



# CITY of CLOVIS

## AGENDA • CLOVIS CITY COUNCIL

Council Chamber, 1033 Fifth Street, Clovis, CA 93612 (559) 324-2060

[www.cityofclovis.com](http://www.cityofclovis.com)

*In compliance with the Americans with Disabilities Act, if you need special assistance to access the City Council Chamber to participate at this meeting, please contact the City Clerk or General Services Director at (559) 324-2060 (TTY – 711). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the Council Chamber.*

*Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at City Hall, in the City Clerk's office, during normal business hours. In addition, such writings and documents may be posted on the City's website at [www.cityofclovis.com](http://www.cityofclovis.com).*

April 2, 2018

6:00 PM

Council Chamber

**The City Council welcomes participation at Council Meetings. Members of the public may address the Council on any item of interest to the public that is scheduled on the Agenda. In order for everyone to be heard, please limit your comments to 5 minutes or less, or 10 minutes per topic.**

Meeting called to order by Mayor Whalen  
Flag salute led by Councilmember Flores

### ROLL CALL

**PUBLIC COMMENTS** (This is an opportunity for the members of the public to address the City Council on any matter within the City Council's jurisdiction that is not listed on the Agenda. In order for everyone to be heard, please limit your comments to 5 minutes or less, or 10 minutes per topic. Anyone wishing to be placed on the Agenda for a specific topic should contact the City Manager's office and submit correspondence at least 10 days before the desired date of appearance.)

**ORDINANCES AND RESOLUTIONS** (With respect to the approval of resolutions and ordinances, the reading of the title shall be deemed a motion to waive a reading of the complete resolution or ordinance and unless there is a request by a Councilmember that the resolution or ordinance be read in full, further reading of the resolution or ordinance shall be deemed waived by unanimous consent of the Council.)

**CONSENT CALENDAR** Consent Calendar items are considered routine in nature and voted upon as one item unless a request is made to give individual consideration to a specific item.  
(See Attached Consent Agenda.)

**1. CITY MANAGER COMMENTS**

**2. COUNCIL ITEMS**

- A. Consider Approval – Res. 18-\_\_\_\_, A Resolution of the Clovis City Council Supporting the Reducing Crime and Keeping California Safe Act of 2018. (Councilmember Ashbeck)
- B. Council Comments

**3. CLOSED SESSION**

- A. Government Code Section 54956.9  
CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION  
Significant Exposure to Litigation Pursuant to Paragraph (2) or (3) of  
Subdivision (d) of Section 54956.9  
One Case (March 14, 2018 U.S. Department of Justice Letter)

**ADJOURNMENT**

Meetings and Key Issues			
Apr. 9, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
Apr. 16, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
May 7, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
May 14, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
May 21, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
Jun. 4, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
Jun. 11, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber
Jun. 18, 2018 (Mon.)	6:00 P.M.	Regular Meeting	Council Chamber

**CONSENT CALENDAR** - Items considered routine in nature are to be placed upon the Consent Calendar. They will all be considered and voted upon in one vote as one item unless a Councilmember requests individual consideration. A Councilmember's vote in favor of the Consent Calendar is considered and recorded as a separate affirmative vote in favor of each action listed. Motions in favor of adoption of the Consent Calendar are deemed to include a motion to waive the reading of any ordinance or resolution on the Consent Calendar. For adoption of ordinances, only those that have received a unanimous vote upon introduction are considered Consent items.

**A. CITY CLERK**

- 1) Approval - Minutes for the March 12, 2018 and March 19, 2018 Council meetings.

**B. ADMINISTRATION**

- 1) No items.

**C. COMMUNITY AND ECONOMIC DEVELOPMENT**

- 1) No items.

**D. FINANCE**

- 1) No items.

**E. GENERAL SERVICES**

- 1) Approval - Extension of Workers' Compensation Claims Administration Services Contract to Acclamation Insurance Management Services, Inc. (AIMS).
- 2) Approval – Res. 18-\_\_\_\_, Amending the City's FY 17-18 Position Allocation Plan by adding one (1) Principal Account Clerk in the Finance Department.

**F. PLANNING AND DEVELOPMENT SERVICES**

- 1) Approval - Bid Award for CIP 18-01, Rubberized Cape Seal 2018, and; Authorize the City Manager to execute the contract on behalf of the City.
- 2) Approval - Bid Award for CIP 18-02, Trail Pavement Maintenance 2018, and; Authorize the City Manager to execute the contract on behalf of the City.
- 3) Approval – Contract Change Order for CIP 14-21, Shaw/Locan Traffic Signal & Widening, and Authorize the City Manager to execute the contract on behalf of the City.
- 4) Approval – Extending the boundaries for the Cottage Home Program outside of the Central Clovis Specific Plan boundaries to allow all qualifying Old Town residents to use the set of plans for cottage home construction.

**G. PUBLIC SAFETY**

- 1) No items.

**H. PUBLIC UTILITIES**

- 1) No items.

**I. REDEVELOPMENT SUCCESSOR AGENCY**

- 1) No items.

**CLOVIS CITY COUNCIL MEETING**

**March 12, 2018**

**6:00 P.M.**

**Council Chamber**

Meeting called to order by Mayor Whalen  
Flag Salute led by Councilmember Mouanoutoua

Roll Call: Present: Councilmembers Ashbeck, Bessinger, Flores, Mouanoutoua  
Mayor Whalen  
Absent: None

6:03 - PRESENTATION OF CLOVIS FIRE DEPARTMENT 2017 FIREFIGHTER OF THE YEAR AND 2017 DRIVER SAFETY AWARD

FIRE CHIEF JOHN BINASKI PRESENTED THE CLOVIS FIRE DEPARTMENT 2017 FIREFIGHTER OF THE YEAR AND 2017 DRIVER SAFETY AWARD.

6:20 - CONSENT CALENDAR

Motion by Councilmember Ashbeck, seconded by Councilmember Bessinger, that the items on the Consent Calendar be approved. Motion carried by unanimous vote.

- A1) Approved - Minutes for the March 5, 2018 Council meeting.
- D1) Approved - **Res. 18-47**, A Resolution of Intention (ROI) to Annex Territory (Annexation #52) (T6190-Northeast Corner of Teague and Locan, T6180-Southwest Corner of Teague and Locan), to the Community Facilities District (CFD) 2004-1 and to Authorize the Levy of Special Taxes Therein and setting the Public Hearing for April 16, 2018.
- D2) Received and Filed - Status Report of the Development Fee Funds for 2017.
- F1) Approved - Bid Award for CIP 16-04, Well No. 11A Drilling and Development, and; Authorize the City Manager to execute the contract on behalf of the City.
- F2) Approved - Authorizing the execution of a Real Property Purchase Agreement for property located south of Shaw Avenue, between DeWolf Avenue and Leonard Avenue, to be the site of future Fire Station 6.
- F3) Approved - Final Acceptance for Tract 6098, located at the southwest corner of Ashlan and Leonard Avenues (McCaffrey Homes).
- F4) Approved - **Res. 18-48**, Annexation of Miscellaneous Properties to the Landscape Maintenance District No. 1.
- H1) Received and Filed - Public Utilities Report for the month of December 2017.

6:21 ITEM 1A1 - RECEIVED AND FILED - FIRE DEPARTMENT 2017 ANNUAL REPORT

Fire Chief John Binaski presented the Fire Department 2017 Annual Report. Chief Binaski provided City Council an update of Fire Department activity for the year 2017.

Robert Evans, resident, commented on and questioned the response times to Harlan Ranch. Discussion by the Council. It was the consensus of City Council to receive and file the report.



**7:19 ITEM 1B1 - APPROVED – RES. 18-49, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS SUMMARIZING STEPS THE CITY HAS TAKEN TO ADDRESS HOUSING NEEDS IN THE CITY OF CLOVIS AND AFFIRMING THE CITY'S REGIONAL HOUSING NEEDS COMMITMENT**

City Planner Bryan Araki and Housing Program Manager Heidi Crabtree presented a report summarizing steps the City has taken to address housing needs in the City of Clovis and affirming the city's regional housing needs commitment. For the Regional Housing Needs Assessment (RHNA) period covering 2007-2012, Clovis was required to plan for 15,383 units of housing at various affordability ranges. (NOTE: For the purposes of the RHNA, affordability equals density, and is not related to actual household income levels or affordability (cost) of the homes being developed at such densities.) At the end of this RHNA period, Clovis had a shortfall of land zoned to accommodate 4,425 units at a minimum density of 20 units per acre. This equates to approximately 177 acres of land that must be re-designated to Very-High Density (25-43 units per acre), and rezoned to the R-4 Zone District or an overlay zone to comply with state law. Additionally, the entire 177 acres must be within the City limits. Paul Hinkle, resident, and Planning Commissioner, commented on other city projects and how they are dealing with the RHNA requirements. Discussion by the Council.

Motion by Councilmember Ashbeck, seconded by Councilmember Flores, for the Council to approve a resolution summarizing steps the City has taken to address housing needs in the City of Clovis and affirming the city's regional housing needs commitment. Motion carried by unanimous vote.

**8:13 ITEM 2 - CITY MANAGER COMMENTS**

City Manager Luke Serpa commented on budget priority survey and indicated we would come back for a budget workshop on April 9, 2018. He also commented on the COG meeting on Friday to allow the use of Measure C funding on clean up on freeways. He indicated that this was approved by the policy advisory committee.

**8:15 ITEM 3A - COUNCIL COMMENTS**

Councilmember Bessinger commented on the passing and services of retired police officer Larry Avery.

Councilmember Ashbeck commented on the need to continue to reach out to residents for input on the city budget.

Mayor Whalen adjourned the meeting of the Council to March 19, 2018

Meeting adjourned: 8:26 p.m.

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Mayor

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City Clerk



**CLOVIS CITY COUNCIL MEETING**

**March 19, 2018**

**6:00 P.M.**

**Council Chamber**

Meeting called to order by Mayor Whalen  
Flag Salute led by Councilmember Bessinger

Roll Call:     Present:     Councilmembers Ashbeck, Bessinger, Flores, Mouanoutoua  
                                 Mayor Whalen  
                 Absent:     None

**6:04 P.M. - PRESENTATION OF PROCLAMATION HONORING CLOVIS TRANSIT BUS DRIVER KENNETH LEE FOR HIS ASSISTANCE TO THREE TEEN BUS PASSENGERS AS PART OF THE SAFE PLACE PROGRAM**

General Services Manager Amy Hance presented a Proclamation honoring Clovis Transit Bus Driver Kenneth Lee for his assistance to three teen bus passengers as part of the Safe Place program.

**6:13 - PRESENTATION – UPDATE BY DR. LORI BENNETT ON THE CLOVIS COMMUNITY COLLEGE**

Clovis Community College President Lori Bennett presented City Council an update on the Clovis Community College.

**6:22 - CONSENT CALENDAR**

Motion by Councilmember Ashbeck, seconded by Councilmember Flores, that the items on the Consent Calendar, except item B1, be approved. Motion carried by unanimous vote.

- D1) Received and Filed – Investment Report for the month of January 2018.
- D2) Received and Filed – Treasurer's Report for the month of January 2018.

**6:23 - CONSENT CALENDAR ITEM B1 - APPROVED – AUTHORIZE THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH THE AMERICAN LEGION POST 147 FOR GENERAL PARKING AT A PORTION OF 508 4TH STREET (APN 492-203-14)**

Assistant City Manager John Holt addressed questions of City Council on the proposed lease agreement. There being no public comment, Mayor Whalen closed the public portion. Discussion by the Council. Motion by Councilmember Mouanoutoua, seconded by Councilmember Flores, for the Council to authorize the City Manager to enter into a Lease Agreement with the American Legion Post 147 for general parking at a portion of 508 4th Street (APN 492-203-14) and authorize a onetime payment of \$6,500.00.

**6:30 ITEM 1A - CONTINUED – A REQUEST FROM WILSON HOMES, INC. FOR COUNCIL TO DIRECT STAFF TO BEGIN NEGOTIATIONS WITH THE COUNTY OF FRESNO TO AMEND THE SPHERE OF INFLUENCE TO ALLOW URBANIZATION OF +/- 75 ACRES**



NEAR THE NORTHEAST CORNER OF SHEPHERD AND SUNNYSIDE AVENUES (APN'S 55702119, 55702120, AND 55702121).

City Manager Luke Serpa indicated that staff was recommending this item be continued to a date uncertain to allow further analysis. Leo Wilson, applicant, spoke in support of the continuance. Discussion by the Council. Motion by Councilmember Ashbeck, seconded by Councilmember Mouanoutoua, for the City Council to continue the item to a date uncertain. Motion carried by unanimous vote.

