

RESOLUTION NO. 2025-10

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF VISALIA TO INITIATE PROCEEDINGS FOR ANNEXATION NO. 2024-03: A REQUEST TO ANNEX THREE PARCELS TOTALING APPROXIMATELY 284 ACRES INTO THE CITY LIMITS OF VISALIA. THE ANNEXATION REQUEST INCLUDES AUTHORIZING THE DETACHMENT FROM COUNTY SERVICE AREA NO. 1 IN ACCORDANCE WITH STATE AND COUNTY REQUIREMENTS AND AUTHORIZING THE CITY MANAGER TO SIGN AND ENTER INTO A PRE-ANNEXATION AGREEMENT. THE PROPOSED PROJECT IS LOCATED ON APPROXIMATELY 284 ACRES, ON THE NORTH SIDE OF RIGGIN AVENUE BETWEEN SHIRK STREET AND KELSEY STREET. (APN: 077-840-004, 005, 006)

WHEREAS, the project proponents approve to initiate proceedings for annexation to said city of territory described on the attached legal description and annexation map included as Exhibit “A” of this resolution; and

WHEREAS, the proponent desires to annex said territory to the City of Visalia for the following reasons: 1) The annexation will contribute to and facilitate orderly growth and development of both the City and the territory proposed to be annexed; 2) The annexation will facilitate and contribute to the proper and orderly layout, design and construction of streets, gutters, sanitary and storm sewers and drainage facilities, both within the City and within the territory proposed to be annexed; and 3) The annexation will provide and facilitate proper overall planning and zoning of lands and subdivision of lands in said City and said territory in a manner most conducive of the welfare of said City and said territory; and

WHEREAS, this proposal is made pursuant to the Cortese-Knox-Hertzburg Local Government Reorganization Act of 2000, commencing with Section 56000 of the Government Code of the State of California; and

WHEREAS, the territory proposed to be annexed is uninhabited; and

WHEREAS, the territory proposed to be annexed is located in Voting District 3 as identified in the Election District Map adopted by the City Council on February 22, 2022, per Resolution No. 2022-11; and

WHEREAS, the Draft Environmental Impact Report and the appendices thereto (collectively, the “Draft EIR”) for the Shirk & Riggin Industrial Park Project, which considered impacts from Annexation No. 2024-03, was released on April 11, 2024, for circulation for a period of 45 days, ending on May 28, 2024; and,

WHEREAS, the Final EIR was released on January 17, 2025; for purposes herein, the “Final EIR” consists of the Draft EIR and the revisions of, and additions to, the Draft

EIR; the written comments and recommendations received on the Draft EIR; the written responses of the City of Visalia to significant environmental points raised in the review and consultation process; errata to the foregoing; and other information included by the City of Visalia as detailed more fully therein and as specified in the record; and

WHEREAS, the California Environmental Quality Act (CEQA) required that, in connection with the approval of a project for which an EIR has been prepared that identified one or more significant effects, the decision making body makes certain findings regarding those effects, which in full are contained in Resolution No. 2025-09 pertaining to the certification of the Final EIR prepared for the Shirk & Riggin Industrial Park Project; and,

WHEREAS, the Planning Commission of the City of Visalia, after a duly published notice, did review this proposal and hold a public hearing on February 10, 2025, and found it to be consistent with the General Plan; and,

WHEREAS, a ten (10) day published notice was given, and at the public hearing for March 3, 2025, the public hearing was withdrawn and planned for re-noticing on March 17, 2025 in order to also consider an appeal related to the Project; and,

WHEREAS, the City Council of the City of Visalia, after a 10 day published notice, reviewed this proposal and held a public hearing on March 17, 2025, and found it to be consistent with the General Plan.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Visalia finds that Final EIR for the Shirk & Riggin Industrial Park Project, State Clearinghouse No. 2022080658, was prepared consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines.

BE IT FURTHER RESOLVED that the City Council of the City of Visalia initiates proceedings for Annexation No. 2024-03, and makes the following specific findings with regards to the project:

1. That the Annexation is consistent with the intent of the General Plan and Zoning Ordinance, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
2. That the proposed Annexation, which will re-designate approximately 280 acres of AE-40 (Agricultural Exclusive 40-acre) County zone district to Industrial (I) and Light Industrial (I-L) zone, will not impose new land uses or development that will adversely affect the subject site or adjacent properties.
3. That the parcel is located within an Agricultural Preserve and a Land Conservation Contract, for which a Notice of Non-Renewal has been filed, and which has been approved for Tentative Cancellation by the Tulare County Board of Supervisors subject to the payment of a penalty fee.

