting scheduled for Tuesday, September 21, 2021, due to the League of California Cities Annual Conference scheduled Wednesday, September 22 through Friday, September 24, 2021, in Sacramento, as requested.**

XIX. STAFF UPDATES AND FUTURE AGENDA ITEMS – GC 54954.2(3) [Time estimate: 8:20 p.m. to 8:30 p.m.]

XX. ADJOURN REGULAR MEETING

**CITY OF TULARE, CA
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: City Manager

For Council Meeting of: July 20, 2021

Documents Attached: Ordinance Resolution Staff Report Other None

AGENDA ITEM:

Public Hearing to receive input from the Community regarding the Redrawing of Election District Boundaries receive a report from staff on the redistricting process and permissible criteria to be considered to redraw same.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

Every ten years, cities with by-district election systems must use new census data to review and, if needed, redraw district lines to reflect how local populations have changed. This process, called redistricting, ensures all districts have nearly equal population. The redistricting process for the City of Tulare must be completed by April 17, 2022.

The City adopted its current district boundaries on June 5, 2012, when the voters approved a charter amendment instituting by-district elections starting in November 2012. The current district boundaries are based on 2010 census data as required by law. The districts must now be redrawn using the 2020 census data and in compliance with the FAIR MAPS Act, which was adopted by the California legislature as AB 849 and took effect January 1, 2020.

Under the Act, the council shall draw and adopt boundaries using the following criteria in the listed order of priority (Elections Code 21621(c)):

1. Comply with the federal requirements of equal population and the Voting Rights Act
2. Geographically contiguous
3. Undivided neighborhoods and “communities of interest” (socio-economic geographic areas that should be kept together)
4. Easily identifiable boundaries
5. Compact (do not bypass one group of people to get to a more distant group of people)
6. Shall not favor or discriminate against a political party

Once the prioritized criteria are met, other traditional districting principles can be considered, such as:

1. Minimize the number of voters delayed from voting from 2022 to 2024
2. Respect voters’ choices / continuity in office
3. Future population growth

By law, the City must hold at least four public hearings that enable community members to provide input on the drawing of district maps:

- At least one hearing must occur before the city draws draft maps
- At least two hearings must happen after the drawing of draft maps
- The fourth hearing can happen either before or after the drawing of draft maps
- City staff or consultants may hold a public workshop instead of one of the required public redistricting hearings

To increase the accessibility of these hearings, cities and counties must take the following steps:

- At least one hearing must occur on a Saturday, Sunday, or after 6 p.m. on a weekday
- If a redistricting hearing is consolidated with another local government meeting, the redistricting hearing portion must begin at a pre-designated time
- Local public redistricting hearings should be made accessible to people with disabilities

The purpose of this public hearing is to inform the public about the districting process and to hear from the community on what factors should be taken into consideration while creating district boundaries. The public is requested to provide input regarding communities of interest and other local factors that should be considered while drafting district maps. A *community of interest* under the relevant Elections Code 21621(c) is “a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation.”

Possible features defining community of interest might include, but are not limited to:

- A. School attendance areas;
- B. Natural dividing lines such as major roads, hills, or highways;
- C. Areas around parks and other neighborhood landmarks;
- D. Common issues, neighborhood activities, or legislative/election concerns; and
- E. Shared demographic characteristics, such as:
 - (1) Similar levels of income, education, or linguistic insolation;
 - (2) Languages spoken at home; and
 - (3) Single-family and multi-family housing unit areas.

Next Steps

On Tuesday, January 18, 2022, at 6:15 p.m. the City Council will conduct Public Hearing #3 to seek additional public input and provide direction on criteria to be considered while drafting district maps. Following that hearing, draft district maps and proposed election sequencing will be posted to the City’s website and available at City Hall.

Public Hearing #4 is scheduled for Tuesday, February 15, 2022 at 6 p.m. to consider draft maps are yet to be determined depending on release of the delayed U.S. Census data and state prisoner population adjusted counts. A representative National Demographics Corporation will be physically present for both of these hearings.

Boundaries cannot be adopted earlier than August 1, 2021 and must be adopted before April 17, 2022. However, the U.S. Census Bureau has indicated they will not release date before September 30, 2021.

It is anticipated to finalize the new boundaries on or before April 5, 2022.

STAFF RECOMMENDATION:

Receive input from the Community regarding the Redrawing of Election District Boundaries receive a report from staff on the redistricting process and permissible criteria to be considered to redraw same.

CITY ATTORNEY REVIEW/COMMENTS: R Yes " N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: " Yes R No £ N/A

FUNDING SOURCE/ACCOUNT NUMBER: N/A

Submitted by: Rob Hunt
 Roxanne Yoder

Title: City Manager
 Chief Deputy City Clerk

Date: July 9, 2021

City Manager Approval: _____

Attachments: Outreach/Notice

**ACTION MINUTES OF TULARE
CITY COUNCIL, CITY OF TULARE**

July 6, 2021

A closed session of the City Council, City of Tulare was held on Tuesday, July 6, 2021, at 6:30 p.m., in the Tulare Public Library & Council Chambers, 491 North "M" Street.

COUNCIL PRESENT: Dennis A. Mederos, Terry A. Sayre^(Via Zoom), Jose Sigala, Stephen C. Harrell, Patrick Isherwood

STAFF PRESENT: Mario Zamora, Leonard Herr, Janice Avila, Wes Hensley, Jose Rivas, Jason Bowling, Dave Rossman, Jason Glick, Roxanne Yoder

6:30 p.m.

I. CALL TO ORDER CLOSED SESSION

Mayor Mederos called the closed session to order at 6:31 p.m.

II. CITIZEN COMMENTS - Comments from the public are limited to items listed on the agenda (GC 54954.3a). Speakers will be allowed three minutes. Please begin your comments by stating and spelling your name and providing your city of residence.

There were no public comments.

III. ADJOURN TO CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION(S):

Mayor Mederos adjourned to closed session at 6:33 p.m., for those items as stated by City Attorney Mario Zamora.

- (a) 54956.9(a) Conference with Legal Counsel – Existing Litigation (1)
Name: City of Tulare v. Phillips, et. al. - TCSC No. 276579
[Submitted by: Special Counsel Leonard Herr]
- (b) 54957 Public Employment
Title: City Manager

IV. RECONVENE CLOSED SESSION

Mayor Mederos reconvened closed session at 6:58 p.m.

V. CLOSED SESSION REPORT (if any)

Mayor Mederos advised there was reportable action. City Attorney Mario Zamora advised that as to the matter City of Tulare vs. Phillips, the Council by unanimous vote

approved a settlement of \$750,000 on this matter and release of all claims related thereto.

VI. ADJOURN CLOSED SESSION

Mayor Mederos adjourned closed session at 7:59 p.m.

A regular session of the City Council, City of Tulare was held on Tuesday, July 6, 2021, at 7:00 p.m., in the Tulare Public Library & Council Chambers, 491 North "M" Street.

COUNCIL PRESENT: Dennis A. Mederos, Terry A. Sayre^(Via Zoom), Jose Sigala, Stephen C. Harrel, Patrick Isherwood

STAFF PRESENT: Mario Zamora, Josh McDonnell, Michael Miller, Trisha Whitfield, Jason Glick, Wes Hensley, Dave Rossman, Mario Anaya, Janice Avila, Jose Rivas, Jason Bowling, Nick Bartsch, Roxanne Yoder

VII. CALL TO ORDER REGULAR SESSION

Mayor Mederos called the regular session to order at 7:01 p.m.

VIII. PLEDGE OF ALLEGIANCE AND INVOCATION

Mayor Mederos led the Pledge of Allegiance and Council Member Isherwood led the invocation.

IX. CITIZEN COMMENTS

Mayor Mederos requested those who wish to speak on matters not on the agenda within the jurisdiction of the Council, or to address or request a matter be pulled from the consent calendar to do so at this time. He further stated comments related to general business matters would be heard at the time that matter is addressed on the agenda.

Euler Torrez, ROOX Agency, addressed the Council advising that Viva Tulare begins Friday, July 9; but due to the expected heat wave they may postpone to the following Friday. He further requested assistance from the City to allow vendors to use electricity and for advertisement of their event on the downtown electronic sign. Mr. Torrez was advised to contact John Harman of the Tulare Downtown Association with regard to electronic sign.

Donnette Silva-Carter, CEO Tulare Chamber of Commerce, addressed the Council on current activities for their consideration.

X. COMMUNICATIONS

There were no items for this section of the agenda.

XI. CONSENT CALENDAR

It was moved by Council Member Harrell, seconded by Council Member Sigala, and unanimously carried that the items on the Consent Calendar be approved as presented with the exception of items 3 & 5.