**6:33 ITEM 2A1 - APPROVED – A REQUEST FROM CLOVIS AREA MODELERS FOR A LETTER OF SUPPORT FOR A RADIO CONTROLLED MODEL PARK**

Assistant City Manager John Holt presented a report on a request from Clovis Area Modelers for a letter of support for a radio controlled model park. On February 20, 2018, the Clovis Area Modelers Club made a presentation to Council regarding the need for a radio controlled model park and requested a letter of support from the Council to obtain approval from Fresno Metropolitan Flood Control District to gain access to Dry Creek Floodplain. Council directed staff to bring the item back on the regular agenda at a meeting in the future. Staff has been in communication with representatives of the Club to identify their needs. Ideally, they would have a remote area of approximately 20 acres with facilities able to launch and recover motorized model planes. There is nothing currently available within the City of Clovis that specifically meets their needs. Staff is in support of the Club and has prepared the attached letter of support for the Club to use in their endeavor to find a location such as the Big Dry Creek Preserve. Public Utilities Director Scott Redelfs summarized meeting with club members last week on the possible interim use of a portion of the Sierra Temperance Park. Mike Cunningham, resident, had questions of staff on use of drones at the park. Scott Redelfs responded. Erik Lacour, Club Member, spoke in support of the request. Discussion by the Council.

Motion by Councilmember Ashbeck, seconded by Councilmember Flores, for the Council to approve a letter of support for a radio controlled model park. Motion carried by unanimous vote.

**6:53 ITEM 2A2 – CONSIDERED - RESULTS OF THE BUDGETING PRIORITIES CITIZEN SURVEY**

Economic Development Director Andy Haussler presented a report on the results of the Budgeting Priorities Citizen Survey. In 2013, a team from across all departments was tasked to assist in developing a survey to measure the satisfaction residents had with Clovis as a community. It was highly desired to objectively gain input on the quality of services the City provided and be able to compare with other cities, and potentially track trends if the survey was done again. The National Citizens Survey was selected as it allows for a city to be compared to a national pool of cities (450+) on standardized service categories, utilizes scientific sampling tools, was developed in partnership with the International City Managers Association (ICMA), and tracks multi-year results for a city. The standard survey was reviewed in detail by the interdepartmental team and customizations were made when needed. It was determined that it would be ideal to conduct the survey once every two years to establish trend lines. In the Fall of 2015, a second survey was completed and in the Fall of 2017, a third survey conducted. As part

of this survey, a question was asked on what the budgetary priorities of the City should be. In February of 2018, staff sought input from a wider audience on budgetary priorities than the scientific survey would allow and determined an on-line survey would be an effective method of citizen engagement. The same question asked in the Citizen Survey on budgetary priorities, as shown below, was used for comparison purposes.

There being no public comment, Mayor Whalen closed the public portion. Discussion by the Council. It was the consensus of the City Council to receive and file the report.

**7:19 ITEM 3 - CITY MANAGER COMMENTS**

None

**7:19 ITEM 4A - COUNCIL COMMENTS**

Councilmember Bessinger commented on attending retired Police Sergeant Larry Avery's funeral.

**ADJOURNMENT**

Mayor Whalen adjourned the meeting of the Council to April 2, 2018

Meeting adjourned: 7:25 p.m.

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Mayor

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City Clerk





AGENDA ITEM NO: **CC-E-1**  
City Manager: LS

## **CITY of CLOVIS**

### REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: General Services Department

DATE: April 2, 2018

SUBJECT: Approval – Extension of Workers' Compensation Claims Administration Services Contract to Acclamation Insurance Management Services, Inc. (AIMS)

#### **CONFLICT OF INTEREST**

None

#### **RECOMMENDATION**

For City Council to approve the proposed (3) three year contract extension submitted by Acclamation Insurance Management Services (AIMS) for provision of Workers' Compensation claims administration services with a (2.5%) two and a half percent fee increase each year for the period of July 1, 2018 through June 30, 2021; and, authorize the City Manager to execute an extension agreement with AIMS.

#### **EXECUTIVE SUMMARY**

On July 1, 2015, the City of Clovis entered into a (3) three year contract with AIMS to administer the City's workers' compensation claims program. The contract, which is scheduled to expire on June 30, 2018, contains an option to extend up to an additional (3) three years. In anticipation of the contract expiration, staff met with AIMS to discuss the terms of a (3) three year extension. AIMS provided a quote for an additional (3) three year term with an annual fee increase of 2.5%.

#### **BACKGROUND**

Since 1979, the City has utilized the services of a third party administrator (TPA) to manage its self-funded workers' compensation program. The program currently operates with a self-insured retention of \$250,000 with losses beyond this amount covered through the City's participation in the Local Agency Workers Compensation Excess Joint Powers Authority (LAWCX). Following an extensive Request for Proposal process in 2015, the City entered into an agreement with AIMS for another (3) three year period with an option to extend on a year to year basis for (3) three



years. AIMS' proposal had the best overall value which included bill review of medical charges.

AIMS has successfully administered the City's claims, and in conjunction with City staff, has reduced program expenses through proper implementation of workers' compensation reform, results-driven claims administration and aggressive bill review. The bill review savings for FY 16/17 was \$2,471,558. AIMS is committed to maintaining a local office, the assignment of experienced examiners on the City's account, and providing excellent quality of service. As a result, staff recommends exercising the option to extend the current agreement for an additional (3) three years.

#### **FISCAL IMPACT**

The projected administrative and bill review costs for the services over the next (3) three years is \$748,986. By extending the contract for (3) three years we were able to negotiate a two and one-half percent (2.5%) increase for the administrative services each year. The Personnel/Risk Management Division will budget accordingly for this service.

#### **REASONS FOR RECOMMENDATION**


AIMS is a well-established firm and has provided excellent administrative and cost containment services to the City. In addition, AIMS is contracted with many public entities throughout the state and has the necessary experience to administer the City's workers' compensation program. The proposal submitted by AIMS is reasonable.

#### **ACTIONS FOLLOWING APPROVAL**

Staff will prepare a (3) three year agreement extension with AIMS for the City Manager's signature.

Prepared by: Lori Shively, Personnel/Risk Manager

Submitted by: Shonna Halterman, General Services Director





AGENDA ITEM NO: **CC-E-2**

City Manager: LS

# **CITY of CLOVIS**

## **REPORT TO THE CITY COUNCIL**

TO: Mayor and City Council

FROM: General Services Department

DATE: April 2, 2018

SUBJECT: Approval – Res. 18-\_\_\_; Amending the City's FY 17-18 Position Allocation Plan by adding one (1) Principal Account Clerk in the Finance Department

ATTACHMENTS: (1) Res. 18-\_\_\_, Position Allocation Plan  
(2) Exhibit A – Position Allocation Adjustment

### **CONFLICT OF INTEREST**

None

### **RECOMMENDATION**

Approve Resolution 18-\_\_\_; Amending the City's FY 17-18 Position Allocation Plan by adding one (1) Principal Account Clerk in the Finance Department.

### **EXECUTIVE SUMMARY**

Currently, the Finance Department is authorized for eight (8) Principal Account Clerk positions. It is recommended that the City's Position Allocation Plan be amended to add one (1) additional Principal Account Clerk position which would result in a total of nine (9) Principal Account Clerk positions in the department. Two part-time clerical positions would be eliminated.

### **BACKGROUND**

The Finance Department is requesting an additional Principal Account Clerk position to assist with the various duties. The specific duties would include receiving applications for business licenses; determine fees from established schedules; receive payments; issue licenses; enter business license data into computer terminal; prepare business license bills on computer, check for accuracy and mails; serve as liaison with other departments concerned with business license and permit application; compute penalties and interest due; issue and maintain records of a variety of permits; establish and maintain account receivable ledgers; prepare invoices and maintain records of receipts and delinquencies; send follow-up notices on overdue fees and accounts receivable. Two part-time staff positions were budgeted for



these duties, however, it is recommended that these vacant part-time positions be converted into one full-time position.

**FISCAL IMPACT**

The fiscal impact of full-time salary and benefits for the remainder of FY 17-18 is approximately \$18,000. However, due to two part-time staff vacancies, there is expected savings in the part-time line item of \$70,000 for FY 17-18. No part-time salaries are planned for FY 18-19 and those funds will be shifted to the full-time salary line item.

**REASON FOR RECOMMENDATION**

The duties assigned to the Finance Department have expanded beyond the capacity of the current full-time staff. Modification of the Position Allocation Plan requires the City Council's approval.

**ACTIONS FOLLOWING APPROVAL**

The position allocation for the Finance Department will be modified as noted in Exhibit A.

Prepared by: Lori Shively, Personnel/Risk Manager

Submitted by: Shonna Halterman, General Services Director



**RESOLUTION 18-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS APPROVING  
AMENDMENTS TO THE CITY'S FY 17-18 POSITION ALLOCATION PLAN**

The City Council of the City of Clovis resolves as follows:

**WHEREAS**, the FY17-18 Position Allocation was approved as part of the FY17-18 city budget adoption process; and,

**WHEREAS**, it has been determined that there is an operational need for one (1) additional Principal Account Clerk position to provide duties once performed by two part-time positions.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Clovis, that the City's FY 17-18 Position Allocation shall be adjusted as noted in Exhibit A attached.

The foregoing Resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on April 2, 2018 by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated April 2, 2018:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

*EXHIBIT A*

**POSITION ALLOCATION ADJUSTMENT BY DEPARTMENT FY 17-18**

<u>DEPARTMENT</u>	<u>NUMBER OF POSITIONS</u>
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**Finance Department**

Add: Principal Account Clerk	1.0
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AGENDA ITEM NO: CC-F-1

City Manager: *[Signature]*

# CITY *of* CLOVIS

## REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services Department

DATE: April 2, 2018

SUBJECT: Approval - Bid Award for CIP 18-01 Rubberized Cape Seal 2018, and;  
Authorize the City Manager to execute the contract on behalf the City

ATTACHMENT: (A) Vicinity Map

### CONFLICT OF INTEREST

None

### RECOMMENDATION

1. For the City Council to award a contract for CIP 18-01 Rubberized Cape Seal 2018 to Sierra Nevada Construction, Inc. in the amount of \$ 824,007.00 and;
2. For the City Council to authorize the City Manager to execute the contract on behalf of the City.

### EXECUTIVE SUMMARY

The construction involves installation of 81,000± SY of rubberized cape seal in various local streets in the City of Clovis. The rubberized cape seal involves an application of rubberized asphalt chip seal and an application of Type II slurry seal at each location. The chip seal binder may contain 100% recycled California waste tires at a minimum of 15% (minimum 300 lbs. per ton) by weight in the asphalt binder. This project also involves crack sealing and installation of 121,000± SY of Type II Slurry Seal to additional streets within the City boundary.

## BACKGROUND

The following is a summary of the bid results of March 20, 2018:

### BIDDERS

### BASE BIDS

Sierra Nevada Construction, Inc.	\$ 824,007.00
VSS International, Inc.	\$ 829,000.00
Intermountain Slurry Seal, Inc.	\$ 844,488.00
Pavement Coatings Company	\$ 867,500.00
Graham Contractors, Inc.	\$ 876,040.00
Telfer Pavement Technologies, LLC	\$ 892,900.00
California Pavement Maintenance Company, Inc.	\$ 893,240.00
American Pavement Systems, Inc.	\$ 898,260.00

### ENGINEER'S ESTIMATE

**\$ 937,500.00**

All bids were examined and the bidders' submittals were found to be in order. Staff has validated the lowest responsive bidder contractor's license status.

## FISCAL IMPACT

This project was approved in the 2017-2018 fiscal year budget. The project is solely supported by Measure 'C' pass through funds in the City Community Investment Program at the request by the Public Utilities Department.

## REASON FOR RECOMMENDATION

Sierra Nevada Construction, Inc. is the lowest responsible bidder. There are sufficient funds available for the anticipated costs of this project.

## ACTIONS FOLLOWING APPROVAL

1. The contract will be prepared and executed, subject to the Contractor providing performance security that is satisfactory to the City.
2. Construction will begin approximately two (2) weeks after contract execution and be completed in fifty (50) working days thereafter.

