

Regular Meeting Agenda

Visalia City Council



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

Monday, April 5, 2010

Visalia Convention Center, 303 E. Acequia, Visalia CA 93291

Closed Session 6:00 p.m. (or immediately following Joint Meeting of City Council and Planning Commission)

Regular Session 7:00 p.m.

6:00 p.m.

CLOSED SESSION (immediately following Joint Meeting of City Council and Planning Commission)

1. Conference With Real Property Negotiators (G.C. §54956.8)
Property: Portions of APN: 081-160-011 [formerly 081-020-075] (Plaza at Hurley, Visalia - no site address), 081-130-013 (615 N. Plaza Dr., Visalia), 081-160-007 [formerly 081-020-070] (Plaza at Hurley, Visalia - no site address), 081-110-087 (700 N. Plaza Dr., Visalia), 081-110-056 (1010 N. Plaza Dr., Visalia), 081-110-051 (1130 N. Plaza Dr., Visalia), 081-110-022 (1150 N. Plaza Dr., Visalia), 081-110-050 (1200 N. Plaza Dr., Visalia)
Under Negotiation: Consideration and approval of appraisals; Authority to negotiate price, terms and conditions of potential purchase
Negotiating Parties for Landowners: Stanley C. Bennett and Tamra A. Bennett, Mathew Bruno, Ugo Pasarelli for CDEC 535246, LLC, Stacy Broderick for Anthony and Eveyln Borba, Anthony and Monique Da Costa, Albert and Barbara Bentley, Michael Burson for W.M. Lyles Company
Negotiating Parties for City: Steve Salomon, Chris Young, Colleen Carlson
2. Conference with Legal Counsel - Anticipated Litigation - Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 1 potential case
3. Conference With Real Property Negotiators (G.C. §54956.8)
Property: 432 N. Ben Maddox Way, APN: 098-142-050
Under Negotiation: Authority to negotiate price, terms and conditions of potential purchase
Negotiating Parties: Steve Salomon, Andrew Benelli, Richard Fujikawa, Southern California Edison
4. Conference With Real Property Negotiators (G.C. §54956.8)
Property: Lincoln Oval Community Building
Under Negotiation: Authority to negotiate rates, terms and conditions of potential lease
Negotiating Parties: Steve Salomon, Ricardo Noguera, Buddy Jones & Friends Foundation, Inc.

7:00 p.m. REGULAR SESSION

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION – Pastor Lori Quinzon, Neighborhood Church

SPECIAL PRESENTATIONS/RECOGNITION

- Resolution of Commendation to Sue Shannon for her service on the COS Board of Trustees
- Proclaim April 11-17, 2010 National Public Safety Telecommunications Week
- Proclaim April National Child Abuse and Neglect Prevention Month

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.

5. **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 staff to vote yes on the Delta Vector Control District's Prop 218 assessment ballot to fund a laboratory at the district headquarters resulting in an annual assessment to the City for the next 10 years of approximately \$1,200.
- c) Second reading of Ordinance adding Chapter 8.66 and sections 8.66.010 and 8.66.020 to the Visalia Municipal Code prescribing authority to make and enforce a policy governing retention and destruction of routine video monitoring records. **Ordinance 2010-01 required and Resolution 2010-14 required.**
- d) Award contract for the construction of Lion's Neighborhood Park in northwest Visalia (West Ferguson Avenue) to the BMY Construction Group in the amount of \$652,194.
- e) Award contract for the construction of Mill Creek Garden Park (located at Lover's Lane and Mill Creek Parkway) playground improvements to Hobbs Construction, in the base bid amount of \$109,756, plus alternate additives 1-3 in the amount of \$29,000 for a total contract award of \$138,756.

- f) Authorization to file a Notice of Completion for Pheasant Ridge 3A, a subdivision (containing 12 single family lots), located on the west side of Roeben Street, approximately ¼ mile south of Riggin Avenue.
- g) Authorize the Transit Division to purchase, on a sole source basis, LED signage equipment from Digital Recorders, Inc. to provide bus route numbers and real time schedules for each route at the transit center for a not-to-exceed price of \$178,930 using funds previously appropriated for the Transit Center Expansion.
- h) Review and approve the Public Opinion Survey open-ended question proposed by the Citizens Advisory Committee subcommittee.
- i) Authorize the City Manager to execute a contract with the lowest bidder, for the rehabilitation of the property located at 210 NW 2nd Avenue in an amount not to exceed \$136,000.

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.*

- 6. **PUBLIC HEARING** - Request by MSJ Partners to execute a second amendment to the Pre-Annexation Agreement pertaining to the 480 acre Vargas annexation, located along Plaza Drive north of Riggin Avenue. **Resolution 2010-15 required.**
- 7. Review and comment on Draft Five-Year Consolidated, Strategic and Citizens Participation Plans, the Analysis of Impediments and 2010/11 Action Plan for the use of U. S. Department of Housing and Urban Development (HUD) federal Community Development Block Grant (CDBG) and HOME Investment Partnership Funds administered by the City of Visalia's Housing and Economic Development Department

ITEMS OF INTEREST

CLOSED SESSION REPORT (if any)

Upcoming Council Meetings

- Monday, April 12, 2010, 4:00 p.m. Work Session; 7:00 p.m. Special Session, Convention Center, 303 E. Acequia
- Monday, April 19, 2010, 4:00 p.m. Work Session; Regular Session 7:00 p.m., Council Chambers 707 W. Acequia
- Monday, April 26, 2010, 5:00 p.m. Joint Work Session with the Parks and Recreation Commission, Convention Center, 303 E. Acequia
- Monday, May 3, 2010, 4:00 p.m. Work Session; Regular Session 7:00 p.m., Council Chambers 707 W. Acequia

Note: Meeting dates/times are subject to change, check posted agenda for correct details.

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.

Resolution of Commendation

Sue Shannon

Whereas, Sue Shannon is being recognized for her 11 years of service as a member of the College of the Sequoias Board of Trustees; and

Whereas, Sue was elected in January 1999 to serve as Trustee, Ward 2 and was the first woman to serve on the Board; and

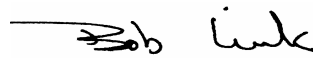
Whereas, Sue's vast experience in business and philanthropic activities have provided the Board with valued leadership and with a unique perspective on community needs; and


Whereas, the establishment of the College Center Campus in Tulare is one of many goals that Sue has seen fulfilled as a Trustee; and


Whereas, Sue is to be commended for her vision for the future, her commitment to education, and her service to others by being on the COS Board of Trustees.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Visalia, does hereby commend and recognize Sue Shannon for her 11 years of service on the College of the Sequoias Board of Trustee to promote education in our community.

Dated: April 5, 2010


Bob Link, Mayor


Amy Shuklian, Vice-Mayor


E. Warren Gubler, Councilmember


Michael Lane, Councilmember


Steven A. Nelsen, Councilmember

Child Abuse & Neglect Prevention & Awareness April, 2010

Whereas, child abuse and neglect is a serious problem affecting 3 million children nationally with one out of 11 children in Tulare County a reported victim of child abuse or neglect; and

Whereas, prevention of child abuse and neglect is a community responsibility and solutions depend on the awareness and involvement of all community members; and

Whereas, wearing a blue ribbon pin as a symbol of child abuse and neglect prevention raises the community's awareness and encourages participation in efforts to provide children safe, nurturing environments; and


Whereas, communities need to make every effort to promote programs that benefit children and their families; and

Whereas, April is National Child Abuse and Neglect Prevention Month.


Now, Therefore, the City Council of the City of Visalia, does hereby proclaim April as Child Abuse and Neglect Prevention and Awareness Month and we urge all citizens to better understand, recognize and respond to this grievous issue, and make a concentrated effort to make children safe, supported, provided for, and protected.

Dated: April 5, 2010


Bob Link, Mayor


Amy Shuklian, Vice-Mayor


E. Warren Gubler, Councilmember


Michael Lane, Councilmember


Steven A. Nelsen, Councilmember

National Public Safety Telecommunication Week
April 12–16, 2010

Whereas, emergencies can occur at anytime that require police, fire or emergency medical services; and

Whereas, when an emergency occurs the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and

Whereas, the safety of our police officers and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Visalia Police Department Dispatch Unit; and

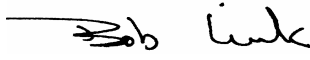
Whereas, the Communication Operators of the Visalia Police Department are the first and most critical contact our citizens have with emergency services; and

Whereas, the Communication Operators have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients; and

Whereas, each Communication Operator has exhibited compassion, understanding and professionalism during the performance of his/her job in the past year.


Now, Therefore, the City Council of the City of Visalia, does hereby proclaim the week of April 12 through 16, 2010 to be "National Public Safety Telecommunication Week" in Visalia, CA, in honor of the men and women whose diligence and professionalism keep our city and citizens safe.

Dated: April 5, 2010


Bob Link, Mayor


Amy Shuklian, Vice-Mayor


E. Warren Gubler, Councilmember


Michael Lane, Councilmember


Steven A. Nelsen, Councilmember

City of Visalia Agenda Item Transmittal

Meeting Date: April 5, 2010

Agenda Item Number (Assigned by City Clerk): 5b

Agenda Item Wording: Authorization for staff to vote yes on the Delta Vector Control District's Prop 218 assessment ballot to fund a laboratory at the district headquarters resulting in an annual assessment to the City for the next 10 years of approximately \$1,200.

Deadline for Action: N/A

Submitting Department:

Contact Name and Phone Number: Leslie Caviglia, 713-4317

Department Recommendation

It is recommended that the Council authorize staff to vote yes on the Delta Vector Control District's Prop 218 assessment ballot to fund a laboratory at the district headquarters resulting in an annual assessment to the City of approximately \$1,200.

Summary

The Delta Vector Control District (DVCD) is an independent special district that controls and monitors mosquitoes and insects and animals that can transmit diseases including West Nile Virus, carried by mosquitoes, and Lyme Disease which is transmitted by ticks. The District abates potentially dangerous pests, and regularly tests for diseases carried by mosquitoes. The District also educates property owners and occupants of property in the District about how to protect themselves from diseases transmitted by these and other organisms.

The District is proposing a 10-year assessment of up to \$473,776 (\$4.73 million over the 10 year period) that would be used to fund a 3,874 sq ft building that would include a state-of-the-art laboratory, insectory, insecticide testing room, a microbial lab, two offices, break and restroom facilities and a multi-purpose room. The funding also covers the cost of the election, the engineer's report in preparation for the election, County collection fees and other costs associated with the administration of the assessment.

The District does not have adequate laboratory facilities to conduct the appropriate testing in a timely manner for such diseases as West Nile Virus. When a potentially infected animal or pest is found, the samples have to be sent away, and can take multiple days to process for results. Having an adequately equipped laboratory locally will enable the District to provide conduct more testing in a timely manner with testing turn around in as little as 24 hours, and improved

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 31910

Finance

City Atty

City Mgr

response time to begin control efforts by 2 to 14 days, depending upon the type of pest and disease.

Proposition 218 was a California ballot initiative passed in 1996 that requires that all taxes and most charges on properties be subject to property owner approval. The District is conducting the election in accordance with the provisions of Proposition 218. The ballots are weighted based on assessed value. In order to implement the assessment, the District must receive more yes votes, weighted by the proportional financial obligation of the property. (For example, a vote from a property owner of a multi-family residential unit will carry more weight, and have a higher assessment, than a vote cast by a single family home owner.

Staff's recommendation is based upon a preemptive stance. The argument can be made that the current testing methods are working and no significant outbreak has resulted due to a time delay through the current testing system. However, the state and especially this agricultural area face new and different pests, as well as pests that are becoming resistant to current control methods. Staff believes that this is one of those situations where being prepared will put the community in a better position to respond to a potential or real threat that could cause concern amongst our citizens. When faced with a concern about whether a disease, such as the recent West Nile Virus, is in a neighborhood, there can be great angst. If it's a real threat, knowing the results sooner means appropriate action can be taken. If it's false, the reassurance of that fact in a timely manner can be important. Staff believes that the District's efforts to have local control over testing are appropriate.

Department Discussion

About the District:

The DVCD was formed in 1922 to address chronic Malaria, as well as elevated mosquito populations in northwest Tulare County. Their role was expanded in the mid-1960's to include control of other disease-carrying insects and rodents (called vectors). It serves a 712 square mile area with approximately 240,000 residents, including most of Visalia. (Map attached)

It is a Special District with a Board of Directors. The Visalia City Council appoints one member to the 7 member board. The Council's current representative is former Council Member Evan Long, who is currently Chair of the DVCD. Other members including Belen Gomez, Woodlake; Bruce Myers, Exeter; Harold Dozier, Dinuba; Bette George, County of Tulare; Richard Phillips, Farmersville. There is currently one County of Tulare vacancy. Mike Auburn is the District Manager.

Some of the District's current services include:

- Response to mosquito problems as well as other pestiferous or disease-carrying organisms on property in the District.
- Control of mosquito larvae on residential property, agricultural sources, ditches, drain lines, vaults, seasonally flooded ponds, horse troughs, wastewater treatment plants, under buildings, freshwater marshes, creeks, catch basins, and other sources on property in the District.
- Survey and data analysis of mosquito larvae populations to assess public health risks and allocate control efforts on property in the District.
- Monitoring for diseases carried and transmitted by mosquitoes and other arthropods on property in the District, such as Encephalitis, Malaria, Dog Heartworm, and West Nile Virus.

The improvements the District will add if the assessment is approved include the following:

- Development of local and comprehensive mosquito, vector and disease testing laboratory and other supporting facilities at the District's headquarters in Visalia, which may provide 24 hour warning of disease presence within the District service area.
- Rapid, cost effective, local testing of mosquitoes, vectors, other pests and diseases which may improve response time of control efforts by between 2 to 7 days.
- Expanded monitoring for diseases carried and transmitted by mosquitoes and other arthropods on property in the District, such as West Nile virus, Encephalitis, and Malaria. An additional 35% of collected viable mosquitoes may be tested in house, increasing site-specific response to enhance mosquito control efforts.
- Local testing of sentinel chickens and dead birds for vector-borne diseases will provide results within 24 hours of testing, reducing response to mosquito control efforts by 10 to 143 days.
- Monitoring of new and emerging vectors such as the Asian Tiger Mosquito.

Cost and Assessments:

The District has a current operating budget of about \$2 million that is funded primarily through current property taxes. (Copy of proposed operating and debt budget attached) The assessment would be increased by \$473,776 in additional funding to pay for the laboratory, equipment and associated administration costs. The actual amount of the debt and therefore the assessment may vary depending upon the financing mechanism used. The estimate was prepared based on issuing certificates of participation, but other financing, such as local traditional financing, may actually be a less expensive alternative. District staff has indicated they will explore all financing options before taking on the debt.

The District estimates that \$380,477 annually will be used to pay for the construction and equipment debt service. The remaining \$93,299 will be used to pay for the debt service associated with the balloting costs, and engineering assessment, as well as county collection fees, and allowance for uncollectable assessments.

The uncollectable assessments would include assessments that are not collected. On average the District experiences a 7% delinquency rate. While some of that is collected over the long term, other payments are waived due to bank owned foreclosures, public agency purchases, etc. In addition, there are parcels that will never reach a \$10 billing threshold over the life of the assessment. The County will only bill once the assessment reaches \$10. In some instances, such as for a single family home which has an assessment of \$6.50, the DVCD assessment will only be billed every 2 years, once the assessment value reaches \$10 or more. As the attached list of parcel for the City indicates, there are several parcels that receive a very small perceived benefit that will never reach \$10 over the life of the assessment. These would also fall in the uncollectable assessment category.

State law provides that publically owned properties must be assessed unless those properties are reasonably determined to receive no special benefit from the assessment. Publically owned property that is used for purposes similar to private residential, commercial, industrial, agricultural, or institutional uses is benefited and assess at the same rate as privately owned property. (See attached list of property types and assessments)

According to the engineer's report, miscellaneous, small and other parcels such as roads, right-of-way parcels, and common areas typically do not generate significant numbers of employees, residents, customers or guest and have limited economic value. These miscellaneous parcels

receive minimal benefit from the services and improvements and are assessed a benefit factor of 0.

Staff has done a spot check on the 370 City-owned parcels for which the City received a ballot and based on this check, believe the District's assessment of the City's proportionate share of the assessment is appropriate. (List by parcel number with assessment attached) For example, the two highest assessments, those at \$74.75, are the ballpark and the golf course. Two others, a \$.03 and a 0 assessment, proved to be a vacant trip of land that will be a future street, and a portion of a trail.

There are two zones within the assessment district, Zone A and Zone B. Zone A tends to be the denser populated area which the engineer predicts would receive a higher benefit from the assessment and therefore receives a proportionately higher share of the assessment cost. Zone B, which is much smaller than Zone A, contains properties in the far eastern portions of the District that receive a reduced level of services because they are generally in more remote, mountainous or inaccessible areas, and they support less population.(Zones are included on map of District).

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

To direct staff to vote no

To direct staff to not return the ballot

Attachments:

Map of the Delta Vector Control District

List of City parcels and proposed assessment

Proposed operating and debt service budget

List of proposed assessment rates

Renderings of proposed laboratory and multi-purpose facility

Recommended Motion (and Alternative Motions if expected):

I move to authorize staff to vote yes on the Delta Vector Control District's Prop 218 assessment ballot to fund a laboratory at the district headquarters resulting in an annual assessment to the City for the next 10 years of approximately \$1,200.

City of Visalia Agenda Item Transmittal

Meeting Date: April 5, 2010

Agenda Item Number (Assigned by City Clerk): 5c

Agenda Item Wording: Second reading of Ordinance 2010-01, adding chapter 8.66 and sections 8.66.010 and 8.66.020 to the Visalia Municipal Code prescribing authority to make and enforce a policy governing retention and destruction of routine video monitoring records. **Ordinance 2010-01 required.** Presentation of the Routine Video Monitoring Records Policy for Council approval. **Resolution 2010-14 required.**

Deadline for Action: None

Submitting Department: Information Services and Police

Contact Name and Phone Number:

Michael Allen, x4515, Information Services
Steve Scofield, x4240, Police

Department Recommendation: It is recommended that the City Council approve Ordinance 2010-01. The ordinance prescribes the authority to make and enforce a policy governing retention and destruction of routine video monitoring records. It is also recommended that the City Council approve Resolution 2010-14, which adopts the proposed Routine Video Monitoring Records Policy.

Summary/background: The City of Visalia utilizes about 115 video security cameras throughout City operations. These include cameras currently at the Airport, Transit facilities and buses, and various Police facilities and vehicles. The attached Routine Video Monitoring Records Policy (the "Policy") covers the purpose, expectation of privacy, retention and destruction of routine video monitoring records from these security cameras. Ordinance 2010-01 prescribes the authority to make and enforce this policy. Resolution 2010-14 adopts the proposed Routine Video Monitoring Records Policy.

Much of the groundwork for this policy was developed by the City of Fresno; their policy was presented, debated, refined, and finally approved in September 2006. The City of Visalia has many of the same concerns and situations as Fresno. The City of Fresno has graciously allowed Visalia to re-use as much of their policy as desired.

The purpose of these cameras is to deter theft and vandalism and assist in identifying individuals who damage City property, deter acts of violence or aggression, and assist law enforcement with investigating criminal activity. Video is either "monitored" (viewed in real-time

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.

by a staff member) or “recorded” (saved to a computer for later review, if necessary). This policy is limited to video monitoring and recording of public areas that is not being conducted pursuant to criminal warrants.

This ordinance establishes and authorizes the differences between the City’s policy and California State Government Codes (section 34090) regarding video retention. Per state code, the *minimum* retention period for video records is one year and some legislative efforts have sought to extend this retention period. As a charter city, the City Council of the City of Visalia can authorize a policy differing from state statutes. As proposed in this new policy, the minimum retention period for video records (excepting the older transit bus cameras, which by state code may be shorter) will be 30 days. (The older transit bus system cameras are designed to function on a 3-day retention/re-use cycle.) Although this policy establishes a minimum retention period, individual departments may choose to retain certain types of video for longer periods. The primary reason for a 30-day retention period is that video storage for a one-year period is exceptionally expensive and labor intensive to manage – close to one million dollars for existing cameras alone. The 30-day retention period allows for ample time to review an “event” and save that video for future investigative or legal use without burdensome expense.

While establishing the retention period for video records is the primary purpose of the ordinance, a secondary purpose is to clarify access and restrictions to the information contained on the video records and to ensure the privacy and anonymity of individuals. These video systems are *not* designed to track people, but are designed to deter criminal activity. This secondary purpose becomes especially important if video surveillance systems are utilized to help protect the property and people in public areas such as parks, parking garages, convention areas, etc.

The policies and procedures of the Policy stipulate:

- 1) The City Manager or his designee to approve the installation and objectives of each video monitoring/recording system.
- 2) Specify the location and direction that video monitoring equipment will be pointed.
- 3) Affirm the expectation of privacy and anonymity of the general public.
- 4) Affirm the right of individuals to freely express themselves and associate freely in public settings.
- 5) Notification and/or signage procedures for routine video monitoring.
- 6) Responsibility for the oversight of routine video monitoring systems.
- 7) Protection of video monitoring information.
- 8) Retention and destruction of routine video monitoring records.
- 9) Access and use of recorded information.
- 10) Ongoing review of routine video monitoring systems and adherence to this Policy.

Attached is a Resolution approving this proposed Routine Video Monitoring Records Policy.

Prior Council/Board Actions: First reading of Ordinance 2010-01nd the draft Routine Video Monitoring Records Policy on March 1, 2010.

Committee/Commission Review and Actions: None

Alternatives:

- Attachments:** 1) Ordinance 2010-01
2) Routine Video Monitoring Records Policy
3) Resolution 2010-14

Recommended Motion (and Alternative Motions if expected):

I move to approve the second reading of Ordinance 2010-01 adding chapter 8.66 and sections 8.66.010 and 8.66.020 to the Visalia Municipal Code prescribing authority to make and enforce a policy governing retention and destruction of routine video monitoring records; and to approve Resolution 2010-14 establishing the Routine Video Monitoring Records Policy.

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:

ORDINANCE NUMBER 2010 – 01

ADDING CHAPTER 8.66 AND SECTIONS 8.66.010 AND 8.66.020 TO THE VISALIA MUNICIPAL CODE PRESCRIBING AUTHORITY TO MAKE AND ENFORCE A POLICY GOVERNING RETENTION AND DESTRUCTION OF ROUTINE VIDEO MONITORING RECORDS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: Consistent with its control over municipal affairs and the powers vested in the City of Visalia through the California Constitution, the City of Visalia is authorized to govern retention and destruction of routine video monitoring records for the sole purpose of securing and promoting public safety, deterring criminal activity, and assisting law enforcement agencies in investigating criminal activity. Therefore, the City Council of the City of Visalia hereby adopts the following additions to the Municipal Code.

Section 2: Chapter 8.66, consisting of Sections 8.66.010 and 8.66.020 are added to the Visalia Municipal Code and shall read as follows:

**CHAPTER 8.66
AUTHORITY TO REGULATE RETENTION AND DESTRUCTION OF
ROUTINE VIDEO MONITORING RECORDS**

8.66.010 Declaration and Purpose.
8.66.020 Authority to Implement Regulatory Policy.

8.66.010 Declaration and Purpose.

A. The general purpose of routine video monitoring by the City of Visalia and all of its departments is to assist local law enforcement agencies in investigating criminal activity, and to protect the security of the City's property and personnel.

B. The City Council of the City of Visalia hereby declares that retention and destruction of records created by video monitoring equipment operated by the City of Visalia are municipal affairs pertaining solely to local concerns. As such, the City of Visalia has the authority to make and enforce ordinances, regulations, and policies concerning retention and destruction of its routine video monitoring records.

8.66.020 Authority to Implement Regulatory Policy.

Consistent with its powers over municipal affairs, the City of Visalia hereby directs the City Manager or his/her designee to develop and enforce a policy governing when video monitoring shall occur, the use of such records, and retention and destruction of such routine video monitoring records ("Video Monitoring Records Policy"). Such Policy shall be initially presented to the City Council for approval by Resolution and may be amended from time to time by Resolution of the City Council. The Video Monitoring Records Policy adopted pursuant to this

Section shall include, but not be limited to, provisions related to: (1) timing of destruction; (2) use of records; (3) When video monitoring shall be used.

Section 3: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not effect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Visalia hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 4: Construction. Under the authority granted to it by the California Constitution, the City Council intends this Ordinance to take precedence over applicable state and federal law to the extent authorized by law. This Ordinance shall be construed in light of that intent.

Section 5: Effective Date. This Ordinance shall take effect thirty days after its adoption.

Section 6: Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED AND ADOPTED:

Robert Link, Mayor

ATTEST:

Donjia Huffmon, City Clerk

APPROVED AS TO FORM
BY CITY ATTORNEY:

Alex M. Peltzer, City Attorney

CITY OF VISALIA

ROUTINE VIDEO MONITORING RECORDS POLICY

PURPOSE AND SCOPE

In order for public locations and facilities under the City of Visalia's jurisdiction to be safe and secure, the use of electronic systems for routine video monitoring or recording may be necessary. The purpose of this Routine Video Monitoring Records Policy ("Policy") is to ensure that their use is consistent with federal, state law, and local law, and reasonably balances privacy concerns with personal safety and responsible stewardship of the community's assets.

This Policy applies to systems that enable continuous or periodic routine video monitoring or recording on a sustained basis for the following purposes:

- (a) Deter theft and vandalism and assist identifying individuals who damage City facilities or property;
- (b) Assist law enforcement with investigating criminal activity; or
- (c) Promote a safer environment by deterring acts of violence or aggression.
- (d) The system will not be used for:
 - 1. Arbitrary viewing of citizens; or
 - 2. Viewing activities where a reasonable expectation of privacy exists, even though conducted in public places.

Other examples may exist that are too numerous to expound upon in this Policy that will limit the use of routine video monitoring information obtained by this system.

This Policy specifies rules of acceptable City of Visalia use of the routine video monitoring system and designates specifications in order to achieve the Policy's purpose without compromising the public's right to privacy. This Policy must also be flexible to adjust for unanticipated incidents, occurrences, or applications for future improvements. This policy is limited to video monitoring and recording of public areas that is not being conducted pursuant to criminal warrants.

DEFINITIONS OF MONITORING AND SURVEILLANCE

This policy concerns video monitoring or video recording, meaning viewing recorded images from cameras that the City of Visalia has approved pursuant to the procedures in this policy for the purposes of enhancing public safety. Video monitoring or video recording will typically occur in specifically designated areas or from cameras mounted on specific vehicles. These cameras will be marked and identified unless they are being used for surveillance, as defined below.

Surveillance, for the purposes of this policy shall mean the video monitoring or recording of a public area related to the reasonable suspicion of a potential illegal activity occurring in a public

place. Video cameras that are being used for surveillance will not be marked or identified. Using video surveillance as a tool in investigating specific individuals or using video surveillance in an investigation involving an area with a reasonable expectation of privacy are separate issues that are not subject to this policy. This policy is only meant to cover video monitoring in public areas where no warrant is required.

POLICIES AND PROCEDURES

Installation Approval

The approval process for installation of routine video monitoring or recording systems fall within the following categories (depending upon the intended use) and shall be made by the City Manager or his/her designee:

- (a) Security cameras at Police Stations;
- (b) Mobile in-car video systems in police vehicles;
- (c) Jail observation and monitoring;
- (d) Water and sewer lines;
- (e) Transit facilities or vehicles;
- (f) Public buildings/facilities owned or controlled by the City of Visalia, including, but not limited to, City Hall, other City offices, the Municipal Airport, public parks, public streets, and parking structures;
- (g) Other surveillance locations where criminal activity is suspected of occurring.

When seeking the City Manager's or his/her designee's approval in supporting the use of routine video monitoring or recording systems, the following issues and concerns shall be addressed:

- (a) Objectives for implementing the system;
- (b) Use of equipment, including:
 - Location of cameras
 - Location of reception equipment
 - Personnel authorized to operate the system
 - Times when monitoring will be in effect (and staffed, if applicable);
- (c) Other deterrence or detection measures that were considered, and why video monitoring is the best solution;
- (d) Any specific, verifiable reports of incidents of crime or significant safety concerns that have occurred in the location to be placed under video monitoring;
- (e) Possible effects of the proposed video monitoring system on personal privacy, if any, and how they will be mitigated;

- (f) Appropriate consultation with stakeholders, including the public, adjacent property owners, or reasons why this is not necessary,
- (g) Signage strategy advising the public that video monitoring is occurring;
- (h) Approach to installing and maintaining routine video monitoring systems; and
- (i) Fiscal impact and availability of funding.

Location and Direction of Video Monitoring Equipment

- (a) Permanent, fixed-mounted cameras will not be placed in areas where a reasonable expectation of privacy is standard, such as inside changing/locker rooms or restrooms.
- (b) Cameras located inside a building or facility will not be directed to look through windows to areas outside the building or facility, unless necessary to protect external assets, provide for the personal safety of individuals, or deter criminal activity from occurring.
- (c) Cameras will not be directed to look into adjacent, non-City owned buildings.
- (d) Placement of cameras will also take into consideration physical limitations such as availability of power, cellular phone reception, lighting, and reasonable mounting facilities.

Privacy and Anonymity

It is the intent of this Policy to ensure that all citizens, who may be conducting their activities in a place generally described as “public,” be assured that their Constitutional right to privacy is respected and acknowledged.

Freedom of Expression and Association

The City of Visalia also shares its deep commitment to preserving the right of individuals to freely express themselves and to associate freely in all public settings.

It is with the above perspective the City of Visalia adopts the following policies on the use of its Routine Video Monitoring Records Policy:

There will be no active monitoring, meaning cameras will not be moved or operated to record the following locations such as, but not limited to:

- Political rallies or demonstrations.
- A non-emergency medical facility.
- Any social services facility (welfare office, Social Security office).
- A place of worship (i.e., a church or religious-based organization).

