



# TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church Street, Suite B, Visalia 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:  
Steve Worthley, Chair  
Juliet Allen, V-Chair  
Allen Ishida  
Rudy Mendoza  
Cameron Hamilton

**LAFCO MEETING AGENDA**  
*October 1, 2014 @ 2:00 P.M.*  
BOARD OF SUPERVISORS CHAMBERS  
COUNTY ADMINISTRATIVE BUILDING  
2800 West Burrel Avenue  
Visalia CA 93291

ALTERNATES:  
Mike Ennis  
Janet Hinesly  
Dennis Mederos

EXECUTIVE OFFICER:  
Ben Giuliani

- I. **Call to Order**
- II. **Approval of Minutes from August 6, 2014 (Pages 1-4)**
- III. **Public Comment Period**

At this time, members of the public may comment on any item not appearing on the agenda and that is within the scope of matters considered by the Commission. Under state law, matters presented under this item cannot be discussed or acted upon by the Commission at this time. So that all interested parties have an opportunity to speak, any person addressing the Commission may be limited at the discretion of the chair. At all times, please use the microphone and state your name and address for the record.

IV. **Action Items**

- 1. **Adoption of the City of Porterville Municipal Service Review Update (Pages 5-28)**  
*[No Public Hearing].....Recommended Action: Adoption*

The Commission will consider the adoption of the City of Porterville Municipal Service Review Update. The MSR and its determinations were posted for public review on September 10, 2014. The enclosed MSR includes updated information and findings. The complete MSR is posted on the Commission's website at: <http://co.tulare.ca.us/lafco/documents/MSRPortervilleUpdate2014.pdf>. This item is exempt from the California Environmental Quality Act: Section 15061(b)(3) and 15303.

- 2. **City of Porterville Sphere of Influence (SOI) Amendment LAFCO Case 1507 (Pages 29-82)**  
*[Public Hearing].....Recommended Action: Approval*

The Commission will consider the proposed Sphere of Influence update for the City of Porterville. LAFCO has reviewed and considered the information contained in the EIR prepared for the 2008 General Plan and certified by the City and in the City's CEQA documentation SCH# 2006011033.

**NOTE: Persons wishing to speak on any of the agenda items who have made a political contribution of more than \$250 to any commissioner in the last twelve months must indicate this when speaking.**

3. Annexation to the City of Visalia Case# #1505-V-446 (Pages 83-130)  
*[Public Hearing].....Recommended Action: Approval*

The City of Visalia is proposing the annexation of 135 acres of land located on the east side of Dinuba Boulevard between Shannon Parkway and the St. John's River. In compliance with the California Environmental Quality Act, the City of Visalia prepared an initial study/negative declaration for proposed annexation. As a Responsible Agency, LAFCO will consider the initial study/negative declaration before any action is taken.

4. Sphere of Influence (SOI) Amendment and LAFCO Case 1506 (Pages 131-138)  
*[Public Hearing].....Recommended Action: Approval*

The commission will consider the proposed Sphere of Influence Amendment for the Tulare County Resource Conservation District (TCRCD). The TCRCD is located within Tulare County. The Tulare County LAFCO has determined this project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15061(b)(3).

5. Amendment to Policy C-6 (Extraterritorial Service Agreements) (Pages 139-144)  
*[No Public Hearing].....Recommended Action: Approval*

Enclosed is a proposed amended policy that would streamline the ESA review process.

## V. Executive Officer's Report

1. Draft Amendment to Policy B-2 (Processing Fees) (Pages 145-146)

Enclosed is a memo regarding a proposal to amend the fee for special district applications to activate latent powers.

2. ESAs 2014-04, -05, -06 and -07 (City of Porterville) (Pages 147-152)

Pursuant to Policy C-6, the Executive Officer approved four ESAs between the City of Porterville and four property owners for the provision of domestic water to four existing single-family residences.

3. Legislative Update (No Page)

An update will be given at the Commission meeting.

4. Upcoming Projects (No Page)

The Executive Officer will provide a summary and tentative schedule of upcoming LAFCO cases and projects.

## VI. Correspondence

There are no items.

**NOTE: Persons wishing to speak on any of the agenda items who have made a political contribution of more than \$250 to any commissioner in the last twelve months must indicate this when speaking.**

**VII. Other Business**

1. Commissioner Update (No Page)
2. Request from LAFCO for items to be set for future agendas

**VIII. Setting Time and Place of Next Meeting**

1. November 5, 2014 @ 2:00 P.M. in the Board of Supervisors Chambers in the County Administration Building.

**IX. Adjournment**

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**Agenda Summary**

*Item No.*

- II. Please see enclosed August 6, 2014 meeting minutes.*
- IV.1 Please see enclosed staff report and resolution*
- IV.2 Please see enclosed staff report and resolution*
- IV.3 Please see enclosed staff report and resolution*
- IV.4 Please see enclosed staff report and resolution*
- IV.5 Please see enclosed memo*
- V.1 Please see enclosed memo*
- V.2 Please see enclosed ESA approval letters and maps*
- V.3 No enclosure for this item*
- V.4 No enclosure for this item*

**NOTE: Persons wishing to speak on any of the agenda items who have made a political contribution of more than \$250 to any commissioner in the last twelve months must indicate this when speaking.**

**TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION**  
**Summary Minutes of the Meeting**  
**August 6, 2014**

**Members Present:** Worthley, Allen, Ishida, Hamilton  
**Members Absent:** Mendoza  
**Alternates Present:** Mederos  
**Alternates Absent:** Ennis, Hinesly  
**Staff Present:** Ben Giuliani, Cynthia Echavarria, Andrea Apolinaro, Alyssa Blythe  
**Counsel Present:** Lisa Tennebaum

**I. Call to Order**

Chair Worthley called the Tulare County Local Agency Formation Commission meeting to order at 2:00 p.m. on August 6, 2014.

**II. Approval of the June 4, 2014 Minutes:**

Upon motion by Commissioner Allen and seconded by Commissioner Hamilton, the Commission unanimously approved the June 4, 2014 minutes.

**III. Public Comment Period**

Public Comments opened/closed at 2:00 p.m. There were no public comments.

**IV. Action Items**

1. **Sphere of Influence (SOI) Amendment and LAFCO Case 1502**

Staff Analyst Echarvarria provided that the SOI Amendment included 17 acres of land at the NW corner of Strathmore Ave. and Tulare Road to the east of the existing City limits, and the proposed SOI accommodated the proposed annexation of the Lindsay High School (Case 1503-L-49). Staff Analyst Echarvarria requested the Commission to take action on agenda items listed A through D of the staff report, and stated the City of Lindsay was available if there were any questions.

Chair Worthley opened the Public Comment session at 2:05 p.m.

Brian Spaunhurst, City of Lindsay provided there was no discrepancies against the proposed annexation, and welcomed any questions.

Chair Worthley closed the public session at 2:05 p.m.

Upon motion by Commissioner Ishida and seconded by Commissioner Hamilton, the Commission approved the Sphere of Influence (SOI) Amendment and LAFCO Case 1502.

2. Annexation to the City of Lindsay LAFCO Case 1503-L-49

Staff Analyst Echarvarria stated the City of Lindsay proposed the annexation of 43 acres of land where the Lindsay High School site is currently located (northwest corner of Strathmore Ave. and Tulare Road), and requested the Commission to take action on agenda action items listed 1-6, including detachment from County Service Area #1, of the staff report and stated the City of Lindsay was available if there were any questions.

Chair Worthley opened the Public Comment session at 2:11 p.m.

Brian Spaunhurst, City of Lindsay stated there were no discrepancies against the proposed annexation, and welcomed any questions.

Chair Worthley closed the public session at 2:12 p.m.

Upon motion by Commissioner Ishida and seconded by Commissioner Allen, the Commission approved the Annexation to the City of Lindsay LAFCO Case 1503-L-49.

3. Annexation to the City of Lindsay LAFCO Case 1504-L-50

Staff Analyst Echarvarria reported the City of Lindsay is proposing an annexation of 40 acres of land (Roosevelt Elementary School and adjoining land) located on the north side of Hickory Street between Sequoia Ave and Parkside Ave. Staff Analyst Echarvarria stated the City of Lindsay prepared an initial study/negative declaration for use with this proposal and was recommending the subject site be detached from CSA # 1. Staff Analyst Echarvarria requested the Commission to take action on agenda action items listed 1-6 of the staff report and stated the City of Lindsay was available if there were any questions.

Chair Worthley Opened the Public Session at 2:16 p.m.

Director of Facilities Merced Doria of Lindsay Unified stated he was available for any questions from Commission.

Commissioner Allen provided her concern regarding the siting of the school and impacts to farmland.

Mr. Doria stated the ultimate decision rested on the California Department of Education (CDE) as the CDE reviews the population and determines where the school is needed.

Chair Worthley closed the public session at 2:25 p.m.

Upon motion by Commissioner Ishida and seconded by Commissioner Allen, the Commission approved the Annexation to the City of Lindsay LAFCO Case 1504-L-50.

4. Designation of Voting Delegate and Alternate for the CALAFCO Business Meeting

EO Giuliani stated there is a need to designate a delegate and alternate for the CALAFCO Business meeting.

Commissioner Allen commented she would attend the CALAFCO Business Meeting.

Commission members discussed who would attend, and conflicting issues with their meeting schedule.

Chair Worthley asked if the commission could designate a person from the commission to go as an alternate.

EO Giuliani responded he could reframe the resolution to read if another commissioner does not attend, than the Executive Officer may go as the alternate.

Upon motion by Commissioner Ishida and seconded by Commissioner Hamilton, the Commission approved the Designation of Voting Delegate and Alternate for the CALAFCO Business Meeting as Commissioner Allen, Delegate and the Executive Officer, Alternate.

## **VI. Executive Officer's Report**

### **1. Draft Amendment to Policy C-6 (Extraterritorial Service Agreements)**

EO Giuliani stated the amendment to Policy C-6 would give the LAFCO Executive Officer authorization to review, approve or deny, on behalf of the Commission the proposals by cities and special districts to extend services beyond their jurisdictional boundaries.

Chair Worthley suggested replacing “not facilitate new development” to “provide services to existing development” as the change would define the statement more clearly and determine who is being helped.

EO Giuliani stated the Draft ESA and the revision would be presented at the next LAFCO meeting.

### **2. ESA's 2014-01 (Orosi PUD/Moreno) and 2014-03 (Poplar CSD/Walker)**

EO Giuliani highlighted ESA 2014-01 Orosi PUD which provided water, sewer and street lighting to one developing commercial parcel, and stated there was a plan to bring back the parcel for clean up, and provided that ESA 2014-03 Poplar CSD (the southwest outskirts of town) was to provide water and sewer service for three residences on one parcel.

Commission members commented they agreed with the service extensions.

### **3. Legislative Update**

EO Giuliani provided an overview of bills in the legislature and highlighted bills that have moved forward to the assembly and/or Senate which is being tracked by CALAFCO: AB 1739-Dickenson and SB 1168-Pavely. EO Giuliani stated letters of concern have been issued from CALAFCO outlining the inconsistencies between AB 1739, SB 1168, and to Senator Wolk regarding SB 614.

Commissioner Allen informed Commission that SB 1168 had been re-written three times with a briefing scheduled for Friday, August 8. Commissioner Allen provided concerns for the new groundwater agency and its plans.

### **4. Grand Jury Report**

EO Giuliani reported the Grand Jury Report on Delta Vector Control District was positive and contained a neutral fact based report on Tulare County Flood Control District.

5. Upcoming Projects

EO Giuliani stated at the September LAFCO Meeting may include the Porterville MSR and SOI updates and an annexation proposal from the City of Visalia.

**VII. Correspondence**

There are no items

**VIII. Other Business**

1. Request from LAFCO for items to be set for future agendas

None

**IX. Setting Time and Place of Next Meeting**

The next meeting is on Wednesday, September 3, 2014 at 2:00 p.m. The meeting will be held in the Board of Supervisors Chambers in the County Administration Building.

Chair Worthley and Commissioner Ishida provided they would not be able to attend the September LAFCO meeting, and requested that Commissioner Allen chair the meeting.

**XI. Adjournment**

The meeting adjourned at 3:04 p.m.



**TULARE COUNTY  
LOCAL AGENCY FORMATION COMMISSION**

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EXECUTIVE OFFICER:  
Ben Giuliani

October 1, 2014

TO: LAFCO Commissioners, Alternates, Counsel  
FROM: Cynthia Echavarria, Staff Analyst  
SUBJECT: City of Porterville Municipal Service Review Update

**Background**

The first Municipal Service Review (MSR) for the City of Porterville was adopted as part of the Group 3 MSRs by the Commission at the March 2007 meeting. The existing Sphere of Influence (SOI) for Porterville was last comprehensively reviewed by the Commission in 1974 followed by several SOI amendments. Before the Commission can approve a major amendment or a comprehensive update of the SOI, the updated MSR determinations need to be adopted. In accordance with Tulare County LAFCO policy 5.11(E) the draft was available for review 21 days prior to the adoption of the MSR.

**Discussion**

Since the Porterville MSR was first developed in March of 2007, Government Code was modified that combined twelve topic areas into six. Recently, a seventh was added into law relating to disadvantaged unincorporated communities. The Commission is required to prepare a written statement of determinations for the following:

- Growth and population projections for the affected area.
- The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
- Present and planned capacity of public facilities, adequacy of public services and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.

- Financial ability for agencies to provide services.
- Status of, and opportunities for, shared facilities.
- Accountability for community service needs, including governmental structure and operational efficiencies.
- Any other matter related to effective or efficient service delivery, as required by commission policy.

Technical data was updated based on new supporting documents such as the City of Porterville's 2008 General Plan Update (2008), City of Porterville Annual Budget Reports (2013-2014), California's Groundwater Bulletin 118, (2006), City of Porterville website (2013 and 2014), Water Quality Control Plan for the Tulare Lake Basin, City of Porterville Water Conservation Plan (2014), Riverwalk Marketplace II Revised Draft EIR (2011), City of Porterville Urban Water Management Plan (2010), 2010 Census and correspondence with city staff.

The proposed Municipal Services Review does not involve, authorize or permit the siting or construction of any facilities. The MSR is categorically exempt from the preparation of environmental documentation under a classification related to information gathering (Class 6- Regulation Section 15306), which states: "Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded." CEQA Regulation Section 15061(b)(3) states "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." There are no land use changes or environmental impacts created or recommended by the MSR update.

Attached is the Executive Summary with determinations for the updated City of Porterville MSR. The full version of the updated Draft was also posted for public review on LAFCO's website: <http://www.co.tulare.ca.us/lafco/default.asp>. Tulare County LAFCO has not received comments prior to the October 1, 2014 meeting.

### **Recommendation**

Adopt the Municipal Service Review and statement of determinations for the City of Porterville.

Attachments:  
 City of Porterville MSR Written Determinations  
 Resolution of Adoption

## Written Determinations

### CHAPTER 1 GROWTH AND POPULATION

#### *Historic Growth Patterns*

1. The 2010 Census indicated that the City had an incorporated area of 17.61 square miles, 16,734 housing units and a population of 54,165. This is compared to 141,696 housing units and a population of 442,179 for the County as a whole in 2010. In 2010, the City's population made up 12.3% of the County. The City's population share has consistently increased from 9.5% in 1990 to 10.7% in 2000 and 12.3% in 2010 with a slight decrease to 12.1% in 2014.
2. Historically Porterville experienced an average growth rate of 3.0 percent between 1990 and 2010. The recession and weak housing market in recent years has caused the annual growth rate to slow in the last four years to 0.7 % between 2010 and 2014. Historical population data and future projections have been obtained from the U.S. Census Bureau, and the California Department of Finance. For analysis purposes, this data is compared to other source data relating to growth and population including the City's General Plan. Extrapolating the historical 1990-2010 growth rate of 3.0% would give the City a population of 97,828 or 15.5% of the county population in 2030.
3. The Department of Finance (DOF) released finalized population projections at the county level on January 31, 2013. The DOF estimates that there will be a population of 630,303 in Tulare County in 2030. If the City's share of County population continues to grow at the same level as between 1990 and 2010 (1.4%), the City's population share would be 15.1% of the County in 2030. At 15.1% of 630,303, the City's population would be 95,176. This would be an annual increase of 2.9%.
4. According to the 2008 Porterville General Plan Update<sup>1</sup>, the City of Porterville's population has grown at an average annual rate of 3.7 percent over a 30 year period. Buildout of the General Plan will accommodate a population of approximately 107,300 in the Planning Area. At a 3.7% growth rate, the City would account for 17.2% of the County's population. However, the City's population growth slowed to an average annual rate of 2.8 percent from 1990 to 2005. As indicated by the City's General Plan, and Water and Sewer Master Plans, a population of 55,408 was estimated by 2010, US Census data shows a 2010 population of 54,165.
5. The 2007 MSR for the City of Porterville assumed a growth rate range between 2.5 and 3.0%. The historical growth rate of 3% between 1990 and 2010, and the growth rate of 2.89% using DOF projections in combination with the City's share of County population all fall within the original range. The City's General Plan Update estimated a growth rate of 3.7%. Historical trends indicate that this estimate may be a little on the high side. The historical growth rate of 3% includes the annexation of large residentially developed County islands. A continued 3% growth rate would include both continued annexation of developed County areas and natural growth. It is reasonable to assume that the City's population will continue to grow at an average annual rate between 2.5% and 3%.

<sup>1</sup> Porterville General Plan, 2008. (<http://www.ci.porterville.ca.us/depts/CommunityDevelopment/generalplan.cfm>)

6. It is estimated that Porterville's population will reach approximately 97,828 by year 2030, by applying an average annual growth rate of 3.0% (consistent with historical trends). Since incorporated cities typically experience higher growth rates than the unincorporated areas of Tulare County, it is anticipated that Porterville will make up approximately 15.1% of the overall County population by year 2030, compared to 12.3% in 2010.
7. Based upon information obtained from the Tulare County LAFCO GIS database, the City Limits of Porterville incorporate approximately 10,848 acres of land, while the City's SOI incorporates approximately 14,600 acres of land. Ongoing County island annexations have increased the amount of land within the City, and the City's overall population. Recent annexation approvals by LAFCO (recorded as of April 2, 2014) have incorporated approximately 737 additional acres of land within the City's SOI into the City Limits since April 2006.
8. The City of Porterville is primarily a mix of urban and rural areas, with a growing population. Over half of the land within the total land area was being used for agriculture and other rural uses (generally categorized as Agriculture/Rural/Conservation), 13 percent of the planning area is categorized as single family use, 10 percent was identified as vacant land. Other land uses such as commercial, retail, and industrial make up the balance. The City's available residential, industrial and commercial land base is currently building out and may in the future require additional areas for growth. Single-family housing construction in Porterville is likely to continue its growth despite several significant economic hardship cycles. The housing stock has also increased in the last 10 years due to annexations of unincorporated islands.

#### *Planning Documents*

9. The City of Porterville plans for future growth through the implementation of policies and standards set forth in General Plan Elements. The General Plan is a long-term, comprehensive framework to guide physical, social and economic development within a community's planning area. It is a long-range guide for attaining the City's goals within its ultimate service area and accommodating its population growth to the year 2030.
10. The City undertook a comprehensive update of the General Plan in 2008, updating all mandated elements except Housing, which is addressed below. In addition, the City of Porterville included optional elements for: Economic Development; Parks, Schools, and Community Facilities; and Public Utilities. The City's General Plan prior to 2008 was last comprehensively updated in 1989.
11. The City's Housing Element, which is updated every five years, was last updated in 2009, and has a planning period between 2009 and 2014. For this reason, the City's Housing Element is considered to be up to date, but is due to be updated in the near future. The City has initiated efforts to update the Housing Element and expects to adopt the update in 2015 per the schedule identified by the Tulare County Association of Governments, on behalf of the State. The City also plans for future growth through the preparation and implementation of specific plans and master plans.
12. The following master plans have been provided for use in the preparation of this municipal service review; Porterville Municipal Airport Master Plan Report (Hodges & Shutt, April 1990), 1994 Update of City of Porterville Storm Drain Master Plan (Charles

W. Roberts, Consulting Civil Engineer, Inc., October 1994), Sewer System Master Plan (Carollo Engineers, February 2001), Water System Master Plan (Carollo Engineers, February 2001). These infrastructure master plans are discussed further in subsequent sections of this report, as applicable. Porterville staff has indicated that Master Plans will be updated after the adoption of the Urban Development Boundary, anticipated in late 2014 or early 2015. The City should consult with LAFCO prior to adopting any new boundaries.

### *Planning Boundaries*

13. Land use within Porterville is guided through the implementation of goals and policies set forth in the Porterville General Plan Land Use Element. The Land Use Element is considered the most prominent of the seven mandatory elements of the General Plan, as it determines the general location of residential, commercial, industrial, public and open space uses in addition to disclosing building intensities and population densities for the planning area. The land use and circulation elements of the General Plan have been termed the “blueprints” for the development of a City. The goals, policies, and implementation measures of the elements are considered to be the “instructions for the blueprints”.
14. The City’s website contains extensive information with regard to economic development within Porterville. The economic development section on the City’s website includes information regarding available industrial sites, commercial sites, and downtown business opportunities, business incentives, and redevelopment.
15. The Urban Development Boundary (UDB) protects the health, safety, welfare, and quality of life of the residents of Porterville by concentrating future residential, commercial, and industrial growth in areas already served by urban services or areas where such services are to be provided consistent with the General Plan. The UDB is an administrative boundary beyond which urban development is not allowed during the time period for which it is effective. The current UDB was most recently amended in 1993. The City of Porterville is currently in the process of updating its current UDB.
16. The 2006 City of Porterville Municipal Services Review (MSR) recommended the City review land use demand and supply at least every five years. An excerpt from that report is below:

*The City should undertake a review of the land use demand and supply no less than once every five years to ensure that land zoned for General Plan development continues to meet the growth needs of the City. It is recommended that the City coordinate this process with the scheduled updates to Spheres of Influence and/or 20-year UDB’s.*
17. The City of Porterville 2008 General Plan Update includes Land Use Implementation Policy LU-I-3 which states that the City will amend the UDB in order to guide growth through annexation and development, and the efficient extension of public services to new areas.

*LU-I-3: The UDB will be periodically reviewed and updated to ensure that it provides for a 10-year supply of developable residential land and a 20-year supply of developable commercial and industrial land, consistent with the General Plan and LAFCO*

*requirements. The UDB will be adopted separately by the City Council as a General Plan implementation policy.*

### *Annexations*

18. The City has continued to actively annex land included with its SOI and 20-year UDB into the City Limits in line with development interest consistent with City and County General Plan policies. Tulare County LAFCO has approved the annexation of several “County islands” in accordance with SB 1266 (Torlakson) which expanded the maximum area for island annexations from 75 to 150 acres as of January 1, 2005. The recorded island annexations incorporated just over 600 acres of land into the City.
19. Recent annexation approvals by LAFCO (recorded as of April 2, 2014) have incorporated approximately 737 additional acres of land within the City’s SOI into the City Limits since April 2006. However, only 50 acres have been annexed in the past 5 years.
20. In Tulare County, Porterville has the only developed island (East Porterville) that is greater than 150 acres. However, there are islands within East Porterville that are substantially surrounded and can still qualify for the streamlined annexation process.
21. As indicated in the MSR, there are still some remaining “County islands” located within the outer boundary of the Porterville City Limits. These remaining “County islands” have a total land area of approximately 532 acres. It is recommended that the City continue to pursue the annexation of these remaining “County islands”, as administratively feasible, to establish a more definitive and organized City Limit Boundary. Local policy currently defines “substantially surrounded” as 65% surrounded by a city.

## **CHAPTER 2 PRESENT AND PLANNED CAPACITY OF PUBLIC FACILITIES AND ADEQUACY OF PUBLIC SERVICES INCLUDING INFRASTRUCTURE NEEDS & DEFICIENCIES**

### *Capital Improvement Plan (2013-2023)*

1. The City’s CIP is an excellent foundation and planning tool to assist the community in its orderly development in the acquisition of municipal facilities and to assure that service needs for the future are met. For fiscal year 2013-2014, the City’s CIP identified over \$35 million in capital projects<sup>2</sup>.
2. The CIP ties the City’s physical development to goals and decisions expressed through hearings, citizen advisory groups, City staff, and documents including the City’s General Plan and infrastructure master plans.
3. Projects identified in the City’s CIP are generally consistent with the City’s General Plan, master plans and related documents, goals of the City Council, and mandates from state or federal regulatory agencies. The CIP undergoes annual reviews by the CIP review committee, comprised of department heads and the City Manager.

4. The CIP identifies over twenty-five revenue sources from which CIP projects are funded, and provides a comprehensive description of each revenue source, and how the resources are allocated.
5. The City of Porterville continues to rely solely on groundwater for supplying municipal water to its residents.
6. A series of groundwater wells generally scattered west of Plano Avenue and south of Westfield Avenue extract water from the aquifers underlying the City which are recharged from rainfall and runoff of the western Sierra Nevada.
7. The primary water system contributing to recharge of the Tule Basin Aquifer underlying Porterville is the Tule River. In addition to groundwater, the City has purchased water rights for about 900 acre-feet annually from the Pioneer Ditch Company and Porter Slough Ditch Company. Some of this water is used for a small pond at Murry Park in Porterville, but historically most of this water has not been used by the City<sup>3</sup>.

### *Capacity*

8. There are 35 active wells serving the Planning Area. The City has approximately 14,000 metered connections, of which 13,000 are residential meters. A telemetry system controls the operation of 22 of the City's 35 active well pumps to maintain system pressure under varying loads. The water levels in the reservoirs are also monitored and controlled by the computerized telemetry control system. According to the 2009 Groundwater Conditions Report the City's water distribution system consists of various groundwater wells, a network of approximately 200 miles of water pipes ranging in size from 2 to 16 inches in diameter, booster pump stations, storage tanks, and pressure reducing valves maintained and operated by the Public Works Department.
9. The City's municipal wells are generally scattered west of Plano Avenue and south of Westfield Avenue [Figure 2-2]. The area east of Plano Avenue is considered water deficient and water is pumped from the wells located in western and central Porterville. The City currently operates and maintains six hillside reservoirs: four with a capacity of 3,000,000 gallons, one with a capacity of 550,000 gallons, and one with a capacity of 300,000 gallons.
10. The City's wells have a total maximum production efficiency of approximately 14,000-15,000 gallons per minute (GPM). Most of the City's wells are gravel packed and range from 230 feet to 700 feet in depth. Some City wells have seen severe yield declines in the last ten years, for example, from 1,500 gallons per minute (gpm) to 500 or 600 gpm. However, well rehabilitation may be able to restore these wells to their previous performance levels, since some of the declines are caused by encrustation. New wells typically have capacities of 500 gpm or less.
11. The City has a groundwater management policy which does not discourage additional reliance on the groundwater aquifers as the source for future water supply.

12. At the January 21, 2014, City Council meeting, Council approved Resolution 10-2014, a resolution of support of Governor Brown's declaration of a state of emergency due to drought conditions. Rainfall totals throughout the State are at record lows and the city of Porterville is now entering its third year of significantly reduced rainfall, with Lake Success storage levels remaining low and little snow pack currently in the Southern Sierra Nevada Mountains. The City also has 10 million gallons of storage tank capacity, which helps with summer peaking demands. The water level in the City's 35 wells has dropped an average of 22 feet from the summer of 2012 to the summer of 2013. If the drought continues and water levels continue to drop, the City may experience pumping problems in the next few years. However, the drop in water level noted herein is not dissimilar in magnitude from what the city has experienced in past very dry periods. The city's aquifers have proven to be quite resilient and time and again have recovered satisfactorily during the wet years.
13. The City of Porterville is currently in Phase II of the City's Water Conservation Plan. Phase II applies during periods when there is a water supply shortage.<sup>4</sup>
14. The City Council has indicated that such drought conditions will have devastating impacts on the agricultural industry, which will have widespread adverse environmental, economic and social impacts on the people of California and the city of Porterville.

#### *Surface Water*

15. Both San Joaquin and Tule River waters originate primarily from rain and snowmelt in the Sierra Nevada and have good to excellent water quality<sup>5</sup>. Tule River water is delivered from Lake Success. According to the Lower Tule River Irrigation District, the lake periodically experiences turnover episodes in the spring and fall which have caused hydrogen sulfide problems. In the summer and fall, the lake experiences algae growth problems. These problems can be remedied with water treatment.

#### *Regional Regulations*

16. The City is able to remotely monitor and control the operations of the water system through the use of a Supervisory Control and Data Acquisition System (SCADA). Although the SCADA system is capable of operating and monitoring most of the water system, some wells and tanks are still operated with local pressure switches with on/off set points. The City's SCADA system allows staff to monitor the system operations, and respond to any problems that may occur in a timely manner.
17. The City's water system is 99% metered, which promotes water conservation. The City of Porterville has been proactive in water conservation and education. Less than normal rainfall and runoff makes efforts to promote water conservation a high priority. In addition to the benefits of conserving water as a limited natural resource, additional benefits accrue to the community in the form of a reduced impact on the Wastewater Treatment Facility and a reduction in energy costs when water supplies are conserved.<sup>6</sup>

<sup>4</sup> <http://www.ci.porterville.ca.us/documents/WaterConservationPlanv3.0FINAL.pdf>

<sup>5</sup> Water Quality Control Plan for the Tulare Lake Basin

<sup>6</sup>

18. The City's water conservation plan was updated in August 2014 to align with recently approved regulations from the State Water Resources Control Board. The most significant change to the City's water conservation plan was the stricter definition and enforcement measures associated with conservation needs. In addition to public education efforts, such as those identified below, mandatory watering schedules are now identified and enforced.
19. The City's website contains numerous flyers, presentations, and newsletters informing the public on easy ways to save water, leak detection, and landscape watering. The City's efforts in promoting water conservation significantly improve the City's ability to continue to provide quality water service to its customers.
20. The City's water supply and distribution system was studied as a part of the *Water System Master Plan* (Carollo Engineers, February 2001). The City's *Water System Master Plan* is designed to accommodate a population of 65,807, which would accommodate growth through year 2015. The planning area for the master plan coincides with the City's UDB. As previously noted, the City in 2009 prepared a comprehensive update to their General Plan, and will update their UDB following Commission adoption of the SOI update. For this reason, the next update to the City's *Water System Master Plan* (estimated to be completed soon after the updated UDB) should include a planning area consistent with the City's updated UDB and/or SOI.
21. The Urban Water Management Planning Act requires the Department of Water Resources to evaluate Urban Water Management Plans adopted by urban water suppliers pursuant to Section 10610.4 (c) and submitted to the Department no later than 30 days after adoption and updating once every five years, on or before December 31 in years ending in five and zero.
22. It is recommended that the City of Porterville continue to comply with the requirements of the Urban Water Management Planning Act. Non-compliant urban water suppliers are ineligible to receive funding pursuant to Division 24 (commencing with section 78500) or Division 26 (commencing with section 79000), or receive drought assistance from the State until the UWMP is submitted pursuant to the Urban Water Management Planning Act. State funding for urban water improvements are often necessary to aid agencies in providing quality water service, especially during drought periods
23. In addition to some changes in the Urban Water Management Planning Act since the last UWMPs were submitted in 2005, Governor Schwarzenegger in his 20x2020 Plan determined that for California to continue to have enough water support its growing population, it needs to reduce the amount of water each person uses per day (Per Capita Daily Consumption, which is measured in gallons per capita per day). This reduction of 20 percent per capita use by the year 2020 is supported by legislation passed in November 2009 [SB X7-7 \(Steinberg\)](#). Water conservation. SB X7-7 has amended and repealed some sections of the Water Code and may affect reporting requirements under the Urban Water Management Planning Act and other government codes.
24. The Urban Water Management Plan for the City of Porterville was recently updated and was adopted by the City Council in August 2014. This plan evaluates the City's water resources over a 21-year planning horizon from 2014 to 2035. The Planning Area

covers about 56.8 square miles. In 2005, approximately 27,800 acres (43.5 square miles) or about 75 percent of the Planning Area lied outside of the existing city limits within unincorporated Tulare County. The Planning Area encompasses land that is of interest for long-term planning, including hillsides and surrounding agricultural land. However, being included within the Planning Area does not necessarily mean that the City is considering annexation. The UWMP discusses the reliability of water supplies and their vulnerability to seasonal and climatic shortages. Seasonal deficiencies are based on precipitation patterns of individual watersheds. The City's design will take into account adverse impacts from climate change

#### *Wastewater Collection, Treatment, and Disposal*

25. The City provides sanitary sewer collection, treatment, and disposal services to residents in the City of Porterville and the nearby community of East Porterville.
26. The City's sewer collection system consists of approximately 150 miles of 6-inch through 36-inch diameter pipes, and also includes approximately 21 sewage lift stations and associated force mains. The sanitary sewer collection system consists of gravity collection pipes, manholes, service laterals, pump stations, and trunk sewer mains. The Wastewater Treatment Facility (WWTF) is an activated sludge plant consisting of headworks, lift station, bucket and bar screens, aerated grit chamber, primary and secondary clarifiers, sludge thickeners, primary and secondary sludge digesters, sludge drying beds, a seepage receiving station, a chlorine contact tank, and an emergency storage pond. A percolation disposal field of approximately 52 acres just south of the reclamation site is used for percolation during periods of low irrigation demand.<sup>7</sup> Digested sludge is pumped from the WWTF through a 6-inch diameter pipeline to sludge drying beds lined with soil cement located on City property southwest of the airport.
27. It should be noted that the sewer flows tributary to the WWTF include flows from the Porter Vista Public Utility District (PVPUD), serving the unincorporated community of East Porterville, a Census Designated Place. Approximately 80 percent of the flows from the PVPUD are pumped from a lift station located on the east side of Park Street, and approximately 450 feet north of the intersection with Date Avenue. The remaining 20 percent of the flows from the PVPUD are routed via a 12-inch gravity pipe to the lift station at Jaye Street, south of the Tule River, and then to the City's 18-inch Jaye Street trunk line. Sewer flows from the PVPUD are not currently metered, making it difficult for the City to regulate the amount of flows contributed from the PVPUD. In the previous MSR Tulare County LAFCO suggested the City consider metering flows from the PVPUD in order to ensure that the PVPUD is paying its fair share of costs based upon the amount flow they are contributing. The City has not yet begun metering flows, but staff is looking into technologies and options to assist in such an effort, and hope to request approval of metering from the City Council within the near future, possibly associated with consideration of the pending updates to the Sewer Master Plan.
28. According to the Standard Provisions and Reporting Requirements for Waste Discharges, the City should initiate planning and engineering for additional WWTF capacity when the volume of influent at existing facility has reached 80 percent of the plant capacity. Accordingly, when the influent flow reaches 6.4 mgd, the City will need to begin designing for additional plant capacity.