Prepared by: Thomas K. Cheng, Project Engineer

Submitted by:

Dean K. Smith FOR

Michael Harrison  
City Engineer

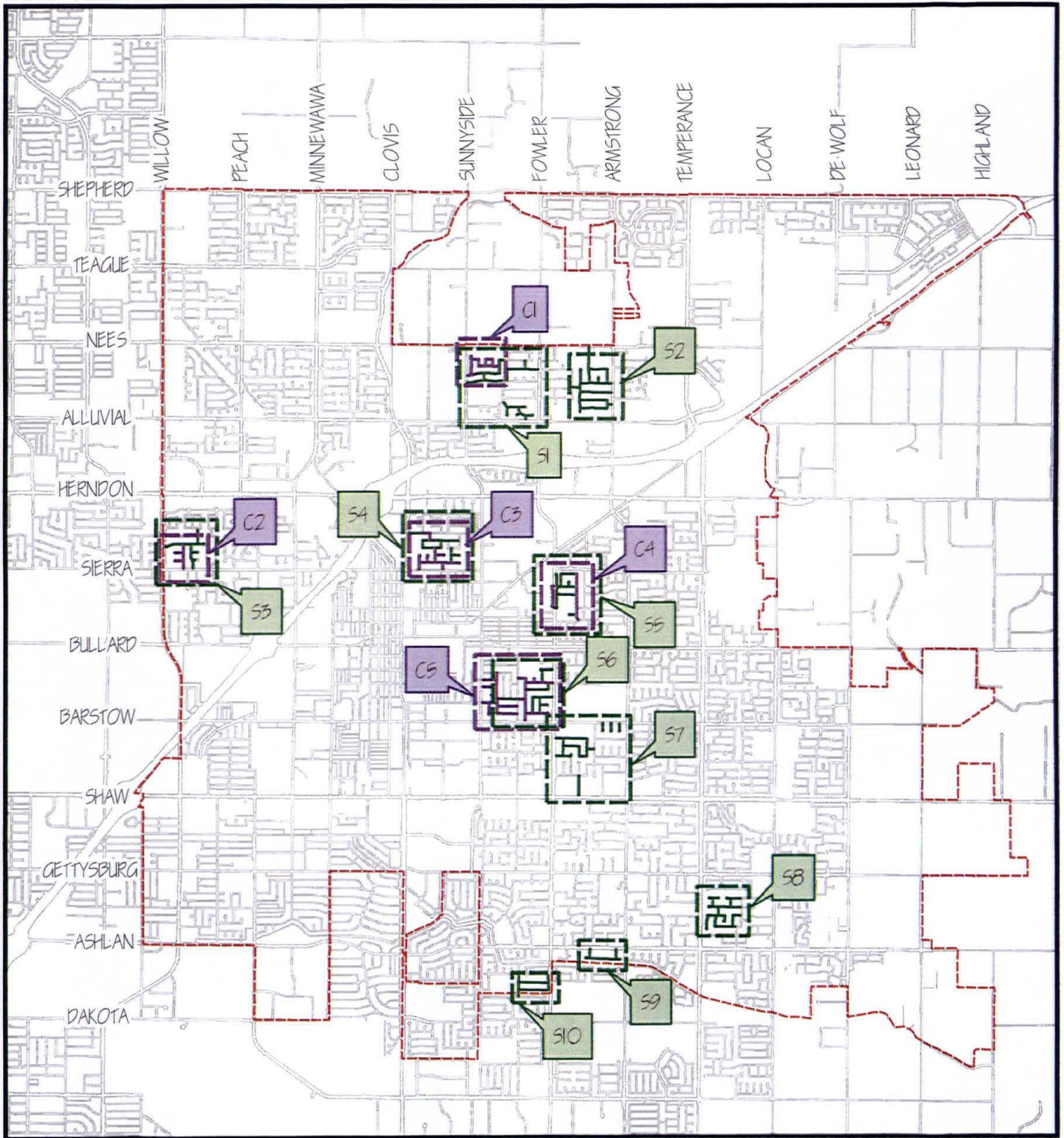
Recommended by:

Dwight Kroll  
Dwight Kroll  
Director of Planning and  
Development Services



# VICINITY MAP

CIP 18-01 RUBBERIZED CAPE SEAL 2018



Feb 14, 2018

## EXHIBIT A

CITY OF CLOVIS PROJECT LOCATIONS

 CLOVIS CITY LIMITS



1" = 5000'



AGENDA ITEM NO: CC-F-2

City Manager: 

# CITY *of* CLOVIS

## REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services Department

DATE: April 2, 2018

SUBJECT: Approval - Bid Award for CIP 18-02 Trail Pavement Maintenance 2018, and;  
Authorize the City Manager to execute the contract on behalf the City

ATTACHMENT: (A) Vicinity Map

### CONFLICT OF INTEREST

None

### RECOMMENDATION

1. For the City Council to award a contract for CIP 18-02 Trail Pavement Maintenance 2018 to VSS International, Inc. in the amount of \$ 63,975.00 and;
2. For the City Council to authorize the City Manager to execute the contract on behalf of the City.

### EXECUTIVE SUMMARY

The project consists of installation of 13,500 square yards of Type I slurry seal for Clovis Old Town Trail, which is an existing asphalt-concrete pavement 12 feet in width and approximately 2 miles from Shaw Avenue to Herndon Avenue. The work shall also involve site preparation, crack sealing, removal of traffic striping and reinstallation of thermoplastic striping. Light equipment will be used to avoid damages to the existing paved trail.



## BACKGROUND

The following is a summary of the bid results of March 20, 2018:

BIDDERS	BASE BIDS
VSS International, Inc.	\$ 63,975.00
Graham Contractors, Inc.	\$ 69,965.00
Pavement Coatings Company	\$ 79,050.00
Telfer Pavement Technologies, LLC	\$ 117,925.00
Intermountain Slurry Seal, Inc.	\$ 123,456.78
<b>ENGINEER'S ESTIMATE</b>	<b>\$ 81,000.00</b>

All bids were examined and the bidders' submittals were found to be in order. Staff has validated the lowest responsive bidder contractor's license status.

## FISCAL IMPACT

This project was approved in the 2017-2018 fiscal year budget. The project is solely supported by Measure 'C' pass through funds in the City Community Investment Program at the request by the Public Utilities Department.

## REASON FOR RECOMMENDATION

VSS International, Inc. is the lowest responsible bidder. There are sufficient funds available for the anticipated costs of this project.

## ACTIONS FOLLOWING APPROVAL

1. The contract will be prepared and executed, subject to the Contractor providing performance security that is satisfactory to the City.
2. Construction will begin approximately two (2) weeks after contract execution and be completed in twenty (20) working days thereafter.

Prepared by: Thomas K. Cheng, Project Engineer

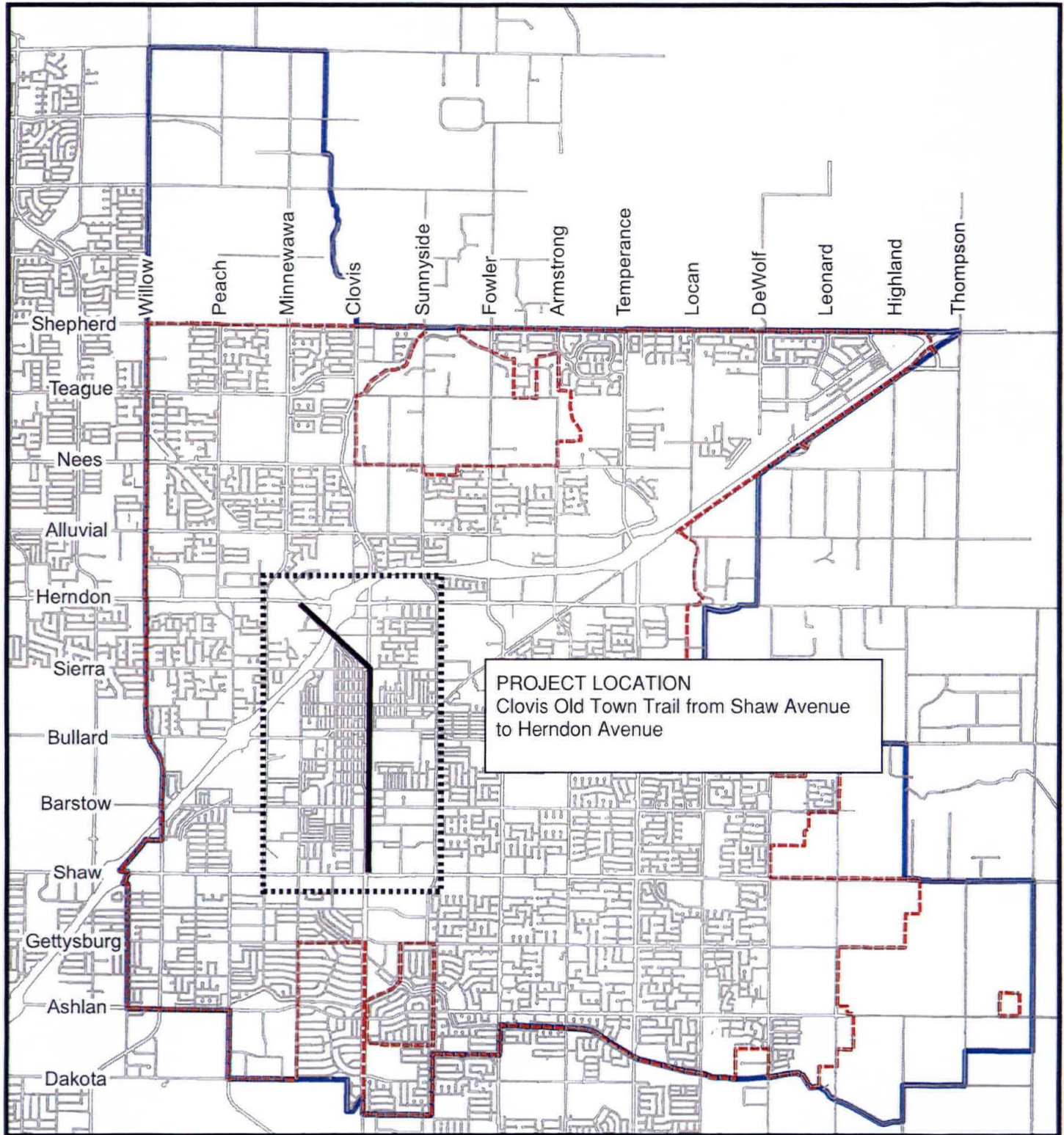
Submitted by: Sean K. Smith FOR  
Michael Harrison  
City Engineer

Recommended by: Dwight Kroll  
Dwight Kroll  
Director of Planning and  
Development Services



# VICINITY MAP

CIP 18-02 Trail Pavement Maintenance 2018



March 21, 2018

## ATTACHMENT A

 CITY LIMITS  SPHERE OF INFLUENCE



Prepared By: Thomas Cheng



AGENDA ITEM NO: CC-F-3  
City Manager: *[Signature]*

# CITY of CLOVIS

## REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services Department

DATE: April 2, 2018

SUBJECT: Approval – Contract Change Order for CIP 14-21 Shaw/Locan Traffic Signal & Widening, and Authorize City Manager to Execute the Contract Change Order on Behalf of the City

ATTACHMENT: (A) Vicinity Map

### CONFLICT OF INTEREST

None

### RECOMMENDATION

1. For the City Council to authorize a contract change order for CIP 14-21 Shaw/Locan Traffic Signal & Widening – Locan to Maine for the estimated amount of \$200,000.00, and;
2. For the City Council to authorize the City Manager to execute the contract change order on behalf of the City.

### EXECUTIVE SUMMARY

The purpose of this change order is to compensate the Contractor for additional costs related to the high voltage equipment purchase and installation for the undergrounding of PG&E facilities on Shaw Avenue east of Locan Avenue.



## BACKGROUND

The construction project was awarded by City Council on August 7, 2017 for the amount of \$1,707,316.00. The construction includes installation of a traffic signal at the intersection of Shaw/Locan and widening the remaining undeveloped section of Shaw Avenue between Locan Avenue and Maine Avenue. As part of the street widening, the overhead utilities were designed to be placed underground. Prior to beginning construction a field meeting was held with City staff, the contractor (Agee Construction), and PG&E to coordinate the construction work. At this meeting it was determined that there was some confusion of who was responsible for installation of the high voltage wire and equipment for the utility undergrounding. In contracts between the City and PG&E it was previously agreed that the City would be responsible for installation of these facilities. The contractor believed that the plans and specifications did not clearly indicate the intent of the City and did not think this work was part of their responsibilities. After negotiations with the contractor, City staff determined that all of the electrical wire was clearly identified as part of the project, but the PG&E equipment was not. It was further agreed to include the PG&E equipment with the contractor's work using the contract change order process.

## FISCAL IMPACT

This project is approved in the current year's fiscal budget in the Community Investment Program and is fully funded by Regional Measure 'C'. There is enough funding to support the additional cost of the contract change order.

## REASON FOR RECOMMENDATION

The project engineer and the City engineer concur that the contract change order cost is justifiable based on staff's investigation of high voltage electrical equipment cost and installation.