- (1) Authorization to read ordinances by title only.
- (2) Approve minutes of June 15 and June 22, 2021 special/regular meeting(s) [Submitted by: R. Yoder]
- (3) Approve a short-term deferred improvement agreement with Presidio JJR Kensington II 100, LLC allowing the construction of frontage improvements along the west side of Mooney Boulevard (State Route 63) from Cartmill Avenue to Pacific Avenue to be deferred for a maximum of two (2) years, or prior to the City's acceptance of the required public improvements for Phase 4 of the Kensington Estates subdivision, whichever occurs first. [Submitted by: M. Miller] Council Member Sigala pulled the item for clarification. City Engineer Michael Miller responded thereto advising that a standard agreement and appropriate bonding will be in place for the project. Following discussion, it was moved by Council Member Sigala, seconded by Council Member Isherwood, and unanimously carried to approve the item as presented.
- (4) Accept a grant deed and public utility easement from D.R. Horton CA3, Inc. associated with Phase 1 of The Greens at Oak Creek subdivision, and authorize the City Manager or his designee to sign the Certificates of Acceptance for the same; and adopt Resolution 2021-32 for the summary vacation of portions of Spanish Bay Street and abandonment of public utility easement located in Phase 1 of The Greens at Oak Creek subdivision. [Submitted by: M. Miller]
- (5) Adopt Resolution of Intention 2021-33 to set July 20, 2021 as the public hearing date to adopt landscape maintenance assessments for fiscal year 2021-22. [Submitted by: M. Miller] City Engineer Michael Miller pulled the item to advise of a revision to the resolution of intention. Following this clarification, it was moved by Council Member Sigala, seconded by Mayor Mederos, and unanimously carried to adopt Resolution 2021-33 as amended.
- (6) Accept the required public works improvements for Phase 3 of the Willow Glen subdivision located along the north side of Cartmill Avenue east of Devenshire Street as complete, authorize the City Engineer to sign a Notice of Completion, and direct the City Clerk to file the Notice of Completion with the Tulare County Recorder's Office. [Submitted by: M. Miller]
- (7) Receive the monthly investment report for May 2021. [Submitted by: D. Thompson]

XII. SCHEDULED CITIZEN OR GROUP PRESENTATIONS

- (1) **Certificates of Recognition to the former Housing & Building Appeals Board Members.** Mayor Mederos presented Peggy Wright with a Certificate of Recognition in honor of her service to the Board.
- (2) **Engineering Project Management CIP Update.** Senior Project Manager Nick Bartsch provided a report for the Council's review and consideration.

XIII. MAYOR/COUNCIL REPORTS OR ITEMS OF INTEREST - G.C. 54954.2(3)

XIV. GENERAL BUSINESS

Comments related to General Business Items are limited to three minutes per speaker, for a maximum of 30 minutes per item, unless otherwise extended by the Council.

- (1) **Appeal Hearing:**
 - a. **Public Hearing Council to adopt Resolution 2021-34 to uphold or deny an appeal by Knight Transportation of the Planning Commission's denial of the request by Appellant to install a 10 foot tall perimeter electrified security fence in addition to an existing six foot chain link fence topped with barbed wire on the property located at 4450 South Blackstone Avenue. [Submitted by: T. Myers]** Deputy City Manager Josh McDonnell provided a PowerPoint presentation and provided a report for the Council's review and consideration. Mayor Mederos opened the public hearing at 7:56 p.m. Keith Kaneko, Director of Government Relations for Amarok (perimeter security) obo Knight Transportation, who provided a PowerPoint presentation for the Council's review and consideration. Ron and Linda Wilbourn, Jason Bender, and Euler Torrez addressed the Council in support of the appellant's appeal. With no further public comment, Mayor Mederos closed the public hearing at 8:23 p.m. Questions and comments posed by Council addressed by Mr. Kaneko and/or staff. Following discussion, it was moved by Mayor Mederos, seconded by Vice Mayor Sayre, and carried 4 to 1 (Council Member Sigala voting no) to adopt Resolution 2021-34 granting the appeal and installation of the proposed fencing may proceed in compliance with state law; however, any portion which encroaches on public property shall require a license agreement issued by the City and indemnification by Appellant in favor of the City as a condition of said license.
- (2) **Community & Economic Development:**
 - a. **Discussion and feedback to staff on a request by San Joaquin Valley Homes for annexation of approximately 37.24-acres of land located on the northwest corner of Cartmill Avenue and De La Vina Street (APN 149-060-037). [Submitted by: T. Myers]** Principal Planner Mario Anaya provided a PowerPoint presentation for the Council's review and

consideration. Developer Jim Robinson addressed the Council in support of the request. Comments made by Council. No formal approval is required by Council at this time.

(3) Parks:

- a. Review and approve the project scope and project budget for tree removal and sidewalk replacement in the Del Lago Subdivision, Project PK0028.** Project Manager Jim Funk provided a report for the Council's review and consideration. Following discussion, it was moved by Council Member Isherwood, seconded by Mayor Mederos, and carried 4 to 1 (Council Member Harrell voting no) to approve the item as presented.

XV. STAFF UPDATES AND FUTURE AGENDA ITEMS – GC 54954.2(3)

Council Member Sigala requested a list of the citations issued for illegal fireworks.

Council Member Sigala requested and received consensus to direct staff to return with an item for the consideration of an Ordinance to amend the municipal code as it relates to electric fences.

Council Member Sigala requested and received consensus to direct staff to return with a discussion item on businesses designating self-checkout only.

XVI. ADJOURN REGULAR MEETING

Mayor Mederos adjourned the regular meeting at 9:45 p.m.

President of the Council and Ex-Officio
Mayor of the City of Tulare

ATTEST:

Chief Deputy City Clerk and Clerk of the
Council of the City of Tulare

**CITY OF TULARE, CA
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: City Attorney

For Council Meeting of: July 20, 2021

Documents Attached: Ordinance Resolution Staff Report Other None

AGENDA ITEM:

Authorize the City Manager to execute a Public Improvement Agreement and Release with SE Land, LLC and Sunmet Juice Company, LLC.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

The City purchased property from a third party under a purchase agreement dated December 13, 2007. Under that agreement, the City was to construct and install certain improvements to the property. The City has yet to complete the improvements.

The City has now negotiated with the new owners of the property for the construction and installment of the improvements. The improvements to be made are as follows:

- construct and install a public street east of subject property with curb, gutter and storm drain inlets on either side of the street.
- construct and install curb, gutter and storm drain inlets within the southern border of the existing Rankin Avenue within the southern border of the existing Rankin Avenue extending east to west from the future road to Hosfield Drive.

Pursuant to the agreement, Sunmet must improve the property to a permanent condition that doubles the fair market value within seven (7) years of the date of this Agreement before the City must complete the above improvements.

STAFF RECOMMENDATION:

Authorize the City Manager to execute a Public Improvement Agreement and Release with SE Land, LLC and Sunmet Juice Company, LLC.

CITY ATTORNEY REVIEW/COMMENTS: Yes N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A

Submitted by: Mario Zamora

Title: City Attorney

Date: 7/12/2021

Interim City Manager Approval: _____

PUBLIC IMPROVEMENT AGREEMENT AND RELEASE

This PUBLIC IMPROVEMENT AGREEMENT AND RELEASE (the "Agreement") is dated and effective as of June ____, 2021 (the "Effective Date"), by and among **CITY OF TULARE**, a California municipal corporation ("City"), **SE LAND, LLC**, a California limited liability company ("SE Land"), and **SUNMET JUICE COMPANY, LLC**, a California limited liability company ("SJC"). City and SE Land and SJC are referred to singularly as a "party" on a generic basis and collectively as the "parties."

Recitals

This Agreement is made and entered into in reliance on the accuracy of the following facts and circumstances, which are acknowledged by the parties to be accurate, complete and true:

A. SE Land is the owner of that certain real property located at 19860 S. Highway 99, Tulare, California and identified as Tulare County Assessor Parcel No. 191-250-002 (the "Property"). SE Land leases the Property to SJC. SE Land and SJC (collectively "Sunmet") desire to develop the Property for its juice operations;

B. SE Land purchased the Property from R&P Investments, Inc., a California corporation, and successor-in-interest to Ronnie Elmer Overacker and Pamela Gail Overacker, husband and wife (collectively "Overacker") on or about April 27, 2021;

C. Overackers, as sellers, and City, as buyer, entered into that "Purchase Agreement," dated December 13, 2007, for a two and six one hundredths acres (2.06 acs.) portion of 19860 S. Highway 99, Tulare, California, as then constituted (the "City PSA"). A copy of the City PSA is attached hereto as Exhibit 1 and incorporated herein by reference. Section 3.02(e), "Negotiated Items," of the City PSA provided for certain post-closing obligations of City to construct and install various improvements as more fully set forth therein (the "PSA Improvements"). The City has not yet completed the PSA Improvements;

D. The PSA Improvements benefit the Property and the future development of the same.

E. The parties have reached an agreement for the City to complete the PSA Improvements, upon the conditions, provisions and terms of this Agreement; and to fully compromise and settle and discharge any and all claims, controversies, demands, actions, causes of action, disputes and disagreements, whether known or unknown that have existed, now exist, or may exist in the future between them that relate to or arise out of City's obligation to construct the PSA Improvements.