- A place (i.e., HIV or abortion clinic) or circumstances, although publicly located, where there exists a reasonable expectation of privacy (i.e., a conversation on a cell phone, writings or readings in a person's possession.)

Existing cameras may record these types of activities if the activity crosses into an area where ongoing recording occurs; such as a demonstration in front of a police station.

EXCEPTION: These types of locations may be monitored pursuant to a warrant if criminal activity is suspected of occurring. Video monitoring under the terms of a warrant is outside the scope of this policy.

Notification Procedures

- (a) The City Manager or his/her designee shall notify affected City employees in advance of the placement of any routine video monitoring system in a City-owned facility or building.
- (b). Clearly written signs will be prominently displayed at the perimeter of video monitoring areas advising the public that routine video monitoring is occurring. This applies only to routine and not surveillance-type video monitoring.
- (c) On a case-by-case basis, as approved by the City Manager or his/her designee, a decision may be made to eliminate public signage or employee notification in order to support surveillance of a public area when there is a reasonable suspicion or probable cause to suspect criminal activities.

Responsibility for Oversight of Video Monitoring Systems

The City Manager or his/her designee is responsible for overall oversight of all routine video monitoring systems and for implementation of this Policy. At the City Manager's discretion, he/she may delegate this responsibility, or portions thereof, to the affected Department Head(s).

Intended Use of Video Monitoring Information

Any information obtained from routine video monitoring systems will only be used for the purposes set forth in this Policy.

PROTECTION OF VIDEO MONITORING INFORMATION

Security of Storage Devices Resulting from Routine Video Monitoring

- (a) When not in use, storage devices will be securely kept in a controlled access area.
- (b) All storage media that is no longer in active use will be numbered and dated.

Retention and Destruction of Routine Video Monitoring Records

- (a) All records derived from routine video monitoring will be retained for a minimum period of thirty days, subject to the following exception:
 - (1) In the event that routine video monitoring records are evidence in any claim filed or any pending litigation, that record will be preserved until the pending litigation is finally resolved.
 - (2) Certain video monitoring systems may have longer retention periods due to state statutes or changing circumstances.
 - (3) Transit bus video systems only retain information for three (3) days.
- (b) The nature and design of video recording systems is that records will be continually overwritten at the end of their retention period. This continual process ensures that storage space is available for new records and that records past the retention period are automatically destroyed per this Policy. If a City employee receives notice of a claim or pending litigation involving an incident recorded pursuant to this policy, then the employee shall take reasonable steps to preserve the recording.
- (c) Records will be securely and permanently disposed of in a manner appropriate to their storage media.

Placement and Viewing of Video Monitors

Video monitors will not be placed in locations that facilitate public viewing.

Access and Use of Recorded Information

- (a) Routine video monitoring records are investigative records and not subject to disclosure pursuant to Government Code section 6254, subdivision (f), apart from the exception described in section (b) below. Only those personnel authorized by the City Manager or his/her designee will have access to information acquired through routine video monitoring. All persons authorized by the City Manager or his/her designee shall receive training and a unique user identification in order to access the system. Images stored on servers shall only be accessed and retrieved by the City official authorized by the City Manager or other authorized Information Technology technician, and only in response to public safety emergencies or authorized internal or criminal investigations.
- (b) Victims of crimes or insurance carriers against whom a claim has been or might reasonably be made will have access to information acquired through routine video monitoring, but only to the extent required by law. (Gov. Code, § 6254, subd. (f).)
- (c) Recorded information will never be sold, and will not be publicly viewed or distributed in any other manner, except as provided for by this Policy and applicable federal and state law (5 U.S.C.A. § 552 et seq, Gov. Code, § 6250 et seq.). The two (2) airport runway cameras are publicly accessible through the City's website.

ONGOING REVIEW OF THE CITY OF VISALIA'S USE OF ROUTINE VIDEO MONITORING SYSTEMS

The City Manager or his/her designee will review the City of Visalia's use of routine video monitoring systems and adherence to this Policy at least once every two years. These reviews will include an inventory of video monitoring installations, date of installation, summary of their purpose, experience in implementing the Policy, and any proposed Policy changes. The results of each review will be documented and provided to the City Council and/or City of Visalia officials, as applicable. Any concerns or deviations from this Policy will be addressed promptly and effectively.

The City Manager or his/her designee shall obtain City Council approval, demonstrated by way of a Resolution, prior to implementing any substantive amendments to this Policy.

F:\Policies\Video Retention\Item xx Video Retention Policy.doc

RESOLUTION NO. 2010-14

**A RESOLUTION OF THE CITY OF VISALIA
APPROVING THE ROUTINE VIDEO MONITORING RECORDS POLICY**

WHEREAS, the City Council has approved Ordinance 2010-01, which prescribes the authority to make and enforce a policy governing the retention and destruction of routine video monitoring records; and

WHEREAS, the proposed Routine Video Monitoring Records Policy (“Policy”) has been reviewed by Council; and

WHEREAS, this Policy stipulates:

- 11) The City Manager or his designee to approve the installation and objectives of each video monitoring/recording system.
- 12) Specify the location and direction that video monitoring equipment will be pointed.
- 13) Affirm the expectation of privacy and anonymity of the general public.
- 14) Affirm the right of individuals to freely express themselves and associate freely in public settings.
- 15) Notification and/or signage procedures for routine video monitoring.
- 16) Responsibility for the oversight of routine video monitoring systems.
- 17) Protection of video monitoring information.
- 18) Retention and destruction of routine video monitoring records.
- 19) Access and use of recorded information.
- 20) Ongoing review of routine video monitoring systems and adherence to this Policy.

NOW, THEREFORE, BE IT RESOLVED, that the Visalia City Council hereby approves the Routine Video Monitoring Records Policy and authorizes the City Manager or his designee to implement the Policy.

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 2010-14 passed and adopted by the Council of the City of Visalia at a regular meeting held on April , 2010.

Dated: April , 2010

STEVEN M. SALOMON, CITY CLERK

By Donjia Huffmon CMC, Chief Deputy City Clerk

City of Visalia Agenda Item Transmittal

Meeting Date: April 5, 2010

Agenda Item Number (Assigned by City Clerk): 5d

Agenda Item Wording: Authorization to award a construction contract for the development of Lions Neighborhood Park in northwest Visalia (West Ferguson Avenue) to the BMY Construction Group, Fresno, in the amount of \$652,194.

Deadline for Action: April 5, 2010

Submitting Department: Parks & Recreation

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

Department Recommendation: City staff recommends that the Council award a construction contract for the development of Lions Neighborhood Park to the BMY Construction Group, Fresno, in the amount of \$652,194.

Summary: This new park site was recently designated as Lions Park to recognize the cumulative contributions to the community by the local Visalia Lions Clubs. On July 25, 2008, the first of two public workshops were held to obtain consensus regarding amenities desired by the area residents. The plan reflects the feedback received from those attending the two (2) neighborhood workshops.

Project Bids & Funding:

City staff conducted a competitive bid process to construct Lions Park. The project was advertised for bids on February 3rd and 9th and bids closed on March 5, 2010. The City received eight (8) proposals from qualified firms. The summary of bids are outlined on the next page.

This CIP project was approved by the Council as part of the City's 2008-10 CIP plan. The project was budgeted for \$950,000 and the source of funds to finance the project was the City's Park Developer Impact Fee program (Fund 1211). As of March 25, 2010, the cash balance for the 1211 Fund was \$9,196,000.

The account number for this project is 1211-72-9743.

The eight (8) bids received are outlined below:

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.

Contractor	Bid Amount
BMY Construction Group, Fresno	\$652,194
R.J. Berry, Selma	\$677,200
Donali Construction, Fresno	\$660,684
Hobbs Construction, Clovis	\$694,800
Larry Nelson Construction, Visalia	\$704,700
Dunn's Sand, Visalia	\$729,000
Elite Landscaping, Clovis	\$760,300
Lee's Paving, Visalia	\$873,000

The references for BMY were contacted, all indicating favorable responses. Of primary interest were their quality of workmanship, history of completing projects on time, evidence of any lingering disputes or outstanding claims, and their ability to work with clients in a cooperative manner. The engineer's estimate for this project was projected at \$968,057.50. The cost of design, construction and construction management are included and all well within the funding level for this project.

Long-Term maintenance:

This new 4.5 acre neighborhood park will increase the maintenance responsibilities of the City park system. These new maintenance costs will be budgeted for in the upcoming 2010-12 budget. The majority of these new costs are related to utilities and contract maintenance for mowing and cleaning the park.

Prior City Council Action: The Council approved the "Lion's Park" name on July 13, 2009.

Commission Review and Actions: The Visalia Parks and Recreation Commission approved the final park concept plan and approved the recommended new "Lions Park" name for consideration by the Council.

Attachments: Lion's Park Concept Plan.

Recommended Motion (and Alternative Motions if expected): Staff recommends that City Council award the contract for the Lions Neighborhood Park to the BMY Construction Group, Fresno, in the amount of \$652,194.

Project No.: 1211-720000-0-9743

Environmental Assessment Status

CEQA Review: Required? **Yes** **No**
Review and Action Prior: **Required:**

NEPA Review: Required? **Yes** **No**
Review and Action Prior: **Required:**

Financial Impact

Funding Source

Account No. 1211-720000-0-9743
Development Impact Fees: \$950,000

Budget Recap

Total Estimated Cost	\$780,000	New Revenue dollars
Amount Budgeted	\$950,000	Lost Revenue dollars
New Funding Required	\$0	New Personal dollars
Council Policy Change	Yes ___	No <u>X</u>

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: April 5, 2010

Agenda Item Number (Assigned by City Clerk): 5e

Agenda Item Wording: Award contract for the construction of Mill Creek Garden Park (located at Lovers lane and Mill Creek Parkway) playground improvements to Hobbs Construction, Clovis, for the base bid amount of \$109,756, plus Alternate Additives 1-3 in the amount of \$29,000 for a total contract award of \$138,756.

Deadline for Action: April 5, 2010

Submitting Department: Parks & Recreation

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

Department Recommendation: Staff recommends that the Council award a contract for the construction of playground improvements at Mill Creek Garden Park to Hobbs Construction, Clovis, for the base bid amount of \$109,756, plus Alternate Additives 1-3 in the amount of \$29,000 for a total award amount of \$138,756.

Background Information: Mill Creek Garden Park located at Lover's Lane and Mill Creek Parkway is a heavily used neighborhood park/storm pond basin with no playground amenities available to the area residents. The project will include the addition of new playground equipment, a pedestrian pathway, seating areas, irrigation upgrades, landscaping and security lighting.

The renovation project also includes the removal of an existing off street parking lot --- which will be replaced with the new playground structure. The parking lot was originally designed below the grade of the street and has a history of being a security problem for the Visalia Police Department because it is difficult to monitor and patrol.

On September 26, 2008, the city conducted a community workshop to obtain feedback and recommendations from area residents. The final playground concept and renovation plans, designed by local architect Sierra Designs, were approved by the Visalia Parks and Recreation Commission.

Project Bids & Funding:

City staff conducted a competitive bid process to renovate Mill Creek Garden park. The project was advertised for bids on January 22nd and 27th and bids closed on March 5, 2010. The City received twelve (12) proposals from qualified firms. The summary of bids is outlined on the next page.

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.

This CIP project was approved by the Council as part of the City's 2008-10 CIP plan. The project was budgeted for \$340,000 and was multi-funded with funds coming from the City's Park Developer Impact Fee program (Fund 1211) for \$240,000 and the City's Northeast Capital Improvement Fund (Fund 1711) with \$100,000. As of March 25, 2010, the cash balance for the 1211 Fund was \$9,196,000 and the cash balance for the 1711 Fund was \$209,000. The account number for this project is 3011-0-72-0-9936.

A summary of bids are as follows:

Contractor	Base Bid	Add Alt 1	Add Alt 2	Add Alt 3	Grand Total
Hobbs Construction, Clovis	109,756	12,000	4,000	13,000	138,756
Sierra Range Construction, Visalia	110,467	24,518	6,173	18,900	160,058
BMV Construction Group, Fresno	135,000	10,000	4,000	13,000	162,000
Steve Donali Construction, Fresno	136,000	9,000	10,000	13,000	168,000
R.J. Berry, Selma	129,300	16,000	8,000	20,000	173,300
RC General Engineer, Visalia	138,000	6,200	2,900	14,700	161,800
DL Construction, Fresno	145,000	8,950	4,000	14,000	171,950
Dunn's Sand, Visalia	158,000	16,500	5,000	18,000	197,500
WCCR Construction, Ontario	155,200	6,700	5,000	12,000	178,900
Bates Construction, Porterville	187,496	8,500	3,500	14,000	213,496
L&S Paving, Tulare	196,898	14,008	3,340	13,980	228,226
Elite Landscapes, Clovis	205,300	7,500	13,131	15,195	241,126

The three alternative project additions included in the project are outlined below. As a reminder, City Purchasing procedures require the City to award a contract based on the base bid submittal. The favorable bidding conditions allowed the project budget to include these items:

Alternate Additive No. 1: Includes an irrigation system extension adjacent to the new playground to replace old substandard irrigation equipment;

Alternate Additive No. 2: Includes light fixture installation to provide for night time security lighting;

Alternate Additive No. 3: Includes irrigation controllers and master valve unit to provide a fully automated, computer operated control system which is being installed city-wide to promote water conservation and ease of operation.

Several of the references listed were contacted including cities and school districts. The main areas of interest included their quality of workmanship, history of completing projects on time, evidence of any lingering disputes or outstanding claims, and their ability to work with clients in a congenial and cooperative manner. Staff received good remarks from all agencies contacted.

The engineer's estimate for this project was projected at \$216,117. The playground equipment was pre-purchased by the City for \$65,880.21 to take advantage of the State of California Multiple Award Schedule (CMAS) procurement program to obtain an overall cost savings. The cost of design, construction, pre-purchase of playground equipment, and construction management are included and all within the funding level set aside for this project.

Prior City Council Actions: None.

Committee/Commission Review and Actions: Final plan reviewed and approved by the Visalia Parks and Recreation Commission.

Attachment: Concept drawing of Mill Creek Garden playground project.

Recommended Motion (and Alternative Motions if expected): Staff recommends that City Council award the contract for new playground improvements at Mill Creek Garden Park for the base bid amount of \$109,756, plus alternate additive 1-3 in the amount of \$29,000 for a total contract amount of \$138,756. Project No.: 3011-00000-720000-0-9936

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: April 5, 2010

Agenda Item Number (Assigned by City Clerk): 5f

Agenda Item Wording: Request authorization to file a Notice of Completion for Pheasant Ridge 3A, a subdivision (containing 12 single family lots), located on the west side of Roeben Street, approximately ¼ mile south of Riggin 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 Pheasant Ridge 3A 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 McMillin Meadows, LLC. McMillin Meadows, LLC has submitted a maintenance bond in the amount of \$ 25,853.31 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: (1) the private development, (2) the City through Landscape and Lighting District No. 05-19.

Prior Council/Board Actions: The final map recording and Landscape and Lighting District formation were approved by Council at the meeting on November 7, 2005.

Committee/Commission Review and Actions: The tentative subdivision map for Pheasant Ridge 3A was approved by Planning Commission on October 25, 2004.

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 Pheasant Ridge 3A 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: April 5, 2010

Agenda Item Number (Assigned by City Clerk): 5g

Agenda Item Wording: Authorize the Transit Division to purchase, on a sole source basis, LED signage equipment from Digital Recorders, Inc. to provide bus route numbers and real time schedules for each route at the transit center for a not-to-exceed price of \$178,930 using grant funds previously appropriated for the Transit Center Expansion.

Deadline for Action: April 5, 2010

Submitting Department: Administration Department – Transit Division

Contact Name and Phone Number: Monty Cox, 713-4591

Department Recommendation

Authorize the Transit Division to purchase, on a sole source basis, LED signage equipment from Digital Recorders, Inc. to provide bus route numbers and real time schedules for each route at the transit center for a not-to-exceed price of \$178,930 using grant funds previously appropriated for the Transit Center Expansion.

Summary

Staff is requesting authorization to use funds from the Transit Center Expansion project to purchase 16 electronic signs that will indicate the real-time location and schedule of each bus route scheduled at the Transit Center. These signs will utilize Automatic Vehicle Location (AVL) information generated from the AVL system purchased in 2002. This current system provides City transit staff, as well as transit contract dispatch staff, real-time information regarding the location of each and every bus in service, the time it is expected at the next timepoint (A pick up location that the bus is expected to arrive at a specific time. Not all bus stops are timepoints), as well as whether it is on time. With this new sign equipment, that information will be available to the public as they wait at each route location at the transit center.

In an effort to improve public transportation safety, accountability, tracking, and monitoring, the City of Visalia Transit Division has contracted with Digital Recorders to provide an automatic vehicle locator system (AVL) for the public transit buses.

The AVL system uses a cell phone signal to transmit and update dispatchers of the vehicle's location, time point history and alarms. Implementation of this system was in response to a growing need for improved bus monitoring and increased public transit information. The AVL system also provides added customer and driver security.

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.

Background

In 2001, the Council authorized the Transit Division to award a contract to Digital Recorders for the development and implementation of an automatic vehicle location system. The AVL system is used for a variety of customer service, planning, tracking, performance measurement, safety and security purposes. In addition, it enables staff to provide better information to riders. When customers inquire about the location of a bus or indicate a bus is late, staff can immediately check and verify where the bus is located, and it's arrival time. Contract dispatch staff also use the system to answer inquiries, check on drivers, and identify the best Dial-A-Ride bus to assign new requests.

The additional equipment included in this request will provide riders with ready access to the same information, specifically regarding the next time each bus route is scheduled to arrive at and depart from the transit center. There will be a signs in the lobby (2) listing the next time for each route as well as signs at each bus parking location (14) listing the same information for each specific route. These will all be located on the new portion of the transit center where the Visalia Transit buses will be located. This will provide the bus riding public additional information, decrease their anxiety regarding the arrival of the bus they need, and increase customer service.

Later this year, staff will be coming back to Council with a demonstration of a website that will be available to the public. Utilizing the AVL information, the public will be able to obtain real time information on-line regarding bus locations and arrival times. This on-line information will provide a higher level of customer information and service.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected):

I move that the City Council authorize the Transit Division to purchase, on a sole source basis, LED signage equipment from Digital Recorders, Inc. to provide real time bus arrival and departure schedules for each route at the transit center for a not-to-exceed price of \$178,930 using grant funds previously appropriated for the Transit Center Expansion.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: April 5, 2010

Agenda Item Number (Assigned by City Clerk): 5h

Agenda Item Wording: Review of Public Opinion Survey open-ended question.

Deadline for Action: April 10, 2010

Submitting Department: Finance

Contact Name and Phone Number: Nyla Hallum,
Subcommittee Chair for Public Opinion Survey, 636-2775
Eric Frost – Staff Liaison to CAC, 713-4474

Department Recommendation: The CAC Public Opinion Survey Subcommittee recommends that the following open ended question be added to the annual Public Opinion Survey:

How can the City of Visalia encourage job creation?

Summary/background:

The City Council reviewed the Public Opinion Survey at their February 1, 2010 Council meeting. One action item from that meeting was to add an open-ended question to the survey which would change year to year based upon topical concerns raised by the Council each year. The committee recommended that most of the questions remain the same each year in order to maintain consistency and comparability of the survey from year to year, but the addition of one question could help the Council better understand current issues among Visalians.

The question the committee proposes to add to the survey scheduled for April 10, 2010 is:

How can the City of Visalia encourage job creation?

As alternatives, the committee discussed the following alternative questions:

What do you think the City should do to save money?

How do you feel the City is responding to home foreclosures?

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.

How do you feel about how the City is dealing with our homeless issue?

Unless otherwise directed by Council, this year's topical question will be:

How can the City of Visalia encourage job creation?

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives: The Council could propose a different question.

Attachments: 2010 Public Opinion Survey

Recommended Motion (and Alternative Motions if expected): I move that the following open ended question be added to the annual Public Opinion Survey:

How can the City of Visalia encourage job creation?

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:



2010 CITY OF VISALIA PUBLIC OPINION SURVEY

1. Which part of the city do you live in if Mooney Blvd. and Highway 198 are considered the cross section:

Circle a number 1 ←Northeast 2 ←Southeast 3 ←Northwest 4 ←Southwest

2. How do you rate the city's efforts at providing a safe community:

Circle a number 1 ←Very Low 2 ←Low 3 ←Average 4 ←High 5 ←Very High

3. Have you had a *business* contact with the Visalia Police Department in the past year? (If "NO", go to question 4)

Circle Yes or No Yes No

If you answered "yes" how would you rate the service you received:

Circle a number 1 ←Very Poor 2 ←Poor 3 ←Average 4 ←Good 5 ←Excellent

4. Have you had *business* contact with a Visalia Firefighter in the last year? (If "NO", go to question 5)

Circle Yes or No Yes No

If you answered "yes" how would you rate the service you received:

Circle a number 1 ←Very Poor 2 ←Poor 3 ←Average 4 ←Good 5 ←Excellent

5. What do you consider to be the most essential city service besides Police and Fire:

Circle a number 1 ←Road Maintenance 2 ←Park Maintenance 3 ←Traffic Signs & Signals 4 ←Recreation Activities 5 ←Other

6. How do you rate the quality of the following services in Visalia:

Circle a number on each line	Very Poor	Poor	Average	Good	Excellent	Not Observed
Fire Emergency Response	1	2	3	4	5	X
Private Ambulance	1	2	3	4	5	X
City Road Maintenance	1	2	3	4	5	X
Traffic Management	1	2	3	4	5	X
Bus Services	1	2	3	4	5	X
Street Lighting	1	2	3	4	5	X
Senior Citizen Services	1	2	3	4	5	X
Recreation Activities	1	2	3	4	5	X
Service for Disabled Persons	1	2	3	4	5	X
Park Maintenance	1	2	3	4	5	X
Garbage+Recycling Collection	1	2	3	4	5	X
Convention Center	1	2	3	4	5	X

7. How many times have you attended activities at the Convention Center in the last year:

Circle a number 1 ←None 2 ←1 to 2 times 3 ←3 to 4 times 4 ←5 or more times

8. Excluding roadway construction activities, how do you view traffic flow throughout Visalia:

Circle a number 1 ←Very Poor 2 ←Poor 3 ←Average 4 ←Good 5 ←Excellent

9. The city continues to enhance the downtown area. How IMPORTANT is it to you:

Circle a number 1 ←not 2 ← somewhat 3 ←Neutral 4 ← very X ←No Opinion

9(a). If you were planning to move and the downtown continued to have more community improvements, would you consider living above an existing Main Street business:

Circle Yes or No Yes No

10. How long have you lived in Visalia:

Circle a number 1 ←Fewer than 2 years 2 ←2 to 5 years 3 ←6 to 10 years 4 ←More than 10 years

11. Are you a registered voter:

Circle Yes or No Yes No

12. Do you own or rent your home:

Circle a number 1 ←Own 2 ←Rent 3 ←Other

13. What is your ethnicity:

Circle a number 1 ←African American 2 ←American Indian 3 ←Asian 4 ←Caucasian 5 ←Hispanic 6 ←Other

14. What is your gender:

Circle a number 1 ←Male 2 ←Female

15. What is your age group:

Circle a number 1 ←18 to 34 2 ←35 to 54 3 ←55 and over

16. What was your household's total income before taxes last year:

Circle a number 1 ←Less than \$15,000 2 ←\$15,000 to \$40,000 3 ←\$40,000 to \$70,000
 4 ←\$70,000 to \$100,000 5 ←\$100,000 and over 6 ←Decline to state

17. What do you think the focus of City of Visalia services should be:

(Comment in this area)

18. If you could add one thing to Visalia to improve our quality of life, what would that be:

(Comment in this area)

19. Taking all things into consideration, how would you rate the overall quality of life in Visalia:

Circle a number 1 ←Very Low 2 ←low 3 ←Average 4 ←High 5 ←Very High

The City of Visalia produces an e-mail newsletter. Would you like to receive the newsletter? If so,:

Write your E-Mail Address Here: _____ @ _____

☺ **THANK YOU** FOR YOUR PARTICIPATION ☺

City of Visalia Agenda Item Transmittal

Meeting Date: April 5, 2010

Agenda Item Number (Assigned by City Clerk): 5i

Agenda Item Wording: Authorize City Manager to execute a contract with the lowest bidder, for the rehabilitation of the property located at 210 NW 2nd Avenue in an amount not to exceed \$136,000

Deadline for Action: April 19, 2010

Submitting Department: Housing & Economic Development

Contact Name and Phone Number:

Ricardo Noguera, Housing & Economic Development Director, Ext 4190; Rhonda Haynes, Housing Specialist, Xt. 4460

Department Recommendation

Staff recommends that City Council authorize the awarding of a contract for the rehabilitation of a Neighborhood Stabilization Program (NSP) funded four-plex located at 210 NW 2nd Avenue in an amount not to exceed \$136,000.

Summary

Council and City Manager recently approved a total of \$300,000 for the acquisition and rehabilitation of this property with use of the Community Development Block Grant Neighborhood Stabilization Program (CDBG-NSP) funding. The property was acquired in February 2010. Due to Staff's preparation of the scope of work, we are now requesting a total rehabilitation budget of \$136,000. In general, the City Manager has discretion to approve budgets up to \$100,000. As a result of the projected rehabilitation costs for this property, an increased budget of \$136,000 should address the renovation costs for the 4-plex.

At Council's approval, Staff intend to release the scope of work to interested contractors to bid on within the next two weeks. The rehabilitation phase should take approximately twelve weeks to complete.

Background

The City was awarded federal funding through the Housing and Economic Recovery Act in 2008 to address the foreclosure crises. Staff have acquired to date 16 single family residential properties and resold 8 to income qualifying families at or below 120 of the area median income.

In addition to acquiring single family dwellings, staff amended its Action Plan and City Council approved the acquisition of a 4-plex unit to assist with permanent housing in Visalia. The 4-plex was acquired for \$163,000.

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.): 2

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty N/A
(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.

Staff is currently preparing a Request for Proposal for the property management aspect of this property, which will include providing off site services to the families.

Prior Council/Board Actions:

None

Committee/Commission Review and Actions: None.

Alternatives: .

Attachments: None

Recommended Motion (and Alternative Motions if expected):

Request that City Council

Authorize City Manager to execute a contract with the lowest bidder, for the rehabilitation of the property located at 210 NW 2nd Avenue in an amount not to exceed \$136,000

.

Environmental Assessment Status

CEQA Review: N/A

NEPA Review: 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*)

**City of Visalia
Agenda Item Transmittal**

Meeting Date: April 5, 2010 (continued from March 15, 2010)

Agenda Item Number (Assigned by City Clerk): 6

Agenda Item Wording: Public hearing for a request by MSJ Partners to execute a second amendment to the Pre-Annexation Agreement pertaining to the 480-acre Vargas annexation, located along Plaza Drive north of Riggins Avenue. **Resolution No. 2010-15 required.**

Deadline for Action: None.

Submitting Department: Community Development - Planning

Contact Name and Phone Number:

Brandon Smith, AICP, Senior Planner - 713-4636
Michael Olmos, AICP, Assistant City Manager - 713-4332

Recommendation: Staff recommends that the City Council:

A. Consider the proponent's attached written request to initiate amendment (**Exhibit "A"**), and adopt a resolution authorizing the City Manager to execute the Second Amendment to the "Vargas" Pre-Annexation Agreement (**Exhibit "D"**). The Second Amendment proposed by MSJ Partners would:

1. Remove the obligation for payment of an Agricultural Conservation Endowment and authorize refund to MSJ of the \$320,000 already paid in fulfillment of the obligation.
2. Require that if an Agriculture Mitigation Program is adopted by the City at a future point in time, it shall apply to all undeveloped portions of the annexation as of the Program's adoption.
3. Remove the parcelization requirements for the Stage 1 Area – the southernmost 160 acres of the annexation area located on the northeast corner of Plaza and Riggins – thereby permitting this property to be parcelized in accordance with the typical zoning requirements for the Heavy Industrial (I-H) Zone.

B. Direct staff to terminate further work on an Agricultural Mitigation Program (AMP) at this time, and defer consideration of impacts to agricultural land caused by urbanization until the General Plan Update / Environmental Impact Report.

Summary: At the Strategic Workshop held on February 5 & 6, 2010, the City Council considered the City's development of an AMP and acknowledged that work on the AMP will end, though impacts to agriculture land and appropriate mitigation will be discussed in the General Plan Update. The City Council provided direction to staff that no money should be collected from future annexation requests towards an Agricultural Mitigation Program until a formal policy is adopted. Staff also raised the matter of stricter parcelization restrictions

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

City Mgr _____
(Initials Required)

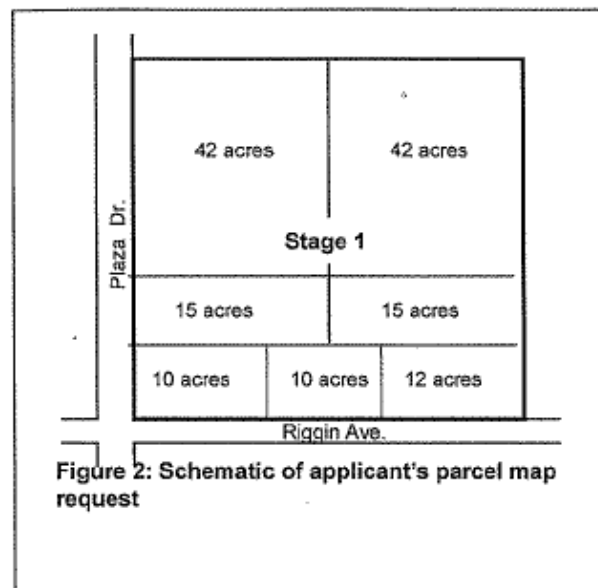
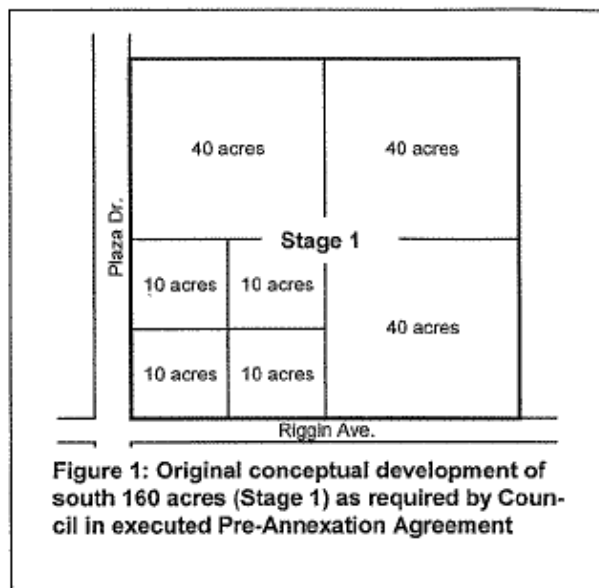
If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

imposed on Industrial annexations to capture larger industrial tenants. The concern was raised that placing restrictions over and above Zoning Ordinance standards could be burdensome for attracting businesses given the current economic climate.