## ACTIONS FOLLOWING APPROVAL

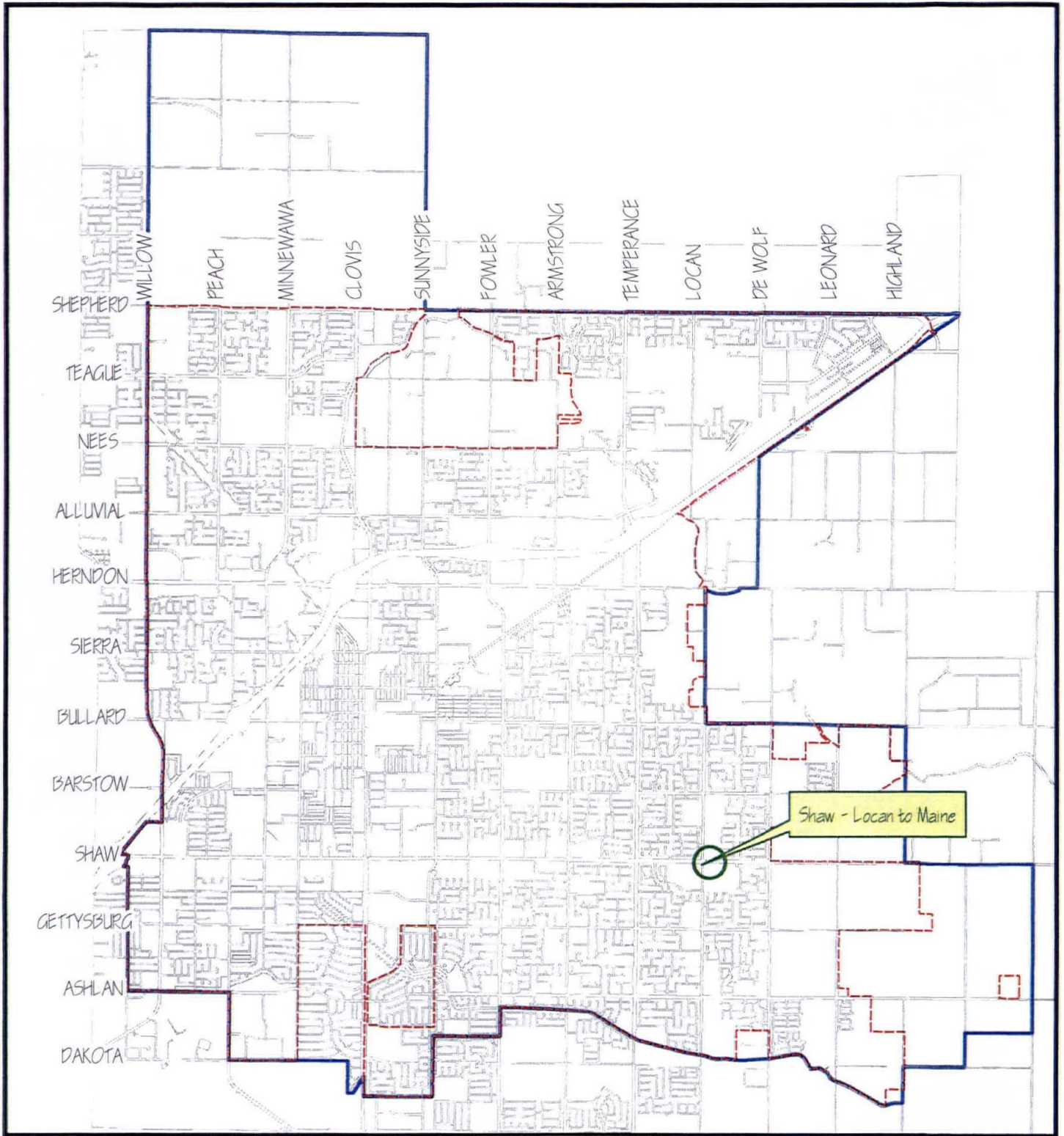
1. The contract change order for construction will be prepared and executed.

Prepared by: John Cross, Assistant Engineer

Submitted by: Sean K. Smith FOR Recommended by: Dwight Kroll  
Michael Harrison, PE  
City Engineer  
Dwight Kroll, AICP  
Director of Planning and  
Development Services

# VICINITY MAP

CIP 14-21 - Shaw/ Locan Traffic Signal & Widening



JULY 7, 2017

## ATTACHMENT A

CITY LIMITS

SPHERE OF INFLUENCE



1" = 8000'





AGENDA ITEM NO: CC-F-4

City Manager: *[Signature]*

# CITY *of* CLOVIS

## REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Planning and Development Services

DATE: April 2, 2018

SUBJECT: Approval – Extending the boundaries for the Cottage Home Program outside of the Central Clovis Specific Plan boundaries to allow all qualifying Old Town residents to use the set of plans for cottage home construction.

ATTACHMENT: Exhibit "A": Central Clovis Specific Plan Area & Proposed Alley Neighborhoods

### CONFLICT OF INTEREST

None.

### RECOMMENDATION

Staff recommends that the City Council approve extension of the boundaries for the use of cottage home plans outside of the Central Clovis Specific Plan area. With approval, properties having alley access will be able to use the plans.

### EXECUTIVE SUMMARY

The Central Clovis Specific Plan was adopted in 2016 which included the boundaries of Sunnyside Avenue on the east, Barstow Avenue to the south, Minnewawa Avenue on the west, and State Route 168 and the Old Town Trail to the north. The Specific Plan included an Old Town Cottage Home Program that provided the ability to create neighborhoods within alleys of the Central Clovis Specific Plan area. The City developed three cottage home plans that could be provided to qualifying homeowners free of charge. The Cottage Home Program was adopted in August 2017, and to date, the City has seen a growing interest throughout the community; there are currently six cottage home permits that have been issued with four of those in various stages of construction. Staff is seeking approval to



extend the boundaries of the Cottage Home Program so that any qualifying property owner having property with alley access can utilize the previously approved plans.

In these cases, the "second unit" ordinance would be utilized in analyzing the ability to develop "cottage" units.

## **BACKGROUND**

On August 25, 2016, the Clovis Planning Commission considered the 2016 Central Clovis Specific Plan and Master Plan Community (M-P-C) Overlay Zoning District and received additional public comments on the proposed specific plan update.

On November 7, 2016, the City Council approved the 2016 Central Clovis Specific Plan and Final Report and R2016-13, the Master Plan Community (M-P-C Zoning District).

## **FISCAL IMPACT**

None.

## **REASON FOR RECOMMENDATION**

The expansion to the Cottage Home Program boundaries would provide opportunity for other qualifying Old Town property owners to utilize the three cottage home plans the City has available. The expansion will allow more Old Town property owners to benefit from the existing accessory unit ordinance the city has in place.

Staff therefore recommends approval of expansion to the boundaries of the Cottage Home Program.

## **ACTIONS FOLLOWING APPROVAL**

None.

Prepared by: Maria Spera, Planning Technician II

Submitted by:

  
\_\_\_\_\_  
Dwight Kroll  
Director of Planning and  
Development Services





**Exhibit "A"**





AGENDA ITEM NO: 2-A  
City Manager: [Signature]

# CITY of CLOVIS

## REPORT TO THE CITY COUNCIL

TO: Mayor and City Council

FROM: Administration

DATE: April 2, 2018

SUBJECT: Consider Approval – Res. 18-\_\_\_\_, A Resolution of the Clovis City Council Supporting the Reducing Crime and Keeping California Safe Act of 2018

ATTACHMENTS: (A) Draft Resolution  
(B) Fact Sheet prepared by Keep California Safe Committee  
(C) List of “non-violent” crimes  
(D) Title and Summary Issued on January 4, 2018  
(E) Initiative Measure Language

### CONFLICT OF INTEREST

None

### RECOMMENDATION

For the City Council to approve a Resolution supporting the Reducing Crime and Keeping California Safe Act of 2018.

### EXECUTIVE SUMMARY

The Clovis City Council is being requested to approve a resolution (Attachment “A”) in support of the Reducing Crime and Keeping California Safe Act of 2018 (the “Act”). Attachments “B” and “C” are provided for additional background information. The Act is an attempt to correct some of the unintended problems caused by recent criminal justice reforms (Props 47, 57, and AB 109). These measures have reduced sentencing for many crimes that previously could have resulted in lengthy prison sentences. As more prisoners are released, Clovis has seen a rise in local crime and homelessness. Staff is recommending approval of the resolution due to the negative impact of recent criminal justice reforms that have impacted the City, and more specifically the Police Department. Attachment “D” is the Title and Summary Issued on January 4, 2018 prepared by the Attorney General of California. Attachment “E” is the draft initiative measure language.



## BACKGROUND

California's sentencing reform measures (Props 47, 57, and AB 109) have reduced sentencing for many crimes that previously could have resulted in lengthy prison sentences. As more prisoners are released, Clovis has seen a rise in local crime and homelessness. The reforms enacted in Proposition 47 have also limited DNA collection and redefined criminal theft. The reduced penalties for theft have led to an increase in merchandise loss, costing millions to business owners and consumers. The California Police Chiefs Association believes that because of the increase in criminal behavior, the recent reforms went too far too fast and need to be scaled back.

Under current law, rape of an unconscious person, trafficking a child for sex, shooting into an inhabited dwelling or vehicle, assault of a peace officer and other similar crimes are no longer classified as violent felonies, making criminals convicted of these crimes eligible for early release. Furthermore, sufficient post-release programming and deterrents are not in place to discourage recidivism. The release of criminals without meeting the mental health, drug rehabilitation, and reformative needs of the individuals often leads to homelessness and the continuous cycle of criminal behavior.

On February 1, 2018, the California Police Chiefs Association called attention to a statewide ballot measure, the Act, sponsored by the California Public Safety Partnership Issues Committee, a coalition of criminal justice advocates. The Act is an attempt to correct some of the unintended problems caused by recent criminal justice reforms. The Act will fix four related problems created by these recent laws:

1. Reclassify currently "non-violent" crimes like rape of an unconscious person, sex trafficking of a child, and 14 other serious crimes as "violent" – to prevent the early release of inmates convicted of these crimes.
2. Reform the parole system so violent felons are not released early from prison and strengthen oversight of post release community supervision.
3. Reform theft laws to restore accountability for serial thieves and organized theft rings.
4. Expand DNA collection from persons convicted of drug, theft, and domestic violence related crimes to help solve violent crimes and exonerate the innocent.

Without reform, Proposition 57 will require the early release of serious offenders without needed incentives to deter recidivism. Some of the crimes not classified as violent are disturbing and heinous acts that most people associate with violence. Crimes such as rape of an intoxicated person, shooting into a dwelling or vehicle, assault with a deadly weapon or causing great bodily injury, felony sex crimes when the victim is drugged, abducting a minor for prostitution, and solicitation to commit murder are only a few of the crimes classified as non-violent under Proposition 57.



Proponents are currently collecting signatures to place the Act on the November ballot. The initiative is supported by many law enforcement organizations, including the California Police Chiefs Association, Peace Officers Research Association of California, and the California District Attorneys Association. The League of California Cities has not yet taken a position on the initiative.

Adopting a resolution in support of the Act demonstrates support of the initiative intended to correct some of the unintended problems caused by recent criminal justice reforms.

### **REASON FOR RECOMMENDATION**

Staff is recommending approval of the resolution due to the negative impact of recent criminal justice reforms (Props 47, 57, and AB 109) that have impacted the Police Department.

### **ACTIONS FOLLOWING APPROVAL**

If approved, staff will final the resolution and provide to the Keep California Safe Coalition.

Prepared by: John Holt

Submitted by: John Holt, Assistant City Manager

A handwritten signature in blue ink, appearing to be "JH", is written over a horizontal line.

## RESOLUTION 18- \_\_\_\_

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS SUPPORTING THE REDUCING CRIME AND KEEPING CALIFORNIA SAFE ACT OF 2018.

WHEREAS, protecting every person in our state, including our most vulnerable children, from violent crime is of the utmost importance. Murderers, rapists, child molesters and other violent criminals should not be released early from prison; and

WHEREAS, since 2014, California has had a larger increase in violent crime than the rest of the United States. Since 2013, violent crime in Los Angeles has increased 69.5%. Violent crime in Sacramento rose faster during the first six months of 2015 than in any of the 25 largest U.S. cities tracked by the FBI; and

WHEREAS, The FBI Preliminary Semiannual Uniform Crime Report for 2017, which tracks crimes committed during the first six months of the past year in U. S. cities with populations over 100,000, indicates that last year violent crime increased again in most of California's largest cities; and

WHEREAS, recent changes to parole laws allowed the early release of dangerous criminals by the law's failure to define certain crimes as "violent." These changes allowed individuals convicted of sex trafficking of children, rape of an unconscious person, felony assault with a deadly weapon, battery on a police officer or firefighter, and felony domestic violence to be considered "nonviolent offenders."; and

WHEREAS, as a result, these so-called "non-violent" offenders are eligible for early release from prison after serving only a fraction of the sentence ordered by a judge; and

WHEREAS, violent offenders are also being allowed to remain free in our communities even when they commit new crimes and violate the terms of their post release community supervision, like the gang member charged with the murder of Whittier Police Officer, Keith Boyer; and

WHEREAS, this measure reforms the law so felons who violate the terms of their release can be brought back to court and held accountable for such violations; and

WHEREAS, nothing in this act is intended to create additional "strike" offenses which would increase the state prison population, nor is it intended to affect the ability of the California Department of Corrections and Rehabilitation to award educational and merit credits; and



WHEREAS, recent changes to California law allow individuals who steal repeatedly to face few consequences, regardless of their criminal record or how many times they steal; and

WHEREAS, as a result, between 2014 and 2016, California had the 2nd highest increase in theft and property crimes in the United States, while most states have seen a steady decline. According to the California Department of Justice, the value of property stolen in 2015 was \$2.5 billion with an increase of 13 percent since 2014, the largest single-year increase in at least ten years; and

WHEREAS, grocery store operators around the state have seen unprecedented increases in the amount of losses associated with shoplifting in their stores, with some reporting up to 150% increases in these losses from 2012 to present, with the largest jumps occurring since 2014; and

WHEREAS, shoplifting incidents have started to escalate in such a manner that have endangered innocent customers and employees; and

WHEREAS, individuals who repeatedly steal often do so to support their drug habit. Recent changes to California law have reduced judges' ability to order individuals convicted of repeated theft crimes into effective drug treatment programs; and

WHEREAS, California needs stronger laws for those who are repeatedly convicted of theft related crimes, which will encourage those who repeatedly steal to support their drug problem to enter into existing drug treatment programs. This measure enacts such reforms; and

WHEREAS, collecting DNA from criminals is essential to solving violent crimes. Over 450 violent crimes including murder, rape and robbery have gone unsolved because DNA is being collected from fewer criminals; and

WHEREAS, DNA collected in 2015 from a convicted child molester solved the rape-murders of two six-year-old boys that occurred three decades ago in Los Angeles County. DNA collected in 2016 from an individual caught driving a stolen car solved the 2012 San Francisco Bay Area rape/murder of an 83-year-old woman; and

WHEREAS, recent changes to California law unintentionally eliminated DNA collection for theft and drug crimes. This measure restores DNA collection from persons convicted for such offenses; and

WHEREAS, permitting collection of more DNA samples will help identify suspects, clear the innocent and free the wrongly convicted, and

WHEREAS, this measure does not affect existing legal safeguards that protect the privacy of individuals by allowing for the removal of their DNA profile if they are not charged with a crime, are acquitted or are found innocent.