<sup>7</sup> [www.waterboards.ca.gov/centralvalley/board\\_decisions/tentative\\_orders/0803/cityofporterville/porterville\\_info.pdf](http://www.waterboards.ca.gov/centralvalley/board_decisions/tentative_orders/0803/cityofporterville/porterville_info.pdf)

29. The volume of influent at the WWTF, based on historic growth trends in influent flows, has decreased slightly since 2007, but has held relatively steady through the last seven years. However, with planned housing and economic development, growth under the general plan may increase the yearly average. Using the general plan's future population and an average per capita flow (117 gallons), the average influent flow that the City should plan for is 12.5 mgd in 2030. If the general plan's goal of 10 percent water conservation is met, then the average influent flow would be reduced proportionally to approximately 11.3 mgd. In both cases, this future treatment need exceeds the existing WWTF capacity, so the City would need to increase the treatment plant capacity by 3.5–4.5 mgd before 2030.<sup>8</sup>
30. The City should continue to identify capital sewer system improvements in its comprehensive ten year CIP, consistent with the recommendations contained within the *Sewer System Master Plan*. Provided the City continues to implement improvements recommended in its *Sewer System Master Plan*, the City will be in a position to support future development within its UDB and SOI. Sewer collection system improvements are funded through the City's sewer revolving fund and development impact fees.
31. While the City's *Sewer System Master Plan* addresses the sanitary sewer collection system, future expansions to the WWTF are not addressed. Several years ago, a study was completed to determine the feasibility of relocating the WWTF from its current location near the center of town. At that time, it was determined to be infeasible or not cost effective to relocate the facility. It is recommended that the City complete a master plan for the WWTF to address future capacity expansion abilities at its current location, or the possibility of constructing a WWTF at a new location.

#### *Streets and Roads*

32. The City constructs transportation improvements through the implementation of goals and policies set forth in the City's General Plan Circulation Element, and other plans, including the Tulare County Regional Transportation Plan, which is updated every three years.
33. The City implements street improvements through annual street programs, and its 10-year CIP, which plans for the funding of future transportation improvement projects.
34. The City should continue to identify capital transportation related improvements in its comprehensive ten year CIP, consistent with the implementation of the City's General Plan Circulation Element. The City will need to continue to implement its General Plan Circulation Element goals and policies to meet the future needs of the community.
35. It is recommended that the City take the lead in planning for transportation and circulation improvements within the boundaries of its 20-year UDB and SOI. Streets within this area should be constructed to City standards, since it is likely that the area will ultimately be incorporated into and become a part of the City of Porterville.

<sup>8</sup> *Riverwalk Marketplace II Revised Draft EIR February 2011*

### *Solid Waste Collection and Disposal*

36. The City of Porterville Field Services Division is responsible for the removal of solid waste within the incorporated City Limits. There are three residential collections per household each week, while commercial collections occur six times weekly. Waste is conveyed to a sanitary landfill site located approximately seven miles southwest of the City at Avenue 128 and Road 208 and serves the City and surrounding area. The site is operated by Tulare County and has an estimated remaining life of seven to eight years. Unincorporated portions of the planning area are provided solid waste removal services by private contractors, which are licensed with Tulare County. Residential pickup in these areas occurs twice per week.
37. The City of Porterville's Public Works Department provides commercial, residential, an industrial refuse collection to all locations within the City of Porterville. Private companies offer solid waste collection services in other unincorporated areas. Porterville has various programs to encourage recycling and waste reduction, such as curbside collection of residential and yard recyclables (green can), a recycling drop-off center, a commercial and industrial recycling program, school recycling programs, bi-annual special collection events, and public education/outreach activities.
38. Disposal services in Porterville are provided by the Tulare County Resource Management Agency (RMA). Porterville's solid waste is currently disposed at Teapot Dome landfill, located approximately five miles southwest of the city limits. As percent capacity with a remaining capacity of 998,468 cubic yards (cy) and an anticipated closure date of 2012. In 2012, it is anticipated that the Consolidated Waste Management Authority (CWMA) will close the landfill sometime in the next five years. At that time, Teapot Dome may become a transfer facility. This processing and transfer facility is about 20 miles from the city limits. It is permitted for 1,200 tons per day. Most household hazardous wastes, including e-waste, must be taken to various sites in Visalia, except on the biannual clean-up days when Tulare County Environmental Health Division sets up a drop-off site in Porterville.
39. Beyond Teapot Dome landfill's closure, the County anticipates setting up a transfer facility to divert waste to either the Woodville or Visalia landfills. The Woodville Disposal Site, a County- operated Class III landfill permitted for 1,078 tpd, is located approximately 15 miles northwest of the City limits. As of 2008, the landfill was at 41.5 percent capacity with a remaining capacity of 4,928,139 cy and an anticipated closure date of 2026. The County plans to expand the Woodville landfill and is in the process of obtaining the necessary permits. The Visalia Disposal Site, located approximately 35 miles northwest of the City limits, is a County-operated Class III landfill permitted to discharge up to 2,000 tpd. This site was recently expanded. As of 2006, the landfill was at 13.3 percent capacity with a remaining capacity of 16,145,600 cy; its anticipated closure date is 2024.<sup>17</sup>
40. The statewide mandated waste diversion goal was 50 percent by the year 2000; which was met by the Consolidated Waste Management Authority. In 2013, the CWMA exceeded that goal with 69.5% pounds per person per day recycled. It is anticipated that recycling and diversion efforts will continue to succeed above the 50% required by the State.<sup>18</sup>

41. The City of Porterville has developed various programs to encourage recycling and waste reduction and to help the City meet its AB939 goals.
42. In July 2006, the City implemented residential recycling curbside collection to enhance its recycling program. The City has provided residential green waste curbside collection since the early 1990s. The current system provides three different containers for the collection of refuse, green waste and all household recyclable products. Service providers in the unincorporated area currently only provide refuse and green waste collection.
43. The City's budget identifies two primary funds which are used for the City's solid waste and related operations. The following descriptions were taken from the City's fiscal year 2014-15 adopted budget:

*"This fund was establish to account for revenues and expenditures incurred in the collection and disposal of solid waste, street sweeping, graffiti removal, household hazardous waste and recycling. This fund is a self-supporting enterprise fund, wherein revenues should be sufficient to cover all cost."*

44. There is no evidence suggesting that the City will not be capable of providing solid waste collection and disposal services to areas within its SOI and/or UDB, consistent with fees paid by current customers within the City Limits. The City's ability to provide solid waste collection and disposal services at lower rates compared to other providers in Tulare County is an indication of the service efficiency. National statistical data indicates higher recycling rates for municipal collection versus private collection. The ongoing annexation of County islands could possibly improve the service efficiencies related to solid waste collection and disposal within these areas.

#### *Power Generation and Distribution*

45. Power generation and distribution is provided by a privately owned utility company. The Southern California Edison (SCE) Company serves most of the Cities within Tulare County, including Porterville. Since privately owned utility companies are not subject to Sphere of Influence (SOI) determinations, services provided by privately owned and operated utility companies are not subject to the MSR requirement.

#### *Fire and Police Protection Services*

46. Municipal fire protection is provided from two City fire stations, one located near Hockett Street between Harrison Avenue and Cleveland Avenue, and a second fire station located on the east side of Newcomb Street between Henderson and Morton Avenues.
47. The division currently staffs two fire stations; however, construction should be well underway for Fire Station 3 prior to the end of 2014. Station 3 is to be located on Jaye Street, south of State Route 190 and will greatly reduce response times to a large portion of the city.

48. The City of Porterville Fire Department has an insurance service office (ISO) rating of three (3). The ISO rates fire departments on a scale of one (best) to ten (unprotected), taking into consideration receiving and handling of fire alarms, fire department operations, water supply and other factors. The ISO grading schedule is an insurance industry rating system that measures a City's ability to provide fire protection, and is primarily directed towards minimizing property loss. The rating system favors fire suppression rather than fire prevention.
49. According to the Porterville Fire Department Annual Report, response performance is a measure of how effectively and efficiently a fire department is able to respond to, and arrive at, emergency incidents. Short response times significantly improve incident outcomes.
50. Improvements in response performance over the past several years are attributed to the dedication and commitment of the department's firefighters to deliver the highest level of service to their community. The department continues to identify and implement operational efficiencies to improve response times and is currently collaborating with the Public Works Department and Transit Division on deployment of traffic preemption systems. Additionally, the department looks forward to response time improvements made possible by completion of the planned Public Safety Facility.
51. The City of Porterville General Fund total expenditures for FY 2014-15 budget is \$23,636,493. Of this, over \$3,773,801, or 16% is allocated for fire protection services.
52. The police department operations account for approximately \$8,856,918 or 37% of the City's general fund expenditures in the 2014-2015 budget.
53. In 2005, Porterville voters passed Measure H, a ½ cent sales tax initiative to support increased public safety efforts. The special tax (opposed to a general tax) was passed by a 2/3 voter approval, and is earmarked specifically for increased police and fire services, and library support. The sales tax initiative is estimated to generate an additional \$1.8 million annually in general fund revenues. Revenues generated from the sales tax increase is estimated to support seven additional firefighters and seven additional police officers, including all of the related accoutrements. Combined costs of these efforts were estimated at approximately \$1.2 million for the first year, and approximately \$996,000 annually, thereafter.
54. The addition of seven new sworn officer positions would bring the City's total sworn officer to population ratio to 1:930. An ideal sworn officer to population ratio is considered to be 1:800.
55. The passage of the ½ cent sales tax increase increases the City's public safety efforts and its ability to serve future development within the City's SOI and/or UDB.

### **Chapter 3 FINANCING OPPORTUNITIES AND CONSTRAINTS**

1. In 2010, 2011, 2012 and 2013 the City received a Certificate of Achievement for Excellence in Financial Reporting (CAFR Program) from the Government Finance Officers Association (GFOA). The certificate program, established in 1945, is designed to recognize and encourage financial reporting by state and local governments. Receipt of this award is indicative of the financial responsibility of the City.
2. The City's general fund budgeting approach includes a three year strategic plan, a one year budget, November, January, and April reviews of budget targets, and revisions to expenditures when necessary to accomplish targets. This approach ensures that the City will continue to remain in a solid financial position for current and future years.
3. The Government of Finance Officers Association recommends, at a minimum, that general purpose governments, regardless of size, maintain unreserved fund balance in their general fund of no less than 5-15% of regular general fund operating revenues, or of no less than one to two months of regular general fund operating expenditures.
4. Anticipated increases in general fund revenues, in addition to measure H are important revenue sources that will help the City overturn its general fund deficit spending, and keep the City in a solid financial position.
5. The City levies a utility user's tax (UUT) on various utility services provided within the City Limits, which amounts to approximately 16% of general fund revenues. The City's UUT could be expanded to include services not covered by the existing UUT, i.e. sewer and/or garbage. Majority voter approval is typically required for increases/expansions of existing UUTs.

### **Chapter 4 COST AVOIDANCE OPPORTUNITIES**

1. The City avoids unnecessary costs through the implementation of infrastructure Master Plans and the General Plan, which assist in eliminating overlapping or duplicative services.
2. The City avoids unnecessary costs by assessing development impact fees for the purpose of financing public infrastructure, including water, sewer, storm drain, and transportation improvements. The City's development impact fee program helps offset the financial responsibility of the City to install and maintain the infrastructure necessary to serve new developments.
3. The City prepares, and updates annually, a comprehensive ten year CIP consistent with recommendations contained in infrastructure master plans, and goals of the City Council. A properly prepared capital plan is essential to the future financial health of an organization and continued delivery of services to citizens and businesses.
4. The City has opportunities to increase its cost effectiveness and revenue raising efforts by tracking savings and interest on reserves, maintaining a balanced budget including

maintaining a general fund budget that grows each year, and emphasizing performance measurement practices.

5. City staff actively monitors the long term indebtedness of the City, and takes advantage of refinancing higher interest loans as a way of avoiding unnecessary costs.
6. The City can avoid unnecessary costs by implementing smart growth practices by promoting development in infill areas and areas where infrastructure is already in place (and has excess capacity). It can be expected that the City will avoid unnecessary costs that may be caused by the annexation of proposed SOI areas through comprehensive analysis of the costs and benefits of a proposed development in those areas. By continuing to explore additional investment avenues, the City is able to avoid unnecessary costs associated with shortcomings on its investment practices.

## **Chapter 5. OPPORTUNITIES FOR RATE RESTRUCTURING**

1. In 2005, the City undertook a City-Wide Overhead Cost Allocation Plan and Fee Study (Maximus, Inc. 2005). The study suggested that the City should consider tying fees to a CPI increase approximately 1 to 2 years, with a review every 3 to 5 years.
2. Having separate funds set up for the construction of new infrastructure, and for the operation and maintenance of existing infrastructure allows the City to continue to provide cost-effective quality services to current residents.
3. The City has a sound fee structure in place which allows the City to continue to provide cost-effective services to its residents while continuing to maintain and improve the current infrastructure.
4. While the City's rates for water and sewer are above average compared to other full service City's within the County, they do not appear to be unreasonable, or significantly above average in comparison. The City's rate for refuse collection is below average compared to other cities in Tulare County.
5. There is no evidence suggesting that the City would not be able to provide services to the SOI areas for fees consistent with citywide fees for such services.

## **Chapter 6 ANY OTHER MATTER RELATED TO EFFECTIVE OR EFFICIENT SERVICE DELIVERY, AS REQUIRED BY COMMISSION POLICY**

### *Disadvantaged and Other Developed Unincorporated Communities*

1. There are twelve unincorporated communities within the existing City SOI (Roby Island, Nanceville, Tract 24/41, N. Main/Mulberry Island, South Porterville, Grandview Gardens, Beverly Grand, Tract 557, Chelsea Glen, Tract 288/413, Shady Grove Mobile Home Park and Porterville Trailer Park), one community that is mostly outside the SOI (East Porterville and two unincorporated communities that are outside and adjacent to the SOI (Tract 77 and A&A Mobile Home Park).
2. There are twelve identified disadvantaged unincorporated communities; East

Porterville, Roby Island, Nanceville, Tract 24/41, N. Main/Mulberry Island, South Porterville, Grandview Gardens, Beverly Grand, Shady Grove Mobile Home Park and Porterville Traylor Park, Tract 77 and A&A Mobile Home Park.

3. For domestic water service, six communities are connected to the City water system; Roby Island, Nanceville, Tract 24/41, N. Main/Mulberry Island, Tract 557 and Chelsea Glen. East Porterville is mostly served by individual wells while a small portion is connected to the City system. Grandview Gardens is served by the Del Oro Water Company. Beverly Grand is served by the Beverly Grand Mutual Water Company. Tract 77 is served by the Central Mutual Water Company. Tract 288/413 is served by the California Water Company. South Porterville is served by the City, individual wells and the Akin Mutual Water Company. Shady Grove MHP, A&A MHP and Porterville Trailer Park are served by their own wells.
4. For domestic water quality, Beverly Grand, Grandview Gardens, and the portion of South Porterville served by Akin MWC have reported exceedences of the minimum nitrate level. Self-Help Enterprises is currently working with the City and mutual water companies to secure grant funding to link Beverly Grand and Akin MWC into the City system. Five of 24 individually tested wells in East Porterville exceeded minimum nitrate levels.
5. For sewer service, East Porterville is served by the Porter Vista PUD. The PUD sewer lines connect into the Porterville system and treatment facility. Chelsea Glen is connected directly into the City sewer system. The other 13 unincorporated communities are on individual or group septic systems.
6. The unincorporated communities are served primarily by the County fire department with City service in support. The City and the County have a mutual-aid agreement for fire protection services with 2 City fire stations and 2 County fire stations in the Porterville area.

#### *Conflicting Growth Boundaries*

1. LAFCO shall determine the SOI for the City of Porterville pursuant to State law and Tulare County LAFCO Policy C-5.
2. The City of Porterville and County of Tulare have signed a Settlement Agreement with the intent to place the City and County UDBs coterminous with the updated LAFCO SOI.
3. The City of Porterville and County of Tulare have submitted a joint proposal for the placement of the SOI.
4. A portion of East Porterville, served by the Porter Vista PUD, is determined to be a community of interest that is recommended to be added to the proposed SOI.
5. The placement of the Porter Vista PUD within the City SOI is recognition that this area would be best served by the City which would necessitate a future annexation or merger if support can be garnered from the registered voters and property owners within the PUD.

## **Chapter 7 GOVERNMENT STRUCTURE OPTIONS**

1. Since development of properties within the SOI generally relies on master planned infrastructure available from the City, it is logical for the City to assume the lead in planning for these sites.
2. The City has a sound governmental structure that provides necessary resources to provide public services and infrastructure improvements within the SOI area.
3. Coordinated infrastructure plans for development within the SOI area that are submitted with specific annexation requests would create a checks and balance system for incorporating lands into the City while promoting improvements to impacted adjacent County land.
4. It is anticipated that “County islands” that have been annexed into the City will ultimately be connected to City utilities (i.e. water and sewer). In general, all unincorporated “County islands” within the interior of the Porterville City Limits are not connected to City utilities (i.e. water and sewer). To create a better defined City Limit boundary, it is recommended that the City continue to annex “County islands” as appropriate, and administratively feasible.
5. Tulare County LAFCO has adopted specific policies for reviewing proposals for a change in organization, reorganization, incorporations, dissolution and other proposals processed by Tulare County LAFCO, including annexations, and SOI amendment proposals. SOI amendments and other changes in organization shall be processed in accordance with the policies and procedures set forth by Tulare County LAFCO.

## **Chapter 8 EVALUATION OF MANAGEMENT EFFICIENCIES**

1. There is no evidence indicating that the City’s current management structure would not be able to assume services within the SOI area, and/or continue to assist other agencies through mutual aid agreements.
2. The City ensures that services can be efficiently provided in the SOI areas through the preparation of master service plans to provide infrastructure that will ultimately serve the SOI/UDB areas.
3. The City has a sound organizational structure that should be able to continue to provide quality service to current residents, and accommodate future growth within the City and surrounding urban development areas.

## **Chapter 9 LOCAL ACCOUNTABILITY AND GOVERNANCE**

1. The governing body of Porterville is the City Council, which is elected in compliance with California Election Laws. The City complies with the Brown Act Open-Meeting Law and provides the public with opportunities to get information about City issues, including website and phone access, newsletters, and bill inserts. Regular City Council meetings are held on the first and third Tuesday of each month at 5:30 p.m. in City Hall Council Chambers located at 291 N. Main Street, Porterville.

2. The City continues to make reasonable efforts to maintain public involvement regarding land use and development projects in the community. The City accomplishes this through regular City Council meetings, website postings, and encouraging the public to participate in the General Plan Update process, which is currently taking place.
3. The City maintains a comprehensive website, which provides a means to keep the public informed on local events, current City projects, recreational activities, and other activities occurring in the City.
4. The City's budget preparation process gives residents the opportunity to review the services the City is providing, and the cost of those services. This type of accountability helps the City to identify services that operating efficiently and areas where improvement may be needed within the organization.

## **Chapter 10 OPPORTUNITIES FOR SHARED FACILITIES**

### *Current Shared Facilities/Resources*

1. Some examples of the City's interagency cooperation efforts include the establishment of automatic mutual aid agreements with the Tulare County Sheriff's Department, the Tulare County Fire Department, and the City of Visalia Hazardous Response Team, to collaborate public safety efforts.
2. The City has worked with Tulare County Association of Governments and Tulare County Resource Management Agency on regional planning issues including transportation, solid waste, and coordinating applications to request State and/or Federal funding for joint projects.
3. Other examples of the City's efforts share facilities and/or resources include contracting with the City of Lindsay for animal control services, participation in the Consolidated Waste Management Authority (CWMA), participation in the Success Dam Seismic Remediation Project, joint use recreational facilities with the Kern Community College District.
4. Based upon the City's participation in the Central San Joaquin Valley Risk Management Authority (CSJVRMA), the City takes advantage of sharing insurance coverage premiums as a way of avoiding unnecessary costs.
5. The Porter Vista PUD provides only sanitary sewer collection service within their district boundary, and treatment is provided at the City's WWTF through an agreement between the City and the Porter Vista PUD

### *Future Opportunities*

1. The City has opportunities to work with local irrigation districts and water conservation districts on groundwater recharge efforts. Continued reliance on groundwater could cause water table levels to decrease, thus it is important that the City work with other local agencies to maintain its groundwater supply through recharge efforts. Groundwater recharge would benefit both the County as a whole and the City in terms planning for future growth within the SOI boundary.

2. The City should continue to work with the County on efforts to preserve prime agricultural land, and discourage development that would result in the loss of such lands. The City can accomplish this through smart growth planning, and promoting higher density developments and infill development.
3. The City should continue to look for opportunities to work with other local jurisdictions to complete joint use projects for the benefit of the community and taxpayers.

**BEFORE THE LOCAL AGENCY FORMATION COMMISSION**  
**OF THE**  
**COUNTY OF TULARE, STATE OF CALIFORNIA**

In the Matter of the Adoption of the )  
Municipal Service Review Update )  
For the City of Porterville )

**RESOLUTION NO. 14-XX**

**WHEREAS**, the Commission is authorized by Government Code Section 56430 to conduct a service review of the municipal services provided in the county or other appropriate area designated by the Commission and prepare a written statement of its determinations; and

**WHEREAS**, Government Code Section 56425(g) requires the commission to review and update all spheres of influence (SOI), as necessary, every five years; and

**WHEREAS**, a service review must be completed before the Commission can consider an update to a SOI for a city or a district which provides municipal services as defined by Commission policy; and

**WHEREAS**, on March 7, 2007, the Commission adopted the first Municipal Service Review (MSR) and statement of determinations for the City of Porterville (Resolution 07-018); and

**WHEREAS**, the Porterville MSR and its determinations have been updated to allow for the Commission's consideration of a comprehensive update to the City's SOI; and

**WHEREAS**, on September 10, 2014 this MSR was posted on the Commission's website for review and comment.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:**

1. The information, material and facts set forth in the report of the Executive Officer and updated MSR Report for the City of Porterville including any corrections have been received and considered.
2. The Commission has reviewed and considered the information, material and facts presented by the following persons who appeared and commented on the proposal:  
  
XXX
3. All notices required by law and Commission policy have been given and all proceedings heretofore and now taken in this matter have been and now are in all respects as required by law.
4. The Commission hereby finds the updated Porterville MSR:
  - (a) Includes a subregion of the county appropriate for an analysis of the services to be reviewed;
  - (b) Contains a written statement of the Commissions' determination of the subjects required to be analyzed in an MSR, and
  - (c) Reviews all of the agencies that provide the service or services within the designated geographic area as set forth in LAFCO policy C-5.
5. The Municipal Service Review Report, including statement of determinations, for the City of Porterville is hereby adopted.

The foregoing resolution was adopted upon motion of Commissioner XXX, seconded by Commissioner XXX, at a regular meeting held on this 1st day of October 2014 by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

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Ben Giuliani, Executive Officer

ce

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**TULARE COUNTY  
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:  
Steve Worthley, Chair  
Juliet Allen, V-Chair  
Rudy Mendoza  
Allen Ishida  
Cameron Hamilton

ALTERNATES:  
Mike Ennis  
Dennis Mederos  
Janet Hinesly

EXECUTIVE OFFICER:  
Ben Giuliani

October 1, 2014

TO: LAFCO Commissioners, Alternates, Counsel  
FROM: Cynthia Echavarria, Staff Analyst  
SUBJECT: City of Porterville Sphere of Influence Update

**Background**

The Commission is proposing to update the Sphere of Influence (SOI) for the City of Porterville concurrently with the Municipal Service Review. The last SOI Update for the City was adopted by the Commission on January 10, 2007. The first MSR for the City was adopted as part of the Group 3 on March 2007.

**Discussion**

Since the adoption of the last SOI Update in 2007, the City has updated its General Plan and more recently, in April of 2014, signed a "Settlement Agreement" with the County. One of the agreements in the agreement is that the County and City will work together to recommend a sphere of influence for the City to LAFCO. The Settlement Agreement also includes agreements regarding the County General Plan, development impact fees and provisions regarding development and land use within the City's UDB.

"The County and City have been meeting over the last two years and have agreed upon the proposed SOI boundary." [Figure 1]. The City/County Settlement Agreement and proposed SOI boundary essentially meets the requirements of the City-County SOI meeting and agreement as outlined in Government Code (GC) section 56425(b). Per this section, the Commission shall: "give great weight to the agreement to the extent that it is consistent with commission policies in its final determination of the city sphere". The proposed SOI is 17,186 acres (almost four square mile) larger than the existing SOI. The population of the City is estimated to grow 42.3% between 2010 and 2030 while the proposed SOI is 59% greater than existing City limits.

**Environmental Impacts:**

The Commission hereby finds that the proposed Sphere of Influence amendment will have significant impacts on the environment, and certifies that the Commission has independently reviewed and considered the information contained in the 2008

General Plan Update Program Environmental Impact Report (SCH# 2006011033) approved by the City of Porterville for the proposed amendment in compliance with the California Environmental Quality Act of 1970. The Commission hereby adopts by reference the City's Statement of Overriding Considerations regarding the impacts to the environment, as set forth in the City's EIR. Accordingly, said EIR is hereby incorporated by reference.

The Mitigation Monitoring and Reporting Program (MMRP) contains a number of mitigation measures relating to municipal services, and specifically hydrology/water quality and transportation/traffic. The MMRP includes mitigation measures to address potential impacts to surface and groundwater, potential flooding, and public safety resulting from implementation of the General Plan buildout.

### **State Law Requirements**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCO to establish Spheres of Influence for cities and special districts. Prior to, or in conjunction with establishing an agency's SOI, LAFCO is required to conduct a Municipal Service Review (MSR) for each agency. A MSR update prepared for the City of Porterville is being adopted concurrently.

### **Required Determinations**

GC §56425(e) requires that in determining the Sphere of Influence of each local agency the Commission shall consider and prepare a written statement of its determinations with respect to certain factors prior to making a decision.

- (1) *The present and planned land uses in the area, including agricultural and open-space lands.*

The City's CIP is an excellent foundation and planning tool to assist the community in its orderly development in the acquisition of municipal facilities and to assure that service needs for the future are met. For fiscal year 2013-2014, the City's CIP identified over \$35 million in capital projects.

Projects identified in the City's CIP are generally consistent with the City's General Plan, master plans and related documents, goals of the City Council, and mandates from state or federal regulatory agencies. The CIP undergoes annual reviews by the CIP review committee, comprised of department heads and the City Manager.

According to the City of Porterville's General Plan, approximately 9,750 acres of farmland soils would be converted to urban uses as a result of full buildout of the proposed General Plan. Of these farmland soils, 75 percent, 7,265 acres, are designated as Prime, Statewide Important, or Unique farmland types. Of these types, more than 90 percent are outside the existing City limits. It should be noted that the acreages are based on soils maps, not on actual agricultural production.

Although the conversion of these agricultural lands is considered significant, it is important to note that the General Plan has incorporated land use patterns and policies to minimize the amount of overall urban growth in the Planning Area. The hillsides along the northeastern portion of the Planning Area are largely grazing lands and are designated as agricultural land in the Tulare County General Plan. This designation allows for agricultural production and related activities and rural residential uses. The majority of these lands are designated as Agriculture/Rural/Conservation in the City's proposed General Plan, which would not only promote the retention of agricultural resources; it is also intended to protect ridgelines and visible hillsides. While most of these lands would remain as agricultural, approximately 970 acres of the hillside grazing land would be converted to low-density residential and resort-residential uses.

- (2) *The present and probable need for public facilities and services in the area.*

The City of Porterville is primarily a mix of urban and rural areas, with a growing population. Over half of the land within the total land area was being used for agriculture and other rural uses (generally categorized as Agriculture/Rural/Conservation), 13 percent of the planning area is categorized as single family use, 10 percent was identified as vacant land. Other land uses such as commercial, retail, and industrial make up the balance. The City's available residential, industrial and commercial land base is currently building out and may in the future require additional areas for growth. Single-family housing construction in Porterville is likely to continue its growth despite several significant economic hardship cycles. The housing stock has also increased in the last 10 years due to annexations of unincorporated islands.

*(3) The present capacity of public facilities and adequacy of public services.*

The proposed General Plan will increase demand for water services to a degree that exceeds the limits of existing supply and facilities. Even with implementation of water conservation practices, the City will have to add water supplies as it grows. The Urban Water Management Plan (UWMP) indicates that future demand can be met with continued groundwater pumping, surface water purchases and conservation measures. The UWMP identifies the Porterville Irrigation District as a potential supplier of the surface water that will be needed to meet demand in 2030.

*(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

The subject area does contain and is adjacent to a disadvantaged unincorporated community. There are twelve identified disadvantaged unincorporated communities; East Porterville, Roby Island, Nanceville, Tract 24/41, N. Main/Mulberry Island, South Porterville, Grandview Gardens, Beverly Grand, Shady Grove Mobile Home Park and Porterville Traylor Park, Tract 77 and A&A Mobile Home Park.

