

Regular Meeting Agenda (REVISED) Visalia City Council

Mayor: Bob Link
Vice Mayor: Amy Shuklian
Council Member: Warren Gubler
Council Member: Mike Lane
Council Member: Steve Nelsen



Tuesday, February 16, 2010

City Hall Council Chambers, 707 W. Acequia, Visalia CA 93291
Work Session 4:00 p.m.; Closed Session immediately following
Regular Session 7:00 p.m.

4:00 p.m. **WORK SESSION AND ACTION ITEMS (as described)**

Public Comment on Work Session and Closed Session Items

1. Presentation by TCAG and VRPA Technologies regarding the Regional Transportation Plan and Environmental Draft for 2011. **Receive public comment.**

Convene jointly as Visalia City Council and Redevelopment Agency Board

2. Authorize preparation of Mooney Boulevard Corridor Zoning Study, including solicitation of proposals from local planning firms to assist in preparing the study and conducting public outreach. **Receive public comment.**

Adjourn Redevelopment Agency Board and remain seated as Visalia City Council

3. Mobile home park memorandum of understanding and master lease for 2010-15.
Receive public comment.

The time listed for each work session item is an estimate of the time the Council will address that portion of the agenda. Members of the public should be aware that the estimated times may vary. Any items not completed prior to Closed Session may be continued to the evening session at the discretion of the Council.

ITEMS OF INTEREST

6:00 p.m. **CLOSED SESSION (immediately following Work Session)**

4. Conference with Legal Counsel – Existing Litigation (Subdivision (a) of G.C. Section 54956.9)
Name of Case: Confidential v. City of Visalia, et al. TCSC # 09-232070
5. Conference with Legal Counsel – Anticipated Litigation - Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 2 potential case.

6. Conference With Real Property Negotiators (G.C. §54956.8)
Property: Portion of APN: 081-020-073 & 079 (No Site Address Available); and Portions of APN: 081-020-038,-040,-041,-042,-043,-044, and -060 (No Site Address Available)
Under Negotiation: Consideration and approval of appraisals; Authority to negotiate price, terms and conditions of potential purchase
Negotiating Parties: Steve Salomon, Chris Young, Colleen Carlson, Mathew and Barbara Bruno and their agent, Niniv Tamimi; Alice I. Roye

7:00 p.m.

CALL TO ORDER REGULAR SESSION

PLEDGE OF ALLEGIANCE

INVOCATION - Rev. Marilyn Creel, Chaplain Kaweah Delta Hospice

SPECIAL PRESENTATIONS/RECOGNITION

PUBLIC COMMENTS - *This is the time for citizens to comment on subject matters that are not on the agenda that are within the jurisdiction of the Visalia City Council.*

This is also the time for citizens to comment on items listed on the Consent Calendar or to request an item from the Consent Calendar be pulled for discussion purposes. Comments related to Regular or Public Hearing Items that are listed on this agenda will be heard at the time that item is discussed or at the time the Public Hearing is opened for comment.

In fairness to all who wish to speak tonight, each speaker from the public will be allowed three minutes (timing lights mounted on the lectern will notify you with a flashing red light when your time has expired). Please begin your comments by stating and spelling your name and providing your street name and city.

7. **CONSENT CALENDAR** - *Consent Calendar items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made and then the item will be removed from the Consent Calendar to be discussed and voted upon by a separate motion.*

- a) Authorization to read ordinances by title only.
- b) Authorization for the City Manager to enter into an Agreement with the College of Sequoias for the expansion of dispatch services by the Visalia Police Department. The Agreement will be extended on an annual basis and the City will collect a fee for the services.
- c) Authorization for staff to apply to the Federal Transit Administration for a Bus & Bus Facilities Grant in the amount of \$8.5 million for Sequoia Shuttle Hybrid Electric Buses and the construction of the Sequoia Shuttle Visitors Center.
- d) Authorization to submit a grant application in the amount of \$119,264 to the Governor's Office of Homeland Security for solar lighting equipment at the Visalia City Coach bus stops. **Resolution No. 2010-05 required.**
- e) Nominate Council Member Mike Lane to fill the vacancy representing a "large" city to the San Joaquin Valley Air Pollution Control District Governing Board. **Resolution 2010-06 required.**
- f) Authorizing the application of \$2.5 million for "Proposition 84" Park Bond Act Monies to develop Civic Center Park (2.8 acres) along Mill Creek between Tipton St. and Burke Street. **Resolution No. 2010-07 required.**

- g) Authorization to Award RFB 09-10-22, Annual Contract for Biosolids Removal, to Terra Renewal of Garden Grove, CA at the bid price of \$24.21 per ton.
- h) Appointment of Tyson Carroll to the Visalia Environmental Committee.
- i) Receipt of the Comprehensive Annual Financial Report (CAFR) for the City of Visalia, the Single Audit Report, and the Component Unit Financial Statements for the Redevelopment Agency of the City of Visalia for the 2008-09 fiscal year.

Authorize filing Notice of Completion for the following:

- j) Ferguson Avenue Extension to Mooney Blvd. Project, at a final cost of (\$498,363.00). CIP Project # 1131/8060.
- k) Luisi Acres Phase 1, a subdivision (containing 37 single family lots), located northwest corner of Giddings Street and Ferguson Avenue.
- l) Valley Oak, a subdivision (containing 28 single family lots), located on the southeast corner of Walnut Avenue and Shirk Street.
- m) Oakwest No. 7, a subdivision (containing 59 single family lots), located at the northeast corner of Shirk Street and Hillsdale Avenue

Convene jointly as Visalia City Council and Redevelopment Agency Board

8. RDA Consent Calendar

- a) Authorize the retention of Rosenow Spevacek Group, Inc. to prepare a Five-Year Implementation Plan (2009-14) for the Visalia Redevelopment Agency's four (4) project areas.

Adjourn Redevelopment Agency Board and remain seated as Visalia City Council

REGULAR ITEMS AND PUBLIC HEARINGS - *Comments related to Regular Items and Public Hearing Items are limited to three minutes per speaker, for a maximum of 30 minutes per item, unless otherwise extended by the Mayor.*

- 9. **Continued until March 1, 2010: PUBLIC HEARING** - Introduction of Ordinance for a Development Agreement for Tentative Parcel Map No. 2006-09: A request by Di Mello Toscana Inc. to enter into a Development Agreement with the City of Visalia related to the required infrastructure improvements for Tentative Parcel Map No. 2006-09, which divides 9.76 acres into nine parcels. The site is located on the north side of Goshen Avenue, approximately 850 ft. east of Shirk St. APNs: 077-720-001 thru 007, 077-730-001 and 077-730-002. **Ordinance 2010-__ required.**
- 10. **PUBLIC HEARING** –Appeal of the Planning Commission's denial of Variance No. 2009-10 by Ad Art Sign Company and Visalia Properties to erect a 35-foot high/72 square foot double face freestanding sign for the Orchard Supply Hardware store located in the C-R (Regional Retail Commercial) Zone. The site is located at 2230 West Walnut Avenue. (APN: 095-134-045 & 046). **Resolution No. 2010-03 required.** *Postponed from October 19, 2009, November 16, 2009, January 11, 2010, and January 19, 2010 at request of applicant*

11. Approve 3rd Amendment to the 2006-07 Action Plan, 4th Amendment to the 2007-08 Action Plan, 5th Amendment to the 2008-09 Action Plan and redirecting CDBG and HOME funds and allocate CHDO funds to Community Services Employment Training, Inc. (CSET) to acquire foreclosed single family dwellings, rehabilitate and resell to income qualifying families.
12. Semi-annual update on Comprehensive Smart Team Efforts and Accomplishments from June through December 2009.

CLOSED SESSION REPORT (if any)

Upcoming Council Meetings

- Monday, March 1, 2010, 4:00 p.m. Work Session; Regular Session 7:00 p.m., Council Chambers 707 W. Acequia
- Monday, March 15, 2010, 4:00 p.m. Work Session; Regular Session 7:00 p.m., Council Chambers 707 W. Acequia
- Monday, March 29, 2010, 5:00 p.m. Joint Meeting with Planning Commission, Visalia Convention Center, 303 E. Acequia.

In compliance with the American Disabilities Act, if you need special assistance to participate in meetings call (559) 713-4512 48-hours in advance of the meeting. For Hearing-Impaired - Call (559) 713-4900 (TDD) 48-hours in advance of the scheduled meeting time to request signing services.

Any written materials relating to an item on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the Office of the City Clerk, 425 E. Oak Street, Visalia, CA 93291, during normal business hours.

The City's newsletter, *Inside City Hall*, is published after all regular City Council meetings. To self-subscribe, go to http://www.ci.visalia.ca.us/about/inside_city_hall_newsletter.asp. For more information, contact Community Relations Manager Nancy Loliva at nloliva@ci.visalia.ca.us.

*A quote from
Visalia's past:*

“Dogs—Our town is overrun with that most intolerable nuisance—a surplus of dog flesh. We are the friend of intelligent, respectable canines, but as for these ‘cures of low degree,’ we are decidedly down on them, and hope that some philanthropic individual will devise a speedy and effectual plan to abbreviate their sojourn with us.” Visalia Equal Rights Expositor, September 7, 1862 (About 6 months before the newspaper was destroyed by soldiers stationed in Visalia)

City of Visalia

Memo



To: Visalia City Council
From: Michael Olmos, Assistant City Manager
Cc: Steve Salomon, City Manager
Date: February 16, 2010
Re: Regional Transportation Plan Update, Item 1

Tulare County Association of Governments (TCAG) has asked to present an update and proposed timeline for the Regional Transportation Plan (RTP). TCAG staff and their consultants VRPA Technologies will be presenting the item.

Attached is the update which they will be presenting at our February 16, 2010 City Council Work Session. The RTP presents an opportunity for long range transportation planning and programming of funds. Council is encouraged to consider the long range transportation needs of our community and region and discuss their inclusion in the RTP.

Two areas of long range transportation needs should be considered for inclusion in the RTP. First is continued work on a **regional light rail system**. Corridor planning and future right of way acquisition should be included in the RTP. Until light rail is in place, the corridor can be considered for rapid bus transit.

Connection to the future Tulare/ Kings Regional High Speed Rail Station in Hanford should also be planned in the RTP. This would include transit connections and potential future light rail utilizing the Cross Valley Rail system.

Tulare County Association of Governments

February 5, 2010

Prepared by Benjamin Giuliani, TCAG Staff

SUBJECT:

Regional Transportation Plan (RTP) Update

BACKGROUND:

The Regional Transportation Plan (RTP) is a 20-year planning document that TCAG updates at least once every four years. The RTP outlines all planned transportation improvements and must be financially constrained, based on funding estimates. Elements of the RTP include: the Executive Summary, Policy Element, Action Element, Financial Element, and Valleywide Chapter and associated documents such as the Air Quality Conformity Findings and Environmental Impact Report. The 2011 RTP and 2011 Federal Transportation Improvement Program (FTIP) are scheduled to be approved at the July 2010 TCAG meeting.

DISCUSSION:

An initial step in the development of the 2011 RTP is the development of the Subsequent Environmental Impact Report (SEIR). VRPA was selected as the consultant for the preparation of the SEIR for the 2011 RTP at the June, 2009 TCAG Board meeting. A Notice of Preparation (NOP), with a 30 day public review period, was sent out on September 10th by VRPA to interested organizations and public agencies regarding the development of the SEIR. Comments received will be considered in the development of the SEIR which will be released for public review in April 2010. Caltrans District 6, Caltrans Division of Aeronautics, Army Corps of Engineers and Chevron submitted comments.

The 2011 RTP was the primary focus of the TCAG booth at the Tulare County Fair from September 16th through the 20th. The Tulare County Fair has traditionally been used as the public kick-off for the development and update of our region's RTPs. At this year's fair, a survey was distributed in English and Spanish to gather public input regarding transportation issues included in the RTP. Over 400 people filled out surveys. TCAG also had a booth at the 100 year anniversary celebration at Mooney's Grove Park in Visalia in October.

At the September Board meeting, staff reviewed the RTP development process and the goals, objectives and policies of the Policy Element from the current RTP. The draft goals, objectives and policies have been circulated to the Environmental Advisory and Rail Advisory Committees and the Tulare County Planners Group. Feedback was received and incorporated into the goals, objectives and policies which were reviewed by the Board at the November meeting. From September through December, TCAG staff collected local revenue information and local project lists from the member agencies.

TCAG staff presented steps that Fresno COG is taking to address greenhouse gas emissions at the December Board meeting and received direction from the Board for the development of TCAG's strategies to reduce greenhouse gas (GHG) emissions pursuant to AB 32. These strategies were taken back to the TCAG Board for review at the January meeting.

Three public presentations and workshops to gather input for the development of the RTP have been scheduled in February. These include Orosi on February 9th, Cutler on February 16th and Visalia on February 16th. Additional presentations and workshops will be scheduled throughout the County over the coming months. In addition to collecting information from the public at events such as the Tulare County Fair and Mooney Grove Park Anniversary, TCAG staff has met with most of the TCAG committees and the Tule River Indian Tribe regarding the 2011 RTP development. TCAG staff will continue to work with the member agencies, state and federal resource agencies, private citizens and all other interested parties in the development of the RTP and associated documents.

Remaining Schedule:

February through May – public outreach

March – complete draft documents

April – begin 45 day public review period

May 17 – public hearing at TCAG Board

June – finalize documents

July 19 – TCAG Board adoption of 2011 RTP and associated documents

**City of Visalia
Agenda Item Transmittal**

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 2

Agenda Item Wording: Authorize preparation of Mooney Boulevard Corridor Zoning Study, including solicitation of proposals from local planning firms to assist in preparing the study and conducting public outreach. Authorize up to \$30,000 for the study.

Deadline for Action: None.

Submitting Department: Community Development

Contact Name and Phone Number: Ricardo Noguera, Housing & Economic Development Director, 713-4190 Paul Scheibel, AICP, Planning Services Manager, 713-4369

Recommendation: Staff recommends that the City Council authorize the completion of a zoning study for the Mooney Boulevard Corridor and authorize staff to solicit proposals from local planning firms to assist staff in preparing the study and conducting outreach to property owners, business owners and the public. This Study is to be funded with Redevelopment funds.

Summary: On December 21, 2009, the City Council voted unanimously to approve the comprehensive General Plan Update (GPU) contract for Dyett & Bhatia. The GPU contract has been executed and the background work is underway. A generalized analysis of Mooney Blvd. is included in the GPU scope of services. Following further review by staff, it is recommended to complete a shorter more detailed zoning and setback study with support from a planning/outreach firm. There is local expertise to complete such an effort.

Staff will coordinate the completion of the Study with participation from various stakeholders such as: Mooney Boulevard business owners, property owners, and the Chamber of Commerce. The intent of this Study is to update current zoning and building line setback standards and associated land use policies to meet current and anticipated market conditions relating to design standards, set backs, small parcels, specialty stores, and other business types which are expanding and seeking to locate along the Corridor. The Study will result in recommendations for an immediately applicable set of zoning amendments identified by the stakeholders for the City Council's consideration. This effort would compliment and fold into the longer range strategic Mooney Corridor study that is part of the General Plan Update. This alternative approach has met with favorable response from the Mooney Blvd. Business Owner's "Koffee Klatch" as a group and individually from a number of business owners and Chamber of Commerce representatives.

Discussion:

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 20

Review:

**Dept. Head
(Initials & date required)**

**Finance City Atty
(Initials & date required
or N/A)**

**City Mgr
(Initials Required)**

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

The approach would be to prepare a stream-lined analysis of the existing zoning and building line setbacks. With input from the property owners, business owners, Chamber, Mooney Boulevard Merchants Association, and development community the study will devise new or revised zoning and land use policies to support the redevelopment, reuse and new construction of regional and community level retail and mixed use development along the Corridor. The intent is to devise strategies to encourage private reinvestment along the Corridor and maintain Mooney Boulevard as the main retail corridor in the Tulare/Kings Counties regional market.

Almost the entire 3.5 mile length is zoned Regional Commercial (CR). Per the 2020 Plan, the Corridor envisions large regional commercial shopping centers on very large acreage sites. This has materialized on approximately 50% of the Corridor. However, approximately 50% of the land was already developed when the CR zone was put in place. Much of the developed land is characterized with small shop and office buildings on small parcels. This makes re-use of many of the Corridor's existing buildings difficult to fill under current CR zoning rules.

The recommended zoning study is intended to identify practical zoning measures that the City could implement at very little public cost, and would encourage voluntary action by private parties by removing zoning barriers to progress.

Stakeholders Outreach: Stakeholders participation is critical from the start to ensure that those most directly affected have the greatest input to the solutions and ownership of the outcomes. The Chamber of Commerce has recently sponsored a Mooney Business Association Steering Committee that is making progress in this effort. Unfortunately, participation has not reached a level that represents the majority of businesses along the Corridor. Consequently, this effort will require coordination with the Mooney Boulevard Business Association, property and business owners, developers and city staff to ensure the optimal level of participation is involved in this process.

Planning Division staff is currently engaged in the General Plan Update, Southeast Area Specific Plan and processing land use permits. Assistance will be needed to prepare the Mooney Corridor Study. Staff proposes to use funds to engage a local firm to assist in the zoning analysis and public outreach effort. Staff anticipates this cost to be \$20,000 - \$30,000, with funds to be drawn from the Mooney Redevelopment Project Area.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: On December 21, 2009, the City Council voted unanimously to approve the comprehensive General Plan Update (GPU) contract, but tabled a supplemental contract for a focused study of the Mooney Corridor.

Attachment:

- Mooney Corridor Map

Recommended Motion (and Alternative Motions if expected):

Staff recommends that the City Council authorize the completion of a zoning study with assistance from a local planning/outreach firm in an amount not to exceed \$30,000. This Study is to be funded with Mooney Project Area Redevelopment funds.

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: N/A

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

Copies of this report have been provided to:

- Planning Commission
- General Plan Update Review Committee
- Chamber of Commerce
- Mooney Business Association Steering Committee
- Visalia Community Forum

**City of Visalia
Agenda Item Transmittal**

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 3

Agenda Item Wording: Work Session on Mobile Home Park Master Lease & Memorandum of Understanding (MOU)

Deadline for Action: March 1, 2010

Submitting Department: Housing and Economic Development

Contact Name and Phone Number: Ricardo Noguera, Housing & Economic Development Director; 4190; James Koontz, City Attorney 636-0200

Department Recommendation: Staff is seeking Council's direction as it relates to extending the existing Memorandum of Understanding (MOU) and Master Lease, currently set to expire in May, 2010, for an additional five (5) years. The program is designed to stabilize rent increases by providing competition to park owner leases.

1. Currently eight park owners have indicated they would sign the agreement, this should improve current participation levels. The park owners have specific economic conditions from the current MOU and Master Lease that would be continued for an additional five years. Staff is recommending the City continue the Model Lease program under these conditions along with the additional proposals summarized in this report.

2. The current program requires the City of Visalia to fund an ombudsperson to provide non-binding dispute resolution services between park residents and owners. Residents have indicated they want the ombudsman program to continue. The ombudsman is also available to discuss the Model Lease with park residents that have questions. The new proposal would continue these services but the park residents that sign the new Master Lease would be funding the program with a monthly charge.

4. Park owners will be required to document when the Model Lease is offered to address complaints that the Model Lease was not being made available. In addition, park owners will be required to provide the City with information on the number of spaces rented and the number of spaces rented under the Model Lease. Currently program participation is not being tracked and without the data, it is difficult for the City to gauge the impact of the program.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.):5__

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

5. Each park owner will contribute towards a rent subsidy program to be administered by the City. These funds are to be sent to the City's ombudsperson at the anniversary date of the MOU beginning this year. The City administer the program.

6. If a park owner participating in the program sells their mobile home park during the five-year period, then continuing the Agreement with the City must be included as a condition of sale. This is to address complaints that were raised by residents in mobile home parks that were sold and the new owners dropped out of the 2005 MOU.

7. Park residents have complained unscrupulous park managers make it difficult for residents who are trying to sell their units. The residents complained that park managers reject suitable prospective purchasers without explanation. The current proposal would require park owners to provide their standards for prospective purchasers of units to residents in advance and provide a general explanation to the resident if a prospective purchaser is rejected.

Staff proposes to return to Council in March with final recommendations.

It is the intent of this Work Session to:

1. Review the key disputed issues and proposed changes from the 2005 Master Lease Program;
2. Allow each side to present their comments;
3. Gain input and direction from Council;
4. Return in March with a final Agreement and a revised Master Lease for Council's consideration.

Background. There are approximately 1,400 mobile home units occupying ten (10) parks throughout the City. There are also two (2) additional parks which are "resident owned". In fact, the resident owned park on South Akers Street was financed by the City in the 1980's. These resident owned parks are not involved in these ongoing discussions since the park resident owns their unit and has an ownership interest in the land under the unit.

In the ten other mobile home parks, there is a split in ownership. Park owners own the land under the manufactured units and rent the land (along with common areas) to the resident, who owns the mobile home.

Once a mobile home is installed, it is expensive to move. Residents would dispute the use of the term "mobile home" and claim to be "captive tenants" unable to move without enduring exorbitant expenses. Park residents feel vulnerable to rent increases and have sought assistance from the City.

The City has played a role in the preparation and monitoring of mobile home park leases since 1996. The City has also facilitated the negotiations in the 2001 and 2005 leases. The 2005 master lease is scheduled to expire this coming May.

Park Residents Concerns. Many park residents receive income from Social Security and want rent increases to mirror Social Security increases.

Park residents are also concerned about the transferability of their unit and are seeking limits on the amount that rent can be increased upon sale. Neither the current nor the proposed five-year Model Lease is transferable. Efforts to make the five-year lease transferable were rejected.

Residents want the following economic conditions as part of a new Master Lease:

1. Limit annual increases to the Social Security Index between 1 and 5 percent;
2. Place a cap on vacancy controls to 15 percent.

Park Owners Perspective. Mobile home parks do not represent affordable housing and park owners are not being subsidized to provide social benefits to residents. They are in this line of work to earn a profit as in any other business. They also feel that over the past five (5) years that rental increases have been moderate and the recent rent studies support these conclusions.

Park owners want to continue the current economic provisions in the existing Master Lease:

1. Annual increases should range from 3.5 to 7 percent.
2. No vacancy control. When units or spaces are vacated, owners can increase rents to market levels. This enables owners to adjust for market conditions.

Purpose of a Master Lease. The City has been involved in the Master Lease negotiations and communications since the mid 90s. As an alternative to pursuing a rent control ordinance, the City implemented the Model (or Master) Lease Program out of concern for exorbitant rent increases. The goal of the Master Lease Program has been to stabilize rent increases without a rent control ordinance. Master leases were negotiated in 1996, 2001 and 2005. The current Master Lease will expire in May 2010. In 2005, a representative of seven park owners signed a Memorandum of Understanding ("MOU") with the City of Visalia. This MOU required the park owners to offer the 2005 Master Lease to residents. The City provided an ombudsman (at sole expense of City) to mediate disputes between the park owners and park residents when disputes over the Master Lease arose. The ombudsman expenses to the City have been approximately \$30,000 per year.

There have been complaints from residents concerning the Master Lease program. The primary complaints include: owners do not offer the Master Lease or have dropped out of the program; rent increases are too high; the park owners are not maintaining their properties; and owners interfere with residents who attempt to sell their mobile homes.

City Conducts Rent Studies. In January 2009, the City retained two consultants, Dr. Kenneth Baar (referred by residents) and John Neet (referred by park owners) to review mobile home park rents in Visalia. The purpose was to find out how much rates have increased between 2003-2008. Copies of these reports are attached.

Both consultants utilized the same data. While not all park owners participated in the study, both consultants were satisfied with the level of data received. The studies showed that the average rental rates varied from park to park; rate increases are higher when a mobile home is sold; and well over one-half of park residents experienced annual rent increases of less than five percent over the five-year period. Both consultants came up with similar conclusions that for long-term residents annual rent increases tended to fall between 4 and 5 percent.

While much of the information in the studies favors an argument that rents have remained stable, not all the data supports the park owners. John Neet's study concluded that one third of long-term tenants had experienced annual rent increases that were greater than five percent, and over forty percent of spaces with tenant turnover had experienced annual rent increases that were greater than five percent. (See the table contained in the study by John Neet, page 22.) Kenneth Baar's study demonstrated that the majority of the parks in the City had rent increases in excess of the increase in the consumer price indexes based in Southern California, the consumer price index in Northern California, and the consumer price index for Western Region – Size Class B/C cities (cities west of Texas with populations of less than 1.5 million). (See study by Kenneth Baar, pages 11-13.)

As part of the negotiations for the 2005 Master Lease, park owners received a one time 15% increase, which had the potential to affect rent increases. It is not clear whether this 15% rate increase skewed the results of the surveys.

The studies did not specifically review participation by parks in the Master Lease program, but discussions with park owner and resident representatives indicates that park owner participation with the Master Lease Program could be increased. Greater participation should improve rent stability, which has been the stated goal of the Master Lease program since its inception.

Committee Assembled to Review and Provide Recommendations. In late spring 2009, the City formed a Committee to review the economic studies and the 2005 Master Lease and to formulate strategies for Council's consideration. The Committee was comprised of 3 park residents, 3 park owners and 3 at-large members. The Committee met and discussed at length the history of the mobile home park leases, the studies and potential recommendations moving forward. To date, staff has not reached a consensus between owner and resident representatives on what a 2010 Master Lease Program should contain.

Major Disputed Issues. The following consists of the key disputed issues related to a new Master Lease:

ITEM	OWNERS	RESIDENTS
1. Annual Rent Increases (These are a minimum floor and maximum ceiling with the rate otherwise determined by the Social Security Index.)	Limit 3.5 – 7%	Limit 1.5 – 5%
2. Vacancy Controls	No Limit	15% increase with vacancies

The park owners have made it clear they consider these items of vital importance and will not agree to sign an agreement without them.

The items that the park owners want included are not new; they would be a continuation of existing terms from the 2005 Master Lease. The owners want to continue the same annual rent increase formula and maintain the same position on vacancy controls that exist in the 2005 Master Lease.

The park owners are willing to continue with the Social Security index as the basis for rent increases. The park residents also want the Social Security Index.

At least some park residents have indicated they would accept annual rent increases at ratios similar to the existing rates if the 15% vacancy control limit were also imposed.

Concerning vacancy controls, a federal appellate court recently held vacancy control imposed under a rent control ordinance consisted of a constitutional taking. This federal case did uphold the rent control ordinance but the vacancy controls applied under the ordinance resulted in a taking requiring compensation to the mobile home park owners. This case is inconsistent with other California decisions and is being appealed. However, there are legal questions as to whether vacancy control constitutes a taking.

Proposed Changes to the 2005 Lease. In addition to the disputed issues listed above, other changes have been proposed:

1. Park Owner Participation – One complaint has been the number of parks participating in the program and one of staff's goals has been universal participation. While that goal is not likely to be met, there are eight parks indicating they will participate in the Model Lease, which represents an overwhelming majority of mobile home spaces in Visalia. If the Agreement between the City and these eight parks is finalized, then staff recommends continuing negotiations with the remaining parks and potentially adding them to the Master Lease.

One change proposed by the City that has not been disputed is that each participating park owner would sign the Agreement directly. The 2005 MOU was signed by a park owner representative, and having an agreement signed directly by a park owner is recommended.

Staff is also recommending the Agreement between the City and park owners be for a five-year term with no early termination, except in instances involving bankruptcy or other involuntary transfer.

2. Continuation of City Involvement in the Program/Potential Payment by Residents – Under the 2005 Master Lease the City paid an ombudsman to assist the park owners and residents in resolving disputes and provide educational information to residents. The proposed agreement would continue with this program. The park owners have also suggested optional dispute resolution panels to be used if the City contact person cannot solve a dispute. In addition, to alleviate funding concerns, all, or at least a portion of the City ombudsman program would be paid by the park residents in the Master Lease program. The charge would be monthly and not to exceed five dollars per month. The charge would be implemented as a government-required fee and imposed on residents that sign a Master Lease. The fee would be listed as a separate monthly charge to the resident and deposited with the City on a semi-annual basis by the park owners. The City is proposing that it would have the option of reviewing the charge and resetting it on an annual basis.

3. Documentation Requirements - Another complaint concerning the Master Lease has been whether the park owners are offering the Lease. The revised agreement would require the park owners to document when they offer the Master Lease to residents on a form provided by the City.

4. Information Updates - The City has been hampered in gathering information concerning the parks. Under the proposal, participating owners would be required to provide the City with contact information for park managers. In addition, on an annual basis, owners would provide the number of mobile home spaces within the park being rented, and the number of spaces being rented under a Master Lease. Owners must also list and describe all charges to residents other than space rent by park owners.

This annual information from the park owners should assist the City in gauging the effectiveness of the program and in resolving disputes over Master Lease charges. The 2005 MOU and Master Lease provided for an ombudsman but as contact information changed for onsite managers, the ombudsman had difficulty knowing whom to contact.

5. Master Lease Program Apply to Park Transfers - Another complaint is that parks were transferred after the 2005 Agreement and the new owners did not participate in the Master Lease Program. This Agreement requires the park owners require assumption of the Agreement with City as a condition of sale or transfer.

6. Requirement to State Standards for Prospective Purchasers – Sales of homes by residents are a hotly disputed issue. Under state law (California Civil Code Section 798.74.) a park owner can require prior approval of a mobilehome purchaser when the home will remain in the park. Approval cannot be withheld if the proposed purchaser has the financial ability to pay the rent and charges of the park unless the park owner reasonably determines that, based on the proposed purchaser's prior tenancies, he or she will not comply with the rules and regulations of the park.

The residents and owners dispute the impact of this law on the ability of residents to sell their homes. The revised Model Lease requires park owners to make the standards used to judge prospective purchasers available upon request. In addition, if an owner rejects a purchaser, then the owner must provide the resident with a general explanation as to why the park owner rejected the purchaser. The purpose of this proposal is transparency. The resident selling their mobile home will be able to know the general guidelines the park owner is applying to prospective purchasers. The park owner will be required to provide a general response to the resident when a prospective purchaser is rejected, although there is no expectation or requirement of a detailed explanation.

7. Enforcement Provisions - Another key complaint has been compliance with the provisions of the Agreement between the park owners and the City. The park owners have resisted specific enforcement methods or penalties for fear that dissatisfied residents will use the provisions to harass them. Staff, after consulting the at-large members of the Committee, is proposing to specify a \$25 per day penalty for willful failure to provide information to the City as required under the Agreement. The fee would not be applicable to Master Lease violations. This penalty would apply if the annual information or contact information required to be provided to the City were more than five business days late.

8. Rent Subsidy Program – Park owners would agree to participate in a separate rent subsidy program to be administered by the City.

Next Steps

Based on input provided in this Work Session, staff proposes to return on March 15th with final recommendations for Council's consideration.

Prior Council/Board Actions:

- January 5, 2009; Retention of consultant to complete economic study on mobile park rents in Visalia
- September 28, 2008; Status Report on Mobile Home Parks in Visalia

Committee/Commission Review and Actions:

Attachments:

- Rent Studies prepared by Ken Baar and John Neet;
- Draft Agreement between City and participating park owners
- Draft 2010 Model Lease

Recommended Motion (and Alternative Motions if expected): No motion is being requested the purpose of the work session is to update the City Council on the status of the Model Lease Program and receive comments.

Staff expects to return in March with final recommendations for consideration by Council.

Environmental Assessment Status

CEQA Review: n/a

NEPA Review: n/a

JOHN P. NEET, MAI

APPRAISAL & CONSULTING SERVICES FOR MANUFACTURED HOUSING COMMUNITIES AND RV PARKS

June 8, 2009

Mr. Ricardo Noguera, Housing & Economic Development Director
City of Visalia, CA
315 E. Acequia Avenue
Visalia, CA 93277

Re: Mobile Home Park Rental Rate Trend Analysis, 2003-2008
City of Visalia, CA

Mr. Noguera:

At your request, I have completed an assignment comprised of the following scope of work to analyze past and present rental rate trends in the several mobile home parks in the City of Visalia. Thank you for the opportunity to have been of assistance to the City in this matter.

The scope of work referred to include the following 3 items:

- 1) Data collection and analysis relative to trends in mobile home park rental rates in the City of Visalia during the period of 2003 through 2008..
- 2) Data collection and analysis of several benchmark housing cost data in the City of Visalia and relevant locales.
- 3) Data collection and analysis relative to mobile home park rental rates in other cities in the Central Valley market area.

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MURRIETA, CA 92562

(951) 461-7755 FAX (951) 346-3558
appraisals@johnneet.com

The results of these three analyses are correlated to provide benchmark housing data to be used by the City Council and City Staff to formulate policy and procedure for the governance of mobile home parks located within the City of Visalia.

The reader is directed to the Executive Summary and to the remainder of the report for the conclusions derived from this study and analysis. Please direct any questions or comments to the undersigned at the address shown on the first page.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "John P. Neet". The signature is stylized with a large initial "J" and a long horizontal stroke extending to the right.

John P. Neet, MAI

Executive Summary

The purpose of this study is to examine and analyze rental rate trends in mobile home parks in the City of Visalia over a 5 year period, from 2003 to 2008.

Data was obtained from a variety of sources, including actual rent rolls, surveys of park owners, and surveys of park tenants as to mobile home park rental data within the city. Other data was obtained from public information sources and market participants as appropriate. Provided data was examined for both the potential for bias and actual bias, and was generally found to be reliable and sufficient for the task at hand.

The analysis is to include comparison of these trends to certain benchmark data, including mobile home park rental rate trends in other cities, other housing cost trends, general inflation, and overall reasonableness.

Real Increases

Growth in rental rates over the study period tended to cluster about the 4% range, with a mean annual increase of 4.09% and median annual increase of 3.68% reported for long term tenants (those who continuously resided in the park during the study period). Increases were slightly higher in the spaces where tenants were replaced, with a mean increase of 4.79% and median increase of 4.72% reported.

One influencing factor in the rate of increase was the existence of a lease agreement negotiated with the city, the tenants, and the park owners during the initial two years (2003-04) of the study period. That lease agreement limited rent increases to a sub-inflationary index, and as a result, a

new lease (negotiated and put into effect in 2005) allowed greater increases and a one-time 15% bump to bring rents to market levels. Any park owner who passed through the full amount of the rent increase allowed during the five year period would have seen rent increased by 5.84% per year on average, an amount that was reported for only a small minority of spaces in the city.

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Background and Historic Context

The City of Visalia has a history of considering various attempts at the control of rental rates in mobile home parks in the city dating back more than a decade. These attempts have resulted in the formation of task forces to consider issues in mobile home parks, appointment of city liaisons to serve as mediators, the negotiation of model lease agreements and memoranda of understanding, and the consideration of ordinance based rent controls.

The more recent history of this issue in the City begins with a Memorandum of Understanding (MOU) in May 2001. At that time, representatives of mobile home park owners, residents of mobile home parks and the City of Visalia agreed to the original MOU, which was in lieu of a rent control ordinance and included a Master Long Term Lease Agreement. The original term of the MOU was stated as no less than 5 years. A legally binding lease was offered to all new and existing residents of participating mobile home parks. Annual rent increases were limited to 100% of the increase reported in the Social Security COLA index. Park owners were allowed under this master lease agreement to increase the base rent of a mobile home upon sale a maximum of 10% from the last rent charged.

As the 2001 agreement and lease neared expiration in 2005, negotiations between the City of Visalia, tenant representatives, and the park owners resulted in a second MOU and approved lease agreement. At the time, both the City and park owners were of like mind that the 2001 lease agreement was too restrictive as to the allowed rent increases.

In May of 2005, representatives of mobile home park owners, residents of mobile homes and The City of Visalia agreed to a revision of the MOU and lease agreement. The term of this MOU was for a maximum of 5 years. In the 2005 lease was a provision that allowed for up to a 15% increase of the resident's present base rent in the first year of the 2005 master lease. After the first year, monthly rent was allowed to increase the same percentage as the percentage increase reflected by the latest automatic cost-of-living adjustment calculated in accordance with the Federal Social Security Act for the preceding 12 month period, with a minimum of 3.5% and a maximum of 7%. In this lease, park owners could increase the monthly base rent without limitation to the purchaser of a mobile home within the park.

Neel took 10 thru 15% up

In 2008, additional studies were provided to the City Council. The first of these was a staff report entitled Visalia Master Long Term Lease Agreement 2008-Update that was authored by Jim Harbottle, a contracted representative of the City of Visalia, and provided to the City Council in September 2008. This report was openly critical of many of the parks, park owners, and representatives, and the park owners and WMA (Western Manufactured Housing Community Owners Association) issued a written rebuttal to the Staff Report. In addition, several of the mobile home park owners retained the services of this consultant to review rental rate increases during the 5 year period of 2003-2008 in several of the parks. An executive summary was issued on December 21, 2008 and provided to the City of Visalia. This study was confined to the analysis of rents for tenants who resided in the same mobile home park (and site) for the full five year period, and found that the average annual rent increase for the existing tenants amounted to 4.48% and found that the approximately 89% of the existing residents experienced annual rent increases of less than 5%. A copy of the Executive Summary is

Park owners rebuttal to Jim Harbottle Report

included in the Addenda of this report for additional reference, as it provides additional analysis for the client to consider.

In early 2009, the City Council authorized the retention of two experts to provide studies of mobile home park rental rate trends during the period of 2003 to 2008.

Scope of this Study

The scope of work is to include the following 3 items:

- 1) Data collection and analysis relative to trends in mobile home park rental rates in the City of Visalia during the period of 2003 through 2008..
- 2) Data collection and analysis of several benchmark housing cost data in the City of Visalia and relevant locales.
- 3) Data collection and analysis relative to mobile home park rental rates in other cities in the Central Valley market area.

The results of these three analyses are correlated to provide benchmark housing data to be used by the City Council and City Staff to formulate policy and procedure for the governance of mobile home parks located within the City of Visalia.

Data Collection

Mobile Home Park Rental Data (within City of Visalia)

An adversarial relationship exists between portions of the mobile home park tenant community and portions of the mobile home park owner community. Due to the mistrust that exists between

the parties who are potentially affected by the outcome of this study and the actions of the City Council that follow, rental data regarding mobile home parks in the city was sought from a variety of sources to insure that the data upon which this analysis is based is both comprehensive and accurate to the greatest extent possible.

Concerns were raised by both the owner and tenant communities regarding the potential for release of information that could be considered as confidential. As a result, providers of data for this study were promised confidentiality of the information provided as to specific space rental amounts and/or tenant identification.

The following data was requested of various parties:

- 1) Mobile Home Park owners were requested to fill out survey forms that reported average rental rates for both existing long term tenants and incoming residents for each year from 2003 through 2008. The form included identification of the owner or representative of each mobile home park.
- 2) Mobile Home Park tenants were also asked to fill out a survey form that reported the rent that was paid in each of the 5 years from 2003 to 2008. The form included identification of the tenant (name, address, contact information).
- 3) Mobile Home Park owners were asked to provide actual rent rolls from 2003 and 2008 with information containing the identity of the park, space number, tenant name, and rental rate.

Both the tenants and the park owners were promised that the data involving individual space numbers and tenant's names would be provided only to the project consultants, and not to the City of Visalia. In spite of this promise, the majority of tenants did not provide sufficient identifying information to allow the consultants to confirm the provided data, either by random interviews of the information providers or against other records as were available.

Other Housing Benchmark Data in the City of Visalia

Rental data was obtained regarding housing price trends in other phases of the housing market in the City of Visalia, including data regarding apartment rental rates and single family residential rates. This data was obtained from sources that would be considered unbiased, and is reliable from that perspective.

Mobile Home Park Rental Rate Trends in Other Central Valley Cities

The scope of work included a requirement that changes in rental rates over time in mobile home parks in the City of Visalia be compared with changes in rental rate over time in mobile home parks in other Central Valley cities of similar size. These requirements were loosely interpreted to include mobile home parks in the Cities of Tulare and Hanford, which although smaller than Visalia, are subject to many of the same economic influences. Data that was able to be obtained from mobile home parks in these other communities was limited by several factors, including the lack of a reasons to participate, and a reluctance of park owners to participate for fear of providing information that might encourage tenants in their own parks to seek rent controls.

Reliability of Data Presented

As the data collection process included a variety of sources, it was necessary to rank the probable accuracy and reliability of the data. There were a number of concerns, including the completeness of the data, intended and unintended bias, and availability of source documentation.

The completeness of the data is a function of the number of respondents and data points rated relative to the number of mobile home park spaces in the City of Visalia. The following table describes the completeness of the data provided by various sources, referenced against the total number of spaces in the city (1,445):

Data Source	Number of Data Points	Percentage of Total Spaces in City
Rent Rolls Provided by Park Owners	840	58.2%
Park Owner Survey Forms	503	34.8%
Resident Survey Forms	323 ¹	22.3%
Traceable Resident Surveys	94	4.4%

In general, the completeness of the data is considered good. Conclusions based on data with a more than 30% response rate are considered well supported, all other areas of concern being equal.

Both unintended and intended biases are considered as potential sources of influence. Unintended bias is primarily the result of inaccurate remembrance or faulty record keeping. Intended bias is the result of a desire to skew the data to influence the findings and consists of intentional inaccurate reporting of facts.

Testing for bias is accomplished using a variety of tools. The ranking of reliability of data sources can be shown in the following list, ranking influences that discourage potential bias on a high to low basis.

- 1) Items with a very low to low potential for bias include data that is supported by contemporaneous records compiled by a third party that is generally considered as neutral, or is balanced. An example of this type of data would be reports of rental rates that are supported by 3rd party billing records or rent receipts. This type of data has a low potential for unintended bias (as it consists of written contemporaneous records) and a low potential for intended bias (as it is either compiled by a third party or is based on information from competing sources²). Other data that falls into this category is information obtained from third party information suppliers (commercial data services, media, etc.).
- 2) Items with a low to moderate potential for bias included data that is traceable to a source, be it an interested or uninterested party. For example, rental rate data provided by an

¹ Total of 323 includes 94 traceable survey forms

² As an example, a rent receipt provided by a tenant is considered to have low potential for bias in that the receipt was originally provided by the landlord.

identified³ park owner or resident is considered fairly reliable since the data can be traced to a source who can provide documentation if requested. However, this data can be subject to unintended bias if the source of the reported information is one person's memory or other source that does not have contemporaneous support. There is some ability to test the bias or lack of by interview, comparison with data from other sources, and other tools.

- 3) Data with a moderate to high potential for bias includes data that cannot be traced to a specific source or has no means of verification. The potential for bias can be either unintended or intended. Information provided by anonymous sources falls into this category. In this particular study, a number of mobile home park tenants have provided surveys that were not identified as to the name of the tenant or the space number. Only the mobile home park of each tenant was identified. As there is no means of verifying that the data provided by these surveys is accurate and without bias, the data provided has a much lower reliability factor.

Based on the preceding considerations, I have categorized the aforementioned data sources as well as other data considered in this analysis.

³ In this study, the identity of park owners and residents were not revealed to persons other than the consultant(s) to avoid the release of confidential data regarding individual tenants.

Data Source	Number of Data Points	Percentage of Total Spaces in City	Reliability, Potential for Bias
Rent Rolls Provided by Park Owners	842	58.2%	Very Reliable-High participation level, low to moderate potential for bias.
Park Owner Survey Forms	503	34.8%	Fairly Reliable-High participation level, low to moderate potential for bias, data partially analyzed by provider. Numbers of spaces falling into the separate categories was not provided, so aggregation of data is difficult and the result unreliable.
Resident Survey Forms	323	22.3%	Limited Reliability-Moderately high participation level; untraceable with high potential for bias.
Traceable Resident Surveys	94	4.4%	Limited Reliability-Traceable for a low potential for bias, but limited participation increases potential for skewed results. A random sample of the traceable surveys was compared to the Rent Rolls and a high correlation of accuracy was found.

Based on the previous matrix, the most reliable of the data provided is determined to be the rent rolls provided by the park owners as it is the most comprehensive and has the lowest potential for intended or unintended bias.

Analysis of Rent Rolls (2003-2008)

Rent rolls for selected months in 2003 and 2008 were made available by several of the park

owners for review and analysis. Of the 1,445 spaces in the city, rental data in these two years was available for seven⁴ of the 10 mobile home parks in the city. These parks contain a total of 852 spaces or 59% of the total spaces in the city. Eliminating spaces for which rent was not reported one or both of the rent rolls brought the total number of space rents available for analysis to 840, or 58% of the total number of spaces in the city.

This data set is considered the most reliable of the data sets available for analysis in this study as it meets the higher standards of data reliability discussed earlier. This data is both comprehensive and has relatively low to moderate risk of bias (both unintentional and intentional).

Three analyses of this data were made. These include the following:

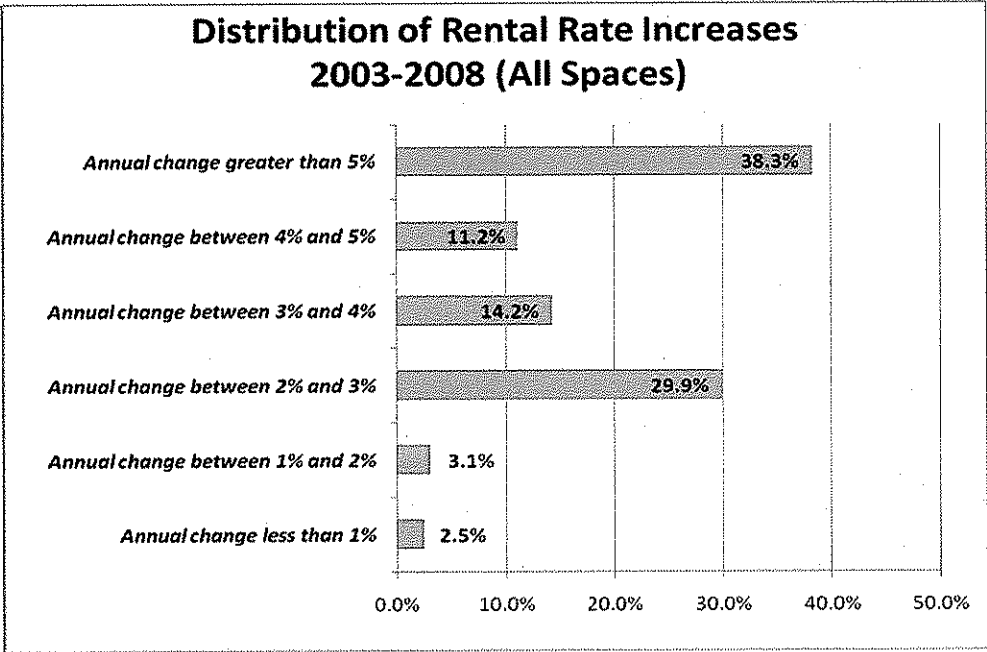
1. The range of changes in rent charged, average changes were calculated for all spaces, and the distribution of rental rate changes was also plotted.
2. A separate report of the range of rental rate changes, mean and median changes, and distribution of changed amounts were analyzed and plotted for all spaces which were occupied by the same tenant for the entire 5 year period.
3. A separate analysis was made of the range of rental rate changes, mean and median changes, and distribution of changes for all spaces which changed tenants during the course of the 5 years.

⁴ Of the 3 mobile home parks not included, two were under different ownership in 2003 and rent rolls from the previous owners were not available. The third park did not participate by providing data. There are 441 total spaces in these three mobile home parks.

Rental Rate Changes (All Spaces Surveyed)

This analysis provides an overall picture of the rental rate changes over the five year period. It is generally of lesser value than the two analyses that follow since it is not specific as to the difference between rental rate differences over time for long term tenants and for spaces that experience turnover.

The average (mean) rental rate increase for all 840 spaces reported in this analysis was 4.4% per year. The distribution of increases is shown in the following graph:



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Rental Rate Changes (Long Term Tenants)

The most significant trend to be examined in analyzing the changes in rental rates over time in mobile home parks is the rent increases charged to existing long term tenants. In many cities, the

primary justification for the imposition of rent controls has been the rate of rental rate changes charged to existing, long term tenants. Comparison of these trends to other benchmarks such as the rental rate increases allowed under a lease agreement or to rental rates charged to incoming tenants provides a strong indication of whether or not the long term tenants are being treated fairly or unfairly in light of market trends.

As background information, I have noted that the Visalia model lease agreements in effect during this time period (2003-2008) allowed significant increases to the rent charged to existing tenants. The long term lease agreement in effect in 2003-2004 limited rent increases to the Social Security COLA change. This change amounted to +1.4% in 2003 and +2.1% in 2004. The 2005 agreement allowed for an increase of up to 15% in the first year⁵, followed by increases based on the Social Security COLA in 2006, 2007, and 2008. The minimum increase each year would be 3.5%. For the years 2006, 2007, and 2008 the increase would be 3.5%, 4.1%, and 3.5%, respectively, based on these lease terms. This would allow a total increase of 32.8% (compounded) over the 5 years from 2003 through the beginning of 2008, or an average annual increase of 5.84%.

17/10
9/10
9/10
17/10
9/10
9/10
17/10

Long term
rental

Of the 840 spaces included in the rent roll database, 55% of those (466) were long term tenants, in residence during the entire period of 2003-2008. The average increase reported for these long term tenants amounted to 4.09%, which was significantly less than the 5.84% that would have been permitted under the terms of the master leases in place at that time. For the spaces occupied

17/10
17/10
17/10
17/10

⁵ All parties to the agreements (owners, tenants, and the City of Visalia) recognized that the prior lease agreement had allowed rents to increase at a slower rate than inflation in real estate, and as a result the park owners in the new agreement were given the opportunity to increase rents to market with a one time 15% increase.

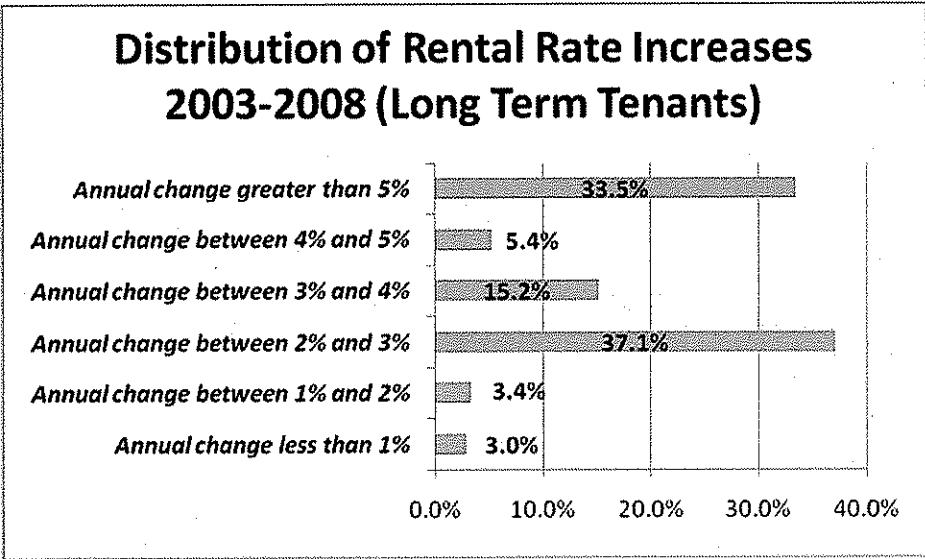
by long term tenants, 79% of the increases were below the threshold established by the model lease agreements.

The median increase was 3.7%, and the reported changes ranged from a rent reduction of 5.9% to a rent increase of 12.4%. These last two data points represented extremes, and most of the rental rate changes were far more moderate, with 52.3% of the spaces reporting annual increases in the 2% to 4% range, and 66.5% reflecting annual increases of less than 5%.

There are a significant number of rental rate increases to existing long term tenants that exceed 5% per year. A review of this datum indicates that a significant number of these spaces reported rental rates in 2003 below \$300 per month, suggesting that the more significant increases were the result of attempts to bring rents to market levels.

The distribution of changes is shown in the following graphic:

17
rent
increase
WR/FR
PORT
2005
input



M. P. P. P. P. P.
60% 4%
15% 15%
15% 15%
5%

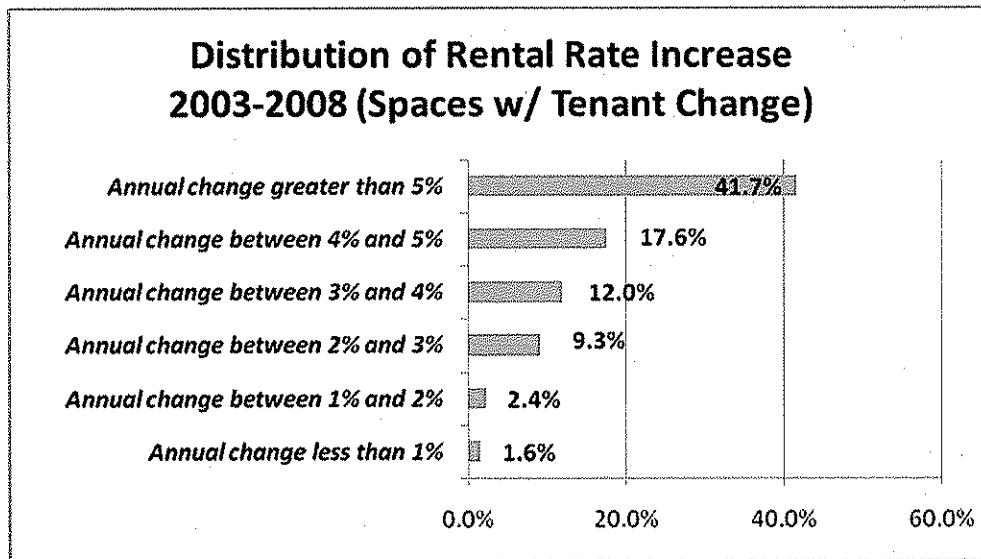
Rental Rate Changes (Incoming Tenants)

A comparison of the above data to rental rate changes reported as a result of changes in tenancy provides additional context to the rental rate changes reported for existing tenants. A fairly common mobile home park rental rate management technique is to apply moderate rental rate changes to spaces occupied by long term tenants, and if those changes do not result in market rent being charged to the existing tenant, then a more significant increase will be charged to an incoming tenant when the space is turned over. This practice offers a number of benefits to the existing long term tenant, and also assists the park owner in providing stability. The long term tenant faces less steep increases over time, and rent for the incoming tenant is established by market trends and influences. In a dynamic market, the expected result is for the rental rate changes reported for spaces where tenant change occurs to be slightly higher than for spaces where there is no change in tenancy. This would tend to indicate that moderate increases are being charged to long term tenants with the difference between rental rates charged to long term tenants being made up when the space turns over.

Space turnover

Based on the rent roll analysis, there were 374 spaces (44.5%) of the 840 reported to have turned over during the 2003-2008 time period. In most mobile home park markets, a turnover rate approximating 10% per year is considered reasonable, so the market appears to have a typical level of dynamism.

The average (mean) annual increase for spaces that experienced tenant turnover during the 5 year period was 4.79%, with a median annual increase of 4.72%. This is greater than the average increase for all spaces reported (4.40% average) and for the spaces rented to long term tenants (4.09% average). The distribution of rental rate changes is shown in the following graphic:



By comparison to the rental rate increases allowed under the model lease, these changes are moderate. The second model lease, in effect from 2005 on, allowed unlimited increases on

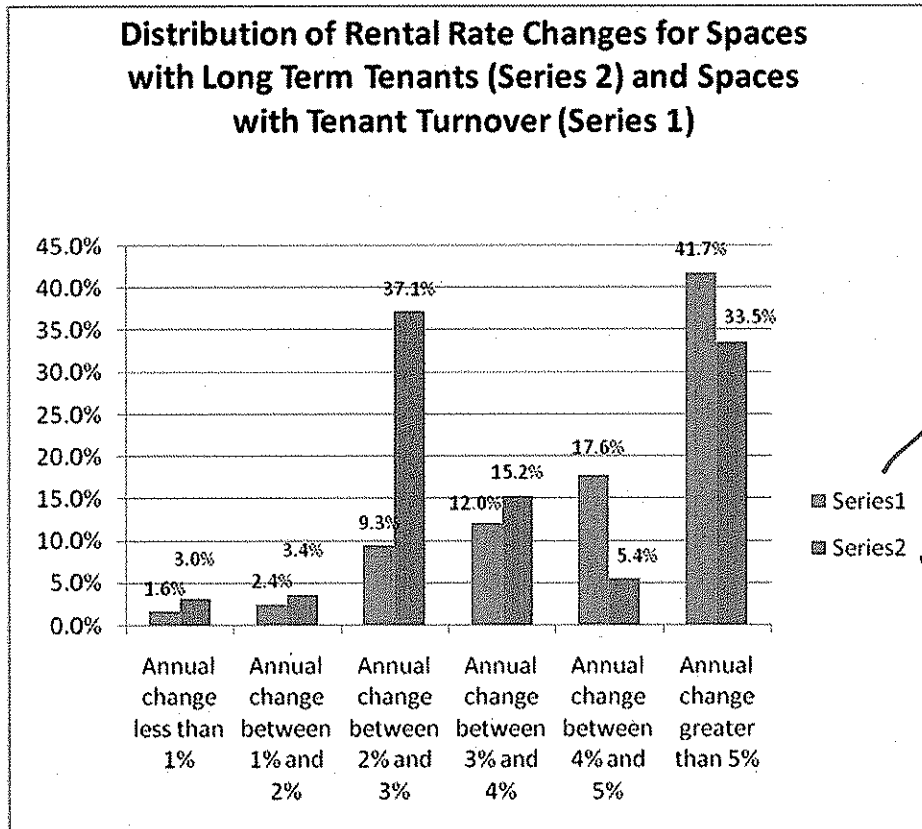
turnover in addition to the average 5.84% annual increases. It is worth noting that only 113 of the 374 spaces (30.2%) reported average rental rate increases that exceeded the 5.84% allowed to existing long term tenants under the approved lease agreements, in spite of the fact that the 5.84% limitation does not apply to spaces where turnover is experienced.

Conclusion of Rent Roll Analysis

The rental rate trends reported in the analysis of rent rolls represents a reasonable expectation in what would be considered a "lightly regulated" market⁶. The following graph compares the distribution of rental rate changes for spaces with long term tenants with the distribution of rental rate changes for spaces where tenant turnover was experienced during the 5 year study period.

RN needs to read 2005
Master Lease Agmt to
assess whether need for
Boards ~~and~~ claims a rent
increase for tenants who
is ~~not~~ correct or not

⁶ There are several levels of rent regulations seen in communities in California, ranging from a total lack of regulation, to cities like Visalia where the local government takes an interest in assisting owners and residents to reach reasonable agreement, to cities where rent control ordinances are imposed. In lightly regulated cities like Visalia, market forces influence rent levels within generally reasonable ranges as the owners are compelled to limit rent increases, especially to the existing long term tenants in an effort to discourage the city from imposing a formal rent control ordinance and regulatory scheme.



mobile long term tenants vs space turnover

Note that the distribution of rental rate changes for existing long term tenants is concentrated in the middle range, with over 50% of the spaces reporting increases in the range of 2% to 4%, while the spaces that report tenant turnover are distributed more towards the upper end of the range, with more than 50% reporting increases of 4% or more. This indicates that, in general, the park owners maintain rent increase trends for existing long term tenants that result in less than market level increases, which are then moved closer to market levels upon space turnover.

Analysis of Tenant Supplied Data

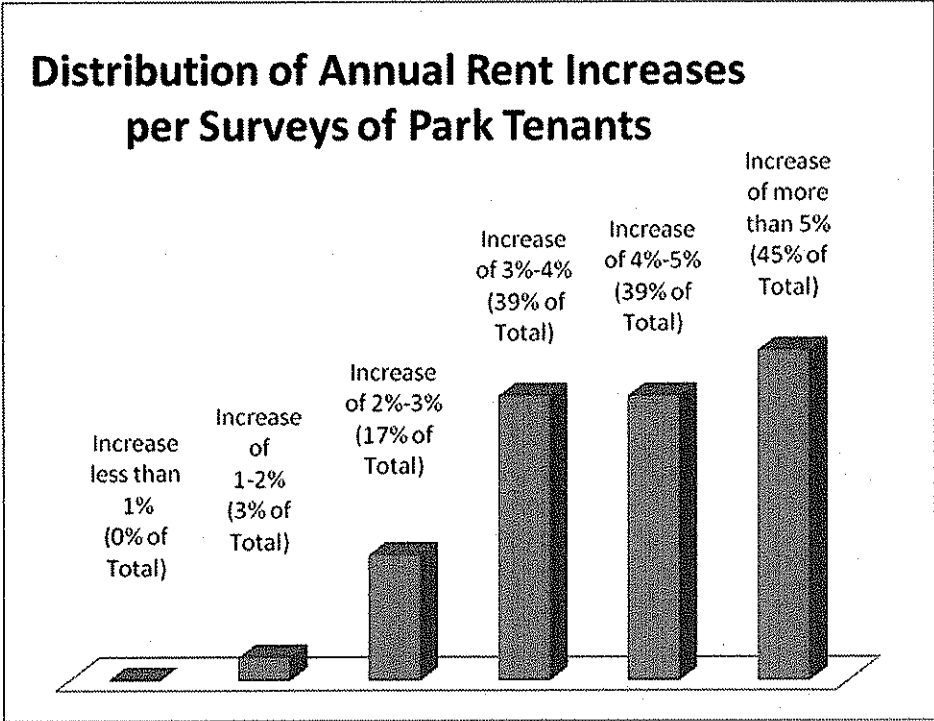
Survey forms were distributed to mobile home park tenants in Visalia. The forms contained a

matrix that allowed the tenant to report current rental rates as well rental rates experienced in each of the past 5 years. Tenants returned 323 survey forms, representing 22.4% of the spaces in the City. Of these, only 94 survey forms (4.4% of spaces in city) met two criteria for consideration. The criteria were 1) reporting of rental rates covering the full five year period and 2) providing identifying information (tenant name or space number). Without identifying information the data provided has a very high potential for intended or unintended misrepresentation. No verification or cross-checking of the data is able to be accomplished.

A representative sample of the 94 survey forms was cross-checked against the actual rent rolls used in the previous analysis and was found to provide reliable data. The rest of the 323 surveys were not considered due to either lack of completeness or reliability.

