

AGENDA ITEM NO.  
COUNCIL MEETING  
APPROVED BY \_\_\_\_\_

DEPARTMENT DIRECTOR \_\_\_\_\_

CITY MANAGER

April 17, 2007

**FROM:** SCOTT L. JOHNSON, Director  
Economic Development Department

**BY:** KELLY VAUGHAN TREVINO, Economic Development Analyst  
Economic Development Department

**SUBJECT:** RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO APPROVING APPLICATION FOR RETROACTIVE AMENDMENT AND EXPANSION OF FRESNO ENTERPRISE ZONE, ALLOTMENT OF EXPANSION ACREAGE, AND AUTHORIZING SUBMITTAL TO THE STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT OF DOCUMENTS AND INSTRUMENTS

**KEY RESULTS AREA**

Economic Development

**RECOMMENDATIONS**

It is recommended that the City Council approve the attached Resolution which approves (i) application for amendment and expansion of the Fresno Enterprise Zone to include AGI Publishing Inc., from and after July 22, 1997 [APN: 49 429 404 (1850 N. Gateway Blvd.)] and April 18, 2003 [APN: 49 429 403 (1900 N. Gateway Blvd.)] by utilizing the remaining unallotted Enterprise Zone expansion acreage (“AGI Application”), (ii) submittal to the California Department of Housing and Community Development (“HCD”) of the AGI Application and necessary documents and instruments, and (iii) ratification of the related previously approved/certified AGI employee hiring credit voucher (“Vouchers”), upon approval of the AGI Application by HCD.

**EXECUTIVE SUMMARY**

The former City of Fresno (City) Enterprise Zone was established in October 1986 and expired on October 14, 2006. Over the course of the 20 year designation period, 23 expansions were approved by the State of California allowing approximately 5,000 businesses the opportunity to take advantage of the tax incentives available.

The City, variously during the period after July 22, 1997, purported to process and certify approximately 133 Enterprise Zone eligible Vouchers submitted to the City by AGI. The City’s certification of the Vouchers was based upon an erroneous listing of addresses located within the Enterprise Zone. AGI was not located within the Enterprise Zone at the time the City certified the Vouchers. AGI, upon notification by the City that the Vouchers were not validly certified has requested that the City take the above recommended actions. AGI, in consultation with their tax advisor, believes that, upon HCD approval of the AGI Application and consistent with the attached Resolution, the Vouchers will be validated. The actions proposed herein are consistent with and in furtherance of Enterprise Zone requirements and purposes.

**KEY OBJECTIVE BALANCE**

Citizens will continue to benefit from the job creation and employee tax credits. Businesses, including AGI, will continue to benefit from the state tax credits. City of Fresno employees will benefit from the satisfaction of correcting a previous error. The City will continue to benefit from the increased sales tax revenue in the Zone and the preservation of a local business with approximately 750 employees statewide (250 locally).

**BACKGROUND**

The Fresno Enterprise Zone in effect at times relevant was established on October 15, 1986 pursuant to the California Enterprise Zone Act. The Enterprise Zone was authorized by the State to encompass an area of 12.7 square miles or 8140.8 acres. The purpose of the Enterprise Zone program is to stimulate business and industrial growth in the most economically depressed areas of the State; help attract business into the State; help retain and expand business and industry; and create increased job opportunities for all Californians. In particular the Enterprise Zone program allows employers located within the Zone to use a hiring credit vouchering process to certify entitlement to state tax credits for eligible employees. The Act provides a process for eligible Zone amendments expanding the Zone.

During the period after January 1, 2000, the City of Fresno variously purported to process and certify Enterprise Zone hiring credit vouchers (“Vouchers”) submitted by AGI Publishing, Inc. (“AGI”) based upon an erroneous listing of addresses located within the Enterprise Zone and notwithstanding the fact AGI was located outside the Enterprise Zone. City staff has notified AGI that the Vouchers were not validly certified per Enterprise Zone program requirements. The Vouchers number approximately 133. The tax credits realized by AGI on the Vouchers are substantial.

AGI, in consultation with its tax advisor has requested that City take the proposed actions in order to validate the Vouchers. City proposed submittal of the AGI Application for retroaction inclusion in the Fresno Enterprise Zone and ratification of Vouchers thereunder are both subject to, and will not come into effect absent approval by State HCD. City proposed submittal of the AGI Application for retroaction inclusion in the Fresno Enterprise Zone and ratification of Vouchers thereunder are both consistent with and in furtherance of Enterprise Zone requirements and purposes. The attached Resolution has been reviewed and approved to form by the City Attorney’s Office.

**FISCAL IMPACT**

Approval of the attached Resolution will not have a new impact on the City’s general fund, taxing power or borrowing capacity.