**Impact on Prime Agricultural Land, Agriculture and Open Space:**

According to the City of Porterville General Plan Update (2008) implementation of the proposed General Plan would result in the long-term conversion of lands currently under Williamson Act contracts. Approximately 40 percent, 3,200 acres, of these lands could be converted to urban uses by 2030. The proposed General Plan recognizes the lands with current 10-year contracts and proposed policies will preserve them. Proposed General Plan Policies that Reduce the Impact to agricultural land include OSC-I-16: Decline requests for annexation of any land subject to an ongoing Williamson Act contract.

**Municipal Service Reviews:**

Municipal Service Reviews provide a comprehensive review of the services provided by a city or district and present recommendations with regard to the condition and adequacy of these services and whether or not any modifications to a city or district's SOI are necessary. MSR's can be used as informational tools by LAFCO and local agencies in evaluating the efficiencies of current district operations and may suggest changes in order to better serve the public.

The City of Porterville Municipal Service Review report was prepared pursuant to Section 56430. The report begins by providing background information and then summarizes data collected and analyzed for the purpose of supporting written statements of determination with respect to each of the following:

- Growth and population projections for the affected area.

- The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
- Present and planned capacity of public facilities, adequacy of public services and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
- Financial ability for agencies to provide services.
- Status of, and opportunities for, shared facilities.
- Accountability for community service needs, including governmental structure and operational efficiencies.
- Any other matter related to effective or efficient service delivery, as required by commission policy.

The City of Porterville MSR update shall be adopted concurrently with this SOI update at the October 1, 2014 meeting. Many of the determinations from the MSR were used in the SOI determinations listed in this report. The MSR is available for review at the Commission's website:

<http://co.tulare.ca.us/lafco/documents/MSRPortervilleUpdate2014.pdf>

### **Recommendations:**

It is recommended that this SOI be approved and that the Commission take the following actions:

- A. The Commission hereby finds that the proposed Sphere of Influence amendment will have significant impacts on the environment, and certifies that the Commission has independently reviewed and considered the information contained in the 2030 General Plan Update Program EIR SCH# 2006011033 and adopts by reference the City's Findings and Statement of Overriding Considerations regarding the impacts to the environment.
- B. Adopt the written statement of determinations and find that the proposed Porterville Sphere of Influence update is in compliance with the GC Section 56425.
- C. Find that pursuant to GC §56426.5(b)(2), the proposed SOI amendment will not adversely affect the continuation of any Williamson Act contracts beyond their current expiration dates.
- D. Approve the Sphere of Influence as requested to be known as LAFCO Case 1507, Porterville SOI Update, as identified within Figure 1.

Attachments:

1. Resolution of Adoption
2. Site Location Map
3. Settlement Agreement between County and City of Porterville



2. The information, materials, and facts set forth in the application and the reports of the Executive Officer, including any corrections, have been received and considered in accordance with GC §56427.

3. The Commission has reviewed and considered the information, materials and facts presented by the following persons who appeared at the public hearing and commented on the proposal:

XXXX

4. All required notices have been given and all proceedings taken in this matter have been and now are in all respects taken in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended.

5. Pursuant to GC §56430, the Municipal Service Review for the City of Porterville was approved on October 1, 2014, by Resolution No. 15-XXX.

6. The Commission hereby adopts the attached written determinations required under GC §56425 in support of the proposed Sphere of Influence adoption.

7. The Commission finds that pursuant to GC §56426.5(b)(2), the proposed SOI Update will not adversely effect the continuation of any Williamson Act contracts beyond their current expiration dates

8. The Commission hereby finds that the proposed Sphere of Influence amendment will have significant impacts on the environment, and certifies that the Commission has independently reviewed and considered the information contained in the 2030 General Plan Update Program EIR (SCH# 2006011033) approved by the City of Porterville for the proposed amendment in compliance with the California

Environmental Quality Act of 1970. The Commission hereby adopts by reference the City's Findings and Statement of Overriding Considerations regarding the impacts to the environment, as set forth in the City's FEIR. Accordingly, said EIR is hereby incorporated by reference.

9. The Commission hereby finds that the proposed City of Porterville Sphere of Influence is in compliance with the Cortese-Knox-Hertzberg Act, GC §§56425, 56430 and 56377, and Tulare County LAFCO Policy and Procedure section C-5, Spheres of Influence.

10. The Sphere of Influence for the City of Porterville is hereby adopted as shown in Exhibit A.

11. The Executive Officer is hereby authorized and directed to sign and file the Notice of Determination with the County Clerk.

The foregoing resolution was adopted upon the motion by Commissioner X, and seconded by Commissioner X, at a regular meeting held this 1st day of October, 2014 by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

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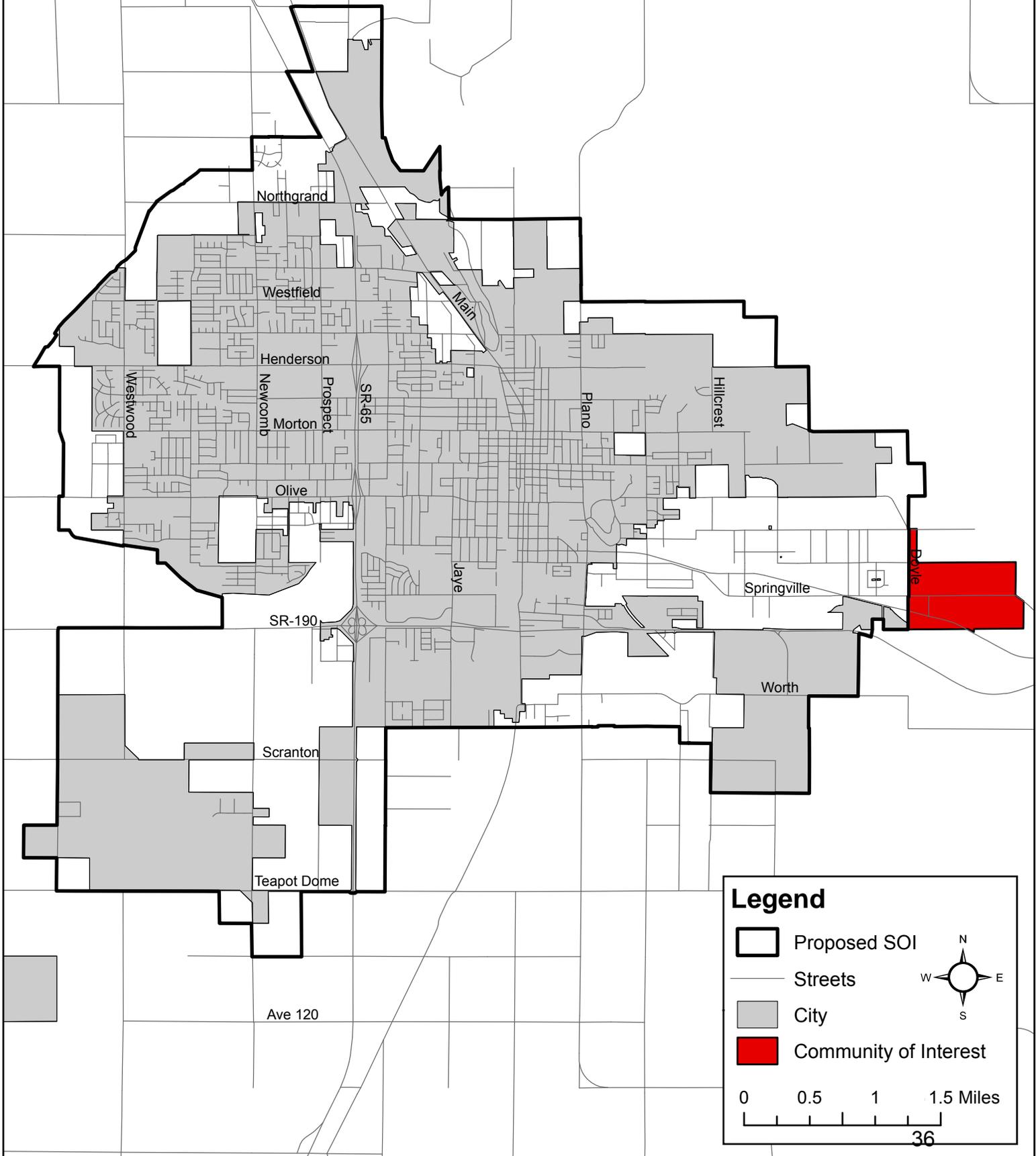
Ben Giuliani, Executive Officer

ce

# City of Porterville

Proposed Sphere of Influence

Figure 6-13



**Legend**

- Proposed SOI
- Streets
- City
- Community of Interest

0 0.5 1 1.5 Miles

36

MAY 06 2014

CITY OF PORTERVILLE  
CITY MANAGER

**Settlement Agreement**

This Settlement Agreement (“**Agreement**”) is entered into by the parties set forth below for the purpose of completely resolving two cases: (1) Case No. 249043 – Petition for Writ of Mandate, Superior Court, State of California, County of Tulare, challenging the adoption of Tulare County General Plan 2030 Update and Climate Action Plan (collectively “**General Plan Project**”) and certification by the County of Tulare of the environmental impact report for the General Plan Project (“**GP Project EIR**”); and (2) Case No. VCU249877 Petition for Writ of Mandate for Injunctive and Declaratory Relief and Complaint to Determine Validity of Proceedings for Injunctive and Declaratory Relief, Superior Court, State of California, County of Tulare, Visalia Division, challenging the adoption of the “2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project No. 1” (“**2010 Amendment**”) and certification of the environmental impact report for the 2010 Amendment (“**2010 Amendment EIR**”).

This Agreement is made and effective this \_\_\_ day of April 2014 (the “**Date of Execution**”) by and among certain parties to Case No. 249043, namely the City of Porterville, a municipal corporation (“**City**”), and the County of Tulare, a political subdivision of the State of California (“**County**”), and the Board of Supervisors of the County of Tulare (“**County Board**”), and to case No. VCU249877, Petitioner and Plaintiff, the County, and Respondents and Defendants, the City and the City Council of the City of Porterville (“**City Council**”).

The City, City Council, County, and County Board are collectively referred to herein as the “**Parties**” and individually as a “**Party**.” This **Agreement** is intended to resolve the outstanding legal disputes between the Parties without further litigation and serve in lieu of any determination by the Court as to the merits of Petitioners’ and/or Plaintiffs’ allegations in either of these cases.

**RECITALS**

**WHEREAS**, the City is a municipal corporation, organized and existing under the laws of the State of California, and the City Council of the City of Porterville is the governing body of the City;

**WHEREAS**, the County is a public entity organized and existing under the laws of the State of California and an affected taxing entity, and the County Board is the governing body of the County;

**WHEREAS**, the Successor Agency for the City of Porterville Redevelopment Agency is a duly formed successor agency under Section 34173 of the California Health & Safety Code, and the Oversight Board to the Successor Agency of the City of Porterville Redevelopment Agency is required pursuant to Section 34179 of the California Health & Safety Code;

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**WHEREAS**, Petitioner City has not identified Respondent Does 1-10 in Case No. 249043;

**WHEREAS**, Plaintiff and Petitioner County has not identified Defendant/Respondent Does 1-50 in Case No. VCU249877:

**WHEREAS**, Petitioner City filed a Petition for Writ of Mandate in the State of California Superior Court, County of Tulare against County and County Board on September 27, 2012, which petition is designated as Case No. 249043 (the “**General Plan Litigation**”) generally challenging the adoption of the **General Plan Project** and certification by the County of the **GP Project EIR** and seeking to set aside the adoption of the **General Plan Project**.

**WHEREAS**, the County filed a petition for writ of mandate for injunctive and declaratory relief and a complaint for declaratory and injunctive relief to determine the validity of the proceedings, which petition and complaint is designated as, Case No. VCU249877 (“**Redevelopment Litigation**”) and requested that the Court direct the City to vacate and set aside Ordinance No. 1765 adopting the **2010 Amendment** for failure to comply with the California Environmental Quality Act (Pub. Resources Code § 21000 et seq., “**CEQA**”) and California Redevelopment law, and to invalidate and declare Ordinance No. 1765 as void.

**WHEREAS**, on August 28, 2012, the County Board certified **GP Project EIR** (State Clearinghouse No. 2006041162) prepared by the County under **CEQA**, which analyzed the environmental impacts of the **General Plan Project**.

**WHEREAS**, on August 28, 2012, the County Board adopted Resolution 2012-0696 certifying the **GP Project EIR** and adopting the **CEQA Findings of Fact, Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program** for the **GP Project EIR** and Resolution.

**WHEREAS**, on August 28, 2012, the County Board also adopted Resolution No. 2012-0697 adopting the **General Plan Project**.

**WHEREAS**, on June 15, 2010, the City certified the **2010 Amendment EIR** prepared by the City under **CEQA**, which analyzed the environmental impacts of the **2010 Amendment**.

**WHEREAS**, on June 15, 2010, the Porterville Redevelopment Agency and the City adopted Resolution No. PRA 2010-10 and Resolution No. 73-2010, respectively, certifying the **2010 Amendment EIR**, making written findings pursuant to **CEQA**, adopting a **Statement of Overriding Considerations**, and adopting a **Mitigation and Monitoring Program**.

**WHEREAS**, on June 15, 2010 the City adopted Ordinance No. 1765 adopting the **2010 Amendment**.

**WHEREAS**, the Parties have mutually agreed that settlement is the most efficient and practical way to resolve both the **General Plan Litigation** and **Redevelopment Litigation** (collectively "**Litigation**"). Without any Party admitting or denying the truthfulness of any of the allegations or claims raised between and among the Parties and without accepting any liability arising out of such claims, the Parties now intend to settle the **Litigation** in its entirety on the terms and conditions set forth in this **Agreement**.

**WHEREAS**, the Parties have negotiated in good faith and agreed to the terms of this **Agreement**, including Attachments A, B, C, D, E, and F, attached hereto.

**NOW, THEREFORE**, in consideration of the mutual benefits of this **Agreement** and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**I. Incorporated by Reference**

- a. The recitals set forth above are incorporated by this reference as if set out in full.
- b. The attachments referred to in and attached to this **Agreement** are incorporated by reference as if set out in full.

**II. Purpose**

- a. This **Agreement** is intended to settle the **Redevelopment Litigation**, as provided in Section XI and Attachment C, and the **General Plan Litigation**, as otherwise provided herein.
- b. This **Agreement** constitutes a "mutually adopted agreement between County and Porterville regarding the collection of public facilities impact fees" as provided in Goal PF-4A of the County General Plan.
  - i. Consequently, in accordance with the introductory paragraph to the policies under Goal PF-4A of the Tulare County General Plan 2030 Update, Part I, County will apply the policies under Goal PF-4A, in addition to the policies already in place under Goal PF-4, to the City and any land within the **CACUDB for Porterville** and **CACUAB for Porterville**. Goal PF-4 and PF-4A of the County's General Plan are set forth in Attachment A.

**III. Definitions**

- a. For the purposes of this **Agreement**, and in addition to the terms defined elsewhere in this **Agreement**, the following terms shall have the meanings provided below.
  - i. **Date of Execution** – the first day on which all Parties executed this **Agreement**.

- ii. **City UDB** – the City’s officially adopted Urban Development Boundary, beyond which urban development is not allowed during the time period for which it is effective.
- iii. **Community (Unincorporated Community)** – is a closely settled, named, unincorporated place that generally contains a mixture of residential, commercial, and industrial areas similar to those found in incorporated places of similar sizes.
- iv. **County Adopted City Urban Area Boundary for Porterville (“CACUAB for Porterville”)** – a County officially adopted and mapped line around the City. It establishes areas (the area between the CACUDB for Porterville and CACUAB for Porterville) in which the County and the City may coordinate plans and policies relating to street and highway construction, public utility systems, and future right of way preservation, affecting the orderly development of urban fringe areas.
- v. **County Adopted City Urban Development Boundary for Porterville (“CACUDB for Porterville”)** – a County officially adopted and mapped line around the City. It delineates the area expected for urban growth over a 20-year period. This line may be coterminous to the Local Agency Formation Commission Sphere of Influence.
- vi. **County Community UDB** – a County adopted line surrounding a **Community (Unincorporated Community)** dividing land to be developed from land to be protected for agricultural, natural, open space, or rural uses. It serves as the official area for communities over a 20-year period.
- vii. **County Corridor Plan** – shall have the same definition as provided in Part II, Section 2.1 of the County General Plan. The “County Corridor development nodes” identified in County General Plan Policies PF-4.18 and PF-4.19, which are set forth in Attachment A, will be the areas covered by these County Corridor plans, if or when such plans are adopted.
- viii. **Hamlet Development Boundary** – an officially adopted and mapped County line around a hamlet that divides lands suitable for development from lands to be protected for agricultural, natural, or rural uses.
- ix. **Sphere of Influence (“SOI”)** – shall have the meaning set forth in Government Code section 56076.

**IV. Adoption and Application of City UDB and City’s Standards and Designations for CACUDB for Porterville.**

- a. If City first proposes and pays the costs of consideration required by this **Agreement**, County shall, at a regularly scheduled meeting of the County’s Board of Supervisors, consider and take action on the following items, in accordance with the procedures required by state law:

- i. Amendment of the **CACUDB for Porterville** to be coterminous with the **City UDB**. The parties intend that this line be coterminous with the City's **SOI** adopted by Tulare County Local Agency Formation Commission ("**LAFCO**") and meet **LAFCO**'s criteria and policies applicable to SOIs, as set out in Section IX.
    - 1. **LAFCO** action on the **City's SOI Amendment Application**, as specified in Section IX, is a condition precedent to the County's obligation to amend the **CACUDB for Porterville**.
  - ii. Within the **CACUDB for Porterville**, adoption of the City's (1) General Plan land use designations and development policies, (2) master plans for sewer, water, and storm drain facilities, and (3) circulation element diagrams reflecting anticipated future streets (collectively, "**City's Standards and Designations**").
  - iii. Adoption of any other regulations and/or amendments to the County's General Plan that will ensure the regulations, land use designations, and development policies within the **CACUDB for Porterville** are consistent with the **City's Standards and Designations** ("**City Proposed Amendment**").
- b. For purposes of this Agreement, the Parties agree that after adoption, if any, of the City's Standards and Designations, County General Plan PF-4.18 (which is set forth in Attachment A) shall be interpreted as follows:
- i. When processing any application for development within the **CACUDB for Porterville** after adoption of **City's Standards and Designations**, the County will not approve development that would result in any inconsistency or incompatibility with the **City's Standards and Designations**, except:
    - 1. When the application proposes development on land inside the East Porterville **County Community UDB**.
    - 2. When the application proposes to modify an existing, legal non-conforming use.
    - 3. When the application proposes development on land containing existing or vacant agricultural support facilities, if City will not or cannot annex.
    - 4. When the application proposes development on land that the County designates or zones for agriculture (except where the City designation creates a less intensive agricultural designation or zone).
    - 5. When state or federal law requires that the land be designated, zoned, or developed otherwise.

6. Where the County and City have agreed on a different designation than that stated in the City's General Plan or master plans for sewer, water, and storm drains.
  - ii. Prior to adoption of **City's Standards and Designations** or amendment of the **CACUDB for Porterville** to be coterminous with the **City UDB**, the County will consider the **City's Standards and Designations** when processing any application for development within the **CACUDB for Porterville**.
  - iii. The County agrees that this interpretation is consistent with and implements the County's General Plan Goals and Policies, including PF-4, PF-4A, and PF-4.18, which are set forth in Attachment A.
- c. The County shall not be required to take any action, including (1) amendment of the **CACUDB for Porterville**, (2) adoption of the **City's Standards and Designations**, and/or (3) adoption of any **City Proposed Amendment** if such action would result in any inconsistency in the County's General Plan.
- d. The Parties recognize and agree that the actions discussed herein will require further legislative action by the County. This **Agreement** does not abridge any legislative or discretionary authority vested with the County or constitute a waiver of the County's police power.
- e. The County shall comply with all applicable laws and regulations, and retains its discretion to approve or deny any (1) amendment to the **CACUDB for Porterville**, (2) adoption of the **City's Standards and Designations**, and/or (3) adoption of any **City Proposed Amendment**.
- f. Prior to County's processing, consideration, amendment, and/or adoption, if any, of (1) amendment to the **CACUDB for Porterville**, (2) the **City's Standards and Designations**, and/or (3) any **City Proposed Amendment**:
  - i. City shall propose and provide evidence to support any (1) amendment to the **CACUDB for Porterville**, (2) adoption of the **City's Standards and Designations**, and/or (3) any **City Proposed Amendment**;
  - ii. Pay to County the reasonable costs of processing, consideration, and adoption.
    1. City will pay, by advance deposit or reimbursement, any reasonable costs incurred or anticipated to be incurred by County.
      - a. For purposes of this **Agreement**, County's reasonable costs include but are not limited to staff time, consultant time and expenses, notice and hearing costs, and other related expenditures. The total reasonable costs shall not exceed those that would be charged to a private party for a comparable application.

- b. County may, in its own discretion, require City to advance funds and/or reimburse County for reasonable costs that either have been or will be incurred by County. Any County request must be in writing and delivered to City.
  - i. If City has not, within forty-five (45) calendar days of a request by County, advanced or reimbursed County, County may suspend processing, consideration, or adoption, provided County provides City ten (10) days written notice of its intent to do so.
  - ii. If any processing, consideration, or adoption remains in suspension, as provided for in Section IV(f)(ii)(1)(b)(i), for one (1) year, it shall be deemed withdrawn. In the event of any withdrawal, City shall remain responsible for all reasonable costs incurred by County.
- g. City agrees to defend, hold harmless, and indemnify County, as further provided in Section XX, in any challenge to the processing, consideration, or adoption of (1) any amendment to the **CACUDB for Porterville**, (2) the **City's Standards and Designations**, and/or (3) any **City Proposed Amendment**.
- h. County shall, to the extent allowed by law, process and consider (1) amendment to the **CACUDB for Porterville**, (2) adoption of the **City's Standards and Designations**, and/or (3) any **City Proposed Amendment** in good faith and in a timely manner, consistent with the timeline provided in Section XIV(c).
  - i. County's processing and consideration is not subject to any statutory time requirements, including but not limited to those contained in the Permit Streamlining Act.

**V. Adoption and Application of City Plan Lines in the CACUAB for Porterville**

- a. If City first proposes and pays the costs of consideration as required by this **Agreement**, the County will, at a regularly scheduled meeting of the County's Board of Supervisors, consider and take action on:
  - i. Any City proposal that the County adopt, within the **CACUAB for Porterville**, the plan lines in the City's (1) circulation element diagrams and (2) master plans for water, sewer, and storm drainage facilities reflecting the location of future streets and future utilities and set-back standards from those streets and for those utilities (collectively, "**City Plan Lines**"). The **City Plan Lines** may be included within, and adopted as part of, the **City's Standards and Designations** discussed in Section IV.
    - 1. The Parties agree that in order to effectively comply with this provision, the County must adopt such regulations in accordance with applicable law and retains its discretion to approve or deny any **City Plan Lines**.

2. The County shall not be required to take any action, including adoption of any **City Plan Lines**, if such action would result in any inconsistency in the County's General Plan.
  3. Prior to County's adoption, if any, under this provision, the City agrees to propose and pay the costs of consideration and adoption of any **City Plan Lines**, in the same manner provided in Section IV(f).
- b. For purposes of this **Agreement**, the Parties agree that after adoption of the **City Plan Lines**, if any, County General Plan Policy PF-4.19 (which is set forth in Attachment A) shall be interpreted as follows:
- i. When processing applications for development within the **CACUAB for Porterville**:
    1. The County shall not approve any development that is inconsistent or incompatible with the **City Plan Lines**.
    2. In addition, the County will consider the City's General Plan and adopted facility plans during the development review process.
    3. The County will apply the County's Rural Valley Lands Plan checklist or something similar mutually agreed to by the County and City to proposed County General Plan Amendments or rezoning in the **CACUAB for Porterville**.
    4. Where small "stand-alone" nonurban projects are proposed, County need not apply **City's Standards and Designations** but will apply City utility and street master plan setbacks. For purposes of this **Agreement**, "stand-alone" nonurban projects are defined as residential projects of four or fewer lots or non-residential projects smaller than two acres.
  - ii. The County agrees that this interpretation is consistent with and implements the County's General Plan Goals and Policies, including PF-4, PF-4A, and PF-4.19, which are set forth in Attachment A.
- c. When processing any application for development within the **CACUAB for Porterville** before adoption of the **City Plan Lines**, the County will consider the **City Plan Lines**.

**VI. County and City Cooperation on Planning and Development**

- a. County will treat as mandatory all policies in the County's General Plan, including but not limited to policies PF-4.1, PF-4.2, PF-4.3, PF-4.6, PF-4.12, PF-4.13, PF-4.14, PF-4.15, PF-4.17, PF-4.18, PF-4.19, PF-4.20, PF-4.21, PF-4.22, PF-4.23 and PF-4.24 (all of which are set forth in Attachment A), that:

- i. Permit or encourage cooperation, consultation, or coordination between the County and City on planning issues and actions that will affect the City; and
  - ii. Permit or encourage the County to adopt planning and development regulations for areas adjacent to the City that are consistent with the City's own planning and development regulations as provided in Sections IV and V.
- b. County agrees to consult with City, pursuant to the procedures outlined in Attachment E, before repealing or amending the General Plan Policies described in Section VI(a).
  - c. To implement County General Plan Policy PF-4.17, which provides for the establishment of a working committee between County and City and is set forth in Attachment A, the Parties agree to implement the consultation process set forth in Attachment E.

**VII. County Corridor Plans**

- a. County agrees that, to the extent allowed by law and as set out in County General Plan Policy PF-4.18 (which is set forth in Attachment A), a **County Corridor Plan**:
  - i. Will not be located inside the **CACUDB for Porterville** or City's **SOI** unless:
    - 1. Mutually agreed upon by the Parties; or
    - 2. The **County Corridor Plan** will be located within an existing **County Community UDB** or **Hamlet Development Boundary**.
- b. County agrees that, to the extent allowed by law and as set out in County General Plan Policy PF-4.19 (which is set forth in Attachment A), a **County Corridor Plan**:
  - i. Will not be located inside the **CACUAB for Porterville** unless:
    - 1. The **County Corridor Plan** is within a **County Community UDB** or **Hamlet Development Boundary**; and
    - 2. The County provides to City thirty (30) days written notice of its intent to take such action and otherwise complies with the consultation process set forth in Attachment E.

**VIII. County Development Impact Fee Program**

- a. City agrees to consider in good faith the adoption and implementation of a County Development Impact Fee Program ("**DIF Program**"), as described in Attachment D.

- i. Should City not adopt and implement a **DIF Program** as specified in Attachment D, or should it reduce the fees to be paid under any such program, County retains the right to seek other forms of mitigation, on a project-by-project basis, from the City.

**IX. City Sphere of Influence**

- a. County and City will work cooperatively to establish a new twenty (20) year **CACUDB for Porterville**, to be considered for adoption by both County and City as follows:
  - i. County and City will use their best efforts to make any new **CACUDB for Porterville** coterminous with the City's **SOI** as established by **LAFCO**.
  - ii. City agrees to propose, provide evidence to support, and pay the costs of processing and consideration of any application submitted by City to County to establish a new twenty (20) year **CACUDB for Porterville** as needed to accomplish (i).
- b. City intends to seek annexation of additional land by way of submitting an application to amend its **SOI** ("**SOI Amendment Application**") to **LAFCO**.
  - i. Prior to submitting any **SOI Amendment Application** to **LAFCO**:
    1. City shall consult with County pursuant to the procedures enumerated in Attachment E.
    2. City shall advise County of anticipated changes in development on land to be annexed, and comply with all laws related to mitigation.
  - ii. County has not seen or analyzed any **SOI Amendment Application**, and thus cannot commit to supporting any such application before **LAFCO**. However, County generally agrees not to oppose any **SOI Amendment Application** that:
    1. Complies with applicable **LAFCO** policies regarding annexation; and
    2. Mitigates to a level of insignificance all significant environmental impacts associated with development on any annexed lands, either on a project-by-project basis or through the **DIF Program**.

**X. Taxation Terms**

- a. As further described in Attachment B, City shall pay to County eight percent (8%) of any transient occupancy tax, and eight percent (8%) of the City's General Sales Tax Revenue.

- i. City's tax sharing obligations shall not be accelerated unless City specifically requests such acceleration.
    - 1. Should City request an acceleration of its tax sharing obligations, the Parties will meet and confer in good faith to determine an appropriate acceleration schedule.
  - ii. The provisions of Attachment B shall remain applicable in perpetuity, unless otherwise agreed to in writing by the Parties
- b. County shall transfer to City three percent (3%) of the County's share of the **Property Base Tax** of any (1) existing and developed **County Islands** and (2) existing **Disadvantaged Communities** upon annexation of those **County Islands** or **Disadvantaged Communities** to City.
- i. For purposes of this **Agreement**, **Property Base Tax** shall mean the amount of property tax revenues collected by the County for the County in the **County Island** or **Disadvantaged Communities** in the tax year of the annexation.
  - ii. For purposes of this **Agreement**, **County Islands** shall mean those existing unincorporated county islands identified as "County Island" or "Island" on Attachment F.
  - iii. For purposes of this **Agreement**, **Disadvantaged Communities** shall mean those disadvantaged communities identified as "DUC" or "Added Areas" on Attachment F.
  - iv. The provisions in this section X(b) shall remain applicable in perpetuity unless otherwise agreed to in writing by the Parties

**XI. Redevelopment Litigation**

- a. This **Agreement** settles the **Redevelopment Litigation**, subject to the requirements and limitations in Section XIV.
  - i. The provisions of Attachment C shall become operative on the **Date of Execution** of this **Agreement**, except that:
    - 1. The County shall not be required to make the one-time transfer of \$750,000 to City unless and until the **Redevelopment Litigation** and the **General Plan Litigation** are dismissed with prejudice.

**XII. Attorneys Fees**

- a. City has incurred attorneys fees in litigating and drafting this **Agreement**.

- i. As agreed by the Parties, County will pay to City \$90,000 for such fees incurred.
  - ii. City has submitted records documenting time and expenses incurred on the litigation and settlement sufficient to demonstrate that the award is reasonable.
  - iii. County shall pay to City the amount specified in subsection (i), above, within sixty (60) days of the **Date of Execution** of this **Agreement**.
- b. The Parties expect that additional work may be required by (1) Shute, Mihaly & Weinberger LLP and (2) McCormick, Kabot, Jenner & Lew (collectively, "**City's Counsel**"), to facilitate full implementation of this **Agreement**.
- i. County agrees to pay up to, but not to exceed, \$10,000 to City for additional attorneys fees incurred by City and/or **City's Counsel**.
    - 1. Any payment of any additional fees is contingent upon the City and/or **City's Counsel** sufficiently demonstrating through documentation that the award is reasonable and consistent with the time, effort, and expense spent on facilitating implementation of this **Agreement**.
    - 2. Any additional fees incurred by City and/or **City's Counsel** as discussed herein, shall be paid from County to City within sixty (60) days of documentation demonstrating that such award is reasonable.

**XIII. Mutual Defense**

- a. By entering into this **Agreement**, all parties acknowledge it is in their best interest to ensure that the **General Plan Project** and **GP Project EIR**, and all provisions of this **Agreement** are upheld against legal challenge by any other party. In the event of any legal challenge to this **Agreement**, the parties shall jointly defend the **Agreement**. Upon the filing of any legal or administrative claim or action by any third party regarding the validity, adoption, or enforceability of the **Agreement**, the Parties shall determine whether (i) each Party shall appear in the action through separate counsel who shall each vigorously defend the **Agreement**, or (ii) the Parties shall be jointly represented by counsel who participated in preparation of the **Agreement**, or other counsel jointly agreed to at the time, in which case all costs incurred in defending the **Agreement** shall be equally shared.

**XIV. Disposition of the Litigation**

- a. Within ten (10) days of the **Date of Execution** of this **Agreement**:
  - i. City shall file in Tulare County Superior Court a request for dismissal, without prejudice, of the **General Plan Litigation** and any and all associated claims contained therein.

- ii. County shall file in Tulare County Superior Court a request for dismissal, without prejudice, of the **Redevelopment Litigation** and any and all associated claims contained therein.
- b. Any statute of limitations for prosecution of the **General Plan Litigation**, and all claims contained therein, shall be tolled for one (1) year following the **Date of Execution** ("**Tolling Period**").
  - i. While the statute of limitations is tolled, the City reserves its right to prosecute the **General Plan Litigation**, unless otherwise barred by the terms of this **Agreement**.
  - ii. If the City refiles or otherwise pursues the **General Plan Litigation** during the **Tolling Period**, the County waives any defense it may have to the claims raised in the **General Plan Litigation** based on the expiration of the statute of limitations, equitable defenses of laches, estoppel, or waiver regarding the passage of time, action or inaction during the **Tolling Period**.
- c. The statute of limitations for prosecution of the **Redevelopment Litigation**, and all claims contained therein, shall be tolled for one (1) year following the **Date of Execution**.
  - i. While the statute of limitations is tolled, the County reserves its right to prosecute the **Redevelopment Litigation**, unless otherwise barred by the terms of this **Agreement**.
  - ii. If the County refiles or otherwise pursues the **Redevelopment Litigation** during the **Tolling Period**, the City waives any defense it may have to the claims raised in the **Redevelopment Litigation** based on the expiration of the statute of limitations, equitable defenses of laches, estoppel, or waiver regarding the passage of time, action or inaction during the **Tolling Period**.
- d. If the Parties are working cooperatively toward implementation of this **Agreement** and the **Tolling Period** is likely to expire, the Parties may mutually agree, in writing, to extend the **Tolling Period**.
  - i. The County agrees to act in good faith and to not unreasonably withhold its agreement to extend the **Tolling Period** of the **General Plan Litigation** for a period sufficient to effectuate the terms of this **Agreement**.
- e. To give the Parties time to take action on the items described in Sections IV(a)(i) and IV(a)(ii), the City shall not re-file or otherwise prosecute the **General Plan Litigation** and the County shall not re-file or otherwise prosecute the **Redevelopment Litigation**, during the first 11 months following the **Date of Execution**.

- f. If the County approves the items described in Sections IV(a)(i) and IV(a)(ii), namely (1) amendment of the **CACUDB for Porterville** to be coterminous with the **City UDB** and (2) adoption of the **City's Standards and Designations**, as proposed by the City ("**County Approvals**"):
- i. City shall, within forty-five (45) days of the County's posting of the final Notice of Determination or Notice of Exemption for the **County Approvals**, file in Tulare County Superior Court a request for dismissal, or motion to dismiss, with prejudice, all the causes of action in the **General Plan Litigation** with respect to all respondents.
  - ii. County shall, within forty-five (45) days of the County's posting of the final Notice of Determination or Notice of Exemption for the **County Approvals**, file in Tulare County Superior Court a request for dismissal or motion to dismiss, with prejudice, all the causes of action with respect to all defendants and respondents in the **Redevelopment Litigation**.
  - iii. If a third party files a timely lawsuit or submits a timely and valid referendum petition challenging the **County Approvals**, the Parties shall discuss whether an amendment to the **Agreement** would be appropriate to effectuate the purposes of the **Agreement**.
  - iv. If the County does not adopt the **City's Standards and Designations** as proposed by the City but instead approves modified standards and designations (land use designations, development policies, master plans for sewer, water, and storm drain facilities, and circulation element diagrams reflecting anticipated future streets) within the **CACUDB for Porterville**, the County shall have nonetheless satisfied the requirement in this section provided the City determines that the modifications are not substantial. Modifications that do not create an inconsistency or incompatibility with the **City's Standards and Designations** shall not be considered substantial. If the City determines that the modifications are substantial, that determination must be reasonable and made in good faith.
- g. If, after the City has proposed and paid the costs of taking such actions pursuant to Section IV(f), the County does not amend the **CACUDB for Porterville** to be coterminous with the **City UDB** and **SOI** or adopt the **City's Standards and Designations**, and any City Proposed Amendment as proposed by the City or with modifications that are not substantial as provided in subsection (f)(iv) above, the City may terminate this **Agreement** and refile or otherwise pursue the **General Plan Litigation**, subject to subsection (b), in which case all remaining obligations under this **Agreement** shall be null and void.
- h. To ensure timely resolution of the **Litigation**, the Parties shall use best efforts to comply with the following deadlines for presenting the County with the proposed

**CACUDB for Porterville** amendment and the **City's Standards and Designations**, as described in Sections IV(a)(i) and IV(a)(ii). A Party's failure to comply with these deadlines shall not be considered a breach of this **Agreement**:

- i. By June 15, 2014: City provides County with:
  1. proposed resolution(s) or ordinance(s) that, if adopted, would adopt the **City's Standards and Designations**, within the **CACUDB for Porterville** and any **City Proposed Amendment** and
  2. supporting documentation, evidence, and environmental review documents that the City believes will be legally sufficient to support the actions in Section IV.
- ii. By June 22, 2014: Representatives of City and County meet to discuss the proposed resolutions and supporting documentation and County informs City:
  1. whether the proposed resolution(s) or ordinance(s) are adequate;
  2. whether the County requires additional documentation, evidence, or environmental review before proceeding with consideration of the proposed resolution(s) or ordinance(s);
  3. the cost to the City of processing the proposed resolution(s) or ordinance(s); and
  4. the anticipated timeline for presenting the proposed resolution(s) or ordinance(s) to the County Planning Commission (if necessary) and Board of Supervisors.
- iii. By August 31, 2014: City provides County with any additional information, documentation, and revisions requested by the County.
- iv. By September 30, 2014: County circulates environmental review document for public review and comment, if necessary.
- v. By November 14, 2014: Planning Commission considers adoption of and takes action on proposed resolution(s) or ordinance(s).
- vi. By December 17, 2014: Board of Supervisors considers adoption of and takes action on proposed resolution(s) or ordinance(s).
- vii. The timeline for proposing and considering the adoption of the **City's UDB** by the County shall be based on the date when LAFCO approves a new **SOI** for the City. Recognizing that the Parties intend the

proposed **CACUDB for Porterville** to be not only coterminous with the **City's UDB** but also coterminous with the **City's SOI** adopted by LAFCO and meet LAFCO's criteria and policies applicable to SOIs, the Parties will implement Section IX. However, recognizing that this action depends upon a third party, LAFCO, the Parties may complete Section IX as it pertains to the **City's UDB** either before, concurrently or after the Parties complete implementation of Section IV as it pertains to the **City's Standards and Designations**. Once LAFCO approves a new SOI for the City, the City shall, within 30 days, propose resolution(s) or ordinance(s) that, if adopted, would amend the **CACUDB for Porterville** to be coterminous with the **City's UDB** and **SOI**. The Parties shall thereafter follow a schedule consistent with the timing set forth in subsections (ii)-(vi) to provide the County with a timely opportunity to consider adoption of the proposed resolution(s) or ordinance(s).

- i. Notwithstanding any other provision of this **Agreement**, the City may dismiss the **General Plan Litigation** with prejudice at any time.
- j. Following the **Date of Execution** of this **Agreement**, City shall not provide any support, funding, encouragement, advice, assistance or information (except such information as City is required to disclose by law) of any kind to any third party for the purpose of aiding or assisting in any way the prosecution of any legal challenge to the **General Plan Project** and/or **GP Project EIR** unless the City refiles or otherwise prosecutes its **General Plan Litigation** as permitted in Section XIV(a)(iii)(1)(a)(i) of this **Agreement**. It is acknowledged and understood that City has provided **City's Counsel** with confidential information in order to analyze and litigate the legal adequacy of the **General Plan Project** and **GP Project EIR** and to evaluate and negotiate the terms and advisability of this **Agreement** that could be adverse to the County's interests if used by the **City's Counsel** to assist a third party in challenging the County's **General Plan Project** and **General Plan Project EIR**.
  - i. In the event that **City's Counsel** seeks to represent a third party in any action to invalidate the **General Plan Project** or **GP Project EIR**, City agrees to jointly file a motion to disqualify or recuse, or other similar action, **City's Counsel**. County agrees to reimburse City for the reasonable costs and fees of cooperating on such motion or action.
  - ii. In the event that **City's Counsel** represents or intentionally assists, directly or indirectly, a third party challenging the legal adequacy of the adoption of the **General Plan Project** or the certification of the **GP Project EIR** after the **Date of the Execution** of this **Agreement**, County will not be required to reimburse City for its attorney's fees or costs (with the exception of the direct fees and costs associated with preparing the motion to disqualify). In the event such fees and costs have already been paid to City pursuant to Section XII, City shall

return these fees and costs to County within one month after County provides City with evidence of such actions.

- iii. County acknowledges that **City's Counsel** may represent clients in administrative proceedings or lawsuits challenging projects or actions in Tulare County that do not challenge the legal adequacy of the adoption of the **General Plan Project** or the certification of the **GP Project EIR**. Such representation shall not be prohibited by, or constitute a breach of, this **Agreement**.
- k. Following the **Date of Execution** of this **Agreement**, County shall not provide any support, funding, encouragement, advice, assistance or information (except such information as County is required to disclose by law) of any kind to any third party for the purpose of aiding or assisting in any way the prosecution of any legal challenge to the **2010 Amendment**.

#### **XV. Release of Claims**

- a. The Parties intend and agree that this **Agreement** shall, when fully implemented in accordance with the provisions thereof, be effective as a full and final accord and satisfaction and general release of and from all claims in the **Litigation**.
  - i. Upon dismissal, with prejudice, of the **General Plan Litigation**, consistent with this **Agreement**, City shall be conclusively deemed to have released County, the County Board, and Does 1 through 10, and their respective heirs, administrators, successors, assigns, agents, employees, officers, partners and directors (the "**County Released Parties**") from all rights, actions, claims, debts, demands, costs, contracts, allegations, liabilities, obligations, and causes of action, whether known or unknown, including the **General Plan Litigation**, at law or in equity, which City had, or now has as of the **Date of Execution** of this **Agreement**, against **County Released Parties**, or any of them, arising from or relating to the certification of the **GP Project EIR** and approval of the **General Plan Project** as adopted by the County Board on August 28, 2012, including, without limitation, all costs and fees incurred by City in, or arising from, such actions (the "**County Released Claims**"). City shall conclusively be deemed to have waived and relinquished to the fullest extent that it may lawfully do so, all rights and benefits afforded by Section 1542 of the Civil Code of the State of California ("Section 1542"), which states as follows: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR." This release shall not be construed to limit the rights of City to institute legal action to seek specific performance of this **Agreement**.

- ii. Upon dismissal, with prejudice, of the **Redevelopment Litigation**, consistent with this **Agreement**, County shall be conclusively deemed to have released the City, the City Council, the Successor Agency for the City of Porterville Redevelopment Agency, the Oversight Board to the Successor Agency of the City of Porterville Redevelopment Agency, DOES 1-50 and their respective heirs, administrators, successors, assigns, agents, employees, officers, partners and directors (the “**City Released Parties**”) from all rights, actions, claims, debts, demands, costs, contracts, allegations, liabilities, obligations, and causes of action, whether known or unknown, including the **Redevelopment Litigation**, at law or in equity, which County had or now has as of the **Date of Execution** of this **Agreement** against **City Released Parties**, or any of them, arising from or relating to the adoption of Ordinance No. 1765, the **2010 Amendment**, the accompanying **2010 Amendment EIR** certified by the City and the City of Porterville Redevelopment Agency, the Statement of Overriding Considerations, and the Mitigation and Monitoring Program, including, without limitation, all costs and fees incurred by County in, or arising from, such actions (the “**City Released Claims**”). County shall conclusively be deemed to have waived and relinquished to the fullest extent that it may lawfully do so, all rights and benefits afforded by Section 1542 of the Civil Code of the State of California, which states as follows: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.” This release shall not be construed to limit the rights of County to institute legal action to seek specific performance of this **Agreement**.
- b. The Parties, by executing this **Agreement**, assume the risk that they are unaware of the subject matter of this **Agreement**, or are otherwise mistaken as to relevant facts, and acknowledge that they may discover facts in addition to or different from those that they now know or believe to be true concerning the **County Released Claims** and the **City Released Claims** (collectively “**Released Claims**”) and other matters contained in or concerning this **Agreement**. The Parties nevertheless agree and intend this **Agreement** to be a complete release of the **Released Claims**, and to settle all disputes related to the **Released Claims**, known or unknown, suspected or unsuspected, that have existed, now exist, or may now exist between or among the Parties, unless otherwise specifically provided in this **Agreement**. Unless otherwise specified in this **Agreement**, the Parties waive any and all rights under California Civil Code Section 1542 and/or any successor section to it with respect to the Released Claims. The Parties hereby acknowledge and represent that (1) they understand the significance and the consequences of such specific waiver of unknown claims and hereby assume full responsibility for any injuries, damages, lawsuit or liabilities that it may incur, both now and hereafter, from the waiver of said unknown claims, (2) they may discover facts different from, or in addition to, those facts that they now know or

believe to be true, and agree that the **Agreement** and the releases contained herein shall be and remain effective in all respects notwithstanding any subsequent discovery of different or additional facts, (3) they have undertaken their own independent investigation of all the facts relating to the matters being released herein, and in entering into this **Agreement** and granting the releases contained herein, are not relying on any representation, warranty, or statement of any other Party except as expressly provided herein, and (4) this waiver is an essential and material term of this **Agreement**.

- i. City, understanding the above and the provisions of this **Agreement**, intends by this **Agreement**, and with and upon the advice of its own independently selected counsel, to release fully, finally and forever all **County Released Claims**, unless as otherwise specified in this **Agreement**.
- ii. County, understanding the above and the provisions of this **Agreement**, intends by this **Agreement**, and with and upon the advice of its own independently selected counsel, to release fully, finally and forever all **City Released Claims**, unless as otherwise specified in this **Agreement**.

#### **XVI. Enforcement and Remedies**

- a. The Parties entered into this **Agreement** with the intent and for the purpose of avoiding litigation. This **Agreement** is to be enforced solely through the procedures set forth in this section, which are designed to avoid resorting to court enforcement or, if court enforcement is necessary, to provide simple and straightforward relief.
- b. The Parties obligations discussed herein are mutual and dependent. Except as otherwise specifically provided in Sections XIV(c) and XVI(d), failure by any Party to perform any obligation hereunder within the time periods provided following notice and failure to cure as described hereafter, constitutes a “**Default**” under this **Agreement**. A Party alleging **Default** shall (1) give written notice of **Default** to the other Party, specifying in reasonable detail the nature of the alleged **Default**, and, where appropriate, the manner in which the alleged **Default** may be cured; (2) offer to meet and confer in good faith to resolve the issue, whether through the process provided in Attachment E or otherwise; (3) and provide the other Party sixty (60) days to cure the alleged **Default** commencing at the time of receipt of the notice of a properly detailed written **Default** notice. The Parties agree that time is of the essence in performance of the Parties’ obligations provided in the **Agreement**.
- c. Mediation. If an alleged **Default** in performance has not been cured during the 60-day period described above, any Party may request that the dispute first be submitted to mediation prior to judicial enforcement. The Parties shall share equally the costs for the services of the mediator. If mediation is requested by any Party, the Parties must first make a good faith effort to resolve through mediation any dispute about another Party’s alleged default in performance. When selecting

a mediator, each Party shall provide the other party with a list of three (3) potential mediators and a short biography of each mediator and his or her qualifications, which should be of the same nature as well-respected mediators throughout California. The Parties shall work together in good faith to select a mediator from the lists provided. The Parties shall commence mediation within thirty (30) days after notice of the mediation and designation of the mediator, subject to the mediator's schedule. A Party shall not continue mediation for more than thirty (30) days at a time, unless mutually agreed by both Parties. With the exception of the cost of the mediator's services, which shall be shared equally, each Party shall bear its own fees and costs related to the mediation.

- d. Effect of Modification of Party's Powers. In addition to the specific provisions of this **Agreement**, neither Party shall be deemed to be in **Default** if its powers are modified by state or federal legislation or otherwise in any way that precludes the Party from performing its obligations under this **Agreement**.
- e. Extraordinary Financial Situations. A Party's financial obligations under this **Agreement**, including the County's obligation to pay attorneys' fees, shall be suspended in the extraordinary financial circumstances defined hereunder.
  - i. An **Extraordinary Financial Situation** has been formally declared by the County Board or City Council such that performing its obligations under the **Agreement** would necessarily result in violation of the financial covenants County or City made to its creditors and lienholders in return for the extension of credit in the form of bonds, loans, letters of credit and other forms of financing necessary to maintain County's or City's overall financial stability.
  - ii. "**Extraordinary Financial Situation**" as used in this section means circumstances that include, but are not limited to, the type of financial circumstances that County or City may experience in a formally declared state of fiscal emergency following natural disasters such as a major earthquake or fire; or other extraordinary events.
  - iii. Upon the conclusion of these extraordinary circumstances, County or City will promptly resume performance of its financial obligations under this **Agreement**.
- f. Institution of Legal Action. In addition to the other rights or remedies and subject to the restrictions otherwise set forth in this **Agreement**, after expiration of the cure period provided in Section XVI(b) and mediation pursuant to Section XVI(c), any Party may institute a legal action to seek specific performance of the terms of this **Agreement** to cure, correct or remedy any **Default**. The rights of any non-breaching Party shall not be affected by the institution of a legal action alleging breach against another Party. Each Party shall bear its own attorneys fees, except when an award of attorneys fees is based upon statute or case law due

to a finding of public interest or unless agreed to as an element of settlement of any alleged **Default**.

**XVII. Procedure for Fulfilling the Parties' Obligations**

- a. The processing, consideration, adoption, effectuation, and/or establishment, if any, of each and every obligation or action contemplated in this **Agreement**, shall be in accordance with applicable law, including but not limited to, the Government Code and the Public Resources Code.

**XVIII. Representations and Warranties**

- a. Each of the Parties represents, warrants, and agrees as follows:
  - i. The individuals signing and executing the **Agreement** on behalf of the Parties have the right, power, legal capacity, and authority to do so, and no further approval or consent of any person, office, board, or other person or entity is necessary.
  - ii. Each of the Parties has received independent legal advice from its attorneys with respect to the advisability of making the settlement provided for herein and with respect to the advisability of executing this **Agreement**. Each Party's attorney has reviewed the **Agreement**, made any desired changes, and signed the **Agreement** to indicate that the attorney approved the **Agreement** as to form. Each of the Parties has been fully advised by its attorneys with respect to its rights and obligations under this **Agreement** and understands those rights and obligations.
  - iii. Except for the statements expressly set forth in this **Agreement**, no Party, or representative or attorney of or for any Party, has made any statement or representation to any other Party regarding a fact relied upon by the other Party in entering into this **Agreement**, and no Party has relied upon any statement, representation, or promise, written or oral, of any other Party, or of any representative or attorney for any other Party, in executing this **Agreement** or in making the settlement provided for herein.
  - iv. Each of the Parties, or a Party representative, has carefully read the **Agreement**, knows and fully understands the contents thereof, and has made such investigation of the facts pertaining to the settlement and this **Agreement** and of all matters pertaining hereto as it deems necessary or desirable.
  - v. Except as otherwise expressly represented, warranted or provided in this **Agreement**, each of the Parties expressly assumes the risk that (i) it may hereafter discover facts in addition to or contrary to those it believed to exist or relied upon in entering into this **Agreement**, including, without limitation, unknown or unanticipated claims which, if known by either Party on the date of execution, may have materially affected the Party's

decision to execute this **Agreement**, (ii) it may have misunderstood matters relevant to negotiating and entering into this **Agreement**, and (iii) another Party may have negligently misrepresented or negligently failed to disclose facts pertinent to the **Agreement**. The Parties agree that, should unknown or unanticipated claims, misunderstandings, mistakes, unintentional misrepresentations, or nondisclosures exist, the Parties intend that this **Agreement** shall thereafter continue in full force and effect and shall not be subject to rescission or rejection for any reason, except as specifically provided in this **Agreement**.

- vi. This **Agreement** is contractual, the result of negotiations between the Parties, and intended to be final and binding as between the Parties, and is further intended to be effective as full and final accord and satisfaction between the Parties. Each of the Parties hereto relies on the finality of this **Agreement** as a material factor inducing that Party's execution of this **Agreement**.
- vii. The Parties shall, together and/or individually, execute all such further and additional documents as shall be reasonable, convenient, necessary or desirable to carry out the provisions of this **Agreement**.
- viii. Each of the Parties to this **Agreement** agrees that such Party will not take any action that would interfere with the performance of this **Agreement** by any of the Parties, or that would adversely affect the rights provided for herein.

## **XIX. General Provisions**

- a. **No Admission**. The Parties explicitly acknowledge and covenant that this **Agreement** represents a settlement of disputed rights and claims and that, by entering into this **Agreement**, no Party hereto admits or acknowledges the existence of any liability or wrongdoing, all such liability being expressly denied. Neither this **Agreement**, nor any provision contained herein, nor any provision of any related document, shall be construed as any admission or concession of liability, of any wrongdoing, or of any preexisting liability.
- b. **Governing Law**. This **Agreement** shall be governed by and interpreted and construed in accordance with the laws of the State of California.
- c. **Construction**. This **Agreement** shall be construed according to the fair and plain meaning of its terms. Nothing in this **Agreement** shall be construed to limit or restrict County's or City's constitutional police power or land use authority in any way with respect to future legislative, administrative, or other actions by County or City.
- d. **Integration**. This **Agreement** constitutes a single integrated written contract, and represents and expresses the entire agreement and understanding of the Parties with respect to the subject matter contained herein. All prior and

contemporaneous discussions and negotiations, oral or written, between the Parties are merged and integrated into, and are superseded by, this **Agreement**. No covenants, agreements, representations, or warranties of any kind whatsoever, whether express or implied in law or fact, have been made by any Party hereto, except as specifically set forth in this **Agreement** or in any amendment, contemporaneous or subsequent written agreement between the Parties.

- e. Severability. Should any provision of this **Agreement** be held or found void, voidable, unlawful or, for any reason, unenforceable by a court of competent jurisdiction, the Parties shall work together to determine whether any other provisions remain binding and enforceable. If the parties cannot agree on which provisions remain binding and enforceable, any party may request mediation to resolve the dispute, as provided in Section XVI(c) or institute a legal action to reform the **Agreement**.
- f. No Waiver. The failure of any Party hereto to enforce the rights conferred or reserved to it in this **Agreement**, or insist on performance of any of the terms and conditions of this **Agreement** shall not void any of the rights, terms or conditions, constitute a waiver or modification of any rights, terms or conditions, nor be construed as a waiver or relinquishment by any Party of the performance of any such rights, terms or conditions. No custom or practice which exists or arises between or among the Parties in the course of administration of this **Agreement** will be construed to waive or modify any Party's rights to (1) insist upon the performance by any other Party of any covenant and/or promise in this **Agreement**, or (2) exercise any rights given to it on account of any breach of such covenant and/or promise.
- g. Amendment. This **Agreement** may be modified or amended only by written amendment executed by all of the Parties. The Parties acknowledge that, due to the nature of the actions and obligations provided in this **Agreement**, it may be necessary for the Parties, from time to time, to execute additional or supplemental documentation to clarify and implement the provisions of this **Agreement**. The Parties agree to cooperate in good faith, and to negotiate and enter into such additional or supplemental documentation, as may be determined to be reasonably necessary and/or appropriate by the Parties. Modifications to the terms of this **Agreement** are permissible, so long as such actions are agreed to by all of the Parties. Any amendment, modification, additional or supplemental documentation to the **Agreement** must be in writing and executed by the Parties, or individuals with authority to execute such documentation on behalf of the Parties. Any amendment, modification, additional or supplemental documentation deemed necessary by the Parties shall be executed in either an original document with all signatures, or by counterparts, in the manner proscribed in Subsection (i), below.
- h. Computation of Time. The time in which any act is to be done under this **Agreement** is computed by excluding the first day, and including the last day, unless the last day is a holiday or a Saturday or Sunday, and then that day is also

excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code.

- i. Counterparts. This **Agreement** may be executed in counterparts and by facsimile or electronic signatures, which, when joined together, shall constitute a full agreement and shall be binding on the Parties, even though all signatures may not be on one original document or the same counterpart.
- j. Notices. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by overnight delivery or first class mail, postage prepaid and addressed as follows:

**COUNTY:**

County Administrative Officer  
2800 W. Burrel Ave.  
Visalia, CA 93291  
Phone: (559) 636-5005  
Fax: (559) 733-6318

**with a copy to:**

County Counsel  
2900 W. Burrel Ave.  
Visalia, CA 93291  
Phone (559) 636-4950  
Fax: (559) 737-4319

**CITY:**

City Manager  
291 North Main Street  
Porterville, CA 93257  
Phone: (559) 782-7466  
Fax: (559) 791-7999

**with a copy to:**

Julia M. Lew, City Attorney  
McCormick, Kabot, Jenner & Lew  
1220 West Main Street  
Visalia, CA 93291  
Phone: (559) 734-6729  
Fax: (559) 734-8762

- i. Notice personally delivered or sent by overnight mail is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.
- k. Successors and Assigns. This **Agreement** shall inure to the benefit of and shall be binding upon the successors and assigns of the Parties, including, but not limited to, their respective heirs, administrators, agents, employees, officers, and boards. This **Agreement** does not, expressly or impliedly, confer upon any person other than the Parties, their successors or assigns, any rights or benefits under or by reason of this **Agreement**.
- l. Third Party Beneficiary. This **Agreement** shall not create any right of action in any third party except that the Successor Agency for the City of Porterville Redevelopment Agency and the Oversight Board to the Successor Agency for the City of Porterville Redevelopment Agency are third party beneficiaries to this **Agreement** for purposes of enforcing the requirements of Section XIV(b), Section XV(a)(ii), and Attachment C.
- m. Headings. The descriptive headings used in this **Agreement** are for convenience only. They are not part of the **Agreement**, and should not be construed to affect the meaning of any provision of this **Agreement**.
- n. Good Faith Clause. The Parties agree to cooperate fully, reasonably, and in good faith in the implementation of this **Agreement**. The Parties also agree to execute any and all supplemental documents, and to take all additional lawful and reasonable actions, which may be necessary or appropriate to give full force and effect to the basic terms and to fully implement the goals and intent of this **Agreement**.
- o. Sunset. This **Agreement** shall terminate and shall have no further force and effect either (i) twenty (20) years from the **Date of Execution** or (ii) upon County adoption of a comprehensive General Plan Update, with new Land Use and Circulation Elements, whichever is later, except that:
  - i. The provisions of Section X(a), Section X(b), and Attachment B shall remain applicable in perpetuity, unless otherwise agreed to in writing by the Parties.

**XX. Indemnification**

- a. For any legal or administrative claims, actions, or demands initiated by any third party against County challenging (1) the legality of any action taken toward any amendment or adoption described in Section IV(a), Section V(a), and/or Section IX(a), or (2) the sufficiency of the evidence supporting the actions described in

(1) (“**Actions**”), City agrees to defend, hold harmless, and indemnify County for all costs and liabilities incurred by County as a result of such **Actions**.

- i. In the case of indemnification of such **Actions**:
  - 1. City may choose counsel for the defense of any **Actions**, provided County approves such counsel, which approval may not be unreasonably withheld.
  - 2. Indemnification shall include payment for the costs of County’s reasonable staff and consultant time incurred in the participation of the defense of any such **Actions**.
  - 3. The indemnification shall include payment of any plaintiffs’ attorneys’ fees awarded in any such **Actions**.
  - 4. County shall cooperate fully and make available to City such information under its control or in its possession relating to any **Actions**.
  - 5. City shall, at its option, be entitled to control the defense, compromise or settlement of any such **Actions**, provided that City shall not approve or enter into any settlement of any **Actions** unless and until County approves any proposed settlement. County shall act in good faith and not unreasonably withhold its approval.

**THE PARTIES**, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

Date: April 29, 2014

By: \_\_\_\_\_



Chairman, Board of Supervisors

ATTEST: JEAN ROUSSEAU  
County Administrative Officer/Clerk of the Board  
of Supervisors of the County of Tulare

Date: April 29, 2014

By: *Amos A. Y. Bana*  
Deputy Clerk



CITY OF PORTERVILLE

Date: 4/23/14, 2014

By: *Camron J. Hamilton*  
Mayor, City Council

ATTEST:  
City Clerk/Clerk of the City Council  
Of the City of Porterville

Date: April 23, 2014

By: *Pats Hilder*  
Deputy Clerk

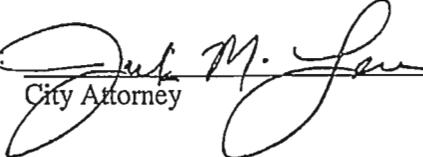
APPROVED AS TO FORM:  
County Counsel

Date: 4-30-14, 2014

By: *Clifton O. L. H.*  
Deputy

APPROVED AS TO FORM:  
City Attorney

Date: April 22, 2014

By:   
City Attorney

579235.4

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**2.4 Cities**


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**PF-4**

To direct urban development within UDBs of existing incorporated cities and ensure that all development in unincorporated areas adjacent to incorporated cities is well-planned and adequately served by necessary infrastructure and other public facilities and furthers countywide economic development goals.

**PF-4.1 CACUABs for Cities**

The County shall establish CACUABs which define the area where land uses are presumed to have an impact upon the adjacent incorporated city, and within which the cities' concerns may be given consideration as part of the land use review process. The lands within the UAB are considered to be the next logical area in which urban development may occur and the area within which UDBs may ultimately be expanded.

Although it is the policy of the County that this area will at some time become appropriate for urban development, generally no public purpose is served by permitting intensive development therein. As communities grow and expand, it is logical to assume the UDBs may be correspondingly expanded or established until they coincide with the ultimate UAB. The land lying between the Urban Development Boundary and the Urban Area Boundary will generally have an agricultural land use designation or rural residential land use designation in conformity with Land Use Policy LU 3.8: Rural Residential Interface.

**PF-4.2 CACUDBs for Cities – Twenty Year Planning Area**

The County shall establish CACUDBs which define the anticipated twenty-year planning areas around incorporated cities in which the County and cities may coordinate plans, policies, and standards relating to building construction, subdivision development, land use and zoning regulations, street and highway construction, public utility systems, environmental studies, water supply availability and sufficiency, and other closely related matters affecting the orderly development of areas adjacent to incorporated cities. It is recognized that these boundaries provide an official definition of the interface between future urban and agricultural land uses.

Within this boundary, the County may also establish planning areas representative of shorter time periods in order to assist in more precise implementation of plans and policies.

Tulare County General Plan

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**PF-4.3 Modification of CACUABs and CACUDBs**

The County may consider modification of CACUABs and CACUDBs at such time as the land use plan for a city is revised to reflect changing needs and circumstances over an extended time frame. Preservation of productive agricultural lands and operations shall be one consideration when considering such modifications. Cities may examine existing CACUAB and CACUDB lines and recommend changes to the Board of Supervisors, as appropriate.

**PF-4.4 Planning in CACUDBs**

The County acknowledges that the cities have an interest in planning for growth within a CACUDBs and will in the future become ultimately responsible for urban development and the provision of urban services within those areas upon annexation.

**PF-4.5 Spheres of Influence**

CACUDBs and the SOI as administered by LAFCo may be consistent insofar as it is feasible and appropriate to do so.

**PF-4.6 Orderly Expansion of City Boundaries**

When the County is considering outward expansion of CACUDBs, the following criteria shall be encouraged:

1. The city has demonstrated a need for additional territory after documenting a good faith effort to implement programs for infill development and/or increased efficiency of development and minimize conversion of agricultural lands.
2. UDBs should not be expanded onto Prime Farmland if Farmland of Statewide Importance or of lesser quality is available and suitable for expansion.
3. Emphasis shall be placed upon reasonable expectations for the provision of urban services within the next twenty years as reflected in LAFCo's Municipal Service Reviews when determining the location of UDBs.

**PF-4.7 Avoiding Isolating Unincorporated Areas**

The County may oppose any annexation proposal that creates an island, peninsula, corridor, or irregular boundary. The County will also encourage the inclusion of unincorporated islands or peninsulas adjacent to proposed annexations.

**PF-4.8 Updating Land Use Diagram in CACUDBs**

Following city adoption of a General Plan update or amendment that reflects the area within a CACUDB, the County shall update Part III (Community Plans, Kings River Plan, Mountain Sub-Area Plans, and CAC General Plans), if applicable, to reflect the city's modified plan. Any unresolved conflicts between the County and city plans shall be identified for the Board of Supervisors. The County shall establish and maintain land use controls on unincorporated lands within the UDB consistent with the policies of the County General Plan.

**PF-4.9 Transition to Agricultural Use**

The County shall encourage cities to adopt land use policies that minimize potential conflicts with agricultural operations and other agricultural activities at the urban edge through the provision of appropriate buffers or other measures.

**PF-4.10 Urban Improvement Areas for Cities**

All Urban Improvement Areas established in the 1974 Urban Boundaries Element for cities and adjacent cities in adjacent counties, are hereby converted to Urban Development Boundaries.

**PF-4.11 Coordination with Cities in Adjacent Counties**

The policies set forth in this Section (PF-4: Cities) shall also apply to planning and development within the UDBs of adjacent cities in adjacent counties (Corcoran, Delano, Kingsburg, Orange Cove, and Reedley), except Policy PF-4.4: Planning in UDBs.

**PF-4A**

To provide the means to further manage urban development within CACUDBs and CACUABs of existing incorporated cities while ensuring that the limitation on development is in the best interests of the County and its residents in both the incorporated and unincorporated areas and enhances the County's ability to provide adequate County facilities and countywide social, health, safety and welfare services impacted by development in the cities and County.

The following policies will become applicable upon mutually adopted agreement between the County and each city regarding the collection of public facilities impact fees in accordance with policies PF-4.16 and PF-4.27.

**PF-4.12 General Plan Designations Within City UDBs**

On land that is within a CACUDB, but outside a city's incorporated limits, the County may maintain General Plan land use designations that are compatible with the city's adopted General Plan.

**PF-4.13 City Design Standards**

Where the Board of Supervisors finds that it is consistent with General Plan objectives to approve development within the UDBs of incorporated cities, the County may require the project to substantiate sufficient water supply and meet the County adopted city development standards of the city in question.

**PF-4.14 Compatible Project Design**

The County may ensure proposed development within CACUABs is compatible with future sewer and water systems, and circulation networks as shown in city plans.

**PF-4.15 Coordination with Cities on Development Proposals**

The County shall ensure that urban development only take place in CACUDBs if one of the following has occurred:

1. The adjacent city does not consent to annex the property for development purposes (as evidenced through pre-zoning, development agreements, etc.); it shall be conclusively presumed that a city has not consented if it has not submitted an annexation proposal to LAFCo within six months from the date a request to annex is submitted to the city; or
2. Annexation is not possible under the provisions of State law, but it is determined by the County that development of the site does not constitute incompatible development.

**PF-4.16 Revenue Sharing**

As an incentive for directing urban growth into cities when applications are proposed within the CACUDBs, the County shall promote revenue sharing as an element of negotiation whenever:

1. A city updates its General Plan and requests the County to update its CAC General Plan.
2. When establishment or amendment to Spheres of Influence are proposed.

## Tulare County General Plan

3. Annexations are proposed by cities, or joint development or redevelopment projects are proposed by any city and the County.

As an additional incentive for directing urban growth into cities, any city proposing changes to a CAC General Plan or other County land use regulations shall pay to the County its cost in considering and implementing such proposal.

**PF-4.17 Cooperation with Individual Cities**

The County may use the policies set forth under this goal (PF-4A: Cities: Continued) to work with individual cities to further manage development within that CACUDB or CACUAB to the extent that the financial needs of the County are met and the County's ability to provide facilities and County services used by all of the residents in the County and cities is enhanced. The County and Cities will establish a working committee to facilitate the policies identified in this section 4A.

**PF-4.18 Future Land Use Entitlements in a CACUDB**

The County may work with an individual city to limit any General Plan amendments to change the land use designations of any parcel or any amendments to the County zoning ordinance to add uses to a current zoning classification or change the zoning district designation of any parcel within a CACUDB except as follows:

1. This policy will not apply to amendments or changes to a County unincorporated UDB, Hamlet Development Boundary (HDB), including where the boundary line may increase an outward expansion of the overlap area with a CACUDB area that is not coterminous to the city's Urban Development Boundary/Sphere of Influence (UDB or SOI), or to any General Plan amendment adopting a new County unincorporated UDB, an HDB, or Planned Community, County Corridor development nodes will not be located inside a city's UDB or SOI unless mutually agreed by the City and County.
2. This policy will not apply where the General Plan land use designation or the zoning district classification of a particular parcel is inconsistent with an existing special use permit, or legal non-conforming use.
3. As determined by the RVL P checklist, the County shall encourage beneficial reuse of existing or vacant agricultural support facilities for new businesses (including non-agricultural uses), and for which the city cannot or will not annex as per PF-4.24.
4. This policy will not apply where the effect of the amendments to the General Plan land use designation or of the rezoning is to designate or zone the parcel to an agricultural designation or zone except where the effect of the amendment creates a less intensive agricultural designation or zone.
5. This policy will not apply where amendments to the General Plan land use designations or the zoning classifications apply only to that portion of a CACUDB that is overlapped (where exterior UDB's are coterminous) by a County unincorporated UDB, Hamlet Development Boundary (HDB), or Corridor Plan area.
6. This policy will not apply where amendment to the General Plan land use designation or the zoning classification is required to bring the County regulations into compliance with more restrictive State or Federal statutes or regulations.
7. This policy will not apply where amendments to the Zoning Ordinance are part of a comprehensive modernization or restructuring of the processes or procedures set out in the Zoning Ordinance or part of a comprehensive update to the text of the zoning classifications to bring the Zoning Ordinance procedures and text into consistency with the General Plan update. [This comprehensive modernization, restructuring or update

would not include any rezonings outside that allowed in this policy. However, revision of processes and procedures and simplification of existing ordinances may occur.]

8. This policy would not apply to a comprehensive update of a CAC General Plan, including rezoning there under, in cooperation with the affected city.
9. This policy would not apply where the County has worked with the city to identify and structure a mutually acceptable alternative General Plan land use designation or zoning classification.

**PF-4.19 Future Land Use Entitlements in a CACUAB**

As an exception to the County policies that the Rural Valley Lands Plan (RVLP) does not apply within CACUDBs and is only advisory within CACUABs, the County may work with an individual city to provide that no General Plan amendments or rezonings will be considered to change the current land use designation or zoning classification of any parcel within a CACUAB unless appropriate under the requirements of the Rural Valley Lands Plan (RVLP) or similar checklist or unless the County has worked with the city to identify and structure an acceptable alternative General Plan land use designation or zoning classification. This policy will not apply to amendments or changes to a County unincorporated UDB, Hamlet Development Boundary (HDB), or Corridor Plan area boundary line, including where the boundary line may increase an overlap area with a CACUDB area, or to any General Plan amendment adopting a new UDB, an HDB, or Corridor Plan area that may fall within a CACUDB area. This policy shall not apply within a County unincorporated UDB, an HDB, or Corridor Plan area where that area overlaps a CACUAB area. Development of County corridor development nodes in an affected city's UAB would only occur after the County has provided written consultation and has allowed for a reasonable timed response from the affected city prior to decision making and before the adoption of the Corridor Plan. New development in a city's UAB would be subject to adopted plan lines and setback standards. Adopted facility plans and legally adopted General Plans will be considered during the development review process. Small "stand alone," non urban projects which are defined as residential projects of four or fewer lots or non-residential projects smaller than two acres do not need city standards but shall respect city utility and street master plans for setbacks. Large urban-style projects include residential projects of five or more lots averaging less than one acre per lot and non-residential projects two acres or larger will use uniform urban development standards, financing mechanisms, consent to annexation, application of reciprocal development impact fees and city streets/utility setbacks/disclosure requirements unless the County and the city have identified and structured acceptable alternatives that will reasonably ensure that these projects should conform to city development standards upon future annexation.

**PF-4.20 Application of the RVLP Checklist to Control Development in a CACUDB**

As an exception to the County policies that the Rural Valley Lands Plan does not apply within CACUDBs, the County may work with an individual city to provide that the requirements of the RVLP or similar checklist will apply to applications for special use permits (including special use permits for the expansion of a non-conforming use), variances considered under Government Code § 65906, or to the extent allowed by law, divisions of land within a CACUDB except in those areas that overlap with a County unincorporated UDB, an HDB, or Corridor Plan area. Such a special use permit, variance, or division of land will be reviewed in light of impacts on such regional concerns as water and sewage disposal availability and preservation of transportation and utility corridors as well as compliance with any County adopted urban or city development standards and with the city's General Plan policies as reflected in the CAC General Plan.

## Tulare County General Plan

**PF-4.21 Application of the RVLDP Checklist to Control Development in a CACUAB**

As an exception to the County policies that the Rural Valley Lands Plan is only advisory within CACUABs, the County may work with an individual city to provide that the requirements of the RVLDP will apply to applications for special use permits (including special use permits for the expansion of a non-conforming use), variances considered under Government Code § 65906, or to the extent allowed by law, divisions of land within a CACUAB except in those areas that overlap with a County unincorporated UDB, an HDB, or Corridor Plan area. Such a special use permit, variance, or division of land will be reviewed in light of impacts on such regional concerns as water and sewage disposal availability and preservation of transportation and utility corridors.



*Also see Part II-Policy RVLDP-1.4: Determination of Agriculture Land and Section 1.3: Rural Valley Lands Plan Criteria and Evaluation Matrix.*

**PF-4.22 Reuse of Abandoned Improvements in a CACUDB**

In accordance with other policies in this General Plan, the County may work with a city to provide that any alternative land uses within a CACUDB not otherwise allowed under a particular zoning classification but which are allowed by County policies due to the existence of abandoned structures or improvements with no other available, viable economic uses on the parcel will be reviewed in light of impacts on such regional concerns as water and sewage disposal availability and preservation of transportation and utility corridors. For agricultural related uses, reoccupation and/or expansion is limited not to exceed 20% of the site and/or building square footage subject to special use permit with city consultation. Conversion to non-agricultural uses requiring a zone change is limited not to exceed 20% of the site and/or building square footage or as mutually agreed upon by the city and County. Any expansions are subject to a special use permit.

**PF-4.23 Reuse of Abandoned Improvements in a CACUAB**

In accordance with other policies in this General Plan, the County may work with a city to provide that any alternative uses within a CACUAB not otherwise allowed under a particular zoning classification but which are allowed by County policies due to the existence of abandoned structures or improvements with no other available, viable economic uses on the parcel will be reviewed in light of impacts on such regional concerns as water and sewage disposal availability and preservation of transportation and utility corridors expansion or re-occupation will require irrevocable consents to annex, and accommodation for setbacks and other standards for future streets and utilities. The RVLDP will be used to determine if non-agricultural use is appropriate.

**PF-4.24 Annexations to a City within the CACUDB**

In addition to the County's current policies on development within a CACUDB, the County may work with a city to provide that urban development projects within a city's Sphere of Influence (SOI) as set by the Tulare County Local Agency Formation Commission will be referred to the affected city for consideration of annexation in accordance with, but not limited to, the following concepts:

1. Urban development projects, to which the referral policy applies, would be those projects for which a discretionary permit is required. Any urban development project not subject to special use permit requirements would still comply with County adopted city development standards, CAC General Plans and zoning and any County adopted city long-range infrastructure plan.
2. The referral would, at least, be subject to the requirement that the city inform the County within three (3) months that it is or is not able and willing to commence annexation

proceedings to accommodate the project; or the city is willing and able to commence annexation proceedings, the County would not take action to approve the project unless the applicant has submitted a completed application for annexation and city fails to take action on such application within six months;

3. If the affected city is not willing or able to commence annexation proceedings, approval by the County of the project would be conditioned on conformance with County adopted city development standards, County Adopted City General Plans and zoning and any County adopted city long-range infrastructure plan adopted.
4. The County may, as part of this policy, require a consent to future annexation be recorded concurrent with approval of the project special use permit for development within the County.

**PF-4.25 Sphere of Influence Criteria**

In addition to the County current policies on annexations and city growth lines, the County may work with one or more cities to propose criteria to the Tulare County Local Agency Formation Commission (LAFCo) for use in the adoption of city Sphere of Influence (SOI) lines consistent with the concept that the SOI is a twenty year city growth boundary including the city's "communities of interest" as defined by LAFCo, and that an affected city should seek approval of amendment by LAFCo of its current SOI lines to reflect such criteria. Communities of interest not included within the SOI may be considered and included in a fifty year growth boundary. If such a criteria is adopted, the County, as a city SOI is brought into compliance with such criteria, may consider amendment of its general plan to make the CACUDB identified in the County general plan, to the extent appropriate, consistent or conterminous with the LAFCo adopted SOI.

**PF-4.26 City 50 Year Growth Boundaries**

In addition to the County current policies on city boundary lines, the County may work with one or more of the cities to propose that LAFCo consider the adoption of a fifty year growth boundary for each city and to propose criteria to LAFCo for adoption of that boundary. If LAFCo adopts fifty year growth boundaries consistent with such criteria, the County may consider amendments to its general plan to make the CACUAB, to the extent appropriate, consistent or conterminous with the city's LAFCo adopted fifty year growth boundary.

**PF-4.27 Impacts of Development within the County on City Facilities and County Facilities**

The County may work with a city to consider the adoption, imposition and collection for payment to the city pursuant to agreement Development Impact Fees within the CACUDB, as may be proposed by the city from time to time to offset the impacts of development in the County on city facilities. Reciprocally and under the same conditions, the city will consider the collection of Development Impact Fees within the city to offset the impact of development within the city on County facilities.

## Attachment B

- a) With respect only to future annexations of property outside the City's **SOI** as next updated and approved through **LAFCO**, the City agrees to pay the County eight (8) percent of any transient occupancy tax ("**TOT**"); and an increased three (3) percent of General Sales Taxes (which excludes any locally adopted sales tax overrides all of which goes to the adopting respective City), for a total of eight (8) percent including the five (5) percent Bradley-Burns provision, generated in any areas outside of the new **SOI** described in the body of the **Agreement**, unless the City and County agree to a different boundary, once that area is annexed, in accordance with the requirements of the State Franchise Tax Board through the use of a pass-through agreement executed between the City and Tulare County. For example, on a \$100 per night hotel/motel stay, the City would charge a 10% **TOT**, or \$10; the County's 8% share of the \$10 would be \$.80. Similarly, on a \$100 purchase of taxable goods, the City's current General Sales Tax share of the sale is 1%, or \$1.00, of which the County currently receives 5%, or \$0.05; under this agreement the County's share would be increased to 8%, or \$0.08, which is an increase of 3%, or \$0.03.
- b) To clarify, the pass-through agreement referred to in subsection (a) is a ministerial act to implement this provision of this **Agreement**. To further clarify, the **SOI** referred to in subsection (a) is the **SOI** proposed by the City and supported by the County as described in the body of the **Agreement** and next adopted by **LAFCO** unless the City and County mutually agree on another boundary line either as set out in a final settlement agreement or renegotiated in the future.
- c) The provisions of the Master Property Tax Sharing Agreement will not be subject to this **Attachment**. Additionally, the parties agree that any other revenue sharing conditions that may be imposed by **LAFCO** regarding future annexations concerning sales tax and transit occupancy tax will be satisfied by the provisions of this **Agreement**. All future annexations shall be subject to the 1978 Master Property Tax Agreement except as provided in Section X, subsection (b) of the **Agreement**.

## Attachment C

### Settlement of Redevelopment Litigation

1. The terms and provisions of this attachment shall become operative on the **Date of Execution of the Agreement**, except that the County shall not be required to make the one-time transfer of \$750,000 to City unless and until the **Redevelopment Litigation** and the **General Plan Litigation** are dismissed with prejudice.

2. In the event any Redevelopment Property Tax Trust Fund (“**RPTTF**”) monies attributable to the area added to the Porterville Redevelopment Project No. 1 by the **2010 Amendment** (“**Amendment Area**”) are used or otherwise diverted from passthrough to the County, the County fire fund or the County library fund (collectively, the “**County Entities**”) for payment of any “enforceable obligations” (as defined in Health & Safety Code Section 34171(d)) of the Successor Agency to the Porterville Redevelopment Agency (“**Successor Agency**”), then the City will make a payment to the County in the amount of the **Amendment Area RPTTF** that would have been paid to the **County Entities** but for the payments made for the **Successor Agency’s** enforceable obligations.

3. Nothing in the **Agreement** shall prevent the City, the **Successor Agency**, or any other entity that may be formed pursuant to law, from creating new obligations payable from tax revenues (including without limitation a tax increment or **RPTTF**) derived from the **Amendment Area** if and to the extent the creation of such obligations is permitted by law, now or in the future (collectively, “**New Amendment Area Obligations**”). Further, the City shall have no obligation to pay or reimburse the **County Entities** for **Amendment Area RPTTF** monies used to pay such **New Amendment Area Obligations**. The **Agreement** shall have no effect whatsoever on the area included within the Porterville Redevelopment Project No. 1 prior to the date the **2010 Amendment** was adopted (“**Original Project Area**”) or the distribution or use of any tax revenues or **RPTTF** monies generated from the **Original Project Area**.

4. In consideration for such action by the City, the County offers to assist in the elimination of blight within the City and its sphere of influence as follows:

5. The County will enter into on-going discussions and cooperate with the City in seeking remedies to the challenges facing disadvantaged communities within the **CACUDB for Porterville** as it may be amended from time to time.

6. The County and City will take the steps necessary for the County to make a one-time transfer of \$750,000 from Tulare County’s Southern California Edison’s Tariff Rule 20A Allocation to the City for an Underground Utility District (no City match required) provided that the City’s Underground Utilities District shall meet the criteria for use<sup>1</sup> of these funds as established by Southern California Edison, the allocation is used within 10 years, and the City will hold harmless and indemnify the County from any other liability arising out of this project.

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<sup>1</sup> According to information from Southern California Edison, these monies cannot be used to reimburse the local agency for staff time and administration costs to form the required underground utilities district. Consequently, the offer to the City excludes these costs.

7. Except as provided in the **Agreement**, each Party will bear its own attorneys' fees and costs in implementing the provisions in this Attachment.

## Attachment D

### Consideration of Development Impact Fees

#### Reciprocal Consideration:

Pursuant to the conditions set out below, the City agrees to work with the County to consider the adoption, imposition and collection for payment to the County pursuant to agreement Development Impact Fees within the City to offset the impact of future development within the City on County facilities. Reciprocally and under the same conditions, the County will work with the City to consider adoption, imposition and collection for payment to the City pursuant to agreement Development Impact Fees within the County Adopted City Urban Development Boundary for Porterville (CACUDB for Porterville), as may be proposed by the City from time to time to offset the impacts of development in the County on City facilities.

#### Effect of Adoption, Non-Adoption.

Should the City on behalf of the County or the County on behalf of the City (County/City) adopt the proposed Development Impact Fee(s), the respective agency shall be deemed to have waived any claim, pursuant to CEQA or otherwise, that development within the jurisdiction is creating or will create impacts related to facilities addressed by the Nexus Study (described below) and no further mitigation will be required.

Should the County/City not adopt the development impact fee(s) as identified in the Nexus Study within 60 days of the County/City submittal of the fee and supporting documentation to the County/City and the fee does not become effective within 30 days of adoption by the County/City, the County/City may pursue appropriate remedies for impacts from new, site specific development projects, through CEQA or otherwise available by law.

#### Process for the consideration of proposals.

- a) The County will work with the City and the City will work with the County to consider the adoption, imposition and/or collection for payment to the County and/or the City pursuant to an agreement for Development Impact Fees within the City and/or the CACUDB for Porterville, as may be proposed and adopted by the City or County from time to time to offset the impacts of development on County and/or City facilities. To the extent allowed by law, the same type impact fees proposed by the Party for collection in the other Party's jurisdiction will be equal to or be consistent with the impact fees the Party collects in its own jurisdiction.
- b) Each Party may propose, provide evidence to support (including the nexus study), pay the other Party's costs of consideration and adoption (including but not limited to staff time, notice and hearing costs), and negotiate and enter into a fee participation agreement with the other Party. The proposing Party will hold harmless, defend and indemnify the other Party in any challenge to that Party's adoption or collection of Development Impact Fees on behalf of the proposing Party.
- c) The proposing Party agrees to take all steps necessary to comply with, and assist the collecting Party in complying with, the Mitigation Fee Act. As required by the Mitigation Fee Act, Chapter 5, Government Code sections 66000 et seq., the nexus study provided by the proposing Party will identify the purpose of the fee and identify the use to which the fee is to be put, including the public facilities to be financed.

- d) To further clarify this process and ensure good faith, independent review, the parties agree to the following terms and conditions or any alternative terms and conditions as the parties may negotiate and mutually agree to in the future:

The County and City mutually agree to solicit the Tulare County Council of Government (TCAG) to facilitate the review and discussions regarding a Tulare County Public Facilities Impact Fee Study. The TCAG Board has authorized the TCAG Staff to act as the facilitator among the County, cities, and other interested parties relating to the Tulare County Public Facilities Impact Fee Study (also referred to herein as the "Public Facilities Fee Study" or "Nexus Study"). The TCAG Board has authorized TCAG to pursue a Regional Transportation Impact Fee study on behalf of Tulare County and City Members. The Regional Transportation Impact Fee study is not a part of this settlement agreement.

TCAG Staff, in coordination with Tulare County Staff and Tulare County's consultant, will schedule meetings with city representatives and other interested parties to review the Draft Public Facility Fee Report. These meetings are intended facilitate discussions and provide exchange of information as to the methodology and source of documentation relating to the conclusions of the Nexus Study.

TCAG Staff will host these meetings at the TCAG conference room located at 100 Church Street, Visalia, CA or other designated location.

The facilitation process will be as follows:

1. Tulare County submits Public Facilities Fee Study to TCAG Staff, City, and other interested parties for their information and review.
2. TCAG Staff schedule meeting(s) with county staff, county consultant, City, and other interested parties.
3. County Staff and Consultant prepare presentation materials, methodology utilized for the proposed public facility needs and proposed fee and distributes prior to the scheduled meeting by TCAG Staff.
4. TCAG Staff facilitates the scheduled meeting and agenda. County Staff and County Consultant present the information and responds to questions. Questions raised at the meetings will be responded to in writing where needed. Should future research be needed to respond to questions raised, County Staff will research and provide responses to TCAG Staff. TCAG Staff will assist in solidifying the issues and upon receipt of the research materials shall facilitate a meeting to insure that the concerns identified are appropriately discussed.

Where diverse opinions are identified and not resolved at the committee level, TCAG Staff shall refer the issues to the TCAG Board for review and a non-binding recommendation to the Board of Supervisors for their direction.

5. Steps 1 through 4 will be repeated until all sections of the Public Facilities Fee Study have been reviewed and discussed.

6. Upon conclusion of all meetings, TCAG Staff in conjunction with County Staff and County Consultant prepare a report of findings and recommendations that:
- a. summarizes the questions raised during the review process;

- b. provide responses to each question raised;
- c. provide report(s) relating to additional research conducted;
- d. provide report that addresses the conclusions to the research that needed additional investigation; and
- e. provide report to the TCAG Board for their consideration.

7. The TCAG Board will consider taking action to refer the report and their recommendations to the Board of Supervisors.

8. Where a city proposes a Regional Fee, the process noted above may be followed or an alternative process as may be mutually agreed to between the County and the City.

9. Such fee amounts may be adopted by the County or by a City by resolution(s), provided the authorizing ordinance or other authority under law so provides.

## Attachment E

### Cooperative Process Between City of Porterville and Tulare County Relative to Implementation of Cooperative Policies of the Tulare County General Plan

The City and the County have agreed to the establishment of a working committee to meet and develop procedures to ensure cooperation, consultation, and coordination consisting of City and County representatives with delegated authority to act on-behalf of their entity. The following is the cooperation, consultation, and coordination process agreed upon by the City and County.

- 1. Establishment of Coordination Committee.** The City and County hereby form a working committee to be called the Porterville Area Coordination Committee ("**Committee**") comprised of the Community Development Director and Community Development Manager of the City of Porterville and the RMA Director and Assistant Director Planning Branch of Tulare County, or their designees. Because the **Committee** members will receive mailed or e-mailed materials and to ensure every member gets these materials, any changes in designees may be made only by letter or e-mail copied to all **Committee** members.
- 2. Projects/Actions Subject to Cooperative Process.** This cooperative process will apply to the City and County when considering approval of projects within or policy amendments that affect land within the County-Adopted City Urban Development Boundary ("**CACUDB**") or County-Adopted City Urban Area Boundary ("**CACUAB**") as may be amended from time to time. The City will be proposing a Sphere of Influence ("**SOI**") modification based upon the City's 2008 General Plan Update and it is anticipated to take until approximately the end of December 2014 to complete the process. The City and County agree that in the interim, coordination and application of this cooperative agreement will apply to the City's UDB, as approved by the City Council on January 21, 2014 and UAB, as identified in the City's 2030 General Plan. Should the **SOI** modification not occur in this time period, or any written extension to the time period (which shall not be unreasonably withheld), this cooperative agreement will apply only to the County's adopted UDB and UAB. The **Committee** may develop a list of proposal types or categories that do not need to go through the cooperative process
- 3. Coordination - Preliminary Meeting.** Upon receipt of a preliminary development project and/or proposed policy amendment subject to this process, the City and/or the County shall provide preliminary project information to all **Committee** members and shall notify the **Committee** members of such proposal. The **Committee** members shall be invited to attend the project review meeting

and shall be provided an opportunity to participate in the project review and discussion, including, if appropriate, any discussion of development criteria.

4. **Coordination - Initiation of Cooperative Process.** Within ten (10) working days of the City or County receiving a development application or other request for approval of a project/action subject to the cooperative process, the City or County will send via e-mail to each member of the **Committee** information about the proposed project/action on a form similar to the City of Porterville's Consultation Process or County RMA's Project Review Consultation Notice as appropriate. This information will include the project description, project plans and/or exhibits, other supporting documents as may be appropriate, and any proposed policy language amendments.

5. **Coordination - Committee Meeting.** Within ten (10) working days or as mutually agreed by the County or City initiating the cooperative process, the **Committee** shall meet to discuss any concerns the City or County may have with the proposed project/action. The **Committee** meeting may be waived upon mutual agreement of both parties.

6. **Written Comments.** If any member of the **Committee** has comments on or concerns about the proposed project/action's impacts on the City or County, he or she shall provide these comments/concerns in writing to the other members of the **Committee** within five (5) working days following the **Committee** meeting. The County and/or the City agrees to fairly consider in good faith the comments of the **Committee** members in deciding whether to recommend approval, conditional approval, or disapproval of the project.

7. **Complex Projects/Actions.** If a majority of **Committee** members agree, the **Committee** may extend for a reasonable time period, the cooperative process for individual projects/actions, e.g., large scale and/or more complex projects/actions.

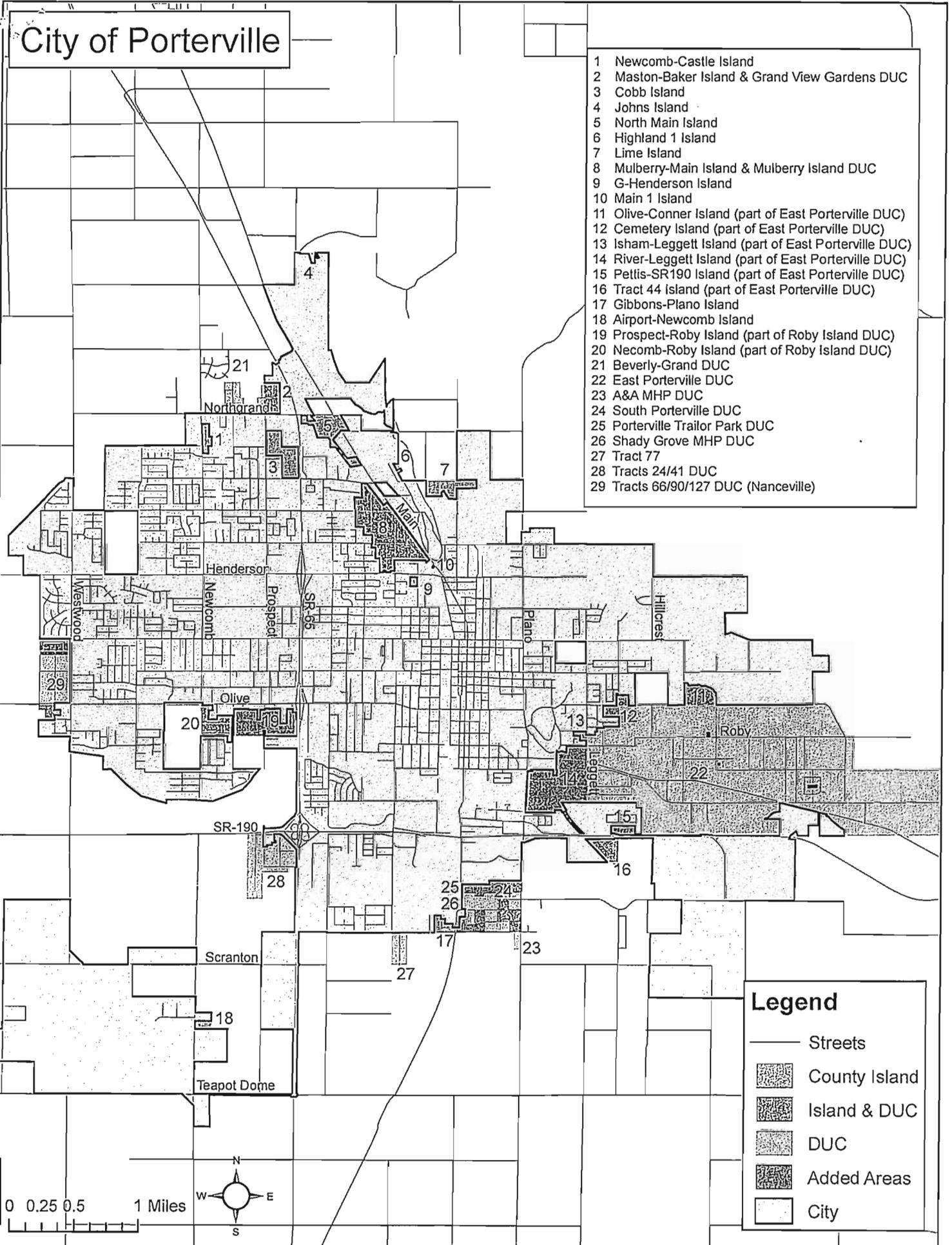
8. **Adjusting Cooperative Process.** The cooperative process may be adjusted upon mutual agreement of the City and County. Any such adjustment shall be confirmed via email or other written format by both parties and may include additional meetings, discussions, and negotiations. This process does not replace the public notification process for discretionary permits, nor the CEQA notification process when applicable.

9. **Dispute Resolution.** If the City Community Development Director or the RMA Director believe that the **Committee** is or will be unable to resolve any concerns or issues on any specific project arising during this cooperative process, the Director will involve the City Manager or County Administrative Officer respectively who will then contact their counterpart in an effort to informally resolve any concerns or issues.

Where the City or County is unable to resolve the concerns raised by the other entity, the City Manager and County Administrative Officer must discuss and attempt to resolve the issues of concern prior to the public hearing process on any specific proposal or project. If this informal process does not resolve the concerns, the City or County may raise its concerns or issues on any specific project during the public hearing process before the County or City.

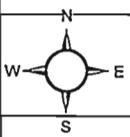
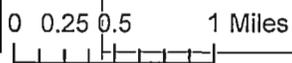
City of Porterville

- 1 Newcomb-Castle Island
- 2 Maston-Baker Island & Grand View Gardens DUC
- 3 Cobb Island
- 4 Johns Island
- 5 North Main Island
- 6 Highland 1 Island
- 7 Lime Island
- 8 Mulberry-Main Island & Mulberry Island DUC
- 9 G-Henderson Island
- 10 Main 1 Island
- 11 Olive-Conner Island (part of East Porterville DUC)
- 12 Cemetery Island (part of East Porterville DUC)
- 13 Isham-Leggett Island (part of East Porterville DUC)
- 14 River-Leggett Island (part of East Porterville DUC)
- 15 Pettis-SR190 Island (part of East Porterville DUC)
- 16 Tract 44 Island (part of East Porterville DUC)
- 17 Gibbons-Plano Island
- 18 Airport-Newcomb Island
- 19 Prospect-Roby Island (part of Roby Island DUC)
- 20 Necomb-Roby Island (part of Roby Island DUC)
- 21 Beverly-Grand DUC
- 22 East Porterville DUC
- 23 A&A MHP DUC
- 24 South Porterville DUC
- 25 Porterville Trailor Park DUC
- 26 Shady Grove MHP DUC
- 27 Tract 77
- 28 Tracts 24/41 DUC
- 29 Tracts 66/90/127 DUC (Nanceville)



**Legend**

- Streets
- County Island
- Island & DUC
- DUC
- Added Areas
- City



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**TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION  
EXECUTIVE OFFICER'S REPORT**

October 1, 2014

**LAFCO Case Number 1505-V-446  
City of Visalia Annexation No. 2014 (River Island)**

- PROPOSAL:** Annexation to the City of Visalia and detachment of the same site from County Service Area No. 1.
- PROPONENT:** The City of Visalia by resolution of its City Council (Resolution No. 2014-28).
- SIZE:** 135 acres
- LOCATION:** The project site is generally located east of Dinuba Boulevard (State Route 63), between Shannon Parkway and the St. John's River.  
*(Figure 1)*
- ASSESSOR'S PARCEL NOS:** **079-071-001, 016, 018, 020, 023, 024 (portion), 028, 079-080-045, 049, 052 through 057.**
- NOTICE:** Notice has been provided in accordance with GC §§56153 & 56154  
*(Figure 2)* (published), §§ 56158 & 56159 (posted), §§ 56155 & 56157 (mailed), and §§ 56661 (Department of Conservation).

**GENERAL ANALYSIS:**

**1. Land Use *(Figure 3):***

*A. Site Information*

	<b>Existing</b>	<b>Proposed</b>
<b>Zoning Designation</b>	County: AE-20 (Exclusive Agricultural 20 ac minimum)	City: R-1-6 (Single-Family Residential, 93 ac) & QP (quasi public, 42 ac)
<b>General Plan Designation</b>	County: Planned Residential	City: Low Density Residential (93 ac) & Conservation (42 ac)
<b>Uses</b>	Vacant land, orchards, two single family residences.	Subdivision (no application has been submitted) and the Riverwalk Trail

*B. Surrounding Land Uses and Zoning and General Plan Designations*

	<b>Zoning Designation</b>	<b>General Plan Designation</b>	<b>Existing Use</b>
<b>North</b>	County: AE-20	Agricultural (City), Rural Residential (County)	St. John’s River, contractor’s yard, residences
<b>South</b>	City: CM Community Commercial) & R-1-6	Community Commercial & Low Density Residential	Community Shopping Center, vacant land with approved subdivision map
<b>East</b>	County: AE-20	Agricultural & Urban Reserve (City), Rural Residential (County)	Row crops, large lot County subdivision
<b>West</b>	QP	Park	City sports complex

*C. Topography, Natural Features and Drainage (Figure 4):*

The north and east boundaries of the annexation territory abuts the Saint John’s River. Along this area of the site, the territory is slightly raised along the levy and then descends to the bottom of the river bed. The remainder of the site is relatively flat and does not contain any natural topographical features.

*D. Conformity with General Plans and Spheres of Influence (Figure 5):*

The entire site is within the City and County-adopted Urban Development Boundaries as well as the LAFCO established SOI.

**2. Impact on Prime Agricultural Land, Open Space and Agriculture:**

The portion of the site slated for residential development consists of Grangeville Sandy Loam soil. The USDA Soil Survey of Tulare County lists this soil type as prime agricultural soil. Therefore, if approved, this reorganization will result in the eventual conversion of prime agricultural soil to urban uses on a portion of the subject site.

Williamson Act and Agricultural Preserves

Approximately 73 acres of the site are under two separate Williamson Act contracts **(Figure 6)**:

Ag. Preserve #: **3595**

Land Conservation Contract #: **10353**

4 parcels: APN: 079-071-01, -16 and 079-080-049, -053

The property owner of the 4 parcels within Ag Preserve 3595 filed a Full Non-Renewal Application (Tulare County FNR 08-002) on February 4, 2008. The Application has been approved and recorded. The contract will expire on January 1, 2019. There was no protest on the Ag Preserve or contract so the City will need to succeed to the contract upon annexation.

Ag. Preserve #: **647**

Land Conservation  
Contract #: **4060**

1 parcels: APN: 079-071-018

The City protested the formation of Ag Preserve 647. The following is the timeline of events relating to the preserve and contract execution and the city protest:

- **10/9/69** – County of Tulare provided public notice of the public hearing on the proposed formation of Agricultural Preserve No. 647. **[Exhibit I] ( DOC correspondence)**
- **10/16/69** – The City of Visalia provided a memorandum to the County of Tulare officially protesting the formation of Agricultural Preserve 647. Attached to the memorandum was City Resolution No. 686, adopted on January 6, 1969, officially protesting the execution of all Williamson Act contracts involving land within one mile of the exterior bounds of the city. **[Exhibit II]**
- **10/28/69** – The County Board of Supervisors adopted Resolution No. 69-2459 establishing Agricultural Preserve No. 647 **[Exhibit III]**
- **1/6/70** – Tulare County Agreement No. 3325 between the County of Tulare and C.J. Shannon and Sons (property owners at the time) was executed. **[Exhibit IV]**
- **6/23/70** – The County Board of Supervisors adopted Resolution No. 69-2459 expanding Agricultural Preserve No. 647 **[Exhibit V]**
- **12/22/70** – Tulare County Agreement No. 4060 between the County and Frank Bianco (property owner at the time) was executed. **[Exhibit VI]**

The City wishes to exercise its right not to succeed to the contract pursuant to G.C. Section 51243.5(d), therefore terminating the contract once and if annexation is approved.

Pursuant to Section 51243.5(d), the following must have occurred prior to February 28, 1969 in order for the City to exercise the option not to succeed to the rules and regulations of Ag Preserve 647:

- (1) *The land being annexed was within one mile of the city's boundary when the contract was executed.*
- (2) *The city had filed with the County Board of Supervisors a resolution protesting the execution of the contract.*

Staff has determined that the proposed annexation site was within 1 mile of the Visalia city limits at the time Land Conservation Contract No. 4060 was executed. However, the City protested the original agricultural preserve that was located on the west side of Dinuba Blvd. The subject Williamson Act contract was entered into as a result of the later expansion of the preserve. The expansion of the preserve was not protested by the City. Therefore, the City does not have a valid protest and will need to succeed to the contract.

The Department of Conservation has provided its own analysis [Exhibit VII] on the validity of the protest and determined that the protest was not valid for other reasons than what is listed above.

Necessary Findings for approval of annexation of land under land conservation contract no matter its status (GC §56856.5)

As mentioned above, the property owner of the 4 parcels within Ag Preserve 3595 filed a Full Non-Renewal Application (Tulare County FNR 08-002) and as a result, Land Conservation Contract No. 10353 ceased to be renewed as of January 1, 2009. The City; however, must still adhere to the rules and regulations of the contract until January 1, 2019.

Pursuant to Section 56856.5 (a), the Commission shall not approve or conditionally approve a change of organization or reorganization that would result in the annexation to a city or special district of territory that is subject to a contract, if that city or special district provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads to the territory, unless these facilities or services benefit land uses that are allowed under the contract. Subsection (d); however, provides an exception to this rule:

56856.5 (d) - This section shall not apply to territory subject to a contract for which either of the following applies:

- (1) A notice of non-renewal has been served pursuant to Section 51245, if the annexing agency agrees that no services will actually be provided by it for use during the remaining life of the contract for land uses or activities not allowed under the contract.
- (2) A tentative cancellation has been approved pursuant to Section 51282.

In addition to filing a notice of Full Non-Renewal, under the terms and conditions listed within City Resolution 2010-80, the City also agrees not to provide any

service for the remaining life of Land Conservation Contract 10353 for land uses or activities not allowed under the contract. Therefore, the findings in subsection (d) (1) can be made for this Ag Preserve allowing its annexation.

***Open Space Land Conversion (GC §56377):***

LAFCO Policy and Procedure Section C-1.1p. states:

*As a guideline for determining conformance with Section 56377, an analysis shall be prepared and considered of the amount of land within the existing city limits for the same land classification as the land within the annexation proposal, relative to a 10-year supply for residential and 20-year supply for commercial or industrial.*

*Residential*

Of the 135 acres included in the proposed annexation site, 93 acres are pre-zoned for low density residential development. Of the 93 acres that are pre-zoned for low density residential development, 58 acres (265 housing units) are part of a preliminary subdivision map. The City currently has 13,282 acres of residential land with 11,362 acres of which is developed within existing city limits. The proposed annexation would bring the City's residential land supply to 6.2 years (assuming 2.58% historical annual growth and the existing residential density of 11.27 people per acre). Using a Blueprint growth model, the proposed annexation would bring the City's residential land supply to 7.9 years (using the blueprint goal of 5.3 units per net acre).

**3. Population:**

Based on 2 residential units located on the site and a City population density of 3 persons per unit, approximately 6 persons reside in the subject site. The County Elections Department has indicated that fewer than 12 registered voters reside within the subject site; thus, the annexation site is considered uninhabited.

**4. Services and Controls - Need, Cost, Adequacy and Availability:**

The City has indicated that the following services will be required in order to support the proposed uses on the site and will be available upon annexation or as development takes place:

- Planning/Zoning
- Water Supply
- Sewage Disposal
- Street Lighting/Maintenance
- Solid Waste
- Storm Drainage
- Police
- Fire
- Public Facilities/Services (Parks, Recreation Programs and Transit)

**Need:**

Approximately 58 acres of the site are anticipated to be developed in the near future. The City has indicated that the subdivision map has already passed through their Site Review Committee and a tentative map will be filed immediately after annexation. As a result, it is determined that there will be a near-term need for the services listed above.

**Cost:**

Once development does take place, service recipients will be subject to existing city taxes and fees. The following is a list of the services that will be extended or made available to site costumers and their respective funding source:

- Police Protection (General Fund)
- Fire Protection (General Fund)
- Water Supply (User Fees)
- Sewage Disposal (Development Impact and User Fees)
- Street Lighting (General Fund)
- Street Maintenance (General Fund)
- Planning/Zoning (General Fund)
- Solid Waste (User Fees)
- Storm Drainage (Impact Development Fees/User Fees)

The City of Visalia requires that new developments create Landscaping and Lighting Act Assessment Districts to fund the operation and maintenance of streetlights.

**Adequacy:**Wastewater

The City of Visalia's wastewater treatment plant (WWTP) has a permitted capacity of 22 million gallons per day (mgd). The estimated current average daily flow is approximately 13 mgd. The Commission approved LAFCO Case 1461-V-444 in February of 2011, which added approximately .0814 mgd of demand on the City's WWTP, while other undeveloped areas already within the existing city limits at the time potentially add another .5 to 1 mgd of demand to the City WWTP.

Based the City's Sewer Master Plan's coefficient for sewer flow per low density residential acre, this proposal, at full development, would add an estimated .093 mgd of demand on the City WWTP. The current average daily flow, potential demand from this site and other undeveloped sites already within the City

Estimated per capita assessed valuation           \$   11,070

**7. Environmental Impacts:**

The City of Visalia is the lead agency for this proposal. The City prepared an initial study/environmental checklist and on the basis of that study, a Negative Declaration was approved for use with this proposal. A copy of the document is included in the application materials.

**8. Landowner and Annexing Agency Consent:**

Consent to this annexation has been received from each affected landowner within the site.

**9. Regional Housing Needs:**

Pursuant to GC §56668 (I), LAFCO shall consider the extent to which the proposal will assist the receiving city and the County in achieving its fair share of regional housing needs as determined by the appropriate council of governments. A total of 440 low density, single-family housing is estimated to be accommodated within the annexation area. This housing will most likely help meet housing needs at the moderate to above moderate level.

2014-2023 RHNA Allocations (Income Level/Housing Units)

Very Low: 2,616

Low: 1,931

Moderate: 1,802

Above Moderate: 3,672

**10. Discussion:**

On May 4, 2011, the Commission denied the annexation of the same area (Case 1462-V-445) proposed for this annexation on the grounds of the timeliness of the project. At that time, a subdivision map had not yet been submitted to the City nor were there plans to submit a map upon annexation.

R&L Investment Group, LLC has submitted a subdivision map for 265 single-family residences on 58 acres in the proposed annexation area. This map has received approval from the City's Site Plan Review Committee and will be submitted as a formal application for a tentative subdivision map upon approval of the annexation.

*Detachment from County Service Area No. 1*

The City of Visalia has determined that detachment of the area from CSA No.1 is appropriate at this time and included this action within its resolution of application. No service is being provided through CSA No. 1.

boundaries total approximately 15.7 mgd of demand to the City's WWTP, well below the plant's permitted capacity of 22 mgd.

Domestic Water

The California Water Company (Cal Water) has provided a "will-serve" letter to the City indicating that it agrees and has the capacity to service the site at the City's request.

The California Water Company (Cal Water) owns and operates the Visalia/Goshen water system. Cal Water currently has a 12" water main at the intersection of Dinuba Blvd and Riverway Drive. Connection to the water system is approximately 10' from the annexation site. Cal Water indicates that the Visalia/Goshen water system has a capacity of 73.6 million gallons per day (mgd) with an actual demand of 28.5 mgd.

Since the area designated for quasi public use will be maintained as a riparian area (42 acres), Cal Water estimates that there will be little to no water demand from this use; however, demand is difficult to estimate without knowledge of what will be planted. For low density residential development, Cal Water estimates demand to be 240 gallons per capita per day. With a total estimated 440 future units in the annexation area, it is estimated that the water need for the residential portion of the site would account for .1 mgd.

**Availability:**

All City operated public facilities/services will be available upon annexation and will be extended as development takes place.

**5. Boundaries and Lines of Assessment:**

The boundaries of the proposed project site are definite and certain and conform to the lines of assessment and ownership.

The applicant needs to submit an updated map and legal description and filing fee sufficient for filing with the State Board of Equalization.

**6. Assessed Value, Tax Rates and Indebtedness:**

If annexation is approved, the area will be assigned to a new tax rate area. Most of the site is currently within TRA 153-002 and TRA 153-048, both of which have a 2013/2014 tax rate of 1.07%. APNs 079-080-057 and 079-071-028 are located within TRA 153-005 and TRA 153-054 respectively. The 2013/2014 tax rate for these areas is 1.04%. The total assessed valuation of the proposal area is as follows:

Land	\$ 1,422,169
Improvements	\$ 94,421

### **Recommended Actions**

Based on the fact that near-term growth is planned for the site and given that the location is fully surrounded by developed City uses to the west and south and by the St. John's River and County residential areas to the north and east, Staff recommends that this proposal be approved and that the Commission take the following actions:

1. Certify that the Commission has reviewed and considered the Negative Declaration approved by the City of Visalia for this project and find that the project will not have a significant effect on the environment.
2. Find that the proposed reorganization to the City of Visalia complies with the policies and priorities of the Cortese-Knox-Hertzberg Act, GC §56377.
3. Pursuant to LAFCO Policy and Procedure Section C-1.2, find that:
  - a. The boundaries of the proposed annexation are definite and certain and conform to lines of assessment.
  - b. There is a demonstrated need for municipal services and controls and that the city has the capability of meeting this need.
  - c. There is a mutual social and economic interest between the residents of the city and the proposed annexation territory.
  - d. The proposed annexation is compatible with the City's General Plan.
  - e. The proposed annexation represents a logical and reasonable expansion of the annexing municipality.
4. The City of Visalia did not validly protest the formation of Ag Preserve 647 and the execution of Williamson Act Contract 4060. Pursuant to GC §56856.5(c)(1), the City will succeed to the administration of the contract.
5. A Notice of Non-Renewal has been filed for Williamson Act Contract No. 10353.
6. Approve the annexation, to be known as LAFCO Case No. 1462-V-445, Visalia Annexation No. 2007-05 (River Island), subject to the following conditions:
  - A) No change be made to land use designations or zoning for a period of two years after the completion of the annexation, unless the City Council makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the designation or zoning.

- B) The City of Visalia shall succeed to Contract No. 4060 and 10353 and shall not provide any services for land uses or activities not allowed under the contracts for the remaining life of the contracts.
7. Waive the protest hearing for this proposal in accordance with GC Section 56663(c).
  8. Authorize the Executive Officer to sign and file a Notice of Determination with the Tulare County Clerk.

**Figures & Exhibits:**

**Location Maps**  
**DOC correspondence**  
**Resolution**

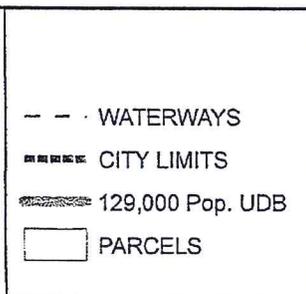
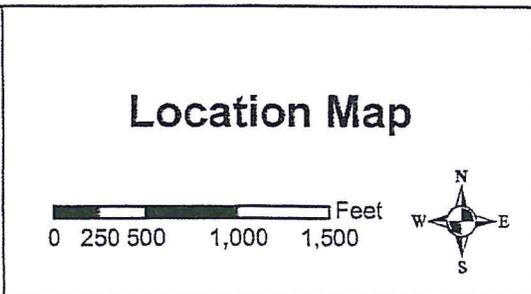
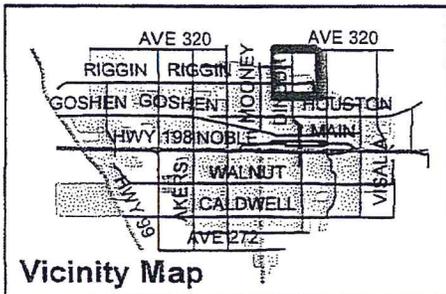
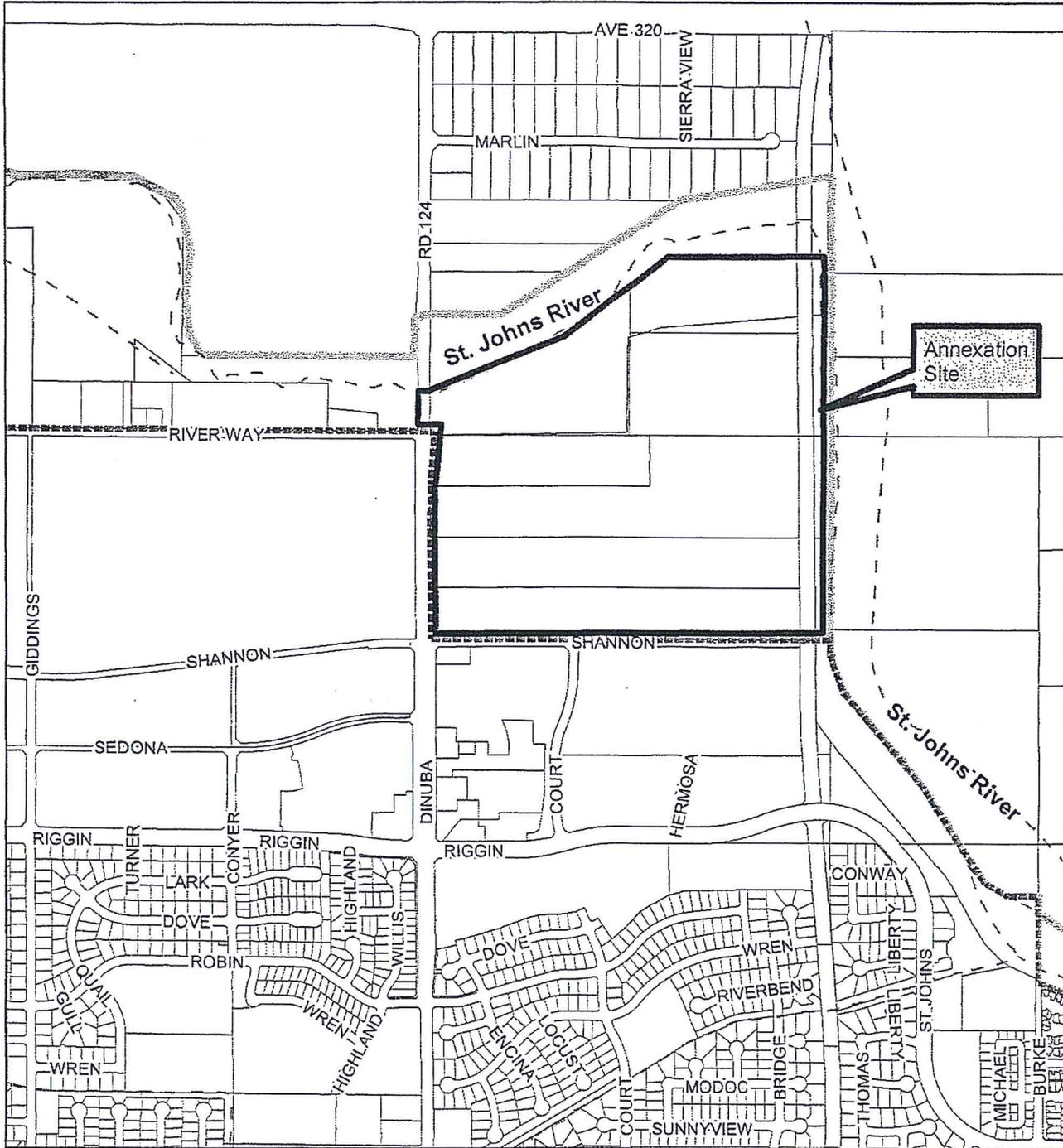


### Legend

-  300 ft buffer
-  parcels

Source: Esri, DigitalGlobe, GeoEye, i-cub  
Geographics, CNES/Airbus DS, USDA, U  
Getmapping, Aerogrid, IGN, IGP, swisstop  
Community

# Annexation No. 2005-07 (Hill / River Island)









# DEPARTMENT OF CONSERVATION

*Managing California's Working Lands*

## DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEB SITE [conservation.ca.gov](http://conservation.ca.gov)

TCAG/LAFCO  
210 N. Church Street, Ste. B  
Visalia, CA 93291

SEP 18 2014

MAIL RECEIVED

September 15, 2014

Ms. Cynthia Echavarria  
Tulare County LAFCO  
5955 S. Mooney Blvd.  
Visalia, CA 93277

TULARE COUNTY LAFCO CASE NO. 1505-V-446, ANNEXATION NO. 2014-01  
(RIVER ISLAND)

Dear Ms. Echavarria:

The Department of Conservation's (Department) Division of Land Resource Protection (Division) monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. The Division has reviewed the above referenced project and offers the following comments and recommendations.

### PROJECT DESCRIPTION

The project is a proposed annexation consisting of approximately 135 acres and is located on the east side of Dinuba Boulevard between Shannon Parkway and St. John's River (APN's 079-071-01; -16; 079-08-049; -053; and 07-071-018). The project site is located within Agricultural Preserve Nos. 647 and 3595 and is subject to Land Conservation (Williamson Act) contract Nos. 4060 and 10353. The City wishes to exercise its right not to succeed to the contract upon completion of its proposed annexation.

### DIVISION COMMENTS

The Department has reviewed the information provided and has concluded that the City must succeed to the contract upon completion of its proposed annexation. The Department's conclusion is based on the absence of a valid protest for the contracts.

Instead of directly protesting the Williamson Act contract at issue, the City erroneously protested the creation of Agricultural Preserve No. 69-258 on October 24, 1969.<sup>1</sup>

Government Code §51243.5(f) states:

*It shall be conclusively presumed that no protest was filed by the city unless there is a record of the filing of the protest and the protest identifies the affected contract and the subject parcel. It shall be conclusively presumed that required notice was given before the execution of the contract.*

The City's protest only identified an agricultural preserve and failed to identify the affected contract (via contract number) and the subject parcel (via an APN, legal description, etc.). Therefore, as the City's protest is clearly invalid, the City must succeed to the contract upon completion of its proposed annexation. Moreover, the Agricultural Preserve identified (Agricultural Preserve No. 69-258) in the City's October 16, 1969 letter of protest to the County of Tulare does not identify either of the Agricultural Preserves (Agricultural Preserve Nos. 647 and 3595) affected by this proposed annexation.

Thank you for giving us the opportunity to comment on this proposed annexation. If you have any questions regarding our comments, please contact Heather Anderson, Environmental Planner at (916)324-0869 or via email at [Heather.Anderson@conservation.ca.gov](mailto:Heather.Anderson@conservation.ca.gov).

Sincerely,



Molly A Penberth, Manager  
Division of Land Resource Protection  
Conservation Support Unit

---

<sup>1</sup> October 16, 1969 letter to Tulare County and the City of Visalia Resolution No. 686.

RECORDED AT REQUEST OF CLERK BOARD SUPERVISORS	
TIME <u>2:00</u>	FEE <u>NO FEE</u>
JUL 13 1970	
OFFICIAL RECORDS TULARE COUNTY, CALIFORNIA C. RALPH HOWARD, RECORDER	

BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA

-oOo-

In the Matter of Enlargement of )  
Agricultural Preserve No. 647 )  
Frank Bianco )

R E S O L U T I O N  
NO. 70-1788

WHEREAS, this Board has heretofore established Agricultural Preserve No. pursuant to the Williamson Act (Government Code Section 51200 et seq.) by the adoption of Resolution No. 69-2459 ; and

WHEREAS, this Board has been requested to enlarge said Preserve No. 647 by adding additional land thereto; and

WHEREAS, the procedural requirements to enlarge the Agricultural Preserve under the Williamson Act have been complied with; and

WHEREAS, all of the land to be added to Preserve No. 647 is used for the purpose of producing agricultural commodities for commercial purposes and compatible uses; and

WHEREAS, this Board determines that it is in the best interests of the County to enlarge Agricultural Preserve No. 647 ;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. This Board does hereby enlarge Agricultural Preserve No. 647 by adding to the property presently in said Preserve the additional real property located in the County of Tulare described as follows:

See attached legal. 1-A

2. The uniform rules for Preserve No. 647 which were adopted by Resolution No. 70-1110 shall be applicable to all property within the Preserve as enlarged by this Resolution.

The foregoing resolution was adopted upon motion of Supervisor **Harrell** seconded by Supervisor **Batkin** , at a regular meeting on this day of June 23rd , 1970 , by the following vote:

lin. Ayes: **Supervisors Cummings, Hillman, Harrell, Batkin and Muller.**  
BR. Noes: **None.**  
rec. Absent: **None.**  
ff.  
g.  
ss.  
pp.  
lan.  
ile

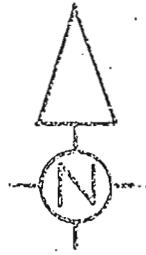
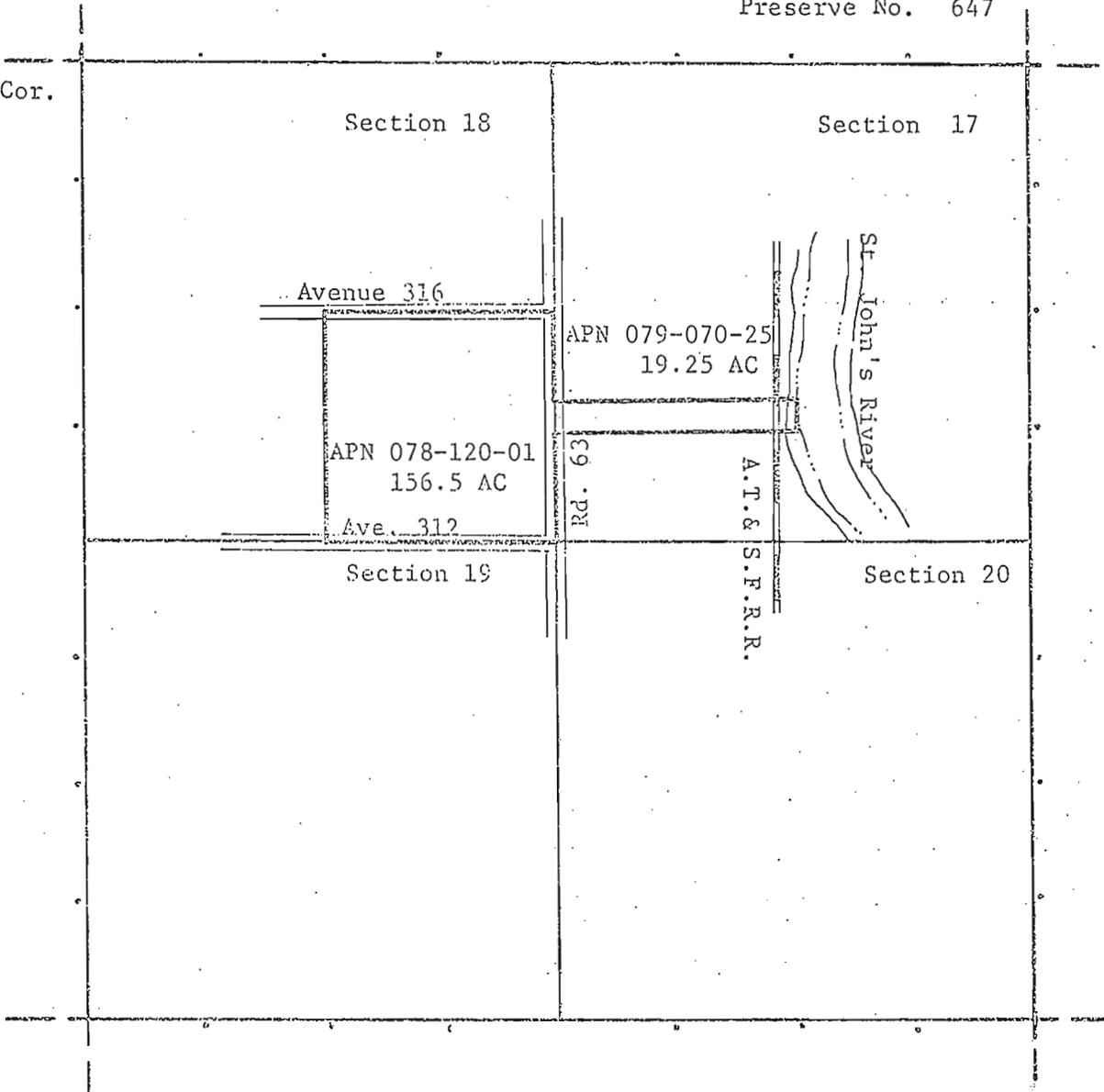
STATE OF CALIFORNIA, COUNTY OF TULARE, ) SS
I, JAY C. BAYLESS, County Clerk and Ex-Officio Clerk of the Board of Supervisors, do hereby certify the foregoing to be a full, true and correct copy of an original order made and entered by said Board
JUN 23 1970 as the same appears of record and on file in my office.
Witness my hand and seal of said Board of Supervisors, this 23rd day of July 1970.
JAY C. BAYLESS, County Clerk and Ex-Officio Clerk of the Board of Supervisors.
SEAL By <u>E. Louis Mc Carthy</u> 99 Deputy Clerk.

## ENLARGEMENT OF AGRICULTURAL PRESERVE NO. 647

The South 338 ft. of the S $\frac{1}{2}$  of the N $\frac{1}{2}$  of the SW $\frac{1}{4}$  of Sec. 17,  
T. 18 S., R. 25 E., M. D. B. and M., 19.25 acres, excepting  
therefrom these portions for railroad right-of-way.

Preserve No. 647

N/W Cor.



1 in. = 2,000 ft.

Sections 17 , 18 , 19 , 20 T. 18 S. R. 25 E.

Resolution No. 70-1788

Adopted By Tulare County

Board of Supervisors

Date Approved June 23, 1970

Page 1 of 1

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LAND CONSERVATION CONTRACT

THIS CONTRACT, made and entered into as of this \_\_\_\_\_ day of  
DEC 22 1970, 19\_\_\_\_, by and between \_\_\_\_\_

Frank D. Bianco

hereinafter referred to as the "Owner", and the County of Tulare,  
hereinafter referred to as the "County";

W I T N E S S E T H

WHEREAS, the Owner owns real property in the County of Tulare,  
State of California, hereinafter referred to as the "Subject Property",  
which is described as follows:

The South 338 feet of the South half of the North half of the South-  
west quarter of Section 17, Township 18 South, Range 25 East, Mount  
Diablo Base and Meridian.

RECORDED AT REQUEST OF
CLERK BOARD SUPERVISORS
TIME 11 A.M. FEE NO FEE.
DEC 28 1970
CENTRAL RECORDS
TULARE COUNTY, CALIFORNIA
C. RALPH HOWARD, RECORDER

1           WHEREAS, the Subject Property is now devoted to agricultural uses and  
2 uses compatible thereto; and

3           WHEREAS, the Subject Property is located in Agricultural Preserve  
4 No. 647 which was established by the Board of Supervisors of the  
5 County by Resolution No. 70-1788; and

6           WHEREAS, the Owner and the County desire to limit the use of the  
7 Subject Property to agricultural uses and uses compatible thereto in order  
8 to preserve a maximum of agricultural land, to conserve California's  
9 economic resources, to maintain the agricultural economy, to assure a  
10 supply of food and fiber for future residents of the State and to dis-  
11 courage the premature and unnecessary conversion of agricultural land to  
12 urban uses, recognizing that such land has public value as open space  
13 and constitutes an important physical, social, esthetic and economic  
14 asset to the Owner and the County; and

15           WHEREAS, this Contract is entered into pursuant to the Williamson  
16 Act (Government Code, Section 51200, et seq.) and constitutes an  
17 enforceable restriction under the provisions of section 421 et seq. of  
18 the Revenue and Taxation Code;

19           NOW, THEREFORE, IT IS AGREED as follows:

20           1. This Contract is entered into pursuant to the Williamson  
21 Act and all of the provisions of said Act, including any amendments  
22 hereafter enacted, are hereby incorporated by reference and made a part  
23 of this Contract as if fully set forth herein.

24           2. During the term of this Contract and any renewals thereof  
25 the Subject Property shall not be used by the Owner, or his successors  
26 in interest, for any purpose other than the production of agricultural  
27 commodities for commercial purposes, and those compatible uses which are  
28 listed in the Resolution establishing the Agricultural Preserve within  
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1 which the land is located. The Board of Supervisors of the County may  
2 from time to time during the term of the Contract and any renewals  
3 thereof, by Resolution, add to the permissible uses of the Subject  
4 Property listed in the Resolution establishing the Preserve. However,  
5 the Board of Supervisors may not during the term of the Contract and  
6 any renewals thereof eliminate any of the permitted uses for the  
7 Subject Property, as set forth in said Resolution, without the prior  
8 written consent of the Owner.

9           3. Nothing in this Contract shall limit or supersede the  
10 planning, zoning and other police powers of the County, and the  
11 right of the County to exercise such powers with regard to the Subject  
12 Property.

13           4. There shall be no payment to the Owner by the  
14 County.

15           5. The term of this Contract shall be for ten (10) years,  
16 commencing on the date that this Contract is executed by the Board  
17 of Supervisors of the County. The 1st day of January of each year  
18 shall be the annual renewal date of this Contract.

19           6. This Contract shall be automatically renewed on the  
20 annual renewal date each year for an additional period of one (1)  
21 year unless notice of nonrenewal is given in accordance with the  
22 Williamson Act. No notice of renewal is required to be given or  
23 recorded by either party to effectuate the automatic renewals  
24 provided for in this paragraph.

25           7. This Contract may be cancelled only in accordance with  
26 the provisions of the Williamson Act governing cancellation of  
27 Contracts.



ATTEST: JAY C. BAYLESS, County Clerk and Ex-officio Clerk of the Board of Supervisors

By Paul J. Santos Deputy "County"

STATE OF CALIFORNIA )  
( SS.  
COUNTY OF TULARE )

On December 16, 1970, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Frank D. Bianco, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and official seal.



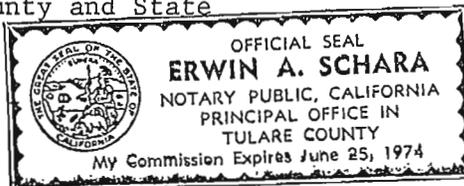
Philip S. Bianco  
Notary Public in and for said County and State

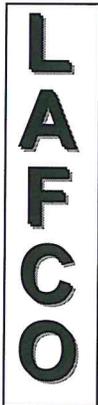
STATE OF CALIFORNIA )  
( SS.  
COUNTY OF TULARE )

On December 23, 1970, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Donald M. Hillman and Carol I. Santos, known to me to be the Chairman and Deputy County Clerk, respectively, of the Board of Supervisors of the County of Tulare, the political subdivision described in and that executed the within instrument, and also known to me to be the persons who executed it on behalf of the County of Tulare and they acknowledged to me that such political subdivision executed the same.

WITNESS my hand and official seal.

Erwin A. Schara  
Notary Public in and for said County and State





# **TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION**

5955 S. Mooney Blvd. Visalia, CA 93277 (559) 624-7274 FAX (559) 733-6720

August 15, 2014

Mr. Mark Nechodom, Director  
California Department of Conservation  
801 K Street  
Sacramento, CA 95814

**COMMISSIONERS:**

*Steve Worthley, Chair  
Juliet Allen, Vice Chair  
Allen Ishida  
Rudy Mendoza  
Cameron Hamilton*

**ALTERNATES:**

*Dennis A. Mederos  
Janet Hinesly  
Mike Ennis*

**EXECUTIVE OFFICER:**

*Ben Giuliani*

Dear Mr. Nechodom:

The Tulare County Local Agency Formation Commission has received an application from the City of Visalia for the annexation of territory under Williamson Act contract. The public hearing for this proposal is tentatively scheduled for October 1, 2014 at 2:00PM in the Administrative Building, Supervisors Chambers, County Civic Center, Visalia, California. In accordance with Government Code Section 56753.5, the following information is provided:

Annexation: LAFCO Case Number 1505-V-446, Annexation No. 2014-01 (River Island)

Location: The site is located on the east side of Dinuba Boulevard between Shannon Parkway and the St. John's River. The site is pre-zoned for residential use (93 acres) and quasi-public uses (42 acres) and is completely surrounded by agricultural uses. A project is not currently slated for the site.

Ag. Preserve #: **3595**

Land Conservation  
Contract #: **10353**

4 parcels, APN: 079-071-01, -16 and 079-080-049, -053

The property owner of the 4 parcels in Ag Preserve 3595 filed a Full Non-Renewal Application (Tulare County FNR 08-002) on February 4, 2008. The Application has been approved and recorded.

Ag. Preserve #: **647**

Land Conservation  
Contract #: **4060**

1 parcels, APN: 079-071-018

The City protested the formation of Ag Preserve 647. The following is the timeline of events relating to the preserve and contract execution and the city protest:

- **10/9/69** – County of Tulare provided public notice of the public hearing on the proposed formation of Agricultural Preserve No. 647. **[Exhibit I]**
- **10/16/69** – The City of Visalia provided a memorandum to the County of Tulare officially protesting the formation of Agricultural Preserve 647. Attached to the memorandum was City Resolution No. 686, adopted on January 6, 1969, officially protesting the execution of all Williamson Act contracts involving land within one mile of the exterior bounds of the city. **[Exhibit II]**
- **10/28/69** – The County Board of Supervisors adopted Resolution No. 69-2459 establishing Agricultural Preserve No. 647 **[Exhibit II]**
- **2/28/69** – Tulare County Agreement No. 1102 between the County of Tulare and C.J. Shannon and Sons (property owners at the time) was executed. **[Exhibit IV]**

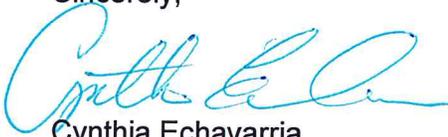
The City wishes to exercise its right not to succeed to the contract pursuant to G.C. Section 51243.5(d), therefore terminating the contract upon completion of the annexation.

The annexing city has provided proof that the subject territory was within 1 mile of the city's exterior boundary at the time Agricultural Preserve No. 647 was officially formed and that it filed a resolution with the County Board of Supervisors protesting the formation in accordance with the Williamson Act as specifically set forth in Section 51243.5.

In accordance with GC 51243.5 (c), Tulare County LAFCO is seeking advice and assistance in interpreting this Code Section. Please provide any comment to us prior to October 1, 2014.

If you have any questions, please feel free to contact me at (559) 623-0450.

Sincerely,



Cynthia Echavarria  
LAFCO Staff Analyst

NOTICE OF PUBLIC HEARING ON FORMATION  
OF  
AGRICULTURAL PRESERVE

PAP

NOTICE IS HEREBY GIVEN that application No. 69-258 has been filed with the Planning Commission of the County of Tulare to form an agricultural preserve, pursuant to the Williamson Act (Government Code Sections 51200 et seq.) comprising real property of C. J. Shannon and Sons, in the County of Tulare, described as follows:

The SE $\frac{1}{4}$  of Sec. 18, T. 18 S., R. 25 E., M. D. B. and M.

Pursuant to Section 51201 of the Government Code, the Board of Supervisors of the County of Tulare will hold a public hearing on the proposed formation of said Agricultural Preserve in the Chambers of the Board of Supervisors in the Tulare County Courthouse, County Civic Center, in the City of Visalia on October 28, 1969, commencing at 10:00 a.m.

Dated: October 9, 1969

DONALD A. WOOLFE  
DIRECTOR OF PLANNING

Exhibit A

647

2459

EXHIBIT II

RESOLUTION NO. 686

WHEREAS, the City Council of the City of Visalia have been advised that the County of Tulare will from time to time enter into agreements with agricultural land owners pursuant to the Williamson Act which will in effect allow said land owners to retain the character of the land as an agricultural preserve; and

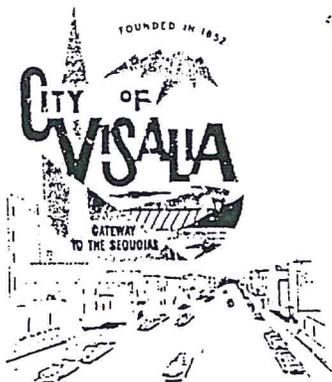
WHEREAS, the Williamson Act provides that any land within one mile of the incorporated limits of any city which is to be zoned pursuant to the Williamson Act, requires the city be notified should said land be within one mile of the city limits of said city, and;

WHEREAS, the City Council have been further advised that the City, in order to protect its interest in any land being zoned pursuant to the Williamson Act, must file with the Board of Supervisors of the County a resolution protesting the execution of a contract which includes land within one mile of the exterior boundaries of the City.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Visalia hereby instructs the City Clerk to file a resolution with the County protesting the execution of any contracts which include land within one mile of the exterior boundaries of the City, pursuant to the Williamson Act as specifically set forth in Section 51243.5 of the Government Code of the State of California.

Passed and adopted January 6, 1969.

EXHIBIT III



October 16, 1969

Tulare County Planning Commission  
County Civic Center  
Visalia, California 93277

Re: Agricultural Preserve No. 69-258  
C. J. Shannon and Sons

Gentlemen:

The City of Visalia hereby protests the creation of Agricultural Preserve 69-258 on property owned by C. J. Shannon & Sons.

Enclosed is a copy of Resolution No. 686, which officially states the position of the City.

Sincerely,

A handwritten signature in cursive script that reads 'Roger A. Wilson'.

Roger A. Wilson  
Assistant Planning Director

dh  
encl.

BEFORE THE BOARD OF SUPERVISORS

COUNTY OF TULARE, STATE OF CALIFORNIA

In the Matter of Establishing )  
Agricultural Preserve No. 647 )

R E S O L U T I O N  
No. 69-2459

C.J. Shannon and Sons

WHEREAS, this Board has been requested to establish an Agricultural Preserve pursuant to the Williamson Act (Government Code sections 51200 et seq.); and

WHEREAS, the procedural requirements to establish the Agricultural Preserve under the Williamson Act have been complied with; and

WHEREAS, all of the land to be included within the Preserve is used for the purpose of producing agricultural commodities for commercial purposes and compatible uses; and

WHEREAS, this Board determines that it is in the best interests of the County to establish the proposed Agricultural Preserve;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. This Board does hereby establish an Agricultural Preserve which shall consist of all of the real property located in the County of Tulare which is described in the Notice of Public Hearing which is attached hereto as Exhibit "A" and incorporated herein by reference.

2. Said Agricultural Preserve is hereby designated as Preserve No. 647, and may be referred to as such.

3. The following uniform rules shall apply in this Preserve:

(A) This Board does hereby determine that all of the uses which are allowed uses in the AE, Exclusive Agricultural Zone, under paragraphs 1 through 10 and paragraphs 12 through 17 of subsection B of Section 9.5 of Ordinance No. 352, as presently in effect, are either agricultural uses which are allowed under the Williamson Act or are compatible with said agricultural uses, and all of said uses may be carried on in the Preserve.

(B) This Board also determines that residences and mobile-homes for use by nonpaying guests of the owners or lessees of the property are also compatible uses

- 1 -

RECORDED AT REQUEST OF \_\_\_\_\_ CLERK BOARD SUPERVISORS  
NOV 10 1969 9:30 A.M. NO FEE  
OFFICIAL RECORDS TULARE COUNTY CALIF.

C. Ralph Howard, County Recorder 114

in the Preserve.

- (C) All of the uses which are set forth in subsection D of Section 9.5 of Ordinance No. 352, as presently in effect, are also determined to be compatible uses in the Preserve and may be carried on without securing a Use Permit unless and until AE Zoning is actually applied to property in the Preserve, or unless a Use Permit is required by other zoning on the property.
- (D) No subdivision, as that term is defined in Section 7006.23 of the Ordinance Code of Tulare County, may be created in the Preserve.
- (E) All of the uses which are set forth in paragraph B of Part II of Section 16 of Ordinance No. 352, as presently in effect, which are allowed in the AE Zone are also determined to be compatible uses in the Preserve. However, such uses may not be commenced until the required Special Use Permits have been secured as required by said provisions of Ordinance No. 352. Because of the many factors which must be considered when issuing Special Use Permits, nothing in this subsection shall be construed to obligate this Board to issue such a Permit if one should be applied for in the future.
- (F) The erection, construction, alteration or maintenance of gas, electric, water and communication utility facilities are also determined to be compatible uses in the Preserve; provided, however, that insofar as such facilities require Special Use Permits under Ordinance No. 352, such uses may not be commenced unless and until such Permits are secured. Because of the many factors which must be considered when issuing Special Use Permits, nothing in this subsection shall be construed to obligate this Board to

issue such a Permit if one should be applied for in the future.

Min. Bk.  
St. Dir. Agri.  
Plan. Dept.  
Recorder  
Assessor  
Applicants  
File

(G) Nothing in subsections (C), (D) and (E) above is intended to deprive the owner of any nonconforming use which he may have, or hereafter acquire, under the Zoning Laws of the State or the Zoning Ordinances of the County.

4. The provisions of Tulare County Ordinance No. 352, which are referred to in this Resolution, are currently set forth in Tulare County Ordinance No. 1169, which amends said Ordinance No. 352, and a copy of said Ordinance No. 1169 is recorded in Volume 2815, page 905 of Official Records in the Office of the County Recorder of Tulare County.

The foregoing resolution was adopted upon motion of Supervisor Batkin, seconded by Supervisor Cummings, at a regular meeting on this 28th day of October, 1969, by the following vote:

AYES: Supervisors Cummings, Hillman, Harrell, Batkin and Muller.

NOES : None.

ABSENT: None.

STATE OF CALIFORNIA, )  
COUNTY OF TULARE, )  
I, JAMES E. HOWARD, County Clerk and Ex-Officio Clerk of the Board of Supervisors, do hereby certify the foregoing to be a full, true and correct copy of an original order made and entered by said Board on OCT 28 1969 as the same appears of record and on file in my office. Witness my hand and seal of said Board of Supervisors, this 28th day of November, 1969.

JAMES E. HOWARD,  
County Clerk and Ex-Officio Clerk of the Board of Supervisors.

SEAL By *[Signature]* Deputy Clerk.

EXHIBIT IV

1102

70 98

1 LAND CONSERVATION CONTRACT

2  
3 THIS CONTRACT, made and entered into as of this \_\_\_\_ day of

4 JAN 6 1970, 19 \_\_, by and between \_\_\_\_\_

5 C. J. SHANNON AND SONS

6 hereinafter referred to as the "Owner", and the County of Tulare,

7 hereinafter referred to as the "County";

8 W I T N E S S E T H:

9 WHEREAS, the Owner owns real property in the County of  
10 Tulare, State of California, hereinafter referred to as the  
11 "Subject Property", which is described as follows:

12  
13 The SE 1/4 of Sec. 18, T. 18 S., R. 25 E., M. D. B. and M.  
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26 **RECORDED AT REQUEST OF  
CLERK BOARD SUPERVISORS**

27 JAN 12 1970

28 **OFFICIAL RECORDS  
TULARE COUNTY, CALIF.**

29 *C. Ralph Howard*  
County Recorder

30 Time 8 A. M. Fee NO FEE.

31  
32 TULARE COUNTY AGREEMENT NO 3325

1 establishing the Agricultural Preserve within which the land is  
2 located. The Board of Supervisors of the County may from time  
3 to time during the term of the Contract and any renewals thereof,  
4 by Resolution, add to the permissible uses of the Subject Property  
5 listed in the Resolution establishing the Preserve. However, the  
6 Board of Supervisors may not during the term of the Contract and  
7 any renewals thereof eliminate any of the permitted uses for the  
8 Subject Property, as set forth in said Resolution, without the  
9 prior written consent of the Owner.

10 3. Nothing in this Contract shall limit or supersede  
11 the planning, zoning and other police powers of the County, and  
12 the right of the County to exercise such powers with regard to  
13 the Subject Property.

14 4. There shall be no payment to the Owner by the  
15 County.

16 5. The term of this Contract shall be for ten (10)  
17 years, commencing on the date that this Contract is executed by  
18 the Board of Supervisors of the County. The 1st day of January  
19 of each year shall be the annual renewal date of this Contract.

20 6. This Contract shall be automatically renewed on  
21 the annual renewal date each year for an additional period of  
22 one (1) year unless notice of nonrenewal is given in accordance  
23 with the Williamson Act. No notice of renewal is required to be  
24 given or recorded by either party to effectuate the automatic  
25 renewals provided for in this paragraph.

26 7. This Contract may be cancelled only in accordance  
27 with the provisions of the Williamson Act governing cancellation  
28 of Contracts.

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8. Any notices required to be given to the County under this Contract shall be delivered to the Clerk of the Board of Supervisors of the County, and any notices to be given to the Owner shall be mailed to him at 24487 Road 140  
Tulare, California

IN WITNESS WHEREOF, the parties have executed this Contract as of the date first above written.

C. J. SHANNON AND SONS

By *C. J. Shannon*

\_\_\_\_\_  
"Owner"

COUNTY OF TULARE

By *Richard Williams*  
Chairman, Board of Supervisors

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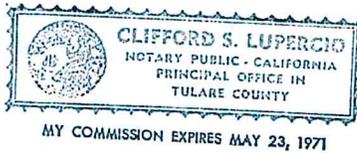
ATTEST: JAMES E. HOWARD, County Clerk and Ex-officio Clerk of the Board of Supervisors

By Carol I. Santos Deputy "County"

STATE OF CALIFORNIA )  
( SS.  
COUNTY OF TULARE )

On DECEMBER 23<sup>rd</sup>, 1969, before me, the undersigned, a Notary Public in and for said County and State, personally appeared C. R. SHANNON, known to me to be one of the partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

WITNESS my hand and official seal.



Clifford Luperchio  
Notary Public in and for said County and State

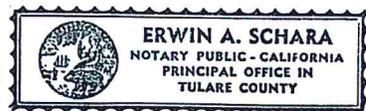
STATE OF CALIFORNIA )  
( SS.  
COUNTY OF TULARE )

On January 7th, 1970, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Donald I. Hillman and Carol I. Santos, known to me to be the Chairman and Deputy County Clerk, respectively, of the Board of Supervisors of the County of Tulare, the political subdivision described in and that executed the within instrument, and also known to me to be the persons who executed it on behalf of the County of Tulare and they acknowledged to me that such political subdivision executed the same.

WITNESS my hand and official seal.

Erwin A. Schara

Notary Public in and for said County and State



Case No. FNR 08-002



2009-0000728

*file*

**RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:**

Clerk, Board of Supervisors  
2800 West Burrel Avenue  
Visalia, CA 93291-4582

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

REC FEE

0.00

08:01AM 07-Jan-2009

DJF  
Page 1 of 4

SPACE ABOVE For RECORDER'S USE ONLY

**NOTICE OF FULL NONRENEWAL OF LAND CONSERVATION CONTRACT**

**[DIRECTIONS:** Provide the information requested on Page 1, with all owners' signatures notarized; include the legal description of the subject contracted parcel(s) under "Exhibit A" on Page 3; and attach a copy of the most recent deed for the parcel(s). Return the completed application form and deed to the Tulare County Resource Management Agency (RMA), Permit Center, 5961 S. Mooney Blvd, Visalia, CA 93277, along with the current Filing Fee.]

This is to notify the County of Tulare that the (Williamson Act Agricultural Preserve) Land Conservation Contract on the property herein described will not be renewed as of January 1, 2009. The legal description of the affected land subject to said Contract is included as "Exhibit A".

Assessor's Parcel No(s). 079-071-001 + 016 079-080-049 + 053

Acreage 153.8

If applicable: Condition of Approval of (Project No.) N/A

By execution hereof, the undersigned parties declare under penalty of perjury that he/she/they constitute and are all of the fee title owners of the property described herein, and are, or are the successors-in-interest of, the owners of such property who entered into the Land Conservation Contract.

Name, mailing address, and phone number of each current owner of subject property: (please type or print)

RANDY J. HELL & LISSELLE T. HELL

680 W SHAW AVE #208

PRESTO CA 93704

cell # 559-260-3550

*Randy J. Hell*  
*Liselle T. Hell*  
*Randy J. Hell*  
*Liselle T. Hell*

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_ ) S. S.

On \_\_\_\_\_ before me,

\_\_\_\_\_ a Notary Public  
in and for said County and State, personally appeared (printed names):

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

WITNESS my hand and official seal

Signature \_\_\_\_\_



BY: \_\_\_\_\_

*Date Received: 2-4-2008*

No. FNR 08-082  
Notice of Full Nonrenewal  
Page 2

**NOTE to Applicants:** This form can be used to nonrenew only one Land Conservation Contract. If your application involves more than one Assessor's Parcel Number (APN) and said APNs are under different contracts (or are under different vestings/ownerships), then you must file separate Nonrenewal applications for each contract or vesting. Please contact RMA staff (at 559-733-6291 or address above) for verification, if more than one APN is applied for.

(Below For Official Use Only)

The County of Tulare RMA, Planning Division, has advised the Clerk of the Board of Supervisors that the foregoing Notice of Nonrenewal applies to the following Land Conservation Contract:

Agricultural Preserve No. 3595 Land Conservation Contract No. 10353

Recorded on (Date) 2-23-77 as Document No. 9296

Name(s) of Original/Contract Owner(s) Richard M. Dally & Florence M. Dally

According to the information provided, such Notice of Full Nonrenewal was served upon the County of Tulare by filing the completed Notice with the appropriate processing fees with the Board of Supervisors of the County of Tulare on January 5, 2009  
(Date Served)

Dated: 1/5/09

Denise A. Ybarra  
Deputy Clerk of the Board of Supervisors of the County of Tulare

STATE OF CALIFORNIA )  
COUNTY OF TULARE )

On January 5, 2009 before me, a Deputy Clerk Wanna Bush of the Board of Supervisors of the County of Tulare, appeared Denise A. Ybarra who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person 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 by hand and official seal.

Clerk of the Board of Supervisors  
County of Tulare, pursuant to the  
Authority of Civil Code  
Sections 1181 and 1184.

Signature: Wanna K. Bush  
Deputy Clerk



COPIES SENT TO:  
RMA, Planning Branch  
Assessor - 2  
State Dept. of Conservation

DATE: 1-15-09

(01/1/08)

FNR No. 08-002

Page 3

## "Exhibit A"

Legal Description of land affected by this "Notice of Full Nonrenewal of Land Conservation Contract"

**PARCEL NO. 1:**

The North half of the North half of the Southwest quarter of Section 17, Township 18 South, Range 25 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the Official Plat thereof.

Excepting therefrom that portion conveyed to the State of California, by Deed recorded in June 22, 1971 in Book 2972, Page 207 as instrument No. 25011 of Official Records.

Also excepting therefrom that portion lying East of the West line of the former Atchison, Topeka Railroad right of way, as described in a Deed recorded April 24, 1897 in Book 81, Page 25 of Deeds.

Also excepting therefrom that portion deeded to the City of Visalia, by deed recorded May 13, 1992 document No. 92-034884.

**PARCEL NO. 2:**

All that portion of the Northwest quarter of Section 17, Township 18 South, Range 25 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the Official Plat thereof, lying South and East of the following described line.

Beginning at the West quarter corner of said Section 17; thence North 89°38'02" East along the South line of the Northwest quarter of said Section 17, a distance of 49.15 feet to a point in the Easterly right of way line of State Highway 63; thence North 88°48'54" East, 1266.91 feet to a point lying 18.11 feet North of said South line of the Northwest quarter of Section 17, and 13.12 feet West of the West line of the Southeast quarter of the Northwest quarter of said Section 17; thence North 0°26'35" East, 616.45 feet to a point lying 30.71 feet South of the North line of the Southeast quarter of the Southwest quarter of the Northwest quarter of said Section 17, and 9.68 feet West of the East line of the Southwest quarter of the Northwest quarter of said Section 17; thence North 72°34'36" East, 218.65 feet; thence North 84°50'41" East, 1132.46 feet to a point in the East line of the Northwest quarter of said Section 17, lying 128.90 feet North of the Northeast corner of the Southeast quarter of the Southeast quarter of the Northwest quarter of said Section 17.

Excepting therefrom that portion deeded to the City of Visalia in deed recorded May 13, 1992, document No. 92-034884.

**BEFORE THE LOCAL AGENCY FORMATION COMMISSION**  
**OF THE**  
**COUNTY OF TULARE, STATE OF CALIFORNIA**

In the matter of the proposed annexation to the                    )  
City of Visalia and detachment of the same territory            )  
From CSA No. 1, LAFCO Case 1505-V-446                            ) **RESOLUTION NO. 14-XXX**  
Visalia Annexation 2014-01, Riverway                                )

**WHEREAS**, application has been made to this Commission pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.) for approval of a proposal to annex certain territories described in attached Exhibit “A” made a part hereof; and

**WHEREAS**, this Commission has read and considered the Resolution of Application and application materials, the report of the County Surveyor and the report and recommendations of the Executive Officer, all of which documents and materials are incorporated by reference herein; and

**WHEREAS**, on October 1<sup>st</sup>, 2014, this Commission heard, received, and considered testimony, comments, recommendations and reports from all persons present and desiring to be heard concerning this matter.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:**

1. The information, material and facts set forth in the application, the report of the County Surveyor, and the report of the Executive Officer (including any corrections), have been received and considered in accordance with Government Code

Section 56668. All of said information, materials, facts, reports and other evidence are incorporated by reference herein.

2. The Commission hereby finds that there is no substantial evidence that said reorganization will have a significant effect on the environment, and certifies that the Commission has independently reviewed and considered the information contained in the Negative Declaration approved by the City of Visalia for the proposed annexation in compliance with the California Environmental Quality Act of 1970, as amended, prior to taking action on said annexation. Accordingly, said Negative Declaration is hereby incorporated by reference herein.

3. The Commission has reviewed and considered, in accordance with Government Code Section 56668, the information, materials and facts presented by the following persons who appeared at the Public Hearing and commented on the proposal:

XXXXXX

4. All notices required by law have been given and all proceedings heretofore and now taken in this matter have been and now are in all respects as required by law.

5. Based upon the evidence and information on the record before it, the Commission makes the following findings of fact:

- a. This proposal is for the annexation of territory consisting of 135 acres of land.
- b. Less than 12 registered voters reside in the affected territory and 100% landowner consent was received.
- c. The proposal is consistent with the findings and declarations of GC Section 56001.

6. Based upon the evidence and information on the record before it and the

findings of fact made above, the Commission makes the following determinations:

- a. The boundaries of the proposed reorganization (annexation to the City of Visalia and detachment from County Service Area #1) are definite and certain and conform to lines of assessment.
  - b. There is a demonstrated need for municipal services and controls and that the City has the capability of meeting this need.
  - c. There is a mutual social and economic interest between the residents of the city and the proposed annexation territory.
  - d. The proposed annexation is compatible with the City's General Plan.
  - e. The proposed annexation represents a logical and reasonable expansion of the annexing municipality.
  - f. The proposed reorganization complies with the policies and priorities of the Cortese-Knox-Hertzberg Act, GC Section 56377
  - g. Said territory does not receive any type of governmental services and control furnished by County Service Area No.1.
  - h. The proposed reorganization promotes the mutual social and economic interests of the people in the area and will contribute to the logical, orderly and reasonable development of the local government in the community.
7. Waive the protest hearing for this proposal in accordance with GC §56662(a) and order the change of organization without an election.
8. Approve the change of annexation, to be known as LAFCO Case No. 1505-V-446 subject to the following conditions:
- A.) No change be made to land use designations or zoning for a period of two years after the completion of the annexation, unless the city council makes a finding at a public hearing that a substantial

change has occurred in circumstances that necessitate a departure from the designation or zoning.

B.) The City of Visalia shall succeed to Contract No. 4060 and 10353 and shall not provide any services for land uses or activities not allowed under the contracts for the remaining life of the contracts.

C.) The applicant must provide the required filing fee for the Statement of Boundary Change that is to be submitted to the BOE prior to the recording of the Certificate of Completion.

8. The following short form designation shall be used throughout these proceedings:

LAFCO Case No. 1505-V-446, City of Visalia Annexation No. 2014-01

9. The Executive Officer is hereby authorized and directed to mail certified copies of this resolution as required by law.

10. The Executive Officer is hereby authorized and directed to sign the Notice of Determination on behalf of the Commission and file said notice with the Tulare County Clerk pursuant to Section 21152 (a) of the Public Resources Code.

The forgoing resolution was adopted upon motion of Commissioner XXXX and seconded by Commissioner XXXX, at a regular meeting held on this 1 day of October 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

ce

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# **TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 (559) 624-7274 FAX (559) 733-6720

COMMISSIONERS:  
Steve Worthley, Chair  
Juliet Allen, V-Chair  
Rudy Mendoza  
Allen Ishida  
Cameron Hamilton

October 1, 2014

ALTERNATES:  
Mike Ennis  
Dennis Mederos  
Janet Hinesly

TO: LAFCO Commissioners, Alternates, Counsel

FROM: Cynthia Echavarria, Staff Analyst

EXECUTIVE OFFICER:  
Ben Giuliani

SUBJECT: Sphere of Influence Amendment for the Tulare County  
Resource Conservation District, Case 1506

## **Background**

The Tulare County RCD was formed in April of 1974 through the consolidation of El Mirador, Terra Bella, Stone Corral, Three Rivers and the Tule River Soil Conservation Districts (SCD's). A SOI has not yet been established for Tulare County RCD.

The Tulare County RCD works with a broad spectrum of agencies at the state and Federal level. Federal agencies include NRCS, US Fish and Wildlife Service and the US Forest Service. State agencies include the Department of Conservation, the California Fire Safe Council, the Sierra Nevada Conservancy, California Integrated Water Management Board, California Association of Resource Conservation Districts and the Department of Fish and Game. Local agencies include the Integrated Regional Water Management Project and the Tule River Indian Reservation.

## **Discussion**

The commission will consider the proposed SOI for the Tulare County Resource Conservation District (TCRCD). The TCRCD is located fully within Tulare County. The proposed SOI for TCRCD encompasses all of Tulare County, extending from the northern to the southern County boundary and excluding area within Excelsior Kings River RCD, Tulare Lake RCD and Kern Valley RCD boundaries. Tulare County Resource Conservation Districts (RCDs) is an independent "single purpose" special district organized under the State Public Resources Code, Division 9 (Sections 9000-9078).

There is a proposed change of organization where the Sierra RCD is detaching the portions of their district within Tulare County. It is anticipated that the Tulare RCD will apply for the annexation of these areas within Tulare County. The SOI needs to be adopted to allow for TCRCD's annexation of the detached Sierra RCD area within Tulare County.

### **Environmental Impacts:**

Tulare County LAFCO has determined this project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15061(b)(3).

CEQA Regulation Section 15061(b)(3) states "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." There are no land use changes or environmental impacts created or recommended by the SOI update. If the Commission approves and adopts the SOI updates and determines that the projects are exempt from CEQA, staff will prepare and file a notice of exemption.

### **Municipal Service Review**

Neither the LAFCO statute nor the OPR Guidelines specifically prescribe which agencies and what services are subject to municipal service reviews. Therefore, it is left to each LAFCO to establish review parameters.

In determining the parameters for their reviews, Tulare County LAFCO considered a number of factors, among them the prevailing definitions of municipal services, the agencies that are subject to sphere of influence determinations, and certain characteristics of local governments and the services they provide which would support their inclusion or exclusion from the service review schedule. Conservation Districts have been determined to be exempt from municipal service reviews.

### **Impact on Prime Agricultural Land, Agriculture and Open Space:**

No urban development or loss of open space and prime agricultural land would result with establishment of this SOI because the purpose of Tulare County RCD is resource conservation.

### **Required Determinations**

GC §56425(e) requires that in determining the Sphere of Influence of each local agency the Commission shall consider and prepare a written statement of its determinations with respect to certain factors prior to making a decision.

- (1) The present and planned land uses in the area, including agricultural and open-space lands.*

The full spectrum of land uses occur within the proposed SOI area. However, no change in land use would result with the establishment of the SOI.

- (2) The present and probable need for public facilities and services in the area.*

Tulare County RCD area will continue to supply resource conservation services and programs.

*(3) The present capacity of public facilities and adequacy of public services.*

The RCD has the capacity to provide resource conservation services and programs now and in the future.

*(4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

Tulare County Resource Conservation Districts (RCDs) is an independent “single purpose” special districts organized under the State Public Resources Code, Division 9 (Sections 9000-9078). The proposed action appears consistent with the relevant social and economic communities of interest.

**Recommendations:**

It is recommended that this SOI be approved and that the Commission take the following actions:

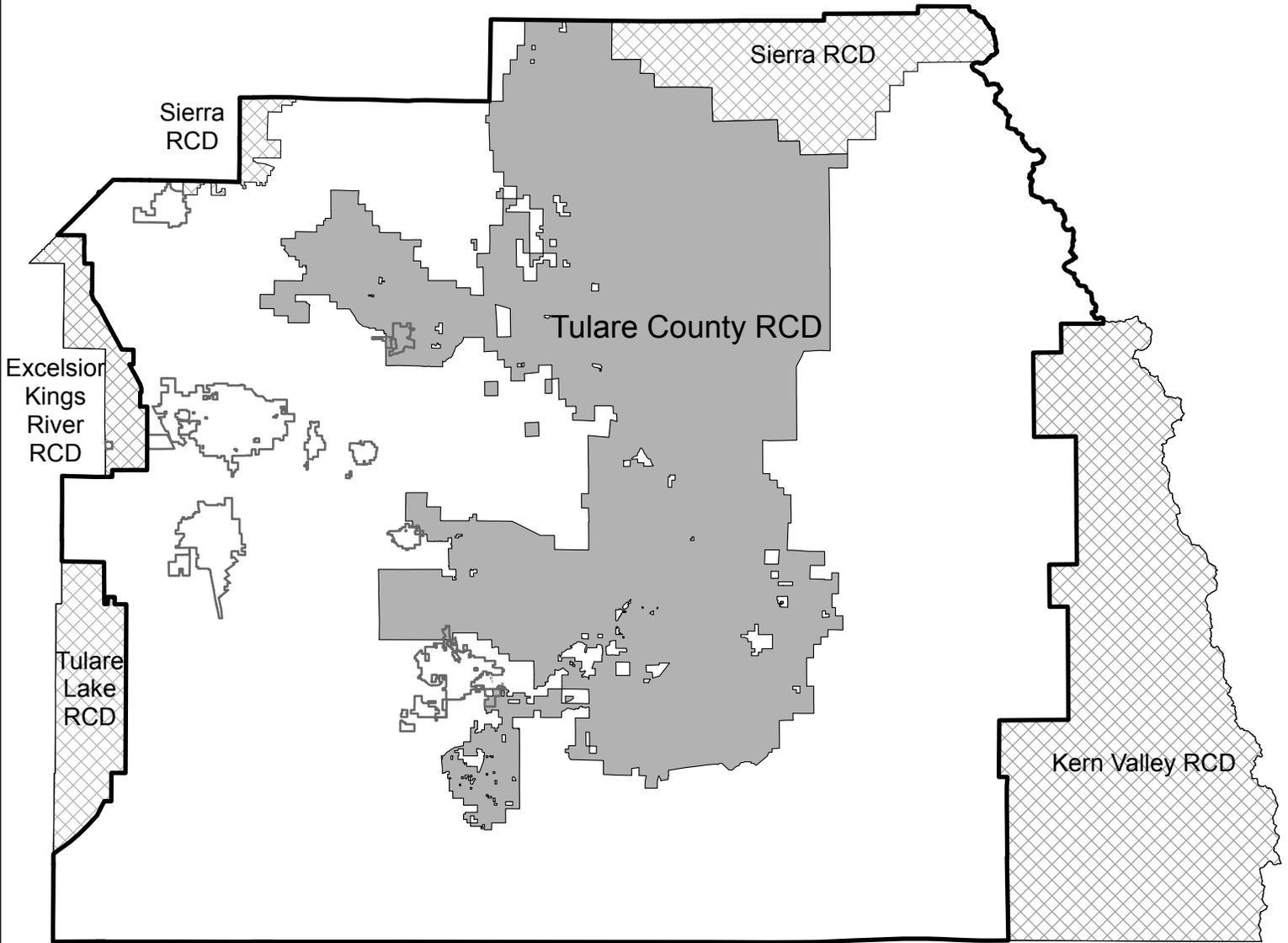
- A. Determine the establishment of the Sphere of Influence to the Tulare County Resource Conservation is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3).
- B. Adopt the written statement of determinations and find that the proposed establishment of the Sphere of Influence complies with the GC Section 56425.
- C. Find that pursuant to GC §56426.5(b) (2), the proposed establishment of the SOI will not adversely affect the continuation of any Williamson Act contracts beyond their current expiration dates.
- D. Approve the Spheres of Influence as requested to be know as LAFCO Case 1506, Tulare County Resource Conservation District SOI Amendment, as identified within Figure 1.

**Figures & Exhibits**

Site Location Map  
Resolution

# Tulare County Resource Conservation District

Proposed Sphere of Influence



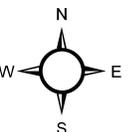
## Legend

 Proposed SOI

 Tulare County RCD

 Other RCDs

 Cities



0 5 10 15 20 Miles



**BEFORE THE LOCAL AGENCY FORMATION COMMISSION**  
**OF THE**  
**COUNTY OF TULARE, STATE OF CALIFORNIA**

In the Matter of the Proposed Sphere of )  
Influence for the Tulare County Resource ) **RESOLUTION NO. 14-XX**  
Conservation District, LAFCO Case No. 1506 )

**WHEREAS**, pursuant to Government Code Section 56425, Local Agency Formation Commissions are required to establish, periodically review and revise or amend Sphere of Influence boundaries; and

**WHEREAS**, this Commission has adopted a Sphere of Influence Policy which requires that wherever possible, the Spheres of Influence for each of the incorporated cities and various special districts which provide urban services to unincorporated communities in the County reflect a twenty year growth area; and

**WHEREAS**, the Commission has read and considered the reports and recommendations of the Executive Officer; and

**WHEREAS**, on October 1, 2014 this Commission heard, received, and considered testimony, comments, recommendations and reports from all persons present and desiring to be heard concerning this matter.

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:**

1. The boundaries of the Sphere of Influence amendment are definite and certain as shown in Exhibit A.

2. The information, materials, and facts set forth in the application and the reports of the Executive Officer, including any corrections, have been received and considered in accordance with GC §56427.

3. The Commission has reviewed and considered the information, materials and facts presented by the following persons who appeared at the public hearing and commented on the proposal:

XXXX

4. All required notices have been given and all proceedings taken in this matter have been and now are in all respects taken in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended.

5. Pursuant to Commission Policy C-5.11, Conservation Districts have been determined to be exempt from municipal service reviews and meeting the requirements of GC §56425(b).

6. Pursuant to GC §56426.5(b), the Commission finds no urban development or loss of open space and prime agricultural land would result with establishment of this SOI because the land within the Tulare County RCD is used for agriculture and open space.

7. The Commission has considered the following criteria as required under GC §56425(e):

*(1) The present and planned land uses in the area, including agricultural and open-space lands.*

*The full spectrum of land uses occur within the proposed SOI area. However, no change in land use would result with the establishment of the SOI.*

(2) *The present and probable need for public facilities and services in the area.*

*Tulare County RCD area will continue to supply resource conservation services and programs.*

(3) *The present capacity of public facilities and adequacy of public services.*

*The RCD has the capacity to provide resource conservation services and programs now and in the future.*

(4) *The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.*

*Tulare County Resource Conservation Districts (RCDs) is an independent "single purpose" special districts organized under the State Public Resources Code, Division 9 (Sections 9000-9078). The proposed action appears consistent with the relevant social and economic communities of interest*

8. The Tulare County LAFCO has determined this project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15061(b)(3). There is no possibility that the SOI updates may have a significant effect on the environment because there are no land use changes associated with the documents. If the Commission approves and adopts the SOI updates and determines that the projects are exempt from CEQA, staff will prepare and file a notice of exemption.

9. The Commission hereby finds that the proposed amendment to the TCRCD Sphere of Influence is in compliance with the Cortese-Knox-Hertzberg Act, GC §§56425:56430 and 56377, and Tulare County LAFCO Policy and Procedure section C-5, Spheres of Influence.

10. The Sphere of Influence for the TCRCD is hereby amended as shown in Exhibit A.

11. The Executive Officer is hereby authorized and directed to sign and file the Notice of Exemption with the County Clerk.

The foregoing resolution was adopted upon the motion by Commissioner XXX, and seconded by XXX, at a regular meeting held this 1st day of October, 2014 by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

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Ben Giuliani, Executive Officer

ce



# TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:  
Steve Worthley, Chair  
Juliet Allen, V-Chair  
Rudy Mendoza  
Allen Ishida  
Cameron Hamilton

October 1, 2014

ALTERNATES:  
Mike Ennis  
Dennis Mederos  
Janet Hinesly

TO: LAFCO Commissioners, Alternates, Counsel  
FROM: Ben Giuliani, Executive Officer  
SUBJECT: Proposed Amendment to Policy C-6 (Extraterritorial Service Agreements)

EXECUTIVE OFFICER:  
Ben Giuliani

## Background

Government Code section 56133 authorizes LAFCOs to act on proposals to extend services beyond the jurisdictional boundary of a local agency, where the territory subject to receiving such services is within the affected agency's sphere of influence and outside the affected agency's sphere of influence to respond to an existing or impending threat to public health or safety of the affected residents.

## Discussion

Existing policy gives the Executive Officer delegated authority to approve extraterritorial service agreements (ESAs) within an agency's sphere of influence (SOI) while ESAs outside the SOI are subject to a noticed public hearing before the Commission. This proposed policy amendment would make the following primary changes:

- Delegated authority would be given for ESAs that would not facilitate new development while the Commission would act on cases that do involve new development (regardless of location inside or outside a SOI). The purpose of this amendment is to speed the ESA review process for emergency situations that may occur outside SOIs.
- A noticed public hearing is not required for ESAs in State law. Rather than a noticed public hearing, ESAs subject to Commission action would be agendized pursuant to the Brown Act. The purpose of this amendment is to reduce costs and speed the review process (a 72 hour agenda posting instead of a 21 day public notice in a newspaper).

Attached is the amended policy for ESAs. This draft policy amendment was distributed to local agency staff on June 19<sup>th</sup> and reviewed at the City Managers' Meeting on July 10<sup>th</sup>. Only affirmative comments have been received to date.

The Commission reviewed the draft amendment at the August 6<sup>th</sup> meeting. The clause in section 6.2, "would not facilitate new development" was replaced with "provide services to existing development".

**Recommendation**

Approve the amendment to Policy C-6, Extraterritorial Service Agreements.

**Attachments**

Proposed Amended Policy C-6  
Resolution

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-6

**Effective Date:** February 6, 2002

**Authority:** Government Code §56133, LAFCO Resolutions 94-007, 01-006, 02-006

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**Title:** **Extraterritorial Service Agreements**

**Policy:** The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes LAFCO approve proposals to extend services beyond the jurisdictional boundary of a local agency, where the territory subject to receiving such services is within the affected agency's sphere of influence in anticipation of a later change of organization.

**Purpose:** To set clear standards for applying state and local laws governing the extension of services beyond the jurisdictional boundaries of the provider agency.

**Scope:** This procedure applies to proposals LAFCO receives seeking the extension of services beyond the jurisdictional boundaries of the provider agency.

**History:** This policy was adopted with the original Manual on 2/6/02.

**Procedure:**

**6.1. The Commission has determined that those proposals which meet the following criteria may be approved by the Commission**

- A. The affected territory is within the subject agency's sphere of influence. The Commission may authorize a city or district to provide new or extended services outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:
  - i) The agency applying for the contract approval has provided the Commission with the documentation of a threat to the health and safety of the public or the affected residents.
  - ii) The Commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the Commission.
- B. The affected territory is ineligible for near-term annexation for reasons outside the control of the provider-agency or deteriorated public health or safety conditions within the affected territory justify an emergency extension of services.

- C. The provider-agency has completed a California Environmental Quality Act review for the proposed extension of services.
- D. The provider-agency has submitted a complete application and processing fees to LAFCO. ***A complete application includes the following:***
  - i) A letter from the applying agency listing the service(s) to be provided, the location and reason for the extension of the service(s) and why annexation isn't feasible.***
  - ii) The agreement between the agency and the affected parties to be served.***
  - iii) CEQA documentation.***
- E. There is a demand or need for the extension of such services at the time at which the extension is brought to the Commission for review.

**6.2.** The LAFCO Executive Officer is authorized to review and approve or deny, on behalf of the Commission, proposals by cities and special districts to extend services beyond their jurisdictional boundaries, ~~where the proposed extension area is within the adopted sphere of influence of the affected local agency and to~~ ***for*** services which are already provided by the local agency within the agency's adopted boundary ***and which provide services to existing development.***

***A. In cases where the Executive Officer recommends denial of a proposed service extension, that proposal shall be placed on the agenda of the next Commission meeting for which adequate notice can be given.***

**6.3.** The LAFCO Executive Officer is authorized and required, upon ***a complete*** application, to set a public hearing ***place the request*** for the consideration by the Commission ***on the agenda of the next Commission meeting for which adequate notice can be given***, of any proposal by a city or district to extend service ~~outside the agency's sphere of influence~~ ***to facilitate new development***, or to extend to territory outside the agency's boundary a service which is not already provided by the local agency within the agency's jurisdictional boundary.

***A. Districts must first activate a new service pursuant to GC §56824.10, et al, before extending a new service outside its jurisdictional boundary.***

**6.4** ***For Commission review of ESAs, noticing requirements are followed pursuant to the Brown Act (GC §54954.2(a)).***

**6.5.** Fees- refer to policy B-2

**BEFORE THE LOCAL AGENCY FORMATION COMMISSION  
OF THE  
COUNTY OF TULARE, STATE OF CALIFORNIA**

In the Matter of the Amendment     )  
Of Policy and Procedure C-6         )  
Extraterritorial Service Agreements    )

**RESOLUTION NO. 14-0##**

Upon motion of Commissioner x, seconded by Commissioner x, Tulare County LAFCO Policy C-6 (Extraterritorial Service Agreements) is hereby amended to update Executive Officer and Commission review requirements for ESAs, at a regular meeting held on this 1st day of October, 2014, by the following vote:

AYES:

NOES:

ABSTAIN:

PRESENT:

ABSENT:

\_\_\_\_\_  
Ben Giuliani, Executive Officer

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# **TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

COMMISSIONERS:  
*Steve Worthley, Chair  
Juliet Allen, V-Chair  
Rudy Mendoza  
Allen Ishida  
Cameron Hamilton*

October 1, 2014

ALTERNATES:  
*Mike Ennis  
Dennis Mederos  
Janet Hinesly*

TO: LAFCO Commissioners, Alternates, Counsel  
FROM: Ben Giuliani, Executive Officer  
SUBJECT: Proposed Amendment to Policy B-2 (Processing Fees)

EXECUTIVE OFFICER:  
*Ben Giuliani*

## **Background**

Government Code section 56021, in addition to annexations, detachments and formations, defines the activation of a special district's latent power as a change of organization. A latent power is a service that a district is authorized to perform but is not currently being exercised. A district must receive approval from LAFCO before a latent power can be activated by the district. Currently, Policy B-2 lists the fee for a change of organization as \$3,476.

## **Discussion**

Most cases involving the activation of a district's latent power would require substantially less analysis and staff time to process than most other changes of organization like an annexation or formation. Listed below are the fees from neighboring LAFCOs for the activation of latent powers:

- Fresno - \$2,000 for each power up to a maximum of \$5,600
- Kern - \$500
- Kings - \$500 (plus any actual costs exceeding \$500)

Staff is proposing to set a separate fee for the activation of a latent power from the standard change of organization fee. The proposal is to set the fee at \$500 plus any actual costs exceeding \$500 as is used in Kings County. The base fee would cover the required public notice and enough staff time for simple cases while allowing for the flexibility of charging for additional actual costs for the occasional more complicated cases that would require more in-depth analysis and review. As with other changes of organization, the project proponent for the activation of a latent power must arrange for a pre-consultation meeting with staff pursuant to Policy B-1 (Pre-Consultations) prior to the submission of the project to review the details of the proposal.

Pending Commission review, this proposed policy amendment would be brought back to the next Commission meeting for action.

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**TULARE COUNTY  
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Cameron Hamilton

ALTERNATES:  
Mike Ennis  
Dennis Mederos  
Janet Hinesly

EXECUTIVE OFFICER:  
Ben Giuliani

September 3, 2014

City of Porterville  
291 N Main St  
Porterville, CA 93257

Re: Extraterritorial Service Agreement No. 2014-04 (City of Porterville/Johnson)

This is to inform you that your request for an Extraterritorial Service Agreement, submitted to the Tulare County Local Agency Formation Commission (LAFCO) on September 3<sup>rd</sup>, 2014, (ESA No. 2014-04), is hereby approved by the Executive Officer. Approval of this agreement is in accordance with Government Code Section 56133 and Tulare County LAFCO Resolution 94-07. The agreement permits the City of Porterville to provide municipal water service for existing development on APN 270-010-007 (344 Worth Avenue).

Should you have any questions, please contact me at 623-0450 or [bgiuliani@co.tulare.ca.us](mailto:bgiuliani@co.tulare.ca.us).

Sincerely,

Benjamin Giuliani, Executive Officer  
Tulare County LAFCO

Cc: Clinton and Cathy Johnson



**TULARE COUNTY  
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

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Cameron Hamilton

ALTERNATES:  
Mike Ennis  
Dennis Mederos  
Janet Hinesly

EXECUTIVE OFFICER:  
Ben Giuliani

September 12, 2014

City of Porterville  
291 N Main St  
Porterville, CA 93257

Re: Extraterritorial Service Agreement No. 2014-05 (City of Porterville/Valencia)

This is to inform you that your request for an Extraterritorial Service Agreement, submitted to the Tulare County Local Agency Formation Commission (LAFCO) on September 11<sup>th</sup>, 2014, (ESA No. 2014-05), is hereby approved by the Executive Officer. Approval of this agreement is in accordance with Government Code Section 56133 and Tulare County LAFCO Resolution 94-07. The agreement permits the City of Porterville to provide municipal water service for existing development on APN 270-150-001 (76 E Yates Avenue).

Should you have any questions, please contact me at 623-0450 or [bgiuliani@tularecog.org](mailto:bgiuliani@tularecog.org).

Sincerely,

Benjamin Giuliani, Executive Officer  
Tulare County LAFCO

Cc: Emelia Valencia



**TULARE COUNTY  
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

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Rudy Mendoza  
Allen Ishida  
Cameron Hamilton

ALTERNATES:  
Mike Ennis  
Dennis Mederos  
Janet Hinesly

EXECUTIVE OFFICER:  
Ben Giuliani

September 12, 2014

City of Porterville  
291 N Main St  
Porterville, CA 93257

Re: Extraterritorial Service Agreement No. 2014-06 (City of Porterville/Hernandez)

This is to inform you that your request for an Extraterritorial Service Agreement, submitted to the Tulare County Local Agency Formation Commission (LAFCO) on September 11<sup>th</sup>, 2014, (ESA No. 2014-06), is hereby approved by the Executive Officer. Approval of this agreement is in accordance with Government Code Section 56133 and Tulare County LAFCO Resolution 94-07. The agreement permits the City of Porterville to provide municipal water service for existing development on APN 270-160-003 (69 E Yates Avenue).

Should you have any questions, please contact me at 623-0450 or [bgiuliani@tularecog.org](mailto:bgiuliani@tularecog.org).

Sincerely,

Benjamin Giuliani, Executive Officer  
Tulare County LAFCO

Cc: Fabiola Hernandez



**TULARE COUNTY  
LOCAL AGENCY FORMATION COMMISSION**

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

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Rudy Mendoza  
Allen Ishida  
Cameron Hamilton

ALTERNATES:  
Mike Ennis  
Dennis Mederos  
Janet Hinesly

EXECUTIVE OFFICER:  
Ben Giuliani

September 23, 2014

City of Porterville  
291 N Main St  
Porterville, CA 93257

Re: Extraterritorial Service Agreement No. 2014-07 (City of Porterville/Ohnemus)

This is to inform you that your request for an Extraterritorial Service Agreement, submitted to the Tulare County Local Agency Formation Commission (LAFCO) on September 22<sup>nd</sup>, 2014, (ESA No. 2014-07), is hereby approved by the Executive Officer. Approval of this agreement is in accordance with Government Code Section 56133 and Tulare County LAFCO Resolution 94-07. The agreement permits the City of Porterville to provide municipal water service for existing development on APN 247-200-001 (587 W Westfield Avenue).

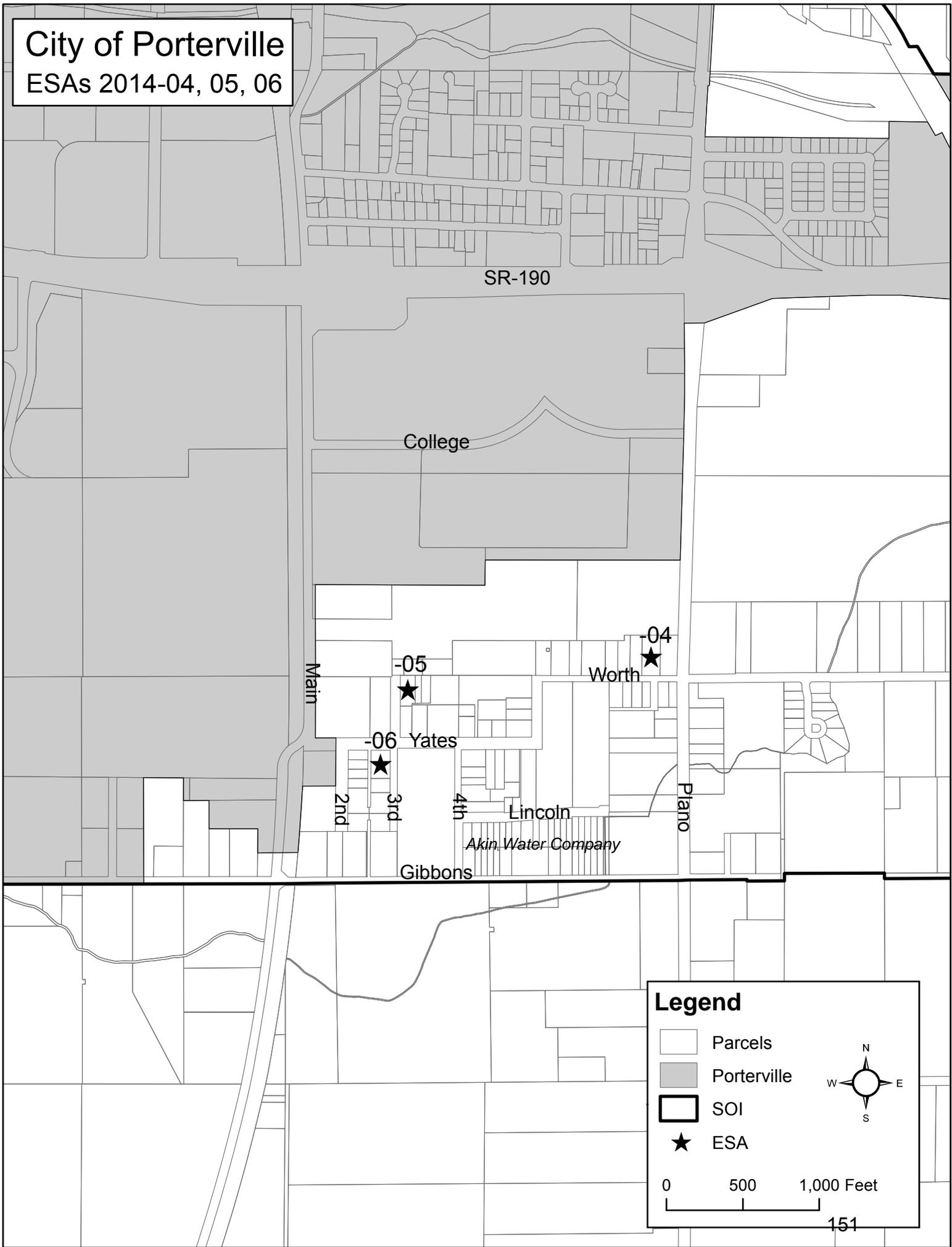
Should you have any questions, please contact me at 623-0450 or [bgiuliani@tularecog.org](mailto:bgiuliani@tularecog.org).

Sincerely,

Benjamin Giuliani, Executive Officer  
Tulare County LAFCO

Cc: Randall Ohnemus

City of Porterville  
ESAs 2014-04, 05, 06

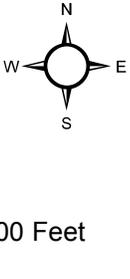


**Legend**

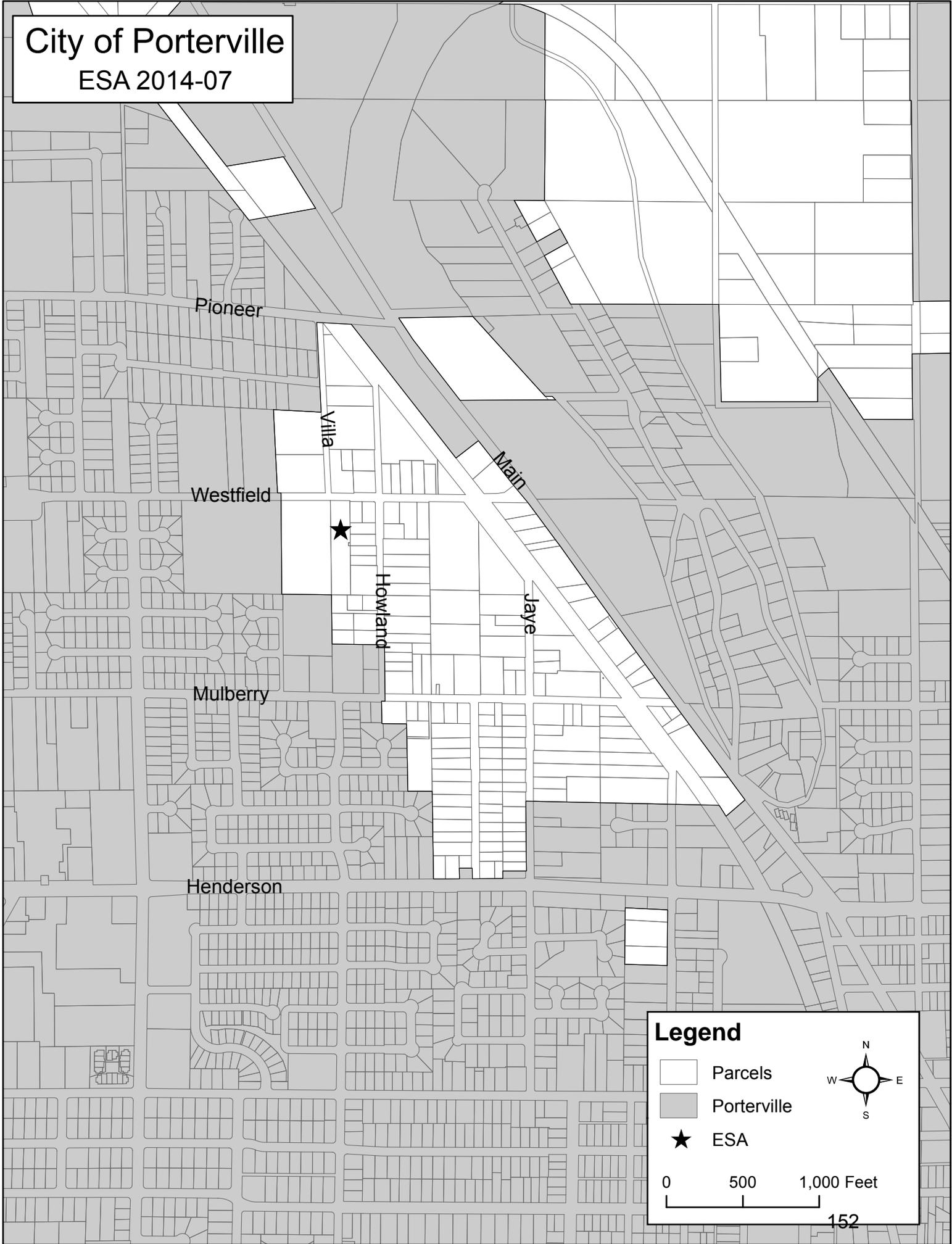
- Parcels
- Porterville
- SOI
- ★ ESA

0 500 1,000 Feet

151



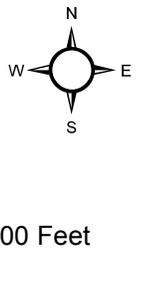
City of Porterville  
ESA 2014-07



**Legend**

- Parcels
- Porterville
- ★ ESA

0 500 1,000 Feet



152