NOW, THEREFORE, the parties wish to resolve this matter without admitting fault, liability, or responsibility and thus hereby expressly agree and contract as follows:

Agreement

1. Nature and Effect of Agreement

This Agreement consists of a compromise and release by the parties. This Agreement is not, and shall not be treated as, an admission of liability by any party for any purpose.

2. Nature and Status of Dispute

The City has not yet completed the PSA Improvements required by the City PSA. However, the parties acknowledge that the statute of limitations may have expired for any claim against the City for the failure to perform the PSA Improvements.

The Property was purchased by SE Land. SE Land, by and through its tenant, SJC, have requested that the City perform the PSA Improvements required by the City PSA. The Parties wish to enter this Agreement to resolve any dispute about the City's obligations to construct the PSA Improvements as provided in the City PSA.

3. Consideration

In exchange for the promises, covenants and agreements by the parties as set forth in this Agreement, the parties agree to the following:

- a. If Sunmet improves the Property ("Sunmet Improvements") to a permanent condition that doubles the fair market value within seven (7) years of the date of this Agreement as determined by an independent appraiser mutually agreed upon by the parties, then the City agrees to perform the following improvements ("City Improvements") within two (2) years after notice of completion of said Sunmet Improvements:
 - (1) Design and construction of curb, gutter, and storm inlets on the approximate 420' distance connecting Hosfield Drive and Dale Fry Road on Rankin Avenue along the north end of the Property;
 - (2) Design and construction of adequate storm drainage facilities within the street right of way to allow connection to City storm drain retention facilities and eliminate the need for any on-site ponding basin; and
 - (3) The cost to the City to complete City Improvements shall not exceed one hundred twenty-one thousand, eight hundred dollars (\$121,800.00) (the "Cap"). In the event the cost at the time of construction exceeds the Cap, Sunmet shall be required to contribute the balance, otherwise the City shall not be obligated to complete or contribute to its portion.
- b. Sunmet agrees to waive any claims it may have pursuant to the City PSA.
- c. It is agreed by the Parties that the Property as of the date of this Agreement is valued at Nine Hundred Fifty Thousand Dollars and No Cents (\$950,000.00) and which

shall be the base value required to be doubled per Section 3(a) of this Agreement

4. Release and Discharge

Sunmet hereby does release and discharge City, and City does hereby release and discharge Sunmet, each of their predecessors, and successors in interest, heirs and assigns from, and relinquish, any and all past, or present claims, demands, obligations, or causes of action for compensatory or punitive damages, costs, losses, expenses and compensation, whether based on tort, contract, or other theories of recovery, that either may have against each other arising from the facts which are the subject of the actions described in Section 2 herein

5. Unknown Claims

- a The Parties acknowledge and agree that the release that they give to the other Party on executing this Agreement applies to all claims for injuries, damages or losses to their person and property, real or personal (whether those injuries, damages, or losses are known or unknown, foreseen or unforeseen, or patent or latent) that they may have against the other Party, arising out of the facts which are the subject matter of Section 2 herein and they hereby waive application of Civil Code Section 1542 of those claims, which reads

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that if known by him or her would have materially affected his or her settlement with the debtor or released party "

Each acknowledges their waiver of the application of Civil Code Section 1542 by signing their initials here:

Dated _____ 
SUNMET

Dated _____
CITY

- b The Parties understand and acknowledges that in consequence of this waiver of Civil Code Section 1542, even if they should eventually suffer additional damages arising out of the claims alleged in the actions described in Section 2 herein, they will not be able, based on the facts, to make any legal claim for those damages. Furthermore, the Parties acknowledge that they intend these consequences even as to claims for damages that may exist as of the date of this release but that either party does not know exist, and that if known, would materially affect the decision to execute this Agreement, regardless of whether the lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause

6. Advice of Attorney

Each party warrants and represents that in executing this Agreement, they have relied on legal advice of the attorney of their choice; that the terms of this Agreement have been read and its consequences (including risks, complications, and costs) have been completely explained to them by that attorney; and that they fully understand the terms of this Agreement. Sunmet further acknowledge and represent that, in executing this Agreement, they have not relied on any inducements, promises, or representations made by City or any party representing or serving them, other than that what is stated herein.

7. Conditions of Execution

Each party acknowledges and warrants that their execution of this Agreement is free and voluntary and each party further affirms he/she/it will not personally or through a third party, disparage the acts or motives of another party regarding the facts which are the subjects of the actions described in Section 2 herein, nor the acts or motives of another party regarding the settlement of the claims alleged in the actions described in Section 2 herein to any third party, provided that nothing in this section shall preclude or otherwise limit any party from discussing or testifying if required by law.

8. Execution of Other Documents

Each party to this Agreement shall cooperate fully in the execution of any and all other documents and in any additional acts that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

9. Attorneys' Fees

Each party to this Agreement shall bear all his/her/its attorneys' fees and costs arising from that party's own counsel in connection with the actions identified in Section 2 herein, and the matters referred to herein. This section shall be applicable to this entire Agreement, except that in an action to enforce this agreement reasonable attorney's fees and costs shall be awarded to the prevailing party.

10. Entire Agreement

This Agreement contains the entire agreement between the parties.

11. Effective Date

This Agreement shall become effective immediately on execution by Sunmet and City.

12. Governing Law

This Agreement is entered into, and shall be construed and interpreted, in accordance with the laws of the State of California.

13. Counterparts and Modification

This Agreement may be executed in counterparts. This Agreement may only be modified in writing, signed by all parties who are affected by the modifications.

14. Binding Effect.

This Agreement shall inure to and for the benefit of and be binding upon each party's respective parent, subsidiary or affiliated organizations, accountants, administrators, agents, attorneys, beneficiaries, conservators, directors, employees, executors, guardians, heirs, independent contractors, joint venturers, managers, members, officers, partners, predecessors, representatives, servants, successors, trustees and all others acting for, under, or in concert with it, past, present, and future.

15. Construction.

Headings are used herein for convenience only and shall have no force or effect in the construction or interpretation of this Agreement. As used in this Agreement, the singular includes the plural and masculine includes the feminine and neuter. This Agreement shall not be construed against the party drafting it but shall be construed fairly and equitably as though it was the joint product of the parties.

16. Effect of Illegality

If any paragraph, sentence, clause or phrase hereof shall become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, or against public policy, the remaining paragraphs, sentences, clauses or phrases hereof shall not be affected thereby and the parties shall negotiate an equitable adjustment of the affected provision with a view toward effecting the purpose of the Agreement.

[SIGNATURES ON THE NEXT PAGE; REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]


CITY:


SUNMET

Dated _____

Dated _____

Rob Hunt, on behalf of the City of Tulare


Sauveur Etchegaray, on behalf of SE Land, LLC


Sauveur Etchegaray, on behalf of Sunmet Juice Company, LLC

APPROVED AS TO FORM AND CONTENT:

Dated _____

Dated. June 24, 2021

CHARLES D. MELTON, ESQ.
Attorney for: Sunmet

MARIO U. ZAMORA
GRISWOLD, LaSALLE, COBB,
DOWD & GIN, LLP
Attorney for: City

AGENDA ITEM: Consent 4

**CITY OF TULARE, CA
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: Engineering Services / Project Management

For Council Meeting of: July 20, 2021

Documents Attached: Ordinance Resolution Staff Report Other None

AGENDA ITEM:

Accept as complete the contract with 99 Pipeline, Inc. of Porterville, CA for work on Project EN0086, a street and utility improvement project on Tulare Avenue. Authorize the City Engineer to sign the Notice of Completion, and direct the City Clerk to file the Notice of Completion with the Tulare County Recorder’s Office.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

This Capital Improvement Project addressed pavement, utility infrastructure, and ADA sidewalk improvements on Tulare Ave. between West St. and the Union Pacific Railroad. The project brought substandard and deteriorated water, sewer and surface water infrastructure up to current standards. This project was included in the approved 2019-2024 Capital Program budget.

On March 17, 2020, the City Council awarded a contract to 99 Pipeline, Inc. of Porterville, CA in the amount of \$4,799,800.62.

The project was funded through a combination of Gas Tax, CDBG, Water, Sewer and Surface Water funds.

A summary of contract costs is as follows:

| | | |
|-----------------------------------|------------------------|----------|
| Approved Contract Amount: | \$ 4,799,800.62 | |
| Bid Item Quantity Adjustments | \$ - 54,291.23 | (-1.13%) |
| Contract Change Orders – Various: | <u>\$ 5,225.71</u> | (0.11%) |
| Total Construction Contract Cost: | \$ 4,750,735.19 | |

Additional work consisted of changes made by the Streets, Water and Sewer Departments due to unforeseen and differing field conditions, replacement of additional damaged curb and gutter, aesthetic improvements to the ADA curb ramps, necessary ADA upgrades to the signal equipment at West St., and other various bid item quantity adjustments. Alternatively, deducts were taken due to material and workmanship that failed to meet the required specifications, but was found to be in the best interest of the City to remain in place. Additionally, the Contractor reimbursed the City for added inspection and testing costs associated with additional time spent on the project.

