

Regular Meeting Agenda - Revised Visalia City Council



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

Monday, March 1, 2010

City Hall Council Chambers, 707 W. Acequia, Visalia CA 93291

Closed Session 4:30 p.m. Work Session 5:00 p.m.

Regular Session 7:00 p.m.

4:30 p.m. CLOSED SESSION

1. Public Employee Release, Discipline or Dismissal (G.C. §54957)
2. Conference with Legal Counsel – Anticipated Litigation. Significant exposure to litigation pursuant to subdivision (b) of G.C. §54956.9: Three potential cases
3. Conference with Labor Negotiators (G.C. §54957.6)
Agency designated representatives: Steve Salomon, Eric Frost, Diane Davis
Employee Organization: All employee groups

5:00 p.m. WORK SESSION AND ACTION ITEMS

4. Update regarding Council of Cities negotiations with Tulare County on a potential memorandum of Understanding regarding the Tulare County General Plan Update. **Receive public comment.**

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

ITEMS OF INTEREST

7:00 p.m. **REGULAR SESSION**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION – Rev. Jason Backlund, Visalia Community Covenant Church

MOMENT OF SILENCE – in Honor of fallen Fresno County Law Enforcement Officers

SPECIAL PRESENTATIONS/RECOGNITION - Police Activities League Board presentation regarding Youth Leadership Program – Officer Rick Johnson VPD

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

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

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

5. INFORMATION ITEMS – (No action required)

- a) Receive Planning Commission Action Agenda for the meeting of February 22, 2010.

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

- a) Authorization to read ordinances by title only.
- b) Accept the City of Visalia Cash and Investment Report for the second quarter ending December 31, 2009.
- c) Authorize the City Manager to approve an agreement with the County of Tulare for the continuation of ALERT TC (Reverse 911) for a period of three years at \$28,000 per year starting in FY 2010/11.
- d) Accept the FY09 State Homeland Security Grant Award to the Visalia Fire Department in the amount of \$78,808 for Hazardous Materials Response Team equipment and materials.
- e) Authorize an appointment by the Kaweah Delta Health Care District Board of Directors of one of their members to the General Plan Update Review Committee.
- f) First reading of Ordinance adding Chapter 8.66 and sections 8.66.010 and 8.66.020 to the Visalia Municipal Code prescribing authority to make and enforce a policy governing retention and destruction of routine video monitoring records. **Ordinance 2010-01 required.**

- g) Authorization to add one (1) full time police officer to fill a grant-funded position on the Tulare County Interagency Narcotics Enforcement Team (I-NET), sign and enter into the I-NET agreement and appropriate the money to implement the position.
- h) Authorization to record the final parcel map of Tentative Parcel Map No. 2008-15, located at northeast corner of Hillsdale Avenue and Shirk Road (4 Lots) (APN: 085-650-059), and Amendment to Landscape and Lighting District No. 07-08, Oakwest No. 7. **Resolution Nos. 2010-08 and 2010-09 required.**
- i) Approval of a letter to the Visalia Cal Ripken organization supporting their efforts to bring the 2011 12-year old World Series to Visalia.
- j) Ratify letter of support for TCAG's efforts in obtaining a California Department of Transportation Planning Grant to prepare a Visalia/Tulare Community Transit Study to improve transportation opportunities between the two communities over the next five years.

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

- 7. Authorize implementation of the following downtown one-way conversions: 1) Main Street One-Way Eastbound Conversion between Garden Street and Santa Fe Street, 2) Garden Street One-Way Southbound Conversion between Center Street and Main Street and 3) Center Street One-Way Westbound Conversion between Bridge Street and Santa Fe Street; and authorize the expenditure of up to \$200,000 from Measure R Local and \$300,000 from Gas Tax for this project.
- 8. *Request from staff to postpone Public Hearing to March 15, 2010*
PUBLIC HEARING - Introduction of Ordinance for a Development Agreement for Tentative Parcel Map No. 2006-09: A request by Di Mello Toscana Inc. to enter into a Development Agreement with the City of Visalia related to the required infrastructure improvements for Tentative Parcel Map No. 2006-09, which divides 9.76 acres into nine parcels. The site is located on the north side of Goshen Avenue, approximately 850 ft. east of Shirk St. APNs: 077-720-001 thru 007, 077-730-001 and 077-730-002. **Ordinance required.** *Continued from 2/16/10.*
- 9. Accept the Comprehensive Annual Financial Report (CAFR) for the City of Visalia, the Single Audit Report, and the Component Unit Financial Statements for the Redevelopment Agency of the City of Visalia for the 2008-09 fiscal year.

CLOSED SESSION REPORT (if any)

Upcoming Council Meetings

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

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

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

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

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

*A quote from
Visalia's past:*

"And now we hurry home, stopping for a day at Visalia—we think one of the most beautiful of all the beautiful towns in our beautiful State, a village amid trees and through which runs a river, and on the banks of which the vegetation is semi-tropical; a village of health and beauty, scandalized by jealous neighbors; a village whose streets are thronged in business, and in the suburbs of which are vine-covered trees, embowered cottage homes, and homes of greater pretensions and architectural attractions; a village surrounded by the best and best-improved lands of Tulare County." Words of Frank M. Pixley, newspaperman and namesake for the town of Pixley, California. Visalia Weekly Delta, August 12, 1886.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 1, 2010

Agenda Item Number (Assigned by City Clerk): 4

Agenda Item Wording: Update regarding Council of Cities negotiations with Tulare County on a potential Memorandum of Understanding regarding the Tulare County General Plan Update

Deadline for Action: None

Submitting Department: Administration/Community Development

Contact Name and Phone Number:

Mayor Bob Link
Mike Olmos, Assistant City Manager 713-4332
Alex Peltzer, City Attorney 636-0200

Department Recommendation: Consider the information regarding the history and current status of negotiations between Tulare County and the Council of Cities on a Memorandum of Understanding (MOU) for the Tulare County General Plan Update; provide direction as appropriate.

Summary: This report is intended to provide Council with an overview of the history of Tulare County's General Plan Update (GPU) and accompanying Environmental Impact Report (EIR) process and an update on the current status of negotiations between the Council of Cities and the County regarding certain policies contained in the GPU. Also to be discussed is a summary of the items currently being negotiated and areas still needing resolution as discussed in the letter from Council of Cities to Tulare County Supervisors Phil Cox and Steve Worthley dated January 28, 2010 (Exhibit 1). Council discussion and direction on these topics is requested to assist Mayor Link, Visalia's representative on the Council of Cities, in the negotiation process.

Topics of Concern

The concerns of the Council of Cities on the County GPU are straightforward. The versions of the County's General Plan Update document provided to the Council of Cities have consistently contained several significant policy changes that are objectionable to the Cities. These proposed County policy changes include, but are not limited to:

- Moving away from a "City centered" growth strategy that this prevailed in the County for several decades. This strategy has directed population growth primarily to incorporated cities because our cities have the full range of urban infrastructure and services to

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 30

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

accommodate growth. Unincorporated communities with urban service capacity (primarily sewer and water) have also received growth. Other areas of the County have primarily remained Exclusive Agriculture in keeping with the Valley's predominant agricultural economy. The new proposed County strategy would encourage development on unincorporated lands around cities and along major transportation corridors (Hwy 99, 65, Mooney), in many small pockets of rural residential areas around the County having very limited services and in new cities, such as Yokohl Valley.

- Significantly weakening the long standing "annexation referral policy" contained in the current Tulare County General Plan. This policy currently establishes a policy requiring referral of proposals for development projects within city Urban Development Boundaries (UDBs) to affected cities for potential annexation and development.
- Invoking a new County policy allowing "Regionally Significant Proposals" to bypass the referral policy and allow development to occur on County lands within City UDBs and Urban Area Boundaries (UABs) without referral to cities for annexation. Regionally Significant Proposals include development projects that have been determined by the County to "confer substantial financial benefits upon countywide operations, or any other relevant factor considered on a case by case basis". **Regionally Significant Projects will allow Tulare County to approve large commercial, industrial, or other development projects within designated City urban development areas.**
- Invoking a new County policy allowing establishment of "Urban Corridor Plans" and "Regional Growth Corridor Plans" along Highway 99, Highway 65, and Mooney Boulevard. **Corridor Plans will encourage the development of regional commercial developments, industrial developments, office parks, and highway commercial developments inside City UDBs and UAB.**

The County has offered to remove the threat of development on unincorporated lands around our cities if the cities will agree to significant financial concessions to benefit the County. These concessions include an increased share of sales taxes, a share of transient occupancy taxes (referred to as TOT) and imposition of County Development Impact Fees on development occurring in the Cities. The sales and TOT tax shares would be applied to areas of future expansion of City UABs. County Development Impact Fees would apply to all development occurring in the City after date of fee implementation.

The Cities have a strong interest in the County remaining financially stable and in establishment of effective planning policies around our cities. Therefore, the Council of Cities has concluded it is reasonable to negotiate the financial concessions being requested by the County. However, the Council of Cities has been very clear that in return for financial concessions by the Cities, the County must agree to establish land use policies within our planning areas (UDBs and UABs) that:

- Establish a "City centered" growth strategy to continue directing population growth to cities;
- Establishing the Urban Development Boundary as a 20 year City Planning area and the Urban Area Boundary as a 50 year City Planning area;
- Prohibit "regionally significant" and "regional growth corridor" development potential;
- Prohibit rezonings and conditional use permits for urban uses inside City UDBs;
- Consider rezonings and conditional use permits for urban uses inside City UABs only through application of the Rural Valley Lands Plan;
- Eliminate the many loopholes in County agricultural zoning around our communities that allow rural residential development and parcelization over time.

These points continue to be the crux of the Council of Cities position. The Council of Cities has expressed willingness to provide economic concessions to the County if these points are agreed to; to date, the County has not agreed to these points.

Policy Shift

The proposed policy changes in the proposed County General Plan Update signify a profound shift in land use philosophy by the Board of Supervisors. The current County General Plan, which has been in place for several decades, has a strong agricultural orientation, promotes city centered population growth, and allows limited growth in designated rural communities with available urban services. The proposed new General Plan policies encourage development in many unincorporated areas where the County has not previously sought urban growth.

The versions of the proposed County General Plan Update that have been made available to the Council of Cities take a markedly different approach to land use than currently exists. The new plan will encourage urban development on unincorporated lands in many areas of the County where development was not previously promoted, including inside City UDBs (potentially next to city limits) and UABs, including along major transportation corridors such as Highway 99, Highway 65, and Mooney Boulevard. These areas have previously been reserved for future urban growth as extensions of Cities through gradual annexation.

The County is focusing on increased urban development on unincorporated land as a way to improve the County's financial condition. Development enables the County to potentially collect property taxes, sales taxes, transient occupancy taxes, and development impact fees as is typically done by cities. Areas adjacent to cities have high potential for urban development and are therefore prime areas for the County to establish development opportunities.

While the Cities fully understand the County's fiscal issues, there are serious public policy concerns about development occurring on unincorporated lands within our UDBs and UABs, including the following:

1. Development proposals occurring in the County will not achieve densities or land use patterns contemplated in City General Plans. This will lead to inefficient land use, urban sprawl, higher infrastructure costs and inability to meet regional AB 32/SB 375 and San Joaquin Valley Blueprint targets.
2. County planning programs are directed primarily at agricultural land uses, and are not adept at issues and design techniques associated with urban development. This will create poorly designed and improved neighborhoods and problems in assimilating County developments into the City in the future. Cities will incur increased costs in extending infrastructure in and around these poorly designed unincorporated neighborhoods in the future.
3. The County is not proficient at providing services to and maintenance of urban developments. When County developments are annexed to the City, lack of urban services and proper maintenance has created financial burdens on Cities. There are many examples of this condition throughout the County. In Visalia, the annexation of the "Birdland" neighborhood in North Visalia is an example where lack of infrastructure and maintenance by the County has resulted in significant costs to the City after the area was annexed.
4. If the County engages in commercial and industrial development within City UABs, it will be in direct competition with the Cities. This will result in the City and County being pitted against each other in competing for desirable commercial and industrial developments. The result is that the "winner" will be the entity that allows development to move forward with concessions such as financial incentives, minimal infrastructure improvements and poor design standards. This is poor public policy that will eventually

result in higher costs to the community, spreading of maintenance costs over all taxpayers, and strain on services, including public safety.

While it is worth considering sharing increased sales tax and TOT, it should be recognized that **Tulare County receives a higher percentage than cities of property tax generated by development occurring on lands inside of cities.** As an example, the attached table (Exhibit 2) entitled Estimated Annual Property Tax Distribution – North Plaza Drive Industrial Park shows the estimated distribution of property taxes at various stages of development for the 480 acre Vargas/MSJ annexation in the Industrial Park. The table shows that the County will receive more financial property tax benefit from the development of the Vargas/MSJ property than will the City of Visalia. Further, the City will provide all urban services, including public safety, to the property though the City will receive less property tax benefit.

Brief History of Tulare County General Plan Update

A comprehensive update to the Tulare County General Plan was initiated by the Board of Supervisors in July 2003. A team of consultants was hired by the County to assist in the GPU process, with Mintier and Associates of Sacramento as the lead consulting firm.

Initially, a Technical Advisory Committee was assembled by the County to provide stakeholder input in the GPU process. The Committee was comprised of representatives from each city, local organizations, the building industry, agriculture, unincorporated communities, and a variety of other interests. The Committee met several times in the early stages of the County's GPU process.

The County's consultant team presented the Technical Advisory Committee with a Policy Alternatives document dated July 2005 (Exhibit 3). The document analyzes several growth issues and identified three primary growth alternatives: 1. City Centered Alternative (80% of population growth to be directed to incorporated cities, 15% to selected unincorporated communities, 5% to rural areas); 2. Transportation Corridors Alternative (70% population growth to cities, 25% to unincorporated communities focusing on Highways 99 and 65 corridors, and 5% to rural areas); and 3. Rural Communities Alternative (70% population growth to cities, 25% to unincorporated communities with available infrastructure, and 5% to rural areas).

Strong preference was expressed by city representatives on the Technical Advisory Committee that the County retain focus on the City Centered Alternative. Based on the technical analysis prepared by the County's consulting team, it was clear that the Cities could absorb much more than 80% of future population growth. This approach also continued long standing land use practices in the County to direct population primarily to Cities and to unincorporated communities able to provide sewer and water services.

On August 10, 2005, the City Council sent a letter to the Tulare County Board of Supervisors (Exhibit 4) with recommendations on the County GPU based on discussions occurring at the Technical Advisory Committee. Included in the recommendations was strong support for the City Centered Growth Alternative, and a recommendation that at least 90% of future population growth be directed to the cities. The letter also suggested that discussions be initiated on increased revenue sharing with the County to prevent fiscalization of land use policy in the County GPU.

The meetings of the Technical Advisory Committee were abruptly halted before a Draft Plan was completed. No notice or explanation for terminating the Committee was given. The

County's consulting team responsible for preparing the GPU policy document was also released soon thereafter. The County Planning Staff took over responsibility for preparing the Draft GPU, working directly with the Board of Supervisors in a series of work sessions.

On April 2, 2007, the City Council reviewed the first draft of the County GPU policy document. At that time, it became evident that the County would pursue a growth oriented General Plan Update, including encouraging development on unincorporated lands within City UABs/UDBs and along major transportation corridors, including Highway 99 and Mooney Boulevard. The proposed GPU included provisions for new towns (Yokohl Valley) and encouraged growth in established unincorporated communities and in "hamlets", (a new planning concept in the County identifying very small rural developments with very little urban services as areas able to accommodate growth). It became clear at this point that the County was moving away from the County's traditional City Centered growth model. On May 7, 2007, a letter was sent from then-Mayor Jesus Gamboa expressing the City Council's concerns on numerous planning issues and reiterating Visalia's preference for a City Centered Growth Strategy and willingness to discuss increased revenue sharing. A copy of this letter is attached (Exhibit 5).

In 2007, other Cities in the County were also expressing concerns about the direction the County GPU was taking. Staff from the Cities began meeting informally to share information and analysis on the GPU. This effort transitioned into the formation of the Council of Cities, a consortium of all the cities in the County with an elected Council Member from each City as a member. Mayor Bob Link is the City of Visalia's current member on the Council of Cities, and Council Member Mike Lane is the alternate. The Council of Cities continues to meet periodically as needed to discuss the County GPU and other issues affecting all the Cities.

The Draft Environmental Impact Report for the County's GPU was released for public review and comment on January 14, 2008. Recognizing the great detrimental impact that the County's proposed growth policies will have, the Council of Cities hired attorney Tamara Galanter of the law firm Shute, Mihaly and Weinberger to work with technical staff from the Cities to prepare a comprehensive set of comments on the Draft EIR for the Council of cities. On April 11, 2008, Ms. Galanter submitted a 45 page comment letter and extensive supporting attachments to Tulare County outlining the many concerns of the Council of Cities on the Draft EIR and the County GPU Goals and Policies document. A copy of Ms. Galanter's letter is attached (Exhibit 6).

Following the review period on the Draft EIR, the Board of Supervisors and Council of Cities agreed to initiate negotiations on the potential removal of objectionable language in the County GPU in exchange for increased sales taxes and TOT to the County in future UDB expansion areas, along with consideration of implementation of County development impact fees on development occurring inside Cities. These negotiations were intended to result in the eventual establishment of a Memorandum of Understanding (MOU) between the Council of Cities and Tulare County. The MOU would specify that in return for removal or modification of objectionable policies in the County's General Plan Update allowing development on unincorporated lands inside UDBs and UABs of incorporated Cities, the Cities would agree to:

1. Negotiate on a City by City basis the sharing with County of Transient Occupancy taxes and increasing County shares of sales taxes in future expansion areas for City UDBs. (Note: During negotiations, the Cities and County tentatively agreed that Urban Development Boundaries would be updated for all cities before this provision would go into effect, and that updated UDBs and LAFCo Sphere of Influence should be made coterminous).
2. Undertake processes for establishment of County Development Impact Fees that would be levied on development occurring inside Cities.

In Fall 2009, a “Subcommittee” was established to facilitate the negotiations. The Subcommittee is comprised of Mayor Bob Link of Visalia and Vice Mayor Phil Vandergrift of Tulare representing the Council of Cities, and Supervisors Phil Cox and Steve Worthley representing the Board of Supervisors. These elected representatives are supported by technical staff from both the Cities and County.

The Subcommittee met on October 1, October 15, and December 2 in 2009. On December 2, it appeared that the terms of an MOU had been worked out and technical staff from the Cities and County was directed to incorporate the terms into a draft agreement for presentation to the Council of Cities and Board of Supervisors. On December 11, the technical staff met to review a final draft agreement. Representing the Council of Cities at that meeting were Mike Olmos, Brad Dunlap (Porterville), Dan Meinert (Dinuba) and Alex Peltzer (attorney for Council of Cities), and representing the County were Jake Raper (Director of Resource Management Agency), Julia Roberts (Deputy County Counsel) and David Bryant (Senior County Planner). At that meeting, the County staff informed the Cities representatives that the terms of an agreement tentatively agreed to on December 2 would not be acceptable to the Board of Supervisors. Instead, a new, fully re-written draft agreement was presented by the County that was significantly different from the terms discussed on December 2.

The County’s new proposal is graphically depicted on the colored display table entitled “County Proposal – December 2009” (Exhibit 7) which is also included as an attachment in the January 28, 2010 letter (Exhibit 1). This proposal contains numerous terms that are objectionable to the Cities, including several loopholes allowing the County to permit development inside City UDBs and UABs.

The Council of Cities sent the January 28th letter (Exhibit 1) to the Supervisors Cox and Worthley containing a response to the County’s most recent proposal. Included in the letter is a graphic representation of the Council of Cities proposal with a detailed explanation. Of significance, **the Council of Cities proposal re-states the terms agreed upon during the Subcommittee meeting on December 2, 2009 at which Mayor Link, Vice Mayor Vandergrift, Supervisor Cox and Supervisor Worthley were present.**

County Development Impact Fees

The most immediate fiscal impact of the County’s proposal would be imposition of development impact fees to offset costs of County services caused by growth on unincorporated lands and inside cities. To implement County impact fees, each City would be requested to hold necessary public hearings and take action to incorporate County fees into City DIF programs. Cities would then pass County fees collected from future development to the County.

During the negotiations, the Cities raised the issue of development on nearby County lands impacting the Cities. The Cities have indicated that DIFs must be reciprocal, with the County levying City DIFs on developments on unincorporated lands within our UAB.

Exhibit 8 shows the impact of county DIFs, as currently proposed, on a 2000 sq. ft. single family home. The County Fees would increase total fees (including City building permit and DIFs, and Visalia Unified School District fees) by 28% from the current \$20,278.87 to \$ 25,958.87.

Next Steps

A response to the January 28 letter was sent to the Council of Cities from Jean Rousseau, the County Administrative Officer. (see Exhibit 9). The response appears to add little to the current status of the discussions, and in fact seems to confirm that, although points of agreement have been arrived, there are still differences between the parties. The letter indicates that the County intends to release for public review a revised GPU Goals and Policies document and revised Draft EIR in late February. Supervisor Cox has stated that the revised GPU will include alternate sets of policies for urban growth on unincorporated lands within UDBs and UABs of incorporated Cities. One set will be for Cities that agree to revenue sharing and County development impact fees, and another set will be for those that will not agree. At this time it cannot be determined what the alternate sets of policies will look like.

After receiving the revised GPU and Draft EIR, the Council of Cities and the individual cities will evaluate future steps. These could include further attempts at negotiating an MOU to revise policy language in the County's GPU. It will also likely include submitting further comprehensive written comments on the County's Goals and Policies document and accompanying EIR in preparation for potential future legal challenge.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives: N/A

Attachments:

Exhibit 1- Letter from Council of Cities to Tulare County dated January 28, 2010

Exhibit 2- Estimated Annual Property Tax Distribution Table

Exhibit 3- Tulare County General Plan Policy Alternatives (July 2005)

Exhibit 4- Correspondence from Mayor Link to Tulare County Board of Supervisors (August 10, 2005)

Exhibit 5- Correspondence from Mayor Gamboa to Tulare County Board of Supervisors (May 7, 2007)

Exhibit 6- Correspondence from Shute, Mihaly & Weinberger LLP to Tulare County Resource Management Agency (April 11, 2008)

Exhibit 7- County Proposal Diagram – December 2009

Exhibit 8- Table – Single Family Residence Impact Fee Estimate

Exhibit 9 – Correspondence from Jean Rousseau, County Administrative Officer dated February 16, 2010

Recommended Motion (and Alternative Motions if expected): Discussion and direction as appropriate.

Environmental Assessment Status

CEQA Review: NA

NEPA Review: NA

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

Copies of this report have been provided to:

Tulare County Board of Supervisors
Tulare County Administrative Officer Jean Rousseau
Tulare County RMA Director Jake Raper
Visalia Chamber of Commerce
Visalia Economic Development Corporation
Visalia Hispanic Chamber of Commerce
Visalia Community Forum
Home Builders Association

COUNCIL OF CITIES



CITY OF DINUBA
CITY OF FARMERSVILLE
CITY OF PORTERVILLE
CITY OF VISALIA

CITY OF EXETER
CITY OF LINDSAY
CITY OF TULARE
CITY OF WOODLAKE

January 28, 2010

Chairman Steve Worthley
Supervisor Phil Cox
Tulare County Board of Supervisors
2800 W. Burrell
Visalia CA 93277

Dear Chairman Worthley and Supervisor Cox:

This letter contains the response of the Council of Cities to the most recent proposal by Tulare County regarding planning policies in the draft Tulare County General Plan Update being discussed in conjunction with a potential Memorandum of Understanding.

General

The Tulare County Council of Cities has spent considerable time, effort and money in the process of meeting with the County of Tulare to achieve a true "City Centered Growth" focus to the County's General Plan. This has been a frustrating process because the County representatives have, through their words, stated their desire to implement a City Centered Growth focus, but in deeds and in the specific terms that they ultimately have stuck to, it is clear they are not interested in this focus.

The Council of Cities, representing all of the eight incorporated cities of Tulare County, is united on this subject, and has unanimously endorsed this letter, as indicated by the signatures of elected officials from all eight member Cities.

The attached Diagram, titled "Cities' Proposed Compromise", is explained in more detail below. The members of the Council of Cities are unanimous in supporting this compromise, and are also unanimous in their view that this is in fact a significant compromise that does not, by any means, achieve all or even most of what the Cities had hoped to achieve in this process.

The Cities are primarily frustrated over the fact that County elected officials, during face to face meetings with City elected offices, expressed support for the concepts depicted in the Cities' Proposed Compromise diagram. However, when it came time to put this agreement in writing, it was apparent that the County elected officials had no intention of agreeing to these points.

The Cities are providing the attached Diagram with explanation bullet points as a means of demonstrating the reasonableness of their approach, and in clarifying what they believe the County had agreed to, but is now not willing to commit in writing.

Compromises on Growth Issues

The fundamental concept the Cities are committed to furthering is that the areas surrounding their jurisdictions need to be protected from poorly planned growth to a much greater degree than has occurred over the past 20 to 40 years. No one seems to dispute that fact, though the current Board of Supervisors claim that past decisions were made as a result of poor policies established many years ago, which they have no choice but to follow. Even assuming that to be the case, the Supervisors should welcome, not oppose, an effort to establish more modern, effective and reasonable controls on growth in the areas immediately surrounding each City. Not only is this necessary in the current environment, but it will become even more important if the County, as it appears poised to do, broadens the ability to develop in the unincorporated areas through policies that are being proposed through the County's General Plan Update.

The primary compromises the Cities have agreed to include:

- The Cities are no longer asking the County to consider reasonable down-zones in areas surrounding their jurisdictions that were never intended to be zoned anything other than agriculture.
- The Cities are no longer asking the County to revise zoning provisions in ag zones to eliminate the more industrial types of uses that are currently allowed in County Agricultural zones.
- The Cities have agreed to use of the Rural Valley Lands Plan as a reference for determining when agricultural land may be rezoned to urban uses, instead of an outright prohibition on such rezoning, in the more distant areas surrounding cities (outside the current Sphere of Influence ("UDBs" or twenty year growth planning area), but within the fifty year planning area ("UABs").
- The Cities have agreed that no additional controls, other than future planning requirements, need be placed on urbanized development in city fringe areas that also lie within current unincorporated planning areas.
- The Cities have agreed that current industrialized uses on ag-zoned lands that become vacant may be reused, with certain reasonable limitations, without having to annex into a city or conform to a city's planning documents.
- The Cities have not sought to limit the County's ability through the General Plan Update to promote urban development in new cities, towns or unincorporated communities and "hamlets" outside the areas of influence surrounding the incorporated cities. Even though urban development outside of the established cities can have indirect, and even some direct, negative impacts on the ability of the incorporated cities to grow in a uniform and predictable manner, and even though the Cities are concerned about these impacts, the Cities, as a compromise, have taken this issue off the table before the negotiations on an MOU even began.

Revenue Agreements

In addition to the compromises described in the Diagram and attached Bullet Point Explanations, the Cities have worked hard to come to agreement with the County on significant revenue sharing measures, including individually negotiated increases in sales and occupancy tax that would be applicable in expanded city areas, as well as mutual development impact fees. Although the Cities did not believe these revenue measures should be treated as conditions, to which they were forced to agree in order for the

County to consent to adopt more responsible growth policies, the Cities have nevertheless conceded to them.

Specific measures the Cities have offered to reach agreement on as a condition to the County's agreement on the above planning measures include:

- Agreement to an increased share for the county of the city's sales and occupancy taxes in areas of expanded City develop (beyond current SOIs), to be negotiated with individual Cities.
- Agreement to implement mutual development impact fees, which would provide County revenue for growth that occurs within the Cities, and City revenue for growth that occurs within their planning areas but outside their current boundaries.

Conclusion

The measures identified above, which the cities have worked hard to achieve agreement on, are significant compromises. Compromising beyond these measures would mean an abandonment of the core concept important to the Cities, namely that Cities should be able to expect the County to preserve areas surrounding their jurisdictions for future City growth. If the County expects the Cities to abandon this concept, then there is no reason to reach agreement, and the Cities will simply resume commenting on the County's General Plan Update as any other interested party.

Despite our frustration with the process the County has chosen to follow to date, the Council of Cities, as a unified unit, remain ready and willing to discuss finalizing the compromise expressed in the attached documents into a formal MOU. We would be disappointed if the County elects to abandon this process now.

Respectfully Submitted on behalf of the Council of Cities,




Terry McKittrick, Ph.D.
Council Member
City of Dinuba



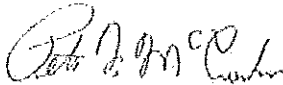
Ted Macaulay
Council Member
City of Exeter



Leonel Benavidez
Mayor
City of Farmersville




Ed Murray
Mayor
City of Lindsay



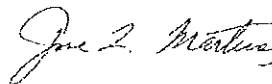
Pete V. McCracken
Mayor
City of Porterville



Phil Vandegrift
Vice Mayor
City of Tulare



Bob Link
Mayor
City of Visalia

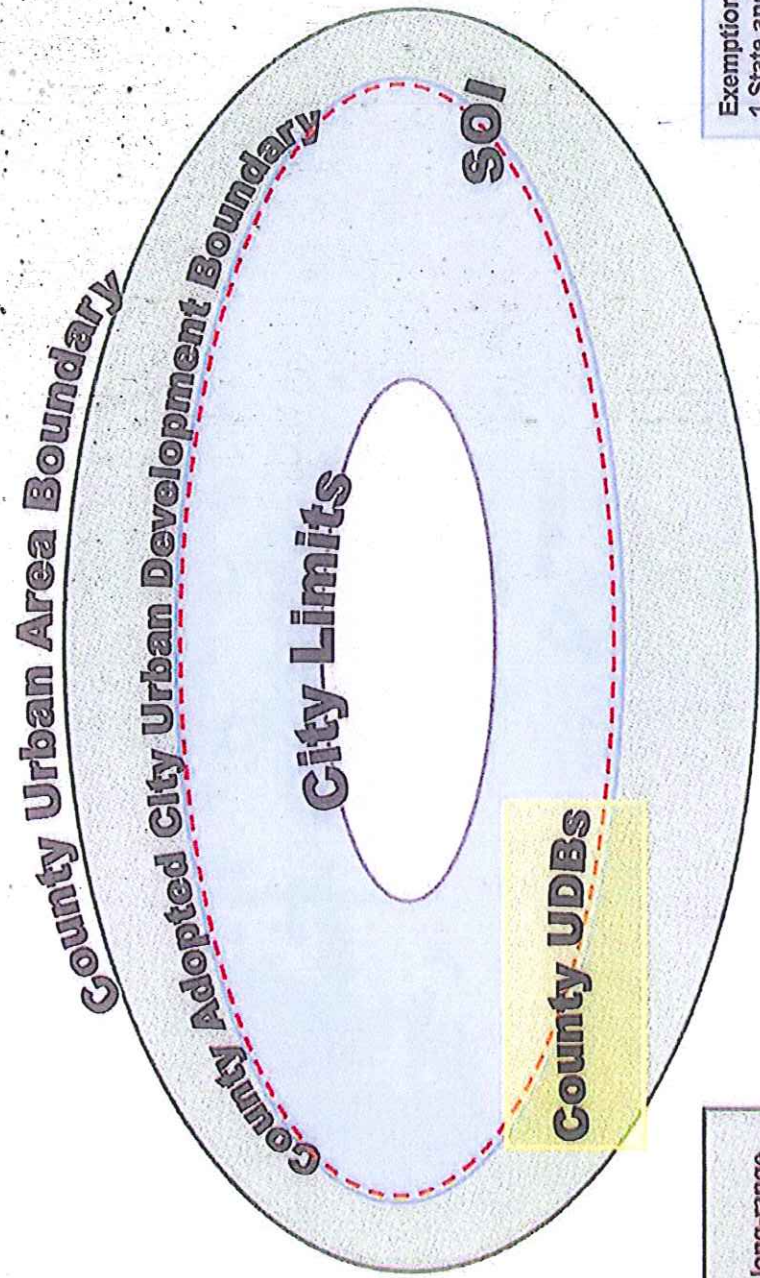


Jose L. Martinez
Council Member
City of Woodlake

Attachments: County Proposal Diagram
Council of Cities Proposal Diagram dated 1-11-2010
Summary

cc: Supervisor Pete Vander Poel
Supervisor Allen Ishida
Supervisor Mike Ennis
Jean Rousseau, County Administrative Officer
Jake Raper, RMA Director
Julia Roberts, County Counsel
Dave Bryant
Tulare County City Managers
Visalia Times Delta
Tulare Advanced Register
Dinuba Sentinel
Porterville Recorder
Exeter Sun Gazette
Fresno Bee
Valley Voice

County Proposal



- In CACUABs:**
1. Compatible long-range infrastructure (ie transportation and utility systems and networks) as shown on city plans
 2. Coordinate to review land use & zoning
 3. Collection of County Impact Fees only
 4. No GP or Zoning Amendment unless it meets RVL/P Checklist
 5. RVL/P applies to PSP, PSV, PPM/TMs
 6. PSPs if no other economically viable use of property

- In City Limits:**
1. Collection of City and County Impact Fees

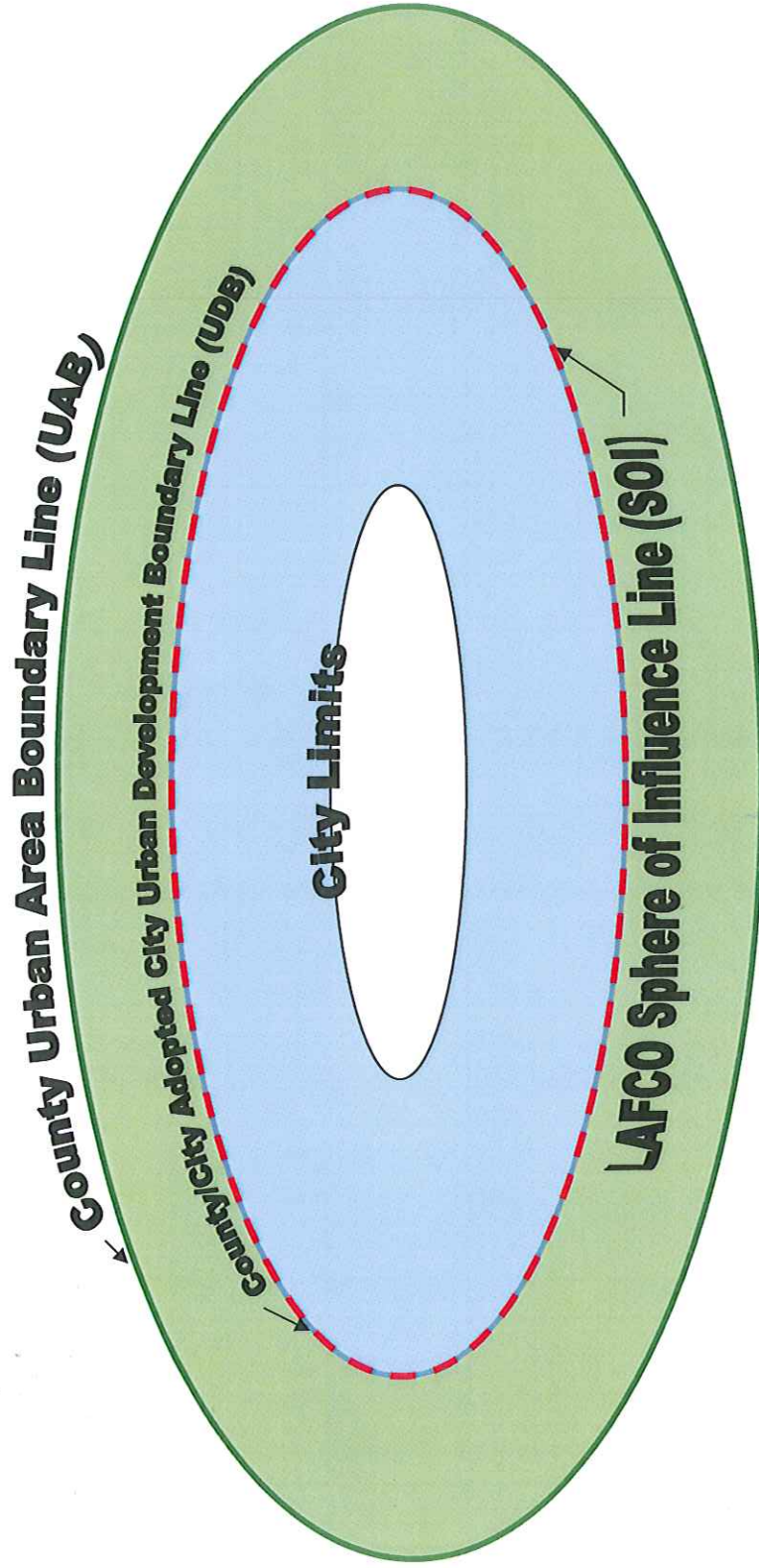
- In SOI:**
1. Refer PSPs to cities for annexations, with set time limits (3/6 months)
 2. Coordinate to propose SOI criteria to LAFCo
 3. Coordinate to propose 50 boundary to LAFCo

- Overlap-County UDBs:**
1. GPA allowed for establishment of new, change, or amendment of Community UDBs, HDB, Corridor Area Plans.
 2. Boundary Expansions
 3. Allow Land Use & Zoning

- In CACUDBs:**
1. No GPAs
 2. No Rezoning
 3. RVL/P Checklist
 4. Collection of City & County Impact Fees
 5. Coordinate to review land use & zoning
 6. Adopt city development standards
 7. Should be continuous with SOI
 8. RVL/P applies to PSP, PSV, PPM/TMs

- Exemptions to CACUDBs:**
1. State and Federal Regs.
 2. Correct inconsistencies in land use
 3. PSPs if no other economically viable use of property
 4. Reuse of Ag. Support facilities
 5. GPA for rezone to Ag. designation
 6. Comprehensive Zoning or GP Update
 7. Comprehensive restructuring text amendments
 8. Alternative GP land use designations or zoning classifications

Council of Cities Proposal



In UAB

- Development can occur on non-agricultural lands as determined by RVLPA
- Development can occur on land currently zoned for non-agricultural use
- Ag processing facilities can be expanded or re-occupied subject to use permit and City consultation
- New development to utilize City standards, financing mechanisms, and irrevocable consent to annex
- No "regionally significant projects"
- Corridor plans Ok but with City consultation
- County to tighten up exceptions in Ag zones

In UDB/SOI

- No County GP amendments or rezoning to non-agricultural uses ("no new entitlements")
- County to tighten up exceptions in Ag zones
- No corridor plans
- No "regionally significant projects"
- New development can occur on lands currently zoned for non-ag use, subject to City standards, financing mechanisms, and irrevocable consent to annex
- Existing community UDB's that encroach into City UDB's are exempt
- Re-occupation of ag processing facilities subject to use permit and City consultation (no expansion)

SUMMARY OF COUNCIL OF CITIES DIAGRAM DATED JANUARY 11, 2010

In UAB

This column presents the Council of Cities proposal for regional land use policies in the area between City Urban Area Boundary (UAB) lines (to be designated as City 50-year planning boundaries) and Urban Development Boundary (UDB) lines (to be designated as City 20-year planning boundaries). Discussion of the bullet points in this column follows:

- Development can occur on non-agricultural lands as determined by RVLPL. This policy proposal indicates agreement with the County's proposal that development may occur on lands identified by the Board of Supervisors as non-agricultural, as determined through the point evaluation process contained in the Rural Valley Lands Plan.
- Development can occur on land currently zoned for non-agricultural use. This point recognizes that certain unincorporated lands inside City UABs, outside UDBs, are currently zoned by the County for non-agricultural uses (rural residential, for example). The Cities recognize that this existing non-agricultural zoning cannot be practically converted to agricultural zoning. Therefore, the Cities agree with the County that lands zoned for non-ag uses should be able to develop in accordance with existing zoning.
- Ag processing facilities can be expanded or re-occupied subject to use permit and city consultation. The Cities will agree with the County's proposal to allow agricultural processing facilities (packing houses, dehydrators, etc.) to be expanded or, if vacant, re-occupied with similar ag processing uses through the use permit process including written consultation with affected Cities.
- New development to utilize City standards, financing mechanisms, and irrevocable consent to annex. New development that is authorized/approved by the County shall utilize the development standards of the affected City, its financing mechanisms for long term improvement and maintenance (City development impact fees, Landscape and Lighting Maintenance Districts, etc.), and must provide an irrevocable, recorded consent to annex to the City. This policy is intended to provide a seamless annexation and transition of the property into the City in the future.
- No "regionally significant" projects. These types of development projects, as defined in Policy PF-1.2-iii in the Draft Tulare County General Plan Update, and in other areas of the document, will be prohibited inside City Urban Area Boundaries.
- Corridor plans OK, but with City consultation. Regional Growth Corridor Plans, as described in Part II, Chapter 2 of the Draft County GPU are permissible within City UABs but outside UDBs, subject to written, meaningful consultation with affected Cities. Corridor plans pursuant to this policy **shall not include** an "Interim Policy" as described in Policy C-1.6 (Part II, Page 2-2) of the Draft County GPU.

- County to tighten up exceptions in Ag zones. The County and Cities shall collaborate on a process to identify "loopholes" in existing land use and land division regulations in Exclusive Agricultural zones applied within City UABs and UDBs that result in inappropriate uses and ongoing small parcelization. This process would result in County-adopted revisions to its ag zones to eliminate these loopholes.