NOW, THEREFORE BE IT RESOLVED, that the City of Clovis hereby supports the Reducing Crime and Keeping California Safe Act of 2018.

\* \* \* \* \*

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on April 2, 2018 by the following vote, to wit.

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED: April 2, 2018

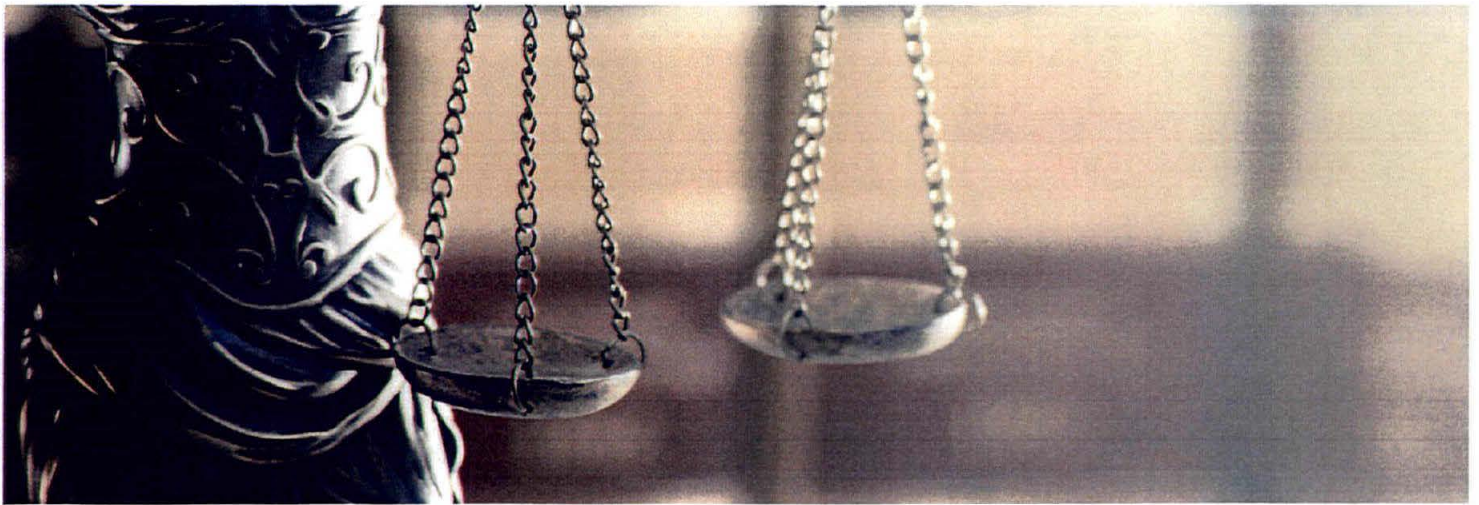
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Mayor

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City Clerk





# An Initiative for Public Safety

## VIOLENT CRIME

**What is a 'violent crime'? For California's new parole law, the definition is murky — and it matters** *(Los Angeles Times)*

- Expands the list of violent crimes for which early release is not an option
- Under current law, rape of an unconscious person, trafficking a child for sex, assault of a peace officer, felony domestic violence and other similar crimes are not classified as "violent felonies" — making criminals convicted of these crimes eligible for early release

## DNA COLLECTION

**California's DNA database gets fewer hits due to Prop. 47 (KCRA)**

- Reinstates DNA collection for certain crimes that were reduced to misdemeanors as part of Proposition 47
- Multiple studies have shown that DNA collected from theft and drug crimes has helped solve other violent crimes, including robbery, rape and murder. Since passage of Prop. 47, cold case hits have dropped over 2,000, with more than 450 of those hits connected to violent crimes

## SERIAL THEFT

**An explosion of California property crimes  
— due to Prop. 47** *(San Francisco Chronicle)*

- Revises the theft threshold by adding a felony for serial theft — when a person is caught for the 3rd time stealing with a value of \$250
- Prop. 47 changed the dollar threshold for theft to be considered a felony — from \$450 to \$950. As a result, there has been an explosion of serial theft and an inability of law enforcement to prosecute these crimes effectively. Theft has increased by 12% to 25%, with losses of a billion dollars since the law was passed.

## PAROLE VIOLATIONS

**Suspect in Whittier police officer shooting death  
arrested 5 times in last 7 months** *(Whittier Daily News)*

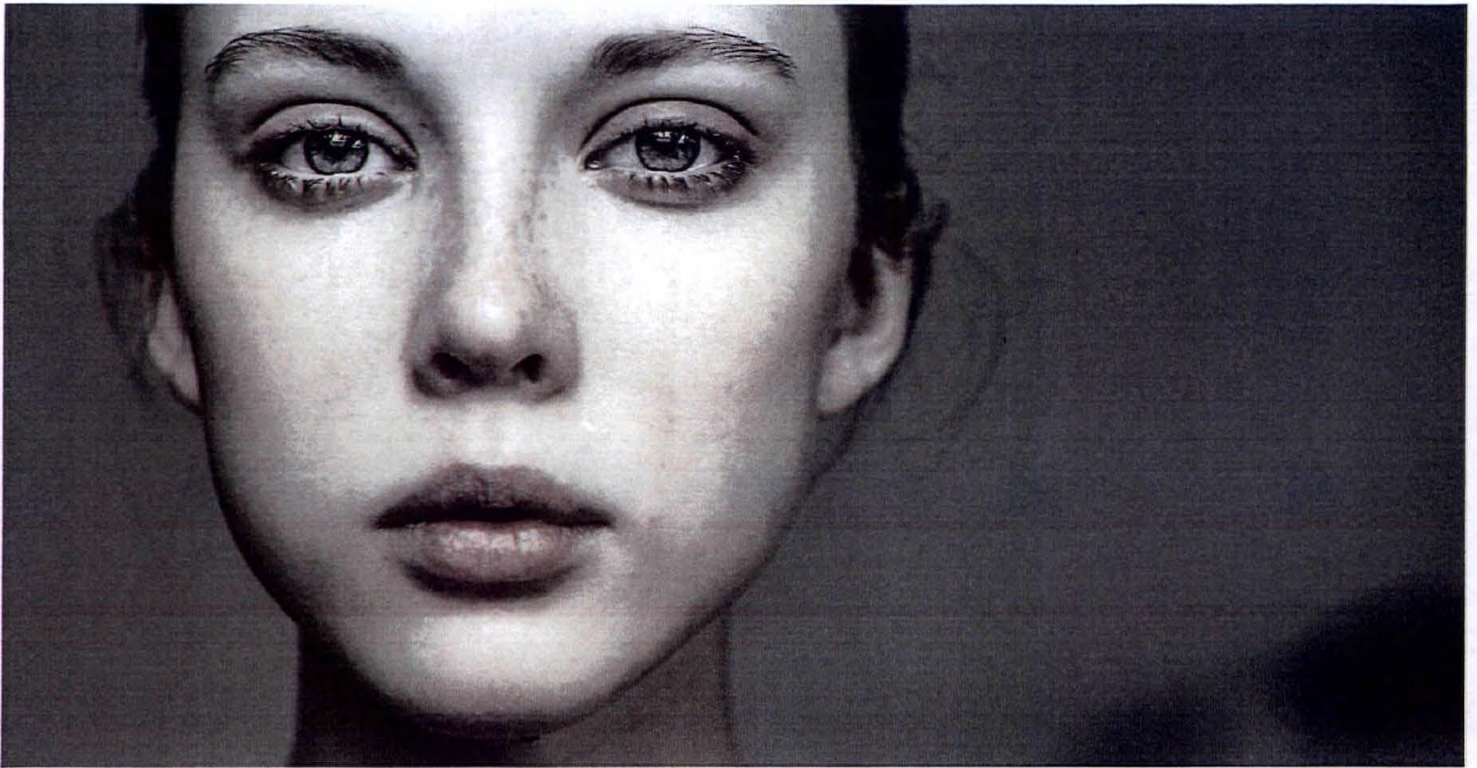
- Requires the Board of Parole Hearings to consider an inmate's entire criminal history when deciding parole, not just his most recent commitment offense; and requires a mandatory hearing to determine whether parole should be revoked for any parolee who violates the terms of his parole for the third time
- AB 109 bases parole solely on an offender's commitment offense, resulting in the release of inmates with serious and violent criminal histories. Moreover, parolees who repeatedly violate the terms of their parole currently face few consequences, allowing them to remain on the street

# Keep California Safe

For more information, please visit [www.keepcalsafe.org](http://www.keepcalsafe.org).

Paid for by Keep California Safe, a Project of the California Public Safety Partnership Issues Committee  
Committee major funding from  
Los Angeles Deputy Sheriffs  
Peace Officers Research Association of California  
Los Angeles Police Protective League





## **Sell a child for sex in California. Get out of prison early.**

The following crimes are not considered "violent" under current California law, allowing inmates convicted of these crimes to be released from prison early. Our initiative stops early release by making these crimes violent.

- Human trafficking of a child
- Abducting a minor for prostitution
- Rape by intoxication
- Rape of an unconscious person
- Felony sexual penetration, sodomy, or oral copulation when drugs are used or the victim is unconscious
- Drive by shooting, or shooting on foot, at an inhabited dwelling or vehicle
- Assault with a firearm
- Felony domestic violence
- Felony assault with a deadly weapon
- Serial arson
- Solicitation to commit murder
- Assault with caustic chemicals
- Assault by a caregiver on a child under 8 that could result in death or coma
- Felony assault using force likely to produce great bodily injury
- False imprisonment/taking a hostage when avoiding arrest or to use as a shield
- Assaulting a police officer, with or without a firearm
- Exploding a bomb to injure people
- Felony hate crime
- Any felony where a deadly weapon is used
- Felony use of force or threats against a witness or victim of a crime
- Felony elder or dependent adult abuse
- Conspiracy to commit any of the above offenses

## **Keep California Safe**

For more information, please visit [www.keepcalsafe.org](http://www.keepcalsafe.org).

Paid for by Keep California Safe, a Project of the California Public Safety Partnership Issues Committee  
Committee major funding from  
Los Angeles Deputy Sheriffs  
Peace Officers Research Association of California  
Los Angeles Police Protective League

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**RESTRICTS PAROLE FOR NON-VIOLENT OFFENDERS. AUTHORIZES FELONY SENTENCES FOR CERTAIN OFFENSES CURRENTLY TREATED ONLY AS**

**MISDEMEANORS. INITIATIVE STATUTE.** Imposes restrictions on parole program for non-violent offenders who have completed the full term for their primary offense. Expands list of offenses that disqualify an inmate from this parole program. Changes standards and requirements governing parole decisions under this program. Authorizes felony charges for specified theft crimes currently chargeable only as misdemeanors, including some theft crimes where the value is between \$250 and \$950. Requires persons convicted of specified misdemeanors to submit to collection of DNA samples for state database. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government:

**Increased state and local correctional costs likely in the tens of millions of dollars annually, primarily related to increases in penalties for certain theft-related crimes and the changes to the nonviolent offender release consideration process. Increased state and local court-related costs of around a few million dollars annually related to processing probation revocations and additional felony theft filings. Increased state and local law enforcement costs not likely to exceed a couple million dollars annually related to collecting and processing DNA samples from additional offenders. (17-0044.)**



Date: 11/14/2017**RECEIVED****NOV 28 2017**

Initiative Coordinator  
Office of the Attorney General  
State of California  
PO Box 994255  
Sacramento, CA 94244-25550

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: Initiative No. 17-0044 - Amendment # 1

Dear Initiative Coordinator:

Pursuant to subdivision (b) of Section 9002 of the Elections Code, enclosed please find Amendment # 1 to Initiative No. 17-0044. The amendments are reasonably germane to the theme, purpose or subject of the initiative measure as originally proposed.