Pat Daniels, representing the Vargas / MSJ Development ownership, made a public comment at the Workshop asking for their annexation, which has complied with these extra requirements, to be treated fairly with future annexations that would be relieved from similar requirements. Following the Workshop, a formal letter was received (attached as **Exhibit "A"**) requesting that the Vargas annexation's Agreement be amended in response to the City Council's comments.

Background on Vargas Annexation and Parcel Map: The Vargas annexation was completed in February 2008 and consisted of 480 acres on the east and west sides of Plaza Drive, north of Riggan Avenue. A Pre-Annexation Agreement (excerpt attached as **Exhibit "B"**) was entered into between the City and the owners, which solidified fee obligations, owner indemnification on Williamson Act cancellation, a master plan requirement, pre-zoning, and other requirements. For phasing purposes the property was split into Stage 1 and Stage 2 Areas, whereby the Stage 1 Area was the southerly 160 acres to be developed first. The master plan requirement, based on the City Council's desire to "ready" land for the demands of potential large and small industrial users, required a balance of 10 and 40-acre parcels on the Stage 1 Area (illustrated in **Figure 1** below).

In April 2009 Vargas / MSJ Partnership LLC filed a tentative parcel map application on the Stage 1 Area which proposed one less 40-acre parcel than what was required by the Agreement (illustrated in **Figure 2** below). The parcel map could not be supported by staff without an amendment to the Pre-Annexation Agreement, which was authorized by the City Council in June 2009. The First Amendment to the Pre-Annexation Agreement (excerpt attached as **Exhibit "C"**) included two changes: 1) reduction of the number of 40-acre parcels required in the first phase of development, and 2) deferral of paying Groundwater Mitigation & General Plan Maintenance Fees to building permits rather than final map recordation. The parcel map was approved by Planning Commission but has not yet been recorded. To staff's knowledge, no tenants have as yet been secured for the site.



Discussion: The proponents have requested that the City authorize changes to the Pre-Annexation Agreement in response to the City Council's direction to not impose requirements that aren't policy or ordinance-backed. At the Strategic Workshop, the City Council discussed its unwillingness to pursue agriculture mitigation endowments and additional parcel restricting on future annexations but did not give specific direction or authorization to proceed with changes on the Vargas Annexation. The proponents have drafted a Second Amendment to the Pre-Annexation Agreement (**Exhibit "D"**) which eliminates these further requirements added to the annexation.

Staff finds the draft Second Amendment consistent with the Council's direction. The following staff analysis compares the draft Second Amendment to the direction given at the Workshop.

Changes in Agricultural Conservation Endowment

The Pre-Annexation Agreement requires in Subsection II(G) payment of an endowment. The current requirement reads as follows:

"Owner agrees to pay City an Agricultural Conservation Endowment in an amount equal to \$2,000 per acre within the Stage 1 Area. Owner agrees that Owner's monetary obligations under this subsection II(G) shall be made payable upon LAFCO's issuance of a Certificate of Completion finalizing the annexation contemplated by this Agreement (and the running of all related statutes of limitation)."

The City Council in 2007 expressed a desire to impose an agriculture mitigation fee with annexations on a per-acre basis; however it was staff's conclusion at the time that there was no direct nexus between an annexation and applicable mitigation measures in the EIR, and so a mitigation fee could not be substantiated in accordance with the California Environmental Quality Act (CEQA). In lieu, the applicant agreed to offer an agriculture conservation endowment of \$2,000 per acre on the southern 160 acres (Stage 1 Area). The endowment did not apply to the Stage 2 Area since it was anticipated the City would adopt a formal mitigation fee prior to its development.

The current City Council's direction at the Workshop is that no money should be collected from a future annexation requests towards an agricultural mitigation program until a formal policy associated with an Agriculture Mitigation Program is adopted.

The applicant's request is to:

1. Eliminate the current wording in the Subsection requiring payment of an endowment

Analysis: Staff finds this consistent with the City Council direction. If approved, staff will process a \$320,000 refund of the paid endowment back to the applicant.

2. Insert new wording where if an Agriculture Mitigation Program is adopted prior to the full development of the property, the undeveloped portions of the property shall be subject to said Program and any fees adopted accordance with the program.

Analysis: Again, Staff finds this consistent with the City Council direction. Staff anticipates that agricultural land impacts caused by urbanization will be evaluated in the General Plan Update / Environmental Impact Report, through which a mitigation program may emerge and apply to undeveloped properties including but not limited to prime agricultural land.

Changes in Minimum Parcel Size Requirements

Subsection II(D) of the Pre-Annexation Agreement established parcel size restrictions for the annexation site. The requirements were later revised in Subsection 4 of the First Amendment to the Pre-Annexation Agreement. The current requirement is summarized as follows:

“The subdivision of the Stage 1 Area will be allowed immediately upon annexation, provided at least two parcels are created with a minimum size of 40 acres each, and all other parcels have a minimum size of 10 acres.”

These terms were effectively carried out in a tentative parcel map approved by the Planning Commission last year. The parcel map's basic configuration is illustrated in **Figure 2**.

The applicant's request is to:

3. Replace the current wording in the Subsection requiring payment of an endowment to allow subdivision of the Stage 1 Area “in a manner consistent with the City's Planned Heavy Industrial (P-I-H) zoning classification.”

Analysis: In the absence of the above master-planning requirement, the area would be subject to the typical development standards for the Heavy Industrial (I-H) Zone which can allow for any parcel size. The Zoning Ordinance standards for the I-H zone (contained in Visalia Municipal Code Section 17.30.230) require a five-acre minimum parcel size which can be waived upon approval of an acceptable master plan by the Site Plan Review Committee and providing of a common or joint storm drainage pond on the site.

All Industrial-zoned sites in the City limits are subject to the aforementioned Zoning Ordinance standards which could allow for any parcel size subject to an acceptable master plan. Staff has no knowledge of any other industrial sites in Visalia which have City-imposed limitations on parcel sizes beyond zoning standards.

The project proponent's desire is to be able to compete on a level playing field with other heavy industrial sites being marketed in the Industrial Park that do not have additional parcel size restrictions. From the on-set of discussions with the City dating to 2007, the proponents have expressed an interest to market a variety of parcel sizes with immediate development potential. It is the proponent's belief that additional restriction of parcel sizes – as currently done through the Agreement – presents a potential hindrance worsened by the current economic climate.

The idea of offering various parcel sizes was consistent with the conclusions of a 2006 assessment prepared for the expansion of the Industrial Park (attached as **Exhibit “E”**). The report, authored by A. Plescia & Co., stated that a supply of ready-to-go parcels of various sizes was needed for Visalia to be competitive in attracting industrial users and creating employment.

The assessment was taken when Visalia was in an upward cycle of economic and industrial activity. These cycles have changed dramatically in the last three years, and as such the specific types of companies seeking interest in the area have likely changed. Thus, the market data and information in the report may no longer be reliable. Current trends indicate that industrial users need a broad range of parcel sizes to suit their needs, and that these sites are limited strictly to small or large sizes. Thus, having land that is available and ready-to-go (i.e. in the City limits and parcelized) with the flexibility to meet the size requirements of users would give Visalia a competitive edge in the current market.

Staff is therefore favorable to removing the parcel size restrictions, allowing the proponents to better suit their marketing strategies in compliance with zoning standards. It should be noted that the City is currently processing an annexation of 160 acres for the Doe property, directly to the west of the Vargas property and also containing a pre-zoning of Heavy Industrial. The annexation and a Pre-Annexation Agreement will be considered by the City Council in Spring 2010. Thus, regulations placed on the Vargas property would likely have a precedence-setting effect on the Doe property.

Prior Council/Board Actions: A request to initiate a Second Amendment to the Pre-Annexation Agreement was on the March 15 Consent Calendar of the City Council. Late correspondence was received the day of the meeting, requesting that the City Council pass a resolution in compliance with CEQA Guidelines. Citing additional time needed to review the resolution, the item was continued to the next meeting.

Alternatives:

1. Authorize the amendments to the Pre-Annexation Agreement as requested by the applicant.
2. Do not authorize the amendments, which will result in no change to the agricultural conservation endowment and parcel size requirements.

Attachments:

- Resolution directing that the Second Amendment be executed
- Exhibit "A" – Letter from applicant
- Exhibit "B" – Excerpt - Pre-Annexation Agreement
- Exhibit "C" – Excerpt - First Amendment to Pre-Annexation Agreement
- Exhibit "D" – Proposed Second Amendment to Pre-Annexation Agreement
- Exhibit "E" – Visalia Industrial Park Expansion Assessment (September 2006)
- Location Map

Recommended Motion (and Alternative Motions if expected):

I move to

1. allow the City Manager to enter into the Second Amendment to the Pre-Annexation Agreement,
2. process a refund of the agriculture conservation endowment, and
3. terminate further work on an Agricultural Mitigation Program (AMP) at this time.

-OR-

I move to not authorize amendments to the Pre-Annexation Agreement.

Environmental Assessment Status

CEQA Review: Findings pursuant to CEQA Guideline (Government Code Section) 15162 have been made and are contained in the attached Resolution.

NEPA Review: None

RESOLUTION NO. 2010-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA APPROVING SECOND AMENDMENT OF PRE-ANNEXATION AGREEMENT FOR ANNEXATION NO. 2007-01 BY AND BETWEEN THE CITY OF VISALIA, THE VARGAS FAMILY TRUST AND MSJ PARTNERS

WHEREAS, MSJ Partners (the “Proponent”) desires for the City Council of the City of Visalia (the “City Council”) to enter into a second amendment to that certain Pre-Annexation Agreement dated October 29, 2007, as first amended on October 5, 2009 (the “Agreement”), which agreement sets forth terms and conditions regarding the annexation and future development and use of the approximately 482.6 acre real property commonly known as the “Vargas” property, as such property is more particularly described in the Agreement (hereafter, the “Property”); and

WHEREAS, on September 17, 2007, the City did adopt *Negative Declaration No. 2007-47 for Visalia Annexation No. 2007-01* pursuant to City of Visalia Resolution No. 2007-72 (the “Negative Declaration”), which evaluates the environmental impacts associated with Annexation 2007-01, the Agreement and the future development of the Property with industrial uses consistent with the Property’s existing General Plan and zoning designations (the “Project”); and

WHEREAS, on November 7, 2007, the Tulare County Local Agency Formation Commission did approve annexation of the Property to the City; and

WHEREAS, on August 24, 2009, the City did adopt the *Addendum to Initial Study/Negative Declaration No. 2007-47* pursuant to City of Visalia Resolution No. 2009-52 (the “Addendum”) and approved a tentative subdivision map covering the “Stage 1 Area” of the Property, as such area is defined in the Agreement; and

WHEREAS, the City Council desires to promote new industrial development within the City in order to further local economic development and create new employment opportunities; and

WHEREAS, the City Council is concerned that parcel size restrictions set forth in the Agreement may discourage the timely development of the Property with new industrial uses; and

WHEREAS, development of the Property in accordance with the Property’s existing zoning designation will promote the timely development of the Property with new industrial uses and promote job creation and economic development; and

WHEREAS, the environmental impacts associated with the development of the Project on the Property in accordance with the Property’s existing zoning designation were evaluated in the *Final EIR Land Use Element Update to the Visalia General Plan* (SCH# 90020160), approved by City of Visalia Resolution No. 91-105 (the “General Plan EIR”); and

WHEREAS, the City Council has reviewed the Proponent’s proposed request for a second amendment of the Agreement along with the General Plan EIR, the Negative Declaration and the Addendum; and

WHEREAS, the City Council hereby makes the following findings with regard to the Project and the proposed request for a second amendment of the Agreement:

- I. No substantial changes are proposed in the Project which will require major revisions of the General Plan EIR or the Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- II. No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will require major revisions of the General Plan EIR or the Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- III. There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the General Plan EIR was certified or at the time the Negative Declaration was adopted, that shows any of the following: (a) that the Project will have one or more significant effects not discussed in the General Plan EIR or Negative Declaration; (b) that significant effects previously examined will be substantially more severe than shown in the General Plan EIR; (c) that mitigation measures or alternatives previously found not to be feasible and would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the Project proponents decline to adopt the mitigation measure or alternative, or (d) that mitigation measures or alternative which are considerably different from those analyzed in the General Plan EIR would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Visalia as follows:

- 1) The potential environmental effects of the proposed second amendment of the Agreement have been reviewed and the City Council determines that the proposal falls within the scope of issues and impacts addressed in the General Plan EIR, the Negative Declaration and the Addendum and that no mitigation measures or additional environmental review are required.
- ~~2) The City Manager is hereby directed to process and execute on the City's behalf a second amendment to the Agreement, which second amendment shall (i) delete the existing text of section II(G) of the Agreement in its entirety and to insert into section II(G) new text requiring the Project to comply with the City's agricultural mitigation program, to the extent permitted by law, should such a mitigation program be adopted by the City in the future, and (ii) eliminate any and all parcel size restrictions set forth in section II(D) of the agreement so that, with respect to parcel size, future subdivision of the Property need only comply with the Property's zoning designation as it exists on this day.~~
- 2) The City Manager is directed to execute on the City's behalf the Second Amendment to Pre-Annexation Agreement, attached hereto as "Exhibit A to Resolution" and incorporated herein by reference, which Second Amendment to Pre-Annexation Agreement is hereby approved.**
- 3) The City Manager is hereby directed to reimburse to MSJ Partners or its representative any and all money previously paid pursuant to section II(G) of the Agreement upon MSJ Partner's execution of the second amendment to the Agreement.

ADOPTED at a regular meeting of the City Council of the City of Visalia on April 5, 2010 by the following vote:

Ayes:
Noes:
Absent:

Mayor Robert R. Link

ATTEST:

Donjia Huffmon
Deputy City Clerk

APPROVED AS TO FORM:

Alex Peltzer
City Attorney

Second Amendment to Pre-Annexation Agreement

This Second Amendment to the Pre-Annexation Agreement (this "**Second Amendment**") is made and entered into this ___ day of _____, 2010, by and among the CITY OF VISALIA, a California charter law city ("**City**"), David Vargas and Ana Paula S. Vargas, co-trustees, the VARGAS FAMILY TRUST DATED DECEMBER 23, 2005 ("**Vargas**") and VARGAS / MSJ DEVELOPMENT, a California Limited Liability Company ("**MSJ**"). City, MSJ and Vargas are sometimes each individually referred to herein as a "**party**" and collectively as the "**parties.**" Vargas and MSJ are sometimes collectively referred to herein as "**Owner.**"

RECITALS

WHEREAS, City and Owner are parties to that certain Pre-Annexation Agreement dated as of October 29, 2007, as amended by the First Amendment to Pre-Annexation Agreement dated as of October 5, 2009 ("**First Amendment**") (the Pre-Annexation Agreement as amended by the First Amendment is collectively referred to herein as the "**Pre-Annexation Agreement**") which sets forth terms and conditions regarding the annexation and future use of the "Property," as such real property is described in the Pre-Annexation Agreement; and

WHEREAS, the parties now desire to modify the terms of the Pre-Annexation Agreement as provided herein in order to address minor changes concerning the future subdivision of the Property and reimbursement of certain fees previously paid by Owner.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **Defined Terms.** All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Pre-Annexation Agreement.

2. **Development Plan.**

Section II(D) of the Pre-Annexation Agreement are hereby deleted in its entirety and replaced with the following:

"D. **Development Plan:** The Owner hereby agrees to the following criteria regarding future development on the Property:

- The site shall be developed in stages, with Stage 1 to be the southernmost 160 acres of the Property (the "Stage 1 Area"), and Stage 2 to be the northernmost remainder 320 acres of the Property (the "Stage 2 Area"), as such stages are depicted on the attached Exhibit C.
- The subdivision of the Stage 1 Area will be allowed immediately upon annexation in a manner consistent with the City's Planned Heavy Industrial (P-I-H) zoning classification (Visalia Municipal Code Chapter 17.22).
- No subsequent subdivision or other development entitlement for the Stage 2 Area shall be approved until a Stage 2 Area master plan is

developed and an agreement between City and Owner establishing Stage 2 Area minimum parcel sizes is approved by the City, which minimum parcel sizes shall be consistent with the City's Planned Heavy Industrial (P-I-H) zoning classification (the "Stage 2 Agreement"). Furthermore, no subdivision map or other development entitlement for the Stage 2 Area shall be approved by the City until the developable area of the Stage 1 Area is at least 75% developed. Notwithstanding anything to the contrary in this Agreement, a Stage 2 Area master plan and any agreements between Owner and City related to the Stage 2 Area may be approved prior to the development of 75% of the developable area of the Stage 1 Area.

3. **Agricultural Conservation Endowment – Stage 1.**

Section II(G) of the Pre-Annexation Agreement is hereby deleted in its entirety and replaced with the following:

"G. **Agricultural Mitigation Program:** The Owner hereby acknowledges that the City may adopt a comprehensive agricultural conversion development fee at some time in the future after annexation of the Property. The Owner hereby agrees that, in the event that the City adopts an ordinance imposing an agricultural conversion development fee, in accordance with applicable legal requirements, prior to issuance of a vesting project approval for development of any portion of the Property, Owner will be subject to the requirements of such citywide program to the extent required by law, and notwithstanding the non-existence of such a fee at the time of annexation, and provided that such a fee is also applicable to other similarly situated properties within, or to be annexed to, the City.

Section II(H) is hereby deleted in its entirety. City agrees to reimburse Owner for any fees previously paid by Owner to City pursuant to the former Section II(G).

4. **Counterparts.** This Second Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute an agreement binding all parties. The parties agree to accept signatures transmitted via facsimile.

5. **Governing Law.** This Second Amendment and the Pre-Annexation Agreement, as amended by this Second Amendment, shall be governed by and construed in accordance with California law.

[THIS SPACE INTENTIONALLY LEFT BLANK]

6. **Effect of Amendment.** Except as expressly modified by this Second Amendment, the Pre-Annexation Agreement shall continue in full force and effect according to its terms, and the parties hereby ratify and affirm all their respective rights and obligations under the Pre-Annexation Agreement. In the event of any conflict between this Second Amendment and the Pre-Annexation Agreement, this Second Amendment shall govern.

IN WITNESS WHEREOF, this Second Amendment has been executed as of the day and year first written above.

CITY

Date: _____

By: _____
Steve Salomon, City Manager

Attest:

Date: _____

By: _____
Donjia Huffmon, City Clerk

Approved as to Form:

Date: _____

By: _____
Alex Peltzer, City Attorney

VARGAS

Date: _____

By: _____
David J. Vargas, Co-trustee of the
Vargas Family Trust, dated December 23,
2005

Date: _____

By: _____
Ana Paula S. Vargas, Co-trustee of the
Vargas Family Trust, dated December 23,
2005

MSJ

Date: _____

By: _____
Patrick Daniels, Manager
Vargas / MSJ Development, LLC

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 2010 before me, _____ (here insert name of the officer), Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature of Notary Public

[Seal]



February 11, 2010

Mr. Mike Olmos
Assistant City Manager
CITY OF VISALIA
315 E Acequia Avenue
Visalia, CA 93291

Re: Vargas / MSJ Annexation
APN's 077-120-008, 010 & 014

Dear Mike:

As we recently discussed, on behalf of the Vargas / MSJ Development ownership of the referenced property, MSJ Partners requests that the City of Visalia initiate the process for amending the previously approved Pre-Annexation Agreement (dated October 29, 2007 and the First Amendment dated October 5, 2009). A proposed second amendment of the Pre-Annexation Agreement would be focused on the removal of sections related to Ag mitigation and to those sections which required more restrictive parcelization than allowed under the existing Heavy Industrial zoning.

Our request is based upon comments shared between staff and the City Council members at the Visalia City Council Strategic Workshop held on February 5 and 6, 2010 and the apparent willingness of the City Council to give consideration to our request.

If the above description meets with your understanding of our recent conversation, I would initiate a draft of a second amendment and forward that to you soon thereafter for you and your staff's consideration. We would desire and be willing to exercise whatever means necessary to expedite this process.

Thank you for your consideration and support of our request.

Sincerely,
VARGAS / MSJ DEVELOPMENT, LLC

A handwritten signature in black ink, appearing to read 'Patrick Daniels', is written over the typed name.

Patrick Daniels
Managing Member

cc: David Vargas

RECORDING REQUESTED BY
AND MAIL RESPONSE TO:
City of Visalia
Planning Division
315 East Acequia Avenue
Visalia, CA 93291

free copy



2007-0098036

Recorded Official Records
County of Tulare
GREGORY B. HARDCASTLE
Clerk Recorder

REC FEE 0.00
CONFORMED COPY N 0.00

RS 19

Pre-Annexation Agreement

RS
02:45PM 02-Nov-2007 | Page 1 of 19

This Pre-Annexation Agreement ("Agreement") is made and entered into this 29th day of October, 2007, by and among the City of Visalia, a charter law city ("City") and David Vargas and Ana Paula S. Vargas, co-trustees, the Vargas Family Trust dated December 23, 2005 (hereinafter "Owner"). City and Owner are sometimes each individually referred to herein as a "party" and collectively as the "parties."

RECITALS

WHEREAS, Owners are the record owners of the property, currently located in the unincorporated area of the County of Tulare, legally described in Exhibit A and depicted in Exhibit B, attached hereto (hereinafter referred to as the "Property"); and

WHEREAS, the Property is adjacent to and contiguous to the existing corporate boundary of the City, but is not situated within the limits of any municipality; and

WHEREAS, Owner desires to have the Property annexed to the City and to have the Property zoned as Planned Heavy Industrial (P-I-H), as set forth in Chapter 17.22 and Section 17.18.050 of the Visalia Municipal Code (the "City of Visalia Zoning Matrix") which designation would permit the Property to be used for heavy industrial uses and associated improvements (the "Project"). The Project includes all required City-issued discretionary land use approvals necessary for Owner's use of the Project in accordance with the contemplated Rezoning (defined below); and

WHEREAS, the Property consists of approximately 482.6 acres, and zero (0) registered voters reside thereon; and

WHEREAS, proper applications have been filed with the City for a Resolution of Application to the Tulare County Local Agency Formation Commission ("LAFCO") to initiate proceedings as may be required for the City's annexation of the Property; and

WHEREAS, the City has, on September 17, 2007, adopted a Resolution of Application (City Resolution No. 2007-073) (the "Resolution") requesting LAFCO to initiate proceedings to annex the Property to the City; and

WHEREAS, on June 21, 2004, the City Council of City adopted a General Plan Maintenance Fee effective June 21, 2004; and

WHEREAS, in certain annexation proceedings, California Land Conservation Act (hereinafter, the "Williamson Act") issues may arise which may require indemnification of the LAFCO, the County of Tulare, and City and may therefore be required of Owner herein; and

WHEREAS, in 1974, City perfected its option protest to the Williamson Act contract currently burdening the Property's southernmost 160 acres (Land Conservation Act Contract No. 8813) and, whereas, City will exercise such option upon its annexation of the Property; and

WHEREAS, the Resolution requires entry into this Agreement prior to the City submitting an application to LAFCO to commence the proposed annexation; and

WHEREAS, Owner acknowledges that, during the term of this Agreement, the Property will be subject to all ordinances, resolutions, and other regulations of the City, as they may be amended from time to time, provided the Property has first been finally annexed to the City, as well as state and federal statutes and regulations, as they may be amended, unless otherwise provided for in this Agreement or agreed to in writing by the parties; and

WHEREAS, the City is authorized by its police powers to protect the health, safety and welfare of the community, and is entering into this Agreement and executing such authority for said purpose; and

WHEREAS, unless otherwise set forth herein, nothing contained in this Agreement shall constitute a waiver of the City's legislative, governmental, or police powers to promote and protect the health, safety and welfare of the City and its inhabitants, nor shall this Agreement prohibit the enactment or increase by City of any tax, fee, or charge.

NOW, THEREFORE, in consideration of the above Recitals and the following Covenants, it is agreed by and between the parties as follows:

I. AGREEMENT IN GENERAL

- A. Parties. The parties to this Agreement are the City and Owner.
- B. Incorporation of Recitals. The parties confirm and incorporate the foregoing Recitals into this Agreement.
- C. Purpose/Limits of Agreement. A specific purpose of this Agreement is to set forth specific terms and conditions of annexation of the Property to City.

II. TERMS AND CONDITIONS OF ANNEXATION; PURPOSE OF AGREEMENT

Generally, each party to this Agreement is benefited and burdened by detachment from the County and annexation to the City. Owner will obtain a variety of services from City (including but not limited to potable water, sewer and storm water drainage and treatment, police, and fire services), and City will obtain additional tax revenues. City has adopted ordinances, regulations, and policies concerning design, improvement, construction, development and use of property within the City. Unless otherwise set

forth herein, nothing contained in this Agreement shall constitute a waiver of City's legislative, governmental, or police powers to promote and protect the health, safety, and welfare of City and its inhabitants, nor shall this Agreement prohibit the enactment or increase by City of any tax or fee. One purpose of this Agreement is to spell out additional conditions to which Owner will be subject following annexation and prior to development within the City due to the burden placed on City by Owner's desired annexation:

- A. Water Acquisition Policy: Although City's current water service provider, California Water Service, continues to issue will-serve letters, City's Council is aware of the steadily decreasing level of water in the City's underground water aquifers and has determined that increasing development is contributing to this serious problem. Therefore, City's Council has studied the issue and investigated possible solutions in order that it may continue to assure citizens that there will be water available to serve the community's needs. City's Council is actively engaged in water replenishment activities with the Kaweah Delta Water Conservation District and it has adopted a policy, as set forth in Chapter 16.54 of the Visalia Municipal Code, which requires annexation applicants to convey title to water rights to City upon annexation and/or to pay a fee to City (pursuant to an adopted fee schedule) so that City may acquire water for groundwater replenishment and storage in order to serve new development that comes with annexation, including development of the Property (the "Water Acquisition Policy"). Therefore, Owner agrees that, at the time that LAFCO issues a Certificate of Completion finalizing the annexation (and upon the running of all applicable statutes of limitation related thereto), Owner will comply with the Water Acquisition Policy by entering into an agreement with City to either (i) convey to City those water rights vested in the Property, if any, (ii) agree to pay City a fee in lieu thereof, (iii) agree to some combination of an in lieu fee payment and water right conveyance, or (iv) to comply by any other method allowed by the Water Acquisition Policy, provided that such agreement includes a condition precedent requiring City's water supplier to agree to serve the Property with potable water in amount sufficient to meet Owner's reasonably anticipated total water demand for the Property, as determined by a valid water supply assessment prepared pursuant to California Water Code § 10910 *et seq.* No post-annexation permit or entitlement approvals concerning the Property will be issued by City unless and until Owner complies with the Water Acquisition Policy in a manner consistent with this subsection II(A). Owner agrees that it shall identify all water rights which, to the best of Owner's knowledge, have been used by Owner or its agents in connection with the Property, regardless of whether they are considered "vested" in the Property, and shall comply with the Water Acquisition Policy by entering into an agreement with City to convey such rights, if any, to City. City shall cooperate with Owner in valuing such water rights for the purposes of determining the amount of offset to be applied against the in lieu fee as required pursuant of the Water Acquisition Policy. Owner further agrees that City shall have first right of refusal in acquiring upon mutually acceptable terms any water rights that Owner owns that may be in addition to those required

to meet Owner's obligations under the Water Acquisition Policy. City agrees that water rights need not be conveyed and in lieu fees shall not be made payable until City's issuance of one or more parcel maps or final subdivision maps covering the Property and, in the event Owner applies to City for its approval of multiple final maps covering the Property, City agrees such water rights conveyance or fee payment obligation shall be allocated on a pro rata basis to each phase of development covered by each final subdivision map, with conveyance of water rights or payment to be made on a per map basis upon City's issuance of each final subdivision map covering the Property.

B. General Plan Maintenance Fee: On June 21, 2004, the City adopted (by Resolution 2004-63, as corrected) a General Plan Maintenance Fee. Owner agrees that, at the time LAFCO issues a Certificate of Completion finalizing the annexation (and upon the running of all applicable statutes of limitation related thereto), Owner will enter into an agreement with City to pay the General Plan Maintenance Fee in an amount equal to \$308.00 per acre and no post-annexation permit or entitlement approvals concerning the Property will be issued unless and until said agreement is executed. City agrees that such fee shall not be made payable until City's issuance of one or more final subdivision maps covering the Property and, in the event Owner applies to City for its approval of multiple final maps covering the Property, City agrees such fee payment obligation shall be allocated on a pro rata basis to each phase of development covered by each final subdivision map, with payment to be made on a per map basis upon City's issuance of each final subdivision map covering the Property. Owner's satisfaction of its obligations under this Section II(B) will satisfy any and all of Owner's obligations related to and arising under the General Plan Maintenance Fee.