In UDB/SOI

This column presents the Council of Cities proposal for regional land use policies in the area between an updated City/County adopted Urban Development Boundary, coterminous with a LAFCO adopted Sphere of Influence line (excepting "communities of interest"). As discussed in the Draft Memorandum of Understanding, prior to these policies going into effect, the Cities, County and LAFCO shall work together to update UDB and SOI boundary lines. Discussion of the bullet points in this column follows:

- No County GP amendments or rezoning to non-agricultural uses ("no new entitlements"). This policy proposal is a major component of the Cities position. The Cities propose that the County not allow filing of requests for general plan amendments and/or zone changes for non-agricultural zones or uses within City UDBs/SOIs. This area would remain as a holding zone and in agricultural use pending future annexation to Cities consistent with City general plans.
- County to tighten up exceptions in Ag zones. Same as discussion above.
- No corridor plans. Regional Growth Corridor Plans, as described in Part II, Chapter 2 of the Draft GPU (and in other areas of the document), and any interim corridor plans, shall **not** be permitted inside City UDBs/SOIs that are inconsistent with the affected city's General Plan.
- No "regionally significant projects". As discussed above, regionally significant projects, as described in Policy PF-1.2-iii of the Draft County GPU, and in other areas of the document, **will be prohibited** inside City UDBs/SOIs.
- New development can occur on lands currently zoned for non-ag use, subject to City standards, financing mechanisms, and irrevocable consent to annex. Same as in bullets 2 and 4 above under UAB discussion.
- Existing community UABs that encroach into City UDBs are exempt. The Cities recognize that limited situations exist where existing UDBs of unincorporated communities currently encroach into City UABs and UDBs (Goshen is an example). The Cities agree that these **existing** UDB areas of these unincorporated communities shall be exempt from these provisions.
- Re-occupation of existing ag processing facilities subject to use permit and City consultation (no expansion). The Cities agree that **existing** ag processing facilities can be re-occupied with similar ag processing facilities subject to issuance of a special use permit by the County. Affected Cities shall be consulted in writing on the re-occupation application. Expansion of ag processing facilities inside City UDBs/SOIs **shall be prohibited**.

Estimated Annual Property Tax Distribution
North Plaza Drive Industrial Park

	Growth projections (see Note 6)							
	Note 1 Current (Frozen)		Note 2 Annexation		Note 3 Land Improvements		Note 4 Build Out	
	Rate	Revenue	Rate	Revenue	Rate	Revenue	Rate	Revenue
County	20.0%	14,400	15.9%	25,848	15.9%	122,679	15.9%	526,539
Fire	4.9%	3,528	0.0%	3,528	0.0%	3,528	0.0%	3,528
Visalia City	0.0%	0	10.2%	7,344	10.2%	69,462	10.2%	328,542
ERAF	22.0%	15,840	22.0%	31,680	22.0%	165,660	22.0%	724,460
All Others	53.1%	38,232	51.9%	75,600	51.9%	391,671	51.9%	1,709,931
Total	100.0%	72,000	100.0%	144,000	100.0%	753,000	100.0%	3,293,000

Note 1: Current Assessed Value (AV) (outside city)
480 gross acres
15,000 per acre
7,200,000 Total AV
72,000 Annual Tax Revenue (rounded)

Note 2: Projected AV upon annexation (inside city)
480 gross acres
30,000 per acre
14,400,000 Total AV
144,000 Annual Tax Revenue (rounded)

Note 3: Projected AV upon land improvements (street improvements per Note 5, including installation of utilities)
480 gross acres
90% conversion to net acres (see Note 5)
432 net acres
174,240 per acre (\$4 per sq ft)
75,271,680 Total AV
753,000 Annual Tax Revenue (rounded)

Note 4: Projected AV upon build out
480 gross acres
90% conversion to net acres (see Note 5)
432 net acres
25% conversion to building pad
108 net acres
3,049,200 per acre (\$70 per sq ft)
329,313,600 Total AV
3,293,000 Annual Tax Revenue (rounded)

Note 5: Conversion to net acres to account for half width street improvements on perimeter of each 160 acre section plus an interior cul-de-sac to service minimum 10 acre parcels

Note 6: Projected annual revenues were computed by freezing the existing tax allocation (Note 1) and then adding the increase due to annexation, improvements and build out using the new allocation %. No inflation assumptions have been incorporated.

POLICY ALTERNATIVES



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What is a General Plan?

Every county and city in California is required by state law to prepare and maintain a planning document called a general plan. A general plan is designed to serve as the jurisdiction's "constitution" or "blueprint" for future decisions concerning land use and resource conservation. Decision makers in the county will use the Tulare County General Plan to provide direction when making future land use and public service decisions. All specific plans, subdivisions, public works projects, and zoning decisions made by the County must be consistent with their General Plan.

The Tulare County General Plan Update will serve several purposes:

- Provide a description of current conditions and trends shaping Tulare County;
 - Identify planning issues, opportunities, and challenges that should be addressed in the General Plan;
 - Explore land use and policy alternatives;
 - Ensure that the General Plan addresses the needs of all communities, regardless of size;
 - Ensure that the General Plan is current, internally consistent, and easy to use;
 - Provide guidance in the planning and evaluation of future land and resource decisions; and
 - Provide a vision and framework for the future growth of the Tulare County.
- Provide the public opportunities for meaningful participation in the planning and decision-making process;

General Plan Overview

The General Plan will provide policy direction on a broad range of issues concerning community development and environmental quality. These policy directives will be organized by topical headings (or "elements") as follows:

- Land Use and Urban Boundaries
- Scenic Landscapes
- Circulation
- Public Facilities and Services
- Safety
- Environmental Resource Management
- Noise

The purpose of this report is to solicit input from the Board of Supervisors and Planning Commission on the policy directions and land use alternatives highlighted in this report.



Envisioning the Future - Public Input

**Workshop Step #1
Topical Alternatives**

#1 Lindsay
Visalia
Goshen
Visalia EDC
Orosi
Springville
Tipton

#4 Tulare
Three Rivers

Two types of alternatives are presented in this report: topical alternatives and land use alternatives. The topical alternatives addressed in this section were developed based on the key issues ("topics") raised through the public input on the General Plan. The land use alternatives are covered later in this report.

The lists on the left side of the page show the locations of workshops held to date. The flowchart on the bottom of the page gives an overview of the process described below.

During preparation of the General Plan, input from the public will be a vital and ongoing component. There will be five series of community workshops during the development of the General Plan, organized into three steps:

- Step 1. Topical Alternatives
- Step 2. Land Use Alternatives
- Step 3. General Plan Review

Each series of workshops was/will be held in multiple locations throughout the county to ensure everyone has a chance to be involved.

Step #1 relates to "Topical Alternatives." That is, alternatives that address a topic of interest, like economic development. During the first workshop series, the public was asked to identify the key challenges and opportunities that will face the county in the coming years. Generally, all the workshops demonstrated concerns about air and water quality.

The availability of water was also a key issue. There was also concern about the image and economic impacts of the continued conversion of agricultural land to residential development. As in many Central Valley communities, people identified the need to diversify the economic base and provide higher paying year-round employment.

The leading assets identified at workshops featured the county's natural and cultural diversity. Natural and working landscapes (farms) were both linked to an overall quality of life, and also as part of a growing visitor industry. Outstanding farming due to high quality soils was an obvious choice too. The people and communities of the county were put forward as popular assets.

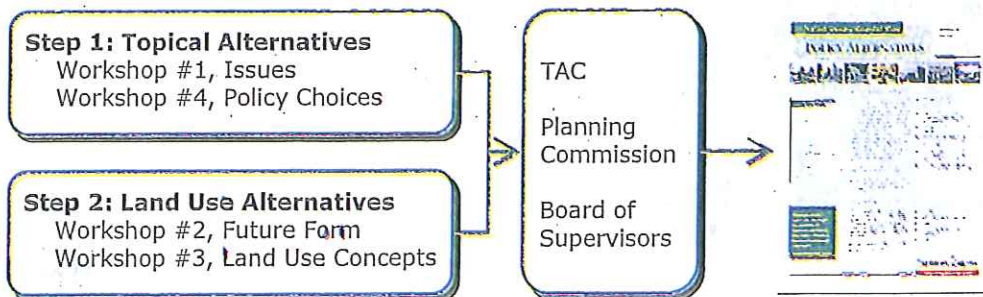
Following the first series of workshops, Workshops 2 and 3 focused on land use alternatives, which are covered later in this report.

From the list of issues and opportunities gathered during Workshop 1, the consulting team, County staff, and the Technical Advisory Committee (TAC) were able to identify 11 topics that were key areas of interest with the public. These 11 "topical issues" were stated in the form of a question and used during Workshop 4 to get public input on the potential solutions or actions that they felt the County should evaluate as part of the General Plan. The 11 topical issues are shown in the text box on the facing page.

**Workshop Step #2
Land Use Alternatives**

#2 Orosi
Pixley
Lindsay

#3 Dinuba
Porterville
Tipton



Workshop Series #1 was used to identify the wide range of opportunities and issues that should be discussed during the preparation of the General Plan. While all input will be used, a majority of the input was found to fall into 11 key issue areas.

For each of the 11 key issues, a question was developed to capture the essence of the public's input. These questions formed the basis of the topical alternatives discussion in this section. The following are the 11 key issues and their related questions.

A. Air Quality. What specific land use and transportation measures should the County undertake to reduce air pollution?

B. Water Supply. What measures can the County take to reduce groundwater overdraft/depletion and improve groundwater quality?

C. Water Quality. What can the County do to ensure an adequate water supply to meet future needs?

D. Education and Training. How can the County encourage higher education and training?

E. Infrastructure. How can the County prevent deterioration of current infrastructure and meet the needs of new development?

F. Economic Diversity. How can the County promote economic diversification?

G. Expanding Tourism. How can the County expand the tourism industry utilizing existing recreational resources?

H. Natural Resources. How can the County meet the needs of a growing population and protect natural resources?

I. Planning Consistency. How can the County achieve greater consistency among plans?

J. Housing for All Incomes. How can the County provide housing opportunities for all income levels?

K. Agriculture. What is the future of agriculture in Tulare County?

L. Land Use. What growth patterns will the County use to accommodate future development?



Topical Alternatives

Based on input from Workshop 4 and subsequent discussions with the Technical Advisory Committee (TAC), Planning Commission, and Board of Supervisors, the 11 topical issues were refined into four key topic areas, and are used to present the Topical Alternatives in this report.

- Economic Development
- Land Use
- Infrastructure
- Natural Resources

The following four pages provide a summary of these four key topic areas. For each one, a summary of the issue is provided. This is followed by two key questions and a series of potential policy responses. The answers to these questions, which were discussed with the TAC and will be discussed with the Planning Commission and Board of Supervisors, will be the basis for the direction taken in preparing the General Plan.





Economic Development

Economic diversity is one of the primary issues in determining the future physical development of Tulare County. Tulare County's economy is primarily driven by three economic sectors: agriculture, food processing, and tourism. Agriculture has been the traditional mainstay of the Tulare County economy. Approximately 29 percent of all jobs in the county are in agriculture, compared to 21 percent of the three-county region consisting of Tulare, Kings, and Kern counties. In 1995 (latest statistics), agriculture and food processing industries comprised 47 percent of the employment in industries considered to be growing, underscoring the importance of these industries throughout the late 1990s.

In addition to the agricultural and food processing industries, the future jobs of Tulare County will most likely diversify, with a focus on durable goods manufacturing, which increased 19 percent between 2000 and 2002, and tourism.

Other areas of potential economic development growth may include:

- Eco-Agri business opportunities
- Industrial incubator zones
- Commercial / industrial development along Highway 99
- Historical sites / scenic highway program

The structure of a community's economy plays an important role in the physical development of a planning area and the stability of the local tax base.

Economic Focus

To what extent should the County rely on traditional agriculture in its economic future versus diversifying the county's economy?

- Strive to maintain agriculture's role in the economy
- Increase agriculture's role in the economy by diversifying value-added agricultural products
- Transportation-oriented industries (i.e., distribution and advanced logistics centers)
- Pursue/develop alternative employment generators (agri-, eco-, national parks-tourism) in unincorporated communities. Expand cooperative marketing efforts with Sequoia National Park/Sequoia National Monument
- Establish business incubators for small business and food processing enterprise
- Make broadband/high speed internet service available throughout the county

Agricultural Sector

What new measures should the County adopt to foster greater productivity in the agricultural sector?

- Utilize higher density standards for development to preserve agriculture
- Restrict urban development outside of Urban Area Boundaries (UABs)/ Urban Development Boundaries (UDBs) to protect prime agricultural lands
- Continue to promote and pursue the development/expansion of confined animal operations (additional dairies/processing)
- Pursue/develop additional/specialty (wine/export) value-added agricultural products
- Pursue agricultural related energy industries (ethanol production)

Land Use



Tulare County has grown by over 122,000 in the past 20 years (1980 through 2000) and is predicted to grow by over 58 percent by 2030 (estimated 2030 population 630,000). Past County growth policies and market forces have directed much of this growth in and immediately around incorporated cities. As of 2000, 61.6 percent of the county population lived in an incorporated city, with another 8.6 percent living within an Urban Area Boundary surrounding the cities. The remaining 29.8 percent of the population was split between unincorporated communities (15.3 percent) and other unincorporated areas (14.5 percent). The General Plan will play a big role in determining future direction (mix of growth in cities and unincorporated communities).

The County will play a role in determining the level of revitalization that occurs in existing communities, economic development efforts, infrastructure improvements, and a concerted effort between community members and County officials/staff to address social issues. Other key facts to consider in determining future land use patterns:

- 38 percent of housing in unincorporated areas are classified as deteriorated or dilapidated.
- There is significant pressure for development of the Highway 99 corridor.
- In 2000, Tulare County had the third highest unemployment rate in CA.

Where to Grow

How much of the future growth (residential, retail and employment) should the County direct to incorporated cities versus unincorporated County?

- Continue with the current population split between city urban areas and unincorporated communities
- Direct more population growth toward unincorporated communities
- Direct more population growth toward city urban areas
- Identify existing communities to support incorporation and growth
- Encourage development in existing UDBs until additional land is required
- Begin active review of strategic non-renewals of Williamson Act contracts in UDBs to support projected growth
- Limit the range of non-agricultural uses in the areas designated/zoned for agriculture

New Towns

Should the County support new town proposals?

The following are mutually exclusive (i.e., only one can be chosen)

- No, consolidate growth within existing urban growth areas to preserve agricultural land
- Yes, but the General Plan needs to identify parameters (i.e., criteria, measurements, etc.) of growth, such as location, land use mix, etc.
- Yes, define areas for new town growth (defined UAB)
- Maybe, consider them on a case-by-case basis

Today Tulare County is composed of mainly open space (52.2%) and agriculture (43.5%).

What is the future land use composition of Tulare County?



Infrastructure

Domestic water and sewer systems in the unincorporated areas of Tulare County are generally small isolated systems providing service to individual communities. Many of these communities do not have adequate infrastructure (parks, water, sewer, streets, etc.) to support anticipated population growth. In most unincorporated communities, inadequate and outdated water supply and sewer systems continue to require repairs while increasing water quality problems underscore the need for updated treatment facilities. In addition, infrastructure improvement financing is limited, limiting the repair and upgrade to these systems. If the county is to continue to grow and add population in any of its unincorporated communities and move towards economic diversity, ade-

quate infrastructure is needed to maintain and enhance the quality of life for county residents.

Other interesting issues that may impact infrastructure upgrades and improvements include:

- Total vehicle miles projected to increase from 9.9 million VMT to 17.1 VMT between 2005 and 2030
- Federal funding may be withheld if clean air efforts are unsuccessful
- Automobiles are projected to remain as the primary transportation mode

The development and quality of life for Tulare County is dependent on the availability of adequate infrastructure.

Directed Infrastructure

Where should infrastructure investments be directed to obtain the greatest pay-off in terms of economic development and improving the quality of life for residents of the unincorporated county?

- Direct infrastructure investments in the communities with the greatest need
- Direct infrastructure investments in the communities with the greatest economic potential
- Direct infrastructure investments in the communities with redevelopment areas
- Consolidate service districts
- Ensure that sufficient water/wastewater treatment is available for unincorporated communities prior to directing additional growth to them
- Change emphasis on roadway maintenance
- Partner with surrounding incorporated areas to build off their infrastructure backbone

Financing Infrastructure

How should new / upgraded infrastructure be financed?

- Continue to pursue State and Federal financing for water and sewer systems and road improvements
- Implement Development Impact Fees which require new development/developers (residential/commercial/industrial) to finance water and sewer systems and roadway improvements
- Develop funding mechanisms for future water and sewer systems and roadway maintenance
- Sales tax increase for repair/construction (provide project specific to gain voter support)
- Develop Assessment Districts for maintenance
- Partner with surrounding incorporated areas to build off their infrastructure backbone

Natural Resources



Tulare County sits in the southern portion of the San Joaquin Valley, where water resources are limited and air quality is declining in quality. Groundwater levels are continuing to drop in portions of the county as usage increases. In some communities in the county, increased water quality issues are also noted.

county residents with asthma and other related diseases.

Both water and air must be addressed as natural resources and be maintained and protected if the county is to continue to grow and provide its residents with adequate and clean water and air.

Poor air quality in Tulare County is primarily the result of vehicle emissions and agricultural related emissions. The quality of air impacts not only the health of county residents, but also the visual beauty of the county. Since 1990, air quality has improved, likely due to increased vehicle emission controls, but poor air quality continues to affect

Water Resources

What can Tulare County do to better manage its water resources?

- Support increased utilization of surface water sources, water import
- Increase groundwater recharge programs
- Meter (price) urban water to manage use
- Implement conservation options by water use type (i.e., landscaping use)
- Protect riparian habitats/waterways
- Upgrade water treatment facilities, encourage recycling/reduction
- Address water contamination sources
- Consolidate single user wells into community service districts (with management plans) when feasible
- Prepare a water export ordinance

Air Quality

What can Tulare County do to improve air quality beyond what is already required by the SJVAPCD?

- Use low emission vehicles for County use
- Encourage the use of low emission vehicles in industry
- Encourage/pursue alternative agriculture practices for the storage/treatment of confined animal operation byproducts
- Develop/promote the use of transit (and alternative transportation), including land use designs that support transit
- Encourage employers to locate in communities to be closer to residential uses and transit services
- Encourage federal agencies to comply with California air quality regulations
- Encourage a high-speed rail stop in Tulare County

Many people see the natural beauty and rural nature of the County as a key to it's quality of life.

Capacity to Grow

The table on the next page shows a breakdown of county population by unincorporated communities and incorporated cities as of 2000. The table also shows the projected population capacity of each community and city based on adopted land use plans and other assumed development patterns as explained in below.

The General Plan Consulting Team conducted an analysis of the remaining residential holding capacity by assessing adopted plans for the communities and the cities. The analysis was organized geographically according to Urban Area Boundaries (UABs), the County adopted ultimate growth boundary for a city or community or Urban Development Boundaries (UDBs), the County adopted 20 year growth boundary.

The first step was assessing available land. This was calculated by measuring the amount of vacant, underutilized residential land, and agricultural land within the UAB/UDB area. Next, where there was an adopted land use plan, the consultants made assumptions on typical residential densities that could be expected based on the density range stated in the adopted plan. In portions of the UAB/UDB where there wasn't an adopted land use plan, the consultants calculated build out based on a set of assumptions, which included the following.

- 90% percent of available land was assumed developable (for Three Rivers, only 10 percent was assumed for development)
- 18% of land was assumed to be used for non-residential uses (commercial, industrial, public, open space)

- 82% was assumed to develop for residential uses. Residential uses were distributed as follows:

- 25% Very Low Density (1 unit/acre)
- 35% Low-Medium Density (4 units/acre)
- 25% Medium Density (7 units/acre)
- 10% Medium-High Density (12 units/acre)
- 5% High Density (20 units/acre)

Based on these assumptions, the analysis showed that the county could hold an additional 950,000 people without designating more land for residential use. The table on the next page shows the estimated remaining population for each area. The three communities with the most available land for development are Cutler-Orosi, Earlimart, and Pixley. The three largest cities in the county - Visalia, Porterville, and Tulare - also have the greatest amount of available land for residential development.

As a basis for assessing available capacity, the three conceptual land use scenarios developed earlier in the program were analyzed. The analysis found that the cities had more than enough capacity to meet future growth in each alternative scenario. The unincorporated communities could meet assumed growth in the City Centered scenario, but some could not in the Community Oriented or Proportional Growth scenarios. However, in all alternative scenarios, the collective available land within the communities was more than enough to meet the assumed growth for non-city development.

As a starting point in looking towards future growth, the capacity of the designated urban growth areas was assessed.

In Tulare County today, there are 29 adopted land use plans:

- 5 Regional Plans
- 14 Community Plans
- 8 City General Plans

The County uses two key terms when defining areas for future growth around existing unincorporated communities and the incorporated cities. **Urban Development Boundary (UDB)** represents the area the County designated as a 20 year growth boundary. The **Urban Area Boundary (UAB)** represents the area designated by the County as an ultimate growth boundary for a city or community.

Capacity within Tulare County*

	2000 City Limits Population	2000 UAB/ UDB Population	Percent of Total	Remaining Capacity	2000 Pop + Capacity
Alpaugh		761	0.2%	721	1,482
Cutler-Orosi		11,809	3.2%	26,753	38,562
Ducor		504	0.1%	4,992	5,496
Earlimart		6,583	1.8%	16,981	23,564
East Orosi		426	0.1%	1,468	1,894
East Porterville		6,730	1.8%	7,358	14,088
Goshen		2,394	0.7%	1,038	3,432
Ivanhoe		4,474	1.2%	4,375	8,849
Lemon Cove		298	0.1%	2,913	3,211
London		1,848	0.5%	4,136	5,984
Pixley		2,586	0.7%	12,114	14,700
Poplar		1,496	0.4%	6,023	7,519
Richgrove		2,723	0.7%	62	2,785
Springville		1,109	0.3%	1,422	2,531
Strathmore		2,584	0.7%	5,416	8,000
Terra Bella		3,466	0.9%	7,221	10,687
Three Rivers		2,248	0.6%	9,889	12,137
Tipton		1,790	0.5%	5,111	6,901
Traver		732	0.2%	1,285	2,017
Woodville		1,678	0.5%	5,083	6,761
Community Subtotal		56,239	15.3%	124,360	180,599
Dinuba UAB	16,844	18,582	5.0%	60,103	78,685
Exeter UAB	9,168	9,963	2.7%	36,055	46,018
Farmersville UAB	8,737	9,910	2.7%	24,269	34,179
Lindsay UAB	10,297	12,629	3.4%	78,080	90,709
Porterville UAB	39,615	51,268	13.9%	128,169	179,437
Tulare UAB	43,994	48,585	13.2%	106,906	155,491
Visalia UAB	91,565	100,178	27.2%	339,968	440,146
Woodlake UAB	6,651	7,348	2.0%	52,963	60,311
City UAB Subtotal	226,871	258,463	70.2%	826,514	1,084,977
Other Unincorporated		53,319	14.5%	--	
TOTAL	226,871	368,021	100.0%	950,873	1,265,575

* Based on existing land use designations in adopted plans.

Population (2000):	368,021
Unincorporated Pop:	38.2%
Growth (1980-2000):	50%
Unemployment (2005):	8.1%
Non-farm Labor (2005):	75.1%
Avg. Wage (2000):	\$23,317
Below Poverty (1999):	23.9%
Per Capita Property Tax:	\$79.54
Per Capita Debt Service:	\$60.89

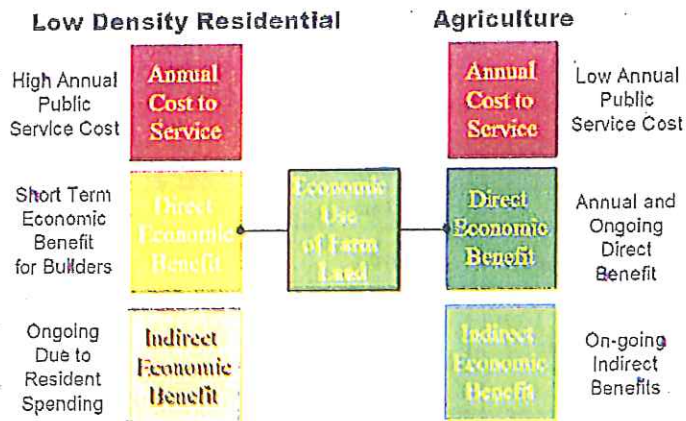
- A high percentage of population lives in unincorporated areas compared to peer counties
- The per capita debt for Tulare County, compared to peer counties, is relatively higher (4th highest in CA based on fiscal year 1999-2000)
- Tulare County consistently ranks first or second in agricultural revenues (currently about \$4 billion/year)
- Tulare County has a lower percentage of financing coming from property taxes than peer counties (47th in CA based on fiscal year 1999-2000)
- Southern San Joaquin Valley has the highest percent of farming employment (17%). California as a whole is 2.5%.

Implications of Agriculture Loss

- Much of the fiscal gain for local communities from urban development is short-run, generated by initial development and construction activities. In the long run, it is far more costly for local governments to provide public services and facilities to urban areas than to agricultural areas.
- Opportunities for turning rural land into residential and other urban uses are generally confined to the fringes of expanding cities and other urban areas, mainly because few farmland owners actually have the immediate or foreseeable opportunity to sell, simply because their parcels are not in the right place, as dictated by local land markets and city/county growth policies.
- Large-scale farmland conversions that reduce the production of certain commodities could affect local and even international food markets. For example, if a large share of California's dairy, almond, avocado, or artichoke land was converted, regional and national market prices would be significantly affected.

Agricultural land provides open space, environmental, and social amenities to a community.

- Communities and regions generally gain in overall economic terms when farmland conversions occur through economic diversification, new jobs, and higher incomes
- To the extent that farmland provides aesthetic or other non-market values to urban and suburban residents, it becomes a socially valuable public good, having value



2001 AFT/National Study

- Each \$1.00 in residential economic benefit costs \$1.13, a net loss
- Each \$1.00 agricultural economic benefit costs only \$0.35, a net gain

Developing Land Use Alternatives

The land use alternatives described in this report were developed through a process that involved input from the public and technical comments from County staff and the TAC. The initial set of conceptual land use scenarios, presented in the December 2004 newsletter, were developed based on input from Community Workshop Series 2. These scenarios included three land use concepts: City Centered Growth, Community Oriented Growth, and Proportional Growth. The City Centered Scenario focused growth in the cities, while the Community Oriented Growth focused more growth in the unincorporated communities. The Proportional Growth distributed growth among all cities and unincorporated communities based on their 2000 population distribution.

The land use concepts were presented for review by the TAC, Planning Commission, and Board of Supervisors. Based on input from the TAC and comments from the Planning Commission and Board of Supervisors, the land use concepts were redefined, resulting in the land use alternatives described in this report. The City Centered alternative is essentially the same as the City Centered land use concept with a slightly higher percentage of population directed to cities (80/20 percent versus 75/25 percent). The original Community Oriented concept was refined into two new alternatives,

the first focusing on communities with State highway accessibility and the second focusing on communities with institutional and financial capacity. The Proportional Growth concept was not carried forward as an alternative.

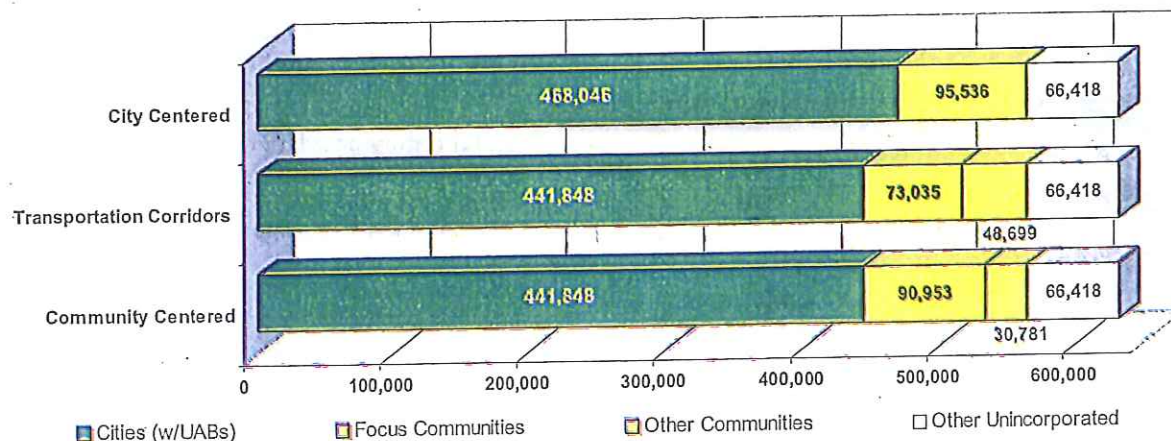
The three land use alternatives presented in this report are still conceptual in nature. Their purpose is to illustrate three alternative scenarios for future growth in order to frame a discussion with the public, TAC, Planning Commission, and Board of Supervisors concerning the preferred pattern of future growth. This preferred concept may be one of the three concepts presented in this report or it may be a hybrid that combines features of two or more alternatives. The preferred concept developed during the review of this report will serve as the basis for the development of the General Plan and associated environmental impact report (EIR).

The chart below provides a comparison of the three alternatives. The pie charts on the next page provide pie charts that better illustrate each alternative.

For each alternative, the pie chart on the left side shows the assumed distribution of future population. The pie chart on the right side shows the distribution of population in 2030 when current and future population is combined.

For each alternative, the population target was held constant. Each alternative will have a population of about 630,000 person by the year 2030 (a growth of about 262,000 persons).

Comparative Summary of Alternatives



Selecting Focus Communities for Community Centered Alternatives

	SR 99/65	RDA	Water	Sewer
Alpaugh	.	.	n/a	Septic
Cutler-Orosi	.	◆	○	○
Ducor	◆	◆	n/a	Septic
Earlimart	◆	◆	●	●
East Orosi	.	.	n/a	○
East Porterville	.	.	●	n/a
Goshen	◆	◆	n/a	●
Ivanhoe	.	◆	●	●
Lemon Cove	.	.	n/a	n/a
London	.	.	n/a	●
Pixley	◆	◆	●	○
Poplar	.	◆	●	●
Richgrove	.	◆	○	○
Springville	.	.	●	○
Strathmore	◆	.	n/a	●
Terra Bella	◆	◆	n/a	○
Three Rivers	.	.	●	Septic
Tipton	◆	◆	●	●
Traver	◆	◆	n/a	○
Woodville	.	.	●	●

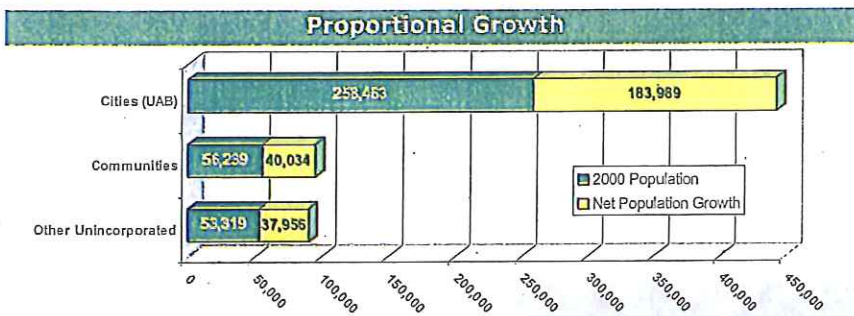
The two community centered alternatives (Transportation Corridors Alternative and Rural Communities Alternative) are based on the premise that some communities will grow faster in the future based on their locations or capabilities to handle growth (the two alternatives are described in more detail on pages 16 - 19).

For the **Transportation Corridors Alternative**, communities adjacent to either State Routes 65 or 99 were selected to take on a greater share of the growth projected for the communities. For the **Rural Communities Alternative**, communities with established or pending Redevelopment Project Area (RPA) were selected to handle additional growth. The availability of an RPA was seen as a tool to assist in preparing the communities to support the growth.

A third item that was not used at this time was the capacity of water and sewer systems. This information is presented here as an informational item.

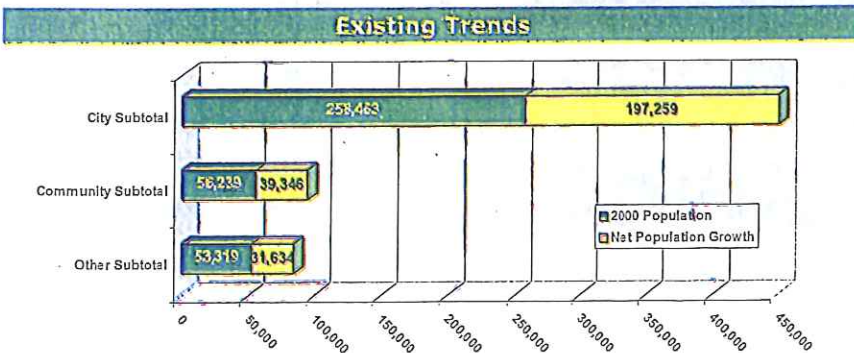
◆	Meets Criteria
●	Remaining Capacity
○	At or Over Capacity
n/a	Not Available

Other Alternatives Considered



During development of the land use alternatives, two additional alternatives were discussed and determined to not be viable for continued evaluation (see charts to the left).

Proportional Growth. The Proportional Growth Alternative looked at the total county population and the population for each city, community, and rural unincorporated area within the county. The ratio of existing population to the total county population was held constant (i.e., the cities and communities will maintain the same percentage of the total population in the future).

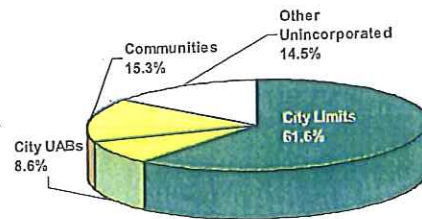


Existing Trends. The TAC requested a look at continuing the growth rate projections for the population distribution if the county continued to grow as it did from 1990 through 2000.

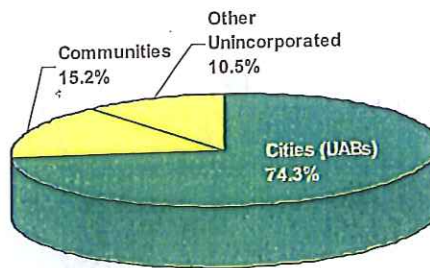
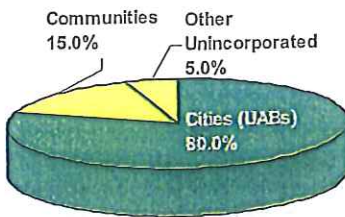
Based on the alternatives described, how do they compare? The pie charts on this page are designed to provide an easy comparison of the growth distribution assumed by the model (percent in cities, in communities, and in other unincorporated areas) and the resulting distribution of population in 2030.

For each alternative, the left pie chart shows the assumed distribution of future population. The right pie chart shows the distribution of population in 2030 when current and future population is combined.

Existing Population Distribution

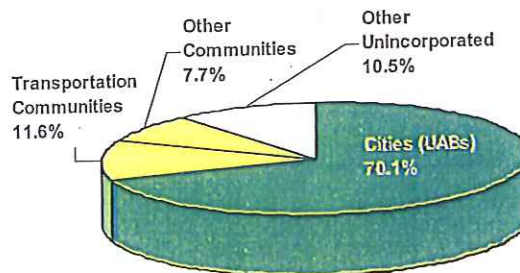
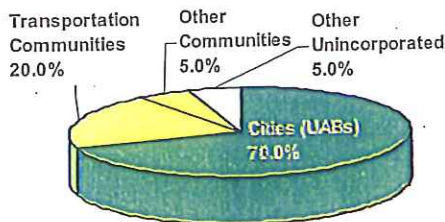


City Centered Alternative

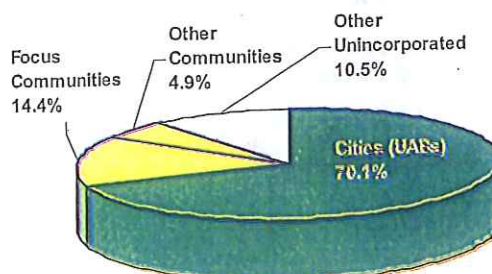
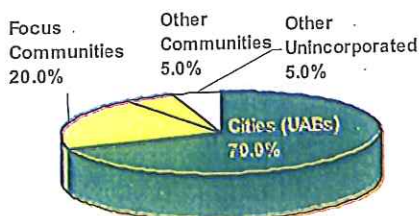


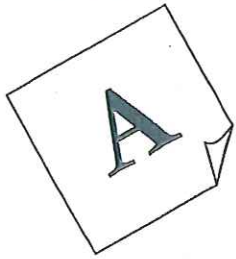
In the City Centered Alternative, if it was assumed that the cities in Tulare County would account for 90% of new growth, they would reach 78.5% of the total population in 2030.

Transportation Corridors Alternative



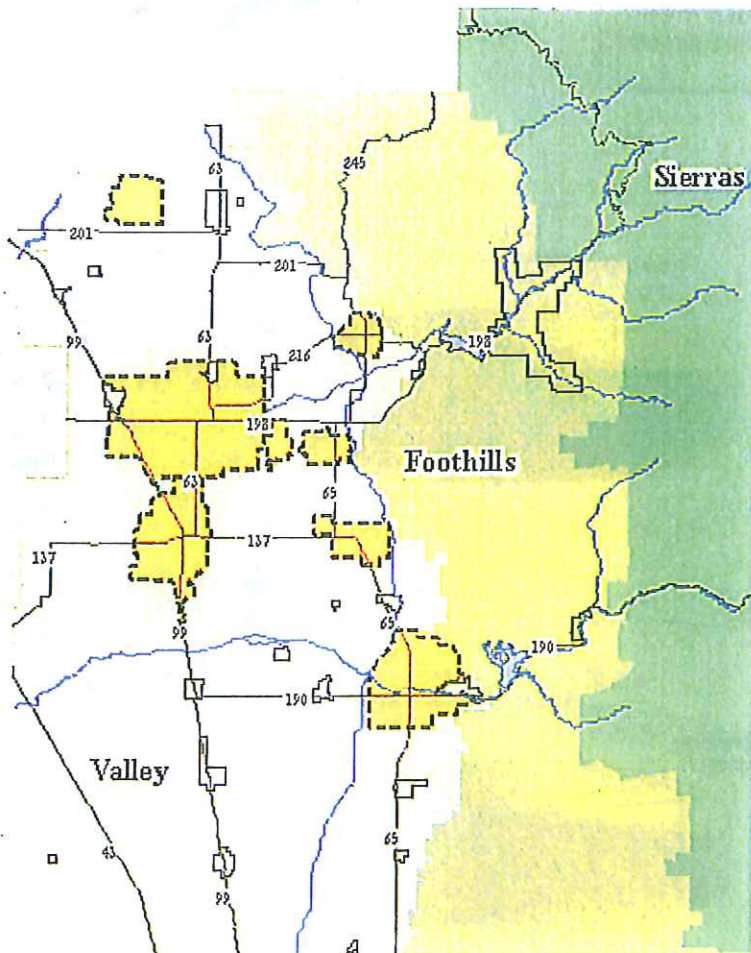
Rural Communities Alternative





City Centered Alternative

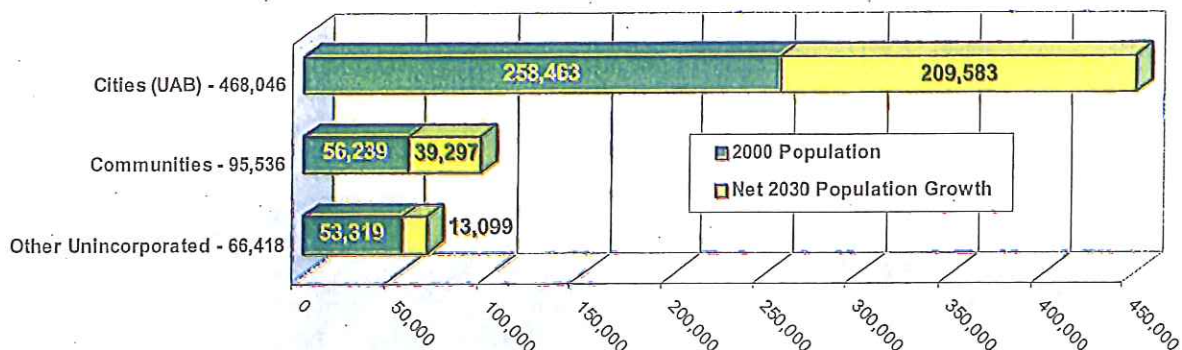
The City Centered Alternative assumes that cities will accept additional population by increasing the density and developing contiguous land in and around incorporated cities. The cities will also continue to provide sites for urban commercial services and industry. This approach would not ignore the needs of unincorporated communities, and would look at policy solutions to address housing, services, and infrastructure needs to meet future growth.



Key advantages for this scenario include protecting agricultural land and maintaining the rural character of the county. It also can be more readily supported by a regional transit system. The distribution of future growth under the City Centered Alternative is as follows:

The City Centered Alternative emphasizes growth in the eight incorporated cities of Tulare County: Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, Visalia, Woodlake.

- 15 percent of new population is directed to 20 unincorporated communities. The 15 percent allocated to communities is based on each community's percentage share of total community UAB/UDB population in 2000.
- 80 percent of new population growth is directed to incorporated cities. This 80 percent is allocated to cities based on each city's percentage share of total city UAB population in 2000.
- 5 percent of new population is directed to other unincorporated areas (rural areas).





Economic Development

- Concentrates new commercial development in cities where the population is concentrated.
- Concentrates new employment growth in cities where there is infrastructure and a workforce.
- County residents continue to drive to cities for major shopping, services, and jobs. Continued limited growth of these in communities is envisioned.
- Strengthens the competitive position of the larger cities and promotes economic diversification.
- Provides for only limited job growth in unincorporated communities.



Land Use

- Growth can be accommodated within existing city UABs and community UABs/UDBs.
- Results in substantial agricultural land conversion within city UABs.
- Reduces the encroachment of low density rural residential development on agricultural lands, foothills, and Sierra gateway communities.



Infrastructure

- Takes advantage of the existing well-developed infrastructure systems of the cities.
- Requires only modest infrastructure improvements in unincorporated communities.
- May limit ability of some communities to upgrade infrastructure due to insufficient growth to finance improvements.