All of the 94 tenant forms were for tenants who were long term tenants of the respective parks. The reported ranges of increase were wide, from a reported annual decrease of 8.1% a reported annual increase of 9.5%. The average annual increase of 4.3% is slightly higher than the 4.09% average annual increase for long term tenants reported in the rent roll analysis. However, the two reports are similar enough as to be cross supportive.

Distribution of annual rent increases as reported in the tenant surveys are shown in the following graphic:



The distribution of reported rent increases is slightly different and skewed to the higher side of the range than the rent roll data. Given the higher number of spaces reported in the rent roll data, the resident supplied surveys are given lesser consideration as to the distribution of increases, but overall, the data is considered generally reliable, but skewed due to the small sample size.

Survey Forms Provided by Park Owners

A comparative analysis of mobile home park space rental rates within the City of Visalia, California over a six year period, from January 2003 to December 2008. The park owners were asked to provide average rental rates for long term tenants and for spaces with turnover of tenants. Responses were received from six⁷ mobile home parks containing 503 spaces or 34.8% of the total. The parks included in this analysis differ slightly from the parks in the study of rent rolls reported earlier. This data set is considered less reliable as an indicator that the data gleaned from the rent rolls for the following reasons:

1. The data was self reported by the park owners or managers. Average values were calculated or estimated by the reporting party, rather than the analyst, and as a result, there is no guarantee of consistency.
2. The data was divided into two sections for each park, rent charged to long term tenants and rent charged to incoming tenants. Numbers of data points falling into each category in each year were not requested or provided. As a result, aggregate amounts can only be roughly estimated.
3. The number of data points is less than in the rent roll analysis.

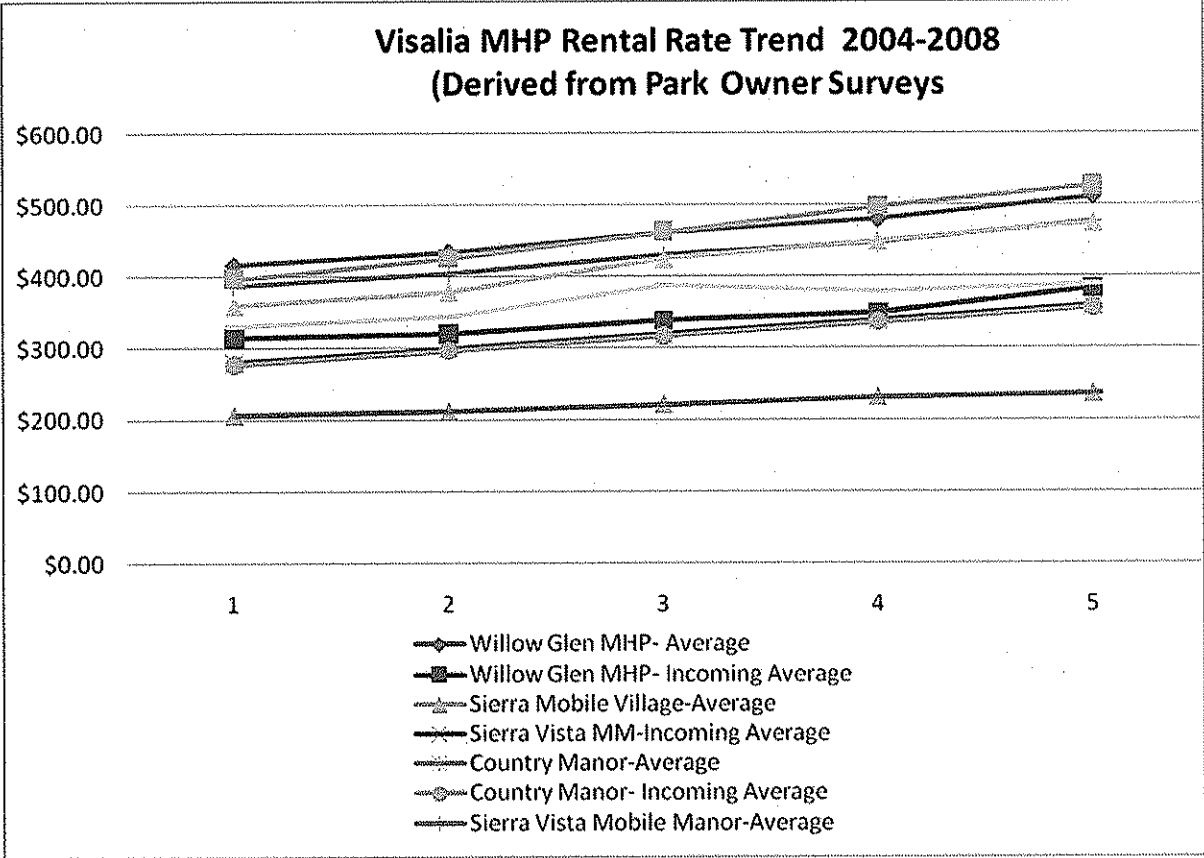
These surveys do have the advantage of being reported for each calendar year, so more minute trends are able to be calculated, and the results compared to the alternative and benchmark data the was available on an annualized basis.

The data is summarized in the following table:

⁷ Of the 10 mobile home parks, 2 were unable to provide data from the earlier years due to changes in ownership and the other two parks provided rent rolls that were analyzed previously.

Year	2004	Change	2005	Change	2006	Change	2007	Change	2008
Willow Glen MHP- Average	\$315.00	1.9%	\$321.00	5.6%	\$339.00	2.9%	\$349.00	10.0%	\$384.00
Willow Glen MHP- Incoming Average	\$315.00	1.9%	\$321.00	5.6%	\$339.00	2.9%	\$349.00	10.0%	\$384.00
Sierra Mobile Village-Average	\$207.36	2.4%	\$212.36	4.7%	\$222.36	4.5%	\$232.36	2.2%	\$237.36
Sierra Vista MM-Incoming Average	\$281.00	7.1%	\$301.00	6.6%	\$321.00	6.2%	\$341.00	5.9%	\$361.00
Country Manor-Average	\$277.50	7.2%	\$297.50	6.7%	\$317.50	6.3%	\$337.50	5.9%	\$357.50
Country Manor- Incoming Average	\$277.50	7.2%	\$297.50	6.7%	\$317.50	6.3%	\$337.50	5.9%	\$357.50
Sierra Vista Mobile Manor-Average	\$388.05	4.3%	\$404.58	6.4%	\$430.38	3.9%	\$447.20	6.6%	\$476.66
Sierra Mobile Village- Incoming Average	\$207.36	2.4%	\$212.36	4.7%	\$222.36	4.5%	\$232.36	2.2%	\$237.36
Visalia Mobile Estates-Average	\$331.00	3.9%	\$344.00	12.8%	\$388.00	-2.3%	\$379.00	2.6%	\$389.00
Visalia Mobile Estates-Incoming Average	\$417.15	4.3%	\$434.92	6.4%	\$462.65	3.9%	\$480.74	6.6%	\$512.41
Westlake Village-Average	\$397.45	7.3%	\$426.28	8.6%	\$463.01	7.8%	\$499.01	5.7%	\$527.48
Westlake Village- Incoming Average	\$360.00	5.3%	\$379.00	12.1%	\$425.00	5.9%	\$450.00	5.6%	\$475.00

The following graph shows the average space rental rates in Visalia MHP spaces from January, 2004 to December, 2008 as derived from the surveys summarized above.

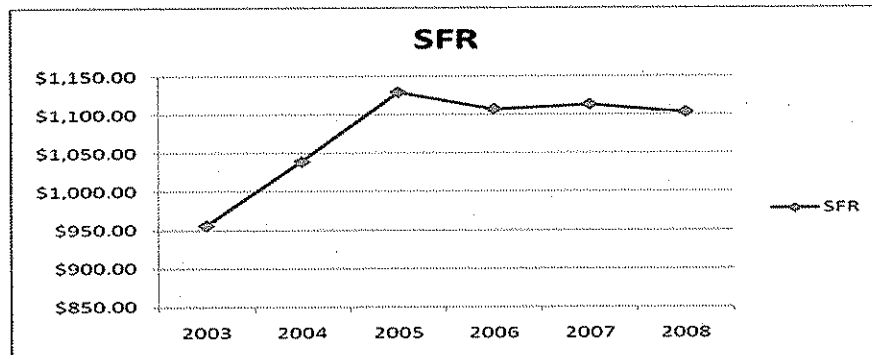


The review of this data does not lead to significantly different results than the analyses based on the rent rolls reported previously.

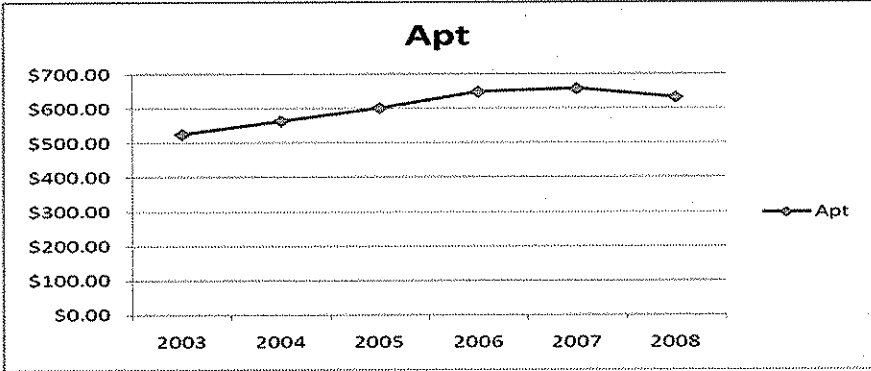
Comparison of Mobile Home Park Rental Rate Changes with Benchmarks

In order to compare the rental rates from the mobile home park spaces to that of other rental rates in Visalia, historic classified advertising was utilized. Data was collected from the Visalia Times Delta classified ads between January, 2003 and December, 2008. The data was collected from randomly selected days at quarterly intervals for each year studied. Single family residence rental rates are based on actual advertised rates for 3 bedroom, 2 bath homes. The apartment rental rates are based on actual advertised rates for 2 bedroom, 1 bath apartments. This data does not reflect actual signed lease rates for the two property types, but can be considered accurate to show overall rental rate changes on average by rental type.

The following graphs show the rental rates by year for single family 3+2 homes and 2+1 apartments in Visalia from January, 2003 to December, 2008.



Visalia SFR Rental Rates – 3 Bedroom, 2 Bath

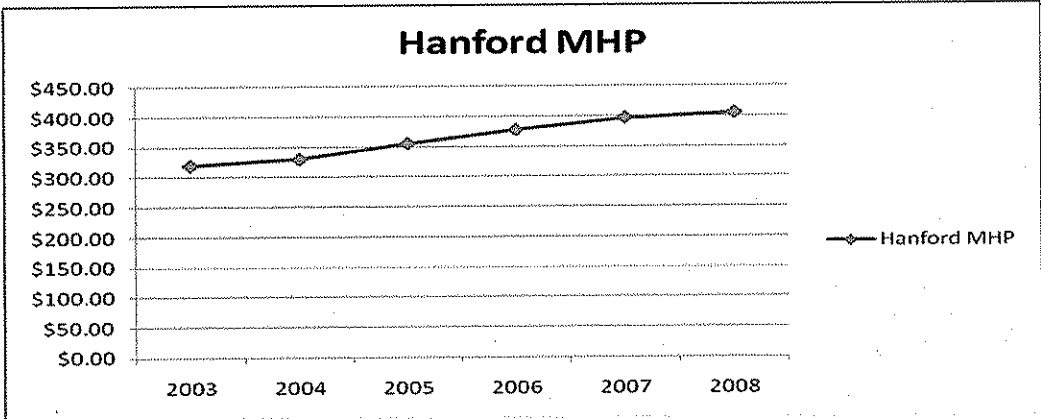


Visalia Apartment Rental Rates – 2 Bedroom, 1 Bath

In order to determine whether Visalia mobile home park space rents were comparable to the rates charged in neighboring cities similar to Visalia, mobile home park space rental rates in the city of Hanford, California and Tulare, California were collected. The historic rent figures were obtained from park managers and actual rent rolls from the January 2003 to December 2008 time period. The rent rolls did not indicate which of the spaces were occupied by the same tenant throughout the study time period. Therefore an unknown percentage of spaces may have had rent increases to market rental value upon vacancy.

There are 545 MHP spaces in Hanford. Data was collected from 134 (24.6%) of those spaces. The rental rates and change rates are shown in the following table and graphic:

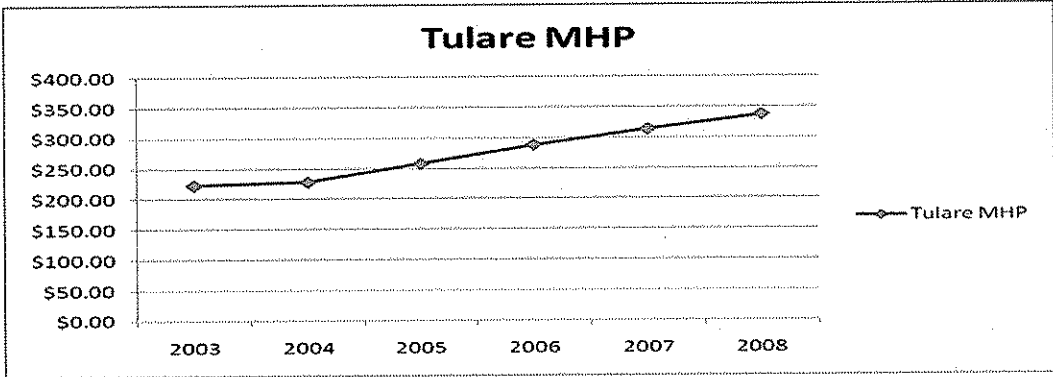
2003	Change	2004	Change	2005	Change	2006	Change	2007	Change	2008
\$320.00	3.1%	\$330.00	7.8%	\$355.59	6.3%	\$377.87	5.1%	\$397.20	2.1%	\$405.68



The primary weakness of this data for comparative purposes is that data from only one park was able to be obtained for inclusion. However, the growth rate of rents does not significantly differ from the rental rate trends reported by the various analyses for Visalia over the same time period.

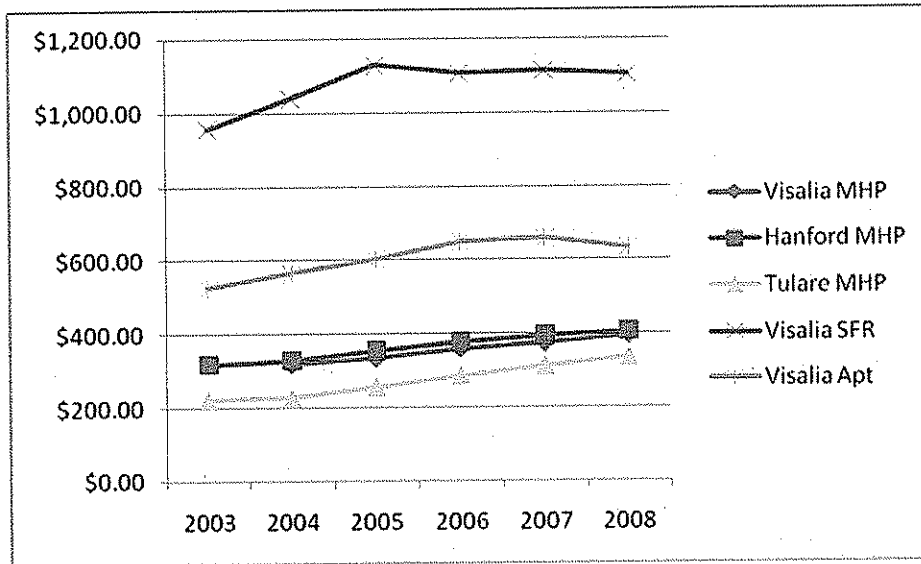
The total number of mobile home park spaces in Tulare is 612. Data was collected from 154 (25.2%) of those spaces. Again, only one park would provide data at this level of detail, so the applicability is somewhat limited. The rental rates and change rates are shown in the following table and graphic:

2003	Change	2004	Change	2005	Change	2006	Change	2007	Change	2008
\$222.57	2.3%	\$227.61	13.1%	\$257.32	11.9%	\$287.85	8.8%	\$313.30	7.5%	\$336.79



The growth rate reported is significantly greater than in either Visalia or Hanford, but this is

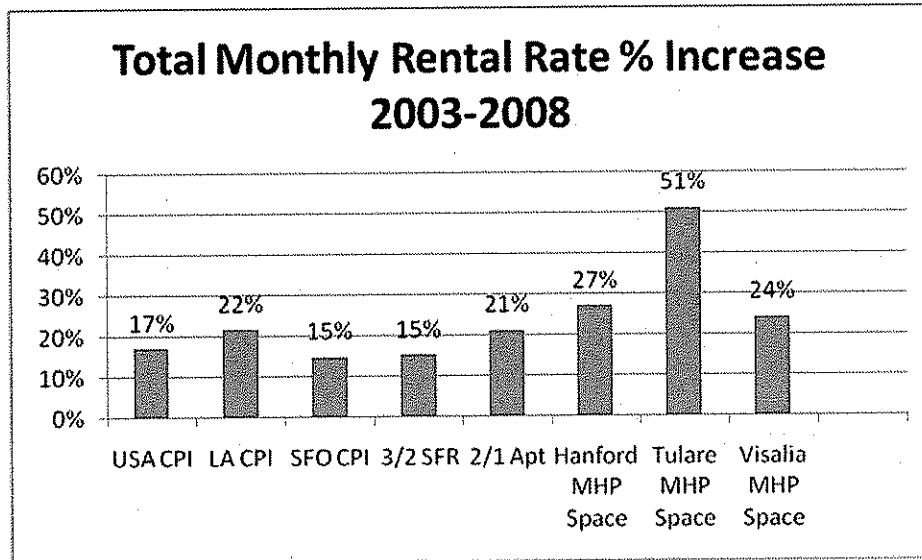
likely the result of the lower rental rates reported in Tulare in the early years of the survey. The following chart summarizes the rental rate trends of the previous charts.



The trend line for mobile home park rents in Visalia is taken from the average of the reports provided by the park owner survey forms, and as such does not represent a true average. However, the trend line is not measurably different from that reported in the rent roll analysis.

Note that the trend line for Visalia mobile home park rental rates generally falls between that reported for Tulare and Hanford, both in terms of the absolute rental rates reported and the trend of increases. The apartment and single family residential rent trends peaked earlier in the survey period, and flattened out later in the survey period.

The following chart summarizes the findings of the comparative benchmarks.



By comparison to the benchmark data, total rent increases for mobile home park rental rates in Visalia fall into a range of reasonableness.

Conclusions

A study such as this is heavily reliant on the comprehensiveness and accuracy of the data relied on in reaching a conclusion. In this analysis, the availability of data ranged from very good to somewhat less than average. Falling into the “good” category is the availability of good data regarding mobile home park rental rates and trends in the City of Visalia. Data was provided from a number of sources, and on review, was consistent within an expected and modest range. Weaker data included that available from other mobile home parks in other cities. However, the data was sufficient to confirm the trends reported in the Visalia parks.

The data used for benchmarks presented a mixed bag. United States Bureau of Labor Standards

issued CPI reports are not directly applicable to this market area, which remains outside of the metropolitan area influences. Rental data from other housing alternatives (detached residences, apartments) was collected from contemporaneous sources, and is considered reliable.

These benchmarks, whether from alternative housing choices, government issued measures of inflation, or data from outside of the city, are of limited usefulness in analyzing mobile home park rental rate trends. Other influences can be more influential, such as the level of contract rents as compared to market rents, influences of rent control or long term leases, and the type of mobile homes that are available in a particular property.

In this particular city, leases in place at the beginning of the study period allowed for very small rent increases, and this resulted in larger increases being allowed in the parks in the latter years of the survey. The fact that very few of the rental rates rose at the rate allowed under the city approved lease should be taken as an indication that market forces generally functioned adequately during the study period.

ADDENDA

SCOPE OF WORK

Exhibit "A" **Scope of Work**

Complete a Financial Analysis of rental increases over a five-year period in the mobile home parks in the City. In addition to collecting and presenting mobile home rental rate data, the study should also include a comparative analysis of mobile home rental rates and rental increases as compared to other rental markets both within and outside of the City of Visalia, and as compared to other economic indicators. The Consultant will be required to complete the scope of work below and furnish the City with a report and supporting data. The City's staff will review the reports along with a Task Force assembled by staff and provide Council with the consultant's assessment and the consultants will also be required to attend up to two meetings in person to present the findings of their studies.

Scope of Work

The report should be completed with the following various components:

A. Compile and Analyze Rental Increases over Five-Year Period

The Consultant shall collect and analyze average rent increases (including rental increases from lowest to highest) for nine (9) mobile home parks in the City of Visalia over a five year period; January 2003 through December 2008 (average annual rental increases). Collection of rental increase data for other years may be analyzed as well. However, the key is to consider a fixed five-year period from 2003-08.

B. Collect and Analyze Rental Increases for Non-Mobile Home Properties over Five-Year Period

For comparison purposes, the consultant shall collect and analyze average rent increases for rental properties in the City of Visalia (including lowest to highest rental increase rates) for the period between 2003-08 using the methodology of his or her choice to collect apartment or house rental data; for example, the consultant could cite rental data from a representative sampling of property management firms, or may use some other appropriate methodology.

C. Collect and Analyze Rental Increases in Two Other Communities

For comparison purposes, the consultant shall also collect and analyze rental increases for the same five-year period for mobile homes within a minimum of two cities located in Central Valley of California which do not have rent control programs. Identification of such cities will be required as part of the analysis and final report.

D. Preparation of a Report with Findings

The consultant shall produce a report comprised of the information obtained above and include documentation supporting the findings. The report shall also compare the above rental data to other appropriate economic indicators, including but not necessarily limited to cost of living indexes for the region, overall property value experiences in the region, and any other indicators deemed by the consultant to be relevant to the overall report. One hard bound report and six copies are to be submitted to the City.

The consultant will not prepare any recommendations and will only offer conclusions of average rental increases based on the analysis obtained from the data collected.

E. Presentation of Report

The consultant shall attend up to two City Council meetings in Visalia in order to present the findings of the study.

F. Time-Line for Completion of Study

The Consultant shall be complete and submit the Study to the City within sixty (60) days from approval by the City.

**CONSULTANTS PREVIOUS REPORT DATED DECEMBER 21,
2008**

JOHN P. NEET, MAI

APPRAISAL & CONSULTING SERVICES FOR MANUFACTURED HOUSING COMMUNITIES AND RV PARKS

December 21, 2008

Mr. David Evans, Regional Representative
Western Manufactured Housing Communities Association
455 Capitol Mall, Suite 800
Sacramento, CA 95814

Re: Visalia Manufactured Housing Community Rent Study (2003-2008)

Mr. Evans:

As requested, I have conducted a study and analysis of rental rates charged to existing manufactured housing community tenants in the City of Visalia during the five year period from January 2003 through January 2008. This Executive Summary outlines the process followed, summarizes the data considered, and reports the results of this study.

The purpose of the analysis was to determine the average or typical rates of rent increases charged to tenants residing in Visalia manufactured housing communities and mobile home parks during the five year period beginning with January 2003 and ending with January 2008. This time period was chosen for several reasons:

1. The time frame represents the five most recent calendar years, and is the most relevant for determining current trends.
2. This is the same time frame that was referenced in a staff report to the Visalia City Council dated September 2, 2008. The staff report included several estimates of rental growth over this time period, but noted that it was only an "informal estimate". This study is intended provide a factually based estimate, with the conclusions based on review of reported rental rates during the same time period.
3. This time period includes rental rate trends that existed during periods covered by two model lease agreements. The second lease agreement, initiated in 2005, allowed a discretionary rent increase of 15% in addition to the annual inflation based adjustments allowed. Where instituted, this increase would be reflected in the reported growth rate of rental rates, and the aggregate

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rental rate increases reported reflects this one-time increase for the spaces upon which it was imposed.

4. Older data is generally less available as records are often placed in deep storage, destroyed, or are inaccessible to the owners.

The goal was to provide the most relevant study possible to indicate market trends over the past 5 years, and to have the most comprehensive collection of data to be analyzed. As indicated below, these goals were substantially met by the consideration of data from this period.

Data Collection and Assembly

Based on records obtained from the California Department of Housing and Community Development and other sources, we determined that there were 10 communities in the City of Visalia containing a total of 1,427 sites. In order to be able to compile the most comprehensive data set for consideration, owners of the parks containing the largest portion of the spaces were contacted to participate by providing factual rental information from January 2003 and January 2008.

The owners of each community were requested to provide actual rent rolls covering the relevant time period, generally consisting of the billing records provided by 3rd party rent and utility billing companies, for my review. One of the important considerations was the independent verifiability of the data. For this reason, the compilation of the rental rate comparisons was made by my office using procedures identical to the procedures used for appraisals as promulgated under the Uniform Standards of Professional Appraisal Practice (USPAP).

The information provided covered 838 of the 1,427 spaces in the community, reflecting 58.7% of the total number of spaces. The ability to use a sample of this size to analyze rental rates within a community is considered excellent from a data analysis perspective. By comparison, a rental survey conducted for appraisal purposes would generally include a smaller sample, and would not analyze specific rental rates for the number of sites included in this analysis. The results of the comparison considered acceptable for determining market rental rates and identifying trends, so the analysis of 58.7% of the actual space rents in the community is likely to provide very strong insight into the trends established by market participants.

Analysis of Data

As the purpose of the analysis is to determine the increases in rental rates experienced by the existing tenants in the manufactured housing communities, changes in rent that result from a change in occupancy were not considered.¹ Turnover in the spaces included in the survey was significant over the 5 year period, and reflect fairly typical turnover levels.² During the 5 year period, the data sample indicates that approximately 59.3% of the spaces were either vacant for some period or had acquired new tenants. In the data set, this was measured by the elimination of data where the tenant name reported in the January 2003 rent roll was not the same as the tenant name reported in the January 2008 rent roll.

The removal of these spaces from the survey reduced the total number of data points to be considered to 341, which is a significant percentage of the data pool, reflecting 40.7% of the spaces for which rental data was available. This indicates that 59.3% of the spaces have turned over during the 5 years studied. This represents approximately 12% turnover per year, which is generally within market parameters.

Rental rates for each of the 341 spaces where no occupancy change was reported were compared over the specified 5 year time period, and a compound percentage change rate for each space was determined using Microsoft Excel and pre-set macros. These changes were accumulated to report the mean (average) increases in reported rents for the sample.

¹ It is a common practice in mobile home parks to moderate rent increases for existing tenants to maintain stability in the park, and to the extent that those increases do not maintain the same growth level as housing cost inflation, the difference is often partially made up for when a change in tenancy occurs. This allows the park owner to partially keep up with housing market changes without rendering the site rent unaffordable for existing tenants. This practice is not universally followed, but is a common practice.

² Annual turnover of space tenants in mobile home parks in California typically falls into the 5%-15% range. Turnover of all spaces in Visalia falls into this range for the most recent two year period, with a 13.6% turnover rate reported in the past two years, based on state registration records.

Conclusions of the Analysis

The average annual increase in monthly rent reported for this period amounted to 4.48%³. By comparison, the median housing price increase for Tulare County during a similar time period⁴ averaged 10.44% per year; and the inflation calculator used for Social Security Cost-Of-Living Adjustments averaged 2.9%⁵ per year during the same 5 year period.

Respectfully,



John P. Neet, MAI

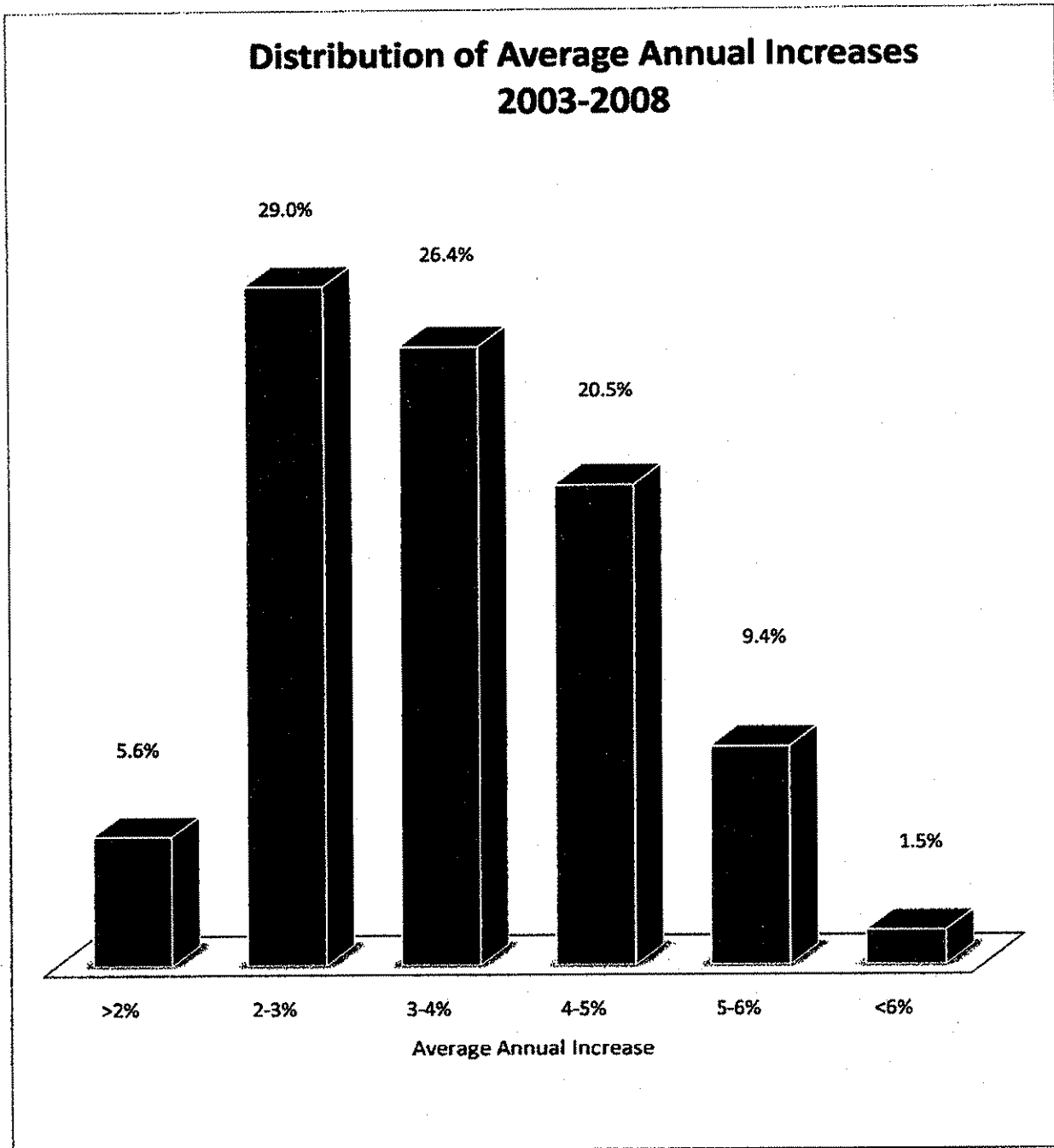
³ This includes the discretionary 15% rent increases allowed under the 2005 model lease agreement.

⁴ Median housing price statistics were obtained via the California Association of Realtors (CAR) a trade organization, and covered the period from October 2004 through October 2007.

⁵ Annual rates from 2003 through 2007 ranged from 2.1% to 4.1%

Visalia Mobile Home Park Rent Trend Study

(Study of mobile home park site rental rates charged to the same tenant from 2003 to 2008, based on rental rates charged for 838 (59%) of the mobile home park sites in Visalia, CA)



Source: Study completed by John P. Neet, MAI in November 2008 (john.neet@johnneet.com)

**PROFESSIONAL QUALIFICATIONS
JOHN P. NEET, MAI**

LICENSES AND MEMBERSHIPS:

Appraisal Institute

Member-Designation No. 7728; Currently certified under the Appraisal Institute's mandatory continuing education requirements

State Certified Real Estate Appraiser

California Certified General Appraiser No. AG003494, Certified through 3/2010

Arizona Certified General Appraiser No. 31052, Certified through 4/2009

Nevada Certified General Appraiser No. 04661, Certified through 5/31/2009

Temporary Certifications Obtained in Washington, Oregon, Texas

EXPERIENCE:

1988-Present

John P. Neet, MAI, Real Estate Appraiser & Consultant

Owner of firm specializing in multi-disciplinary valuation and consultation. Areas of special emphasis include income producing properties with a primary concentration on manufactured housing communities, manufactured housing, and RV parks, leasehold and quasi-leasehold valuations, public acquisition valuations, valuations for rated and un-rated bond issues and resident conversions, expert testimony, and appraisal review. He has completed over 2,000 appraisals of mobile home parks, manufactured housing communities, and RV parks in the past 10 years. Non-appraisal experience includes cash flow projections, rent control financial analysis and consultancy, market studies and analysis, and financial performance analysis for manufactured housing communities and RV parks. Qualified as an expert in United States District Court, in state courts in Orange, Riverside, San Diego, and San Bernardino Counties in California and Federal Bankruptcy Courts in California, Texas, and Nevada.

1981-1987

Terrence F. Wood & Co. Corpus Christi, Texas

Appraisal and review of all types of properties; special emphasis on income producing, development, and resort properties; expert testimony in bankruptcy and foreclosure proceedings. Qualified as an expert in Nueces County district courts and Federal Bankruptcy Courts.

1978-1980

Home Savings and Loan Los Angeles, California

Chief Appraiser, Conventional Loans-Manager in charge of training and review of appraisal staff.
Staff Appraiser-valuation of single and multi-family properties.

EDUCATION:

CALIFORNIA STATE UNIVERSITY AT NORTHRIDGE

Business Administration

APPRAISAL INSTITUTE

Courses 101, 102, and 201 (SREA)

Courses 1-A, 1-B, 2-1, 2-2, 2-3 (AIREA)

Courses 410, 420, 700 (AI)

RECENT SEMINARS:

USPAP Updates, FIRREA Requirements, Standards of Professional Practice Updates, Annual Litigation Seminars & Updates, Apartment Valuation, Appraiser Licensing and Certification, HP12-C Seminar, Land Regulation Workshop, Easement Valuation Seminars, Retail Workshop, Limited Appraisals and Report Writing Options, Annual Regional Economic Forecast Workshops & Seminars, Manufactured Housing Community Law Seminars and Operations seminars, Regression Analysis

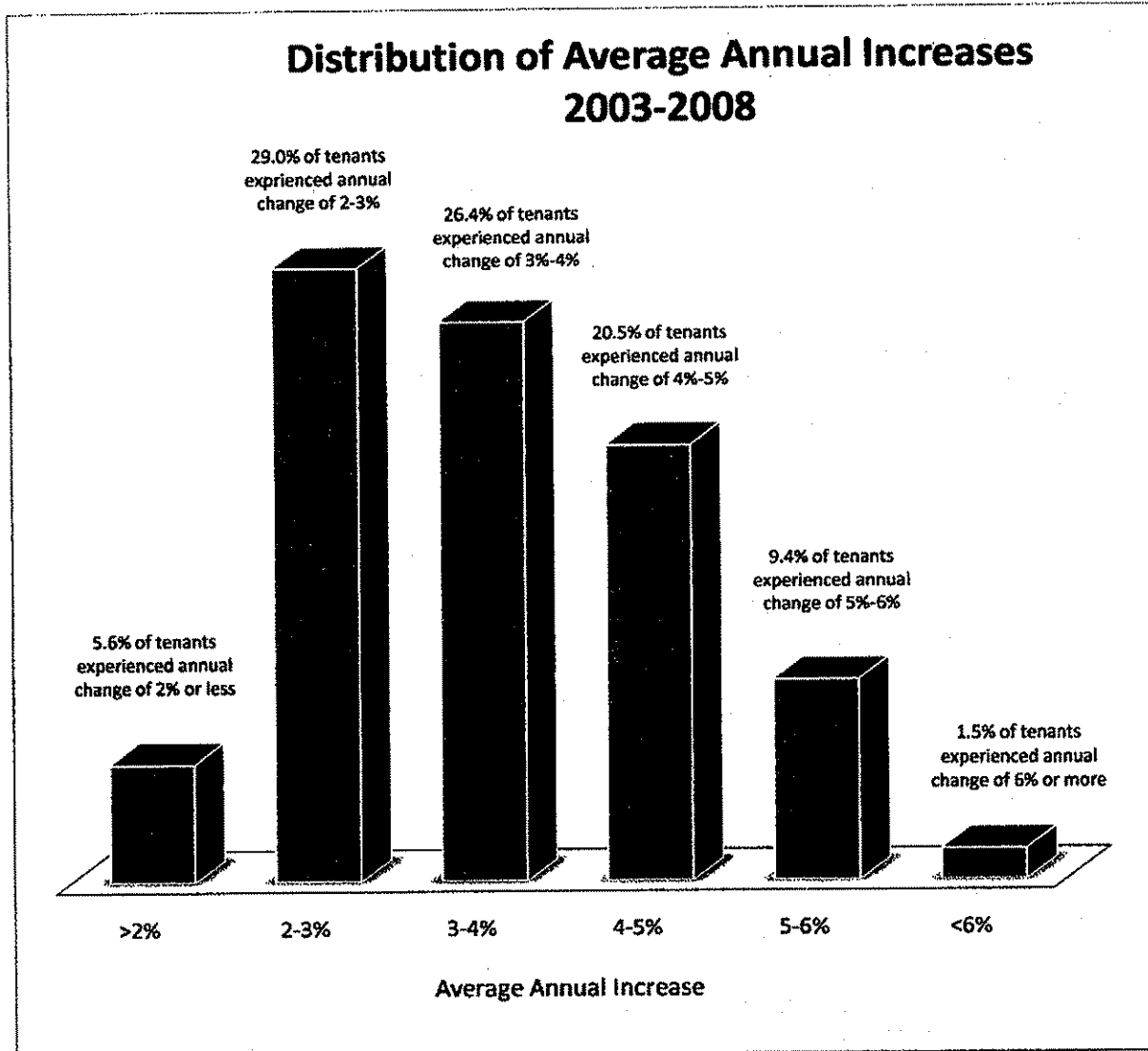
CLIENT BASE:

The primary client base is lending institutions, including Bank of America, Wells Fargo NA, La Jolla Bank, Union Bank, First Bank of Beverly Hills, Washington Mutual Bank, Wachovia Bank, and CitiBank; FNMA DUS lenders including Green Park Financial, Wells Fargo Realty Finance, Greystone Capital, PNC-ARCS, and GMAC. In most assignments, the institution retains the services of John Neet, MAI to assist in determining the adequacy of collateral pledged in loan applications for purchases, refinances, and extensions of existing financing terms.

Other clients include tax attorneys and accountants (trust consulting, valuation for estate tax returns), public agencies (valuation for municipal bond issues to support non-profit 501C3 purchases and resident purchases, asset valuation), resident owner groups, owners and managers of mobile home parks and manufactured housing communities, public agencies and park owners (discretionary rent increase applications, subdivision of developments).

Visalia Mobile Home Park Rent Trend Study

(Study of mobile home park site rental rates charged to the same tenant from 2003 to 2008, based on rental rates charged for 838 (59%) of the mobile home park sites in Visalia, CA)



Summation:

- 5.6% of existing tenants experienced an average annual increase of 2% or less
- 34.6% of existing tenants experienced an average annual increase of 3% or less
- 61% of existing tenants experienced an average annual increase of 4% or less
- 81.5% of existing tenants experienced an average annual increase of 5% or less
- 10.9% of existing tenants experienced an average annual increase of 5% or more

Source: Study completed by John P. Neet, MAI in November 2008 (john.neet@johnneet.com)

PROFESSIONAL QUALIFICATIONS/CURRICULUM VITAE

PROFESSIONAL QUALIFICATIONS
JOHN P. NEET, MAI

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Member-Designation No. 7728; Currently certified under the Appraisal Institute's mandatory continuing education requirements

Licensed Real Estate Appraiser

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Temporary Certifications Obtained in Washington, Oregon, Texas

Licensed Real Estate Broker

Texas Brokers License No. 322708 (Inactive)

EXPERIENCE:

1988-Present

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Owner of firm specializing in multi-disciplinary valuation and consultation. Areas of special emphasis include income producing properties with a primary concentration on manufactured housing communities, manufactured housing, and RV parks, leasehold and quasi-leasehold valuations, public acquisition valuations, valuations for rated and un-rated bond issues and resident conversions, expert testimony, and appraisal review. Non-appraisal experience includes cash flow projections, rent control financial analysis and consultancy, market studies and analysis, and financial performance analysis for manufactured housing communities and RV parks. Qualified as an expert in United States District Court, in state courts in Orange, Riverside, San Diego, and San Bernardino Counties in California and Federal Bankruptcy Courts in California, Texas, and Nevada.

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EDUCATION:

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APPRAISAL INSTITUTE

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Courses 1-A, 1-B, 2-1, 2-2, 2-3 (AIREA)

Courses 410, 420, 700 (AI)

INTERNATIONAL RIGHT OF WAY ASSOCIATION

Easement Valuation

RECENT SEMINARS:

USPAP Updates, FIRREA Requirements, Standards of Professional Practice Updates, Annual Litigation Seminars & Updates, Apartment Valuation, Appraiser Licensing and Certification, HP12-C Seminar, Land Regulation Workshop, Easement Valuation Seminars, Retail Workshop, Limited Appraisals and Report Writing Options, Annual Regional Economic Forecast Workshops & Seminars, Manufactured Housing Community Law Seminars and Operations seminars, Regression Analysis

MOBILEHOME PARK SPACE RENTS IN VISALIA

Kenneth K. Baar, Ph.D

June 2009

This report was prepared on behalf of the City of Visalia. The opinions expressed herein are those of the author and do not necessarily represent the views of the City.

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The Author

The author is an urban planner and an attorney.

He has been employed as a consultant for the purpose of preparing studies on mobilehome park issues and/or prepare fair return analyses in mobilehome park space rent control cases by the the following cities: Azusa, Calimesa, Capitola, Carpenteria, Carson, Ceres, Chula Vista, Escondido, Marina, Modesto, Oceanside, Palm Desert, Palmdale, Riverbank, Salinas, San Marcos, Santa Rosa, Vallejo, Ventura, and Watsonville, and by San Luis Obispo County.

His articles, reports, and testimony on housing and rent issues have been relied on extensively in California, Massachusetts, and New Jersey Supreme Court and appellate court decisions.

The author has also worked extensively on local government issues in Eastern Europe on behalf of the World Bank, U.S. A.I.D., and the U.S.I.S. and in the course of teaching for three and a half years pursuant to Fulbright fellowships.

His resume is contained in *Appendix B* of this report.

The author gratefully acknowledges the assistance of Dorina Pojani, who has a master's degree Community Planning from the University of Cincinnati.

Executive Summary

The purposes of this report are to:

- 1) provide information on mobilehome park space rent increases in the City of Visalia from 2003 to 2008, and
- 2) compare the rental data to other appropriate economic indicators, including but not necessarily limited to cost of living indexes for the region, overall property value experiences in the region, and any other indicators deemed by the consultant to be relevant to the overall report.

The report does not take into account rent increases in 2009.

It is not the purpose of this report to set forth policy recommendations.

Visalia has ten mobilehome parks with 1428 mobilehome spaces in which park spaces are rented to mobilehome owners.

From 2003 to 2008, the regional CPI all items index for the San Francisco area increased by 13.4%, Los Angeles area index increased by 20.3%, and West Class B/C cities index increased by 15.9% (There is no CPI index for an area that is limited to a metropolitan area that includes Visalia. The average increase of the foregoing three indexes was 16.5%)

Percentage increases in average mobilehome park space rents from 2003 to 2008 varied among the parks substantially, from 18% to 43%. In five of the parks, the percentage increase was between 20% and 29%. In three of the parks, the percentage increase was between 30 and 39%. (Annual average rates of increases in average rents ranged from 3.1% to 7.5%. In four of the parks the annual rate was 6% or higher, compared to an average rate of increase in the three CPI indexes of 3.1% for the same period.)

Seven parks that supplied rent rolls for 2003 and 2008. In four of those parks the percentage increases in average space rents for spaces with the same tenant in 2003 and 2008, were 5 to 8% lower during this period. However, the increases in four parks for spaces with no change in tenants were still 29% or higher, substantially exceeding the rates of increase in the CPI indexes.

Increases in Average Mobilehome Park Space Rents in Visalia 2003-2008.

(Primary Data Source: Reports of Average Rents by Park Owners)
 (Increases in CPI 2003-2008 - LA Area -20%, SF Area -13.4%, Western Class B/C cities - 15.9%)

	<u>2003</u>	<u>2008</u>	<u>Avg. Annual Rate of Increase**</u>	<u>Overall Pct. Increase 2003-2008</u>	
<u>Spaces</u>	<u>Avg. Rent</u>	<u>Avg. Rent</u>			
<u>CPI (average of regional indexes)</u>			<u>3.1%</u>	<u>16.5%</u>	
Country Manor	117	254-261	354-361	6.8%	39%
Gold Star Mobile Estates	183	300*	371	4.3%	24%
Mooney Grove	170	315*	381	3.9%	21%
Rancho Fiesta	284	340	418	4.2%	23%
Royal Oaks	149	290	416	7.5%	43%
Sierra Mobile Village	33	203	237	3.1%	18%
Sierra Vista Mobile Manor	125	363	477	5.6%	31%
Visalia Mobile Estates	140	305***	389	5.0%	28%
<i>new tenants</i>		360	475	7.2%	
		(2004)			
Westlake Village	139	391	527	6.2%	35%
Willow Glen	88	315	384	4.0%	22%
		(2004)			

Data based on averages submitted by park owners, except as noted.

* 2003 rent average based on data from for sale listings.

** The annual percentage rate of increase is not equal to one-fifth of the five year increase (from 2003 to 2008) because it is a rate that is compounded.

*** Based on rent rolls submitted by the park owner.

I. Introduction

A. Scope of Project

The purposes of this report are to:

- 1) provide information on mobilehome park space rent increases in the City of Visalia, with a focus on the rent increases from 2003 to 2008, and
- 2) compare the rental data to other appropriate economic indicators, including but not necessarily limited to cost of living indexes for the region, overall property value experiences in the region, and any other indicators deemed by the consultant to be relevant to the overall report.

The report does not take into account rent increases in 2009.

It is not the purpose of this report to set forth policy recommendations.

B. Independent Analysts

Two separate consultants (John Neet and this author) were independently employed to undertake this study. The independent consultants shared data which was obtained from park owners and residents. However, each consultant prepared an independent analysis.

The WMA (Western Manufactured Housing Communities Ass'n) representative, David Evans and the Chairperson of the Visalia Mobilehome Owners Task Force, Jim Burr, provided invaluable assistance in obtaining data that was used for this analysis.

C. Mobilehome Parks in Visalia and the Surrounding Areas

The City has a total of ten mobilehome parks with 1428 mobilehome spaces. All of the parks in the City, except one, have 88 or more spaces.

Table 1. Visalia Mobilehome Parks

<u>Park</u>	<u>Address</u>	<u>Spaces</u>
Country Manor Mp	820 S Chinowth	117
Sierra Mobile Village	935 E Tulare Ave	33
Gold Star Mobile Estates	2120 S Santa Fe	183
Mooney Manor	26814 S Mooney	170
Willow Glen Mhp	225 N Akers	88
Westlake Village Mhp	4701 S Mooney Blvd	139
Royal Oaks	415 Akers	149
Visalia Mobile Estates	2627 W Mid Valley	140
Rancho Fiesta Mobile Estates	5505 W Tulare Ave	284
Sierra Vista Mobile Manor	2301 S Divisidero	125
		1428

In the County, including the mobilehome parks in Visalia, there are 94 mobilehome parks with a total of 4,684 spaces. However, approximately three-quarters of those spaces, 3,312 spaces, are contained in 24 mobilehome parks which have 80 or more spaces.

II. Rent Increases in Mobilehome Parks in Visalia

A. Sources of Rent Data

1. Rent Rolls Provided by Park Owners 2003-2008

Seven of the ten park owners completed forms that provided information on annual average rents and rents for new tenants for each year for either 2003 through 2008 or 2004 through 2008 or for the period of their ownership of the park.

2. Average Rent Data Provided by Park Owners 2003-2008

In addition, six mobilehome parks provided rent rolls for 2003 through 2008 or for the years 2003 and 2008, but did not provide rolls for some or all of the intervening years.

In two cases, parks were recently purchased (in 2006) and the current owners indicated that they did not have data on prior rent levels.

3. Survey of Mobilehome Owners

362 mobilehome owners completed a City questionnaire requesting information on their move-in rent, current rent, and rent levels during the past five years.¹ The data provided information that could be used as a source to verify the 2008 rent data provided by the park owners, but was not adequate in size to provide reliable information on average rent levels for individual parks in prior years. In seven of the ten parks, the average of 2008 rents reported by the park residents was within one and one-half percent of the average reported by the park owner. In one park the average reported by the park residents was 10% higher, in another park it was 7% higher, and in another park it was 3% lower. (Some of these variations between the park owner and residents responses may be attributable to standard sampling variations between the responses from the residents electing to respond and the overall population in the park.)

4. Real Estate Listings

Current and past real estate listings for mobilehomes were used to fill in some gaps in the data in regards to rent levels. Most of these listings contain space rent data. While these listings only generated a relatively small amount of data, in the case of two parks, this data in conjunction with the data from the tenant surveys was adequate to reasonably project average rent levels in 2003, in the absence of other available data.

B. Average Rent Levels in 2008

Average park monthly space rents vary from \$354 to \$527, not including Sierra Mobile Village which has only 33 spaces. In five of the parks, the average is between \$350 and \$400. In two of the parks, the average is approximately \$417, in one park the average is \$477, and in one park the average is \$527.

C. Increases in Average Park Rent - 2003-2008

As a point of reference, from 2003 to 2008, the percentage increase in the Consumer Price Index (CPI) all items was 13.4% in the San Francisco area, 20.9% in the Los Angeles area, and 15.9% in Western Class B/C cities), is used as a comparison. (There is no CPI index for an area that is limited to a metropolitan area that includes Visalia, or even Fresno.) Using the 16.5% average of the CPI increases, the annual average rate of increase in the CPI was 3.1%.²

¹ The questionnaire as Appendix A.

² The five year total exceeds five times the annual rate because the annual rate is compounded.

Percentage increases in average park rent from 2003 to 2008 varied from 18% to 43%. In five of the parks, the percentage increase was between 20% and 29%. In three of the parks, the percentage increase was between 30 and 39%. (Annual average rates of increases in average rents ranged from 3.1% to 7.5%. In four of the parks the annual rate was 6% or higher, compared to an average rate of increase in the CPI of 3.1% for the same period.)

The City requested data and analysis on rent trends from 2003 to 2008. However, a perspective should be provided on these trends. In considering the rent increases from 2003 to 2008, it would be significant if rent increases were exceptionally low or high in the preceding years. Appendix A contains data and a brief discussion of rent increases from 1993 to 2003, based on data from a 1993 City survey. The 1993 data report presented data on rent ranges rather than averages and therefore does not provide for a precise comparison. However, the data indicates that in most of the parks the rent increases from 1993 to 2003 must have exceeded the increase in the CPI, while in other parks they were below the increase in the CPI.

During the past years various city supported long term leases have been in effect between park owners and park residents. This report does not describe or analyze those leases, but rather is limited to reporting the trends in reported rent levels.³

The chart on the following page sets forth data comparing average rents in 2003 and 2008 for each park. This data is based primarily on the reports on average park rents provided by the park owners.

³ For discussion of the lease program see memorandum of Jim Harbottle of the City's Mobilehome Park Task Force to the City Council, April 7, 2008. "Visalia Master Long Term Lease Agreement 2008-Update." Harbottle reports that only three of the parks are participating in the Model Lease Program.

Table 2. Increases in Average Mobilehome Park Space Rents in Visalia 2003-2008.

(Primary Data Source: Reports of Average Rents by Park Owners)
 (Increases in CPI 2003-2008 - LA Area -20%, SF Area -13.4%, Western Class B/C cities - 15.9%)

		<u>2003</u>	<u>2008</u>	<u>Avg. Annual Rate of Increase**</u>	<u>Overall Pct. Increase 2003-2008</u>	
	<u>Spaces</u>	<u>Avg. Rent</u>	<u>Avg. Rent</u>			
<u>CPI (average of regional indexes)</u>				<u>3.1%</u>	<u>16.5%</u>	
1	Country Manor	117	254-261	354-361	6.8%	39%
2	Gold Star Mobile Estates	183	300*	371	4.3%	24%
3	Mooney Grove	170	315*	381	3.9%	21%
4	Rancho Fiesta	284	340	418	4.2%	23%
5	Royal Oaks	149	290	416	7.5%	43%
6	Sierra Mobile Village	33	203	237	3.1%	18%
7	Sierra Vista Mobile Manor	125	363	477	5.6%	31%
8	Visalia Mobile Estates	140	305***	389	5.0%	28%
	<i>new tenants</i>		360	475	7.2%	
			(2004)			
9	Westlake Village	139	391	527	6.2%	35%
10	Willow Glen	88	315	384	4.0%	22%
			(2004)			

Data based on averages submitted by park owners, except as noted.

* 2003 rent average based on data from for sale listings.

** The annual percentage rate of increase is not equal to one-fifth of the five year increase (from 2003 to 2008) because it is a rate that is compounded.

*** Based on rent rolls submitted by the park owner.

D. Distribution of Increases in Mobilehome Space Rents and Vacancy Increases

From 30% to 60% of the spaces within the parks had turnover between 2003 and 2008.

In four of the six parks which reported space rents for each space in 2003 and 2008, the five year increases for spaces with turnover of the mobilehome owner were 5% to 8% greater than the increases for spaces in which there was no change in the tenant. In one park, the average increase for spaces with turnover was 43% compared to a 22% increase for spaces without turnover. In two parks, the increases were uniform for spaces with and without turnover.

In a few cases, substantial percentage increases were associated with cases in which the rent in 2003 was well below the average in the park.

Table 3. Mobilehome Park Space Rent Increases 2003 to 2008.

Spaces with Same Tenant and Spaces with Change in Tenants

		<u>Same Tenant in 2003 & 2008</u>		<u>Different Tenant in 2003 & 2008</u>	
		<u>Avg. Annual Rate of Increase (No of Spaces)</u>	<u>Overall Increase 2003-2008</u>	<u>Avg. Annual Rate of Increase (No of Spaces)</u>	<u>Overall Increase 2003-2008</u>
<i>CPI (average of regional indexes) annual rate of increase: 3.1%, overall increase: 16.5%</i>					
Country Manor	117	6.6% (30)	38%	7.6% (63)	44%
Gold Star Mobile Estates	183	no base year rent rolls provided (different owner in 2003)			
Mooney Grove	170	no base year rent rolls provided (different owner in 2003)			
Rancho Fiesta	284	3.6% (110)	19%	4.4% (90)	24%
Royal Oaks	149	7.2% (82)	41%	7.9% (59)	48%
Sierra Mobile Village	33	3.1% (13)	17%	3.1% (20)	17%
Sierra Vista Mobile Manor	125	5.3% (42)	29%	6.2% (40)	35%
Visalia Mobile Estates	140	4.0% (73)	22%	7.5% (57)	43%
Westlake Village	139	5.4% (65)	30%	5.3% (74)	30%

Source: Author's tabulations based on rent rolls provided by park owner. Data on rates of increase are limited to spaces with rent information provided for both years. Some spaces were vacant in 2003 or 2008; in some cases there were gaps in the data provided.

III. Comparison of Rent Increases in Visalia Mobilehome Parks with Other Economic Indicators

A. The CPI-All Items

1. Increases in the CPI All-Items

In the period 2003 to 2008, the CPI all items all urban consumers index for the Western Region - Size Class B/C cities increased by 15.9%.⁴ The index for the Los Angeles-Riverside-Orange area increased by 20.3% and the index for the San Francisco-Oakland-San Jose area increased by 13.4%. The rates of increase in the all-items indexes for Urban Wage Earners and Clerical Workers were virtually the same (within 0.3% of the all urban consumers indexes.)

These indexes take into account overall price trends, with the exception that they do not take into account house prices, which increased dramatically during this period (and have drastically declined in the past few years.)

Table 4. Increase in CPI all items 2003-2008

<u>Region</u>	<u>Pct. Increase 2003-2008</u>
West, Class B/C cities	15.9%
Los Angeles, Riverside-Orange County area	20.3%
San Francisco-Oakland-San Jose area	13.4%
<i>Average of Index Increases</i>	<i>16.5%</i>

2. Rationale for the use of CPI-all items as a yardstick

In the U.S., historically the CPI-all items has been used as the yardstick for measuring the reasonability of rent increases.

A comparison of the rate of increase in net operating income of rent stabilized apartments with the rate of increase in the CPI has been a standard yardstick for measuring the reasonability of rent restrictions. This type of analysis was a centerpiece of the 1988 and 1994 studies that were commissioned by the City of Los Angeles on the impact of its Rent Stabilization Ordinance (RSO).⁵

In the 1994 study for the City of L.A., the authors commented that authorizing annual

⁴ Cities in metropolitan areas with less than 1.5 million population, west of Texas.

⁵ Hamilton, Rabinovitz & Alschuler, The 1994 Los Angeles Rental Housing Study: Technical Report on Issues and Policy Options, pp. 183-218. (December 1994, Prepared for the Rent Stabilization Division); 1988 Rental Housing Review, pp. 202-224.

increases in rents tied to the percentage increase in the CPI would enable "apartment owners ...[to] maintain on an inflation adjusted basis, the NOI generated by their rental properties" and would provide apartment owners with adequate incentives to maintain their properties.

... indexing rent increases to the CPI-U also ensured, for typical rent stabilized properties, that apartment owners could maintain on an inflation adjusted basis, the NOI generated by their rental properties. ... Maintenance of real NOI for stabilized properties ... should provide stabilized apartment owners with sufficient financial incentives to adequately maintain their apartment holdings.⁶

A common rationale for adopting mobilehome space rent regulations has been that percentage increases in rents have exceeded the percentage increase in the CPI. Also, most of the mobilehome space rent ordinances use the CPI-all items as the guideline for allowable annual rent increases, with annual adjustments set at varying percentages of the percentage increase in the CPI.

Also, the CPI is standardly used to set annual allowable rent increases in commercial leases. Generally, when the CPI is used as a guideline in a commercial lease or as a standard in rent ordinance usually the CPI-all items for all urban consumers is used.

B. Increases in Apartment Rents

1. Visalia

The Bureau of Census annual American Community Survey (ACS) of cities with a population of 65,000 or more includes data on rents. The results of the 2001 through 2007 surveys have been published. However, the results of the 2008 survey will not be published until the fall of 2009.

The ACS data is subject to the qualification that it is based on a very small data sample (two and a half percent of all households) in cities with a population of 65,000 or more. In the case of a City the size of Visalia the standard margin of error for a sample this size is large. (In 2007, the margin of error at the 90% confidence level was +/-10%.) Therefore, variations between median rents from year to year may measure actual trends in rents or the variations may be the outcome of the margin of the error or some combination of the two factors.

The reliability of the foregoing ACS data is in contrast to the decennial census data on rents which is based on a sample of twenty percent of all households and has a small margin of error.

⁶ Hamilton, Rabinovitz & Alschuler, The 1994 Los Angeles Rental Housing Study: Technical Report on Issues and Policy Options, p. 245 (December 1994, Prepared for the Rent Stabilization Division).

Table 5. Median Contract Rents – Visalia

Based on Bureau of Census American Community Survey
(small sample - 2½% of all households)

Year	Median Contract Rent	90% Confidence Level	
		Lower Bound	Upper Bound
2000	500	472	528
2001	507	486	528
2002	488	450	526
2003	513	477	549
2004	563	529	597
2006	645	611	679
2007	730	661	799
Pct Inc. 2002-07	30%	24%	34%

This author was not able to locate other sources of systematic data on trends in apartment rents in the City of Visalia.⁷

2. Regional Rent Trends

More precise data for the period from 2003 to 2008 is available from regional CPI rent indexes for Western Class B and C cities and the Los Angeles and San Francisco region.

The CPI rent index for West Size Class B/C cities increased by 18.6% from 2003 to 2008. The index for the Los Angeles-Riverside-Orange County area increased by 32.9%, while the index for San Francisco-Oakland-San Jose area increased by only 9.9%.

The increase in the Los Angeles-Riverside-Orange County area was exceptional by national standards: over double the U.S. average.

⁷ Realfacts publishes data on trends in apartment rents in cities throughout California. However, its data is based on surveys of apartment buildings with 100 or more units.

Table 6. Increases in CPI Rent Indexes: 2003-2008

<u>Region</u>	<u>Pct. Increase 2003-2008</u>
U.S.	18.4%
West, Class B/C cities	18.6%
Los Angeles, Riverside-Orange County area	32.9%
San Francisco-Oakland-San Jose area	9.9%

C. Increases in Mobilehome Park Space Rents in Neighboring Cities and Other Cities in the San Joaquin Valley

The City requested that the consultants provide information on increases in mobilehome park space rents for 2003 through 2008 within a minimum of two cities located in the Central Valley of California which do not have rent control programs. It turned out that the parks in neighboring cities would not provide such data, except in two instances.⁸

In the course of preparing a study for the City of Ceres in 2008,⁹ this author obtained data on rent increases for larger parks, but for different times period than the focus of this study for the City of Visalia. (Ceres borders Modesto and can be considered as a part of the Modesto market area.)

The data from the city of Ceres provided the basis for a comparison of 2000 and 2008 rents in four mobilehome parks. This data, which is set forth in the table below, indicated that there were large variations among the increases in space rents among the parks.

⁸ Mr. Neet reported to this author he attempted to obtain rent data from parks in neighboring cities but was only able to obtain data for one park in Tulare and one park in Hanford.

⁹ Baar, Mobilehome Park Space Tenancies in Ceres (March 2008).

Table 7. Rents and Rent Increases in Ceres Mobilehome Parks: 2000-2008

(Increase in CPI: 23.6%)

Park	No. of Spaces	Average Rent in 2000*	Current Average Rent**	Increase in Avg. Rent 2000-2008	Pct. Inc. 2000-2008	Rent for New Tenants**
Colony Park Estates	186	~\$300	\$595	\$295	98%	\$640
Las Casitas	177	~\$375	\$409	\$34	9%	\$525
Voyagers Cove	149	~\$325	\$490	\$155	50%	\$490
Westward Ho	66	\$317	\$365	\$38	15%	\$365

* Source: Rents at time of moving in reported by tenants who moved in from 1999-2001.