4. That the parcel will be annexed into Voting District 3 per the Council Election Voting District Map.
5. That this Annexation is consistent with the project description and the analysis contained in the Final EIR (SCH# 2022080658) and for which said Final EIR is recommended to be certified by the City Council precedent to City Council's consideration of this Annexation request, consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines and City of Visalia Environmental Guidelines.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Visalia initiates proceedings of the Annexation described in Exhibit "A" of Resolution No. 2025-10, subject to the following conditions:

1. Upon annexation, the territory shall be zoned Industrial (I) and Light Industrial (I-L) zone, consistent with the underlying General Plan land use designations as proposed through the General Plan Amendment.
2. That the applicant(s) enter into a Pre-Annexation Agreement with the City which memorializes the required fees, policies, and other conditions applicable to the annexation. The draft Pre-Annexation Agreement is attached herein as Exhibit "B" of Resolution No. 2025-10. The agreement is subject to final approval by the City Council of the City of Visalia.
3. That no permits shall be issued for grading or development on the site until the site is completely removed from any applicable Land Conservation Contracts and Agricultural Preserves encumbering the site.
4. That the parcel will be annexed into Voting District 3 per the Council Election Voting District Map.

PASSED AND ADOPTED: March 17, 2025 LESLIE B. CAVIGLIA, CITY CLERK

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

I, Leslie B. Caviglia, City Clerk of the City of Visalia, certify the foregoing is the full and true Resolution 2025-10 passed and adopted by the Council of the City of Visalia at a regular meeting held on March 17, 2025.

Dated: March 18, 2025 LESLIE B. CAVIGLIA, CITY CLERK

By Reyna Rivera, Chief Deputy City Clerk

Exhibit "A" of Resolution No. 2025-10
Annexation legal description and map

Exhibit A
City of Visalia
ANNEXATION NO. 2024-03

That portion of the South half of Section 16, Township 18 South, Range 24 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, being more particularly described as follows:

Beginning at a point on the West line of said Section 16 a distance of 20.00 feet North of the South line thereof, being on the existing City Limit Line;

1. Thence North 0° 02' 10" West, along said West line, 2606.60 feet more or less to the Centerline of Modoc Ditch;

Thence along the Centerline of Modoc Ditch the following six (6) courses:

2. North 89° 47' 37" East, 2098.36 feet more or less;
3. Southeasterly 127.70 feet more or less along a tangent curve, concave to the Southwest, having a radius of 250.00 feet, and a central angle of 29° 16' 00";
4. South 60° 56' 24" East, 205.63 feet more or less;
5. South 58° 49' 43" East, 583.09 feet more or less;
6. Southeasterly 149.43 feet more or less along a tangent curve, concave to the Northeast, having a radius of 275.00 feet, and a central angle of 31° 07' 59";
7. South 89° 57' 43" East, 2199.97 feet more or less to a line parallel with and 20.00 feet West of the East line of said Section 16, being the existing City Limit line;
8. Thence South 0° 04' 04" East, along said parallel line and existing City Limit line, 2125.87 feet more or less to a line parallel with and 20.00 feet North of the South line of said Section 16;
9. Thence South 89° 50' 43" West, along last said parallel line and existing City Limit line, 2611.08 feet more or less to the West line of the Southeast quarter of said Section 16;
10. Thence South 89° 50' 58" West, along said last parallel line and existing City Limit line, 2631.26 feet more or less to the Point of Beginning.

Containing 284.53 acres, more or less



ONE SHEET ONLY

ANNEXATION NO. 2024-03

EXHIBIT "B"

CITY OF VISALIA - EFFECTIVE:

A PORTION OF SECTION 16 OF T. 18 S.,
R. 24 E., M.D.B.&M., IN THE COUNTY OF
TULARE, STATE OF CALIFORNIA
AREA: 284.53 ACRES±