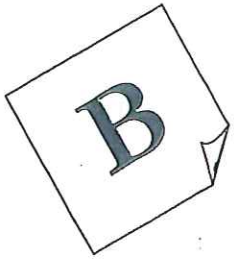


Natural Resources

- Results in lower air pollution emissions due to less travel between communities, but County residents continue to travel to the cities for shopping, services, and jobs.
- Concentrates growth on cities with well established water/wastewater systems.
- Higher density in cities may reduce overall pressure on prime agricultural land conversion.
- Begin active review of strategic non-renewals of Williamson Act contracts in UDBs to support projected growth.

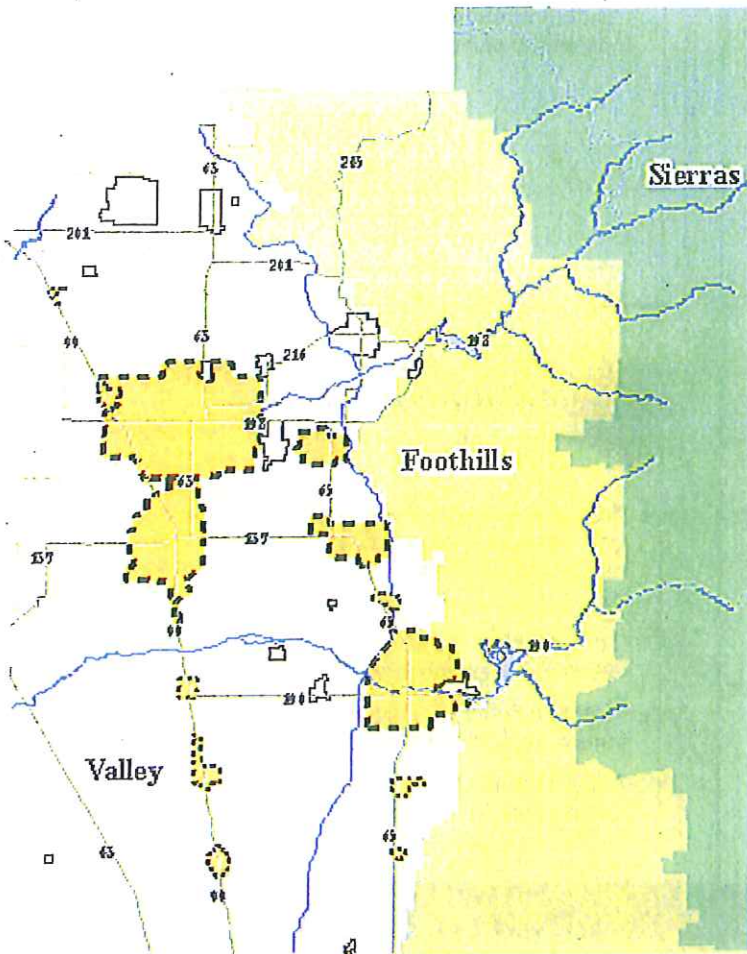
Policy Commitments

- Cities accept significant growth and accommodate it through infill development, higher densities, and transportation infrastructure.
- County limits rural residential development.
- County continues to improve quality of life and services in unincorporated communities but does not make growth inducing infrastructure improvements.
- County limits commercial development to local serving in unincorporated communities.
- County continues to focus on facilitating/managing agricultural development.
- County and cities need to evaluate revenue-sharing agreement.



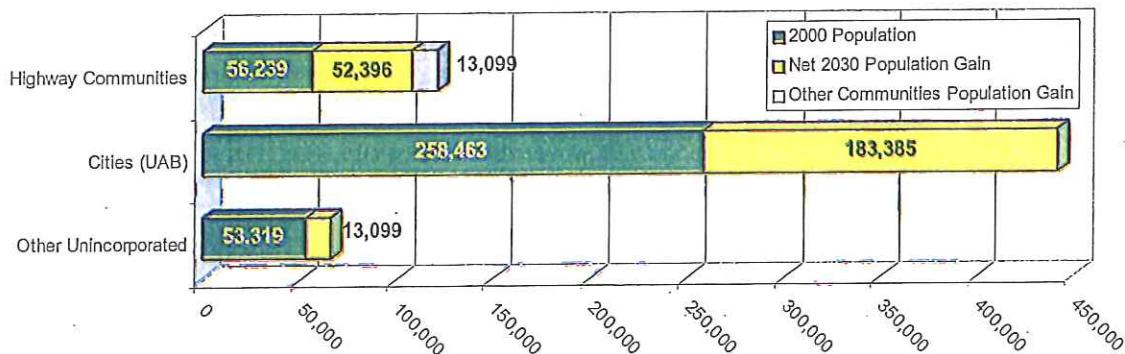
Transportation Corridors Alternative

The Transportation Corridors Alternative assumes that cities and communities along Highways 99 and 65, will accept additional population by increasing the density and developing contiguous land within their UDB or UAB. These communities and cities would also continue to provide sites for urban commercial services and industry. This approach would not ignore the needs of other unincorporated communities. Better housing, services, and infrastructure would be developed for rural communities to adequately meet the needs of future growth.



Key advantages for this scenario include the utilization of existing transportation routes and maintaining the rural character of the county. The Transportation Corridors Alternative emphasizes growth in the cities and unincorporated communities along the Highway 99 and Highway 65 corridors. The distribution of future growth under this alternative is as follows:

- 25 percent of new population is directed to the county's 20 unincorporated communities. Of this amount, 80 percent is allocated to the eight communities located on Highways 99 and 65. The population in each community is based on each community's percentage share of the UAB/UDB population for those eight communities in 2000. These eight communities are Ducor, Earlimart, Goshen, Pixley, Strathmore, Terra Bella, Tipton, and Traver. The other 20 percent is allocated to the other 12 unincorporated communities based on each community's share of the total UAB/UDB population of those 12 communities in 2000.
- 70 percent of new population growth is directed to incorporated cities. This 70 percent is allocated to each city based on each city's percentage share of the total city UAB population in 2000.
- 5 percent of new population directed to other unincorporated areas (rural areas).





Economic Development

- Results in the need for more commercial development in the unincorporated communities to serve the larger populations.
- Provides for job growth in unincorporated communities.



Land Use

- Results in conversion of more prime agricultural land along Highway 99 and 65 corridors.
- Requires the expansion of UABs/UDBs in Goshen, Richgrove, Strathmore, Terra Bella, Tipton, and Traver.
- Requires the adoption or update of community plans in the eight transportation corridor communities.



Infrastructure

- Takes advantage of existing highways, but will drive the need for improvements.
- Takes advantage of existing water or sewer capacity in the communities of Earlimart, Goshen, Pixley, and Tipton.
- Would require significant infrastructure investment in Ducor, Strathmore, Terra Bella, and Traver.
- Continues to utilize existing infrastructure in cities.

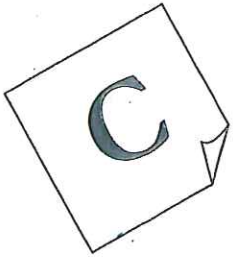


Natural Resources

- Results in higher air pollution emissions due to more travel between communities.
- Lower density in communities may increase overall pressure on prime agricultural land conversion.
- Begin active review of strategic non-renewals of Williamson Act contracts in UDBs to support projected growth.

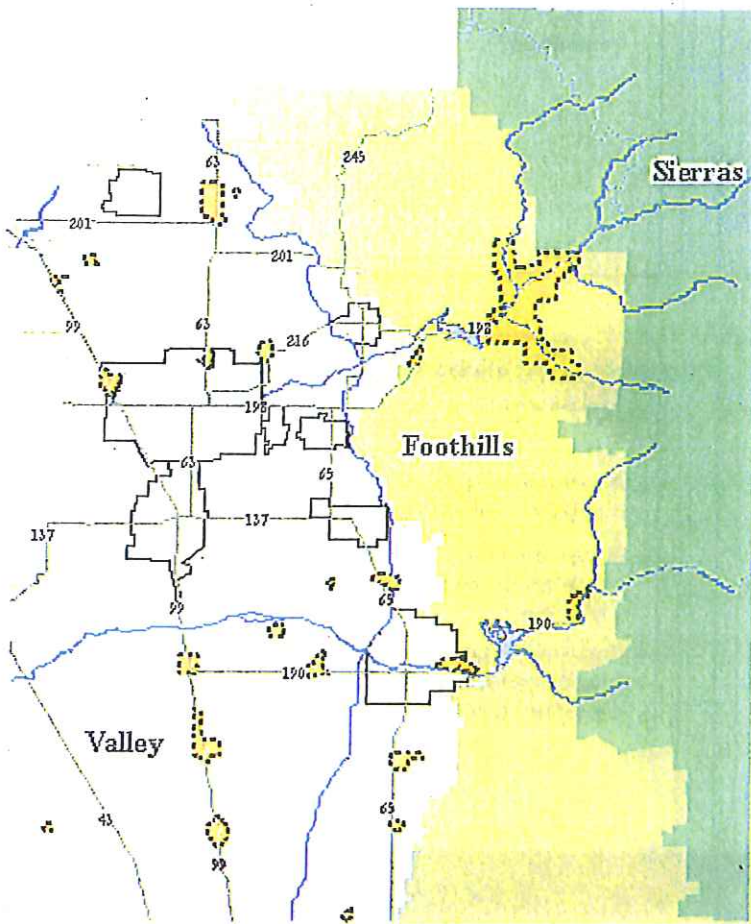
Policy Commitments

- County limits rural residential development and concentrates unincorporated growth in communities.
- County commits to providing higher levels of services in eight transportation corridor communities.
- County provides for more commercial development in unincorporated communities.
- County provides for more job growth in unincorporated communities.



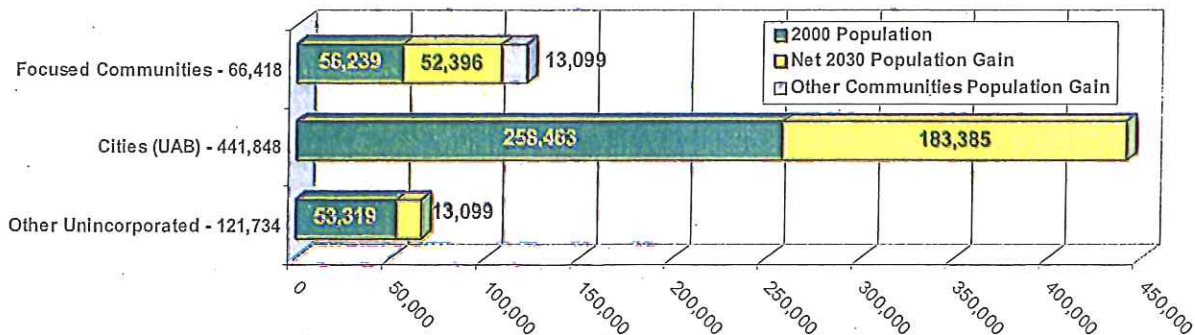
Rural Communities Alternative

The Rural Communities Alternative emphasizes growth in the eleven unincorporated communities that have or are expected to soon have an adopted Redevelopment Project Area (RPA) and Community Plan. Key advantages for this scenario include the utilization of existing infrastructure, services, and community cooperation while protecting agricultural lands and maintaining the rural character of the county. It also can be more readily supported by existing infrastructure, roadways, and community cooperation.



The distribution of future growth under this alternative is as follow:

- 25 percent of new population is directed to the 20 unincorporated communities. Of this amount, 80 percent is targeted to the eleven unincorporated communities that have an adopted, or are expected to soon have adopted, a RPA and Community Plan. Distribution of new population is based on each community's share of total UAB/UDB population of the eleven communities in 2000. The eleven communities are Cultler-Orosi, Ducor, Earlmart, Goshen, Ivanhoe, Pixley, Poplar, Richgrove, Terra Bella, Tipton, and Traver. The other 20 percent is allocated to the other nine communities based on each community's percentage share of total UAB/UDB population of those nine communities in 2000.
- 70 percent of new population growth is directed to incorporated cities. This 70 percent is allocated to cities based on each city's percentage share of total city UAB population in 2000.
- 5 percent of new population is directed to other unincorporated areas (rural areas).





Economic Development

- Results in the need for more commercial development in the unincorporated communities to serve the larger populations.
- Provides for job growth in unincorporated communities.
- Uses future financing capacity of unincorporated communities with Redevelopment Project Areas.



Land Use

- Results in conversion of more prime agricultural land around the eleven unincorporated communities.
- Requires the expansion of UABs/UDBs in Goshen, Ivanhoe, and Richgrove.



Infrastructure

- Takes advantage of existing water or sewer capacity in Earlismart, Goshen, Ivanhoe, Pixly, and Poplar.
- Would require significant infrastructure investment in Cutler-Orosi, Ducor, Richgrove, Terra Bella, and Traver.
- Continues to utilize existing infrastructure in cities.



Natural Resources

- Results in higher air pollution emissions due to more travel between communities.
- Lower density in communities may increase overall pressure on prime agricultural land conversion.
- Begin active review of strategic non-renewals of Williamson Act contracts in UDBs to support projected growth.

Policy Commitments

- County limits rural residential development and concentrates unincorporated growth in communities.
- County commits to providing significant infrastructure improvements in the eleven communities with redevelopment agencies and plans.
- Unincorporated communities provide for more commercial development.
- County provides for more job growth in unincorporated communities.



Tulare County General Plan

Theresa Szymanski, AICP
Countywide Planning Manager
5961 S. Mooney Blvd.
Visalia, CA 93277
Phone: (559) 733-6291 x-4201
Fax: (559) 730-2653
Tszymanski@co.tulare.ca.us

Public Involvement in the General Plan

Website www.co.tulare.ca.us

From the County's website, a link to the General Plan can be found under the "Quality of Life" heading. The General Plan website contains schedules for future meetings and provides a location to download documents prepared during the project.

Newsletters

During the General Plan Update, a series of newsletters will be prepared to provide an overview of the progress being made and the direction of the work.

Community Workshops

A number of community workshops will be held to gain input on issues and opportunities, alternative futures, and the General Plan documents. Dates will be posted on the website when they are available.

Technical Advisory Committee (TAC)

The County has set up an advisory committee to help in the development of the General Plan. This advisory committee, the TAC, is designed to be a work with County staff and the General Plan consulting team on refining the plan. While not a decision making body, the TACs input is vital to preparing a plan that will work for the County. These meetings are open to the public.

Workshops / Hearings

Workshops will be held with the Planning Commission and the Board of Supervisors throughout the development of the General Plan. At the end of the process, formal public hearings will also be held to consider the General Plan and environmental impact report.



August 10, 2005

Tulare County Board of Supervisors
Administration Building
2800 West Burrel
Visalia CA 93291-5482

Subject: Tulare County General Plan Update

Bob Link
Mayor

Jesus Gamboa
Vice Mayor

Walter Deissler
Councilmember

Greg Kirkpatrick
Councilmember

Don Landers
Councilmember

The City of Visalia has been closely following the progress of the Tulare County General Plan Update. We understand that on August 16, 2005, the Board of Supervisors will be asked to consider adopting a preferred "Growth Alternative" which will constitute a county-wide planning strategy around which growth policies and land use designations for the General Plan Update will be prepared. This decision will significantly impact how and where future growth occurs in Tulare County and have profound effects on future economic, agricultural, social and environmental conditions that will eventually exist in our cities, rural communities, and the county as a whole. It is essential that we understand the magnitude of this critical decision, in that the county will likely not undertake another General Plan Update for several decades. For these reasons, the City is compelled to offer a recommendation on a growth alternative that we believe will maintain the agricultural base of the county, create the most beneficial land use patterns, socio-economic conditions, and environmental conditions for Tulare County and its cities, unincorporated communities and rural areas.

Recommendations of the City of Visalia:

County staff and consultants have presented a City Centered Growth Alternative that, if adopted by the Board, would direct 80% of future population growth to City Urban Area Boundaries (both incorporated and unincorporated lands), and 20% to rural communities. This recommendation is a good start, but does not go far enough to be truly effective. The City of Visalia recommends the following:

- The City of Visalia strongly recommends that the Board continue this item and develop a hybrid to the City Centered Growth Alternative for the General Plan Update. Instead of directing only 80% of future growth to the cities as proposed in the City Centered Alternative, the City of Visalia recommends a "Hybrid City Growth Alternative" that would allocate 90% of future population growth to the cities with such development to occur inside city limits only.
- If growth is to be directed primarily to cities, the fiscal impacts to the county must be addressed. Therefore, the City recommends that the Board

authorize the County Administrative Officer to meet with the City Managers to initiate discussions regarding a potential agreement for sharing sales and property tax revenue between the cities and the county. A tax sharing agreement would apply to future annexations to the cities for new development.

- A potential revenue sharing agreement would also consider measures for providing city services to developed county areas adjacent to the cities. This would allow consideration of cities providing urban services to developed county lands in and around incorporated city limits.
- To prevent further proposals for inefficient rural residential developments on county lands within city UABs, the agreements would include provisions for the reclassification of rural residential zoning on unincorporated lands to zone categories that will defer development controls to the cities.

Discussion:

County staff and the team of consultants working on the update have developed several possible growth alternatives that have been discussed in community meetings, Board and Planning Commission sessions, and Technical Advisory Committee (TAC) meetings. Of these alternatives, the Visalia has concluded that a "City Centered Growth Alternative" has merit. It is appropriate to distribute the majority of future growth to the cities based on our ability to effectively provide infrastructure and urban services to an expanding population. However, as presented by your consulting team, the City Centered Growth Alternative would distribute only 80% of future population to City UABs. **While the overall concept is sound, for land uses to truly be efficient in Tulare County and agricultural land preserved to the maximum extent, the proportion of population growth allocated to the cities should be increased significantly and future development in City UABs should occur only within City limits.** For example, Fresno County, in its recent General Plan update, established a population distribution of 93% to the City Spheres of Influence and 7% to unincorporated areas. Fresno County continues to be ranked as the top producing agricultural county in the nation, and their population distribution formula will help them preserve agricultural lands by utilizing the development efficiencies of their cities. The recommended Hybrid City Growth Alternative would incorporate the same strategy for agricultural land protection.

The City believes a Hybrid City Growth Alternative, distributing 90% of future growth to the cities will best serve the future of Tulare County for the following reasons:

1. The eight cities have infrastructure, financing mechanisms, planning systems, and urban services to accommodate projected growth, more so than unincorporated communities. Due to availability of infrastructure, higher development densities can be achieved in the cities, and financing mechanisms are available to make development financially sustainable. Further, by taking advantage of economies of scale, cities can minimize the cost of developing and maintaining infrastructure.
2. Even with potential population increases, unincorporated communities will struggle to provide the necessary infrastructure and services to accommodate growth. They will also struggle to achieve financial sustainability and independence (Cutler-Orosi is an example).
3. Without urban zoning controls, proper development standards, and infrastructure, rural communities will not be able to achieve efficient urban development densities. This means that future development in these communities will likely be at low densities. This type of development is not financially self sufficient and will cost the County more to provide services than the revenue it will receive.
4. Inefficient land use densities in unincorporated communities and rural areas will take more agricultural land out of production than development in cities. This will significantly and adversely affect our agricultural economy.
5. Directing growth to rural communities will require residents of those areas to travel to cities for jobs, educational opportunities, shopping, medical services, governmental services, and other destinations. Increased traffic from these rural areas will impact highways and local roads, and will cause increased air pollution.

The City recognizes that Tulare County has struggled financially in past years. Development in unincorporated communities and rural areas may be viewed as a way to potentially increase property and sales revenues to the county. We understand and appreciate the County's current financial dilemma and the need to consider revenue generating land uses. To help ease the revenue issue, and in the interest of effective land use planning, it is appropriate to begin discussions with the County regarding a potential revenue sharing program for future development.

The City is also concerned about unplanned rural residential development occurring on unincorporated lands within our urban area boundaries. These projects are occurring on lands zoned many years ago by the County for rural residential uses. An example is the recent Baker Subdivision located in Visalia's UAB that was recently approved by the Board. The Baker Subdivision will allow 19 lots on 58 acres (3 acres per lot gross density). If this 58 acre property were to develop in the City of Visalia, with full services, at an urban density of 5 units per acre (mix of single family and multiple family housing types), the site could accommodate 290 units. Not only will urban development in the cities result in a more efficient use of

the land, the amount of annual property tax revenue the higher densities will generate for the County under the current tax structure would be significantly greater compared to rural residential development in the County.

We believe strongly that lands within City UABs should develop in the cities to achieve land use and infrastructure efficiencies, to prevent urban sprawl, to preserve agricultural lands and avoid future county islands. As part of a possible revenue sharing agreement, we will look to the County to reclassify undeveloped rural residential properties within city UABs to defer development controls to the cities.

The City shares the Board's concerns about the condition of rural communities. We agree that efforts are needed to help outlying communities improve themselves. To assist in this effort, the City of Visalia, and hopefully other cities in Tulare County, will offer technical assistance from our staff as the County strategizes ways to improve the condition of the rural communities.

It is imperative that the cities and County work together to prepare an effective plan for protecting agriculture, accommodating future growth and addressing related financial implications. We sincerely hope that the Board approves the Hybrid City Growth Alternative being recommended by the City of Visalia.

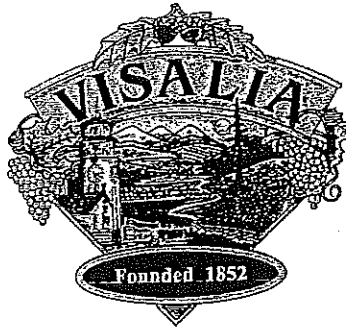
Steve Salomon, Visalia City Manager and current Chair of the City Managers Group of Tulare County, can be contacted to arrange discussions regarding a possible revenue sharing agreement. Mr. Salomon can be contacted at (559) 713-4312.

Sincerely,



Bob Link, Mayor
City of Visalia

Cc: Visalia City Council
Steve Salomon, City Manager
Mayors and City Managers of Dinuba, Exeter, Farmersville, Lindsay,
Porterville, Tulare, and Woodlake
Brian Haddix, Tulare County Executive Officer
Henry Hash, Tulare County RMA
George Finney, Tulare County RMA



315 E Acequia Avenue, Visalia, CA 93291

May 7, 2007

Alan Ishida
Supervisor, District One
2800 W. Burrel Avenue
Visalia CA 93291

The City Council is strongly interested in the Tulare County General Plan Update and the impacts of plan policies on the future of our county. On April 2, 2007, the Council reviewed the Draft Goals and Policies Report. The Council hereby submits the following preliminary comments to Tulare County on the draft document.

1. The City Council supports the County's efforts to update and consolidate its General Plan.
2. The Council recommends that draft policy language be modified to not allow development on unincorporated lands inside city Urban Area Boundaries (UAB) without the consent of the affected city. This policy would also apply to major transportation corridors in UABs, including Highways 99, 198, 65 and 190.
3. The Draft Plan should discourage development along major transportation corridors in Tulare County except where currently designated for such uses.
4. The Draft Plan should maintain the current policy of County referral of development proposals on unincorporated lands inside city UABs to affected cities for consideration of annexation.
5. The Draft Plan should be restructured to focus on a City Centered Growth Strategy as recommended in the letter from former Mayor Bob Link to the Board of Supervisors dated August 10, 2005 (copy attached).
6. In concert with a City Centered Growth Strategy and an adopted County development impact fee program, the Council reiterates its previous offer to initiate discussions with the County regarding possible revenue sharing for future annexations.
7. The City supports the policy language in the Draft Plan that prohibits the designation of areas for ranchette development. The City recommends that a strong implementation strategy be enacted to prohibit further ranchette development on agricultural lands.
8. Given the availability of land in existing UABs to accommodate future growth, the City opposes development of new towns.

9. The Draft Plan should contain policies directed at establishment of a City/County comprehensive agricultural land mitigation program to offset impacts of ag land conversion to urban uses.
10. Policies regarding water resources need to be strengthened to prevent the proliferation of individual septic tank systems in unincorporated areas and to avoid degradation of groundwater supplies.

In support of these recommendations, the City Council offers the following discussion of major policy issues contained in the document:

General Plan Consolidation: The current County General Plan is a conglomeration of various elements and regional and community plans that have been accumulated over almost 40 years. The General Plan update will help consolidate the County's plans into a more effective and usable document. This is a major positive feature of the General Plan Update process.

Shift to Development Focus: The update also brings in new policies regarding growth that will significantly shift the County's planning focus from an agricultural based strategy to one that emphasizes and encourages growth in certain unincorporated areas and along major transportation corridors, such as State Highways 99, 63 and 65. While the draft does not discourage development in incorporated cities, it does encourage residential, commercial, and industrial development in unincorporated communities and hamlets, and potentially along highway corridors. The plan will allow consideration of major commercial facilities, shopping centers, and big box retailers in these unincorporated areas.

Growth Inducement Outside of Cities: The growth inducing aspects of the County's draft plan has serious implications for Visalia and the County as a whole:

- The plan has potential to create regional sprawl by encouraging growth in outlying unincorporated communities and hamlets. Many of these areas currently lack the infrastructure necessary to serve increased population growth. Most of these areas will attract lower cost housing and lower level retail commercial uses.
- Give the demographics of most unincorporated communities on the Valley floor, inducement of growth in some communities has potential to create concentrations of low income families that will continually struggle to raise their standards of living. The accumulation of low income families in these areas will inhibit their potential to be assimilated into more mainstream populations that exist in the cities.
- Although the draft plan contains policies for smart growth design and improvement standards for new development, it is questionable that the standards can be feasibly implemented to achieve the effect desired by the County. For instance, it will be difficult for growth in unincorporated communities to pay for parks and trails to facilitate walkable neighborhoods.

City Centered Growth Strategy: Initial discussions by the General Plan Technical Advisory Committee included a preference for a City Centered Growth Strategy. This strategy would establish a plan that would continue to focus primarily on maintaining the agricultural economy in the county and directing most new growth to existing cities which have infrastructure, urban services, and development systems in place that accommodate anticipated growth demands. Calculations prepared by the County's consultants concluded that existing Urban Area Boundaries of the eight cities had sufficient lands available to accommodate the anticipated population growth during the 30 year planning period

On page 9 of the enclosed Policy Alternatives Report provided to the TAC by the consultants is a table that analyzes residential development capacity within existing urban area boundaries. The table indicates that the current UABs of existing cities have capacity to accommodate an additional 826,500 persons. When combined with calculated capacities for current UABs of existing unincorporated communities, the available population capacity increases to over 950,000 persons. **Clearly, the existing UABs, with plans, infrastructure and services available, are able to accommodate population growth during the planning period to 2030.**

On July 18, 2005, the City Council held a work session to review potential "Growth Alternative" scenarios that were being evaluated by County staff and consultant team and discussed with the Technical Advisory Committee. After reviewing potential alternatives and considering the UAB capacity described above, the Council directed that a letter be sent to the Board of Supervisors indicating Visalia's support for a Hybrid City-Centered Growth strategy that would allocate 90% of future population growth to the cities with such development to occur inside city limits. To mitigate the fiscal impacts to the County that a City-Centered strategy might create, the Council also recommended that discussions be initiated to consider a sales and property tax sharing agreement to apply to new annexations. A copy of the August 10, 2005 letter to the Board of Supervisors signed by then-Mayor Bob Link is attached. No response has been received to date on the proposals contained in the letter.

After review of the Draft Goals and Policies Report, the City Council believes that the City's recommendations contained in the August 10, 2005 letter are even more appropriate at this later stage of the General Plan Update. The City therefore reiterates its offer to discuss possible tax sharing for new annexations in conjunction with a City-Centered growth strategy.

Development of Unincorporated Lands Inside City UABs: The draft plan contains a policy (PF 4.9, page 2-10) that would require the County to update its plan to consider any changes in land use plans of the various cities in the County. However, the County General Plan Update also contains policies that will enable the County to approve development projects on unincorporated lands within city UABs, subject to a finding of consistency with General Plan "objectives" and the requirement that the project meet the development standards of the city in question.

This policy is troubling in several ways. First, it is clear that the County is seeking to improve its fiscal position by encouraging development on unincorporated lands, including lands in City UABs. However, this policy may place the City and county at odds regarding development proposals in UABs where developers “shop” the two entities for the best deal or the two agencies compete for desirable, high sales tax land uses. Also, because both the City and County can consider development proposals in City UABs, this policy has potential to cause sprawl due to piecemeal, uncoordinated development and thwart efforts to maintain planned, orderly growth inside City UABs.

The current policy of referring development proposals on unincorporated lands in City UABs needs to be maintained so that first preference is given to development occurring as well connected extensions of cities with application of full urban services. This has the benefits of minimizing sprawl, providing efficient land use and traffic circulation patterns and minimizing impacts on ag lands. Further, consistent with the August 10, 2005 letter from Council to the Board of Supervisors, fiscal issues should be dealt with through potential tax sharing agreements for newly annexed areas, and not drive land use decisions.

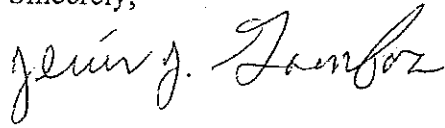
Consideration of New Towns: New towns create concerns regarding loss of ag lands, regional sprawl, water demands, environmental impacts and other issues. **Based on County staff/consultant team analysis of development capacity of existing UABs attached to this report, there is no demonstrated need to establish new communities in Tulare County.** Therefore, the City Council strongly recommends that the County not consider new town proposals.

Agricultural Land Mitigation: The draft document contains no policies for development of a program for mitigation of agricultural land conversion to urban uses. Given Tulare County’s global contribution to food production and bio-industries, it is critical for the County Government to take a leadership role in ag land mitigation, particularly if the County continues down the path of encouraging urban development. Even more beneficial would be the establishment of a coordinated and comprehensive ag land mitigation program involving the County and its cities. This type of inter-governmental partnership would be an effective tool in offsetting the impacts of development County-wide and would create a level playing field for all cities and the County as we address development issues.

This General Plan Update will have profound influence on the future of this County. The City Council firmly believes that we currently stand at a crossroads; with a choice to continue to strengthen the agricultural character and economy of our region and direct development to cities capable of accommodating and servicing growth, or to pursue the path followed by Southern California and permit widespread suburban sprawl. The City Council hopes that the Board of Supervisors will reconsider the policies examined in this letter and work with Visalia and other cities to better conserve our agricultural resources and find ways to better accommodate urban growth.

Thank you for considering our preliminary comments. Please notify the City regarding future releases of public documents, including the upcoming Final Draft General Plan and environmental impact report, and provide us with notifications of future public meetings and hearings on this matter.

Sincerely,

A handwritten signature in cursive script that reads "Jesus Gamboa".

Jesus Gamboa
City of Visalia Mayor

Cc:

City Council

Steve Salomon, City Manager

Brian Haddox, County Administrative Officer

Henry Hash, RMA Director

George Finney, Assistant Director for Long Range Planning

SHUTE, MIHALY & WEINBERGER LLP
ATTORNEYS AT LAW

E. CLEMENT SHUTE, JR. *
MARK I. WEINBERGER (19492006)
FRAN M. LAYTON
RACHEL B. HOOPER
ELLEN J. GARBER
TAMARA S. GALANTER
ANDREW W. SCHWARTZ
ELLISON FOLK
RICHARD S. TAYLOR
WILLIAM J. WHITE
ROBERT S. PERLMUTTER
OSA L. WOLFF
MATTHEW D. ZINN
CATHERINE C. ENGBERG
AMY J. BRICKER
GABRIEL M. B. ROSS
DEBORAH L. KEETH
WINTER KING
KEVIN P. BUNDY
*SENIOR COUNSEL

396 HAYES STREET
SAN FRANCISCO, CALIFORNIA 94102
TELEPHONE: (415) 552-7272
FACSIMILE: (415) 552-5816
WWW.SMVLAW.COM

ELENA K. SAXONHOUSE
MICHELLE WILDE ANDERSON
DOUG A. OBEGI
AMANDA R. GARCIA
JEANNETTE M. MACMILLAN
ISAAC H. BOWERS

LAUREL L. IMPETT, AICP
CARMEN J. BORG, AICP
URBAN PLANNERS

April 11, 2008

David Bryant
Division Manager, Special Projects
Tulare County Resource Management Agency
5961 South Mooney Blvd.
Visalia, CA 93277

Re: Draft Environmental Impact Report for the Tulare County General Plan Update

Dear Mr. Bryant:

On behalf of the Council of Cities, we are writing to express our grave concerns regarding Tulare County's proposed General Plan Update and the accompanying Draft Environmental Impact Report. The Council of Cities is a voluntary organization consisting of the County's eight incorporated cities: Visalia, Tulare, Farmersville, Porterville, Dinuba, Lindsay, Woodlake, and Exeter (collectively, the "Cities"). Through the Council, the Cities have joined together to share expertise and to jointly advocate for responsible planning.

As stated in previous correspondence from the Cities, the Council of Cities supports the County of Tulare in its efforts to update its General Plan. Such an update provides the County with the opportunity to provide direction for future growth so as to maintain the agricultural character and economy of the unincorporated areas and to direct growth to the Cities and selected unincorporated communities that have infrastructure and services to accommodate future development. Unfortunately, the proposed General Plan Update fails to provide such direction, instead offering a proposal that will result in uncontrolled sprawl and haphazard development patterns. As evidenced by the *thirty-one* admitted significant unavoidable impacts that would result from adoption of the General Plan Update, the Plan will create long term environmental damage, affecting residents and future generations throughout the region.

Moreover, our review of the General Plan Update (also called the "Plan" or the "Update") and the Draft Environmental Impact Report (the "DEIR") has revealed significant

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legal flaws that will require substantial revision to correct. The primary purpose of this letter is to explain why the Plan and DEIR violate state law.

At the heart of most of the problems with the Update and the DEIR lies the General Plan Update's failure to provide a comprehensive land use program for the County. The Update explicitly refuses to create a comprehensive plan and land use map that would guide growth to chosen locations in the County, and therefore fails to include the elements required for general plans under the California Planning and Zoning Law, Government Code § 65000 *et seq.* That statute requires that a general plan provide clarity regarding land use designations and population densities, and the General Plan Update does not do so.

At the same time, the DEIR's analysis of the environmental impacts of the Plan, crippled by the lack of meaningful land use designations, cannot meet the standards of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 *et seq.*, and the CEQA Guidelines, California Code of Regulations, title 14, § 15000 *et seq.* ("CEQA Guidelines"). An EIR's first task is to describe the project under review. This DEIR, however, describes only the expected population growth over the Plan's term, without considering the specific growth patterns brought about under the Plan. It then moves on to analyze the environmental impacts of development under the Plan. These analyses are almost universally superficial: almost none of them quantify the impacts, nor do they discuss the specific locations where impacts might occur. Instead, they offer only very general, and generic, discussions of impacts. There is almost nothing to indicate that these discussions even refer to Tulare County—they could be explaining the types of impacts that development could bring to any county in the state.

Most of these impact analyses conclude that impacts will be significant and that no mitigation is possible. As we point out below, mitigation is frequently right at the County's fingertips, in the form of General Plan Policies that would provide effective mitigation if they were made mandatory instead of merely offered as suggestions. Finally, the DEIR considers alternatives to the proposed Plan, including the City-Centered Alternative, which the Council of Cities believes is likely to be the best route for development in the County. The DEIR, however, fails to recognize the clear environmental superiority of the City-Centered Alternative and dismisses it on the factually incorrect ground that it will provide less reinvestment than other alternatives.

It is important to note that many of the DEIR's failings are closely related to the flaws in the General Plan Update itself: the DEIR cannot describe or analyze the impacts of development under the General Plan when the General Plan does not provide a comprehensive land use plan. Thus, the best course for the County at this point is to undertake a major revision of the General Plan Update, giving it the required comprehensive land use plan. Then the

County will be in a position to prepare an adequate DEIR analyzing the Plan's environmental impacts.

Along with the rest of the southern San Joaquin Valley, Tulare County faces tremendous population growth in the next few decades. With this General Plan Update, the County must choose whether it will harness that growth and make it an engine of prosperity for all of the County's residents, or whether economic forces will hold the reins, forcing local government to play catch-up as it struggles to meet vast new demands on the County's resources. The General Plan Update as it stands now will put the County in a position to get pushed around by growth. The Council of Cities urges the County to reconsider the Update's hands-off approach to growth and to revise the General Plan Update and the EIR accordingly.

I. The General Plan is Inadequate.

A general plan is an essential aspect of the governance of any county, a "constitution for all future development." *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal. 3d 531, 540. It provides a firm spine upon which all of a county's land use decisions depend for direction and leverage. Tulare County is today standing exactly at the point where two lines of force meet head-on. From one direction, the County faces large and rapid population growth—in concrete terms, a huge number of people who will need houses in the next few decades. From the other direction comes the intense pressure to protect some of the most productive farmland in the nation, if not the world. The County has the authority and means to accommodate both of these needs, but it will need a strong backbone.

That is why the profound flaws of the proposed General Plan Update are so disappointing. Rather than putting forth a comprehensive, effective general plan, the County has abdicated responsibility, and instead offers an update that is in effect no plan at all. The proposed General Plan Update explicitly declines to provide guidance for developments and includes no land use plans. It provides instead a vague reference to an inaccessible collection of other diagrams. These efforts are insufficient to meet the challenges facing Tulare County, and they do not meet the mandates of state law. The General Plan Update is legally and practically inadequate.

A. The General Plan's Failure To Provide a Land Use Plan for the County Renders it Invalid.

The DEIR itself precisely describes the General Plan's failure to follow statutory mandates: "[The General Plan] does not solidly advocate, promote, or represent any one development scenario[] because any attempt to predict the exact pace and locations of future market-driven growth is considered speculative." DEIR at 2-9. This reasoning is not only

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illogical, it also highlights the County's failure to follow the requirements of the Planning and Zoning Law, which governs the preparation and contents of general plans.

Under state law, the land use element of a general plan must "designate[] the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, . . . agriculture, . . . and other categories of public and private uses of land." Gov. Code § 65302(a). In other words, a general plan must actually plan for and guide development. By requiring general plans, California has determined that in order to steward the state's resources and protect the quality of life for its citizens, cities and counties must take an active role in determining development patterns. The County's failure to advocate any "development scenario" is not a valid option.

Thus, by refusing to designate where, specifically, future growth will occur or to create specific policies that guide growth to those locations, the General Plan Update completely fails to fulfill the requirements of state law. Instead of making decisions about growth, the General Plan simply provides population projections for the County: 254,109 new residents, with 75% of that population within the Urban Development Boundaries ("UDBs") of the incorporated cities. DEIR at 2-8. This prediction is no substitute for planning. If the County wants development under the General Plan to follow these projections, then it must include land use designations for specific areas and institute policies that will guide growth into that pattern. The proposed General Plan Update, however, does not contain such designations or policies.

B. The General Plan Does Not Meet the Requirements of Government Code Section 65302.

The Update, in fact, contains none of the pieces required by the Planning and Zoning Law. As noted above, a valid general plan must "designate[] the proposed general distribution and general location and extent" of land uses. Gov. Code § 65302(a). A plan's depiction of its policies "should be detailed enough to identify possible uses at any particular time." 67 Ops. Cal. Atty. Gen. 75 (Mar. 7, 1984). State law, moreover, requires that a general plan contain "a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals." Gov. Code § 65302. The proposed General Plan Update fulfills none of these requirements.

While the General Plan lists dozens of land use designations, it does not explain where in the County those designations would apply. It includes no land use map illustrating the location of those designations. Like the Court of Appeal found in *Camp v. Board of Supervisors* (1981) 123 Cal. App. 3d 334, 350, because "[i]t is consequently impossible to relate any . . . 'density standard' of population to any location in the County," the land use element is plainly inadequate.

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The DEIR's language, moreover, is not an effective replacement for the absent map or diagram. Looking at the text of the DEIR's "Buildout Under the General Plan" section or the Land Use chapter in the Goals and Policies volume, no property owner, developer or local agency would be able to identify the possible uses of a particular parcel of land at any particular time. Nor will the County, in the future, be able to make consistency determinations that particular development proposals conform to the type and intensity of development allowed for such property under the General Plan.

State law states that "the degree of specificity and level of detail of the discussion of each element shall reflect local conditions and circumstances." Gov. Code § 65301(c). The conditions and circumstances of Tulare County demand a land use element that actually provides guidance for the location of development: during the General Plan's timeframe, the County will see significant additional home construction, according to the EIR. Without specific guidelines or direction on where such development is appropriate, the County can neither plan effectively nor provide adequate services for this expected growth.

The General Plan also lacks the required standards for population density and building intensity. A general plan must contain information regarding the standards for population density and building intensity for the various districts and other territory covered by the plan. Gov. Code § 65302(a); *see also Twain Harte Homeowners Association v. Tuolumne County* (1982) 138 Cal. App. 3d 664, 699. While the General Plan does provide some indication of densities and intensities for each designation, that data does little good in the absence of information about where in the County each designation applies.

Even the description of the designations is missing a key element. As the Governor's Office of Planning and Research notes, "population density can best be expressed as a relationship between two factors: the number of dwellings per acre and the number of residents per dwelling." Governor's Office of Planning and Research, *General Plan Guidelines*, 2003, p. 50. The General Plan provides no indication of the number of residents allowed or expected per dwelling. It is therefore impossible to turn its dwellings per acre figures into actual population densities.

Finally, Government Code section 56302(b) requires that the General Plan have a circulation element, "correlated with the land use element." The General Plan Update shows no evidence of such correlation. Because the Update does not include information about the locations designated for growth, it is impossible to tell whether the circulation element would effectively serve the expected growth. The General Plan Update thus does not meet the requirements of the Planning and Zoning Law.

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C. The General Plan's Reference to Other Land Use Diagrams Cannot Cure its Legal Inadequacy.

The County appears to rely upon existing diagrams from community and area plans instead of providing the required comprehensive land use plan. *See* Goals and Policies Report at 5-3. This approach cannot make the General Plan adequate for at least two reasons. First, if a given element of a general plan relies upon material beyond the plan itself, it must provide "a clear reference to the outside documents." *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal. App. 3d 692, 744. The Update's general reference to "Land Use Diagrams for community plan areas, the Kings River Plan, mountain sub-areas, and city General Plan areas" does not meet this standard.

Moreover, the purpose of this requirement is to provide the public with a General Plan that it can understand and use. "A general plan which does not set forth the required elements in an understandable manner cannot be deemed to be in substantial compliance" with the Planning and Zoning Law. *Kings County*, 221 Cal. App. 3d at 744. A general plan must "state with reasonable clarity what its plan is." *Concerned Citizens of Calaveras County v. Board of Supervisor* (1985) 166 Cal. App. 3d 90, 97. Neither the information in the General Plan Update itself, nor its references to other plans, provide the required clarity. Although Part II of the Goals and Policies Report discusses several area plans, the only maps reproduced there show the coverage areas of these plans, not the actual land use designations that apply within those areas. The only way to determine what the General Plan allows and does not allow on any given piece of land is to look at the area plans themselves.

Further, it appears to be effectively impossible for members of the public to look at these other plans. When an attorney at our firm phoned the County to inquire about obtaining copies, he was told that it take up to 45 days to get copies of all the documents making up the General Plan as it currently exists. Repeated inquiries by our clients over the last few weeks have fared no better. We do not even know whether these cobbled-together plans, which we will call the "Existing Plans" cover the entire County.

When outside plans are so inaccessible, the land use element's references to them are meaningless. They cannot provide substance for the element if no-one can determine what they contain. *See Camp*, 123 Cal. App. 3d at 349 n.8 (criticizing general plan because the "physical composition of this 'general plan' would appear to make resort to it for planning information an awkward exercise and would also seem to generate doubt concerning the integrity of the plan"). The Land Use element, and therefore the General Plan Update as a whole, is inadequate and invalid.

II. The DEIR's Description of the Project is Inadequate.

The DEIR provides a project description of the General Plan that is effectively no description at all. As detailed below, the Project Description sets out very general goals, and then describes demographic predictions about the County's future population. This flawed approach not only makes it impossible to analyze the proposed General Plan's environmental impacts, it reveals the substantial flaws in the Plan itself.

A. The Project Description Lacks Sufficient Detail to Allow Meaningful Analysis

In order for an EIR to adequately evaluate the environmental ramifications of a project, it must first provide a comprehensive description of the project itself. "An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal. App. 4th 713, 730 (quoting *County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 193). As a result, courts have found that even if an EIR is adequate in all other respects, the use of a "truncated project concept" violates CEQA and mandates the conclusion that the lead agency did not proceed in the manner required by law. *San Joaquin Raptor*, 27 Cal. App. 4th at 729-30. Furthermore, "[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity." *Id.* at 730 (citation omitted). Thus, an inaccurate or incomplete project description renders the analysis of significant environmental impacts inherently unreliable. Here, the DEIR for the General Plan does not come close to meeting these clearly established legal standards.

The Project Description section of the DEIR offers essentially no description of the project. Although it states that the General Plan "relies on individual policies to direct growth to preferred locations in response to market forces," (DEIR at 2-8), it never describes those policies, nor does it identify the "preferred locations." It does not explain which parts of the County will be designated for development under the General Plan Update. Instead it merely repeats population projections. These figures give the reader no information about where the General Plan would guide growth or where growth would be discouraged.¹ Nor does the Project Description explain to the public or the Cities how the General Plan would achieve its vision for the County. This failure is ultimately attributable to the General Plan itself—the Project Description cannot explain the Plan's land use program, because the Plan has none.

¹ While the Project Description does recite a goal stating that it would "[s]trictly limit" growth in agricultural areas outside of existing hamlets, communities, and cities (DEIR at 2-6), this generic reference does not identify the actual locations where growth will be encouraged or allowed.

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The DEIR's description of the project is not even accurate with reference to the limited substance the Plan provides. The DEIR states that the General Plan update was designed specifically to achieve and promote consistency with the planning documents of other key land use agencies, most importantly the Cities. DEIR at 4-54. The DEIR, however, never explains how the General Plan would achieve, or even promote such consistency. It does not identify the relevant planning policies, nor does it lay out any design principles that would promote consistency. In fact, several General Plan policies could have the opposite effect: as discussed further in Part III.J below, Policy PF-1.2 may actually encourage inconsistent and incompatible land uses.

B. The DEIR's Description of the County's Projected Population is Not an Adequate Description of the Project.

Instead of describing the General Plan's blueprint for the County, the DEIR's Project Description merely states the expected population growth for the County over the Plan's time frame, along with the percentage of the new population expected to live within the Cities. It is nothing more than a projection of population trends; it describes what demographers expect will happen in the absence of any guidance from the General Plan. It cannot even accurately be called a description of the plan. It is rather, a description of how the County will develop *without* a General Plan. It is even deficient at that descriptive task, as it does not indicate how the projected growth will be apportioned among the eight Cities.

Clearly, the recitation of population projections is not an adequate method to describe this project. The project under consideration here is the adoption of a General Plan – consisting of goals, policies, and designated land uses – not merely the change in population that may occur during the life of the Plan. *See* CEQA Guidelines § 15378(a)(1) (The definition of “project” under CEQA expressly includes “the adoption and amendment of local General Plans or elements thereof”). The DEIR must describe the *action* that the County proposes to take—that is, the policies contained in the Plan and the development that these policies will authorize. *See* CEQA Guidelines § 15378(a) (defining “project” as “the whole of an action, which has a potential for resulting in” environmental impacts). This development (including, for example, additional residential, commercial, and agricultural development) will have a range of impacts—including agricultural and biological impacts, among many others—that need to be analyzed in the EIR. As described in the following sections of this letter, the flawed Project Description makes this analysis impossible. The DEIR with its present Project Description cannot support approval of the General Plan; it must be substantially revised and recirculated.

C. In the Absence of a Land Use Plan, Environmental Review of the General Plan Must Assume the Maximum Allowable Densities.

The General Plan's lack of a real land use program for the County makes environmental review nearly impossible. Even in its present inadequate state, however, the Plan provides sufficient information for some analysis. An EIR must take into account all of "the future development permitted by the [general plan]." *City of Redlands v. County of San Bernardino* (2002) 96 Cal. App. 4th 398, 409 (citation omitted); *see also City of Carmel-by-the-Sea v. Bd. of Supervisors* (1986) 183 Cal. App. 3d 229, 245.

Table 5.1 of the Goals and Policies Report contains the best information available concerning how much development the General Plan would allow. It describes the range of densities allowed in each general type of area in the County. The DEIR must take Table 5-1 of the Plan at its word. For example, unincorporated lands may carry rural residential designations allowing 1 unit per 5-10 acres. In the absence of further information about where such densities will apply, the DEIR must assume that the maximum allowable density will apply in all unincorporated land and that the allowable density will be fully built out. It must then provide real analysis of the impacts of such development.

Alternately, if the County's position is that the location and intensity of land uses are governed by stitching the Existing Plans together into a single countywide land use scheme (assuming that they cover the entire County), then it must analyze that scheme. In other words, if the Update's proposed locations and intensities for various land uses are depicted in the Existing Plans, then the DEIR must reproduce the assembled plans into a map, and compare the impacts of the development it would allow to existing environmental conditions.

III. The DEIR's Analyses of the General Plan Update's Environmental Impacts are Inadequate.

The DEIR's impact sections for the most part simply name potential impacts of the project and, in most cases, call them significant and unavoidable. The DEIR rarely quantifies the impacts, nor even describes their nature and extent. Its analyses read more like a set of general discussions of these types of impacts in a generic county anywhere in California, rather than analyses of how *this* General Plan will effect *this* County.

The DEIR's impact analyses are universally flawed in this manner, because none of them consider the project actually put forth by the General Plan Update. As discussed above, the General Plan Update, in plain violation of the Planning and Zoning Law, fails to put forth an actual land use plan. In the absence of a land use plan, the DEIR treats as its project Countywide population growth, with only general indications as to where the ensuing development will take place. Part II above demonstrates that this population growth is not a project and thus is not the

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proper subject of the DEIR's analyses. Instead, the DEIR must consider the full amount of development authorized under the General Plan Update as it has been presented: buildout at the maximum densities allowed in each area of the County, according to Table 5-1 of the Goals and Policies Report. Because the DEIR never looks at the environmental effects of this development, all of its impact discussions are inadequate under CEQA.

The "programmatic" nature of this DEIR is no excuse for its lack of detailed analysis. A program-level EIR, no less than any other EIR, must provide sufficient detail to allow informed public participation and accurate, quantitative analysis of the project's impacts. *See Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 568; CEQA Guidelines § 15151 ("An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences.").

In short, the County has two options: either it can revise the General Plan Update so that it presents a real land use plan and then revise the DEIR to analyze that plan, or it can simply revise the DEIR to account for the impacts of the maximum density allowed under the Update as it is currently presented. Whichever route the County chooses, the DEIR needs significant revisions (and therefore recirculation) before it may support approval of any version of the Update. Below, we detail the specific legal inadequacies of the DEIR's various impact sections.

A. The DEIR's Analysis of and Mitigation for the General Plan's Agricultural Impacts Is Inadequate.

The loss of agricultural lands to residential and commercial development is one of the most significant challenges facing Tulare County. Preventing such loss should be among the top priorities of this General Plan Update, and evaluating the threat is the essential first step towards protection. The Plan, however, gives the issue little real attention.

1. The DEIR Fails to Describe the Current Distribution and Designation of Agricultural Land.

The DEIR's description of the current state of agricultural land in the County is sorely lacking. Every analysis of a project's environmental effects must begin with the description of the environmental conditions before the project—the baseline. Investigating and reporting the baseline conditions is "a crucial function of the EIR." *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal. App. 4th 99, 122. "[W]ithout such a description, analysis of impacts, mitigation measures and project alternatives becomes impossible." *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal. App. 4th 931, 953. Decisionmakers must be able to weigh the project's effects against "real

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conditions on the ground.” *City of Carmel-by-the-Sea*, 183 Cal. App. 3d at 246. “Because the chief purpose of the EIR is to provide detailed information regarding the significant environmental effects of the proposed project on the physical conditions which exist within the area, it follows that the existing conditions must be determined.” *Save Our Peninsula Committee*, 87 Cal. App. 4th at 120 (internal quotation marks omitted).

The DEIR fails to meet these requirements. In considering impacts to agricultural lands, the crucial issues are how much agricultural land is under threat of development, and where the threatened land is located. The description of the baseline thus must include not only the total acreage of the different types of agricultural land (prime farmland, farmland of statewide importance, etc.), but an explanation of where the land is located. The DEIR only does the former, and fails to provide a sufficiently detailed explanation of the location of the county’s agricultural lands. The EIR’s reference to the General Plan Background Report cannot solve this flaw: whatever is required to be in the text of the EIR must be in the EIR itself, not buried in some appendix. See *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2003) 106 Cal. App. 4th 715, 722-23; *San Joaquin Raptor*, 27 Cal. App. 4th at 727.

The DEIR does explain that most land outside City and community UDBs is agricultural, but this ignores the most important aspect of the issue. Figure 3-7 of the General Plan Background Report shows substantial clusters of residential development throughout the unincorporated county. This map is a start towards an accurate description of the baseline, but it is inadequate for a number of reasons. First, its information dates to 2003. CEQA provides that the proper date for establishing the baseline is “the time the notice of preparation is published.” CEQA Guidelines § 15126.2(a). The Notice of Preparation for this DEIR was published April 25, 2006; Figure 3-7 is thus four years too old to provide a legally sufficient baseline.

Moreover, even if this map were up to date, it lacks sufficient detail to provide a useful baseline. First, it is simply too general— it is on too large a scale to show the important details of the County’s land use patterns. Second, development and agriculture are likely to come into conflict outside City limits, but inside UDBs and Urban Area Boundaries. These areas are where the General Plan’s policies will have the most important impacts, and where they will be most controversial. It is therefore particularly important that the DEIR accurately describe the distribution of agricultural lands in these areas. Figure 3-7, however, does not show urban boundaries, and providing a countywide acreage figure (DEIR at 3-7) does not provide the requisite specificity.

Third, the map shows only actual uses, and does not show the existing land use designations. That is, it does not show how land uses could potentially change under the current General Plan, without the proposed update; such analysis is required under CEQA Guidelines section 15125(d). It is impossible to evaluate how the Update will change the General Plan

without a clear picture of the Plan as it stands today. Of course, as described in Part I, the Plan itself similarly lacks any explanation or map of proposed land use designations. These two deficiencies must both be corrected. The DEIR must be revised to provide a clear, complete picture of current and proposed land uses, or it will remain inadequate.

2. The DEIR Fails to Quantify the Amount of Agricultural Land Threatened with Development Under the General Plan.

Having failed to describe existing conditions in the County, the DEIR goes on to fail to describe with the required detail and accuracy the changes that the proposed General Plan will bring. The DEIR does not quantify or even describe the amount and location of agricultural land that would be developed, or threatened with development under the proposed update.

One essential tool for this analysis is a map, or series of maps, showing the present location of agricultural land throughout the County, with an overlay indicating the designations proposed in the General Plan Update. (Of course, to create this map, the County would need to develop a comprehensive land use plan. The need for such a plan is further discussed in Part I above.) As an explanatory tool, this map would provide the public and decisionmakers with crucial information about the areas threatened by development. And as an analytical tool, it would allow the County to calculate the amount of threatened acreage.

In the absence of such a map and comprehensive land use plan, the DEIR must assume that the County will be built out to the maximum density according to the designations listed in Table 5-1 in the Goals and Policies document. This buildout calculation would lead to a projection of vast losses of agricultural land—losses so extensive that the proposed Plan's impacts, and therefore the Plan itself, would be plainly unacceptable. This analysis, however, is clearly required by CEQA, which mandates that an EIR consider the full amount of growth allowed by new General Plan policies. *City of Redlands*, 96 Cal. App. 4th at 409. The best way for the County to avoid the necessity of such burdensome analysis is to develop a land use plan that protects agriculture through concrete and enforceable provisions that prevent development on important farmland.

However the County chooses to perform this analysis, the required end result is clear: the DEIR must quantify the General Plan's specific impacts to agriculture and agricultural land. The present analysis does little more than name the impact and explain, generally, what it means. *See, e.g.*, DEIR at 3-7 ("Future growth resulting from implementation of the General Plan Update could result in both the direct and indirect conversion of agricultural lands to urban and other non-farming uses."). This generic approach is wholly inadequate. *See Whitman v. Board of Supervisors* (1979) 88 Cal. App. 3d 397, 412 ("The use of phrases such as 'increased traffic' and 'minor increase in air emissions,' without further definition and explanation, provides neither the responsible agency nor the public with the type of information called for

under CEQA.”). Without major revisions, this DEIR will remain insufficient to support approval of the General Plan Update.

3. The DEIR Fails to Provide Sufficient Mitigation for the General Plan’s Agricultural Impacts.

The best mitigation for the General Plan’s impact on agriculture would be to revise the Plan so that it did a better job of protecting agriculture, thus avoiding the impact altogether. The conservation easement program identified in Mitigation Measure AG-1.6 is a good complement to plan-level protections, but like so many aspects of the DEIR, it contains too much uncertainty to effectively mitigate the significant environmental impacts.

Moreover, more effective mitigation would be strong, mandatory policies against conversion and for City-centered growth. The General Plan’s agricultural policies, however, do not effectively mitigate the Plan’s agricultural impacts. For example, Policy LU-2.1 states that the “County shall maintain agriculturally-designated areas for agriculture use and shall direct urban development away from valuable agricultural lands to cities.” This is an important goal and a beginning for a strong program of protecting agriculture, but it is not enough, because it does not have behind it the force of mandatory policies, and because what effect it might have is undermined by other aspects of the General Plan.

The first part of the policy—stating that County “shall maintain” the agricultural use of land with agricultural designations—does no real work of its own. It merely states the obvious principle that the County will honor its own land use designations. The threat of agricultural conversion, however, is not that land designated for agriculture will be used improperly. The threat, rather, is that land will be redesignated, from agriculture to a designation more permissive of development. To protect agricultural lands, the General Plan needs strong policies making it difficult to redesignate land away from agriculture. The agricultural policies in Rural Valley Lands Plan, especially Policy RVLP-1.4, are an important step towards protecting agriculture, but they require other, accompanying policies to strengthen them.

For example, Policy AG-1.13 could undermine the point system in Policy RVLP-1.4. AG-1.13 would allow processing facilities on productive farmland, because it states only that such uses “should not” be sited on such land. Once a processing plant was approved via this loophole, it would immediately reduce the point value assigned to nearby land under RVLP-1.4, which gives land a smaller number of points if there are adjacent non-agricultural uses. As those point levels dropped, more lands would qualify for conversion, in a spreading chain-reaction. Changing AG-1.13 to mandate that processing facilities “shall” not be placed on productive land could help prevent such a situation.

This is just one example of a general problem with the General Plan Update—too many policies are permissive rather than mandatory. If the County adopted strict bars on conversion, then it might be able to reduce agricultural impacts to a less than significant level. For example, the County could adopt an absolute bar on conversion to residential use, with policy as follows: “Residential or suburban subdivisions shall be prohibited in areas designated for agricultural use. The division of land in an area designated for agricultural use for the sole purpose of residential subdivision development shall be prohibited.”

The Rural Valley Lands Plan policies, moreover, do nothing to protect land within UDBs, which hold significant amounts of important agriculture. In fact, the General Plan Update does the opposite: as discussed fully in Part III.J below, the Update’s policy concerning County authority within the UDBs is a recipe for sprawl and conversion of agricultural land.

B. The DEIR’s Analysis of and Mitigation for the General Plan’s Transportation Impacts Is Inadequate.

1. The DEIR Contains No Evidence That Its Model Actually Reflects Buildout Conditions Under the General Plan.

The General Plan’s failure to lay out the distribution of land uses causes significant flaws in the DEIR’s discussion of transportation impacts. Rather than use a land use-based approach to transportation impact analysis, the DEIR is forced to rely instead on a model created by the Tulare County Association of Governments (“TCAG”) that uses population and employment projections to generate traffic data. DEIR at 5-3. The DEIR does not include any information about the model’s methodology or its assumptions. Therefore, it is impossible to tell if it uses the same population and employment assumptions as the plan itself— in other words, there is no evidence that the model is actually analyzing the impacts of the General Plan or of some other scenario. It is possible (though very unlikely) that the TCAG model relied on the same population and employment estimates used in the General Plan, but the DEIR does not provide this basic fact.

Moreover, even if the model’s population and employment assumptions are consistent with the General Plan’s, such statistics alone do not provide sufficient information to determine how the County’s roadway and transit network would operate under the proposed General Plan. The land use component (i.e., the location and distribution of land uses) of the equation is critical to evaluating transportation impacts. As the DEIR states, “transportation and circulation needs are closely tied to the location and distribution of land uses.” DEIR at 5-3.

This is essentially a matter of common sense—to understand transportation impacts, one must know where people live and work and how they will travel between the two. Thus, the DEIR should have used the General Plan’s proposed land use plan as the basis for

evaluating its transportation impacts. But because the General Plan does not include any discernible land use plan, the DEIR could not do so.

In general, transportation impact analyses for development projects – including general plans – follow a fairly routine formula: First, land use locations, densities and intensities must be assigned. This is the key missing step in the present General Plan and DEIR. As described in Part I above, in the absence of more specific land-use designations in the General Plan, the DEIR must assume full buildout at the maximum density available in each part of the County. This will provide the needed data about the location of population and employment. Then, trip generation and trip distribution data should be attributed to each land use; these data will then be combined with background transportation data (e.g., existing roadway and intersection traffic volumes, level of service and public transit service statistics); and, based on these components, the DEIR can estimate the General Plan's impact on the transportation system.

2. Even if the TCAG Model Effectively Simulates Buildout Under the General Plan, the DEIR's Analysis is Flawed.

a. The DEIR's Traffic Analysis Uses an Inappropriate Baseline.

The DEIR's baseline for establishing transportation impacts – and particularly the document's assumptions regarding the County's future roadway system – is confusing, and in certain instances, contradicts the proposed General Plan. Because the traffic analysis seeks to predict future traffic patterns, it must include data accurately reflecting the future roadway system. It is thus essential the analysis assume only those roadway improvements that are reasonably likely to be in place by the target date of the projection. If the analysis assumes improvements that are unlikely to happen, then it will find traffic conditions to be better than they actually will be.

Here, the DEIR lacks evidence that its analysis relies on accurate information about future improvements. The Methodology section of the DEIR's transportation analysis refers to the list of improvements in the General Plan Background Report, but the Analysis Results section identifies a different list of future roadway improvements. See DEIR at 5-3 and 5-5. There is no way for a reader to determine which improvements were actually a part of the traffic modeling. The DEIR also identifies the latter list of roadway improvements as mitigation measures for the Project's impacts. *Id.* Obviously, an improvement that is assumed in the initial analysis of traffic conditions cannot then be counted as a mitigation measure to reduce traffic congestion.

Moreover, the DEIR lists 14 interchange improvement projects that would be needed to support buildout of the General Plan. DEIR at 5-6. Again, it is unclear whether the

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DEIR assumed that these interchange improvements would be operational in 2030. These projects are not included in the Background Report's extensive rundown of proposed improvements. There is no evidence of the likelihood that these projects will be completed within the General Plan's timeframe. Moreover, the facts in the DEIR suggest the opposite: together, the cost of these interchange projects would be \$270,000,000 in 2007 dollars, an enormous sum under any fiscal conditions, but one that makes full implementation extremely unlikely in the current budget climate. *Id.*; Background Report at 5-42.

If the DEIR's traffic analysis does, in fact, assume the existence of roadway projects that may not be built within the General Plan's 2030 horizon, then the General Plan is likely to result in transportation impacts far more severe than the DEIR discloses. In order to understand exactly how the County's roadways and freeways would operate upon implementation of the General Plan, the DEIR must clearly document and justify the planning assumptions. Only those transportation improvement projects that are programmed and that have a high likelihood of funding, and consequently a high likelihood for full implementation by 2030, should be included in the transportation model in order to provide a realistic evaluation of future traffic impacts. The DEIR's present analysis lacks any evidence as to whether or not it has taken this approach.

b. The DEIR Underestimates Traffic Impacts by Failing to Analyze Traffic Impacts During Peak Periods and by Ignoring Traffic Impacts on Intersections.

Regardless of its assumptions regarding future improvements, the DEIR understates the General Plan's traffic impacts because it uses an inappropriate methodology to evaluate traffic conditions. Specifically, the DEIR's level of service ("LOS") analysis was conducted only for average daily traffic ("ADT"), rather than peak hour or peak period traffic. LOS is typically measured during the weekday a.m. or p.m. peak period or peak hour; that is, the heaviest travel time of any given day. This is most accurate measure of traffic conditions because congestion generally occurs during morning and evening commute periods, not during the middle of the day. *See* Goals and Policies Report at 12-1. Averaging traffic volumes over an entire day could smooth out very high peak volumes. This would then give the impression that the roadway suffered no traffic problems, when in fact there was significant congestion and vehicular delay during commute times. The DEIR's approach of calculating LOS based on ADT understates the true effects of development under the General Plan. CEQA requires that the analysis of periodic impacts, like traffic or noise, account for the peak periods of impact, rather than submerging them in an average. *See Berkeley Keep Jets Over the Bay Committee v. Board of Port Comrs.* (2001) 91 Cal. App. 4th 1344, 1355 (requiring the analysis of single-event noise levels).

The flaws in the traffic analysis methodology extend beyond its failure to evaluate peak hour or peak period traffic congestion. The DEIR's LOS analysis was conducted for roadway segments rather than intersections. While it may be helpful to understand how roadway segments operate, the critical measure of a roadway's capacity is the capacity of its intersections. Intersections, and not roadway segments, are the choke points in a roadway network. While a roadway segment may operate at LOS D, intersections along that same roadway may operate at LOS E or F. As the General Plan itself recognizes, "[o]perational analyses typically focus on intersections rather than road segments since the capacity of the intersections is usually more critical than the capacity of the roadway." Background Report at 21-1. The Plan goes on to prescribe LOS standards for both roadway segments and intersections in Policy TC-1.16. It is, therefore, difficult to fathom why the DEIR ignored this crucial category of impact.

"An EIR must identify and evaluate *all* significant environmental effects of a project." *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal. App. 3d 421, 428 (emphasis added) (citation omitted). The DEIR, by failing to consider intersection impacts, has failed to live up to this charge. Had the DEIR analyzed peak period intersection LOS, the Project's traffic impacts would certainly be more severe than the DEIR discloses. See DEIR Table 5-3.

3. The DEIR Fails to Include Feasible Mitigation Measures for the General Plan's Transportation Impacts

The DEIR comes to the conclusion that no mitigation measures, other than the proposed General Plan's policies, are available to reduce the transportation impacts that would result from implementation of the General Plan. DEIR at 5-7. The DEIR's approach to mitigation fails in two substantive ways: (1) the General Plan policies would not effectively reduce project impacts and (2) other feasible mitigation exists that would further reduce project impacts.

a. The General Plan Policies Would Not Effectively Reduce Project Impacts

The DEIR determines that the General Plan would result in significant traffic impacts. DEIR at 5-7. CEQA, therefore, requires the identification of mitigation measures to avoid or minimize those impacts. See CEQA Guidelines 15126.4(a). The DEIR relies on certain General Plan policies as mitigation to minimize the impacts, but concludes that these measures could not, in fact, reduce them to a less than significant level. DEIR at 5-12. These measures fail to reduce traffic impacts because, among other reasons, they are too vague and are otherwise unenforceable.

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CEQA requires that “mitigation measures proposed in an EIR must be “fully enforceable” through permit conditions, agreements, or other legally binding instruments.” Pub. Res. Code § 21081.6(b); CEQA Guidelines § 15126.4(a)(3). Uncertain, vague, and speculative mitigation measures have been held inadequate because they lack a commitment to enforcement. See, e.g., *Anderson First Coalition v. City of Anderson* (2005) 130 Cal. App. 4th 1173, 1188-89 (holding traffic mitigation fee measure inadequate under CEQA due to vagueness in program for implementing required improvements). The policies identified as traffic mitigation do not meet these standards.

For example, the measures call for the County to maintain a public road network (TC-1.1), continue to work with other agencies to assess transportation needs (TC-1.3), work to enhance funding (TC-1.4), and give priority to roadway maintenance to maintain integrity of roadways (TC-1.5). The first two of these are utterly vague and do nothing to actually reduce the traffic congestion impacts identified in the DEIR. The second two might improve the projected congestion problems, if the County actually takes the proposed action, but the policies are in no way binding or enforceable, and thus may not be relied upon as effective mitigation. The purpose of mitigation is to reduce the severity of an environmental impact; the cited General Plan policies do little more than state the County’s interest in reducing traffic impacts. Setting goals is important, but it is no substitute for actually imposing effective mitigation measures.

The DEIR’s failure to incorporate adequate, enforceable, feasible mitigation measures into General Plan policies does not by itself make the Project’s impacts unavoidable; to the contrary, if the DEIR had proposed and analyzed adequate mitigation measures—as required under CEQA—some of those impacts might have been avoided. In order to do this job, the General Plan policies must be revised to make them mandatory and legally binding.

b. Feasible Mitigation Exists

CEQA requires that an EIR identify, and the decisionmaker adopt, all feasible mitigation measures that would reduce or avoid a project’s significant impacts. Pub. Res. Code § 21002; Guidelines § 15091(a)(3). The agency must comply with this requirement even if the mitigation would not reduce the impact to a less than significant level, as long as the measure would have some mitigating effect. The best way to mitigate the General Plan Update’s traffic impacts would be to reduce both the total number of vehicle trips and the average trip length. Such mitigation would simultaneously reduce the Plan’s traffic impacts, its degradation of air quality, and its contribution to global warming.

In addition to revisions to the General Plan’s policies and implementation measures, the County should evaluate measures to ensure that it is taking all available means to ensure the success of alternative modes of transportation. To this end, the County should develop a list of alternative transportation strategies. These strategies should include project and

community design standards and techniques that have been demonstrated to be effective in achieving any of the following objectives:

- Reducing commute distances and commute times;
- Reducing automobile use, especially single-occupant vehicle automobile trips;
- Encouraging and supporting the use of transit; and
- Encouraging the use of bicycles and walking as an alternative mode of transportation.

Moreover, as explained above, traffic impacts are intimately tied to land use patterns. Once the DEIR has been revised to explain the land use assumptions underlying the traffic analysis, that analysis can be used to re-examine the General Plan's land use policies. For example, if, as seems likely, it turns out that the DEIR projects that significant amounts of traffic will come from commutes between residences in unincorporated areas to jobs in cities, then the General Plan could be revised to mitigate this traffic by shifting residential land use designations into areas inside the UDBs and closer to jobs.

C. The DEIR's Analysis of and Mitigation for the General Plan's Air Quality Impacts Is Inadequate.

1. The DEIR's Analysis of the General Plan's Impacts From Stationary Sources Is Deficient.

The southern San Joaquin Valley, including Tulare County, suffers from some of the nation's worst air quality. By its own admission, implementation of the General Plan would cause a substantial increase in air pollution. The DEIR, however, neither comprehensively describes existing air quality in the region, nor explains the health effects that occur as a result of exposure to these pollutants.

While the DEIR's air quality analysis contains extensive flaws, we summarize just a few of the most egregious deficiencies below. We suggest that the County follow closely the San Joaquin Valley Air Pollution Control District's ("SJVAPCD") Guide for Assessing and Mitigation Air Quality Impacts ("GAMAQI"), attached as Exhibit 1. This Guide, produced by the agency with the deepest expertise in Valley air issues, sets the standard for effective, useful analysis of the emissions produced by projects and plans in this region.

The DEIR's analysis of air quality impacts is crippled by the same flaws that afflict the rest of this document: because the General Plan does not describe the distribution of

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proposed land uses throughout the County, the DEIR cannot analyze its environmental consequences. At the same time, the air quality analysis, like the traffic analysis discussed in Part II.B above, relies on the TCAG traffic model; because of the DEIR's failure to explain the model's assumptions, it is impossible to determine whether the model accurately reflects the General Plan, as discussed in Part III.B above. Moreover, from the limited information included in the DEIR, it is evident that the estimate of air emissions omits several sources of pollutants.

The DEIR states that development under the General Plan will introduce a variety of new stationary and area sources of emissions to the County, including facilities that use natural gas, landscape maintenance equipment, and woodburning stoves, as well as a variety of industrial and commercial processes. DEIR at 4-50. The DEIR's estimate of operational emissions, however, does not include these sources. Instead it identifies and quantifies only on-road vehicle and dairy/feedlot emissions. See DEIR Table 4-2. Unless and until the DEIR is revised to account for the whole of the General Plan's increase in emissions, it will remain inadequate.

The DEIR's conclusions regarding projected vehicular emissions levels are undermined by their reliance on the TCAG model and on an assumed reduction in per-car tailpipe emissions, sufficient to overcome the increased driving due to population growth. DEIR at 4-50. Although the DEIR may be correct about future emissions standards, its conclusion is wholly insupportable in the absence of evidence regarding land use patterns. Put simply, growth in driving is likely to cancel out improved vehicle fuel economy. If future growth occurs in a pattern that encourages more driving than the TCAG model assumes, then the DEIR's conclusions are entirely wrong. Without information about the match between the model and the project development patterns under the General Plan, the DEIR is not supported by the substantial evidence that CEQA requires.

The DEIR's analysis of those emissions sources that it does identify is also flawed. First, it lacks support for its quantification of the increase in emissions from dairy and feedstock facilities. The DEIR explains that dairy and feedstock emissions were estimated in the Tulare County Draft Phase I Animal Confinement Facilities Plan Supplemental EIR ("ACF EIR"), which assumed buildout by the year 2020. DEIR at 4-47 and 4-50. The planning horizon for the Tulare County General Plan, however, extends to 2030. The DEIR does not disclose its methodology for determining the emission estimates for the ten years between 2020 and 2030, and thus lacks substantial evidence in support of its determinations.

Moreover, because the DEIR only identifies year 2030 emissions, it does not accurately assess impacts in the middle of the General Plan's buildout period (i.e., 2015 or 2020). The SJVAPCD recommends an interim year analysis: "[i]f a project has over a five year projected build-out, analyses should be done for the final build-out year (using the nearest

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default year in URBEMIS) and one intermediate year (using the URBEMIS default year nearest to the midpoint of projected build-out of the project)." SJVAPCD GAMAQI at 40.

In addition, the ACF EIR cannot support the DEIR's conclusion, even for the time up to 2020. First, it is inappropriate to rely upon this type of incorporation by reference as substitute for an important analysis of a key environmental impact. "Incorporation by reference is most appropriate for including long, descriptive, or technical materials that . . . do not contribute directly to the analysis of the problem at hand." CEQA Guidelines § 15150(f). Clearly the analysis of emissions from dairy and other livestock facilities "contributes directly" to the analysis of the General Plan's air quality impacts, and therefore should have been included directly in the text of the DEIR, not merely incorporated by reference. Moreover, even if the DEIR could legitimately rely upon an outside document for its analysis and conclusions, it would need to include a thorough description of the ACF EIR's scope and methodology. *See Emmington v. Solano County* (1987) 195 Cal. App. 3d 491, 502-03 (outside reports do not support environmental document where they are not adequately summarized and analyzed).

In order to provide the public and decisionmakers with the information required by CEQA, the DEIR must identify 2030 ROG, NO_x and CO emissions with and without the General Plan. In other words, the DEIR must provide the absolute increase in vehicular travel and vehicular emissions from 2008 to 2030. Once these numbers are ascertained, pertinent emission reductions associated with the more stringent tailpipe standards should be applied to the "project" emissions. Decision makers must understand the full range of transportation and air quality assumptions if they are truly to understand the General Plan's impact on the region's air quality.

2. The DEIR Fails to Analyze Whether the Project Would Violate Any Air Quality Standards or Contribute to Air Quality Violation.

The proposed General Plan would result in a significant impact if it would violate any air quality standard or contribute substantially to an existing violation. DEIR at 4-48. As discussed above, the General Plan attempts (inadequately) to identify the increase in emissions resulting from the General Plan. The DEIR makes no attempt, however, to determine how this increase in emissions would compare to established air quality standards. We direct the County to the SJVAPCD's CEQA Guidelines, which describe the methodology for evaluating a project's potential for violating air quality standards. GAMAQI at 21 and 22. The revised DEIR must not only accurately identify the emissions that would be generated by buildout of the General Plan; it must also evaluate the effect those emissions would have on the region's air quality.

3. The DEIR Fails to Adequately Analyze Impacts Relating to the Project's Effect on the Regional Air Quality Plan.

Rather than analyze how the General Plan's increase in air emissions would affect the SJVAPCD air quality plan, the DEIR generally asserts that the General Plan was designed specifically to achieve and promote consistency with the planning documents of neighboring jurisdictions and other agencies that have jurisdiction over the project. DEIR at 4-54. The DEIR then relies upon a series of General Plan policies to conclude that impacts relating to the General Plan's consistency with the regional air quality plan would be less than significant. DEIR at 4-54. CEQA requires more than this cavalier approach to impact analysis.

To give just one example, ROG emissions from dairy and feedlot operations alone would be 2,570 tons per year, while the SJVAPCD standard is 10 tons. DEIR at Table 4-2. Under the General Plan, emissions from just this one category of source would exceed the applicable standard by more than 250 times. There is simply no justification for ignoring this massive exceedance and refusing to consider the General Plan's impact on regional air quality objectives.

Nor can the DEIR rely on a series of vague General Plan policies to conclude that the Project would not conflict with or obstruct implementation of the applicable air quality plan. Indeed, the DEIR never bothers to specifically explain how each of these policies would reduce emissions in a manner necessary to ensure that implementation of the General Plan would not obstruct implementation of the air quality plan. Moreover, these policies will be ineffective at reducing the Project's air quality impacts because they are vague, directory, and otherwise unenforceable. As already noted, CEQA requires that "mitigation measures proposed in an EIR must be "fully enforceable" through permit conditions, agreements, or other legally binding instruments." Pub. Res. Code § 21081.6(b); CEQA Guidelines § 15126.4(a)(3). Uncertain, vague, and speculative mitigation measures have been held inadequate because they lack a commitment to enforcement. *See, e.g., Anderson First Coalition*, 130 Cal. App. 4th at 1188-89 (holding traffic mitigation fee measure inadequate under CEQA due to vagueness in program for implementing required improvements).

4. The DEIR Fails to Analyze Impacts Relating to PM2.5 Emissions.

The federal Clean Air Act requires all states to attain the 1997 standards for the particulate pollutant known as PM2.5 as expeditiously as practicable beginning in 2010, but no later than April 5, 2015. *See* SJVAPCD Proposed PM2.5 Plan, attached as Exhibit 2. Buildout of the Tulare General Plan would result in 2,264 tons per year of PM 2.5. The DEIR, however, failed to determine either whether the Project's substantial increase in PM2.5 emissions would be a significant contribution to the region's already significant PM2.5 problem, or whether it would conflict with or obstruct implementation of the SJVAPCD plan. The DEIR must

undertake this analysis and identify mitigation measures capable of eliminating or reducing this impact. Again, the SJVAPCD has prepared a comprehensive and exhaustive list of strict regulatory and incentive-based measures to reduce PM_{2.5} and precursor emissions throughout the Valley. *Id.* at ES-2. In addition to including these measures as mitigation, the DEIR should consider measures to reduce particulate emissions from mobile sources, which are beyond the District's direct jurisdiction. *Id.* at ES-3.

5. The DEIR Fails to Analyze Adequately the Project's Potential to Expose Sensitive Receptors to Substantial Pollutant Concentrations.

a. Exposure to Toxic Air Contaminants

The DEIR makes no attempt to quantify the increase in toxic air contaminants ("TAC") from build out of the General Plan; instead it defers this analysis' suggesting that these emissions can be controlled at the local and regional level through permitting. DEIR at 4-50 and 4-58. CEQA, however, does not allow an EIR to defer analysis and mitigation to a future time. *Sundstrom v. Mendocino County*, 202 Cal. App. 3d 296 (1988). A project's impacts must be analyzed, disclosed, and mitigated at the "earliest feasible stage in the planning process." *Id.* at 307; *see also* CEQA Guidelines § 15126.4(a)(1)(B) ("Formulation of mitigation measures should not be deferred until some future time."); *Gentry v. City of Murieta* (1995) 36 Cal. App. 4th 1359, 1396.

Moreover, the DEIR fails to evaluate the health risk to sensitive receptors resulting from exposure to TAC emissions. Although the DEIR acknowledges that sensitive land uses near local roadways, for example, could be exposed to air pollutant emissions (DEIR at 4-58), the DEIR stops short of actually analyzing this very serious potential public health impact. This failure, of course, is due largely to the General Plan's lack of a land use plan. Without information regarding the distribution of different land uses, it is impossible to discern where sensitive receptors and TAC-generators might come together. The DEIR should have identified locations at particularly high risk from TACs (e.g., areas along major roadways, rail activity areas, areas near dairy and feedlot operations) and, in mitigation, required any necessary modifications to the County's proposed land use plan, such as the creation of sufficient buffer areas and contingency plans. (These buffers, however, must take into account city plans, as discussed in Part III.J, below.

The DEIR's failure to provide this analysis is particularly disturbing since the California Air Resources Board ("CARB") provides guidance pertaining to TACs and land use development. In April 2005, CARB released the "Air Quality and Land Use Handbook," intended for use by lead agencies when considering the potential risks to sensitive receptors (e.g., schools, homes, daycare centers, medical facilities) from TAC exposures. Land uses that result in such exposures, particularly exposure to combustion-related diesel particulate matter

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("DPM"), are rarely required to acquire air quality permits. Therefore, the lead agency must take action to prevent or minimize health risk exposure, and cannot rely on future permitting, as the DEIR has attempted to do. *See* CARB Air Quality and Land Use Handbook, attached as Exhibit 3.

The CARB Handbook explains that the primary purpose of General Plans, and the source of government authority to engage in planning, is to protect public health, safety and welfare. CARB Handbook at 41. CARB highlights the potential health impacts associated with proximity to TAC sources, and offers guidance and setback distances for a number of land use types commonly associated with TAC emissions. CARB guidance states that "[b]ecause living or going to school too close to such air pollution sources may increase both cancer and non-cancer health risks, we are recommending that proximity be considered in the siting of new sensitive land uses." *Id.* at ES-1. The Guidance further states "what we know today indicates that keeping new homes and other sensitive land uses from siting too close to such facilities would provide additional health protection." *Id.*

Clearly, sound planning principles, along with CEQA's bar on deferred analysis, dictate that the appropriate context for addressing and eliminating these land use conflicts is during a comprehensive update of the General Plan, not at the project-specific level. The Tulare General Plan DEIR should have used this CARB Guidance – both to evaluate the potential health risk associated with implementation of the General Plan and to determine feasible alternative land use patterns if health risks would be elevated as a result of the proximity of sensitive receptors to toxic sources.

Finally, the DEIR again looks to vague and undefined General Plan policies to reduce this impact. DEIR at 4-58. These mitigation measures suffer from exactly the same defects as the EIR's mitigation measures relating to transportation impacts.

b. Carbon Monoxide Hot Spots

Upon implementation of the General Plan, sensitive receptors in the County would be exposed to almost 11,000 tons of carbon monoxide ("CO") emissions annually. DEIR at Table 4-2. The DEIR does not find this substantial increase in CO to be a significant impact, presumably because CO emissions are expected to decrease between 2007 and 2030 due to strengthened tailpipe standards. *Id.* As discussed above, however, this conclusion lacks the required substantial evidence in support, because it is based on a model whose relationship to the likely development patterns under the General Plan is unknown.

Moreover, the EIR failed to conduct the legally required analysis to determine whether the impact related to carbon monoxide would be significant. Simply analyzing total CO emissions does not give an accurate picture of the impacts of CO emissions. The health

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impacts of carbon monoxide are felt locally, at "hot spots" where large amounts of CO collect, usually heavily congested intersections. The only way to determine the potential significance of these impacts is to analyze whether traffic and weather patterns would create such hot spots. Even if the EIR's unsupported assumptions turn out to be correct and countywide CO emissions do drop, if development and roadway patterns are poorly designed, the General Plan could easily lead to CO hot spots and cause significant environmental impacts. The DEIR must determine whether this will happen.

Air quality agencies have made it quite clear that studies of CO concentrations are of paramount importance. According to the Bay Area Air Quality Management District ("BAAQMD"), analysis of localized CO concentrations are important for two reasons:

First, State and federal laws require the region to attain and maintain ambient air quality standards. The region must ensure that increased motor vehicle use and congestion do not nullify the great strides that have been made with respect to ambient concentrations of CO. Secondly, the region must safeguard against localized high concentrations of CO that may not be recorded at monitoring sites. Because elevated CO concentrations are generally fairly localized, heavy traffic volumes and congestion can lead to high levels of CO, or "hotspots," while concentrations at the closest air quality monitoring station may be below State and national standards.

BAAQMD CEQA Guidelines (attached as Exhibit 9) at 37.

This potential impact must be analyzed or the DEIR will remain inadequate.

6. The DEIR Fails to Adequately Analyze the Potential for Development Under the General Plan To Create Objectionable Odors.

While the DEIR describes the types of odors associated with dairy and feedlot development, it falls short of analyzing how these odorous emissions would impact existing and future sensitive receptors. Again, the DEIR defers this important analysis and concludes, absent any evidence, that impacts relating to odorous emissions would be mitigated to a less than significant level. The DEIR lacks evidence for its conclusion because the General Plan lacks the information required for the analysis. The DEIR can hardly conclude that no sensitive receptors will be affected by dairy or feedlot odors if there is no plan to ensure that such receptors will not be located near the odor sources.

As discussed above, the purpose of the General Plan is to guide the growth and development of the County. Locating adequate sites for dairy and feedlot development will

become more difficult upon buildout of the County. Sensitive land uses must be protected from incompatible uses such as dairies and feedlots. Had the County prepared its General Plan in a manner that outlined present land uses and the location of all proposed land use designations, the DEIR would then be able to evaluate these potential impacts. Under the General Plan as currently proposed, with its lack both of a land use plan and of effective policies to avoid odor-related land use conflicts, the DEIR must assume that the County is built out to the maximum density allowable pursuant to the Goals and Policies Reports, Table 5-1. It must then estimate how many sensitive receptors are likely to be within affected area of odor-producing facilities. This calculation will allow the determination of the severity of the impact, which is likely to be significant.

The DEIR identifies mitigation measure AQ-4.8 (Odor Management Plan for Dairy and Feedlot Operations) as having the potential to reduce odorous emissions. The DEIR stops short, however, of providing any specificity regarding the potential for "odor control strategies" to reduce odors to a less than significant level. Without such specificity, there is no evidence to support the DEIR's conclusion that the measure will reduce odors to a less than significant level. And without such evidence supporting the conclusion, the EIR is inadequate. *Save Our Peninsula Committee*, 87 Cal. App. 4th 99 at 130 (EIR must analyze efficacy of mitigation). Moreover, without a corresponding land use program (i.e., appropriate buffer zones), even the best odor control strategy will be ineffective if neighboring uses are located too close to dairy and feedlot operations.

7. The DEIR Fails to Identify Feasible Mitigation Measures

As discussed above in the context of mitigation for transportation impacts and below in the context of climate change impacts, the DEIR fails entirely to identify adequate mitigation for the General Plan's significant air quality impacts. Mitigation measures discussed above in connection with transportation impacts would, if implemented, result in a substantial reduction in criteria pollutant emissions. CEQA therefore requires this DEIR to identify such measures before the Update maybe approved.

D. The DEIR Inadequately Analyzes and Mitigates the General Plan's Contribution to Climate Change.

1. The DEIR Fails to Account for All of the General Plan's Greenhouse Gas Emissions.

Although the DEIR recognizes that implementation of the General Plan would contribute to global warming through increased emissions of greenhouse gases (DEIR at 4-65), the document fails to recognize the severity and extent of the looming climate change crisis or the role that Tulare County's General Plan, if implemented, would play. The General Plan DEIR

acknowledges that annual carbon dioxide emissions under the General Plan would be 1,449,888 metric tons per year and methane gas emissions would increase by 283,815 tons per year. *Id.* The document finds that this increase in greenhouse gas ("GHG") emissions would contribute to ongoing of climate change and aptly concludes that this impact is significant. *Id.*

The DEIR's quantification of the General Plan's contribution to climate change, however, is inaccurate and unsupported. Like the analysis of impacts to air quality, the climate change analysis considers only emissions from motor vehicles and from dairies and feedlots. Approximately 21 percent of California's carbon dioxide emissions come from electrical power generation, but the DEIR ignores the emissions that would be attributable to the generation of electricity for new development under the General Plan. All such emissions must be considered part of the General Plan's contribution to global warming.

Moreover, the DEIR's analysis of vehicular emissions is itself flawed. Like the air quality and traffic analyses, its consideration of climate contributions relies entirely on the TCAG model. As discussed above, there is no evidence that the TCAG model matches the land use patterns that would be established under the General Plan. To accurately quantify greenhouse gas emissions, the DEIR should calculate the number of vehicular trips and the overall vehicle miles traveled (collectively, "VMT") attributable to development under the General Plan.

Under the Plan as currently proposed, the DEIR must calculate VMT assuming buildout at the maximum allowable densities. This will, no doubt, lead to a tremendously large VMT figure and huge greenhouse gas projections. This is yet another indication that the County should develop a comprehensive land use plan as a part of this General Plan Update. Once it does so, the calculation of VMT will be an important tool for refining the plan—the metric can vary tremendously depending on the density, intensity and locations of land uses. The increase caused by implementation of the General Plan would signal whether the Plan's land uses are efficiently designed. Specifically, sprawling land use patterns result in vehicle trips substantially greater in number and length than would city-centered development.

As the DEIR admits, less than one-half of one percent of the County's work related trips are made on transit (Background Report, Table 5-16) and the County appears to be making a conscious choice to continue to facilitate auto-based travel. Because the proposed General Plan, as discussed in Part III.K, would lead to sprawling development, it is likely that the best way to cut down on VMT, and therefore on greenhouse gas emissions, will be to alter the Plan to favor denser development, keeping jobs and residences close together. The EIR errs in its absolute failure to analyze how the General Plan's policies that encourage the use of the private automobile have dire consequences for climate change. With its present approach to land use and development, Tulare County will never be able to even maintain, let alone reduce, its generation of GHG emissions.

2. The General Plan and DEIR Must Recognize that Uncontrolled, Sprawling Growth Undermines State Greenhouse Gas Reduction Goals.

Reducing greenhouse gas emissions—rather than merely restraining their growth—is essential in light of the Legislature’s enactment of AB 32, the California Global Warming Solutions Act. This new law requires that California’s greenhouse gas emissions be reduced to 1990 levels by 2020. The DEIR appropriately acknowledges that by contributing to, rather than reducing, the County’s and California’s overall emissions, the General Plan will have a significant environmental impact. But this acknowledgment is insufficient; the DEIR is entirely wrong, however, when it concludes that this impact is unavoidable. Tulare County has the ability to create and adopt a General Plan that advances the goals of AB 32, and this is the moment for it to do so.

Like every other urbanizing region, Tulare County is at a critical crossroads. It can take the “business as usual” approach embodied in the current General Plan proposal, allowing or even encouraging decentralized land use development that creates spread-out communities and increases auto travel. Or it can make the decision to grow in a sustainable manner. The Legislature and the people of California have decided that this state must move toward sustainable growth. Tulare County’s insistence on working against this goal is unjustifiable. Sound urban planning principles—as well as diminishing oil supplies and the looming global warming crisis—dictate that the primary way to substantially reduce vehicular use is by promoting city-centered growth and significantly expanding transit infrastructure and services.

3. The DEIR’s Approach to Climate Change Mitigation Is Utterly Deficient.

The DEIR relies solely on vague and unenforceable General Plan policies to mitigate its significant contribution to global warming. CEQA requires more. “The purpose of an environmental impact report is . . . to list ways in which the significant effects of such a project might be minimized . . .” CEQA § 21061. The Supreme Court has described mitigation as part of the “core” of an EIR. *Citizens of Goleta Valley*, 52 Cal. 3d at 564. It is important to note that the DEIR’s obligation to identify mitigation is not diminished even if no available mitigation would reduce the impact all the way to a less-than-significant level. Any measure that will reduce the severity of the impact is still useful, and still must be identified and analyzed. *Cf. Santiago County Water Dist. v. Orange County* (1981) 118 Cal. App. 3d 818, 831.

The DEIR looks to General Plan policies to address global warming impacts. Yet, as discussed above, these policies are voluntary, flexible, and unenforceable in nature. The majority of policies and programs listed include terms like “as feasible,” “shall cooperate with,” “shall work to comprehensively study,” “shall encourage” and “shall investigate the feasibility

of.” As such the DEIR provides inadequate commitment to substantive, enforceable climate change mitigation and protection, and fails to provide mechanisms to ensure that climate change mitigation will evolve, as appropriate, while enduring across the twenty year project lifespan. Generally, policies that call for “encouraging,” and “supporting” should be modified to actually require the implementation of the policies’ programs. For example, where Implementation Measure 9 calls for the County to continue to increase expansion and enhancement of existing public transit services, this measure should be changed to “implement and impose an enforceable requirement on developers to contribute toward enhanced transit service” or “adopt a transit mode share goal.”

The DEIR does include a mitigation measure calling for the preparation of a GHG emission reduction plan, yet this measure contains no insight as to how the GHG plan, once prepared, would provide a meaningful reduction in GHG emissions. The measure contains no performance standards or specific criteria for the GHG plan and thus fails to meet CEQA’s standards for mitigation. In essence, we can find no evidence that the County is seriously committed to offsetting the substantial increase in GHG emissions that would result from implementation of the General Plan.

Additional actions to reduce GHG emissions have been demonstrated to be feasible evidenced by their adoption by other jurisdictions in California. Tulare County should consider adopting all feasible mitigation measures using the powers the County has to enact ordinances and control development characteristics to reduce GHG emissions.

E. The DEIR Inadequately Analyzes and Mitigates the General Plan’s Energy Impacts.

One of the DEIR’s glaring flaws lies in its discussion of the General Plan’s potential impacts on energy resources. CEQA requires that EIRs include a discussion of potential energy impacts of all proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy. *See* Pub. Res. Code § 21100(b) (requiring mitigation measures to “reduce the wasteful, inefficient, and unnecessary consumption of energy”); CEQA Guidelines, Appendix F (“Energy Conservation”). This requirement is “substantive and not procedural in nature and was enacted for the purpose of requiring lead agencies to focus upon the energy problem in the preparation of the final EIR.” *People v. County of Kern* (1976) 62 Cal. App. 3d 761, 774-75.

Despite this clear mandate, the DEIR effectively ignores the energy consumption of development under the proposed General Plan. Its discussion of energy conservation is completely generic and includes no information specific to Tulare County or the General Plan, other than naming the County’s energy providers. At a minimum, CEQA requires that the DEIR include detailed information on the project’s projected energy requirements, a discussion

of existing energy use patterns in the County, an assessment of the Plan's impacts on energy resources, mitigation measures to minimize energy consumption, and an alternatives analysis that compares alternatives in terms of overall energy consumption. *See* CEQA Guidelines, Appendix F. Without such an analysis, the public and decision-makers have no way to evaluate the General Plan's potential impacts on energy resources, and the DEIR is thus not legally adequate under CEQA.

Moreover, the DEIR relies upon inadequate mitigation measures to reduce the Plan's energy impacts to a less than significant level. None of these measures is binding, and there is no evidence in the DEIR that any will be effective. For example, Policy ERM-4.1 states the County "shall encourage" various energy-efficient features in new construction. Similarly, Policy ERM-4.2 calls for the County to "promote" the planting of shade trees. These policies are insufficient, because they offer nothing to ensure that these features will ever actually be implemented. They empower the County to nothing more than make suggestions. The County must provide serious, enforceable mitigation to increase energy efficiency in development under the General Plan. Many of the measures listed above in our discussion of global warming strategies would also serve well to improve energy conservation.

F. The DEIR Inadequately Analyzes and Mitigates the General Plan's Water Supply Impacts.

Throughout Tulare County, but especially in the smaller communities and hamlets, the quantity and quality of water supplies cannot be taken for granted. It is therefore quite disappointing that the DEIR gives the analysis of water supplies such short shrift. Under CEQA, an EIR must clearly identify the proposed water supply for the entire project under review, and must then analyze the reliability of that supply. *See, e.g., Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 431-32; *Santa Clarita Organization for Planning the Environment* (2003) 106 Cal. App. 4th at 722-24; *Napa Citizens for Honest Government v. Napa County Board of Commissioners* (2001) 91 Cal. App. 4th 342, 373-74. If the proposed supply is uncertain to provide the needed water, the EIR must also identify an alternative source. *Vineyard Area Citizens*, 40 Cal. 4th at 432. The EIR must finally analyze and disclose the potential environmental impacts of tapping these sources. *Id.*

The DEIR completely fails to follow these well-established and legally-required procedures. Charged with considering the specific impacts of adding over 250,000 new people to the County's population, the DEIR makes no attempt to figure out where they will get their drinking water. Identifying a water supply is not only a clear legal obligation of an EIR, as a matter of policy it is also one of a planning agency's most important jobs. Water supply can be a serious constraint on growth, but jurisdictions across the state have historically taken it for granted, securing reliable supplies only after approving projects. Although planning in many

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places has improved in recent years, the DEIR appears to be following the old pattern of assuming, or hoping, that water supply can keep up with demand.

Water supply planning is serious business in Tulare County. When the members of the Council of Cities come to the Local Agency Formation Commission with annexation and development proposals, Commissioners consistently—and appropriately—ask tough questions about water supply, ensuring that the cities do not take on projects without knowing, well ahead of time, that water is available. CEQA, and good public policy, demand that the County ask itself the same hard questions.

Instead of determining how projected demand and supply match up, the DEIR merely lists the various water supplies of the cities, communities, and hamlets, and states whether each of these systems has excess capacity or not. DEIR at 4-107 to 4-119. This exercise provides a good start for the required analysis, but it does not fulfill the DEIR's obligations. This approach fails to take the first step in any serious water analysis: quantifying supply and demand. The description of the various water systems is almost entirely qualitative, and never states just how much excess capacity any given system has. At the same time, it describes growth only in terms of population, not water demand. The DEIR thus provides no means for evaluating its claims that some communities have "more than adequate" water supplies; while some water systems are "adequate with concerns." This failure leaves the DEIR unable to perform one of its essential tasks: providing the public and decisionmakers with sufficient facts to draw their own conclusions. See *Citizens of Goleta Valley*, 52 Cal. 3d at 568; Pub. Res. Code § 21080(e)(1)-(2).

To analyze this issue fully, the DEIR must explain how much new demand is expected in each of the cities, communities, and hamlets and determine whether each water system will have supply to meet projected demand. This analysis would require the accurate quantification of each system's supplies; the DEIR would need to explain the presently undescribed "concerns" that it mentions in connection with several of the systems. *E.g.*, DEIR 4-112 (discussing California Water Service Company in Goshen); 4-118 (Three Rivers CSD). If this analysis shows that demand will exceed supply in a given area, then the DEIR must identify the steps required to increase capacity or obtain new water sources and consider the environmental impacts of obtaining this supply, including the impacts of constructing any required infrastructure.

The General Plan Update's water supply policies serve only to cover over the DEIR's failing. Requiring demonstrated water only on a project-by-project basis, as do Policies WR-3.3 and PFS-2.2, is likely to lead to a haphazard scramble for supplies, as well as the potential overcommitment of limited resources. The County needs to identify and quantify available supplies now, in order to guide growth to those areas with sufficient surpluses to support it. The currently proposed policies should certainly remain in the General Plan, although

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they ought to be strengthened to make clear that the County will not approve any project that does not demonstrate a sufficient water supply over the long term. But these policies are no substitute for the extensive water-supply analysis that CEQA requires of this DEIR.

In its discussion of cumulative water supply impacts, the DEIR relies on state water planning statutes, SB 610 and SB 221, to prevent such impacts. This reliance is misplaced and unsupported. The existence of these statutes does nothing to relieve the EIR of its obligation to explain the County's water supply plans and to analyze the environmental impacts of these plans. Moreover, it is not clear that these laws will do the job that the DEIR claims. Their requirements apply only to developments over a certain size—generally, 500 residential units. *See* Government Code § 66473.7(a)(1). The DEIR asserts that “[m]ost new development throughout the County” would meet the statutory thresholds, but it offers no evidence. There is nothing in the DEIR to indicate that development would follow this pattern, and in the absence of a land use plan, there is no reason to believe that development will proceed through such large projects, rather than through the haphazard growth of smaller subdivisions. Knowing that the County is relying solely on state mandates, and not performing its own water supply inquiries, developers are likely to size their projects in order to evade review under SB 610 and SB 221. The County may well see a sudden increase in the number of 499-unit subdivision applications. In short, in the absence of substantial evidence, the County cannot rely on the mere assumption that state laws will prevent any cumulative water supply impacts.

Despite failing to quantify the problem, the DEIR acknowledges that there may be a countywide shortfall in water supply as compared to projected demand. DEIR at 4-127. Under CEQA, this determination triggers the DEIR's obligation to identify alternate sources. *See Vineyard Area Citizens*, 40 Cal. 4th at 432. The DEIR's vague mention of “[n]ew or expanded entitlements or facilities” (DEIR at 4-127) does not fulfill this mandate. Until the DEIR is revised to provide serious analysis of the water supplies available for growth under the general Plan Update, it will remain inadequate and any approval based on this document will be invalid.

G. The DEIR Inadequately Analyzes and Mitigates the General Plan's Impacts Related to Public Services.

The DEIR treats impacts related to public services in essentially the same indifferent manner that it analyzes water supply issues. An EIR must consider a project's physical impacts on the environment. The purpose of analyzing public services is to determine whether a project will lead to additional demand that could, in turn require construction or other activities that might have environmental impacts. The DEIR goes through the motions of performing this analysis, but in the end produces only generic descriptions of potential impacts, with no specific information about what might actually happen under the General Plan.

The DEIR's discussions of schools, fire protection, police services, sanitary sewer, landfill, and water treatment all follow the same pattern. The DEIR acknowledges that new facilities will likely be needed, and then reels off a brief list of the types of impacts that might occur and declares the impacts to be unavoidable. In effect, the DEIR simply states that there could be impacts and moves on. It does not explain by how much demand will exceed supply or when in the life of the General Plan Update new facilities might be needed, nor does it give any indication of *where* new construction might take place. This analysis is insufficient; the DEIR must include more detail about the specific impacts connected with each type of facility before it will be adequate under CEQA. See *Whitman*, 88 Cal. App. 3d at 412 ("The use of phrases such as 'increased traffic' and 'minor increase in air emissions,' without further definition and explanation, provides neither the responsible agency nor the public with the type of information called for under CEQA.").

The DEIR's failure is particularly galling with regard to major public facilities like water treatment plants and landfills. Appropriate sites for such facilities are rare and can be controversial. This General Plan Update is exactly the moment for the County to begin considering the available location and evaluating their environmental merits. Planning for these types of infrastructure challenges is one of the purposes of the General Plan. The County, however, has opted again not to undertake any planning, but instead to put it off until demand begins to catch up with supply and the need becomes acute. We urge the County to take a more forward-looking approach to planning for public services.

H. The DEIR Inadequately Analyzes and Mitigates the General Plan's Impacts on Biological Resources.

The DEIR's treatment of impacts on biological resources is deeply flawed. In the bare handful of pages taken up by its discussion of such impacts, the DEIR never finds the space to provide the most basic information about the County's animals and plants: there is no list in the DEIR of special-status species nor comprehensive catalog of sensitive habitats. DEIR at 4-12 to 4-22. Similarly, the DEIR includes no map of riparian and wetland areas, nor even a

textual description of their locations. The DEIR's reference to the General Plan Background Report is no substitute for actually describing the environment; once again, whatever is required to be in the text of the EIR must be in the EIR itself, not buried in some appendix. *See Santa Clarita Organization for Planning the Environment*, 106 Cal. App. 4th at 722-23.

The DEIR thus fails to provide the required explanation of the existing environmental baseline, and so is inadequate from the start. The inadequacy continues into the impact discussion itself. Like many of the other impact analyses in the DEIR, this one is essentially a generic discussion of the types of impacts that development might cause. It includes no specific information about either the threatened resources or about the nature and extent of the threat. This discussion does not come close to meeting CEQA's standards.

To analyze impacts to biological resources, the DEIR would need to include not just lists of species and habitats, but maps showing their locations (and migration corridors) in the County and textual explanations of the species' needs and their status—a discussion, that is, of how rare they are locally and overall, and how development under the General Plan might threaten them. Having established the baseline, the DEIR would then need to compare the locations of habitat and species to the locations of development, and to propose concrete, enforceable mitigation measures to protect any threatened resources. Of course, if the General Plan is not revised to include a land use plan, then this analysis must look to the maximum densities presented in Table 5-1 of the Goals and Policies Report, or to existing plans in order to determine where development will effect biological resources. Until it follows these steps, or undertakes some similar procedure to determine the potential impacts of development under the General Plan, this DEIR's analysis will remain thoroughly inadequate.

I. The DEIR Inadequately Analyzes and Mitigates the General Plan's Impacts to Scenic Resources.

The DEIR's analysis of the visual impacts of development under the General Plan Update follows the same unfortunate pattern as the section on biological resources: it attempts neither an accurate description of the County's current scenery and visual resources nor a serious consideration of the effects of development under the General Plan. As in the biological resources chapter, the required information about the environmental baseline is buried in an appendix rather than presented in the DEIR itself. This alone demonstrates the inadequacy of the DEIR's analysis. *See Save Our Peninsula Committee*, 87 Cal. App. 4th at 120 (“[E]xisting conditions must be determined.”); *Santa Clarita Organization for Planning the Environment*, 106 Cal. App. 4th at 722-23 (holding that all required parts of an EIR must be in the EIR itself). The DEIR then goes on to discuss visual impacts in only the most generic and superficial terms. It never explains which scenic areas may be affected or what type of development might mar these areas. There is no real explanation of the concrete impacts of development under the general plan, only vague generalities about the types of impacts that might be expected. This

discussion includes nothing to distinguish this analysis from the analysis of visual impacts in Fresno, Imperial, or Modoc County. The DEIR completely fails at its obligation to perform thorough, site-specific analysis of the impacts of the General Plan Update, and cannot support approval of the General Plan.

J. The DEIR Inadequately Analyzes the General Plan's Analysis of Land Use Impacts.

The DEIR concludes that the General Plan Update will not conflict with any of the general plans of the eight incorporated cities in Tulare County. In fact, the General Plan appears to be custom-built for generating land use conflicts. The key problem is Policy PF-1.2. This policy would allow the County to approve projects within a city's UDB when the city "does not consent to annexation." In other words, after a city rejects a project in its UDB, the project proponent could then turn to the County, which could go ahead and approve the project. This second-guessing is clearly a formula for land use conflicts. The refusal to annex the project site most likely indicates the city's judgment that the proposed use does not fit with its land use blueprint. This policy, however, allows the County to overturn that judgment and approve the project anyway.

Under this proposed policy, the County's own judgment is the only check on its ability to approve projects rejected by a city. Under subsection 1.a.ii, the County, and no one else, may determine that the project "does not constitute leapfrog or noncontiguous development," and under subsection 1.a.iii, the County, and no one else, may determine whether the project is a "regionally significant proposal." These requirements are highly subjective, and would present little obstacle to approval of many projects that conflict with cities' plans for such areas. And with no land-use map to guide its decisions, the County will be free to approve any project, in any place, that seems appealing at the moment.

Most egregiously, under subsection 1.c, the County would determine whether the project is "compatible" with the city's general plan. Giving one jurisdiction the authority to interpret another jurisdiction's general plan is an open invitation to land use conflicts. Simply put, the County might have a different idea about whether a given project is compatible with a city's general plan than the city itself would. The city, meanwhile, would be making annexation and land use decisions on adjacent and nearby parcels, making consistency decisions according to its own interpretation of the general plan. Giving two different decisionmakers, with different interests, authority over essentially the same area makes conflicts inevitable.

The main effect of Policy PF-1.2 will be to increase development in unincorporated land adjacent to, but not within, cities. Regardless of the findings required to approve such projects, sprawl and the conversion of agricultural lands is the inevitable result of a policy that flatly rejects the strategy of concentrating development within city limits. The

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General Plan's failure to provide a comprehensive land use map or plan will only exacerbate this problem. Between the lack of an overall program to guide growth and only loose standards governing project approval, haphazard development is bound to result. And given the nature of the UDB, these areas would become part of the city in a relatively short time, and the County-approved, sprawling development—with all its attendant costs and environmental impacts—would soon become the city's problem.

Moreover, the County would apply different development standards than would the city. For example, it might not mandate right-of-way improvements, such as curbs and catchbasins scaled to future development levels, where the city would impose such requirements. Or the County might allow the use of individual septic systems in an area where the city is concerned about groundwater quality and planned to extend sanitary sewer lines. Once again, any problems caused by these mismatched standards would soon become the city's, once its boundaries expand as planned, toward the UDB. The proposed policies regarding development near incorporated cities will clearly lead to land use conflicts.

The proposed General Plan Update would also interfere with the cities' land use plans through Policy PF-4.3, which would "discourage" the expansion of a city's UAB or UDB if the boundary, pre- or post-expansion, would be within one mile of an active dairy. The concept of these urban boundaries is that the UDB sets a boundary for the city's present expansion plans, while the UAB sets the city's ultimate intended boundary. Inherent in this framework is the idea that over time, a city's UDB will be expanded to meet its UAB; this endpoint is included in several, if not all, of the general plans of the members of the Council of Cities.

Policy PF-4.3 would severely limit the cities' ability to follow through on these plans. The map included as Exhibit 4 to this letter shows the area covered by a one-mile buffer around all of the County's active dairies. Even without including expected expansion of this important industry, the buffer zones come all the way to the already-developed areas of several of the cities—most notably Visalia and Tulare—and leave very little room for them to expand their UDBs. This limit on the cities' growth is likely to get tighter as more dairies come to Tulare County. By preventing these planned expansions, the General Plan Update creates a worrisome conflict with the cities' land use policies and plans.

The buffer zone is a good policy in concept, and the cities of course wish to protect their citizens from any ill effects of living near dairies. But the cities must be allowed to grow in accordance with their own plans and at their own pace. Environmental issues that arise from such boundary expansions should be resolved collaboratively; the County should not impose a solution unilaterally, as it proposes to do with this policy.

The DEIR is therefore clearly incorrect when it denies that the Update would result in land use conflicts. The only way to avoid such conflicts is to revise the policies discussed here. Policy PF.1-2 should bar the County from approving projects that a city has rejected. Specifically, any development occurring on unincorporated sites within city UDBs should occur only with the consent of the cities, consistent with city general plans and development standards, and with an effective plan in place to permit future annexation into the affected city. And Policy PF-4.3 should acknowledge that boundary expansion and development near dairies should be considered on a case-by-case basis, and that such consideration must take into account longstanding city plans for expansion. Moreover, to prevent new dairies from unduly constricting cities, a new policy should be created: the County should not approve new dairies within one mile of a current or planned city UAB. This policy will allow the orderly boundary expansion that the cities have consistently planned for, while preventing land use conflicts. Without these alterations, the General Plan Update will remain in conflict with city land use plans, a conflict the DEIR must acknowledge.

K. The DEIR Inadequately Analyzes the General Plan's Cumulative Impacts.

The DEIR's cumulative impact discussions, though brief, take several different approaches to the required analysis. All of these approaches are flawed. Some lack evidence that they consider all of the cumulative projects in the area. Others, like most of the DEIR's impact discussions, lack any actual analysis of the project under review. Still others make the error of dismissing cumulative impact analysis because the impact of the General Plan, in isolation from the regional context, would be less than significant.

Under the CEQA Guidelines, "a cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts" CEQA Guidelines § 15130(a)(1). Because "[c]umulative impacts can result from individually minor but collectively significant projects" (CEQA Guidelines § 15355(b)), an impact that appears less than significant (or mitigable to such a level) when only the project is scrutinized may turn out to contribute to a significant cumulative impact. In that case, the EIR must determine whether the project's contribution is "cumulatively considerable:" that is, whether its "incremental effects . . . are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." Guidelines § 15065(a)(3); *see also Kings County Farm Bureau*, 221 Cal. App. 3d at 729. This mandate assumes even greater importance for a program-level EIR such as this one. *See* Guidelines § 15168(b)(4) (programmatic EIR allows agency to "consider broad policy alternatives and program-wide mitigation measures" at an early stage when the agency has greater flexibility to deal with cumulative impacts.)

Several of the DEIR's discussions of cumulative impacts appear to assume that because implementation of the General Plan would result in additional countywide development,

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the analysis of the General Plan is inherently cumulative. *E.g.*, DEIR at 8-13 (discussing traffic impacts), 8-7 (discussing air quality impacts), 8-10 (noise impacts). This assumption is incorrect for several reasons. The cumulative impacts concept recognizes that “[t]he full environmental impact of a proposed . . . action cannot be gauged in a vacuum.” *Whitman*, 88 Cal. App. 3d at 408. Here, the DEIR’s approach to these cumulative impacts ignores pending projects and projects outside the County.

The DEIR relies on the TCAG model for purposes of evaluating all of these impacts, and therefore never actually identifies the incremental addition that the General Plan’s land use policies would make to traffic in the County (and therefore to emissions and noise). As a result, it is not possible to determine whether the incremental effect of the proposed General Plan is cumulatively considerable when viewed in comparison to region-wide traffic. There are dozens of pending projects in various stages of the entitlement process throughout the County, including projects within the Cities. In addition to the handful listed in the DEIR, there are those listed in Exhibit 5 to this letter. The current General Plan, not the Update, will likely govern the approval of many, if not most of these. An adequate cumulative impact analysis would require accounting for these projects, but it is entirely unclear whether the DEIR did so.

Moreover, it is unclear whether the TCAG model accounts for traffic generated outside the County but using County roads. Two of the main traffic corridors, SR 99 and SR 198, are important inter-county connections that carry significant amounts of traffic traveling across the state. This traffic contributes to congestion and noise in the County, and to air quality problems in the region. Moreover, several communities in other counties, notably Delano and Corcoran, are immediately adjacent to Tulare County, and may contribute traffic, noise, and localized emissions to smaller, local roads. All of these impacts should have been included in the cumulative analysis, but there is no way to tell from the DEIR whether they were. The DEIR thus lacks substantial evidence in support of its conclusions, and is inadequate.

Even when the DEIR does recognize the regional context of cumulative impacts, it stops short of providing any real analysis. For example, in discussing cumulative impacts to biological resources, the DEIR repeats the errors of its main impact analysis. Rather than actually analyzing and disclosing region-wide impacts, it merely states there could be impacts, and offers nothing more. DEIR at 8-8. The DEIR takes a similarly flawed approach to several other cumulative impacts, including impacts related to aesthetics (DEIR at 8-6), agricultural lands (DEIR at 8-7), solid waste (DEIR at 8-10), fire protection (DEIR at 8-11), and wastewater (DEIR at 8-12). These discussion, like their counterparts in the main body of the DEIR, must be wholly revised so that they actually analyze, rather than merely gloss over, the General Plan’s impacts.

Finally, several cumulative impact discussion miss the point of cumulative impacts entirely, concluding that because a given impact would not be significant based on the General

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Plan Update alone, it would not make a considerable contribution to cumulative impacts. See DEIR at 8-9 (hazards), 8-11 (law enforcement, schools). The very purpose of cumulative impact analysis is to determine whether impacts that appear insignificant in isolation add up to damage the environment. Thus, the fact that individual projects have only less than significant impacts is no answer to the question whether they, taken together, have a cumulative impact. See *Kings County Farm Bureau*, 221 Cal. App. 3d at 720. The DEIR must take a hard look at the overall impacts of the General Plan Update, along with past, present, and future projects, and determine whether the Update's impacts are cumulatively considerable.

IV. The DEIR's Analysis of Alternatives to the Proposed General Plan Update is Inadequate.

As discussed above, this General Plan Update will help determine the shape of growth in Tulare County for decades to come. Determining which policies become a part of the Plan is likely to be one of the most important decisions the current Board of Supervisors will make. It is thus crucially important that the Board and the public have all of the available information before it.

This DEIR, of course, is the main vehicle for that information. And at the "core of an EIR" lies the analysis of alternatives. *Citizens of Goleta Valley*, 52 Cal. 3d at 564. "Without meaningful analysis of alternatives in the EIR, neither the courts nor the public can fulfill their proper roles in the CEQA process . . . [Courts will not] countenance a result that would require blind trust by the public, especially in light of CEQA's fundamental goal that the public be fully informed as to the environmental consequences of action by their public officials." *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 404. An EIR therefore must analyze a reasonable range of alternatives to the proposed project. *Citizens for Quality Growth v. City of Mount Shasta* (1988) 198 Cal. App. 3d 433, 443-45. A reasonable alternative is one that would feasibly attain most of the project's basic objectives while avoiding or substantially lessening the project's significant impacts. See Pub. Res. Code § 21100(b)(4); CEQA Guidelines § 15126.6(a).

This DEIR, although it presents some worthy alternatives, does not live up to these standards. Its analyses of the alternatives—like almost all of its impact analyses—lack any quantification of their environmental effects and are therefore inadequate. Moreover, the DEIR gives short shrift to the City-Centered Alternative, both understating its environmental benefits and incorrectly claiming that it will not meet the project objectives.

A. The City-Centered Alternative is Environmentally Superior.

The DEIR presents both a City-City Centered Alternative, in which growth is directed to areas inside the limits of the County's eight incorporated cities, and Confined-Growth Alternative, which allows more growth in unincorporated communities and hamlets, but limits UDB modification so that the total area inside a given UDB does not grow. The DEIR determines that the Confined-Growth Alternative is environmentally superior, but it can only arrive at this conclusion by underestimating the benefits of the City-Centered Alternative.

The DEIR states clearly that the City-Centered Alternative would reduce the total vehicle miles traveled in the County. DEIR at 7-22. This is mainly common sense—if housing is concentrated in denser areas, closer to jobs and services, people will drive less. What does not make sense, however, is the DEIR's failure to follow through on this logic. If the alternative would reduce vehicle miles, then it would, by definition, reduce emissions from vehicles, importantly including greenhouse gases. The DEIR, however, claims that the alternative would have the same air quality and global warming impacts as the project as proposed. DEIR at 7-6. This conclusion is illogical and unsupported. The City-Centered Alternative would clearly reduce these impacts.

This aspect of the City-Centered Alternative may have been clearer if the DEIR had performed a more complete analysis of all the alternatives. To fulfill CEQA's requirements, a valid alternatives section would have provided real quantitative analysis comparing the proposed Project's environmental effects with those of particular alternatives capable of reducing the Project's significant unmitigable impacts. See CEQA Guidelines § 15126.6(b); *Laurel Heights*, 47 Cal. 3d at 401-04; *Kings County Farm Bureau*, 221 Cal. App. 3d at 732 (“[I]f there is evidence of one or more potentially significant impacts, the report must contain a *meaningful* analysis of alternatives . . . which would avoid or lessen such impacts.”) (emphasis added).

The only apparent advantage of the Confined Growth Alternative over the City-Centered Alternative, according to the DEIR, is that the Confined Growth Alternative would reduce impacts to open space, agricultural lands, and scenic resources, thanks to its policy on UDB modification. DEIR at 7-34. Under the City-Centered Alternative, however, there would be little call to modify the UDBs of unincorporated communities at all, because growth would be directed to the cities rather than to these areas. Under the City-Centered Alternative, the cities, rather than unincorporated areas, would absorb population growth. This makes it at least equal to the Confined Growth Alternative in terms of those impacts, like the conversion of agricultural land, caused by growth into undeveloped areas. Given this equivalence and the City-Centered Alternative's reduction in vehicle miles traveled, the DEIR should have determined that it was environmentally superior.

This line of comparison suggests a further alternative, one that strengthens the City-Centered Alternative and combines it with the Confined Growth Alternative. Although the DEIR is not entirely clear, it appears that the City-Centered Alternative directs only 80% of growth to the cities, just a slight improvement over the 75% assumed in the Project Description. A reasonable range of alternatives would include an alternative in which General Plan policies would direct even more growth—perhaps as much as 95%—to the cities and at the same time would limit UDB modifications in unincorporated areas. This would allow the communities and hamlets to take on the small degree of growth that does not occur in the cities, without the risk of agricultural and related impacts. This alternative would be truly environmentally superior and must be considered in a revised DEIR.

B. The DEIR Provides No Valid Reason for Rejecting the City-Centered Alternative.

Under CEQA, an agency may not approve a proposed project if a feasible alternative exists that would meet the project's objectives and would diminish or avoid its significant environmental impacts. Pub. Resources Code § 21002; *Kings County Farm Bureau*, 221 Cal. App. 3d at 731. The City-Centered Alternative would clearly reduce the General Plan Update's impacts, and there is no suggestion in the DEIR that it is infeasible. The EIR provides only two reasons why this alternative should not be selected: it would not, the DEIR claims, meet the project objectives of allowing unincorporated communities to grow, nor would it promote "reinvestment" in unincorporated communities and hamlets. DEIR at 7-4. Neither of these claims can support the rejection of the City-Centered Growth Alternative. The first is an excessively narrow objective, and therefore not a sufficient reason to reject the alternative, while the second is factually unsupported.

An EIR cannot provide a meaningful comparison between the project and various alternative courses of action unless the project's objectives are defined broadly enough to make such alternatives at least potentially possible. See *Kings County Farm Bureau*, 221 Cal. App. 3d at 735-37; *City of Santee v. County of San Diego* (1989) 214 Cal. App. 3d 1438, 1455. Here, growth in the unincorporated communities is a part of the proposed project. Calling such growth an objective of the General Plan Update means that the DEIR is in effect saying that the objective of the project is to implement the project. Narrowing the project's goals in this way tilts the analysis of alternatives unavoidably—and illegitimately—toward the Update as proposed. Rather than providing the required reasoned, objective analysis, the DEIR has become "nothing more than [a] *post hoc* rationalization[]" for a decision already made. *Laurel Heights Improvement Assn.*, 47 Cal. 3d at 394.

The Council of Cities wishes to be very clear about its position on this issue: Tulare County's unincorporated communities and hamlets absolutely need and deserve the County's support and investment. These areas have tremendous infrastructure needs, and the

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Council of Cities is in favor of taking all appropriate countywide action to resolve these problems. The communities and hamlets are not to be abandoned or left to fend for themselves. Concentrating growth outside the cities, however, is not a solution to the County's infrastructure problems, nor should it be an essential goal of this Update. As the DEIR recognizes, confining growth to the cities would produce growth that avoided many of the environmental impacts associated with the proposed General Plan. This alternative therefore should not be taken off the table merely because it offers a growth pattern different from the proposed Plan.

With this in mind, the goal of providing reinvestment for the unincorporated communities and hamlets is clearly an important one. The DEIR is wrong, however, to suggest that the City-Centered Alternative would not meet this objective. Reinvestment is ultimately a question of revenue. City-centered growth would not only provide the County with more revenue than uncontrolled, sprawling growth, it is also likely to cost less in services, leaving more flexibility to support the unincorporated areas.

A recent study looking at the relative costs of different growth patterns found that city-centered growth improved overall revenues. More city-centered growth may concentrate economic activity within municipal boundaries and also allow the regional economy to "draw on usable excess operating capacity in already developed areas as well as efficiencies of service delivery." National Research Council, "Costs of Sprawl Revisited" (1998) at 55-57 (attached as Exhibit 6.). For example, one landmark study of urban growth plans in New Jersey concluded that the plan gave municipalities an annual increase in revenues of some \$112 million, or 2% of operating budgets, mostly by concentrating population and jobs in already developed areas and by creating or expanding centers in newly developing areas. *Id.* at 55.

Real-world experience in Visalia bears this out. Attached as Exhibit 7 is a table illustrating the tax revenues from various development scenarios at the North Plaza Drive Industrial Park. Comparing the first two columns shows the large increase in County revenue brought simply by annexing the land into the City. Even though the County's share of the tax allocation is slightly reduced, the assessed value of the land increases so much that the County is much better off. Concentrating growth within city limits will improve County revenues, and thus increase the services that the County can provide to existing communities in the unincorporated areas.

In addition to improving revenues, city-centered growth can reduce the cost of providing services. Another recent study found that substantial savings are to be had from compact growth across the county in areas such as land conversion, water and sewer infrastructure, road construction, real estate development, and public services costs, with a net benefit to public finances of roughly \$4 billion annually by 2025. Carruthers and Úlfarsson, *Does "Smart Growth" Matter for Public Finances?* U.S. Department of Housing and Urban

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Development Working Paper # REP 06-02 (attached as Exhibit 8). These researchers found that nationwide,

if the nation's land use patterns had somehow evolved differently, and development everywhere was 25% more dense, public services would cost, in net, \$3.63 billion less annually; if it were that much less expansive, public services would cost \$6.56 billion less annually. The second scenario suggests that, if development everywhere was 50% more dense, public services would cost \$7.25 billion less annually; if it were that much less expansive, public services would cost \$13.12 billion less annually.

Id. § 4.2 at 16. By way of illustration, a hypothetical county of 88,000 residents with per capita expenditures of \$3,200 could expect to save up to \$4.3 million annually if it were 50% more dense. "In sum, the results for these two variables show that, other things being equal, the kind of low-density, spatially extensive development patterns that characterize sprawl cost more to support than the high-density, compact development patterns that the smart growth movement advocates." *Id.* § 4.1 at 15.

In short, the sprawling growth patterns allowed under the General Plan would bring the County less revenue, and would cost more to serve, than the City-Centered Alternative. The DEIR offers no evidence in support of its opposite conclusion, let alone the substantial evidence that CEQA requires. It is clear that the DEIR is simply incorrect when it determines that the City-Centered Alternative would not meet the objective of providing reinvestment for the unincorporated communities. In fact, the City-Centered Alternative is likely to produce more reinvestment for the crucial tasks of providing all of Tulare County's residents with the quality of life they deserve.

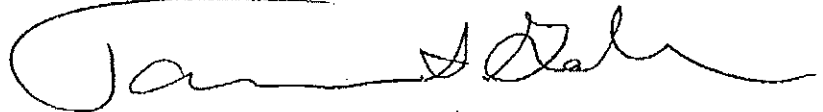
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CONCLUSION

For all of these reasons, the Council of Cities strongly urges the County to take no action regarding the General Plan Update and the EIR until both have been extensively revised to resolve the many inadequacies discussed here and in other comment letters. The needed revisions of the EIR will, moreover, require its recirculation for further public comment. After conducting the legally required analysis, the Council of Cities urges the County to proceed with adoption of a plan that contains a land use map and policies that ensure City-centered growth. The Council of Cities and its members remain available to assist the County in any aspect of this planning process.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Tamara S. Galanter



Gabriel M.B. Ross

cc:

Board of Supervisors Chair Connie Conway
Supervisor Allen Ishida
Supervisor Phil Cox
Supervisor Steve Worthley
Supervisor Mike Ennis
County Administrative Officer Jean Rousseau

EXHIBITS

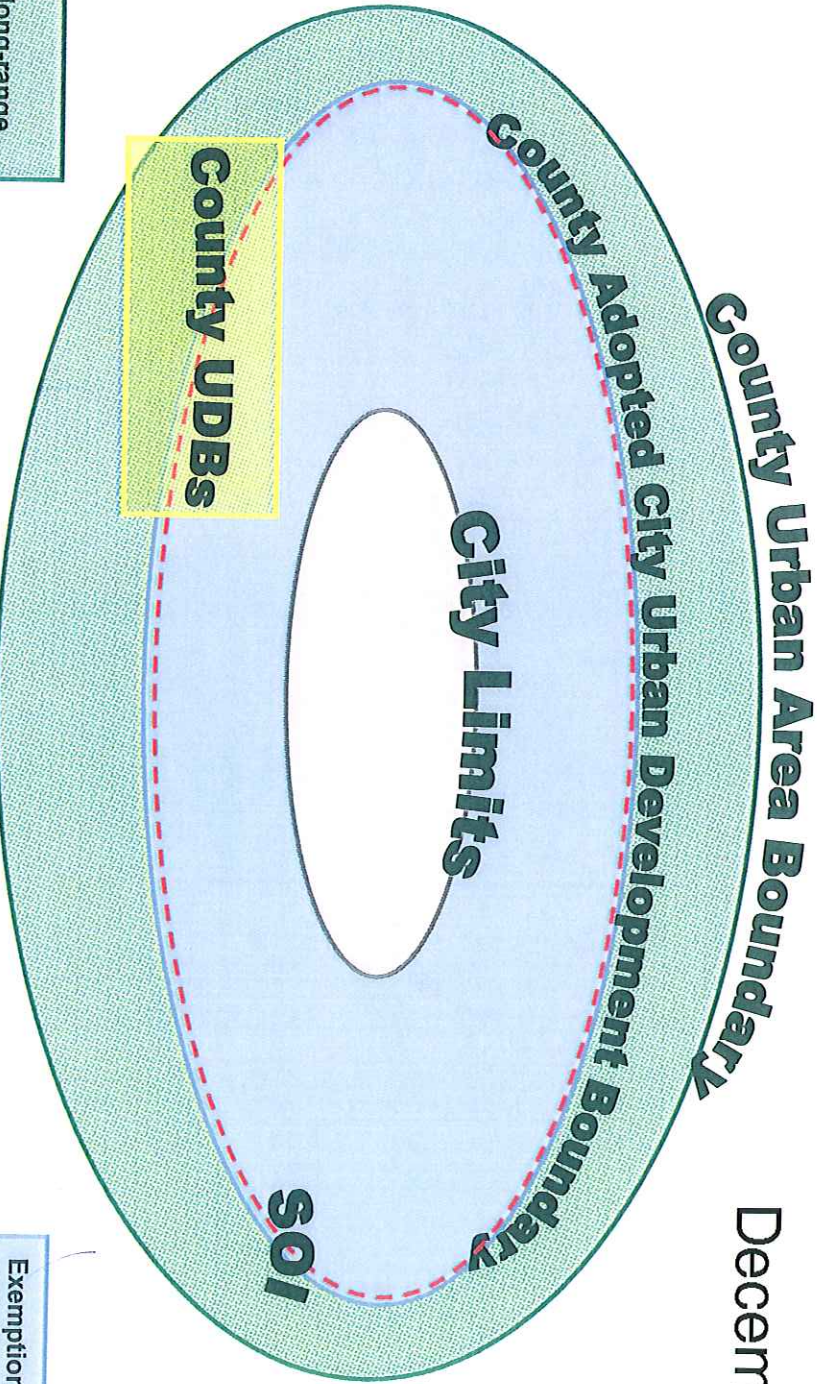
- Exhibit 1 San Joaquin Valley Air Pollution Control District, "Guide for Assessing and Mitigation Air Quality Impacts"
- Exhibit 2 Excerpt from San Joaquin Valley Air Pollution Control District, "Proposed PM2.5 Plan"

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- Exhibit 3 California Air Resources Board, "Air Quality and Land Use Handbook"
- Exhibit 4 Map of Tulare County showing urbanized areas and area covered by 1-mile buffer around existing dairies
- Exhibit 5 Lists of pending projects within the Urban Development Boundaries of the Cities of Tulare, Visalia, and Dinuba.
- Exhibit 6 National Research Council, "Costs of Sprawl Revisited"
- Exhibit 7 Table illustrating tax revenue from various development scenarios at North Plaza Drive Industrial Park
- Exhibit 8 Carruthers and Úlfarsson , "Does "Smart Growth" Matter for Public Finances?" U.S. Department of Housing and Urban Development Working Paper # REP 06-02
- Exhibit 9 Excerpt from Bay Area Air Quality Management District, "BAAQMD CEQA Guidelines: Assessing the Air Quality Impacts fo Projects and Plans"

County Proposal

December 2009



- In CACUABs:**
1. Compatible long-range infrastructure (ie transportation and utility systems and networks) as shown on city plans
 2. Coordinate to review land use & zoning
 3. Collection of County Impact Fees only
 4. No GP or Zoning Amendment unless it meets RVLP Checklist
 5. RVLP applies to PSP, PSV, PPW/TMs
 6. PSPs if no other economically viable use of property

- In City Limits:**
1. Collection of City and County Impact Fees

- In SOI :**
1. Refer PSPs to cities for annexations, with set time limits (3/6 months)
 2. Coordinate to propose SOI criteria to LAFCo
 3. Coordinate to propose 50 boundary to LAFCo

- Overlap-County UDBs:**
1. GPA allowed for establishment of new, change, or amendment of Community UDBs, HDB, Corridor Area Plans.
 2. Boundary Expansions
 3. Allow Land Use & Zoning

- In CACUDBs:**
1. No GPAs
 2. No Rezoning
 3. RVLP Checklist
 4. Collection of City & County Impact Fees
 5. Coordinate to review land use & zoning
 6. Adopt city development standards
 7. Should be continuous with SOI
 8. RVLP applies to PSP, PSV, PPW/TMs

- Exemptions to CACUDBs:**
1. State and Federal Regs.
 2. Correct inconsistencies in land use
 3. PSPs if no other economically viable use of property
 4. Reuse of Ag. Support facilities
 5. GPA for rezone to Ag. designation
 6. Comprehensive Zoning or GP Update
 7. Comprehensive restructuring text amendments
 8. Alternative GP land use designations or zoning classifications

City of Visalia

Single Family Residence Impact Fee Estimate

Land Use Designation/Building Type: SF Residence Tract Development/Low Density

Assumptions

Square Feet
07/01/2009 Fee Schedule

2000 SF
1 unit

10,000 sf lot

		UNITS		Total Estimated Fee
BUILDING FEES				
Building Permit and Inspection Fees	Average \$.83 sf	1	\$	1,660.00
IMPACT FEES				
Transportation Impact Fee:	\$ 4,803.00	1.00 per unit	\$	4,803.00
Trunk Line Capacity Charge:	\$ 646.87	1.00 per unit	\$	646.87
Treatment Plant Connection Capacity Charge:	\$ 641.44	1.00 per unit	\$	641.44
Storm Drainage Impact Fee:	\$ 2,681.54	0.23 Per Gross Acre	\$	615.60
Park Acquisition and Development Impact Fee:	\$ 3,215.44	1.00 per unit	\$	3,215.44
Waterways Acquisition Fee:	\$ 2,466.17	0.23 Per Gross Acre	\$	566.15
Groundwater Overdraft Mitigation Fee:	\$ 1,057.00	0.23 Per Gross Acre	\$	242.65
Public Safety Impact Fee:		1.00 Per Gross Acre	\$	681.23
Public Facility Impact Fee:		1.00 per unit	\$	466.49
Total City Fees			\$	13,538.87
VUSD SCHOOL FACILITY FEES				
School Facility Fees	\$3.37 per sq/ft	1	\$	6,740.00
Total School Impact Fees			\$	6,740.00
TOTAL CURRENT CITY/SCHOOL FEES PAID			\$	20,278.87
PROPOSED COUNTY IMPACT FEES				
Public Facility Impact Fee	\$ 3,527.00	1.00	\$	3,527.00
Transportation Impact Fee	\$ 2,153.00	1.00	\$	2,153.00
Total Potential County Impact Fees			\$	5,680.00
				<i>potential increase 28%</i>
Total City, School and Potential County Impact Fees			\$	25,958.87

Administration Building
2800 W. Burrel Ave.
Visalia, California 93291
TEL: (559) 636-5005
FAX: (559) 733-6318
www.co.tulare.ca.us

County of Tulare



Jean M. Rousseau
County Administrative Officer

Kristin Bennett, Assistant
County Administrative Officer

February 16, 2010

Phil Vandegriff
411 E. Kern Ave.
Tulare, CA 93274

RE: Status Update as to the County of Tulare's Efforts in meeting and negotiation with the Council of Cities Members and their letter dated January 28, 2010

Dear Mayor Pro-Tem Vandegriff;

The Tulare County Board of Supervisors (BOS) and staff received the above dated letter, attached for your information and review. Unfortunately, this letter does not reflect the progress and good faith effort that has been extended to the members representing the Council of Cities (COC). Upon reading the January 28, 2010 letter, you would conclude that County representatives negotiated in bad faith. Additionally, that we were intentionally wasting your representatives' time as well as our time in our mutual endeavor to negotiate a "city centered growth" focus to the County's General Plan, while taking into consideration the County's role in development within County jurisdiction.

You, as an elected official, understand the dynamics in coordinating and facilitating development entitlements while recognizing individual's desires to maximize their land potential. The BOS and its staff envision a positive working relationship with every city in the implementation of the County's General Plan Policy Update. I wish to think that it is each city's desire as well. Attached, for your information and use, is a Chronology of Events and Meetings that clearly demonstrates the desire of the BOS to achieve a mutual beneficial planning program.

Please keep in mind that it is the responsibility of the County to manage growth in the unincorporated areas around the cities until such time as those areas are annexed. While the County seeks to cooperate with the cities, the County is responsible to conduct a program that is respectful of the needs of property owners, and balance these interests and city interests accordingly.

The attached matrix is a summary of outstanding issues resulting from numerous meetings with the COC team. County staff has reviewed the COC January 28, 2010 proposal and the attached chart shows how close we are to reaching a mutually beneficial agreement for all concerned. It is unfortunate that the COC negotiating team chose to make the negative assertions of the BOS intent and desired outcome in their letter of January 28, 2010.

While the County looks forward to working with each of you to accomplish a policy program that meets your city's planned growth, timing, and coordination of development within your County Adopted Urban Development Boundary and Urban Area Boundary, the County does plan to release its General Plan Update by the end of February 2010 for a 60-day public review period. County staff is available to make an informational presentation at each of your city council meetings regarding the Tulare County 2030 General Plan Update during this 60-day time frame.

Thank you for working with us through this complex process and please let me know when you would like to meet again.

Sincerely,

A handwritten signature in black ink, appearing to read "Jean M. Rousseau". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jean M. Rousseau
County Administrative Officer

Tulare County Staff Response
 Council of Cities UDB-UAB Proposal Letter
 Dated January 28, 2010

#	City Proposal	General Plan Update Policies	Staff Recommendations
In a County Adopted City UAB			
1.	Development can Occur on non-agricultural lands as determined by the RVLP.	Policy PF- 4.19 Application of a Checklist to control Development in a County Adopted City UAB.	In Agreement as per Policy PF- 4.19 Application of a Checklist to control Development in a County Adopted City UAB.
2.	Development can Occur on land currently zoned for non-agricultural use.	Policy PF-4.17 Cooperation with Individual Cities.	In Agreement as per Policy PF- 4.17 Cooperation with Individual Cities. Allows for managed development.
3.	Ag. Processing facilities can be expanded or re-occupied subject to special use permit and city consultation.	Policy LU -2.5 Ag. Support Facilities, PF-4.23 Reuse of Abandoned Improvements in a County Adopted City UAB.	In agreement with re-use and expansion except that it is too narrow being limited only to ag. re-use.
4.	New Development to utilize city standards, financing mechanisms, and irrevocable consent to annex.	Policy PF- 4.10 City Design Standards. PF-4.12 Compatible Project Design.	The proposal conflicts with the General Plan Update. The County may ensure proposed development with future sewer or in water systems and circulation networks. City standards applicable only in UDBs.
5.	No Regionally Significant Projects	None	In agreement, these policies have been removed.
6.	Corridor plans ok, but with city consultation in UABs but not within UDBs.	Policy C-1.2 Urban Corridor Plans.	In agreement for UABs as per Policy C-1.2 Urban Corridor Plans, but do not support proposal in UDBs as it contradicts Policy PF-4.18 e to allow a corridor overlapping a UDB. The County is aware of only three locations for possible corridors.
7.	County to tighten up exceptions in ag.zones.	Policy PF-4.19 Future Land Use Entitlements in a County Adopted City UAB.	In Agreement to work with cities to review land use and zoning to address inappropriate land uses and small parcelization concerns.
In a County Adopted City UDB			
1.	No County GP Amendments or Rezoning to non-agricultural uses ("No new entitlements").	Policy PF-4.18 Future Land Use Entitlements in a County Adopted City UDB.	Do not support proposal unless cities agree to exceptions as provided in Policy PF-4.18 a-i.
2.	County to Tighten-up exceptions in Ag. Zones.	Policy PF-4.18 Future Land Use Entitlements in a County Adopted City UDB.	In Agreement to work with cities to review land use and zoning to address inappropriate land uses and small parcelization concerns.
3.	No Corridor Plans.	Policy PF-4.18 Future Land Use Entitlements in a County Adopted City UDB.	Do not support proposal as it contradicts Policy PF-4.18 e to allow a corridor overlapping a UDB. The County is aware of only three locations for possible corridors.
4.	No Regionally Significant Projects.	None	In agreement, these policies have been removed.
5.	New Development can occur on lands currently zoned for	Policy PF- 4.10 City Design Standards. PF-	In agreement.

	non-ag. use, subject to city standards, financing mechanisms, and irrevocable consent to annex.	4.24 Annexations to a City within the County Adopted City UDB.	
6.	Existing Unincorporated Community UDBs that encroach into City UDBs are exempt.	Policy PF-4.18 Future Land Use Entitlements in a County Adopted City UDB-a.	In agreement using Goshen as an example.
7.	Re-Occupation of existing ag. processing facilities subject to special use permit and City consultation (No Expansion).	Policy LU -2.5 Ag. Support Facilities, PF-4.22 Reuse of Abandoned Improvements in a County Adopted City UDB.	The term "No expansion" needs to be defined. The proposal contradicts Policy LU -2.5 Ag. Support Facilities, PF-4.22 Reuse of Abandoned Improvements in a County Adopted City UDB encouraging broader land use types.
8.	Delete RVLP application in a County Adopted City UDB.	Policy PF- 4.20 Application of a Checklist to control Development in a County Adopted City UDB.	Consider retaining PF- 4.20 Application of a Checklist to control Development in a County Adopted City UDB as an option to "no new entitlements".

CHRONOLOGY OF EVENTS AND MEETINGS BETWEEN THE COUNCIL OF CITIES AND TULARE COUNTY

A. Joint County of Tulare/Council of Cities Meetings (Dates and subjects discussed)

- June 4, 2008: Williamson Act; Review property tax distribution; Millennium Fund Update
- June 18, 2008: Overview of County Criminal Justice Funding
- July 16, 2008: Recap of County and City Revenues/Expenditures.
- August 6, 2008: Recap of County Solid Waste System and City Revenues/Expenditures
- August 21, 2008: General Plan Issues
- October 1, 2008: Blue Ribbon Committee update and revenue sharing
- November 14, 2008: Development Impact Fees
- January 14, 2009: Ground water recharge; TCAG regional projects and Blue Ribbon Committee update
- March 19, 2009: Meeting canceled
- May 6, 2009: City-centered growth and growth within city planning areas

B. Blue Ribbon Committee Meetings (Dates and subjects discussed)

- August 4, 2008: Interface planning and impact fees; setbacks and street standards
- September 8, 2008: Countywide impact fee study; Dinuba general plan and UDB issues
- September 22, 2008: Spheres of influence and impact fees
- October 13, 2008: Spheres of influence and impact fees.
- October 27, 2008: City and County land use policies; impact fees. Discussed accelerating meeting schedule.
- November 14, 2008: Provided County proposal to cities and copy of impact fee report
- November 24, 2008: City concerns and County proposed changes to initial proposal
- December 8, 2008: Cities proposed MOU for process
- January 26, 2009: More MOU discussion
- February 9, 2009: Meeting canceled
- May 14, 2009: Turned process over to planners from both cities and county to allow cities to review draft document and provide proposed city language.

C. RECENT PLANNER/ELECTEDS MEETINGS

June 24, 2009: The County responded to a letter from the Council of Cities dated April 2009 agreeing to dedicate necessary County resources to meet with the Council of Cities to address issues regarding planning policies in the draft Tulare County General Plan 2030 Update.

July 16, July 23, August 2, and August 7, 2009: County and city staff met July 16, 2009, July 23, 2009, and August 7, 2009, to exchange ideas and compromise proposals. On August 2, 2009 the Board of Supervisors conducted a study session to review issues and provide direction to staff regarding the draft Tulare County General Plan 2030 Update Policies and Implementation Measures Specific to County Adopted City Urban Area Boundaries (UAB's), and Urban Development Boundaries (UDB's).

August 6, 2009: The County received a letter from the Council of Cities recommending proposed revisions to the draft Tulare County General Plan 2030 Update.

October 1, 2009: The Board of Supervisors and the Council of Cities held a joint meeting to discuss issues related to the draft Tulare County General Plan 2030 Update. As a product of the joint meeting, a sub-committee consisting of two elected officials each from the cities and County along with several city and county staff members was created to further discuss these issues.

October 15, December 2, December 11, 2009: The sub-committee met on these dates to exchange ideas and compromise proposals.

December 15, 2009: The County provided clarification to the County position regarding the Council of Cities proposal including the substantial offer to not include the draft "regionally significant proposal" policies in the current proposed version of the draft Tulare County General Plan Update policy document.

January 28, 2010: The Council of Cities sub-committee failed to return to the table to further discuss the County position and the substantial offer to not include the draft "regionally significant proposal" policies in the current proposed version of the General Plan Update policy document. Instead, the Council of Cities representatives chose to prepare and sign January 28, 2010 accusatory letter erroneously charging the County of negotiating in bad faith with a courtesy copy of the letter to the press. The Board of Supervisors and County Staff received phone calls from the press asking about the letter before it was delivered to County Administration.

As can be seen from the time and effort expended and the few remaining outstanding issues noted in the chart above, the County has attempted to negotiate a fair and mutually beneficial agreement.

ACTION

PLANNING COMMISSION AGENDA

CHAIRPERSON:
Lawrence Segrue



VICE CHAIRPERSON:
Adam Peck

COMMISSIONERS PRESENT: Lawrence Segrue, Vincent Salinas, Terese Lane, Roland Soltesz

MONDAY FEBRUARY 22, 2010; 7:00 P.M., CITY HALL WEST, 707 WEST ACEQUIA, VISALIA CA

- 7:00 TO 7:01 1. THE PLEDGE OF ALLEGIANCE
- 7:01 TO 7:01 2. CITIZEN'S REQUESTS - The Commission requests that a 5-minute time limit be observed for requests. Please note that issues raised under Citizen's Requests are informational only and the Commission will not take action at this time.
- No one spoke
- 7:01 TO 7:01 3. CITY PLANNER AGENDA COMMENTS –
- No comments
- 7:01 TO 7:01 4. CHANGES TO THE AGENDA –
- No changes
- 7:01 TO 7:01 5. CONSENT CALENDAR - All items under the consent calendar are to be considered routine and will be enacted by one motion. For any discussion of an item on the consent calendar, it will be removed at the request of the Commission and made a part of the regular agenda.
- No Items on Consent Calendar
- 7:01 TO 7:09 6. PUBLIC HEARING– Paul Bernal
- Approved as recommended (Salinas, Lane) 4-0
Peck absent
- Open: 7:05
Close: 7:07
- Spoke:
1. Randy Forester
- 7:09 TO 7:30 7. PUBLIC HEARING – Paul Scheibel
- Approved as recommended (Lane, Soltesz) 4-0
Peck absent
- Open: 7:29
Close: 7:30
- Spoke:
No one spoke

7:30 TO 7:35
Motion to approve
Chair and Vice Chair
passed (Salinas,
Lane) 4-0 Peck
absent

8. DIRECTOR'S REPORT/PLANNING COMMISSION DISCUSSION:
 - a. Election of Officers for Calendar Year 2010
Chairperson Segrue and Vice Chairperson Peck will remain as Chair and Vice Chair for the next year.

The Planning Commission meeting may end no later than 11:00 P.M. Any unfinished business may be continued to a future date and time to be determined by the Commission at this meeting. The Planning Commission routinely visits the project sites listed on the agenda.

For the hearing impaired, if signing is desired, please call (559) 713-4359 twenty-four (24) hours in advance of the scheduled meeting time to request these services. For the visually impaired, if enlarged print or Braille copy is desired, please call (559) 713-4359 for this assistance in advance of the meeting and such services will be provided as soon as possible following the meeting.

**THE NEXT REGULAR MEETING WILL BE HELD ON MONDAY, MARCH 8, 2010
CITY HALL COUNCIL CHAMBERS, 707 WEST ACEQUIA**

7:35 TO 7:35
Motion to Adjourn (Segrue, Lane) 4-0 Peck absent

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 1, 2010

Agenda Item Number (Assigned by City Clerk): 6b

Agenda Item Wording: Accept the City of Visalia Cash and Investment Report for the second quarter ending December 31, 2009.

Deadline for Action: None

Submitting Department: Administration - Finance

Contact Name and Phone Number: Eric Frost 713-4474,
Jason Montgomery 713-4425

Department Recommendation: Staff recommends that Council take the following actions:

1. Accept the City of Visalia Cash and Investment Report for the quarter ending December 31, 2009.

Introduction

In the course of the City's business, significant cash assets are accumulated before they are spent on a variety of governmental operations. While this cash is idle, the City invests these funds.

City Investment Policy

The City's investments are diversified by the various maturities, call structures, and credit types which are allowed by the City's Investment Policy and California Government Code Section 53600 et seq. It is the policy of the City to invest public funds in a manner which will provide the greatest security with the maximum investment return while meeting the daily cash flow demands of the City and conforming to all state and local statutes governing the investment of public funds. One way the City meets this objective is by investing in the Local Agency Investment Fund (LAIF). LAIF funds are highly liquid to meet the City's daily cash flow requirements while maintaining a high degree of safety and a higher rate of return over other suitable liquid investments.

The City continues to maintain its conservative and prudent investment objectives, which in order of priority are safety, liquidity, and yield, while maintaining compliance with federal, state,

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 5

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

and local laws and regulations. These investments enable the City to meet its expenditure requirements for the next six months, as required by state law.

Economic Outlook

The economy continued to show signs of stabilizing as real gross domestic product (GDP) grew at a 5.7% annual rate in the fourth quarter. It was the largest gain in six years. The main contributor to the growth was a rise in inventories, contributing 3.4% to the growth, as production was increased to help inventories realign with sales. At its December 16, 2009 meeting, the FOMC repeated its pledge to keep rates extremely low for an extended period. The FOMC did, however, acknowledge the fact that the economy is strengthening. The FOMC stated that household spending appeared to be expanding at a moderate rate though it remained constrained by a weak labor market, modest income growth, lower housing wealth, and tight credit. They also reported that businesses were still cutting back on fixed investment and continued to remain reluctant to add to payrolls. The federal funds rate (the interest rate at which banks and other depository institutions lend money to each other) currently is at 0.25%. When the federal funds rate is low, the supply of available money increases which typically contributes to decreased interest rates on short term investments.

Portfolio Performance

The December 31, 2009 investment report had a managed balance of \$119.69 million with a monthly portfolio earnings rate of 1.00%. The earnings rate for 2009-10 (July 09 – December 09) was 1.39%. Key benchmarks and performance statistics for the City’s portfolio are shown in Table 1, Managed Portfolio Performance Statistics.

Table I: Managed Portfolio Performance Statistics (dollars in millions)

Quarter Ending	Portfolio Balance	City Monthly Portfolio Rate	LAIF Balance	LAIF Rate	2 YR Treasury	Weighted Average Maturity (WAM)
September, 2009	\$117.25	1.55%	\$78.31	0.92%	0.94%	0.36 years
December, 2009	\$119.69	1.00%	\$86.00	0.61%	1.14%	0.21 years
Fiscal Year 2009-2010		1.39%		0.81%	0.95%	

Rates have continued to remain low. As investments mature, the City has to re-invest the money into investments with lower rates. As a result, the city’s managed investment portfolio rate has fallen. Since June of 2009 the fiscal year to date portfolio rate has fallen from 2.93% to 1.39% or 53%. For comparison purposes, since June of 2009, the fiscal year to date LAIF rate has fallen from 2.25% to .81% or 64% and the fiscal year to date 2 year Treasury rate has fallen from 1.31% to .95% or 27%.

Treasury yields continue to remain low as investors refuse to purchase longer securities in hopes that patience will translate into better yields down the road. There continues to be no incentive to purchase longer securities as these could be under water in as little as six months.

LAIF

As mentioned, the Local Agency Investment Fund (LAIF) is an investment option for California's local governments and special districts. LAIF is a part of a pooled investment account that has oversight from the State Treasurer, Director of Finance, and State Controller. The City invests a portion of its portfolio in LAIF because it is a liquid investment with a competitive yield.

At the end of December 2009 LAIF had 59% of its investments maturing within six months.

Future Management

The City manages the portfolio partly by considering the weighted average maturity (WAM) based upon management's expectations for rising, neutral or declining interest rates. Usually, the longer an investment's maturity, the higher the interest rate will be. However, the longer the maturity, the more at risk the portfolio is to market gains or losses due interest rate changes. As a result, the City has a target WAM based upon expected interest rate environments as shown on Table II, Target Weighted Average Maturity (WAM) Based on Interest Rate Expectations.

Table II
Target Weighted Average Maturity (WAM)
Based Upon Interest Rate Expectations

Forecasted Interest Rate Environment	Target WAM (Years)
Rising	0.50
Neutral	1.50
Declining	2.50

As previously discussed, rates have fallen. Staff believes that rates will begin to increase in the coming months and have positioned the portfolio to take advantage of future rising rates. When rates are rising, the stated goal for the portfolio WAM is 0.50 years. At the end of December 2009 the portfolio WAM was 0.21 years.

Another consideration in managing the investment portfolio is what investment alternatives exist if the City wanted to buy longer term securities such as 3 or 5 year securities. At earnings rates of 1.38% or 2.32%, respectively, the risk/reward calculations do not justify buying longer term securities at this time. As a result, staff will continue to only invest in short-term securities and will continue to keep the WAM short until it feels that rates will remain steady at which point the WAM will be increased to 1.50 as reasonable investment alternatives begin to become available.

Cash Summary

The City's cash and investments consist of the following as shown on Table III: Cash Summary at Market Value (in millions) as of 12/31/09.

Table III: Cash Summary at Market Value, 12/31/09

Investment Type	Amount (in millions)
Managed Portfolio	
LAIF	\$86.00
CD's	\$20.24
Agencies	\$5.44
Corporate Note	\$ 4.10
Citizens Sweep Account	\$ 3.91
Total Managed Portfolio	\$119.69
Trustee Cash and Investments	\$11.48
Banks & Depositories	\$.36
Total Cash & Investments	\$131.53

This information is taken from the two report attachments: 1) City of Visalia Investment Position Report as of 12/31/09, attachment #1; and 2) City of Visalia Cash and Investments Summary as of December 31, 2009, attachment #2.

Attachments:

- Attachment #1, City of Visalia Investment Position Report
- Attachment #2, City of Visalia Cash and Investment Summary

Recommended Motion (and Alternative Motions if expected): Move to accept the City of Visalia Cash and Investment Report for the second quarter ending December 31, 2009.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

Attachment #1

City of Visalia
Investment Position Report
As of 12/31/09

			Coup. Rate	Yield (YTM)	Maturity Date	Face Value	Purchase Price	General Ledger Balance	Current Market Value	Purchase Date
Checking Accounts			3.3%							
Citizens Business Bank			1.00%	1.00% *	31-Dec-09	3,914,245	3,914,245	3,914,245	3,914,245	Various
Totals				1.00%		3,914,245	3,914,245	3,914,245	3,914,245	
Average Maturity (Days/Years)				1						
* Note: Interest is based on an average daily balance.										
Agency Notes (1)			4.6%							
Federal Farm Credit Banks	31331XG30	08-143	5.45%	4.42%	21-Jun-12	3,000,000	3,127,320	3,302,820	3,277,500	13-Nov-07
Federal Home Loan Banks	3133XLX73	08-096	5.00%	4.71%	14-Sep-12	2,000,000	2,025,140	2,173,760	2,164,380	28-Sep-07
Totals				4.28%		5,000,000	5,152,460	5,476,580	5,441,880	
Average Maturity (Days/Years)				884	2.42					
Average Duration										
CD'S			16.9%							
Bank of The Sierra - CDARS #1	(2)	10-047b	1.05%	1.06%	11-Feb-10	5,000,000	5,000,000	5,000,000	5,000,000	13-Aug-09
Bank of The Sierra - CDARS #2	(2)	10-083	1.35%	1.36%	09-Sep-10	5,000,000	5,000,000	5,000,000	5,000,000	09-Sep-09
Citizens Business Bank - CDARS			1.00%	1.00%	06-May-10	5,000,000	5,000,000	5,000,000	5,000,000	05-Nov-09
Visalia Community Bank			1.30%	1.31%	08-Oct-10	240,000	240,000	240,000	240,000	08-Oct-09
Citizens Business Bank CD		10-035A	1.15%	1.17%	24-Jul-10	5,000,000	5,000,000	5,000,000	5,000,000	24-Jul-09
Totals				1.15%		20,240,000	20,240,000	20,240,000	20,240,000	
Average Maturity (Days/Years)				158	0.43					
Corporates			3.4%							
Wells Fargo & Co.		09-323	4.63%	4.19%	09-Aug-10	4,000,000	4,022,000	4,102,200	4,102,360	15-Apr-09
Totals				4.12%		4,000,000	4,022,000	4,102,200	4,102,360	
Average Maturity (Days/Years)				217	0.60					
LAIF			71.8%							
State of California Local Agency Investment Fund	(3 accounts)			0.61%	Demand	85,995,151	85,995,151	85,995,151	85,995,151	Various
						85,995,151	85,995,151	85,995,151	85,995,151	
Totals				1.00%		119,149,396	119,323,856	119,728,176	119,693,636	
Average Maturity (Days/Years)				75	0.21					
Change from										
	30-Nov-09		Rate	-0.20%						
			Days	-15						

(1) Agency Notes are considered to be investments of high quality as they are government sponsored entities (GSE). GSEs carry the implicit backing of the U.S. Government, but they are not direct obligations of the U.S. Government.

(2) CDARS is the Certificate of Deposit Account Registry Service. CDARS is a convenient way to enjoy full FDIC insurance on deposits of up to \$50 million. Under a CDARS account, funds are placed into certificates of deposits (CD's) issued by banks in the CDARS network. This occurs in increments of less than the standard FDIC insurance maximum (currently \$250,000) to ensure that both principal and interest are eligible for full FDIC insurance.

Attachment #2

CITY OF VISALIA CASH & INVESTMENTS SUMMARY
As of December 31, 2009

<u>INSTITUTION</u>	<u>PURPOSE</u>	<u>BALANCE</u>	<u>TOTAL</u>
<u>CASH IN BANKS</u>			
BANK OF AMERICA	CONVENTION CENTER - working cash for operations	\$ 30,154	
BANK OF AMERICA	GOLF - working cash for operations	116,593	
CITIZENS BUSINESS BANK	A/P & PAYROLL	200,866	
PETTY CASH	VARIOUS DEPTS	13,684	
	<i>Total Cash Deposits</i>	<u>13,684</u>	\$ 361,297
<u>CASH AND INVESTMENTS WITH FISCAL AGENTS (TRUSTEE)</u>			
US BANK	2002 WASTE WATER BONDS	864,013	
	2003 EAST VISALIA REDEVELOPMENT	394,057	
	2005 CERTIFICATE OF PARTICIPATION	2,061,407	
ACCEL (Workers Compenation)	EXCESS LIABILITY DEPOSITS	966,143	
CITIZENS BUSINESS BANK	RDA LOAN - MOONEY DISTRICT	6,102,618	
DELTA DENTAL	DENTAL PREFUNDING	60,700	
EIA HEALTH	HEALTH PREFUNDING	976,052	
KEENAN & ASSOC	WORKERS COMP PREFUNDING	45,080	
VSP	VISION PREFUNDING	11,210	
	<i>Total Trustee Deposits</i>	<u>11,210</u>	11,481,279
<u>PORTFOLIO INVESTMENTS (MARKET VALUE)</u>			
UNION BANK OF CALIFORNIA INVESTMENTS		9,544,240	
LOCAL AGENCY INVESTMENT FUND		85,995,151	
SWEEP ACCOUNT (CITIZENS)		3,914,245	
CD'S		20,240,000	
	<i>Total Portfolio Investments</i>	<u>20,240,000</u>	119,693,636
TOTAL CASH AND INVESTMENTS			<u>\$ 131,536,212</u>

City of Visalia Agenda Item Transmittal

Meeting Date: March 1, 2010

Agenda Item Number (Assigned by City Clerk): 6c

Agenda Item Wording: Authorize the City Manager to approve an agreement with the County of Tulare for the continuation of Alert TC (Reverse 911) for a period of 3 years at \$28,000 per year starting in FY 10/11.

Deadline for Action: June 30, 2010

Submitting Department: Fire

Contact Name and Phone Number:

Mark Nelson, Fire Chief, 713-4218
Danny Wristen, Battalion Chief, 713-4056

Department Recommendation: The Fire Department recommends that the City Council authorize the City Manager to approve an agreement with the County of Tulare for the continuation of Alert TC (Reverse 911) for a period of 3 years at \$28,000 per year starting in FY 10/11.

Summary/background: The Alert TC system, also known as Reverse 911, is a system that allows for emergency notification to residents in the event of a disaster or other emergency where public notification is needed. The system allows for the use of phones, email, pagers and text messaging to pass along critical public safety information in a very timely manor. The system can also be used for public service announcements, and we have used the system for this purpose 18 times over the last year. The announcements have included information from several City departments regarding the Santa Fe bridge work, Dump-on-us days and fire prevention week notifications, as well as other important public service information. The City of Visalia, as well as most of the other incorporated cities, has a current agreement with the County of Tulare for the use of the Alert TC system with the existing vendor, Blackboard Connect Cty. On April 20, 2009, the City Council authorized our participation in the current agreement, which was at no cost to the City of Visalia. The County of Tulare received one time grant funding and utilized County money to pay for two years of service with Blackboard, with a total cost of over \$700,000 for the two years.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time
(Min.): __10__

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

As we come to the close of this two year period (June 30, 2010), we have a need to evaluate the cost of this important service. While we have been happy with the service that Blackboard has provided, the County does not have the money to continue paying for the system alone and Blackboard is one of the more expensive vendors for this service. For several months, the County and the cities have been discussing this issue and have been researching different vendors and funding models. At the February 11, 2010, City Managers meeting, this issue was discussed and a new potential vendor for this service was identified, as well as a new funding model. The County has identified Twenty First Century Communications (TFCC) as an available vendor for the Alert TC system at approximately 1/3 the cost of Blackboard. TFCC has several large accounts in California for Reverse 911 services. The new funding model for this shared system would be based on population and locked in for a three year period. The City of Visalia's contribution for this new vendor and funding model would be approximately \$28,000 per year for each of the three years. The County and the other incorporated cities would also contribute towards the annual total of \$111,080.

Locking in for a three year period would allow the use of the 2000 Census data for population allocation for the funding model, saving approximately 30%. In addition, after the first year, the County and participating cities could ask for Homeland Security Grant funding to pay for a part or all of the costs associated with this service.

Funding for this project will come from a variety of City departments. Of the 18 times that the system was used over the last year, Fire used it 4 times (22%), City Admin 4 times (22%), Public Works 5 times (28%) and Engineering 5 times (28%). The concept would be that departments which use the system pay their proportional costs. In other words, if the City uses the system 18 times this next year, each use will cost the departments roughly \$1,500 a usage. If the volume increases, the cost per use will decline somewhat.

Staff believes that the cost is competitive with other options. For example, placing a utility stuffer in with the utility bills costs about \$2,000 a usage. The Alert TC system is more immediate and costs a little bit less.

Prior Council/Board Actions: Approved the current agreement with Tulare County on April 20, 2009.

Committee/Commission Review and Actions: N/A

Alternatives: Research other available vendors or utilize other methods for public notification during disasters and other emergencies.

Attachments: Alert TC Funding power point from City Manager meeting

Recommended Motion (and Alternative Motions if expected):

I move that the City Council authorize the City Manager to approve an agreement with the County of Tulare for the continuation of Alert TC (Reverse 911) for a period of 3 years at \$28,000 per year starting in FY 10/11.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to: None

AlertTC Funding

February 11, 2010

Overview

- 3 key decisions to be made
- Only 6 weeks until the 90-day mark

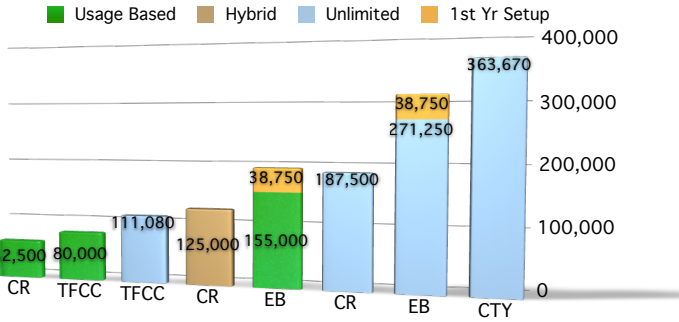
Key Decision Points

1. Unlimited or Usage-Based?
2. Shared or Individual System?
3. How to fund the system?

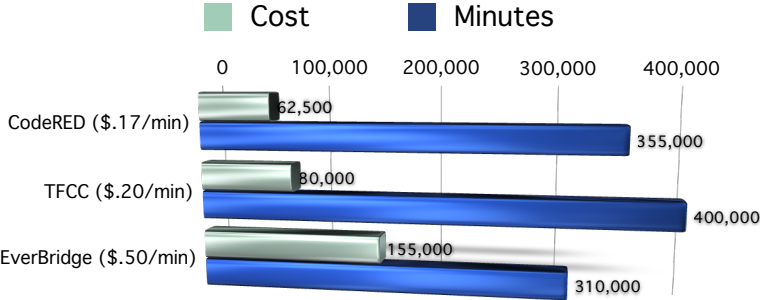
Comparison of Usage & Unlimited Systems

Unlimited	Usage
Maintain current service level	Lower service level - \$ is disincentive to use
No governance required in the User Agreement	Would require a governance and billing structure
System costs cannot be reimbursed in a disaster	Usage may be reimbursed in a Federally-declared disaster
Most expensive	Least Expensive
No potential cost overruns	Potential for cost overruns

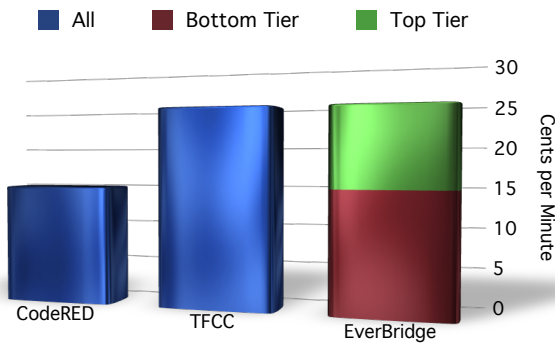
Shared System Costs



Usage-Based System Cost vs. Minutes



Additional Usage



Hybrid Solution

- CodeRED offers a hybrid model with unlimited emergency calling and a usage-fee structure for non-emergency calls.
- “Emergency” is broadly defined in contract and would cover most routine incidents.
- Double CodeRED’s usage product, but more than TFCC unlimited

System Type Recommendations

Goal	Recommendation
“Maintain today’s levels of use & functionality”	Unlimited
“Bottom line”	Usage-Based

Shared vs. Individual Systems

Shared	Individual
Lower total cost	Lower per-unit cost (with more expensive vendors)
Backup capabilities	Potential for systems to interfere with each other
Seamless coordination	High overhead to coordinate messages
Common data set	Cities / County data sets will not be consistent

System Sharing Recommendation

- The County recommends shared systems in all cases except the most expensive unlimited solutions.
- All agencies benefit from the financial savings, increased coordination, and improved functionality offered by shared products.

Other Funding Sources

Source	Viability / Timeframe
School Districts	No
Utilities	PG&E, SCE have TFCC Gas / Water ?
Homeland Security Grant	2010: No 2011: Possible
Utility Users Tax	Long-term, requires BOS & voter approval

School Districts

- Legal restrictions on merging data - most vendors won't, the rest may be in violation.
- Schools would require an unlimited-use solution.
- Total system cost would increase with the added units - schools already paying lowest quoted rate.
- Schools are unwilling to forfeit their education-specific features, and are in long-term contracts.

Homeland Security Grant Funding

- The FY09 proposal for a one-year extension to the current contract (\$363,670) was not funded.
- May be amenable to partially or fully funding a years' service, but funds would not be available until at least September. Will need a full years' interim funding.

Utilities as Users

- PG&E and SCE have access to TFCC today (at the corporate level) - unlikely to pay for a product they already have.
- Gas Company, Cal-Water, local water districts may be interested. How do we calculate their cost share (under unlimited or usage-based system models)?

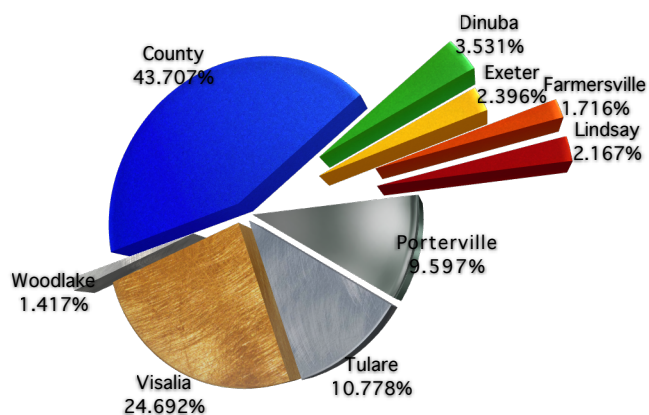
Utility Users Tax

- May be possible to implement a County-wide UUT on telecommunications services.
- Would cover landlines and mobile services.
- Would only need to generate \$0.21 *per business or residence* per month to support the most expensive option (Connect-CTY).
- Other uses for excess funds?

Cost Sharing

- Tulare County feels that the most equitable way to fund a shared mass notification system is to divide the cost proportionately by population (businesses and residents).

Jurisdiction Populations



Cost Share by Pop. %

Agency	CodeRed Usage	TFCC Usage	TFCC Unlimited	ConnectCTY
TOTAL	\$62,500	\$80,000	\$111,080	\$363,670
County	\$27,317	\$34,966	\$48,550	\$158,949
Dinuba	\$2,207	\$2,825	\$3,922	\$12,841
Exeter	\$1,497	\$1,917	\$2,661	\$8,713
Farmersville	\$1,072	\$1,373	\$1,906	\$6,240
Lindsay	\$1,354	\$1,733	\$2,407	\$7,880
Porterville	\$5,998	\$7,677	\$10,680	\$34,901
Tulare	\$6,736	\$8,622	\$11,972	\$39,196
Visalia	\$16,433	\$19,754	\$27,428	\$89,797
Woodlake	\$886	\$1,133	\$1,574	\$5,153

Impact of 2010 Census on Costs

- All unlimited systems are tied to population. Costs will adjust after the 2010 Census.
- Currently basing quotes off of 2006 data: 145,468 units.
- Projection for 2010: 152,122 units

TFCC Unique Opportunity

- Lowest per-unit cost (\$0.95/unit)
- Using 2000 Census data: 28,542 units less than 2006 estimates (\$27,115/yr savings immediately)
- Willing to lock in price for extended periods (at least 5 years, maybe more); would delay increase from 2010 census results for years (nearly 30% discount)

Projected Costs after 2010 Census

Vendor	Current Quote	Projected Future Cost
CodeRED	\$62,500 (Usage) \$125,000 (Hybrid) \$185,000 (Unlim)	No Change
TFCC	\$80,000 (Usage) \$111,080 (Unlim)	No Change (Usage) \$144,516 (Unlim)
EverBridge	\$155,000 (Usage) \$271,250 (Unlim)	\$162,122 (Usage) \$283,713 (Unlim)
ConnectCTY	\$363,670	\$380,305

2010 Census Projection - TFCC Initial Savings

Agency	TFCC Today	TFCC Next Renewal	Savings/Yr Initial Term
TOTAL	\$111,080	\$144,516	\$33,436
County	\$48,550	\$63,163	\$14,613
Dinuba	\$3,922	\$5,103	\$1,181
Exeter	\$2,661	\$3,462	\$801
Farmersville	\$1,906	\$2,480	\$574
Lindsay	\$2,407	\$3,131	\$724
Porterville	\$10,680	\$13,869	\$3,919
Tulare	\$11,972	\$15,576	\$3,604
Visalia	\$27,428	\$35,684	\$8,256
Woodlake	\$1,574	\$2,047	\$473

City of Visalia Agenda Item Transmittal

Meeting Date: March 1, 2010

Agenda Item Number (Assigned by City Clerk): 6d

Agenda Item Wording: Accept the FY09 State Homeland Security Grant Award to the Visalia Fire Department in the amount of \$78,808

Deadline for Action: N/A

Submitting Department: Fire Department

Contact Name and Phone Number:

Mark Nelson, Fire Chief, 713-4218
Danny Wristen, Battalion Chief, 713-4056

Department Recommendation: The Fire Department recommends that the City Council approve the \$78,808 FY09 State Homeland Security Grant award to the Visalia Fire Department. This grant does not require any matching funds. These funds will be utilized for equipment to support the Hazardous Materials Emergency Response Team.

Summary/background: The Visalia Fire Department has participated in the Homeland Security Grant Program since its inception in 2001. During this time we have received over \$359,000 in Homeland Security Grant funding. These funds have gone to support our preparedness for many issues related to Emergency Preparedness including; Hazardous Materials, Technical Rescue and National Incident Management System Training. This funding source has greatly enhanced our ability to be prepared for any type of disaster that may impact our community. In addition, all of these grants are non-matching and have not had an impact on the General Fund.

The Tulare County Office of Emergency Services manages the grant process and they have a grant application period similar to many other types of grants. There is an Approval Authority consisting of four Public Safety Department Heads and the County OES Manager. They evaluate the grant requests and make approvals based on the needs in the Operational Area.

Every year the Homeland Security Grant Program offers different categories to provide funding. We evaluate our needs and compare to the categories that are available, and request the equipment and/or training that is most needed by our department. This year we were approved for equipment related to bulk haz mat handling and haz mat detection. \$11,557 of the grant will be applied towards the bulk haz mat equipment which will enable our team to handle large

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 10

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

containers with haz mat issues. This equipment includes overpack drums, a portable drum truck, a drum up ender and a drum hand pump, all for handling leaks from 55 gallon drums. Additionally we were awarded several items for handling issues involving chemical trailers; dome clamps, bung wrench, stinger kit and grounding cables. \$67,252 of the grant will be applied towards the haz mat detection which will improve the team's ability to detect and ultimately assist in identifying unknown products. These items include; several chemical detectors, weapons of mass destruction detection equipment, thermometer guns and a laser range finder. All of these items are critical in Haz Mat mitigation and if not received through the grant process would be items that we would need to purchase with General Fund monies. In addition these are all items that are consistent with new equipment inventory recommendations from the State and Federal governments.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives: N/A

Attachments: Approval Letter from Tulare County

Recommended Motion (and Alternative Motions if expected): To accept the FY09 State Homeland Security Grant Award to the Visalia Fire Department in the amount of \$78,808.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to: N/A



Tulare County Health & Human Services Agency

John Davis, Agency Director

December 18, 2009

Visalia Fire Department
Battalion Chief Danny Wristen
707 W. Acequia
Visalia, CA 93291

Dear Chief Wristen,

Please accept this letter as verification that Visalia Fire Department has been partially awarded funds from the FY09 Homeland Security Grant Program (HSGP). A summary of your award status follows:

- \$2,303.00 for 1 Overpack Drum and 2 Cases of Drum Liners is **pending approval** and is not awarded at this time. Once approved, these items will be funded out of Project G: Strengthening Catastrophic Incident Response. No expenditures for these items prior to the issuance of a Final Award notice will be eligible for reimbursement by Tulare County.

The Final Award notice for this purchase will be issued once all of the following conditions are met:

1. Your agency returns the requested Environmental & Historical Preservation (EHP) Screening Memo electronically to Tulare County OES.
 2. Written notification from CalEMA is received by Tulare County indicating that your purchase has received EHP approval from FEMA.
 3. Written notification from CalEMA is received by Tulare County indicating that Project G: Strengthening Catastrophic Incident Response is released from Pending status.
- \$9,254.00 for Bulk HazMat equipment is awarded. This purchase is funded from Project D: Strengthen CBRNE/IED Capabilities. All invoices must be dated between December 18, 2009 and March 1, 2010 for your purchases to be eligible for reimbursement by Tulare County. Requests for reimbursement for this purchase must be submitted by March 1, 2010.
 - \$67,252.00 for CBRNE Detection is awarded. This purchase is funded from Project D: Strengthen CBRNE/IED Capabilities. A performance milestone date of **August 31, 2010** has been established for \$30,000 of this funding to be expended. Please submit invoices, dated between December 16, 2009 and August 31, 2010, along with your request for reimbursement, no later than August 31, 2010.



Tulare County Health & Human Services Agency

John Davis, Agency Director

Invoices for all remaining funds should be dated between December 16, 2009 and March 1, 2012. Requests for reimbursement should be submitted no later than March 1, 2012.

The CFDA number for this Grant is 97-067. Requests for reimbursement should be submitted to:

Tulare County HHSA/OES
Attn: Amy Raymond
5957 S. Mooney Blvd.
Visalia, CA 93277

If you have any questions, please contact Amy Raymond at (559) 737-4660, Ext. 2309, or by e-mail to araymond@tularehhsa.org.

Sincerely,

A handwritten signature in black ink, appearing to be "KM", written over a large, stylized flourish.

Kevin Marks
Director of Administration

Enclosure (1)

cc: Mark Nelson
Steve Salomon

KM/al

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 1, 2010

Agenda Item Number (Assigned by City Clerk): 6e

Agenda Item Wording: Appointment of a representative of the Kaweah Delta Health Care District Board of Directors to the General Plan Update Review Committee.

Deadline for Action: None

Submitting Department: Community Development- Planning

Contact Name and Phone Number: Paul Scheibel 713-4369,
Brandon Smith 713-4636

Department Recommendation: Staff recommends that the Visalia City Council appoint a board member from Kaweah Delta Health Care District as a representative to participate on the General Plan Update Review Committee.

Background / Prior Council Actions: On November 3, 2008, the City Council authorized the formation of a General Plan Update Review Committee, and expanded the Committee's composition to include representation from several key stakeholders. The representative list for the Committee was approved by the Visalia City Council on December 15, 2008. There are currently 22 persons on the Committee representing 20 community-based groups (see attached Exhibit "B" for roster). The Committee held its first meeting on March 25, 2009, and has met approximately once a month since then.

Discussion: Kaweah Delta Health Care District (KDHCD) is a vital health care provider and employer for the City of Visalia, and continues to make strong investments in the community. It oversees two existing campuses in Visalia (Downtown and Akers/Cypress), and in the future anticipates developing property it currently owns inside of the Southeast Area Specific Plan area (SW corner of Lovers/Caldwell).

Lindsay Mann, Chief Executive Officer, has requested for one of the five KDHCD Board of Directors to be able to serve on the General Plan Update Review Committee (see letter attached as Exhibit "A"). The representative of the Board would serve along with Ms. Dena Cochran, who currently represents KDHCD as a staff person on the General Plan Update Review Committee.

The letter indicates that either Mr. Carl Anderson or Mr. Jonathan "Jody" Graves is anticipated to represent the Board. Mr. Anderson is a consultant and current president of the Board of Directors, which he has served on since 2001. Mr. Graves is the principal of Jonathan Graves Management and has served on the Board since 2004. If authorized, KDHCD will have responsibility for designating their Board representative on the General Plan Update Review Committee.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.):__1__

Review:

Dept. Head _____

Finance __n/a__

City Atty __n/a__

City Mgr _____

Committee/Commission Review and Actions: N/A

Alternatives: None

Attachments: Exhibit "A" - Letter from Lindsay Mann, Chief Executive Officer of Kaweah
Delta Health Care District, dated February 16, 2010
Exhibit "B" - General Plan Update Review Committee Roster

Recommended Motion (and Alternative Motions if expected):

I move to include the Kaweah Delta Health Care District Board of Directors in the General Plan Update Review Committee.

Environmental Assessment Status

CEQA Review: NA

NEPA Review: NA

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

Exhibit "B"
General Plan Update Review Committee
Committee Roster - March 2009

<u>AUTHORIZED GROUP</u>	<u>DESIGNATED REPRESENTATIVE</u>
Visalia City Council	Bob Link (Chair)
Visalia City Council	Michael Lane
Citizens Advisory Committee	Dirk Holkeboer
College of the Sequoias	Eric Mittlestead
Environmental Committee	Dean Mann
Hispanic Chamber of Commerce	Raymond Macareno
Historic Preservation Advisory Committee	Matthew Owdom
Kaweah Delta Hospital	Dena Cochran
Mooney Boulevard Merchant's Organization	Don Wright
North Visalia Neighborhood Advisory Committee	Bill Huott
Parks & Recreation Commission	Carla Calhoun
Tulare / Kings Home Builders Association	Mike Knopf
Tulare County Affordable Housing	Ken Kugler
Tulare County Association of Realtors	Brad Maaske
Tulare County Farm Bureau	Brian Blain
Visalia Chamber of Commerce	Josh McDonnell
Visalia Community Forum	Darlene Mata
Visalia Economic Development Council	Jim Robinson
Visalia Planning Commission	Larry Segrue (Vice Chair)
Visalia Planning Commission	Vincent Salinas
Visalia Unified School District	Randy Groom
Waterways and Trails Committee	Bob Brown

**City of Visalia
Agenda Item Transmittal**

Meeting Date: TBD

Agenda Item Number (Assigned by City Clerk): 6f

Agenda Item Wording: First reading of Ordinance 2010-01, adding chapter 8.66 and sections 8.66.010 and 8.66.020 to the Visalia Municipal Code prescribing authority to make and enforce a policy governing retention and destruction of routine video monitoring records. **Ordinance 2010-01 required.**

Deadline for Action: None

Submitting Department: Information Services and Police

Contact Name and Phone Number:

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

Department Recommendation: It is recommended that the City Council approve Ordinance 2010-01. The ordinance prescribes the authority to make and enforce a policy governing retention and destruction of routine video monitoring records.

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

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

The purpose of these cameras is to deter theft and vandalism and assist in identifying individuals who damage City property, deter acts of violence or aggression, and assist law enforcement with investigating criminal activity. Video is either "monitored" (viewed in real-time by a staff member) or "recorded" (saved to a computer for later review, if necessary). This policy is limited to video monitoring and recording of public areas that is not being conducted pursuant to criminal warrants.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

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

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

The policies and procedures of the Policy stipulate:

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

At the second reading of Ordinance 2010-01, a Resolution will be presented to Council to approve this proposed Routine Video Monitoring Records Policy.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives:

Attachments: 1) Ordinance 2010-01

2) Routine Video Monitoring Records Policy (Draft)

Recommended Motion (and Alternative Motions if expected):

I move to approve the first reading of Ordinance 2010-01 adding chapter 8.66 and sections 8.66.010 and 8.66.020 to the Visalia Municipal Code prescribing authority to make and enforce a policy governing retention and destruction of routine video monitoring records.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

**ORDINANCE NUMBER 2010 – 01
ADDING CHAPTER 8.66 AND SECTIONS 8.66.010 AND 8.66.020 TO THE
VISALIA MUNICIPAL CODE PRESCRIBING AUTHORITY TO MAKE AND
ENFORCE A POLICY GOVERNING RETENTION AND DESTRUCTION OF
ROUTINE VIDEO MONITORING RECORDS**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

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

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

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

8.66.010 Declaration and Purpose.

8.66.020 Authority to Implement Regulatory Policy.

8.66.010 Declaration and Purpose.

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

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

8.66.020 Authority to Implement Regulatory Policy.

Consistent with its powers over municipal affairs, the City of Visalia hereby directs the City Manager or his/her designee to develop and enforce a policy governing when video monitoring shall occur, the use of such records, and retention and destruction of such routine video monitoring records ("Video

Monitoring Records Policy”). Such Policy shall be initially presented to the City Council for approval by Resolution and may be amended from time to time by Resolution of the City Council. The Video Monitoring Records Policy adopted pursuant to this Section shall include, but not be limited to, provisions related to: (1) timing of destruction; (2) use of records; (3) When video monitoring shall be used.

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

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

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

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

PASSED AND ADOPTED:

Robert Link, Mayor

ATTEST:

Donjia Huffmon, City Clerk

APPROVED AS TO FORM
BY CITY ATTORNEY:

Alex M. Peltzer, City Attorney

(D R A F T)

CITY OF VISALIA

ROUTINE VIDEO MONITORING RECORDS POLICY

PURPOSE AND SCOPE

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

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

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

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

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

DEFINITIONS OF MONITORING AND SURVEILLANCE

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

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

POLICIES AND PROCEDURES

Installation Approval

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

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

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

- (a) Objectives for implementing the system;
- (b) Use of equipment, including:

- Location of cameras
 - Location of reception equipment
 - Personnel authorized to operate the system
 - Times when monitoring will be in effect (and staffed, if applicable);
- (c) Other deterrence or detection measures that were considered, and why video monitoring is the best solution;
 - (d) Any specific, verifiable reports of incidents of crime or significant safety concerns that have occurred in the location to be placed under video monitoring;
 - (e) Possible effects of the proposed video monitoring system on personal privacy, if any, and how they will be mitigated;
 - (f) Appropriate consultation with stakeholders, including the public, adjacent property owners, or reasons why this is not necessary,
 - (g) Signage strategy advising the public that video monitoring is occurring;
 - (h) Approach to installing and maintaining routine video monitoring systems; and
 - (i) Fiscal impact and availability of funding.

Location and Direction of Video Monitoring Equipment

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

Privacy and Anonymity

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

Freedom of Expression and Association

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

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

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

- Political rallies or demonstrations.
- A non-emergency medical facility.
- Any social services facility (welfare office, Social Security office).
- A place of worship (i.e., a church or religious-based organization).
- A place (i.e., HIV or abortion clinic) or circumstances, although publicly located, where there exists a reasonable expectation of privacy (i.e., a conversation on a cell phone, writings or readings in a person's possession.)

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

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

Notification Procedures

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

Responsibility for Oversight of Video Monitoring Systems

The City Manager or his/her designee is responsible for overall oversight of all routine video monitoring systems and for implementation of this Policy. At the City Manager's

discretion, he/she may delegate this responsibility, or portions thereof, to the affected Department Head(s).

Intended Use of Video Monitoring Information

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

PROTECTION OF VIDEO MONITORING INFORMATION

Security of Storage Devices Resulting from Routine Video Monitoring

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

Retention and Destruction of Routine Video Monitoring Records

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

Placement and Viewing of Video Monitors

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

Access and Use of Recorded Information

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

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

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

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

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 1, 2010

Agenda Item Number (Assigned by City Clerk): 6g

Agenda Item Wording: Authorization to add one (1) full time police officer to fill a grant-funded position on the Tulare County Interagency Narcotics Enforcement Team (I-NET), sign and enter into the I-NET agreement, and appropriate the money to implement the position.

Deadline for Action: March 1, 2010

Submitting Department: Police

Contact Name and Phone Number: Chief Colleen Mestas, ext. 4215; Lt. Jason Salazar, ext. 4102

Department Recommendation: It is recommended that the City Council authorize the addition of one (1) full time police officer to fill a grant-funded position on the Tulare County Interagency Narcotics Enforcement Team (I-NET), authorize the City Manager to sign the I-NET Operational Agreement, authorize the Police Department to participate in the program, and appropriate \$30,000 in fiscal year 2009-2010 in the General Fund from grant funds to implement the position.

Summary/background: The Tulare County Interagency Narcotics Enforcement Team (I-NET) is funded by the Edward Byrne Memorial Justice Grant (JAG) through the California Emergency Management Agency (Cal EMA) Anti-Drug Abuse (ADA) Enforcement Team Recovery Act Program.

The Tulare County I-NET Team consists of law enforcement professionals from the Tulare County Sheriff's Department and local police departments. Participating agencies provide the necessary information and interagency communication to assure the enforcement efforts of I-NET work in concert with, and in addition to, ongoing drug enforcement activities of the various agencies.

The Tulare County Sheriff's Department will implement the grant on behalf of the County of Tulare and provide overall and day-to-day management of the I-NET Team. The Sheriff's Department will compensate the Visalia Police Department for the cost of the officer from the grant proceeds.

For action by:

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

For placement on which agenda:

- Work Session
- Closed Session

Regular Session:

- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): 1

Review:

Dept. Head _____

Finance _____

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

City Mgr _____

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

Funding: The grant will fund all project expenditures with no local match required. Staff recommends that Council appropriate \$30,000 from the General Fund this year because the grant begins March 1, 2010 and runs until June 30, 2012. This \$30,000 from the General Fund will fund the position for the period of March 1, 2010 through June 30, 2010 and will be reimbursed by the grant. The expenditures for fiscal years 2010-2011 and 2011-2012 will be included in next year's budget.

When the project expires in 2012, the position will have to be absorbed into an existing vacancy, become a new allocated position, receive renewed funding from outside sources, or be discontinued.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives: Refuse the designated grant money and not participate in I-NET.

Attachments:

(1) Operational Agreement between the Tulare County I-NET Team and the Visalia Police Department.

Recommended Motion (and Alternative Motions if expected): I move that the City Council authorize the addition of one (1) full time police officer to fill a grant-funded position on the Tulare County Interagency Narcotics Enforcement Team (I-NET), and appropriate \$30,000 in fiscal year 2009-2010 to implement the position.

Environmental Assessment Status

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

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: March 1, 2010

Agenda Item Number (Assigned by City Clerk): 6h

Agenda Item Wording: Authorization to record the final parcel map of Tentative Parcel Map No. 2008-15, located on the northeast corner of Hillsdale Avenue and Shirk Road (4 Lots), and Amendment to Landscape and Lighting District No. 07-08, Oakwest No. 7 (Resolution Nos. 2010-08 and 2010-09 required). (APN: 085-650-059)

Deadline for Action: N/A

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:

Chris Young, Assistant Community Dev. Director - 713-4392
Adrian Rubalcaba - 713-4271

Department Recommendation: Staff recommends that City Council approve the recordation of the final parcel map of Tentative Parcel Map 2008-15 located on the northeast corner of Hillsdale Avenue and Shirk Road (4 Lots). Staff also recommends City Council: adopt Resolution No. 2010-08, Resolution of Amendment for Assessment District No. 07-08; adopt the Engineer's Report as submitted; and adopt Resolution No. 2010-09 confirming the Engineer's Report ordering the improvements and levying the first annual assessment.

Summary/background: The final parcel map is creating four parcels on 1.11 acres in the R-1-6 zone. The site is currently Lot 59 of Oakwest No. 7 Subdivision, approved by Council on April 21, 2008. A cash payment of **\$7,096.26** distributed to various accounts and final parcel map are in the possession of the City. The cash payment covers Development Impact Fees such as storm water acquisition, waterways, sewer front foot fees and any outstanding plan check and inspection fees. The plan check and inspection fees are estimated at the beginning of the final map process and are not confirmed until the subdivision agreement is finalized.

The City of Visalia has been allowing the developers of subdivisions to form assessment districts under the Landscape and Lighting Act of 1972, and now under Proposition 218, in lieu of using homeowners associations for the maintenance of common features such as landscaping, irrigation systems, street lights, and trees on local streets. The maintenance of these improvements is a special benefit to the development and enhances the land values to the individual property owners in the district. Assessment District No. 07-08, formed with the Oakwest No. 7 Subdivision development, will be amended to include the additional lots created

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

by the division of Lot 59 within said subdivision and district and maintenance of additional block wall improvements along the Shirk street frontage.

On April 21, 2008, City Council approved the formation of a Landscape and Lighting District 07-08 for Oakwest No. 7 subdivision. The boundary of this district included Lot 59 that was planned by the developer to be further subdivided. Because the district boundaries are not changing and the district is only being amended to add additional lots, permission is not required from the individual lot owners in Oakwest No. 7. However, the City would need permission from the individual lot owners in Oakwest No. 7 if the amendment would result in an increase to the per lot assessment. Without the amendment, the remaining lots in the assessment district would pay an additional \$35 a year.

The Landscape and Lighting Act allows for the use of summary proceedings when the property owners of the new lots being created within the district have given their written consent to waive the public hearing and the property owners of the existing lots within the district are experiencing no change or a decrease in their per lot assessment. A summary proceeding is an alternative form for a prompt action ordinarily subject to lengthy and more difficult procedures.

Prior Council/Board Actions: Council authorized the recording of the final map for Oakwest No. 7 on April 21, 2008

Committee/Commission Review and Actions: Tentative Parcel Map 2008-15 was approved by the Planning Commission on October 13, 2008.

Alternatives: N/A

Attachments: Location Map, Final Parcel Map, Ownership Disclosure, Resolution of Intention, Resolution Ordering Improvements, & Exhibits "A", "B", "C", "D"

Recommended Motion (and Alternative Motions if expected):

"I move to authorize recordation of the final parcel map of Tentative Parcel Map 2008-15."
"I further move to adopt Resolution No. 2010-08 Initiating Proceedings for the Amendment of Assessment District No. 07-08, Oakwest No. 7, and adopt Resolution No. 2010-09 Ordering the Improvements for Assessment District No. 07-08, Oakwest No. 7."

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

RESOLUTION NO. 2010-08

RESOLUTION INITIATING PROCEEDINGS
FOR THE AMENDMENT OF
ASSESSMENT DISTRICT 07-08
OAKWEST NO. 7
(Pursuant to Landscape and Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council proposes to amend an assessment district pursuant to the Landscaping & Lighting act of 1972 (Section 22500 and following, Streets & Highways Code) for the purpose of the following reasons:

Addition of lots and the addition of maintenance for the Shirk Street frontage block wall and any other applicable equipment or improvements.
2. The district, including this amendment, shall continue with the designation established with the initial formation, which is "Assessment District No. 07-08, City of Visalia, Tulare County, California" and shall include the land shown on the map designated "Assessment Diagram, Assessment District No. 07-08, City of Visalia, Tulare County, California", which is on file with the City Clerk and is hereby approved and known as "Oakwest No. 7".
3. The City Engineer of the City of Visalia is hereby designated engineer for the purpose of these formation proceedings. The City Council hereby directs the Engineer to prepare and file with the City Clerk a report in accordance with Article 4 of Chapter 1 of the Landscape & Lighting Act of 1972.

PASSED AND ADOPTED:

ASSESSMENT DISTRICT NO. 07-08
OAKWEST NO. 7
(Pursuant to Landscaping & Lighting Act of 1972)

TO THE COUNTY AUDITOR OF THE COUNTY OF TULARE:

I hereby certify that the attached document is a true copy of that certain Engineer's Report, including assessments and assessment diagram, for Assessment District No. 07-08, City of Visalia, confirmed by the City Council of the City of Visalia on the 1st day of March, 2010 by its Resolution No. 10-_____.

This document is certified, and is filed with you, pursuant to Section 22641 of the Streets and Highways Code.

RESOLUTION NO. 2010-09

RESOLUTION ORDERING IMPROVEMENTS FOR
ASSESSMENT DISTRICT NO. 07-08
OAKWEST NO. 7
(Pursuant to the Landscape & Lighting Act of 1972)

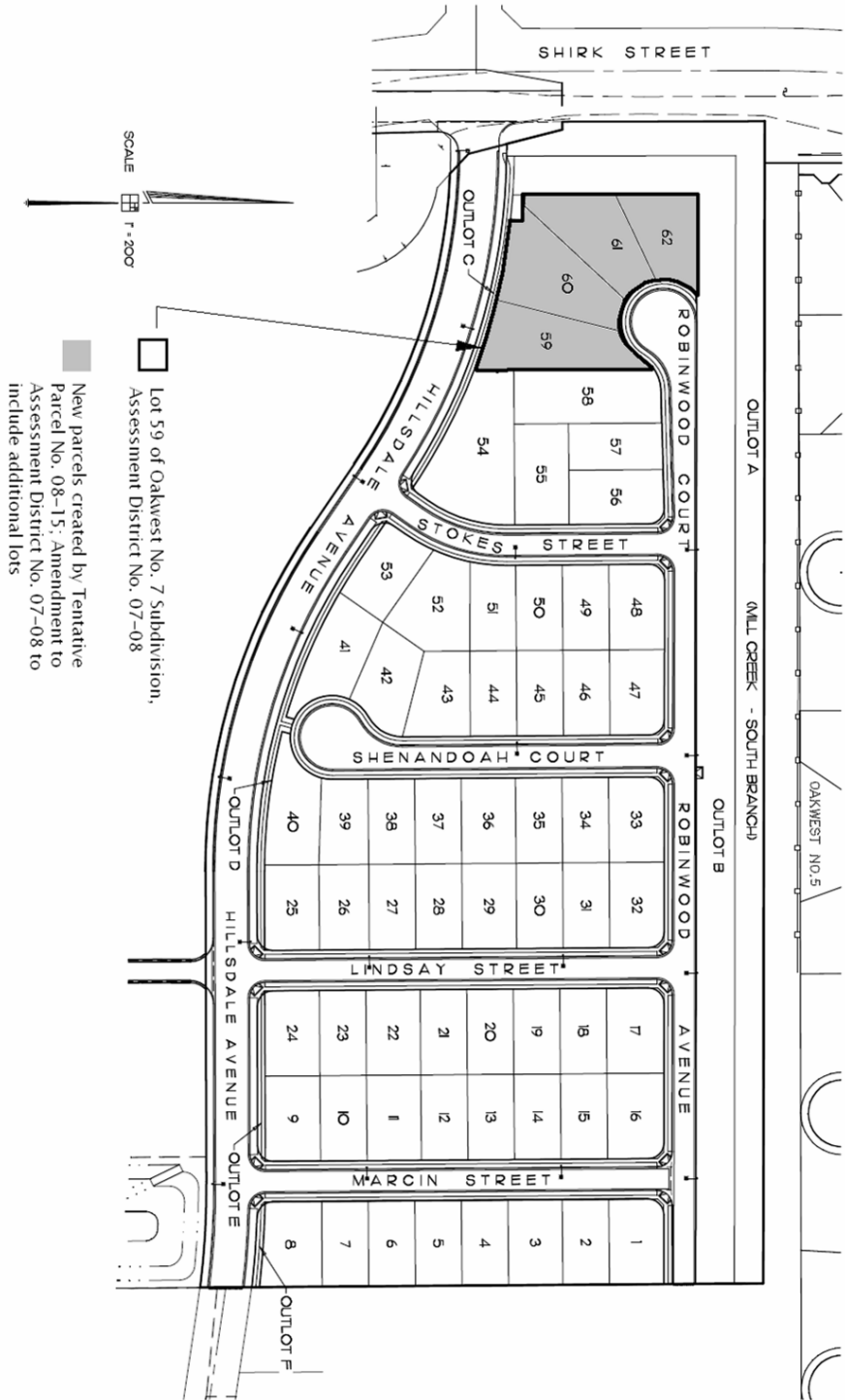
NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council adopted its Resolution Initiating Proceedings for Assessment District No. 07-08, City of Visalia, Tulare County, California, and directed the preparation and filing of the Engineer's Report on the proposed amendment.
2. The Engineer for the proceedings has filed an Engineer's Report with the City Clerk.
3. Owners of the new lots to be added within the boundaries of the amended landscape and lighting district have filed their consent to the amendment of District No. 07-08, and to the adoption of the Engineer's Report and the levy of the assessments stated therein. Consent is not required for the owners of existing lots because the amendment results in a decrease in their per lot assessment. The amendment also does not change the original scope of maintenance or the financing methodologies established with the formation of District No. 07-08.
4. The City Council hereby orders the improvements and the amendment of the assessment district described in the Resolution Initiating Proceedings and in the Engineer's Report.
5. The City Council hereby confirms the diagram and the assessment contained in the Engineer's Report and levies the assessment for the fiscal year 2010.
6. The City Council hereby forwards the following attachments to Tulare County Recorder's Office for recordation:
 - a. Clerk's Certification to County Auditor
 - b. Resolution Initiating Formation of the District
 - c. Resolution Ordering Improvements
 - d. Engineer's Report:
 - Exhibit A - Diagram showing all parcel of real property within the Assessment District
 - Exhibit B - Diagram showing landscape area
 - Exhibit C - Assessment Roll
 - Exhibit D - Engineer's Report Narrative

PASSED AND ADOPTED

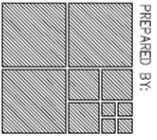
EXHIBIT A
 Assessment Diagram
 Assessment District No. 07-08
 Oakwest No. 7

OAKWEST NO.7



Lot 59 of Oakwest No. 7 Subdivision,
 Assessment District No. 07-08

■ New parcels created by Tentative
 Parcel No. 08-15; Amendment to
 Assessment District No. 07-08 to
 include additional lots



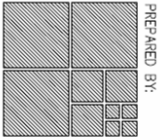
PREPARED BY:
IBBA
 CIVIL ENGINEERING AND LAND SURVEYING
 5499 EAST HEDGES AVENUE
 FRESNO, CALIFORNIA 93727
 (559) 291 - 0427

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REVISIONS

BY: MJKLESKU -02/18/10
 IBA CADFILE: 04110E06

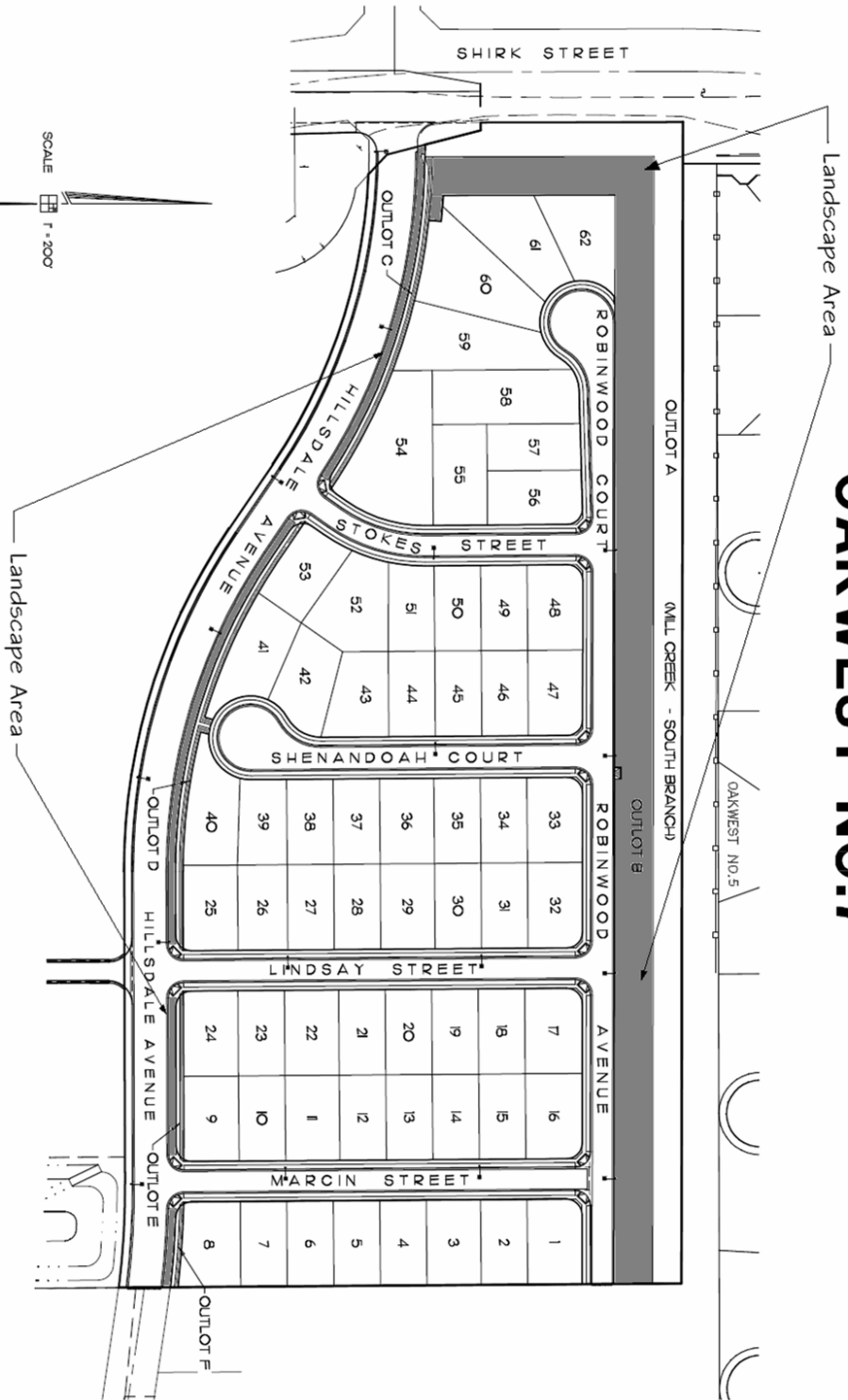
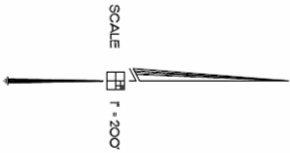
EXHIBIT B
 Landscape Area Diagram
 Assessment District No. 07-08
 Oakwest No. 7



PREPARED BY:

IBA

CIVIL ENGINEERING AND LAND SURVEYING
 5499 EAST HEDGES AVENUE
 FRESNO, CALIFORNIA 93727
 (559) 281 - 0427



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REVISIONS

BY: MIKLESKU -02/18/10
 IBA CADFILE: 04110E06

EXHIBIT C
 Tax Roll Assessment
 Oakwest No. 7
 Fiscal Year 2010-2011

<u>APN #</u>	<u>Assessment</u>	<u>Lot #</u>	<u>District</u>
085-650-001	\$723.16	07-0801	Oakwest No. 7
085-650-002	\$723.16	07-0802	Oakwest No. 7
085-650-003	\$723.16	07-0803	Oakwest No. 7
085-650-004	\$723.16	07-0804	Oakwest No. 7
085-650-005	\$723.16	07-0805	Oakwest No. 7
085-650-006	\$723.16	07-0806	Oakwest No. 7
085-650-007	\$723.16	07-0807	Oakwest No. 7
085-650-008	\$723.16	07-0808	Oakwest No. 7
085-650-009	\$723.16	07-0809	Oakwest No. 7
085-650-010	\$723.16	07-0810	Oakwest No. 7
085-650-011	\$723.16	07-0811	Oakwest No. 7
085-650-012	\$723.16	07-0812	Oakwest No. 7
085-650-013	\$723.16	07-0813	Oakwest No. 7
085-650-014	\$723.16	07-0814	Oakwest No. 7
085-650-015	\$723.16	07-0815	Oakwest No. 7
085-650-016	\$723.16	07-0816	Oakwest No. 7
085-650-017	\$723.16	07-0817	Oakwest No. 7
085-650-018	\$723.16	07-0818	Oakwest No. 7
085-650-019	\$723.16	07-0819	Oakwest No. 7
085-650-020	\$723.16	07-0820	Oakwest No. 7
085-650-021	\$723.16	07-0821	Oakwest No. 7
085-650-022	\$723.16	07-0822	Oakwest No. 7
085-650-023	\$723.16	07-0823	Oakwest No. 7
085-650-024	\$723.16	07-0824	Oakwest No. 7
085-650-025	\$723.16	07-0825	Oakwest No. 7
085-650-026	\$723.16	07-0826	Oakwest No. 7
085-650-027	\$723.16	07-0827	Oakwest No. 7
085-650-028	\$723.16	07-0828	Oakwest No. 7
085-650-029	\$723.16	07-0829	Oakwest No. 7
085-650-030	\$723.16	07-0830	Oakwest No. 7
085-650-031	\$723.16	07-0831	Oakwest No. 7
085-650-032	\$723.16	07-0832	Oakwest No. 7
085-650-033	\$723.16	07-0833	Oakwest No. 7
085-650-034	\$723.16	07-0834	Oakwest No. 7
085-650-035	\$723.16	07-0835	Oakwest No. 7
085-650-036	\$723.16	07-0836	Oakwest No. 7
085-650-037	\$723.16	07-0837	Oakwest No. 7
085-650-038	\$723.16	07-0838	Oakwest No. 7
085-650-039	\$723.16	07-0839	Oakwest No. 7
085-650-040	\$723.16	07-0840	Oakwest No. 7
085-650-041	\$723.16	07-0841	Oakwest No. 7
085-650-042	\$723.16	07-0842	Oakwest No. 7
085-650-043	\$723.16	07-0843	Oakwest No. 7
085-650-044	\$723.16	07-0844	Oakwest No. 7

EXHIBIT C
Tax Roll Assessment
Oakwest No. 7
Fiscal Year 2010-2011

<u>APN #</u>	<u>Assessment</u>	<u>Lot #</u>	<u>District</u>
085-650-045	\$723.16	07-0845	Oakwest No. 7
085-650-046	\$723.16	07-0846	Oakwest No. 7
085-650-047	\$723.16	07-0847	Oakwest No. 7
085-650-048	\$723.16	07-0848	Oakwest No. 7
085-650-049	\$723.16	07-0849	Oakwest No. 7
085-650-050	\$723.16	07-0850	Oakwest No. 7
085-650-051	\$723.16	07-0851	Oakwest No. 7
085-650-052	\$723.16	07-0852	Oakwest No. 7
085-650-053	\$723.16	07-0853	Oakwest No. 7
085-650-054	\$723.16	07-0854	Oakwest No. 7
085-650-055	\$723.16	07-0855	Oakwest No. 7
085-650-056	\$723.16	07-0856	Oakwest No. 7
085-650-057	\$723.16	07-0857	Oakwest No. 7
085-650-058	\$723.16	07-0858	Oakwest No. 7
To Be Assigned	\$723.16	07-0859	Oakwest No. 7
To Be Assigned	\$723.16	07-0860	Oakwest No. 7
To Be Assigned	\$723.16	07-0861	Oakwest No. 7
To Be Assigned	\$723.16	07-0862	Oakwest No. 7

EXHIBIT D
Engineer's Report
Landscape & Lighting Assessment District 07-08
Oakwest No. 7
Fiscal Year 2010-2011

General Description

This Assessment District (District) is located at the northeast corner of Shirk Street and Hillsdale Avenue. Exhibit "A" is a map of Assessment District 07-08. This District includes the maintenance of turf areas, shrub areas, irrigation systems, trees, block walls, pavement on local streets and any other applicable equipment or improvements. The maintenance of irrigation systems and block includes, but is not limited to, maintaining the structural and operational integrity of these features and repairing any acts of vandalism (graffiti, theft or damage) that may occur. The maintenance of pavement on local streets includes preventative maintenance by means including, but not limited to overlays, chip seals/crack seals and reclamite (oiling). The total number of lots within the district is 62.

Determination of Benefit

The purpose of landscaping is to provide an aesthetic impression for the area. The lighting is to provide safety and visual impressions for the area. The block wall provides security, aesthetics, and sound suppression. The maintenance of the landscape areas, street lights, and block walls is vital for the protection of both economic and humanistic values of the development. In order to preserve the values incorporated within developments and to concurrently have an adequate funding source for the maintenance of all internal local streets within the subdivision, the City Council has determined that landscape areas, street lights, block walls, and all internal local streets should be included in a maintenance district to ensure satisfactory levels of maintenance.

Method of Apportionment

In order to provide an equitable assessment to all owners within the District, the following method of apportionment has been used. All lots in the District benefit equally, including lots not adjacent to landscape areas, block walls, and street lights. The lots not adjacent to landscape areas, block walls, and street lights benefit by the uniform maintenance and overall appearance of the District. All lots in the District have frontage on an internal local street and therefore derive a direct benefit from the maintenance of the local streets.

Estimated Costs

The estimated costs to maintain the District includes the costs to maintain turf areas, shrub areas, irrigation systems, trees, block walls, pavement on local streets and any other applicable equipment or improvements. The regular preventive maintenance of pavement on local streets is based on the following schedule: Chip Seal on a 15 year cycle; Overlays on a 10 year cycle; Crack Seal on an 8 year cycle and Reclamite on a 6 year cycle.

EXHIBIT D
 Engineer's Report
 Landscape & Lighting Assessment District 07-08
 Oakwest No. 7
 Fiscal Year 2010-2011

The quantities and estimated costs are as follows:

<u>Description</u>	<u>Unit</u>	<u>Amount</u>	<u>Cost per unit</u>	<u>Total Cost</u>
Turf Area	Sq. Ft.	54,779	\$0.180	\$9,860.22
Shrub Area	Sq. Ft.	50,941	\$0.180	\$9,169.38
Water	Sq. Ft.	105,720	\$0.050	\$5,286.00
Electricity	Sq. Ft.	105,720	\$0.008	\$845.76
Trees In Landscape Lots	Each	138	\$25.00	\$3,450.00
Trees In Local Street Parkways	Each	85	\$25.00	\$2,125.00
Street Lights	Each	16	\$105.00	\$1,680.00
Chip Seal (15 year cycle)	Sq. Ft.	85,175	\$0.190	\$1,078.88
Crack Seal (8 year cycle)	Sq. Ft.	85,175	\$0.02933	\$312.30
Reclamite (6 year cycle)	Sq. Ft.	85,175	\$0.0211170	\$299.77
Overlays (10 year cycle)	Sq. Ft.	85,175	\$0.65	\$5,536.38
Project Management Costs	Lots	62	\$18.00	\$1,116.00
				\$40,759.70
TOTAL				\$40,759.70
10% Reserve Fund				\$4,075.97
				\$44,835.67
GRAND TOTAL				\$44,835.67
COST PER LOT				\$723.16

Annual Cost Increase

This assessment district shall be subject to a maximum annual assessment (A_{max}) for any given year "n" based on the following formula:

$$A_{max} \text{ for any given year "n"} = (\$44,835.67) (1.05)^{(n-1)}$$

where "n" equals the age of the assessment district with year one (1) being the year that the assessment district was formed;

The actual annual assessment for any given year will be based on the estimated cost of maintaining the improvements in the district plus any prior years' deficit and less any carryover. In no case shall the annual assessment be greater than maximum annual assessment as calculated by the formula above. The maximum annual increase for any given year shall be limited to 10% as long as the annual assessment does not exceed the maximum annual assessment as calculated by the formula above.

The reserve fund shall be maintained at a level of 10% of the estimated annual cost of maintaining the improvements in the district. If the reserve fund falls below 10%, then an amount will be calculated to restore the reserve fund to a level of 10%. This amount will be recognized as a deficit and applied to next year's annual assessment.

EXHIBIT D
Engineer's Report
Landscape & Lighting Assessment District 07-08
Oakwest No. 7
Fiscal Year 2010-2011

Example 1. The estimated year four cost of maintaining the improvements in the district is \$48,870.88 [a 9% increase over the base year estimated cost of \$44,835.67]. The maximum annual assessment for year four is \$51,902.89 [$A_{\max} = (\$44,835.67)$ (4-1) (1.05)]. The assessment will be set at \$48,870.88 because it is less than the maximum annual assessment and less than the 10% maximum annual increase.

Example 2. The estimated year four cost of maintaining the improvements in the district is \$50,664.31 [a 7% increase over the previous year assessment and a 13.0% increase over the base year estimated cost of \$44,835.67]. The reserve fund is determined to be at a level of 8% of the estimated year four cost of maintaining the improvements in the district. An amount of \$1,013.29 will restore the reserve fund to a level of 10%. This amount is recognized as a deficit. The maximum (4-1) annual assessment for year four is \$51,902.89 [$A_{\max} = (\$44,835.67)$ (1.05)]. The year four assessment will be set at \$50,664.31 plus the deficit amount of \$1,013.29 which equals \$51,677.60 [a 9% increase over the previous year assessment] because it is less than the maximum annual assessment and less than the 10% maximum annual increase.

Example 3. The estimated year four cost of maintaining the improvements in the district is \$48,870.88 [a 9% increase over the base year assessment of \$44,835.67] and damage occurred to the masonry wall raising the year five expenses to \$59,622.47 [a 22% increase over the previous year assessment]. The year five assessment will be capped at \$53,757.97 (a 10% increase over the previous year) and below the maximum annual assessment of \$54,498.04 [$A_{\max} = (\$44,835.67)$ (5-1) (1.05)]. The difference of \$740.07 is recognized as a deficit and will be carried over into future years' assessments until the masonry wall repair expenses are fully paid.

City Engineer Certification

I hereby certify that this report was prepared under my supervision and this report is based on information obtained from the improvement plans of the subject development.

EXHIBIT D
Engineer's Report
Landscape & Lighting Assessment District 07-08
Oakwest No. 7
Fiscal Year 2010-2011

Douglas S. Damko
for City Engineer

RCE 59445

Date

City of Visalia Agenda Item Transmittal

Meeting Date: March 1, 2010

Agenda Item Number (Assigned by City Clerk): 6i

Agenda Item Wording: Approval of a letter to the Visalia Cal Ripken organization supporting their efforts to bring the 2011 12-year old World Series to Visalia.

Deadline for Action: N/A

Submitting Department: Administration

Contact Name and Phone Number: Bob Link, Mayor; Leslie Caviglia, 713-4317, Vince Elizondo, 713-4367; Jason Glick, 713-4586

Department Recommendation: It is recommended that the Council approve sending a letter to the Visalia Cal Ripken organization supporting their efforts to bring the 2011 12-year old World Series to Visalia. The local organizing committee will need to decide in the next few weeks whether to pursue the bid and the Mayor is recommending that the Council send a letter of support (see attached) to the Committee.

Summary/background:

With the completion of phase two of the Riverway Sports Park, which includes four lighted youth baseball playing fields, the Visalia Cal Ripken organization expressed interest to the corporate Cal Ripken organization about hosting a World Series event in Visalia.

The Cal Ripken League, which is a division of the Babe Ruth League, notified the local organization late last year that there was a host opportunity available for the 2011 12-year old World Series.

The local League has held several planning meetings, and has worked with the Visalia Convention and Visitors Bureau, the Rawhide, and City staff from Parks and Recreation, the Convention Center and Administration to ascertain what resources are available, and to outline an action plan for pursuing the World Series.

On December 16, an initial site visit was conducted by a Regional Representative, and a follow-up meeting was arranged for the National World Series Coordinator, Robert Faherty, to visit Visalia. Mr. Faherty was in town on Monday, February 22, and seemed very favorable about recommending that the 2011 12-year old Word Series be held in Visalia. The combination of the quality of the youth baseball complex, the supply of quality hotel rooms, the convention center, activities for the players and their families to enjoy, and the coordinated team of willing

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head LBC 22410
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

volunteers that the Visalia Cal Ripken team has assembled, appeared to be a winning combination.

The organizing committee is expecting to receive additional information about requirements, both technical and financial, for hosting the event. Initial estimates are that the committee will need to raise at least \$70,000 to cover the expenses associated with the event. However, the event is expected to also be an economic boon to the community. A total of 10 teams are invited to the event from across the country. Most of the teams are in the host town for 8-10 days, and the players and their families are often looking to take full advantage of the recreational opportunities in the area during their down time.

The local organizing committee will be deciding in the next few weeks whether to pursue the tournament. The Mayor is recommending that a letter of support (see attached) be provided to the committee to communicate the City's willingness to provide technical support to the group should it choose to commit to bringing the World Series to Visalia.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments:

Recommend Motion (and Alternative Motions if expected): I move the approval of a letter to the Visalia Cal Ripken organization supporting their efforts to bring the 2011 12-year old World Series to Visalia.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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

Copies of this report have been provided to:

DRAFT

February 24, 2010

It was a pleasure to be included in the Feb. 22 tour and reception for Robert Faherty from the Cal Ripken League. We appreciate you including us in this event, and were very excited about the potential for holding the 2011 World Series event in Visalia.

You're League and organizing committee is to be commended for their vision in focusing on bringing a first-class event to Visalia, and for your initiative to act so quickly to bring the World Series to the soon-to-be completed youth baseball complex at Riverway Sports Park. While the main purpose of the new fields is to give our local athletes ample space to play ball, it had always hoped that having a quality facility would also lead to hosting major events like the Cal Ripken World Series.

It was heartening to hear the Cal Ripken representative's keen interest in amenities that Visalia has to offer in addition to the fields...enough quality hotel rooms, the convention center, other activities for the players and their families to enjoy, and a coordinated team of volunteers willing and able to work together to bring the event to fruition

Certainly, having 10 teams, and their families and fans, in town for up to 10 days will be a boon to the hotel, restaurant, retail and recreational facilities in the area and really put Visalia on the youth sports map for future events. In addition, we believe that hosting the World Series will be a very positive inspiration for all the baseball players in this community.

We sincerely appreciate your willingness to take on the monumental task of fund raising and organizing this major sporting event. Please know that the Council pledges our support, and that of our staff is assisting you with the myriad of details that you will be coordinating in the coming months. Please know that Vince Elizondo, Leslie Caviglia and Jason Glick are available to work with you with regards to ball fields and other venues, welcome activities and other areas where the City's expertise may be of value to you. Please do not hesitate to call upon them.

Again, we appreciate your enthusiasm and commitment to the World Series event, and to putting Visalia on the map! Good luck, and please let us know how we can be of assistance.

Sincerely,

City of Visalia Agenda Item Transmittal

Meeting Date: March 1, 2010

Agenda Item Number (Assigned by City Clerk): 6j

Agenda Item Wording: Ratify sending a letter of support for TCAG's efforts in obtaining a California Department of Transportation Planning Grant to prepare a Visalia/Tulare Community Transit Study to improve transportation opportunities between the two communities over the next five years.

Deadline for Action: March 1, 2010.

Submitting Department: Administration – Transit Division

Contact Name and Phone Number:
Monty Cox 713-4591

Department Recommendation: Ratify sending a letter of support for TCAG's efforts in obtaining a California Department of Transportation Planning Grant to prepare a Visalia/Tulare Community Transit Study to improve transportation opportunities between the two communities over the next five years.

Summary: The Tulare County Association of Governments routinely applies for planning and other grants on behalf of member agencies to support transportation related activities. Recently Caltrans published a notice of grant opportunity for various planning grants including transit services. TCAG, as the only eligible applicant in Tulare County, is applying for funds to prepare a Visalia/Tulare Community Transit Study to improve transportation opportunities between the two communities over the next five years. This planning grant will allow for the hiring of a consultant to prepare a study for the cities and the county to identify some potential solutions to some of the transit deficits. Specifically, this study will be focusing on the needs of COS students attending either the Visalia campus or the new campus in the City of Tulare; and identify transit options to meet the needs of those students.

Background: The Transit Division has been working with the City of Tulare and the College of Sequoias to prepare for the expansion of the COS campus into Tulare and the anticipated increase in transit service needs. Caltrans periodically provides funds to do various types of planning studies including transit services. In some cases these funds are transferred to the City to conduct the study; however, in this case TCAG is the only eligible applicant and will be conducting the study on behalf of the City of Visalia, the City of Tulare and COS. The proposed project study will increase access to transportation options, encourage the pursuit of a higher education, provide training and job opportunities.

The provision of a safe, reliable and efficient public transportation service to services such as higher education, training and jobs is vitally important to the economy and quality of life in

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

Tulare County. Visalia/Tulare community efforts are specifically focusing on improving transportation options between communities with many low-income workers, training opportunities, social services, higher education opportunities and other essential destinations.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives: None

Attachments:

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move that the City Council ratify sending a letter of support for TCAG's efforts in obtaining a California Department of Transportation Planning Grant to prepare a Visalia/Tulare Community Transit Study to improve transportation opportunities between the two communities over the next five years.

Financial Impact

Funding Source:

Account Number:

Budget Recap:

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

Environmental Assessment Status

CEQA Review:

Required? No
Review and Action: Prior:
Require:

NEPA Review:

Required? No
Review and Action: Prior:
Require:

Tracking Information:

Copies of this report have been provided to:

City of Visalia

425 West Oak Avenue, Suite 301, Visalia, CA 93291



Mayor's Office

tel (559) 713-4512 fax (559) 713-4800

February 25, 2010

Bob Link
Mayor

Christine Chavez
Regional Planner
Tulare County Association of Governments
5955 S. Mooney Blvd
Visalia, CA 93277

Amy Shuklian
Vice Mayor

E. Warren Gubler
Councilmember

Re: Visalia/Tulare Community Transit Study

Michael Leno
Councilmember

Dear Ms. Chavez:

Sloven A. Nelson
Councilmember

The provision of a safe, reliable and efficient public transportation service to services such as higher education, training and jobs is vitally important to the economy and quality of life in Tulare County. Visalia/Tulare community efforts are specifically focusing on improving transportation options between communities with many low-income workers, training opportunities, social services, higher education opportunities and other essential destinations. Visalia recognizes the importance of good public transportation planning in the community to achieve this goal.

To this end, we support TCAG's efforts in obtaining a California Department of Transportation Planning Grant to prepare a Visalia/Tulare Community Transit Study to improve transportation opportunities between the two communities over the next five years. This planning grant will allow for the hiring of a consultant to prepare a study for the cities and the county to identify some potential solutions to some of the transit deficits.

We strongly believe that the proposed project study will increase access to transportation options, encourage the pursuit of a higher education, provide training and job opportunities. We recommend that Caltrans support the Visalia/Tulare Community Transit Study grant application.

Sincerely,

Bob Link, Mayor
City of Visalia



City of Visalia Agenda Item Transmittal

Meeting Date: March 1, 2010

Agenda Item Number (Assigned by City Clerk): 7

Agenda Item Wording: Authorize implementation of the following downtown one-way conversions: 1) Main Street One-Way Eastbound Conversion between Garden Street and Santa Fe Street, 2) Garden Street One-Way Southbound Conversion between Center Street and Main Street and 3) Center Street One-Way Westbound Conversion between Bridge Street and Santa Fe Street; and authorize the expenditure of up to \$200,000 from Measure R Local and \$300,000 from Gas Tax for this project.

Deadline for Action: None

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:

Adam Ennis, Engineering Services Manager 713-4323,
Chris Young, City Engineer 713-4392

Department Recommendation

City Council authorize staff to implement the following downtown one-way conversions: 1) Main Street One Way Eastbound Conversion between Garden Street and Santa Fe Street, 2) Garden Street One Way Southbound Conversion between Center Street and Main Street and 3) Center Street One Way Westbound Conversion between Bridge Street and Santa Fe Street. Authorize the expenditure of up to \$200,000 from Measure R Local and \$300,000 from Gas Tax for this project.

Summary

Staff is proposing three one-way street conversions as listed above. There are several projects occurring near the intersection of Main Street and Santa Fe Street that will change how traffic flows in this area. The proposed conversions would improve traffic flow, extend the aesthetics (bulb-outs, landscaping, angled parking and crosswalks) of Main Street from Garden Street to Santa Fe Street, and provide additional angled parking spaces to this area of downtown. The design has not been completed but the project is anticipated to add about 30 to 40 parking spaces to the downtown due to converting from parallel spaces to angled parking.

Background

A development project, the Main Street Promenade, is being planned by Mangano Company on the north side of Main Street between Bridge Street and Santa Fe Street. During preliminary reviews of the frontage improvements for this proposed development, it became clear to staff that continuing the Main Street aesthetics and traffic flow would resolve many issues that would

For action by:

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

For placement on which agenda:

- Work Session
- Closed Session

Regular Session:

- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): 30

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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occur without the conversions. Right-of-way widths through this portion of Main Street are consistent with those to the west which would allow for similar street frontage improvements and the continuance of the same traffic lane configurations east to Santa Fe Street. In addition, with future capital improvement projects planned along Santa Fe Street, along with the soon opening of the Santa Fe Street Bridge over State Highway 198, this corridor will become a major north/south arterial street through the City. The Santa Fe corridor will become a natural "break point" for traffic flows and will provide a clean and logical transition location from one-way to two way traffic.

The conversion of Garden Street to one-way southbound traffic and adding angled parking has been suggested by downtown merchants and property owners for some time. With the conversion of Main Street, the Garden Street conversion would "clean up" the small, cramped intersection at Garden Street and Main Street and provide better traffic flow. The conversion would also allow for the addition of angled parking resulting in an increase in the number of spaces available to the public on the street.

The conversion of Center Street from two-way to one-way between Bridge Street and Santa Fe Street could have some impact on the transit facility operations, especially with the current expansion project. The transit division is currently investigating the possible advantages/disadvantages of this conversion to their operations. If the disadvantages of the conversion outweigh the advantages from the transit standpoint staff may reconsider the conversion of this street and make no changes on Center Street.

Public Outreach

A public outreach to the community was conducted to receive input regarding the proposed conversions. A meeting to present the layout and answer any questions was held at Crawdaddy's for property and business owners in the area of the conversions on February 5, 2010. All property and business owners fronting the proposed conversion were invited to the meeting. There were three participants in this meeting, including Troy Korsgarden (Crawdaddy's), Don Estes (Salon De Estee) and Robert Chavez (Chavez Balloons). Discussions of the layouts occurred and the participants of the meeting were in favor of the project. In addition, a meeting open to the general public was held at the Visalia Council Chambers on February 19, 2010. One resident and two members of the press attended the meeting. At all of these meetings, exhibits were displayed showing the conversions. Questionnaire forms were available for the attendees to provide their input at each meeting. All attendees were in favor of the conversion project.

Schedule

Lane Engineers has already begun design work for the Main Street Promenade development project, including Mill Creek culvert repairs and street frontages that would be designed to work with a one-way street. Since this work has begun and all of the one-way conversion design needs to be coordinated with the development frontage design, staff has requested a proposal from Lane Engineers for the City's conversion design. Also, the one-way conversion construction will need to occur at the same time as the frontage improvements of the development for a complete and total one-way conversion. It is anticipated that the City's one-way conversion project would be constructed by the same contractor as used for the development project with the City reimbursing for the portion of the one-way conversion. A development agreement would be prepared which would outline the responsibilities of the developer and the City prior to start of work. The design work is anticipated to take approximately two to three months to complete. We would anticipate bidding and award occurring through June and July 2010, and construction occurring August through October of 2010.

Financing

The Measure R money recommended for this project would come from the savings which accrued from the amount originally budgeted for the Acequia 2-way conversion. The funds for Gas Tax are available because the City is spending less money than budgeted for developer reimbursements.

Prior Council/Board Actions:

None

Committee/Commission Review and Actions: None.

Alternatives: No project or revision of project.

Attachments: Exhibit A – Schematic layout

Recommended Motion (and Alternative Motions if expected):

Request that City Council authorize staff to implement the following downtown one-way conversions: 1) Main Street One Way Eastbound Conversion between Garden Street and Santa Fe Street, 2) Garden Street One Way Southbound Conversion between Center Street and Main Street and 3) Center Street One Way Westbound Conversion between Bridge Street and Santa Fe Street. Authorize the expenditure of up to \$200,000 from Measure R Local and \$300,000 from Gas Tax for this project.

Environmental Assessment Status

CEQA Review: Categorical Exemption

NEPA Review: Not applicable

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

City of Visalia
Agenda Item Transmittal

Meeting Date: March 1, 2010

Agenda Item Number (Assigned by City Clerk): 9

Agenda Item Wording: Note receipt of the Comprehensive Annual Financial Report (CAFR) for the City of Visalia, the Single Audit Report, and the Component Unit Financial Statements for the Redevelopment Agency of the City of Visalia for the 2008-09 fiscal year.

Deadline for Action: None

Submitting Department: Administration - Finance

Contact Name and Phone Number:

Eric Frost,	Admin. Services Director	713-4474
Danielle Dew,	Financial Analyst	713-4598

Department Recommendation: That City Council note that it has received the CAFR, Single Audit Report and the Redevelopment Agency Component Unit Report for the year ended June 30, 2009 and ask questions as appropriate.

Council received the document at the City Council meeting, Tuesday, February 16, 2010. Finance has returned to discuss the document in detail now that Council has had sufficient time to consider the material and form whatever questions they may have.

Summary:

The City Council has received the annual audited financial reports for the City of Visalia for the 2008-09 fiscal year. The CAFR is also available on the City's website at:

<http://www.ci.visalia.ca.us/civica/filebank/blobload.asp?BlobID=8170>

Included in the Comprehensive Annual Financial Report (CAFR), are two compliance reports the City produces annually. First, the Single Audit report is a compliance audit of the City's expenditures of federal grant funds. Second, the Measure T report is an agreed-upon procedure of Measure T's procedures and accounting. Council recently received the City's Component Unit Financial Statements for the Redevelopment Agency (RDA) of the City of Visalia for the same period. The Component Unit Financial Statements solely report on the RDA funds, separate from the City. Note, the Redevelopment Agency's financial activity is also reported in the City's CAFR, but the State of California requires a separate audit report which presents additional detail.

For action by:

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

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.):_15__

Review:

Dept. Head _____
(Initials & date required)

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

City Mgr _____
(Initials Required)

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

Despite the City Staff's best efforts, occasionally some errors will appear in the report. City staff and the auditors believe that no material errors are present in this report, but errors can occur. As they are discovered, they are corrected. For example, Council Member Nelson asked a question about some loans the City made to the Chamber of Commerce. On page 62, the Chamber land note and parking in-lieu note state they mature in 2008. The notes actually mature in 2025 and 2015, respectively.

Specific events this past fiscal year that have influenced the City's condition are:

- Capital projects expenditures of the governmental funds (\$41.9 million) were significantly more than the previous year (\$25.8 million). During FY 08/09 the City continued to build and improve roads by \$16.6 million, facilities by \$1.3 million, other infrastructure by \$2.4 million, and the Rawhide Stadium by \$8.3 million. These expenditures are almost exclusively being constructed from current resources.
- Property Taxes grew 6.8% from \$33.0 million to \$35.2 million and sales tax grew 2.1% from \$24.4 million to \$25.0 million. Property taxes grew due to the latter part of the real estate boom. (Note: assessed values are based upon assessments completed in the year ending the prior January. In other words, revenues collected in FY 2008/09 were based on assessments made during January to December of 2007. Since then, property taxes have declined in FY 2009/10 and will decline in FY 2010/11 due to declining property values.). Sales tax on the other hand, increased by 2.1% because the City is receiving Measure R sales tax for roads. Without this money, general and Measure T sales tax combined would have decreased by 11.3%. This downward trend continues into FY 2009/10
- During the 08-09 fiscal year the General Fund's advances to other funds held steady at \$3.8 million. See Table I, Selected Fund Balance / Net Assets Components following for details of advance balances.

Discussion:

Table I, Recap of Fund Basis Financial Results, 2008-09, shows several key indicators: current year net income, the accumulated fund or equity balance and cash. A more in-depth analysis is found in the CAFR's Management Discussion & Analysis section (page 3).

Please consider the following:

- The **General Fund** (page 28) had expenditures over revenues of \$7.0 million. Revenues in total decreased by \$5.8 million of which license and permits decreased by \$2.8 million because building safety was moved to its own fund. Sales tax decreased by \$1.9 million due to the economy, use of money and property decreased due to lower interest rates, decreased fair market value gains, and decreased gains from sales. Total expenditures were \$4.2 million higher of which Capital Projects increased by \$5.0 million, and community development decreased by \$3.2 million due to building safety becoming its own fund. As a result, operating costs actually increased \$2.3 million or 4.9%. The increase in operations were mainly due to:
 - Increased Police costs due to a salary increase of 4%;
 - Increased Fire personnel costs due a salary increase of 4%; and,
 - Decreased reimbursements received from other departments and funds by \$1.0 million due to changes in the allocated costs.

Transfers-out to the Convention Center decreased by \$1.2 to \$2.7 million this year because in the prior fiscal year the General Fund transferred funds to the Convention Center for retractable seating. Fund balance was \$46.63 million at fiscal year end. This fund balance can be divided into two parts: reserved (monies that have been lent out to other funds and encumbrances for signed contracts, both are not available) and designations (monies Council has set aside for specific purposes.) Some \$34.4 million (74%) is designated for specific Council purposes and \$12.1 million (26%) is for required reserves.

Table I
Recap of Fund Basis Financial Results, 2008/ 09
(In Millions)

Governmental: Fund	INCOME		FUND / EQUITY	Growing	Comment
	Net Income / (Loss)	Satisfactory			
General Fund	\$ (9.7)	yes	\$ 46.6	no	Planned and used set-aside reserves to build Raw-hide Stadium
Community Development HUD Grants	0.6	yes	0.4	yes	Received more money from stimulus
Parking District In-Lieu Fees	1.3	yes	2.0	yes	Revenue increased mainly due to land sale of parking lot to Transit - Fund also owes \$4.0 million in West Acequia debt.
Redevelopment Agency Tax Increment	1.9	yes	8.0	no	Excess revenues being used to pay down RDA debt
Transportation Impact Fees	(4.3)	yes	3.0	no	Decline due to decreased development activity and construction of capital projects building transportation projects.
Other Funds	(3.5)	yes	38.8	no	Impact fees declined by \$4.3 million compared to FY 2007/08 as development dramatically slowed
	<u>\$ (13.7)</u>		<u>\$ 98.8</u>		
Business-Activity: Fund	INCOME		AVAILABLE CASH	Growing	
	Net Income / (Loss)	Satisfactory			
Convention Center	0.6	yes	0.0	no	General Fund transferred \$2.7 million to Convention Center as planned.
Airport	(0.8)	no	0.0	no	Loss of fuel sales revenue due to change in commercial air carrier
Golf Course	0.0	yes	0.2	no	Despite down economy, Valley Oaks broke even.
Wastewater & Storm Sewer Maintenance	5.3	yes	25.2	yes	Wastewater is accumulating resources for a major water quality project.
Solid Waste & Street Sweeping	(1.6)	no	0.9	monitor	Solid Waste used to inventory 50,000 garbage cans which was not cost effective for the City. Therefore, the City expensed \$3.6 million of net assets. Without this, the fund had net income.
Transit	9.4	yes	3.6	yes	New federal grants increased resources.
Building Safety	(0.4)	no	0.0	yes	New fund. Building activity down, but expenses have been adjusted to match economic activity.
Enterprise sub-total	\$ 12.5		\$ 29.9		
Internal Service	0.7	yes	11.1	yes	Operating as expected.
	<u>\$ 13.2</u>		<u>\$ 41.0</u> *		

* Note: Business-activity fund equity includes fixed assets which are not expendable resources. Governmental funds do not include debt nor fixed assets.

- **Community Development** (page 24) fund's assets include \$8.0 million in notes and loans receivable and \$1.5 million in amounts due from other governments. All loans are fully offset by deferred revenue as the loans are not expected to be repaid within the next year. The notes and loans receivable are for housing assistance as well as past rental rehabilitation loans. Community Development's revenues exceeded expenditures by \$1.1 million for the year, mainly due to a \$1.3 million foreclosed home grant received. As a result, fund balance increased \$0.6 million from last year to \$0.4 million.
- **Parking District** (page 28) sold a parking lot to Transit for \$0.9 million. The fund repaid an advance of \$1.4 million to the General Fund that had been used to partially pay for the West Acequia Parking structure.
- **Redevelopment Districts** (page 28) revenues increased by \$0.2 million primarily from increased property tax increment payments. Expenditures decreased by \$4.8 million, primarily due to the Agency contributing last year \$4.5 million in restricted low and moderate income set-aside housing funds to help finance Kaweah Management's construction a 70 unit affordable multi-family housing project on approximately 9.6 acres located on the south side of Mill Creek Parkway, between Lovers Lane and McAuliff Street.
- **Transportation** (page 29) fund is used to account for the financing and construction of streets, roads, and various transportation infrastructure and facilities. Transportation's Fund Balance decreased \$4.3 million to \$3.0 million. In the previous fiscal year, the City constructed \$4.8 million of road projects. This year road project construction increased to \$8.4 million. As a result, fund balance decreased to \$3.0 million.
- **Other Governmental Funds** (page 29), referred to as Non-Major Funds, are not presented separately in the Basic Financial Statements, but are individually presented in Supplemental Information. Combined they received \$25.3 million in revenue and had a combined decrease in Fund Balance of \$3.5 million for the fiscal year resulting in a combined Fund Balance at year end of \$38.8 million. The major change was the decline of impact fees by \$4.3 million among such funds as Recreation facilities, waterways, Governmental Facilities, and Public Safety Impact funds.
- **Convention Center** (page 38) had net operating income of \$0.6 million. The General Fund transferred \$2.7 million to the Convention Center as planned. Annually \$300,000 that the City budgets for Convention Center capital improvements will be credited against this transfer.
- **Airport** (page 38) had a net operating loss of \$0.8 million. The Airport had a loss of fuel sales due to a change in commercial air carrier.
- **Wastewater** (page 38) had net operating income of \$3.8 million. Although revenues increased \$1.6 million (12%) mainly due to a rate increase and population growth, a one-time, \$4 million, non-recurring depreciation charge increased operating expenses in the prior fiscal year.
- **Solid Waste** (page 39) had a net operating loss of \$1.6 million. Solid Waste used to inventory 50,000 garbage cans which were not cost effective for the City. Therefore, the City expensed \$3.6 million of net assets (removed the value of the garbage cans). Without this, the fund had net income.

- **Transit** (page 39) operating revenues decreased \$0.3 million as the Transit system continued a National Parks Service contract to provide bus service from Visalia to Sequoia National Park. This three year contract is to encourage non-car use of the park and may become mandatory in the future as the Park strives to protect the National Park from the affects of auto emissions which began in FY 2007/08. After accounting for the increase in grant revenues, the Transit system essentially broke even.

Table II
Selected Fund Balance / Net Assets Components
June 30, 2009
(In Thousands)

<u>RESERVED</u>	<u>General Fund</u>	<u>Internal Services</u>	<u>Total</u>
ADVANCES TO OTHER FUNDS:			
Special Revenue Funds			
Public Safety Impact Fee	\$ 2,476	\$ -	\$ 2,476
Measure R - Regional	1,236	-	1,236
Kaweah Lake	440	-	440
Special Service Districts	149	-	149
Grant & Loan Funds	434	-	434
Capital Project Funds			
Community Development	1,059	-	1,059
East Visalia Redevelopment District	504	6,720	7,224
Government Facilities Impact Fee	53	-	53
Business-Like & Internal Service Funds			
Valley Oak Golf	469	3,490	3,959
Airport	223	-	223
Building Safety	279	-	279
Benefits - Health	215	-	215
Sub-Total	<u>7,537</u>	<u>10,210</u>	<u>17,747</u>
OTHER RESERVED			
Encumbrances	2,018	-	2,018
PERS Prepayment	2,400	-	2,400
Supplies & Other Prepays	166	-	166
Internal Services - Net Investment in Fixed Assets	-	8,528	8,528
Sub-Total	<u>4,584</u>	<u>8,528</u>	<u>13,112</u>
TOTAL RESERVED	<u>12,121</u>	<u>18,738</u>	<u>30,859</u>
<u>UNRESERVED</u>			
DESIGNATED BY CITY COUNCIL:			
Capital Projects			
Civic Center Facilities	9,678	-	9,678
Miscellaneous Capital Projects	4,945	-	4,945
Sports Park	2,614	-	2,614
Recreation Park Stadium	559	-	559
Transportation Projects	1,390	-	1,390
SPCA	221	-	221
Oak Tree	(9)	-	(9)
Historic Preservation	5	-	5
West 198 Open Space Acquisition	(534)	-	(534)
Internal Services - Capital Replacement	-	149	149
Sub-Total	<u>18,869</u>	<u>149</u>	<u>19,018</u>
Operational Expenses			
Emergency @ 25% of Operational Expenses	13,604	-	13,604
Internal Services - Catastrophic Occurrences (Risk Mgmt.)	-	1,495	1,495
Internal Services - Operating Expenses	-	1,885	1,885
UNDESIGNATED:	<u>1,967</u>	<u>-</u>	<u>1,967</u>
TOTAL UNRESERVED	<u>34,440</u>	<u>3,529</u>	<u>37,969</u>
TOTAL FUND BALANCE	<u>\$ 46,561</u>	<u>\$ 22,267</u>	<u>\$ 68,828</u>

Note: The PERS Prepayment amount is decreased each year by \$400,000 against a \$4 million prepayment to PERS the City made in FY 04/05. Capital project designations are for budgeted projects which have not yet begun.

General Fund and Internal Service Funds Fund Balance

The General Fund (GF) and Internal Service Funds Fund Balance has Reserved and Unreserved accounts. The Reserved accounts include Advances to Other Funds, Encumbrances and Prepaids. The Unreserved accounts include Designations of Fund Balance as directed by Council. These Designations are listed as either Capital Projects or as Operational Expenses. Table II, Selected Fund Balance/Net Asset Components details the components of Fund Balance for the General Fund and Internal Service Funds at year end.

During the year Advances to Funds increased in the General Fund a net \$0.8 million partly due to the Parking District, and Solid Waste paying their \$2.3 million advances, and the Public Safety Impact Fee increasing their advances by \$1.6 million. In addition, the Internal Service Funds advanced monies to East Visalia Redevelopment and Valley Oaks Golf Course of \$10.2 million, advances which until FY 07-08 had been made by the General Fund. ***The advances were moved to the Internal Service Funds from the General Fund to allow the General Fund emergency reserve to be fully funded.*** Encumbrances decreased \$5.2 million and Designations for Capital Projects decreased by \$2.4 million. These changes resulted in the Emergency Reserve (Operational Expense Designation) being funded at \$13.6 million, 25% of operating expenditures and \$2.0 million as Undesignated Fund Balance.

Although it is helpful to have substantial designations, the City also has a number of challenges which face the City, such as future pension costs caused by the decline in the City's Cal PERS pension assets and the need to handle the effects of the economic downturn. Balances alone are insufficient to handle these fiscal challenges.

Other Funds

Table I illustrates only the City's "major funds" as presented in the CAFR. Some of the City's non-major funds are worthy of comment. These funds are found in the CAFR on the referenced pages.

- ***Measure T Funds*** (pages 88 & 89): Fund Balance decreased \$0.1 million and \$0.2 million for Police and Fire respectively. Their combined Fund Balance at year end was \$8.9 million. Included in that Fund Balance amount is an Economic Uncertainty Reserve with a combined balance of \$1.4 million which is the ballot measure's required reserve of 25% of budgeted revenues. Remaining monies are needed to pay for capital as project costs have been higher than the original plan anticipated. In addition, the Measure T plan for Fire service anticipates a build up of funds for building and staffing a new station; these accumulated assets will then be drawn down over the time to pay for that new station planned to open in fiscal year 2012/13.
- ***Measure R – Funds*** (page 85): This funding source is new to the City, authorized by a County-wide vote in November of 2006. This fund is divided into two parts, Local and Regional. The General Fund loaned the Regional Measure R Fund \$1.2 million for the Ben Maddox and the Santa Fe over crossing projects. The local monies are received and used according to the discretion of the Council on local road projects. Regional monies are received as reimbursements for Measure R approved capital projects.
- ***Government Facilities Impact Fees*** (page 90): Fund balance grew this past year from \$2.8 million to \$3.1 million. This fund is accumulating resources to help fund the Civic Center.

In this year's CAFR, the City split the Building Safety Fund from the General Fund in to a proprietary (enterprise) fund. The CAFR also has three new funds in Community Development: the "CAL HOME Grant", "Substandard Housing", and "Neighborhood Stabilization".

Significant Financial Trends

The City over the last several years has made great strides in developing secure diversified revenues sources to pay for infrastructure and the maintenance of that infrastructure. As a result, the monies collected from impact fees and maintenance assessment districts have grown substantially. However, the City must now manage these resources to deliver the capital projects. Table III, Cash Balances of Governmental Impact and Maintenance Fees shows the relative changes in the cash balances of the major impact fees. Please note, Table III shows cash balances, not revenues.

Table III
Governmental Impact and Maintenance Fees
Year End Cash Balance
Fiscal Year Ending June 30
(Amounts in Millions)

	<u>06/30/2008</u>	<u>06/30/2009</u>	<u>Change</u>
Gov. Facilities Impact Fees	\$2.9	\$3.2	\$0.3
Public Safety Impact Fees	1.3	0.0	(1.3)
Recreation Facilities	11.1	9.9	(1.2)
Storm Sewers	2.2	1.6	(0.6)
Transportation Impact Fees	8.8	7.7	(1.1)
Waterways	<u>1.6</u>	<u>1.2</u>	<u>(0.4)</u>
Impact Fees	<u>27.9</u>	<u>23.6</u>	<u>(4.3)</u>
 Maintenance Assessments	 <u>\$1.3</u>	 <u>\$1.8</u>	 <u>\$0.5</u>
Total	<u>\$29.2</u>	<u>\$25.4</u>	<u>(\$3.8)</u>

In contrast, Table IV, Revenues of Governmental Impact and Maintenance Fees, shows the revenues collected from impact fees and maintenance assessment districts. Last year the City collected \$21.6 million in revenues from these funds. This year, the City only collected \$8.6 million. The contrast shows that although revenues are down dramatically, the City takes time to accumulate impact fees before constructing the project which is funded by these fees.

Table IV
Revenues of Governmental Impact and Maintenance Fees
Fiscal Year Ending June 30
(Amounts in Millions)

	<u>06/30/2008</u>	<u>06/30/2009</u>	<u>Change</u>
Gov. Facilities Impact Fees	\$ 1.1	\$ 0.3	\$ (0.8)
Public Safety Impact Fees	1.6	0.5	(1.1)
Recreation Facilities	3.0	1.3	(1.7)
Storm Sewers	1.2	0.7	(0.5)
Transportation Impact Fees	14.0	4.5	(9.5)
Waterways	<u>1.0</u>	<u>0.4</u>	<u>(0.6)</u>
Impact Fees	<u>21.9</u>	<u>7.7</u>	<u>(14.2)</u>
 Maintenance Assessments	 <u>\$1.8</u>	 <u>\$2.1</u>	 <u>\$0.3</u>
Total	<u>\$23.7</u>	<u>\$9.8</u>	<u>(\$13.9)</u>

These funds still have significant assets to be used to construct capital facilities. **As a result, despite the economic slow down, the City still has money to construct capital infrastructure. The key point is that the City collects significant money for creating and maintaining infrastructure.** As a result, staff has a greater responsibility to periodically report the progress on implementing impact fee plans and maintaining infrastructure. Currently, staff prepares a year end report on the status of all impact fees. Staff expects that these projects will be done as anticipated.

Compliance Reports

The **Single Audit** (pages 145 to 152) is required by the Federal Government for local governments that receive Federal assistance. The Single Audit provides reasonable assurance of compliance with applicable laws and regulations associated with those assistance programs. The audit is done in conformity with federal regulations. The auditors report that the City is compliance with Federal regulations. There were no audit findings for the 2008-09 fiscal year.

The **Measure T** audit (pages 153 to 155) was presented to Council on February 1, 2010, but is also being included in this report. Measure T collected more revenue than expended and staff recommended that excess Measure T funds be applied to capital projects that are not fully funded and to maintain our economic uncertainty fund. The report made one finding stating the City needs to work closely with the police department to ensure that officers' salaries are charged properly to Measure T or the General Fund, and that the Measure T Police Fund reimburse the City's General Fund for those funds mistakenly charged to the General Fund during the 2008-09 fiscal year.

Prior Council / Board Actions: None
Committee / Commission Review and Actions: None
Alternatives: None

Attachments: None

Recommended Motion (and Alternative Motions if expected): Accept the fiscal year 2008-09 Comprehensive Annual Financial Report (CAFR).

Environmental Assessment Status

CEQA Review:

NEPA Review:

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