C. Williamson Act:

C-1: Indemnification: Occasionally property to be annexed is burdened with contract(s) entered into pursuant to the Williamson Act which the City may succeed to and administer if the annexation is completed. In some events, the owners of land subject to a Williamson Act contract desire to cancel said contract(s). Specific statutory findings must be made in order to cancel said contract, as required by the Williamson Act. In the event of an Owner-initiated request for cancellation of Williamson Act contracts which burden land subject to this Agreement, Owner agrees to concurrently enter into an agreement to indemnify, hold harmless, and defend (with counsel of City's choosing), the City, its officers, elected officials, employees, and agents, from and against any and all third-party claims, demands, or damages arising from its decision with respect to such cancellation request regardless of the date the cancellation request is made or initiated. The indemnification agreement contemplated by this Section II(C) shall also provide that Owner may, to the extent permitted by law, participate in any legal proceedings contemplated by this Section II(C) as a real party in interest, with legal counsel of Owner's choosing.

C-2: Option Not To Succeed To A Williamson Act Contract. On February 4, 1974, City filed with LAFCO a formal protest of Williamson Act Contract Preserve No. 3051 (Contract No. 8813), which contract currently burdens the Stage 1 Area. On February 20, 1974, LAFCO formally upheld City's protest of Williamson Act Contract Preserve No. 3051 (Contract No. 8813), specifically finding that such contract is inconsistent with the publicly desirable future use and control of the land burdened thereby. If City determines to apply to LAFCO for the annexation of the Property, City agrees to take any and all steps necessary to preserve and exercise its option not to succeed to Williamson Act Contract Preserve No. 3051 (Contract No. 8813), as provided by Government Code § 51243.5.

C-3: Agricultural Easement Exchange. In the event of an Owner-initiated request for cancellation of Williamson Act contracts which burden land subject to this Agreement, City agrees to consider (and the parties agree to cooperate to facilitate) a potential agricultural easement exchange, as contemplated by the Williamson Act's agricultural easement exchange program set forth in Government Code § 51256. If, following appropriate environmental review pursuant to CEQA, City determines to pursue an agricultural easement exchange with respect to any portion of the Property, Owner and City would enter into an agreement to rescind the relevant Williamson Act contract(s) in accordance with the Williamson Act's cancellation provisions (i.e., Government Code § 51282) in order to simultaneously place other land under an agricultural conservation easement in perpetuity, provided such exchange is first approved by the Department of Conservation. Per the requirements of the easement exchange program, the value of the proposed agricultural conservation easement shall be at least equal to the cancellation fee that Owner would otherwise pay if the subject Williamson Act contract(s) were canceled pursuant to the Williamson Act's standard cancellation procedures. If a willing seller of an agricultural easement cannot be identified, then, per the agreement contemplated by this subsection II(H), Owner would pay the standard cancellation fee in accordance with the Williamson Act's cancellation procedures. In the alternative, the agreement contemplated by this subsection II(H) shall permit Owner to maintain the existing Williamson Act contracts for the remainder of their term.

D. Development Plan: Per the condition requested by the Visalia City Council and included in the Resolution, the Owner hereby agrees to the following criteria regarding future development on the Property:

- The site shall be developed in stages, with Stage 1 to be the southernmost 160 acres of the Property (the "Stage 1 Area"), and Stage 2 to be the northernmost remainder 320 acres of the Property (the "Stage 2 Area"), as such stages are depicted on the attached Exhibit C and as described on the attached Exhibit C-1.

- The subdivision of the Stage 1 Area will be allowed immediately upon annexation, provided 75% of the Stage 1 Area is devoted to parcels having a minimum size of at least 40 acres, and 25% of the Stage 1 Area is devoted to parcels having a minimum size of at least 10 acres (City acknowledges that right-of-way dedications will be required for the Project and that the land area comprising such dedications will be factored into the minimum lot size requirements of this section II(D) such that the resulting net parcel sizes will be proportionately smaller than the minimum lot sizes otherwise required hereunder). The criteria for minimum lot size can be waived on an individual case basis if the Community Development Director makes the findings that the parcel will be occupied by an identified user(s) that would bring substantial economic and/or job benefits to the City of Visalia, that the user(s) will have a building size at least 100,000 sq. ft., and that the user(s) initially provides 50 full-time jobs.
- No subsequent subdivision or other development entitlement for the Stage 2 Area shall be approved until a Stage 2 Area master plan is developed and an agreement between City and Owner establishing Stage 2 Area minimum parcel sizes is approved by the City, which minimum parcel sizes shall in no event be larger than 40 acres (the "Stage 2 Agreement"). Furthermore, no subdivision map or other development entitlement for the Stage 2 Area shall be approved by the City until the developable area of the Stage 1 Area is at least 75% developed. Notwithstanding anything to the contrary in this Agreement, a Stage 2 Area master plan and any agreements between Owner and City related to the Stage 2 Area may be approved prior to the development of 75% of the developable area of the Stage 1 Area.

E. Prezoning. City agrees to promptly process and, after City completes and adopts its environmental review, consider Owner's application to prezone the Property, as required by the Cortese-Knox-Hertzberg Act's prezoning requirements. The Planned Heavy Industrial (P-I-H) zoning designation is the adopted prezoning for the Property, in accordance with Visalia Municipal Code Chapter 17.22 and Section 17.06.050(A), which section states that all territory which is annexed into the City shall be classified to the zone as indicated on the Visalia General Plan land use map, as adopted by the City (the "Prezoning"). The Planned Heavy Industrial zoning designation permits heavy industrial and other land uses, as specified by the City of Visalia Zoning Matrix. The Planned Heavy Industrial zoning designation also permits the continuing operation of agricultural land uses presently on the Property as a legally-existing "nonconforming use," as further defined and regulated by Chapter 17.40 of the Visalia Municipal Code. The parties acknowledge that, if the Property is annexed to the City, a portion of such Property may be subject to one or more Williamson Act contracts. The Parties agree, and the prezoning shall specify, that, upon annexation, such contracted Property shall only be used in a manner that is compatible with the relevant

Williamson Act contract(s) until such time as such contract(s) expire, terminate, or are cancelled in accordance with the Williamson Act. The Parties further agree, and the rezoning shall specify, that all urban uses permitted by the Planned Heavy Industrial zoning designation shall automatically be permitted on those portions of the Property subject to a Williamson Act contract upon the expiration, termination, or cancellation of such contract. Upon execution of this Agreement, City shall use its best efforts to (i) promptly complete its environmental review of the Project and consider its adoption thereof, and (ii) complete its preparation of the proposed rezoning contemplated by this subsection II(E) and consider its approval thereof. If City approves the rezoning contemplated by this subsection II(E), the terms and conditions of such rezoning shall be included in City's application to LAFCO for the annexation of the Property to City, which application shall promptly be submitted to LAFCO by City.

- F. Plan For Providing Services. The parties agree to cooperate in, and to take such actions as may be necessary to ensure, the diligent preparation of a Plan For Providing Services to the Property, to be submitted to LAFCO along with City's annexation application, in accordance with Cortese-Knox-Hertzberg Act requirements.
- G. Agricultural Conservation Endowment – Stage 1 Area: Owner agrees to pay City an Agricultural Conservation Endowment in an amount equal to \$2,000 per acre within the Stage 1 Area. Owner agrees that Owner's monetary obligations under this subsection II(G) shall be made payable upon LAFCO's issuance of a Certificate of Completion finalizing the annexation contemplated by this Agreement (and the running of all related statutes of limitation).
- H. No Additional Agricultural Development Exactions. City agrees that Owner's satisfaction of its obligations under II(G) of this Agreement will satisfy any and all of Owner's obligations to City related to the conversion of the Stage 1 Area from agricultural use to urban use and that City shall not impose any additional exactions against Owner or the Property related to the conversion of the Property from agricultural to urban use. Owner acknowledges that the City may adopt a comprehensive agricultural conversion development fee at some time in the future after annexation of the Property. Owner expressly agrees that if such a fee is duly adopted by City in accordance with applicable law prior to approval of a vesting project approval for any portion of the Stage 2 Area and such fee would otherwise be applicable to the Stage 2 Area, such fee shall be applicable to the Stage 2 Area notwithstanding the non-existence of such a fee at the time of annexation, provided that such fee is also applicable to other similarly situated properties within, or to be annexed to, the City.
- I. SB 221 Compliance. To the extent required by law, any tentative map prepared for the Project shall comply with the provisions of Government Code § 66473.7.

Owner understands and agrees that building permits and other entitlements for development on the Property shall comply with the phasing provisions of subsection II(D) and will not be issued unless and until each and every condition of subsections II(A), II(B), and II(C-1) of this Agreement are satisfied.

III. PROPERTY ZONING

Owner acknowledges and agrees that this Agreement shall not limit City's authority to exercise the full range of its legislative and police powers with respect to development and use of the Property in a manner consistent with this Agreement. Notwithstanding such authority, and provided Owner complies with the requirements of this Agreement, City agrees that the Property shall continue to be designated under the Visalia General Plan land use map for Industrial land uses, and zoned Planned Heavy Industrial (P-I-H), as set forth in Chapter 17.22 of the Visalia Municipal Code, during the term of this Agreement, unless otherwise consented to in writing by Owner. The ongoing agricultural use of the Property shall be permitted as a legal nonconforming use for the term of this Agreement in a manner consistent with Chapter 17.40 of the Visalia Municipal Code. Except as expressly set forth herein, neither this paragraph nor any portion of this Agreement shall be construed to protect the Property against changes in City policies, rules, regulations or conditions of development, including but not limited to permitted uses within the indicated zone or development impact fees, which would otherwise be applicable to the Property.

IV. TERM

The term of this Agreement shall become effective when fully executed by the parties hereto (the "Effective Date") and continue for a period of twenty (20) years. This Agreement shall automatically terminate if either (a) the annexation proceedings are terminated for any reason; or (b) the completion of the annexation (recording of a Certificate of Completion) does not occur on or before two (2) years from the Effective Date, which two (2) year period shall be extended in the event of an "Excusable Delay," as such events are contemplated by subsection VII(O) of this Agreement. Notwithstanding the forgoing, Owner or its successors shall have the right, upon ten (10) day's prior written notice to City, to terminate this Agreement prior to LAFCO's issuance of a Certificate of Completion of the annexation (and the running of all applicable statutes of limitations related thereto) if it determines in its sole discretion that it is in its best interest to do so, and, in such event, City agrees to withdraw the Resolution then pending before LAFCO.

V. DEFAULT, REMEDIES AND ENFORCEMENT

In the event of breach or default of any term, condition, covenant or obligation of this Agreement by either party, the other party may exercise any rights available at law or in equity, including an action for specific performance, damages, or other injunctive relief, and all such remedies shall be cumulative. This Agreement shall be enforceable, unless lawfully terminated or cancelled, by any party to the Agreement or any party's successor

in interest, notwithstanding any subsequent changes in any applicable law adopted by the City which alters or amends the laws, ordinances, resolutions, rules or policies frozen by this Agreement.

VI. INDEMNIFICATION

Owner agrees to indemnify and hold harmless City and the City's officers, employees, agents, and contractors, from and against all claims, demands, or damages including reasonable attorney's fees and court costs, which arise out of this Agreement or its operation, or with any other annexation action or other action reasonably determined necessary by the City in order to effectuate the annexation of Owner's property, or which are in any manner connected with the City's enforcement of this Agreement.

VII. MISCELLANEOUS

- A. Binding Effect/Covenants to Run With Land. The Parties hereto agree to be bound by this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the heirs, transferees, successors and assigns of the parties hereto. The terms and conditions stated herein shall constitute covenants running with the land.
- B. Assignment. Neither party shall assign, delegate or transfer their rights and duties in this Agreement without the written consent of the other party (which consent shall not be unreasonably withheld), provided, however, that Owner may, without City's prior consent, assign all or any portion of its interest, rights, or obligations under this Agreement to either MSJ Visalia LLC, a Delaware limited liability company, or Vargas/MSJ Development LLC, a California limited liability company.
- C. Authorized Signatory. The individuals executing this Agreement, by their signature hereto, declare that they are authorized to, and have the legal power, right and actual authority to bind the party to the terms and conditions of this Agreement.
- D. Notices. All notices under this Agreement shall be effective upon personal delivery to City, or Owner, as the case may be, three (3) days after deposit in the United States Mail, postage fully prepaid, addressed to the respective parties as follows:

To the City: City Manager
 City of Visalia
 425 East Oak Ave., Suite 301
 Visalia, CA 93291

With Copy to: Alex Peltzer
 City Attorney

Dooley, Herr & Peltzer
100 Willow Plaza, Suite 300
Visalia, CA 93291

To Owner: David and Ana Paula S. Vargas, Co-trustees
3131 Silbury Court
Vargas Family Trust
San Jose, CA 95148

Or such other address as the parties may from time to time designate by giving notice as required hereunder.

- E. Entire Agreement. This Agreement represents the entire agreement between the City and Owner as to its subject matter and no prior oral or written understanding shall be of any force or affect. The parties intend this paragraph to be a conclusive recital of fact pursuant to Section 622 of the California Evidence Code. This Agreement is intended to be a final expression of the agreement of the parties and is an integrated agreement within the meaning of Section 1856 of the California Code of Civil Procedure. This Agreement was jointly drafted by the parties.
- F. Amendment. No part of this Agreement may be modified without the written consent of both parties. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest. City's city manager may execute any such amendment on City's behalf, although the city manager retains the discretion to refer such matters to the City Council.
- G. Headings. Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning, or intent of the provisions under the heading.
- H. No Third Party Beneficiaries Intended. Except as provided herein, the parties of this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.
- I. Conflict With Laws or Regulations/Severability. This Agreement is subject to all applicable laws and regulations. If any provision(s) of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing this subject, the conflicting provision(s) shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the effected party. In all other cases, the remainder of the Agreement shall continue in full force and effect.


- J. 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.
- K. Choice of Law - Venue. 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. This Agreement was executed in Tulare County, California, and venue for any legal action arising from or in connection with this Agreement or the Property shall be in Tulare County, California.
- L. Attorneys Fees. In the event either party commences any action or legal proceedings for the enforcement of this Agreement, the prevailing party, as determined by the court, shall be entitled to recovery of its reasonable fees and costs, including reasonable attorneys fees, court costs incurred in the action brought thereon.
- M. No Agency, Joint Venture or Partnership. It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by City and Owner and that Owner is not an agent of City. City and Owner hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection therewith shall be construed as making City and Owner joint venturers or partners.
- N. Excusable Delays; Extension of Time of Performance. In the event of delays due to strikes, inability to obtain materials, civil commotion, fire, war, terrorism, lockouts, third-party litigation or other legal challenges regarding the annexation, riots, floods, earthquakes, epidemic, quarantine, freight embargoes, failure of contractors to perform, or other circumstances beyond the reasonable control of the parties and which cause substantially interferes with the ability of either party to perform its obligations under this Agreement, then the time for performance of any such obligation shall be extended for such period of time as the cause of such delay shall exist but in any event not longer than for such period of time.
- O. Further Assurances. The parties will execute and deliver, upon demand by the other party, such further documents, instruments and conveyances, and shall take such further actions as such other party may request from time to time to document the transactions set forth herein.

P. Recordation of Agreement; Counterparts. This Agreement, or an abstract of its material terms and conditions shall be recorded by either party in the Official Records of the Tulare County Recorder. This Agreement may be executed in counterparts and, when all counterparts are combined, shall constitute a single agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth next to their signature.


CITY

Date: 10/29/07

By: 
Steve Salomon, City Manager

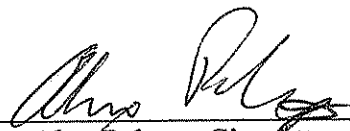
Attest:

Date: 10/29/07

By: 
Donjia Huffmon, City Clerk - Chief Deputy

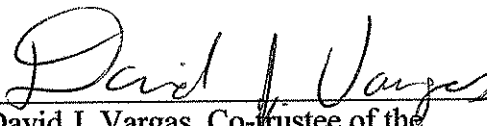
Approved as to Form:

Date: 10/23/07

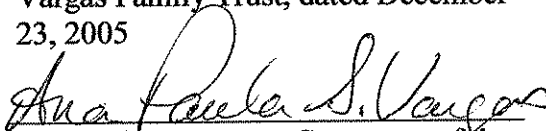
By: 
Alex Peltzer, City Attorney

OWNER

Date: 10/9/07

By: 
David J. Vargas, Co-trustee of the
Vargas Family Trust, dated December
23, 2005

Date: 10/9/07

By: 
Ana Paula S. Vargas, Co-trustee of the
Vargas Family Trust, dated December
23, 2005

STATE OF CALIFORNIA)

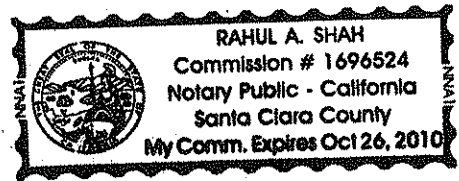
COUNTY OF ~~TULARE~~ ^{As} Santa Clara) ss:

On Octo. 9th, 2007, 2007 before me, Rahul A Shah, Notary Public, personally appeared DAVID J. VARGAS AND ANA PAULAS VARGAS 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.



Notary Public



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Tulare

On October 30, 2007 before me, Susan E. Alter, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Steven M. Salomon
Name(s) of Signer(s)

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.



Place Notary Seal Above

Signature Susan E. Alter
Signature of Notary Public

WITNESS my hand and official seal.

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

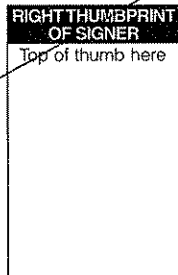
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

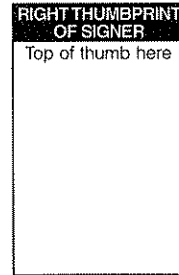
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



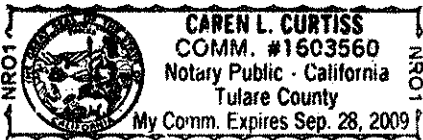
Signer Is Representing: _____

ACKNOWLEDGMENT

State of California)
) ss.
County of Tulare)

On October 24, 2007, before me, CAREN L. CURTISS, a Notary Public, personally appeared ALEX PELTZER personally known to me (or proved to me on the basis of satisfactory evidence), to be the person(s) whose name (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 acted, executed the instrument.

WITNESS my hand and official seal.



Caren L. Curtiss
CAREN L. CURTISS

EXHIBIT "A"
MSJ INDUSTRIAL PARK
ANNEXATION TO THE CITY OF VISALIA

LEGAL DESCRIPTION

March 31, 2006

Those portions of Sections 17 and 8, Township 18 South, Range 24 East, Mount Diablo Base and Meridian in the County of Tulare, State of California, more particularly described as follows:

Commencing at the Southeast corner of said Section 17;

Thence (1) North 00°02'09" West, along the East line of said Section 17, a distance of 20.00 feet to a point on a line which is parallel with and 20 feet northerly from said Section 17, being the existing City Limit line and the TRUE POINT OF BEGINNING;

Thence (2) South 89°52'56" West, along said parallel line, also being the existing City Limit line, a distance of 2634.91 feet to a point on the West line of the Southeast quarter of said Section 17;

Thence (3) South 89°52'42" West, along a line which is parallel with and 20 feet northerly from the South line of the Southwest quarter of said Section 17, being the existing City Limit line, a distance of 40.00 feet to a point on a line which is parallel with and 40 feet westerly from the West line of the Southeast quarter of said Section 17;

Thence (4) North 00°00'44" East, leaving the existing City Limit line, along last said parallel line, a distance of 2620.43 feet to a point on the South line of the Northwest quarter of said Section 17;

Thence (5) North 89°54'29" West, along said South line of the Northwest quarter of Section 17, a distance of 2592.83 feet to the Southwest corner of the Northwest quarter of Section 17;

Thence (6) North 00°03'36" East, along the West line of said Northwest quarter of Section 17, a distance of 2649.65 feet to the Northwest corner of Section 17;

Thence (7) North 00°02'19" East, along the West line of said Section 8, a distance of 25.00 feet to a point on a line which is parallel with and 25 feet northerly from the North line of said Section 17;

Thence (8) South 89°42'12" East, along last said parallel line, a distance of 2630.53 feet to a point on the East line of the Southwest quarter of said Section 8;

Thence (9) South 89°42'06" East, along last said parallel line, a distance of 2630.63 feet to a point on the East line of said Section 8;

Thence (10) South 00°14'35" West, along said East line of Section 8, a distance of 25.00 feet to the Northeast corner of said Section 17;

Thence (11) South 00°02'09" East, along the East line of said Section 17, a distance of 2630.71 feet to the Southeast corner of the Northeast quarter of said Section 17;

Thence (12) South 00°02'09" East, along said East line of Section 17, a distance of 2610.71 feet to a point on the North line of Avenue 312 and the existing City Limit line, also being the TRUE POINT OF BEGINNING.

Containing 482.6 acres of land, more or less.

For assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

ANNEXATION NO. 2006-XXXX
MSJ INDUSTRIAL PARK
482.6 ACRES
CITY OF VISALIA EFFECTIVE:

A PORTION OF SECTION 17, T. 18 S., R. 24 E., M. D. B. & M., THE SOUTH 1/2, 1/4, 1/2, 3/4, & 1/8 ACRES, IN THE COUNTY OF TULARE, STATE OF CALIFORNIA

NOTES:

1. BOUNDARY INFORMATION WAS DERIVED FROM A RECORD OF DEED RECORDED IN THE COUNTY RECORDS AT PAGE 54, TULARE COUNTY RECORDS.
2. THE HIGHEST CORNER OF SECTION 17 IS MARKED AS A ZONE TO PART FROM PARCEL ASSOCIATED WITH THE REMAINDER OF THE SITE IS IN FLOOD ZONE "C".
3. AREA OF ANNEXATION: SEE AREA ADDRESS.

LEGEND:

- EXISTING CITY LIMITS
- AREA TO BE ANNEXED TO THE CITY OF VISALIA
- EXISTING RIGHT OF WAY OR PROPERTY LINE
- EXISTING CENTER LINE ON SECTION LINE

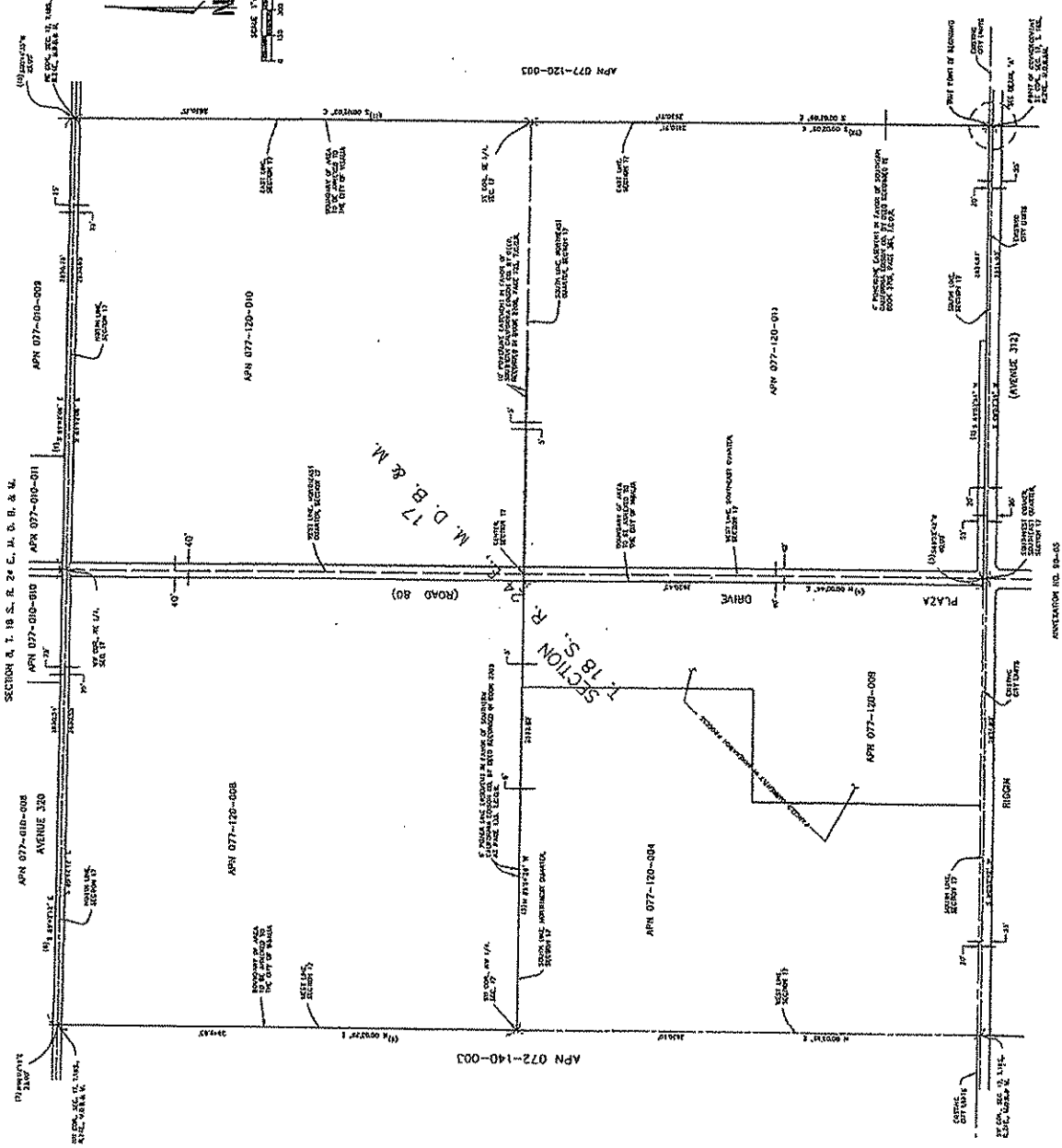
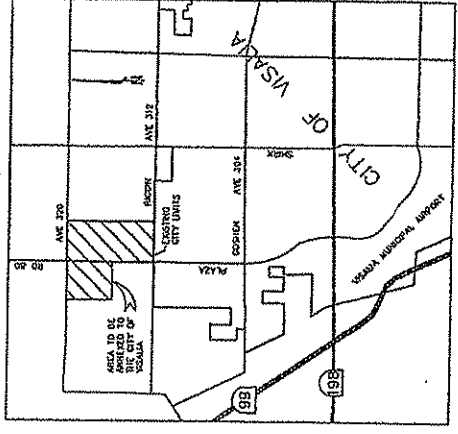
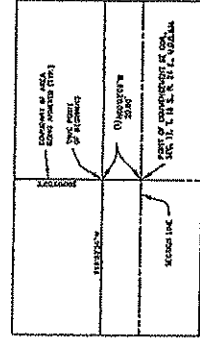
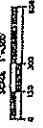


Exhibit "B"

ANNEXATION MAP
 MSJ INDUSTRIAL PARK
 CITY OF VISALIA

PROVOST & PRITCHARD
 REGISTERED PROFESSIONAL LAND SURVEYORS
 1000 N. G ST., VISALIA, CA 93277
 (559) 735-1111
 FAX (559) 735-1112

DATE OF ISSUE	05/20/06
DATE OF REVISION	
REVISION NO.	
REVISION DESCRIPTION	
DATE OF REVISION	
REVISION NO.	
REVISION DESCRIPTION	
DATE OF REVISION	
REVISION NO.	
REVISION DESCRIPTION	
DATE OF REVISION	
REVISION NO.	
REVISION DESCRIPTION	

1 of 1

Annexation No. 2007-01 (Vargas)

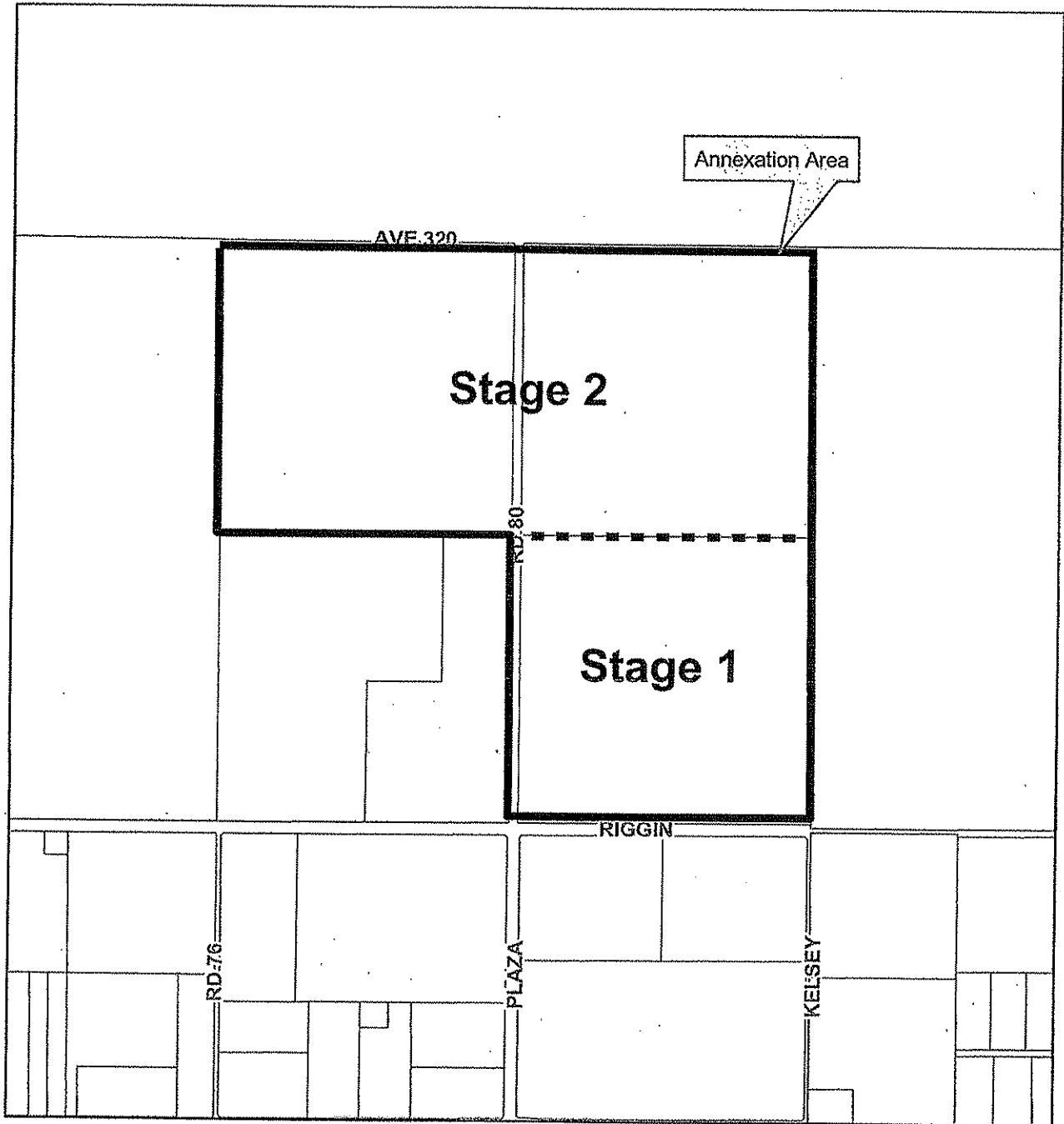
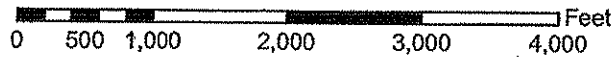


Exhibit "C" of
Visalia Annexation No. 2007-01
Pre-Annexation Agreement



COPY of Document Recorded
2-Dec-2009 2009-0078304
Has not been compared with
original
TULARE COUNTY RECORDER

NO FEE REQUIRED PURSUANT
TO GOVT. CODE SECTION 27383

RECORDING REQUESTED BY
AND MAIL RESPONSE TO:

City of Visalia
Planning Division
315 East Acequia
Visalia, CA 93291

FIRST AMENDMENT TO PRE-ANNEXATION AGREEMENT
FOR COVENANT RUNNING WITH THE LAND

This page shall function as a cover page for recording purposes only. The true First Amendment to Pre-Annexation Agreement follows this page.

PROJECT: Visalia Annexation No. 2007-01

PARTIES TO AGREEMENT: City of Visalia; Davis Vargas and Ana Paula S. Vargas, co-trustees of the Vargas Family Trust dated December 23, 2005; and Vargas / MSJ Development, a California Limited Liability Company

LOCATION: Property legally described and depicted in Exhibits "A" and "B" contained within the Pre-Annexation Agreement.

The original Pre-Annexation Agreement entered into among the parties was recorded on November 2, 2007 as Document 2007-0098036.

First Amendment to Pre-Annexation Agreement

This First Amendment to the Pre-Annexation Agreement (this "**First Amendment**") is made and entered into this 5th day of October, 2009, by and among the CITY OF VISALIA, a California charter law city ("**City**"), David Vargas and Ana Paula S. Vargas, co-trustees, the VARGAS FAMILY TRUST DATED DECEMBER 23, 2005 ("**Vargas**") and VARGAS / MSJ DEVELOPMENT, a California Limited Liability Company ("**MSJ**"). City, MSJ and Vargas are sometimes each individually referred to herein as a "party" and collectively as the "parties." Vargas and MSJ are sometimes collectively referred to herein as "**Owner**."

RECITALS

WHEREAS, on October 29, 2007, City and Vargas entered into to that certain Pre-Annexation Agreement (the "**Pre-Annexation Agreement**") which sets forth terms and conditions regarding the annexation and future use of the "Property," as such real property is described in the Pre-Annexation Agreement; and

WHEREAS, on May 23, 2008, Vargas and MSJ entered into that certain "Assignment Agreement" wherein Vargas assigned to MSJ its interests in that portion of the Property identified by the Pre-Annexation Agreement as the "Stage 1 Area," including Vargas' interest in the Pre-Annexation Agreement to the extent it applies to the Stage 1 Area; and

WHEREAS, City, Vargas and MSJ now desire to modify the terms of the Pre-Annexation Agreement as provided herein in order to address minor changes concerning the future subdivision of the of the Property; and

WHEREAS, City, Vargas and MSJ further desire to modify the timing requirement of certain fee payment obligations imposed upon Owner by and under the Pre-Annexation Agreement.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **Defined Terms**. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Pre-Annexation Agreement.

2. **Water Acquisition Policy**.

Section II(A) of the Pre-Annexation Agreement is hereby deleted in its entirety and replaced with the following:

"A. **Water Acquisition Policy**: Although City's current water service provider, California Water Service, continues to issue will-serve letters, City's Council is aware of the steadily decreasing level of water in the City's underground water aquifers and has

determined that increasing development is contributing to this serious problem. Therefore, City's Council has studied the issue and investigated possible solutions in order that it may continue to assure citizens that there will be water available to serve the community's needs. City's Council is actively engaged in water replenishment activities with the Kaweah Delta Water Conservation District and it has adopted a policy, as set forth in Chapter 16.54 of the Visalia Municipal Code, which requires annexation applicants to convey title to water rights to City upon annexation and/or to pay a fee to City (pursuant to an adopted fee schedule) so that City may acquire water for groundwater replenishment and storage in order to serve new development that comes with annexation, including development of the Property (the "Water Acquisition Policy"). Therefore, Owner agrees that, at the time that LAFCO issues a Certificate of Completion finalizing the annexation (and upon the running of all applicable statutes of limitation related thereto), Owner will comply with the Water Acquisition Policy by entering into an agreement with City to either (i) convey to City those water rights vested in the Property, if any, (ii) agree to pay City a fee in lieu thereof, (iii) agree to some combination of an in lieu fee payment and water right conveyance, or (iv) to comply by any other method allowed by the Water Acquisition Policy, provided that such agreement includes a condition precedent requiring City's water supplier to agree to serve the Property with potable water in amount sufficient to meet Owner's reasonably anticipated total water demand for the Property, as determined by a valid water supply assessment prepared pursuant to California Water Code § 10910 *et seq.* No post-annexation permit or entitlement approvals concerning the Property will be issued by City unless and until Owner complies with the Water Acquisition Policy in a manner consistent with this subsection II(A). Owner agrees that it shall identify all water rights which, to the best of Owner's knowledge, have been used by Owner or its agents in connection with the Property, regardless of whether they are considered "vested" in the Property, and shall comply with the Water Acquisition Policy by entering into an agreement with City to convey such rights, if any, to City. City shall cooperate with Owner in valuing such water rights for the purposes of determining the amount of offset to be applied against the in lieu fee as required pursuant of the Water Acquisition Policy. Owner further agrees that City shall have first right of refusal in acquiring upon mutually acceptable terms any water rights that Owner owns that may be in addition to those required to meet Owner's obligations under the Water Acquisition Policy. City agrees that water rights need not be conveyed and in lieu fees shall not be made payable until City's issuance of one or more building permits for the Property and, in the event Owner applies to City for its approval of multiple building permits for the Property, City agrees such water rights conveyance or fee payment obligation shall be allocated on a pro rata basis to each phase of development covered by each such building permit, with conveyance of water rights or payment to be made on a per permit basis upon City's issuance of each such building permit for the Property."

3. **General Plan Maintenance Fee.**

Section II(B) of the Pre-Annexation Agreement is hereby deleted in its entirety and replaced with the following:

“B. General Plan Maintenance Fee: On June 21, 2004, the City adopted (by Resolution 2004-63, as corrected) a General Plan Maintenance Fee. Owner agrees that, at the time LAFCO issues a Certificate of Completion finalizing the annexation (and upon the running of all applicable statutes of limitation related thereto), Owner will enter into an agreement with City to pay the General Plan Maintenance Fee in an amount equal to \$308.00 per acre and no post-annexation permit or entitlement approvals concerning the Property will be issued unless and until said agreement is executed. City agrees that such fee shall not be made payable until City’s issuance of one or more building permits for the Property and, in the event Owner applies to City for its approval of multiple building permits for the Property, City agrees such fee payment obligation shall be allocated on a pro rata basis to each phase of development covered by each such building permit, with payment to be made on a per permit basis upon City’s issuance of each building permit for the Property. Owner’s satisfaction of its obligations under this Section II(B) will satisfy any and all of Owner’s obligations related to and arising under the General Plan Maintenance Fee.”

4. **Development Plan.**

Section II(D) of the Pre-Annexation Agreement are hereby deleted in its entirety and replaced with the following:

“D. Development Plan: Per the condition requested by the Visalia City Council and included in the Resolution, the Owner hereby agrees to the following criteria regarding future development on the Property:

- The site shall be developed in stages, with Stage 1 to be the southernmost 160 acres of the Property (the “Stage 1 Area”), and Stage 2 to be the northernmost remainder 320 acres of the Property (the “Stage 2 Area”), as such stages are depicted on the attached Exhibit C.
- The subdivision of the Stage 1 Area will be allowed immediately upon annexation, provided at least two parcels are created with a minimum size of 40 acres each, and all other parcels have a minimum size of 10 acres (City acknowledges that right-of-way dedications will be required for the Project and that the land area comprising such dedications will be factored into the minimum lot size requirements of this section II(D) such that the resulting net parcel sizes will be proportionately smaller than the minimum lot sizes otherwise required hereunder). The criteria for minimum lot size can be waived on an individual case basis if the Community Development Director makes the findings that the parcel will be occupied by an identified user(s) that would bring substantial economic and/or job benefits to the City of Visalia, that the user(s) will have a building size at least 100,000 sq. ft., and that the user(s) initially provides 50 full-time jobs.

- No subsequent subdivision or other development entitlement for the Stage 2 Area shall be approved until a Stage 2 Area master plan is developed and an agreement between City and Owner establishing Stage 2 Area minimum parcel sizes is approved by the City, which minimum parcel sizes shall in no event be larger than 40 acres (the “Stage 2 Agreement”). Furthermore, no subdivision map or other development entitlement for the Stage 2 Area shall be approved by the City until the developable area of the Stage 1 Area is at least 75% developed. Notwithstanding anything to the contrary in this Agreement, a Stage 2 Area master plan and any agreements between Owner and City related to the Stage 2 Area may be approved prior to the development of 75% of the developable area of the Stage 1 Area.”

5. **Counterparts.** This First Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute an agreement binding all parties. The parties agree to accept signatures transmitted via facsimile.

6. **Governing Law.** This First Amendment and the Pre-Annexation Agreement, as amended by this First Amendment, shall be governed by and construed in accordance with California law.

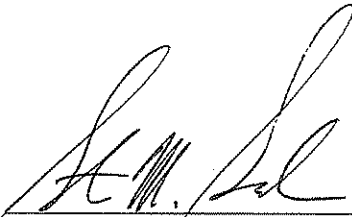
[THIS SPACE INTENTIONALLY LEFT BLANK]

7. **Effect of Amendment.** Except as expressly modified by this First Amendment, the Pre-Annexation Agreement shall continue in full force and effect according to its terms, and City and Owner hereby ratify and affirm all their respective rights and obligations under the Pre-Annexation Agreement. In the event of any conflict between this First Amendment and the Pre-Annexation Agreement, this First Amendment shall govern.

IN WITNESS WHEREOF, this First Amendment has been executed as of the day and year first written above.

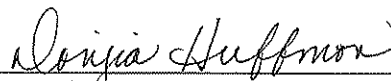
CITY OF VISALIA

Date: 10/23/09

By: 
Steve Salomon, City Manager

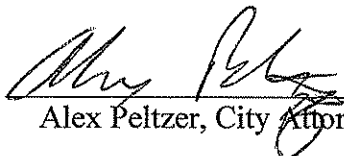
Attest:

Date: 10/26/09

By: 
Donjia Huffmon, City Clerk *Deputy*

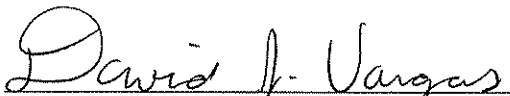
Approved as to Form:

Date: 10/20/09


By: 
Alex Peltzer, City Attorney

VARGAS

Date: 10/05/2009

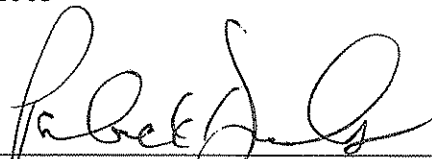
By: 
David J. Vargas, Co-trustee of the
Vargas Family Trust, dated December 23,
2005

Date: 10/5/09

By: 
Ana Paula S. Vargas, Co-trustee of the
Vargas Family Trust, dated December 23,
2005

MSJ

Date: 10/6/2009

By: 
Patrick Daniels, Manager
Vargas / MSJ Development, LLC

ACKNOWLEDGMENT

STATE OF CALIFORNIA)

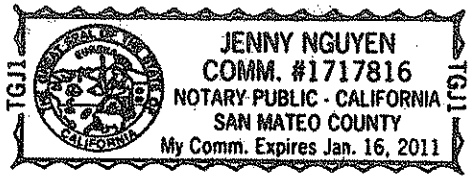
COUNTY OF Santa Clara) ss:

On October 5th, 2009 before me, Jenny Nguyen - Notary Public (here insert name of the officer), Notary Public, personally appeared

David J. Vargas and Ana Paula S. Vargas, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



Jenny Nguyen
Signature of Notary Public

[Seal]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

On 10/16/09 before me, Michelle Single, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Patrick Daniels
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



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

WITNESS my hand and official seal.

Signature Michelle Single
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

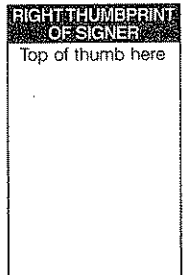
Capacity(ies) Claimed by Signer(s)

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____

ACKNOWLEDGMENT

State of California
County of Tulare

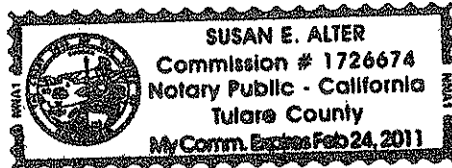
On October 23, 2009 before me, Susan E. Alter, a Notary Public
(insert name and title of the officer)

personally appeared Steven M. Salomon,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~
subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in
~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Susan E. Alter



(Seal)

Annexation No. 2007-01 (Vargas)

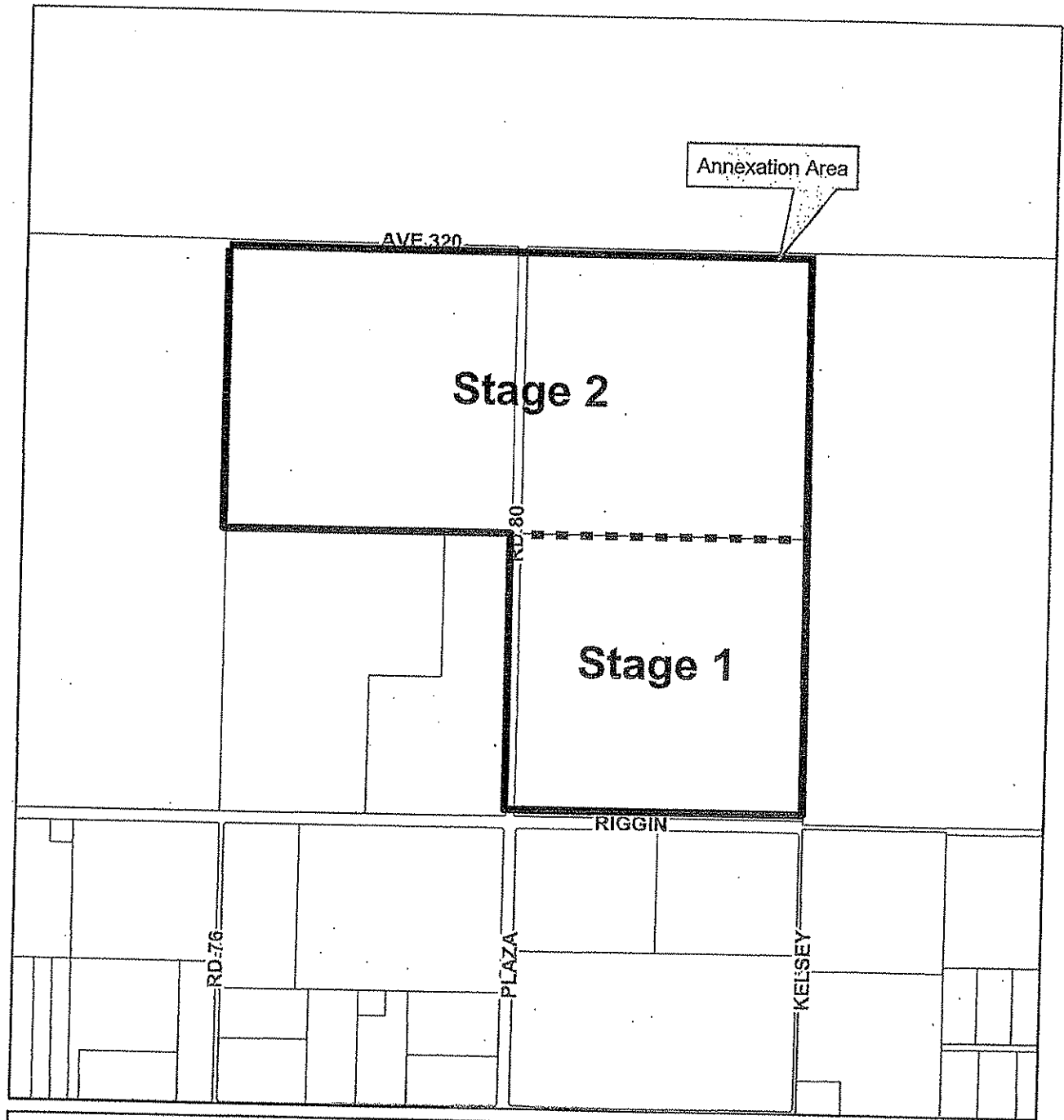
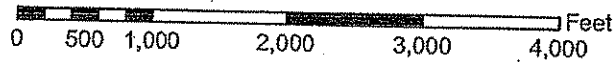


Exhibit "C" of
Visalia Annexation No. 2007-01
Pre-Annexation Agreement



Second Amendment to Pre-Annexation Agreement

This Second Amendment to the Pre-Annexation Agreement (this “**Second Amendment**”) is made and entered into this ___ day of _____, 2010, by and among the CITY OF VISALIA, a California charter law city (“**City**”), David Vargas and Ana Paula S. Vargas, co-trustees, the VARGAS FAMILY TRUST DATED DECEMBER 23, 2005 (“**Vargas**”) and VARGAS / MSJ DEVELOPMENT, a California Limited Liability Company (“**MSJ**”). City, MSJ and Vargas are sometimes each individually referred to herein as a “**party**” and collectively as the “**parties.**” Vargas and MSJ are sometimes collectively referred to herein as “**Owner.**”

RECITALS

WHEREAS, City and Owner are parties to that certain Pre-Annexation Agreement dated as of October 29, 2007, as amended by the First Amendment to Pre-Annexation Agreement dated as of October 5, 2009 (“**First Amendment**”) (the Pre-Annexation Agreement as amended by the First Amendment is collectively referred to herein as the “**Pre-Annexation Agreement**”) which sets forth terms and conditions regarding the annexation and future use of the “**Property,**” as such real property is described in the Pre-Annexation Agreement; and

WHEREAS, the parties now desire to modify the terms of the Pre-Annexation Agreement as provided herein in order to address minor changes concerning the future subdivision of the Property and reimbursement of certain fees previously paid by Owner.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **Defined Terms.** All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Pre-Annexation Agreement.

2. **Development Plan.**

Section II(D) of the Pre-Annexation Agreement are hereby deleted in its entirety and replaced with the following:

“D. **Development Plan:** The Owner hereby agrees to the following criteria regarding future development on the Property:

- The site shall be developed in stages, with Stage 1 to be the southernmost 160 acres of the Property (the “**Stage 1 Area**”), and Stage 2 to be the northernmost remainder 320 acres of the Property (the “**Stage 2 Area**”), as such stages are depicted on the attached Exhibit C.

- The subdivision of the Stage 1 Area will be allowed immediately upon annexation in a manner consistent with the City’s Planned Heavy Industrial (P-I-H) zoning classification (Visalia Municipal Code Chapter 17.22).
- No subsequent subdivision or other development entitlement for the Stage 2 Area shall be approved until a Stage 2 Area master plan is developed and an agreement between City and Owner establishing Stage 2 Area minimum parcel sizes is approved by the City, which minimum parcel sizes shall be consistent with the City’s Planned Heavy Industrial (P-I-H) zoning classification (the “Stage 2 Agreement”). Furthermore, no subdivision map or other development entitlement for the Stage 2 Area shall be approved by the City until the developable area of the Stage 1 Area is at least 75% developed. Notwithstanding anything to the contrary in this Agreement, a Stage 2 Area master plan and any agreements between Owner and City related to the Stage 2 Area may be approved prior to the development of 75% of the developable area of the Stage 1 Area.

3. **Agricultural Conservation Endowment – Stage 1.**

Section II(G) of the Pre-Annexation Agreement is hereby deleted in its entirety and replaced with the following:

“G. Agricultural Mitigation Program: The Owner hereby acknowledges that the City may adopt a comprehensive agricultural conversion development fee at some time in the future after annexation of the Property. The Owner hereby agrees that, in the event that the City adopts an ordinance imposing an agricultural conversion development fee, in accordance with applicable legal requirements, prior to issuance of a vesting project approval for development of any portion of the Property, Owner will be subject to the requirements of such citywide program to the extent required by law, and notwithstanding the non-existence of such a fee at the time of annexation, and provided that such a fee is also applicable to other similarly situated properties within, or to be annexed to, the City.

Section II(H) is hereby deleted in its entirety. City agrees to reimburse Owner for any fees previously paid by Owner to City pursuant to the former Section II(G).

4. **Counterparts.** This Second Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute an agreement binding all parties. The parties agree to accept signatures transmitted via facsimile.

5. **Governing Law.** This Second Amendment and the Pre-Annexation Agreement, as amended by this Second Amendment, shall be governed by and construed in accordance with California law.

[THIS SPACE INTENTIONALLY LEFT BLANK]

6. **Effect of Amendment.** Except as expressly modified by this Second Amendment, the Pre-Annexation Agreement shall continue in full force and effect according to its terms, and the parties hereby ratify and affirm all their respective rights and obligations under the Pre-Annexation Agreement. In the event of any conflict between this Second Amendment and the Pre-Annexation Agreement, this Second Amendment shall govern.

IN WITNESS WHEREOF, this Second Amendment has been executed as of the day and year first written above.

CITY

Date: _____

By: _____
Steve Salomon, City Manager

Attest:

Date: _____

By: _____
Donjia Huffmon, City Clerk

Approved as to Form:

Date: _____

By: _____
Alex Peltzer, City Attorney

VARGAS

Date: _____

By: _____
David J. Vargas, Co-trustee of the
Vargas Family Trust, dated December 23,
2005

Date: _____

By: _____
Ana Paula S. Vargas, Co-trustee of the
Vargas Family Trust, dated December 23,
2005

MSJ

Date: _____

By: _____
Patrick Daniels, Manager
Vargas / MSJ Development, LLC

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss:
COUNTY OF _____)

On _____, 2010 before me, _____ (here insert name of the officer), Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature of Notary Public

[Seal]

Pamela Sing

From: Pamela Sing
Sent: Thursday, April 01, 2010 7:45 AM
To: Michael Olmos
Subject: RE: How did we do last month?

I'll give you a call in a bit, I just pulled the reports off the printer

Pamela Sing
Sr Administrative Analyst
City of Visalia
315 E Acequia
Visalia, CA 93291
(559) 713-4445
psing@ci.visalia.ca.us

-----Original Message-----

From: Michael Olmos
Sent: Thursday, April 01, 2010 7:32 AM
To: Pamela Sing
Subject: How did we do last month?

Mike Olmos
**Community Development Director/
Assistant City Manager**
City of Visalia
559-713-4332
molmos@ci.visalia.ca.us

Visalia Industrial Park Expansion Assessment

Prepared by:

City of Visalia
and
Visalia Economic Development Corporation

Technical Assistance:
A. Plescia & Co.

September 2006

Visalia Industrial Park Expansion Assessment

TABLE OF CONTENTS

I. Introduction	1
A. Purpose	
B. Process	
II. Summary of Conclusions, Findings and Recommendations	1
A. Conclusions	
B. Findings	
C. Recommendations	
III. Background	4
A. Visalia Industrial Park	
B. Objectives	
C. Potential Annexation Properties	
IV. Existing Plans and Policies	6
A. Visalia General Plan	
B. Visalia Industrial Park Implementation Plan	
C. Economic Development Incentive Policy	
D. City of Visalia Zoning Ordinance	
V. Existing Conditions	10
A. Land Inventory	
B. Existing Industrial Space – Vacancy	
C. Additional Building Space Capacity	
VI. Market Considerations	15
A. Previous Annexations	
B. Recent/Current Development	
C. Prospects and Inquiries	
D. Comparison of Requested Property/Building Space and Existing Supply	
E. Employment	
F. Trends and Emerging Markets	
Sources of Information	22
Caveats and Limitations	23
Attachments	
Attachment A: Visalia Industrial Park Map	
Attachment B: Potential Annexation Properties	
Attachment C: Status of Vacant Industrial Property (5.0 acres or more in size)	
Attachment D: Sample of Industrial Prospects 2003 to 2006	

Visalia Industrial Park Expansion Assessment

LIST OF TABLES

	<u>Page No.</u>
Table 1: Industrial Land Use Designation Areas 1990 to 2020 (Acres)	7
Table 2: Existing Development Standards – Design District H	9
Table 3: Summary of Developed and Undeveloped Land (Net Acres)	10
Table 4: Comparison of Undeveloped Property for Total Land Area	11
Table 5: Status of Vacant Industrial Property (5.0 acres or more in size)	11
Table 6: Available Existing Industrial Space	12
Table 7: Summary of Available Lease Space	13
Table 8: Summary of Potential New Industrial Building Space	13
Table 9: Previous Industrial Development Activity 1994 to 2006	14
Table 10: Previous Industrial Development Activity – Average Annual Square Footage by Category, 1994 to Mid-20056	14
Table 11: Summary of Total Industrial Development Activity 1994 to Mid-2006	15
Table 12: Previous Industrial Land Annexations	15
Table 13: Previous Large Scale Industrial Development	16
Table 14: Manufacturing and Distribution Use Inquiries (2003 to Mid-2006)	17
Table 15: Summary of All Industrial Prospects – 2003 to Mid-2006 (Number of Parcels/Acres by Parcel Size)	18
Table 16: Summary of All Industrial Prospects – 2003 to Mid-2006 (Amount of Requested Building Size)	18
Table 17: Comparison of Requested Property and Available Property in Acres	19
Table 18: Comparison of Requested Building Space and Potential New Space	19
Table 19: Summary of Existing Industrial Employment	20

Visalia Industrial Park Expansion Assessment

I. INTRODUCTION

A. Purpose

The purpose of this report is to present preliminary information related to the potential expansion of the existing Visalia Industrial Park through possible annexation of approximately 640 acres of property north of Riggin Avenue along both the east and west sides of Plaza Drive.

This report is intended to provide a "qualitative" assessment in order to help inform the City of Visalia's consideration of a potential expansion of the existing Visalia Industrial Park through annexation, taking into account how such a potential expansion fits into the overall context of the Visalia Industrial Park and an overall strategy to achieve successful completion of the Visalia Industrial Park. Specifically, the City of Visalia and Visalia Economic Development Corporation are interested in accommodating the type and size of projected future industrial development in order for Visalia to remain competitive in the regional industrial market place

The preliminary information addresses existing plans and policies, previous development activities, existing market conditions and potential future market trends. The preliminary information presented in this report is as of mid-June 2006.

B. Process

To accomplish the work for this assignment, A. Plescia & Co. met with various City of Visalia and Visalia Economic Development Corporation representatives; toured and visited the Visalia Industrial Park; collected, reviewed and evaluated secondary market data and information; and met with informed market participants including commercial real estate brokers, developers and property owners knowledgeable about the Visalia industrial market.

II. SUMMARY OF CONCLUSIONS, FINDINGS AND RECOMENDATIONS

A. Conclusions

The Visalia Industrial Park is experiencing an upward cycle in industrial activity. To take advantage of the current interest levels and strategically best position Visalia for future opportunities it is important to have sufficient industrial land, including a mixture of varying parcel sizes, zoned and readied for development.

It is anticipated that Visalia will continue to be an area of interest for companies seeking warehouse, distribution and agricultural-based industries seeking a centralized location from which to serve California and/or the western United States. For Visalia to be competitive in attracting industrial users and creating employment, it will be necessary to have an adequate supply of land in both significant number of parcels and a variety of sizes in which to continue attracting these companies and create job creation opportunities for the community.

B. Findings

Based on the preliminary information presented in this report are the following findings in regard to industrial development in Visalia:

Previous Industrial Development

1. There has been significant increase in development of new industrial space over the period from 2004 to mid-2006 as evidenced by the fact that:
 - a. There was almost as much new industrial space developed from 2004 to mid-2006 (2,246,100 square feet) as collectively in the previous ten-year period from 1994 to 2003 (2,676,200 square feet) (see Tables 9 and 10)

Visalia Industrial Park Expansion Assessment

- b. That the average annual amount of industrial space developed in the 2004/mid-2006 period was 898,440 square feet compared to only 229,360 square feet in the 1994/98 period to 330,000 square feet in the 1999/2003 period (see Tables 9 and 10)
2. The largest increase in industrial development activity during the period from 1994 to mid-2006 was in the "over 500,000 square foot" category with development activity significantly increasing from 0.0% of the overall industrial development activity in the 1994/98 period to 42.5% in the 1999/2003 period and to 59.9% in the 2004/mid-2006 period (see Table 9).
3. Industrial space in buildings from "100,000 to 250,000 square feet" in size constituted approximately 47.2% of all industrial development in terms of total building area (square feet), while buildings "over 500,000 square feet" in size constituted approximately 39.7% for the period from 1994 to mid-2006 (see Table 11).
4. The average size of industrial buildings during the period from 1994 to mid-2006 increased substantially from 52,127 square feet in the 1994/98 period to 63,725 square feet in the 1999/2003 period and to 86,388 square feet in the 2004/mid-2006 period (see Table 9).

Vacant Industrial Property and Space

5. The largest percentages of vacant industrial property are in the "up to 1.0 acre" and "20.0 to 40.0 acre" categories with 66.3% and 65.3%, respectively. The lowest percentage was in the "10.0 to 20.0 acre" category; with approximately 49.5% of the properties in the "more than 40.0 acre" category being vacant (see Table 4).
6. There are only sixteen (16) identified vacant parcels designated/zoned for industrial use that are 5.0 acres or larger in size, including two (2) in the range of 10.0 to 20.0 acres, four (4) in the range of 20.0 to 40.0 acres and three (3) over 40.0 acres in size. These sixteen parcels total approximately 453 acres (see Table 3).
7. Of the sixteen (16) subject parcels 5.0 acres or larger in size only three (3) parcels totaling 240 acres (approximately 53.0%) are being actively marketed for development on a build-to-suit lease basis while the other (13) parcels totaling 213 acres (approximately 47.0%) are either not available or are not being actively marketed either sale, lease or development (see Table 5).
8. In terms of existing vacant industrial space in buildings of at least 40,000 square feet in size as of mid-2006 (see Tables 6 and 7):
 - a. The highest percentage (33.0%) of vacancy is for building space in the category of 50,001 to 100,000 square feet
 - b. Building space in the "100,001 to 200,000 square foot" category and "over 200,000 square foot" category constitute 28.3% and 24.7% of the existing available building space
9. Currently there are only ten (10) existing lease spaces of 50,000 square feet or more in size (in buildings of at least 40,000 square feet in size) that are currently available for occupancy (lease), with only two that could accommodate a user of 100,000 to 150,000 square feet, and only one space that could accommodate a user over 200,000 square feet (232,750 square feet) (see Tables 6 and 7).
10. Based on the amount of currently vacant designated industrial property (602 acres) and the average annual amount of industrial development has occurred from 1994 to mid-2006 (approximately 394,000 square feet) there is approximately 16 to 18 years of absorption. If the average annual amount of industrial development for the period 2004 to mid-2006 (approximately 898,000 square feet) then the projected numbers of years of absorption would be approximately 8 to 9 years.

Industrial Inquiries and Prospects

11. For identified manufacturing and distribution prospects (only) for Visalia and Tulare County for the period from 2003 to mid-2006 (see Table 14):

Visalia Industrial Park Expansion Assessment

- a. The majority of the identified prospects were seeking properties under 20.0 acres in size (64.0%) and buildings under 100,000 square feet (76.1%)
- b. Approximately 28.0% of the prospects required parcels over 40.0 acres in size
- c. Approximately 48.0% of the prospects required ownership of space versus lease space.

12. For all identified potential industrial prospects for Visalia and Tulare County for the period from 2003 to mid-2006 (see Tables 15 and 16):

- a. The largest percentage of inquiries were for buildings "over 500,000 square feet" (41.8%) and buildings in the "100,000 to 250,000 square foot" range (30.6%)
- b. Approximately 91.5% of the inquiries were for buildings that were 100,000 square feet or larger in size
- c. Most of the inquiries were for parcels that were at least 5.0 acres in size (85.0%) with the greatest interest in parcels that were 10.0 to 20.0 acres (35.0%), 5.0 to 10.0 acres (20.0%) and over 40.0 acres (20.0%)
- d. Inquiries regarding parcels over 40.0 acres in size constituted approximately 79.5% of the overall total requested acreage
- e. The average requested parcel size was approximately 48.4 acres
- f. Approximately 60.5% of the prospects were seeking ownership of space instead of lease space; while only 16.4% indicated a preference for lease space

Comparison of Requested Space and Existing Supply

13. There appears to be sufficient existing vacant industrial land to meet the amount of requested industrial property (by category of parcel size) with exception of two categories - the "10.01 to 20.0 acres" and "over 40.0 acres", with approximate shortfalls of 84.0 acres and 530.0 acres, respectively (see Table 17).

14. In terms of requested building space, the only category of requested building size (by building square footage) that appears not to have potential sufficient building space that could be developed on existing vacant industrial land area is the "100,001 to 250,000 square foot" category (approximate shortfall of 973,000 to 1,313,000 square feet, respectively) (see Table 18).

C. Recommendations

The intent of the following is to address the conclusions and findings stated above, and to specifically address the potential annexation of the subject 640 acres north of Riggin Avenue (as further described in Section III) and/or other industrial designated properties potentially considered for annexation into the City of Visalia as part of the Visalia Industrial Park:

1. Any consideration for annexation of additional properties and/or any related provisions for such annexations should be in the context of established City of Visalia policies for industrial development as set forth in the Visalia General Plan and Visalia Industrial Park Implementation Plan
2. As a condition of annexation of any properties into the City of Visalia for industrial development as an expansion of the Visalia Industrial Park are the following suggested requirements:
 - a. In collaboration with the City of Visalia the property owner should prepare a master plan for proposed development of the subject properties. The intent of this requirement would be to assist in establishing the required land use entitlements upfront (including tentative parcel map) as a means to "ready" the subject properties for development from an entitlement perspective.
 - b. The master plan should address the specific proposed type, size, location, and phasing of projected development (including on-site and off-site improvements, on-site parking, site amenities and features, etc.), and include the appropriate building sizes that relate to the identified projected future demand for industrial space in Visalia. Based on the preliminary information presented in this report, and more specifically the findings set forth in Section I.B. above, the proposed development should initially include:

Visalia Industrial Park Expansion Assessment

- i. a percentage of the land area (e.g. 40% to 60%) designated for parcels that could accommodate development of at least 500,000 square feet of building space; and
 - ii. a percentage of the land area (e.g. 30% to 40%) designated for parcels that could accommodate development of 100,000 to 250,000 square feet of building space.
 - iii. the requested building space noted above in i. and ii. Should be provided either as single buildings or multiple buildings if the multiple buildings are designed and intended for use by a single industrial user
- c. The property owner and City of Visalia should enter into a "pre-annexation" or "development agreement" that embodies the proposed master plan (including related development entitlements) as described in Items 2.a and 2.b. above.

3. Specifically in regards to the two subject properties north of Riggin Avenue being considered for annexation to the City of Visalia (as described in Section III), the development of such properties should be accomplished in phases with initial development limited to the area north of Riggin Avenue and south of Avenue 316. Once a substantial amount (e.g. at least 65%) of that initial area has been developed then the area north of Avenue 316 would be allowed to be developed as later phase(s). This approach would provide for contiguous urban development north of Riggin Avenue consistent with a logical extension of public infrastructure/improvements and utilities north of Riggin Avenue to serve such development.

4. The City of Visalia should review and evaluate the provisions outlined in Item 2 and 3 above (if approved) in five years from the date of approval to determine if the subject provisions are still valid in relation to the industrial market at that point in time, and specifically if the provisions should continue, be modified or be eliminated.

5. The City of Visalia should consider updating the existing Visalia Industrial Park Implementation Plan (2003) so as to more specifically address emerging and projected trends in the Visalia industrial market

III. BACKGROUND

A. Visalia Industrial Park

The Visalia Industrial Park is located in the western portion of the City of Visalia located generally between Shirk Street, State Highway 99, Riggin Avenue and Hurley Avenue and consists of those properties designated and zoned for light industrial and heavy industrial uses. For the purposes of this report, the preliminary information presented relates to that portion of the overall Visalia Industrial Park that is designated/zoned for light or heavy industrial use and within the incorporated limits of the City of Visalia (see Attachment A).

B. Objectives

Based on the existing City of Visalia plans and policies related to industrial development the following are specific objectives related to continuing an economically successful Visalia Industrial Park:

1. Retain and strengthen the City of Visalia's role as a regional warehouse, distribution and manufacturing (including food processing) location that is central to California
2. Provide an adequate supply of property designated and zoned for industrial use that is "ready" for development including the availability of adequate public infrastructure and utilities
3. Provide and preserve the opportunity for development of a variety of parcel and building sizes intended to accommodate requirements of various segments of both the existing and projected industrial markets
4. Provide an opportunity for users to either potentially own or lease industrial space as a means to broaden the attraction to potential users with varying interests in the tenure of space

Visalia Industrial Park Expansion Assessment

5. Continue to focus recruitment of potential warehouse, distribution, manufacturing (including food processing) and agricultural business uses
6. Increase and diversify the industrial employment base by attempting to attract a balance of warehouse, distribution, manufacturing (including food processing) and service related users

C. Potential Annexation Properties

1. Description of Properties

The properties that are being considered for possible annexation to the City of Visalia are indicated on the map included as Attachment B.

- APN 077-012-004 and 009 (Doe) - The first property is an approximate 160-acre privately owned property located on the northwest corner of Plaza Drive and Riggin Avenue. The property contains land that is primarily being farmed for row crops. There is an existing inhabited mobile home and two abandoned houses with accessory structures located on the 1.50-acre portion southern portion of the site fronting Riggin Avenue.
- APN 077-012-008, 010 and 011 (Vargas) - The second property consists of three approximately 160-acre parcels (total of 480 acres) located in the quadrant bounded by Riggin Avenue, Kelsey Avenue, American Avenue and Road 320. The subject property is currently vacant.

The properties are located outside the 98,700 Population Urban Development Boundary but within the current 129,000 Population Urban Development Boundary. The current City limit line is located along Riggin Avenue which is along the southern boundary of the subject properties; however the subject properties are not currently located within the City of Visalia "sphere of influence".

The properties have a City of Visalia General Plan designation of I-H Heavy Industrial zoning which would apply upon annexation into the City of Visalia. In addition the subject properties have Tulare County zoning designation of AE-40 and a General Plan designation of Heavy Industrial.

2. Williamson Act

Both properties are currently within Williamson Act Preserve contracts. The first property contains two separate Williamson Act contracts. The easterly 60-acre portion is under one contract that was protested by the City in 1974. The balance of the property (100 acres) is within another Williamson Act contract that was not protested by the City upon its establishment in 1978. The second property is also under two separate Williamson Act Preserve contracts. The southerly 160-acre portion is under one contract that was protested by the City in 1974. The balance of the property (320 acres) is under another Williamson Act contract that was protested by the City upon its establishment in 1974, but is not considered a valid protest since the area was further than one mile from the city limits at the time of the protest. The City of Visalia can choose to remove the Williamson Act designation for those properties with valid protests without penalty upon annexation into the city.

Agricultural preserve contracts obligate a landowner to limit the use the land to agricultural production in exchange for tax benefits. The Williamson Act allows farming to continue in areas close to urbanization by a beneficial tax assessment procedure whereby land is assessed based on its agricultural value rather than its speculative value for urbanization purposes. The contracts are for ten years and are automatically renewed each year for another ten years so that they continue indefinitely unless: 1) the land owner requests cancellation; 2) a notice of non-renewal is filed; or 3) in some instances a city elects to not to succeed the provisions of the agricultural preserve contract upon annexation of land.

A request for cancellation requires approval by the agency administering the Williamson Act contract. Upon termination the agency must determine that such action is in the public interest and that there is no other land not under contract which can be used for the same purpose. Additionally lands that are removed from an agricultural preserve before the end of the full or remaining contract period require that a financial penalty be paid.

Visalia Industrial Park Expansion Assessment

If either the landowner or the administering agency desires in any year not to renew the contract, the party can file a written notice of non-renewal which stops the automatic renewal provisions in a contract. Ten years from the notice of non-renewal filing date, the contract is then terminated.

The existence of a non-protested Williamson Act Preserve contract does not prohibit development. Development would not be able to occur until a notice of non-renewal is exercised and the contract eventually expires. Alternatively, the land owner may request that the City Council consider a contract cancellation. A successful contract cancellation requires special findings and a payment of a cancellation fee equal to 12.5 percent of the urban value of the property.

IV. EXISTING PLANS AND POLICIES

A. Visalia General Plan

The City of Visalia General Plan sets forth various provisions related to overall industrial development within the City of Visalia as well as goals, objectives and implementing policies that relate to the further development of the Visalia Industrial Park. The City of Visalia General Plan dated June 1996 includes the following goals, objectives and implementing policies related to the Visalia Industrial Park:

Goal 3: Diversify and Improve the Visalia Planning Area's Economy

Objectives:

1. Encourage the location of new industries that do not generate substantial amounts of pollutant emissions, impacts on air quality or other natural resources
2. Ensure compatibility between industrial lands and adjacent dissimilar land uses
3. Retail and strengthen the City's role as a regional manufacturing center in the Southern Central San Joaquin Valley

Implementing Policies:

- 3.7.1. Designate appropriate and sufficient land for Visalia's industrial needs
- 3.7.2. Direct industrial uses to and encourage expansion of the northwest industrial areas
- 3.7.13. Reserve adequate sewage treatment plant capacity and sewerage capacity to meet the projected needs of industrial growth. Further to ensure this capacity is prudently used the City should encourage industries which have low-volume and low-strength discharges

The Land Use Element of the Visalia General Plan includes Policy 3.5.7 which indicates that an Implementation Plan should be developed for the industrial area that provides for an adequate mix of parcel sizes, service commercial uses, commercial services, public facilities and infrastructure, open space, circulation, alternative transit modes and parking.

The General Plan includes information related to the general projected amount of industrial land needed by 2020 to meet the anticipated industrial development needs of Visalia (see Table 1).

Light Industry is defined as less intensive research and development, warehousing and limited manufacturing activities. Production, processing, assembling, packaging or treatment of food products from previously processed materials or finished products from previously prepared materials. Heavy Industry use is defined as manufacturing, processing or assembling of semi-finished or finished products from raw materials. Activities and/or operations shall comply with applicable state, federal and local environmental standards.

Visalia Industrial Park Expansion Assessment

**Table 1:
Industrial Land Use Designation Areas 1990 to 2020 (Acres)**

	<u>1988</u>	<u>2000</u>	<u>2010</u>	<u>2020</u>
Light Industry	678	743	743	743
Heavy Industry	1,488	1,488	1,491	1,491
Heavy Industry Reserve	0	0	620	1,280

Source: City of Visalia General Plan

B. Visalia Industrial Park Implementation Plan

The Visalia Industrial Park Implementation Plan was prepared for the City of Visalia in October 2003. The Plan included an economic analysis and target industry study to determine the amount and type of industrial growth that would most likely occur over the next twenty-year period to 2023. Based on that analysis the Implementation Plan suggested targeting the following types of industrial users:

- Distribution and Trucking
- Food processing
- Communications equipment
- Machinery
- Engineering lab services

Based on historical and projected demand the Implementation Plan estimated a need for between 600 and 1,000 acres of additional land over the next twenty years to meet projected industrial growth needs. According to the Implementation Plan, approximately fifty-percent (50%) of the land area would be for parcels of less than ten acres in size, with the other fifty-percent (50%) of the land area being for parcels ranging in size from ten (10) to forty (40) acres. An adequate supply of parcels of forty (40) acres or more in size was also recommended.

In regard to the use of annexation of additional land area as a means to expand the existing Visalia Industrial Park the Implementation Plan indicated that:

- There are constraints to expansion north of Avenue 316 due to the presence of non-protested agricultural preserves, which affects virtually all of the property on City of Visalia's long-term industrial development horizon
- Land should be annexed to ensure that Visalia has at least a ten-year supply of annexed and zoned industrial land
- The Industrial Park should expand north along Plaza Drive corridor to Riggin Avenue, at which point it should expand east and west along Riggin Avenue

The Plan set forth various objectives and implementing policies related to industrial land development and industrial land use consistent with the City of Visalia General Plan.

1. Objectives and Implementing Policies

Objectives:

- Encourage the location of new industries that do not generate substantial amounts of pollutant emissions, impacts on air quality or other natural resources;
- Ensure compatibility between industrial lands and adjacent dissimilar land uses
- Retain and strengthen the City's role as a regional manufacturing center in the Southern Central San Joaquin Valley

Implementing Policies:

- Direct industrial uses to and encourage expansion of the northwest industrial area

Visalia Industrial Park Expansion Assessment

- Provide for an adequate mix of parcel sizes, services commercial uses, commercial services, public facilities and infrastructure, open space, circulation and alternative transit modes and parking
- Designate the property located between Road 76 and Road 92 and north of Riggin as Industrial Reserve in order to ensure adequate supply and appropriate phasing of industrial land in the community

In terms of land use the Implementation Plan designates the subject properties being considered for potential annexation to the City of Visalia for industrial use with commercial convenience uses at the intersection of Plaza Drive and Riggin Avenue. Both Plaza Drive (north of Riggin Avenue) and Riggin Avenue (both east and west of Plaza Drive) are designated as "arterial" streets. Arterial streets are intended to provide the majority of a community's traffic carrying capacity in connections to the freeway system and to other arterial and collector streets.

2. Warehousing and Distribution

Visalia enjoys a number of key location advantages over competitors in terms of the industrial market, including a low cost of living, a readily available labor supply, active business-serving organizations, below average land costs, available land, streamlined planning and permit processing, low rents on industrial space and access to transportation.

- Labor Availability and Cost – low unemployment; lowest wage rates among competing locations; educated workers
- Site Availability and Readiness – availability of water, sewer and electrical services; flat land
- Transportation Accessibility – specifically Highways 99 and 198
- Low Start-Up Costs – reasonable impact fees and construction costs that are lower than other competing areas
- Business Climate – incentives for training and hiring; supportive and responsive city staff

3. Market Demand and Parcel Size Recommendations

The Implementation Plan indicated that the need for additional industrial development land will likely range from 15 to 30 acres per year over an extended period of time (e.g. 10 to 20 years); however short term needs might be in the range of 30 to 50 acres per year. The Implementation Plan further indicates that the larger range of parcel size (30 to 50 acres) be used for future planning purposes.

In order to accommodate the wide variety of users that are expected, approximately fifty-percent (50%) of the projected annual demand should be prepared for small to mid-size parcels (less than 10 acres) and the other fifty-percent (50%) be reserved for large parcels (20 to 60 acres). At the projected absorption rates the Implementation Plan indicates that the Visalia Industrial Park is projected to have over 15 to 20 years of available industrially zoned land. The City of Visalia's recent experience in attracting larger users (facilities) indicates the need for a continued supply of parcels in the 40 plus acre size range.

C. Economic Development Incentive Policy

In March 2001 the City Council adopted the Economic Development Incentive Policy (which was modified in September 2005) which provides up to \$250,000 to offset local, building and development impact fees for the use in construction and installation of public improvements that would be required by a business. A new or expanding business has to meet at least two of the following three criteria:

1. creating a minimum of 100 new full-time equivalent jobs
2. creating a minimum \$30 million in new investment (buildings, structures and equipment)
3. generating ongoing general fund revenue over \$200,000 annually.

Eligible businesses for assistance under this policy include: 1) new businesses seeking to locate in Visalia; 2) existing Visalia businesses seeking to expand; or 3) existing Visalia businesses contemplating relocation outside of Visalia. Qualifying businesses under this policy are limited to professional/commercial or industrial businesses (retail businesses do not qualify under this policy).

Visalia Industrial Park Expansion Assessment

New jobs created or existing jobs retained must be within the manufacturing or distribution category or otherwise must provide substantial new economic activity for the community and qualify under the U.S. Housing and Urban Department (HUD) Job Retention and Creation Guidelines.

D. City of Visalia Zoning Ordinance

The City of Visalia Zoning Ordinance (Title 17 of the Visalia City Ordinance Code) dated November 2004 includes two industrial zoning districts designed to achieve the following:

- Provide appropriate industrial areas to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning or assembly of goods, merchandise or equipment
- Provide adequate space to meet the needs of industrial development

Planned Light Industry Zone (P-I-L) – the purpose and intent of the planned light industry zone district is to provide an area for use that are characterized by low intensity research and development, warehousing and limited manufacturing and production, processing, assembling and packaging or treatment of food products from previously prepared materials.

Planned Heavy Industrial Zone (P-I-H) - the purpose and intent of the planned heavy industry zone district is to provide an area for uses that are characterized by the manufacturing, processing or assembling of semi-finished or finished products from raw materials. A planned development permit must be obtained for all development in the P-I-H zone subject to the requirements in Chapter 17.28

Development Standards

The development standards for the Visalia Industrial Park are set forth in Design District H (Section 17.30.230 of the City of Visalia Zoning Ordinance) and are briefly described below in Table 2.

**Table 2:
Existing Development Standards – Design District H**

<u>Item</u>	<u>Standard</u>
Building Height	Seventy-five (75) feet
Front Yard	Forty (40) feet on Major Roads; Twenty-five (25) feet on Minor Roads; fifteen (15) feet on Interior Roads
Side Yard	Zero; Forty (40) feet abutting railroad right-of-way; Twenty (20) abutting a residential zoning district
Rear Yard	Zero; Twenty (20) feet abutting a residential zoning district
Site Area	Minimum of five (5) acres; parcels subdivided into parcels of less than five (5) acres shall provide a common or joint storm drainage facility to be maintained through a private property owners association
Parking	One (1) space for each employee during the shift of maximum employment, plus one (1) space for each vehicle used in conjunction with the use for manufacturing plants and other industrial uses; One (1) space for each 1,000 square feet of floor area for storage and warehouses

Source: City of Visalia Zoning Ordinance (Title 17 of Visalia City Ordinance Code), November 2004

Visalia Industrial Park Expansion Assessment

Design District H includes streets of varying width, carrying capacity and intended level of service. The development standards vary by type of street in order to maintain a consistent streetscape and achieve a high quality visual impact necessary to sustain an attractive and viable industrial area.

V. EXISTING CONDITIONS

A. Land Inventory

Table 3 below is intended to present preliminary information regarding the amount of developed and undeveloped property within the existing Visalia Industrial Park (within the Visalia City Limits) as of the date of this report. The developed and undeveloped property has been categorized by size of parcels, to help understand the size of properties that been developed to date and those properties that are currently undeveloped.

For the purpose of Table 3 the term "developed property" is defined as property that either has an existing structure or structure under construction. There are some properties that have City of Visalia approvals (e.g. development plan, subdivision map, etc.) for development; however as of the date of this report some of those properties are vacant, therefore such properties are considered "undeveloped". An example is the Oldfield project (American Industrial Park). There is an approved development plan and subdivision map for the project, however the portion of the project that has not yet been constructed is considered undeveloped for the purposes of Table 3.

Based on a review of the existing land use there is approximately 985 (62.1%) net acres of the area currently developed and approximately 602 net acres (37.9%) undeveloped – for a combined total of approximately 1,587 acres not including streets, retention basins, etc. The largest amount of vacant acreage is in the "20.01 to 40.00" acre and "over 40.0 acre" categories. The lowest amount of vacant acreage is in the "10.01 to 20.0" acre category.

Category of Parcel Size	Developed Area			Undeveloped Area			Total		
	Acres	(Parcels)		Acres	(Parcels)		Acres	(Parcels)	
Up to 1.0 acre	34	(51)	27.1%	67	(132)	74.6%	101	(183)	50.2%
1.01 to 5.0 acres	208	(83)	44.2%	82	(29)	16.4%	290	(112)	30.7%
5.01 to 10.0 acres	197	(30)	16.0%	49	(7)	3.9%	246	(37)	10.1%
10.01 to 20.0 acres	224	(17)	9.0%	19	(2)	1.1%	243	(19)	5.2%
20.01 to 40.0 acres	77	(3)	1.6%	145	(4)	2.3%	222	(7)	1.9%
More than 40.0 acres	245	(4)	2.1%	240	(3)	1.7%	485	(7)	1.9%
Total:	985	(188)	100.0%	602	(177)	100.0%	1,587	(365)	100.0%
	62.1%			37.9%			100.0%		

Footnotes:
(1) Rounded to the nearest whole acre

Table 4 below presents information regarding the percentage of undeveloped property by category of property size. As indicated, the largest percentages of vacant property are in the "up to 1.0 acre" and "20.01 to 40.0 acre" categories – with approximately 66.3% and 65.3%, respectively. The next category with the highest rate of undeveloped land is the "more than 40.0 acre" category (49.5%).

Visalia Industrial Park Expansion Assessment

**Table 4:
Comparison of Undeveloped Property to Total Land Area**

<u>Category</u>	<u>Total Acres</u>	<u>Vacant Acres</u>	<u>Percent</u>
Up to 1.0 acre	101	67	66.3%
1.01 to 5.0 acres	290	82	28.3%
5.01 to 10.0 acres	246	49	19.9%
10.01 to 20.00 acres	243	19	7.8%
20.01 to 40.0 acres	222	145	65.3%
More than 40.0 acres	<u>485</u>	<u>240</u>	<u>49.5%</u>
Total	1,587	602	37.9%

Table 5 presents information regarding the current status of vacant properties that are 5.0 acres or larger in size. Based on this information:

- approximately 47.0% of the vacant properties of 5.0 acres or greater in size are either the location of approved projects yet to be constructed or pending projects (5.7%), not currently marketed for sale, lease and/or development but being held for potential future development (35.3%) and property owned by adjacent companies/businesses being held for potential future expansions (6.0%)
- approximately 53.0% are properties currently being marketed for build-to-suit development (leasehold interest)
- none of the existing sixteen vacant parcels were currently being marketed for outright sale

Therefore only about one-half of the vacant properties that are 5.0 acres or more in size are currently available for development. The other properties indicated as currently not marketed for sale, lease or development" could potentially become available for future development.

**Table 5:
Status of Vacant Industrial Property (5.0 acres or larger in size)**

<u>Status</u>	<u>Acres</u>	<u>% of Total</u>
Actively marketed for sale	0	0.0%
Actively marketed for development (lease)	240	53.0%
Actively marketed for development (ownership)	0	0.0%
Approved project/pending development	26	5.7%
Not currently marketed for sale, lease or development (1)	160	35.3%
Held for potential future expansion	<u>27</u>	<u>6.0%</u>
Total	453	100.0%

Footnotes:

(1) Could be available for future development

Visalia Industrial Park Expansion Assessment

B. Existing Industrial Space – Vacancy

Another factor in the review of the existing industrial market is the amount of existing industrial space that is vacant. Below is Table 5 which lists existing vacant industrial space in the Visalia Industrial Park for buildings that are 40,000 square feet or larger in size. Based on the information in Table 5 there is approximately 835,500 to 943,500 square feet of existing industrial space that is available for lease, ranging in size in size from approximately 30,000 to 232,750 square feet.

The existing available space listed in Table 6 could accommodate a wide range of size of potential users up to and including approximately 232,750. Based on preliminary information obtained in the research related to this report the general range of user size is 25,000 to 75,000 square feet; with the majority of such users in the 40,000 to 60,000 square foot range.

**Table 6:
Available Existing Industrial Space (1)**

<u>Property Location</u>	<u>Building Size Size (SF)</u>	<u>Available Space (SF)</u>	<u>Lease Rate (2)</u>
Ferguson/Plaza Drive - #1	154,000	50,000 to 118,000	\$0.29
Ferguson/Plaza Drive - #2	154,000	50,000	\$0.29
Ferguson/Plaza Drive - #3	200,776	42,000	\$0.30
800 Plaza Drive	172,000	52,416	\$0.29
8711 W. Doe	102,400	68,000	\$0.33
7530 W. Sunnyview	104,120	63,440	\$0.28
747 Plaza Drive	57,700	57,700	\$0.28
2223 N. Shirk	70,000	30,000 to 70,000	\$0.24
Hurley/Kelsey #1	232,752	232,752	NA
Hurley/Kelsey #2	149,200	149,200	NA
Hurley/Kelsey #3	<u>40,000</u>	<u>40,000</u>	<u>NA</u>
Total	1,858,200	835,518 to 945,508	

Footnotes:
 (1) Buildings of 40,000 square feet or more
 (2) Per SF/Month (NNN)

Source: Burr Commercial, April 2006

Existing vacant (available) lease space needs to be taken into account along with the extent of new building space that could be constructed on existing undeveloped land in any evaluation of the existing Visalia industrial market. This is particularly true in identifying the amount of existing vacant (available) space (both new and existing) and the projected amount and timing for absorption of such space.

The limiting factor is that the space listed in Table 6 is only available for lease. It would not provide an opportunity for those potential users interested in ownership of space; unless the existing owner was willing to sell an entire building to a potential user intent on utilizing the entire building. This is a factor based on the extent of industrial user inquiries that were seeking ownership of space instead of lease space (see Table 10).

The majority of the buildings listed in Table 5 range in size from approximately 150,000 to 232,000 square feet with exception of three buildings below 70,000 square feet. Given the number of buildings of that size and the extent of vacant (available) space in such buildings, it seems that amount of space could potentially delay development of additional new buildings (on a speculation basis) of that size (150,000 to 232,000 square feet) unless such buildings were being constructed on a build-to-suit basis or until such time as the majority of the existing vacant (available) space is absorbed by users.

Visalia Industrial Park Expansion Assessment

**Table 7:
Summary of Available Lease Space**

<u>Category</u>	<u>No. of Buildings</u>	<u>Leasable Area (SF)</u>	<u>Percent (Area)</u>
up to 50,000 square feet	3	132,000	14.0%
50,001 to 100,000 square feet	5	311,556	33.0%
100,001 to 200,000 square feet	2	267,200	28.3%
over 200,000 square feet	<u>1</u>	<u>232,752</u>	<u>24.7%</u>
Total	11	943,508	100.0%

C. Additional Building Space Capacity

1. New Development

Table 3 above indicates that there is approximately 602 acres of property within the existing Visalia Industrial Park that is currently undeveloped and that could accommodate additional new development. Applying a general site coverage factor of 25% the range of potential additional new space that could potentially be developed on the 602 acres of undeveloped property is approximately 6.6 million square feet.

**Table 8:
Summary of Potential New Industrial Building Space**

<u>Category of Parcel Size</u>	<u>Acres</u>		<u>Potential New Building Space (1)</u>	
Less than 1.0 acre	67	11.1%	730,000	11.1%
1.01 to 5.0 acres	82	13.6%	893,000	13.6%
5.01 to 10.0 acres	49	8.1%	534,000	8.1%
10.01 to 20.0 acres	19	3.2%	207,000	3.2%
20.01 to 40.0 acres	145	24.1%	1,579,000	24.1%
more than 40.0 acres	<u>240</u>	<u>39.9%</u>	<u>2,614,000</u>	<u>39.9%</u>
Total	602	100.0%	6,557,000	100.0%

Footnotes:

(1) Based on a site coverage ratio of 25%; rounded to the nearest 1,000 square feet

2. Previous Industrial Development Activity

Based on information from the City of Visalia Building Department there has been approximately 4,922,300 million square feet of new industrial space developed in the City of Visalia from 1994 through mid-2006. This translates into an average of approximately 394,000 square feet per year during that subject 12.5 year period of time.

Visalia Industrial Park Expansion Assessment

**Table 9:
Previous Industrial Development Activity 1994 to Mid-2006**

Building Size	1994 to 1998		1999 to 2003		2004 to 2006	
	SF (Buildings)		SF (Buildings)		SF (Buildings)	
less than 10,000 SF	60,900 (13)	5.3%	54,900 (15)	3.6%	58,400 (13)	2.6%
10,001 to 50,000 SF	17,300 (1)	1.5%	93,700 (2)	6.1%	121,000 (6)	5.4%
50,001 to 100,000 SF	69,900 (1)	6.1%	61,500 (1)	4.0%	65,600 (1)	2.9%
100,001 to 250,000 SF	998,700 (7)	87.1%	669,300 (5)	43.8%	656,100 (4)	29.2%
250,000 to 500,000	0 (0)	0.0%	0 (0)	0.0%	0 (0)	0.0%
over 500,000 SF	0 (0)	0.0%	650,000 (1)	42.5%	1,345,000 (2)	59.9%
Total	1,146,800 (22)	100.0%	1,529,400 (24)	100.0%	2,246,100 (26)	100.0%
Average Space/Year	229,360		305,880		898,440	
Average Building Size	52,127		63,725		86,388	

Source: City of Visalia Building Division, June 2006

Based on the preliminary information presented in Table 9 above there are some key findings related to trends in industrial space development.

- First, the overall level of activity in terms of total buildings and square feet per year has significantly increased in the period from 2004 to mid-2006 in comparison to the previous ten-year period.
- Second the overall size of new buildings has increased substantially in the period from 2004 to mid-2006 in comparison to the previous ten-year period, primarily related to the development of the buildings for JoAnn Stores (600,000 square feet), VF Corporation (795,000 square feet) and new DDG project (550,000 square feet).

Table 10 below presents information regarding the average annual amount of industrial space developed for the time periods of 1994 to 1998, 1999 to 2003 and 2004 to mid-2006. As indicated, the average annual amount of developed industrial space increased for every category of building size from 1994/98 to 2004/mid-2006. The "10,001 to 50,000 square foot", over 500,000 square feet" categories increased the most significantly.

**Table 10:
Previous Industrial Development Activity – Average Annual Square Footage by Category, 1994 to Mid-2006**

Building Size	Average Annual Square Footage		
	1994 to 1998	1999 to 2003	2004 to Mid-2006
Less than 10,000 SF	12,180	10,980	23,360
10,001 to 50,000 SF	3,460	18,740	48,400
50,001 to 100,000 SF	13,980	12,300	26,240
100,001 to 250,000 SF	199,740	133,860	262,440
250,001 to 500,000 SF	0	0	0
Over 500,000 SF	0	130,000	538,000

Source: City of Visalia Building Division, June 2006

Visalia Industrial Park Expansion Assessment

Table 11 presents a summary of the overall industrial development (total building area, buildings, and average building size) that occurred from 1994 to mid-2006.

**Table 11:
Summary of Total Industrial Development Activity 1994 to Mid-2006**

<u>Building Size</u>	<u>Total Building Area (SF)</u>	<u>Percent</u>	<u>No. of Bldgs.</u>	<u>Percent</u>	<u>Average Building Size (SF)</u>
less than 10,000 SF	174,200	3.5%	41	56.9%	4,249
10,001 to 50,000 SF	232,000	4.7%	9	12.5%	25,778
50,001 to 100,000 SF	197,000	4.0%	3	4.2%	65,667
100,001 to 250,000 SF	2,324,100	47.2%	16	22.2%	145,256
250,001 to 500,000	0	0%	0	0%	0
over 500,000 SF	<u>1,995,000</u>	<u>39.7%</u>	<u>3</u>	<u>4.2%</u>	<u>665,000</u>
Total	4,922,300	100.0%	72	100.0%	68,366

Source: City of Visalia Building Division, June 2006

3. Absorption

This amount of potential new building space per Table 8 (6,557,000 square feet) coupled with the amount of existing vacant building space in existing buildings over 40,000 square feet in size per Table 6 (835,500 to 943,500 square feet) yields a total of approximately 7,392,500 to 7,500,500 square feet.

If the average annual absorption figure for the period from 1994 to mid-2006 (394,000 square feet) is applied to the potential amount of new industrial space from Table 8 above, there would appear to be sufficient land area to accommodate new industrial development for a period of approximately 16 to 18 years (depending on absorption of the existing vacant industrial space listed in Table 6). However if the development activity trend for the period from 2004 to mid-2006 (8998,440 square feet per year) were to continue the absorption period for potential new industrial space (Table 8) and existing available lease space (Table 6) would be approximately 8 to 9 years.

VI. MARKET CONSIDERATIONS

A. Previous Annexations

The City of Visalia has previously used the annexation process to incorporate property as a means to expand the Visalia Industrial Park, increase the supply of industrially designated/zoned property and increase the availability of property ready for industrial development. The City of Visalia has used the annexation process in the past to annex property contiguous to the existing Visalia Industrial Park with public infrastructure capacity to serve such property.

**Table 12:
Previous Industrial Land Annexations**

<u>Year</u>	<u>Property</u>	<u>Acres</u>	<u>Building Size (SF)</u>
2001	Richie	80.0	NA
2003	Sierra Business Park (Freitas)	20.0	10,000 to 20,000
2004	Pickett	26.0	5,000
2005	Oldfield	20.0	5,000

Source: City of Visalia, June 2006

Visalia Industrial Park Expansion Assessment

B. Recent /Current Development

The following is brief description of three projects that have either been recently developed or are in the process of development. These three projects tend to reflect the emerging trends of the Visalia industrial market as described in Section VI of this report.

- VF Corporation - this project is located at the southwest intersection of Riggin Avenue and Plaza Drive. The project consists of an 816,000 square foot building (with approximately an additional 200,000 square feet in mezzanine space) developed on a "build-to-suit" basis. The project site is approximately 64.7 acres with approximately 29% site coverage.
- DDG Project - this project is located at the northwest intersection of Hurley Avenue and Kelsey Avenue. The project consists of four buildings on approximately 57.85 acres (38% site coverage). The first building is being developed on a "build-to-suit" basis and contains approximately 550,000 square feet. The other three buildings are to be developed on a "spec" basis and are proposed to contain approximately 232,752, 149,200 and 40,000 square feet, respectively.
- American Industrial Park (Oldfield) - this project is located north of Hurley Avenue on both the east and west sides of American Avenue. The project consists of 62.0 acres divided into 69 individual parcels ranging in size from 0.43 to 1.78 acres, and three additional parcels of 4.07 acres each. The individual parcels are to be sold individually. The smaller parcels will accommodate buildings in the range of 5,000 to 20,000 square feet; with the three larger parcels (4.07 acres) accommodating buildings up to 45,000 square feet (assuming a 25% site coverage).

Table 13 presents information related to previous larger scale development during the period between 1998 and 2005. During that period the average amount annual amount of larger scale industrial development was approximately 413,000 square feet.

**Table 13:
Previous Larger Scale Industrial Development**

<u>Year</u>	<u>Acres</u>	<u>Building Size (SF)</u>
1998	20.0	397,000
2000	30.0	507,000
2000	57.0	950,000
2000	83.0	650,000
2005	183.0	795,000

Source: Grubb & Ellis/Pearson Commercial

C. Prospects and Inquiries

Over the past year or so the Visalia Economic Development Corporation (EDC) reported that inquiries from prospective companies include distributors of electronic components, manufactures of cheese products, manufactures of plastic products and clothing distributors. The Visalia EDC indicated that the inquiries were from two primarily categories of companies:

Existing Companies in California - companies already located in California that need new facilities to relocate to as expanding market and services or consolidate facilities to increase efficiency and reduce operating costs.

New Companies to California - companies with a very limited presence or are new to the state. Typically these are companies that service their retail outlets or clients in California or the Western United States.

The typical factors that relate to a companies consideration of potential location in the Visalia area include, but are not limited to:

Visalia Industrial Park Expansion Assessment

- sufficient size and configuration to meet building and operational needs
- readily available utilities – water, sewer, electricity, natural gas, etc. at reasonable rates
- few or no discretionary permits to allow construction; minimal processing time, effort and cost; responsive and timely plan check and permitting process
- easy access to major highways; rail service
- readily available labor force
- community acceptance
- employee hiring and training services
- retention incentives

A summary of the inquiries from prospective manufacturing and distribution users (only) for the period from 2003 through mid-2006 from the Visalia EDC and Tulare County EDC is presented in Table 14 below.

In terms of property sizes there was a fairly wide range of required parcel sizes for both prospective manufacturing and distribution users. In regard to building size however, almost all of the reported inquiries related to required building sizes were for buildings less than 250,000 square feet in size for both manufacturing (92.3%) and distribution (91.3%). The majority (51.4%) of prospective manufacturing users were seeking ownership of proposed parcels/buildings instead of lease space; while the required tenure for distribution uses was equal between leasing and ownership of space.

**Table 14:
Manufacturing and Distribution Use Inquiries (2003 to 2006)**

	<u>Manufacturing</u>		<u>Distribution</u>		<u>Total</u>	
<u>Property Size (Acres)</u>						
5.0 to 10.0	16	42.1%	6	50.0%	22	44.0%
10.0 to 20.0	8	21.1%	2	16.7%	10	20.0%
20.0 to 40.0	4	10.5%	0	0.0%	4	8.0%
over 40.0	10	26.3%	4	33.3%	14	28.0%
Total	38	100.0%	12	100.0%	50	100.0%
<u>Building Size (SF)</u>						
Less than 50,000	18	58.1%	6	40.0%	24	52.2%
50,000 to 100,000	8	25.8%	3	20.0%	11	23.9%
100,000 to 250,000	2	6.5%	4	26.7%	6	13.0%
250,000 to 500,000	3	9.7%	1	6.7%	4	8.7%
Over 500,000	0	0.0%	1	6.7%	1	2.2%
Total	31	100.0%	15	100.0%	46	100.0%
<u>Building Tenure</u>						
Lease	15	21.4%	10	38.5%	25	26.0%
Ownership	36	51.4%	10	38.5%	49	51.0%
Either	19	27.2%	6	23.0%	25	26.0%
Total	70	100.0%	26	100.0%	96	100.0%

Source: Tulare County Economic Development Corporation, June 2006

Tables 15 and 16 below presents information related to inquiries for all potential industrial space users in regard to required parcel sizes and building sizes and based on collective information from the Tulare County Economic Development Corporation and Visalia Economic Development Corporation (Note: additional detailed information regarding the specific prospects is included as Attachment D).

Visalia Industrial Park Expansion Assessment

**Table 15:
Summary of All Industrial Prospects – 2003 to Mid-2006 (Number of Parcels/Acres By Parcel Size)**

<u>Category</u>	<u>No. of Requested (Acres) (1)</u>		<u>No. of Requested Parcels</u>		<u>Average Size (Acres)</u>
Up to 1.0 acre	0.0	0.0%	0	0.0%	0
1.01 to 5.0 acres	11.0	1.1%	3	15.0%	3.7
5.01 to 10.0 acres	29.5	3.0%	4	20.0%	8.6
10.01 to 20.0 acres	103.0	10.6%	7	35.0%	14.7
20.01 to 40.0 acres	55.0	5.7%	2	10.0%	27.5
Over 40.0 acres	<u>770.0</u>	<u>79.5%</u>	<u>4</u>	<u>20.0%</u>	<u>192.5</u>
Total	968.5	100.0%	20	100.0%	48.4

Footnotes:

(1) Based on the mid-point of the reported requested range of requested number of acres for each category

Sources: Tulare County Economic Development Corporation, Visalia Economic Development Corporation and Grubb & Ellis/Pearson Commercial

In terms of parcel sizes, most of the inquiries were for parcels that were at least 5.0 acres in size (85.0%) with the greatest interest in parcels that are: 1) 10.0 to 20.0 acres in size (35.0%); 2) 5.0 to 10.0 acres in size (20.0%); and 3) over 40.0 acres in size (20.0%). Inquiries regarding parcels over 40.0 acres in size constituted approximately 79.5% of the overall total requested acreage. The average requested parcel size was approximately 48.4 acres.

**Table 16:
Summary of All Industrial Prospects – 2003 to Mid-2006 (Amount of Requested Building Size) (1)**

<u>Category of Building Size</u>	<u>Range of Required Building Size by Type of Building Tenure</u>				<u>Percent (2)</u>
	<u>Lease</u>	<u>Ownership</u>	<u>Either</u>	<u>Total</u>	
Up to 10,000 SF	0	8,000	0	8,000	0.2%
10,001 to 50,000 SF	10,000 to 20,000	103,000 to 123,000	70,000 to 75,000	183,000 to 218,000	4.5%
50,001 to 100,000 SF	0	150,000 to 175,000	0	150,000 to 175,000	3.7%
100,001 to 250,000 SF	360,000 to 560,000	820,000 to 960,000	0	1,180,000 to 1,520,000	30.6%
250,001 to 500,000 SF	250,000	300,000	300,000	850,000	19.2%
Over 500,000 SF	0	1,000,000 to 1,400,000	600,000 to 700,000	1,600,000 to 2,100,000	41.8%
Total	620,000 to 830,000	2,381,000 to 2,966,000	970,000 to 1,075,000	3,971,000 to 4,871,000	100.0%
Percent (2)	16.4%	60.5%	23.1%	100.0%	

Footnotes:

(1) In square footage

(2) Based on midpoint of the indicated range

Sources: Tulare Economic Development Corporation, Visalia Economic Development Corporation, Grubb & Ellis/Pearson Commercial

Visalia Industrial Park Expansion Assessment

In terms of building sizes, the largest percentage of inquiries were for buildings in the 100,000 to 250,000 square foot range (30.6%) and buildings over 500,000 square feet (41.8%). There was also substantial interest in buildings in the 250,000 to 500,000 square foot range (19.1%). In total approximately 91.5% of the inquiries were for buildings that were 100,000 square feet and larger.

Based on the subject information, approximately 60.5% of the potential industrial users were seeking ownership of space, while only 16.4% were seeking lease space. Approximately 23.1% were seeking either lease or ownership space.

D. Comparison of Requested Property/Building Space and Existing Supply

Table 17 below presents a comparison of the amount of property requested (by category of parcel sizes) related to the industrial prospects listed in Table 15 and the currently available industrial property within the study area. As indicated the amount of available industrial property (by category of parcel size) exceeds the requested amount of property for each of the categories except the "10.01 to 20.0 acres" and "over 40.0 acre" categories.

**Table 17:
Comparison of Requested Property and Available Property in Acres**

Category	Requested Property (1)		Available Property (2)		Difference (3)
	Acres	Parcels	Acres	Parcels	
Up to 1.0 acre	0.0	0	67.0	132	67.0
1.01 to 5.0 acres	11.0	3	82.0	29	71.0
5.01 to 10.0 acres	29.5	4	49.0	7	19.5
10.01 to 20.0 acres	103.0	7	19.0	2	(84.0)
20.01 to 40.0 acres	55.0	2	145.0	4	110.0
Over 40.0 acres	<u>770.0</u>	<u>4</u>	<u>240.0</u>	<u>3</u>	<u>(530.0)</u>
Total	968.5	20	602.0	177	368.5

Footnotes:

(1) See Table 14

(2) See Table 4

(3) Based on available acreage less requested acreage by category

**Table 18:
Comparison of Requested Building Space and Potential New Space**

Category	Range of Requested Building Size (SF) (1)	Potential New Space (2)	Difference (3)
Up to 10,000 SF	8,000	730,000	732,000
10,001 to 50,000 SF	183,000 to 218,000	893,000	675,000 to 710,000
50,001 SF to 100,000 SF	150,000 to 175,000	534,000	359,000 to 384,000
100,001 to 250,000 SF	1,180,000 to 1,520,000	207,000	(973,000 to 1,313,000)
250,001 to 500,000 SF	850,000	1,579,000	729,000
Over 500,000 SF	1,600,000 to 2,100,000	2,614,000	514,000 to 1,014,000

Footnotes:

(1) See Table 15

(2) Based on 25% site coverage factor applied to corresponding acreages in Table 8

(3) Based on comparison of potential new building space less requested building space by category

Visalia Industrial Park Expansion Assessment

Table 18 above presents a comparison of the range of building space (by category of building size requested by potential industrial user prospects and the potential new industrial building space that could be developed on the current vacant industrial property (see Table 8). As indicated, the only category that appears not to have potential industrial building space to accommodate the identified requirements of the subject prospects is the "100,001 to 250,000 square foot" category.

E. Employment

The Visalia Economic Development Corporation conducted a survey of existing businesses within the Visalia Industrial Park in 2005 as a means to identify full-time and part-time employment associated with existing businesses. Based on the survey information there is approximately 4,285 full-time employees and 766 part-time employees for the 82 existing businesses surveyed.

In reviewing the results of the subject survey, there are differences in the ratio of full-time employment to building size (square footage) depending on the type of business.

- For manufacturing businesses the ratio of full-time employment to building size (square footage) is one job per approximately 1,000 square feet.
- For distribution businesses it is one job per approximately 2,000 square feet; and for other businesses (e.g. service, contractors, etc.) the ratio is one job per approximately 600 square feet.

**Table 19:
Summary of Existing Employment**

No. of Businesses Surveyed	82
Building Area (SF)	3,872,000
Full Time Employment	
Total	4,265
Per Business	52
Per Building SF	904

Source: Visalia Economic Development Corporation, June 2006

F. Trends and Emerging Markets

According to the Emerging Trends in Real Estate 2006 (Price Waterhouse Coopers) industrial warehouse sector nationally should continue along as usual meeting expected economic expansion. According to that report:

- there should be steady improvement across most markets helping stabilize values
- development will temper the rate of vacancy declines in some areas and may undercut opportunities for rent increases
- buyer demand should continue.

Based on discussion with City of Visalia representatives, local commercial real estate brokers and industrial developers active in the Visalia industrial market the following are factors related to the projected trends and emerging markets in for industrial development in Visalia.

1. There is an increase in the number of prospects for larger parcel and building development (over 500,000 square feet), with approximately ten to twelve prospects searching for such size buildings in the Central Valley over the past year. Such interest potential could lead to development of additional larger parcel and building development in Visalia (e.g. JoAnn Stores and VF Corporation and Diversified Development Group Project (under construction))

Visalia Industrial Park Expansion Assessment

2. The average mid-size building development has been increasing from a range of 100,000 to 150,000 square feet to a range of 150,000 to 250,000 SF.
3. There continues to be smaller lot development serving the segment of the market in need of building space less than 10,000 square feet and in the range of 10,000 to 50,000 square feet.
4. There is an increased interest in potential users desiring to own a parcel and building instead of leasing such space. This tends to be an interest of potential users at various segments of the market in terms of required parcel and building size.
5. Visalia due to its location central to California and with excellent accessibility to Highway 99 will continue to be a place of interest to potential warehouse and distribution companies. In addition there is the opportunity to attempt to attract additional food processing and/or manufacturing companies due to the significant food/agricultural business based in Tulare County.
6. Larger building development along with the balance of warehouse, distribution and manufacturing businesses will help increase employment (job creation) with warehouse distribution users providing one job per approximately 2,000 square feet of space and manufacturing users providing one job per approximately 1,000 square feet of space.

Visalia Industrial Park Expansion Assessment

SOURCES OF INFORMATION

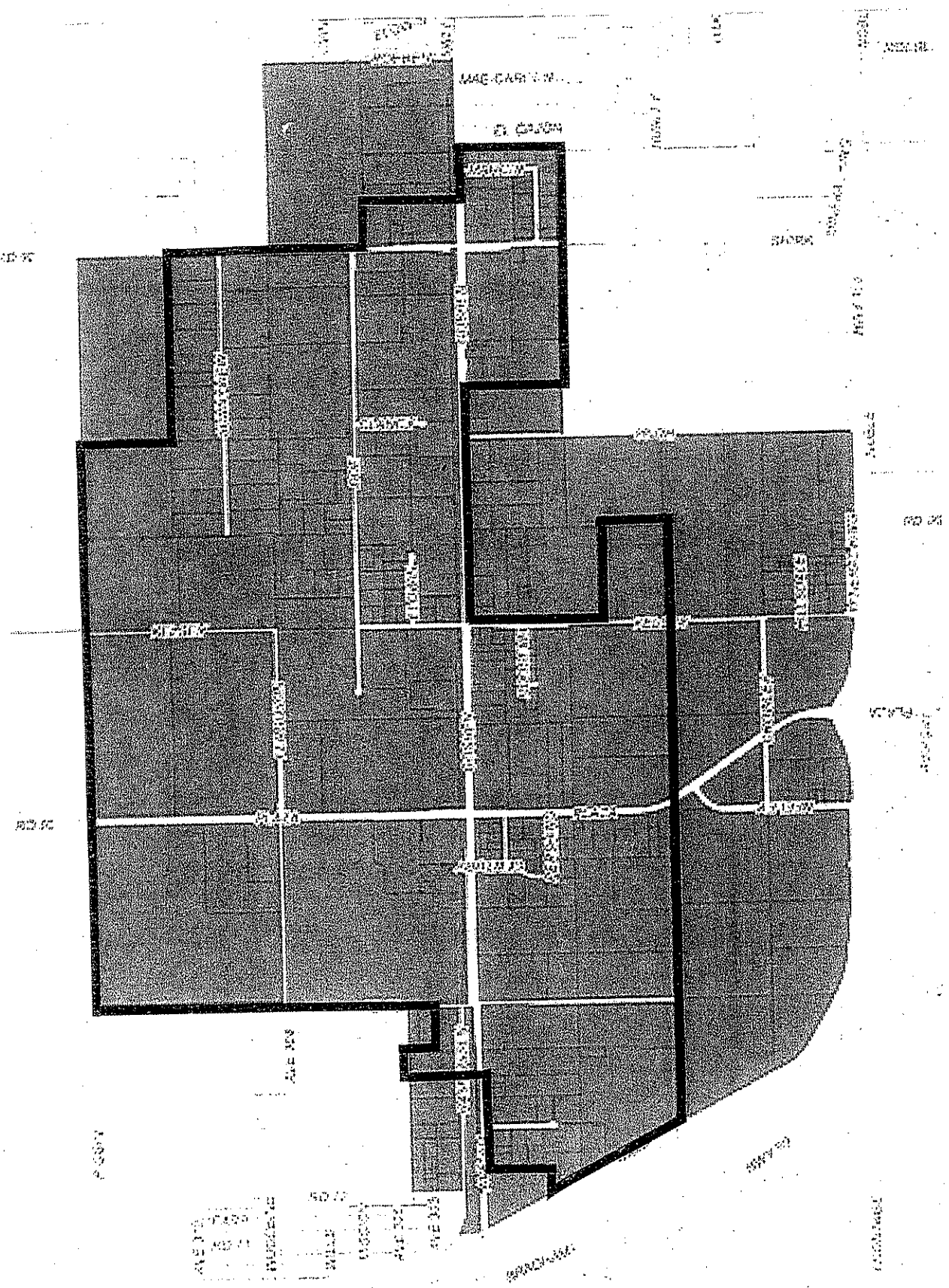
1. Land Use Element, Visalia General Plan, June 1996
2. Visalia Industrial Park Implementation Plan, October 2003
3. City of Visalia Zoning Ordinance (Title 17 of the Visalia City Ordinance) November 2004
4. City of Visalia Staff Report – Review of Current Activity and Land Use in Visalia Industrial Park, June 2005
5. City of Visalia Staff Report – Modification to Economic Development Policy for Financial Assistance for New/Expanding Businesses, September 2005
6. City of Visalia Staff Report – Annexation Application (Doe/Wonder), January 2006
7. City of Visalia Staff Report - Environmental Review for Potential Annexation of Property (Annexation 2006-01 (Doe), March 2006
8. Tulare County Economic Journal - Spring 2005, Tulare County Economic Development Corporation
9. Emerging Trends in Real Estate 2006, Urban Land Institute, October 2005
10. Guide to Classifying Industrial Property, Urban Land Institute, 2003

Visalia Industrial Park Expansion Assessment

CAVEATS AND LIMITATIONS

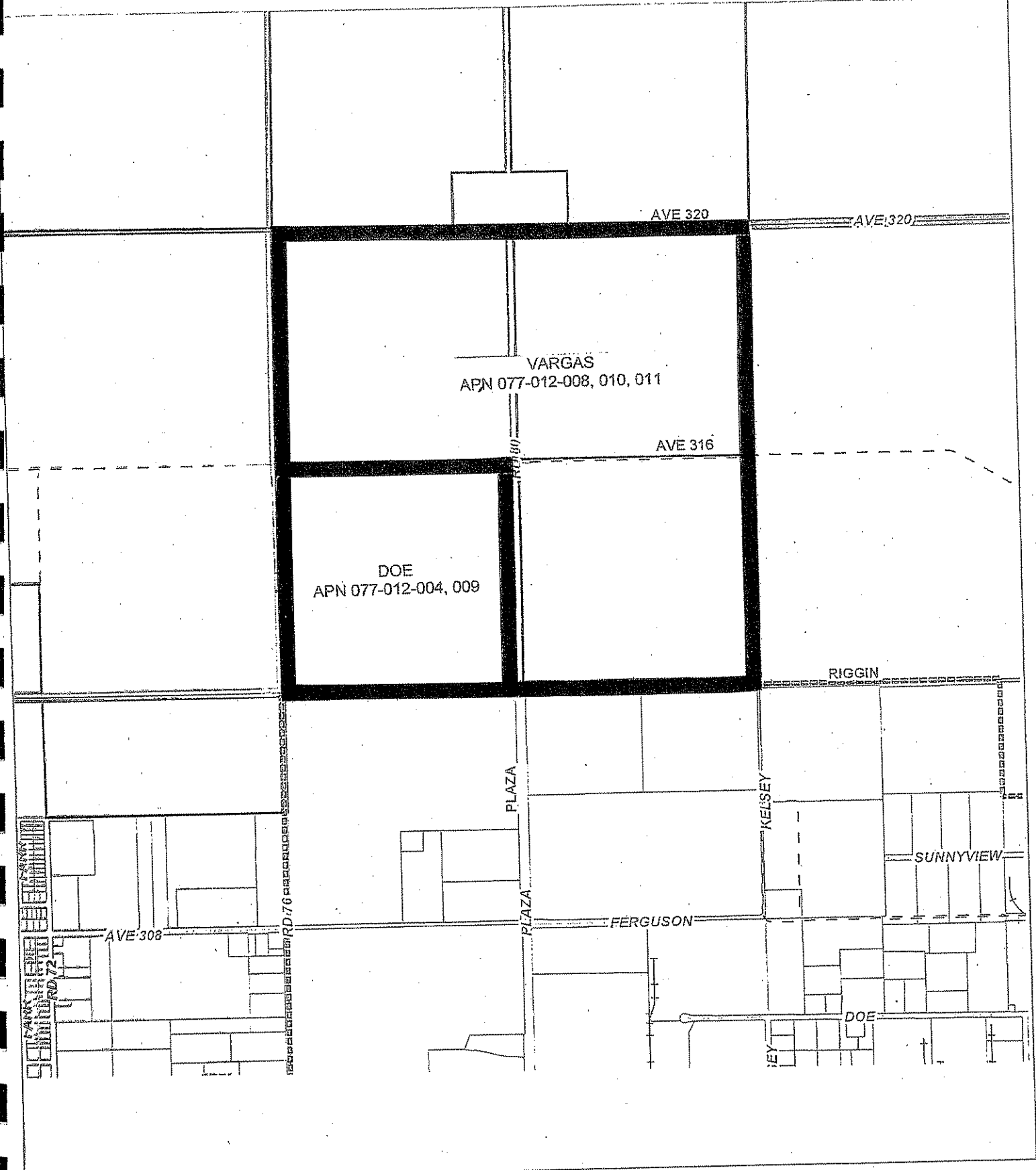
1. The analysis contained in this document is based, in part, on data and information from secondary sources. A. Plescia & Co. believes that these sources are reliable, however, A. Plescia & Co. cannot guarantee the accuracy of such data and information.
2. The analysis contained in this document is based on the assumption that neither the local, regional or national economy will experience a major recession. If an unforeseen change occurs in either the local, regional or national economy the information contained in this document might not be valid.
3. The preliminary information contained in this document is based on economic considerations, not political considerations. Therefore the preliminary information contained in this document should not be construed as a representation or opinion that any required governmental approvals could be secured for any proposed development projects.
4. The preliminary information, analysis and opinions contained in this document are based on the informed judgment of A. Plescia & Co. based on market, business and economic conditions as of the date of this document. The preliminary information, analysis and opinions contained in this document should not be relied upon as sole input, basis or determination for any final business decisions regarding any proposed development projects.
5. Any preliminary assessment of lease rates, land values, revenue or income projections, etc. is based on the best available data and information at the time of preparation of this document. There is no warranty or representation made by A. Plescia & Co. that these estimates would actually materialize.

Attachment A: Visalia Industrial Park



Study Boundaries

Attachment B:
Potential Annexation Properties



VARGAS
APN 077-012-008, 010, 011

DOE
APN 077-012-004, 009

AVE 320

AVE 320

AVE 316

RIGGIN

PLAZA

PLAZA

KELSEY

SUNNYVIEW

FERGUSON

AVE 308

DOE

SEMINOLE RD 72

RD 76

VEY

**Attachment C:
Summary of Vacant Industrial Property
Over 5.0 Acres in Size**

Assessor No. Parcel No.	Acres	Location	Status	Comments
1 077-110-031	7.80 (est)	South side of Ferguson between Plaza and Kelsey (vacant portion)	6	Property owned by Sequia Beverage; held for potential future expansion
2 077-110-026	18.84	Southwest corner of Ferguson and Kelsey	6	Property owned by Hormel; held for potential future expansion
3 077-130-013	29.81	North side of Goshen approximately 500 feet west of Shirk	5	
4 077-200-001	39.4	South east corner of Riggan and Kelsey	5	Property not being proactively marketed; owner/developer could sell based on offer
5 077-200-044	38.74	South side of Riggan approximately 1,300 feet east of Kelsey	5	Same as No. 4 above
6 077-200-045	37.04	East side of Kelsey approximately 1,300 feet south of Riggan	5	Same as No. 4 above
7 077-200-036	5.00	North side of Sunnyview at far west end of Sunnyview	5	
8 077-200-037	5.00	North side of Sunnyview at far west end of Sunnyview	5	
9 077-200-038	5.00	North side of Sunnyview at far west end of Sunnyview	5	Same owner as No. 4 through 6; same comment as No. 4
10 077-200-039	5.96	North side of Sunnyview at far west end of Sunnyview	4	Location of pending warehouse development
11 077-200-041	5.75	South side of Sunnyview at far west end of Sunnyview	4	Pending development
12 077-200-042	5.75	South side of Sunnyview at far west end of Sunnyview	4	Pending development
13 081-030-069	8.83 (est)	South side of Goshen approximately 600 feet west of Shirk (vacant portion)	4	Owner (CTX Building Supply) intends to develop as lumber yard with rail spur
14 077-360-001 (portion)	60.00 (est)	North east corner of Road 76 and Ferguson (Ave 308) (vacant portion)	2	Marketed by owner (Allen Group) for build-to-suit lease development
15 077-360-004	66.06	South side of Riggan between Plaza and Kelsey	2	Same as No. 14 above
16 077-110-037	114.32	Between Ferguson (Ave 308), Goshen, Plaza and Road 76	2	Same as No. 14 above
Total	452.88			

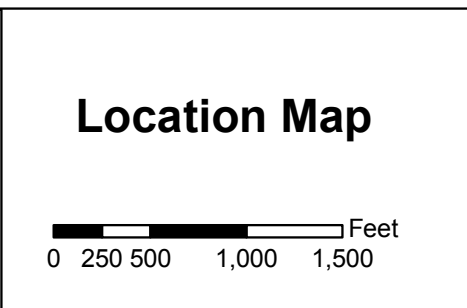
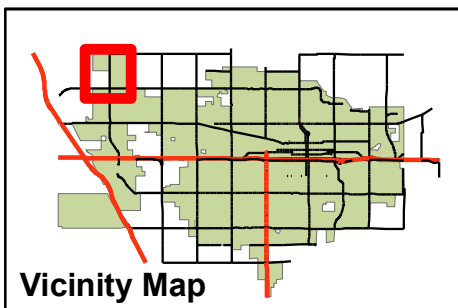
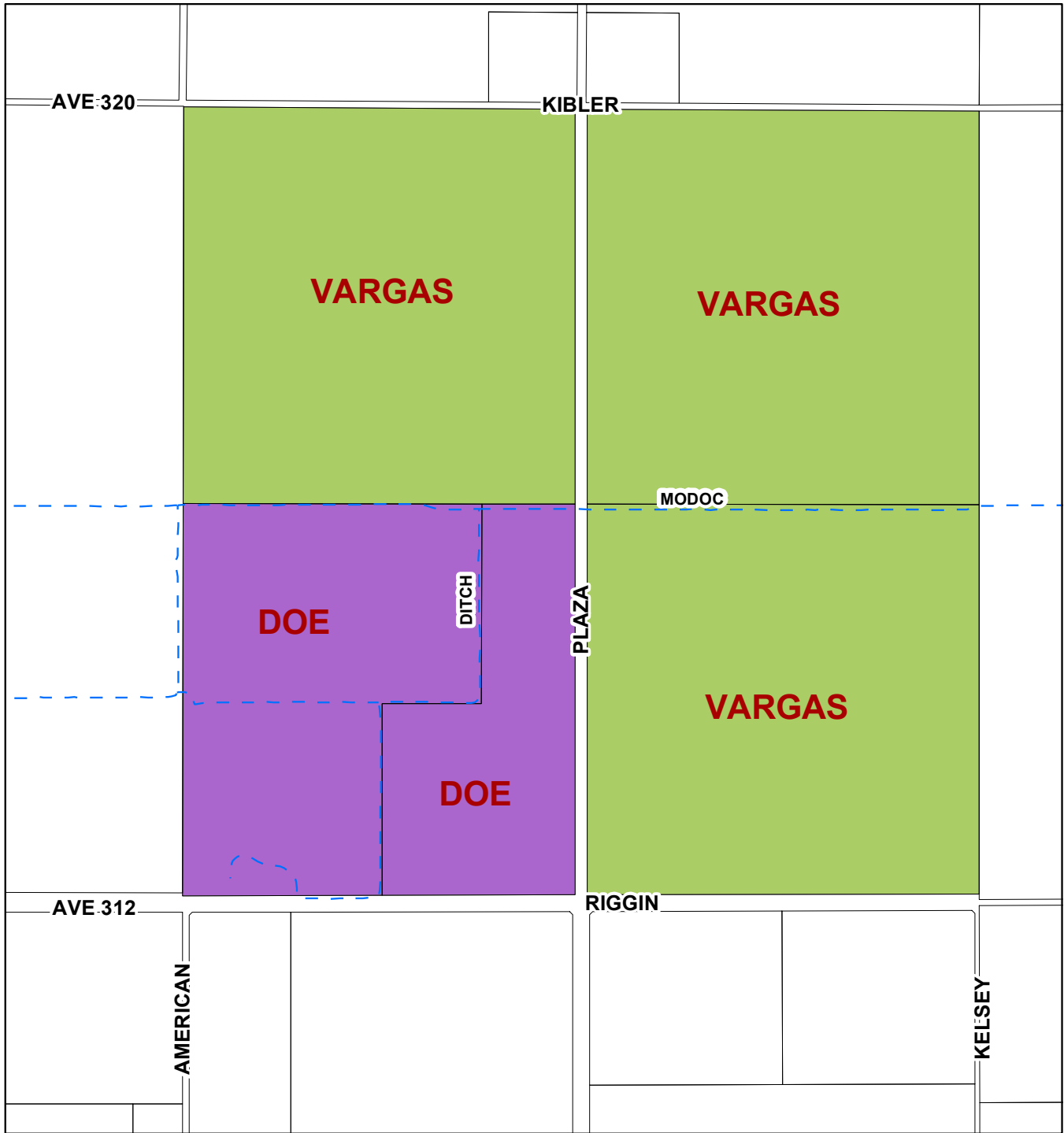
Legend:

- 1 - Actively being marketed for sale
- 2 - Actively being marketed for development (build-to-suit/lease)
- 3 - Actively being marketed for development (build-to-suit/ownership)
- 4 - Location of approved project yet to be constructed; pending development
- 5 - Not marketed for sale, lease or development; held for potential future development
- 6 - Property owned by adjacent company (business); held for potential future expansion

**Attachment D:
Sample of Industrial Prospects – 2003 to 2006**

<u>Business Type</u>	<u>Ownership or Lease</u>	<u>Building Size (SF)</u>	<u>Land Area</u>	<u>Desired Location</u>
Industrial Manufacturing	Ownership	150,000	20.0/40	Tulare County
	Ownership	120,000 to 160,000	6.0	California
Industrial Manufacturing	Ownership	150,000	12.0	California
Manufacturing	Ownership	100,000	7.0/10.0	Central California
Manufacturing	Ownership	40,000 to 50,000	2.0/4.0	Tulare County
Distribution	Ownership	500,000	130.0	Tulare County
Food Manufacturing	Ownership	100,000 to 200,000	7.0/20.0	Tulare County
Manufacturing	Ownership	300,000	12.0/15.0	Tulare County
Manufacturing	Ownership	30,000 to 40,000		Tulare County
Industrial Processing	Ownership	15,000	10.0/20.0	Tulare County
	Ownership	8,000	5.0	Tulare County
Metal Manufacturing	Ownership	35,000 to 40,000	3.0	Tulare County
Animal Feed Manufacturing	Ownership	18,000	10.0/20.0	Tulare County
	Ownership	20,000		Tulare County
	Or Lease			
Manufacturing Technology Service	Ownership	150,000	10.0/15.0	Central California
	Lease	10,000 to 20,000		Tulare County
Distribution	Lease	250,000		Southern California
Distribution Manufacturing	Ownership		10.0	Tulare County
	Ownership	15,000		Tulare County
	or Lease			
Food Manufacturing	Lease	15,000		Central California
Manufacturing	Lease	100,000 to 300,000		Central California
Manufacturing/	Ownership	150,000		Central California
Manufacturing/	Ownership	300,000	18.0/25.0	California
Distribution	or Lease			
Distribution	Ownership	600,000 to 700,000	25.0 acres	California
	or lease			
Food Manufacturing	Ownership	50,000 to 75,000		Central California
Recycling/	Lease	110,000	5.0	Central California
Manufacturing				
Food Manufacturing	Ownership		200.0/400.0	Central California
Distribution	Lease	150,000		Central California
Aquarium Products	Lease	40,000 to 60,000		West Coast
Distribution	Ownership	500,000 to 900,000	80.0/100.0	Tulare County
Food Manufacturing	Ownership		200.0/300.0	Central California

Sources: Tulare County Economic Development Corporation, Visalia Economic Development Corporation, Grubb & Ellis/Pearson Commercial



Legend

- - - WATERWAYS
- PARCELS
- VARGAS PROPERTY (ANNEXATION COMPLETE)
- DOE PROPERTY (ANNEXATION PENDING)

City of Visalia Agenda Item Transmittal

Meeting Date: April 5, 2010

Agenda Item Number (Assigned by City Clerk): 7

Agenda Item Wording: Review and comment on Draft Five-Year Consolidated, Strategic and Citizens Participation Plans, the Analysis of Impediments and 2010/11 Action Plan for the use of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) and HOME Investment Partnership Funds administered by the City of Visalia's Housing and Economic Development Department.

Deadline for Action: April 19, 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: Review and provide comments on the following:

1. Draft Five-Year Consolidated Plan for 2010-15, which includes the Analysis of Impediments;
2. Draft Action Plan for 2010/11

Each of these plans are required by the U. S. Department of Housing and Urban Development (HUD) for use of Community Development Block Grant (CDBG) and HOME Investment Partnership Funds. Staff will return to Council with a Final Plan for consideration which will include Council's input from April 5th as well as presentations to the Community Advisory Committee (CAC), Disabilities Advocacy Committee (DAC) and Northern Visalians Advisory Committee. **The Final Plans are due to HUD no later than May 15, 2010.**

Purpose and Definition of Each Plan

A Consolidated Plan (ConPlan) is required by HUD to be completed every five years by a participating jurisdiction; i.e. Visalia. The ConPlan consists of a snapshot of planned activities for the use of federal dollars (CDBG and HOME). As part of the ConPlan, cities are required to complete an Analysis of Impediments (AI).

The Draft ConPlan begins with Sections 1 through 5 providing the public with general characteristics of the community, housing, homeless, non-homeless needs and strategies to address those needs. The Strategic Plan is a guide to the operation, projects, programs and objectives and outcome of the use of both CDBG and HOME funds during the next five years. The Action Plan identifies the many steps staff is taking to implement the use of these funds on an annual basis. The Analysis of Impediments (AI) is a review of impediments or barriers that

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.

affect the rights of fair housing choice. It covers public and private policies, practices and procedures affecting housing choice. It also provides the public with recommended actions to address those barriers over the next five years. Finally, the Citizens Participation Plan was designed as part of the ConPlan, to create opportunities for citizens to be involved in the development of the City's ConPlan, the implementation or amendments over the next five years.

Summary/Background:

Staff is seeking input from Council and the public for the five year Consolidated Plan (ConPlan) during the 30 day review period which began March 18, 2010, and concludes on April 16, 2010. The plans are currently in draft form awaiting input from Council, Citizens Advisory Committee, Disabilities Advisory Committee and Northern Visalians Advisory Committee (the consultants have already met with these groups to gain their input) and the general public. The final ConPlan documents, which include an Analysis of Impediments, Citizens Participation Plan, Strategic Plan and 2010/11 Annual Action Plan, shall return to City Council on April 19, 2010, as a public hearing for adoption.

On an annual basis the City receives approximately \$1.2 million in CDBG funding and \$560,000 in HOME funds for a total of \$1,791,350. HUD grants these funds with restrictions in its use (i.e. affordability covenants & job creation for low income families, assistance in low income census tracts). These funds have annually been committed by repayment of a long-term parking structure loan as well as contracts with local non-profit agencies to provide services and complete improvements in these areas. Details of the funding, projects and programs are in Attachment "C-1" and "C-2". The major funding allocations include:

West Acequia Parking Structure Repayment	\$506,855
City Staff Administration	\$301,869
CHDO Set Aside (mandatory)	\$ 84,601
First Time Homebuyer Program	\$423,000
Code Enforcement	\$160,000
Mobile Home Senior Repair & Handicapped Program	\$ 90,000
Senior Home Minor Repair Program	\$ 91,000
Fair Housing Hotline	\$ 15,000

This leaves \$119,025 as discretionary funding for projects such as the ADA Compliance, which provides sidewalk access (curb cuts) in the downtown area as well as funding for park and recreation projects.

These reports support Staff's recommendation for the use of both Community Development Block Grant (CDBG) and HOME Investment Partnership Funds (HOME) over the next five years. The projects and programs are designed to address the needs of the community in the areas of affordable housing, a suitable living environment, and economic and community development.

In order to bring this report to Council and the community, extensive community outreach was conducted over the course of the last six months, collaboratively bringing Visalia residents, professionals, such as those in the health and human services, housing and economic development fields, as well as local non-profit agencies and partners together. The survey's meetings and workshops conducted, resulted in identifying the high to low priority needs of Visalia. Results of those needs, laid the foundation for the strategic and action plans, with specific goals and objectives for the use of both CDBG and HOME funds for the next five years.

Key Recommendations in the Plans

The ConPlan's recommended actions include:

1. **Housing and Neighborhood Preservation Services.** Continue to set aside \$423,000 in HOME funds to provide second mortgages to families purchasing a home in Visalia and continue working with its Community Housing Development Organization (CHDO) non-profit organizations to develop affordable housing by setting aside its required 15% HOME funds in the amount of \$84,601. Additionally, provide continued services through Code Enforcement and continue a contract with Tulare County Housing Authority for the Fair Housing hotline.

2. **Homeless.** Reserving \$10,000 annually for the next three years to support and help expand services to the Continuum of Care member organizations. Specifically, these funds will be used to pursue federal and state grants to support long-term development of housing for the homeless throughout Tulare County.

3. **Community & Economic Development.** Continue focus on the Oval Park providing an additional \$29,025 for lighting to go along with street and infrastructure improvements. Additionally, provide \$40,000 towards Recreation Park by adding a security fence around the skate park for local youth. Additionally, Staff's recommendation includes repayment of the Section 108 loan in relation to the ongoing financing of the West Acequia Parking Structure. The construction of the parking structure has provided additional parking to downtown merchants, the public and downtown business employees, including Kaweah Delta District Hospital, which has created 455 jobs since completing their expansion. Of the 455 jobs created, 151 (at a full time equivalency) were provided to new employees with a family income in the low to moderate income range. The parking structure supports the downtown businesses keeping the downtown vibrant. Staff recommends to continue its efforts to provide public improvements through sidewalk improvements in the amount of \$40,000, addressing needed handicapped access and truncated domes, which are detectable warning devices enabling people with visual disabilities to determine where the sidewalk ends and begins to cross streets in the downtown area area.

4. **Non-Homeless Special Needs Assessment.** Staff recommends maintain the two programs here as follows:

A. **Senior Minor Home Repairs.** A contract, in the amount of \$91,000 CDBG funding, remains in effect with Community Services Employment Training (CSET). These funds enable CSET to provide minor repairs to senior citizens who own their home or mobile home and it also provides a training opportunity to local youth learning a trade in construction, whether it is repairing an air conditioning unit (HVAC) or other cooling system to replacing windows, weather striping or other minor home repairs.

B. **Mobile Home Senior Handicapped Assistance Repair Program.** This program is administered by Self Help Enterprises. Staff recommends continuing efforts and grant funding in the amount of \$90,000, to assist seniors with replacing or repairing roofs, floors and handicapped ramps to their mobile homes. Many of these mobile homes are older than twenty (20) years old and the seniors have no other means to repair them.

Summary of Proposed Action 2010/11

The HOME and CDBG fund allocations are as follows:

HOME & CDBG:

- Affordable Housing (includes First Time Homebuyers) \$697,601

CDBG:

- Homelessness: \$10,000
- Economic and Community Development: \$600,880
- Non-Homeless Special Needs Housing: \$181,000

Prior Council/Board Actions: Previous 5 year plan adopted in April 2005, with annual Action Plan and CAPER report adoptions occurring April and September of each year.

Committee/Commission Review and Actions:

Alternatives: None recommended.

Attachments

- Attachment "A, Draft ConPlan, Sections 1-5
- Attachment "B", Draft Strategic Plan
- Attachment "C-1", Draft 2010-11 Action Plan allocations
- Attachment "C-2", Description of Project/Activities
- Attachment "C-3", Definition of HUD's Objectives and Outcomes
- Attachment "C-4", Draft 2010-11 Action Plan
- Attachment "D", Draft Citizens Participation Plan
- Attachment "E", Draft Analysis of Impediments (AI)

Recommended Motion (and Alternative Motions if expected): Review and provide comments on the following:

1. Draft Five-Year Consolidated Plan for 2010-15, which includes the Analysis of Impediments;
2. Draft Action Plan for 2010/11

Each of these plans are required by the U. S. Department of Housing and Urban Development (HUD) for use of Community Development Block Grant (CDBG) and HOME Investment Partnership Funds. Staff will return to Council with a Final Plan for consideration which will include Council's input from April 5th as well as presentations to the Community Advisory Committee (CAC), Disabilities Advocacy Committee (DAC) and Northern Visalians Advisory Committee. **The Final Plans are due to HUD no later than May 15, 2010.**

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)*

Attachment "A"
Draft ConPlan, Sections 1-5

Attachment "B"
Draft Strategic Plan

Attachment "C-1"
Draft 2010/11 Action Plan Allocations

Attachment "C-1"						
DRAFT - 2010/2011 ACTION PLAN - DRAFT						
Obj/Out			CDBG	HOME	TOTAL	UNITS
		SOU				
1		Cash - Beginning Balance			-	
2		Annual Grant Amount	1,227,349	564,001	1,791,350	
3		HOME matching funds - RDA Low/Mod			-	
4		Program Income	-	-	-	
5		Interest Earnings/Investment Earnings			-	
6		TOT	1,227,349	564,001	1,791,350	
7						
8		EXP				
9		Operating	81,569	14,500	96,069	
10		Redevelopment Allocation	131,500	25,800	157,300	
11		Direct Allocations	26,400	16,100	42,500	
12		Loan Servicing	6,000	-	6,000	
13		Subtotal Admin and Operating	245,469	56,400	301,869	
14						
15		Net for Programs and Projects	981,880	507,601	1,489,481	
16						
17		AFF				
18		Homeownership				
19	DH-1	* FTHB (Contract w/CSET)		423,000	423,000	10
20	DH-3	** Property Acquisition (CHDO)		84,601	84,601	1
21		Neighborhood Preservation/Services				
22	SL-3	Code Enforcement- Target Areas	160,000		160,000	200
23	SL-3	*** Fairhousing Hotline (contract w/TCHA)	15,000		15,000	120
24		HO				
25		Special Needs Facilities				
26	SL-1	Continuum of Care	10,000		10,000	1
27		MM				
28		Public Improvements				
29	SL-1	**** ADA Compliance Projects (Contract w/Sierra Range)	40,000		40,000	10
30		Economic Development/Public Parking Facilities				
31	EO-1	West Parking Structure Loan Payment (Section 108 Loan)	506,855		506,855	1
32		Public Park /Public Facilities				
33	SL-1	Oval Park Improvements	29,025		29,025	1
34	SL-1	Recreation Park	40,000		40,000	1
35		NON				
36		Special Needs Services				
37	SL-2	Senior Home Minor Repairs (contract w/CSET)	91,000		91,000	620
38	SL-2	***** Mobile Home Senior Repair & Handicapped Access (contract w/SHE)	90,000		90,000	14
39						
40		Subtotal Programs & Projects	981,880	507,601	1,489,481	
41						
42		TOT	1,227,349	564,001	1,791,350	
43						
44		REV				
45		Remaining to Carry Forward	-	-	-	

* FTHB- First Time Homebuyer	
** CHDO- Community Housing Development Organization- non-profit with 501c3 status	
*** TCHA- Tulare County Housing Authority	
**** ADA American with Disability Act-	
***** SHE - Self Help Enterprise	

Attachment “C-2”
Description of Project/Activities

Provide Decent Affordable Housing:

Outcome Goal (DH-1): Provide decent affordable housing by promoting homeownership opportunities for low-and moderate-income households earning less than 80 percent of the area median family income.

- **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 second mortgages, at a below market interest rate, to new homeowners. Staff anticipates providing 10 families with down payment assistance for the program year.

Outcome Goal (DH-3): Provide decent affordable housing by sustaining neighborhoods.

- **CHDO Funds:** 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 three certified HOME-CHDO's: Visalian's Interested in Affordable Housing (VIAH), Self-Help Enterprises (SHE) and Community Services Employment Training, Inc (CSET).

Suitable Living Environment through Neighborhood Preservation:

Outcome Goal (SL-3): Maintain and preserve quality housing by addressing substandard housing.

- **Code Enforcement:** The Neighborhood Preservation Division is responsible for the management of the Code Enforcement Program. The primary emphasis of the program focuses on life safety non compliance. Considerable efforts are focused on Health and Safety Code enforcement as it primarily relates to Housing standards. Some of the common violations include: unsafe structures, abandoned properties, contaminated and/ or unsecured swimming pools, construction without permits, and unlicensed vendors. Anticipated code cases 200.

Outcome Goal (SL-1) Provide educational services to low-income families.

- **Fair Housing:** This program provides Fair Housing services to Visalia residents. Callers with complaints are assisted in filling out official discrimination complaint forms, which are then forwarded to the Department of Fair Employment and Housing. It is anticipated that approximately 120 calls will come through the Hotline. The program also education to the public regarding fair housing rights.

Suitable Living Environment by supporting Special Needs Programs:

Outcome Goal (SL-1): Increase accessibility to support facilities to end chronic homelessness

- **Continuum of Care** – The City has a partnership with the Continuum of Care to address issues of homelessness. The Continuum of Care (CoC) is a consortium of housing providers, service providers, and local government, that work together to end homelessness in Kings and Tulare Counties. To strengthen their capacity, the Continuum is currently pursuing a 501c3 status to competitively apply for foundation and corporate funding. The Continuum is focused on systematically implementing systems and programs that will help support existing homeless organizations and offer the resources that are needed locally to be successful. The Continuum views the 501c3 status as a major capacity barrier, and

anticipates that the process will cost approximately \$10,000. This year, the City is allocating a total of \$10,000 in CDBG funds to assist the Continuum in achieving this goal.

Suitable Living Environment through Public Improvements

Outcome Goal (SL-1): Increase availability of handicapped access benefiting population with special needs.

- **Streets-ADA Compliance Projects** – The City is committed to addressing the needs of the disabled community. City Staff attends the Disability Advocacy Committee meetings to understand what the needs are within the disabled community. On an annual basis, the committee requests additional curb cuts and truncated domes. In this Action Plan, the City allocated a total of \$40,000 in CDBG funds for the construction of at least 10 ADA compliant ramps and warning detection panels for the blind throughout the areas of downtown within the city's CDBG target areas.

Create Economic Development Opportunities and Community Development Opportunities (Parking Facility) Needs Services:

Outcome Goal (EO-1): Demonstrate a commitment to long-term economic growth by promoting expansion of existing and job retention.

- **Parking Structure (West Acequia Parking Structure) - Section 108 Loan:** The City of Visalia is committed to providing adequate parking in the Downtown area to further promote jobs. In 2007, the City finalized construction of a second four story parking structure which supports the hospitals current expansion. Kaweah Delta Hospital, which employs a diverse group of employees in a variety of income groups, completed its North expansion. Staff continues monitoring the number of jobs created on an annual basis. This year, the City will make its second Section 108 payment in the amount of \$506,855. Additionally, the parking structure supports downtown businesses furthering the creation of many jobs throughout the downtown area.

Suitable Living Environment through Public Improvements

Outcome Goal (SL1): Improve quality and increase quantity of public improvements that benefit low-and moderate income residents. The City also utilizes other funding sources for public and park improvement projects.

- **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 actively participate 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.

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. This year's recommended allocation of \$29,025 shall assist with efforts of improving parks. Staff are also exploring the use of CDBG funds to rehabilitate the Oval Park Community Building to make it suitable for future use by a community-serving agency in the future.

- **Recreation Park:** Funding for this park has been reserved to install a security fence around the Skate Park.

Suitable Living Environment by supporting Special Needs Services:

Outcome Goal (SL-2): Maintain quality owner-occupied housing for elderly.

- **Senior Home Minor Repair.** The City has allocated \$91,000 to CSET for the administration of the Senior Home Minor Repair Program. Assistance is provided to senior citizens to assist with minor repairs in their homes. Examples of services are: Plumbing repairs, cooler/air conditioning repairs, roof repairs, door and window repairs, electrical repairs, appliance repairs, flooring and carpentry repairs. It is anticipated that this program will assist at least 120 clients and provide 600 service repairs.

Outcome Goal (SL-2): Increase accessibility and range of housing options for persons with special needs.

- **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 of \$5,000, up to \$7,000 on a case-by-case basis. 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. Approximately 14 grants are projected to be completed for the year.

Attachment “C-3”
Definition of HUD’s Objectives and Outcomes

The Consolidated Plan has three objectives and three outcomes that meet the National Objective for the use of both CDBG and HOME funds. Identified in Table 1 are these objectives and outcomes. Note: Each of the Objectives (Goals 1-3) is matched with one of the three Outcomes in a format required by HUD. A definition of each objective and outcome follows.

Table I- Objectives and Outcomes			
	Availability/Accessibility -1	Affordability -2	Sustainability -3
Decent Housing -1		FTHB	CHDO
Suitable Living Environment -2	Fair Housing, Continuum of Care, ADA Compliance, Oval Park, Recreation Park	Senior Home Minor Repair, Mobile Home SHARP	Code Enforcement, Fair Housing
Economic Opportunity -3	Section 108		

I OBJECTIVES

❖ **Goal #1 – Provide decent housing**

This objective focuses on housing programs where the purpose of the program is to meet individual, family, or community needs and not programs where housing is an element of a larger effort, since such programs would be more appropriately reported under suitable living environment.

❖ **Goal #2 – Create a suitable living environment**

This objective relates to activities that are designed to benefit communities, families, or individuals by addressing issues in their living environment (such as poor quality infrastructure) to social issues such as crime prevention, literacy or elderly health services.

❖ **Goal #3 – Create economic opportunities**

This objective applies to the types of activities related to economic development, commercial revitalization, or job creation.

II. OUTCOMES

❖ **Improve availability/accessibility**

This category applies to activities that make services, infrastructure, public facilities, housing, or shelters available and accessible to low/moderate income people, including persons with disabilities. In this category, accessibility does not refer only to physical barriers, but also to making the affordable basics of daily living available and accessible to low/moderate income people where they live.

❖ **Improve affordability**

This category applies to activities that provide affordability in a variety of ways in the lives of low/moderate income people. It can include the creation or maintenance of affordable housing, basic infrastructure hook-ups, or services such as transportation or day care.

❖ **Improve sustainability**

This category applies to projects where the activity or activities are aimed at improving communities or neighborhoods, helping to make them livable or viable by providing benefit to persons of low/moderate income or by removing or eliminating slums or blighted areas through multiple activities or services that sustain communities or neighborhoods.

Attachment "C-4"
Draft 2010-11 Action Plan

Attachment "D"
Draft Citizens Participation Plan

Attachment "E"
Draft Analysis of Impediments (AI)