** Source: Responses by Park Managers in City Questionnaire.

D. Trends in Home Prices

As everyone is aware, in this decade home prices soared and then nose-dived throughout the U.S. and in Visalia. At this point, in Visalia, the average home price is about \$150,000; 50% above the 2000 average, but only slightly above the 2003 average, and only about half of the 2006 average.¹⁰

Trends in house prices and rents impact mobilehome values and space rents in the sense that the cost of alternatives to mobilehome ownership impacts how much households (especially prospective as opposed to current mobilehome owners) will be willing to spend for mobilehomes and space rents.

However, comparisons between the rates of increases or decreases in house prices and the rates of increase or decrease in residential rents are subject to serious shortcomings. Both are trends in the real estate market. However, expenditures on house prices have a substantially differing character than expenditures on rent.

A house purchase is an investment based on expectations about future value as well as current "use" value. This has been particularly true in the past decade when house prices soared relative to all other prices in our economy and then nose-dived, while other prices changed by only a few percent per year. House prices, unlike rent trends, are heavily influenced by interest rates. The cost of funds for purchasing homes (mortgage interest rates) declined from about 9% at the beginning of the decade to about 6% since the middle of the decade, thereby effectively increasing the amount of funds available for house purchases; in turn leading to increased house prices.

¹⁰ The only reports that this author was able to locate on average house price data in Visalia were summary reports on the internet, with data presented in graphic rather than numeric form. The foregoing averages are based on a report by Trulia Real Estate. Other reports presented averages that varied by about 10% from the averages presented here.

IV. Comment - Mobilehome Park Space Rent Increases and Other Market Trends

Due to the special nature of mobilehome park space rentals, the rent setting process for mobilehome park spaces is not subject to the types of market forces that characterize the balance of the rental housing market. Because the rental of a mobilehome park space is tied to the purchase of a mobilehome, the rental transaction involves price-setting for two complementary goods (the space rent and the mobilehome purchase price), with inter-play between the two prices.

In fact, the complementary nature of mobilehome park space rentals and mobilehome ownership places park owners in a position in which it is possible to raise space rents to a level that includes a portion or most of the rental value of the home as well as the space. Under these circumstances, while park owners are able to raise rents when there are substantial upturns in housing prices and/or rents, at the same time they are also able to increase rents independent of downward trends in the balance of the housing market.

As a result of this special situation, a park owner can capitalize a portion or almost all of the value of a mobilehome when setting rents. When space rents are increased exceptionally, as a practical matter a park resident only has the option of paying the increased rent or selling the home at whatever price would be paid by a mobilehome purchaser who will take into account the space rent in setting an offering price.

One outcome of the special nature of mobilehome park space rentals is that rent increases vary substantially among parks because they are not the outcome of a competitive market. Rather they may be seen as the outcome of the particular rent setting practices of the park owner, subject to the limitation that space rents cannot exceed the amounts that potential tenants would pay even if they did not have to pay for the mobilehome or only had to pay a nominal price for the home.

The special nature of mobilehome park space rentals has been noted in state and federal court opinions. For example, in 2001, the California Supreme Court explained:

BACKGROUND:THE MOBILEHOME OWNER/MOBILEHOME PARK OWNER RELATIONSHIP

This case concerns the application of a mobilehome rent control ordinance, and some background on the unique situation of the mobilehome owner in his or her relationship to the mobilehome park owner may be useful. "The term 'mobile home' is somewhat misleading. Mobile homes are largely immobile as a practical matter, because the cost of moving one is often a significant fraction of the value of the mobile home itself. They are generally placed permanently in parks; once in place, only about 1 in every 100 mobile homes is ever moved. [Citation.] A mobile home owner typically rents a plot of land, called a 'pad,' from the owner of a mobile home park. The park owner provides private roads within the park, common facilities such as washing machines or a swimming pool, and often utilities. The mobile home owner often invests in site-specific improvements such as a driveway, steps, walkways, porches, or landscaping. When the mobile home owner wishes to move, the mobile home is usually sold in place, and the purchaser continues to rent the pad on which the mobile home is located." (Yee

v. Escondido (1992) 503 U.S. 519, 523, 112 S.Ct. 1522, 118 L.Ed.2d 153.) Thus, unlike the usual tenant, the mobilehome owner generally makes a substantial investment in the home and its appurtenances--typically a greater investment in his or her space than the mobilehome park owner. [cite omitted] The immobility of the mobilehome, the investment of the mobilehome owner, and restriction on mobilehome spaces, has sometimes led to what has been perceived as an economic imbalance of power in favor of mobilehome park owners.¹¹

The Florida Supreme Court commented:

Where a rent increase by a park owner is a unilateral act, imposed across the board on all tenants and imposed after the initial rental agreement has been entered into, park residents have little choice but to accept the increase. They must accept it or, in many cases, sell their homes or undertake the considerable expense and burden of uprooting and moving. The "absence of meaningful choice" for these residents, who find the rent increased after their mobile homes have become affixed to the land, serves to meet the class action requirement of procedural unconscionability.¹²

In 1994, a federal district court in California stated:

Mobile homes, despite their name, are not really mobile. Once placed in a park few are moved. This is principally due to the cost of moving a coach which is often equal to or greater than the value of the coach itself. Also, many mobile home parks will not accept older coaches so that after a time, the coach may be rendered effectively immobile... the park owner, absent regulation, theoretically has the power to exact a premium from the tenant who, as a practical matter, cannot move the coach.¹³

The data in this report may provide a comparison between trends of the past five years in mobilehome park space rents and other market indicators, housing prices (residential rents and home prices) and the Consumer Price Index - all items. However, this comparison has limited predictive value in terms of projecting future trends in mobilehome space rents or relationships between future trends in mobilehome space rents and these market indicators. In fact, while real estate values have gone into a steep descent and the CPI has not increased in the past twelve months park space rents may continue to increase.

¹¹ Galland v. Clovis, 24 Cal.4th. 1003, 1009-1010 (2001).

¹² Lanca Homeowners, Inc. v. Lantana Cascade of Palm Beach, Ltd., 541 So. 2d 1121, 1124 (Fla.), cert. denied, 493 U.S. 964 (1989).

¹³ Adamson Companies v. City of Malibu, 854 F.Supp. 1476, 1481 (1994, U.S.D.C. Central Dist. Cal.)

Appendix A

Increases in Mobilehome Park Space Rents from 1993 to 2003

In 1993, a Citizen's Advisory Committee (CAC) conducted a survey of mobilehome parks residents, which included questions about current rents.¹⁴ The response rate for the survey was 53.5% (772 responses out of 1442 park spaces). The survey tabulations on rent levels do not set forth averages. Instead, they indicate percentages of spaces had rent levels within \$40 ranges (e.g. \$160 to \$199).

Since the 1993 data provides rent ranges rather than actual averages, it does not provide a basis for measuring the average increase in the rents of a park since it. However, the data can be used to project a floor and ceiling on the possible rates of increases in rents. For example, if the rents in 1993 fell into the \$200 to \$239 range and the 2003 rents average \$300, the minimum percentage rent increase would be from \$239 to \$300 (20%) and the maximum would be from \$200 to \$300 (50%).

From 1993 to 2003, the Los Angeles area CPI increased by 24% and the San Francisco area CPI increased by 34%.

The data indicates that in some of the parks, rent increases during this period substantially exceeded the increase in the CPI, even if the most conservative projections of the rent increases are used. For example, in two of the parks all of the rents were under \$200 in 1993, compared to an average of \$300 or more 2003, indicating a minimum increase of 50%. In other parks, the increases may have been less than the increases in the CPI. In any case, the data do not indicate that the rent increases were exceptionally low in the years preceding 2003, with the exception of the smallest park Sierra Mobile Village.

¹⁴ Citizens Advisory Committee, Mobilehome Survey 1993.

Table 8. Comparison of 1993, 2003, and 2008 Rent Levels

Increases in CPI: 1993-2003 - LA Area -24%, SF Area- 34%
Western Class B/C index not in existence in 1993

	Spaces	1993	2003	2008
		Rent Ranges <i>% of Spaces within Range in Italics</i>	Avg. Rent	Avg. Rent
Country Manor	117	(76%) 160-199 (16%) 200-239	254-261	354-361
Gold Star Mobile Estates	183	(98%) 160-199 (76%) 160-199	300*	371
Mooney Grove	170	(20%) 200-239	315*	381
Rancho Fiesta	284	(80%) 200-239	340	418
Royal Oaks	149	(70%) 200-239 (20%) 240-279	290	416
Sierra Mobile Village	33	(100%) 160-199	203	237
Sierra Vista Mobile Manor	125	(40%) 200-239 (52%) 240-279	363	477
Visalia Mobile Estates	140	(76%) 160-199 (16%) 200-239	305	399
<i>new tenants</i>			360 (2004)	475
Westlake Village	139	(32%) 280-319 (65%) 320+	391	527
Willow Glen	88	(62%) 200-239 (32%) 240-279	315 (2004)	384

Data based on averages submitted by park owners, except as noted.

* 2003 rent average based on data from for sale listings.

Available data from the City of Modesto, which was presented in a report prepared by this author, may be used to compare rents of seven mobilehome parks between two periods that were sixteen years apart - 1991 and 2007.¹⁵ The 1991 data was obtained from the City's 1992 housing element. During this period, the rents in three of the parks approximated the 57% percent increase in the all-items CPI, but were below the 76% increases in the CPI rent index for the San

¹⁵ Baar, Mobilehome Park Space Tenancies in Modesto (revised August 14, 2007, prepared for the City of Modesto).

Francisco Bay Area. In two parks, the increases were in the 85% to 88% range and in two parks the rents increased by approximately 105%.

Table 9. Mobilehome Park Space Rents in Modesto

Comparison of 1991 Rents and 2007 Rents

(increase in San Francisco area CPI: 57%)

Park	No. of Spaces	Median of rents reported in 1991 survey	Average Rent in 2007	Pct. Increase 1991-2007
Coralwood MH Community	194	\$333	\$677*	103%
Dry Creek Mobile Estates	146	\$268	\$500**	88%
Friendly Village MHP	290	\$310	\$492*	59%
Grove MHP	140	\$272	\$458**	68%
Homewood Village MHP	300	\$335	\$537*	60%
Standiford MHP	98	\$245	\$453**	85%
Westgate Village MHP	166	\$217	\$452**	108%

Sources of data:

1991 Rent - Median of rent range reported in 1991 Rent Survey by City.

Average Rent in 2007:

* Average rent reported by park manager or owner.

** Average of rents reported in resident survey.

The inclusion of data from Modesto and Ceres is subject to the obvious qualification that housing markets vary between the Modesto and Visalia areas. The Modesto area may be distinguished from the Visalia area by the fact that it was substantially impacted by the San Francisco-San Jose area housing market, even though it is about one hundred miles from San Francisco. The 1991 average mobilehome park space rents in Modesto were substantially above the 1993 average in Visalia. As of 2007, the median rent in Modesto was \$820 compared to \$730 in Visalia in 2007 and \$645 in 2006.¹⁶ At the peak of the rise in housing prices in 2006, median house prices in Modesto exceeded the median in Visalia by over \$50,000.

¹⁶ Data are presented for 2006 and 2007 for Visalia due to the substantial margin of error in Visalia sample.

Appendix B

CURRICULUM VITAE

Kenneth Kalvin Baar

Urban Planner & Attorney

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Education:

B.A., 1969, Wesleyan University, Middletown, Conn. Major: Government

J.D., 1973, Hastings College of Law, Univ. of California, San Francisco, Ca.

M.A., 1982, Urban Planning, University of California at Los Angeles

Ph.D., 1989, Urban Planning, University of California at Los Angeles

(Dissertation topic: "Explaining Crises in Rental Housing Construction: Myth and Schizophrenia in Policy Analysis")

Foreign Languages: French and Italian

Teaching:

Visiting Professor, Fulbright Scholar, Technical University, Tirana, Albania

Visiting Assistant Professor, Urban Planning Department, School of Architecture, Planning, and Preservation, Columbia University, New York (1994 - 1995) (courses: planning law, introduction to housing, comparative housing)

Visiting Professor (Fulbright Scholar), Budapest University of Economic Sciences (Sept. 1991- June 1993)

Instructor, San Francisco State University, Urban Studies Program (1983-1984)

Short Courses, Series of Lectures

Technical University of Budapest, Planning Department Series of lectures Professional Extension Courses and Undergraduate Courses (1991-1992)

Kiev University Law School, real estate law (1992, one week course)

Warsaw Technical University, Planning Department, urban planning (1992)

Netherlands Ministry of Housing (1997)

Projects: 1980-2008

Consultant to California cities (Azusa, Capitola, Carpenteria, Chula Vista, Citrus Heights, Clovis, Cotati, Escondido, Fremont, Fresno, Healdsburg, Milpitas, Montclair, Oceanside, Palmdale, Palm Desert, Rohnert Park, Salinas, San Marcos, Santa Rosa, Santa Cruz County, Santee, Simi Valley, Sonoma, Vallejo, Ventura, Watsonville, Yucaipa) on mobilehome park rent control policies.

Institute of Transportation and Development Policy (New York City), Preparation of study on European policies governing location of shopping malls (2001-2002)

Open Society Budapest (Soros Foundation), Preparation of study on contracting out of public services and freedom of information in Czech Republic, Romania, and Slovakia (2000-2001)

Consultant to World Bank (Budapest office), Preparation of studies on municipal contracting out of public services in Hungary and on policies for the provision for the provision of district heating (1998-2000)

Urban Institute, U.S. Aid for International Development (A.I.D.) funded technical assistance, Hungarian Subnational Development Project (1998 & 1999)

Consultant, Institute for Transportation and Development Policy, to East European Organizations on Transportation Policies (1997-98)

Studies for the Golden State Mobilehome Owners League on Issues Related to Mobilehome Ownership and Statewide Referendum on Mobilehome Owners Rights (1995-96)

U.S.A.I.D. funded technical assistance to Albanian Ministry of Construction (Sept. 1993- March 1994)

Consultant, East European Real Property Foundation, (U.S. A.I.D. funded), development of education and training in Hungary (July 1993)

Study of Hungarian Land Use Regulations (1992, publication and technical assistance sponsored by Urban Institute, Wash. D.C.)

Report for Hungarian Ministry of Justice, Comparison of Landlord-Tenant Law in France, United States, and Hungary (1992, funded by Urban Institute, Wash. D.C.)

Consultant, City of Santa Monica, Cal., Incentive Housing Program

Expert witness on behalf of cities in judicial and administrative proceedings on real estate fair return issues (San Francisco, Oceanside, Rancho Mirage, Cathedral City, Berkeley, and Santa Monica, California; Fort Lee, New Jersey)

Consultant, State of New Jersey Attorney General and Public Advocate, on fair return standards under state statute regulating evictions of senior citizens from condominiums

Studies of Impacts of Local Regulations on Housing Supply, Cities of Santa Monica and Fremont, Cal.

Preparation of a Guide for New Jersey Rent Control Boards on Fair Return Standards and Landlord Hardship Applications (National Housing Law Project)

Research and Writing Articles on Inequalities in Property Tax Assessments (Legal Services Corporation, Washington, D.C.)

Consultant, Peter L. Bass & Associates, Development of Contracts with Developers under the California Coastal Conservancy Lot Consolidation Program

Expert Witness, City of San Francisco, on the impacts of city policies on apartment construction in litigation involving applicability of antitrust regulations

Project Director, survey of merchants and commercial property owners for City of Berkeley, Cal., Planning Dept.

Preparation of apartment operating cost studies for the cities of Berkeley, Santa Monica, and Cotati, California)

Consultant, Real Property Division, First Nationwide Bank on disposition of assets in operations inventory

Assistant (on contract) to Deputy City Attorney of San Jose, California on drafting of environmental and subdivision regulations

Publications

Articles

Baar, "Fair Return under Mobilehome Park Space Rent Controls: Conceptual and Practical Approaches:", 29 Real Property Law Reporter 333 (Sept. 2006)

"Legislative Tools for Preserving Town Centres and Halting the Spread of Hypermarkets and Malls Outside of Cities" published in Etudes Foncières (Land Studies) No. 102, pp. 28-34 (March-April 2003, Paris, translated into French); also published in Falu, Varos, es Regio (Village, Town, and Region), 2003, issue no. 2, pp. 11-22 (Budapest, translated into Hungarian)

"Contracting Out Local Public Services in a Transition Economy," Review of Central and Eastern European Law, Vol. 25, No. 4, 493-512, September 2000, (Leiden, Netherlands)

"Contracting Out Municipal Services: Transparency, Procurement, and Price Setting Issues", Hungarian Public Administration, Vol. 49, No. 3, May 1999 (translated into Hungarian)

"Laws Protecting Mobilehome Park Residents", Land Use and Zoning Digest Vol. 49, 3-7 (Nov. 1997, American Planning Association)

"The Anti-Apartment Movement in the U.S. and the Role of Land Use Regulations in Creating Housing Segregation", Netherlands Journal of Housing and the Built Environment, Vol. 11, no.4, 359-380 (1996)

"La resistance au logement collectif", Etudes Foncieres, Vol. 67, 44-48, (June 1995, Paris, Association des Etudes Foncieres) and "Il Movimento Contro Gli Edifici Multifamiliari Negli Stati Uniti, Storia Urbana, Vol 66, 189-212 (1994, Milan, Italy) (translated versions of "The National Movement to Halt the Spread of Multi-family Housing (1890-1926)", Journal of the American Planning Association, Vol. 58, no. 1, 39-48, Dec. 1991)

"Impacto del precio del suelo y de las normas sobre su uso en el precio y la distribucion de las viviendas en USA", La Vivienda, no. 23, 43-51 (1993, National Mortgage Bank of Spain) ["The Impact of Land Costs and Land Regulations on the Cost and Distribution of Housing in the United States"]

"A Teruletrendezes Dilemmái a Demokratikus Piacgazdaságokban", Ter es Tarsadalom, Vol.6, no. 1-2, 89-99 (1992, Budapest) ["Dilemmas of Land Use Planning in a Democracy with a Market Economy", Space and Society]

"The Right to Sell the 'Im'mobile Manufactured Home in Its Rent Controlled Space in the 'Im'mobile Home Park: Valid Regulation or Unconstitutional Taking?", Urban Lawyer Vol. 24, 107-171 (Winter 1992, American Bar Ass'n)

"The National Movement to Halt the Spread of Multi-family Housing (1890-1926)", Journal of the American Planning Association Vol. 58, no. 1, 39-48 (Dec. 1991)

"El Control de Alquileres en Estados Unidos" Estudios Territoriales , Vol. 35, 183-99 (1991, Madrid) ["Rent Control in the United States"]

"Would the Abolition of Rent Controls Restore a Free Market?", Brooklyn Law Review, Vol. 54, 1231-8 (1989)

"A Choice of Issues" (Introduction to articles on the impact of rent controls on the property tax base), Property Tax Journal Vol. 6, no. 1, 1-6 (March 1987, International Ass'n of Assessing Officers).

"Facts and Fallacies in the Rental Housing Market", Western City, Vol. 62, no.9, 47 (Sept.1986, California League of Cities)

"California Rent Controls: Rent Increase Standards and Fair Return", Real Property Law Reporter, Vol. 8, no. 5, 97-104 (July 1985, California Continuing Education of the Bar)

"Rent Control: An Issue Marked by Heated Politics, Complex Choices and a Contradictory Legal History", Western City, Vol. 60 (June 1984)

"Rent Controls and the Property Tax Base:The Political-Economic Relationship", Property Tax Journal Vol. 3, no. 1, 1-20 (March 1984)

"Il Dibattito Sul Controllo Degli Affitti Negli Stati Uniti", Bolletino Daest (Sept. 1984, University of Venice) ["The Debate Over Rent Controls in the United States"]

"Guidelines for Drafting Rent Control Laws: Lessons of a Decade", Rutgers Law Review, Vol. 35, 723-885 (1983)

"Defining 'Fair Return' For Rent Controlled Landlords", 59 New Jersey Municipalities (no. 3) 24 (1982)

"Property Tax Assessment Discrimination Against Low-Income Neighborhoods", Urban Lawyer, Vol. 13, 333-405 (1981, American Bar Ass'n)

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Clearinghouse Review, Vol. 15, 467-486 (1981),

Property Tax Journal, Vol. 1, (no. 1) 1-50 (March 1982)

(Coauthors Baar and Keating) "Controlling Rent Control", 2 New Jersey Reporter (no. 4) 19-25 (October 1981)

"Land Banking and Farm Security Loans", Economic Development Law Project Report, Vol. 8, no. 4, 1978)

"Rent Control in the 1970's: The Case of the New Jersey Tenants' Movement", 28 Hastings Law Journal 631-683 (1977)

(Coauthors Pearlman and Baar) "Beyond the Uniform Relocation Act: Displacement by State and Local Government", Clearinghouse Review, Vol. 10, 329-345 (1976)

(Coauthors Baar and Keating) "The Last Stand of Economic Substantive Due Process: The Housing Emergency Requirement for Rent Control", Urban Lawyer, Vol. 7, 446-509 (1975)

Chapters in Books

"Open Competition, Transparency, and Impartiality in Local Government Contracting Out of Services" (Chapter 2), Navigation to the Market Regulation and Competition in Local Utilities in Central and Eastern Europe, ed. Peteri and Horvath (2001, Local Government and Public Service Reform Initiative, Open Society Institute, Budapest)

"New Jersey's Rent Control Movement" (Chapter 10) and "Controlling 'Im' Mobile Home Space Rents", (Chapter 13), ed. Keating, Tietz, & Skaburskis, Rent Control: Regulation and the Rental Housing Market (1998, Center for Urban Policy Research, Rutgers University).

Hungarian Land Use Policy in the Transition to a Market Economy with Democratic Controls", Land Tenure and Property Development in Eastern Europe (1993, Association des Etudes Foncières, Paris)

"Peacetime Municipal Rent Control Laws in the United States: Local Design Issues and Ideological Policy Debates", ed. van Vliet, Choldin, Michelson, and Popenoe, Housing and Neighborhoods, ch.15 (1987, Greenwood Press)

"Rent Control", California Residential Landlord-Tenant Practice, Chapter 9 (1986, California, Continuing Education of the Bar)

Books

Editors Baar and Pojani, Urban Planning in a Market Economy, (Tirana, Albania 2004); author of chapters: "Decentralization in Service Provision and Urban Planning - An International Perspective, Private", "Property Rights, Public Expropriations, and Public Rights to Undertake Urban Planning", "Contracting Out Public Services in Hungary - Regulatory, Contracting and Transparency Issues". Coauthor of chapters: "Urban Planning in a Democracy with a Market Economy", "Local Service Provision in Albania".

Court Opinions Citing Publications of Kenneth Baar

Oceanside Mobile Home Park Owners Association v. City of Oceanside, 157 Cal.App.3d. 887; 204 Cal.Rptr. 239 (1984) California Court of Appeal

Fisher v. City of Berkeley (1984) 37 Cal.3d. 644; 209 Cal.Rptr. 682 (California Supreme Court); affirmed, 475 U.S. 260, 106 S.Ct. 1045, 89 L.Ed.2d. 206 (1986)

Mayes v. Jackson Township (1986) 103 N.J. 362; 511 A.2d. 589 (New Jersey Supreme Court); cert. denied, 479 U.S. 1090, 107 S.Ct. 1300, 94 L.Ed. 2d. 155 (1987).

Yee v. Mobilehome Park Rental Review Board (1993) 17 Cal. App. 4th 1097, 23 Cal.Rptr. 2nd. 1 California Court of Appeal

Palomar Mobilehome Park v. City of San Marcos (1993) 16 Cal.App.4th 481, 20 Cal.Rptr.2d. 371 California Court of Appeal

Kavanau v. Santa Monica Rent Control Board (1998) 16 Cal.4th. 761; 66 Cal.Rptr. 2d. 672 (1997) California Supreme Court); cert. denied, 522 U.S. 1077, 118 S.Ct. 856, 139 L.Ed. 2d. 755

Quinn v. Rent Control Board of Peabody (1998) 45 Mass. App.Ct. 357, 698 N.E.2d.911 (Massachusetts Court of Appeal)

Berger Foundation v. City of Escondido (2005) 127 Cal. App. 4th 1 (California Court of Appeal)

TG Oceanside LP v. City of Oceanside (2007) 156 Cal. App.4th 1355 (California Court of Appeal)

2010 Visalia Master Long Term Lease Agreement

THIS AGREEMENT WILL BE EXEMPT FROM ANY ORDINANCE, RULE, REGULATION OR INITIATIVE MEASURE ADOPTED BY ANY LOCAL GOVERNMENTAL ENTITY, WHICH ESTABLISHES A MAXIMUM AMOUNT THAT A LANDLORD CAN CHARGE A TENANT FOR RENT.

This Agreement is made and entered into this _____ day of _____, 201____, by and between the management of _____ Park (hereinafter the "Owner") and those persons listed on the last page of this Long Term Lease Agreement (hereinafter "Model Lease" or "Agreement") as the Homeowner (hereinafter the "Resident") for Space No. _____, located at _____.

Resident shall have at least 30 days to review this Agreement. This Agreement may be cancelled within 72 hours after execution by written notification to the Owner. (Cal. Civil Code Section 798.17(f).)

1. Specific Information.

1.1 Homesite Owner rents to Resident, and Residents rents from Owner, Space No. _____ (hereinafter the "Homesite") located at the above listed Park Address.

1.2 Term The tenancy created under this Agreement shall commence on _____, and terminate on June 1, 2015, unless sooner terminated in accordance with the terms of this Agreement.

Optional: The termination date can optionally be made to be five years from the date this Model Lease is signed.

1.3 Anniversary Date The Anniversary Date of this Agreement shall be annually on the first day of the month following execution of this Agreement, unless specifically noted otherwise on the line below:

Optional: Specify anniversary date _____.

1.4 Rent

Beginning Monthly Base Rent: \$ _____ per month
Late Rent Charge \$ _____ per month
Check Handling Charge \$ _____ per month
Vehicle Storage Charge \$ _____ per month
Guest Charge \$ _____ per month
City of Visalia Lease Program
Charge (Expires June 1, 2015) \$ _____ per month Other
_____ (describe) \$ _____ per month

1.5 Park or providers shall furnish the following circled utilities without separate charge:

Water	Trash Removal Service	Electricity	Telephone
Sewer/ Sanitation	Natural Gas	Basic Cable Television	Premium Cable Television
Other -			

1.6 Park shall separately bill Resident for the following circled utilities:

Water	Trash Removal Service	Electricity	Telephone
Sewer/ Sanitation	Natural Gas	Basic Cable Television	Premium Cable Television
Other -			

1.7 Resident shall contract with the appropriate utility company or provider and pay directly for the following utilities and for all other utilities as required by Owner

Water	Trash Removal Service	Electricity	Telephone
Sewer/ Sanitation	Natural Gas	Basic Cable Television	Premium Cable Television
Other -			

2. DEFINITIONS

2.1 "Owner" includes, but is not limited to, the owners of the Park (including the Owner's partners, directors, representatives, officers, employees, and agents) and the management of the park. Where appropriate the term "Park as used herein, is also synonymous with "Owner."

2.2 "Resident" is a homeowner or other person who lawfully occupies a mobile home. All other persons, including but not limited to, prospective homeowners, purchasers, or those persons who have not been approved for tenancy by the Park, have not closed escrow or have not transferred title on the mobile home occupying the Homesite shall not be deemed a Resident.

2.3 "Guests" includes all of the Resident's agents, employees, persons sharing the Homesite pursuant to Civil Code Section 798.34(b), invitees, permittees, licensees, or other persons in the Park or on the Homesite at the invitation, request or tolerance of Resident. The term "Guests" also includes any Resident *who does not have an ownership interest in the Homesite.*

2.4 "Park Facilities" means those services and facilities of the Park generally available to Residents and their Guests

2.5 “Homesite” means the real property rented to Resident by Owner. The boundaries of the real property rented to Resident shall be the lesser of either (1) the lot lines as determined by a governmentally approved survey, or by a recorded plot plan, or (2) the apparent physical boundaries of the Homesite as they exist at the time this Agreement is entered into.

2.6 “Mobilehome Residency Law” means those provisions of the California Civil Code §§ 798 through 799.6 which are known as the “Mobilehome Residency Law” and are acknowledged to be attached hereto and previously received.

2.7 “Owner’s approval,” “approval of Owner,” “Owner’s consent,” “consent of Owner,” or other similar terms as used in this Agreement or in the other documents referred to in this Agreement, means that the Owner’s prior written approval must have been obtained by Resident before Resident commences any such action requiring Owner’s approval. If Owner’s prior written approval is required in this Agreement for a proposed action to be taken by the Resident, Resident shall in such case, first submit to Owner a written request which describes the action Resident proposes to take. The written request shall state that it seeks prior written approval of Owner for such proposed action. The Owner shall give or refuse approval in writing, and shall not unreasonably withhold such prior written approval.

2.8 The definitions set forth in subparagraphs 2.1 and 2.7 shall apply unless the context indicates that a different meaning is intended.

3. RENT

3.1 Resident shall pay as rent to Owner, without deduction or offset, on the first day of each month:

A. The Rent (as it may be adjusted as defined and specified in paragraph 3.2 below.

B. All utility charges billed to Resident by Owner during each month. (Please note: Utility rates for utilities billed to Resident by Owner are set by the Public Utilities Commission and other governmental agencies. Therefore, charges and other related costs for these utilities and services may be increased at any time in accordance with the rates established by these other parties, and no advance notice of increases in these rates will be given to Resident by Owner.)

C. Charges for recreational and other extra vehicles that may be stored subject to the fees imposed by the Park’s Storage Agreement that can be obtained from Owner.

D. Guest charges listed in paragraph 1.4 above shall be assessed for each calendar month or any portion thereof for each Guest who has stayed more than a total of twenty (20) consecutive days or a total of thirty (30) days in any calendar year. Such guest fee shall commence the day after a Guest has exceeded the grace time specified in the preceding sentence and shall be

payable in full for each calendar month or portion thereof. This additional charge for Guests shall not, however, apply if the Guest is a member of Resident's immediate family as defined by the Mobilehome Residency Law or if the person occupies the Homesite pursuant to Civil Code §798.34.

E. Guest fees, charges for vehicle storage and charges for utilities not regulated by the Public Utilities Commission or other governmental agencies may be increased upon ninety (90) days notice to Resident. (Please note: It is Owner's intention to increase such amounts only on an annual basis, if at all, unless otherwise necessary.)

F. All Residents that have signed this Lease agree to pay a fee of \$____ per month to fund the City of Visalia Standardized Lease Program costs. These costs consist of administrative expenses and the costs of the ombudsman the City of Visalia provides under that Program. This amount is subject to annual review and adjustment by the City of Visalia. The charge may be increased upon required notice of increase by City. This charge shall not exceed five dollars per month. **If this Lease is still in effect after June 1, 2015, then this amount shall not be collected unless the City of Visalia and Owner have extended the Standardized Lease Program Agreement, which currently expires on June 1, 2015.** Owner shall collect these charges and return them to City on a semi-annual basis, January 15, and July 15.

3.2 Base Rent: The Base Rent shall be the amount specified in paragraph 1.4 above and shall remain in effect for the first year of the Lease. Upon the first Anniversary Date as specified in paragraph 1.3 above, whereupon the base monthly rent then in effect shall be subject to the following annual increases: (All rent increases will take effect on Resident's Anniversary Date, except for property tax rent adjustments, which may take effect on ninety (90) days advance written notice when incurred by management and increases to the City of Visalia Standardized Lease Program charge, which shall take effect on May 1, if the Resident has received at least ninety days notice of any increases.)

The Base Rent for all Residents that have been residing within the Park shall be equal or less than their last monthly rent, subject to potential annual adjustment according to the formula stated in the 2010 Standardized Lease Program Agreement referred to below if the resident's last monthly rent has not been increased during the prior year. This increase may be waived by the Owner. For new residents, the Owner shall set the Base Rent.

Monthly rent will increase in accordance with the 2010 Standardized Lease Program Agreement, on the Rent Adjustment Date. (See Attached 2010 Standardized Lease Program Agreement.)

3.3 Government Required Costs: On each Rent Adjustment Date, monthly rent may be adjusted for increased costs for government required services (as defined below) on an item by item basis for the 12 month period ending four (4) months prior to the Rent Adjustment Date. The total costs of all government required costs services (as defined below) on an item-by-item basis for the 12 month period ending 4 months prior to the Rent Adjustment (Anniversary date)

or each _____ (insert date if applicable) are compared to the total costs for the prior 12 month period. If any government required services has been instituted or increased during the latest 12 month period, the Monthly Rent shall be increased by such amount, divided by 12 and prorated among the number of spaces in the Park. "Government Required Costs" means "any new, additional, or changed services facilities or costs which the owner is required by the government to provide or pay, including without limitations, fees, bonds, assessments, taxes, charges, or other costs or expenses. However Government Required Costs occurring on a temporary or "one-time" basis shall not become a part of the Base Rent but shall instead be subject to the above described prorated formula and shall be billed to Resident monthly and shown separately until such costs are satisfied, at which time such billing shall cease.

As an exception to the process stated above, if the City of Visalia determines the charge to fund the City of Visalia Standardized Lease Program costs must be modified, then by January 15, of each year, the City of Visalia shall notify the Owners of any such increase. The Owners shall notify the Residents of any such changes, and the new amount shall begin to be collected monthly beginning with the May rent payments.

3.4 Increase on Sale: Effective upon sale of mobilehome Owner may increase the monthly Base Rent without limitation to the assuming new purchase. However such increase shall not apply if the mobilehome is acquired through an inheritance from the mobilehome owner who was a parent or grandparent of the transferee and transferee actually occupies the mobilehome as a primary residence after approval by the management under purchaser approval requirements of this Agreement.

3.5 All rent payable hereunder shall be paid by check or money order. If the rent is not paid to the park management office by 5:00 p.m. on the sixth (6th) day of the month, the late charge specified in paragraph 1.4 above shall be charged to cover Owner's costs for additional accounting and collections expense. Additionally, the handling charge specified in paragraph 1.4 above shall be required for all checks returned by the bank due to insufficient funds in the Resident's account for any other reason. The acceptance by owner of any late payment shall no constitute a waiver of any breach or any term of provision of this Agreement, or any rule, regulation, term or provision contained in any document referred to in this Agreement, nor shall it reinstate, continue or extend the term of this Agreement, or affect any notice, demand or suit hereunder. Late charges and returned check handling charges may be increased upon ninety (90) days notice to Resident.

4. UTILITIES.

Pursuant to current Mobile Home Residency Law Owner shall provide and separately bill to Resident for the utilities circled in Section 1.6 above, and on a monthly basis, Owner shall post those utility bills and rates described in subsection A through D of Section 4 herein:

A. Natural gas and electricity: The rate owner shall charge Resident for natural gas and electricity usage shall equal rates established by the Public Utilities Commission.

B. Water: The rate Owner shall charge Resident for water usage shall equal the rate charged by *California Water Service Company* for water supplied to a single family residence. Such rate structure may include a minimum monthly service charge.

C. Sewer/Sanitation Service: The amount owner shall charge Resident for sewer/sanitation service to a single family residence. Such rate structure may include a minimum monthly charge.

D. Trash Removal: Owner shall charge Resident for trash removal the amount billed to Owner by the trash removal company, prorated among the number of spaces in the park.

E. Basic cable television and other television services: Owner shall charge Resident for preexisting basic cable television or other television services by the amount determined by the *television service* provider.

F. If owner receives any notice concerning the cost of any of the utilities and/or services listed in Paragraph 1.6 above, Owner shall provide Resident such information within 30 days of Owner's receipt of such notice.

G. Owner shall provide without separate charge to Resident for the utilities and services circled in Paragraph 1.5 above. Owner may, however upon 60 days notice to Resident, elect to charge Resident for any of the utilities, which have previously been provided to Resident without separate charge.

H. In the event the Owner elects to submeter water and separately charge Resident for the water Resident uses, the rate Owner shall charge shall equal the rate structure used by the *California Water Service Company* to a single family residence. Such rate structure may include a minimum monthly charge. Furthermore, in the event Owner elects to submeter the water the base monthly rent paid by Resident shall be reduced by an amount equal to eighty percent (80%) of the Park's average monthly water bill during the last twelve (12) months for water service to the Park, prorated over the number of spaces in the Park.

I. In the event the Park elects to separately bill for any other utility or service, the Park shall reduce the base monthly rent paid by Resident by an amount equal to the fees and charges existing at the time the Owner initiated separate billing.

J. Resident shall contract with the appropriate utility company or provider and pay directly for all utilities and/or services circled in paragraph 1.7 above, as required by Resident.

K. Owner shall not be liable for any loss or injury, and Resident shall not be entitled to any abatement or reduction of rent by reason of Owner's failure to furnish any of the foregoing utilities when failure is caused by accident, breakage, repairs, strikes, or other labor disputes or by any other cause, similar or dissimilar, beyond the reasonable control of Owner. Resident shall not connect, except through existing electrical or natural gas outlets or water pipes on the Homesite, any apparatus or device for the purposes of using electric current, natural gas, or water.

5. EXEMPTION FROM RENT CONTROL

Resident understands and acknowledges that, by the offering of this Agreement, Resident's Homesite is removed from the jurisdiction of any rent control ordinance, rule regulation, or initiative measures which is either currently in effect or which may be adopted by any local entity during the term of this Agreement.

6. HOLDOVER TENANCY

If Resident remains in possession of the Homesite after the expiration of the term of this Agreement and has not executed a new occupancy Agreement with respect to the Homesite, said possession by Resident shall be deemed a month-to-month tenancy, and Owner may terminate or refuse to renew Resident's tenancy in accordance with Paragraph 14 of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, Owner may also, upon ninety (90) days notice to Resident increase the Base Rent then in effect and other charges of the Park to the Resident who is holding over.

7. RESPONSIBILITY OF THE PARK

7.1 It is the responsibility of the park management to provide and maintain the physical improvements in the common facilities of the Park in good working order and condition. Owner shall provide all of the physical improvements and services which are now in existence in the Park and provided to Residents or which may be added at a later date. The physical improvements include the non-exclusive use of all streets, non-restricted parking areas, all recreational facilities and equipment, pools, lawns, laundry facilities and all other facilities for the use by Residents. These services include the services provided by the Owner and other persons employed by the Park and the utilities specified in this Agreement. (Please note: Furniture and equipment that belong to Resident's clubs, associations or other organizations services provided by the Residents or such organizations, are not the responsibility of the Park to maintain.) The physical improvements of the Park are as follows:

7.2 The clubhouse, if provided, will be kept well ventilated as required by law, but the heating system and *cooling* system will not be operated on a constant

basis in order to conserve energy. Rather, heating and/or cooling will be turned on as required to maintain reasonable temperature levels.

7.3 The park may, upon the giving of lawful notice, amend, delete, add or modify any of the services or facilities provided, pursuant to all applicable laws.

7.4 Management shall have a reasonable period of time, with respect to the physical improvements in the common facilities, to repair the sudden or unforeseeable breakdown or deterioration of these improvements and bring the improvements into good working order and condition after management knows or should have known of the breakdown or deterioration. The period of time to do so shall not exceed thirty (30) days except where exigent circumstances justify a delay, or otherwise as specified by the Mobilehome Residency Law, as it may change from time to time. Such repairs or other appropriate action shall be accomplished as soon as possible in the event of any condition which may relate to health and safety.

8. NO ADDITIONAL CHARGE FOR CAPITAL IMPROVEMENTS

No rental adjustment will be based upon *the construction, repair, or maintenance*, of any individual capital improvement during the term of this Agreement.

9. INCORPORATED DOCUMENTS

The following documents, as they may be amended, modified, or otherwise changed from time to time, as permitted by the terms of this Agreement, are attached as exhibits to the Agreement and incorporated herein by this reference; (1) California Civil Code provisions known as the Mobile home Residence Law, (2) City of Visalia Municipal code pertaining to Mobilehome Parks (Chapter 15.52 §§ 15.52.010 – 15.53.220), (3) The Park's Rules and Regulations and any other residency document of the Park ~~not~~ in effect, including, but not limited to, Pet Rules and Swimming Pool Agreement.

10. USE OF MOBILEHOME PARK

10.1 The mobilehomes and Homesite shall be used only for private residential purposes, and not business or commercial activity of any nature shall be conducted thereon. This prohibition applies to any commercial or business activity, including, but not limited to, any of the following:

A. Any activity requiring the issuance of a business license or permit by any government agency.

B. The leasing, subletting, sale or exchange of mobilehomes.

C. In-park commercial mobile home sales will be permitted only where the mobile home park is located to a C-4, service commercial district and the sales activity is carried on in such area.

10.2 At all times at least one of the persons listed on the last page of this Agreement as a Resident must be the legal or registered owner of the mobilehome that occupies the Homesite.

11. COMPLIANCE WITH LAWS AND RULES AND REGULATIONS

Resident and park managers living on-site shall abide and conform with all applicable laws and ordinances, all terms and conditions of this Agreement, the Rules and Regulations in accordance with California Civil Code Section 798.23, all rules regulations, terms and provisions contained in any document referred to in this Agreement, and said rules, regulations, terms, and provisions as may, from time to time, be amended, modified or otherwise changed by Resident or Owner as permitted by the terms of this Agreement as per civil Code Section 798.25. Any violation of these rules and regulations shall be deemed a public nuisance. Resident and Owner agree that a breach of this Agreement or any of the rules and regulations cannot reasonable or adequately be compensated in damages in an action of law, therefore, either party shall be entitled to injunctive relief, including but not limited to, a restraining order prohibiting Resident or Owner from continuing to breach any such rules or regulations, term, or condition, or to allow a condition violative of a rule or regulation, term or condition to exist or continue to exist.

12. OWNER'S OPTION TO MAINTAIN HOMESITE

In the event Resident fails to maintain Resident's Homesite as provided in the Rules and Regulations, Owner may, upon giving written notice to Resident, perform the required maintenance and charge Resident a reasonable fee for said maintenance. The written notice shall state the specific condition to be corrected, that Owner will perform the maintenance if Resident does not perform within fourteen (14) days of the notice, and an estimate of the charges to be imposed.

13. WAIVER OF DEFAULT

No delay or omission in the exercise of any right or remedy of Owner provided by this Agreement related to any default by Resident related to obligations provided by this Agreement shall impair any such right or remedy or be construed as a waiver. No waiver by Owner of Owner's right to enforce any provision hereof after any default on the part of Resident shall be effective unless made in writing and signed by Owner, nor shall it be deemed a waiver of Owner's right to enforce each and all of the provisions hereof upon any further or other default on the part of Resident. The acceptance of rent hereunder shall not be, or become construed to be a waiver of any breach of any term or provision of this Agreement or any rule, regulations, term or provision contained in any document referred to in this Agreement, nor shall it reinstate, continue or extend the term of this Agreement or affect any notice, demand, or suit hereunder.

14. TERMINATION OF TENANCY

This Agreement may only be terminated by Owner in accordance with the Mobilehome Residency Law, for example, non-payment of rent, substantial annoyance, violation of rules and regulations, etc.

15. TRANSFER OF OWNER'S INTEREST

In the event Owner transfers Owner's interest in the Park, Owner shall be automatically relieved of any obligations hereunder which occur after the date of such transfer, provided such obligations are assumed in writing by the transferee. The purchaser of the Park must be bound by this Agreement.

16. TERMINATION BY RESIDENT

Resident may elect to terminate this Agreement on sixty (60) days written notice to Owner if one of the following occurs: (a) All persons occupying the Homesite rented to Resident by this Agreement terminate their tenancy as to said Homesite and remove Resident's mobilehome from the Park. In such event, the Homesite shall revert to Owner's control, and Owner may lease or rent the Homesite to any party on any terms Owner chooses, (b) All persons occupying the Homesite rented to Resident by this Agreement terminate their tenancy as to said Homesite and sell Resident's mobilehome to another party who has been approved by Owner for tenancy in the Park in accordance with the terms set forth in the paragraph entitled "APPROVAL OF PURCHASER AND SUBSEQUENT RESIDENT."

17. APPROVAL OF PURCHASER AND SUBSEQUENT RESIDENT

17.1 Resident may sell Resident's mobilehome at any time pursuant to the rights and obligations of Resident and Owner under the Mobilehome Residency Law and other applicable law. *In addition, Owner agrees to make their standards for the approval of subsequent purchasers available to Residents or potential purchasers upon request. If Owner rejects a potential purchaser of a mobilehome, then Owner shall notify Resident and provide a general explanation as to why the Owner rejected the potential purchaser. Owner shall not be required to provide any information that might be considered confidential to the Resident.*

17.2 Any additional rights granted to Resident or to Owner due to amendments, deletions, or modifications of the Mobilehome Residency Law and other applicable law may be enforced by Owner or by Resident. If the prospective buyer does intend for the mobilehome to remain in the Park, said buyer must do the following before occupying the mobilehome: (a) complete an application for tenancy, (b) be accepted by the Owner (c) execute a new rental agreement or other agreements for the occupancy of the Homesite, and (d) execute and deliver to the Owner a copy of the Park's then effective Park Rules and Regulations and other residency documents. **IF THE PURCHASER FAILS TO EXECUTE AN ASSIGNMENT OF THIS AGREEMENT OR NEW RENTAL AGREEMENT, SUCH PURCHASER SHALL HAVE NO RIGHTS OF TENANCY.** The rental agreement, Rules and Regulations and other residency documents

signed by the prospective purchaser may be different in their own terms and provisions than this Agreement, the Rules and Regulations, and other residency documents now in effect.

17.3 Notwithstanding anything contained herein to the contrary, Owner may, in order to upgrade the quality of the Park, require the removal of the mobilehome from the Homesite upon its sale to a third party, in accordance with the provisions of the Mobilehome Residency Law and other applicable law. Any such rights granted either party due to amendments, deletions, or modifications of the Mobilehome Residency Law and other applicable laws may be enforced by either party at that party's option.

18. OCCUPANCY QUESTIONNAIRE

Residents shall complete, sign and provide to Owner, on three (3) days written notice, an Occupancy Questionnaire. (Please note: Such Occupancy Questionnaire shall be required only on an annual basis, unless otherwise necessary.) Such executed Questionnaire shall contain the following upon completion:

- A. The names of all occupants of the Homesite.
- B. Nature of occupancy, i.e. guest, resident, shared tenancy under California Civil Code Section 798.34.(b), family member,
- C. The legal owner and registered owner of the mobilehome,
- D. Names and addresses of all lienholders of the mobilehome,
- E. A copy of the registration card issued either by the Department of Housing and community Development or the Department of Motor Vehicles for the mobilehome occupying the Homesite.

19. LIENS AND CLAIMS

19.1 Prohibition Against: Resident shall not suffer permit to be enforced against Owner's title to the Park, or any party thereof, any lien, claim, or demand arising from a work of construction, repair, restoration or maintenance of the Homesite or mobilehome.

19.2 Removal of Liens by Resident: Should any lien demand, or claim be filed, Resident shall cause it to be immediately removed. In the event Resident, in good faith, desires to contest such lien, demand, or claim, he may do so, but in such case Resident agrees to and shall indemnify and save Owner harmless from any and all liability for damages, including reasonable attorneys fees and costs, resulting therefrom and agrees to and shall, in the event of a judgment of foreclosure on said lien, cause the same to be satisfied, discharged, and removed prior to execution of the judgment.

19.3 Removal of Liens by Owner: Should Resident fail to discharge any such lien or furnish bond against the foreclosure thereof, Owner may, but shall not be obligated to discharge the same or take such action as it deems necessary to prevent a judgment of foreclosure on said lien from being executed against the property, and all costs and expenses, including but not limited to, reasonable attorneys fees and court costs incurred by Owner in connection therewith shall be repaid by Resident to Owner on written demand.

20. ENFORCEMENT BY CITY OF VISALIA

The parties hereto specifically grant to the City of Visalia the authority to enforce the terms and conditions of the *2010 Standardized Lease Program Agreement*, which provides the offering of this lease to the Residents of Parks within the city limits of Visalia. The parties agree that the prevailing party shall be entitled to recover any costs and attorneys fees incurred in the enforcement of the terms and conditions of the *2010 Standardized Lease Program Agreement* it seeks to enforce on behalf of the parties hereto.

21. INDEMNIFICATION

Owner and Park shall not be liable for any loss, damage or injury of any kind whatsoever to the person or property of any resident or to any of the employees, guests, invitees, permittees, or licensees of any resident, or to any other person whatsoever, caused by any use of the Park or Homesite, which is the result of any defect in improvement erected thereon, or arising from any accident in the Park or Homesite arising from any fire or other such casualty thereon, or arising from any cause whatsoever. Resident hereby agrees to indemnify and hold Owner and Park free and harmless from liability for all claims and demands for any such loss, damage, or injury, including attorney fees, together with all costs and expenses arising therefrom or in connection therewith. The foregoing release and indemnification shall not apply to the negligent or willful acts or omissions of Owner or Park, the breach of this Agreement by Owner or Park, or any other duty owed by Owner or Park as compensation for diminution in value of the leasehold or for taking of the fee or the taking of any interest Resident may have had due to this Agreement or Resident's tenancy in the Park. Nothing contained herein, however, shall be deemed to preclude Resident from obtaining any award for loss of, damage to, or relocation of Resident's removable personal property, or to give Owner any interest in such award.

22. ENTIRE AGREEMENT

This Agreement and the documents referred to herein constitute the entire Agreement between Resident and Owner pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations and understandings of the parties, whether written or oral.

23. ATTORNEYS' FEES AND COSTS

If any action arises out of Resident's tenancy, this Agreement, the attached *2010 Standardized Lease Program Agreement*, or the provisions of the

Mobilehome Residency Law, the prevailing party shall be entitled to reasonable attorneys' fees and costs. A party shall be deemed the prevailing party if judgment is rendered in his or her favor or where the litigation is dismissed in his or her favor prior to or during trial, unless the parties otherwise agree in the settlement or compromise.

24. HEADINGS

The title of the paragraphs and subparagraphs contained herein are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as any part of this Agreement.

25. NOTICES

All notices required or permitted under this Agreement must be in writing and may be served upon Owner or Resident by any means then permitted by law.

26. TIME OF ESSENCE

Time is of the essence with respect to the performance of every provision of this Agreement in which time is a factor.

27. INVALIDITY OF PROVISIONS

27.1 Certain terms and provisions of this Agreement and other documents referred to in this Agreement refer to, restate, or summarize provisions of the Mobilehome Residency Law and other applicable laws. In every instance, it is intended that these references, restatements and summaries will accurately reflect the law and correctly set forth Resident's and Owner's rights, liabilities, duties and obligations to one another and to other persons. The same is true of all of the other provisions of this Agreement and the other documents used by the Park. If any of the provisions of this Agreement or the other documents used by the Park fail in any way to meet the above criteria, then it is unintentional and all such provisions shall be deemed to be automatically revised to correctly reflect the Owner's and Resident's rights, liabilities, duties, and obligations under the provisions of the Mobilehome Residency Law and all applicable laws. Resident agrees to promptly notify Owner in writing of any instance where Resident believes that any of the provisions of this Agreement or other documents used by the Park fail to meet the above criteria.

27.2 If any term or provision of this Agreement or any document referred to in this Agreement or the application thereof to any person or circumstances shall to any extent be invalid, or unenforceable, the remainder of this Agreement or the other document or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement or the other document shall be valid and be enforced to the fullest extent permitted by law.

28. CHOICE OF LAW

This Agreement and all documents referred to in this Agreement shall be construed and enforced in accordance with the laws of the State of California.

29. EXTENSION OR RENEWAL

Pursuant to the terms of the 2010 Standardized Lease Agreement, the prescribed term of this Agreement is _____.
Resident and Owner may negotiate the renewal or extension of this Agreement for an additional term mutually agreeable to the parties as long as such agreement is in writing. Although any such extension beyond the term of the 2010 Standardized Lease Agreement shall state the terms that 2010 Standardized Lease Agreement expires on June 1, 2015.

30. ASSUMPTION OF AGREEMENT

Resident shall have the right to assign Resident's interest in this Agreement upon the sale of Resident's mobilehome, and a purchaser shall be allowed assume Resident's interest in this Agreement, as long as: (a) the provisions of the paragraph above entitled "APPROVAL OF PURCHASER AND SUBSEQUENT RESIDENT" is complied with, (b) Resident is not in arrears in his or her rent at the time of assignment, and (c) Resident is not in violation of any of the park Rules and Regulations or any provision of this Agreement. Resident must, however, immediately notify Owner in writing of Resident's intent to sell Resident's mobilehome, and shall provide Owner with the name, address and telephone number of such prospective buyer. Within fifteen (15) days of such notification, Owner shall notify such prospective buyer that this Agreement may be assumable if the prospective buyer of the mobilehome intends to remain in the Park.

31. MEDIATION/ DISPUTE RESOLUTION

With respect to any dispute between the parties as to this Agreement, the parties shall attempt, in good faith, to meet and confer to resolve the dispute prior to litigation or other formal forms of dispute resolution. The parties agree that the City of Visalia Economic Development Department (contact person) shall be contacted. The City of Visalia contact person shall contact the Resident and the on-site Park Owner representative in an attempt to resolve the dispute.

This Mediation/Dispute Resolution clause terminates on June 1, 2015 with the termination of the 2010 Standardized Lease Agreement.

If no resolution can be reached, then the City of Visalia contact person may refer the matter to be heard by a dispute resolution panel to be made up of an Owner representative from one of the Parks that signed the 2010 Standard Lease Agreement, a Resident representative from one of the Parks that signed the 2010 Standard Lease Agreement and the City of Visalia contact person. A hearing will be held before the panel and each side will be allowed to present there case without objection although panel members may ask questions. No formal rules of evidence will be required to be followed and neither side will have the right to

*subpoena documents or witnesses. The dispute resolution panel will issue a **non-binding** decision on the matter. The parties agree that if the hearing process is used then all information presented during the hearing will be considered confidential and being revealed in order to settle the dispute. Either Owner or Resident may refuse to participate in this alternative dispute resolution procedure. If this procedure is used then both sides agree that the applicable statute of limitations shall be tolled during until after the panel issues its **non-binding** decision.*

Signatures

DRAFT

**City of Visalia and Visalia Mobile Home Park Owner
February 16, 2010
2010 Standardized Memorandum of Understanding (MOU)**

The following mobile home parks owners within the City of Visalia,

and the City of Visalia agree that continuing the standardized lease program will provide stability to rental rates and hereby agree to the following:

1. The parties agree that this Standardized Lease Program Agreement will supersede the terms of the MOU dated May 16, 2005 and the obligations of the parties participating in the 2005 MOU will be extinguished on May 16, 2010 (or within five years following a resident signing a City Lease).

2. It is understood and agreed that the 2010 Master Long-Term Lease Agreement (Lease) attached hereto as Attachment 1 shall be offered to those tenants that are on the 2005 Master Long-Term Lease when those 2005 Leases expire.

3. The terms contained in the Lease must be offered to residents of the mobile homes ("Residents") in the mobile home parks in the City of Visalia pursuant to the terms and conditions stated in this Agreement. In addition to the terms provided pursuant to this Agreement, the Owners may include additional terms that are applicable to each specific park. The City must review and approve these additional terms prior to their inclusion in the Lease.

3.1 Annual Rent Adjustment Floor and Ceiling – All Leases entered into under this Agreement must have the same Annual Rent Adjustment as required by this Agreement. The Annual Rent Adjustment for all leases shall be applicable to the Federal Social Security Act for the prior year subject to the following provisions. The Owner may make the Adjustment three and one-half percent (3.5%) if the Social Security Index increase is less than three and one-half percent (3.5%) and the Owner may not Adjust the Rent more than seven percent (7%) per year if the annual Social Security Index increase is more than seven percent (7%).

4. Owners may offer alternative lease forms but must indicate, in writing, to every Resident, that the Lease negotiated pursuant to this Agreement between the Owner and the City in lieu of a rent control ordinance exists. In addition, Owners must provide each Resident with a copy of this Lease and the contact information for the person named by the City as the point of contact concerning the Lease. City agrees that it will provide educational information to Residents about the terms and conditions of the Lease upon request.

5. The term of this Agreement shall continue for five (5) years. Parties agree that all Leases entered into under the terms of this Agreement shall terminate on June 1, 2015, or be for a five (5) year period from the date signed.

City and Owner agree to begin meeting to discuss whether to extend, modify, or terminate this Agreement by June 1, 2014. A decision is not required by that date.

Parties agree that the determination to offer “rolling” five year Master Leases or to offer Master Leases that match the same term of this Agreement shall be made at the beginning of this Agreement for each individual park. Owner will notify City of their intent in writing within sixty days of signing this Agreement.

If an Owner and Resident extend the term of a Master Leases over five (5) years, then, as stated above, the City is not required to provide ombudsman services after June 1, 2015. Owners agree to notify Residents that this will occur.

6. The Lease shall be offered to all existing Residents that are not otherwise parties to a lease agreement once per year. The Lease shall also be offered to Residents with expiring leases no later than forty-five (45) days prior to the expiration of their lease. Residents will need to notify the park owner and City ombudsperson if they are interested in pursuing the City’s Master lease.

Residents that are on month-month leases or otherwise eligible to enter into a new lease agreement shall be able to request a Lease with the Owner at any time they are eligible to enter into a new lease agreement. Owner agrees that upon such request they will enter into the City’s Model Lease.

7. Owner agrees to document when the Lease was offered to any new Resident or to any Resident with an expiring lease. The documentation form will request the Resident sign and date the form indicating they were offered the Lease by the Owner. It shall not be necessary to list whether the Lease was signed. The form must also be signed and dated by the Owner’s representative. All persons signing the form shall also print their name and provide a mailing address. If the Resident refuses to sign the form, then the Owner’s representative shall print the name of the Resident and indicate their refusal to sign.

Owner shall maintain the documentation form in case of any disputes concerning whether the Master Lease is being offered to new Residents or Residents with expiring leases. If there is such a dispute, then the documentation may be made public.

8. Each Owner must post a copy of the Lease in public view for all Residents to see with a notification that Residents may contact the City with any questions. The contact information for the person named by the City as the point of contact concerning ombudsman services shall also be listed.

9. Owners agree to supply City with the contact information for their mobile home park managers and to update this list within thirty days of any changes in management. All new mobile home park managers are required to

meet with the City within thirty (30) days of beginning their employment for an orientation concerning the Lease and this Agreement.

10. Every mobile home park owner shall file an annual mobile home park registration statement to the City no later than February 1st of each year. The registration statement shall include the number of mobile home spaces within the park; the number of spaces that were being rented at the end of previous year; the number of spaces that were being rented pursuant to a Lease at the end of the year; a description of each charge, including utilities, not included in space rent that are billed to Residents by Owners; the name and address to which all required notices and correspondence may be sent.

11. All the terms, covenants, and conditions of this Agreement shall inure to the benefit of and be binding upon the successor and assigns of the parties hereto.

12. Owners agree that all transfers of a mobile home park by the Owners shall include a condition stating that the new Owner is bound to the terms of this Agreement. Upon the sale or transfer of a mobile home park, the seller or transferor shall notify the City of the sale or transfer and of the name and address of the buyer or transferee. Within thirty (30) days following the sale or transfer of a mobile home park, the buyer or transferee shall register with the City and provide the information described above.

An Owner may terminate this Agreement if one of the following occurs to it: (i) upon the institution by or against that Owner concerning insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of that Owner's debts, (ii) upon that Owner making an assignment of a mobile home park in the City of Visalia subject to this Agreement for the benefit of creditors, or (iii) upon that Owner's dissolution or ceasing to do business. If an Owner terminates this Agreement under this subsection, then this Agreement still continues by with the remaining Owners and the City.

13. The City, if it determines such an ordinance is warranted, may impose a rent stabilization ordinance that would apply to mobile home parks within the City that are not a party to this Agreement.

14. When disputes under Leases arise, each party to this Agreement agrees to participate in the dispute resolution process as described in the Lease.

15. To the extent any of the provisions of this Agreement are not met, any party to this Agreement may initiate appropriate action to seek compliance, including injunctive relief. The prevailing party shall be entitled to recover costs and reasonable attorney's fees expended in enforcing the terms and conditions of this Agreement.

15.1 The parties agree that as liquidated damages for willfully failing or violating to provide the annual mobile home park registration statement to the City and the contact information for their mobile home park

managers, the Owner shall pay the City \$25 per day. This amount begins to accrue five business days after the date the Owner is required to provide the information to the City.

The liquidated damages described above only apply to willful failures of an Owner to provide the annual mobile home park registration statement to the City and the contact information for their mobile home park managers. The liquidated damages provision does not apply to any other violations of this Agreement or to violations of any Model Lease term.

16. The Owners agree to charge each Resident that is on a Lease a charge of \$5.00 (partially funding the ombudsperson position) per month for offsetting City expenses related to this Agreement and the Lease. This amount shall not exceed \$5 per month. This amount shall be forwarded to the City on a semi-annual basis, January 15, and July 15, each year. The City Council shall, after the first year of this Agreement, annually review this amount by December 31. The Owners shall be notified of any changes by January 15, and the new amount shall take effect on May 1.

This charge terminates on June 1, 2015 with the termination of this Agreement, although the duty of Owners to collect and forward the charge shall continue until all such funds due before June 1, 2015 are collected and paid.

17. Any notice to be given to either party under the terms of this Agreement, shall be written and served either by personal delivery or by first class mail, postage prepaid, addressed as follows:

City of Visalia:

CITY OF VISALIA
707 W. Acequia
Visalia, CA 93291

INSERT NAME AND ADDRESS FOR EACH MOBILE HOME PARK

18. It is the intent of the parties to this Agreement that its terms and conditions be enforceable and shall supersede any and all prior Agreements. This Agreement contains the entire agreement between the parties. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied upon by either party. Each party has relied on his own examination of this Agreement, counsel of his own advisors and the warranties, representations, and covenants in the Agreement itself.

19. If any provision of this Agreement is held invalid or unconstitutional, such decision shall have no effect on the validity of the remaining provisions of the Agreement, and such remaining provisions shall continue to remain in full force and effect.

20. Notwithstanding any of the provisions of this Agreement, the parties may hereafter, by mutual consent agree to modifications herein or additions hereto in writing which are not forbidden by law.

21. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

(Signatures)

DRAFT

City of Visalia Agenda Item Transmittal

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 7b

Agenda Item Wording: Authorization for the City Manager to enter into an Agreement with the College of Sequoias for the expansion of dispatch services by the Visalia Police Department. The Agreement will be extended on an annual basis and the City will collect a fee for the services.

Deadline for Action: ASAP

Submitting Department: Police Department

Contact Name and Phone Number:

Colleen Mestas, Chief of Police – 713-4215

Veronica McDermott, Support Services Manager – 713-4230

Department Recommendation: Council authorize the City Manager to enter into an agreement with the College of the Sequoias for the expansion of dispatch services by the Visalia Police Department. The Agreement is to be extended annually and the City will collect a fee for these services.

Summary/background:

College of Sequoias Department of Public Safety currently utilize Visalia Police Department's dispatch services for CLETS queries due to not having direct access to the California Law Enforcement Telecommunications System. This has been a longstanding arrangement with minimal impact on Visalia Police Department's Communications Unit.

Recently, the College of Sequoias Department of Public Safety staff approached the Visalia Police Department requesting the expansion of dispatch services to cover the hours when their communications operator's work day ends. The college has one (1) dispatcher who works Monday through Friday, 8am – 5pm. The proposed expansion that impacts the police department includes Friday from 5pm to 2am and Saturday-Sunday and holidays, from 6am to 2am.

The College of Sequoias Department of Public Safety estimate their annual calls for service to be approximately 500, or .005% of the Visalia Police Department's total calls for service annually. The police department's calls for service were 119,492 when these calculations were made. A fee of \$10,105.66 was established based on the figures above and the Visalia Police Department's FY 2009-10 budgeted costs for dispatch (plus a 10% administrative fee). The fees were calculated as such:

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.):_1__

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

$$\frac{\text{COS Call Volume}}{\text{Total Call Volume}} \times \text{Next Year's Budget} = \text{Final Costs (plus 10\% admin. fee)}$$

If COS annual calls for service exceed 500, or .005% the City may increase the cost of the dispatch services to match the cost estimates for dealing with additional calls in the following year. COS calls for service shall be defined as “calls that result in the dispatch of a COS public safety officer in response” or any “self-initiated activity.”

The City may also adjust the cost of dispatch services in the following year if there are major changes in its dispatch services budget, with major changes defined as greater than a 10% increase in annual budgeted costs for dispatch. COS calls for service shall be defined in the same manner as above. Any cost adjustments will be made at the end of the fiscal year.

The expansion of these services will have minimal impact upon the police department’s Communications Unit and will create additional revenue for the City of Visalia.

It is therefore recommended that the City of Visalia enter into an agreement with the College of Sequoias to expand the dispatch services by the Visalia Police Department. It is also recommended that the City collect a fee and that the agreement be extended annually.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives: Do not authorize agreement.

Attachments: City of Visalia and College of Sequoias Agreement for Dispatch Services

Recommended Motion (and Alternative Motions if expected): It is recommended that City Council authorize the City Manager to execute an agreement with the College of Sequoias for the expansion of dispatch services by the Visalia Police Department. It is also recommended that the City collect a fee for these services and the agreement be extended on an annual basis.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

City of Visalia and College of Sequoias Agreement for Dispatch Services

The City of Visalia Police Department, hereinafter referred to as "CITY" and the College of Sequoias Police Department, hereinafter referred to as "COS" enter into this Agreement for Dispatch Services dated July 1, 2010 through June 30, 2011.

1. CITY agrees to provide the following dispatch services Monday-Friday, from 1700 hours to 0200 hours and Saturday-Sunday and holidays, from 0600-0200 hours:
 - a. CITY dispatchers will receive and enter calls for service for COS via the CITY's Computer Aided Dispatch ("CAD") system.
 - b. CITY will prioritize calls received for COS.
 - c. CITY will contact a COS police officer via portable radio on a designated police channel, and dispatch the COS police officer to the appropriate call.
 - d. CITY will log the time calls are received, dispatched, arrived, and cleared, and will include any further relevant remarks into each individual call for service.
 - e. CITY will provide a printout listing COS calls for service, upon request, to COS Police Department.
2. The COS Police Department will operate using the following procedures:
 - a. COS will provide CITY dispatch with a list of unit identification numbers.
 - b. COS police officers will operate on the Visalia Police Department radio frequency and use its call sign, radio language, and disposition codes.
 - c. COS police officers will identify themselves with a designated radio call number each time they access the Visalia Police Department radio frequency.
 - d. Monday – Friday prior to 1700 hours, COS staff will advise CITY dispatch when the office is closing, and which COS police officers are on duty.
 - e. At the beginning of each shift on Saturdays, Sundays, and holidays, COS police officers will advise CITY dispatch when they are in-service and when they are out-of-service on the Visalia Police Department radio frequency.
3. In exchange for the CITY providing the dispatch services described above, COS shall pay the CITY \$10,105.66 for the period between July 1, 2010 and June 30, 2011.
4. COS annual calls for service are approximately 500, or .005% of the CITY police department's total calls for service. Therefore, charges to COS are .005% of Visalia Police Department's FY 2009-10 budgeted costs for dispatch. If COS annual calls for service exceed 500, or .005% of the police department's total calls for service, the CITY may increase the cost of the dispatch services to match the cost estimates for dealing with

additional calls in the following year. COS calls for service shall be defined as “calls that result in the dispatch of a COS police officer in response” or “any self-initiated activity.”

The CITY may also adjust the cost of dispatch services in the following year if there are major changes in its dispatch services budget, with major changes defined as a greater than ten percent increase in annual budgeted costs for dispatch. COS calls for service shall be defined in the same manner as listed above.

5. The first year of this Agreement will assume that COS has 500 calls for service, or .005% of the CITY’s dispatch calls for service. The full year cost to COS will be \$10,105.06.
6. The minimum calls for service for this Agreement will be 500. Annually, the Agreement may be renewed and COS will pay its share of the dispatch budget based upon last year’s call volume as a percentage of the police department’s total calls, plus a 10% administrative fee. The number will be calculated from July 1 to May 31 of each fiscal year so COS can know what the following fiscal year’s cost will be.

In no case will the COS call volume be calculated at an amount less than 500 calls. In addition, COS costs will include a 10% administrative fee. The fees will then be calculated as follows:

$$\frac{\text{COS Call Volume}}{\text{Total Call Volume}} \times \text{Next Year's Budget} = \text{Final Costs} \quad (\text{plus 10\% admin. fee})$$

Any cost adjustments will be made at the end of the fiscal year.

7. This Agreement shall formalize the procedures in which the CITY of Visalia Police Department and COS Police Department agree to operate effective July 1, 2010.
8. COS shall hold harmless, defend, and indemnify CITY from and against any liability, claims, actions, costs, damages, or losses from injury including death to any persons, or damage to any property as a result of any act or omission of COS employees or agents in the performance of activities under this Agreement except those acts or omissions which were due to the negligence of a CITY employee or agent.
9. CITY shall hold harmless, defend, and indemnify COS from and against any liability, claims, actions, costs, damages, or losses from injury including death to any persons, or damage to any property as a result of any act or omission of CITY employees or agents in the performance of activities under this Agreement except those acts or omissions which were due to the negligence of a COS employee or agent.
10. Either party, upon ninety (90) days written notice to the other party, may terminate this Agreement.
11. This Agreement may be modified only by a written agreement signed by both parties with the exception of the potential cost increases described above.
12. Neither party may assign this Agreement, nor any rights granted under this Agreement, without prior written consent of the other party.

13. This Agreement contains the entire Agreement between the parties. No promise, representation, or covenant not included in this Agreement has been or is relied on by either party. Each party has relied solely on its own examination of this Agreement.
14. Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to effect the purposes of this Agreement.
15. The execution and delivery of this Agreement by each party has been duly authorized and approved by all necessary council and board action, and the consummation of the transaction contemplated hereby has been duly authorized and approved by all requisite action, and no other authorizations or approvals are necessary to enable the parties to enter into or fully comply with the terms of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement.

DATED: _____

CITY OF VISALIA

BY: _____
City Manager

Attest: _____

Approved As To Form:

City Risk Management

City Attorney

DATED: _____

COLLEGE OF THE SEQUIOAS

BY: _____

Attest: _____

City of Visalia Agenda Item Transmittal

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 7c

Agenda Item Wording: Authorization for staff to apply to the Federal Transit Administration for a Bus & Bus Facilities Grant in the amount of \$8.5 M for Sequoia Shuttle Hybrid Electric Buses and the construction of the Sequoia Shuttle Visitors Center.

Deadline for Action: February 16, 2010.

Submitting Department: Administration – Transit Division

Contact Name and Phone Number:

Monty Cox 713-4591

Department Recommendation: Authorize staff to apply for a Bus & Bus Facilities Grant in the amount of \$8.5 M for Sequoia Shuttle Hybrid Electric Buses and the construction of the Sequoia Shuttle Visitors Center.

Summary: The Transit Division is requesting authorization to submit a grant application to the Federal Transit Administration (FTA) through the Bus & Bus Facilities grant program. This grant, if awarded, will be used to purchase six hybrid-electric 35-foot transit buses (\$4.0 M) and construct a visitor center to support the Sequoia Shuttle service (\$4.5 M). The six buses will be purchased by the City of Visalia to lease to the National Park Service (NPS) for use on the Giant Forest Route within the Sequoia National Park. While the hybrid-electric vehicles are more expensive than Visalia Transit's traditional large fixed-route buses (approximately \$660,000 each), they are more environmentally friendly, and a more appropriate type of vehicle for the National Park. The visitor center will be located on City property adjacent to the Convention Center and will house informational displays, brochures and tourism customer service staff from partner agencies associated with Visalia tourism. By attracting visitors to the shuttle we are bringing them to Visalia where they can eat, sleep and shop before and after their trip to Sequoia National Park. In addition, these funds are competitive, can only be spent on transit projects and will increase the amount of federal investment in our community if we are successful. In any case, staff will not accept the grant until Council has the opportunity to review and approve an operational plan.

Background: The City of Visalia has been working with various partners including the Visalia Visitors and Convention Bureau, National Parks Service, Non-profits associated with the National Park Service, Downtown Visalians organization and private tourism companies to promote Visalia as a source of tourism information in Tulare County. The Sequoia Shuttle provides an excellent avenue to attract and entertain visitors as well as provide a valuable service to transportation dependent populations within our community. The missing element to

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

meeting these various needs is a location to bring all these services together and meet these many needs.

The Sequoia Shuttle Visitors Center would be a focal point for attracting more visitors to the Sequoia Kings Canyon National Park and the Tulare County Region. The Sequoia Shuttle Center would capitalize on the successful shuttle system that has been developed to transport visitors from the Valley floor to and within the Sequoia National Park. By attracting visitors to the shuttle we are bringing them to Visalia where they can eat, sleep and shop before and after their trip to Sequoia National Park. In the first two years, more than 295,000 riders have utilized at least one form of the Shuttle System.

The Sequoia Shuttle Visitors Center would provide a destination center that would provide tourism opportunities for both National Parks, the National Forest, and agri-tourism in the two largest ag producing counties in the Country. Many historical and cultural opportunities also exist in the County region, from Allensworth State Park in the South, the exquisite Clark Center for Japanese Art to the West, and the eastern “Concrete Canvas” mural tour to the east.

Of special interest is an effort to use the Center as a focal point to encourage visitors worldwide to visit the “Majestic Mountain Loop”, Yosemite, Kings Canyon and Sequoia National Park. While generations have enjoyed the “Grand Loop” of Grand Canyon, Brice and Zion, far fewer have realized that they could enjoy three spectacular National Parks in as little as three days!

The new Sequoia Shuttle Center will be conveniently located downtown at the Visalia Convention Center, a location well suited for travelers between two hotels, with easy access from the freeway, convenient parking for RV’s and trailers, and just a block from Visalia’s thriving downtown with an assortment of boutique restaurants and shops. It is also two blocks from the City’s multi-modal Transit Center serviced by Amtrak, Greyhound and accessible to the airport.

The 6,900 square foot specially designed building will include ample display space for the National Parks, agriculture and cultural endeavors that Shuttle passengers and other guests can utilize. Office space has been included in this multi-story building that will house the Visalia Convention and Visitor Center, as well as providing space for National Park Service Staff, non-profits associated with the Parks and tourism, and at least one private tourism based business.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives: None

Attachments:

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move that the City Council authorize staff to apply for a Bus & Bus Facilities Grant in the amount of \$8.5 M for Sequoia Shuttle Hybrid Electric Buses and the construction of the Sequoia Shuttle Visitors Center.

Financial Impact

Funding Source:

Account Number:

Budget Recap:

Total Estimated cost: \$ 0	New Revenue: \$0
Amount Budgeted: \$ 0	Lost Revenue: \$
New funding required: \$ 0	New Personnel: \$
Council Policy Change: Yes_____ No <u>X</u>	

Environmental Assessment Status

CEQA Review:

Required? No
Review and Action: Prior:
Require:

NEPA Review:

Required? No
Review and Action: Prior:
Require:

Tracking Information: *Record a Notice of Completion with the County Recorder*

Agenda Item Wording: Authorization for staff to apply for a Bus & Bus Facilities Grant for Sequoia Shuttle Hybrid Electric Buses and the construction of the Sequoia Shuttle Visitors Center.

Copies of this report have been provided to:

City of Visalia Agenda Item Transmittal

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 7d

Agenda Item Wording: Authorization to submit a grant application in the amount of \$119,264 to the Governor's Office of Homeland Security for solar lighting equipment at the Visalia City Coach bus stops. **Resolution No. 2010-05 required.**

Deadline for Action: February 16, 2010.

Submitting Department: Administration – Transit Division

Contact Name and Phone Number:

Monty Cox 713-4591

Department Recommendation: Authorization to submit a grant application in the amount of \$119,264 to the Governor's Office of Homeland Security for solar lighting equipment at the Visalia City Coach bus stops.

Summary: The Transit Division is requesting authorization to submit an application to the Governor's Office of Homeland Security through the California Transit Security Grant Program (CTSGP). The grant program is part of the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond (Prop 1B) to provide funding for transit system safety & security projects. If awarded the grant funds will be used to purchase bus shelters and solar lighting to install at our busiest bus stops. This is an ongoing effort the transit division has been pursuing for the last two years. We received \$154,456 in 07/08. We were awarded, but have not yet received \$119,158 in 08/09 (waiting for the sale of bonds). We have been allocated \$119,264 in 09/10 which requires this application to receive the funds.

Background: The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by voters as Prop 1B on November 7, 2006, includes just under \$20 billion for various programs such as Corridor Improvement, State Route 99, Ports, School bus, State Highways, Infrastructure, Safety and Security, Seismic Retrofit, Railroad Crossing, Local Streets and Roads, and a program of funding in the amount of \$1 Billion to be made available for Transit System Safety, Security and Disaster Response Account. The City of Visalia's allocation is \$119,264 for fiscal year 2009-2010 and must be expended within three years after award.

The Transit Division is requesting authorization to submit an application to the Governor's Office of Homeland Security through the California Transit Security Grant Program (CTSGP). The grant program is part of the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond (Prop 1B) to provide funding for transit system safety & security projects.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

If awarded the grant funds will be used to purchase bus shelters and solar lighting to install at our busiest bus stops. This has become necessary as our hours of operation have expanded into the evening and we have customers waiting in the dark in many locations. Currently there are two types of solar lighting available, one that attaches to the shelter and one that is mounted on a pole for stops that do not have a shelter.

The solar lighting, positioned at bus stops, will protect passengers by deterring crime and making customers feel safer riding the bus. It will also reduce or eliminate vandalism and increase the life of existing bus stop equipment. Providing safety measures to passengers potentially can increase ridership. This grant opportunity is part of a continuous effort to secure our transit infrastructure.

The Transit Division applied for and was awarded funds to purchase solar lighting and bus shelters in fiscal years 2007-2008 and 2008-2009. An estimated fifteen (15) bus shelters with solar lighting and 10 stand alone solar lights will be purchased with the funds received.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives: None

Attachments: Resolution No. 2010-05

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move that the City Council authorize staff to submit a grant application in the amount of \$119,264 to the Governor's Office of Homeland Security for solar lighting equipment at the Visalia City Coach bus stops.
Resolution No. 2010-05 required.

Financial Impact

Funding Source:

Account Number:

Budget Recap:

Total Estimated cost:	\$ 0	New Revenue:	\$ 0
Amount Budgeted:	\$ 0	Lost Revenue:	\$
New funding required:	\$ 0	New Personnel:	\$
Council Policy Change:	Yes_____	No	<u>X</u>

Environmental Assessment Status

CEQA Review:

Required? No
Review and Action: Prior:
Require:

NEPA Review:

Required? No
Review and Action: Prior:
Require:

Tracking Information: *Record a Notice of Completion with the County Recorder*

Copies of this report have been provided to:

RESOLUTION NO. 2010-05

A resolution of the City Council of the City of Visalia authorizing the Transit Division to accept a grant from the Governor's Office of Homeland Security for lighting equipment at the Visalia City Coach bus stops.

WHEREAS, the Governor's Office of Homeland Security awarded a grant to the City of Visalia, FY09-10 Prop.1B-6261-0002; and

WHEREAS, the Governor's Office of Homeland Security is administering these funds in the State of California; and

WHEREAS, the City of Visalia was named in the Governor's Office of Homeland Security as the subawardee for the purchase of capital projects within the grant guidelines; and

NOW, THEREFORE, BE IT RESOLVED, that the City Manager, or his/her designee, is hereby authorized and empowered to execute in the name of the City of Visalia an agreement with the Governor's Office of Homeland Security and all other necessary documents to implement and carry out the purposes of this resolution.

Passed, approved, and adopted this _____ day of _____, 20__.

Signatures of Governing Body Members:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 7e

Agenda Item Wording: Nominate Council Member Mike Lane to fill the vacancy representing a “large” city to the San Joaquin Valley Air Pollution Control District Governing Board.

Resolution 2010-06 required.

Deadline for Action: March 1, 2010

Submitting Department: Administration

Contact Name and Phone Number:

Donjia Huffmon, Chief Deputy City Clerk 713-4512
Leslie Caviglia, Deputy City Manager 713-4317

Department Recommendation

It is recommended that the Visalia City Council nominate Council Member Mike Lane for the vacancy on the San Joaquin Valley Air Pollution Control District’s Governing Board.

Department Discussion

There is currently a vacancy on the Air Board that must be filled by a Council member from the City of Visalia, a “large” city with a population of 100,000 or more from Tulare County. Pursuant to Health and Safety Code Section 40600.5, appointments to the Air Board will be made by the Special City Selection Committee. This appointment will be to fulfill the remainder of a 3 year term that ends on December 31, 2011.

According to the Special City Selection Committee procedures, the next step in the process is for all Tulare County cities to choose from candidate(s) who have applied for the vacant position. Applications were due on February 1, 2010 and Council Member Mike Lane, is the only member on the Visalia City Council who applied for this vacant position on the Air Board.

The deadline to submit city voting results to the APCD is March 1, 2010. The APCD will tally votes and forward nominations to the Special City Selection Committee on March 15, 2010, and the Special City Selection Committee will convene later in March to make the appointments.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: N/A

Alternatives:

Attachments: Resolution 2010-06
Application for appointment – Mike Lane

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head

Finance n/a

City Atty n/a

City Mgr

Recommended Motion (and Alternative Motions if expected):

I move to nominate Council Member Mike Lane to the San Joaquin Valley Air Pollution Control District Governing Board. **Resolution 2010-06 required.**

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

RESOLUTION NO. 2010-06

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA
NOMINATING MIKE LANE TO THE SAN JOAQUIN VALLEY AIR POLLUTION
CONTROL DISTRICT GOVERNING BOARD**

WHEREAS, Health and Safety Code Section 40600.5 created a Special City Selection Committee for the appointment of city members of the San Joaquin Valley Air Pollution Control District (District) Governing Board; and

WHEREAS, the Special City Selection Committee has adopted procedures and a rotation schedule for making their appointments, and based upon the adopted rotation schedule a city council member representing a "large" city with a population of 100,000 or more from Tulare County shall be appointed to the District Governing Board; and

WHEREAS, in selecting a nominee for appointment by the Special City Selection Committee to the District Governing Board, the Visalia City Council considered the application materials from the eligible candidates; and

WHEREAS, the vote to select a nominee took place as an item on the publicly noticed agenda and was discussed during the normal city council meeting with time for public comment.

NOW, THEREFORE, BE IT RESOLVED that the Visalia City Council nominates Mike Lane to the Special City Selection Committee for appointment to the District Governing Board.

PASSED AND ADOPTED:

STEVEN M. SALOMON, CITY CLERK

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

I, Steven M. Salomon, City Clerk of the City of Visalia, certify the foregoing is the full and true Resolution _____ passed and adopted by the Council of the City of Visalia at a regular meeting held on _____.

Dated:

STEVEN M. SALOMON, CITY CLERK

By Donjia Huffmon, Chief Deputy City Clerk



San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT

APPLICATION FOR APPOINTMENT AS A CITY REPRESENTATIVE ON GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

Current Vacancies

Large City: *One member from the City of Visalia.*

If you are an elected official on the council of the city identified above, you may submit an application for appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District.

Applicant Name: *Mike Lane*

Residence Address (Must live within the boundaries of the San Joaquin Valley APCD):

1046 N. Atwood St. Visalia CA 93291

Mailing Address:

Telephone: *(559) 802-1601* ()

Primary

Alt.

Email Address: *mlane@ci.visalia.ca.us*

Applicant Signature: *Michael Lane*

Date: *1/5/2010*

Please submit this form along with any other pertinent information (e.g., resume, candidate statement, education, experience) that you desire to be considered to the address below. **Please limit candidate statement to no more than one page.** Please complete this application and return it by **February 1, 2010** to:

Sayed Sadredin
Air Pollution Control Officer
San Joaquin Valley APCD
1990 E. Gettysburg Avenue, Fresno, CA, 93726

City of Visalia Agenda Item Transmittal

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 7f

Agenda Item Wording: Adoption of Resolution No. 2010 - 07
Authorizing the Application of \$2.5 million for "Proposition 84" Park Bond Act Monies To Develop Civic Center Park (2.8 ac.) along Mill Creek between Tipton St. and Burke St.

Deadline for Action: N/A

Submitting Department: Parks & Recreation

Contact Name and Phone Number: Vincent Elizondo, Director of Parks & Recreation, 713-4367

Recommendation:

Adoption of Resolution No. 2010 - 07 Authorizing the Application for \$2.5 million for "Proposition 84" Park Bond Act Monies To Develop Civic Center Park (2.8 ac.) along Mill Creek between Tipton St. and Burke St.

Background Information:

On December 7, 2009, the Visalia City Council approved a Parks and Recreation Commission recommendation to apply for a Proposition 84 grant application to implement the initial phase of the East Downtown Parks Plan. The Council directed City staff to return to the Council before the March 1, 2010 grant deadline submission date with a Resolution to apply for the grant.

Proposition 84 was passed in 2006 by the voters of California, more commonly known as the **Statewide Park Development and Community Revitalization Program of 2008 and Nature Facilities Grant Program.**

This new competitive grant program was created by Assembly Bill 31 (De Leon) Chapter 623, Statutes of 2008. There will be two rounds awarding \$368 million dollars to critically underserved communities throughout California. The 2009-10 budget act appropriated \$184 million dollars for the first round.

For action by:

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

For placement on:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

The maximum amount of funding that can be awarded for any one project is \$5 million dollars. There is no required match for a grant award.

The final Application Guide was released in April of 2009 and a deadline date for submitting grant applications was established as March 1, 2010. The deadline date for submitting grant proposals was announced on September 1, 2009, giving interested parties six-months to prepare their applications.

Enclosed in this staff report you will find the following information:

- Call for grant proposals by the State of California dated September 1, 2009.
- Rating criteria outlining scoring breakdown to earn 100 maximum points.
- Summary pages for the East Downtown Parks Master Plan.

City staff will be submitting a grant application specifically to develop Civic Center Park, a 2.8 acre linear park north of Mill Creek, between Tipton Street and Burke Street. The grant application will be for \$2.5 million dollars.

Several areas that are critical to a good grant application related to the scoring criteria make this a viable project:

- The project is in an underserved (low income) area.
- The project is a new park creating new open space opportunities.
- There is an “accepted” master plan that saw significant community outreach and public meetings.
- The accepted master plan has a number of recommended conservation and sustainable features.

After tremendous community outreach, the East Downtown Parks & Infrastructure Master Plan was “accepted” by the City Council in June 2008. The plan was prepared by EDAW, Inc.

If the City is awarded a Proposition 84 grant, the project will require CEQA review and compliance within one-year of the date of the grant award.

Attachments:

- Resolution 2010 – 07.
- Call for grant proposals by the State of California dated September 1, 2009.
- Rating criteria outlining scoring breakdown to earn 100 maximum points.
- Summary pages for the East Downtown Parks Master Plan.

Recommended Motion (and Alternative Motions if expected):

Adoption of Resolution No. 2010 - 07 Authorizing the Application for \$2.5 million for "Proposition 84" Park Bond Act Monies To Develop Civic Center Park (2.8 ac.) along Mill Creek between Tipton St. and Burke St.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

RESOLUTION OF THE City Council of the City of Visalia

Approving the Application for STATEWIDE PARK PROGRAM GRANT FUNDS

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Statewide Park Program, setting up necessary procedures governing the Application; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of application(s) before submission of said application(s) to the State; and

WHEREAS, the applicant will enter into a contract with the State of California to complete the grant scope project;

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby: Approves the filing of an application for the East Downtown Civic Center Park project, and

1. Certifies that said applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project; and
2. Certifies that the applicant has or will have sufficient funds to operate and maintain the project(s), and
3. Certifies that the applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide; and
4. Delegates the authority to the City Manager to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the grant scope; and
5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

Approved and adopted the _____ day of _____, 2010

I, the undersigned, hereby certify that the foregoing Resolution No. 2010 - _____ was duly adopted by the City of Visalia City Council following a roll call vote:

Ayes:

Noes:

Absent:

City Clerk



September 1, 2009

**RE: California State Parks (CSP) Proposition 84 Local Assistance Grants:
Statewide Park Development and Community Revitalization Program of 2008
and Nature Education Facilities Grant Program**

Dear local officials and interested parties,

CSP's Office of Grants and Local Services (OGALS) is pleased to provide important updates about the following new competitive grant programs from the Proposition 84, 2006 Bond Act.

- Statewide Park Development and Community Revitalization Program of 2008
- Nature Education Facilities Grant Program

**Statewide Park Development and Community Revitalization Program of 2008
(Statewide Park Program)**

This new competitive grant program was created by Assembly Bill 31 (De Leon) Chapter 623, Statutes of 2008. There will be two rounds awarding \$368,000,000 to critically underserved communities throughout California. The 2009/10 Budget Act appropriated \$184,000,000 for the first competitive round.

ROUND ONE APPLICATION DEADLINE IS MARCH 1, 2010

Applications for the \$184,000,000 first competitive round must be post marked or hand delivered to OGALS no later than March 1, 2010.

Application Guide – April 1, 2009

The final version of the Statewide Park Program Application Guide, dated April 1, 2009, is available at www.parks.ca.gov/grants. The Application Guide provides all application requirements and instructions. OGALS recommends that applicants start using the Project Selection Criteria and Technical Assistance beginning on page 26 as a project location and concept planning guide.

Technical Assistance Workshops

OGALS will hold technical assistance workshops throughout the state starting in October 2009. Attendees are encouraged to ask questions about application requirements, including project selection criteria. The workshop schedule and locations will be announced soon through a separate notice and will also be posted on www.parks.ca.gov/grants. Applicants are also encouraged to contact Viktor Patiño at vpati@parks.ca.gov or (916) 651-8598 for technical assistance.

Nature Education Facilities Grant Program

This new competitive program will award \$93,000,000 in grants for development of nature education facilities, buildings, structures and exhibit galleries that present collections to inspire and educate the public and for marine wildlife conservation research equipment and facilities. The 2009/10 Budget Act appropriated \$93,000,000. Funding was made available through the Parks and Nature Education Facilities chapter in Proposition 84 as set forth in Public Resources Code Division 43, Chapter 8, §75063 (b).

Release of Draft Application Guide

The Draft Application Guide is available on our website at www.parks.ca.gov/grants

Public Hearings

OGALS will hold four public hearings at the locations and times noted on the enclosed flyer. The purpose of the meetings is to allow the public to provide comments on the proposed guidelines. These comments will help to assist OGALS in developing user-friendly guidelines that effectively meet the program's legislative intent. There is no cost to attend the public hearings and RSVPs are not required.

Start of Public Comment Period

The public comment period begins September 1, 2009, and ends October 1, 2009. OGALS must receive all comments by October 1, 2009. Interested parties may send OGALS comments on the draft guidelines by mail, email, or fax.

Mail: Sandy Berry
California Department of Parks and Recreation
Office of Grants and Local Services
PO Box 942896
Sacramento, CA 94296-0001

Email: sberr@parks.ca.gov

Fax: Attn: Sandy Berry
Fax: (916) 653-6511

Final Nature Education Facilities Application Guide and Technical Assistance Workshops

At the conclusion of the public comment period, OGALS will publish the final guide and then hold technical assistance workshops throughout the state. These workshops will answer questions about grant program application and administrative requirements.

Applications for grant funds will be due approximately three months after OGALS publishes the final Application Guide.

Page Three

We encourage you to check our website at www.parks.ca.gov/grants for further updates about the Statewide Park Program, Nature Education Facilities Program, or annual grant programs.

We look forward to working with you on these exciting new programs to improve the quality of life for communities throughout California.

Sincerely,

A handwritten signature in black ink, appearing to read "Sedrick Mitchell". The signature is fluid and cursive, with a large initial "S" and "M".

Sedrick Mitchell
Deputy Director, External Affairs

Enclosure

cc: Patti Keating, Chief, Office of Grants and Local Services

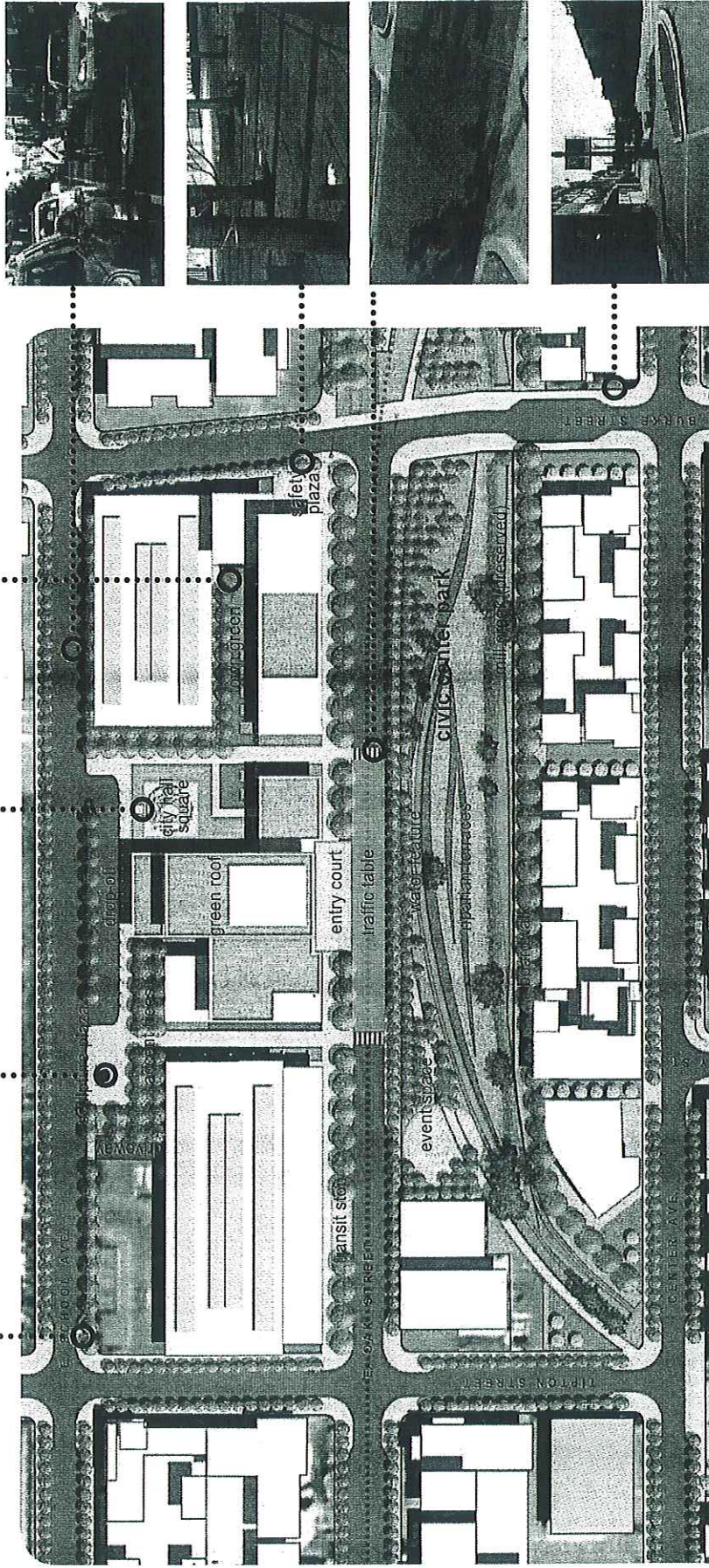
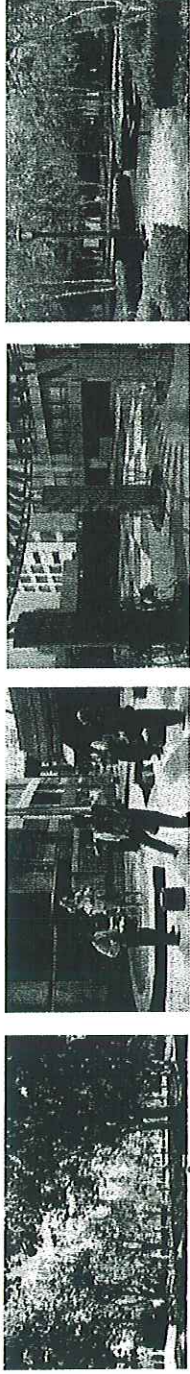
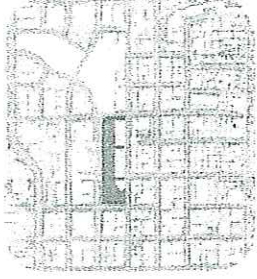
Proposition 84 Rating & Scoring Criteria

100 Points Maximum

1. Critical lack of Park Space (0-18 pts.)
2. Significant Poverty (0-18 pts.)
 - a. Median Household Income (12 pts.)
 - b. Families Living Below Poverty (6 pts.)
3. Type of Project (0-12 pts.)
 - a. Creating a new park (12 pts.)
 - b. Adding new space to expand existing or overused park (10 pts.)
 - c. Substantially improve existing park space (8 pts.)
 - d. Project will create one new park feature (7 pts.)
 - e. Renovation of an existing park feature (4 pts.)
4. Community Based Planning
 - a. Meetings in underserved areas (0-4 pts.)
 - b. Methods used to invite residents (0-4 pts.)
 - c. Degree used to enable residents to participate in design (0-10 pts.)
5. Sustainable Techniques
 - a. Sustainable techniques (0-6 pts.)
 - b. Other conservation techniques (0-5 pts.)
6. Project Funding (0 pts. but a grant requirement)
 - a. Committed Funds
 - b. Other additional funding
7. Fees and Hours of Operation (0-5 pts.)
8. Youth Outdoor Learning Employment or Volunteers (0-3 pts.)
9. Community Challenges & Project Benefits (0-15 pts.)
 - a. Challenges present in the neighborhood
 - b. How will the park create a new quality of life area
 - c. Ability of the City to manage and operate the new park

CIVIC CENTER PARK detail plan

Parks



City of Visalia Agenda Item Transmittal

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 7g

Agenda Item Wording: Authorization to Award RFB 09-10-22, Annual Contract for Biosolids Removal, to Terra Renewal of Garden Grove, CA at the bid price of \$24.21 per ton.

Deadline for Action: none

Submitting Department: Public Works

Contact Name and Phone Number: Jim Ross, Public Works Manager, 713-4466

Department Recommendation:

Staff recommends that Council authorize staff to award RFB # 09-10-22, Annual Contract for Biosolids Removal, to Terra Renewal of Garden Grove, CA at the bid price of \$24.21 per ton. Annual cost is estimated at approximately \$55,000.

Summary/background:

The City of Visalia Water Conservation Plant (WCP) provides treatment to nearly 13 million gallons of wastewater per day (mgd). As part of the treatment process, solids are separated from the liquid stream and pumped to anaerobic digesters. Naturally occurring bacteria within the digesters convert the solids into a more stabilized form. The resulting solids, known as biosolids, are then dried to a 90% solids content, tested for pathogens and contaminants, and ultimately utilized as an agricultural soil amendment. Approximately 2000 tons of biosolids are produced and removed each year.

The closing date for Request for Bid (RFB) 09-10-22, Annual Contract for Biosolids Removal, was January 15, 2010. Three bids were received.

Terra Renewal	Garden Grove, CA	\$24.21 / ton
Liberty Composting	Bakersfield, CA	\$25.75 / ton
Synagro Tech	Suisun City, CA	\$54.00 / ton

Terra Renewal has provided transportation, disposal and reuse management services to the wastewater treatment industry for fifteen years. They operate in 20 states and currently manage over 750,000 tons per year in California and Arizona alone. Current clients include the City of Los Angeles, East Bay Municipal Utility District, City of San Diego, and the City of Hanford.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.):__1__

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

For the past five years, Terra Renewal has provided biosolids removal to the City of Visalia under the name of Soil Solutions. Biosolids are transported to a properly permitted site in Merced County and applied as a soil amendment. During the past five years, there have been no complaints or concerns expressed by any regulatory agency or member of the public regarding the biosolids disposal.

Funding for this project is included in the operating budget for the Water Conservation Plant.

This is a one year contract, renewable for up to four additional one year terms (maximum of five years).

Recommendation:

Staff recommends that Council authorize staff to award RFB # 09-10-22, Annual Contract for Biosolids Removal, to Terra Renewal of Garden Grove, CA at the bid price of \$24.21 per ton. Annual cost is estimated at approximately \$55,000.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Recommended Motion (and Alternative Motions if expected):
Move to authorize staff to award RFB # 09-10-22, Annual Contract for Biosolids Removal, to Terra Renewal for a bid price of \$24.21 per ton.

Attachments:

Environmental Assessment Status

CEQA Review: N/A

NEPA Review:

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

Copies of this report have been provided to:

City of Visalia Agenda Item Transmittal

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 7h

Agenda Item Wording: Appointment of Tyson Carroll to the Visalia Environmental Committee

Deadline for Action: N/A

Submitting Department: Administration / Natural Resource Conservation

Contact Name and Phone Number:

Kim Loeb, Natural Resource Conservation Manager, 713-4530
Leslie Caviglia, Deputy City Manager, 713-4317

Department Recommendation: It is recommended that Tyson Carroll be appointed to the Visalia Environmental.

Background:

The Visalia Environmental Committee reviewed the available applications and interviewed the candidates. Based on this information, the Committee recommended to the Citizen's Advisory Committee that Tyson Carroll be appointed to fill a vacant position. The term would be through December 2011. The CAC reviewed the recommendation and concurred with the Environmental Committee's recommendation.

Tyson Carroll has been a Visalia resident for 3 years. He is a Project Manager with the Visalia-based Urban Tree Foundation. Mr. Carroll has a Bachelor of Science in landscape architecture and a Bachelor of Arts in History, both from California Polytechnic State University, San Luis Obispo. He is a LEED Accredited Professional. He has attended several recent Environmental Committee meetings and has contributed useful information and ideas to the members.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

January 2010 – Visalia Environmental Committee recommended applicants to the CAC.
January 2010 – CAC reviewed and concurred with the Visalia Environmental Committee recommendation.

Alternatives:

Positions remain vacant.

Attachments:

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

**Dept. Head LBC 2710
(Initials & date required)**

**Finance _____
City Atty _____
(Initials & date required
or N/A)**

**City Mgr _____
(Initials Required)**

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Application

Recommended Motion (and Alternative Motions if expected):

I move to appoint Tyson Carroll to the Visalia Environmental Committee to serve the recommended term.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:



CITY OF VISALIA
APPLICATION FOR APPOINTMENT TO
CITY BOARD, COMMITTEE OR COMMISSION



Environmental Committee

Name of Board, Committee or Commission

Name Tyson Carroll

Mailing/ 3750 South Demaree

Residence Address Visalia Residence Phone 786-9600

Ca Zip Code 93277 Work Phone 786-9600

Email tyson@urbantree.org Facsimile _____

If you wish to receive the City's free newsletter "Inside City Hall" via email please check either YES or NO.

Resident of Visalia for 3 years Visalia Registered Voter: Yes No

NOTE: Of the contact information provided, please indicate with an asterisk "*" which is the best way to reach you.

TRAINING, EXPERIENCE and/or EDUCATION:

After graduation Cal Poly with degrees in History and Landscape Architecture, I worked for 3 years at a LA /Planning Firm as a project manager working on projects which ranged from large scale commercial, mixed use, institutional, and LEED projects.

SCHOOL	MAJOR	GRADUATION DATE & DEGREE
Cal Poly, SLO	Landscape Arch/History	2005 BSLA & BA

Additional Pertinent Skills, Experience or Interests: LEED AP and a member of the review committee for SLO Greenbuild

Community activities in which you are involved: Make a Difference Day, Relay for Life, Earth Day, and the El Diamante Green Club

Current or prior service on a City Board, Committee or Commission: _____

1/5/10 Posted on City Share and copy to city Rep.

This application is being forwarded to your committee for review & consideration for an upcoming or current vacancy. Upon final determination please notify this office of your decision prior to submitting to the CAC for tracking purposes - City Clerks Office 713-4512.

Employment Information:

Present Occupation: Project Manager

Name of Firm: Urban Tree Foundation

Address: 115 South Dollner St

Phone: 713-0631

Rules of law and ethics prohibit members from participating in and voting on matters in which they have a direct or indirect conflict of interest including a financial interest. Are you aware of any potential conflicts of interest which may develop from your occupation or financial holdings in relation to your responsibilities as a member of the Board, Committee or Commission to which you seek appointment? (If yes, please explain in detail any potential conflicts) YES NO

(If you should have any questions about this matter or need further information as it relates to your situation, please advise the City Clerk's Office prior to submitting your application.)

FIRST choice for Board/Committee/Commission appointment: Environmental Committee

Describe any qualifications, experience, and education, as well as any technical or professional background you may have relative to the duties of this position.	What are your goals in serving on this Board/Committee/Commission?
I have a degree in Landscape Architecture, am a LEED AP, have worked on several green building projects, and have participated in a green building review committee in San Luis Obispo.	Help the City move forward with the updating of its water ordinances, planting standards, and green building standards

SECOND choice for Board/Committee/Commission appointment: _____

Describe any qualifications, experience, and education, as well as any technical or professional background you may have relative to the duties of this position.	What are your goals in serving on this Board/Committee/Commission?

THIRD choice for Board/Committee/Commission appointment: _____

Describe any qualifications, experience, and education, as well as any technical or professional background you may have relative to the duties of this position.	What are your goals in serving on this Board/Committee/Commission?

PLEASE NOTE THAT THIS APPLICATION BECOMES PUBLIC INFORMATION.

ON OCCASION, BOARD/COMMITTEE/COMMISSION MEMBERS, CITY STAFF, AND/OR THE PUBLIC MAY HAVE NEED TO COMMUNICATE WITH YOU, PLEASE BE SURE TO NOTE ON YOUR APPLICATION THE BEST WAY TO CONTACT YOU (i.e. mailing address, phone number, or email address.)

I hereby certify that the information contained in this application and any accompanying documents is true and correct to the best of my knowledge.

Signature of Applicant

Date

The following information will be used for statistical purposes only. This information is requested on a voluntary basis. If you have questions regarding this request, please contact the City Clerk's Office. Your application *will be* processed whether or not you complete these questions. Thank you for your assistance.

Male Female

Ethnic Category: Check all categories that apply.

White

(The category "White" includes White, Anglo-Saxons, Europeans, and person of Indo-European, North Africa or Middle Eastern origin.)

Black

(The category "Black" includes Blacks, Afro-Americans, persons of Jamaican, Trinidadian, and West Indian descent.)

Hispanic

(The category "Hispanic" includes Mexican, Chicano, Latino, and all persons of Puerto Rican, Cuban Central or South American or Spanish descent.)

American Indian

(The category "American Indian" includes persons who identify themselves, or are known as such, by virtue of tribal associations, including Alaskan Native.)

Asian

(The category "Asian" includes Asian-Americans and persons of Japanese, Chinese, Korean, Filipino descent, Pacific Islanders and Vietnamese.)

You are invited to attach additional pages, enclose a copy of your resume or submit supplemental information which you feel may assist the City Council in its evaluation of your application.

When completed mail/submit original to:

Office of the City Clerk
City of Visalia
425 E. Oak Ave., Ste. 301
Visalia, CA 93291

City of Visalia
Agenda Item Transmittal

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 7i

Agenda Item Wording: Receipt of the Comprehensive Annual Financial Report (CAFR) for the City of Visalia, the Single Audit Report, and the Component Unit Financial Statements for the Redevelopment Agency of the City of Visalia for the 2008-09 fiscal year.

Deadline for Action: None

Submitting Department: Administration - Finance

Contact Name and Phone Number:

Eric Frost,	Admin. Services Director	713-4474
Danielle Dew,	Financial Analyst	713-4598

Department Recommendation: That City Council receive the CAFR, Single Audit Report and the Redevelopment Agency Component Unit Report.

Finance proposes to come back on March 1, 2010 and discuss the document in detail after Council has had sufficient time to consider the material and form whatever questions they may have.

Summary:

Attached are the annual audited financial reports for the City of Visalia for the 2008-09 fiscal year. Included in the Comprehensive Annual Financial Report (CAFR), are two compliance reports the City produces annually. First, the Single Audit report is a compliance audit of the City's expenditures of federal grant funds. Second, the Measure T report is an agreed-upon procedure of Measure T's procedures and accounting. Council recently received the City's Component Unit Financial Statements for the Redevelopment Agency (RDA) of the City of Visalia for the same period. The Component Unit Financial Statements solely report on the RDA funds, separate from the City. Note, the Redevelopment Agency's financial activity is also reported in the City's CAFR, but the State of California requires a separate audit report which presents additional detail.

Specific events this past fiscal year that have influenced the City's condition are:

- Capital projects expenditures of the governmental funds (\$41.9 million) were significantly more than the previous year (\$25.8 million). During FY 08/09 the City continued to build and improve roads by \$16.6 million, facilities by \$1.3 million, other infrastructure by \$2.4 million, and the Rawhide Stadium by \$8.3 million. These expenditures are almost exclusively being constructed from current resources.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.):_15__

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

- Property Taxes grew 6.8% from \$33.0 million to \$35.2 million and sales tax grew 2.1% from \$24.4 million to \$25.0 million. Property taxes grew due to the latter part of the real estate boom. (Note: assessed values are based upon assessments completed in the year ending the prior January. In other words, revenues collected in FY 2008/09 were based on assessments made during January to December of 2007. Since then, property taxes have declined in FY 2009/10 and will decline in FY 2010/11 due to declining property values.). Sales tax on the other hand, increased by 2.1% because the City is receiving Measure R sales tax for roads. Without this money, general and Measure T sales tax combined would have decreased by 11.3%. This downward trend continues into FY 2009/10
- During the 08-09 fiscal year the General Fund's advances to other funds held steady at \$3.8 million. See Table I, Selected Fund Balance / Net Assets Components following for details of advance balances.

Discussion:

Table I, Recap of Fund Basis Financial Results, 2008-09, shows several key indicators: current year net income, the accumulated fund or equity balance and cash. A more in-depth analysis is found in the CAFR's Management Discussion & Analysis section (page 3).

Please consider the following:

- The **General Fund** (page 28) had expenditures over revenues of \$7.0 million. Revenues in total decreased by \$5.8 million of which license and permits decreased by \$2.8 million because building safety was moved to its own fund. Sales tax decreased by \$1.9 million due to the economy, use of money and property decreased due to lower interest rates, decreased fair market value gains, and decreased gains from sales. Total expenditures were \$4.2 million higher of which Capital Projects increased by \$5.0 million, and community development decreased by \$3.2 million due to building safety becoming its own fund. As a result, operating costs actually increased \$2.3 million or 4.9%. The increase in operations were mainly due to:
 - Increased Police costs due to a salary increase of 4%;
 - Increased Fire personnel costs due a salary increase of 4%; and,
 - Decreased reimbursements received from other departments and funds by \$1.0 million due to changes in the allocated costs.

Transfers-out to the Convention Center decreased by \$1.2 to \$2.7 million this year because in the prior fiscal year the General Fund transferred funds to the Convention Center for retractable seating. Fund balance was \$46.63 million at fiscal year end. This fund balance can be divided into two parts: reserved (monies that have been lent out to other funds and encumbrances for signed contracts, both are not available) and designations (monies Council has set aside for specific purposes.) Some \$34.4 million (74%) is designated for specific Council purposes and \$12.1 million (26%) is for required reserves.

Table I
Recap of Fund Basis Financial Results, 2008/ 09
(In Millions)

Governmental: Fund	INCOME		FUND / EQUITY	Growing	Comment
	Net Income / (Loss)	Satisfactory			
General Fund	\$ (9.7)	yes	\$ 46.6	no	Planned and used set-aside reserves to build Raw-hide Stadium
Community Development <i>HUD Grants</i>	0.6	yes	0.4	yes	Received more money from stimulus
Parking District <i>In-Lieu Fees</i>	1.3	yes	2.0	yes	Revenue increased mainly due to land sale of parking lot to Transit
Redevelopment Agency <i>Tax Increment</i>	1.9	yes	8.0	no	Excess revenues being used to pay down RDA debt
Transportation <i>Impact Fees</i>	(4.3)	yes	3.0	no	Decline due to decreased development activity and construction of capital projects building transportation projects.
Other Funds	(3.5)	yes	38.8	no	Impact fees declined by \$4.3 million compared to FY 2007/08 as development dramatically slowed
	<u>\$ (13.7)</u>		<u>\$ 98.8</u>		
Business-Activity:					
Fund	INCOME Net Income / (Loss)	Satisfactory	AVAILABLE CASH	Growing	
Convention Center	0.6	yes	0.0	no	General Fund transferred \$2.7 million to Convention Center as planned.
Airport	(0.8)	no	0.0	no	Loss of fuel sales revenue due to change in commercial air carrier
Golf Course	0.0	yes	0.2	no	Despite down economy, Valley Oaks broke even.
Wastewater & Storm Sewer Maintenance	5.3	yes	25.2	yes	Wastewater is accumulating resources for a major water quality project.
Solid Waste & Street Sweeping	(1.6)	no	0.9	monitor	Solid Waste used to inventory 50,000 garbage cans which was not cost effective for the City. Therefore, the City expensed \$3.6 million of net assets. Without this, the fund had net income.
Transit	9.4	yes	3.6	yes	New federal grants increased resources.
Building Safety	(0.4)	no	0.0	yes	New fund. Building activity down, but expenses have been adjusted to match economic activity.
Enterprise sub-total	\$ 12.5		\$ 29.9		
Internal Service	0.7	yes	11.1	yes	Operating as expected.
	<u>\$ 13.2</u>		<u>\$ 41.0</u> *		

* Note: Business-activity fund equity includes fixed assets which are not expendable resources. Governmental funds do not include debt nor fixed assets.

- **Community Development** (page 24) fund's assets include \$8.0 million in notes and loans receivable and \$1.5 million in amounts due from other governments. All loans are fully offset by deferred revenue as the loans are not expected to be repaid within the next year. The notes and loans receivable are for housing assistance as well as past rental rehabilitation loans. Community Development's revenues exceeded expenditures by \$1.1 million for the year, mainly due to a \$1.3 million foreclosed home grant received. As a result, fund balance increased \$0.6 million from last year to \$0.4 million.
- **Parking District** (page 28) sold a parking lot to Transit for \$0.9 million. The fund repaid an advance of \$1.4 million to the General Fund that had been used to partially pay for the West Acequia Parking structure.
- **Redevelopment Districts** (page 28) revenues increased by \$0.2 million primarily from increased property tax increment payments. Expenditures decreased by \$4.8 million, primarily due to the Agency contributing last year \$4.5 million in restricted low and moderate income set-aside housing funds to help finance Tulare County Housing Authority's construction a 70 unit affordable multi-family housing project on approximately 9.6 acres located on the south side of Mill Creek Parkway, between Lovers Lane and McAuliff Street.
- **Transportation** (page 29) fund is used to account for the financing and construction of streets, roads, and various transportation infrastructure and facilities. Transportation's Fund Balance decreased \$4.3 million to \$3.0 million. In the previous fiscal year, the City constructed \$4.8 million of road projects. This year road project construction increased to \$8.4 million. As a result, fund balance decreased to \$3.0 million.
- **Other Governmental Funds** (page 29), referred to as Non-Major Funds, are not presented separately in the Basic Financial Statements, but are individually presented in Supplemental Information. Combined they received \$25.3 million in revenue and had a combined decrease in Fund Balance of \$3.5 million for the fiscal year resulting in a combined Fund Balance at year end of \$38.8 million. The major change was the decline of impact fees by \$4.3 million among such funds as Recreation facilities, waterways, Governmental Facilities, and Public Safety Impact funds.
- **Airport** (page 38) had a net operating loss of \$0.8 million. The Airport had a loss of fuel sales due to a change in commercial air carrier.
- **Wastewater** (page 38) had net operating income of \$3.8 million. Although revenues increased \$1.6 million (12%) mainly due to a rate increase and population growth, a one-time, \$4 million, non-recurring depreciation charge increased operating expenses in the prior fiscal year.
- **Solid Waste** (page 39) had a net operating loss of \$1.6 million. Solid Waste used to inventory 50,000 garbage cans which was not cost effective for the City. Therefore, the City expensed \$3.6 million of net assets. Without this, the fund had net income.
- **Transit** (page 39) operating revenues decreased \$0.3 million as the Transit system continued a National Parks Service contract to provide bus service from Visalia to Sequoia National Park. This three year contract is to encourage non-car use of the park and may become mandatory in the future as the Park strives to protect the National Park from the affects of auto emissions which began in FY 2007/08. After accounting for the increase in grant revenues, the Transit system essentially broke even.

Table II
Selected Fund Balance / Net Assets Components
June 30, 2009
(In Thousands)

<u>RESERVED</u>	<u>General Fund</u>	<u>Internal Services</u>	<u>Total</u>
ADVANCES TO OTHER FUNDS:			
Special Revenue Funds			
Public Safety Impact Fee	\$ 2,476	\$ -	\$ 2,476
Measure R - Regional	1,236	-	1,236
Kaweah Lake	440	-	440
Special Service Districts	149	-	149
Grant & Loan Funds	434	-	434
Capital Project Funds			
Community Development	1,059	-	1,059
East Visalia Redevelopment District	504	6,720	7,224
Government Facilities Impact Fee	53	-	53
Business-Like & Internal Service Funds			
Valley Oak Golf	469	3,490	3,959
Airport	223	-	223
Building Safety	279	-	279
Benefits - Health	215	-	215
Sub-Total	<u>7,537</u>	<u>10,210</u>	<u>17,747</u>
OTHER RESERVED			
Encumbrances	2,018	-	2,018
PERS Prepayment	2,400	-	2,400
Supplies & Other Prepays	166	-	166
Internal Services - Net Investment in Fixed Assets	-	8,528	8,528
Sub-Total	<u>4,584</u>	<u>8,528</u>	<u>13,112</u>
TOTAL RESERVED	<u>12,121</u>	<u>18,738</u>	<u>30,859</u>
<u>UNRESERVED</u>			
DESIGNATED BY CITY COUNCIL:			
Capital Projects			
Civic Center Facilities	9,678	-	9,678
Miscellaneous Capital Projects	4,945	-	4,945
Sports Park	2,614	-	2,614
Recreation Park Stadium	559	-	559
Transportation Projects	1,390	-	1,390
SPCA	221	-	221
Oak Tree	(9)	-	(9)
Historic Preservation	5	-	5
West 198 Open Space Acquisition	(534)	-	(534)
Internal Services - Capital Replacement	-	149	149
Sub-Total	<u>18,869</u>	<u>149</u>	<u>19,018</u>
Operational Expenses			
Emergency @ 25% of Operational Expenses	13,604	-	13,604
Internal Services - Catastrophic Occurrences (Risk Mgmt.)	-	1,495	1,495
Internal Services - Operating Expenses	-	1,885	1,885
UNDESIGNATED:	<u>1,967</u>	<u>-</u>	<u>1,967</u>
TOTAL UNRESERVED	<u>34,440</u>	<u>3,529</u>	<u>37,969</u>
TOTAL FUND BALANCE	<u>\$ 46,561</u>	<u>\$ 22,267</u>	<u>\$ 68,828</u>

Note: The PERS Prepayment amount is decreased each year by \$400,000 against a \$4 million prepayment to PERS the City made in FY 04/05. Capital project designations are for budgeted projects which have not yet begun.

General Fund and Internal Service Funds Fund Balance

The General Fund (GF) and Internal Service Funds Fund Balance has Reserved and Unreserved accounts. The Reserved accounts include Advances to Other Funds, Encumbrances and Prepaids. The Unreserved accounts include Designations of Fund Balance as directed by Council. These Designations are listed as either Capital Projects or as Operational Expenses. Table II, Selected Fund Balance/Net Asset Components details the components of Fund Balance for the General Fund and Internal Service Funds at year end. During the year Advances to Funds increased in the General Fund a net \$0.8 million partly due to the Parking District, and Solid Waste paying their \$2.3 million advances, and the Public Safety Impact Fee increasing their advances by \$1.6 million. In addition, the Internal Service Funds advanced monies to East Visalia Redevelopment and Valley Oaks Golf Course of \$10.2 million, advances which until FY 07-08 had been made by the General Fund. Encumbrances decreased \$5.2 million and Designations for Capital Projects decreased by \$2.4 million. These changes resulted in the Emergency Reserve (Operational Expense Designation) being funded at \$13.6 million, 25% of operating expenditures and \$2.0 million as Undesignated Fund Balance.

Although it is helpful to have substantial designations, the City also has a number of challenges which face the City, such as future pension costs caused by the decline in the City's Cal PERS pension assets and the need to handle the effects of the economic downturn. Balances alone are insufficient to handle these fiscal challenges.

Other Funds

Table I illustrates only the City's "major funds" as presented in the CAFR. Some of the City's non-major funds are worthy of comment. These funds are found in the CAFR on the referenced pages.

- **Measure T Funds** (pages 88 & 89): Fund Balance decreased \$0.1 million and \$0.2 million for Police and Fire respectively. Their combined Fund Balance at year end was \$8.9 million. Included in that Fund Balance amount is an Economic Uncertainty Reserve with a combined balance of \$1.4 million which is the ballot measure's required reserve of 25% of budgeted revenues. Remaining monies are needed to pay for capital as project costs have been higher than the original plan anticipated. In addition, the Measure T plan for Fire service anticipates a build up of funds for building and staffing a new station; these accumulated assets will then be drawn down over the time to pay for that new station planned to open in fiscal year 2012/13.
- **Measure R – Funds** (page 85): This funding source is new to the City, authorized by a County-wide vote in November of 2006. This fund is divided into two parts, Local and Regional. The General Fund loaned the Regional Measure R Fund \$1.2 million for the Ben Maddox and the Santa Fe over crossing projects. The local monies are received and used according to the discretion of the Council on local road projects. Regional monies are received as reimbursements for Measure R approved capital projects.
- **Government Facilities Impact Fees** (page 90): Fund balance grew this past year from \$2.8 million to \$3.1 million. This fund is accumulating resources to help fund the Civic Center.

In this year's CAFR, the City split the Building Safety Fund from the General Fund in to a proprietary (enterprise) fund. The CAFR also has three new funds in Community Development: the "CAL HOME Grant", "Substandard Housing", and "Neighborhood Stabilization".

Significant Financial Trends

The City over the last several years has made great strides in developing secure diversified revenues sources to pay for infrastructure and the maintenance of that infrastructure. As a result, the monies collected from impact fees and maintenance assessment districts have grown substantially. However, the City must now manage these resources to deliver the capital projects. Table III, Cash Balances of Governmental Impact and Maintenance Fees shows the relative changes in the cash balances of the major impact fees. Please note, Table III shows cash balances, not revenues.

Cash Balances of Governmental Impact and Maintenance Fees
Year End Cash Balance
Fiscal Year Ending June 30
(Amounts in Millions)

	<u>06/30/2008</u>	<u>06/30/2009</u>	<u>Change</u>
Gov. Facilities Impact Fees	\$2.9	\$3.2	\$0.3
Public Safety Impact Fees	1.3	0.0	(1.3)
Recreation Facilities	11.1	9.9	(1.2)
Storm Sewers	2.2	1.6	(0.6)
Transportation Impact Fees	8.8	7.7	(1.1)
Waterways	<u>1.6</u>	<u>1.2</u>	<u>(0.4)</u>
<i>Impact Fees</i>	<u>27.9</u>	<u>23.6</u>	<u>-4.3</u>
<i>Maintenance Assessments</i>	<u>\$1.3</u>	<u>\$1.8</u>	<u>\$0.5</u>
Total	<u>\$29.2</u>	<u>\$25.4</u>	<u>(\$3.8)</u>

In contrast, Table IV, Revenues of Governmental Impact and Maintenance Fees, shows the revenues collected from impact fees and maintenance assessment districts. Last year the City collected \$21.6 million in revenues from these funds. This year, the City only collected \$8.6 million. The contrast shows that although revenues are down dramatically, the City takes time to accumulate impact fees before constructing the project which is funded by these fees.