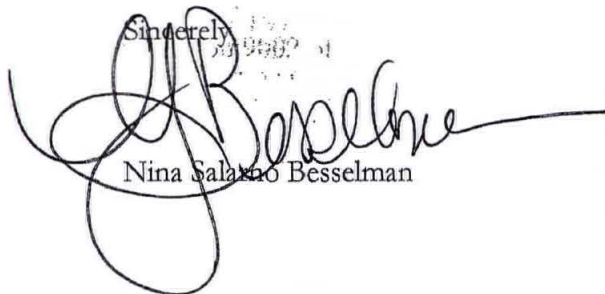
I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law, using the amended language.

For purposes of inquiries from the public and the media, please direct them as follows:

Charles H. Bell, Jr.  
455 Capitol Mall, Suite 600  
Sacramento, CA 95814  
[cbell@bmhlaw.com](mailto:cbell@bmhlaw.com)  
(916) 442-7757

Thank you for your time and attention processing my request.

Sincerely,



Nina Salzano Besselman

## **INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS**

### **SEC. 1. TITLE**

This act shall be known and may be cited as the Reducing Crime and Keeping California Safe Act of 2018.

### **SEC. 2. PURPOSES**

This measure will fix three related problems created by recent laws that have threatened the public safety of Californians and their children from violent criminals. This measure will:

- A. Reform the parole system so violent felons are not released early from prison, strengthen oversight of post release community supervision and tighten penalties for violations of terms of post release community supervision;
- B. Reform theft laws to restore accountability for serial thieves and organized theft rings; and
- C. Expand DNA collection from persons convicted of drug, theft and domestic violence related crimes to help solve violent crimes and exonerate the innocent.

### **SEC. 3. FINDINGS AND DECLARATIONS**

#### **A. Prevent Early Release of Violent Felons**

1. Protecting every person in our state, including our most vulnerable children, from violent crime is of the utmost importance. Murderers, rapists, child molesters and other violent criminals should not be released early from prison.
2. Since 2014, California has had a larger increase in violent crime than the rest of the United States. Since 2013, violent crime in Los Angeles has increased 69.5%. Violent crime in Sacramento rose faster during the first six months of 2015 than in any of the 25 largest U.S. cities tracked by the FBI.
3. Recent changes to parole laws allowed the early release of dangerous criminals by the law's failure to define certain crimes as "violent." These changes allowed individuals convicted of sex trafficking of children, rape of an unconscious person, felony assault with a deadly weapon, battery on a police officer or firefighter, and felony domestic violence to be considered "non-violent offenders."
4. As a result, these so-called "non-violent" offenders are eligible for early release from prison after serving only a fraction of the sentence ordered by a judge.
5. Violent offenders are also being allowed to remain free in our communities even when they commit new crimes and violate the terms of their post release community supervision, like the gang member charged with the murder of Whittier Police Officer, Keith Boyer.
6. Californians need better protection from such violent criminals.
7. Californians need better protection from felons who repeatedly violate the terms of their post release community supervision.
8. This measure reforms the law so felons who violate the terms of their release can be brought back to court and held accountable for such violations.
9. Californians need better protection from such violent criminals. This measure reforms the law to define such crimes as "violent felonies" for purposes of early release.



10. Nothing in this act is intended to create additional “strike” offenses which would increase the state prison population.

11. Nothing in this act is intended to affect the ability of the California Department of Corrections and Rehabilitation to award educational and merit credits.

**B. Restore Accountability for Serial Theft and Organized Theft Rings**

1. Recent changes to California law allow individuals who steal repeatedly to face few consequences, regardless of their criminal record or how many times they steal.

2. As a result, between 2014 and 2016, California had the 2<sup>nd</sup> highest increase in theft and property crimes in the United States, while most states have seen a steady decline. According to the California Department of Justice, the value of property stolen in 2015 was \$2.5 billion with an increase of 13 percent since 2014, the largest single-year increase in at least ten years.

3. Individuals who repeatedly steal often do so to support their drug habit. Recent changes to California law have reduced judges’ ability to order individuals convicted of repeated theft crimes into effective drug treatment programs.

4. California needs stronger laws for those who are repeatedly convicted of theft related crimes, which will encourage those who repeatedly steal to support their drug problem to enter into existing drug treatment programs. This measure enacts such reforms.

**C. Restore DNA Collection to Solve Violent Crime**

1. Collecting DNA from criminals is essential to solving violent crimes. Over 450 violent crimes including murder, rape and robbery have gone unsolved because DNA is being collected from fewer criminals.

2. DNA collected in 2015 from a convicted child molester solved the rape-murders of two six-year-old boys that occurred three decades ago in Los Angeles County. DNA collected in 2016 from an individual caught driving a stolen car solved the 2012 San Francisco Bay Area rape-murder of an 83-year-old woman.

3. Recent changes to California law unintentionally eliminated DNA collection for theft and drug crimes. This measure restores DNA collection from persons convicted for such offenses.

4. Permitting collection of more DNA samples will help identify suspects, clear the innocent and free the wrongly convicted.

5. This measure does not affect existing legal safeguards that protect the privacy of individuals by allowing for the removal of their DNA profile if they are not charged with a crime, are acquitted or are found innocent.

**SEC. 4. PAROLE CONSIDERATION**

**Section 3003 of the Penal Code is amended to read:**

[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]

(a) Except as otherwise provided in this section, an inmate who is released on parole or postrelease supervision as provided by Title 2.05 (commencing with Section 3450) shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration. For purposes of this subdivision, “last legal residence” shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county if that would be in the best interests of the public. If the Board of Parole Hearings setting the conditions of



parole for inmates sentenced pursuant to subdivision (b) of Section 1168, as determined by the parole consideration panel, or the Department of Corrections and Rehabilitation setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.  
 (2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) The Department of Corrections and Rehabilitation, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall give serious consideration to releasing him or her to the county where the joint venture program employer is located if that employer states to the paroling authority that he or she intends to employ the inmate upon release.

(e)(1) The following information, if available, shall be released by the Department of Corrections and Rehabilitation to local law enforcement agencies regarding a paroled inmate or inmate placed on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) who is released in their jurisdictions:

(A) Last, first, and middle names.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

(D) Date of parole or placement on postrelease community supervision and discharge.

(E) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

(F) California Criminal Information Number, FBI number, social security number, and driver's license number.

(G) County of commitment.

(H) A description of scars, marks, and tattoos on the inmate.

(I) Offense or offenses for which the inmate was convicted that resulted in parole or postrelease community supervision in this instance.

(J) Address, including all of the following information:

(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

(ii) City and ZIP Code.

(iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.

(K) Contact officer and unit, including all of the following information:

(i) Name and telephone number of each contact officer.



(ii) Contact unit type of each contact officer such as units responsible for parole, registration, or county probation.

(L) A digitized image of the photograph and at least a single digit fingerprint of the parolee.

(M) A geographic coordinate for the inmate's residence location for use with a Geographical Information System (GIS) or comparable computer program.

(N) Copies of the record of supervision during any prior period of parole.

(2) Unless the information is unavailable, the Department of Corrections and Rehabilitation shall electronically transmit to the county agency identified in subdivision (a) of Section 3451 the inmate's tuberculosis status, specific medical, mental health, and outpatient clinic needs, and any medical concerns or disabilities for the county to consider as the offender transitions onto postrelease community supervision pursuant to Section 3450, for the purpose of identifying the medical and mental health needs of the individual. All transmissions to the county agency shall be in compliance with applicable provisions of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191), the federal Health Information Technology for Clinical Health Act (HITECH) (Public Law 111-005), and the implementing of privacy and security regulations in Parts 160 and 164 of Title 45 of the Code of Federal Regulations. This paragraph shall not take effect until the Secretary of the United States Department of Health and Human Services, or his or her designee, determines that this provision is not preempted by HIPAA.

(3) Except for the information required by paragraph (2), the information required by this subdivision shall come from the statewide parolee database. The information obtained from each source shall be based on the same timeframe.

(4) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be continually available to local law enforcement agencies upon request.

(5) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

~~(f) Notwithstanding any other law, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, and paragraph (16) of subdivision (c) of Section 667.5 or a felony in which the defendant inflicts great bodily injury on a person other than an accomplice that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation finds that there is a need to protect the life, safety, or well-being of a victim or witness.~~ the victim or witness, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, any of the following crimes:

(1) A violent felony as defined subdivision (c) of Section 667.5 or subdivision (a) of Section 3040.1.

(2) A felony in which the defendant inflicts great bodily injury on a person, other than an accomplice, that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9.

(g) Notwithstanding any other law, an inmate who is released on parole for a violation of Section 288 or 288.5 whom the Department of Corrections and Rehabilitation determines poses a high risk to the public shall not be placed or reside, for the duration of his or her parole, within one-



half mile of a public or private school including any or all of kindergarten and grades 1 to 12, inclusive.

(h) Notwithstanding any other law, an inmate who is released on parole or postrelease community supervision for a stalking offense shall not be returned to a location within 35 miles of the victim's or witness' actual residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate on parole or postrelease community supervision, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation, or the supervising county agency, as applicable, finds that there is a need to protect the life, safety, or well-being of the victim. If an inmate who is released on postrelease community supervision cannot be placed in his or her county of last legal residence in compliance with this subdivision, the supervising county agency may transfer the inmate to another county upon approval of the receiving county.

(i) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.

(j) An inmate may be paroled to another state pursuant to any other law. The Department of Corrections and Rehabilitation shall coordinate with local entities regarding the placement of inmates placed out of state on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450).

(k)(1) Except as provided in paragraph (2), the Department of Corrections and Rehabilitation shall be the agency primarily responsible for, and shall have control over, the program, resources, and staff implementing the Law Enforcement Automated Data System (LEADS) in conformance with subdivision (e). County agencies supervising inmates released to postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) shall provide any information requested by the department to ensure the availability of accurate information regarding inmates released from state prison. This information may include all records of supervision, the issuance of warrants, revocations, or the termination of postrelease community supervision. On or before August 1, 2011, county agencies designated to supervise inmates released to postrelease community supervision shall notify the department that the county agencies have been designated as the local entity responsible for providing that supervision.

(2) Notwithstanding paragraph (1), the Department of Justice shall be the agency primarily responsible for the proper release of information under LEADS that relates to fingerprint cards.

(l) In addition to the requirements under subdivision (k), the Department of Corrections and Rehabilitation shall submit to the Department of Justice data to be included in the supervised release file of the California Law Enforcement Telecommunications System (CLETS) so that law enforcement can be advised through CLETS of all persons on postrelease community supervision and the county agency designated to provide supervision. The data required by this subdivision shall be provided via electronic transfer.

**Section 3040.1 is added to the Penal Code to read:**

(a) For purposes of early release or parole consideration under the authority of Section 32 of Article I of the Constitution, Sections 12838.4 and 12838.5 of the Government Code, Sections 3000.1, 3041.5, 3041.7, 3052, 5000, 5054, 5055, 5076.2 of this Code and the rulemaking authority granted by Section 5058 of this Code, the following shall be defined as "violent felony offenses":

(1) Murder or voluntary manslaughter;



- (2) Mayhem;
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262;
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286;
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a;
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288;
- (7) Any felony punishable by death or imprisonment in the state prison for life;
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55;
- (9) Any robbery;
- (10) Arson, in violation of subdivision (a) or (b) of Section 451;
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289;
- (12) Attempted murder;
- (13) A violation of Section 18745, 18750, or 18755;
- (14) Kidnapping;
- (15) Assault with the intent to commit a specified felony, in violation of Section 220;
- (16) Continuous sexual abuse of a child, in violation of Section 288.5;
- (17) Carjacking, as defined in subdivision (a) of Section 215;
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1;
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22;
- (20) Threats to victims or witnesses, as defined in subdivision (c) of Section 136.1;
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary;
- (22) Any violation of Section 12022.53;
- (23) A violation of subdivision (b) or (c) of Section 11418;
- (24) Solicitation to commit murder;
- (25) Felony assault with a firearm in violation of subsections (a)(2) and (b) of Section 245;
- (26) Felony assault with a deadly weapon in violation of paragraph (1) of subdivision (a) of Section 245;
- (27) Felony assault with a deadly weapon upon the person of a peace officer or firefighter in violation of subdivisions (c) and (d) of Section 245;
- (28) Felony assault by means of force likely to produce great bodily injury in violation of paragraph (4) of subdivision (a) of Section 245;
- (29) Assault with caustic chemicals in violation of Section 244;
- (30) False imprisonment in violation of Section 210.5;
- (31) Felony discharging a firearm in violation of Section 246;
- (32) Discharge of a firearm from a motor vehicle in violation of subsection (c) of Section 26100;
- (33) Felony domestic violence resulting in a traumatic condition in violation of Section 273.5;
- (34) Felony use of force or threats against a witness or victim of a crime in violation of Section 140;



- (35) Felony resisting a peace officer and causing death or serious injury in violation of Section 148.10;
  - (36) A felony hate crime punishable pursuant to Section 422.7;
  - (37) Felony elder or dependent adult abuse in violation of subdivision (b) of Section 368;
  - (38) Rape in violation of paragraphs (1), (3), or (4) of subdivision (a) of Section 261;
  - (39) Rape in violation of Section 262;
  - (40) Sexual penetration in violation of subdivision (b), (d) or (e) of Section 289;
  - (41) Sodomy in violation of subdivision (f), (g), or (i) of Section 286;
  - (42) Oral copulation in violation of subdivision (f), (g), or (i) of Section 288a;
  - (43) Abduction of a minor for purposes of prostitution in violation of Section 267;
  - (44) Human trafficking in violation of subdivision (a), (b), or (c) of Section 236.1;
  - (45) Child abuse in violation of Section 273ab;
  - (46) Possessing, exploding, or igniting a destructive device in violation of Section 18740;
  - (47) Two or more violations of subsection (c) of Section 451;
  - (48) Any attempt to commit an offense described in this subdivision;
  - (49) Any felony in which it is pled and proven that the Defendant personally used a dangerous or deadly weapon;
  - (50) Any offense resulting in lifetime sex offender registration pursuant to Sections 290 through 290.009.
  - (51) Any conspiracy to commit an offense described in this Section.
- (b) The provisions of this section shall apply to any inmate serving a custodial prison sentence on or after the effective date of this section, regardless of when the sentence was imposed.