EZ/4102007/KT

Attachments:  
Resolution

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO APPROVING APPLICATION FOR RETROACTIVE AMENDMENT AND EXPANSION OF FRESNO ENTERPRISE ZONE, ALLOTMENT OF EXPANSION ACREAGE, AND AUTHORIZING SUBMITTAL TO THE STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT OF DOCUMENTS AND INSTRUMENTS

(RE: AGI Publishing, Inc., 1850 and 1900 N. Gateway Avenue, Fresno CA)

WHEREAS, the California Enterprise Zone Act (Cal. Gov't Code §§ 7070 et seq.) and enabling regulations (25 CCR 8430 et seq.) allow for the establishment, expansion and regulation of California designated enterprise zone areas; and

WHEREAS, the Fresno Enterprise Zone was established on October 15, 1986, and authorized by the State to encompass an area of 12.7 square miles or 8140.8 acres; and

WHEREAS, the Act allows for expansion of the Fresno Enterprise Zone by up to twenty percent (20%) over its size on the date of its original designation; and

WHEREAS, for employees hired by AGI Publishing, Inc., ("AGI") from and after July 22, 1997, the City variously purported to process and certify Enterprise Zone hiring credit vouchers ("Vouchers") submitted by AGI based upon an erroneous listing of addresses located within the Enterprise Zone and notwithstanding the fact AGI was located outside the Enterprise Zone; and

WHEREAS, at all times relevant the City possessed the power to approve allotting available Enterprise Zone expansion acreage to AGI business locations [APN: 49 429 404 (1850 N. Gateway) and APN: 49 429 403 (1900 N. Gateway)], subject to State approval; and

WHEREAS, at the request of AGI and in the public interest the City desires to approve application for amendment and expansion of the Fresno Enterprise Zone to include AGI by utilizing the remaining unallotted Enterprise Zone expansion acreage for APN: 49 429 404 @ 1.71 acres with right of way acreage of 0.12 acres effective July 22, 1997, and APN: 49 429 403 @ 1.35 acres with right of way acreage of 0.13 acres effective April 18, 2003, all zoned as M-1-P ("AGI Application"), and upon approval thereof by the California Department of Housing and Community Development ("HCD") to ratify the Vouchers, subject to and contingent upon all required approvals by governmental agencies; and

WHEREAS, the City of Fresno may approve and submit the AGI Application to HCD to obtain said agency's approval of expansion of the Fresno Enterprise Zone to include the expansion acreage proposed herein not to exceed the City's available expansion allotment, and upon approval thereof ratify the Vouchers; and

WHEREAS, the Council of the City of Fresno finds that, based upon the record and the above recitals, that approval of the AGI Application for the above referenced Enterprise Zone expansion and

upon HCD approval thereof, ratification of the Vouchers is as to a depressed area, is necessary in order to attract private sector investment thereto, and will not adversely effect the Fresno Enterprise Zone; and

WHEREAS, the Council of the City of Fresno finds that, based upon the record and the above recitals, that approval of the AGI Application for the above referenced Enterprise Zone expansion and upon HCD approval thereof, ratification of the Vouchers is as to real property either lying solely within the jurisdiction of the City of Fresno or within an adjacent jurisdiction, consistent with the Act; and

WHEREAS, the Council of the City of Fresno finds that, based upon the record and the above recitals, that approval of the AGI Application for the above referenced Enterprise Zone expansion and upon HCD approval thereof, ratification of the Vouchers does not exceed twenty percent (20%) of the geographic area within its boundaries originally designated as the Fresno Enterprise Zone, as described and depicted on the attached map; and

WHEREAS, the expansion area proposed to include AGI is contiguous with the area of the Fresno Enterprise Zone.

NOW THEREFORE, the Council of the City of Fresno does hereby resolve as follows:

1. The above recitals are hereby adopted as true and correct.
2. The principles and purpose of the Fresno Enterprise Zone would be best served by approving the AGI Application for 1850 N. Gateway from and after July 22, 1997 and the extension of incentives associated with the Fresno Enterprise Zone, including Local Incentives, to the AGI expansion area proposed herein, not to exceed the City's available expansion allotment, and upon HCD approval of the AGI Application, and the ratification of the Vouchers.
3. The principles and purpose of the Fresno Enterprise Zone would be best served by approving the AGI Application for 1900 N. Gateway from and after April 18, 2003 and the extension of incentives associated with the Fresno Enterprise Zone, including Local Incentives, to the AGI expansion area proposed herein, not to exceed the City's available expansion allotment, and upon HCD approval of the AGI Application, and the ratification of Vouchers.
4. Preparation and submission to HCD of this Resolution approving the AGI Application for expansion of the boundaries of the Fresno Enterprise Zone to include the AGI expansion area herein, not to exceed the City's available expansion allotment, as determined by the City in its discretion consistent with the Act, City's prevailing enterprise zone eligibility criteria and the public interest, and upon HCD approval of the AGI Application ratification of the Vouchers, are hereby approved.
5. The City Manager of the City of Fresno and designee(s) thereof and each of them is hereby authorized to execute, on behalf of the City of Fresno, all applications, proposals, documents and instruments necessary to effectuate such AGI Application for the AGI expansion of the Fresno Enterprise Zone and upon approval of the AGI Application to effectuate ratification of the Vouchers, subject to City Attorney approval as to form.
6. This Resolution shall become effective and in full force and effect on the later of the day following adoption or the time provided by law.

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CLERK'S CERTIFICATION

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

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the day of \_\_\_\_\_, 2007.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

Mayor Approval: \_\_\_\_\_, 2007  
Mayor Approval/No Return: \_\_\_\_\_, 2007  
Mayor Veto: \_\_\_\_\_, 2007  
Council Override Veto: \_\_\_\_\_, 2007

REBECCA E. KLISCH  
City Clerk

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

JAMES C. SANCHEZ  
City Attorney

By \_\_\_\_\_  
Deputy