Table IV
Revenues of Governmental Impact and Maintenance Fees
Fiscal Year Ending June 30
(Amounts in Millions)

	<u>06/30/2008</u>	<u>06/30/2009</u>	<u>Change</u>
Gov. Facilities Impact Fees	\$1.1	\$0.3	-\$0.8
Public Safety Impact Fees	1.6	0.5	(1.1)
Recreation Facilities	3.0	1.3	(1.7)
Storm Sewers	1.2	0.7	(0.5)
Transportation Impact Fees	14.0	4.5	(9.5)
Waterways	<u>1.0</u>	<u>0.4</u>	<u>(0.6)</u>
<i>Impact Fees</i>	<u>21.9</u>	<u>7.7</u>	<u>(14.2)</u>
<i>Maintenance Assessments</i>	<u>\$1.8</u>	<u>\$2.1</u>	<u>\$0.3</u>
Total	<u>\$23.7</u>	<u>\$9.8</u>	<u>(\$13.9)</u>

These funds still have significant assets to be used to construct capital facilities. As a result, despite the economic slow down, the City still has money to construct capital infrastructure. The key point is that the City collects significant money for creating and maintaining infrastructure. As a result, staff has a greater responsibility to periodically report the progress on implementing impact fee plans and maintaining infrastructure. Currently, staff prepares a year end report on the status of all impact fees. Staff expects that these projects will be done as anticipated.

Compliance Reports

The **Single Audit** (pages 145 to 152) is required by the Federal Government for local governments that receive Federal assistance. The Single Audit provides reasonable assurance of compliance with applicable laws and regulations associated with those assistance programs. The audit is done in conformity with federal regulations. The auditors report that the City is compliance with Federal regulations. There were no audit findings for the 2008-09 fiscal year.

The **Measure T** audit (pages 153 to 155) was presented to Council on February 1, 2010, but is also being included in this report. Measure T collected more revenue than expended and staff recommended that excess Measure T funds be applied to capital projects that are not fully funded and to maintain our economic uncertainty fund. The report made one finding stating the City needs to work closely with the police department to ensure that officers' salaries are charged properly to Measure T or the General Fund, and that the Measure T Police Fund reimburse the City's General Fund for those funds mistakenly charged to the General Fund during the 2008-09 fiscal year.

Prior Council / Board Actions: None
Committee / Commission Review and Actions: None
Alternatives: None

Attachments: FY 08-09 Comprehensive Annual Financial Report (CAFR)

Recommended Motion (and Alternative Motions if expected): Receive the fiscal year 2008-09 Comprehensive Annual Financial Report (CAFR) and have a more in-depth discussion at the March 1, 2010 meeting.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

**City of Visalia
Agenda Item Transmittal**

Meeting Date: February 16th, 2010

Agenda Item Number (Assigned by City Clerk): 7j

Agenda Item Wording: Request authorization to file a Notice of Completion for Ferguson Avenue Extension to Mooney Blvd. Project at a final cost of \$498,363.00 (CIP Project # 1131/8060).

Deadline for Action: N/A

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:

Peter Spiro, Associate Engineer, 713-4256
Adam Ennis, Engineering Services Manager, 713-4323
Chris Young, City Engineer, 713-4392

Department Recommendation: City staff recommends that City Council give an authorization to file a Notice of Completion for Ferguson Avenue Extension to Mooney Blvd. Project at a final cost of (\$498,363.00). CIP Project # 1131/8060.

Summary: This project included the installation of two traffic lanes on Ferguson Avenue starting at approximately 870 feet west of Giddings Street and extending west to Mooney Boulevard. The project also included the installation of signage and striping on Ferguson Avenue from Dinuba Boulevard to Mooney Boulevard (including bike lanes), crosswalks and a four-way stop at Mooney Boulevard and Giddings Street. This project "completes" a continuous roadway segment on Ferguson Avenue between Shirk Street and Bridge Street (east of Dinuba Boulevard).

Background: This project has utilized a portion of an abandoned thirty foot wide irrigation district easement along the south side of Ferguson that has been "quit-claimed" to the City by the irrigation district. This easement runs east and west parallel to the center line of Ferguson Avenue. Ten feet of this easement has been used to construct the block wall and sidewalk (owners had quitclaimed this ten feet to the City). The remaining twenty feet had been quitclaimed back to the adjacent property owners. The project plan also included the construction of a block wall along the south side of Ferguson Avenue from Mooney Boulevard to Divisadero Street as per adopted City Standards.

The project has been completed successfully by the project contractor, R.J. Berry, Inc. The roadway was opened for public traffic on July of 2009. At the time of awarding the project, staff was amid negotiations with the adjacent property owners in order to come to a mutual deal regarding the irrigation easement land, the negotiations extended for several months and

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1Min.

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

caused a delay in the contractor's project schedule which consequently resulted in some of the project change orders as clarified thereafter.

There is an existing street one block to the south of the "true" Ferguson Avenue alignment (newly constructed Ferguson extension) that is currently also designated as Ferguson Avenue. To avoid any confusion, staff has implemented the procedure to rename the street to the south as Clinton Avenue (see Exhibit "A"). This existing section of roadway (between Mooney and Divisadero) aligns with existing streets to the east and west which are currently designated as Clinton Avenue. This process requires a public hearing in front of the Planning Commission. This hearing is scheduled for March 8, 2010.

The original contract was for the amount of (\$464,002), the final construction cost of the project was for the amount of (\$498,363), the extra cost of (\$34,361), a 7.4% increase, was due to the following:

- Additional Stripe removal and Slurry Seal: This was a necessarily field change and needed to take place prior to installing new striping configuration (Cost \$1,700).
- Sales Tax Increase Adjustment: A 1% State sales tax increase went into effect April 1st, 2009, the contractor bid was placed prior to announcing the proposed increase, staff has verified from Financing Dept. the contractor's eligibility to receive compensations for the material costs adjustments (Cost \$1,900).
- Final Quantities' adjustments: Upon verifying supplier's quantities tickets and due to some design revisions and additions, the contractor was deemed eligible for additional compensations of installed materials. (Cost \$5,534).
- Cost of Remobilization, extra earthwork, hauling and grading: Due of delays in obtaining the necessarily right of way as explained earlier, The contractor had to demobilize on July 8th, 2009. The cost of remobilization, which has taken a place in November of 2009, entails the establishment of the work site area and the work site needs for the second time throughout the project duration. (Cost \$25,227)

Prior Council/Board Actions: City Council awarded the construction contract of this project on March 16th, 2009.

Committee/Commission Review and Actions: Change order committee reviewed and approved change orders of this project.

Alternatives: N/A

Attachments: Location map. (Exhibit "A"),
Developer Disclosure Form (Exhibit "B")

Recommended Motion (and Alternative Motions if expected):

Authorize City staff to file a Notice of Completion for Ferguson Avenue Extension to Mooney Blvd. Project at a final cost of \$498,363.00 (CIP Project # 1131/8060).

Environmental Assessment Status

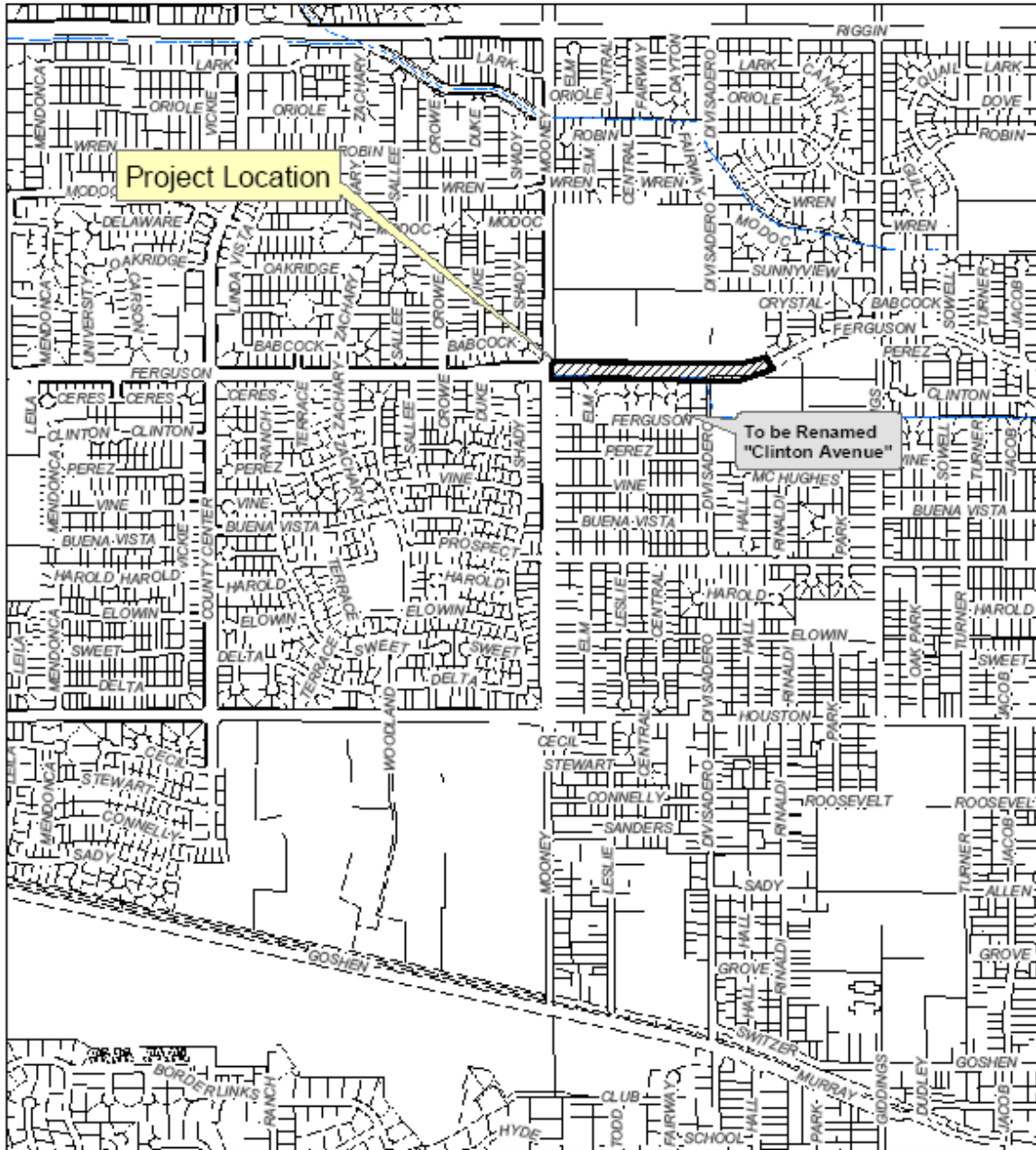
CEQA Review: Yes

NEPA Review: N/A

Tracking Information: *Record NOC; Process retention payment*

Copies of this report have been provided to:

EXHIBIT "A"



Ferguson Ave. Extension to Mooney Blvd.
Vicinity Map

Exhibit "B"



**CITY OF VISALIA
Disclosure Contractors and Consultants**

NAMES OF PRINCIPALS, PARTNERS, AND/OR TRUSTEES:

Firm Name R. J. Berry Jr., Inc.
Firm Address P.O. Box 468, Selma, CA 93662

List the names of all principals, partners, and/or trustees. For corporations provide names of officers, directors and all stockholders owning more than 10% equity interest in corporation:

Robert J. Berry Jr., President, 100% Ownership

Date 1/12/09

Signature
Robert J. Berry Jr., President
Print Name & Title

Date _____

Signature _____
Print Name & Title _____

**City of Visalia
Agenda Item Transmittal**

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 7k

Agenda Item Wording: Request authorization to file a Final Notice of Completion for Luisi Acres Phase 1, a subdivision (containing 37 single family lots), located at the northwest corner of Giddings Street and Ferguson Avenue.

Deadline for Action: None

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:
Chris Young, Assistant Community Dev. Director – 713-4392

Department Recommendation:
Staff recommends that Council grants authorization to file a Final Notice of Completion for the Luisi Acres Phase 1 subdivision.

Summary/Background:
All of the required improvements for this subdivision have been completed and are ready for acceptance by the City Engineer. The subdivision was developed by Sciacca Family Revocable Trust. City Staff previously recommended, and Council approved, a Partial Notice of Completion for this subdivision on August 4, 2008. The maintenance bond in the amount of \$71,096.82 that has been "in place" since August 4, 2008 is now being released. The completed landscape improvements will be maintained by the City through Landscape and Lighting District No. 05 – 01 which was established on January 18, 2005.

The City entered into a subsequent agreement with the developer to replace the temporary drainage basin with the permanent storm drain trunk line system that will serve the entire Luisi Acres tentative map. This Final Notice of Completion is filed in conjunction with the completion of this trunk line system.

Prior Council/Board Actions:

- A Partial Notice of Completion was approved by Council at the meeting on August 4, 2008
- The final map recording and Landscape and Lighting District formation were approved by Council at the meeting on January 18, 2005

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1Min.

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Committee/Commission Review and Actions: The tentative subdivision map for Luisi Acres Phase 1 was approved by Planning Commission on September 13, 2004.

Alternatives: N/A

Attachments: Developer Disclosure Form and Location sketch
Tentative Map
Vicinity map

Recommended Motion (and Alternative Motions if expected):

I hereby move to authorize the filing of a Notice of Completion for Luisi Acres Phase 1 subdivision.

Environmental Assessment Status

CEQA Review: Environmental finding completed for tentative subdivision map.

NEPA Review:

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

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date:

Agenda Item Number (Assigned by City Clerk): 71

Agenda Item Wording: Request authorization to file a Notice of Completion for Valley Oak, a subdivision (containing 28 single family lots), located on the southeast corner of Walnut Avenue and Shirk Street.

Deadline for Action: None

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:
Chris Young, Assistant Community Dev. Director – 713-4392

Department Recommendation:
Staff recommends that Council grants authorization to file a Notice of Completion for the Valley Oak subdivision.

Summary/Background:
All of the required improvements for this subdivision have been completed and are ready for acceptance by the City Engineer. The subdivision was developed by Pioneer Properties CGK, LLC. Pioneer Properties CGK, LLC, has submitted a maintenance bond in the amount of \$138,922.28 as required by the Subdivision Map Act to guarantee the improvements against defects for one year. The completed improvements include landscaping which will be maintained by the City through Landscape and Lighting District No. 08-01, Valley Oak (Resolution Nos. 2008-14 and 2008-15.)

Prior Council/Board Actions: The final map recording and Landscape and Lighting District formation were approved by Council at the meeting on March 3, 2008.

Committee/Commission Review and Actions: The tentative subdivision map for Valley Oak Subdivision was approved by Planning Commission on January 9, 2006.

Alternatives: N/A

Attachments: Developer Disclosure Form and Location sketch/vicinity map.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1Min.

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Recommended Motion (and Alternative Motions if expected):

I hereby move to authorize the filing of a Notice of Completion for Valley Oak subdivision.

Environmental Assessment Status

CEQA Review: Environmental finding completed for tentative subdivision map.

NEPA Review:

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

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 7m

Agenda Item Wording: Request authorization to file a Notice of Completion for Oakwest No. 7, a subdivision (containing 59 single family lots), located at the northeast corner of Shirk Street and Hillsdale Avenue.

Deadline for Action: None

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:

Chris Young, Assistant Community Dev. Director – 713-4392

Department Recommendation:

Staff recommends that Council grants authorization to file a Notice of Completion for the Oakwest No. 7 subdivision.

Summary/Background:

All of the required improvements for this subdivision have been completed and are ready for acceptance by the City Engineer. The subdivision was developed by Lennar Fresno, Inc. They have submitted a maintenance bond in the amount of \$161,765.73 as required by the Subdivision Map Act to guarantee the improvements against defects for one year. The completed improvements include landscaping which will be maintained by the City through Landscape and Lighting District No. 07-08.

Prior Council/Board Actions: The final map recording and Landscape and Lighting District formation were approved by Council at the meeting on April 21, 2008.

Committee/Commission Review and Actions: The tentative subdivision map for Oakwest No. 7 was approved by Planning Commission on June 26, 2006.

Alternatives: N/A

Attachments: Developer Disclosure Form and Vicinity Map

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1Min.

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Recommended Motion (and Alternative Motions if expected):

I hereby move to authorize the filing of a Notice of Completion for Oakwest No. 7 subdivision.

Environmental Assessment Status

CEQA Review: Environmental finding completed for tentative subdivision map.

NEPA Review:

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

Copies of this report have been provided to:

City of Visalia Agenda Item Transmittal

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 8a

Agenda Item Wording: Authorize the retention of Rosenow Spevacek Group, Inc. (RSG) to prepare a Five-Year Implementation Plan (2009-14) for the Visalia Redevelopment Agency's four (4) project areas.

Deadline for Action: February 16, 2010

Submitting Department: Housing & Economic Development

Contact Name and Phone Number:

Ricardo Noguera, Housing & Economic Development Director, (x4190); Ruth Pena, Financial Analyst (x4327)

Department Recommendation:

Authorize the Executive Director of the Visalia Redevelopment Agency to execute a contract with Rosenow Spevacek Group, Inc. (RSG) to prepare a Five-Year Implementation Plan (2009-14) for the Agency's four Redevelopment Project Areas in an amount not to exceed thirty-five thousand dollars (\$30,000).

Summary/Background:

In the spring of 2009, RSG completed an Update of the Visalia Redevelopment Agency's (VRA) Implementation Plan (updates are required every 2 ½ years). The last Implementation Plan was completed in 2005. This report requests Council direction to retain RSG to prepare an Implementation Plan for the Agency's four Redevelopment Project Areas: Downtown, East Visalia, Mooney Boulevard, and Central Visalia pursuant to Section 33490 of the California Redevelopment Law (CRL).

Why select this Firm? RSG is a highly experienced and respected Redevelopment firm with more than thirty (30) years providing consultancy services to cities and counties throughout the State of California. Their services include: redevelopment plan adoption and amendments; affordable housing development and financing; and preparation of implementation plans. Last year, the City/Agency retained RSG to prepare the Mid-term Review for the Implementation Plan (2005-09). Staff are recommending the selection of RSG to prepare this Update because they are highly qualified and there are no local firms with this level of expertise who can complete this Implementation Plan as required by State law and within this budget.

Purpose/Intent:

Section 33490 of the CRL requires each redevelopment agency to prepare and adopt an Implementation Plan every five years. Each implementation plan must contain overall goals and objectives for each project area that will guide activities for the five-year plan period. Also, specific projects that implement the goals and objectives, and anticipated expenditures for each project area for the five-year plan period must be identified. The Implementation Plan must also contain a housing program, as required by Section 33490 and Section 33413 of the CRL.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.):_1_

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Finally, the Plan should clearly provide linkages between the proposed goals, objectives, and programs of the Implementation Plan, and the elimination of blight. Once adopted, the Implementation Plan establishes the framework for subsequent project implementation activities for its five-year time frame. The CRL also requires that midway through the five-year period, a public hearing must be held to review and update each Implementation Plan.

Funding: This contract will be funded through tax increment generated by the four redevelopment project areas respectively.

Committee/Commission Review and Actions:

Prior Council/Board Actions:

- April 21, 2008 – Financial Analysis of Visalia’s Four Redevelopment Project Areas (Fraser & Associates)
- July 18, 2008 – Agency retained RSG to complete Mid-Term on 5-Year Implementation Plan for 2005-09
- Spring 2009 – Council adopted the Mid-Term of the 5-Year Implementation Plan

Alternatives:

None recommended.

Attachments:

- Proposal from Rosenow Spevacek Group, Inc. (RSG)
- Contract with Rosenow Spevacek Group, Inc. (RSG)
- Map of the 4 Redevelopment Project Areas

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: N/A.

Recommended Motion (and Alternative Motions if expected): I move to authorize the Executive Director of the Visalia Redevelopment Agency to retain the services of Rosenow Spevacek Group, Inc. (RSG) to prepare a Five-Year Implementation Plan for the City of Visalia’s four (4) redevelopment project areas in an agreement not to exceed \$30,000.

Copies of this report have been provided to:

Item 9

Continued until March 1, 2010: PUBLIC HEARING - Introduction of Ordinance for a Development Agreement for Tentative Parcel Map No. 2006-09: A request by Di Mello Toscana Inc. to enter into a Development Agreement with the City of Visalia related to the required infrastructure improvements for Tentative Parcel Map No. 2006-09, which divides 9.76 acres into nine parcels. The site is located on the north side of Goshen Avenue, approximately 850 ft. east of Shirk St. APNs: 077-720-001 thru 007, 077-730-001 and 077-730-002. **Ordinance 2010-__ required.**

**City of Visalia
Agenda Item Transmittal**

Meeting Date: February 16, 2010 (continued from October 19, 2009, November 16, 2009, January 11, 2010, and January 19, 2010 at the request of the applicant)

Agenda Item Number (Assigned by City Clerk): 10

Agenda Item Wording:

Public hearing for:

- 1. Appeal of the Planning Commission's denial of Variance No. 2009-10 Ad Art Sign Company and Visalia Properties:** The Planning Commission rejected a proposal to erect a 35 foot pole sign for the Orchard Supply Hardware store located in the C-R (Regional Retail Commercial) Zone. The applicant has revised the variance request and is now requesting to erect a 16-foot tall 42 square foot sign at the same location of the existing sign.
Resolution No. 2010-03 required.

Deadline for Action: Per Visalia Municipal Code Section 17.02.045.B, an appeal before the City Council must be heard within 30 days of the appeal filing date. The deadline for the appeal being heard may be extended at the request of the applicant at the discretion of the City Council. This appeal was filed on September 24, 2009 and the applicant has requested numerous extensions. Over the course of these extensions, the applicant and staff have discussed alternatives, the applicant has significantly revised the variance request and staff recommends approval of revised proposal. Staff recommends that the City Council make a final decision on the item and allow a variance for the revised sign proposal.

Contact Name and Phone Number:

Michael Olmos, Community Development Director/Assistant City Manager (559) 713-4332
Paul Bernal, Senior Planner (559) 713-4025
James Koontz, Deputy City Attorney (559) 636-0200

Submitting Department: Community Development - Planning

Department Recommendation: The applicant has significantly revised the variance request. In the variance's present form and under the circumstances, explained below, it is recommended that the City Council hear the item and adopt the resolution upholding the denial of the original variance request brought to the Planning Commission on September 14, 2009, but granting the revised variance. This recommendation is based on the conclusion that the Planning Commission's denial was made in conformance with the Visalia Municipal Code, and consistent with previous Planning Commission actions on similar projects. However, the applicant has agreed to revise its request significantly. It should be noted, the current sign must be relocated or rebuilt due to an eminent domain action by the City. Under the circumstances, staff recommends the City Council grants the revised variance request.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.):30mins

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Background on Variance No. 2009-10: The original variance was a request by Ad Art Sign Company to erect a 35-foot high/72 square foot double face freestanding sign for the Orchard Supply Hardware (OSH) site. The location and dimensions of the pole sign are depicted on Exhibits "A" and "B" (pgs. 8-9). The decision by the Planning Commission is included as Exhibit "C" (pg. 10).

The revised variance is a request to erect a 16-foot high 42 square foot face freestanding sign in the same approximate sign as the currently existing sign. The current sign must be relocated or replaced due to the City widening the intersection of Walnut Avenue and Mooney Boulevard. The revised variance request is included as Exhibit "D" (pg. 30). Exhibit "E" (pg. 32) has been included which depicts the street improvements associated with the intersection widening.

The site is zoned C-R (Regional Retail Commercial) and is located in Design District "A". The City's zoning regulations stipulate that each commercial site within Design District "A" is permitted one freestanding sign, not exceeding 10 feet in height and not exceeding an area of 35 square feet of sign copy area per face. Freestanding signs shall be mounted on a base, the width of which is not less than 50 percent of the width of the widest part of the sign.

This request is an outgrowth of ongoing negotiations to purchase additional right-of-way from the Orchard Supply Hardware property to facilitate widening of the Walnut Avenue approach to Mooney Boulevard. The existing Orchard Supply Hardware sign is located in the area needed for right-of-way. As part of the right-of-way negotiations, the City's representatives offered to re-locate the existing, code compliant monument sign. The property owner, Visalia Properties, has not accepted the offer to re-locate the existing monument sign, arguing that the relocation will make the sign less visible or the owner would have to make extensive landscape changes.

The property owner originally requested the much taller and larger pole sign, which would have significantly exceeded the City's maximum sign allowances. The proposed sign, as explained by the Planning Commission in Exhibit "C" (pg. 10) did not meet any the guidelines for an acceptable variance.

The City, since it was taking the existing sign continued to negotiate with the applicant and reached what it considers an acceptable compromise reflected in the revised variance request. The proposal provides a modest 20% expansion of the permissible 35 square foot sign face. The expansion in sign face is proposed because of the design constraints imposed on the width of the sign.

The taking by the City significantly narrows the space available for a sign in the present location. The property owner currently has a 10-foot wide sign. The taking would only allow the owner to maintain a 4-foot wide sign at the current location.

The revised proposal permits the applicant's sign to occupy a portion of the sidewalk so the applicant only loses 3 feet in sign width. The revised variance reflects a taller sign to address the loss in sign width and to allow for a 10-foot clearance from the sidewalk to the bottom of the sign as required by the City Engineer. This 10-foot clearance will prevent the sign from becoming a pedestrian obstruction along the Walnut Avenue sidewalk.

Planning Commission Action: The Planning Commission held a public hearing on September 14, 2009, and denied the request for a 35-foot tall sign by a 4-1 vote. (Commissioner Soltesz voting no.) The Planning Commission considered all of the testimony and concluded that the five findings could not be made to support the original variance request, and thus adopted the findings in Resolution No. 2009-58 denying Variance No. 2009-10. Based on the variance that the applicant was then requesting, staff recommends the City Council concur with this decision.

Original Appeal: On September 24, 2009, staff received an appeal from the applicant. The applicant originally intended to appeal the original variance but has since revised the proposed variance and is no longer requesting the larger sign. Staff recommends the Council uphold the decision of the Planning Commission on the original variance.

Revised Variance Request and Hearing Before the City Council: The applicant has revised its request and is submitting a revised variance that staff supports. If this revised variance request is granted, then the applicant would also enter into a separate settlement with the City and resolve the current eminent domain action.

Under Visalia Municipal Code Section 17.02.145(C) the City Council may receive all pertinent information to the matter, regardless of whether the information was submitted to the Planning Commission.

Staff recommends hearing the revised variance application in this instance because the property taking by the City triggered the applicant's request. The proposed variance would complete the matter and allow the City and the property owner to resolve the disputed issues.

Visalia Municipal Code Section 17.48.110 permits a variance from the sign ordinance if the following five findings can be made:

1. *That strict or literal interpretation and enforcement of the Zoning Ordinance would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the Zoning Ordinance.*

Strictly enforcing the zoning ordinance in this instance would require the applicant to relocate their sign, which would require extensive modifications to the existing landscape design. There are mature trees planted along the property frontage along Walnut Avenue. Requiring the applicant to relocate the sign to the east where the planter will not be reduced by the City's taking would cause the sign visibility to cars passing along Walnut Avenue to be reduced by the trees or require the applicant to remove the trees.

The original proposal by the applicant was to raise the sign high above the street and sidewalk. This was, as stated by the Planning Commission, unacceptable.

Revising the sign to 4 feet in width to accommodate the smaller space after the City's taking is possible. The applicant has argued this is unacceptable, as they want either the sign to remain as close to the present location as possible or to stand significantly taller so it is eye catching. The applicant agrees that the revised application negates the difficulties and hardships that it has raised.

2. *That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property, which do not apply to other properties classified in the same zone.*

The variance request directly stems from the impacts of a City construction project. The street widening has triggered the situation; the applicant's present sign must be relocated or replaced. The applicant's landscape design prevents the sign from being relocated without having to modify the landscape design and place the sign in an area the property owners do not want. The present sign, as permitted is illuminated at night. Requiring the sign to be relocated would also require the electrical wiring for the sign to be relocated; the proposed variance would allow the sign to essentially remain in place.

3. *That strict or literal interpretation and enforcement of the ordinance would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone.*

Property owners are entitled to place their signs in any location on their property as long as it is within the applicable setback requirements. Strictly enforcing the ordinance in this instance would require the property owner to move the sign to a location that it would not prefer because the City is altering the property lines.

4. *That the granting of the variance would not constitute a grant of special privilege inconsistent with the limitations on other properties in the same zone.*

If City action were not requiring the existing sign to be relocated or revised, then this finding could not be met. However, those are not the applicable facts. The revised variance request minimizes impacts to the property owner caused by the construction project.

Considering that the additional height is only permitted because of the sidewalk overhang, the overall grant of special privilege is minimal. When allowing a sidewalk overhang the City must allow a reasonable amount of space for pedestrians to pass under the sign. Considering the sidewalk overhang the variance is not inconsistent with other properties within the Design District.

5. *That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.*

The revised application does provide for a 16-foot tall sign that exceeds the normal height requirements. However, as stated above this additional height represents a compromise between minimizing the movement of the existing sign and maintaining public safety for an overhang above the sidewalk.

In addition, at this intersection, there are taller pole signs to the south and to the east that are permitted because they existed prior to the enactment of the sign ordinance. While granting the variance does allow for a taller than normal sign, the overall immediate visual impacts should be minimal because of the “grandfathered” pole signs in the immediate area.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: The Planning Commission held a public hearing on September 14, 2009, denying Variance No. 2009-10 on a 4-1 vote.

Alternatives: Alternatives to the City Council include but are not limited to the following:

1. Deny revised variance request. The City Council would then amend the resolution with the necessary findings for approval. Staff would return with amended resolution to the City Council for adoption.

Attachments:

- Resolution upholding the denial of Variance No. 2009-10 but granting Variance No. 2009-10 as revised – pg. 6
- Exhibit “A” – Proposed site plan location of original variance request – pg. 8
- Exhibit “B” – Proposed Elevation of first variance request – pg. 9
- Exhibit “C” – Decision by Planning Commission rejecting original variance request – pg. 10
- Exhibit “D” – Revised variance request by Visalia Properties – pg. 30
- Exhibit “E” – Mooney Boulevard/Walnut Avenue intersection right-of-way – pg. 32

Recommended Motion: I move to uphold the Planning Commission’s denial of Variance No. 2009-10 and grant the revised variance request submitted for this hearing by adopting Resolution No. 2010 -03,

Alternative Motion: I move to uphold the Planning Commission’s denial of Variance No. 2009-10 and deny the revised variance request submitted for this hearing.

Environmental Assessment Status

CEQA Review: No action needs to be taken on an environmental document subject to Section 15270 of the California Environmental Quality Act. However, if the City Council approves the variance as requested by the applicant, staff will prepare an environmental document to reflect that the proposed project is the replacement/reconstruction of existing facilities pursuant to Title 14 of the California Code of Regulations Section 15302.

NEPA Review: None Required

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

Copies of this report have been provided to:

Planning Commission

Appellant

RESOLUTION NO. 2010-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA
UPHOLDING THE PLANNING COMMISSION'S DENIAL OF VARIANCE NO. 2009-10, A
REQUEST BY AD ART SIGN COMPANY TO ERECT A 35-FOOT HIGH/72 SQUARE FOOT
DOUBLE FACE FREESTANDING SIGN AND GRANTING THE REVISED VARIANCE
PROPOSAL TO ERECT A 16-FOOT HIGH/42 SQUARE FOOT DOUBLE FACE
FREESTANDING SIGN THAT WOULD ENCROACH OVER
3 FEET OF THE CITY'S SIDEWALK

WHEREAS, Variance No. 2009-10, A request by Ad Art Sign Company to erect a 35-foot high/72 square foot double face freestanding sign for the Orchard Supply Hardware store located in the C-R (Regional Retail Commercial) Zone was received by the City of Visalia. The site is located at 2230 West Walnut Avenue, City of Visalia, County of Tulare (APN: 095-134-045 & 046); and

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice did hold a public hearing before said Commission on September 14, 2009; and

WHEREAS, the Planning Commission of the City of Visalia, after conducting a public hearing, denied Variance No. 2009-10; and

WHEREAS, an appeal of the Planning Commission's denial of Variance No. 2009-10 pertaining to error or abuse of discretion by the Planning Commission in its action and pertaining to the Commission's actions not being supported by evidence in the record was received on September 24, 2009; and

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice held a public hearing before said Council on October 19, 2009 and ultimately continued said hearing to February 16, 2010; and

WHEREAS, Visalia Properties, the owner of the property has revised its proposed variance. Ad Art Sign Company has submitted a revised request proposing with a 16-foot high 42 square foot double face freestanding sign that will encroach up to three feet of the City sidewalk to be constructed after the street is widened and the bottom of the sign will be at least ten feet above the level of the sidewalk; and

WHEREAS, the City Council finds the denial of Variance No. 2009-10 as submitted to the Planning Commission was made in accordance with Chapter 17.48 (Signs) of the City of Visalia.

WHEREAS, the City Council finds that granting Variance No. 2009-10 as revised by Visalia Properties is in accordance with Chapter 17.48 (Signs) of the City of Visalia, based on the evidence contained in the staff report, and testimony presented at the public hearing.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Visalia makes the following specific findings based on the evidence presented:

1. That the decision of the Planning Commission denying Variance No. 2009-10 as originally submitted should be upheld but the applicant has made significant revisions to the variance proposal and under the revised variance request should be granted.
2. That strict or literal interpretation and enforcement of the Zoning Ordinance would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the Zoning Ordinance.

3. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property, which do not apply to other properties classified in the same zone.
4. That strict or literal interpretation and enforcement of the ordinance would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone.
5. That the granting of the variance would not constitute a grant of special privilege inconsistent with the limitations on other properties in the same zone.
6. That the granting of the variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

BE IT FURTHER RESOLVED that the City Council hereby approves Variance No. 2009-10 as revised on the real property here in above described in accordance with the terms of this resolution under the provisions of Sections 17.02.145 and 17.48.110 of the Ordinance Code of the City of Visalia.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 11

Agenda Item Wording: Approve 3rd Amendment to the 2006-07 Action Plan, 4th Amendment to the 2007-08 Action Plan, 5th Amendment to the 2008-09 Action Plan and 1st Amendment to the 2009-10 Action Plan redirecting federal Community Development Block Grant (CDBG) and federal HOME Investment Partnership funds and allocate Federal HOME Community Housing Development Organization (CHDO) funds to Community Services Employment Training, Inc (CSET) to acquire foreclosed single family dwellings, rehabilitate and resell to income qualifying families.

Deadline for Action: February 16, 2010

Submitting Department: Housing and Economic Development

Contact Name and Phone Number: Ricardo Noguera (4190); Rhonda Haynes (4460); Ruth Peña (4327); Nancy Renovato (4462)

Department Recommendation:

That the City Council approves:

- 1.) Amendments to Action Plan program years 2009/10, 2008/09, 2007/08, and 2006/07, to reflect the reduction of declining program income and redirect both federal funded CDBG and HOME funds due to the changing needs of the community. (see Appendix "A")
- 2.) Approve Community Services Employment Training, Inc (CSET) as a certified HOME funded Community Housing Development Organization (CHDO); and
- 3.) Authorization to execute a HOME funded Community Housing Development Organization (CHDO) Agreement between the City of Visalia and Community Services Employment Training, Inc. (CSET) for the use of HOME-CHDO funds in the amount of \$260,000 to acquire vacant, foreclosed properties within eligible targeted areas, rehabilitate and resell to income qualifying families; and
- 4.) Authorization to redirect \$24,000 of 2009/10 HOME funds from First Time Homebuyer (FTHB) Program to CSET as a HOME-CHDO, to utilize as eligible operating expenses; and
- 5.) Authorize the City Attorney to make any minor or technical revisions or corrections to the respective agreement

Summary/Background:

Each spring the City Council considers the adoption of an Action Plan which summarizes the proposed spending of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Funds (HOME). Each September, the City prepares a Consolidated

For action by:

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

For placement on which agenda:

- Work Session
 Closed Session

Regular Session:

- Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.):15

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Annual Performance and Evaluation Report (CAPER) which summarizes the last year's results from use of these two funding sources toward projects and programs benefiting low income families, low income areas, public improvements and economic development opportunities. Lastly, every five years the City is required to prepare a Consolidated Plan which provides projections for the proposed spending of the federal funds.

Each time the City alters its' plans or use of funding, it is required to complete an amendment to its Action Plan. In recent years, staff has been preparing amendments to Action Plans because anticipated program income is falling short of projections. Program Income represents funds received by the City through the sale of homes or loan payments made on mortgages funded. The recent significant decline in values of properties and reluctance to sell properties has resulted in the major decrease in program income. Additionally, demands for rehabilitation loans have declined while the need to fund park improvements, rehabilitation of mobile homes for seniors and support for neighborhood preservation/code enforcement services has caused for the amendments in action plans.

Summary of Proposed Actions

Action Plan Amendment: 2009/10- (1st)

In April 2009, staff presented the 2009/10 Action Plan to City Council and although a conservative approach was taken, some of the forecasts were a bit too optimistic, primarily with Program Income (derived from paid-off loans). As a result of the foreclosure crisis, and the inability for borrowers to pay-off loans, program Income has not met anticipated levels. Consequently, staff is recommending modifications be made to balance the 2009/10 Action Plan Budget due to such decline as follows with details addressed in Appendix "A":

- Eliminate the HOME funded Housing Rehabilitation Program
- Decrease the allocation to the HOME funded First Time Homebuyer Program (FTHB) by \$150,000; and
- Decrease CDBG funded Code Enforcement Program by \$33,750; and
- Decrease CDBG funded Oval Park Project by \$33,739; and
- Decrease CDBG Mobile Home Senior Handicapped Access Repair Program (Mobile SHARP) by \$5000 and
 - Increase grant from \$5,000 to \$7,000 per participant to address additional repairs; and
- Decrease CDBG funded Job creation by \$100,000.

Staff also recommends reducing the HOME-CHDO to correct the allocation and meet the minimum requirement, (15% set aside) decreasing from \$140,101 to \$84,600. Staff's previous recommendation included regular HOME funds in error. The decrease of \$55,501, Staff recommends it be redirected the CSET for operating expenses and also the HOME funded First Time Homebuyers (FTHB) Program. The recommendation is as follows with details addressed in Appendix "A":

- Redirect \$24,000 from 2009/10 HOME- CHDO to HOME-Operating expenses for CSET; and
- Redirect \$31,501 from 2009/10 HOME-CHDO to Home funded FTHB

Action Plan Amendments: 2008/2009- (5th), 2007/2008- (4th), 2006/2007- (3rd)

Emergency Repair and Basic Needs – Job Creation: The Program years 2006/07 through 2008/09, federal CDBG funds were directed to the Emergency Repair and Basic Needs (ERBN) Program. These funds were provided, as a second mortgage to existing homeowners so that they may address emergency, health and safety repairs. Whereas this program utilized up to

\$10,000 equity in a home, the downturn in the housing market reflected upon appraised values, therein eliminating equity, making the program lien mechanism monetarily unfeasible.

Staff's recommends that the funds set aside for the CDBG-ERBN program, be redirected to CDBG Job Creation which lost 2009/10 funding due to the loss in program income. This assists with fulfill the initial goal of job creation and our continued efforts toward economic development. The following budget modifications to fiscal years 2006/07 through 2008/09: Appendix "A" provides a detail of the recommendation, along with Table I

- Redirect a combined total of \$175,202 previously earmarked for the CDBG funded Emergency Repair and Basic Needs (ERBN) program to CDBG Job Creation.

CSET as a designated CHDO: Additionally, the HOME Investment Partnership Fund Program requires that fifteen (15%) of its annual allocation be set aside exclusively for housing that is owned, developed or sponsored by a 501 © non-profit, community-based service organizations, known as a HOME funded Community Housing Development Organization (CHDO), to develop affordable housing within our community. Currently, the City works with two certified HOME-CHDO's; Visalian's Interested in Affordable Housing and Self-Help Enterprises. Community Services Employment Training, Inc (CSET) has the capacity and shall be certified as one of three designated CHDO's, working with the City to develop affordable housing. Herein, Staff requests Council approval of their certification to begin working with the City of Visalia as a certified HOME-CHDO.

Staff is recommending that previous year HOME-CHDO set aside funds totaling \$260,000, be combined and directed to CSET as one of the City's designated CHDO's as a 501 © non profit agency, to acquire foreclosed single family dwellings, rehabilitate and re-sell to income qualifying families.

Of the \$260,000 CHDO set aside funds, no more than \$15,000 of the set aside funds, will be directed to pre-development costs as a loan to be repaid. All proceeds will be returned to the City to reinvest in additional properties. Staff recommends the following, with details addressed in Appendix "A":

- Redirect a combined total of \$260,000 from HOME-CHDO set aside funds (Program Years 2006, 2007, 2008, and portion of 2009) to CSET as a designated HOME-CHDO for a specific CHDO Project.

Prior Council/Board Actions: Adoption of the 2005/10 Consolidated Plan and adoption of the 2007-2008 Action Plan (May 07, 2008) and 1st & 2nd amendments (July 14, 2008 and September 15, 2008) and Action Plan 2008/2009 (April 21, 2008) and 1st, 2nd & 3rd Amendments (November 3, 2008- NSP funding, April 20, 2009 and June 1, 2009- CDBG-R funding)

Committee/Commission Review and Actions:

Alternatives: None recommended.

Attachments

Appendix "A" Details of Action Plan Amendments and CHDO Allocation
Exhibit "A", Targeted Area Map for use of CHDO funds
Exhibit "B", Agreement between City and CSET as a designated CHDO

Recommended Motion (and Alternative Motions if expected):

Move to approve

That the City Council approves:

1. Amendments to Action Plan program years 2009/10, 2008/09, 2007/08, and 2006/07, to reflect the reduction of declining program income and redirect both federal funded CDBG and HOME funds due to a reassessment of community needs. (see Appendix "A")
2. Approve Community Services Employment Training, Inc (CSET) as a certified HOME funded Community Housing Development Organization (CHDO); and
3. Authorization to execute a HOME funded Community Housing Development Organization (CHDO) Agreement between the City of Visalia and Community Services Employment Training, Inc. (CSET) for the use of HOME-CHDO funds in the amount of \$260,000 to acquire vacant, foreclosed properties within eligible targeted areas, rehabilitate and resell to income qualifying families; and
4. Authorization to redirect \$24,000 of 2009/10 HOME funds from First Time Homebuyer (FTHB) Program to CSET as a HOME-CHDO, to utilize as eligible operating expenses; and
5. Authorize the City Attorney to make any minor or technical revisions or corrections to the respective agreement

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: to be completed

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

Appendix "A"
Details of Action Plan Amendments and CHDO Allocation

Proposed Amendments & Re-allocations						
Table I						
Year	Funding	Program	Previous Allocated Amount	Allocation Adjustment	Amendment Revised Allocation	Use of Funds
09/10	HOME	Housing Rehab Program	250,000.00	(250,000.00)	0.00	Funds not available due to decreased Program Income. Budget revised based upon loans paid off and reimbursed to date.
09/10	HOME	First Time Homebuyer (FTHB)	517,500.00	(118,499.00)	399,001.00	Unallocate \$150,000 due to decreased Program Income + increased allocation \$31,501 from CHDO line item funds. This nets is a reduction of \$118,499 for FTHB.
09/10	HOME-CHDO	CHDO Program	140,101.00	(55,501.00)	84,600.00	Correct CHDO annual allocation to 15% requirement. Difference of \$55,501 to be reallocated: \$24,000 to CHDO as Operation Expense; \$31,501 to FTHB.
09/10	HOME	CHDO Operation Expense	0.00	24,000.00	24,000.00	Allocate \$24,000 from CHDO line item funds; Regular HOME funds for use by CSET- operating expenses as a new CHDO
09/10	CDBG	Job Creation	100,000.00	75,202.00	175,202.00	Unallocate \$100,000 due to decreased Program Income in 09/10 + Allocate \$175,202 from Emergency Repairs Program funding for 08/09, 07/08, 06/07.
09/10	CDBG	Oval Park	119,739.00	(33,739.00)	86,000.00	Unallocate \$33,739 due to decreased Program Income in 09/10.
09/10	CDBG	Code Enforcement	200,000.00	(33,750.00)	166,250.00	Unallocate \$33,750 due to decreased Program Income in 09/10.
09/10	CDBG	Mobile Home SHARP	95,000.00	(5,000.00)	90,000.00	Unallocate \$5,000 due to decreased Program Income in 09/10.
08/09	CDBG	Emergency Repairs Program	65,202.00	(65,202.00)	0.00	Emergency Repair Program funds totaling \$175,202 for 08/09, 07/08, 06/07 reallocated to Job Creation.
07/08	CDBG	Emergency Repairs Program	100,000.00	(100,000.00)	0.00	
06/07	CDBG	Emergency Repairs Program	10,000.00	(10,000.00)	0.00	

Program Income: Many of Staff's recommendations are based upon the declining program income received. The definition of "program income" is the principle and interest received from City loan program funds paid in full.

The City utilizes both federal CDBG and HOME funds to owner occupied single family residents residing within the city limits, who meet HUD and City program requirements, specifically low to moderate income who are at or below 80% of the Annual Median Income (AMI) (i.e. family of 4 @ 80% of AMI = \$44,650). Upon a borrower paying off their loan, the principal and interest accrued is returned to the City as "program income". The funds are then recycled to assist additional families. Specific programs with these features are the HOME- First Time Homebuyer (FTHB); HOME- Housing Rehabilitation Program and the CDBG- Emergency Repair and Basic Needs Program.

Program income has been declining since the foreclosure crises and market value of home reductions, causing many families to remain in their home, therein not refinancing or paying their loan in full.

Housing Rehabilitation Program: The Housing Rehabilitation Program is currently being administered by Self Help Enterprises (SHE). The program funding was allocated based upon HOME allocation and program income. Due to the decrease in program income the program has been eliminated for this program year to meet the annual budget. This program has not been successful due to the property value reductions as well.

First Time Homebuyer Program: The First Time Homebuyer Program is currently being administered by Community Services and Employment Training, Inc (CSET). They have been successful in providing up to \$40,000 second mortgages, at an interest rate of three percent (3%) for a thirty-year (30) term, to new homeowners. The recommendations herein are a reflection of decrease in projected program income for the program year. The allocation has been decreased to meet the annual budget.

CSET use of CHDO Funds:

The Agreement shall be effective through June 30, 2011, with three (3) one-year extensions thereafter declaring CSET as a designated HOME-CHDO to assist in activities of development of new or retention of affordable housing and declared to be eligible to apply for HOME-CHDO funds for use on City approved projects, programs or activities on a project-by-project basis and

CSET desires to work cooperatively with the City to acquire vacant, foreclosed, single family dwellings in areas earlier identified by the City through the NSP funding (attached map). CSET shall utilize \$260,000 from CHDO set aside previous years, as shown in *Table I*, to acquire, rehabilitate and re-sell a **minimum of two (2)** single family dwellings to income qualifying families.

Table I			
City CHDO Contribution /Disbursement			
CSET- CHDO			
<i>Funding:</i>	<i>Year Allocation from:</i>	<i>Amount</i>	<i>Use of funds</i>
HOME CHDO	portion of 2009	\$15,000.00	Pre-Development Loan (to be repaid)
HOME CHDO	portion of 2009	\$61,056.12	Toward Acquisition, Rehabilitation
HOME CHDO	2008	\$73,757.40	Toward Acquisition, Rehabilitation
HOME CHDO	2007	\$76,354.80	Toward Acquisition, Rehabilitation
HOME CHDO	2006 Remainder	\$33,831.68	Toward Acquisition, Rehabilitation
<i>Total CHDO Allocations</i>		<i>\$260,000.00</i>	
HOME Regular funds**	2009	\$24,000.00	For organizational operating expenses to support the project; disbursed in stages
**Allowed 5% of annual allocation of regular home funds toward operating expenses			

Additionally, from the HOME CHDO set aside allocated funds, \$15,000 shall be utilized as pre-development costs as a loan and disbursed in stages and upon the eligible pre-development costs associated with each transaction, such as site control, title clearance and upfront project expenditures. CSET shall work closely with a realtor to identify specific properties to make offers upon.

CSET proposes to rehabilitate the acquired properties, utilizing CSET's construction crew. CSET will provide the City with the labor and material costs for the rehabilitation of each property. An Affordability Covenant for twenty (20) years shall be placed upon the property to maintain affordability. The sales price shall be reflective of the costs of acquisition and rehabilitation, not including maintenance costs, and shall not exceed the fair market value as determined by an appraisal. The property shall be sold to an income qualifying family (80% of

the Visalia area median income or below). No additional HOME assistance will be applied to these properties as it relates to down payment assistance. Ultimately, the invested funds, including pre-development costs, shall be returned to the City upon CSET selling the home to an income and mortgage loan qualified family.

Uses of Funds:

HOME CHDO funds are derived from

- 1.) HOME CHDO funds, in the amount of \$260,000 shall be set aside for CSET as a designated CHDO. The funds shall specifically be utilized to:
 - a. Acquire vacant, foreclosed single family dwellings (\$245,000) (minimum of two (2) properties)
 - b. Pre Development Costs (\$15,000) provided as a loan to be repaid with proceeds from the sale of property.
- 2.) Operating Expenses not to exceed twenty-four thousand dollars (\$24,000)- (Note: Operating Expenses are not part of CHDO proceeds); and

The **pre development costs** shall be utilized as a “Site Control Loan” and is limited to initial feasibility studies, consulting fees, cost of preliminary financial applications; fees for architects, (if applicable), legal, engineering; site control expenses and title clearance costs and upfront project expenditures. These funds are to be repaid. Although a site control loan does not require environmental clearance, the City is requiring that when preparing an offer, that an environmental review be completed prior to the expenditure of the funds on a particular property. CSET and City will work closely to complete this process.

The City is electing to provide CSET with operating funds for reasonable and necessary costs for the operation of the CHDO. The City shall allow an initial \$24,000 for operating expenses as an upfront starting cost. **Operating expenses** are defined as reasonable and necessary costs for the operation of a CHDO. Such costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; and equipment, materials and supplies to operate as a designated CHDO.

City staff has shared with CSET its transactions success and process in acquiring foreclosed properties, with the NSP Funding. The acquisition costs have ranged from \$55,000 to \$95,000. CSET shall acquire properties within this range, utilize CSET’s funding for the rehabilitation and resell the properties. Funds from the sale of the home will be returned to the City.

CHDO Agreement and loan contracts.

The City has incorporated the standard agreement between the City and Community Services and Employment Training, Inc. (CSET). CSET’s role as a designated CHDO shall be as a “Developer”. This allows CSET to own the property, rehabilitate the property, and then transfer the property and HOME covenant obligation to an eligible homebuyer within a specified timeframe of project completion. CSET will work with the City to complete and place an affordability covenant by recording a document upon the property for a minimum of twenty (20) years. The new owner(s) shall obtain a mortgage from a local lending institution with the funds then returning (recycling) to the City’s account for future transactions. CSET, as a designated CHDO agrees to provide all transaction documentation to the City, as well as qualifying buyer’s transaction documentation. CSET also agrees to require buyers to obtain a 30 year fixed rate mortgage and be “underwriter” qualified as well as other terms referenced in the agreement herein attached as (Exhibit “B”)

CHDO Project Management

Additionally, each individual property must be reviewed by City staff and the completion of an environmental review must be conducted prior to disbursement of funds. Once CSET identifies

a specific property, a secondary agreement will be created, identifying the specific property location, description of the project, specific use and amount requested of CHDO funds, total costs, milestones and other requirements under HUD's HOME CHDO Regulations.

Job Creation Within the 2009/10 Action Plan, Staff initially set aside \$100,000 to meet the objective in creating job opportunities, however, due to the loss in program income, leaving no funds from the 2009/10 budget available, Staff is recommending that the funds set aside for the CDBG-ERBN program, be redirected to CDBG Job Creation.

Emergency Repairs and Basic Needs (ERBN)- The Emergency Repair and Basic Needs (ERBN) program is currently being administered by Self-Help Enterprises. The program serves very low income families to address health and safety issues to their home. The program, formerly an amortized loan with two percent interest was modified in April 2009, to a deferred loan with no interest to make the program more attainable to families in need; however, due to declining property values many homeowners owe more than their property's value, making a second loan infeasible to underwrite. Once the economy improves, this program may be re-evaluated for funding.

Staff is recommending that funding from previous years totaling \$175,202 be combined and redirected to the CDBG-Job Creation.

Oval Park: In 2008, the City Council directed staff to work with the residents and businesses from both the Washington School and Oval Park neighborhoods in order to foster revitalization efforts. The following departments have actively participated in these efforts: Housing & Economic Development, Building, Police, and Engineering, Public Works, Fire and Community Development Departments.

City Council also provided staff with the direction to identify the needs of the Oval Park Area. In addition to leveraging CDBG funds in 2008, the City received a Cal Trans Grant to analyze the area as it relates to traffic, safety and lighting. Community meetings have been held at the Oval Park, obtaining community input, coordination with local non-profit agencies to utilize the existing building and create a more family friendly park.

Additionally, City Engineering in a coordinated effort with Southern California Edison will be repairing inoperable and new street lights in the Washington School area and specifically, repairing inoperable street lights (11) in the Lincoln Oval Park neighborhood by July 2009 to improve lighting conditions and address public safety concerns.

Within the 2009/10 Action Plan, Staff initially set aside \$119,739, however, with the declining program income, as stated throughout, Staff recommendation reduces the annual allocation by \$33,739, making this year's allocation \$86,000.

The City contributed \$60,000 in 2007/08 and an additional \$20,000 from an Amendment completed in July 2008 for which funds are derived from the 2007/08 program year funding. This brings the total allocated funds for the Oval Park Area improvements to \$166,000

Code Enforcement: In 2009/10 Action Plan, Staff initially allocated \$200,000 to CDBG- Code Enforcement; however, due to the decline in program income received, Staff's recommendation reduces the allocation by \$33,750 bringing the annual allocation to \$166,250.

Mobile Home Senior Handicapped Assistance Repair Program: The CDBG funded Mobile Home Senior Handicapped Assistance Repair program is currently being administered by Self-Help Enterprises. The program serves very low income families to address health and safety issues to their mobile home in the form of a grant, up to \$5,000. A majority of the grants are

utilized toward floor and roof repairs. This program continues to be successful, with the average grant provided being \$5,800. Although the program is very successful, due to the decreased program income, Staff recommends reducing the annual allocation from \$95,000 to \$90,000, a reduction of \$5,000.

Additionally, Staff is recommending that the grant be increased to \$7,000 to accommodate the increased cost of materials, labor and address additional repairs needed.

Exhibit "B"
CHDO Agreement

AFFORDABLE HOUSING DEVELOPMENT AGREEMENT BETWEEN THE CITY OF VISALIA AND COMMUNITY SERVICES AND EMPLOYMENT TRAINING, INC.

THIS AGREEMENT (hereinafter “Agreement”) is made this ____ day of _____, 2010, (the “Effective Date”) by and among Community Services and Employment Training, Inc., a California 501(c)(3) public benefit, nonprofit corporation (hereinafter “CSET”) and the City of Visalia, a municipal corporation organized and existing under the laws of the State of California (hereinafter “City”), collectively referred to as the “Parties.”

RECITALS

A. CSET desires City funding to purchase single family residential foreclosed properties, which shall be rehabilitated and then made available for resale for the purpose of providing affordable homeownership opportunities (hereinafter “Project”).

B. There is an ongoing need in the community for affordable housing opportunities

C. The City of Visalia (hereinafter “City”) is a recipient of HOME Investment Partnerships Program (hereinafter “HOME Program”) funds from the U.S. Department of Housing and Urban Development (hereinafter “HUD”), including funds that are reserved for use by Community Housing Development Organizations (hereinafter “CHDOs”), which it is obligated to use to assist in the development of affordable housing opportunities in the community.

D. CSET has been certified by the City as a CHDO, and has executed that certain Community Home Investment Partnership Agreement with the City whereby City has agreed to provide CHDO funds to CSET for the Project.

D. The Project is CHDO-eligible under HOME regulations, and City has agreed to provide CSET with Two Hundred and Sixty Thousand Dollars (\$260,000.00) from City’s HOME Program CHDO Set-Aside funds to assist with the Project.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, including any Exhibits attached hereto, and subject to the terms conditions hereinafter stated, CSET and City agree as follows:

- 1. Recitals.** The recitals are incorporated herein as though set forth in full.
- 2. Project Management.** CSET shall serve as managing general partner with effective control of, and decision making authority over, the Project.
- 3. Project Scope, Term and Funding.** CSET shall diligently pursue the acquisition of two (2) foreclosed or real estate owned single family residential properties within the

jurisdictional limits of the City of Visalia (hereinafter “Project Properties”), utilizing the following funding to be provided by the City:

(a) Project Property Acquisition Loan. During the initial term of this Agreement, City shall provide CSET with an interest free loan of up to ONE HUNDRED AND FORTY THOUSAND DOLLARS (\$180,000.00) from its HOME Program CHDO Set-Aside for the purpose of acquiring the first two Project properties. CSET shall acquire its first two Project Properties by December 31, 2010.

(b) Project Pre-Development Cost Loan. As part of Project Property acquisition, during the initial term of this Agreement, City shall provide CSET with an interest free loan of up to FIFTEEN THOUSAND DOLLARS (\$15,000.00) from its HOME Program CHDO Set-Aside for the purpose of funding pre-development costs for the acquisition and rehabilitation of Project Properties. Eligible pre-development costs, which are subject to review and approval by the City, shall include:

(i) Architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups;

(ii) Costs to process and settle the financing for a project, such as private lender origination fees, credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, attorneys fees, private appraisal fees and fees for an independent cost estimate, builders or developers fees;

(iii) Costs of a Project audit that the City may require with respect to the development of the Project;

(iv) Costs to provide information services such as affirmative marketing and fair housing information to prospective Project Property homeowners;

(v) Staff and overhead costs directly related to carrying out the Project, such as work specifications preparation, loan processing inspections, and other services related to assisting potential homebuyers;

(vi) Costs for the payment of impact fees that are charged for all projects within a jurisdiction;

(vii) Costs of environmental review directly related to the Project.

(c) Project Rehabilitation Cost Loan. CSET shall also rehabilitate Project Properties, and upon issuance of a Certificate of Occupancy following rehabilitation, offer the Project Properties for sale for affordable housing purposes consistent with the requirements of this Agreement. During the initial term of this Agreement, City shall provide CSET with an interest free loan of up to SIXTY-FIVE THOUSAND DOLLARS (\$65,000.00) from its HOME Program CHDO Set-Aside for the purpose of rehabilitating the Project Properties.

(d) General Funding Obligations. The expenditure of HOME Program funds is subject to Federal deadlines and could result in the loss of the Federal funds. By the acceptance and execution of this Agreement, it is understood and agreed by the CSET that the Project will be completed as expeditiously as possible and that CSET will make every effort to ensure that the Project will proceed and will not be delayed. Failure to meet Project deadlines identified herein can result in cancellation of this Agreement.

Since it is mutually agreed that time is of the essence as regards this Agreement, CSET shall cause appropriate provisions to be inserted in all contracts or subcontracts relative to the work tasks required by this agreement, in order to ensure that the Project will be completed according to the timetable set forth. It is intended that such provisions inserted in any subcontracts be, to the fullest extent permitted by law and equity, binding for the benefit of the City and enforceable by the City against CSET and its successors and assigns to the Project or any part thereof or any interest therein.

In the event the CSET is unable to meet the above schedule or complete the above services because of delays resulting from Acts of God, untimely review and approval by the City and other governmental authorities having jurisdiction over the Project, or other delays that are not caused by CSET, City shall grant a reasonable extension of time for completion of the Project. It shall be the responsibility of the CSET to notify the City promptly in writing whenever a delay is anticipated or experienced, and to inform the City of all facts and details related to the delay.

4. Disbursement of Agency Funding. The City's HOME Program CHDO Set-Aside loan funds shall be disbursed to CSET as follows:

(a) Request for Project Property Acquisition Funding. City shall provide to CSET the funds identified in Sections 3(a) for Project Property acquisition as specified below. When CSET seeks a distribution HOME Program CHDO Set-Aside funds for the purpose of acquiring a property for the Project, including distribution of pre-development costs identified in Section 3(b), CSET shall submit to City a written request which shall include the following information, materials or documents:

- (i) A good faith estimate and closing statement;
- (ii) The proposed purchase price of a Project property, which may be in the form of a residential purchase agreement;
- (iii) A property description which includes the Assessor's Parcel Number, physical address, legal description, and existing dwelling square footage;
- (iv) An appraisal for the proposed property, or, at City's sole discretion, local market comparable sales data supporting the proposed purchase price followed by an appraisal within five (5) days of acceptance of offer by CSET to purchase Project property;

(v) The name, address and telephone number of the title company and escrow officer for the proposed acquisition;

(vi) Photos of the property, including photos of both the interior and exterior of the dwelling unit and any other improvements located on property;

(vii) Within five (5) days of the open of escrow, a title report for the property to be acquired;

(viii) Within five (5) days of the open of escrow, a pest inspection and if Project property was constructed prior to 1978, a lead inspection, and a written description of any existing City of Visalia municipal code violations;

(ix) At least five (5) days prior to the close of escrow, evidence of the environmental status of the Project property, which shall include at a minimum, a Natural Hazard Disclosure and evaluation of flood zone status.

(x) Upon request of CSET, City, at its sole discretion, may waive or defer any of the requirements identified in Subsections 4(a)(i) through 4(a)(ix), inclusive.

Once City has approved CSET's request for distribution Section 3(a) loan proceeds for a Project Property acquisition, City shall distribute the funds requested by CSET directly to the escrow account which has been opened by CSET for the Project Property acquisition, prior to the date set for the close of escrow.

(b) Request for Pre-Development or Rehabilitation Funding. Prior to any request for the distribution of any loan proceeds identified in Section 3(b) for pre-development costs associated with the Project, or Section 3(c) for rehabilitation costs associated with the Project, CSET shall have completed the submittal required by Section 3(a), and shall also submit a requisition sheet itemizing the specific pre-development or rehabilitation costs to be paid, the payees, their addresses, their federal identification numbers, and the amount to be paid to each. If CSET has paid eligible pre-development costs or rehabilitation costs, CSET shall submit to City submit a requisition sheet itemizing the specific pre-development or rehabilitation costs to be paid, along with invoices and any other documentation City may require to verify the nature of the expenditure.