**Section 3040.2 is added to the Penal Code to read:**

- (a) Upon conducting a nonviolent offender parole consideration review, the hearing officer for the Board of Parole Hearings shall consider all relevant, reliable information about the inmate.
- (b) The standard of review shall be whether the inmate will pose an unreasonable risk of creating victims as a result of felonious conduct if released from prison.
- (c) In reaching this determination, the hearing officer shall consider the following factors:
  - (1) Circumstances surrounding the current conviction;
  - (2) The inmate's criminal history, including involvement in other criminal conduct, both juvenile and adult, which is reliably documented;
  - (3) The inmate's institutional behavior including both rehabilitative programming and institutional misconduct;
  - (4) Any input from the inmate, any victim, whether registered or not at the time of the referral, and the prosecuting agency or agencies;
  - (5) The inmate's past and present mental condition as documented in records in the possession of the Department of Corrections and Rehabilitation;
  - (6) The inmate's past and present attitude about the crime;
  - (7) Any other information which bears on the inmate's suitability for release.
- (d) The following circumstances shall be considered by the hearing officer in determining whether the inmate is unsuitable for release:
  - (1) Multiple victims involved in the current commitment offense;
  - (2) A victim was particularly vulnerable due to age or physical or mental condition;
  - (3) The inmate took advantage of a position of trust in the commission of the crime;



- (4) The inmate was armed with or used a firearm or other deadly weapon in the commission of the crime;
- (5) A victim suffered great bodily injury during the commission of the crime;
- (6) The inmate committed the crime in association with a criminal street gang;
- (7) The inmate occupied a position of leadership or dominance over other participants in the commission of the crime, or the inmate induced others to participate in the commission of the crime;
- (8) During the commission of the crime, the inmate had a clear opportunity to cease but instead continued;
- (9) The inmate has engaged in other reliably documented criminal conduct which was an integral part of the crime for which the inmate is currently committed to prison;
- (10) The manner in which the crime was committed created a potential for serious injury to persons other than the victim of the crime;
- (11) The inmate was on probation, parole, post release community supervision, mandatory supervision or was in custody or had escaped from custody at the time of the commitment offense;
- (12) The inmate was on any form of pre- or post-conviction release at the time of the commitment offense;
- (13) The inmate's prior history of violence, whether as a juvenile or adult;
- (14) The inmate has engaged in misconduct in prison or jail;
- (15) The inmate is incarcerated for multiple cases from the same or different counties or jurisdictions.
- (e) The following circumstances shall be considered by the hearing officer in determining whether the inmate is suitable for release:
  - (1) The inmate does not have a juvenile record of assaulting others or committing crimes with a potential of harm to victims;
  - (2) The inmate lacks any history of violent crime;
  - (3) The inmate has demonstrated remorse;
  - (4) The inmate's present age reduces the risk of recidivism;
  - (5) The inmate has made realistic plans if released or has developed marketable skills that can be put to use upon release;
  - (6) The inmate's institutional activities demonstrate an enhanced ability to function within the law upon release;
  - (7) The inmate participated in the crime under partially excusable circumstances which do not amount to a legal defense;
  - (8) The inmate had no apparent predisposition to commit the crime but was induced by others to participate in its commission;
  - (9) The inmate has a minimal or no criminal history;
  - (10) The inmate was a passive participant or played a minor role in the commission of the crime;
  - (11) The crime was committed during or due to an unusual situation unlikely to reoccur.

**Section 3040.3 is added to the Penal Code to read:**

- (a) An inmate whose current commitment includes a concurrent, consecutive or stayed sentence for an offense or allegation defined as violent by subdivision (c) of Section 667.5 or 3040.1 shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.



- (b) An inmate whose current commitment includes an indeterminate sentence shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.
- (c) An inmate whose current commitment includes any enhancement which makes the underlying offense violent pursuant to subdivision (c) of Section 667.5 shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.
- (d) For purposes of Section 32 of Article I of the Constitution, the "full term" of the "primary offense" shall be calculated based only on actual days served on the commitment offense.

**Section 3040.4 is added to the Penal Code to read:**

Pursuant to subsection (b) of Section 28 of Article I of the Constitution, the Department shall give reasonable notice to victims of crime prior to an inmate being reviewed for early parole and release. The Department shall provide victims with the right to be heard regarding early parole consideration and to participate in the review process. The Department shall consider the safety of the victims, the victims' family, and the general public when making a determination on early release.

- (a) Prior to conducting a review for early parole, the Department shall provide notice to the prosecuting agency or agencies and to registered victims, and shall make reasonable efforts to locate and notify victims who are not registered.
- (b) The prosecuting agency shall have the right to review all information available to the hearing officer including, but not limited to the inmate's central file, documented adult and juvenile criminal history, institutional behavior including both rehabilitative programming and institutional misconduct, any input from any person or organization advocating on behalf of the inmate, and any information submitted by the public.
- (c) A victim shall have a right to submit a statement for purposes of early parole consideration, including a confidential statement.
- (d) All prosecuting agencies, any involved law enforcement agency, and all victims, whether or not registered, shall have the right to respond to the board in writing.
- (e) Responses to the Board by prosecuting agencies, law enforcement agencies, and victims must be made within 90 days of the date of notification of the inmate's eligibility for early parole review or consideration.
- (f) The Board shall notify the prosecuting agencies, law enforcement agencies, and the victims of the Nonviolent Offender Parole decision within 10 days of the decision being made.
- (g) Within 30 days of the notice of the final decision concerning Nonviolent Offender Parole Consideration, the inmate and the prosecuting agencies may request review of the decision.
- (h) If an inmate is denied early release under the Nonviolent Offender Parole provisions of Section 32 of Article I of the Constitution, the inmate shall not be eligible for early Nonviolent Offender parole consideration for two (2) calendar years from the date of the final decision of the previous denial.

**Section 3041 of the Penal Code is amended to read:**

[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]

- (a)(1) In the case of any inmate sentenced pursuant to any law, other than Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, the Board of Parole Hearings shall meet with each inmate during the sixth year before the inmate's minimum eligible parole date for the purposes of reviewing and documenting the inmate's activities and conduct pertinent to parole



eligibility. During this consultation, the board shall provide the inmate information about the parole hearing process, legal factors relevant to his or her suitability or unsuitability for parole, and individualized recommendations for the inmate regarding his or her work assignments, rehabilitative programs, and institutional behavior. Within 30 days following the consultation, the board shall issue its positive and negative findings and recommendations to the inmate in writing.

(2) One year before the inmate's minimum eligible parole date a panel of two or more commissioners or deputy commissioners shall again meet with the inmate and shall normally grant parole as provided in Section 3041.5. No more than one member of the panel shall be a deputy commissioner.

(3) In the event of a tie vote, the matter shall be referred for an en banc review of the record that was before the panel that rendered the tie vote. Upon en banc review, the board shall vote to either grant or deny parole and render a statement of decision. The en banc review shall be conducted pursuant to subdivision (e).

(4) Upon a grant of parole, the inmate shall be released subject to all applicable review periods. However, an inmate shall not be released before reaching his or her minimum eligible parole date as set pursuant to Section 3046 unless the inmate is eligible for earlier release pursuant to his or her youth offender parole eligibility date or elderly parole eligibility date.

(5) At least one commissioner of the panel shall have been present at the last preceding meeting, unless it is not feasible to do so or where the last preceding meeting was the initial meeting. Any person on the hearing panel may request review of any decision regarding parole for an en banc hearing by the board. In case of a review, a majority vote in favor of parole by the board members participating in an en banc review is required to grant parole to any inmate.

(b)(1) The panel or the board, sitting en banc, shall grant parole to an inmate unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual. The panel or the board, sitting en banc, shall consider the entire criminal history of the inmate, including all current or past convicted offenses, in making this determination.

(2) After July 30, 2001, any decision of the parole panel finding an inmate suitable for parole shall become final within 120 days of the date of the hearing. During that period, the board may review the panel's decision. The panel's decision shall become final pursuant to this subdivision unless the board finds that the panel made an error of law, or that the panel's decision was based on an error of fact, or that new information should be presented to the board, any of which when corrected or considered by the board has a substantial likelihood of resulting in a substantially different decision upon a rehearing. In making this determination, the board shall consult with the commissioners who conducted the parole consideration hearing.

(3) A decision of a panel shall not be disapproved and referred for rehearing except by a majority vote of the board, sitting en banc, following a public meeting.

(c) For the purpose of reviewing the suitability for parole of those inmates eligible for parole under prior law at a date earlier than that calculated under Section 1170.2, the board shall appoint panels of at least two persons to meet annually with each inmate until the time the person is released pursuant to proceedings or reaches the expiration of his or her term as calculated under Section 1170.2.

(d) It is the intent of the Legislature that, during times when there is no backlog of inmates awaiting parole hearings, life parole consideration hearings, or life rescission hearings, hearings



will be conducted by a panel of three or more members, the majority of whom shall be commissioners. The board shall report monthly on the number of cases where an inmate has not received a completed initial or subsequent parole consideration hearing within 30 days of the hearing date required by subdivision (a) of Section 3041.5 or paragraph (2) of subdivision (b) of Section 3041.5, unless the inmate has waived the right to those timeframes. That report shall be considered the backlog of cases for purposes of this section, and shall include information on the progress toward eliminating the backlog, and on the number of inmates who have waived their right to the above timeframes. The report shall be made public at a regularly scheduled meeting of the board and a written report shall be made available to the public and transmitted to the Legislature quarterly.

(e) For purposes of this section, an en banc review by the board means a review conducted by a majority of commissioners holding office on the date the matter is heard by the board. An en banc review shall be conducted in compliance with the following:

- (1) The commissioners conducting the review shall consider the entire record of the hearing that resulted in the tie vote.
- (2) The review shall be limited to the record of the hearing. The record shall consist of the transcript or audiotape of the hearing, written or electronically recorded statements actually considered by the panel that produced the tie vote, and any other material actually considered by the panel. New evidence or comments shall not be considered in the en banc proceeding.
- (3) The board shall separately state reasons for its decision to grant or deny parole.
- (4) A commissioner who was involved in the tie vote shall be recused from consideration of the matter in the en banc review.

**Section 3454 of the Penal Code is amended to read:**

[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]

(a) Each supervising county agency, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, shall establish a review process for assessing and refining a person's program of postrelease supervision. Any additional postrelease supervision conditions shall be reasonably related to the underlying offense for which the offender spent time in prison, or to the offender's risk of recidivism, and the offender's criminal history, and be otherwise consistent with law.

(b) Each county agency responsible for postrelease supervision, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, may determine additional appropriate conditions of supervision listed in Section 3453 consistent with public safety, including the use of continuous electronic monitoring as defined in Section 1210.7, order the provision of appropriate rehabilitation and treatment services, determine appropriate incentives, and determine and order appropriate responses to alleged violations, which can include, but shall not be limited to, immediate, structured, and intermediate sanctions up to and including referral to a reentry court pursuant to Section 3015, or flash incarceration in a city or county jail. Periods of flash incarceration are encouraged as one method of punishment for violations of an offender's condition of postrelease supervision.

(c) As used in this title, "flash incarceration" is a period of detention in a city or county jail due to a violation of an offender's conditions of postrelease supervision. The length of the detention period can range between one and 10 consecutive days. Flash incarceration is a tool that may be used by each county agency responsible for postrelease supervision. Shorter, but if necessary



more frequent, periods of detention for violations of an offender's postrelease supervision conditions shall appropriately punish an offender while preventing the disruption in a work or home establishment that typically arises from longer term revocations.

(d) Upon a decision to impose a period of flash incarceration, the probation department shall notify the court, public defender, district attorney, and sheriff of each imposition of flash incarceration.