All work required of 99 Pipeline, Inc. under this contract has been completed in accordance with the approved plans and specifications. The contractor has also provided the required Maintenance Bond in the amount equal to 10% of the final contract amount.

STAFF RECOMMENDATION:

Accept as complete the contract with 99 Pipeline, Inc. of Porterville, CA for work on Project EN0086, a street and utility improvement project on Tulare Avenue. Authorize the City Engineer to sign the Notice of Completion, and direct the City Clerk to file the Notice of Completion with the Tulare County Recorder's Office.

CITY ATTORNEY REVIEW/COMMENTS: Yes N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A

FUNDING SOURCE/ACCOUNT NUMBER:

EN0086-050-0601

022 – Gas Tax (HUTA)

122 – Gas Tax (RMRA – SB1)

610 – Water CIP

615 – Sewer Wastewater CIP

647 – Surface Water CIP

Submitted by: Nick Bartsch

Title: Sr. Project Manager

Date: July 7, 2021

City Manager Approval: _____

**RECORDING REQUESTED BY:
CITY OF TULARE**

AND WHEN RECORDED MAIL TO:

**City Clerk
City of Tulare
411 East Kern Avenue
Tulare, CA 93274-4257**

**PURSUANT TO GOVERNMENT CODE SECTION 6103,
NO RECORDING FEE REQUIRED.**

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN THAT:

- 1. The City of Tulare, a Municipal Corporation, whose address is 411 East Kern Avenue, Tulare, California, is the owner of the real property, public works, or structure hereinafter described.**
- 2. The nature of the title of the stated owner is: In fee**
- 3. On the 20th day of July, 2021, a work of improvement on real property hereinafter described was completed pursuant to a contract to which Title 15 of Part 4 of Division 3 of the Civil Code applies.**
- 4. The name of the Contractor who performed said work of improvements pursuant to such contract with the City of Tulare is 99 Pipeline, Inc., whose address is 851 W. Morton, Suite A, Porterville, CA 93258. The surety on said contract is U.S. Specialty Insurance Company.**
- 5. The real property or public works or structure is described as follows:

Tulare Avenue Improvements, Project No. EN0086.**

Dated: _____, 2021

**CITY OF TULARE
A Municipal Corporation,**

**By: _____
Michael W. Miller, City Engineer**

VERIFICATION

I am the City Engineer of the City of Tulare and am authorized to make this verification on behalf of the City. I have read the foregoing Notice of Completion, know the contents thereof, and believe it to be true and correct to the best of my knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____, 2021 at Tulare, California.

**By: _____
Michael W. Miller, City Engineer**

AGENDA ITEM: Consent 5

**CITY OF TULARE
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: Engineering

For Council Meeting of: July 20, 2021

Documents Attached: Ordinance Resolution Staff Report Other None

AGENDA ITEM:

Accept Grant of Easement for water main purposes from GGH 1, LLC, a Delaware Limited Liability Company and IN-N-OUT Burgers, a California Cooperation, for the repair and maintenance of an onsite water main associated with the Prosperity Center Development and authorize the City Manager or designee to sign the Certificate of Acceptance for same.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

GGH 1 and IN-N-OUT are in the process of developing a commercial property known as Prosperity Center. Prosperity Center is located on the south side of Prosperity Avenue between Laspina Street and Brentwood Street. As part of the development, the City water main was extended on site to serve multiple parcels within the development. As such, an easement in favor of the City for the repair and maintenance of said water main is required.

Attached is a copy of the easement and Certificate of Acceptance.

STAFF RECOMMENDATION:

Accept Grant of Easement for water main purposes from GGH 1, LLC, a Delaware Limited Liability Company and IN-N-OUT Burgers, a California Cooperation, for the repair and maintenance of an onsite water main associated with the Prosperity Center Development and authorize the City Manager or designee to sign the Certificate of Acceptance for same.

CITY ATTORNEY REVIEW/COMMENTS: Yes N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A
(If yes, please submit required budget appropriation request)

FUNDING SOURCE/ACCOUNT NUMBER: N/A

Submitted by: Michael Miller

Title: City Engineer

Date: July 12, 2021

City Manager Approval: _____

RECORDING REQUESTED BY:

CITY OF TULARE

AND WHEN RECORDED MAIL TO:

City Clerk
City of Tulare
411 East Kern Avenue
Tulare, CA 93274-4257

PURSUANT TO GOVERNMENT CODE SECTION 6103,
NO RECORDING FEE REQUIRED.

SPACE ABOVE FOR RECORDER'S USE

Grant of Easement

THE UNDERSIGNED GRANTOR(S) DECLARE(S)
DOCUMENTARY TRANSFER TAX IS \$ NONE

- City of Tulare Parcel No.: _____
- Computed on full value of interest or property conveyed, or
- Computed on full value less value of liens and encumbrances remaining at time of sale, and

FOR A VALUABLE CONSIDERATION receipt of which is hereby acknowledged, represents that, as the owner(s) of herein described real property,

GGH 1, LLC, a Delaware limited liability company and **IN-N-OUT BURGERS**, a California corporation (jointly, "Grantor")

Hereby GRANT(S) to the **City of Tulare**, a Municipal Corporation ("Grantee"), an easement for Water Line purposes over the real property in the City of Tulare, County of Tulare, State of California, described as follows:

SEE ATTACHED **EXHIBIT 'A'** FOR LEGAL DESCRIPTION AND **EXHIBIT 'B'** FOR PLAT.

Date: 6/24/2021

GRANTOR:

GGH 1, LLC,
a Delaware limited liability company

By: RGH Manager, LLC,
a Delaware limited liability company
Its: Manager

By: [Signature]
John C. Roberts, Trustee of The
John C. Roberts Trust dated June 4, 1998
Its: Manager

IN-N-OUT BURGERS,
a California corporation

By: [Signature]
Name: Carl Arena
Title: Vice President of Real Estate

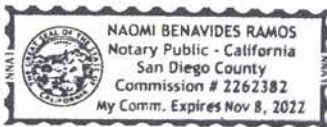
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)
~~TULARE~~)

On JUNE 24, 2021, before me, NAOMI BENAVIDES RAMOS, Notary Public, personally appeared JOHN C. ROBERTS, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Naomi Benavides Ramos
Notary Public

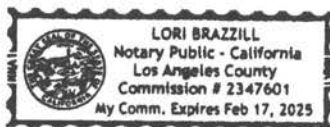
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF Los Angeles)

On May 31, 2021, before me, Lori Brazzill, Notary Public, personally appeared Carl Arena, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Lori Brazzill
Notary Public

EXHIBIT A

WATER EASEMENT

An easement for the construction, maintenance and repair of Water facilities located in the North half of the Northeast Quarter of Section 1, Township 20 South, Range 24 East, Mount Diablo Meridian, in the City of Tulare, County of Tulare, State of California, described as follows:

Commencing, for reference, at the Northeast Corner of Parcel D of LLA #253 recorded August 7, 2020, as Document # 2020-0046859, thence S89°23'49"W a distance of 16.03 feet, to the **Point of Beginning**;
Thence S00°01'09"E a distance of 36.87 feet;
Thence N89°59'01"E a distance of 28.15 feet;
Thence S00°59'28"W a distance of 15.00 feet;
Thence S89°59'01"W a distance of 27.89 feet;
Thence S00°01'09"E a distance of 204.11 feet;
Thence S89°24'39"W a distance of 9.28 feet;
Thence S00°34'20"E a distance of 26.75 feet;
Thence S89°24'39"W a distance of 5.00 feet;
Thence N00°34'20"W a distance of 26.75 feet;
Thence S89°24'39"W a distance of 171.01 feet;
Thence N00°34'17"W a distance of 8.41 feet;
Thence S89°25'43"W a distance of 9.50 feet;
Thence N00°34'17"W a distance of 21.00 feet;
Thence N89°25'43"E a distance of 9.50 feet;
Thence N00°34'17"W a distance of 166.68 feet;
Thence S89°25'43"W a distance of 9.50 feet;
Thence N00°34'17"W a distance of 10.00 feet;
Thence N89°25'43"E a distance of 9.50 feet;
Thence N00°34'17"W a distance of 49.84 feet;
Thence N89°23'49"E a distance of 12.00 feet;
Thence S00°34'17"E a distance of 243.93 feet;
Thence N89°24'39"E a distance of 161.40 feet;
Thence N00°04'32"W a distance of 192.23 feet;
Thence S89°59'01"W a distance of 5.00 feet;
Thence N00°04'32"W a distance of 15.00 feet;
Thence N89°59'01"E a distance of 5.19 feet;
Thence N00°01'33"E a distance of 36.75 feet;
Thence N89°23'49"E a distance of 11.98 feet to the **TRUE POINT OF BEGINNING**