(c) Processing of Request for Distribution. All requests for distribution of loan proceeds identified in Section 3 of this Agreement for shall be sent to the City's Housing and Economic Development Department, attention Ricardo Noguera, at least its earliest possible convenience, and in any event, no less than fifteen (15) days prior to the desired date of distribution by the City. The City shall expeditiously review the distribution request and supporting information, materials and documents required by this Agreement as they are received from CSET. City's review shall include inspection of the property by City staff prior to authorizing the distribution request. Upon submittal to City by CSET of all supporting information, materials, and documents required by this Agreement, or acknowledgment by City of any waiver or deferral of any required submittals, City shall provide CSET with a written

determination on the request for distribution. All authorizations for distributions from the loan funding identified in Section 3 shall be confirmed to CSET in writing, and CSET may not rely on City for funding for the Project without first receiving said written determination from City. City may deny any distribution request submitted by CSET if, after review of the supporting information, materials or documents required herein, City determines that the request for distribution for a Project does not meet the requirements for the Project as identified in this Agreement, and shall provide said determination to CSET in writing.

(d) Inspection and Retention of Records. CSET shall maintain all records pertinent to the activities funded under this Agreement as required by the Agency and by Federal Regulations in 24 CFR Section 92.508. The City reserves the right to inspect records and project sites to determine that reimbursement and compensation requests are reasonable. The City also reserves the right to hold payment until adequate documentation has been provided and reviewed. The City shall have the right to review and audit all records of the CSET pertaining to any disbursement by the City. Said records shall be maintained for a period of five years after completion of the Project.

5. Security for and Repayment of Loan. Upon completion of the rehabilitation of a Project Property, CSET agrees to execute a Promissory Note in a form substantially similar to the Promissory Note attached hereto as Exhibit "A," evidencing the City's total loan of HOME Program CHDO Set-Aside funds identified in Sections 3(a) through 3(c) inclusive, for that Project Property. CSET shall also execute a Deed of Trust in a form substantially similar to the Deed of Trust attached hereto as Exhibit "B," evidencing and securing the aforesaid loan with the Project Property, and shall cause said Deed of Trust to be recorded against the Project Property.

Upon sale of a Project Property by CSET, all net sales proceeds from the sale are considered to be "Project Income" which will be returned to the City and credited toward the HOME Program CHDO Set-Aside fund loan memorialized by the Promissory Note and Deed of Trust required by this Section. "Net Sale Proceeds" shall mean the purchase price paid for the Project Property less all costs to CSET to complete the sale of the Project Property. Net Sale Proceeds shall be paid to the City at the close of escrow for the sale by CSET of said Project Property. Upon the close of escrow and payment of the Net Sale Proceeds by CSET to the City, City agrees to concurrently process and record a substitution of Trustee and Full Reconveyance for the Project Property. To the extent allowed by the HOME Program regulations as stated in 24 Part 92, and at its sole discretion if the project is successful and depending upon HOME Program funding and priorities for future allocations, City intends to make the Project Income returned by CSET from Project Property dispositions available to CSET for additional Project Property acquisitions.

If the Net Sale Proceeds from the sale of a Project Property are not sufficient to allow CSET to repay the full amount of the City loan of HOME Program CHDO Set-Aside funds to CSET for a Project Property, City agrees to forgive the remaining balance due on the loan. Upon the conclusion of the project, CSET shall return to City any and all loan proceeds or Project Income which may be in its possession.

6. **Term of Agreement.** Commencing upon the execution of this Agreement and continuing through June 30, 2011 according to its terms, CSET shall purchase, rehabilitate and sell at least two Project Properties. The City may, at its sole discretion, amend this Agreement to add up to Three (3) additional one year terms. Subject to Section __, below, this Agreement shall remain binding on the Project Properties and CSET commencing on the Effective Date and terminating at the conclusion of the expiration of all Affordability Covenants required by Section 7 of this Agreement.

7. **Resale Restrictions.** Upon the completion of rehabilitation of as Project Property and issuance of a Certificate of Occupancy, CSET shall offer the Project Property for sale to a family having a gross family income not exceeding Eighty Percent (80%) of the area median, as established by HUD at the time of transfer of the property, and which shall use the Property as its principal residence (“Eligible Household”). Prior to the close of escrow for the sale of Project Properties by CSET to an Eligible Household, the CSET, the City and the Eligible Household shall execute in favor of the City a Declaration of Restrictive Covenants (hereinafter “Affordability Covenant”) for a Fifteen (15) Year term, and in a form substantially similar to the one attached hereto as Exhibit “C,” and have said Affordability Covenant recorded with the County Recorder in the County of Tulare.

8. **Project Requirements Mandated by HOME Program.** CSET agrees to comply with all requirements of the HOME Program as stated in 24 CFR Part 92, including but not limited to the following:

(a) No HOME Program funds will be advanced, and no costs can be incurred, until the City has conducted an environmental review of the proposed project site as required under 24 CFR Part 58. The environmental review may result in a decision to proceed with, modify or cancel the acquisition of the Project Property. Notwithstanding any provision of this Agreement, the Parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the City of a release of funds from the HUD under 24 CFR Part 58. Further, the AWARDEE will not undertake or commit any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the Agreement.

(b) CSET will ensure that any expenditure of HOME Program funds will be in compliance with the requirements at 92.206, and acknowledges that HOME Program funds will only be provided as reimbursement for eligible costs incurred, including actual expenditures or invoices for work completed.

(c) CSET will ensure that all HOME assisted units will be in compliance with 24 CFR 92.254, including documenting that the property is eligible under 92.254(a)(1) – (2), and will maintain compliance during the compliance period identified in the Affordability Covenant.

(d) CSET will ensure that the designated HOME Program assisted Project Properties meet the affordability requirements as found in 92.254 (owner-occupied) as applicable. CSET shall collect and maintain Project beneficiary information pertaining to household size, income levels, racial characteristics, and the presence of female headed households in order to determine low and moderate-income benefit in a cumulative and individual manner. Income documentation shall be in a form consistent with HOME requirements as stated in the HUD Technical Guide for Determining Income and Allowances Under the HOME Program.

(e) In the selection of Eligible Households for the purchase of a Project Property, CSET shall comply with all nondiscrimination requirements of 24 CFR 92.350.

(f) CSET shall assure compliance with 24 CFR 92.251 as relates to Property Standards and Housing Quality Standards (HQS), Accessibility Standards under 24 CFR 92.251(a)(3) and Building Code Chapter 11A, as applicable, and Lead Based Paint Requirements as found in 24 CFR 92.355 and 24 CFR Part 35.

(g) CSET shall assure that any notes and mortgages recorded for homebuyers shall be in compliance with 24 CFR 92.254. CSET will monitor each unit for principal residency (under 92.254(a)(3)) and resale/recapture (under 92.254 (a)(4) – (5)).

(h) CSET will be monitored by the City for compliance with the regulations of 24 CFR 92 for the compliance period specified above. CSET shall provide reports and access to project files as requested by the City during the Project and for Five (5) years after completion of the requirements of this Agreement.

(i) The income of each purchaser of a Project Property must be determined initially in accordance with the requirements of 24 CFR Section 92.203(a)(2). Reporting to City by CSET of compliance with this provision shall be accomplished by delivering all of the information necessary to ensure compliance with the requirements of 24 CFR Section 92.203(a)(2).

(j) The Developers shall carry out the Project in compliance with the minimum applicable requirements of Subpart H of 24 CFR Part 92, including but not limited to the following:

(i) The affirmative marketing responsibilities, as enumerated by the City, in accordance with 24 CFR Section 92.351.

(ii) The federal requirements and nondiscrimination established in 24 CFR Section 92.350.

(iii) Any displacement, relocation, and acquisition requirements imposed by the participating jurisdiction consistent with 24 CFR Section 92.353.

(iv) The labor requirements in 24 CFR Section 92.354.

(v) The conflict of interest provisions prescribed in 24 CFR Section 92.356(f).

9. CHDO Provisions. CSET has certified that it is and will maintain CHDO (Community Housing Development Organization) status for the term of the Project/Agreement in accordance with 24 CFR 92. AWARDEE agrees to provide information as may be requested by the City to document its continued compliance, including but not limited to an annual board roster and certification of continued compliance. Any funds advanced as CHDO pre-development funds must be in compliance with 92.301, and are forgivable only under the terms in 92.301. Any funds advanced to the CHDO as CHDO Operating Expenses must be expended in compliance with 24 CFR 92.208. Any funds that the CHDO is permitted to retain as CHDO proceeds from this project shall be used in compliance with 24 CFR 92.300(a)(2) or as specified in this Agreement.

10. Conflict of Interest Provisions. CSET warrants and covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which could conflict in any manner or degree with the performance of its services hereunder. CSET further warrants and covenants that in the performance of this Agreement, no person having such interest shall be employed. HOME Program conflict of interest provisions, as stated in 92.356, apply to the award of any contracts under this Agreement and the selection of any Eligible households.

No employee, agent, consultant, elected official, or appointed official of CSET may obtain a financial interest or unit benefits from a HOME Program-assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This prohibition includes the following any interest in any contract, subcontract or agreement with respect to a HOME Program-assisted project or program administered by the CSET, or the proceeds thereunder; or any unit benefits or financial assistance associated with HOME Program projects or programs administered by CSET, including: occupancy of a rental housing unit in a HOME Program-assisted rental project, receipt of HOME Program tenant-based rental assistance, purchase or occupancy of a homebuyer unit in a HOME Program-assisted project, receipt of HOME Program homebuyer acquisition assistance, or receipt of HOME Program owner-occupied rehabilitation assistance.

This prohibition does not apply to an employee or agent of CSET who occupies a HOME assisted unit as the on-site project manager or maintenance worker. In addition, no member of Congress of the United States, official or employee of HUD, or official or employee of the City shall be permitted to receive or share any financial or unit benefits arising from the HOME-assisted project or program. Prior to the implementation of the HOME-Program assisted activity, exceptions to these provisions may be requested by CSET in writing to the City. CSET must demonstrate and certify that the policies and procedures adopted for the activity will ensure fair treatment of all parties, and that the covered persons referenced in this policy will have no inside information or undue influence regarding the award of contracts or benefits of the HOME Program assistance. The City may grant exceptions or forward the requests to HUD as permitted by 24 CFR 92.356, 85.36 and 84.42, as they apply.

11. City Responsibilities. The City shall furnish CSET with the following services and information from existing City records and City files:

- (a) Information regarding its requirements for the Project;
- (b) Any changes in HOME Program regulations or program limits that affect the Project, including but not limited to income limits and property value limits.
- (c) The CITY will conduct progress inspections of work completed to protect its interests as lender and regulatory authority for the Project, and will provide information to CSET regarding any progress inspections or monitoring to assist it in ensuring compliance. The City's review and approval of the Project will relate only to overall compliance with the general requirements of this Agreement and HOME Program regulations, and all CITY regulations and ordinances. Nothing contained herein shall relieve the AWARDEE of any responsibility as provided under this Agreement.

12. Equal Employment Opportunity. During the performance of this contract, CSET agrees as follows:

- (a) CSET shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin(s). CSET shall take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin(s). Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CSET agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer of the City setting forth the provisions of this nondiscrimination clause.
- (b) CSET shall, in all solicitations or advertisements for employees placed by or on behalf of CSET, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (c) CSET shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the City's contracting officer, advising the labor union or worker's representative of CSET's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment
- (d) CSET shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.\
- (e) CSET shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of

Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the City and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and order.

(f) In the event CSET is found to be in noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and CSET may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule, regulations, or order of the Secretary of Labor or as otherwise provided by law.

(g) CSET shall include the provisions of paragraphs (a) through (f) of this Section in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CSET shall take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event CSET becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by City, CSET may request the United States to enter into such litigation to protect the interest of the United States.

13. Labor, Training & Business Opportunity. CSET agrees to comply with the federal regulations governing training, employment and business opportunities as follows:

(a) It is agreed that the work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u, as well as any and all applicable amendments thereto. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given low and moderate income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the project area.

(b) CSET shall comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 Code of Federal Regulations and all applicable rules and orders of the HUD issued thereunder as well as any and all applicable amendments thereto prior to the execution of this contract as well as during the term of this Agreement. CSET certifies and agrees that it is under no contractual or other disability, which would prevent it from complying with these requirements as well as any and all applicable amendments thereto.

(c) CSET shall include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the CITY, take appropriate action pursuant to the subcontractor upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, in 24 Code of Federal Regulations.

CSET shall not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 Code of Federal Regulations and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with these requirements as well as with any and all applicable amendments thereto.

(d) Compliance with the provisions of Section 3, the regulations set forth in 24 Code of Federal Regulations and all applicable rules and orders of the AGENCY of Housing and Urban Development issued thereunder prior to the execution of the contract shall be a condition precedent to federal financial assistance being provided to the Project as well as a continuing condition, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject CSET, its contractors and subcontractors, its successors, and assigns to those sanctions specified by 24 Code of Federal Regulations as well as with any and all applicable amendments thereto. The City shall provide CSET with a copy of its Section 3 Guidance Book.

14. Compliance with Federal, State & Local Laws. CSET covenants and warrants that it will comply with all applicable laws, ordinances, codes, rules and regulations of the state local and federal governments, and all amendments thereto, including, but not limited to; Title 8 of the Civil Rights Act of 1968 PL.90-284; Executive Order 11063 on Equal Opportunity and Housing Section 3 of the Housing and Urban Development Act of 1968; Housing and Community Development Act of 1974, as well as all requirements set forth in 24 CFR 92 of the HOME Program. CSET covenants and warrants that it will indemnify and hold the City forever free and harmless with respect to any and all damages whether directly or indirectly arising out of the provisions and maintenance of this contract.

CSET agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). CSET further warrants and agrees to include or cause to be included the criteria and requirements of this section in every non-exempt subcontract in excess of \$100,000. CSET also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.

15. Suspension & Termination. In accordance with 24 CFR 85.43, suspension or termination may occur if CSET materially fails to comply with any term of the award, and that the award may be terminated for convenience in accordance with 24 CFR 85.44. If, through any cause, CSET shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if CSET shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this contract by giving written notice to CSET of such termination and specifying the effective date thereof, at least Five (5) days before the effective date of such termination. In such event, CSET shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder to the date of said termination. Notwithstanding the above, CSET shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by CSET and the City may withhold any payments to CSET for the purpose of setoff until such time as the

exact amount of damages due the City from CSET is determined whether by court of competent jurisdiction or otherwise.

16. Termination for Convenience of the City. The City may terminate for its convenience this contract at any time by giving at least Thirty (30) days notice in writing to CSET. If the contract is terminated by the City, as provided herein, the City will reimburse for any actual and approved expenses incurred, including those costs involved in terminating the contracts and shutting down the work as of the date of notice.

17. Assignment, Transfers and Successors.

(a) For purposes of this Agreement, "Transfer" shall mean any sale, assignment, or transfer, whether voluntary or involuntary, of any rights and/or duties under this Agreement, and/or any interest in the Project or the Property, including, but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest, a security interest, or an interest evidenced by a land contract by which possession of the Project is transferred and Grantee retains title. The term "Transfer" shall exclude the renting or leasing of any single unit in the Project to an occupant in compliance with this Agreement.

(b) No Transfer shall be permitted without the prior written consent of the Agency.

(c) The provisions of the Affordability Covenants required by this Agreement shall run with the land and inure to, and be binding upon, future owners of the Project Property. Upon any Transfer of the Property, and except as otherwise provided herein, the transferee shall assume, and be responsible for, all burdens and obligations of CSET under this Agreement, and CSET may be released from any and all burdens and obligations herein upon the written consent of the City.

18. Severability. In the event any term or provision of this Agreement is deemed to be in violation of law, null and void, or otherwise of no force or effect, the remaining terms and provisions of this Agreement shall remain in full force and effect.

19. Parties Not Co-Venturers. Nothing in this Agreement is intended to, or does, establish the City and CSET as partners, co-venturers or principal and agent with one another.

20. Warranties. City expresses no warranty or representation to CSET as to fitness or condition of any Project Property which is the subject of this Agreement.

21. Attorney's Fees. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the party prevailing in any such action shall be entitled to recover against the party not prevailing its reasonable attorney's fees and costs incurred in such action.

22. Complete Understanding of the Parties. This Agreement and attached exhibits, and the Community Home Investment Partnership Agreement between the City of Visalia and

CSET constitute the entire understanding and agreement of the parties with respect to the matters pertaining to the Project and the Project Properties.

23. Indemnification Regarding Project. CSET agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory the City), City and their respective members, officers and employees from all liability arising out of the Project, the Project Properties, and CSET's acquisition, rehabilitation and disposition of Project Properties. This provision shall survive expiration and/or termination of this Agreement.

23. Governing Law. This Agreement shall be interpreted under the laws of the State of California.

IN WITNESS WHEREOF, Developers have executed this Agreement, effective the day and year first set forth above.

COMMUNITY SERVICES AND EMPLOYMENT
TRAINING, INC

Dated: _____

By: _____

Its: _____

THE CITY OF VISALIA

Dated: _____

By: _____

Its: City Manager

APPROVED AS TO FORM

By: _____
City Attorney

By: _____
Attorney for CSET

“Exhibit A”

Form of Promissory Note

\$ _____

_____(Date)
Visalia, California

FOR VALUE RECEIVED, Community Services and Employment Training, Inc. (CSET), a California 501(c)3 nonprofit corporation, (the "Maker"), having a physical address of _____, Visalia, California, 932__ and a mailing address of _____, Visalia, CA 932__, promises to pay THE CITY OF VISALIA ("Payee"), the principal sum of _____, or so much of such principal as may be advanced (the "Loan").

1. **The Loan.** This Loan is made pursuant to that certain “Affordable Housing Development Agreement Between The City Of Visalia And Community Services And Employment Training, Inc.” (the "Loan Agreement") among Maker and Payee dated _____, 2009. The funding provided to Maker will be used by Maker for the acquisition, rehabilitation and disposition of that certain real property identified generally as _____, City of Visalia, STATE OF CALIFORNIA, as more particularly and legally described in the Declaration of Restrictive Covenants for the Property required by the Loan Agreement.

2. **Security.** Payment of this Note is secured by a deed of trust and assignment of rents (the "Deed of Trust") from Maker to Payee upon the Property.

3. **Project.** Maker has acquired and rehabilitated an affordable housing project (the "Project Property") as described in the Loan Agreement.

4. **Maturity Date.** This Note shall be forgiven upon payment by Maker to Payee of the “Net Sale Proceeds,” as that term is defined in the Loan Agreement, at the time the Property is sold by CSET to an “Eligible Household,” as that term is defined in the Loan Agreement, pursuant to the requirements of the Loan Agreement. To the extent there are residual receipts from the Project, Maker shall pay 100% of the residual receipts to Payee on an annual basis.

5. **Payment.** Any payment which becomes due shall be made in lawful money of the United States to Payee c/o the City of Visalia, 315 East Acequia Street, Visalia, California 93291. The place of payment may be changed from time to time as the Payee may from time to time designate in writing.

6. **Default.** The occurrence of any of the following shall constitute an event of default under this Note: (i) Maker fails to pay any amount due hereunder within 15 days of its due date; or (ii) Any default by Maker under the Deed of Trust, or the Loan Agreement and failure to cure as described in the Loan Agreement.

Upon the occurrence of any event of default, or at any time thereafter, at the option of the Payee hereof, the entire unpaid principal owing on this Note shall become immediately due and payable. This option may be exercised at any time following any such event. Payee's failure to exercise such option shall not constitute a waiver of such option with respect to any subsequent event. Payee's failure in the exercise of any other right or remedy hereunder or under any agreement which secures the indebtedness or is related thereto shall not affect any right or remedy and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof.

7. Default Interest Rate. At all times when Maker is in default hereunder by reason of Maker's failure to pay principal due under this Note or any amounts due under any loan documents securing this Note, the interest rate on the sums as to which Maker is in default (including principal, if Payee has elected to declare it immediately due and payable), shall be the lower of the highest rate then allowed by law or five percent over the prime interest rate announced by Wells Fargo Bank, N.A., as of the date of the default.

8. Waivers. Maker and any endorsers hereof and all others who may become liable for all or any part of this obligation, severally waive presentment for payment, demand and protest and notice of protest, and of dishonor and nonpayment of this Note, and expressly consent to any extension of the time of payment hereof, to the release of any party liable for this obligation, and any such extension or release may be made without notice to any of said parties and without any way affecting or discharging this liability.

9. Costs. Maker agrees to pay immediately upon demand all costs and expenses of Payee including reasonable attorneys' fees, (i) if after default this Note be placed in the hands of an attorney or attorneys for collection, (ii) if after a default hereunder or under the Deed of Trust, Loan Agreement or under any loan document referred to herein Payee finds it necessary or desirable to secure the services or advice of one or more attorneys with regard to collection of this Note against Maker, any guarantor or any other party liable therefore or to the protection of its rights under this Note, the Deed of Trust, the Loan Agreement or other loan document, or (iii) if Payee seeks to have the Property abandoned by or reclaimed from any estate in bankruptcy, or attempts to have any stay or injunction prohibiting the enforcement or collection of the Note or prohibiting the enforcement of the Deed of Trust or any other agreement evidencing or securing this Note lifted by any bankruptcy or other court.

If Payee shall be made a party to or shall reasonably intervene in any action or proceeding, whether in court or before any governmental agency, affecting the Property or the title thereto or the interest of the Payee under the Deed of Trust, including, without limitation, any form of condemnation or eminent domain proceeding, Payee shall be reimbursed by Maker immediately upon demand for all reasonable costs, charges and attorneys' fees incurred by Payee in any such case, and the same shall be secured by the Deed of Trust as a further charge and lien upon the Property.

10. Notices. Any notices provided for in this Note shall be given by mailing such notice by certified mail, return receipt requested at the address stated in this Note or at such address as either party may designate by written notice.

11. Successors. This Note shall be binding upon Maker, its successors and assigns.

12. California Law. This Note shall be construed in accordance with and be governed by the laws of the State of California.

13. Severability. If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

14. Nonrecourse. In any action brought to enforce the obligations of Maker under this Note, the Deed of Trust or any other instrument or agreement evidencing, securing or relating to the indebtedness evidenced by this Note, the judgment or decree shall be enforceable against Maker only to the extent of its interest in the Property described in the Deed of Trust or its interest in any other security pledged by Maker as security for this Note, and Payee shall not seek any deficiency judgment against the Maker. The foregoing provisions shall not prevent recourse to the collateral security for the loan or constitute a waiver, release or discharge of or otherwise affect the obligation to pay, any indebtedness evidenced by the loan documents or limit the right of any person to name the Maker or any other person claiming an interest in or right to such collateral as party defendant in any action or suit for judicial foreclosure or in the exercise of any other remedy, including injunctive or other equitable relief, under any of the loan documents so long as no deficiency judgment shall be sought against the Maker.

The foregoing limitation shall not apply to any and all loss, damage, liability, action, cause of action, cost or expense (including without limitation, reasonable attorneys' fees and expenses) incurred by Payee as a result of any (i) fraud or material misrepresentation under or in connection with the loan or any loan document; (ii) intentional bad faith waste of the Property; (iii) losses resulting from Maker's failure to maintain insurance as required under the Deed of Trust; or (iv) misappropriation of any rents, security deposits, insurance proceeds, condemnation awards or any other proceeds derived from the collateral security. If any of the events listed in the foregoing (i) through (iv) occurs, Payee shall have the right to proceed directly against Maker at the time the event giving rise to the recourse liability occurred to recover any and all loss, damage, liability, action, cause of action, cost or expense (including without limitation, reasonable attorneys' fees and expenses) incurred by Payee.

_____, 20__

MAKER:

Community Services and Employment Training,
Inc. (CSET)

By: _____

Its: _____

“Exhibit B”

Form of Deed of Trust

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

The City of Visalia
Attn.: Housing & Economic Development Department
315 East Acequia Street
Visalia, CA 93291

(Space above this line for Recorder's use)

**DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS DEED OF TRUST is being executed this, ___ day of ___, 20___, by the Community Services and Employment Training, Inc. (CSET), a California non-profit corporation ("Trustor"), to _____ (the "Trustee"), in favor of THE CITY OF VISALIA (the "Beneficiary").

Trustor is the fee owner of the real property (the "property") described in the attached **Exhibit A**, which is incorporated into this Deed of Trust by reference.

Trustor executes this Deed of Trust in consideration of a loan being made by Beneficiary to Trustor (the "Loan"). The Loan is evidenced by a promissory note dated _____ herewith in the principal amount of _____ (\$ _____) executed by Trustor in favor of Beneficiary (the "Note").

In consideration of the Loan, Trustor hereby irrevocably grants, conveys, transfers and assigns to the Trustee, its successors and assigns, in trust, with power of sale and right of entry and possession as provided below, all of their present and future estate, right, title and interest in and to the following described property (the "Property" or the "Premises"):

(A) All of Trustor's estate, right, title and interest in and to the property, and all minerals, oil, gas and other hydrocarbon substances on the property, as well as all Project rights, air rights, water, water rights, and water stock relating to the Property;

(B) All present and future structures, buildings, improvements, appurtenances and fixtures of any kind on the Property, including but not limited to all apparatus, equipment and appliances used in connection with the operation or occupancy of the Property, such as fire sprinklers and alarm systems, heating and air-conditioning systems and facilities used to provide any utility services, refrigeration, ventilation, laundry, drying, dishwashing, garbage disposal,

stoves, recreation or other services on the property, and all window coverings, drapes and rods, carpeting and floor coverings, it being intended and agreed that all such items will be conclusively considered to be a part of the real property conveyed by this Deed of Trust, whether or not attached or affixed to the Property (the "Improvements");

(C) All appurtenances of the property and all rights of the Trustor in and to any streets, roads or public places, easements or rights-of-way, relating to the Property;

(D) All of the rents, royalties, profits and income of the Property, and all rights of Trustor under all present and future leases affecting the Property, including but not limited to any security deposits;

(E) All proceeds and claims arising on account of any damage to or taking of the Property or any Improvements thereon or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Property or any Improvements;

(F) All goods located on the Property and used in the operation or occupancy of the Property or in any construction on the Property but which are not effectively made real property under Clause (B) above, including but not limited to all appliances, furniture and furnishings, building service equipment, and building materials, supplies and equipment;

(G) All general intangibles relating to the Project or use of the Property, including but not limited to all governmental permits relating to construction on the Property, all names under or by which the Property or any Improvements on the Property may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof, and all trademarks and goodwill in any way relating to the property; and

(H) All water stock relating to the Property, all shares of stock or other evidence of ownership of any part of the Property that is owned by the Trustor in common with others, and all documents of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Property.

This instrument secures:

(1) The payment and performance of the Trustor's indebtedness and obligations under the Note including all extensions, renewals, modifications, amendments and replacements of the Note;

(2) The payment and performance of the Trustor's obligations under this Deed of Trust;

(3) The payment of all sums advanced or paid out by the Beneficiary or the Trustee under or pursuant to any provision of this Deed of Trust, together with interest thereon as provided herein;

(4) The payment of the principal and interest on all other future loans or advances made by the Beneficiary to the Trustor (or any successor in interest to the Trustor as the owner of all or any part of the Property) when the promissory note

evidencing the loan or advance specifically states that it is secured by this Deed of Trust ("Future Advances"), including all extensions, renewals, modifications, amendments and replacements of any Future Advances;

(5) The payment and performance of the Trustor's obligations under the Agreement and Declaration of Restrictive Covenants executed by Trustor, dated _____ (the "Declaration");

(6) The payment and performance of each and every obligation, covenant, and agreement of Trustor contained under all other present and future agreements executed by Trustor in favor of Beneficiary and relating to the Note or the Loan, including without limitation, the Loan Agreement executed among Trustor and Beneficiary (as such documents may be amended, modified or supplemented from time to time, the "Related Documents").

This Deed of Trust, the Note, the Declaration, the Related Documents and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby may hereafter be referred to as the "Loan Documents".

ARTICLE I COVENANTS OF TRUSTOR

To protect the security of this Deed of Trust, the Trustor agrees as follows:

1.01 Performance. Trustor will pay and perform all indebtedness and obligations that are secured by this Deed of Trust in accordance with their terms. All sums payable by Trustor hereunder shall be paid without notice, demand, counterclaim, offset, deduction, or defense.

1.02 Insurance. Trustor will maintain, or cause to be maintained, in force on the Property (a) hazard insurance against loss or damage to the Improvements and Personal Property by fire and any of the risks covered by "fire and extended coverage" insurance, (b) commercial general liability insurance, (c) such other insurance, and in such amounts, as may from time to time be reasonably required by Beneficiary against the same or other hazards, including without limitation flood insurance, and (d) any other insurance required by law. The insurance policies must be satisfactory to the Beneficiary as to amount, form, deductibles and insurer, and must cover all risks Beneficiary reasonably requires. With respect to public liability insurance, Beneficiary shall be named as an additional insured, and as to Beneficiary such insurance shall be primary and noncontributing in the event of loss with any other insurance Beneficiary may carry. Subject to the rights of the senior lender, the hazard insurance policy must contain a standard mortgagee clause satisfactory to the Beneficiary making all losses payable to the Beneficiary. All such insurance policies may only be canceled or modified upon not less than 30 days prior written notice to the Beneficiary. Certificates of all such insurance satisfactory to the Beneficiary and at the request of Beneficiary, such insurance policies, together with receipts for the payment of premiums, are to be delivered to and held by the Beneficiary. Certificates of all renewal and replacement policies must be delivered to the Beneficiary at least 15 days before expiration of the old policies. Approval, disapproval or acceptance of any insurance by the Beneficiary will not be a representation of the solvency of any insurer, the sufficiency of any

amount of insurance or the form or legal sufficiency of any insurance contracts, and Trustor hereby expressly assumes full responsibility for and liability, if any, with respect thereto.

1.03 Proceeds. Subject to the rights of the senior lender, all insurance proceeds on the Property, and all causes of action, claims, compensation, awards and recoveries for any damage, condemnation or taking of all or any part of the Property or for any damage or injury to it or for any loss or diminution in value of the Property, are hereby assigned to and shall be paid to the Beneficiary. Trustor, upon obtaining knowledge of the institution of any such proceedings or of any damage to the Property, will immediately notify the Beneficiary in writing. The Beneficiary may participate in any suits or proceedings relating to any such proceeds, causes of action, claims, compensation, awards or recoveries and may make any compromise or settlement thereof and may join with Trustor in adjusting any loss covered by insurance. The Beneficiary will apply any sums received by it under this paragraph first to the payment of all of its costs and expenses (including but not limited to legal fees and disbursements) incurred in obtaining those sums, and then, in its absolute discretion (subject to the following paragraph) and without regard to the adequacy of its security, to the payment of the indebtedness and obligations secured by this Deed of Trust or to Trustor for restoration or repair of the Property. Any application of such amounts or any portion thereof to the indebtedness secured hereby shall not be construed to cure or waive any default or notice of default hereunder or invalidate any act done pursuant to any such notice or default.

In the event Trustor is not in default hereunder and the following conditions are satisfied, Beneficiary shall make such remaining proceeds available to Trustor to restore the Property: (i) the Beneficiary shall be furnished with an estimate for its approval of the cost of restoration or repair accompanied by an architect's certification as to such costs and appropriate final plans and specifications for reconstruction of the improvements for approval by the Beneficiary; (ii) the improvements so restored or repaired shall be of substantially the same character and value as the improvements prior to damage or destruction and proper for the purposes for which they were originally erected; (iii) Trustor shall proceed forthwith with the completion of construction of the improvements, including the necessary work of restoration, in accordance with plans, specifications and drawings submitted to and approved by the Beneficiary; (iv) any monies which the Beneficiary makes available for restoration shall be disbursed in accordance with standard construction lending practice or in any other manner approved by the Beneficiary; (v) Trustor shall furnish the beneficiary with evidence satisfactory to the Beneficiary that all improvements so restored and/or repaired and their contemplated use fully comply with all zoning, environmental and building laws, ordinances and regulations, and with all other applicable federal, state and municipal laws and requirements; and (vi) if the estimated costs of reconstruction shall exceed the proceeds available, Trustor shall furnish a satisfactory bond of completion or such cash deposits or other evidence satisfactory to the Beneficiary of Trustor's ability to meet such excess costs.

1.04 Payment of Taxes and Claims. Trustor agree to pay when due all taxes and assessments which are or may become a lien on the Property and any bonds, fees, liens, charges, fines, impositions and other items which are attributable to or which are assessed against the Property or its rents, royalties, profits and income ("Taxes"). Trustor also agrees to pay when due all lawful claims and demands of mechanics, materialmen, laborers and others for any work performed or materials delivered for the Property ("Claims").

Trustor, at its expense, may contest, by appropriate proceedings conducted in good faith and with due diligence, the amount or validity, in whole or in part, of any Taxes or Claims, provided (i) Trustor shall have notified Beneficiary prior to the commencement of such proceedings, (ii) in the case of any unpaid Taxes or Claims, such proceedings shall suspend the collection thereof from Trustor, Beneficiary and the Property, and shall not constitute a presently enforceable lien against the Property during the pendency of such contest, (iii) neither the Property nor any part thereof nor any interest therein will be in danger of being sold, forfeited, terminated, canceled or lost, (iv) such proceedings shall not have an adverse effect on the lien or security interest created hereby or upon the enforcement of any provisions of the Loan Documents, and (v) if Beneficiary shall so require, Trustor shall have deposited with Beneficiary such security reasonably necessary for payment of the contested Taxes or Claims, with interest and penalties and Beneficiary's expenses.

1.05 Impounds. Beneficiary may, at its option to be exercised prior to or upon the recordation of this Deed of Trust or thereafter upon 30 days' written notice to Trustor, require the deposit with Beneficiary or its designee by Trustor, at the time of each payment of an installment of interest, if any, or principal under the Note, of an additional amount sufficient to discharge the obligations of Trustor under Sections 1.02 and 1.04 hereof as and when they become due. The determination of the amount payable and of the fractional part thereof to be deposited with Beneficiary shall be made by Beneficiary in its sole discretion. Said amounts shall not be considered to be held by Beneficiary or its designee in trust nor as agent of Trustor, shall bear interest at the rate of interest customarily paid by Beneficiary, and shall be applied to the payment of the obligations in respect of which the amounts were deposited or, at the option of Beneficiary, to the payment of said obligations in such order or priority as Beneficiary shall determine. If at any time within 30 days prior to the due date of any of the aforementioned obligations the amounts then on deposit therefore shall be insufficient for the payment of such obligation in full, Trustor shall, within 10 days after demand, deposit the amount of the deficiency with Beneficiary. If the amounts deposited are in excess of the actual obligations for which they were deposited, Beneficiary may refund any such excess, or, at its option, may hold the same in a reserve account, not in trust and bearing interest, and reduce proportionately the required monthly deposits for the ensuing year. Nothing herein contained shall be deemed to affect any right or remedy of Beneficiary under any other provision of this Deed of Trust or under any statute or rule of law to pay any such amount and to add the amount so paid to the indebtedness hereby secured.

All amounts so deposited shall be held by Beneficiary or its designee as additional security for the sums secured by this Deed of Trust, and upon the occurrence of a default hereunder Beneficiary may, in its sole and absolute discretion, and without regard to the adequacy of its security hereunder in the event of a monetary default or non-monetary default if the Beneficiary elects to accelerate the Loan, apply such amounts or any portion thereof to any part of the indebtedness secured hereby. Any such application of said amounts or any portion thereof to any indebtedness secured hereby shall not be construed to cure or waive any default or notice of default hereunder or invalidate any act done pursuant to any such default or notice.

To the extent Beneficiary requires deposits to be made pursuant to this Section, Trustor shall deliver to Beneficiary all tax bills, bond and assessment statements, statements of

insurance premiums, and statements for any other obligations referred to above as soon as the same are received by Trustor.

If Beneficiary sells or assigns this Deed of Trust, Beneficiary shall have the right to transfer all amounts deposited under this Section to the purchaser or assignee, and Beneficiary shall thereupon be released and have no further liability hereunder for the application of such deposits, and Trustor shall look solely to such purchaser or assignee for such application and for all responsibility relating to such deposits.

1.06 Security Agreement. This Deed of Trust constitutes a security agreement with respect to all personal property and fixtures in which the Beneficiary is granted a security interest hereunder, and the Beneficiary shall have all of the rights and remedies of a secured party under the California Uniform Commercial Code as well as all other rights and remedies available at law or in equity. Trustor hereby agrees to execute and deliver on demand and hereby irrevocably constitutes and appoints Beneficiary the attorney-in-fact of Trustor, to execute, deliver and, if appropriate, to file with the appropriate filing officer or office such security agreements, financing statements, continuation statements or other instruments as the Beneficiary may request or require in order to impose, perfect or continue the perfection of, the lien or security interest created hereby. Upon the occurrence of any default hereunder, the Beneficiary shall have the right to cause any of the Property which is personal property and subject to the security interest of the Beneficiary hereunder ("Personal Property") to be sold at any one or more public or private sales in any manner permitted by applicable law, and the Beneficiary shall further have all other rights and remedies, whether at law, in equity, or by statute, as are available to secured creditors under applicable law. Any such disposition may be conducted by an employee or agent of the Beneficiary or the Trustee. Any person, including both the Trustor and the Beneficiary, shall be eligible to purchase any part or all of such property at any such disposition.

Expenses of retaking, holding, preparing for sale, selling or the like shall be borne by Trustor and shall include the Beneficiary's and the Trustee's reasonable attorneys' fees and legal expenses. Trustor, upon demand of the Beneficiary, shall assemble the Personal Property and make it available to the Beneficiary at the property, a place which is hereby deemed to be reasonably convenient to the Beneficiary. The Beneficiary shall give Trustor at least 5 days' prior written notice of the time and place of any public sale or other disposition of such property or of the time of or after which any private sale or any other intended disposition is to be made, and if such notice is sent to Trustor, as the same is provided for the mailing of notices herein, it is hereby deemed that such notice shall be and is reasonable notice to Trustor.

Trustor hereby warrants, represents and covenants as follows:

- (a) Trustor is, and as to portions of the Personal Property to be acquired after the date hereof will be, the sole owner of the Personal Property (except that Trustor may lease Personal Property which is immaterial in value and merely incidental to the operation of the Property), subject to any senior adverse lien, security interest, encumbrance or adverse claims thereon of any kind whatsoever as approved by Beneficiary. Trustor will notify Beneficiary of, and will defend the Personal Property against, all claims and demands of all persons at any time claiming the same or any interest therein.

(b) Trustor will not lease, sell, convey or in any manner transfer the Personal Property, without the prior written consent of Beneficiary, except for transfers as described in clause (d) below.

(c) The Personal Property is not used or bought for personal, family or household purposes of Trustor.

(d) The Personal Property will be kept on or at the Property and Trustor will not remove the Personal Property from the Property without the prior written consent of Beneficiary, except such portions or items of Personal Property which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Trustor with new items of equal or greater quality and value.

(e) Trustor maintains a place of business in the State of California and Trustor will immediately notify Beneficiary in writing of any change in its place of business.

(f) Trustor will execute and deliver to the Beneficiary on demand, and at Trustor's cost and expense, any documents required to perfect and continue the perfection of the Beneficiary's security interest in the personal property of Trustor granted by this instrument.

1.07 Assignment of Rents. All of the existing and future rents, royalties, income and profits of the Property that arise from its use or occupancy are hereby absolutely and presently assigned to the Beneficiary. Trustor irrevocably appoints Beneficiary its true and lawful attorney-in-fact at the option of Beneficiary at any time and from time to time to demand, receive and enforce payment, give receipts or releases and sue in the name of Trustor or Beneficiary for all such rents, royalties, incomes and profits. However, until Trustor is in default under this Deed of Trust, Trustor will have a license to demand, receive and enforce payment, give receipts or releases and sue in the name of Trustor for all such rents, royalties, income and profits. Upon any default by Trustor under any of the Loan Documents and the expiration of applicable cure periods the Beneficiary may terminate Trustor's license in its discretion at any time without notice to Trustor and may thereafter collect the rents, royalties, income and profits itself or by an agent or receiver. No action taken by the Beneficiary to collect any rents, royalties, income or profits will make the Beneficiary a "mortgagee-in-possession" of the Property, unless the Beneficiary personally or by agent enters into actual possession of the Property. Possession by a court-appointed receiver will not be considered possession by the Beneficiary. All rents, royalties, income and profits collected by the Beneficiary or a receiver will be applied first to pay all expenses of collection, and then to the payment of all costs of operation and management of the Property, and then to the payment of the indebtedness and obligations secured by this Deed of Trust in whatever order the Beneficiary directs in its absolute discretion and without regard to the adequacy of its security.

1.08 Acceleration. If the Property or any part thereof or beneficial interest therein or any interest of Trustor is sold, assigned, transferred, conveyed, encumbered or full possessory rights therein transferred, conveyed or encumbered, in either or any case without the prior written consent of Beneficiary other than leases to tenants, such event shall constitute a default under this Deed of Trust and Beneficiary, at its option, may declare the Note and all other

obligations hereunder to be immediately due and payable, and Beneficiary may invoke any remedies following such acceleration as are permitted by this Deed of Trust or at law or in equity.

1.09 Maintenance.

(a) Trustor will not commit any waste on the Property or take any actions that might invalidate any insurance carried on the Property. Trustor will maintain the Property in good condition and repair and will complete or restore and repair promptly and in a good and workmanlike manner any building, structure, or improvement which may be constructed, damaged or destroyed thereon, whether or not insurance or other proceeds are available to cover in whole or in part the cost of any such completion, restoration or repair. No Improvements may be removed, demolished or materially altered except for purposes of replacement valued at less than TEN THOUSAND DOLLARS (\$10,000.00) without the prior written consent of the Beneficiary.

(b) Without the prior written consent of the Beneficiary, Trustor will not seek, make or consent to any change in the zoning or nature of occupancy or conditions of use of all or any part of the Property to the extent the same was not intended by the Beneficiary at the time this Deed of Trust was delivered.

(c) Trustor shall comply with all applicable laws, orders, ordinances, regulations, restrictions and requirements of all governmental authorities affecting the Property and the use thereof, including, without limitation, those relating to hazardous substances, pollution, or protection of the environment. Trustor will comply with and make all payments required under the provisions of any covenants, conditions or restrictions affecting the Property, including but not limited to those contained in any declaration and constituent documents of any condominium, cooperative or planned Project on the Property.

1.10 Records. Trustor will keep adequate books and records of account of the Property and its own financial affairs sufficient to permit the preparation of financial statements therefrom in accordance with generally accepted accounting principles. The Beneficiary will have the right to examine, copy and audit Trustor's records and books of account at all reasonable times.

1.11 Defense. Trustor will, at its own expense, appear in and defend any action or proceeding that might affect the Beneficiary's security or the rights or powers of the Beneficiary or the Trustee or that purports to affect any of the Property. If Trustor fails to perform any of its covenants or agreements contained in this Deed of Trust after the expiration of any applicable cure period, or if any action or proceeding of any kind (including but not limited to any bankruptcy, insolvency, arrangement, reorganization or other debtor relief proceeding) is commenced which might affect the Beneficiary's or the Trustee's interest in the Property or the Beneficiary's right to enforce its security, then the Beneficiary and/or the Trustee may, at their option, but without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereunder, make any appearances, disburse any sums and take any actions as may be deemed necessary or desirable to the Trustee or the Beneficiary to protect or enforce the security of this Deed of Trust or to remedy the failure of

Trustor to perform its covenants (without, however, waiving any default of Trustor), including but not limited to disbursement of reasonable attorneys' fees, entry upon the Property to make repairs or to take other action to protect the security hereof, and payment, purchase, contest or compromise of any encumbrance, charge or lien which in the judgment of the Beneficiary or the Trustee appears to be prior or superior hereto. Trustor agrees to pay all reasonable out-of-pocket expenses of the Beneficiary and the Trustee thus incurred (including but not limited to fees and disbursements of counsel). Any sums so disbursed or advanced by the Beneficiary or the Trustee will be additional indebtedness of the Trustor secured by this Deed of Trust and will be payable by Trustor upon demand. Any such sums so disbursed or advanced will bear interest at 10% per annum, provided that any such sums so disbursed or advanced by the Trustee will not bear interest in excess of the maximum rate permitted to be charged by the Trustee under applicable law. This paragraph will not be construed to require the Beneficiary or the Trustee to incur any expenses, make any appearances, or take any actions.

1.12 Financing Statement. This Deed of Trust constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder of the County of Tulare with respect to any and all fixtures included within the term "Property" as used herein and with respect to any goods or other personal property that may now be or hereafter become such fixtures.

1.13 Indemnity. In addition to any other indemnities to Beneficiary specifically provided for in this Deed of Trust, Trustor shall defend, with counsel reasonably satisfactory to Beneficiary, protect, indemnify and save harmless Beneficiary from and against any and all losses, liabilities, obligations, claims, damages, fines, penalties, causes of action, costs and expenses (including, without limitation, attorneys' fees and expenses), excepting those resulting from the gross negligence or willful misconduct of Beneficiary, imposed upon or incurred by or asserted against Beneficiary by reason of (a) Beneficiary's interest in the Property or receipt of any rents or other sum therefrom, including without limitation any income (excluding only federal, state, and local income tax, and California franchise tax), license, business or excess profits tax payable by Beneficiary and determined on the basis of the Rents or the revenues from the Note or this Deed of Trust, (b) any accident, injury to or death of a person or persons or loss of or damage to property occurring on or about or with respect to the Property or any part thereof or the adjoining sidewalks, curbs, vaults and vault space (if any), streets or ways, (c) any use, non-use, misuse, possession, occupation, alteration, operation, maintenance, management or condition (including, without limitation, the location of any hazardous substance thereon) of the Property or any part thereof, or of the adjoining sidewalks, curbs, streets, ways, vaults and vault space (if any), (d) any failure on the part of Trustor to perform or observe any of its agreements or obligations under this Deed of Trust or the Loan Documents, provided that the exclusive indemnification obligations of Trustor with respect to any Claims (as such term is defined in Section 1.14(e) below) are set forth in Section 1.14(e) hereof, (e) any failure on the part of Trustor to comply with any law, regulation, ordinance, or requirement of any governmental body applicable to the Property, (f) the performance of any labor or service or the furnishing of any material or other property in respect of the Property or any part thereof, and (g) any negligence (to the extent that proceeds from any insurance actually maintained by Beneficiary do not cover the loss caused thereby) or willful act or omission on the part of Trustor. All amounts payable to Beneficiary under this Section which are not paid within ten days after written demand therefore by Beneficiary shall bear interest from the date of such demand.

1.14 Environmental Matters.

(a) Trustor hereby represents and warrants to Beneficiary as follows.

(i) To its best knowledge, the Property has not previously been used as a landfill. Neither Trustor, nor to the best knowledge of Trustor, any other person, has ever caused or permitted any Hazardous Materials (as hereinafter defined) to be released or disposed of, on, under or at the Property or any part thereof, and neither the Property, nor any part thereof, has ever been used (whether by Trustor or by any other person) for activities involving, directly or indirectly, the storage, release or disposal of any Hazardous Materials. Neither Trustor nor, to the best knowledge of Trustor, any other person, has ever caused or permitted to be incorporated into any Improvements located on the Property any asbestos in any form, any urea formaldehyde foam insulation, or any transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million or any other Hazardous Materials. Trustor has received no notice from the California Department of Health Services that the Property is, or is proposed or threatened to become, classified as "border-zone property" under the provisions of California Health and Safety Code Section 25220, *et seq.* or any regulation adopted in accordance therewith. Trustor has received no notice from the California Department of Health Services, and no other person has reported to Trustor, that any occurrence or condition exists on real property adjoining or within 2,000 feet of the Property that could cause the Property to be subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any federal, state or local law, code, statute, ordinance, rule, regulation, rule of common law or guideline relating to Hazardous Materials now or hereafter enacted or promulgated (collectively, and including, without limitation, any such laws which require notice of the use, presence, storage, generation, disposal or release of any Hazardous Materials to be provided to any party, "Hazardous Materials Laws"). No litigation, administrative enforcement actions or proceedings have been brought or threatened against Trustor or, to the best knowledge of Trustor, any other person, nor have any settlements been reached by or with any party or parties, public or private, alleging the presence, disposal, release or threatened release of any Hazardous Materials on, from or under any of the Property.

(ii) As used herein, the term "Hazardous Materials" means and includes any flammable, explosive, or radioactive materials or hazardous, toxic or dangerous wastes, substances or related materials or any other chemicals, materials or substances (excluding herefrom any chemicals, materials or substances which are necessary to and typically required for the construction and operation of a multi-family housing project), exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority or which, even if not so regulated, may or could pose a hazard to the health and safety of the occupants of the Property or of property adjacent to the Property, including, but not limited to, asbestos, PCBs, petroleum products and by-products, substances defined or listed as "hazardous substances" or "toxic

substances" or similarly identified in, pursuant to, or for purposes of, the California Solid Waste Management, Resource Recovery and Recycling Act (California Government Code Section 66700, *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. Section 9601, *et seq.*), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, *et seq.*), Section 25117 or Section 25316 of the California Health & Safety Code; and any so-called "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material; or any substances or mixture regulated under the Toxic Substance Control Act of 1976, as now or hereafter amended (15 U.S.C. Section 2601, *et seq.*); and any "toxic pollutant" under the Clean Water Act, as now or hereafter amended (33 U.S.C. Section 1251, *et seq.*); and any hazardous air pollutant under the Clean Air Act, as now or hereafter amended (42 U.S.C. Section 7901, *et seq.*).

(iii) Trustor has obtained, or will obtain, all certificates, permits, licenses, approvals and authorizations necessary for the lawful construction, occupancy, use and operation of the Property for the purposes for which it is currently being used, including, but not limited to, any certificates, permits, licenses, approvals and authorizations required by any federal, state, county, regional or local authority whose jurisdiction includes, in whole or in part, environmental protection or matters pertaining to health, safety and welfare. Issuance of the certificates, permits, licenses, approvals and authorizations obtained by Trustor for the Property is no longer subject to further administrative review or appeal under any applicable laws or ordinances, and the time periods set forth in currently applicable laws and ordinances, within which a third party could commence a lawsuit or other legal proceeding challenging the issuance of any of such certificates, permits, licenses, approvals or authorizations, have lapsed. Trustor has received no notice of any lawsuit or other regulatory, administrative, judicial or legal proceeding which is presently pending which (A) challenges the issuance of any of the certificates, permits, licenses, approvals or authorizations obtained by Trustor for the Property or (B) alleges non-compliance by Trustor or the Property with any law, regulation, rule or ordinance which has a material effect on the operation, occupancy, leasing or use of the Property for the purposes for which it is currently being used. In addition, none of the non-residential tenants (if any) of the Property, to the knowledge of Trustor after due inquiry, has failed to obtain any certificate, permit, license, approval or authorization required in connection with its operations on its premises.

(b) Trustor shall keep and maintain the Property in compliance with any and all federal, state and local laws, ordinances and regulations relating to Hazardous Materials, industrial hygiene or to the environmental conditions on, under or about the Property, including, but not limited to, soil and ground water conditions. Trustor shall not use, generate, manufacture, release, store or dispose of, or permit to be used,

generated, manufactured, released, stored or disposed of on, under, about or from the Property, or transport to or from or permit to be transported to or from the Property, any Hazardous Materials in violation of any Hazardous Materials Laws. Trustor hereby agrees at all times to comply fully and in a timely manner with, and to cause all of Trustor's employees, agents, contractors and subcontractors to so comply with, all Hazardous Materials Laws.

Trustor shall have the right to contest, at Trustor's sole cost and expense, the applicability of any Hazardous Materials Laws or the grounds for any attempted enforcement of any Hazardous Materials Laws provided that: (i) as a condition to any such contest, Trustor shall deliver to Beneficiary, at Trustor's sole cost and expense, such test results, consultants' reports and other information regarding the then current environmental condition of the Property and the effect that any additional delay that may result from any such contest would have on such environmental condition, as Beneficiary may reasonably require; (ii) Trustor shall have no right to contest if the delay that might result from any such contest would result in any material deterioration in the environmental condition of the Property or any portion thereof or in any material deterioration in the environmental condition of any other property; (iii) Trustor shall have no such right to contest if, as a result of such contest, any governmental City would have the right to enforce a lien on all or any portion of the Property; and (iv) Trustor shall give prior written notice to Beneficiary of Trustor's intention to exercise such right of contest and, upon written request of Beneficiary, shall deliver to Beneficiary a good and sufficient bond or other security reasonably satisfactory to Beneficiary for the costs which would be incurred in complying with such Hazardous Materials Laws. Should a new chemical, material or substance become prohibited by federal, state or local regulation, or become known to pose a hazard, Trustor shall take measures to comply with the law or regulation, and/or take such steps as are necessary to minimize environmental threats.

(c) Trustor shall immediately advise Beneficiary in writing of: (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions relating to the Property instituted, completed or threatened pursuant to any environmental laws, statutes, ordinances, rules and regulations, including any Hazardous Materials Laws, and of any notices received by Trustor with respect to the foregoing; (ii) Trustor's discovery of any claim made or clearly threatened in writing by any third party (other than by a governmental City) and of any claim made or clearly threatened (whether or not in writing) by any governmental City against Trustor or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials_Claims"); and (iii) Trustor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to be classified as "border-zone property" under the provisions of California Health and Safety Code Sections 25220, *et seq.*, or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Property under any Hazardous Materials Laws. Beneficiary shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous

Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Trustor. Trustor shall also immediately deliver to Beneficiary a copy of any notice of any violation of environmental laws, including Hazardous Materials Laws, hereafter received by Trustor.

(d) Without Beneficiary's prior written consent, which shall not be unreasonably withheld or delayed, Trustor shall not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree or other compromise in respect to any Hazardous Materials Claims, which remedial action, settlement, consent or compromise might, in Beneficiary's reasonable judgment, impair the value of Beneficiary's security hereunder; provided, however, that Beneficiary's prior consent shall not be necessary in the event that the presence of any Hazardous Materials on, under or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not possible to obtain Beneficiary's consent before taking such action, provided that in such event Trustor shall notify Beneficiary as soon as practicable of any action so taken. Beneficiary agrees not to withhold its consent, where such consent is required hereunder, if either (i) a particular remedial action is ordered by a court of competent jurisdiction; (ii) Trustor establishes to the reasonable satisfaction of Beneficiary that there is no reasonable alternative to such remedial action which would result in less impairment of Beneficiary's security hereunder; (iii) all federal, state and local governmental agencies having jurisdiction have approved of or required the particular remedial action; or (iv) a particular remedial action is recommended by a reputable environmental consultant selected or approved by Beneficiary in a report which is satisfactory to Beneficiary in its reasonable discretion.

(e) Trustor hereby agrees to defend (with counsel approved by Beneficiary), indemnify and hold Beneficiary harmless from and against, and shall reimburse Beneficiary for any and all Claims (as defined below). Trustor hereby expressly waives, with respect to any Claims, any immunity to which Trustor may otherwise be entitled under any industrial or workers' compensation laws. As used herein, "Claims" means any and all actual out-of-pocket cost (including, without limitation, attorneys' fees, expenses and court costs), expense or loss arising from any claim, liability, damage, injunctive relief, injury to person, property or natural resources, fine, penalty, action and cause of action incurred by or asserted against Beneficiary and arising, directly or indirectly, in whole or in part, out of the release, discharge, deposit or presence, or alleged or suspected release, discharge, deposit or presence, of any Hazardous Materials at, on, about, under, within or from the Property, or in or adjacent to any part of the Property, or in the soil, ground water or soil vapor on or under the Property or elsewhere in connection with the transportation of Hazardous Materials to or from the Property in violation of any Hazardous Materials Laws, whether or not known to Trustor or Beneficiary, whether foreseeable or unforeseeable, regardless of the source of such release, discharge, deposit or presence and regardless of when such release, discharge, deposit or presence occurred or is discovered, provided however that this indemnity shall not extend to affirmative acts by Beneficiary which Trustor establishes are responsible for such release, discharge, deposit or presence, or alleged or suspected release, discharge, deposit or presence of any

Hazardous Materials, or for increasing the damage resulting from actual, alleged, or suspected release, discharge, deposit or presence of any Hazardous Materials. Without limiting the generality of the foregoing and for purposes of clarification only, Claims also include all actual out-of-pocket costs incurred by Beneficiary in connection with (i) determining whether the Property is in compliance or the amount of money required to remediate any environmental contamination, and causing the Property to be or become in compliance, with all applicable Hazardous Materials Laws, (ii) any removal or remediation of any kind and disposal of any Hazardous Materials present at, on, under or within the Property or released from the Property to the extent required by applicable Hazardous Materials Laws in effect at the time of such removal, remediation or disposal, and (iii) any repair of any damage to the Property or any other property caused by any such removal, remediation or disposal.

The rights of Beneficiary hereunder shall not be limited by any investigation or the scope of any investigation undertaken by or on behalf of Beneficiary in connection with the Property prior to the date hereof.

1.15 Access Law.

(a) Trustor agrees that Trustor and the Property shall at all times strictly comply to the extent applicable with the requirements of the Americans with Disabilities Act of 1990, the Fair Housing Amendments Act of 1988, all federal, state and local laws and ordinances related to disabled access, and all statutes, rules, regulations, and orders of governmental bodies and regulatory agencies or orders or decrees of any court adopted or enacted with respect thereto including the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities, as now existing or hereafter amended or adopted (collectively, "Access Laws").

(b) Notwithstanding any limits set forth herein or in any other document on Trustor's obligation to obtain Beneficiary's approval of alterations of the Property, Trustor shall not alter or permit any tenant or other person to alter the Property in any manner which would increase Trustor's responsibilities for compliance with the Access Laws without the prior written approval of Beneficiary.

(c) Trustor agrees to give prompt notice to Beneficiary of any claims of violations of any Access Laws and of the commencement of any proceedings or investigations, which relate to compliance with any of the Access Laws.

(d) Trustor shall indemnify, defend and hold harmless Beneficiary from and against any and all claims, demands, damages, costs, expenses, losses, liabilities, penalties, fines and other proceedings, including reasonable attorneys fees and expenses arising directly or indirectly from or out of or in any way connected with any failure of the Property to comply with any of the Access Laws. The obligations and liabilities of Trustor under this section shall survive any termination, satisfaction, assignment, judicial or nonjudicial foreclosure proceeding, or delivery of a deed of lieu of foreclosures.

ARTICLE II
EVENTS OF DEFAULT

2.01 Default. The Trustor will be in default under this Deed of Trust if:

(a) There shall be a failure by the Trustor to make the payment of any installment of principal or interest or any other sum secured hereby which continues for 15 days after such payment is due; or

(b) There shall be a failure to comply with any other term, obligation, covenant or condition contained in this Deed of Trust; provided, however, that Trustor shall not be in default if Trustor, after Beneficiary sends written notice demanding cure of such failure, (i) cures the failure within 30 days, or (ii) if the cure requires more than 30 days, immediately commences to cure the failure and thereafter diligently prosecutes such cure to completion within 90 days after giving notice of the default.

(c) There occurs an appointment, pursuant to an order of a court of competent jurisdiction, of a trustee, receiver or liquidator of the Property or any part thereof, or of the Trustor, or any termination or voluntary suspension of the transaction of business of the Trustor, or any attachment, execution or other judicial seizure of all or any substantial portion of the Borrower's assets, which appointment, attachment, execution or seizure is not discharged within 45 days; or

(d) The Trustor, or any general partner or joint venturer of the Trustor at any level or any trustee of Trustor, shall file a voluntary case under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official) of the Trustor or such person or entity or for any part of the Property or any substantial part of the Trustor or such person's or entity's property, or shall make any general assignment for the benefit of the Trustor's or such person's or entity's creditors, or shall fail generally to pay the Trustor's or such person's or entity's debts as they become due or shall take any action in furtherance of any of the foregoing, provided, however, that any such default with respect to any general partner of the Trustor at any level shall be deemed cured if the limited partners of the Trustor replace such general partner in accordance with the partnership agreement of the Trustor within 45 days with another general partner acceptable to Beneficiary and approved by the bankruptcy court if such approval is necessary, provided however that if the limited partners' diligent efforts (with due regard to any injunction or other order resulting from a pending bankruptcy or other legal proceeding, if applicable) have not succeeded in the replacement of the general partner within 45 days and (i) they continue to diligently pursue (with due regard to any injunction or other order resulting from a pending bankruptcy or other legal proceeding, if applicable) the appointment of an acceptable substitute general partner, and (ii) no other default has occurred and is continuing, then this time limitation shall be extended as necessary; or

(e) A court having jurisdiction shall enter a decree or order for relief in respect of Trustor, or any general partner or joint venturer of the Borrower at any level or

any trustee of the Borrower, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or the Borrower or such general partner, joint venturer or trustee shall consent to or shall fail to oppose any such proceeding, or any such court shall enter a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Borrower or such person or entity or for any part of the Property or any substantial part of the Borrower's or such person's or entity's property, or ordering the winding up or liquidation of the affairs of the Borrower or any such person or entity, and such decree or order shall not be dismissed within 60 days after the entry thereof, provided, however, that any such default with respect to any general partner of the Borrower at any level shall be deemed cured if the limited partners of the Trustor replace such general partner in accordance with the Partnership agreement of the Trustor within 45 days with another general partner acceptable to Beneficiary and approved by any court whose approval is necessary, provided however that if the limited partners' diligent efforts (with due regard to any injunction or other order resulting from a pending bankruptcy or other legal proceeding, if applicable) have not succeeded in the replacement of the general partner within 45 days and (i) they continue to diligently pursue (with due regard to any injunction or other order resulting from a pending bankruptcy or other legal proceeding, if applicable) the appointment of an acceptable substitute general partner, and (ii) no other default has occurred and is continuing, then this time limitation shall be extended as necessary; or

(f) A material breach or default of any term, covenant, condition, provision, representation or warranty occurs under any agreement which guarantees any part of the indebtedness or obligations secured by this Deed of Trust or any of the events enumerated in subparagraph (c), (d) or (e) above occurs with regard to any guarantor of any indebtedness or obligations secured by this Deed of Trust, or there occurs the revocation, limitation or termination of the obligations of any such guarantor except in accordance with the express written terms of the instrument of guaranty; or

(g) There has occurred a default under any term, covenant, agreement, condition, provision, representation or warranty contained in any of the Related Documents or any other mortgage or deed of trust encumbering all or any portion of the Property, regardless of whether such mortgage or deed of trust is prior or subordinate to this Deed of Trust, or contained in any note or other instrument secured thereby, or contained in any other instrument securing such note, if such default remains uncured following any applicable notice, grace or cure period; or

(h) There has occurred a violation of any condition, covenant or restriction recorded against or affecting the Property, and such violation has not been cured within any applicable cure period provided therein; or

(i) Any representation or disclosure made to the Beneficiary by the Trustor or by any guarantor of any indebtedness or obligations secured by this Deed of Trust proves to be materially false or misleading on the date as of which made, whether or not that representation or disclosure appears in this Deed of Trust; or

(j) A change of the constituent general partner of the Trustor, whether voluntarily or involuntarily or otherwise, or the sale, conveyance, transfer, disposition, charging or encumbrance of any such general partner interests, without the prior written consent of the Beneficiary, provided however that any such default with respect to any general partner of the Trustor at any level shall be deemed cured if the limited partners of the Trustor replace such general partner in accordance with the partnership agreement of the Trustor within 45 days with another general partner acceptable to Beneficiary and approved by any court whose approval is required, provided, however, that if the limited partner's diligent efforts (with due regard to any injunction or other order issued in a pending legal proceeding, if applicable) have not succeeded in the replacement of the general partner within 45 days and (i) they continue to diligently pursue (with due regard to any injunction or other order issued in a pending legal proceeding, if applicable) the appointment of an acceptable general partner, and (ii) no other default has occurred and is continuing, then this time limitation shall be extended as necessary. Notwithstanding the foregoing, Beneficiary hereby approves the following transfers of interest in the Trustor: The admission of an investor as a limited partner in Trustor.