**Section 3455 of the Penal Code is amended to read:**

[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]

(a) If the supervising county agency has determined, following application of its assessment processes, that intermediate sanctions as authorized in subdivision (b) of Section 3454 are not appropriate, or if the supervised person has violated the terms of his or her release for a third time, the supervising county agency shall petition the court pursuant to Section 1203.2 to revoke, modify, or terminate postrelease community supervision. At any point during the process initiated pursuant to this section, a person may waive, in writing, his or her right to counsel, admit the violation of his or her postrelease community supervision, waive a court hearing, and accept the proposed modification of his or her postrelease community supervision. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of postrelease community supervision, the circumstances of the alleged underlying violation, the history and background of the violator, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of postrelease community supervision, the revocation hearing officer shall have authority to do all of the following:

- (1) Return the person to postrelease community supervision with modifications of conditions, if appropriate, including a period of incarceration in a county jail.
- (2) Revoke and terminate postrelease community supervision and order the person to confinement in a county jail.
- (3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court's discretion.

(b) (1) At any time during the period of postrelease community supervision, if a peace officer, including a probation officer, has probable cause to believe a person subject to postrelease community supervision is violating any term or condition of his or her release, or has failed to appear at a hearing pursuant to Section 1203.2 to revoke, modify, or terminate postrelease community supervision, the officer may, without a warrant or other process, arrest the person and bring him or her before the supervising county agency established by the county board of supervisors pursuant to subdivision (a) of Section 3451. Additionally, an officer employed by the supervising county agency may seek a warrant and a court or its designated hearing officer appointed pursuant to Section 71622.5 of the Government Code shall have the authority to issue a warrant for that person's arrest.

(2) The court or its designated hearing officer shall have the authority to issue a warrant for a person who is the subject of a petition filed under this section who has failed to appear for a hearing on the petition or for any reason in the interests of justice, or to remand to custody a person who does appear at a hearing on the petition for any reason in the interests of justice.



(3) Unless a person subject to postrelease community supervision is otherwise serving a period of flash incarceration, whenever a person who is subject to this section is arrested, with or without a warrant or the filing of a petition for revocation, the court may order the release of the person under supervision from custody under any terms and conditions the court deems appropriate.

(c) The revocation hearing shall be held within a reasonable time after the filing of the revocation petition. Except as provided in paragraph (3) of subdivision (b), based upon a showing of a preponderance of the evidence that a person under supervision poses an unreasonable risk to public safety, or that the person may not appear if released from custody, or for any reason in the interests of justice, the supervising county agency shall have the authority to make a determination whether the person should remain in custody pending the first court appearance on a petition to revoke postrelease community supervision, and upon that determination, may order the person confined pending his or her first court appearance.

(d) Confinement pursuant to paragraphs (1) and (2) of subdivision (a) shall not exceed a period of 180 days in a county jail for each custodial sanction.

(e) A person shall not remain under supervision or in custody pursuant to this title on or after three years from the date of the person's initial entry onto postrelease community supervision, except when his or her supervision is tolled pursuant to Section 1203.2 or subdivision (b) of Section 3456.

## SEC. 5. DNA COLLECTION

### Section 296 of the Penal Code is amended to read:

[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]

(a) The following persons shall provide buccal swab samples, right thumbprints, and a full palm print impression of each hand, and any blood specimens or other biological samples required pursuant to this chapter for law enforcement identification analysis:

(1) Any person, including any juvenile, who is convicted of or pleads guilty or no contest to any felony offense, or is found not guilty by reason of insanity of any felony offense, or any juvenile who is adjudicated under Section 602 of the Welfare and Institutions Code for committing any felony offense.

(2) Any adult person who is arrested for or charged with any of the following felony offenses:

(A) Any felony offense specified in Section 290 or attempt to commit any felony offense described in Section 290, or any felony offense that imposes upon a person the duty to register in California as a sex offender under Section 290.

(B) Murder or voluntary manslaughter or any attempt to commit murder or voluntary manslaughter.

(C) Commencing on January 1, 2009, any adult person arrested or charged with any felony offense.

(3) Any person, including any juvenile, who is required to register under Section 290 through 290.009 or 457.1 because of the commission of, or the attempt to commit, a felony or misdemeanor offense, or any person, including any juvenile, who is housed in a mental health facility or sex offender treatment program after referral to such facility or program by a court after being charged with any felony offense.



(4) Any person, excluding a juvenile, who is convicted of, or pleads guilty or no contest to, any of the following offenses:

(A) A misdemeanor violation of Section 459.5;

(B) A violation of subdivision (a) of Section 473 that is punishable as a misdemeanor pursuant to subdivision (b) of Section 473;

(C) A violation of subdivision (a) of Section 476a that is punishable as a misdemeanor pursuant to subdivision (b) of Section 476a;

(D) A violation of Section 487 that is punishable as a misdemeanor pursuant to Section 490.2;

(E) A violation of Section 496 that is punishable as a misdemeanor;

(F) A misdemeanor violation of subdivision (a) of Section 11350 of the Health and Safety Code;

(G) A misdemeanor violation of subdivision (a) of Section 11377 of the Health and Safety Code;

(H) A misdemeanor violation of paragraph (1) of subdivision (e) of Section 243;

(I) A misdemeanor violation of Section 273.5;

(J) A misdemeanor violation of paragraph (1) of subdivision (b) of Section 368;

(K) Any misdemeanor violation where the victim is defined as set forth in Section 6211 of the Family Code;

(L) A misdemeanor violation of paragraph (3) of subdivision (b) of Section 647.

~~(4)~~(5) The term "felony" as used in this subdivision includes an attempt to commit the offense.

~~(5)~~(6) Nothing in this chapter shall be construed as prohibiting collection and analysis of specimens, samples, or print impressions as a condition of a plea for a non-qualifying offense.

(b) The provisions of this chapter and its requirements for submission of specimens, samples and print impressions as soon as administratively practicable shall apply to all qualifying persons regardless of sentence imposed, including any sentence of death, life without the possibility of parole, or any life or indeterminate term, or any other disposition rendered in the case of an adult or juvenile tried as an adult, or whether the person is diverted, fined, or referred for evaluation, and regardless of disposition rendered or placement made in the case of juvenile who is found to have committed any felony offense or is adjudicated under Section 602 of the Welfare and Institutions Code.

(c) The provisions of this chapter and its requirements for submission of specimens, samples, and print impressions as soon as administratively practicable by qualified persons as described in subdivision (a) shall apply regardless of placement or confinement in any mental hospital or other public or private treatment facility, and shall include, but not be limited to, the following persons, including juveniles:

(1) Any person committed to a state hospital or other treatment facility as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(2) Any person who has a severe mental disorder as set forth within the provisions of Article 4 (commencing with Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

(3) Any person found to be a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(d) The provisions of this chapter are mandatory and apply whether or not the court advises a person, including any juvenile, that he or she must provide the data bank and database specimens, samples, and print impressions as a condition of probation, parole, or any plea of guilty, no contest, or not guilty by reason of insanity, or any admission to any of the offenses described in subdivision (a).



(e) If at any stage of court proceedings the prosecuting attorney determines that specimens, samples, and print impressions required by this chapter have not already been taken from any person, as defined under subdivision (a) of Section 296, the prosecuting attorney shall notify the court orally on the record, or in writing, and request that the court order collection of the specimens, samples, and print impressions required by law. However, a failure by the prosecuting attorney or any other law enforcement agency to notify the court shall not relieve a person of the obligation to provide specimens, samples, and print impressions pursuant to this chapter.

(f) Prior to final disposition or sentencing in the case the court shall inquire and verify that the specimens, samples, and print impressions required by this chapter have been obtained and that this fact is included in the abstract of judgment or dispositional order in the case of a juvenile. The abstract of judgment issued by the court shall indicate that the court has ordered the person to comply with the requirements of this chapter and that the person shall be included in the state's DNA and Forensic Identification Data Base and Data Bank program and be subject to this chapter.

However, failure by the court to verify specimen, sample, and print impression collection or enter these facts in the abstract of judgment or dispositional order in the case of a juvenile shall not invalidate an arrest, plea, conviction, or disposition, or otherwise relieve a person from the requirements of this chapter.

## SEC. 6. SHOPLIFTING

### Section 459.5 of the Penal Code is amended to read:

[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]

(a) Notwithstanding Section 459, shoplifting is defined as entering a commercial establishment with intent to ~~commit larceny~~ steal retail property or merchandise while that establishment is open during regular business hours, where the value of the property that is taken or intended to be taken does not exceed nine hundred fifty dollars (\$950). Any other entry into a commercial establishment with intent to commit larceny is burglary. Shoplifting shall be punished as a misdemeanor, except that a person with one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290 may be punished pursuant to subdivision (h) of Section 1170.

(b) Any act of shoplifting as defined in subdivision (a) shall be charged as shoplifting. No person who is charged with shoplifting may also be charged with burglary or theft of the same property.

(c) "Retail property or merchandise" means any article, product, commodity, item or component intended to be sold in retail commerce.

(d) "Value" means the retail value of an item as advertised by the affected retail establishment, including applicable taxes.

(e) This section shall not apply to theft of a firearm, forgery, the unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e, forgery of an access card pursuant to Section 484f, the unlawful use of an access card pursuant to Section 484g, theft from an elder pursuant to subdivision (e) of Section 368, receiving stolen property, embezzlement, or identity theft pursuant to Section 530.5, or the theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.



**Section 490.2 of the Penal Code is amended to read:**

[language added to an existing section of law is designated in underlined type and language deleted is designated in ~~strikeout~~ type]

- (a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars (\$950) shall be considered petty theft and shall be punished as a misdemeanor, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.
- (b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.
- (c) This section shall not apply to theft of a firearm, forgery, the unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e, forgery of an access card pursuant to Section 484f, the unlawful use of an access card pursuant to Section 484g, theft from an elder pursuant to subdivision (e) of Section 368, receiving stolen property, embezzlement, or identity theft pursuant to Section 530.5, or the theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.

**SEC. 7. SERIAL THEFT****Section 490.3 is added to the Penal Code to read:**

- (a) This section applies to the following crimes:
- (1) petty theft;
  - (2) shoplifting;
  - (3) grand theft;
  - (4) burglary;
  - (5) carjacking;
  - (6) robbery;
  - (7) a crime against an elder or dependent adult within the meaning of subdivision (d) or (e) of Section 368;
  - (8) any violation of Section 496;
  - (9) unlawful taking or driving of a vehicle within the meaning of Section 10851 of the Vehicle Code.
  - (10) Forgery.
  - (11) The unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e.
  - (12) Forgery of an access card pursuant to Section 484f.
  - (13) The unlawful use of an access card pursuant to Section 484g.
  - (14) Identity theft pursuant to Section 530.5.
  - (15) The theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.
- (b) Notwithstanding subsection (3) of subdivision (h) of Section 1170, subsections (2) and (4) of subdivision (a) of Section 1170.12, subsections (2) and (4) of subdivision (c) of Section 667, any person who, having been previously convicted of two or more of the offenses specified in subdivision (a), which offenses were committed on separate occasions, and who is subsequently convicted of petty theft or shoplifting where the value of the money, labor, or real or personal



property taken exceeds two hundred fifty dollars (\$250) shall be punished by imprisonment in the county jail not exceeding one year, or imprisonment pursuant to subdivision (h) of Section 1170.

(c) This section does not prohibit a person or persons from being charged with any violation of law arising out of the same criminal transaction that violates this section.

## **SEC. 8. ORGANIZED RETAIL THEFT**

### **Section 490.4 is added to the Penal Code to read:**

(a) "Retail property or merchandise" means any article, product, commodity, item or component intended to be sold in retail commerce.

(b) "Value" means the retail value of an item as advertised by the affected retail establishment, including applicable taxes.

(c) Any person, who, acting in concert with one or more other persons, commits two (2) or more thefts pursuant to Sections 459.5 or 490.2 of retail property or merchandise having an aggregate value exceeding two hundred fifty dollars (\$250) and unlawfully takes such property during a period of one hundred eighty days (180) is guilty of organized retail theft.

(d) Notwithstanding subsection (3) of subdivision (h) of Section 1170, subsections (2) and (4) of subdivision (a) of Section 1170.12, subsections (2) and (4) of subdivision (c) of Section 667, organized retail theft shall be punished by imprisonment in the county jail not exceeding one year, or imprisonment pursuant to subdivision (h) of Section 1170.

(e) For purposes of this section, the value of retail property stolen by persons acting in concert may be aggregated into a single count or charge, with the sum of the value of all of the retail merchandise being the values considered in determining the degree of theft.

(f) An offense under this section may be prosecuted in any county in which an underlying theft could have been prosecuted as a separate offense.

(g) This section does not prohibit a person or persons from being charged with any violation of law arising out of the same criminal transaction that violates this section.

## **SEC. 9. AMENDMENTS**

This act shall not be amended by the Legislature except by a statute that furthers the purposes, findings and declarations of the Act and is passed in each house by roll call vote entered in the journal, three-fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters.

## **SEC. 10. SEVERABILITY**

If any provision of this Act, or any part of any provision, or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remaining provisions and applications which can be given effect without the invalid or unconstitutional provision or application shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

## **SEC. 11. CONFLICTING INITIATIVES**

(a) In the event that this measure and another measure addressing parole consideration pursuant to Section 32 of Article I of the Constitution, revocation of parole and post release community supervision, DNA collection, or theft offenses shall appear on the same statewide ballot, the



provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.