Containing 9,024 sf



EXHIBIT B

LEGEND/NOTES

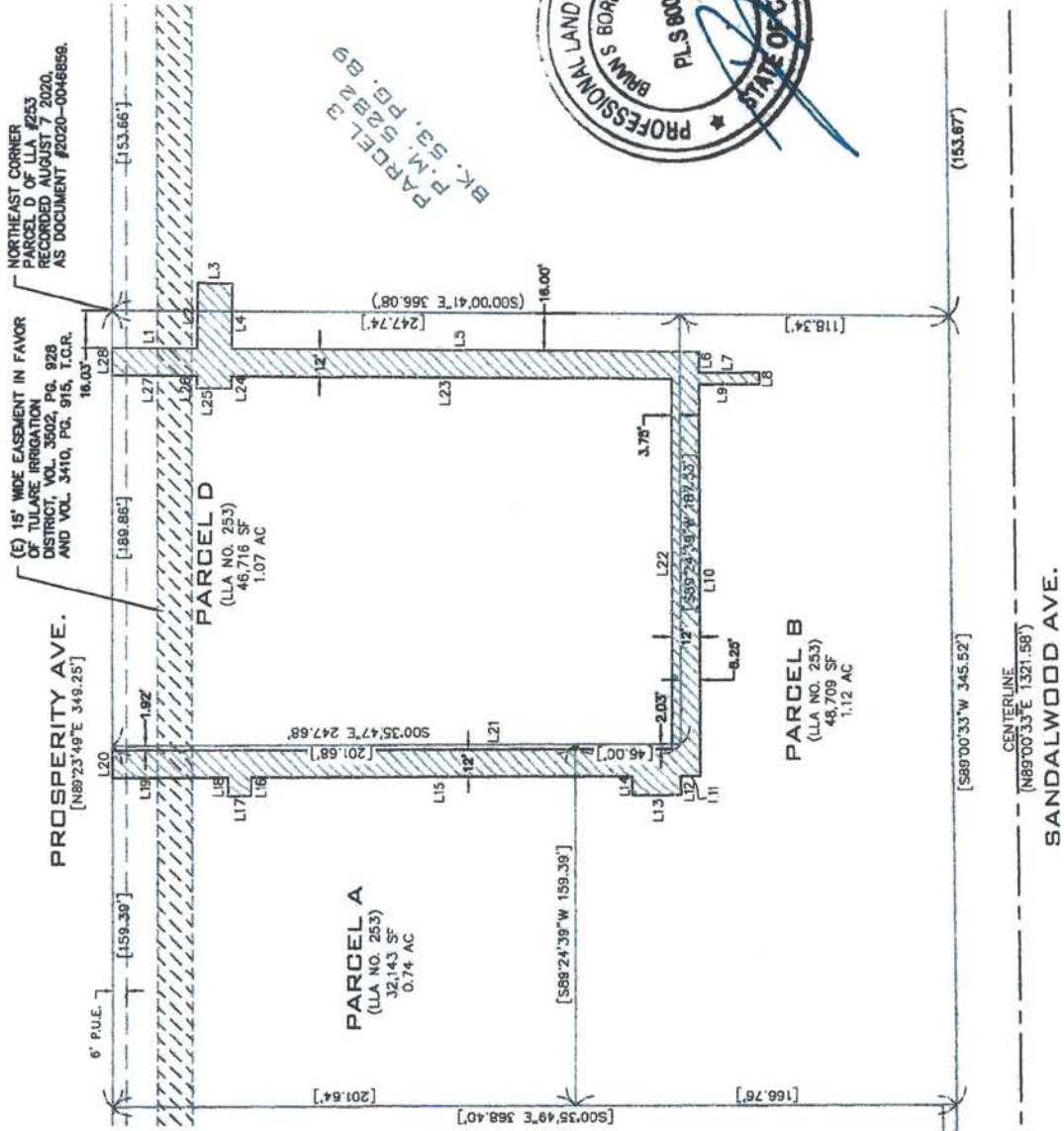
- (E) EXISTING
- P.U.E. PUBLIC UTILITY EASEMENT
- () RECORD DATA PER PARCEL MAP NO. 5282 AS RECORDED IN BOOK 53, OF PARCEL MAPS AT PAGE 89, T.C.R.
- [] RECORD DATA PER LLA NO. 253 AS RECORDED AUGUST 7 2020, AS DOCUMENT NO. 2020-0046859.

OWNER:

PARCELS A, B & D:
GGH 1, LLC
P.O. BOX 6756
VISALIA, CA 93290-6756
PH:760-707-4661

PARCEL 3:
IN-N-OUT BURGERS,
A CALIFORNIA CORP.
13502 HAMBURGER LANE
BALDWIN PARK, CA.
91706-5885

| LINE | LENGTH | BEARING |
|------|--------|-------------|
| L1 | 36.87 | S00°01'09"E |
| L2 | 28.15 | N89°59'01"E |
| L3 | 15.00 | S00°59'28"W |
| L4 | 27.89 | S89°59'01"W |
| L5 | 20.41 | S00°01'09"E |
| L6 | 9.28 | S89°24'39"W |
| L7 | 26.75 | S00°34'20"E |
| L8 | 5.00 | S89°24'39"W |
| L9 | 26.75 | N00°34'20"W |
| L10 | 171.01 | S89°24'39"W |
| L11 | 8.41 | N00°34'17"W |
| L12 | 9.50 | S89°25'43"W |
| L13 | 21.00 | N00°34'17"W |
| L14 | 9.50 | N89°25'43"E |
| L15 | 166.68 | N00°34'17"W |
| L16 | 9.50 | S89°25'43"W |
| L17 | 10.00 | N00°34'17"W |
| L18 | 9.50 | N89°25'43"E |
| L19 | 49.84 | N00°34'17"W |
| L20 | 12.00 | N89°23'49"E |
| L21 | 243.93 | S00°34'17"E |
| L22 | 161.40 | N89°24'39"E |
| L23 | 192.23 | N00°04'32"W |
| L24 | 5.00 | S89°59'01"W |
| L25 | 15.00 | N00°04'32"W |
| L26 | 5.19 | N89°59'01"E |
| L27 | 36.75 | N00°01'53"E |
| L28 | 11.98 | N89°23'49"E |



PARCEL 2
B.K. 53, PG. 89
P.M. 928.2





Office of the City Clerk

CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY, that the interest in real property conveyed by the **Grant of Easement** dated **June 24, 2021**, from GGH 1, LLC, a Delaware Limited Liability Company and IN-N-OUT Burgers, a California Corporation, to the City of Tulare, a Municipal Corporation of the State of California, was duly accepted by the City Council of the City of Tulare on **July 20, 2021**, and by the same order of the City Council of the City of Tulare, the City Manager was authorized to execute this Certificate of Acceptance to be recorded with the **Grant of Easement**.

CITY OF TULARE

By: _____
Rob Hunt
City Manager

ATTEST:

Chief Deputy City Clerk

**CITY OF TULARE, CALIFORNIA
CITY COUNCIL
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: Public Works – Streets Division

For Council Meeting of: July 20, 2021

Documents Attached: Ordinance Resolution Staff Report Other None

AGENDA ITEM:

Award and authorize the City Manager to sign a contract with Jaxon Enterprises, DBA Deer Creek Asphalt (Deer Creek), of Redding, CA in the amount of \$49.10/ton for ½” Hot Asphalt Concrete; subject to minor conforming or clarifying changes acceptable to the City Attorney.

IS PUBLIC HEARING REQUIRED: **Yes** **No**

BACKGROUND/EXPLANATION:

As a part of the City’s Pavement Management Program, the Streets Division annually programs transportation funding for minor street repair projects such as reclamite, fiber seal, chip seal, or overlay project to stabilize and extend the life of city streets. This is a maintenance project that is independent from any of the Capital Projects currently scheduled and approved and will be funded from the annual Transportation Pavement Management program.

Through the annual Pavement Management program, there is approximately \$300,000 available for minor street repair projects. A contract for the ½” Hot Asphalt Concrete, in addition to the previously approved cold mix with oil, would give staff the ability to do 4-5 overlay projects at a cost of approximately \$282,000 over the next few months before the weather gets cold. A list of the proposed overlay streets is attached (Attachment A). An overlay project can be completed by City staff using the new paver that was purchased in April 2019. This also locks in the price for material used for pothole patching for one year.

Similar overlay projects were completed as follows in 2019/2020 and these streets have held up well since that time. Staff anticipates that this project will extend the life of the selected locations between eight and ten years.

- 1) Enterprise Street from Avenue 208 to 700’ north
- 2) Oakmore from Ave. 228 to Tulare Avenue
- 3) Turner Drive form Foster Drive to city limit
- 4) Pacific Ave. from De La Vina to Mooney Blvd.
- 5) Paige Ave. from Pratt to 800’ west of I Street
- 6) Intersection of Paige and Pratt

The City's Purchasing Policy (Section 4, page 18, C) allows for the use of "Cooperative Purchasing or Piggy-Back" contracts to take advantage of competitively bid purchasing if it would "provide the City with benefits". Awarding this contract to Deer Creek allows staff to move forward in an expeditious manner to complete this work while the weather allows it, because this product has recently been competitively bid by another public agency.

Tulare County awarded a contract for the purchase of the 1/2" Hot Asphalt Concrete to Deer Creek in April of 2020 after advertising for competitive bids. Deer Creek has agreed to hold the prices for those same products through June 30, 2022 as follows:

1) 1/2" Hot Asphalt Concrete \$49.10 per ton

The bid proposal (Attachment B), and the subsequent contract between the County of Tulare and Deer Creek are attached (Attachment C).

STAFF RECOMMENDATION:

Award and authorize the City Manager to sign a contract with Jaxon Enterprises, DBA Deer Creek Asphalt (Deer Creek), of Redding, CA in the amount of \$49.10/ton for 1/2" Hot Asphalt Concrete; subject to minor conforming or clarifying changes acceptable to the City Attorney.

CITY ATTORNEY REVIEW/COMMENTS: R Yes £ No £ N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: " Yes RNo £ N/A

FUNDING SOURCE/ACCOUNT NUMBER:

Annual Transportation – Pavement Management #ST0006

Signed: Trisha Whitfield

Title: Director, Public Works

Date: July 9, 2021

City Manager Approval: _____



County of Tulare PURCHASING DEPARTMENT

2637 W. Burrel Ave Suite 200., Visalia CA 93291-4593
Telephone 559-636205-1100 Fax 559-687-6939

April 12, 2021

Jaxon Enterprises
DBA Deer Creek Asphalt
Attn: Don Thomason
1643 Tahoe Court
Redding, CA 96003

Email: dthomason@jaxonaggregates.com

SUBJECT: MATERIAL CONTRACT NO. 1669 - RENEWAL NO. 02, 1/2" HOT ASPHALT CONCRETE
- NORTH/SOUTH COUNTY

Our current contract Number 1669 for 1/2" HOT ASPHALT CONCRETE – NORTH/SOUTH COUNTY expires on JUNE 30, 2021. The contract clause "RENEWAL" states that the "Contract may be renewed for an additional year by mutual written consent provided prices, terms and conditions remain the same."

If you consent to renewing this Contract at the same prices, terms and conditions for an additional year, please print and sign one (1) copies of this Renewal Form and **return via email** to mfernandez1@tularecounty.ca.gov by June 1, 2021 Upon the return of this signed form, Contract No. 1669 will be renewed through June 30, 2022.

Sincerely,

Cher Castellini,
Purchasing Manager

CONTRACT RENEWAL

I consent to providing 1/2" Hot Asphalt Concrete – North/South County to the County of Tulare per Contract No. 1669 for an additional year through June 30, 2022 under the same prices, terms and conditions.

Date: _____ Signature: _____

Title: President

Date: _____ Signature: _____

Title: Vice-President

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.

RENEWAL 02**CONTRACT NO.: 1669**

VENDOR NO.: 1241600
VENDOR NAME: JAXON ENTERPRISES
DBA DEER CREEK ASPHALT
STREET ADDRESS: 1643 TAHOE COURT
CITY STATE ZIP CODE: REDDING, CA 96003

BID/PROPOSAL NO.: 20-003
PHONE: (530) 241-2112
FAX: (530) 243-0787
VENDOR CONTACT NAME:
DON THOMASON
E-MAIL:
dthomason@jaxonaggregates.com

ORDER FROM: JAXON ENTERPRISES
DBA DEER CREEK ASPHALT
STREET ADDRESS: 1643 TAHOE COURT
CITY STATE ZIP CODE: REDDING, CA 96003

REMIT TO: JAXON ENTERPRISES
STREET ADDRESS: PO BOX 994248
CITY STATE ZIP CODE: REDDING, CA 96099-4248

SUBJECT: 1/2" HOT ASPHALT CONCRETE – NORTH/SOUTH COUNTY

COMMODITY CODE: 74521

CONTRACT PERIOD: JULY 1, 2019 THROUGH JUNE 30, 2022

PAYMENT TERMS: NET 30 DAYS

SALES TAX: IN ADDITION TO PRICES SHOWN WHEN APPLICABLE

DELIVERY: F.O.B. PLANT LOCATION

MINIMUM ORDER: NONE

MERCHANDISE RETURNS: FULL CREDIT TO THE COUNTY FOR ANY MERCHANDISE RETURNED IN UNOPENED CONDITION.

PRICES: SEE EXHIBIT B – COMPENSATION ADJUSTMENTS FOR PRICE INDEX FLUCTUATIONS APPLY TO THIS CONTRACT. FIRM FOR THE CONTRACT PERIOD

Catalog listing of commodities description and pricing to follow:

| SUPPLIER PART NUMBER | EXTENDED DESCRIPTION | UNIT OF MEASURE | LIST PRICE |
|----------------------|--|-----------------|------------|
| 001 | 1/2" HOT ASPHALT CONCRETE – NORTH/SOUTH COUNTY | TON | \$49.10 |

SPECIFICATIONS

DELIVERIES: Deliveries are to be made at the vendor's plant and/or storage location as required. Approximately two hundred (200) tons to two thousand (2,000) tons per day. County representative will give 48 hours notice of delivery date.

GUARANTEE OF DELIVERY: A continued, uninterrupted and guaranteed availability of Hot Asphalt Concrete is important and necessary to the County for the economic completion of its road work projects.

PRICES: Prices shall be F.O.B. Plant Location and shall exclude Federal Excise Taxes, for which the County is exempt. California State Sales Tax will be allowed on the net bid price. The price per ton shall include all fees for the duration of the contract. Example, environmental fees, etc.

NOTE: For the purpose of this Request for Bid, TON is determined to be 2,000 pounds avoirdupois.

1/2" HOT ASPHALT CONCRETE: \$ 49.10 PER TON

Asphalt Concrete shall be Type B, 1/2" maximum and shall conform to the provisions in Section 39, "Asphalt Concrete", of the latest editions and amendments of the Standard Specifications of the State of California, Department of Transportation, Division of CalTrans or as requested by County representative. Oil shall be: Asphalt Binder Oil PG 64-10.

2,500 Tons total estimated quantity for North County/South County through June 30, 2022.

Applicable sales tax will be added in addition to the price indicated above.

The amount of asphalt binder to be mixed with the aggregate for Type B asphalt concrete will be determined by the engineer.

PLANT LOCATION/SHIPPING POINT:

27671 Avenue 120, Porterville, CA 93257
SMARA MINE ID 91-54-0021

PARTICIPATING DEPARTMENTS:

RMA Road Yard #1, Porterville
RMA Road Yard #2/3 Visalia
RMA Road Yard #4, Dinuba
RMA Road Yard #5, Terra Bella

EXHIBIT B

5-I. PAYMENT ADJUSTMENTS FOR PRICE INDEX FLUCTUATIONS

GENERAL

Summary

This section applies to asphalt contained in materials for pavement structural sections and pavement surface treatments such as hot mix asphalt (HMA), plant run cold mix (PRCM), tack coat, asphaltic emulsions, bituminous seals, asphalt binders, and modified asphalt binders placed in the work.

The Engineer adjusts payment if the California Statewide Crude Oil Price Index for the month the material is placed is more than 5 percent higher or lower than the price index at the time of contract.

The California Statewide Crude Oil Price Index is determined each month on or about the last business day of the month by the Department using the average of the posted prices in effect for the previous month as posted by Chevron, ExxonMobil, and ConocoPhillips for the Buena Vista, Huntington Beach, and Midway Sunset fields.

If a company discontinues posting its prices for a field, Caltrans determines the index from the remaining posted prices. Caltrans may include additional fields to determine the index.

For the California Statewide Crude Oil Price Index, go to:

<http://www.dot.ca.gov/hq/construc/crudeoilindex/>

If the adjustment is a decrease in payment, the County deducts the amount from the monthly progress payment.

ASPHALT QUANTITIES

General

Interpret the term "ton" as "tonne" for projects using metric units.

Hot Mix Asphalt/Plant Run Cold Mix

The Engineer calculates the quantity of asphalt in HMA or PRCM using the following formula:

$$Q_h = HMATT \times [X_a / (100 + X_a)]$$

where:

Q_h = quantity in tons of asphalt used in HMA or PRCM

HMATT = HMA or PRCM total tons placed

X_a = theoretical asphalt content from job mix formula expressed as percentage of the weight of dry aggregate

Hot Mix Asphalt Containing Reclaimed Asphalt Pavement (RAP)

The Engineer calculates the quantity of asphalt in HMA containing RAP using the following formulas:

$$Q_{rap} = HMATT \times [X_{aa} / (100 + X_{aa})]$$

where:

$$X_{aa} = X_{ta} - [(100 - X_{new}) \times (X_{ra} / 100)]$$

and

- Q_{rap} = quantity in tons of asphalt used in HMA containing RAP
- HMATT = HMA total tons placed
- X_{aa} = asphalt content of HMA adjusted to account for the asphalt content in RAP expressed as percentage of the weight of dry aggregate
- X_{ta} = total asphalt content of HMA expressed as percentage of the weight of dry aggregate
- X_{new} = theoretical percentage of new aggregate in the HMA containing RAP determined from RAP percentage in the job mix formula
- X_{ra} = asphalt content of RAP expressed as percentage

Asphaltic Emulsion

The Engineer calculates the quantity of asphalt in asphaltic emulsions, including fog seals and tack coat, using the following formula:

$$Q_e = AETT \times (X_e / 100)$$

where:

- Q_e = quantity in tons of asphalt used in asphaltic emulsions
- AETT = undiluted asphaltic emulsions total tons placed
- X_e = minimum percent residue specified in Section 94, "Asphaltic Emulsions." of the Standard Specifications based on the type of emulsion used

Other Materials

For other materials containing asphalt not covered above, the Engineer determines the quantity of asphalt (Q_o).

PAYMENT ADJUSTMENTS

The Engineer includes payment adjustments for price index fluctuations in progress pay estimates. If material containing asphalt is placed within 2 months during 1 estimate period, the Engineer calculates 2 separate adjustments. Each adjustment is calculated using the price index for the month in which the quantity of material containing asphalt subject to adjustment is placed in the work. The sum of the 2 adjustments is used for increasing or decreasing payment in the progress pay estimate.

The Engineer calculates each payment adjustment as follows:

$$PA = Qt \times A$$

where:

PA = Payment adjustment in dollars for asphalt contained in materials placed in the work for a given month.

Qt = Sum of all quantities of asphalt-contained materials in pavement structural sections and pavement surface treatments placed ($Q_h + Q_{rh} + Q_{mh} + Q_{rap} + Q_{tc} + Q_e + Q_{ss} + Q_{mab} + Q_o$).

A = Adjustment in dollars per ton of asphalt used to produce materials placed in the work rounded to the nearest \$0.01.

For US Customary projects, use:

$A = [(I_u / I_b) - 1.05] \times I_b \times [1 + (T / 100)]$ for an increase in the crude oil price index exceeding 5 percent

$A = [(I_u / I_b) - 0.95] \times I_b \times [1 + (T / 100)]$ for a decrease in the crude oil price index exceeding 5 percent

For metric projects, use:

$A = 1.1023 \times [(I_u / I_b) - 1.05] \times I_b \times [1 + (T / 100)]$ for an increase in the crude oil price index exceeding 5 percent

$A = 1.1023 \times [(I_u / I_b) - 0.95] \times I_b \times [1 + (T / 100)]$ for a decrease in the crude oil price index exceeding 5 percent

I_u = California Statewide Crude Oil Price Index for the month in which the quantity of asphalt subject to adjustment was placed in the work.

I_b = California Statewide Crude Oil Price Index for the month in which the bid opening for the project occurred

T = Sales and use tax rate, expressed as a percent, currently in effect in the tax jurisdiction where the material is placed. If the tax rate information is not submitted timely, the statewide sales and use tax rate is used in the payment adjustment calculations until the tax rate information is submitted.

Proposed Street Paving Projects 2021-2022

| <i>Street</i> | <i>Lineal Footage</i> |
|--|-----------------------|
| 1. K St: Cross Ave to Santa Fe Trail | 425'x46' |
| 2. L St: Cross Ave to Santa Fe Trail | 425'x46' |
| 3. D St: Inyo Ave to Owens Ave | 690'x37' |
| 4. Owens Ave: Between C St & D St | 60'x10', 175'x 32' |
| 5. Pine Ave: D St to west end | 310'x36' |
| 6. Paige Ave N/B Ramp: HWY99 to Paige Ave | 693'x30' |
| 7. Paige Ave S/B Ramp: Hw Owens Ave | 455'x36' |
| 8. Cross Ave: West St to Maricopa St | 550'x24' |
| 9. Ave 200 Over Pass: Rankin Ave to Hosfield | 800'x24' |
| 10. Hosfield Dr: C.L. to Bridge | 1400'x24' |
| 11. Blackstone St: Paige Ave south | 490'x12' |
| 12. S. K St Between 4000-4500 Blk | 1600x12' |
| 13. S Blackstone St.: Cul De Sac | 175'x90' |
| | |

* Proposed list subject to review and revision by the City Engineer

AGENDA ITEM: Gen Bus PH 1a

**CITY OF TULARE, CA
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: Finance

For Council Meeting of: July 20, 2021

Documents Attached: Ordinance Resolution Staff Report Other None

AGENDA ITEM:

Public hearing to adopt Resolution 2021-35 regarding placing costs of constructing utility connections and/or sidewalk, curb, gutter, and driveway construction on property rolls in installments.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

In 1997, Board of Public Utilities and City Council approved resolutions authorizing the adoption of the provisions of Streets and Highways Code Sections 5870 et seq., under the 1911 Act. These provisions provide for the financing of certain public works related costs and declaring the repayment of same to be assessed against property owners and placed on the property tax rolls.

Twenty-seven agreements have been entered into with various parties for the City of Tulare to construct and finance connections, primarily to city sewer services, and place those costs on property tax rolls in installments. Prior to sending the assessments to the County of Tulare, a public hearing is required to allow anyone objecting and wanting to address the City Council.

STAFF RECOMMENDATION:

Adopt Resolution 2021-35 regarding placing costs of constructing utility connections and/or sidewalk, curb, gutter, and driveway construction on property rolls in installments.

CITY ATTORNEY REVIEW: Yes No N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A

Submitted by: Darlene J Thompson

Title: Finance Director/Treasurer

Date: June 22, 2021

City Manager Approval: _____

RESOLUTION 2021-35

A RESOLUTION OF THE COUNCIL OF THE CITY OF TULARE CONFIRMING THE REPORT AND ASSESSMENT LIST FOR 1911 ACT COSTS OF UTILITY CONNECTIONS AND/OR CURB, GUTTER, PAVEMENT, SIDEWALK AND DRIVEWAY CONSTRUCTION

WHEREAS, Resolution No. 97-4314, dated May 6, 1997, of the City Council of the City of Tulare, authorized the adoption of the provisions of Streets & Highways Code Sections 5870 et seq., under the 1911 Act, for the purpose of financing certain costs and declaring the repayment of same to be assessed against property owners and placed on the property tax rolls; and

WHEREAS, after public hearings, the Council did approve said work and order the costs be assessed and collected on the property tax rolls; and

WHEREAS, a public hearing was held before the City Council of the City of Tulare on July 20, 2021 pertaining to the report and assessment list for these costs; and

WHEREAS, said assessment list has been reviewed by the City Council and public comment considered;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TULARE, that the report and assessment list for recovering costs of improvements and/or utility connections, attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby confirmed, and City staff is directed to place same on the Tulare County tax assessment rolls.

PASSED, ADOPTED AND APPROVED THIS 20th DAY OF July, 2021.

President of the Council and Ex-Officio
Mayor of the City of Tulare

ATTEST:

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

I, Rob A Hunt, City Clerk of the City of Tulare, certify the foregoing is the full and true Resolution 2021-35 passed and adopted by the Council of the City of Tulare at a regular meeting held on July 20, 2021, by the following vote:

Aye(s) _____

Noe(s) _____ Abstention(s) _____

Dated: Rob A. Hunt, CITY CLERK

By Roxanne Yoder, Chief Deputy

EXHIBIT "A"

| APN | NAME | Public Works Improvement Loan Repayments |
|-------------|----------------------------------|---|
| 164-072-015 | Rangel & Misti Mata | 464.28 |
| 164-072-024 | Raymond & Pamela Vargas | 401.96 |
| 164-073-007 | Edward & Leah King | 419.46 |
| 164-130-005 | Alvaro & Maria Alcala | 805.34 |
| 166-072-002 | Benigna Borba | 401.36 |
| 166-072-006 | Alejandro Hernandez | 392.26 |
| 166-073-003 | Daniel Ensico | 438.56 |
| 169-070-004 | Omar Siller | 360.62 |
| 169-080-018 | Alfonso Perales | 475.80 |
| 171-090-027 | Albert Pamplona | 711.72 |
| 172-060-024 | Janeth Quintero | 453.88 |
| 176-276-014 | Faustino & Norma Gomez | 1,253.40 |
| 177-241-002 | Virginia Jimenez | 390.06 |
| 177-031-004 | Salvador & Maria Tapia | 412.76 |
| 177-033-020 | Cecelia Cabrera | 515.40 |
| 177-210-019 | Rosario Isis | 797.58 |
| 177-241-010 | Satini & Heione Tautuaa | 395.96 |
| 177-244-007 | James Barrera | 395.40 |
| 182-030-014 | Isidro & Elvia Parra | 404.86 |
| 182-100-004 | Engracia Herrera | 535.12 |
| 182-100-014 | Richard Burch | 859.64 |
| 182-100-016 | Rumaldo Sanez | 442.10 |
| 182-100-020 | Ramon & Anastacia Sanchez | 509.12 |
| 182-100-023 | Fernando & Maria Mendez | 548.66 |
| 182-100-024 | Luis Perez | 1,020.12 |
| 182-100-034 | Gilbert Alvaraz & Norma Carranza | 1,516.68 |
| 184-160-021 | Hilda Cortez | 88.38 |

15,410.48

**CITY OF TULARE
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: Engineering Services - Engineering

For Council Meeting of: July 20, 2021

Documents Attached: Ordinance Resolution Staff Report Other None

AGENDA ITEM:

Public hearing to adopt Resolution 2021-36 confirming diagram and landscape maintenance assessments and levying assessments for fiscal year 2021-22 and authorize the City Manager to execute a Compliance Certification and Hold Harmless Statement in connection thereto.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

Each year City Council is required to set landscape maintenance assessments for the upcoming fiscal year. On July 6, 2021, Council adopted Resolution of Intention 2021-33 setting July 20, 2021 as the public hearing date to adopt landscape maintenance assessments for fiscal year 2021-22, and directing the City Engineer to file the required Engineers Report with the City Clerk.

The public hearing will allow for property owners within each of the twenty-five landscape districts to comment on the proposed Fiscal Year 21-22 assessment for their district. The proposed assessments compare to the prior fiscal year as follows:

- five districts are proposed to decrease,
- ten districts are proposed to increase,
- five districts would experience no change from the prior year,
- one district will be assessed for the first time, and
- four districts have not yet completed any improvements requiring maintenance, and therefore do not have any proposed assessments.

For the ten districts that would experience an increase in assessment, none of the proposed assessments exceed the rate approved by property owners at the time of their formation. Therefore, with regard to Proposition 218 requirements, they do not constitute an assessment increase that would trigger the need for property owner approval by ballot.

A copy of the Engineers Report is attached for reference. The Compliance Certification and Hold Harmless Statement is required to be signed by the City Manager upon approval of the Council, and submitted to the County in conjunction with the assessments.

STAFF RECOMMENDATION:

Adopt Resolution 2021-36 confirming diagram and assessments and levying assessments for fiscal year 2021-22 and authorize the City Manager to execute a Compliance Certification and Hold Harmless Statement in connection thereto.

CITY ATTORNEY REVIEW/COMMENTS: Yes N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A
(If yes, please submit required budget appropriation request)

FUNDING SOURCE/ACCOUNT NUMBER: N/A

Submitted by: Michael Miller

Title: City Engineer

Date: July 12, 2021

City Manager Approval: _____

RESOLUTION 2021-36

**RESOLUTION OF THE COUNCIL OF THE CITY OF TULARE
CONFIRMING DIAGRAM AND LEVYING ASSESSMENT
FOR FISCAL YEAR 2021-22**

**LANDSCAPE ASSESSMENT DISTRICTS
(Pursuant to the Landscape and Lighting Act of 1972)**

Be it resolved by the Council of the City of Tulare, as follows, to wit:

1. Pursuant to Chapter 3 of the Landscaping and Lighting Act of 1972, the City Council directed Michael Miller, City Engineer of Work for Assessment Districts has prepared and filed a report for fiscal year 2021-22.
2. The City Engineer of work filed his annual report on July 6, 2021, the City Council adopted its resolution of intention to levy and collect assessments within assessment districts for fiscal year 2021-22 and set a public hearing for July 20, 2021, in the City Council Chambers, 491 North M Street, Tulare, California. Notice of the hearing was given in the time and manner required by law.
3. At the public hearing, the Council of the City of Tulare afforded to every interested person an opportunity to make a protest to the report either in writing or orally, and has considered each protest.
4. Assessments for fiscal year 2021-22 are hereby set for the following landscape maintenance districts:

| | | |
|---------|---|-----------|
| 89-01 | North Oaks Estates | \$ 94.00 |
| 89-02 | The Grove Subdivision | |
| | Single-family lots | \$ 294.00 |
| | Single-family 1 ½ size lots (lot mergers) | \$ 441.00 |
| | Single-family double size lots (lot line adjustments) | \$ 588.00 |
| 90-01 | Southgate Villa No. 11 | |
| | Single-family lots | \$ 190.00 |
| | Multi-family lots | \$ 570.00 |
| 91-01 | Westwood Village Estates | \$ 77.00 |
| 93-01 | Sunrise Estates | \$ 91.00 |
| 2000-01 | Del Lago Subdivisions | |
| | Single-family lots | \$ 320.00 |
| | Single-family double size lots (lot merger) | \$ 640.00 |
| 2001-01 | Autumn Glen Subdivision | \$ 27.00 |

| | | |
|---------|--|-------------|
| 2003-01 | Shadow Wood and Majestic Subdivisions | \$ 60.00 |
| 2003-02 | Kaweah Estates | \$ 42.00 |
| 2005-01 | Academy Estates | \$ 138.00 |
| 2005-02 | Palm Ranch, Woodbridge, and Cambridge Subdivisions | \$ 162.00 |
| 2005-03 | Admiral Estates, Gail Estates, and Heritage North Subdivisions | \$ 197.00 |
| 2005-04 | Valley Estates, Montecito, and Sherwood North Subdivisions | \$ 82.00 |
| 2005-05 | Rancho Ventura | Inactive |
| 2005-06 | The Greens Subdivision | |
| | Single-family lots | \$ 168.00 |
| | Single-family double size lots (lot merger) | \$ 336.00 |
| 2005-07 | Westgate Estates | \$ 138.00 |
| 2005-08 | California Ranchos and Cambridge Estates | |
| | Single-family lots | \$ 114.00 |
| | Single-family double size lots (lot merger) | \$ 228.00 |
| 2007-01 | Goble Court Subdivision | |
| | Single-family lots | \$ 100.00 |
| | Single-family triple size lot | \$ 300.00 |
| 2010-01 | Sycamore | \$ 180.00 |
| 2016-01 | Sierra Vista No. 2 | |
| | Single-family lots | \$ 165.00 |
| | Single-family double size lots (lot merger) | \$ 330.00 |
| 2018-01 | Willow Glen and Kensington Estates | \$ 188.00 |
| 2018-02 | The Greens at Oak Creek and Oak Creek #'s 2 - 4 | |
| | Single-family lots | \$ 86.00 |
| | Multi-family lot (Oak Creek #2) | \$ 1,290.00 |
| | Multi-family lots (Oak Creek #3) | \$ 109.00 |
| | Multi-family lots (Oak Creek #4) | \$ 129.00 |
| 2020-01 | Farrar Estates | \$ 0.00 |
| 2021-01 | Oakcrest | \$ 0.00 |
| 2021-02 | Liberty Hill | \$ 0.00 |

5. The Council of the City of Tulare hereby confirms that the assessment set forth in the Engineer's report is made without regard to property valuation and are in compliance with California Code.
6. The Council of the City of Tulare hereby confirms the diagram and assessment as set forth in the Engineer's Report and hereby levies the assessment set forth therein for fiscal year 2021-22, pursuant to Section 22631 of the Streets and Highways Code.

PASSED, APPROVED, AND ADOPTED this 20th day of July 2021.

 President of the Council and Ex-Officio
 Mayor of the City of Tulare

ATTEST:

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

I, Rob Hunt, City Clerk of the City of Tulare, certify the foregoing is the full and true Resolution 2021-36 passed and adopted by the Council of the City of Tulare at a regular meeting held on July 20, 2021 by the following vote:

Aye(s) _____

Noe(s) _____ Abstention(s) _____

Dated:

ROB HUNT, CITY CLERK

By Roxanne Yoder, Chief Deputy

AGENDA ITEM: Gen Bus City Mgr 2a

**CITY OF TULARE, CA
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: City Manager

For Council Meeting of: July 20, 2021

Documents Attached: Ordinance Resolution Staff Report Other None

AGENDA ITEM:

Consider the cancellation or rescheduling of Tulare City Council meeting scheduled for Tuesday, September 21, 2021, due to the League of California Cities Annual Conference scheduled Wednesday, September 22 through Friday, September 24, 2021, in Sacramento.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

The League of California Cities Annual Conference is scheduled to begin at 8 a.m. and runs from Wednesday, September 22, through Friday, September 24, 2021, in Sacramento, California.

Mayor Mederos, Vice Mayor Sayre and Council Member Sigala are registered to attend and are traveling on Tuesday, September 21, 2021. Resulting in less than a quorum to conduct that meeting.

Staff seeks Council's direction on the consideration of cancelling or rescheduling the September 21, 2021, meeting.

STAFF RECOMMENDATION:

Consider the cancellation or rescheduling of Tulare City Council meeting scheduled for Tuesday, September 21, 2021, due to a conflict with the League of California Cities Annual Conference scheduled Tuesday, September 21 through Friday, September 24, 2021, in Sacramento.

CITY ATTORNEY REVIEW/COMMENTS: Yes N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A

FUNDING SOURCE/ACCOUNT NUMBER:

Submitted by: Rob Hunt

Title: City Manager

Date: July 14, 2021

City Manager Approval: _____