ARTICLE III REMEDIES

3.01 Remedies. If the Trustor is in default under the Deed of Trust, the Beneficiary may, at its option, and without notice to or demand upon the Trustor:

(a) Declare any or all indebtedness secured by this Deed of Trust to be due and payable immediately;

(b) Upon five days' notice to Trustor, enter onto the Property, in person or by agent or by court-appointed receiver, and take any and all steps which may be desirable in the Beneficiary's sole discretion to complete any unfinished construction, to manage and operate the Property and to do any and all other acts which the Beneficiary deems proper to protect the security hereof and, either with or without taking possession, in its own name or in the name of the Trustor, sue for or otherwise collect and receive the rents, royalties, income and profits of the Property, and the Beneficiary may apply any rents, royalties, income or profits collected against the indebtedness secured by this Deed of Trust without in any way curing or waiving any default of the Trustor;

(c) Bring a court action to foreclose this Deed of Trust or to enforce its provisions or any of the indebtedness or obligations secured by this Deed of Trust;

(d) Cause any or all of the Property to be sold under the power of sale granted by this Deed of Trust in any manner permitted by applicable law; and

(e) Exercise any other right or remedy available under the Loan Documents or any other agreement of the Trustor, or under any guaranty of any obligations of the Trustor to the Beneficiary relating to the Loan, or otherwise available at law or in equity.

3.02 Power of Sale. In connection with the exercise of the power of sale granted by this Deed of Trust:

(a) Beneficiary may elect to cause the Property or any part thereof to be sold under the power of sale herein granted in any manner permitted by applicable law. In connection with any sale or sales hereunder, Beneficiary may elect to treat any of the Property which consists of a right in action or which is property that can be severed from the real property covered hereby or any improvements thereon without causing structural damage thereto as if the same were personal property, and dispose of the same in accordance with applicable law, separate and apart from the sale of real property. Any sale of any personal property hereunder shall be conducted in any manner permitted by Section 9501 or any other applicable section of the California Commercial Code. Where the Property consists of real and personal property or fixtures, whether or not such personal property is located on or within the real property, Beneficiary may elect in its discretion to exercise its rights and remedies against any or all of the real property, personal property, and fixtures in such order and manner as is now or hereafter permitted by applicable law.

(b) Without limiting the generality of the foregoing, Beneficiary may, in its sole and absolute discretion and without regard to the adequacy of its security, elect to proceed against any or all of the real property, personal property and fixtures in any manner permitted under Section 9501(4)(a) of the California Commercial Code; and if the Beneficiary elects to proceed in the manner permitted under Section 9501(4)(a)(ii) of the California Commercial Code, the power of sale herein granted shall be exercisable with respect to all or any of the real property, personal property and fixtures covered hereby, as designated by Beneficiary, and the Trustee is hereby authorized and empowered to conduct any such sale of any real property, personal property and fixtures in accordance with the procedures applicable to real property.

(c) Where the Property consists of real property and personal property, any reinstatement of the obligation secured hereby, following default and an election by the Beneficiary to accelerate the maturity of said obligation, which is made by Trustor or any other person or entity permitted to exercise the right of reinstatement under Section 2924c of the California Civil Code or any successor statute, shall, in accordance with the terms of California Commercial Code Section 9501(4)(c)(iii), not prohibit the Beneficiary from conducting a sale or other disposition of any personal property or fixtures or from otherwise proceeding against or continuing to proceed against any personal property or fixtures in any manner permitted by the California Commercial Code; nor shall any such reinstatement invalidate, rescind or otherwise affect any sale, disposition or other proceeding held, conducted or instituted with respect to any personal property or fixtures prior to such reinstatement or pending at the time of such reinstatement. Any sums paid to Beneficiary in effecting any reinstatement pursuant to Section 2924c of the California Civil Code shall be applied to the secured obligation and to the Beneficiary's and Trustee's reasonable costs and expenses in the manner required by Section 2924c.

(d) Should Beneficiary elect to sell any portion of the Property which is real property or which is personal property or fixtures that Beneficiary has elected under Section 9501(4)(a)(ii) of the California Commercial Code to sell together with real property in accordance with the laws governing a sale of real property, Beneficiary or

Trustee shall give such notice of default and election to sell as may then be required by law. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by law, and without the necessity of any demand on Trustor, Trustee, at the time and place specified in the notice of sale, shall sell said real property or part thereof at public auction to the highest bidder for cash in lawful money of the United States. Trustee may, and upon request of Beneficiary shall, from time to time, postpone any sale hereunder by public announcement thereof at the time and place noticed therefor.

(e) If the Property consists of several lots, parcels or items of property, Beneficiary may: (i) designate the order in which such lots, parcels or items shall be offered for sale or sold, or (ii) elect to sell such lots, parcels or items through a single sale, or through two or more successive sales, or in any other manner Beneficiary deems in its best interest. Any person, including Trustor, Trustee or Beneficiary, may purchase at any sale hereunder, and Beneficiary shall have the right to purchase at any sale hereunder by crediting upon the bid price the amount of all or any part of the indebtedness hereby secured. Should Beneficiary desire that more than one sale or other disposition of the Property be conducted, Beneficiary may, at its option, cause the same to be conducted simultaneously, or successively, on the same day, or at such different days or times and in such order as Beneficiary may deem to be in its best interests, and no such sale shall terminate or otherwise affect the lien of this Deed of Trust on any part of the Property not sold until all indebtedness secured hereby has been fully paid. In the event Beneficiary elects to dispose of the Property through more than one sale, Trustor agrees to pay the costs and expenses of each such sale and of any judicial proceedings wherein the same may be made, including reasonable compensation to Trustee and Beneficiary, their agents and counsel, and to pay all expenses, liabilities and advances made or incurred by Trustee in connection with such sale or sales, together with interest on all such advances made by Trustee at the lower of the interest rate set forth in the Note or the maximum rate permitted by law to be charged by Trustee.

(f) Upon any sale hereunder, Trustee shall execute and deliver to the purchaser or purchasers a deed or deeds conveying the property so sold, but without any covenant or warranty whatsoever, express or implied, whereupon such purchaser or purchasers shall be let into immediate possession; and the recitals in any such deed or deeds of facts, such as default, the giving of notice of default and notice of sale, and other facts affecting the regularity or validity of such sale or disposition, shall be conclusive proof of the truth of such facts and any such deed or deeds shall be conclusive against all persons as to such facts recited therein.

3.03 Sale Proceeds. The proceeds of any sale under this Deed of Trust will be applied in the following manner:

FIRST: Payment of the costs and expenses of the sale, including but not limited to the Trustee's fees, legal fees and disbursements, title charges and transfer taxes, and payment of all expenses, liabilities and advances of the Trustee, together with interest on all advances made by the Trustee at the lower of 10% per annum or the maximum rate permitted to be charged by the Trustee under applicable law.

SECOND: Payment of all sums expended by the Beneficiary under the terms of this Deed of Trust and not yet repaid, together with interest on such sums at the interest rate set forth in the Note.

THIRD: Payment of the indebtedness and obligations of the Trustor secured by this Deed of Trust in any order that the Beneficiary chooses.

FOURTH: The remainder, if any, to the person or persons legally entitled to it.

3.04 Waiver. Trustor, for itself and for all persons hereunder claiming through or under it or who may at any time acquire a lien on all or any part of the Property or any interest therein, hereby expressly waives and releases all rights to direct the order in which any of the Property and/or any other property now or hereafter constituting security for any of the indebtedness secured hereby will be sold in the event of any sale under this Deed of Trust, and also any right to have any of the Property and/or any other property now or hereafter constituting security for any of the indebtedness secured hereby marshaled upon any foreclosure of this Deed of Trust or of any other security for any of said indebtedness.

3.05 Remedies Cumulative. All remedies contained in this Deed of Trust are cumulative, and the Beneficiary also has all other remedies provided by law or in any other agreement between Trustor and the Beneficiary. No delay or failure by the Beneficiary to exercise any right or remedy under this Deed of Trust will be construed to be a waiver of that right or remedy or of any default by Trustor. The Beneficiary may exercise any one or more of its rights and remedies at its option without regard to the adequacy of its security.

3.06 Costs and Fees. Trustor will pay all of the Beneficiary's and the Trustee's costs, fees and expenses incurred in any efforts to enforce any terms of this Deed of Trust or in the performance of its or their duties hereunder, whether or not any lawsuit is filed, including but not limited to legal fees and disbursements, foreclosure costs and title insurance or trustee's sale guaranty charges and any other governmental charges or impositions imposed by any governmental authority on the Trustee or the Beneficiary by reason of its or their interest in the Note, any note evidencing a future advance, or this Deed of Trust.

3.07 Application of Rents to Protecting and Preserving the Property. If, as a result of an event of default, Beneficiary elects to enforce its rights under Section 2938(c) of the California Civil Code by any means other than the appointment of a receiver and Beneficiary receives rent payments from the Property pursuant to such enforcement, and Trustor thereafter makes written demand upon Beneficiary to pay the reasonable costs of protecting and preserving the Property pursuant to Section 2938(g) of the California Civil Code (a "2938(g) Demand"), then Trustor agrees that the obligation of Beneficiary to pay the "reasonable costs of protecting and preserving the Property" pursuant to Section 2938(g) shall be deemed fully satisfied upon payment by Beneficiary of only the following costs and only from and to the extent of rent payments actually received by Beneficiary: (i) delinquent real property taxes with respect to the Property only to the extent that such amounts subject the Property to an imminent tax sale which has been set for sale by the applicable taxing authority pursuant to applicable law; (ii) property damage insurance, and liability insurance in such amounts, with such insurers and pursuant to such terms as Beneficiary shall have previously approved for Trustor prior to the default or event

of default; provided, however, that Beneficiary shall not be required to purchase any rental interruption insurance or earthquake insurance and provided further that, Beneficiary may satisfy all or any portion of such obligation by insuring the Property through Beneficiary's blanket insurance policy or policies; and (iii) the reasonable cost of compliance with building codes only to the extent the applicable governmental building authority makes a written demand to Beneficiary to comply therewith. Notwithstanding anything to the contrary contained herein, Beneficiary may (pursuant to such 2938(g) Demand or otherwise), but shall not be obligated to, pay out of such rent payments actually received any other reasonable costs which Beneficiary believes, in its sole discretion, is necessary for the protection and preservation of the Property (it being the intent of Trustor and Beneficiary that nothing contained herein shall be deemed to impair, define or limit Beneficiary's rights or remedies pursuant to this Deed of Trust, including, but not limited to, the right of Beneficiary as beneficiary under this Deed of Trust and/or the other Loan Documents to protect and preserve the security for this Deed of Trust in the event of default).

ARTICLE IV MISCELLANEOUS

4.01 Invalidity. The invalidity or unenforceability of any one or more provisions of this Deed of Trust will in no way affect any other provision.

4.02 Loan Statement. Trustor agrees to pay to the Beneficiary a reasonable charge, not to exceed the maximum allowed by law, for giving any statement of the status of the obligations secured by this Deed of Trust.

4.03 Late Charge. If Trustor shall fail to make any payment due hereunder within 15 days after the date the same is due and payable, a late charge by way of damages shall be immediately due and payable in the amount of six percent of the overdue amount. Trustor recognizes that default in making the payments herein agreed to be paid when due will result in the Beneficiary incurring additional expense in servicing the Loan, in loss to the Beneficiary of the use of the money due, and in frustration to the Beneficiary in meeting its loan commitments. Trustor agrees that, if for any reason it fails to pay the amounts due under this Deed of Trust within 15 days after the date when due, the Beneficiary shall be entitled to damages for the detriment caused thereby, but that it is extremely difficult and impractical to ascertain the extent of such damages. Trustor agrees that such amount as is specified herein is a reasonable approximation of damages for late payment.

4.04 Notices. All notices given under this Deed of Trust must be in writing and will be effectively served upon personal delivery or, if mailed, no later than 5 days after deposit in certified United States mail, postage prepaid, return receipt requested or overnight delivery service, sent to the Beneficiary at its address appearing in the recording information block on the front page of this Deed of Trust and sent to the Trustor at its address appearing below its signature, which addresses may be changed by written notice. However, the service of any notice of default or notice of sale under this Deed of Trust as required by law will, if mailed, be effective on the date of mailing.

4.05 Beneficiary Consent. Without affecting Trustor's liability for the payment of any of the indebtedness secured by this Deed of Trust, the Beneficiary may from time to time and without notice to the Trustor (a) release any person liable for the payment of that indebtedness, (b) extend or modify the terms of payment of that indebtedness, (c) accept additional real or personal property of any kind as security, or alter, substitute or release any property securing that indebtedness, or (d) cause the Trustee to consent to the making of any map or plat of the Property, or to reconvey any part of the Property, or to join in granting any easement or creating any restriction on the Property, or to join in any subordination or other agreement affecting this Deed of Trust.

4.06 Trustee Acceptance. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

4.07 Statute of Limitations. The Trustor waives all present and future statutes of limitations as a defense to any action to enforce the provisions of this Deed of Trust or to collect any indebtedness secured by this Deed of Trust to the fullest extent permitted by law, provided that such waiver shall not apply at any time after payment in full of all sums secured by the Deed of Trust.

4.08 Interpretation. The term "Trustor" includes both the original Trustor and any subsequent owner or owners of any of the Property, and the term "Beneficiary" includes the original Beneficiary and also any future owner or holder, including pledgees and participants, of the Note or any interest therein. Whenever the context requires, the singular includes the plural and vice versa and each gender includes each other gender. The headings of the articles of this Deed of Trust are for convenience only and do not limit its provisions.

4.09 Consent. The Beneficiary's consent to any act or omission by Trustor will not be a consent to any other or subsequent act or omission or a waiver of the need for such consent in any future or other instance.

4.10 Successors. The terms of this Deed of Trust will bind and benefit the heirs, legal representatives, successors and assigns of Trustor and Beneficiary and the successors in trust of the Trustee. If more than one person is named as Trustor, each will be jointly and severally liable to perform the obligations of the Trustor.

4.11 California Law. This Deed of Trust will be governed by California law.

4.12 Removal of Trustee. The Beneficiary may remove the Trustee or any successor Trustee at any time or times and appoint a successor Trustee by recording a written substitution in the county where the real property covered by this Deed of Trust is located, or in any other manner permitted by law. Upon that appointment, all of the powers, rights and authority of the Trustee will immediately become vested in its successor.

4.13 Requests for Notice of Default and Notice of Sale. The undersigned Trustor request that a copy of any notice of default and any notice of sale hereunder be mailed to Trustor at Trustor's address hereinbefore set forth.

IN WITNESS WHEREOF, the undersigned has executed this Deed of Trust the day and year first hereinabove written.

TRUSTOR:

_____, 2009

Community Services and Employment Training, Inc. (CSET), a California non-profit corporation

By: _____

Its: _____

STATE OF CALIFORNIA)

) ss

COUNTY OF _____)

On _____, before me the undersigned, a notary public, personally appeared _____ and _____,

- () personally known to me, or
- () proved to me on the basis of satisfactory evidence

to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

“EXHIBIT A”

[INSERT DESCRIPTION OF REAL PROPERTY]

Exhibit "C"

Form of Declaration Of Restrictive Covenants

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

Visalia Redevelopment Agency
315 E Acequia Ave
Visalia, CA 93291
(559) 713-4460

Attn: Executive Director

(The recordation of this document is not
subject to recording fees pursuant to
California Government Code Section 27383)

FOR RECORDER'S USE ONLY

Declaration Of Restrictive Covenants

THIS DECLARATION OF RESTRICTIVE COVENANTS (this "Declaration") is entered into as of _____, 20__, by Community Services and Employment Training, Inc., a California 501(c)(3) public benefit, nonprofit corporation (hereinafter "CSET"), the City of Visalia, a municipal corporation organized and existing under the laws of the State of California, and **[enter full name of initial homebuyer(s)]** (hereinafter "Initial Homebuyer").

Recitals

A. CSET is the owner of real property generally located in the City of Visalia, and more particularly described in "Exhibit A," attached hereto and incorporated herein (the "Property").

B. The Property was acquired and rehabilitated by CSET ("Project") pursuant to that certain Agreement entered into by the City and CSET, dated as of _____, 2010 (the "Agreement"), whereby the Agency has provided CSET with funding from its HOME Investment Partnership Program (hereinafter "HOME Program") Community Housing Development Organization (hereinafter "CHDO") Set-Aside fund allocation from the United States Department of Housing and Urban Development (the "HOME Program Loan") to assist CSET with the acquisition and rehabilitation of the Property for resale to qualifying low income persons or households.

C. The Agency Loan is evidenced by a Note, which is secured by a Deed of Trust recorded against the Property.

D. In connection with acceptance by and use of the HOME Program Loan by CSET to acquire and rehabilitate the property, HUD regulations mandate the enforcement of certain affordability upon the property for a specified period.

E. In order to comply with the HUD affordability requirements, the City of Visalia and CSET desire to subject the Property to certain restrictive covenants.

F. This Declaration shall run with the land and shall bind CSET and all of CSET's successors in interest as owners of the Property.

NOW, THEREFORE, in consideration of the foregoing and the benefits secured by CSET and the City, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The terms and conditions herein shall apply for a period of **Fifteen (15) Years** from the date this Declaration is recorded (hereinafter "Period of Affordability"). This period is based upon a total of **[insert upon of HOME Program Loan for Property]** of HOME Program funds having been invested in the Property without any direct HOME assistance to the Initial Homebuyer in the form of grants, interest buy-downs, purchase price reductions below fair market value or other direct assistance. The Period of Affordability will continue for the stated number of years regardless of any resale, transfer or vacancy of the Property, provided that no additional HOME Program funds are invested in the Property during the Period of Affordability. In the event that additional HOME program funds are invested in the Property during the Period of Affordability, this Declaration shall be amended to substitute a new Period of Affordability based upon the additional HOME Program funding investment.

2. Within the Period of Affordability, any sale or conveyance of the Property shall be only to a family having a gross family income not exceeding Eighty Percent (80%) of the area median, as established by HUD at the time of transfer of the property, and which shall use the Property as its principal residence ("Eligible Household"). The City shall be notified of such impending resale by letter to Director, Housing and Economic Development Department, City of Visalia, 315 East Acequia Ave, Visalia, CA 93291.

3. Any such resale or conveyance of the Property shall be at an affordable price, which for the purposes of this Declaration, shall mean a price which is consistent with its fair market value and at which a potentially Eligible Household may qualify for mortgage financing, considering principal, interest, taxes and insurance payments.

4. Any such resale or conveyance of the property shall allow the Initial Homebuyer or subsequent Eligible Household purchaser a fair return on investment. From the "Net Proceeds" of the sale, the owner may recover its "Homeowner Investment." For purposes of this Declaration, the "Net Proceeds" shall mean the amount remaining from the sale price subtracting the Initial Homebuyer's or subsequent Eligible Household purchaser's settlement costs and the

amount that must be repaid by the Initial Homebuyer or subsequent Eligible Household purchaser on any outstanding loans on the property. For the purposes of this Declaration, the “Homeowner Investment” shall mean the total amount of the Initial Homebuyer’s or subsequent Eligible Household purchaser’s investment in the down-payment when the Property was initially purchased, the amount attributable to permanent improvements to the property made by the Initial Homebuyer or subsequent Eligible Household purchaser, and payments of principal on loans made on the Property. In the event the proceeds from the sale or conveyance of the Property are insufficient to enable the Initial Homebuyer or subsequent Eligible Household purchaser to recover any of the aforementioned costs or satisfy outstanding loans, neither the City nor the prior owner shall be liable for the insufficiency. The City and the Initial Homebuyer or subsequent Eligible Household purchaser shall share equally any balance of the Net Proceeds remaining from the sale or conveyances, however, the amount due to the City may be reduced by Ten Percent (10%) for each completed twelve month period that the Initial Homebuyer or subsequent Eligible Household purchaser has maintained the Property as its principal residence.

5. In the event that, in the Period of Affordability, the Initial Homebuyer or subsequent Eligible Household purchaser sells the Property to other than an Eligible Household, the amount of the HOME Program funds stated in Paragraph 1 which have been invested in the Property and which have not yet been recovered by CSET or the City of Visalia, shall be due and payable by that Initial Homebuyer or that subsequent Eligible Household purchaser to the City.

6. The Initial Homebuyer intends, declares and covenants, on behalf of itself, and all future Eligible Household owners of this HOME Program assisted Property during the term of this Declaration, that this Declaration and the covenants and restrictions set forth in this Declaration regulating and restricting the use, occupancy and transfer of the HOME Program assisted Property shall be and are covenants running with the land, encumbering this HOME Program assisted Property for the term of this Declaration, and shall be binding upon Eligible Household owners which might be successors in title and all subsequent for the term of this Declaration. This Declaration is not merely a personal covenant of the Initial Homebuyer and shall bind the Initial Homebuyer (and the benefits shall inure to the City of Visalia) and the Initial Homebuyer’s heirs, successors and assigns during the term of this Declaration.

7. For the term of this Declaration, each and every contract, deed or other instrument hereafter executed conveying the Property shall expressly provide that such conveyance is subject to this Declaration; provided, however, the covenants contained herein shall survive and be effective regardless of whether such contract, deed, or other instrument hereafter executed, conveying the Property provides that such conveyance is subject to this Declaration.

8. This Declaration and covenants and restrictions identified within it shall remain in effect until amended or either of the flowing termination events occur:

a. The Property remains in the possession of an the Initial Homebuyer and/or an Eligible Household for the entire Period of Affordability; or

b. Foreclosure, transfer in lieu of foreclosure, or assignment of an FHA-insured loan to HUD.

The City shall have the right of first refusal to purchase the Property before foreclosure to preserve affordability. The affordability restrictions contained herein shall be revived according to the original terms if, during the Period of Affordability, the Initial Homebuyer or subsequent Eligible Household purchaser of record before the termination event, or any entity that includes the Initial Homebuyer or subsequent Eligible Household purchaser or those with whom the Initial Homebuyer or subsequent Eligible Household purchaser have or had family or business relationships, obtains an ownership interest in the property.

9. Violation or breach of any restriction or covenant herein contained shall give to the City the right to institute any proceeding at law or in equity necessary to recover any sum of money due to the City under the terms of this covenant. If action is instituted by the City to recover any such sum, the Initial Homebuyer or its successors in title responsible for the violation or breach of any restriction or covenant agrees to pay all costs of collection, including court costs and reasonable attorney's fees.

10. CSET, the Initial Homebuyer, and/or any Eligible Household holding title to the Property covenant by and for themselves and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, age, marital status, physical or mental handicap, medical condition, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall they or any person or entity claiming under or through them establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of potential purchasers of the Property. All deeds or contracts made relative to the Property, the improvements thereon or any part thereof, shall contain or be subject to the language contained in this nondiscrimination clause.

11. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

12. The terms of this Agreement shall be interpreted under the laws of the State of California.

13. The terms of this Agreement shall be interpreted so as to avoid speculation on the Property and to insure to the extent possible that the Sales Price and mortgage payments remain affordable to low -income persons and households, as the case may be.

14. Any exhibits referred to in this Agreement are incorporated in this Agreement by such reference.

IN WITNESS WHEREOF, Developers have executed this Agreement, effective the day and year first set forth above.

COMMUNITY SERVICES AND EMPLOYMENT
TRAINING, INC

Dated: _____

By: _____

Its: _____

INITIAL HOMBUYER

Dated: _____

By: _____

THE CITY OF VISALIA

Dated: _____

By: _____

City Manager

STATE OF CALIFORNIA)
COUNTY OF TULARE)

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

WITNESS my hand and official seal.

Signature _____

* * * * *

STATE OF CALIFORNIA)
COUNTY OF TULARE)

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

WITNESS my hand and official seal.

Signature _____

* * * * *

STATE OF CALIFORNIA)
COUNTY OF TULARE)

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

WITNESS my hand and official seal.

Signature _____

EXHIBIT A

[Insert Legal Description of Property]

**COMMUNITY HOME INVESTMENT PARTNERSHIP AGREEMENT
BETWEEN
THE CITY OF VISALIA
AND COMMUNITY SERVICES AND EMPLOYMENT TRAINING, INC.**

THIS AGREEMENT, is entered into this ____ day of ____, 2010 (the “Effective Date”) by and between the City of Visalia, (hereinafter “City”) and Community Services and Employment Training, Inc. (hereinafter “CSET”), a California, public benefit, non-profit corporation, as follows:

RECITALS

WHEREAS, the City of Visalia (hereafter “City”) has entered into an agreement to receive funds under the HOME Investment Partnership Program (hereinafter called the “HOME Program”) from the U.S. Department of Housing and Urban Development (hereinafter “HUD”); and

WHEREAS, the City has set aside and reserved a portion of its HOME program funds for use by Community Housing Development Organizations (hereinafter “CHDO”) in accordance with the National Affordable Housing Act of 1990, as amended (hereinafter the “Act”); and

WHEREAS, City has approved CSET as a CHDO and desires to have CSET perform functions for the City as described herein;

WHEREAS, CSET is a California, public benefit, non-profit corporation, established for the purpose of assisting in, among other things, the development, expansion or preservation of affordable housing in the City of Visalia; and

WHEREAS, CSET warrants and represents that it, through this Agreement, will be engaged in the development, sponsorship or ownership of housing that is designed to assist low income households as defined by the HUD in the City of Visalia; and

WHEREAS, CSET warrants that it has adopted articles of incorporation, by-laws of the organization, board resolution or charter which specifically states CSET’s commitment to the development of affordable housing; and

WHEREAS, CSET warrants that it is not controlled by a for-profit interest, and has its own staff to carry out the intent of the HOME Program in conformance with 24 CFR Part 92; and

WHEREAS, CSET warrants that its Board structure reflects the affordable housing interests in the City of Visalia, otherwise meets the regulatory requirements of the HOME Program, has at a minimum one third of its Board members consisting of either residents of low-income neighborhoods in Visalia, low income residents, or elected representatives of low-income neighborhood organizations, and has by-laws or a board

resolution describing the process for obtaining input from low-income neighborhoods or residents, and not more than one third of its Board members are from the public sector; and

WHEREAS, CSET is considered an owner of a property when it holds valid legal title or has a long-term leasehold interest (99 year minimum), and CSET may be an owner with one or more individuals, corporations, partnerships, or other legal entities; and

WHEREAS, CSET warrants that it may be sole owner and have another entity act as developer; and

WHEREAS, CSET warrants that it can also be the owner and developer of its own project; and

WHEREAS, CSET may own a property in partnership with either a majority or minority interest, however, CSET, in partnership with a wholly-owned for profit or non-profit subsidiary, must be the managing general partner with effective control in decision making authority for the project.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, including the Attachments, and subject to the terms herein stated, the parties hereto understand and agree as follows:

1. Term of Contract. City has approved CSET as a CHDO. CSET shall serve City on a project by project basis, pursuant to a separate written agreement for each HOME Program funded project. This Agreement shall remain in effect until June 30, 2011, and shall continue in full force and effect so long thereafter as City and CSET have a separate agreement for a HOME Program funded project. Upon expiration or termination of all HOME Program funded agreements between City and CSET, this Agreement shall also expire and terminate. Funding of any projects through separate agreements or services beyond the term of this Agreement, by any new contract or amendment or extension of this Agreement, have not been authorized and will depend upon the satisfactory performance of this Agreement by CSET and upon the availability to City of additional funds allocated for such purposes; and neither City nor any employee of City has made any promise or commitment, expressed or implied, that any additional funds will be paid or made available to CSET for the purpose of this Agreement over and above the funds expressly allocated under the terms of this Agreement. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their heirs, successors, survivors, and assigns.
2. Consolidated Plan Goals. CSET shall, for the term of this contract, use its best efforts to assist City, on a project by project basis, in implementing the objectives of the HUD Consolidated Plan pertaining to the community development and public service needs of low-income households in the City of Visalia. CSET shall

provide the City with information necessary for it to complete any and all compliance reports required by HUD.

3. Reporting. CSET shall, not less than monthly, report to City, in writing, the actions taken by CSET toward implementation of the above policies.

CSET shall provide an annual audit report performed in compliance with OMB Circular A-133.

4. Provision of Services and Programs. CSET shall work with City to implement goals or policies of City related to affordable housing in the City of Visalia. Specifically, CSET shall provide the services and programs in the City of Visalia on a project by project basis as shown on Exhibit A to this Agreement. CSET shall be responsible for meeting all HOME Program affordability requirements. City will require repayment of any HOME Program funds expended in the event HOME Program affordability requirements are not met. CSET further agrees to meet all required HOME Program and/or CDBG project requirements, including documentation of incomes, gender, ethnicity and sizes of households benefiting from the expenditure of HOME Program and/or CDBG funds, the per unit amount of HOME Program dollars invested, maximum and minimum funding requirements, housing quality standards requirements, affirmative marketing requirements, and record keeping requirements. Record keeping requirements shall include records for each household assisted, value of property, purchase price and rehabilitation cost, if any. CSET agrees to monitor all HOME Program and/or CDBG-funded projects at least monthly to determine on-going compliance with HOME Program and/or CDBG regulations on the part of recipients of HOME Program and/or CDBG-funded projects.

5. Payment to CSET for Operating Expenses. City agrees to provide to CSET Twenty-Four Thousand Dollars (\$24,000.00) of HOME Program funds for purposes consistent with the authorized uses identified in Section 92.208 of the HOME Program regulations. City shall provide this funding to CSET in equal quarterly payments, with the first quarterly payment commencing three months from the Effective date of this Agreement. CSET shall provide City with all necessary documentation to demonstrate that these HOME Program funds are being used for "Operating Expenses" in a manner consistent with the requirements of Section 92.208. "Operating Expenses" means reasonable and necessary costs for the operation of the community housing development organization. Such costs include salaries, wages, and other employee compensation and benefits; employee education, training, and travel; rent; utilities; communication costs; taxes; insurance; equipment; materials and supplies.

6. Use of Funds. Use of funds received pursuant to this Agreement shall be in accordance with the requirements of Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, 24 CFR Part 92, and other regulations governing the HOME Program, and any amendments or policy revisions thereto which shall become effective during the term of this Agreement. A copy of said

regulations is incorporated by reference. In addition, CSET agrees to comply with other applicable laws, including those referred to and incorporated herein.

7. Program Income. Program income derived from any HOME Program funded project, if any, shall revert to City for use in the HOME Program. Program Income is defined at 24 CFR 92.2. This provision shall survive termination or expiration of this Agreement.
8. Disbursement of HOME Program Funds for Project. CSET shall request disbursement of HOME Program funds only at the time funds are needed to pay eligible costs, and shall execute with City a project specific agreement memorializing the terms and conditions for same. Requested funds are limited to the amount needed to cover these costs.
9. Method and Place of Giving Notice, Submitting Bills, and Making Payments. All notices, bills, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills, and payments sent by mail should be addressed as follows:

City: The City of Visalia
 315 E. Acequia
 Visalia, CA 93291

CHDO: Community Services and Employment Training, Inc. (CSET)

 Visalia, CA 932---

and when so addressed, shall be deemed mailed upon deposit in the United States Mail, postage prepaid. In all instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving notice pursuant to this paragraph.

10. Assignment/Delegation. Except as provided above, neither party hereto shall assign, sublet, or transfer any interest in or duty under, this Agreement without written consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party shall have so consented.
11. Subcontracts. CSET shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement. CSET shall monitor all subcontracted services on a regular basis to ensure contract compliance. CSET shall undertake to ensure that all subcontracts let in the performance of this Agreement are awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to City along with a summary description of the selection process.

12. Inspection and Audit. CSET agrees that City, HUD, the Auditor General, the Comptroller General of the United States, or any of their duly authorized representatives shall have the right to inspect and/or audit any books, documents, papers, and records of CSET which are directly pertinent to the services performed under this Agreement. Records for each grant year shall be retained for a period of five (5) years after the final HUD audit for that grant year. Where a period of affordability applies, records shall be retained for 3 years after the affordability period ends. Records covering displacement and acquisition shall be retained for three years after the date persons were displaced or three years from when the final acquisition payment is received, whichever is latest. City may inspect all applicable records and may cause to be audited invoices and supporting data relative to the funds paid by City to CSET.
13. Monitoring. The City shall evaluate activities, and monitor the programs and expenditures of CSET at least annually to determine compliance with the provisions of this Agreement.
14. Records. The CSET shall maintain and make available to the City of Visalia, HUD, Auditor General, or any of their duly authorized representatives, such records and accounts, including property, personnel, and financial records, the City and /or State and Federal Agencies, deem necessary to assure a proper accounting for all HOME Program funds, on a monthly, quarterly, and annual basis.
15. Insurance and Hold Harmless. CSET shall carry workers' compensation insurance in accordance with workers compensation laws of the State of California. CSET will indemnify City, its officials and employees against and hold them harmless from any and all liability for damages on account of injury to persons or damage to property resulting from or arising out of the performance by CSET of this Agreement and reimburse City, its officials and employees for all costs, expenses and losses incurred by them in consequence of any claims, demands or causes of action which may be brought against them arising out of the performance by CSET of this Agreement. CSET shall furnish City with a Certificate of Insurance with combined single limit of at least \$1,000,000 for bodily injuries and property damages on each occurrence. The Certificate of Insurance shall state that the contractual liability assumed under this Agreement is covered and shall provide that ten (10) days notice of cancellation or reduction in coverage shall be given to City. Certificates of said coverage shall be filed with City before any work commences.

The City shall not be liable for any and all claims, actions, suits, charges and judgments whatsoever arising out of the performance or nonperformance of the Agreement by CSET, its employees, officers, or agents.

CSET shall hold harmless, defend and indemnify the City, its officers, agents, and employees from all such claims, actions, suits, charges, and judgments under this Agreement, including actions resulting from the use or disbursement of the HOME funds.

16. Termination. This Agreement may be terminated by either party for cause by giving thirty (30) days prior written notice to the other. Any funds advanced by City to CSET and not expended by CSET shall be returned to City within thirty (30) days after termination of this Agreement. Any funds due CSET will be forwarded by City to CSET. City expressly reserves the right to demand of and take actions to collect from CSET the repayment to City of any funds disbursed to CSET under this Agreement, which in the judgment of City were not expended in accordance with the terms of this Agreement. CSET agrees to promptly refund any such funds upon demand.

City may terminate this Agreement at any time if it determines that one or more of the following conditions exist:

- a. An illegal or improper use of funds by CSET
- b. CSET fails to comply with any term or condition of this Agreement.
- c. CSET improperly performs any of the services to be performed pursuant to this Agreement.

Upon receipt of notice from City that one or more of the above conditions exist, CSET shall prepare and submit to City within thirty (30) days a proposal for the correction of all such conditions. In the event CSET fails to submit such a proposal or otherwise fails to properly perform this Agreement after notification as hereinabove set forth, City may serve CSET with written notice of termination of this Agreement. In the event of such termination, City shall be liable only for allowable services rendered prior to such termination, but in no event shall City be liable for any services that are not performed in accordance with the terms of this Agreement.

17. Federal Funding. This Agreement is entered into in reliance on representation of the Federal Government that the HOME Program will continue to be funded. Notwithstanding any other provision of this Agreement, City retains the right in its sole discretion and without notice to terminate or reduce the amount payable to CSET under this Agreement in the event that the Federal Government does not fund the HOME Program in the amount projected at the time this Agreement is executed.
18. Affirmative Marketing. Affirmative marketing steps shall consist of actions to provide information and otherwise attract eligible persons in the housing market to the available housing without regard to race, color, national origin, sex, religion, familial status or disability.

19. Civil Rights Act. During the performance of this Agreement, the CSET assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, handicap, under any program or activity funded by this Agreement, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, and the Age Discrimination Act of 1975, and all implementing regulations.
20. Section 3 Requirements. The work to be performed under this Agreement is on a project by project basis, financed under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given low income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department of Housing and Community Development issued thereunder prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

CSET will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advertising to the said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

CSET will include these Section 3 clauses in every contract and subcontract for work in connection with the project and will, at the direction of the State or HUD, take appropriate action pursuant to the contract upon a finding that any Contractor or subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and will not let any contract unless the Contractor or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

Compliance with the provision of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement shall be a condition of the federal financial assistance provided to the project, binding upon CSET, its successors, and assigns. Failure to fulfill these requirements shall subject CSET, its

contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

21. Fair Employment and Housing Act. CSET and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7258.0 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CSET and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. CSET shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.
22. Equal Opportunity in Participation. In conformance with all requirements imposed by or pursuant to 24 CFR 92.350 and other local, state and federal law, no person in the United States shall on the ground of race, color, religion, sex, age, handicap, disability, ancestry, national origin, citizenship status, or any other basis prohibited by applicable law be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with HOME funds.

Specific (not exclusive) Discriminatory Actions Prohibited:

CSET may not directly or through contractual or other arrangements, on the ground of race, color, religion, ancestry, national origin, citizenship status, age, handicap, disability, sex or any other basis prohibited by applicable law:

- A. Deny any facilities, services, financial aid, or other benefits provided under the program or activity.
- B. Provide any facilities, services, financial aid, or other benefits which are different, or are provided in a different form from that provided to others under the program or activity.
- C. Subject to segregated or separate treatment in any facility in, or in any matter or process related to receipt of any service or benefit under the program or activity.
- D. Restrict in any way access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.

- E. Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which the individual must meet in order to be provided any facilities, services, or other benefit provided under the program or activity.
 - F. Deny an opportunity to participate in a program or activity as an employee.
23. Labor Standards. In the event that CSET's project involves construction on more than 12 units under the HOME Program, or more than 8 units under the CDBG Program, and the contract work is more than \$2,000, or in the event CSET is utilizing CDBG funds for non-residential construction purposes and the amount funded is over \$2,000, CSET agrees to comply with and be responsible for all Davis-Bacon wage requirements and applicable HUD Labor Standards. CSET further agrees to comply with the Copeland Act (Anti-Kickback Act) in its activities and programs.
24. HOME Subsidy Layering/Match Requirement. CSET agrees to evaluate projects to ensure that no more than the necessary amount of federal funds is invested in any one project than is necessary in accordance with HUD CDP Notices. CSET agrees to provide for and comply with HUD match requirements for the HOME Program for all HOME Program funded projects at a rate of twenty-five percent (25%) match for every dollar of HOME Program funds used for projects. CSET agrees to provide a narrative summary of match requirements on an annual basis to City.
25. Environmental Requirements. CSET agrees to comply with the environmental review requirements in 24 CFR Part 58.35; Executive Order 11988 relating to the evaluation of flood hazards; Executive Order 11288 relating to the prevention, control and abatement of water pollution; and Section 102(a) of the Flood Disaster Protection Act of 1973 in the implementation of CHDO activities.
26. Acquisition and Relocation Requirements. CSET agrees to comply with the acquisition and relocation requirements in Section 104(D) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 in accordance with HUD/CPD Handbook 1378.
27. Lobbying Restrictions. CSET agrees, to the best of its knowledge and belief:

No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any City, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation,

renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any City, a Member of congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

It will require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all contractors shall certify and disclose accordingly.

28. Other Provisions. CSET further agrees to comply with Subpart K of 24 CFR 570 (pertaining to affirmatively furthering fair housing, lead-based paint, flood mitigation, conflict of interest, and other administrative policies) attached hereto as Exhibit C; 24 CFR 85 ("Common Rule") and 24 CFR 87 (pertaining to Uniform Administrative Requirements); Federal OMB Circular A-122 (Accounting principals for non-profit organizations); Federal OMB Circular A-110 (financial principles); Section 109 of the Housing and Community Development Act of 1974 (regarding non-discrimination) and the regulations issued pursuant thereto; Section 3 of the Housing and Urban Development Act of 1968 (regarding fair housing and equal opportunity), as amended; Executive Order 11063, as amended by Executive Order 12259 and implementing regulations at 24 CFR Part 107 (regarding equal opportunity in housing); Section 504 of the Rehabilitation Act of 1973 (regarding affirmative action for handicapped workers, as amended and implementing regulations; the Age Discrimination Act of 1975 as amended and implementing regulations; Title VII, Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968 as amended; Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations at 41 CFR Chapter 60 (pertaining to special equal opportunity provisions) the affirmative marketing non-discrimination and minority and women's outreach requirements contained in 24 CFR 92.350 and 92.351 and Executive Orders 11625, 12138, and 12432 related thereto.; and all other applicable federal and state regulations pertaining to the use of HOME or CDBG funds. CSET hereby acknowledges receipt and understanding of the regulations noted above.
29. Independent Contractor. CSET and its officers, employees and agents shall act at all times in an independent capacity during the time of this Agreement, and shall not act as and shall not be, nor shall they in any manner be construed to be, agents, officers or employees of the City of Visalia.

30. Severability. Each paragraph and provision of this Agreement is severable from each other provision, and if any provision or part thereof is declared invalid, the remaining provisions shall nevertheless remain in full force and effect.
31. Provisions Required By Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.
32. Religious Organizations. In addition to, and not in substitution for, other provisions of this Agreement regarding the provision of services and programs with CDBG and/or HOME funds, pursuant to Title I of the Housing and Community Development Act of 1974, as amended, GRANTEE:
- A. Represents that it is, or may be deemed to be, a religious or denominational institution or organization or an organization operated for religious purposes which is supervised or controlled by or in connection with a religious or denomination institution or organization;
 - B. Agrees that, in connection with such services and programs:
 - 1. It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion;
 - 2. It will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion;
 - 3. It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such services or programs;
 - 4. The portion of a facility used to provide services assisted in whole or in part under this Agreement shall contain no sectarian or religious symbols or decorations.
33. Authority to Enter into Agreement:
- A. CDHO: CDHO is a corporation duly formed under the laws of the State of California with full power to enter into this Agreement and is duly qualified to

transact business in California. The execution and delivery of this Agreement by CDHO has been duly authorized and approved by all corporate action.

- B. CITY: City is municipal corporation of the State of California, charter law city organizes and existing pursuant to the laws of the State of California, public body of corporate and politic duly formed with full power to enter into this Agreement and is duly qualified to transact business in California. The execution and delivery of this Agreement by CITY has been duly authorized and approved by all legislative action.
34. Further Action. The Parties agree to perform all further acts, and to execute, acknowledge, and deliver any documents that may be reasonable necessary, appropriate or desirable to carry out the purposes of this Agreement.
35. Waiver. A waiver of any breach of this Agreement by any Party shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provision of this Agreement.
36. Choice of Laws. This Agreement shall be governed by the laws of the State of California and any questions arising hereunder shall be construed or determined according to such law. Venue for the legal action arising from or in connection with this Agreement shall be in Tulare County, California.
37. Attorney's Fees. In the event either party commences any action for the enforcement of this Agreement, the prevailing party shall be entitled to recovery of its attorney's fees and court costs incurred in the action brought thereon.
38. Construction. This Agreement is the product of negotiation and compromise on the part of each party and the parties agree, notwithstanding Civil Code Section 1654, that in the event of uncertainty the language will not be construed against the party causing the uncertainty to exist.
39. Headings. Headings at the beginning of each numbered Section of this Agreement are solely for the convenience of the Parties and are not a part of this Agreement.
40. Entire Agreement/Amendment. This Agreement and items incorporated herein contain all of the agreements of the Parties hereto with respect to the matters contained herein, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provisions hereof may be amended or modified in any manner whatsoever except by an agreement in writing signed by duly authorized representatives of each of the Parties hereto, except that any modifications which relate to the adjustment of time limitations or the form of documents may be made by joint agreement of the Parties.

WHEREFORE, the parties have executed this Agreement on the date first set above.

Community Services and Employment Training, Inc.
(CSET)

By: _____
President

By: _____
Secretary

THE CITY OF VISALIA

By: _____
City Manager

By: _____
Attest

Approved as to form:

By: _____
City Attorney

By: _____
Counsel for CSET

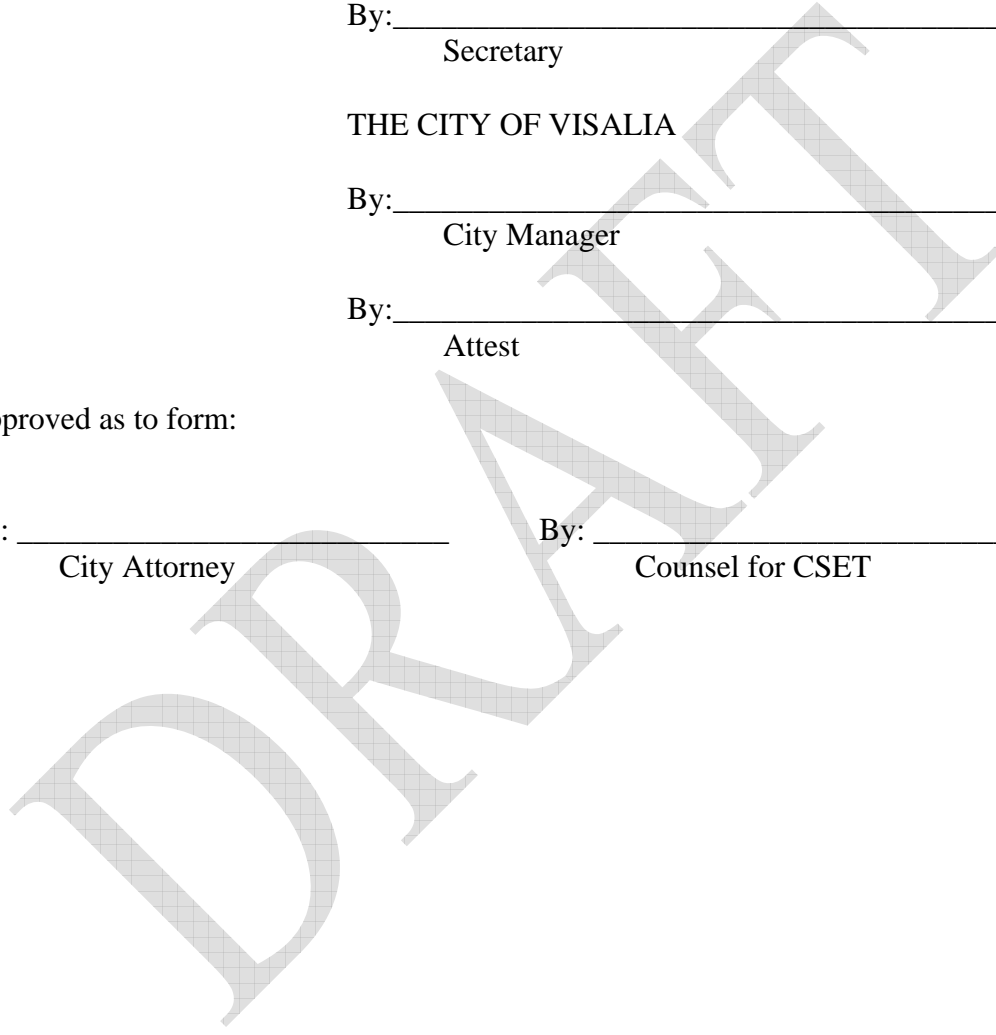


Exhibit "A"

Description of Programs and Services to be Provided

The City has approved CSET as a Community Housing Development Organization ("CHDO"), and will work with CSET on a project by project basis for the purchase of property within the jurisdictional limits of the City of Visalia.

Services which may be provided by CSET on a project by project basis include, but are not limited to, the following:

1. CHDO will develop potential infill and redevelopment sites for new housing and neighborhood conservation to benefit low-income families.
2. CHDO agrees to analyze each property that is subject to purchase as follows:
 - a. CHDO will research the minimum bid for property.
 - b. CHDO will estimate costs for infill of the property.
 - c. CHDO will estimate closing costs.
 - d. CHDO will research tax liens and any other liens that exist on the property.
 - e. CHDO will research the market values for comparable property sales in the area.
 - f. CHDO will analyze each project to ensure that the City will realize a return on its investment for the project.
3. CHDO will sign a Promissory Note and Deed of Trust for each property purchased.
4. CHDO will oversee the development of the property.
5. CHDO will oversee the purchase of the property through the escrow process.
6. CHDO will return to the City the net proceeds of sale on the sale of each property after all costs have been paid.
7. CHDO will ensure that the property will benefit families that are at or below 80% median income and comply with all other HUD and HOME Program requirements.
8. HOME regulations are subject to change and reinterpretation by HUD. The CHDO agrees to abide by any interpretations of the HOME regulations by HUD, even if HUD applies such interpretations retroactively.
9. CHDO will provide reports and documentation on an as needed basis to the City of Visalia in order to comply with all HUD and City reporting requirements.

City of Visalia Agenda Item Transmittal

Meeting Date: February 16, 2010

Agenda Item Number (Assigned by City Clerk): 12

Agenda Item Wording: SEMI ANNUAL UPDATE ON COMPREHENSIVE SMART TEAM (Specific Measurable Achievable Relevant Time-bound) EFFORTS AND ACCOMPLISHMENTS FROM JUNE THROUGH DECEMBER 2009.

Deadline for Action: None

Submitting Department: Housing & Economic Development

Contact Name and Phone Number: Ricardo Noguera, Housing & Economic Development Director (x. 4190)
Tracy Robertshaw (x. 4187)

Department Recommendation: This is a semi annual status report on SMART Team efforts requiring no action.

Summary/background: In October 2008, under the guidance of Council, the SMART Team was formed. The intent was to establish collaborations between various City departments in order to maximize impacts on targeted neighborhoods throughout the City. The team consists of representative from Police, Fire, Public Works, Parks & Recreation, Building, and Housing and Economic Development Department. The team has focused its' activities in two targeted neighborhood: Oval Park and Washington School areas and city-wide. Semi-annual presentations to Council have been made in order to gauge the program's success.

Third Status Report: This report represents the third semi-annual report summarizing key activities completed citywide including the two targeted neighborhoods, and drawing comparisons over the course of the last twelve months (January – May 2009 compared to June – December 2009). The following consists of a brief comparison of the key activities of the team over the course of the year.

Neighborhood Preservation Division:

Substandard Housing

The Neighborhood Preservation Division received 200 substandard housing complaints from June through December 2009 compared to 75 during the initial report period of January through

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

May 2009. In the two targeted areas, there were 16 (4 Washington Neighborhood and 12 Oval Park) substandard complaints during this report period: 8 have been resolved and the remaining 8 are being rehabilitated. During the initial report period 13 of the 75 substandard complaints were in the targeted neighborhoods.

Private Property Vehicle Abatement

The Private Property Abandoned Vehicle Program was transferred from the Fire Department to the Housing and Economic Development Department in July 2009. The program is funded through the State utilizing a portion of vehicle registration fees and as a result, the City was able to hire an Abandoned Vehicle Officer in October 2009. During the initial report period of January through May 2009, 14 vehicles were abated from private property. Since the transfer of the program and the hiring of the officer in October 2009, 277 vehicles were confirmed to be in violation of the ordinance. As a result of notices to the owners, 227 of the vehicles were voluntarily removed. The remaining 50 vehicle owners have received Notice and Orders advising that if the vehicles are not removed from the property they will be towed and dismantled.

Building Inspector Assigned to Police Department

The Building Inspector that is assigned to the Police Department has assisted with 5 search warrants, 24 knock and talks (home visits) and 28 inspections during this report period. During the initial report period he assisted with 11 search warrants, 5 home visits and 8 inspections.

In addition to his assignment with the Police Department, the inspector handles complaints regarding substandard housing including foreclosed properties where swimming pools have not been maintained resulting in a health hazard for the community. As a result, 37 contaminated swimming pools were abated from June to December 2009.

The inspector has assessed a total of \$308,020.30 in cost recovery fees during 2009. This amount includes abatement charges, fines and cost recovery for staff time. To date, \$118,292.20 has been collected.

Washington School Lights

A total of 47 new street lights were installed in the Washington School Neighborhood. The new lighting will improve the quality of life for the residents of the neighborhood through increased safety. The lighting was made possible through CDBG funding and coordinated efforts between Engineering, HEDD and Southern Cal Edison.

Parks and Recreation Department:

Jefferson Park

The Jefferson Park is located in the Washington School neighborhood. The Housing and Economic Development Department provided \$35,000 in Community Development Block Grant Recovery (DBGR) funds for sidewalks on the north and west sides of the park to allow handicapped access. The contract was awarded and the work should be completed by March 2010.

The park was also provided \$65,000 in Community Development Block Grant (CDBG) funds to rehabilitate the basketball court, update court lighting and install a new sidewalk on the South side of the park. The funds will also be used to install a drinking fountain that will be wheel chair

accessible. Once all of the sidewalks have been completed, it will provide an accessible track that will encircle the entire park. This project is projected to be completed by August 2010.

Village Park

During this report period, Village Park which is located between the Samaritan Center and the Whitman Center, near the Oval Park Neighborhood has been renovated. The renovation includes the installation of new playground equipment that is made entirely of recycled milk containers. It also includes new planters and a central irrigation control system that can be operated from the Park Supervisors building. The new irrigation system helps to decrease water waste by alerting the park supervisor of issues during irrigation and can be programmed at their desk which saves staff hours.

Graffiti

During the initial report period, 395 cases were abated with 19 of those in the Oval Park area and 15 in the Washington School area. During this report period, a total of 1,413 graffiti cases have been addressed city-wide; 283 were in City Parks and 30 were in the Oval Park and 38 in the Washington School Neighborhoods.

Police Department:

Washington Neighborhood

In the Washington Neighborhood, the increased Police presence resulted in the recovery of 12 bindles of methamphetamine packaged for sale and a loaded 12 gauge shotgun. Additionally, 5 suspects were arrested for other gang-related crimes.

Lincoln Oval Park

In the Oval Park Neighborhood, 19 arrests were made for possession of a controlled substance and 17 arrests for being under the influence of a controlled substance. Additionally, 15 arrests were made for other offenses. The Police Department also conducted a prostitution sting in and around Oval Park during this reporting period and the sting resulted in two arrests for prostitution.

The Lincoln Oval Park neighborhood is within the safe zone boundaries of the City's civil gang injunction area that was adopted in May 2008. During the initial reporting period, 174 validated gang members were served with notice of the civil gang injunction and 8 arrests made for violations of the injunction. In the last six months, 25 people were served with the injunction within the "Safe-Zone" area.

Four free concerts featuring local musicians were held in the Park during this reporting period. Police personnel were on hand to ensure that the concerts were enjoyed by all in attendance.

Fire Department:

Residential

The Fire Department identified 720 multi-unit housing city-wide with 5 or more attached units so that fire compliance could be performed. They inspected 181 of the units from June 2009 to December 2009 and intend to inspect the remaining units during 2010.

Fifty seven (57) R-2 units have been identified in the Lincoln Oval Park neighborhood and to date 25 have been inspected. Fifty one (51) R-2 units have been identified in the Washington Elementary School Neighborhood with 12 being inspected during the same time frame.

Commercial

Ninety (90) businesses were identified in the Lincoln Oval Park area, 24 were inspected in the first half of 2009 and 22 were inspected between June and December of 2009. Eighteen (18) business locations were identified in the Washington School area and 17 were inspected during this report period. The Fire Department established a goal during the last report period to conduct 180 commercial inspections in the Washington Neighborhood and the Lincoln Oval. This goal was not achieved because of staffing limitations. However, they were able to conduct 39 inspections in the targeted areas and 1,207 businesses were inspected citywide between June and December of 2009.

Weed Abatement

Since the last report there have been 115 weed abatement inspections conducted citywide, 8 of those were in the Oval Park and 5 were in the Washington School Neighborhoods. During the initial report period there were 13 weed abatement cases opened.

Property Maintenance

This includes removal of all junk and trash from private properties. During the report timeframe, 95 inspections were conducted citywide, with 3 of those being in the Oval Park area and 5 in the Washington School neighborhood.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: On January 5, 2009 and June 1, 2009, Council received and accepted a progress report on the individual code enforcement efforts occurring in the Lincoln Oval Park and Washington Elementary School Neighborhood areas.

Alternatives: None

Attachments:

- Status and Evaluation Report
- Map of Washington School Neighborhood and Oval Park Neighborhood
- January 5, 2009 Staff Report
- June 1, 2009 Staff Report

Recommended Motion (and Alternative Motions if expected): Accept staff's progress report on the collaborative efforts city-wide and in the Lincoln Oval Park and Washington Elementary School neighborhood areas and provide direction as appropriate.

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: N/A

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

Copies of this report have been provided to:

STATUS AND EVALUATION REPORT

Neighborhood Preservation Division

Complaints

During the first five months of 2009, the Division received a total of 289 complaints city-wide, an average of 58 per month. Beginning June 1, 2009 through the end of the year 938 complaints were received, an average of 134 per month. The increase represents a 43 percent increase in monthly code enforcement complaints. This can be attributed to the transfer of the Private Property Abandoned Vehicle Program to Code Enforcement and the fact that Code Enforcement has increased staffing resulting in the opportunity to proactively reach out to the community to improve neighborhoods.

Substandard Housing Complaints

Substandard Housing complaints represented 26% of the complaints during the first reporting period. Two hundred (200) substandard housing complaints were received during this report period representing 21% of the overall calls for the report period.

Oval Park Neighborhood

In the Oval area there were a total of 12 substandard housing complaints representing 6 % of the overall substandard cases. This is a decrease from 20% during the prior report period.

Washington School Neighborhood

In the Washington School area there were 4 substandard complaints representing 2% of the overall substandard cases. This is a decrease from 7% during the prior report period.

Despite an increase in open cases city-wide, the percentage of those that represent substandard housing has remained constant. However, in the two targeted neighborhoods the number of substandard complaints decreased. This is the result of a dedicated Code Enforcement Technician serving the CDBG areas and the strategic approach of coordinated efforts by the SMART Team.

Code Enforcement Complaints

The remaining 738 of the 938 (79 percent) complaints received city-wide during the report period involved general nuisance complaints such as zoning violations, signage, conditional use permit issues and abandoned vehicles compared to 214 of the 289 (74 percent) complaints received city-wide during the first 5 months of the year. Once again, the number of cases has increased; however, the percentage of nuisance related calls compared to substandard complaints has remained relatively consistent.

Other Projects in Process

Volunteer in Code Enforcement Program

A volunteer program is being developed to assist code enforcement staff in dealing with lower priority quality of life code enforcement complaints such as abandoned shopping carts and non-permitted signage in the public right-of-way. This program is projected to commence in the summer of 2010.

East Douglas Neighborhood

In addition to the Oval Park and Washington School neighborhoods, the East Douglas (East Douglas between Ben Maddox and Cain) has been a problem area for City departments. The neighborhood includes 16 multifamily units, including 9 that are in various stages of foreclosure. The buildings that are in foreclosure are being inspected on a routine basis and boarded as necessary to decrease deterioration of the properties. Two of the 16 buildings were recently purchased by private parties and rehabilitated. The new property owners have done an excellent job in maintaining the properties. Staff is currently exploring opportunities to partner with the Housing Authority and acquire the multi-unit properties and redevelop them into a new affordable housing complex. This would require approximately \$3 million in RDA low/mod funds to support a \$10 million 36 unit complex.

The neighborhood has been plagued by gang activity and various issues related to transient activity in the foreclosed vacant buildings. In June a multi-agency search warrant was issued for the entire 1400 block of East Douglas in response to gang and narcotic issues.

In October and November, Code Enforcement also inspected 113 single family parcels in the neighborhood. Fifty eight (58) were found to have violations ranging from abandoned vehicles to work conducted without permits. A total of 48 parcels have complied with the courtesy notices that were sent. The remaining 10 property owners will receive additional enforcement orders.

Abandoned Vehicles on Private Property

The private property abandoned vehicle program was transferred from the Fire Department to the Housing & Economic Development Department (HEDD) in July 2009. The transfer from the Fire Department to Housing and Economic Development was a seamless transition and did not result in a reduction in services to the community. The program is funded through the State utilizing a portion of vehicle registration fees and as a result, the City was able to hire an Abandoned Vehicle Officer in October 2009.

Since the officer was hired, 225 abandoned vehicle cases have been opened involving 277 vehicles. As a result of notices sent to vehicle owners by the officer, 227 of the vehicles have been voluntarily removed by the owners. The property owners that did not comply with the first notice have been given a 10 day Notice and Orders to remove the vehicles or risk having them towed and dismantled. If it becomes necessary to tow vehicles, staff has met with local tow businesses and compiled a list of towing businesses willing to participate in the program. The businesses will tow the vehicles at no cost to the City; instead they have opted to receive the recycling fee from the auto dismantlers as payment.

Building Inspector Assigned to Police Department

In October 2008, Council approved the hiring of a Building Inspector assigned to the Police Department, to participate in drug and gang enforcement efforts. The City recognizes that although not a requirement, drug and gang violations frequently involve substandard housing violations as well.

During this report period, the Inspector has participated with the Police Department in the following activities:

- 5 search warrants compared to 11 during the first 6 months
- 24 Knock and Talks (visits to homes) compared to 5 during the first 6 months

- 28 Police Department requests for inspections compared to 8 during the first 6 months. The decrease in search warrants and increase in knock and talk/police requested inspections is attributed to Code Enforcement and the Police Department conducting outreach to medical marijuana growers to assure that the marijuana is planted in compliance. The outreach by the officers and the inspector has resulted in increased compliance of the medical marijuana grows without any action being taken beyond the initial contact.
- The Inspector assessed a total of \$308,020.30 in 2009. This figure includes \$54,116.02 in abatement charges (i.e. boarding, pool draining, demolition) and \$48,900.00 in fines and \$182,404.28 in cost recovery for staff time. To date, \$118,292.20 has been recovered through payments by property owners. In November 2009 the hourly rate for the inspector was reduced to \$128.38 and staff is no longer bills for office hours. Subsequently, it is projected that cost recovery for 2010 will decrease significantly.
- The Inspector has also been involved in the abatement of 37 contaminated swimming pools compared to 16 during the initial report period.