LEGEND

- EXISTING CITY LIMITS
- ANNEXATION BOUNDARY

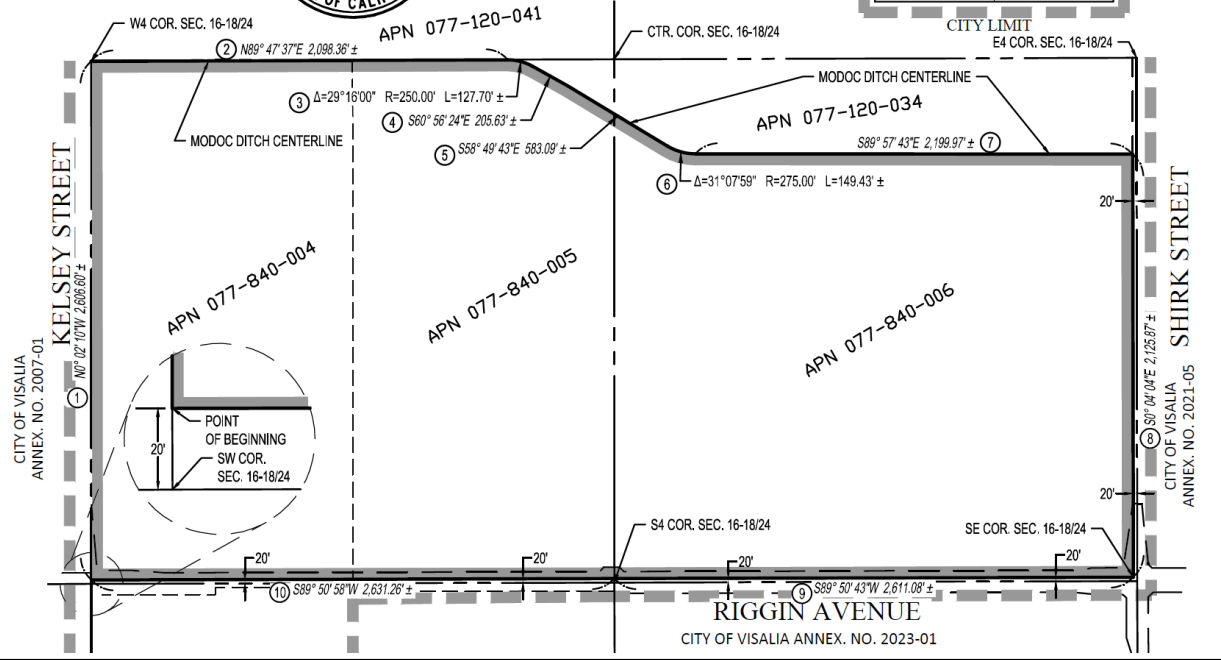
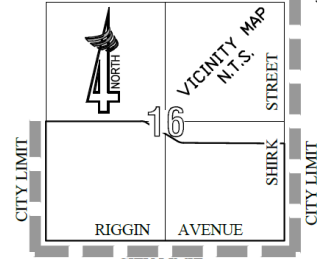
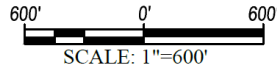


Exhibit “B” of Resolution No. 2025-10

Pre-Annexation Agreement

Pre-Annexation Agreement

This Pre-Annexation Agreement (“Agreement”) is made and entered into this ___ day of _____, 20___, by and among the City of Visalia, a charter law city (“City”) and Jeffrey B. Ritchie Family Limited Partners (hereinafter “Owner”). City and Owner are sometimes each individually referred to herein as a “party” and collectively as the “parties.”

RECITALS

WHEREAS, Owner is the record owner 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 Light Industrial (I-L) and Industrial (I), as set forth in Chapter 17.22, where the designation would permit the Property to be used for 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 280 acres, and is an uninhabited annexation; 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 March 17, 2025 adopted a Resolution of Application (City Resolution No. 2024-10) (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, 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 parcel or subdivision map, with conveyance of water rights or payment to be made on a per map basis upon City's issuance of each final parcel or 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 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 parcel or 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 parcel or subdivision map, with payment to be made on a per map basis upon City's issuance of each final parcel or 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: Williamson Act Indemnification: Occasionally property to be annexed is burdened with Williamson Act contract(s). In such event, the following apply:

- i.) 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.

D. Future Development Impact Fees: The Owner hereby acknowledges that the City may, from time to time, adopt additional development impact fees 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 a development impact 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 development impact fee program to the extent applicable at the time Owner seeks a vesting project approval for a project on the Property. This provision is not intended to retroactively subject the Property to additional annexation-related fees that may be adopted in the future.

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 rezoning requirements. The Light Industrial (I-L) and Industrial (I) zoning designations is the adopted rezoning for the Properties, in accordance with Visalia Municipal Code Chapters 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 "Rezoning"). The I-L and I zoning designations permit warehouses and other land uses, as specified by the City of Visalia Municipal Code. The I-L and I zoning designations 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 rezoning 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 I-L and I zoning designations 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. Development Impact Fees: The Owner shall pay all applicable development impact fees for any subsequent development on the Property at the time that building permits are issued, or prior to issuance of final occupancy, if applicable, or at the time that a final map is recorded, at the discretion of the Community Development Director, or as may be required by ordinance, including but not limited to an ordinance that adopts a Development Agreement between Owner and City under Government Code section 65864 et. seq. and Visalia Municipal Code Chapter 17.60, which would include sections concerning the timing and payment of applicable development impact fees that would apply to Project. A list and amount of development impact fees can be located in the City's current version of the Development Fee Schedule.

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 Light Industrial and Industrial land uses, and zoned Light Industrial (I-L) and Industrial (I), 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 (recordation 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).
- 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: Ken Richardson
 City Attorney
 Peltzer & Richardson Law Corporation
 3746 W. Mineral King Avenue
 Visalia, CA 93291

To Owner: Jeffrey B. Ritchie Family Limited Partners
 Attn: Larry J. Ritchie
 11878 Avenue 328
 Visalia, CA 93291

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: _____

By: _____
Leslie Caviglia, City Manager

Attest:

Date: _____

By: _____
Reyna Rivera, Chief Deputy City Clerk

Approved as to Form:

Date: _____

By: _____
Ken Richardson, City Attorney

OWNER

Date: _____

By: _____
Larry J. Ritchie