Miscellaneous Activities

Washington School Lights

A total of 47 new street lights were installed in the Washington School Neighborhood. The new lighting will improve the quality of life for the residents of the neighborhood through increased safety.

Jefferson Park

The Jefferson Park is located in the Washington School neighborhood. The Housing and Economic Development Department provided \$35,000 Community Development Block Grant Recovery (DBGR) funds for sidewalks on the north and west sides of the park to allow handicapped access. The contract was awarded and the work should be completed by March 2010.

The park was also provided \$65,000 in Community Development Block Grant (CDBG) funds to rehabilitate the basketball court, update court lighting and install a new sidewalk on the South side of the park. The funds will also be used to install a drinking fountain that will be wheel chair accessible. Once all of the sidewalks have been completed, it will provide an accessible track that will encircle the entire park. This project is projected to be completed by August 2010.

Village Park

During this report period, Village Park which is located near the Oval Park Neighborhood has been renovated. The renovation includes the installation of new playground equipment that is made entirely of recycled milk containers. It also includes new planters and a central irrigation control system that can be operated from the Park Supervisors building. The new irrigation system helps to decrease water waste by alerting the park supervisor of issues during irrigation and can be programmed at their desk which saves man hours.

The basketball courts at the park are slated to be resurfaced by June 2010.

Homeownership and Rehabilitation

The Housing and Economic Development Department received 2.3 million dollars in Neighborhood Stabilization Program (NSP) funds. Thus far, the funding has been used to purchase 17 foreclosed homes to be rehabilitated and sold to low income families. To date, 4

homes have been sold, 4 are currently in escrow and the remaining 9 are in various stages of rehabilitation. Each home that has been purchased has also employed an average of 10 construction workers within the community.

In addition, a portion of the funding was utilized to purchase a foreclosed 4 unit apartment complex that will be rehabilitated and rented to low income families.

In the Washington School Neighborhood, a \$480,000 Low to Moderate Income loan was made to the Housing Authority to rehabilitate two foreclosed triplexes. The units will be utilized as affordable housing for low income families.

Caltrans Oval Park Study

This Study took a total of fourteen (14) months to be completed. During the first half of the year, the consultant team facilitated planning meetings to compile data. During the latter part of the year, the consultants completed the Study and presented to Council in late fall, and it was accepted. In 2010, the City's Engineering Division will coordinate completion of the design work for roadway improvements.

Graffiti Cleanup

Under the direction of the Parks and Recreation Department during the initial report period of January through May 2009, 395 cases were abated with 19 of those in the Oval Park area and 15 in the Washington School area. During this same period, a total of 1,413 graffiti cases have been addressed city-wide; 283 were in City Parks and 30 were in the Oval Park and 38 in the Washington School Neighborhoods. The City has experienced a significant increase in graffiti during the later part of the year. However, the abatement team has generally been able to remove the graffiti within 72 hours.

Police Department Activities

Special Enforcement Bureau

The Special Enforcement Bureau Units served five search warrants for narcotics violations within the Lincoln Oval and Washington School areas during this report period compared to seven during the initial report period. These investigations, coupled with assistance from the Code Enforcement Unit are aimed at reducing illegal drug activity within Visalia neighborhoods and addressing substandard housing conditions that are commonly associated with those activities.

Washington Neighborhood

In the Washington Neighborhood, the increased Police presence resulted in the recovery of 12 bindles of methamphetamine packaged for sale and a loaded 12 gauge shotgun. Additionally, 5 suspects were arrested for other gang-related crimes.

Lincoln Oval Park

In the Oval Park, 19 arrests were made for possession of a controlled substance and 17 arrests for being under the influence of a controlled substance. Additionally, 15 arrests were made for other offenses. The Police Department also conducted a prostitution sting in and around Oval Park during this reporting period and the sting resulted in two arrests for prostitution.

The Lincoln Oval Park neighborhood is within the safe zone boundaries of the City's civil gang injunction area that was adopted in May 2008. During the initial reporting period, 174 validated

gang members were served with notice of the civil gang injunction and 8 arrests made for violations of the injunction. In the last six months, 25 people were served with the injunction within the "Safe-Zone" area.

Four concerts were held in the Park during this reporting period. Police personnel were on hand to ensure that the concerts were enjoyed by all in attendance.

South Central Neighborhood

The 1400 and 1500 blocks of South Central (East of Mooney between Tulare and Walnut) have been identified as a challenged area. The area consists of large multi-family units with single family residences dispersed among them. The Police Department assisted with 15 probation/parole searches and served 8 search warrants. In addition, Code Enforcement has numerous open substandard housing cases in the area. One apartment complex has been declared a public nuisance based on more than 200 police calls for service in a one year period. Based on these issues, the SMART Team will be focusing on this neighborhood during 2010 to improve the life quality for the residents.

Related Activities

Visalia Police Citizen Volunteers, Sector Officers, and Community Service Officers are continuing to monitor abandoned vehicles located within public right-of-way: 1,025 abandoned vehicles have been abated during 2009, 693 of those were voluntarily abated by the owners after being notified by the officers and 332 were towed by the Police Department.

In November of 2009, Tulare County Sheriff's Office disbanded a large homeless encampment along the St. Johns River. As a result of this action, the Police and Housing and Economic Development Staff met with County agencies on a weekly basis to assure that every effort was made to reach out to the homeless that moved into the City limits. The City was proactive in offering outreach and resources to those affected by the relocation.

Fire Safety

Smoke Detectors Issued

The Fire Department has pro-actively installed smoke detectors for 78 households throughout the City during the report period compared to 33 that were installed during the initial report period.

In addition, 85 public information events, 2 fire camps and 3 open houses were held between June and December 2009 that provided information to 12,500 community members.

Fire Inspections

Residential

The Fire Department utilized the time period of the initial status report to identify 720 multi-unit housing city-wide with 5 or more attached units so that fire compliance could be performed. These units were identified with an R-2 designation. The Fire Department was able to inspect 181 of the units from June 2009 to December 2009 and intends to inspect the remaining units during 2010.

Fifty seven (57) R-2 units have been identified in the Lincoln Oval Park neighborhood and to date 25 have been inspected. Fifty one (51) R-2 units have been identified in the Washington Elementary School Neighborhood with 12 being inspected during the same time frame.

Commercial

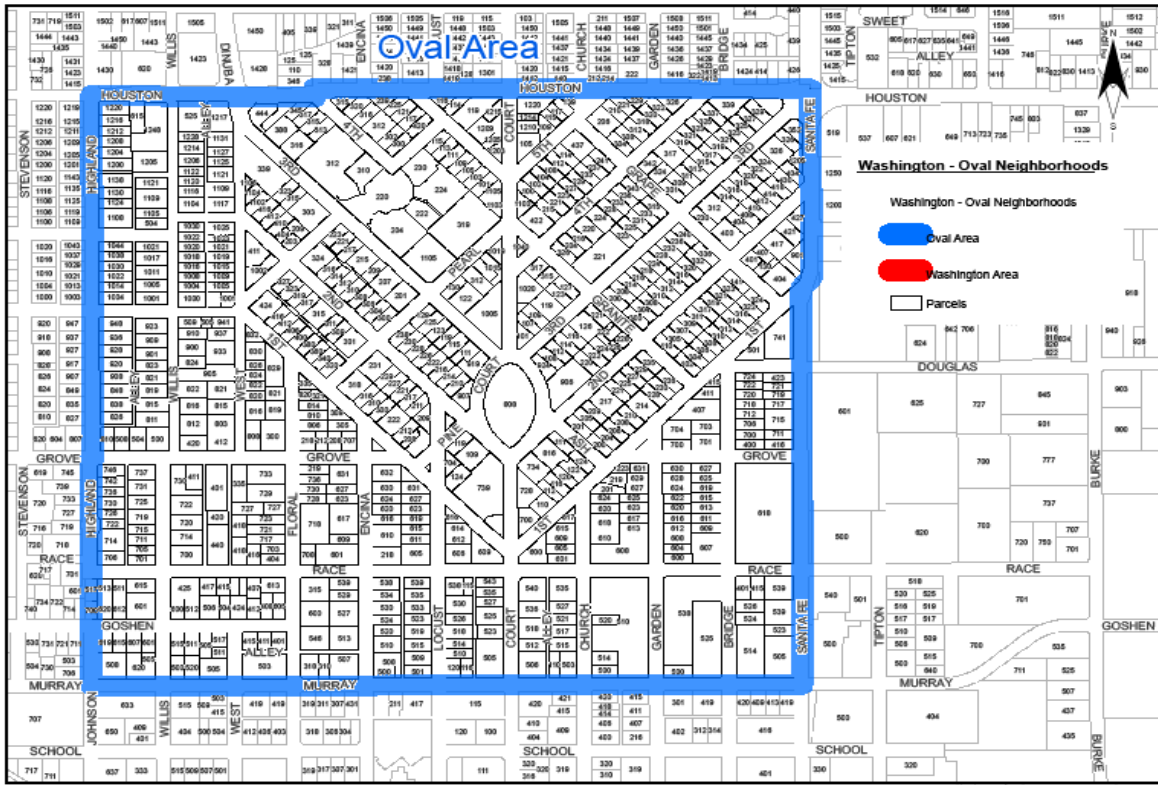
Ninety (90) businesses were identified in the Lincoln Oval Park area, 24 were inspected in the first half of 2009 and 22 were inspected between June and December of 2009. Eighteen (18) business locations were identified in the Washington School area and 17 were inspected during this report period. The Fire Department established a goal during the last report period to conduct 180 commercial inspections in the Washington Neighborhood and the Lincoln Oval. This goal was not achieved because of staffing limitations. However, they were able to conduct 39 inspections in the targeted areas and 1,207 businesses were inspected citywide between June and December of 2009.

Weed Abatement

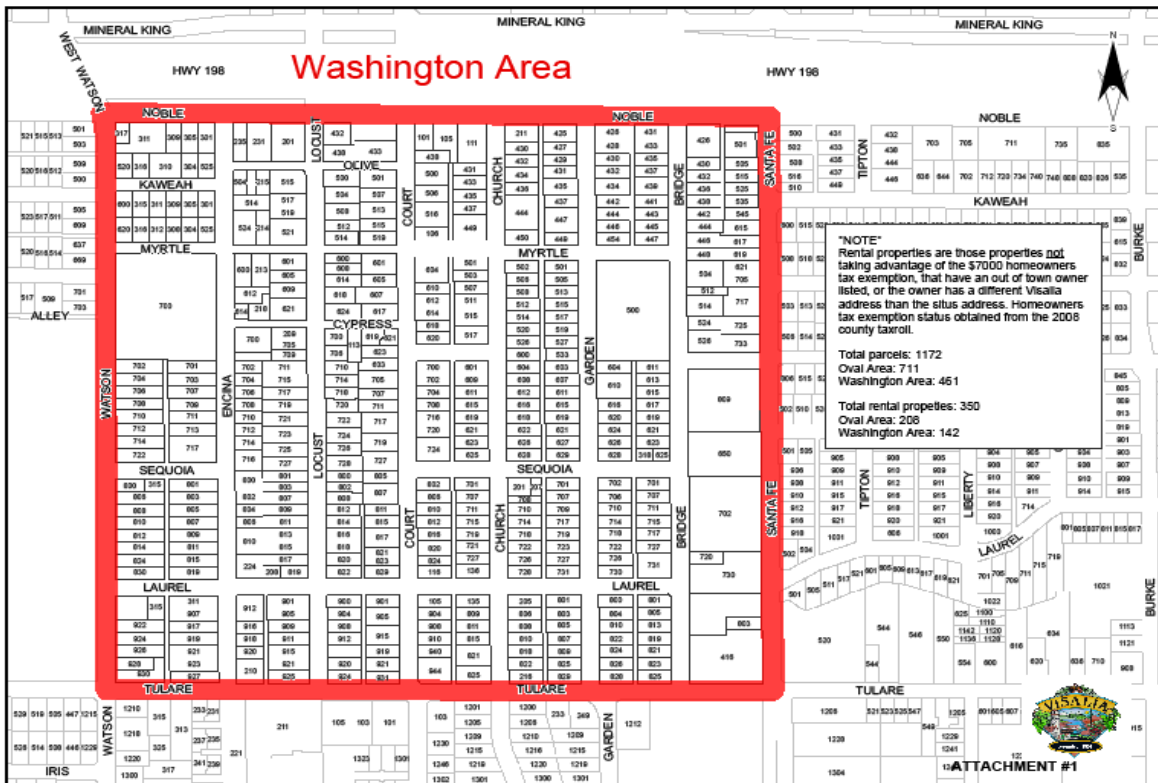
Since the last report there have been 115 weed abatement inspections conducted citywide, 8 of those were in the Oval Park and 5 were in the Washington School Neighborhoods. During the initial report period there were 13 weed abatement cases opened. The significant increase is due to the fact that this report period covers the summer months where weeds are an increased issue.

Property Maintenance

This includes removal of all junk and trash from private properties. During the report timeframe, 95 inspections were conducted citywide, with 3 of those being in the Oval Park area and 5 in the Washington School neighborhood.



Washington - Oval Neighborhoods



**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 5, 2009

Agenda Item Number (Assigned by City Clerk): 5

Agenda Item Wording: Comprehensive Code Enforcement Efforts in the Lincoln Oval Park and Washington Elementary School neighborhood areas.

Deadline for Action: None

Submitting Department: Housing and Economic Development Department

Contact Name and Phone Number:

Ricardo Noguera, Housing & Economic Development Director, 713-4190
Tim Burns, Neighborhood Preservation Manager, 713-4172
Bob Carden, Police Chief, 713-4215
Jason Salazar, Police Lieutenant, 713-4102
Mark Nelson, Fire Chief, 713-4218
Charles Norman, Fire Battalion Chief, 713-4265

Department Recommendation: Receive the 2008 status report for the collaborative code enforcement efforts in the Lincoln Oval Park and Washington Elementary School neighborhoods.

Summary/background:

The City of Visalia S.M.A.R.T. Team-

The City of Visalia has been actively engaged in code enforcement efforts for the past several years. These enforcement activities are undertaken by several city departments including: Police, Fire, Public Works, Parks & Recreation, Building and most recently the Housing & Economic Development Department.

In an organized effort to more effectively address future code enforcement concerns and to monitor the results of those efforts, a project team identified as the S.M.A.R.T. Project Team has been organized to focus on future collaborative code enforcement efforts. S.M.A.R.T. is an acronym that stands for:

S=Specific M=Measurable A=Achievable R=Relevant T=Time-bound.

The S.M.A.R.T. Team will be comprised of representatives from the following city departments: Police, Fire, Public Works, Parks & Recreation, Community Development and Housing & Economic Development. Beginning in January 2009, the S.M.A.R.T. Team will meet on a monthly basis to discuss future strategies for the abatement of nuisance properties located throughout the City in an

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

effort to improve the quality of life for the residents who reside in those areas where attention is focused. The purpose of this team is to provide a comprehensive and collaborative response to quality of life issues in Visalia neighborhoods using all the available resources at the disposal of the City.

Introduction-

In 2007 & 2008, the Lincoln Oval Park and Washington Elementary School neighborhood areas have been the focus of significant effort involving all city departments. In 2009, these efforts will continue to be expanded as the city increases efforts to improve these neighborhoods.

These neighborhoods are two of the oldest neighborhoods within the City of Visalia. They are each faced with considerable challenges in 2009 to improve property conditions and resident quality of life. While significant accomplishments and measurable progress has been made in 2007 & 2008, a considerable amount of work remains to be done.

The purpose of this report is to recognize the progress made in 2007 and 2008 through the collaborative and focused efforts of the various city departments and to identify focused, measurable and collaborative goals for 2009 and the future to further improve the vitality of these two neighborhoods.

To better understand the character, challenges and needs of each of these neighborhoods, this report has been constructed in two sections to address each neighborhood individually based on their own unique characteristics and challenges.

The Lincoln Oval Park Neighborhood:

The collaborative code enforcement efforts for the Lincoln Oval Park have focused on an area approximately ½ square mile in size and defined by Houston Avenue to the north, Santa Fe Street to the east, Murray Street to the south, and Highland Street to the west.

Information obtained from the 2000 U.S. Census Bureau indicated that there are approximately 7,617 residents in the Lincoln Oval Park area. The ethnic breakdown of the neighborhood is as follows:

- 60% Hispanic as compared to 36% city wide;
- 19% Asian as compared to 5% city wide;
- 17% White as compared to 54% citywide;
- 4% Other as compared to 5% city wide.

The 2000 U.S. Census also indicated that 42% of the residents in the Lincoln Oval Park neighborhood earned less than \$20,000 in 1999 and were below the poverty level established by the U.S. Census Bureau. This is in contrast to a city-wide figure of 22% of residents below the poverty level. In addition, 47% of the Lincoln Oval Park neighborhood residents receive government assistance.

This study indicated that 8% of Visalia households did not own an automobile, compared to 21% of households in the Lincoln Oval Park neighborhood that did not own an automobile. The lack of mobility to access services for the residents of the area creates a hardship and interferes with their ability to improve their quality of life.

Within the Lincoln Oval Park neighborhood there are:

- 1,064 single family units (2000 Census);
- 498 multi-family units (City of Visalia permits system data base);
- 81% rental (2000 Census);
- 19% ownership (2000 Census);

- 5% vacancy rate (USPS-HUD);
- 15%, or 159 of the 1064 single family unit property owners have filed the \$7000 Homeownership Exemption with the Tulare County Assessors Office in 2008.

In 2007, the Visalia Police Department responded to 3,372 police calls for service specific to the Lincoln Oval Park neighborhood. This accounts for 3% of the police calls for service city-wide in 2007 (112, 984). Of the 3,372 police calls for service, 64 of those calls were for Part 1 Violent Crimes (Homicide, Rape, Robbery, Aggravated & Simple Assault) and 177 of those calls were for Part 1 Property Crimes (Burglary, Larceny, Motor Vehicle Theft).

In 2007, the Visalia Police Department responded to 40 complaints regarding abandoned vehicles on public roadways within the Lincoln Oval Park neighborhood. In addition, the Visalia Fire Department responded to 29 private property abandoned vehicle complaints within the Lincoln Oval Park Neighborhood.

The Visalia Police Department Gang Suppression Unit has identified 54 validated gang members who reside within the Lincoln Oval Park neighborhood. This number reflects 6.5% of the total number of validated gang members who reside within the City of Visalia (972).

In 2007, the Visalia Fire Department responded to 1,037 calls for service in the Lincoln Oval Park neighborhood or 9.5% of the Department's total calls for service in 2007 (10,950). The below listed topics are somewhat self explanatory with the exception of total value. Total value is the estimated value of the structure or vehicle involved prior to the incident. The following table identifies the types of incidents addressed by the Fire Department in the Lincoln Oval Park Area in 2007:

Incident Type	Incident Count	Total Loss	Total Value
Fire	53	\$186,750.00	\$4,308,250.00
Rupture/ Explosion	1		
EMS/ Rescue	733		
Hazardous Condition	22		
Service Call	65		
Good Intent	117		
False Call	45		
Other	1		
Totals	1,037	\$186,750.00	\$4,308,250.00

In 2008, the Visalia Fire Department initiated an annual inspection program of multi-family residential as well as commercial dwellings in the area. These inspections will assist in both hazard reduction and associated fire code compliance issues, both of which will impact issues of blight and public safety within the Lincoln Oval Park neighborhood. The Fire Department has also worked cooperatively with SMART Team members to alleviate nuisance properties, substandard housing issues, conduct weed abatement programs, private property vehicle abatement enforcement, and fire code enforcement actions. The following table identifies fire code enforcement efforts in the Lincoln Oval Park neighborhood for 2007:

Case Type	Completed Cases	Pending
Abandoned vehicles	29	0
Weed Abatement	25	2
Property Maintenance	18	4
Totals:	72	6

Totals:	72	6
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Between January 1, 2008 and November 30, 2008, there were 74 code enforcement complaints investigated in the Lincoln Oval Park neighborhood involving animal complaints, land use complaints,

construction without required permits, and behavior related nuisance properties. There were 43 complaints investigated involving substandard housing conditions.

An assessment conducted by SMART Team members on December 20, 2008 revealed the following conditions:

- There are 116 street lights in the neighborhood, 11 of those lights are inoperable.
- There are 17 vehicles that appear to be inoperable that have been identified on public streets and 290 on private property.
- There are two vacant lots that have been identified with junk, trash and debris.
- There are 164 properties that have junk, trash, and debris in need of abatement.
- There were 12 properties identified with vehicles parked on lawns or other areas not intended for parking.

The interests of the Lincoln Oval Park neighborhood are represented by the North Visalia Advisory Committee. This committee has been active with residents and business owners in the area and has orchestrated several positive changes in the neighborhood throughout the years. Committee members have frequently expressed concerns regarding public safety, infrastructure land use, park maintenance and traffic safety.

2007/ 2008 Collaborative Code Enforcement Accomplishments for Lincoln Oval Park Neighborhood-

Lincoln Oval Park Community Meeting- On April 26, 2008, the City of Visalia hosted a community meeting at the Lincoln Oval Park that was attended by representatives of various city departments, business owners in the Lincoln Oval Park neighborhood, as well as neighborhood residents. This meeting sought to engage neighborhood residents and business owners, who have a vested interest in the neighborhood, in city efforts to “win back the Oval.” This meeting was the first of a series of events to enhance the city/ community partnership to address issues specific to the Lincoln Oval Park neighborhood.

CalTrans Planning Grant- In 2008, a \$150,000.00 CalTrans Grant was secured and awarded to TPG Consulting who will sub-contract with RRM Design Group and C-SET to assist in the project addressing traffic improvements around the Lincoln Oval Park. The project will require a complete traffic survey and a report of the needs of the community based on community input by neighborhood residents and business owners. This will occur in a series of four community-based meetings designed to engage the community in the process. The first meeting occurred on November 13, 2008 at the Restoration Church on N.W. Third Avenue. The next meeting is slated for January 15, 2009 with two additional meetings to follow. Project completion is scheduled for August 2009 and will be presented to Council for review and comment as it nears completion.

Visalia Police Oval Park Action Plan- During the spring and summer months of 2008, Police District One Patrol Officers implemented a comprehensive action plan to address public safety related concerns of the community in the Lincoln Oval Park neighborhood. This plan largely consisted of directed enforcement actions by patrol sector officers to impact crime and blight issues within the neighborhood. The plan involved assignment of specific areas of responsibilities to sector officers who would specialize in that area as it contributed to the overall action plan. This technique was implemented as a means of increasing accountability for specific assignments and to maximize effectiveness of the plan. Officers were assigned specific areas of responsibility to include: business owner contacts, narcotics enforcement, gang enforcement, Alcohol Beverage Control issues, parole and probation contacts, traffic enforcement, code enforcement issues, transient issues, and contacts with the Rescue Mission and Visalia Emergency Aid. Special details were conducted around those

areas of responsibility resulting in an emphasis on specific neighborhood concerns, increased police presence and improved lines of communication with neighborhood residents and businesses.

Over the course of a three and a half month period (May 23, 2008 through September 1, 2008), this action plan resulted in 436 citizen contacts that consisted of traffic stops, parole/ probation searches, community center contacts, warrant services, business contacts, and resident contacts. The detail resulted in 52 arrests, 21 of those arrests for outstanding warrants and 31 arrests for "fresh" charges including narcotics violations, alcohol violations, and municipal code violations. The success of this plan resulted from contacts developed between officers, residents, and merchants within the neighborhood and as a result will increase the effectiveness of the sector officers.

Music in the Park- The Visalia Parks & Recreation Department hosted "Music in the Oval Park" during the month of October 2008 on 4 separate Friday evenings (October 3rd, 10th, 17th and 24th). These events were popular with area residents and merchants and did not experience any problems and accomplished the goal of drawing community members to the park for a positive event and experience.

Attendance for the first and second Friday averaged between 150 to 200 attendees. The third and fourth evenings averaged 450+ attendees. The cost of the 4 evening events was approximately \$5000.

Parks & Recreation also worked cooperatively with the Police Activities League program for the annual Christmas Tree lighting ceremony at the park and the annual Easter Egg Hunt, events that draw both children and families to the park to interact with city employees and to enjoy holiday festivities. These types of events provide a positive image of the neighborhood and are appreciated by residents and merchants alike.

Infrastructure- Public Works officials repaired park lighting and adjacent street lighting in the immediate area of the Lincoln Oval Park to improve visibility and public safety. Road repair and storm drains have also been repaired at the intersection of Court and N.W. Third Street to alleviate continuous water pooling that has been an issue in previous years.

Gangs- Throughout 2007 and 2008, the Visalia Police Department worked in conjunction with the City Attorney's Office and the Tulare County District Attorney's Office to prepare court filings for civil gang injunctions against the Norteno and Oriental Troop criminal street gangs whose activities had a direct impact on the Lincoln Oval Park neighborhood. On May 12, 2008, those civil gang injunctions were granted against these gangs by the Tulare County Superior Court establishing a square mile area in north Visalia as a gang safe zone and subjecting gang members to terms of the gang injunction. The Lincoln Oval Park neighborhood is included within that gang safe zone and to date approximately 140 gang members have been served with the injunction and subject to its terms. This effort has resulted in an increased sense of public safety as expressed by area residents by reducing the amount of blatant gang and narcotics activity occurring in the neighborhood.

Short-Term Objectives for Lincoln Oval Park Neighborhood-

The SMART Team has identified a series of short-term goals and objectives to accomplish over the course of the next two to three years specific to the Lincoln Oval Park neighborhood. These short-term objectives seek to provide expedient results and to build upon SMART Team collaborations as a means of maintaining momentum for the revitalization effort in the Lincoln Oval Park neighborhood and to ultimately achieve the long-term objectives identified in the following section.

- 1) Repair inoperable street lights (11) in the Lincoln Oval Park neighborhood by July 2009 to improve lighting conditions and public safety concerns. This will require a coordinated effort between the City of Visalia and Southern California Edison to accomplish.

- 2) Enhanced efforts to target abandoned vehicles on both public and private property in the Lincoln Oval Park neighborhood throughout 2009. This goal is in line with the neighborhood assessment conducted by the SMART Team on December 20, 2008. The Police Department will seek to resolve the 17 identified abandoned vehicles on public right-of-way in 2009 and reducing abandoned vehicle calls for service by 10% to a total of 36, while the Fire Department will similarly work towards reducing the number of private property abandoned vehicles by 50% to a total of 26 in 2009 by dedicating a fire inspector to identify abatement opportunities one day per week.
- 3) Abatement of 164 properties in the Lincoln Oval Park neighborhood by the end of 2009 through a collaborative effort as a result of junk, trash and debris on the properties.
- 4) Courtesy Notices sent to (12) property owners regarding vehicles parked on lawn to remedy this particular issue.
- 5) Continue community educational opportunities within the Lincoln Oval Park neighborhood by the SMART Team through the use of City of Visalia PIO and Police Department's Hispanic PIO to provide information and education regarding this collaborative code enforcement effort. This information to be provided by the end of 2009 through presentations at upcoming Lincoln Oval Park community meetings, North Visalia Advisory Committee meetings, and explore the use of a mailing campaign to provide further information regarding SMART Team efforts and objectives of those efforts.
- 6) Enhance Commercial Policing efforts within the Lincoln Oval Park neighborhood through the use of the Downtown Commercial Policing Officer and Sector Officer Contacts/Assignments with neighborhood businesses. This objective is aimed at improving police/ merchant communications, address municipal code violations in and around the Lincoln Oval Park, and to enhance business interests within the neighborhood.
- 7) Ongoing use of the Oval Park Action Plan to continue addressing specific issues in and around the Lincoln Oval Park with increased participation of SMART Team partners. The Police Department will seek to reduce the number of drug and alcohol related calls for service in the Lincoln Oval Park neighborhood by 10% from 134 in 2007. The objective is to improve perception, business interests, and to increase community-oriented uses of the Oval Park in 2009. An additional objective of this goal is to impact Part 1 crimes within the Lincoln Oval Park neighborhood through a 10% reduction from 241 Part I Crime reports to 217 Part 1 Crime reports as a result of this effort.
- 8) The Fire Department will seek to conduct 12 apartment complex inspections in the Lincoln Oval Park neighborhood by July 2009 and conduct annual business, manufacturing, storage, hazardous, and institutional occupancies annually within the neighborhood.
- 9) The Fire Department will further seek to reduce fire dollar loss by 20% in 2009 through the use of commercial inspections and continued spring weed abatement programs.
- 10) The Fire Department will reduce fire calls for service by 20% in 2009 through Fire and Life Safety Inspections and Public Education campaigns.
- 11) Code Enforcement abatement of (2) vacant lots currently identified in the neighborhood assessment by the end of 2009. In addition, continued evaluation and abatement of additional properties that might be identified in the process.
- 12) Complete Village Park/ Wittman Center renovation project by July 2009 that will provide improvements to the park and playground facilities.
- 13) The Planning Division's contributions to SMART Team short-term objectives in 2009 will include an analysis of current zoning patterns along transportation corridors to include the Lincoln Oval Park neighborhood, specifically the State Route 63 and Houston corridors. The purpose of these corridor studies will be to evaluate land use patterns established in the General Plan to determine whether properties along these streets

should be re-designated from current residential designations to other land use categories that will encourage re-investment and revitalization along these high traffic volume corridors. This would eventually entail a General Plan amendment and rezoning effort to effectuate desired land use revisions; the completed work will be incorporated into the future General Plan update.

Additionally, a Parking-In-Lieu District in the Lincoln Oval Park neighborhood will be pursued to recruit and assist in the expansion of retailers and to help minimize costs associated with business development. These studies will be started in January and will be completed in 2009 with recommendations presented to the City Council.

Long-Term Objectives for Lincoln Oval Park Neighborhood-

The SMART Team has identified the following long-term objectives aimed at sustaining the revitalization of the Lincoln Oval Park neighborhood into the future. These long-term objectives are projected to be 5-10 years out and provide a vision for the neighborhood and the anticipated results of the short-term efforts currently in motion.

- 1) A 15% reduction of police calls for service in a 5-year timeframe, by 2013. Past accomplishments and identified short-term objectives are aimed at reducing police calls for service and an overall reduction of Part 1 Crimes in the neighborhood by 10% in the same time period.
- 2) A 20% reduction in abandoned vehicle, nuisance, and weed abatements by SMART Team members by 2016. While short-term objectives will seek to increase abatement efforts, the goal is to reduce the need of such abatement activities over the long-term through community education and successful abatement activities in the short-term.
- 3) A 20% reduction in both Fire Department calls for service (27 in 2007 to 22) and fire dollar loss (\$157,405 in 2007 to \$125,900) by 2013 through public education campaigns and abatement efforts within the neighborhood.
- 4) Increase owner-occupancy in single family residences within the Lincoln Oval Park neighborhood from 19% to 30% by the year 2019 through collaborative efforts to improve the neighborhood.
- 5) Increase business use within the Lincoln Oval Park neighborhood by 2019 through planning and zoning evaluations of residential use along State Route 63 and Houston Avenue, development of the Community Campus, and continued business development along Dinuba Blvd. into north Visalia. residential zoning along State Route 63 and Houston Avenues.

Lincoln Oval Park Revitalization Measurements-

Baseline measurements to be utilized as a means of evaluating the success of the SMART Team collaborative efforts at revitalizing the Lincoln Oval Park neighborhood for the present, short-term, and long-term objectives are as follows:

- Police Calls for Service specific to the Lincoln Oval Park neighborhood in totality.
 - Alcohol & Drug related calls for service
 - Part 1 Crime reports (crime reduction)
 - Number of validated gang members residing within the neighborhood.
 - Abandoned vehicle abatements
- Fire Calls for service specific to the Lincoln Oval Park neighborhood in totality.
 - Fire dollar loss numbers
 - Abatement activity
- Code Enforcement calls for service specific to Lincoln Oval Park neighborhood.

- Abatement activity numbers
- Municipal Code violation comparison
- Home Ownership/ Owner-Occupancy rates within the Lincoln Oval Park neighborhood
- Business establishments within the Lincoln Oval Park neighborhood.

Washington Elementary School Neighborhood:

The collaborative code enforcement efforts for the Washington Elementary School neighborhood have focused on an area approximately ½ square mile in size and defined by Noble Avenue to the north, Santa Fe Street to the east, Tulare Avenue to the south, and Watson Street to the west.

Information obtained from the 2000 U.S. Census Bureau indicated that there are approximately 2,037 residents in the Washington Elementary School neighborhood area. The ethnic breakdown of the neighborhood is as follows:

- 59% Hispanic as compared to 36% city wide;
- 38% White as compared to 54% citywide;
- 3% Other as compared to 10% citywide.

The 2000 U.S. Census also indicated that 53% of the residents in the Washington Elementary School neighborhood earned less than \$20,000 in 1999 and were below the poverty level established by the U.S. Census Bureau. This is in contrast to a city-wide figure of 22% of residents below the poverty level. In addition, 28% of the Washington Elementary School neighborhood residents receive government assistance.

This same study indicated that 8% of Visalia households did not own an automobile, compared to 28% of households in the Washington Elementary School neighborhood that did not own an automobile. The lack of mobility to access services for the residents of the area creates a hardship and interferes with their ability to improve their quality of life.

Within the Washington Elementary School neighborhood there are:

- 810 single family units (2000 Census);
- 450 multi-family units (City of Visalia permits system data base);
- 81% rental (2000) Census);
- 19% ownership (2000) Census);
- 1% vacancy rate (USPS-HUD);
- 9%+, or 79 of the 810 single family unit property owners have filed the \$7000 Homeownership Exemption with the Tulare County Assessors Office in 2008.

In 2007, the Visalia Police Department responded to 2,746 police calls for service specific to the Washington Elementary School neighborhood. This accounts for 2.4% of the police calls for service city-wide in 2007 (112, 984). Of the 2,746 police calls for service, 33 of those calls were for Part 1 Violent Crimes (Homicide, Rape, Robbery, Aggravated & Simple Assault) and 177 of those calls were for Part 1 Property Crimes (Burglary, Larceny, Motor Vehicle Theft).

In 2007, the Visalia Police Department responded to 55 complaints regarding abandoned vehicles on public roadways within the Washington Elementary School neighborhood. In addition, the Visalia Fire Department responded to 67 private property abandoned vehicle complaints within the Washington Elementary School Neighborhood.

The Visalia Police Department Gang Suppression Unit has identified 28 validated gang members who reside within the Washington Elementary School neighborhood. This number reflects 3% of the total number of validated gang members who reside within the City of Visalia (972).

In 2007, the Visalia Fire Department responded to 751 calls for service in the Washington Elementary School neighborhood or 7% of the Department's total calls for service in 2007 (10,950). The below listed topics are somewhat self explanatory with the exception of total value. Total value is the estimated value of the structure or vehicle involved prior to the incident. The following table identifies the types of incidents addressed by the Fire Department in the Washington Elementary School Area in 2007:

Incident Type	Incident Count	Total Loss	Total Value
Fire	27	\$157,405.00	\$2,299,650.00
Rupture/ Explosion	1		
EMS/ Rescue	547		
Hazardous Condition	21		
Service Call	28		
Good Intent	113		
False Call	13		
Other	1		
Totals	751	\$157,405.00	\$2,299,650.00

In 2008, the Visalia Fire Department initiated an annual inspection program of multi-family residential as well as commercial dwellings in the area. These inspections will assist in both hazard reduction and associated fire code compliance issues, both of which will impact issues of blight and public safety within the Washington Elementary School neighborhood. The Fire Department has also worked cooperatively with SMART Team members to alleviate nuisance properties, substandard housing issues, conduct weed abatement programs, private property vehicle abatement enforcement, and fire code enforcement actions. The following table identifies fire code enforcement efforts in the Washington Elementary School neighborhood for 2007:

Case Type	Completed Cases	Pending
Abandoned vehicles	67	0
Weed Abatement	15	3
Property Maintenance	16	6
Totals:	98	9

Between January 1, 2008 and November 30, 2008, there were 24 code enforcement related complaints in the Washington Elementary School neighborhood and nine additional complaints involving substandard housing conditions within the same area, six complaints regarding construction without permits, and four complaints for junk and trash on lots.

An assessment conducted by SMART Team members on December 20, 2008 revealed the following conditions:

- There are 96 street lights in the neighborhood, 9 of those lights are inoperable.
- There are 8 vehicles that appear to be inoperable that have been identified on public streets and 83 on private property.
- There are three vacant lots that have been identified with junk, trash and debris.
- There are 73 properties that have junk, trash, and debris in need of abatement.
- There were 6 properties identified with vehicles parked on lawns or other areas not intended for parking.

The interests of the Washington Elementary School neighborhood are represented by a "grass roots" organization identified as The Washington Residents for a Better Community (WRBC). This committee has been active with residents and representatives from the elementary school in the area

and has orchestrated several positive changes in the neighborhood throughout the years. In 2008, the primary concern of the group has been lack of adequate lighting in the neighborhood and gang member residency within the neighborhood.

2007/ 2008 Collaborative Code Enforcement Accomplishments for Washington Elementary School Neighborhood-

Washington Residents for a Better Community- In 2008, City Staff, members of the WRBC, and Washington School representatives met to address common concerns. This meeting resulted in the installation of additional lighting at the school to increase security at that location. This meeting also resulted in the repainting of crosswalks and curbing at the intersection of Garden & Myrtle Streets and the same intersection's conversion to a 4-way stop. In 2008 the City resurfaced Garden and Church Streets from Noble to Tulare Avenue and Myrtle from Bridge to Court Streets.

The WRBC has also resulted in a positive alliance between neighborhood residents and representatives of the City's SMART Team resulting in improved communication about neighborhood concerns and increased cooperation in an effort to enhance the quality of life within this area and reducing crime in the neighborhood.

Transiency- Police Sector Officers, business owners, and neighborhood residents have been working together to address issues of transiency in the area of Santa Fe & Tulare Streets. This effort has focused on working with recycling establishments in the area, removal of overgrown brush near business and along the tracks, and clean-up of the tracks themselves to improve public safety and neighborhood conditions. The Police Department has also conducted directed enforcement patrols in the area to address drug and alcohol violations and to increase police presence in the neighborhood.

426 S. Bridge Action Plan- The Neighborhood Preservation Unit identified this location as a nuisance within the Washington Elementary School neighborhood having been the source of 129 police calls for service between June 2006 and May 2007. The Neighborhood Preservation Unit addressed this issue through a variety of resources to include code enforcement, police directed enforcement, public works, and the fire department. The collaboration of these resources resulted in the installation of a chain-link fence in the alley to the rear of the property to reduce pedestrian traffic, regular meetings with the absentee landlord who now lives on site, improved lighting and signage, and the assignment of three sector officers to the area as opposed to one. As a result of these efforts, calls for service have seen a 57% reduction over the course of the last year (June 2007 through May 2008) from 129 calls for service to 55 calls for service.

Short-Term Objectives for Washington Elementary School Neighborhood-

The SMART Team has identified a series of short-term goals and objectives to accomplish over the course of the next two to three years specific to the Washington Elementary School neighborhood. These short-term objectives seek to provide expedient results and to build upon SMART Team collaborations as a means of maintaining momentum for the revitalization effort in the Washington Elementary School neighborhood and to ultimately achieve the long-term objectives identified in the following section.

- 1) Repair inoperable street lights (9) in the Washington Elementary School neighborhood by July 2009 to improve lighting conditions and public safety concerns. This will require a coordinated effort between the City of Visalia and Southern California Edison to accomplish.
- 2) Enhanced efforts to target abandoned vehicles on both public and private property in the Washington Elementary School neighborhood throughout 2009. This goal is in line with the neighborhood assessment conducted by the SMART Team on December 20, 2008. The Police Department will seek to resolve the 8 identified abandoned vehicles in 2009 and reducing abandoned vehicle calls for service by 10%, while the Fire Department will similarly

work towards reducing the number of private property abandoned vehicles by 50% in 2009 by dedicating a fire inspector to identify abatement opportunities one day per week.

- 3) Abatement of 73 properties in the Washington Elementary School neighborhood by the end of 2009 through a collaborative effort as a result of junk, trash and debris on the properties.
- 4) Courtesy Notices sent to (6) property owners regarding vehicles parked on lawn to remedy this particular issue.
- 5) Continue community educational opportunities within the Washington Elementary School neighborhood by the SMART Team through the use of City of Visalia PIO to provide information and education regarding this collaborative code enforcement effort. This information to be provided by the end of 2009 through presentations at upcoming Washington Residents for a Better Community meetings and explore the use of a mailing campaign to provide further information regarding SMART Team efforts and objectives of those efforts.
- 6) Ongoing use of the directed enforcement activities by Police Sector Officers to continue addressing specific issues in the Washington Elementary School neighborhood with increased participation of SMART Team partners. The Police Department will seek to reduce the number of drug and alcohol related calls for service in the Washington Elementary School neighborhood by 10% from 83 in 2007. The objective is to improve public safety and to impact Part 1 crimes within the Washington Elementary School neighborhood through a 10% reduction as a result of this effort.
- 7) The Fire Department will seek to conduct 12 apartment complex inspections in the Washington Elementary School neighborhood by July 2009 and conduct annual business, manufacturing, storage, hazardous, and institutional occupancies annually within the neighborhood.
- 8) The Fire Department will further seek to reduce fire dollar loss by 20% in 2009 through the use of commercial inspections and continued spring weed abatement programs.
- 9) The Fire Department will reduce fire calls for service by 20% in 2009 through Fire and Life Safety Inspections and Public Education campaigns.
- 10) Code Enforcement abatement of (3) vacant lots currently identified in the neighborhood assessment by the end of 2009. In addition, continued evaluation and abatement of additional properties that might be identified in the process.
- 11) The Planning Division's contribution to the SMART Team short term objectives in 2009 will include an assessment of key transportation corridors along Santa Fe, Court, Locust and Noble to include the Washington Elementary School neighborhood. This assessment will evaluate General Plan land use designations and existing residential zoning, and will determine whether changes in land use designations will spur reinvestment and revitalization by encouraging land uses that are more compatible with the character of these major streets. Future zoning will be more consistent with the traffic volumes identified along these routes, especially with the future Santa Fe over- crossing project that will convert Santa Fe Street to a north-south thoroughfare. These corridor studies will be started in January and completed in 2009, with recommendations presented to the City Council. Implementation of land use designations would require a future General Plan amendment and zone change efforts. The completed work will be incorporated into the future General Plan update.

Long-Term Objectives for Washington Elementary School Neighborhood-

The SMART Team has identified the following long-term objectives aimed at sustaining the revitalization of the Washington Elementary School neighborhood into the future. These long-term objectives are projected to be 5-10 years out and provide a vision for the neighborhood and the anticipated results of the short-term efforts currently in motion.

- 1) A 15% reduction of police calls for service in a 5-year timeframe, by 2013. Past accomplishments and identified short-term objectives are aimed at reducing police calls for service and an overall reduction of Part 1 Crimes in the neighborhood by 10% in the same time

period. Collaborative SMART Team efforts seek to employ the “Broken Window Theory” to instill a greater sense of pride and investment in the neighborhood thereby reducing crime.

- 2) A 20% reduction in abandoned vehicle, nuisance, and weed abatements by SMART Team members by 2016. While short-term objectives will seek to increase abatement efforts, the goal is to reduce the need of such abatement activities over the long-term through community education and successful abatement activities in the short-term.
- 3) A 20% reduction in both Fire Department calls for service and fire dollar loss by 2013 through public education campaigns and abatement efforts within the neighborhood.
- 4) Increase owner-occupancy within the Washington Elementary School neighborhood in single family residences from 19% to 30% by the year 2019 through collaborative efforts to improve the neighborhood.
Improve land use compatibility within the Washington Elementary School neighborhood by 2019 through planning and zoning evaluations of residential use along Santa Fe Street with the opening of the Santa Fe Bridge and along the Court, Locust, and Noble corridors.
- 5) Improve land use compatibility within the Washington Elementary School neighborhood by 2019 through planning and zoning evaluations of residential use along Santa Fe Street with the opening of the Santa Fe Bridge, and along the Court, Locust and Noble corridors.

Washington Elementary School Revitalization Measurements-

Baseline measurements to be utilized as a means of evaluating the success of the SMART Team collaborative efforts at revitalizing the Washington Elementary School neighborhood for the present, short-term, and long-term objectives are as follows:

- Police Calls for Service specific to the Washington Elementary School neighborhood in totality.
 - Alcohol & Drug related calls for service
 - Part 1 Crime reports (crime reduction)
 - Number of validated gang members residing within the neighborhood.
 - Abandoned vehicle abatements
- Fire Calls for service specific to the Washington Elementary School neighborhood in totality.
 - Fire dollar loss numbers
 - Abatement activity
- Code Enforcement calls for service specific to Washington Elementary School neighborhood.
 - Abatement activity numbers
 - Municipal Code violation comparison
- Home Ownership/ Owner-Occupancy rates within the Washington Elementary School neighborhood
- Business establishments within the Washington Elementary School neighborhood.

Prior Council/Board Actions: None.

Committee/Commission Review and Actions: None.

Alternatives: Continue traditional enforcement methods.

Attachments: Map of Lincoln Oval Park and Washington Elementary School neighborhoods.

Recommended Motion (and Alternative Motions if expected):

Accept staff progress report on the individual and collaborative code enforcement efforts in the Lincoln Oval Park and Washington Elementary School neighborhood areas; and provide direction as appropriate.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

City of Visalia Agenda Item Transmittal

Meeting Date: June 1, 2009

Agenda Item Number (Assigned by City Clerk): 1

Agenda Item Wording: QUARTERLY UPDATE ON COMPREHENSIVE CODE ENFORCEMENT EFFORTS IN THE OVAL PARK AND WASHINGTON SCHOOL NEIGHBORHOODS

Deadline for Action: None

Submitting Department: Housing & Economic Development

Contact Name and Phone Number: Ricardo Noguera, Housing & Economic Development Director (x4190), Tim Burns, Neighborhood Preservation Manager (x4172)

Department Recommendation: This is a quarterly status report on code enforcement efforts requiring no action.

Summary/background: On Friday, October 24, 2008, Department heads and staff from Police, Fire, Public Works, Community Development, Parks and Recreation and Housing and Economic Development Department met to formulate the creation of a project team to address city-wide code enforcement and targeted neighborhood efforts on a collaborative basis.

The S.M.A.R.T. Project Team was introduced to Council during a Work Session on Monday, January 5, 2009. During the session staff committed to providing Council with a progress report on the measurable efforts and accomplishments on a quarterly basis. This report provides a status on various activities undertaken over the past four (4) months. Staff plan to return to Council in December with an update comparing the first part of the year with the second half.

Key Elements of First Quarter. This report summarizes key elements focused on by the City's SMART Team which was formed in the Fall of 2008 by combining the Neighborhood Preservation Division's efforts with various city departments.

The key elements include:

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Neighborhood Preservation

Complaints

During the first quarter of 2009, the Division received a total of 289 complaints city-wide. Complaints are divided into two primary categories consisting of substandard housing complaints and general nuisance code enforcement complaints. General nuisance complaints involve a variety of complaints such as: abandoned vehicle, auto repair, animal, business in residence, commercial, conditional use permit, foreclosure properties, illegal vendor, junk, maintenance, marijuana cultivating, construction without permits, illegal signage, abandoned swimming pools, nuisance properties, trailer, traffic safety, yard sales, etc..

Substandard Housing Complaints

Seventy-five (75) of the 289 complaints received city-wide involved substandard housing. Thirteen (13) of the 75 substandard housing complaints received involved properties in the Lincoln Oval Park Neighborhood. Six (6) of those cases have been closed, 8 additional rollover complaints from previous years have also been closed. Five (5) of the 75 substandard housing complaints received involved properties in the Washington Elementary School Neighborhood. Two of those cases have been closed. Four additional complaints rolled over from previous years have also been closed.

Code Enforcement Complaints

Two Hundred and Fourteen (214) of the 289 complaints received city-wide involved code enforcement general nuisance complaints. Fifteen (15) of the 214 cases involved properties in the Lincoln Oval Park neighborhoods. Ten of the 15 cases have been closed. Six of the 214 cases involved in the Washington Elementary School Neighborhood; three of those cases have been closed.

A total of 142 non sub-standard housing complaints were opened city-wide during the first quarter of 2009 with 10 and 4 within the Oval Park and Washington School Neighborhoods; a total of 72 closed. A total of 32 substandard housing complaints opened thus far in 2009 with 14 and 6 in the Oval Park and Washington School Neighborhoods.

Cases

Lincoln Oval Park Neighborhood

- 317 NE Second Street – Foreclosure four-plex, new owner, permits issued, rehabilitation in progress
- 319 NE Second Street – Distressed four-plex, proactive code enforcement action for substandard housing, permit issued, work pending
- 1009 N. West Street – Distressed tri-plex, proactive code enforcement action for substandard housing, permits issued, rehabilitation underway
- 1735 N. Dinuba – Abandoned single family residence, property owner in care facility, staff is working with County Conservator to demolish residence and clear parcel
- 318 NE Fourth Street – Significantly fire damaged single family residence, abandoned, warrant pending with city attorney for demolition
- 308 NE 2nd Street – Vacant parcel with an unreinforced underground cave creating an attractive nuisance, proactive enforcement action taken, ground compacted, property owner noticed
- 315 W. Houston – Distressed commercial building, boarded and moving through site plan review process to develop into business office

- 335 W. Grove – 3-plex, excessive roach infestation, proactive code enforcement action in progress
- 238 NW 2nd – triplex, no heat in units, proactive code enforcement action in progress
- 208 NE 3rd – abandoned single family residence with transient habitation, attractive nuisance, boarded and proactive enforcement action in progress.

Washington School Neighborhood

- 944 S. Court Street- Distressed historical single family residence in foreclosure, recently purchased and rehabilitated and currently for sale
- 449 S. Garden Street – Distressed historical single family residence, residence purchased in foreclosure, rehabilitated and currently for sale
- 811 S. Church Street – Distressed single family residence in foreclosure, residence purchased, cost recovery fees, fines and penalties of \$16,018 paid with rehabilitation of residence to begin soon.

Other Projects in Process

- Lincoln Oval Housing Stock Survey – A snap shot evaluation of approximately 800 residential properties has begun in order to establish a baseline for housing conditions and future substandard housing enforcement needs. This is expected to be completed by the end of the year.
- Reformation of the Washington Neighborhood Committee comprised of residents, business owners, non-profits, pastor and school administrators. This Committee now meets monthly and is lead by Lieutenant Allyn Wightmon.
- Reserve Code Enforcement Office Program. A reserve program is being created to utilize trained volunteer code enforcement officers to assist code enforcement staff with lower level code enforcement violations that may not otherwise be resolved based on higher priority matters taking precedence. This program s projected to commence in the Spring of 2010.
- Volunteer in Code Enforcement Program. A volunteer program is being developed to assist code enforcement staff in dealing with lower priority quality of life code enforcement complaints such as abandoned shopping carts and non-permitted signage in the public right-of-way. This program is projected to commence in the Spring of 2010.
- Transition of the Private Property Vehicle Abatement Program from the Fire Department to the Housing and Economic Development Department. This transition is expected to take place in July 2009.

Building Inspector Assigned to Police Department

In October 2008, Council approved the hiring of a Building Inspector to be assigned to the Police Department to participate in drug and gang enforcement efforts, recognizing that although not a requirement, drug and gang violations frequently involve substandard housing violations as well.

During the first quarter of 2009, the Inspector has participated with the Police Department in the following activities:

- 11 search and warrants
- 5 Knock and Talks (visits to homes)
- 8 Police Department requests for inspections

- The Inspector has also been involved in the abatement of 16 contaminated swimming pools
- The Inspector has also assessed a total of \$220,854 in fees.

Miscellaneous Activities

Building Permit Activity in the Oval Park and Washington School Neighborhoods

A total of 21 building permits have commenced in the two neighborhoods during the first quarter of 2009. 13 permits were in the Oval and 8 in the Washington School Neighborhood. In the Oval Park area, 9 of the 13 have been finalized and are in the process of being issued. The majority relate to roof work. In the Washington School Neighborhood, 8 of the 9 have been issued and most pertain to residential alterations.

Corridor Studies

A study is underway to examine the long-term zoning for six corridors in and around the Downtown Visalia area and in the Oval Park and Washington School Neighborhoods. The objective is to evaluate current Corridor land uses with the intent to recommend zoning and/or other measures which will promote improvement and sustained vitality of the Corridors and the adjacent neighborhoods.

The Studies will focus on the following corridors:

1. Phase I: Corridors south of Highway 198 (Noble, Locust, Court & Santa Fe)
 May/June: Data collection and staff analysis
 June: Community/landowner outreach
 July: Recommendations presented to Planning Commission and City Council
2. Phase II: Corridors north of Highway 198 (Locust, Court, Dinuba Highway, Houston Avenue)
 July-September: Data collection and staff analysis
 October: Community/landowner outreach
 November: Recommendations presented to Planning Commission and City Council

Currently, staff are conducting field surveys for the corridors south of Highway 198 which are scheduled for completion in late May. Additionally, staff are completing mapping and evaluating zoning, design and historic districts, home occupancy, streets and infrastructure conditions. The City's Development Project Manager is managing this project and working in tandem with representatives from Planning, Engineering and Neighborhood Preservation divisions.

Community Cleanups

During the month of March, two successful cleanups were conducted in the Oval Park area. The Public Works Department led this effort with assistance from the Fire Department and Neighborhood Preservation Division which conducted door-to-door canvassing of residences inviting occupants to dump unwanted items from their homes and offer free smoke detectors. In April, the Public Works Department hosted a cleanup in the Washington School Neighborhood as well. Future "Dumps On Us" will be scheduled based on funding availability.

Music in the Park

Last Fall (2008), the City's Parks and Recreation Department hosted a total of four (4) very successful musical events in the Oval Park on Friday evenings. Bands were hired to play music and activities for children were provided. This year, local merchants are proposing to host the events which should begin by late Spring 2009.

Washington School Lights

Over the past several months, staff have worked diligently to advance the street lighting deficiencies in the neighborhood. A total of 47 new street lights will be installed at select locations throughout the neighborhood beginning in June. Many lights will be installed on existing power poles. Also, staff is currently evaluating the feasibility of installing additional street lights around Jefferson Park.

Homeownership and Rehabilitation

Since November 2008, Habitat for Humanity has purchased and rehabilitated a total of three real estate owned and foreclosed homes in the Oval Park area utilizing a combination of NSP (Neighborhood Stabilization Program) funds and Redevelopment low/mod funds for the initial purchase. The City has also aggressively targeted the acquisition of foreclosed homes through its' foreclosure acquisition program in both neighborhoods and has purchased one home and has two in escrow in North Visalia (outside of the Lincoln Oval Park boundaries). The City also established a market rate loan program in the two targeted neighborhoods with one loan currently under review. Staff continue to market the program with local realtors and neighborhood organizations. A major challenge in financing homes is due to the foreclosure crisis. Prospective buyers can choose homes and neighborhoods in which to purchase their new homes. Historic homes tend to fall within older neighborhoods, many with challenges, deeming them more difficult to market. Plus, these homes tend to need more rehabilitation while homes in newer neighborhoods require less upgrades. Staff will continue to market the program in the neighborhoods working closely with realtors representing homes for sale as well as the Historic Preservation Committee and other interested bodies.

Graffiti Cleanup

Under the direction of the Parks and Recreation Department, a total of 2,873 graffiti cases have been addressed city-wide; 172 in the Oval Park and 324 in the Washington School Neighborhoods. Thus far in 2009, a total of 395 cases have been cleaned city-wide with 19 in the Oval Park and 15 in the Washington School Neighborhoods. Local residents have played a key role in notifying staff when graffiti appears. Generally, it is removed within 72 hours.

Police Activities

During the first quarter of 2009, the Visalia Police Department has been engaged with SMART Team efforts through the District 1 & 2 Patrol Substations and members of the Special Enforcement Bureau.

The assignment of a Building Inspector to the Police Department's Special Enforcement Bureau has improved communication between the two units and is proving to be an effective collaboration. This Inspector has assisted Department units on 11 search warrants in 2009 and provided assistance in response to other neighborhood complaints handled by officers and investigators alike. The Department's Narcotics Unit has implemented the Drug Residence Notification Letter identified in Visalia City Ordinance 15.44.240B. This Ordinance prohibits a landlord from knowingly causing or permitting a rental property to be used for any drug related use. The use of this Ordinance will aid City officials in addressing recurring violators. The process of tracking and conducting follow-up in response to notifications delivered to property owners will be a collaborative effort between Code Enforcement and the Narcotics Unit. Thus far, two (2) notices have been issued.

Special Enforcement Bureau Units have served seven search warrants for narcotics violations within the Lincoln Oval and Washington School areas to date in 2009. These investigations, coupled with assistance from the Code Enforcement Unit are aimed at reducing illegal drug

activity within Visalia neighborhoods and addressing substandard housing conditions that are commonly associated with those activities.

The Department's District 1 and Traffic Unit officers have been an active partner in community meetings and planning sessions to develop ideas for the Caltrans Grant that is aimed at improving traffic flow through the Lincoln Oval Park area. Visalia Police Officers and Volunteers in Police Services (VIPs) also participated in the Oval Park Clean-Up days sponsored by the Public Works Department in February and in April assisted with similar efforts in the Washington School neighborhood.

The Lincoln Oval Park neighborhood is within the safe zone boundaries of the City's civil gang injunction that was implemented in May 2008. There have been a total of 174 validated gang members served with notice of the civil gang injunction and 8 arrests made for violation of the injunction. The injunction has had a significant impact on a reduction of blatant gang activity in the Lincoln Oval Park neighborhood and a reduction in overall gang crime. During the first quarter of 2009, there have been only 8 eight incidents of gang-related violence city-wide.

Visalia Police Citizen Volunteers, Sector Officers, and Community Service Officers are continuing to monitor abandoned vehicles located within public right-of-way. These efforts have resulted in enforcement action taken against 10 abandoned vehicles in the Lincoln Oval Park Area and 21 in the Washington School Area.

The Department will be evaluating strategies for the upcoming summer months to address drug and alcohol calls for service that tend to increase with warmer weather, similar to the Lincoln Oval Action Plan employed by District 1 Officers in the Summer of 2008.

Fire Safety

Smoke Detectors Issued

In order to minimize fire hazards in homes, the City's Fire Department has pro-actively installed smoke detectors to households throughout the City. In 2008, a total of 128 were installed with a goal of 200 in 2009. Thus far, fire personnel have installed 33 smoke detectors in the Oval Park Neighborhood as part of a community-wide clean-up conducted in March. A total of 50 are projected to be installed in the Oval Park Neighborhood in 2009 and 25 in the Washington School Neighborhood. The Fire Department has also provided code enforcement staff with a supply of smoke detectors to install when building inspectors recognize the need.

Additionally, fire personnel painted a total of 46 and 40 hydrants in the Oval Park and Washington School Neighborhoods respectively this past quarter.

Fire Inspections

Residential

In 2009, the Fire Department intends to identify all residential living units with 5 or more attached units so that fire compliance can be performed in future years. These units will be identified with an R-2 designation.

57 R-2 units have been identified in the Lincoln Oval Park neighborhood. 51 R-2 units have been identified in the Washington Elementary School Neighborhood. The Fire Department intends to inspect 12 R-2 units per month in either the Lincoln Oval or Washington School neighborhoods.

Commercial

Ninety (90) business locations have been identified in the Lincoln Oval Park area, 24 were inspected in the first quarter. 18 business locations were identified in the Washington School area, 7 were inspected in the first quarter of 2009. The goal for the year is to complete 15 per month and 180 for the year in the two neighborhoods.

Abandoned Vehicles on Private Property

This program is in the process of being transferred from the Fire Department to the Housing & Economic Development Department (HEDD). Due to the Neighborhood Preservation Division's role conducting indepth inspections of residential properties and the Fire Department's need to focus more attention on fire inspections for commercial and multi-family developments with only one inspector, it makes more sense to transfer this activity. In 2007, 29 and 67 abandoned vehicles were abated in the Oval Park and Washington School Neighborhoods respectively. In 2009, the goals are for 52 and 34 respectively. Thus far, the Oval Park has a total of 18 cases started with 10 complete. In the Washington School Neighborhood, 14 cases have started with 4 completed. These numbers are expected to increase with the transfer from Fire to HEDD within the next few months. Staff anticipate completing extensive public outreach to ensure the appropriate community education occurs before pursuit of a pro-active abatement of vehicles. This program will also generate revenues for the City resulting in fees assessed for removal of vehicles.

Weed Abatement

In 2007, there were 25 and 15 properties abated in the Oval Park and Washington School Neighborhoods respectively. Thus far, 10 and 3 cases have been opened respectively. However, Weed Abatement Season began on April 15th. It is anticipated these figures will increase over the next few months.

Property Maintenance

This includes removal of all junk and trash from private properties. In 2008, 164 and 73 properties were cleared in the Oval Park and Washington School Neighborhoods respectively. Thus far, the Department has cleared 1 parcel in the Oval and 9 in the Washington School area.

SMART Team

Initially, the SMART Team began meeting bi-weekly following the January 5th presentation to Council. Shortly thereafter, meetings were converted to monthly and combined with the Neighborhood Preservation Division's meetings since many of the same staff attended both meetings. This Committee has proven to be very effective in order to improve communications between city departments and divisions as well as partner agencies such as Cal-Water, Southern Cal Edison and other utility companies. Most recently, the Team assisted the Public Works Department in coordinating two effective cleanups in the Oval Park Neighborhood.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: On January 5, 2009, Council received and accepted a progress report on the individual code enforcement efforts occurring in the Lincoln Oval Park and Washington Elementary School Neighborhood areas.

Alternatives: None

Attachments:

Recommended Motion (and Alternative Motions if expected): Accept staff's progress report on the collaborative efforts city-wide and in the Lincoln Oval Park and Washington Elementary School neighborhood areas and provide direction as appropriate.

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: N/A

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

Copies of this report have been provided to: