

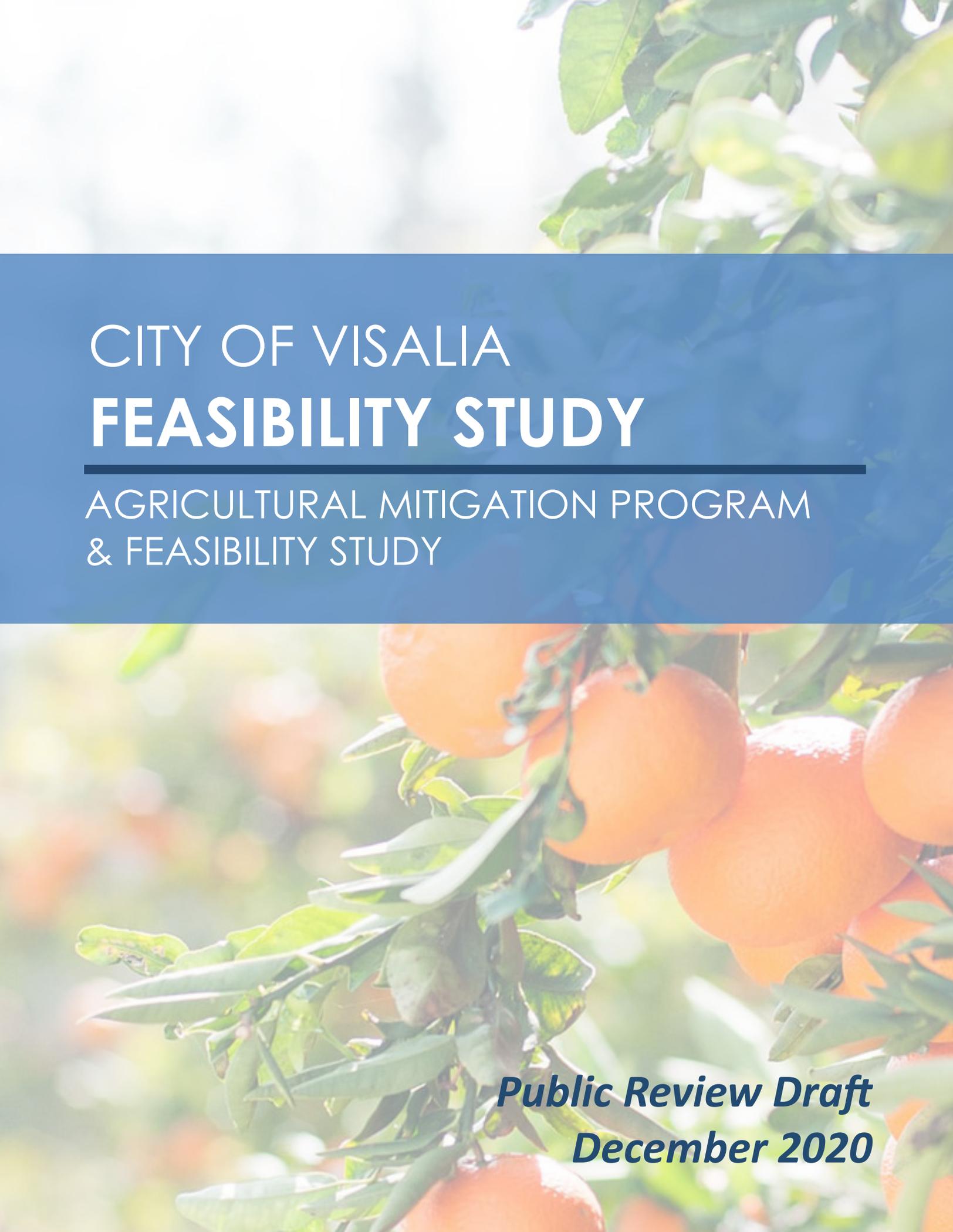
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## **APPENDIX A:**

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Agricultural Mitigation Program  
Feasibility Study, 2020

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The background of the entire page is a photograph of an orange grove. The top half of the image is obscured by a solid blue rectangular overlay. The bottom half shows several ripe, bright orange fruits hanging from a branch with green leaves. The lighting is bright and natural, suggesting a sunny day.

# CITY OF VISALIA **FEASIBILITY STUDY**

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AGRICULTURAL MITIGATION PROGRAM  
& FEASIBILITY STUDY

***Public Review Draft  
December 2020***



# Feasibility Study

PUBLIC REVIEW DRAFT

## AGRICULTURAL MITIGATION PROGRAM & FEASIBILITY STUDY

DECEMBER 2020

### PREPARED FOR:

City of Visalia  
707 W. Acequia Ave.  
Visalia, CA 93291

### PREPARED BY:

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# INTRODUCTION

The City of Visalia General Plan was adopted in 2014 and established an urban growth strategy that identified three tiers for development in the community. The growth strategy was intended to “guide sustainable physical and economic growth, while conserving natural and cultural resources and maintaining community character.” The General Plan established criteria, dependent upon land use type, for when development may advance from the first tier (Tier I) to subsequent tiers (Tiers II and III).

General Plan Policy LU-P-21 establishes the thresholds that would allow growth to occur within the Tier II Growth Boundary. Different thresholds were identified for different types of land uses (residential, commercial, industrial). For residential uses, the threshold is the issuance of permits for 5,850 housing units since April 1, 2010. The City is currently over 88 percent toward meeting the residential permit threshold outlined in Policy LU-P-21. A second General Plan Policy, LU-P-34, contains a supplemental requirement for development within the Tier II and Tier III Growth Boundaries: specifically, establishment of an agricultural mitigation program. As the City approaches the permit threshold that would allow Tier II residential development, the City Council in early 2020 initiated the process of establishing an agricultural mitigation program to ensure this supplemental requirement is satisfied prior to the permit threshold being met. While establishment of an agricultural mitigation program is tied to the advancement of residential development into subsequent tiers, it should be clarified that once established, the agricultural mitigation program would apply to residential and non-residential projects alike.

The agricultural mitigation program identified in Policy LU-P-34, included in its entirety below, is intended to support regional efforts to prevent urban development of agricultural land beyond the City’s urban development boundary and address the conversion of Prime Farmland and Farmland of Statewide Importance in Tiers II and III by requiring a 1:1 ratio of conserved to converted agricultural land. The General Plan policy also specifies that the conserved land be equivalent to the converted land and that all land conserved through the program have adequate water supply and the appropriate agricultural zoning.

**LU-P-34** Work with Tulare County and other state and regional agencies, neighboring cities, and private land trust entities to prevent urban development of agricultural land outside of the current growth boundaries and to promote the use of agricultural preserves, where they will promote orderly development and preservation of farming operations within Tulare County. Conduct additional investigation of the efficacy of agricultural conservation easements by engaging local, regional, and state agencies and stakeholders in order to further analyze their ongoing efforts and programs that attempt to mitigate impacts from the conversion of agricultural lands through the use of agricultural conservation easements. The City will support regional efforts to prevent urban development of agricultural lands, specifically at the county level. Tulare County’s General Plan 2030 Update Policy contains two policies (AG-1.6 Conservation Easements and AG-1.18 Farmland Trust and Funding Sources) that discuss establishing and implementing an Agricultural Conservation Easement Program (ACEP). The City supports the implementation of these measures by the County, in which the City may then participate. Such a regional program could include a fee

to assist and support agricultural uses, and would be most feasibly and strategically developed on a countywide or other regional basis.

In addition to supporting regional efforts to prevent urban development of agricultural lands, the City shall create and adopt a mitigation program to address conversion of Prime Farmland and Farmland of Statewide Importance in Tiers II and III. This mitigation program shall require a 1:1 ratio of agricultural land preserved to agricultural land converted and require agricultural land preserved to be equivalent to agricultural land converted. The mitigation program shall also require that the agricultural land preserved demonstrate adequate water supply and agricultural zoning, and shall be located outside the City UDB, and within the southern San Joaquin Valley. The mitigation program shall, to the extent feasible and practicable, be integrated with the agricultural easement programs adopted by the County and nearby cities. The City's mitigation program shall allow mitigation to be provided by purchase of conservation easement or payment of fee, but shall indicate a preference for purchase of easements. The mitigation program shall require easements to be held by a qualifying entity, such as a local land trust, and require the submission of annual monitoring reports to the City. The mitigation program shall specifically allow exemptions for conversion of agricultural lands in Tier I, or conversion of agricultural lands for agricultural processing uses, agricultural buffers, public facilities, and roadways.

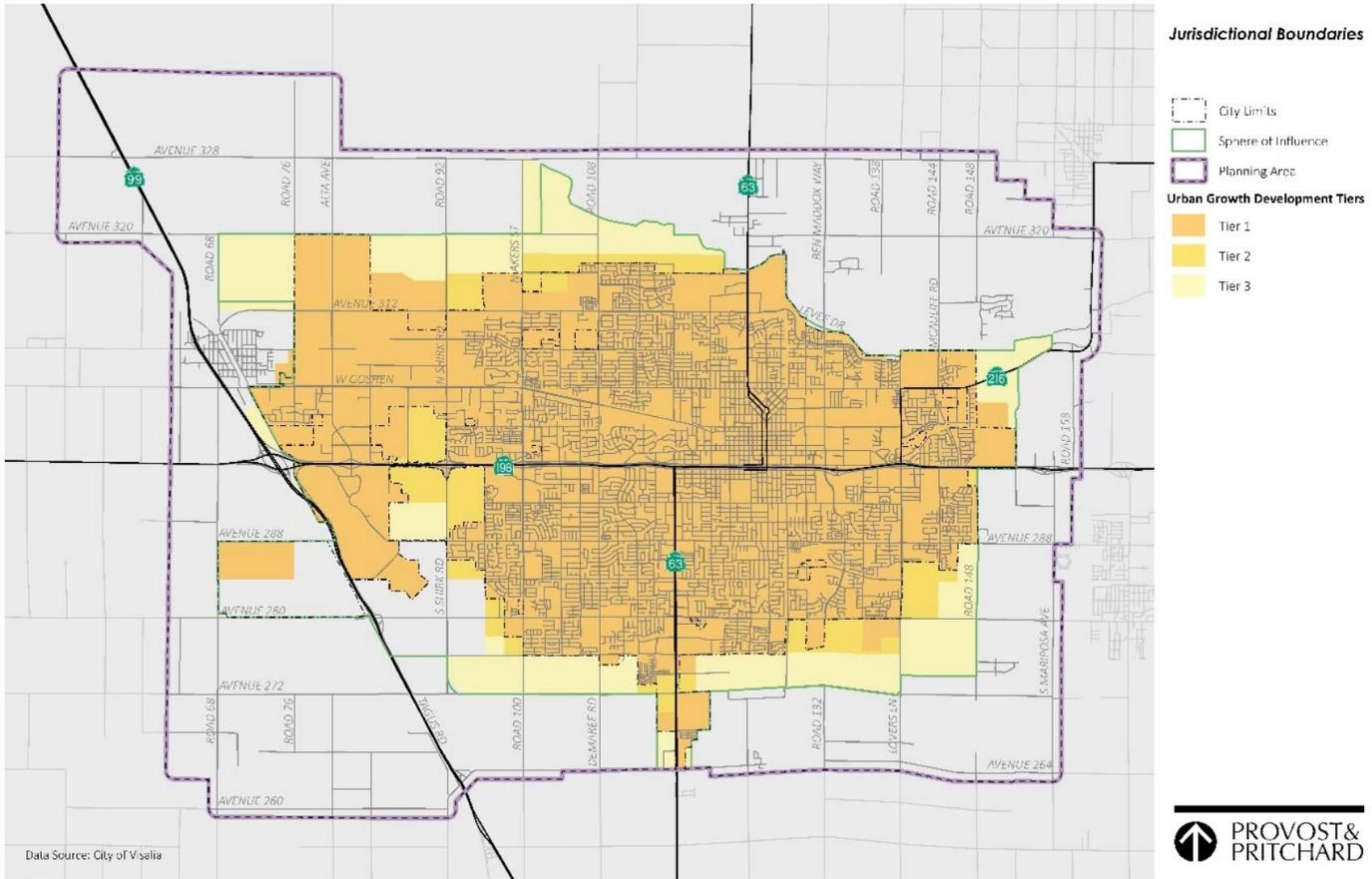
Recognizing that there have been changes in circumstance since adoption of the General Plan in 2014 and recognizing the intent to “conduct additional investigation of the efficacy of agricultural conservation easements,”<sup>1</sup> the City Council directed staff to research the feasibility of agricultural mitigation programs prior to establishment of a program in Visalia. Changes in circumstances identified include new legislation intended to reduce the housing shortage, case law that changes the appropriateness of conservation easements under the California Environmental Quality Act (CEQA), and new water sustainability efforts. The Council also directed staff to explore the potential impact of an agricultural mitigation program on the cost of residential construction.

This Feasibility Study has been prepared as a stand-alone document prior to initiating establishment of an agricultural mitigation program. It will evaluate the necessity and feasibility of an agricultural mitigation program and identify potential alternatives for City Council consideration. Additionally, the Feasibility Study considers the information contained in documents previously prepared as part of the Feasibility Study effort, including the Regulatory Framework, Farmland Preservation Best Practices & Established Programs Summary, and Data Collection & Mapping, included as appendices.

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<sup>1</sup> Per General Plan Policy LU-P-34.

Figure 1. Growth Tier Boundaries Map



## PURPOSE & OBJECTIVES

This Feasibility Study assesses whether the General Plan requirement for an agricultural mitigation program is still a viable and effective option for the City of Visalia. The study will primarily answer three questions:

- Have there been any changes that would affect the ability of the City to implement an agricultural mitigation program, particularly as envisioned under Policy LU-P-34?
- What is the anticipated impact to housing costs?
- What options are available to the City to move forward with development in Tier II?

The City Council will then make a decision about which direction to take. The study itself will not attempt to select a path but will instead lay out the feasible options for the City Council to consider prior to taking action.

## APPROACH & ORGANIZATION

The Feasibility Study compiles the efforts of documents previously prepared as part of this project, including the Regulatory Framework, Farmland Preservation Best Practices & Established Programs Summary, and Data Collection & Mapping. These documents were presented to the City Planning Commission and the public on November 9<sup>th</sup>, 2020. Following the presentation, City staff were available to receive comments and answer questions. Feedback and questions gathered from this community outreach effort have also been considered during the preparation of this Feasibility Study.

The **Policy Background** discusses the history of the Visalia General Plan and the decisions that led to the ultimate inclusion of Policy LU-P-34 in the adopted Plan. The **Conservation Strategies** section summarizes what conservation easements are and outlines the process behind establishing and removing conservation easements and the necessary considerations behind easement selection. It also highlights other methods for preserving farmland, as well as which of these strategies are currently enacted in Visalia. The **Key Considerations** section highlights the most important and pertinent topics for consideration from each of the previously prepared documents. Each topic considered includes a brief summary of the topic and examines the potential impacts on implementation of an agricultural mitigation program. Finally, in **Alternatives for Consideration**, potential alternatives in how to move forward with an agricultural mitigation program are presented for City consideration and selection.

# POLICY BACKGROUND

Policy LU-P-34 was created as part of the Visalia General Plan Update, which was initiated in 2009 and completed 2014. Policy LU-P-34 evolved during the update process in response to public comment and direction from Planning Commission and City Council. It should be noted that the policy did not always include an agricultural mitigation program (AMP) as a prerequisite for development occurring within the Tier II or Tier III growth boundaries. Key decision points occurring in the summer and fall of 2014 are defining moments in the public participation process that led to the inclusion of Policy LU-P-34 as adopted.

In March 2012, a Proposed Preferred Plan Concept was introduced to the City Council. This Preferred Plan Concept was considered to be the culmination of various public outreach efforts. In April of 2013, the City Council accepted the Preliminary Draft General Plan, including the Land Use Diagrams and designations and the Draft General Plan elements and policies, which did not include a requirement to establish an AMP. It was understood at that time that many issues would still be discussed prior to final action being taken to adopt the General Plan, including an agricultural land mitigation program.

In July 2014, the Planning Commission considered the feasibility of an AMP as a mitigation measure for the impacts to farmland. At that time, planning staff and the Commission agreed that an AMP was infeasible for the following reasons, as cited in the Statement of Overriding Considering for the Final Environmental Impact Report of the Visalia General Plan Update (see **Appendix A**):

- There was evidence suggesting that a local City-wide AMP may result in a patchwork of easements not contiguous enough to sustain economic viability or that the easements could frustrate orderly development in the future;
- That an AMP could only provide a speculative mitigation benefit due to the variability in the cost of conservation easements compared to the in-lieu fees that would be established, thereby rendering the effectiveness of such a program questionable;
- That the cost of purchasing easements would be cost-prohibitive to development; and
- That economic realities tend to guide the purchase of agricultural easements towards properties not subject to development pressures in the first place, thereby again rendering the mitigation benefits speculative at best.

*These considerations continue to resonate today relative to the feasibility and efficacy of an AMP. See the Summary of Considerations discussion of how recent research included in this Feasibility Study relates to these considerations under the **Key Considerations** section of this document.*

In September of 2014, following public review of the Draft General Plan and associated Environmental Impact Report, a City Council hearing was held to consider the adoption of the Visalia General Plan, along with the certification of a Final Environmental Impact Report and adoption of the Visalia Climate Action Plan. During this hearing, several parties submitted correspondence or testified to express their views on the need to establish an AMP to help offset the loss of farmland resulting from future development under the

proposed General Plan. Several parties argued in favor of an AMP as necessary, feasible mitigation, including the American Farmland Trust, Sequoia Riverlands Trust, and Tulare County Citizens for Responsible Growth. Several other parties, including the Tulare/Kings County Building Industry Association, argued against an AMP, stating that it is ineffective and disruptive to both urban and agricultural development patterns.

To allow for additional consideration of the testimony received, the City Council continued the item to October 6, 2014 and directed staff to further analyze and evaluate the City's options for feasible mitigation relative to the loss of farmland. As a result, the Council elected to change Policy LU-P-34 to include the requirement of an AMP to address conversion of Prime Farmland and Farmland of Statewide Importance in Tiers II and III at a 1:1 ratio.

During discussions at the City Council adoption hearing, the Council recognized that AMPs were the topic of dispute in neighboring jurisdictions and the outcome of litigation was still yet to be determined. The current Policy LU-P-34, including the requirement to establish an AMP was adopted, with the understanding that the outcome of these disputes would be known prior to implementation and that actions may be reconsidered if appropriate (see **Appendix B** for additional discussion on the history of the agricultural mitigation program).

## ENVIRONMENTAL DETERMINATION

The Final Environmental Impact Report (EIR) certified for the General Plan identified that development resulting from implementation of the Plan would result in a loss of agricultural land that could not be fully mitigated. The establishment of an agricultural mitigation plan as directed by Policy LU-P-34 along with a number of other General Plan policies were identified as mitigation for the loss of agricultural land. However, even with such policies, the EIR acknowledged that the impact would remain significant and unavoidable; therefore, the City adopted a Statement of Overriding Considerations for the impact to agricultural land recognizing that no actions taken by the City could reduce the impacts of development on agricultural land to a less than significant level.

# CONSERVATION STRATEGIES

## AGRICULTURAL CONSERVATION EASEMENTS

Agricultural conservation easements are permanent easements that preserve land for agricultural use. According to the California Council of Land Trusts:

*“A conservation easement is a voluntary, legally binding agreement that limits certain types of uses or prevents development from taking place on a piece of property now and in the future, while protecting the property’s resources such as habitat, open space or, as in the case of agricultural conservation easements, farmland. A conservation easement is recorded in the chain of title of the property and it ‘runs with the land’ so that the restrictions also apply to future owners of that land.”<sup>2</sup>*

Easements require continued monitoring and stewardship to ensure resources are protected and remain in agricultural production. These easements are typically a partnership between the local jurisdiction requiring the mitigation and the project proponent, and often involve a third partner, such as a land trust, to assist in the facilitation of the easement.

### **Easement Procurement and Removal**

The creation of a permanent conservation easement relies on a number of factors, including the availability of appropriate agricultural land within a specified geographic area, the willingness of a landowner to encumber property with a permanent easement, and the agreement of a price for acquiring the conservation easement. Some benefits of conservation easements for the landowner include a reduction in assessed value of the property (based on the restriction in potential use for activities other than agriculture) as well as other potential tax benefits. The proceeds a landowner may receive from the sale of a conservation easement may also provide capital for investing in continued agricultural operations.

However, changing circumstances that may be driven by external factors such as changes in regulations or economic fluctuations, can add a degree of uncertainty for landowners considering whether to sell a permanent conservation easement on their property. While it is possible to terminate an easement should the land no longer be effective for farming due to reasons outside of the landholder and easement holder’s control, the process to do so is intense. Specific termination requirements must be outlined in the terms that establish the



<sup>2</sup> California Council of Land Trusts. (2014). *Conserving California's Harvest: A Model Mitigation Program and Ordinance for Local Governments*.

easement, including the necessary steps to re-establish mitigation or conservation lands and the requirement for the termination to be approved by a court.<sup>3</sup>

## OTHER PRESERVATION MECHANISMS

This Feasibility Study was commenced to determine the feasibility of the specific agricultural mitigation program identified in the General Plan, that is, establishing a conservation easement program or requiring the payment of an in-lieu fee. However, a variety of other programs and policies may assist with the City's intent to preserve the operation of agricultural land and slow its conversion rate in the City of Visalia. While agricultural mitigation programs and the establishment of conservation easements may be a common strategy employed to address impacts to farmland, there are also several additional tools that could be implemented as part of a program or which are already enacted in the City. Although other methods may not permanently conserve agricultural land, they can be used as effective ways to preserve agricultural uses and slow the conversion of farmland into urban uses within the Planning Area boundary.

### ***Right-to-Farm Ordinance***

A Right-To-Farm ordinance protects agricultural uses that have been in operation for at least three years from complaints from nearby non-agricultural uses. The County of Tulare has adopted a Right-To-Farm ordinance (Ordinance Code Part VII, Chapter 29) which protects agricultural uses from conflicts with non-agricultural uses.<sup>4</sup> Although Visalia does not currently have a Right-To-Farm ordinance in place, the City does permit agricultural uses by right in certain zone districts. Further, General Plan Policy LU-P-35 states the City's intention to adopt the County's ordinance. Right-To-Farm ordinances offer protections to agricultural operations so they may continue as-usual when conflicting uses move into the area, assisting in the preservation of agricultural uses. These are particularly relevant in areas of urban-agricultural interface such as Visalia's Planning Area.

### ***Growth Management Strategies and Related Policies***

Growth management strategies encourage the orderly development of land in order to manage extension of services and maintain current levels of service for existing development. Additionally, they generally aim at aligning growth and development with actual demand, in order to maintain a balance between the two. These strategies typically also have the intent of preserving open space or agricultural lands and have the net effect of reducing the premature conversion of farmland.

The General Plan's Land Use Element includes a tiered growth management strategy with the stated goal of preventing the premature conversion of agricultural land. The adopted growth strategy is summarized in the **Introduction** section of this document and outlined in more detail in Sections 2.3 Growth Strategy, 2.5 Urban Boundaries and Growth Management, and 2.6 Rural Buffer and Edge Conditions of the Visalia General Plan Land Use Element (see **Appendix C**).

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<sup>3</sup> California Council of Land Trusts. (2014). *Conserving California's Harvest: A Model Mitigation Program and Ordinance for Local Governments*.

<sup>4</sup> County of Tulare. (n.d.). Ordinance Code of Tulare County. Retrieved from <https://tularecounty.ca.gov/rma/index.cfm/rma-documents/planning-documents/portions-of-the-ordinance-code-of-tulare-county/part-vii-chapter-29-right-to-farm/#:~:text=Consistent%20with%20this%20policy%2C%20California,established%20and%20followed%20by%20sim>

Additionally, the Visalia General Plan contains a number of policies that preserve agricultural uses within the Planning Area, as summarized below.

**LU-P-14** Recognize the importance of agriculture-related business to the City and region, and support the continuation and development of agriculture and agriculture-related enterprises in and around Visalia by:

- Implementing growth boundaries and cooperating with the County on agricultural preservation efforts;
- Accommodating agriculture-related industries in industrial districts;
- Facilitating successful farmers' markets;
- Helping to promote locally-grown and produced agricultural goods, and the image of Visalia and Tulare County as an agricultural region.

**LU-P-19** Ensure that growth occurs in a compact and concentric fashion by implementing the General Plan's phased growth strategy.

*The General Plan Land Use Diagram establishes three growth rings to accommodate estimated City population for the years 2020 and 2030. The Urban Development Boundary I (UDB I) shares its boundaries with the 2012 city limits. The Urban Development Boundary II (UDB II) defines the urbanizable area within which a full range of urban services will need to be extended in the first phase of anticipated growth with a target buildout population of 178,000. The Urban Growth Boundary (UGB) defines full buildout of the General Plan with a target buildout population of 210,000. Each growth ring enables the City to expand in all four quadrants, reinforcing a concentric growth pattern.*

**LU-P-25** Provide planning and technical support for the relocation of agricultural operations currently located in the City to compatible locations in the Planning Area or the County.

**LU-P-31** Promote the preservation of permanent agricultural open space around the City by protecting viable agricultural operations and land within the City limits in the airport and wastewater treatment plant environs.

*Land around the Airport may be developed with site-appropriate industrial uses during the planning period, providing it conforms to the land use compatibility requirements for the Visalia Municipal Airport environs established by the City.*

**LU-P-32** Continue to maintain a 20-acre minimum for parcel map proposals in areas designated for Agriculture to encourage viable agricultural operations in the Planning Area.

**LU-P-35** Adopt the County's Right-to-Farm ordinance to support continued agricultural operations at appropriate locations within the City limits, with no new provisions. This ordinance should not limit urban development contemplated by the General Plan.

**LU-P-36** Adopt an Urban Agriculture Ordinance, reflecting “best practices,” to support community gardens and other activities. This ordinance will be prepared in consultation with the Farm Bureau and other interested organizations and individuals.

**LU-P-44** Promote development of vacant, underdeveloped, and/or redevelopable land within the City limits where urban services are available and adopt a bonus/incentive program to promote and facilitate infill development in order to reduce the need for annexation and conversion of prime agricultural land and achieve the objectives of compact development established in this General Plan.

*Techniques to be used include designation of infill opportunity zones as part of the implementation process and provision of incentives, such as reduced parking and streamlined review, and residential density bonuses, and floor area bonuses for mixed use and/or higher-density development, subject to design criteria and findings of community benefit.*

**OSC-P-1** Conduct an annual review of cancelled Williamson Act contracts and development proposals on agricultural land within the Planning Area Boundary to foresee opportunities for acquisition, dedication, easements or other techniques to preserve agricultural open space or for groundwater recharge.

While many of the policies are implemented through the review, comment, and evaluation of development proposals, some have not yet been implemented. Most notably Policy LU-P-35 and Policy LU-P-36, which call for the City to adopt a Right-to-Farm ordinance and an Urban Agriculture ordinance, respectively. While the Right-to-Farm ordinance will offer protections to existing agricultural operations as conflicting uses begin to encroach into the surrounding areas, Urban Agriculture ordinances aim to increase opportunities to implement typically smaller-scale agricultural opportunities more suited to application within the urban context (e.g., community gardens).

### **Local Agency Formation Commission (LAFCo) Policies and Procedures**

Each county in California has a Local Agency Formation Commission (LAFCo), which is a commission established to review and approve various boundary changes, including annexations of land to city jurisdictional boundaries. LAFCo actions are governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and a key purpose of LAFCos is to discourage urban sprawl, preserve open space and agricultural land, and encourage the logical and orderly development of cities and special districts, specifically focusing on the adequate provision and efficient delivery of public services. As stated in Government Code Section 56301:

*“Among the purposes of a commission are discouraging urban sprawl, preserving open space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances.”*

All annexations to the City of Visalia are approved through the Tulare County LAFCo in accordance with the Cortese-Knox-Hertzberg Act of 2000. Tulare County LAFCo has adopted a Policies and Procedures manual

outlining how it implements its functions under the Act. Following are some of the standards and factors that are considered by Tulare County LAFCo in the review of proposals<sup>5</sup> for annexation to a city:

- The anticipated growth in surrounding areas of the proposed annexation during the next 10 years.
- That the annexation represents a logical and reasonable expansion of the city's limits.
- Consistency with the city's land use plans and policies. For the City of Visalia, consistency with the growth management strategy as adopted in the General Plan would be considered by LAFCo in its evaluation of annexation proposals.
- The need for public services and the ability of the city to provide those services, including the sufficiency of revenues. Such information is provided to LAFCo in a Plan for Services as part of the annexation application. A Plan for Services identifies what public services would be extended into the area of annexation as well as any public improvements required, the level and range of those services, whether those services could be feasibly extended, and information on how those services would be financed.
- The effect of the proposed annexation on adjacent areas, including on mutual social and economic interests.
- The effect of the annexation on maintaining the physical and economic integrity of agricultural lands.<sup>6</sup>

### ***Land Conservation Act (Williamson Act) Program***

The Williamson Act, also known as the California Land Conservation Act of 1965, enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. Private land within locally designated agricultural preserve areas is eligible for enrollment under contract. The minimum term for contracts is ten years and will automatically renew on each anniversary date of the contract.

Landowners enrolled under Williamson Act contract receive considerably reduced property tax assessments in return for their enrollment. Property tax assessments of Williamson Act contracted land are based upon generated income as opposed to potential market value of the property. In exchange for participating in the Williamson Act program, participating jurisdictions are eligible for subventions from the State to recoup in part the loss of property tax revenue from those parcels under contract. Tulare County is a participating jurisdiction. However, subvention payments were suspended by the State in Fiscal Year 2009/2010, which also prompted Tulare County to impose a moratorium on initiating new Williamson Act contracts. While subvention payments have not resumed, on July 7, 2020, the Tulare County Board of Supervisors voted to lift the moratorium on the Williamson Act, meaning approximately 5,600 parcels are again eligible for Williamson Act contracts. These contracts can be an effective way to slow the conversion of agricultural land to non-agricultural uses without requiring the creation of a permanent easement on the property.

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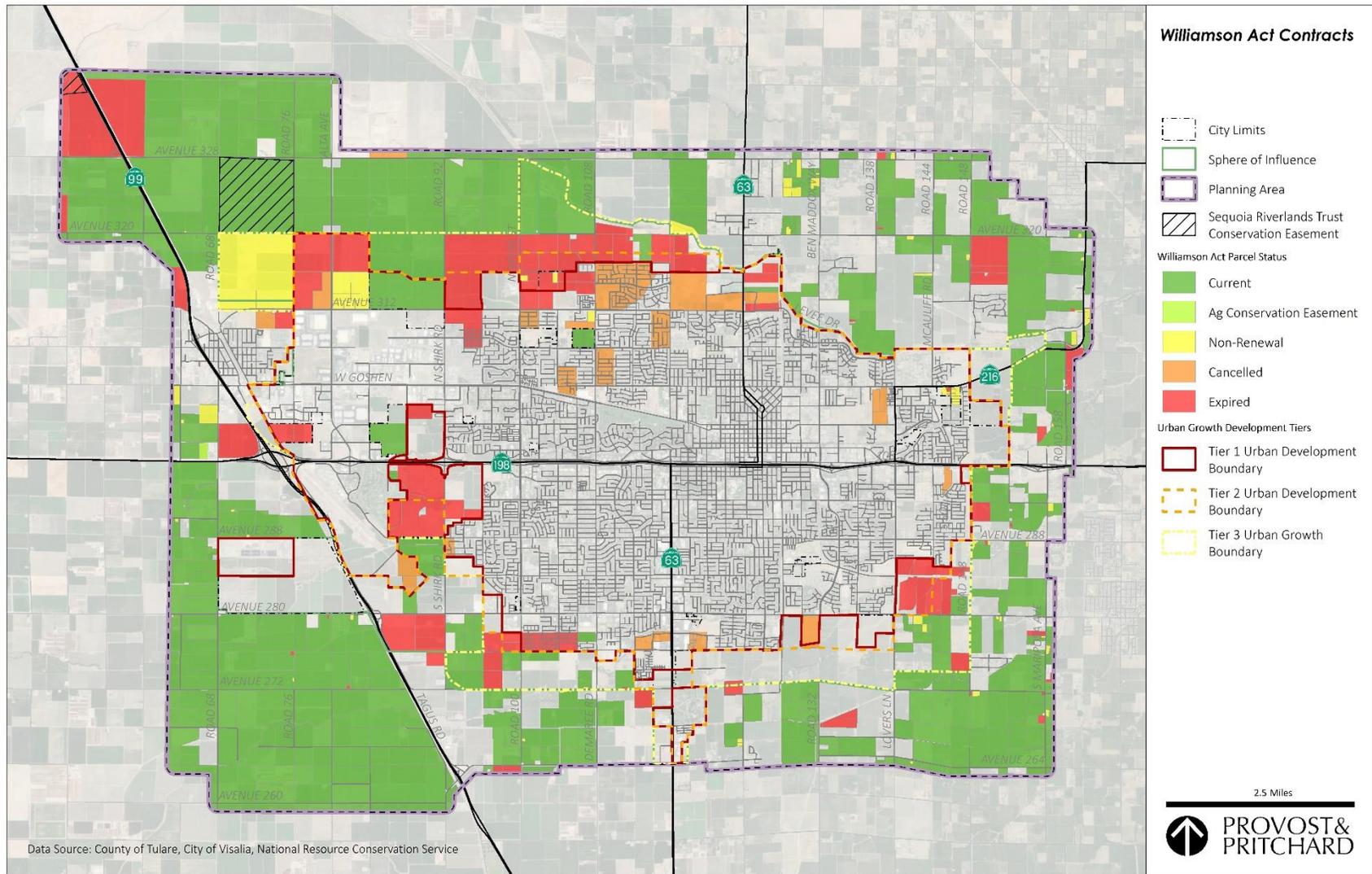
<sup>5</sup> Tulare County LAFCo. (2002, February 6). Policy C-1, Factors and Standards to be Considered in Review of Proposals.

<sup>6</sup> In accordance with Government Code Section 56016, "agricultural lands" means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.

While the City of Visalia would not typically have jurisdiction over parcels initiating Williamson Act contracts, properties already under contract are located within the City's jurisdiction. General Plan Policy LU-P-14 directs the City to recognize and support the continuation of agriculture and agriculture-related enterprises in the Planning Area. Supporting the continuation of these contracts provides one way for the City to facilitate continued agricultural activities.

Williamson Act contracts may be exited at the option of the landowner or local government by initiating a non-renewal process, which effectively halts the automatic renewal of the contract term. Once a notice of non-renewal is filed, the remaining contract term is allowed to lapse, with the contract null and void at the end of the term. During the non-renewal process, the annual tax assessment continually increases each year until it is equivalent to current tax rates at the end of the non-renewal period. Under a set of specifically defined circumstances, a contract may be cancelled without completing the process of term non-renewal. Upon cancellation of the contract, General Plan Policy OSC-P-1 directs the City to review cancelled Williamson Act contracts and consider other techniques for agricultural preservation.

Figure 2. Williamson Act Contract Lands (2019) with Growth Tier Boundaries



# KEY CONSIDERATIONS

The Regulatory Framework, Farmland Preservation Best Practices & Established Programs Summary, and Data Collection & Mapping deliverables have all been completed and included as appendices to this Feasibility Study. This section compiles the most pertinent topics from each of these deliverables and concludes how those topics may potentially impact implementation of an agricultural mitigation program for the City of Visalia. The discussions contained in this section have informed the alternatives presented under **Alternatives for Consideration** section.

## CONSISTENCY WITH STATE HOUSING LEGISLATION

Based on initial research regarding Senate Bill (SB) 330, an observation was made that restricting residential development in Tier II until an agricultural mitigation program could be implemented, even after reaching the identified permit threshold, may be in conflict with the intent of the Bill.

To determine if the restriction of residential development from advancing into Tier II in the absence of an agricultural mitigation program, as required under Policy LU-P-34, is actually in conflict with SB 330, it was necessary to determine if adequate capacity for residential development remains in Tier I. If there is remaining residential development capacity in Tier I, then the City could continue to restrict development from proceeding into Tier II. Should there be no or very limited residential development capacity in Tier I then the City would not be able to restrict development from proceeding into Tier II once the permit-issuance threshold is met (5,850 housing units in Tier I), regardless of whether an AMP has been established.

As of September 2020, permits for 5,169 housing units have been issued within Tier I, which is approximately 88 percent of the threshold. City staff expects that the threshold will be met in late 2021 or early 2022 at the current pace of permit issuance.

### SENATE BILL 330

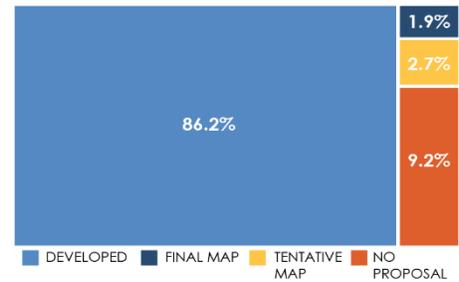
SB 330, also called the Housing Crisis Act of 2019, aims to ensure the feasibility of certain housing types, particularly very low-, low-, and moderate-income housing. One of the primary actions in SB 330 was a restriction on growth management policies. Cities may not downzone property to a less intense residential use, impose a growth moratorium, or cap the number of permits approved within a certain timeline. SB 330 would prevent the City from restricting growth in Tier II if permits for housing development were unable to be issued within Tier I.

*See the **Appendix D: Regulatory Framework, Housing Legislation** discussion for additional information.*

## Tier I Residential Development Capacity

A study of remaining residential capacity was completed in April 2020 by the City of Visalia (see *Appendix G: Tier I Residential Capacity Summary*). Tier I includes a total of 10,460 acres designated for residential uses. The inventory identified 1,443.78 acres of undeveloped residential land remaining within Tier I; meaning approximately 13.8 percent of land planned for residential uses is undeveloped. Of the undeveloped 1,443.78 acres, 202.94 acres have final maps approved for development, and 283.40 acres have tentative maps in process with the City. The remaining 957.44 acres, or 9.2 percent, have no active development proposals.

### STATUS OF TIER I RESIDENTIAL LAND



## Conclusion

At present, the City has available residential development capacity within Tier I. Because the City has available residential development capacity in Tier I, it could continue to restrict Tier II residential development until an AMP has been established without conflicting with SB 330.

## AGRICULTURAL CONSERVATION EASEMENT LIMITATIONS

Based on initial research of case law relative to the establishment of agricultural conservation easements and their effectiveness as mitigation, it was concluded that under CEQA, the establishment of agricultural conservation easements is not adequate mitigation for the loss of farmland.<sup>7</sup> Outside the context of CEQA, jurisdictions can require developers to acquire or obtain conservation easements under an established program.<sup>8</sup>

### Potential Easement Program Limitations

While the City may no longer be able to rely on agricultural conservation easements as mitigation to reduce impacts to farmland to a less than significant level under CEQA, the City still has the ability to establish a similar agricultural mitigation program as a policy directive.

In the case *Building Industry Association (BIA) of Central California v. County of Stanislaus*, while initially challenged, the establishment of a Farmland Mitigation Program outside the context of CEQA was upheld by the 5<sup>th</sup> District Court of Appeal. However, the courts noted that the ruling did not specifically address how such a program could or should

### RELEVANT CASE LAW

#### *King & Gardiner Farms, LLC v. County of Kern*

This 2015 court case and its subsequent appeal has implications for CEQA mitigation measures related to impacts on agricultural land. The Court of Appeal in 2020 held that agricultural easements do not adequately mitigate for the loss of agricultural land, as they only prevent the future conversion of land that is already in production.

#### *BIA of Central California v. County of Stanislaus*

This 2007 court case and its subsequent appeal confirmed the ability of jurisdictions to establish conservation easement programs outside the context of CEQA.

See the *Appendix D: Regulatory Framework, Case Law* discussion for additional information.

<sup>7</sup> *King & Gardner, LLC v County of Kern* (California Fifth District Court of Appeal 2020).

<sup>8</sup> *Building Industry Association of Central California v. County of Stanislaus* (California Fifth District Court of Appeal 2010).

be applied to a specific project. Therefore, there may be limitations in how an agricultural mitigation program is established or applied to specific projects. Subsequent case law examining the specific application of such agricultural mitigation programs has not been heard.

## **Conclusion**

Should the City elect to establish an agricultural mitigation program, the City of Visalia should engage legal counsel in the design of the program to ensure that program requirements are consistent with applicable case law and should closely examine the program's criteria for specific project types to ensure that the program is applied properly.

## **WATER SUSTAINABILITY EFFORTS**

Recent water sustainability efforts, including the enactment of the Sustainable Groundwater Management Act (SGMA) and recent adoption of the first Groundwater Sustainability Plans (GSPs), may limit the willing participation of landowners in an agricultural conservation easement program.

Additional consideration should be given to the infancy of SGMA and implementation of the GSPs. With limited experience and understanding of how this recently implemented legislation will impact water sustainability and availability, there is limited understanding of the implications of SGMA's impact on agricultural land practices, which may have an impact on the effective and meaningful implementation of an agricultural easement program.

### **SGMA**

Although the SGMA legislation was adopted in 2014, the program is still in the early stages of implementation. The first GSPs were adopted in January 2020 and the first annual reports were due on April 1, 2020. Annual reports are yearly progress updates on the implementation of the GSP submitted to the Department of Water Resources. The next annual reports for GSPs are due on April 1, 2021, which are expected to cover the water year from October 1, 2019 to September 30, 2020.<sup>9</sup>

SGMA guidelines, originally adopted in 2016, are expected to be updated every five years, so changes to these guidelines based on feedback from the first cycle of GSP adoption and annual reporting is to be expected. However, with GSPs for low priority basins not due until January 2022 it is unlikely that updates to the guidelines would be completed prior to that date. Because of how recently SGMA has been implemented, it will be difficult to draw concrete conclusions about what impacts the legislation will have on the implementation of and participation in an agricultural mitigation program.

### **GROUNDWATER SUSTAINABILITY PLANS**

The passing of the Sustainable Groundwater Management Act (SGMA) in 2014 required overdrafted basins of medium and high priority to develop Groundwater Sustainability Plans (GSPs) that would implement fully sustainable management practices within 20 years of implementation. The land within City of Visalia's Planning Area is subject to two GSPs: Mid-Kaweah and Greater Kaweah.

*See the **Appendix D: Regulatory Framework, Groundwater Sustainability Plans** discussion for additional information.*

<sup>9</sup> California Department of Water Resources. (n.d.). Groundwater Sustainability Plans. Retrieved 2020, from California Department of Water Resources: <https://water.ca.gov/Programs/Groundwater-Management/SGMA-Groundwater-Management/Groundwater-Sustainability-Plans>

However, there appears to be a potentially inherent conflict between the objectives of SGMA, as implemented through the adopted GSPs, which are aimed at achieving a sustainable water balance, and the establishment of permanent agricultural easements, which are committing land to productive agricultural use requiring an adequate, continued water supply. The recent adoption of GSPs and the limited understanding of how the various programs, projects, and policies of the GSPs will be implemented and enforced presents a degree of uncertainty in maintaining water availability and continued, productive agricultural uses.

### **Adopted GSP Programs**

The City of Visalia is located within the Kaweah Subbasin, which is considered high priority. The Kaweah Subbasin is situated within the larger San Joaquin Valley Basin and occupies 700 square miles, primarily in Tulare County and a small portion of Kings County. The City and its Planning Area are located within the Mid-Kaweah Groundwater Subbasin Joint Powers Authority (JPA),<sup>10</sup> which covers the area within City limits, and the Greater Kaweah GSA, which covers the remaining land within the Planning Area, including the areas designated for Tier II and Tier III development.

Both GSPs identify programs that may impact the appropriateness of certain agricultural land for participation in an agricultural conservation easement, including on-farm recharge programs and fallowing programs. It should be noted that participation in these programs is typically temporary and would not restrict a parcel's availability for agricultural production in the long-term. Further, the acreage initially identified for these programs is less than 1 percent of the total acreage within the GSP boundaries. However, the establishment of the GSPs and related programs, which will likely continue to evolve, adds one more layer of regulation to the management of farmland. The uncertainty associated with SGMA and its implementation may impact the level of willing participation in an agricultural conservation easement program and may potentially impact the land available for permanent conservation, including lands with adequate water supply.

### **Conclusion**

Although SGMA was passed in 2014, the GSPs governing land within the City of Visalia's Planning Area boundary were not drafted and adopted until late 2019 and early 2020. Because the GSPs have only just begun to be implemented, it is difficult to understand its implications on farmland productivity and preservation.

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<sup>10</sup> The Mid-Kaweah Groundwater Subbasin JPA functions as the Groundwater Sustainability Agency.

## IMPACT ON HOME PRICING

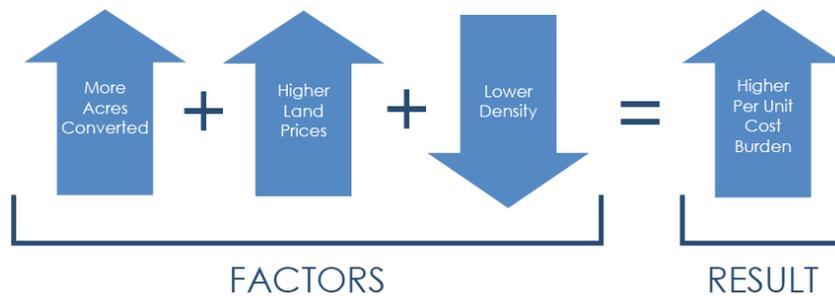
Based on initial research, an observation was made that the cost of purchasing conservation easements would be incurred by developers proposing conversion of farmland with that cost likely being reflected in the home price. However, with limited data for new home pricing available specific to the Visalia area, limited participation in the County’s adopted Agricultural Conservation Easement program, as well as the recognition that home sales prices are influenced by a variety of factors, including the overall economy, land prices, interest rates, and the amount of new and existing housing on the market, it was difficult to determine the level of impact an established agricultural mitigation program had on home prices.

### HOME PRICING FACTORS

By requiring the acquisition of conservation easements, additional costs will be incurred by the developers proposing conversion of farmland. It is reasonable to expect that some or all of these costs will be passed on to homebuyers.

See the *Appendix E: Farmland Preservation Best Practices & Established Programs Summary, Home Pricing Factors* discussion for additional information.

Instead, the following formula was developed based on the relationship of specific project factors to demonstrate what the qualitative impact of conservation easement purchases could be on the per unit cost burden for residential projects.

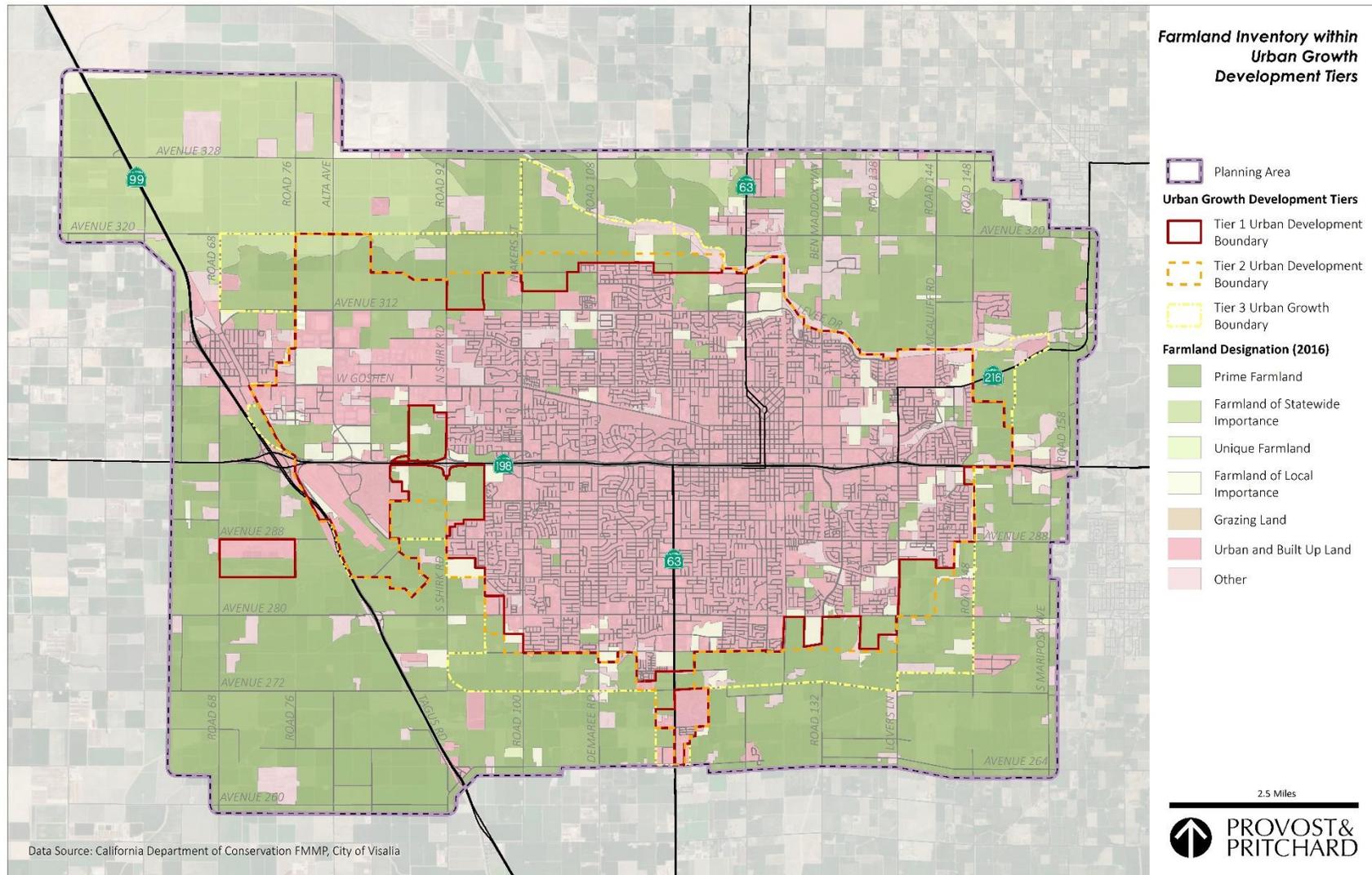


In order to further analyze the potential impact an AMP would have on home pricing it is necessary to establish how much of the land planned for residential uses would be affected by an AMP. Within Tier II and Tier III, there are approximately 7,544 acres of land, with approximately 5,038 acres planned for residential uses. Of that total, 4,339 acres, or 85 percent is currently categorized as either Prime Farmland or Farmland of Statewide Importance.

This percentage is generally consistent with the total amount of farmland slated for urban conversion throughout the Tier II and Tier III boundaries. When accounting for all planned land uses, 6,257 acres, or 83 percent of the total land within Tier II and Tier III, would result in the conversion of Prime Farmland or Farmland of Statewide Importance to urban uses, indicating that an agricultural mitigation program will impact the cost of development across the commercial and industrial sectors as well.

However, while an AMP would apply to multiple types of development, the City of Visalia expressed their specific concern with the potential impact on home pricing. In addition, state legislation focusing on reducing barriers to housing production and improving housing affordability warrants evaluating the impacts an AMP would have on home pricing.

Figure 3. Farmland Inventory Categories (2016) with Growth Tier Boundaries



## Home Pricing Impact Analysis

Tables 1 and 2 below summarize potential impacts to the cost of development across all planned residential densities. The calculations shown in these tables rely on a series of assumptions, including:

- An average sales price of \$19,711 per acre of agricultural land, based on a summary of 20 agricultural properties sold in Tulare County between 2017 and 2019. Property sizes ranged from 125 acres to 19.3 acres.<sup>11</sup>
- An average easement price equal to 35 percent of the cost of agricultural land per acre.<sup>12</sup>
- A 1:1 conservation to conversion ratio, resulting in an assumed conservation rate of 85 percent.<sup>13</sup>
- That residential land will be developed at the assumed development capacity for each designation, as identified in the Visalia General Plan.
- All calculations have been based on a hypothetical development size of 40 acres.

**Table 1: Average Additional Costs per Acre**

Project Size (Acres)	Average Purchase Price (\$)	Price of Land Per Acre (\$)	Average Easement Cost (% of total)	Cost of Easement Per Acre (\$)	Conservation Rate (%)	Conserved Acres Required (Acres)	Total Cost of Easement Purchase (\$)
40 ac	\$788,440	\$19,711	35%	\$6,898.85	85%	34 ac	\$234,560.90

**Table 2: Cost Burden per Unit**

General Plan Land Use Designation	Density Range <sup>1</sup>	Assumed Development Capacity <sup>2</sup>	Total Acres	Average Unit Count	Average Additional Cost per Unit <sup>3</sup>
Very Low Density Residential	0.1-2 du/ac	2 du/ac	40	80	\$2,932.01
Low Density Residential	2-10 du/ac	4 du/ac	40	160	\$1,466.01
Medium Density Residential	10-15	10 du/ac	40	400	\$586.40
High Density Residential	15-35	16.5 du/ac	40	660	\$355.40

(1) City of Visalia General Plan, Table 2-3: Density and Intensity Standards by Land Use Classification

(2) City of Visalia General Plan, Land Use Classifications

(3) Total Cost of Easement Purchase (assumed) / Average Unit Cost

## Conclusion

While the actual cost to conserve land (through either direct purchase or payment of an in-lieu fee) will fluctuate based on project specific factors, the AMP will add cost to most projects proposed within both Tier II and Tier III. Based on the assumptions noted above, should the City elect to establish an agricultural preservation program, there will be cost increases to housing production, with the most impactful cost increases likely affecting lower density residential units.

<sup>11</sup> Zillow. (2020). Retrieved December 9, 2020, from <https://www.zillow.com/tulare-county-ca/sold/>

<sup>12</sup> Provost & Pritchard. (2020). Farmland Preservation Best Practices & Established Programs Summary.

<sup>13</sup> Based on the total amount of residential land slated for conversion in Tier II and Tier III.

## SUMMARY OF CONSIDERATIONS

During the General Plan update process, the feasibility of an AMP was considered in July 2014 at Planning Commission during the presentation and discussion of the Proposed Preferred Plan Concept. At that time, planning staff and the Commission agreed that an AMP was infeasible for the following reasons:

- There was evidence suggesting that a local City-wide AMP may result in a patchwork of easements not contiguous enough to sustain economic viability or that the easements could frustrate orderly development in the future;
- That an AMP could only provide a speculative mitigation benefit due to the variability in the cost of conservation easements compared to the fees that would be established, thereby rendering the effectiveness of such a program questionable;
- That the cost of purchasing easements would be cost-prohibitive to development; and
- That economic realities tend to guide the purchase of agricultural easements towards properties not subject to development pressures in the first place, thereby again rendering the mitigation benefits speculative at best.

While Policy LU-P-34 was subsequently adopted as part of the General Plan in 2014, requiring the AMP be established, the policy language continued to recognize that additional study of the efficacy of agricultural mitigation programs was still necessary. Specifically, that the City would “conduct additional investigation of the efficacy of agricultural conservation easements by engaging local, regional, and state agencies and stakeholders in order to further analyze their ongoing efforts and programs that attempt to mitigate impacts from the conversion of agricultural lands through the use of agricultural conservation easements.” This Feasibility Study represents that further investigation.

As the original considerations cited in 2014 continue to resonate today relative to the feasibility and efficacy of an AMP, the following summary provides discussion and confirmation of the status of those reasons as informed by this most recent research effort.

***Reason 1:*** *There was evidence suggesting that a local City-wide AMP may result in a patchwork of easements not contiguous enough to sustain economic viability or that the easements could frustrate orderly development in the future.*

Without specific criteria established as part of the AMP directing the location and/or minimum size of agricultural conservation easements then the establishment of those easements may not occur in a contiguous pattern. While the acquisition of easements would be managed and coordinated through a local land trust, which may provide some consistency and coordination in determining where conservation easements are established, easement locations will continue to be driven primarily by the participation of a willing landowner. As noted above under **Water Sustainability Efforts**, the added layer of regulations and uncertainty in how those regulations will impact agricultural operations, specifically water availability, will likely result in lower participation rates from willing landowners interested in encumbering their land, particularly if the AMP restricts the scope of eligible properties within a smaller geographic area (e.g., within Tulare County). Further, should the AMP require a 1:1 ratio of conserved to converted land within Tier II and Tier III, that would result in a need for 4,339 acres to be placed under an agricultural conservation easement.

***Reason 2:** That an AMP could only provide a speculative mitigation benefit due to the variability in the cost of conservation easements compared to the in-lieu fees that would be established, thereby rendering the effectiveness of such a program questionable.*

Based on recent case law (see **Agricultural Conservation Easements Limitations** above), agricultural conservation easements are not effective mitigation for the loss of farmland under CEQA. While agricultural conservation easements would not provide mitigation benefits, a conservation program may still be established as a policy directive. However, if the driving factor behind establishment of the AMP is for mitigation purposes as is indicated by the statement above, then that motivation has been nullified as an AMP would no longer provide such a benefit under CEQA.

***Reason 3:** That the cost of purchasing easements would be cost-prohibitive to development.*

The scope of pricing considerations in this Feasibility Study was focused primarily on the impact of an AMP and the related cost of easement acquisition on home pricing. However, as summarized under **Impact on Home Pricing**, the AMP as directed by Policy LU-P-34 would impact all projects, residential and non-residential, that would convert Prime Farmland or Farmland of Statewide Importance. This would impact 83 percent of all land located within Tier II and Tier III and impact 85 percent of all land planned for residential uses. While the actual cost to conserve land will fluctuate based on project specific factors, the AMP will add cost to most projects proposed within Tier II and Tier III. Whether these additional costs would be cost-prohibitive is difficult to conclude as this determination will also be based on project specific factors.

***Reason 4:** That economic realities tend to guide the purchase of agricultural easements towards properties not subject to development pressures in the first place, thereby again rendering the mitigation benefits speculative at best.*

Recent case law (see **Agricultural Conservation Easement Limitations** above) has held that agricultural conservation easements are not effective mitigation for the loss of farmland under CEQA. Specifically, the courts noted that placing existing farmland into an easement is not replacing farmland lost to development, confirming the concern cited above. Further, unless specifically directed to a geographic area that is experiencing development pressure, the locations of agricultural easements are most likely to be in areas that are not experiencing such pressure from urban development.

# ALTERNATIVES FOR CONSIDERATION

The alternatives for consideration identified below are reflective of the research contained in this Feasibility Study and related documents and have been informed by the considerations and conclusions discussed in this document, including: Consistency with State Housing Legislation, Agricultural Conservation Easement Limitations, Water Sustainability Efforts, and Impact on Home Pricing.

For each alternative presented, a summary of the necessary actions for implementation is included. These are high level actions needed to amend or revise adopted documents or adopt new programs or policies, recognizing that any of the alternatives will require additional discussion, research, and decisions to implement.

While this report does not make a specific recommendation, the following summaries are intended to provide relevant information to assist the City in selecting their preferred alternative that mostly closely aligns with or addresses their specific concerns.

## ALTERNATIVE 1: IMPLEMENT POLICY LU-P-34 AS ADOPTED

Proceed with the establishment of an AMP as it is currently identified in Policy LU-P-34. The program would include the following components, at a minimum, as directed by Policy LU-P-34:

- All projects located in Tier II and Tier III converting Prime Farmland or Farmland of Statewide Importance shall be subject to the agricultural mitigation program, with the following exceptions:
  - Agricultural processing uses
  - Agricultural buffers
  - Public facilities
  - Roadways
- A 1:1 ratio of conserved to converted farmland shall be required, meaning that one acre of farmland shall be conserved for each applicable acre of Prime Farmland or Farmland of Statewide Importance being converted.
- Farmland to be conserved shall:
  - Be equivalent to the agricultural lands converted
  - Demonstrate adequate water supply
  - Be zoned for agricultural uses
  - Be located outside the City’s Urban Development Boundary but within the southern San Joaquin Valley<sup>14</sup>
- Land to be conserved shall be secured through the purchase of a conservation easement or payment of an in-lieu fee with preference given to purchase of a conservation easement. Easements shall be held by a qualifying entity, such as a local land trust, and require the submission of annual monitoring reports to the City.

<sup>14</sup> The City may choose to define a geographic area smaller than the San Joaquin Valley with no amendments to Policy LU-P-34 required.

### **Anticipated Actions Required**

- Establishment of an AMP, requiring City Council action.
- No amendment is required to the General Plan.
- No revision to the General Plan EIR is required.

### **Estimated Timeline**

6 months

## ALTERNATIVE 2: IMPLEMENT POLICY LU-P-34 WITH MODIFICATIONS

Proceed with the establishment of an AMP as it is currently identified in LU-P-34 with modifications specifically to address some of the identified considerations and concerns. The program would continue to include the same program components as outlined under Alternative 1: Implement Policy LU-P-34 as Adopted, except as modified.

A potential modification to consider would be to expand the list of exempted projects to include certain residential projects. Specific projects to be exempted would be identified during the design and establishment of the agricultural mitigation program. This modification would provide the opportunity for the City to alleviate anticipated impacts of the AMP on home prices. Potential criteria that may be used to determine which housing projects may be exempted could include:

- Projects converting less than 5 acres of Prime Farmland or Farmland of Statewide Importance
- Projects proposing at least 10% of units as affordable
- Projects that integrate urban agricultural uses<sup>15</sup> into the project design

Other potential modifications could include allowances for collected in-lieu fees to be used for preservation activities other than easement acquisition. Additional options for modification may be discussed and defined as the City proceeds with establishment of an agricultural mitigation program under Alternative 2.

### **Anticipated Actions Required**

- Establishment of a modified AMP, requiring City Council action. Additional discussion would be warranted to determine what modifications should be considered and integrated into the AMP.
- Potential amendment required to the General Plan, depending on the scope of modifications determined during establishment of the AMP.
- Potential revisions to the General Plan EIR, depending on the scope of modifications determined during the establishment of the AMP. It is anticipated that an addendum to the certified General Plan EIR may be an appropriate option for compliance with CEQA.

### **Estimated Timeline**

6 to 9 months

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<sup>15</sup> Urban agriculture uses typically refer to smaller-scale agricultural opportunities more suited to application within the urban context (e.g., community gardens).

## ALTERNATIVE 3: DELAY ESTABLISHMENT OF THE AMP TO TIER III

Amend Policy LU-P-34 to require the establishment of the AMP prior to Tier III development. This would exempt development occurring within Tier II from being subject to the AMP. Based on recent changes in circumstances, most notably the enactment of SGMA, this alternative will allow additional time for the City to better understand how implementation of SGMA and the related GSPs will impact farmland productivity and availability of land for agricultural conservation easements. The delayed establishment of an AMP may also be an opportunity to understand how the recent Appellate Court opinion that agricultural conservations easements do not act as effective mitigation<sup>16</sup> will be applied in practice.

The AMP would include the same components as directed by Policy LU-P-34 (see Alternative 1), except that Tier II properties would be exempt from participating in the AMP.

### **Anticipated Actions Required**

- Amendment required to the General Plan to revise Policy LU-P-34.
- Revisions required to the General Plan EIR. It is anticipated that an addendum to the certified General Plan EIR may be an appropriate option for compliance with CEQA.

### **Estimated Timeline**

6 to 8 months

## ALTERNATIVE 4: REMOVE POLICY LU-P-34

Remove the requirement for an AMP. This may include removing Policy LU-P-34 in its entirety or stripping out the specific requirements related to the establishment of an AMP. Other policies of the General Plan, including those identified in the *Growth Management Strategies and Polices* discussion under the **Conservation Strategies** section would still be required for implementation, including adoption of a Right-to-Farm ordinance and an Urban Agriculture ordinance.

### **Anticipated Actions Required**

- Amendment required to the General Plan to remove or revise Policy LU-P-34. A comprehensive review of the City's growth management strategy and related policies would also be conducted to determine if additional policies should be considered during the amendment process.
- Revisions required to the General Plan EIR. It is anticipated that an addendum to the certified General Plan EIR may be an appropriate option for compliance with CEQA.

### **Estimated Timeline**

6 to 8 months

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<sup>16</sup> King & Gardner, LLC v County of Kern (California Fifth District Court of Appeal 2020).

## SUMMARY OF ALTERNATIVES

**Table 3** provides a direct comparison of the anticipated actions as well as the estimated timelines and budgets for all identified alternatives.

**Table 3. Summary Comparison of Alternatives**

	<b>Alternative 1: Implement Policy LU-P-34 as Adopted</b>	<b>Alternative 2: Implement Policy LU-P-34 with Modifications</b>	<b>Alternative 3: Delay Establishment of the AMP to Tier III</b>	<b>Alternative 4: Remove Policy LU-P- 34</b>
<b>General Plan Amendment</b>	Not Required	Potential	Required	Required
<b>EIR Revision</b>	Not Required	Potential (Addendum)	Required (Addendum)	Required (Addendum)
<b>Estimated Timeline</b>	6 months	6 to 9 months	6 to 8 months	6 to 8 months

# APPENDIX A

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## *Final Environmental Impact Report Statement of Overriding Considerations, 2014*



# **CEQA Findings and Facts in Support of Findings and Statement of Overriding Considerations**

CEQA requires the Visalia City Council (the Council) to balance the benefits of the City of Visalia General Plan Update (General Plan Update, or Project) against its significant and unavoidable environmental effects in determining whether to approve the Project. Since the EIR identifies significant impacts of the General Plan Update that cannot feasibly be mitigated to below a level of significance, the City must state in writing its specific reasons for approving the Project in a “statement of overriding considerations” pursuant to Sections 15043 and 15093 of the CEQA Guidelines. This Statement of Overriding Considerations sets forth the specific reasons supporting the City’s action in approving the General Plan Update, based on the Final Environmental Impact Report (Final EIR, which incorporates the Draft EIR by reference) and other information in the administrative record.

In making the statement of overriding considerations, “CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’” (CEQA Guidelines, Section 15093, subd. (a).)

The following sections provide findings and statements of facts supporting the findings, describe the general Project benefits considered by decision makers in determining to adopt the proposed General Plan Update despite its potentially significant adverse environmental effects, and then provide conclusions.

## **Findings and Facts in Support of Findings**

The following findings are hereby adopted by the Council pursuant to the requirements of CEQA California Public Resources Code Section 21000 et seq. and the Guidelines for California Environmental Quality Act, Title 14, California Code of Regulations Section 15000 et seq. (CEQA Guidelines).

These Findings and Facts in Support of Findings relate to the approval of the proposed General Plan. The Findings state the Council’s conclusions regarding the significance of the potential environmental impacts of the proposed Project after all feasible mitigation measures have been adopted. These findings have been prepared to comply with the requirements of CEQA and the CEQA Guidelines and are based on information in the Final EIR and on all other relevant information contained in the administrative record for the proposed General Plan Update.

CEQA requires agencies to identify mitigation measures that would avoid or substantially lessen a project’s significant impacts or potential significant impacts if such measures are feasible. The mitigating policies identified in the Final EIR mitigate the potential significant impacts of the proposed General Plan Update, to the extent feasible, as described in the

Final EIR. All mitigating policies identified in the Final EIR (as listed in Table ES-3 of the Draft EIR) that are within the Council's authority to impose are hereby adopted by the Council. Future projects must comply with CEQA, including implementation of project-specific mitigation measures where applicable and feasible. Subsequent environmental review for specific projects identified in the Plan may tier off the programmatic analysis or incorporate information from this analysis by reference (CEQA Guidelines, Sections 15150, 15152, and 15168).

Public Resources Code Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would *substantially lessen* the significant environmental effects of such projects[.]" (Emphasis added.) The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will *avoid or substantially lessen* such significant effects." (Emphasis added.) Section 21002 goes on to state that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof." (Pub. Resources Code, Section 21002.)

The mandate and principles set forth in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See Pub. Resources Code, Section 21081, subd. (a); CEQA Guidelines, Section 15091, subd. (a).)

The Final EIR examined the environmental impacts of the General Plan Update in the areas of Land Use; Transportation; Air Quality; Greenhouse Gases and Climate Change; Agricultural Resources; Hydrology, Flooding, and Water Quality; Geology and Seismicity; Biological Resources; Public Services, Facilities, and Utilities; Noise; Hazards and Hazardous Materials; Cultural Resources; Visual Resources; Significant Irreversible Environmental Changes; Growth-Inducing Impacts; and Cumulative Impacts.

Despite identifying mitigation for each potentially significant impact, significant and unavoidable impacts were identified in the issue areas of Transportation, Air Quality, Agriculture, Noise, and Hydrology, Flooding and Water Quality. In determining the significance of the environmental effects, it is important to emphasize that in issue areas when uncertainty surrounds impacts at a program level, the EIR analysis uses a conservative approach to both assessment and conclusions. For instance, in noise analyses, traffic noises were modeled without taking into account roadway curvature, railroad grade, shielding from local topography or structures, or elevated roadways, all of which may affect actual sound propagation. The distances reported to the 60 dB, 65 dB, and 70 dB Ldn contours are considered to be conservative estimates of noise exposure along roadways in the city. Due to the programmatic level of analysis in the EIR and lack of project-specific plans, it is not possible to define the exact extent of potential impacts, so it is not possible to ascertain with certainty whether the identified mitigating policies for these impacts will reduce impacts to levels considered "less than significant." Future development may be subject to site-specific, project-level environmental analysis.

The following subsections list each significant or potentially significant environmental impact by issue area in the order it appears in the Draft EIR, the mitigation measures

identified for each impact in the EIR, the CEQA Finding or Findings applied by the Council as described above, and the Facts in Support of each Finding. This discussion does not attempt to describe the full analysis of each environmental impact contained in the EIR. A full documentation of the environmental analysis and conclusions is in the EIR and the record of proceedings for this project (described herein), which are incorporated by reference.

### **Transportation**

#### **Impact 3.2-2 Implementation of the proposed Visalia General Plan could conflict with the applicable Route Concept Reports for State Highways, including but not limited to level of service standards.**

Implementation of the proposed General Plan would allow State Route (SR) 198 to operate at an unacceptable level of service (LOS) along State Route 198 along three segments: (1) State Route 99 to Akers Street (LOS E), (2) Akers Street to Mooney Boulevard (LOS F), and (3) Mooney Boulevard to Lovers Lane (LOS F), due to the ultimate SR 198 design condition being implemented by Caltrans beyond 2035, after General Plan buildout in 2030.

### **Mitigation Measures**

Caltrans' 2012 Transportation Concept Report for SR 198 identifies a four-lane freeway to meet the year 2035 LOS "D" within the Planning Area, with an ultimate design (beyond 2035) being a six-lane freeway. As a six-lane freeway, SR 198 would provide acceptable LOS on these roadway segments. However, per the current Transportation Concept Report, the ultimate design condition for SR 198 would be implemented beyond 2035, after General Plan buildout in 2030. The widening is feasible—the right of way will accommodate an additional travel lane in each direction—but the timing of the improvement may need to be reconsidered as Visalia grows under the proposed General Plan. Implementation of the improvements to SR 198 (a Caltrans facility) is the primary responsibility of Caltrans. The City will work with Caltrans to modify the SR 198 Transportation Concept Report to schedule needed improvements prior to General Plan buildout (Policy T-P-27), assuming that the forecasted growth and development in the Planning Area occurs and necessitates the widening within the planning period. However, because Caltrans has exclusive control over state route improvements, the City cannot guarantee that these improvements will be completed prior to General Plan buildout. No feasible mitigation measures have been identified that would reduce this impact.

### **General Plan Policies that Reduce the Impact**

T-P-27            Work with Caltrans to modify the State Route 198 Route Concept Report to ensure that the facility is designated as a six-lane freeway from Downtown Visalia east to Lovers Lane

### **Findings**

Based upon the EIR and the entire record before the Council, the Council finds that there are no feasible mitigation measures that would reduce the LOS impacts along SR 198. Although there are policies in the General Plan to work with Caltrans to modify the State Route 198 Route Concept Report, the Council finds the impact significant and unavoidable.

## **Air Quality**

### **Impact 3.3-2 Implementation of the proposed Visalia General Plan could violate any air quality standard or contribute substantially to an existing or projected air quality violation.**

Implementation of the proposed General Plan Update would cause increased ROG and NO<sub>x</sub> emissions due to construction, and increased PM<sub>2.5</sub> and PM<sub>10</sub> emissions associated with General Plan buildout, in excess of SJVAPCD thresholds.

### **Mitigation Measures**

The City will implement a variety of policies designed to address air quality issues, described below. Future compliance with SJVAPCD Rules and Regulations as part of environmental review for new master plan or specific plan areas, or for proposed development that is not consistent with earlier EIRs covering specific plan areas will also help to reduce air quality emissions associated with individual projects. However, total emissions associated with development of the proposed General Plan would still exceed SJVAPCD thresholds during construction from ROG and NO<sub>x</sub> emissions, and PM<sub>10</sub> and PM<sub>2.5</sub> emissions associated with buildout. No additional feasible mitigation measures are currently available to reduce this impact to a less-than-significant level. Consequently, the impact remains significant and unavoidable.

### **General Plan Policies that Reduce the Impact**

The following policies from the *Air Resources Element* will help directly reduce area and mobile sources in the Planning Area.

- AQ-P-2            Require use of Best Management Practices (BMPs) to reduce particulate emission as a condition of approval for all subdivisions, development plans and grading permits, in conformance with the San Joaquin Valley Air Pollution Control District Fugitive Dust Rule.
  
- AQ-P-3            Support implementation of the San Joaquin Valley Air Pollution Control District's regulations on the use of wood-burning fireplaces, as well as their regulations for the installation of EPA-certified wood heaters or approved wood-burning appliances in new residential development and a "No Burn" policy on days when the air quality is poor.
  
- AQ-P-4            Support the San Joaquin Valley Air Pollution Control District's "change-out" program, which provides incentives to help homeowners replace old wood-burning fireplaces with EPA-certified non wood-burning appliances.
  
- AQ-P-7            Be an active partner with the Air District in its "Spare the Air" program. Encourage businesses and residents to avoid pollution-producing activities such as the use of fireplaces and wood stoves, charcoal lighter fluid, pesticides, aerosol products, oil-based paints, and automobiles and other gasoline engines on days when high ozone levels are expected, and promote low-emission vehicles and alternatives to driving.

- AQ-P-8 Update the Zoning Ordinance to strictly limit the development of drive-through facilities, only allowing them in auto-oriented areas and prohibiting them in Downtown and East Downtown.
- AQ-P-9 Continue to mitigate short-term construction impacts and long-term stationary source impacts on air quality on a case-by-case basis and continue to assess air quality impacts through environmental review. Require developers to implement Best Management Practices (BMPs) to reduce air pollutant emissions associated with the construction and operation of development projects.
- AQ-P-11 Continue to work in conjunction with the San Joaquin Valley Air Pollution Control District and others to put in place additional Transportation Control Measures that will reduce vehicle travel and improve air quality and to implement Air Quality Plans.
- AQ-P-12 Where feasible, replace City vehicles with those that employ low-emission technology.
- AQ-P-13 Promote and expand the trip-reduction program for City employees to reduce air pollution and emissions of greenhouse gas.

The following policies from the *Land Use Element* and *Parks, Schools, Community Facilities, and Utilities Element* support energy conservation, which will help reduce building energy consumption and associated area source emissions: LU-P-38 and PSCU-P-14.

The policies described under Impact 3.3-1 in the Draft EIR from the *Land Use Element, Parks, Schools, Community Facilities, and Utilities Element*, and *Circulation Element* would reduce VMT and associated mobile source emissions.

## **Findings**

The City finds that total emissions associated with development of the proposed General Plan would still exceed SJVAPCD thresholds for ROG, NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>. The SJVAPCD has developed and the State and EPA have reviewed and adopted a series of air quality plans for ozone and particulate matter. The plans feature strict rules for stationary sources, and rely on State and federal actions to reduce emissions from mobile sources. The proposed General Plan Update would not conflict with the policies in these plans or the ability of relevant agencies to carry them out. However, new development under the General Plan Update is projected to result in emissions that exceed significance thresholds for certain criteria pollutants.

The proposed General Plan Update would result in an increase in criteria pollutant emissions primarily due to local and regional vehicle emissions and vehicle travel generated by future population growth associated with buildout of the proposed Plan. The proposed General Plan is being offered despite these significant impacts because the City is in need of an updated land use plan that can thoughtfully and creatively accommodate projected population growth, as well as provide for jobs and economic development through General Plan buildout. Full buildout of the proposed General Plan would result in a significant, unavoidable, and cumulatively considerable increase of criteria pollutants, which

significantly impact air quality. The City finds no additional feasible mitigation measures are currently available to reduce this impact to a less-than-significant level.

**Impact 3.3-3 Implementation of the proposed Visalia General Plan could result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors).**

Implementation of the proposed General Plan Update would cause increased ROG and NO<sub>x</sub> emissions due to construction, and increased PM<sub>2.5</sub> and PM<sub>10</sub> emissions associated with General Plan buildout, in excess of SJVAPCD thresholds.

**Mitigation Measures**

The City will implement a variety of policies designed to address air quality issues, described below. Future compliance with SJVAPCD Rules and Regulations as part of environmental review for new master plan or specific plan areas, or for proposed development that is not consistent with earlier EIRs covering specific plan areas will also help to reduce air quality emissions associated with individual projects. However, total emissions associated with development of the proposed General Plan would still exceed SJVAPCD thresholds during construction from ROG and NO<sub>x</sub> emissions, and PM<sub>10</sub> and PM<sub>2.5</sub> emissions associated with buildout. No additional feasible mitigation measures are currently available to reduce this impact to a less-than-significant level. Consequently, the impact remains significant and unavoidable.

**General Plan Policies that Reduce the Impact**

The following policies from the *Air Resources Element* will help directly reduce area and mobile sources in the Planning Area.

- AQ-P-2            Require use of Best Management Practices (BMPs) to reduce particulate emission as a condition of approval for all subdivisions, development plans and grading permits, in conformance with the San Joaquin Valley Air Pollution Control District Fugitive Dust Rule.
  
- AQ-P-3            Support implementation of the San Joaquin Valley Air Pollution Control District’s regulations on the use of wood-burning fireplaces, as well as their regulations for the installation of EPA-certified wood heaters or approved wood-burning appliances in new residential development and a “No Burn” policy on days when the air quality is poor.
  
- AQ-P-4            Support the San Joaquin Valley Air Pollution Control District’s “change-out” program, which provides incentives to help homeowners replace old wood-burning fireplaces with EPA-certified non wood-burning appliances.
  
- AQ-P-7            Be an active partner with the Air District in its “Spare the Air” program. Encourage businesses and residents to avoid pollution-producing activities such as the use of fireplaces and wood stoves, charcoal lighter fluid, pesticides, aerosol products, oil-based paints, and automobiles and other

gasoline engines on days when high ozone levels are expected, and promote low-emission vehicles and alternatives to driving.

- AQ-P-8 Update the Zoning Ordinance to strictly limit the development of drive-through facilities, only allowing them in auto-oriented areas and prohibiting them in Downtown and East Downtown.
- AQ-P-9 Continue to mitigate short-term construction impacts and long-term stationary source impacts on air quality on a case-by-case basis and continue to assess air quality impacts through environmental review. Require developers to implement Best Management Practices (BMPs) to reduce air pollutant emissions associated with the construction and operation of development projects.
- AQ-P-11 Continue to work in conjunction with the San Joaquin Valley Air Pollution Control District and others to put in place additional Transportation Control Measures that will reduce vehicle travel and improve air quality and to implement Air Quality Plans.
- AQ-P-12 Where feasible, replace City vehicles with those that employ low-emission technology.
- AQ-P-13 Promote and expand the trip-reduction program for City employees to reduce air pollution and emissions of greenhouse gas.

The policies described above under Impact 3.3-2 from the *Land Use Element, Parks, Schools, Community Facilities, and Utilities Element*, and *Circulation Element* would help reduce cumulative construction and operational emissions associated with the buildout of the proposed General Plan.

### **Findings**

The City finds that total emissions associated with development of the proposed General Plan would still exceed SJVAPCD thresholds for ROG, NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>. The SJVAPCD has developed and the State and EPA have reviewed and adopted a series of air quality plans for ozone and particulate matter. The plans feature strict rules for stationary sources, and rely on State and federal actions to reduce emissions from mobile sources. The proposed General Plan Update would not conflict with the policies in these plans or the ability of relevant agencies to carry them out. However, new development under the General Plan Update is projected to result in emissions that exceed significance thresholds for certain criteria pollutants.

The proposed General Plan Update would result in an increase in criteria pollutant emissions primarily due to local and regional vehicle emissions and vehicle travel generated by future population growth associated with buildout of the proposed Plan. The proposed General Plan is being offered despite these significant impacts because the City is in need of an updated land use plan that can thoughtfully and creatively accommodate projected population growth, as well as provide for jobs and economic development through General Plan buildout. Full buildout of the proposed General Plan would result in a significant, unavoidable, and cumulatively considerable increase of criteria pollutants, which

significantly impact air quality. The City finds no additional feasible mitigation measures are currently available to reduce this impact to a less-than-significant level.

### **Agriculture**

**Impact 3.5-1 Buildout of the proposed General Plan would convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.**

Buildout of the proposed General Plan Update would result in conversion of farmland, including Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.

### **Mitigation Measures**

No feasible mitigation measures have been identified that would reduce the impacts on agricultural land conversion. The Visalia General Plan reflects a policy determination to allow a certain amount of growth to occur in the Planning Area, which necessitates conversion of farmland to urban uses. Development of the Visalia General Plan will result in the loss of 14,265 acres (or 33 percent) of the existing Important Farmland within the Planning Area to urban uses. Multiple policies are identified in the proposed General Plan to prevent excessive agricultural land conversion, including prioritizing infill development within the existing city limits, clear phasing of growth, compact development in new growth areas, and the continuation of most agricultural activities in the Planning Area.

### **General Plan Policies that Reduce the Impact**

#### *Land Use Element Policies*

LU-P-14 Recognize the importance of agriculture-related business to the City and region, and support the continuation and development of agriculture and agriculture-related enterprises in and around Visalia by:

- Implementing growth boundaries and cooperating with the County on agricultural preservation efforts;
- Accommodating agriculture-related industries in industrial districts;
- Facilitating successful farmers' markets;
- Helping to promote locally-grown and produced agricultural goods, and the image of Visalia and Tulare County as an agricultural region.

LU-P-19 Ensure that growth occurs in a compact and concentric fashion by implementing the General Plan's phased growth strategy.

*The General Plan Land Use Diagram establishes three growth rings to accommodate estimated City population for the years 2020 and 2030. The Urban Development Boundary I (UDB I) shares its boundaries with the 2012 city limits. The Urban Development Boundary II (UDB II) defines the urbanizable area within which a full range of urban services will need to be extended in the first phase of anticipated growth with a target buildout*

*population of 178,000. The Urban Growth Boundary (UGB) defines full buildout of the General Plan with a target buildout population of 210,000. Each growth ring enables the City to expand in all four quadrants, reinforcing a concentric growth pattern...*

LU-P-21 Allow annexation and development of residential, commercial, and industrial land to occur within the Tier II UDB and the Tier III Urban Growth Boundary consistent with the City's Land Use Diagram, according to the following phasing thresholds:

- “Tier II”: Tier II supports a target buildout population of approximately 178,000. The expansion criteria for land in Tier II is that land would only become available for development when building permits have been issued in Tier I at the following levels, starting from April 1, 2010:

Residential: after permits for 5,850 housing units have been issued; and

Commercial: after permits for 480,000 square feet of commercial space have been issued

Tier III: Tier III comprises full buildout of the General Plan. The expansion criteria for land in Tier III is that land would only become available for development when building permits have been issued in Tier I and Tier II at the following levels, starting from April 1, 2010:

- Residential: after permits for 12,800 housing units have been issued;
- Commercial: after permits for 960,000 square feet of commercial space have been issued; and
- Industrial: after permits for 2,800,000 square feet of industrial space have been issued

*To complement residential neighborhood development, the City also may allow small annexations for sites less than 30 acres in size that are contiguous to the City limits to allow for efficient development of a neighborhood, commercial area or employment center, provided no General Plan amendment is required and infrastructure is available or can be extended at no cost to the City.*

LU-P-24 Periodically adjust, no less frequently than once every five years, the land use and economic demand projections used to determine population estimates, needed land supply and amendments to Urban Development Boundaries.

*This will be done as part of the General Plan Report.*

LU-P-25 Provide planning and technical support for the relocation of agricultural operations currently located in the City to compatible locations in the Planning Area or the County.

LU-P-26 Continue to follow the Memorandum of Understanding with Tulare County, and work with the County to strengthen the implementation of the Visalia General Plan.

LU-P-27 Initiate planning for post-2030 urban land needs in the area north of St. Johns River that is within the City's Sphere of Influence, and other areas as may be identified by the City Council, when residential development with the Urban Growth Boundary Tier 3 reaches 80 percent of capacity, or earlier, at the initiative of the City Council.

This long-term Planning Area is outside of the Urban Growth Boundary established for this General Plan, and a General Plan amendment adding it to the UGB will require detailed studies of infrastructure needs, financing options for extension public facilities and services, and environmental resources and a determination by the City Council that the City's long term interests are best served by sensitively planned, appropriately timed development north of the St. Johns River, that development will provide a net fiscal benefit to the City, and that infill development opportunities within the City have been fully realized.

LU-P-30 Maintain greenbelts, or agricultural/open space buffer areas, between Visalia and other communities by implementing growth boundaries and working with Tulare County and land developers to prevent premature urban growth north of the St. Johns River and in other sensitive locations within the timeframe of this General Plan.

*Techniques to be applied selectively at appropriate locations in consultation with landowners with the objective of preserving agricultural lands and open space around the City could include voluntary programs for establishing open space and conservation easements, purchasing development rights, support for agricultural land trusts and "land banking" and, if feasible, establishing a program for transfer of development rights. This program will need to be coordinated with post-2030 planning to avoid creating the potential for "leapfrog" development. See policy LU-P-27.*

LU-P-31 Promote the preservation of permanent agricultural open space around the City by protecting viable agricultural operations and land within the City limits in the airport and wastewater treatment plant environs.

*Land around the Airport may be developed with site-appropriate industrial uses during the planning period, providing it conforms to the land use compatibility requirements for the Visalia Municipal Airport environs established by the City.*

LU-P-32 Continue to maintain a 20-acre minimum for parcel map proposals in areas designated for Agriculture to encourage viable agricultural operations in the Planning Area.

LU-P-34 - Work with Tulare County and other state and regional agencies, neighboring cities, and private land trust entities to prevent urban development of agricultural land outside of the current growth boundaries and to promote the use of agricultural preserves, where they will promote orderly development and preservation of farming operations within Tulare County. Conduct additional investigation of the efficacy of agricultural conservation easements by engaging local, regional, and state agencies and stakeholders in order to further analyze their ongoing efforts and programs that attempt

to mitigate impacts from the conversion of agricultural lands through the use of agricultural conservation easements. The City will support regional efforts to prevent urban development of agricultural lands, specifically at the county level. Tulare County's General Plan 2030 Update Policy contains two policies (AG-1.6 Conservation Easements and AG-1.18 Farmland Trust and Funding Sources) that discuss establishing and implementing an Agricultural Conservation Easement Program (ACEP). The City supports the implementation of these measures by the County, in which the City may then participate. Such a regional program could include a fee to assist and support agricultural uses, and would be most feasibly and strategically developed on a countywide or other regional basis.

LU-P-44 Promote development of vacant, underdeveloped, and/or redevelopable land within the City limits where urban services are available and adopt a bonus/incentive program to promote and facilitate infill development in order to reduce the need for annexation and conversion of prime agricultural land and achieve the objectives of compact development established in this General Plan.

*Techniques to be used include designation of infill opportunity zones as part of the implementation process and provision of incentives, such as reduced parking and streamlined review, and residential density bonuses, and floor area bonuses for mixed use and/or higher-density development, subject to design criteria and findings of community benefit.*

## **Findings**

Based upon the EIR and the entire record before the Council, the Council finds that there are no feasible mitigation measures that have been identified that would reduce the impacts on Important Farmland. The City finds a certain amount of growth to occur in the Planning Area necessitates conversion of farmland to urban uses. The proposed General Plan Update and Draft EIR take steps in addressing farmland conservation by:

- (1) Avoiding development of high quality farmland;
- (2) Minimizing farmland loss with more efficient development;
- (3) Ensuring stability of the urban edge;
- (4) Minimizing rural residential development;
- (5) Encouraging a favorable agricultural business climate.

The first objective of avoiding development of high quality farmland is addressed by a number of proposed General Plan Policies. The proposed General Plan provides multiple policies to avoid development of high quality farmland, including prioritizing infill development within existing city limits, clear phasing of growth through the establishment of three growth rings, compact development in new growth areas, and the continuation of most agricultural activities in the Planning Area. The City recognizes the importance of promoting compact development through sound land use planning, including planning for the preservation of agricultural lands. Proposed General Plan Policies LU-P-14, LU-P-19, LU-P-21, LU-P-24, LU-P-25, LU-P-26, LU-P-27, LU-P-30, LU-P-31, LU-P-32, LU-P-34, and LU-P-44 demonstrate policies to ensure phased growth.

The second objective of minimizing farmland loss with more efficient development is realized through the land use policies stated above and the concentric growth pattern established under the proposed General Plan Update.

The third objective of stabilizing of the urban edge is exemplified by Policies LU-P-19 and LU-P-21, which describe the sequencing of development through a phased growth strategy. The “Saving Farmland, Growing Cities” report suggests that “areas around cities designated for future development should not expand more than necessary to accommodate reasonable future growth.” The tiered growth system under Policies LU-P-19 and LU-P-21 allow land to become available for annexation and development only when specific criteria are met.

The fourth objective of minimizing rural residential development is covered by the policies described in the third objective, designed to prevent “leapfrogging” development.

The fifth objective of encouraging a favorable agricultural business climate is addressed directly by Policy LU-P-14, to recognize the importance of agriculture-related business to the City and region, and cooperate with the County on agricultural preservation efforts.

In addition to the above policies promoting farmland conservation, it is important to note that the ultimate buildout under the proposed General Plan has a reduced urban footprint relative to the current (existing) General Plan.

A number of comments during the Draft EIR and Final EIR suggested adoption of a farmland mitigation “in-lieu” fee program. This approach is problematic for a number of reasons:

- “In Lieu” farmland mitigation programs may result in the creation of a patchwork of easements;

- Payments may not cover the costs of land purchase at the price required to make the easement a meaningful mitigation measure;

- Conservation easements or in-lieu fees can be economically prohibitive for development; and;

- Conservation easements may also result in the purchase of agricultural lands not subject to development pressures in the first place.

Each of these four limitations is described in more detail below.

The EIR explains that a program consisting of the required purchase of agricultural easements on other land is inherently dependent upon voluntary agreements by farm owners to sell easements over their property at an agreed price. If agricultural land is subject to development pressures, landowners likely would oppose efforts to “target” their area for the purchase of easements, or will only sell them at a very high cost. The most likely result will be a patchwork of easements, which may or may not constitute enough contiguous farmland to be economically viable and which produce a speculative mitigation benefit.

Payments into agricultural mitigation “in-lieu” funds are generally based on rough estimates of the cost of farmland conservation easements, without specific information about actual

costs. As with other real estate transactions, the cost of farmland conservation easements are highly variable. Mitigation fees on a per-acre basis may not be sufficient to cover actual costs of purchasing a set amount for off-site mitigation, raising questions regarding the effectiveness of such a program.

Fees charged under mitigation programs may be economically prohibitive for development in the planning area. Conservation easements can be approximately between 40 and 60 percent of the property's value. The expense of conservation easements can render future development economically infeasible.

Development pressure on agricultural lands within the Planning Area would result in the vast majority of property owners selling conservation easements at higher rates. The areas that would be most financially feasible for the purchase of conservation easements would likely be substantially disconnected from the Planning Area and under very little pressure to develop. These properties would likely remain in agricultural use for the duration of the General Plan timeframe, and purchasing conservation easements will not make the conservation any less likely. As such, the mitigation benefit of purchasing conservation easements on these properties would be remote and speculative. While conservation easements may be appropriate and provide tangible benefits in other settings, the likelihood that agricultural easements purchased on areas not subject to development pressures would not produce mitigation that meets CEQA criteria because the mitigation effect would be speculative, remote, and uncertain.

A conservation easement that successfully addresses these constraints is better implemented at a countywide or other regional scale; thus the City, supports the development of a regional conservation program, such as the one proposed in the Tulare County General Plan. Creating a locally based agricultural conservation easement program can have the unintended effect of encouraging conversion of agricultural lands immediately outside of jurisdictional boundaries. The City is supportive of regional efforts to prevent urban development of agricultural lands, specifically at the county level. Tulare County's General Plan 2030 Update Policy contains two policies and an implementation measure relating to agricultural lands, which are reproduced below:

*AG-1.6 Conservation Easements.*

*The County may develop an Agricultural Conservation Easement Program (ACEP) to help protect and preserve agricultural lands (including "Important Farmlands"), as defined in this Element. This program may require payment of an in-lieu fee sufficient to purchase a farmland conservation easement, farmland deed restriction, or other farmland conservation mechanism as a condition of approval for conversion of important agricultural land to nonagricultural use. If available, the ACEP shall be used for replacement lands determined to be of statewide significance (Prime or other Important Farmlands), or sensitive and necessary for the preservation of agricultural land, including land that may be part of a community separator as part of a comprehensive program to establish community separators. The in-lieu fee or other conservation mechanism shall recognize the importance of land value and shall require equivalent mitigation.*

*AG-1.18 Farmland Trust and Funding Sources.*

*The in-lieu fees collected by the County may be transferred to the Central Valley Farmland Trust or other qualifying entity, which will arrange the purchase of conservation easements. The County shall encourage the Trust or other qualifying entity to pursue a variety of funding sources (grants, donations, taxes, or other funds) to fund implementation of the ACEP.*

*Agricultural Element Implementation Measure #15.*

*The County shall consider the implementation of an Agricultural Conservation Easement Program (ACEP) to help protect and preserve agricultural lands (including "Important Farmlands"), as defined in Policy AG-1.6*

The City supports the implementation of these measures by the County, in which the City may then participate. Such a regional program could include a fee to assist and support agricultural uses, and would be most feasibly and strategically developed on a countywide or other regional basis.

Therefore, the Council finds there are no feasible mitigation measures to agricultural land conversion that would also fulfill the objectives of and implement the General Plan as proposed. Although there are policies in the proposed General Plan to reduce this impact, the City finds the potential conversion of agricultural land—which will affect some agricultural activities and prime agricultural soils—is significant and unavoidable.

**Impact 3.5-2 Buildout of the proposed General Plan would conflict with existing zoning for agricultural use, or a Williamson Act contract.**

Under the proposed General Plan's policies, 511 acres of land currently under active Williamson Act contracts would be converted to non-agricultural use, which represents 2.3 percent of the total acreage under Williamson Act contract within the Planning Area. The new growth areas in the proposed General Plan aim to minimize impacts on Williamson Act contracts, and 57 percent of Williamson Act lands to be converted are already in non-renewal, so this project has no impact on these lands relative to agricultural use over the long term.

**Mitigation Measures**

This General Plan reflects a policy determination to allow a certain amount of growth to occur in the Planning Area, which necessitates conversion of farmland to urban uses. To the greatest extent feasible, future urban growth has been allocated to areas either without Williamson Act contracts, or to areas with contracts in non-renewal. Avoidance of Williamson Act parcels altogether would create a non-contiguous, "patchwork" development pattern that does not meet the Plan's objectives of concentric, compact, and logical growth. In addition, the City has no authority to force termination of Williamson Act contracts on a given property. Proposed General Plan policies provide a framework for limiting conversion of farmland to the minimum extent needed to accommodate long-term growth, and phasing development in such a way that prevents "leap-frogging" or otherwise reducing the viability of remaining farmland. No further mitigation, besides preventing development, would reduce the impact to active Williamson Act parcels.

### **General Plan Policies that Reduce the Impact**

In addition to the policies listed under Impact 3.5-1, the following policy helps reduce the impact.

- OSC-P-1            Conduct an annual review of cancelled Williamson Act contracts and development proposals on agricultural land within the Planning Area Boundary to foresee opportunities for acquisition, dedication, easements or other techniques to preserve agricultural open space or for groundwater recharge.

### **Findings**

Based upon the EIR and the entire record before the Council, the Council finds that there are no feasible mitigation measures that have been identified that would reduce the impacts on Williamson Act parcels. The City finds a certain amount of growth to occur in the Planning Area necessitates conversion of farmland to urban uses. Please see Findings under Impact 3.5-1.

### **Impact 3.5-3    Buildout of the proposed General Plan would result in changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use.**

Urban development has the potential to result in conflicts with adjacent agricultural practices, and lead to restrictions on the use of agricultural chemicals, complaints regarding noise, dust and odors, trespassing, and vandalism. These conflicts may increase costs of agricultural operations, and together with other factors encourage the conversion of additional farmland to urban uses.

### **Mitigation Measures**

No feasible mitigation measures have been identified that would reduce the impacts on agricultural land conversion. The Visalia General Plan reflects a policy determination to allow a certain amount of growth to occur in the Planning Area, which necessitates conversion of farmland to urban uses. Multiple policies are identified in the proposed General Plan to prevent excessive agricultural land conversion, including prioritizing infill development within the existing city limits, clear phasing of growth, compact development in new growth areas, and the continuation of most agricultural activities in the Planning Area.

### **General Plan Policies that Reduce the Impact**

In addition to Policies LU-P-14, LU-P-25, LU-P-30, LU-P-31, LU-P-32, LU-P-34, and LU-P-44 listed under Impact 3.1-1, the following policies will help to reduce this impact to a less than significant level.

#### *Land Use Element Policies*

- LU-P-35            \*Adopt the County's Right-to-Farm ordinance to support continued agricultural operations at appropriate locations within the City limits, with no new provisions.

*This ordinance should not limit urban development contemplated by the General Plan.*

- LU-P-36 \*Adopt an Urban Agriculture Ordinance, reflecting “best practices,” to support community gardens and other activities.

*This ordinance will be prepared in consultation with the Farm Bureau and other interested organizations and individuals.*

#### *Open Space and Conservation Element Policies*

- OSC-P-27 To allow efficient cultivation, pest control and harvesting methods, require buffer and transition areas between urban development and adjoining or nearby agricultural land.

- OSC-P-28 Require new development to implement measures, as appropriate, to minimize soil erosion related to grading, site preparation, landscaping, and construction.

#### **Findings**

Based upon the FEIR and the entire record before the Council, the Council finds that there are no feasible mitigation measures that have been identified that would reduce the impacts on changes to the existing environment that could result in conversion of Farmland to non-agricultural use. The City finds a certain amount of growth to occur in the Planning Area necessitates conversion of farmland to urban uses. Please see Findings under Impact 3.5-1.

#### **Hydrology, Flooding, and Water Quality**

- Impact 3.6-4 Implementation of the proposed Visalia General Plan could expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam, sea level rise, or inundation by seiche, tsunami, or mudflow.**

Implementation of the proposed Visalia General Plan could result in the exposure of people or structures to a significant risk of loss, injury or death involving flooding as the result of a failure of Terminus Dam.

#### **Mitigation Measures**

No feasible mitigation measures have been identified that would reduce the impacts from the potential failure of Terminus Dam. The Terminus Dam is owned and operated by the U.S. Army Corps of Engineers. It is therefore not feasible for the proposed General Plan Update to completely address improvements to the Terminus Dam to the extent necessary to eliminate risk from dam failure.

#### **General Plan Policies that Reduce the Impact**

The following policies will help to reduce this impact, but not to a less than significant level. In addition to these Visalia General Plan policies, the County of Tulare maintains the Tulare County Hazard Mitigation Plan and a Mass Evacuation Plan for the entire county that also serve to reduce this impact.

- S-O-6 Provide comprehensive emergency response and evacuation routes for Visalia area residents.

S-P-40 Continue to rely on the Tulare County Office of Emergency Services to maintain inventories of available resources to be used during disasters.

S-P-41 Continue to upgrade preparedness strategies and techniques in all departments so as to be prepared when disaster, either natural or man-made, occurs.

### **Findings**

Based upon the EIR and the entire record before the Council, the Council finds that there are no feasible mitigation measures have been identified that would reduce the impacts of flooding from a potential failure of the Terminus Dam.

### **Noise**

#### **Impact 3.10-3 Exposure of existing noise sensitive land uses to an increase in noise that results in noise in excess of standards found in the existing Visalia General Plan Noise Element.**

Exposure of existing noise sensitive land uses to an increase in noise that results in noise in excess of standards found in the existing Visalia General Plan Noise Element. There are 11 roadway segments where existing traffic noise levels are less than 65 Ldn and implementation of the proposed plan will increase traffic noise to be in excess of 65 Ldn. Residences or other noise-sensitive uses along these roadways would be exposed to significant noise impacts because traffic noise would increase to a level that is in excess of the City's 65 Ldn land use compatibility standard.

### **Mitigation Measures**

Although implementation of Policy N-P-2 (below) would reduce this impact by reducing or preventing significant increases in ambient noises for sensitive land uses, it would not be feasible in all situations to reduce this impact to a less-than-significant level. For example, noise attenuation measures such as sound walls and berms would be infeasible or inappropriate in locations where sensitive land uses already exist. Factors that would render these and other noise attenuation measures infeasible include but are not limited to property access, cost, aesthetic considerations, and negative impacts to pedestrian and bicycle connectivity, and impacts to driver visibility. This impact, therefore, is significant and unavoidable.

### **General Plan Policy that Reduces the Impact**

N-P-2 Promote the use of noise attenuation measures to improve the acoustic environment inside residences where existing residential development is located in a noise-impacted environment such as along an arterial street or adjacent to a noise-producing use.

### **Findings**

The City finds that noise resulting from vehicles and stationary operations is expected to increase as a result of the proposed General Plan. Increases are expected to occur both along existing roadways in developed areas and along new roadways in future growth areas, and in the vicinity of new stationary operations, particularly industrial uses. The City finds that additional vehicles traveling along local roadways outweighs potential impacts on

existing and future land use resulting from noise. The actual level of impact will depend on the presence and location of existing or proposed land uses or barriers in relation to the noise source. The City will continue to implement its Noise Ordinance. In addition, the City will ensure that noise analysis and mitigation be conducted for individual projects (with project-specific data) that will, if possible, mitigate potential noise impacts to a less-than-significant level. However, given the uncertainty as to whether future noise impacts could be adequately mitigated for all individual projects, the City finds that potential impacts related to substantial permanent increases in ambient noise related to traffic and stationary sources are considered significant and unavoidable.

The following sections describe the Council's reasoning for approving the proposed General Plan Update, despite these potentially significant unavoidable impacts.

### **Proposed General Plan Update Benefits**

CEQA does not require lead agencies to analyze "beneficial impacts" in an EIR. Rather, EIRs focus on potential "significant effects on the environment" defined to be "adverse" (Public Resources Code Section 21068). Nevertheless, decision makers may be aided by information about project benefits. These benefits can be cited, if necessary, in a statement of overriding considerations (CEQA Guidelines Section 15093). The Council's decision to adopt the proposed General Plan Update rather than any of the alternatives is based on considering the balance of these benefits of the proposed Project against its identified unavoidable environmental impacts.

Each benefit of the proposed Project, as stated below, is determined to be a basis for overriding all unavoidable adverse environmental impact identified above. The Council has independently verified the key initiatives reflected in the proposed General Plan Update, stated below to justify the Statement of Overriding Consideration.

- Implementation of the proposed General Plan Update will ensure orderly and balanced growth, by emphasizing concentric development and infill opportunities to strengthen Downtown, revitalize existing commercial centers and corridors, and fill in gaps in the city fabric, balanced by moderate outward expansion and protection of agricultural lands.
- Implementation of the proposed General Plan Update will support and enhance a high quality of life by building on Visalia's small-town feel and ensuring that each neighborhood is a complete, walkable area with a full range of housing types, a discernable center, and a unique sense of place. At a citywide scale, this unique sense of place is preserved by keeping Downtown vital and accentuating the city's natural creek system.
- Implementation of the proposed General Plan Update will create and enhance mobility and connectivity, by improving connectivity at the neighborhood, city, and regional scales; by improving key corridors; completing missing links in the roadway network; and ensuring that new neighborhoods accommodate and connect to the City's existing street grid. Consistent with new State requirements, the proposed General Plan will create "complete streets" amenable to walking, biking, and transit use, anticipating robust transit service within the City and beyond.
- Implementation of the proposed General Plan Update will provide broad economic opportunities and a diverse economic base by supporting Visalia's economic vitality,

including higher-intensity development Downtown, the creation of a new urban district in East Downtown, the revitalization of the Mooney Boulevard corridor, the facilitation of expanded medical and educational facilities, and attractive locations for new and expanding businesses.

- Implementation of the proposed General Plan Update will support a forward-looking retail strategy, by providing for new neighborhood commercial uses throughout the City and regional retail development along South Mooney Boulevard to be staged over time in order to support the City's existing regional base.
- Implementation of the proposed General Plan Update will maintain and strengthen Visalia's identity as a free-standing City, by working with the County and the community to maintain a physical separation between Visalia and neighboring communities and limiting the timing and amount of conversion of farmland to urban uses through a tiered growth management system.
- Implementation of the proposed General Plan update will continue to place Visalia as a leader in land conservation, green building, recycling, and stewardship, by promoting waste collection, recycling, development patterns that foster non-automobile travel, clean air and water, as well as reuse of older buildings.

These key goals and initiatives were developed through an extensive public outreach process that accompanied the General Plan Update, which engaged stakeholders, decision-makers, the General Plan Update Review Committee, and members of the general public in discussion and debate over priorities for Visalia's future. Members of the public as well as elected officials were consulted and engaged at each key decision point in the update process, ensuring that the proposed General Plan reflects the community's priorities to the greatest extent possible. During this public process, the Council examined alternatives to the proposed General Plan Update, none of which meet the stated project objectives to the same extent as the proposed Project.

### **Overriding Considerations Conclusions**

The Council finds that the proposed General Plan Update has been carefully reviewed and that mitigating policies have been included in the Final EIR to be certified by the Council. Nonetheless, the proposed General Plan Update may have certain environmental effects that cannot be avoided or substantially lessened. As to these significant environmental effects that are not avoided or substantially lessened to a point less than significant, the Council finds that specific fiscal, economic, social, technological, or other considerations make additional mitigation of those impacts infeasible, in that all feasible mitigation measures have been incorporated into the proposed General Plan.

The Council has carefully considered all of the environmental impacts that have not been mitigated to a less than significant level, as listed above. The Council has also carefully considered the fiscal, economic, social, and environmental benefits of the proposed General Plan Update, as listed above, and compared these with the benefits and impacts of the alternatives, which were evaluated in the Final EIR. The Council has balanced the fiscal, economic, social, and environmental benefits of the proposed Plan against its unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the proposed General Plan Update outweigh, and therefore override, the remaining adverse environmental effects. Such benefits provide the substantive and legal basis for this Statement of Overriding Considerations.

In approving the proposed General Plan Update, the Council makes the following Statement of Overriding Considerations pursuant to Public Resources Code Section 21081 and State CEQA Guidelines Section 15093 in support of its findings on the Final EIR:

The Council has considered the information contained in the Final EIR and has fully reviewed and considered all of the public testimony, documentation, exhibits, reports, and presentations included in the record of these proceedings. The Council specifically finds and determines that this Statement of Overriding Considerations is based upon and supported by substantial evidence in the record.

The Council has carefully weighed the benefits of the proposed General Plan Update against any adverse impacts identified in the Final EIR that could not be feasibly mitigated to a level of insignificance, which are enumerated below. While the Council has required all feasible mitigation measures, such impacts remain significant for purposes of adopting this Statement of Overriding Considerations:

- Impact 3.2-2 (Implementation of the proposed Visalia General Plan could conflict with the applicable Route Concept reports for State highways, including but not limited to level of service standards.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency (Caltrans) and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency. This finding is made pursuant to CEQA Guidelines section 15091(a)(2).

- Impact 3.3-2 (Implementation of the proposed Visalia General Plan could violate any air quality standard or contribute substantially to an existing or projected air quality violation.)
- Impact 3.3-3 (Implementation of the proposed Visalia General Plan could result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors.)
- Impact 3.5-1 (Buildout of the proposed General Plan would convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agriculture use.)
- Impact 3.5-2 (Buildout of the proposed General Plan would conflict with existing zoning for agriculture use, or a Williamson Act contract.)
- Impact 3.5-3 (Buildout of the proposed General Plan would result in changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use.)
- Impact 3.6-4 (Implementation of the proposed Visalia General Plan could expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam, sea level rise, or inundation by seiche, tsunami, or mudflow.)

- Impact 3.10-3 (Exposure of existing noise sensitive land uses to an increase in noise that results in noise in excess of standards found in the existing Visalia General Plan Noise Element.)

Findings: Pursuant to CEQA Guidelines section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR. These specific considerations have been analyzed in the context of the proposed Visalia General Plan and the project alternatives. Based on the evidence in the record, the Planning Commission finds as follows:

- The proposed Visalia General Plan is critical in achieving the City's economic development and job creation goals by fostering a positive and predictable climate for public and private investment, providing a supply of land that is appropriately located and designated for urban uses that are essential for a sustainable quality of life for the City's current population and that of its future buildout population.
- The proposed Visalia General Plan promotes social equity by ensuring adequate housing for all income, age, and lifestyle preferences; providing open government that values public participation; promoting local goods, services, and diverse cultures; promoting community health through a safe, multi-modal transportation system, along with accessible parks and open space areas, and public services arrayed throughout the Planning Area accessible to all members of the community.
- Implementation of the proposed Visalia General Plan will serve as the foundation in making land use decisions based on goals and policies related to land use, transportation routes and modes, population growth and distribution, development, open space, resource preservation and utilization, air and water quality, noise impacts, safety, provision of public services and infrastructure, economic development, and other associated physical and social factors in a holistic and integral manner as to be mutually supportive and internally consistent.
- Implementation of the proposed Visalia General Plan will comply with State requirements and, more importantly, will provide the City, its residents, land owners and businesses, staff and policy makers and all stakeholders with a comprehensive, long-range policy reference for future development.
- The City finds that this level of comprehensive planning is desirable and that it provides a more environmentally sustainable vision and development plan than the previously adopted General Plan Elements for which this proposed Visalia General Plan would supersede, and that it is more capable of achieving the City's community goals and sustainable population buildout expectations.

This Statement of Overriding Considerations applies specifically to those impacts found to be significant and unavoidable as set forth in the Final EIR and the record of these proceedings. In addition, this Statement of Overriding Considerations applies to those impacts that have been substantially lessened but not necessarily lessened to a level of insignificance.

Based upon the goals and objectives identified in the proposed General Plan Update and the Final EIR, following extensive public participation and testimony, and notwithstanding the impacts that are identified in the Final EIR as being significant and potentially significant and which arguably may not be avoided, lessened, or mitigated to a level of insignificance, the Council, acting pursuant to Public Resources Code Section 21081 and Section 15093 of the State CEQA Guidelines, hereby determines that specific economic, legal, social, environmental, technological, and other benefits and overriding considerations of the proposed General Plan Update sufficiently outweigh any remaining unavoidable, adverse environmental impacts of the proposed General Plan Update and that the proposed General Plan Update should be approved.

Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines Section 15093, the Council further determines that the unavoidable adverse environmental effects of the proposed General Plan Update are acceptable, and that there are overriding considerations that support the Council's approval of the proposed General Plan Update, as stated in the above sections.

The Council believes that it is prudent to select the proposed General Plan Update over the alternatives because it provides dramatic improvements over the continuation of the existing General Plan, and most closely embodies the project objectives. In making this determination, the Council incorporates by reference all of the supporting evidence cited within the Draft and Final EIR, and in the administrative record.

# APPENDIX B

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***Staff Report to City Council,  
January 16, 2020***



# ***City of Visalia***

## ***Staff Report***



To: City Council and Planning Commission  
From: Josh Dan, Associate Planner  
(559) 713-4003, josh.dan@visalia.city  
Date: January 16, 2020  
Re: Overview of the City of Visalia Growth Boundaries and Agricultural Mitigation Program

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### **SUMMARY**

Visalia has recently passed the five-year milestone in its life cycle of the 2014 General Plan. This is an important milestone because it provides both the opportunity and obligation for the City to review its development program over the five-year period, and to consider moving to the next Growth Boundary (Tier II). As such, consideration must be given to two key actions established in the General Plan to ensure their smooth implementation in the near future. These actions are:

- Moving the current Tier I Growth Boundary (2012 City limits) to the Tier II Growth Boundary; and,
- Adoption and implementation of an Agricultural Mitigation Program (AMP) Ordinance.

These two related actions are discussed in greater detail in the Background Section and Discussion and Recommended Action sections of the staff report.

### **BACKGROUND**

#### **Growth Boundaries**

The City of Visalia has used Growth Boundaries (also known as Tiers) since 1978 to direct growth in a logical, concentric manner (as shown in Exhibit "A"). Growth boundaries have the effect of creating more compact and higher density development patterns by limiting the amount of land available for development at any given time. This has the effect of preserving developable land to achieve more infill development, while discouraging potential sprawl development patterns.

The widely fluctuating development activity that occurred between the severe economic downturn of the late 2000's, that was preceded by explosive residential growth up to 2007, convinced the City to write the 2014 General Plan update with flexibility in mind. Knowing that an increase in development was not imminent, the thresholds for Growth Boundary Tiers were drafted to meet objective numerical quantities instead of specified dates based on subjective population estimates.

As part of the General Plan update in early 2013, the City Council adopted a three-tier system based on quantified permit issuance, rather than the previously used and more subjective population estimate-based growth boundaries. As described in Land Use Policy LU-P-19, Tier I was drawn mostly along the 2012 City limits.

LU-P-19 Ensure that growth occurs in a compact and concentric fashion by implementing the General Plan's phased growth strategy.

*The General Plan Land Use Diagram establishes three growth rings to accommodate estimated City population for the years 2020 and 2030. The Urban Development Boundary I (UDB I) shares its boundaries with the 2012 city limits. The Urban Development Boundary II (UDB II) defines the urbanizable area within which a full range of urban services will need to be extended in the first phase of anticipated growth with a target buildout population of 178,000. The Urban Growth Boundary (UGB) defines full buildout of the General Plan with a target buildout population of 210,000. Each growth ring enables the City to expand in all four quadrants, reinforcing a concentric growth pattern.*

Moving to Tier II is based on thresholds to support a target buildout population of approximately 178,000. The expansion criteria for land in Tier II require a certain number of building permits to have been issued in Tier I. The criteria for residential, commercial, and regional commercial are described in Land Use Policy LU-P-21 below:

LU-P-21 Allow annexation and development of residential, commercial, regional retail, and industrial land to occur within the Urban Development Boundary (Tier II) and the Urban Growth Boundary (Tier III) consistent with the City's Land Use Diagram, according to the following phasing thresholds:

§ "Tier II": Tier II supports a target buildout population of approximately 178,000. The expansion criteria for land in Tier II is that land would only become available for development when building permits have been issued in Tier I at the following levels, starting from April 1, 2010:

Residential: after permits for 5,850 housing units have been issued; and

Commercial: after permits for 480,000 square feet of commercial space on designated Commercial Mixed Use, Downtown Mixed Use, Office, and Service Commercial land have been issued.

Regional Retail: New Regional Retail areas in the Tier II Growth Boundary shall be eligible for urban development upon satisfactory demonstration that the following criteria have been met:

1. Existing Regional Retail Commercial zoned land south of Caldwell Avenue. that was undeveloped as of the date of adoption of the General Plan has received at least 922,383 sq. ft. of commercial building permits [formula: 121 acres @43,560 sq. ft. per gross acre = 5,270,760 sq. ft. x 0.25 (assumed FAR for Regional Retail development) x 0.7 (recommended flex factor)].
2. The uses and tenants proposed for the area will substantially further the community's goal of providing high level regional retail goods and services.
3. That there is sufficient roadway capacity and adequate public facilities and infrastructure to accommodate the proposed development.

The regional retail zone classification shall provide for permitted and conditional uses that are of a regional draw only. Uses that are not exclusively of a regional draw may be allowed where a finding is made that such uses are ancillary or associated with the regional uses. Uses of a neighborhood or convenience level draw only shall not be permitted.

§ “Tier III”: Tier III comprises full buildout of the General Plan. The expansion criteria for land in Tier III is that land would only become available for development when building permits have been issued in Tier I and Tier II at the following levels, starting from April 1, 2010:

Residential: after permits for 12,800 housing units have been issued.

Commercial: after permits for 960,000 square feet of commercial space on designated Commercial Mixed Use, Downtown Mixed Use, Office, and Service Commercial land have been issued; and

Industrial: after permits for 2,800,000 square feet of commercial space on designated Industrial, Light Industrial, and Business Research Park land have been issued.

*To complement residential neighborhood development, the City also may allow small annexations for sites less than 30 acres in size that are contiguous to the City limits to allow for efficient development of a neighborhood, commercial area or employment center, provided no General Plan amendment is required and infrastructure is available or can be extended at no cost to the City.*

*Triggers for proceeding from Tier I and Tier II to Tier III may be modified based on subsequent direction from the City Council.*

*Annexations are subject to review against regulations and policies in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the Tulare County Local Agency Formation Commission Policy and Procedure Manual regarding development and inventory of existing vacant land designated for urban uses in the city limits.*

Please note, there is no trigger necessary for industrial uses since there are no industrial-designated areas within Tier II. Consideration for expanding Industrial land for Tier III is specified below per LU-P-21. Although this report focuses on updating the City Council and Planning Commission on the criteria for development into Tier II, consideration for expanding development opportunities into the Industrial lands located in Tier III is up for Council deliberation. This is discussed in greater detail under the “Discussion and Recommendation Direction for Growth Boundaries” section of the staff report below.

However, prior to developing in to the next growth tier, the City is required to have an adopted Agricultural Mitigation Program. The requirement to have an adopted Agricultural Mitigation Program is a result of several parties submitting correspondence or testifying during the public hearing on the General Plan to express their views on requesting the City Council adopt policy that would establish an agricultural land mitigation program to help offset the loss of farmland as a result of future development under the General Plan.

The following is an overview of General Policy that solidifies the City’s requirement to have an Agricultural Mitigation Program.

#### Agricultural Mitigation Program

During the September 8, 2014, City Council hearing, several parties submitted correspondence or testified during the public hearing to express their views on establishing an agricultural land mitigation program to help offset the loss of farmland as a result of future development under the proposed General Plan (EIR Impact 3.5-1).

The EIR identifies the conversion of up to 14,580 acres of a present inventory of 39,518 acres of farmland in the Planning Area to non-agricultural uses as significant and unavoidable. The EIR identified a number of mitigation measures that will reduce, but will not eliminate, the potential impacts to farmland loss due to future development. One of the major benefits of the General Plan is that the overall urban buildout plan focused on compact, controlled growth from the City's core that reduced the City's urban footprint at buildout when compared to the previous General Plan. Nevertheless, even after all of the proposed mitigation measures are applied, the impact to farmland is still significant and unavoidable. The Resolution to certify the Program EIR for the General Plan did contain a Statement of Overriding Considerations that acknowledges this impact, but determines that the overall advantages of the project (City buildout in accordance with the new General Plan) warrants this significant consequence.

Some parties, such as the American Farmland Trust, Sequoia Riverlands Trust, and Tulare County Citizens for Responsible Growth argued in favor of including an Agricultural Land Mitigation Program (AMP) as a necessary, feasible mitigation measure for reducing the impact. Others, including the Tulare/Kings County Building Industry Association, argued against an AMP as being ineffective and ultimately disruptive to both urban and agricultural development patterns and land values.

The Planning Commission considered the feasibility of an AMP as a mitigation measure for the unavoidable impacts from the project to agricultural land during its hearings in July of 2012. The Planning Commission concurred with staff's determination that an AMP was infeasible mitigation as a local, City-wide mitigation measure. The Planning Commission's conclusions that a local City-wide AMP was infeasible mitigation was based on the reasons noted in public testimony, including:

- Evidence suggesting that a local City-wide AMP would likely result in the creation of a patchwork of easements that may not constitute enough contiguous farmland to sustain economic viability for same and/or may frustrate orderly development in the future;
- An AMP could provide a speculative mitigation benefit, that the costs of conservation easements are highly variable and fees may not be adequate purchase set amounts of off-site mitigation, thereby rendering the effectiveness of such a program questionable;
- That the purchase of conservation easements and/or payment of fees can be extremely expensive, which can render future development in the planning area economically infeasible;
- The economic realities tend to guide the purchase of agricultural easements towards properties not subject to development pressures in the first place, thereby again rendering the mitigation benefits speculative at best.

However, to stave off potential litigation the City Council directed staff to further analyze and evaluate the City's options for assessing feasible alternatives to mitigate for the loss of farmland. As a result of this analysis, the Council elected to augment Land Use Policy LU-P-34 to both encourage a regional approach to preserving agricultural land and, in the absence of a regional AMP, require the City to establish local, city-wide AMP that requires conservation easements and/or in-lieu impact fees where proposed development converts farmland to non-agricultural uses.

The City's response to this issue has become standard practice throughout the Central Valley. The augmented Land Use Policy LU-P-34 was adopted as follows:

LU-P-34 Work with Tulare County and other state and regional agencies, neighboring cities, and private land trust entities to prevent urban development of agricultural land outside of the current growth boundaries and to promote the use of agricultural preserves, where they will promote orderly development and preservation of farming operations within Tulare

County. Conduct additional investigation of the efficacy of agricultural conservation easements by engaging local, regional, and state agencies and stakeholders in order to further analyze their ongoing efforts and programs that attempt to mitigate impacts from the conversion of agricultural lands through the use of agricultural conservation easements. Support regional efforts to prevent urban development of agricultural lands, specifically at the county level. Tulare County's General Plan 2030 Update Policy contains two policies (AG-1.6 Conservation Easements and AG-1.18 Farmland Trust and Funding Sources) that discuss establishing and implementing an Agricultural Conservation Easement Program (ACEP). The City supports the implementation of these measures by the County, in which the City may then participate. Such a regional program could include a fee to assist and support agricultural uses, and would be most feasibly and strategically developed on a countywide or other regional basis.

In addition to supporting regional efforts to prevent urban development of agricultural lands, the City shall create and adopt a mitigation program to address conversion of Prime Farmland and Farmland of Statewide Importance in Tiers II and III. This mitigation program shall require a 1:1 ratio of agricultural land preserved to agricultural land converted and require agricultural land preserved to be equivalent to agricultural land converted. The mitigation program shall also require that the agricultural land preserved demonstrate adequate water supply and agricultural zoning, and shall be located outside the City UDB, and within the southern San Joaquin Valley. The mitigation program shall, to the extent feasible and practicable, be integrated with the agricultural easement programs adopted by the County and nearby cities. The City's mitigation program shall allow mitigation to be provided by purchase of conservation easement or payment of fee, but shall indicate a preference for purchase of easements. The mitigation program shall require easements to be held by a qualifying entity, such as a local land trust, and require the submission of annual monitoring reports to the City. The mitigation program shall specifically allow exemptions for conversion of agricultural lands in Tier I, or conversion of agricultural lands for agricultural processing uses, agricultural buffers, public facilities, and roadways.

**The proposed new Policy only applies to conversion of farmland in Tiers II and III.** Those property owners converting farmland in Tier I are exempt since Tier I is almost exclusively comprised of lands currently within the City limits, which is already under substantial pressure to develop due to its proximity to urban uses.

It should be noted that at the time of adoption of the above-quoted policy, the Council discussion included a recognition that AMPs were then the topic of dispute in other jurisdictions in California, and the efficacy and necessity of establishing these programs were being debated and litigated in these jurisdictions. In short, both the necessity and the legality of a City's imposition of an AMP on future development was being challenged simultaneously. The outcome of these challenges was not yet decided. By providing for adoption of AMPs at a point in the future (when Tiers II and III are triggered), the City would have the benefit of the conclusions of this debate and litigation. The policy of requiring an AMP in conjunction with moving to Tier II or Tier III could then be reconsidered or revisited if appropriate.

#### What is an AMP?

An Agricultural Land Mitigation Program (AMP) typically requires that urban development on classified farmland be required to offset the loss of farmland by acquiring other farmland or easements to farmland that keep the farmland in agricultural production in perpetuity. Details of an AMP are worked out in developing the program (typically adopted by separate Ordinance) rather than in the mitigation measure itself. Such details include the appropriate ratio of mitigation required

per acre disturbed (e.g. 1:1 for Prime farmland ), the maximum allowable distance from the City or the affected land, if any, that will still qualify for mitigation, the required timing to enter into a land or easement purchase contract by the developer, options to pay in-lieu fees when purchase of land or easements are not possible, and the appropriate entity to administer the AMP, are typically worked out in adopted AMP Ordinance.

AMP's typically dictate that urban development on classified farmland is required to offset the loss of farmland by acquiring other farmland or easements to farmland that keep the farmland in agricultural production in perpetuity.

**DISCUSSION AND RECOMMENDED ACTION FOR GROWTH BOUNDARY CONSIDERATION:**

The City of Visalia is currently in the Tier I Growth Boundary which was drawn to generally coincide with the 2012 City limits. This has promoted infill within the City limits, with moderate outward expansion and protection of agricultural lands.

The Tier I boundary is established for a projected buildout population of 160,000. In terms of population buildout, the City is currently at about 84% of capacity within Tier I. It is projected that the City will reach 93% buildout in Tier I when 5,850 units have been issued.

Staff has maintained a running log of residential permits issued and non-residential square footages approved since April 2010 for the Tier I Growth Boundary. Data has been updated quarterly and measured against established thresholds to forecast years until the City is likely to enter into Tier II. The table below identifies the Tier I thresholds for each of the four land use categories and the total number of permits issued for residential, and square footage remaining for commercial, industrial and regional commercial. Per the latest numbers, residential, commercial, and industrial are nearing their established benchmarks. Conversely, Regional Commercial square footage totals are well below the established benchmark for that land use category.

<b>GROWTH BOUNDARY TIER THRESHOLD RECORDS As of 4<sup>th</sup> Quarter, Calendar Year 2019</b>				
<b>Record</b>	<b>Tier II Threshold</b>	<b>Total Issued Since 2010 (to date)</b>	<b>Estimated Years Remaining in Tier I</b>	<b>Percentage Remaining in Tier I</b>
Residential Building Permits*	5,850 Permits	4,763 Permits	2.23 Years	18.58%
Commercial Sq. Ft.	960,000 Sq. Ft.	796,608 Sq. Ft.	2.00 Years	17.02%
Industrial Sq. Ft.	2,800,000 Sq. Ft.**	2,649,470 Sq. Ft.	0.55 Years	5.38%
Regional Commercial Sq. Ft.	922,383 Sq. Ft.	111,344 Sq. Ft.	38.24 Years	87.93%

\*Includes Single-family and multi-family permits

\*\*The established threshold for Tier III

Based on the permit numbers as provided in the table above, building permit tracking records have indicated steady growth for residential, commercial and industrial since 2010. Large square footage industrial projects, in particular, have been permitted in recent years leading to enormous square footage gains. Similarly, one or more large commercial projects could easily propel square footage totals beyond the established thresholds, ahead of the forecasted years remaining. Although commercial square footage may be the earliest to meet its forecasted threshold, Regional

Commercial land absorption appears to be well below its threshold for moving to Tier II. The time estimates (shown in the table above) can be relied upon to estimate when development pressure will justify moving to Tier II.

The numbers in the table above conclude the City is nearing Tier II thresholds. The process in which the Council would authorize the opening of development to occur within Tier II requires a City-initiated General Plan Amendment and environmental document. Given the lead time necessary to complete the General Plan Amendment, including any CEQA Environmental review, must be factored into the time remaining in Tier I to ensure there is neither too much nor too little lag time from GPA initiation to actual Tier II land development needs.

### **GROWTH BOUNDARY RECOMMENDATIONS:**

Based on forecasted timeframes and the increase in residential and non-residential development, staff recommends the City Council come to a consensus on only one of the following options:

1. Direct staff to start preparing the necessary reports to expand only **one** land use into the next Growth Boundary based on the land use with less than 15% of the total number of permit/square footage remaining.

§ Based on this option, the City would move only the Industrial land use into the Tier III Growth Boundary as industrial projects are often submitted with enormous square foot floor plans likely placing totals beyond the threshold trigger point. As noted earlier in the staff report, there is no trigger necessary for industrial uses since there are no industrial-designated areas within Tier II. Consideration for expanding Industrial land for Tier III is specified in Land Use Policy LU-P-21. The area of industrial lands in Tier III is provided in the attached "Growth Boundary Tiers Industrial Lands Map" (as shown in Exhibits "A" and "B").

Alternately, the Council may direct staff to exclude Industrial land use on the basis that sufficient infrastructure has not been planned to serve industrial land in the Tier III Growth Boundary.

If the Council elects to not pursue opening industrial land in Tier III, than the Council may choose to select either Commercial, which has 17.02% of total square footage remaining in Tier I or Residential, which has 18.58% of total permits remaining in Tier I.

2. Expand **multiple** land uses into the Tier II Growth Boundary based on the land use with less than 20% total number of permits/square footage remaining.

§ This option would result in Residential and Commercial land uses expanding into the Tier II Growth Boundary and Industrial land use into Tier III since all three land uses are within parameters of nearing their thresholds; whereas the Regional Commercial land use would not be expanded as it is estimated to be 38 years from its threshold.

Alternately, the Council may direct staff to exclude Industrial land use on the basis that sufficient infrastructure has not been planned to serve industrial land in the Tier III Growth Boundary.

3. Expand **all** land uses into the next Tier Growth Boundary.

§ Meaning the City would choose to expand all land uses into the Tier II and Tier III Growth Boundary, respectively, regardless of the Regional Commercial land use being 38 years from its threshold.

Based on forecasted timeframes, staff recommends the City Council direct staff to enact option number two. This option offers the greatest opportunity for the City to not only meet the requirements of the General Plan and ensure that an adequate amount of land uses will be made available for annexation, but also provides an appropriate utilization of resources to accomplish the desired outcome.

It is anticipated that the GPA revisions can be done using in-house planning staff. However, if technical studies such as traffic modeling are required, this may result in additional consulting services from a private consultant. This process could take approximately six to eight months to complete. It should be noted that if the decision is made to expand each land use separately as they near their established threshold, the same process and timeline would be expected each time expansion is decided upon.

### **DISCUSSION AND RECOMMENDED ACTION FOR AGRICULTURAL MITIGATION PROGRAM**

The 2014 General Plan Update Program EIR identified 28,890 acres as Important Farmland for which future urbanization of this farmland is considered significant and unavoidable. Although the statement of overriding consideration adopted by the City Council did not appease several parties that wanted the Council to adopt an AMP, the Council, elected to adopt an augmented policy that requires the City to implement that policy through the adoption of an ordinance creating an AMP would need to be adopted prior to any real property owner seeking to convert agricultural land in Tier II, once the triggers for development in that Tier have been met. Consequently, based on the information provided in this report, the City is nearing the point of having to adopt and implement an AMP.

Staff has researched options the City may consider in meeting its AMP ordinance requirement, and two types of mitigation programs prevail: “mitigation banks” and “in-lieu fees”. Both options could be self-managed or managed by a third party land trust. These options, including examples being used by other nearby jurisdictions are discussed below:

#### Mitigation Banks:

- Mitigation Banks are formed through the acquisition and protection of land by purchasing land or a conservation easement in excess of what is currently required by any specific development project. The excess land or conservation easement that is available for use to mitigate for other projects is the “mitigation bank.” The mitigation bank land can be acquired all at once and acreage sold off as “credits” to mitigate for development impacts; or, the project proponent acquires land or a conservation easement on acreage that equals or exceeds their developed acreage, and they then transfer the land to a qualified conservation holder, such as a land trust.

#### In-Lieu Fees:

- In-lieu fees are another approach for fulfilling mitigation requirements, and can be a source of funding to purchase conservation land or conservation easements. “In-lieu” of the project proponent acquiring mitigation land or conservation easements, the fees allow the project proponent to pay a specified fee to the lead agency or other designated agency. The in-lieu fee is then used to acquire the required mitigation land or conservation easement. A third party such as a land trust or government agency undertakes the acquisition on behalf of the agency that approved the original development project.

Staff has researched the subject of AMPs and found the California Council of Land Trusts’ (CCLT) model mitigation program ordinance is a to be a good starting point for crafting a workable AMP. The CCLT model has been used by a number of local agencies. This example is useful and can be adjusted to best meet the needs of a jurisdiction. The City of Tulare is currently working with third

party land trust group, Sequoia River Lands Trust (SRLT), to draft an ordinance based on the CCLT's model mitigation ordinance. Staff was informed that the SRLT will manage the City of Tulare's mitigation program with the in-lieu fees approach.

Tulare County's Agricultural Conservation Easement Program (ACEP) was enacted in 2016. The County presently manages the program and the acquisition of easements is on a case by case basis. They have associated an application fee of \$510.00 for processing an ACEP, but have yet to establish a per-acre cost analysis for farmland mitigation. This is because developers have offered other lands they currently own within the county to be entered into their ACEP. Tulare County does not wish to manage mitigation programs on behalf of other local agencies.

### **AGRICULTURAL MITIGATION PROGRAM RECOMMENDATION**

The Council's adoption of the General Plan, including the augmented Land Use Policy LU-P-34, establishes the parameters for staff to work with as the City moves towards the development and implementation of an AMP to address the conversion of farmland in Tiers II and III prior to expansion. Movement to growth Boundary Tier II and development of an AMP may be done concurrently. To aid in the process of drafting an AMP, the City applied for SB 2 Grant Funding. Staff was just recently informed that the State has approved our SB 2 Grant application. The ability to secure this grant will allow staff to seek a consultant to help staff in researching and developing an ordinance that is uniquely our own and yet regionally consistent.

However, in light of recent issues including the potential legality of AMP's and adoption by local GSA's to address the Sustainable Groundwater Mitigation Act (SGMA), may warrant further analysis and research on AMP's prior to adopting a program. Given these potential issues, staff requests the City Council give consideration to the following:

Direct staff to begin the process to hire a consultant to assist staff in researching and drafting the best AMP ordinance, including researching the efficacy and necessity of an ag mitigation program that may result in reconsideration in the implementation of an AMP or other policies designed to further address offsetting the loss of farmland.

### **NEXT STEPS**

#### **Growth Boundaries**

With direction from Council, staff will begin revisions to the General Plan and EIR. Estimated timeframes to complete the work necessary could take between six to eight months. Additional time may be required if assistance from a consultant is required due to technical studies.

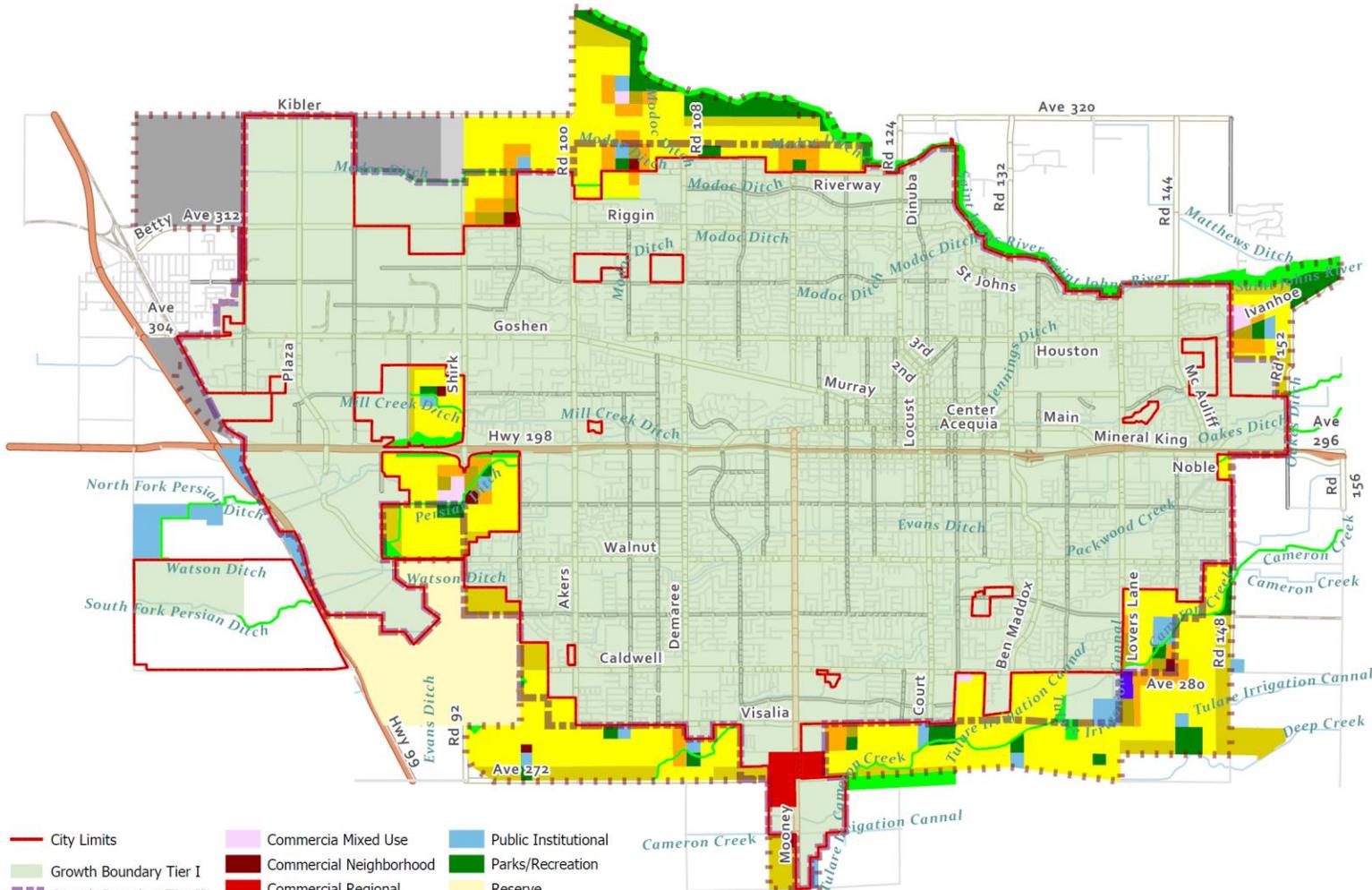
#### **Agricultural Mitigation Program**

Staff has begun researching various mitigation programs and will continue to review which programs are implemented in similar jurisdictions, while locating a land trust to work with. Staff anticipates using SB2 grant money to hire a consultant to help in preparing an AMP ordinance and nexus study to defensibly establish the amount of an in-lieu fee or to determine if the Council should consider the efficacy and necessity of an ag mitigation program prior to actually adopting one. Staff anticipates bringing a report at one of the Council meetings in February authorizing the Council to receive the SB2 grant money and request authorization to appropriate money to hire a consultant. Staff anticipates this entire process to take six to eight months to complete.

### **ATTACHMENTS**

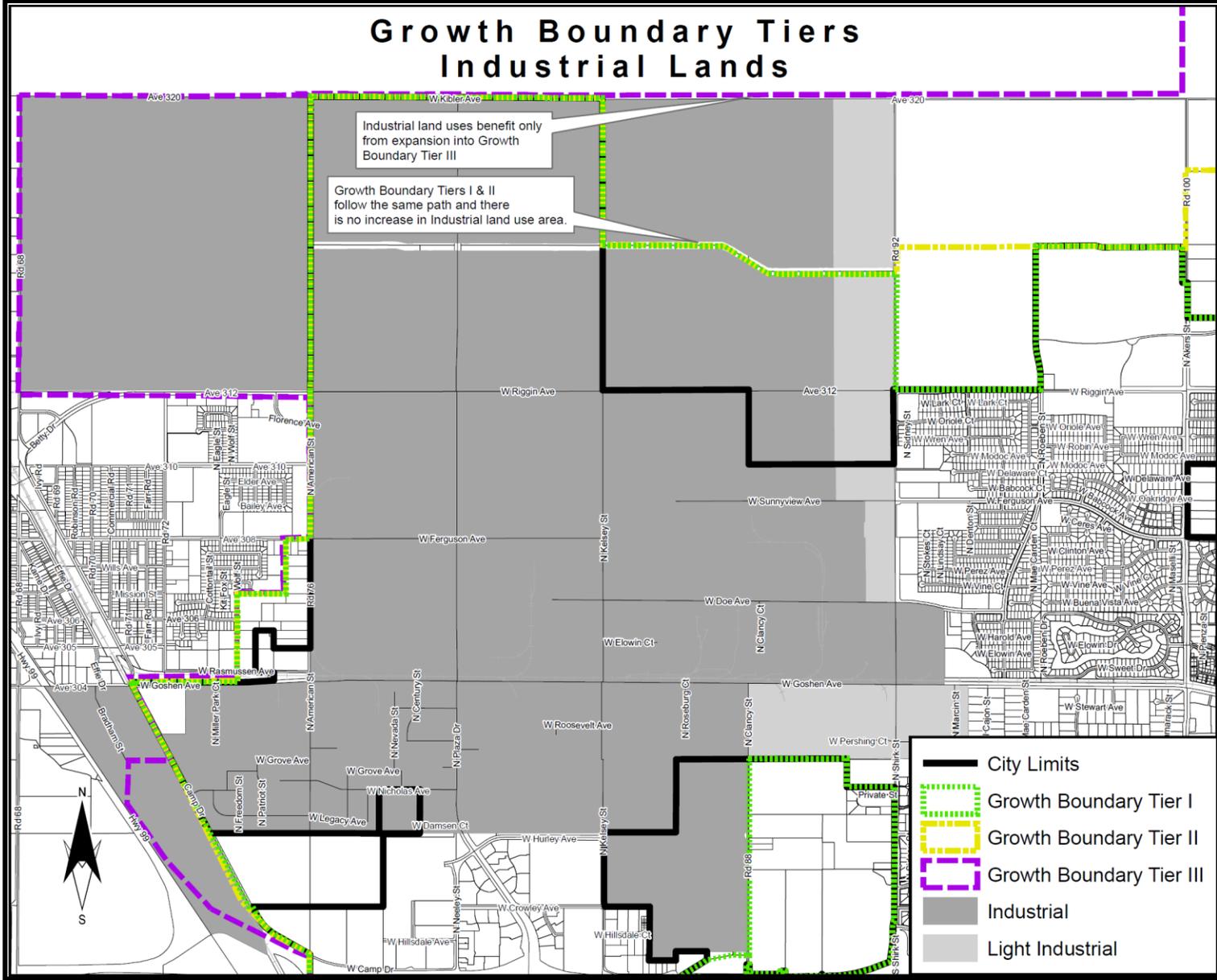
- Exhibit "A" – Growth Boundary Tiers
- Exhibit "B" – Growth Boundary Tiers – Industrial Land

# Growth Boundary Tiers



- |                          |                         |                              |
|--------------------------|-------------------------|------------------------------|
| City Limits              | Commercial Mixed Use    | Public Institutional         |
| Growth Boundary Tier I   | Commercial Neighborhood | Parks/Recreation             |
| Growth Boundary Tier II  | Commercial Regional     | Reserve                      |
| Growth Boundary Tier III | Commercial Service      | Residential High Density     |
| Agriculture              | Downtown Mixed Use      | Residential Low Density      |
| Business Research Park   | Industrial              | Residential Medium Density   |
| Conservation             | Light Industrial        | Residential Very Low Density |
|                          | Office                  |                              |

# Growth Boundary Tiers Industrial Lands



**EXHIBIT "B"**

# APPENDIX C

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## ***Visalia General Plan Land Use Element Growth Strategy Policies***



C-1

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***Section 2.2 Growth Strategy***



### Recent and Approved Development

As of late 2011, there were 6,451 housing units in various stages of development in Visalia, in a combination of tentative and final maps. Of these, 85 percent were single family units and 15 percent were multi-family units. These residential pipeline projects total approximately 1,740 acres.

In addition, 17 non-residential development projects were also in various stages of permitting and development. These projects comprise 437,000 square feet of commercial uses, 139,000 square feet of office uses, 511,500 square feet of industrial uses, and 185,100 square feet of public/institutional uses, on a total of 155 acres. It is estimated that these projects, when completed, could create some 2,300 jobs in Visalia.

### Urban Land Needs

The extent of Visalia's urban footprint in 2030, the mix and distribution of various land uses, and those land uses' densities and intensities, all informed the city's population and job growth projections for the next several decades.

Population growth determines the need for residential land, schools and parks, while job growth and retail spending determines the need for non-residential land of various categories. By translating population growth into housing units needed and job growth into non-residential square footage needed, and then applying density and intensity assumptions, it is possible to estimate how much land is needed in each category to support the growth. But because population growth, employment growth, and future development are ultimately unpredictable and can only be approximated, they must be used as guide-

lines—general parameters—for land use planning. Consequently, the General Plan provides for land to be developed in a series of “tiers,” so that growth can proceed logically at either the slower or the faster rate. Tiers of development, urban boundaries, and growth management are discussed in section 2.4 of this element.

### 2.2 GROWTH STRATEGY

This General Plan shows how the community would like Visalia to grow over the planning period, through 2030. Through integration of all the General Plan Elements, this General Plan will guide sustainable physical and economic growth, while conserving natural and cultural resources and maintaining community character.

#### Compact Form

#### *Urban Development and Urban Growth Boundaries*

Clearly defined urban edges reflect a commitment to focus future growth within the City in order to prevent urban sprawl and protect environmentally sensitive areas. The Urban Development Boundary (UDB) and Urban Growth Boundary (UGB), which reinforce the concentric ring growth concept, are the best strategies to achieve a compact development pattern. The UDB/UGB protect the health, safety, welfare, and quality of life of the residents of Visalia by concentrating future residential, commercial, and industrial growth in areas already served by urban services or areas where such services are to be provided consistent with this General Plan.



*Nearly 6,500 housing units are in the development pipeline, helping to serve the city's growing population.*

The UDB and UGB are administrative boundaries beyond which urban development is not allowed during the time periods for which they are effective. Plan policies provide specific criteria for moving from one growth tier to another, which are described in greater detail in Section 2.5. The General Plan anticipates that these boundaries will be reviewed and amended periodically to ensure an adequate land supply is provided to accommodate residential and non-residential land demand.

### *Open Space Action Plan*

Visalia's Open Space Action Plan consists of the objectives and policies presented in the Open Space & Conservation Element along with some specific objectives and policies in this element. The open space network reinforces the limits of urban development by designating land around the growth area as Agriculture/Rural/Conservation, Park, and Rural Residential. Additional detail on how the action plan will be implemented is in the Implementation Chapter. Taken together, these initiatives specifically respond to and are consistent with the Government Code's requirements for an Open Space Action Plan.

### *Infill Development*

The Urban Development and Urban Growth Boundaries complement General Plan policies emphasizing infill development, a thriving downtown, revitalization of the Mooney Corridor, new commercial and industrial development and additional housing opportunities. In addition to the 2,300 acres of vacant land within the city limits, many sites can be classified as underutilized, based on an improvement to land value ratio, and may have redevelopment poten-

tial. Infill development is encouraged with the Urban Development Boundary, and the General Plan introduces new incentives to facilitate infill development (see Section 2.8). In addition, the Land Use Element provides strategies for fostering a strong Downtown/East Downtown that is the center of the community and a source of positive identity for the City of Visalia.

### **Balanced Uses**

The General Plan Land Use Diagram (Figure 2-2) illustrates a mix of land uses that meet the housing and economic development needs of the community while balancing growth so that Downtown continues to be the "heart of the City" and environmental and cultural resources are protected. In recent years, growth and development has occurred along the northern and western edges of the city; this Plan re-centers the city on Downtown by promoting neighborhood development in the southern and eastern portions of the Planning Area, while still ensuring balanced growth amongst all quadrants.

In addition to balancing the anticipated growth geographically, the General Plan Land Use Diagram balances residential growth with employment-generating land uses. More than 3,500 additional acres of commercial and industrial land for potential employment development have been planned. This will help not only to create jobs for local residents but also balance the job to housing ratio.

### **Equitable**

This General Plan is predicated on the idea that new development should pay its own way, so existing residents do not have to assume the costs of providing infrastructure and services to growth areas. The key

C-2

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***Section 2.5 Urban Growth Boundaries  
and Growth Management***



Use of lands in the “reserve” designation is anticipated to remain in agriculture.

## 2.5 URBAN BOUNDARIES AND GROWTH MANAGEMENT

### General Plan Buildout

The term “buildout” refers to the hypothetical situation in which all anticipated development under the General Plan has occurred. It should be noted that although the General Plan assumes a 20 year horizon and anticipates buildout to occur in 2030, the actual timeline, pace, and amount of growth may be different.

The General Plan establishes two new growth boundaries to reflect current conditions and available population and job growth projection data. Visalia’s previous general plans have also taken this approach to outlining and managing future growth, setting growth boundaries that are tied to future population numbers. As the Land Use Diagram has been designed around the most recent population projections, the growth boundaries are drawn accordingly.

Table 2-4 provides an overview of new and overall development at buildout of the General Plan.

Table 2-5 shows the breakdown of buildout acreage in the Planning Area by land use category.

The First Tier, also known as the Urban Development Boundary I or UDB (Tier I), is largely coterminous with the 2012 city limits. It comprises slightly over half of the potentially developable land under the Plan, and could support a target buildout population of approximately 160,000. The Second Tier, known as the Urban Development Boundary II or UDB (Tier II) comprises 27,936 acres and could support a target buildout

**Table 2-4: Proposed General Plan Buildout**

	Existing (2010)	Pipeline Projects (2010)	New Development (2030)	Total Buildout (2030)
Population	124,440	17,500	68,060	210,000
Housing Units	43,900	6,500	25,700	76,100
Households	41,500	6,100	24,300	71,900
Students	26,800	3,790	13,930	44,520
Schools Provided/ Needed	32	4	20	56
Parks (acres)	650	4	736	1,390
Park Ratio <sup>1</sup>	5.1	n/a	10.8	6.6
Jobs	65,900	2,220	25,610	93,730

(1) Parks ratio includes some future park land that is intended to be created outside of the development process.

Sources: US Census Bureau; California Department of Finance; Dyett & Bhatia, 2013

**Table 2-5: General Plan Buildout (Acres by Land Use)<sup>1</sup>**

	Pipeline Projects	New Development	Percent
Very Low Density Residential	29	510	5.3%
Low Density Residential	1,289	3,387	34.9%
Medium Density Residential	68	618	6.4%
High Density Residential	6	235	2.4%
Commercial Mixed Use		324	3.3%
Downtown Mixed Use		21	0.2%
Regional Commercial		262	2.7%
Service Commercial		214	2.2%
Neighborhood Commercial		82	0.8%
Office		46	0.5%
Industrial		1,771	18.3%
Light Industrial		132	1.4%
Business Research Park		85	0.9%
Park		740	7.6%
Public/Institutional		468	4.8%
<b>TOTAL</b>	<b>1,391</b>	<b>9,613</b>	<b>100%</b>

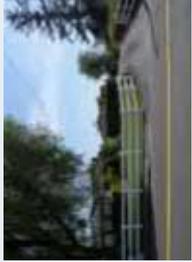
(1) Calculated acres account for an 80% net-to-gross factor for all opportunity sites except for schools and parks, which are assumed to develop at 100%.

# LAND USE CLASSIFICATIONS

## RESIDENTIAL USES

### Very Low Density Residential

This designation is intended to provide for single family detached housing on large lots. Residential densities are typical of rural residential environments.



*Very Low Density Residential, 0.1 - 2 h/acre*



### Low Density Residential

This designation is intended to provide for single family detached housing. Residential densities are typical of single-family subdivisions.



*Low Density Residential, 2 - 10 h/acre*



### Medium Density Residential

This designation can accommodate a mix of housing types, from small-lot starter homes, zero-lot-line developments, and duplexes, to townhouses and garden apartments. Pedestrian-oriented design and clustering can support higher density.



*Medium Density Residential, 10 - 15 h/acre*



### High Density Residential

This designation is intended to accommodate attached homes, two-to-four-plexes, and apartment buildings. High density residential development is typically found at neighborhood centers and along corridors.



*High Density Residential, 15 - 35 h/acre*



## COMMERCIAL AND MIXED USES

### Downtown Mixed Use

This new designation characterizes development in the Downtown Core and replaces the existing Central Business District designation in the General Plan. It permits the highest density and intensity of development in the city in order to keep Downtown a vibrant, walkable environment. Vertical mixed use is strongly encouraged, Commercial, personal service, office, and residential uses are allowed.



*Downtown Mixed Use, maximum combined FAR of 5.0*



### Commercial Mixed Use

This new designation allows for either horizontal or vertical mixed use development, and permits commercial, service, office, and residential uses. Any combination of these uses, including a single use, is permitted. This designation is found both at key activity nodes and along corridors, including locations currently designated Shopping/Office Commercial or Community Center.



*Commercial Mixed Use, maximum combined FAR of 2.0*



### Neighborhood Commercial

This new designation builds on the existing Neighborhood Center and Convenience Center designations in the General Plan, by also permitting residential uses. It provides for small-scale commercial development that primarily serves local neighborhoods such as convenience shopping and small offices. Horizontal or vertical residential mixed use is also permitted. Vertical residential mixed use is also permitted.



*Neighborhood Commercial. Intensity limits to be set by two story height limits and coverage standards in the zoning ordinance.*



**COMMERCIAL AND MIXED USES**

**Service Commercial**

This new designation builds on the existing General Plan's Service Commercial designation. It is intended for a range of retail and service uses that meet local and regional demand, such as auto sales and repair, storage facilities, equipment rental, wholesale businesses, and retail not typically located in shopping centers. Ancillary office spaces that support commercial development are also allowed.



*Service Commercial, maximum FAR of 0.6*



**Regional Commercial**

This new land use designation is similar to the existing Regional Center use in the General Plan, and also incorporates areas currently designated Highway Commercial. It is intended to accommodate retail establishments that serve residents and businesses of the region at large. Shopping malls, large format, or "big-box" retail are allowed, as are supporting uses such as gas stations and hotels.



*Regional commercial, maximum FAR of 0.6*



**OFFICE USES**

**Office**

This designation would replace the existing Professional/Administrative Office designation and is intended for office complex development, including medical offices. General office uses also include administrative, financial, business, and professional operations. Ancillary supporting uses, such as restaurants, copy shops, and convenience retail, are also permitted.



*Office, maximum FAR of 1.0*



**INDUSTRIAL USES**

**Business Research Park**

This designation builds on the previous General Plan's Business Research Park category and emphasizes research and development uses. Land with this designation is intended for research and development enterprises, and secondary office (limited customer access) uses.



*Business Research Park, maximum FAR of 0.5*



**INDUSTRIAL USES, CONTINUED**

**Light Industrial**

Land with this designation is intended for light manufacturing, warehousing, storage, distribution, research and development enterprises, and secondary office (limited customer access) uses.



*Light Industrial, maximum FAR of 0.5*



**Industrial**

This designation allows primary manufacturing, processing, refining, and similar activities including those with outdoor facilities. It also accommodates warehousing and distribution with supporting commercial services and office space. Retail is not permitted.



*Industrial, maximum FAR of 0.6*



**PUBLIC USES**

**Public/Institutional**

The public/institutional classification applies to lands owned by public entities, including City Hall and other City buildings, County buildings, schools, the Municipal Airport, and hospitals. It also includes public facilities such as fire and police stations, recycling centers, and sewage treatment.

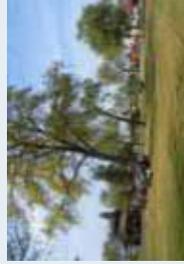


*Public/Institutional, no maximum FAR*



**Parks and Open Space**

The park designation applies to both public and private recreational sites and facilities, including neighborhood, community, and regional parks; recreation centers; golf courses; and other open space areas.



*Parks and Open Spaces*



population of approximately 178,000. The criterion for land in Tier II to become available for annexation and development is that such activity shall only occur if it does not result in excess of a 10-year supply of undeveloped residential land within the Tier I. The Third Tier, also known as the Urban Growth Boundary or UGB (Tier III), comprises 32,648 acres and could support a target buildout population of 210,000. Figure 2-3 shows the development footprints of the three tiers.

### Triggers for Proceeding from Tier I and Tier II to Tier III

Policies in this section describe the “triggers” at which development can proceed from Tier I and Tier II to Tier II, which differ for each land use category. Each of these triggers uses building permit totals because they accurately reflect investment-backed commitments to development and can be readily tracked.<sup>1</sup>

### Residential Land

Development of residential land in Tier I may occur at any time. Development of Tier II land designated for residential uses will be permitted once the City can demonstrate that less than a 10 year supply of land with residential designations remains. Development of Tier III land designated for residential uses will be permitted after the City has issued building permits for 12,800 housing units have been issued, starting from the 2010 Census date, resulting in a target population of 178,000. The residential building threshold is based on 80 percent of one half (16,000) of the total General Plan buildout of 32,000 units (rounded).

<sup>1</sup> These triggers may be modified based on subsequent direction from the City Council.

### Commercial, Mixed Use, Office, and Service Commercial

Development of Tier III land designated for Commercial Mixed Use, Office and Service Commercial uses will be permitted after the City has issued building permits for new construction or alterations and additions to existing vacant non-residential space for a total of 960,000 square feet of space on designated Commercial Mixed Use, Downtown Mixed Use, Office and Service Commercial land within Tier I and Tier II, starting from the 2010 Census date. (Development may extend out to Tier III at this time for these uses because the tier boundaries for commercial uses are virtually coterminous.) The basis for this trigger is as follows:

	Gross Non-Retail Commercial Space (Square Feet)
Total non-retail commercial and office space needed, 2010 to 2030	2,400,000
Tier I and Tier II = Half of 20-year need	1,200,000
80% of Tier I + Tier II Supply	960,000



The growth management strategy aims to prevent premature conversion of agricultural land.



*Industrial*

Development of Tier III land designated Industrial, Light Industrial, and Business Research Park uses will be permitted after the City has issued building permits for new construction or alterations and additions to existing vacant industrial space for a total of 2.8 million square feet of space or subdivision and site plan approvals for 250 acres on designated Industrial, Light Industrial, and Business Research Park land within Tier I and Tier II. Similar to commercial uses, development of industrial uses may extend out to Tier III after the threshold is reached because the boundaries for Tier I and Tier II are coterminous for this land use category. The basis for this trigger is as follows:

	<i>Gross Non-Retail Industrial Space (Square Feet)</i>
Total industrial space needed, 2010 to 2030 (rounded)	8,000,000
Tier I and Tier II = Half of 20-year need	4,000,000
70% of Tier I and Tier II Supply	2,800,000

**Balancing Growth in Quadrants**

Balanced growth amongst Visalia’s four quadrants is also a longstanding tenet of the city’s approach to land use planning that is being carried forward to this General Plan. The Plan adds developed acreage in a balanced fashion, in both the second tier of development and the third. The quadrant that sees the highest percentage of development is the Northwest, owing to several new neighborhoods and buildout of the Industrial Park. Development in the Northwest

would be concentrated in the Second Tier. Development in the Southwest and Northeast would be concentrated in the Third Tier, while the Southeast would develop in roughly equal proportion in the Second and Third Tiers.

In sum, the Plan “squares out” the overall city form, maintaining a compact, concentric development pattern. Table 2-6 shows the percentage of overall developed acreage that would take place in each quadrant, by tier.

**Objectives**

**LU-O-9** Implement and periodically update a growth management system that will guide the timing, type, and location of growth; preserve resource lands, natural features and open space; and promote infill and redevelopment.

**LU-O-10** Protect agricultural land from premature urban development.

**Policies**

**LU-P-19** Ensure that growth occurs in a compact and concentric fashion by implementing the General Plan’s phased growth strategy.

*The General Plan Land Use Diagram establishes three growth rings to accommodate estimated City population for the years 2020 and 2030. The Urban Development Boundary I (UDB I) shares its boundaries with the 2012 city limits. The Urban Development Boundary II (UDB II) defines the urbanizable area within which a full range of urban services will need*

**Table 2-6: Percent of Total Developed Acres Added by Quadrant**

	Northwest	Southwest	Northwest
Urban Development Boundary (Tier I)	28%	29%	16%
Urban Development Boundary (Tier II)	4%	26%	56%
Urban Growth Boundary (Tier III)	10%	27%	33%

Source: Dyett & Bhatia, 2012

*to be extended in the first phase of anticipated growths with a target buildout population of 178,000. The Urban Growth Boundary (UGB) defines full buildout of the General Plan with a target buildout population of 210,000. Each growth ring enables the City to expand in all four quadrants, reinforcing a concentric growth pattern.*

land in Tier II is that land would only become available for development when building permits have been issued in Tier I at the following levels, starting from April 1, 2010:

Residential: after permits for 5,850 housing units have been issued; and

**LU-P-20** Allow annexation and development of residential, commercial, and industrial land to occur within the “Tier I” Urban Development Boundary (UDB) at any time, consistent with the City’s Land Use Diagram.

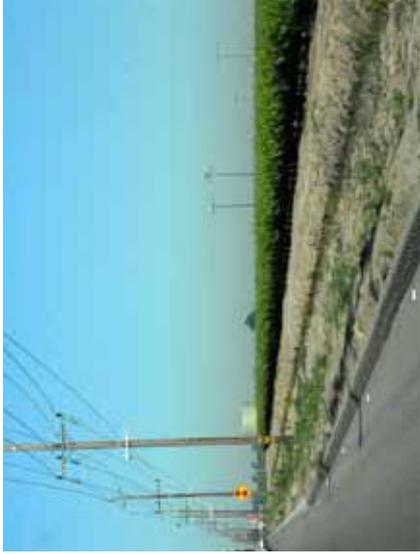
Commercial: after permits for 480,000 square feet of commercial space on designated Commercial Mixed Use, Downtown Mixed Use, Office, and Service Commercial land have been issued.

**LU-P-21** Allow annexation and development of residential, commercial, regional retail, and industrial land to occur within the Urban Development Boundary (Tier II) and the Urban Growth Boundary (Tier III) consistent with the City’s Land Use Diagram, according to the following phasing thresholds:

Regional Retail: New Regional Retail areas in the Tier II Growth Boundary shall be eligible for urban development upon satisfactory demonstration that the following criteria have been met:

- I. Existing Regional Retail Commercial zoned land south of Caldwell Avenue, that was undeveloped as of the date of adoption of the General Plan has received at least

- “Tier II”: Tier II supports a target buildout population of approximately 178,000. The expansion criteria for



*The Plan clearly delineates the edge of urban development and preserves farmland.*

922,383sq.ft. of commercial building permits [formula: 121 acres @43,560sq.ft. per gross acre = 5,270,760sq.ft. x .25 (assumed FAR for Regional Retail development) x 0.7 (recommended flex factor)]

2. The uses and tenants proposed for the area will substantially further the community's goal of providing high level regional retail goods and services.
3. That there is sufficient roadway capacity and adequate public facilities and infrastructure to accommodate the proposed development.

The regional retail zone classification shall provide for permitted and conditional uses that are of a regional draw only. Uses that are not exclusively of a regional draw may be allowed where a finding is made that such uses are ancillary or associated with the regional uses. Uses of a neighborhood or convenience level draw only shall not be permitted.

- "Tier III": Tier III comprises full buildout of the General Plan. The expansion criteria for land in Tier III is that land would only become available for development when building permits have been issued in Tier I and Tier II at the following levels, starting from April 1, 2010:

Residential: after permits for 12,800 housing units have been issued.

Commercial: after permits for 960,000 square feet of commercial space on designated Commercial Mixed Use, Downtown Mixed Use, Office, and Service Commercial land have been issued; and

Industrial: after permits for 2,800,000 square feet of commercial space on designated Industrial, Light Industrial, and Business Research Park land have been issued.

*To complement residential neighborhood development, the City also may allow small annexations for sites less than 30 acres in size that are contiguous to the City limits to allow for efficient development of a neighborhood, commercial area or employment center, provided no General Plan amendment is required and infrastructure is available or can be extended at no cost to the City.*

*Triggers for proceeding from Tier I and Tier II to Tier III may be modified based on subsequent direction from the City Council.*

*Annexations are subject to review against regulations and policies in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the Tulare County Local Agency Formation Commission Policy and Procedure Manual regarding develop-*

*ment and inventory of existing vacant land designated for urban uses in the city limits.*

**LU-P-22** Allow for City Council approval of master plans, following Planning Commission review and recommendation, for sites under a single ownership or unified control, which may include developable land within both multiple development tiers. Allow for pre-zoning of this master-planned land, subject to execution of a development agreement between the City and the land owner conforming to the requirements of Government Code Section 65864 et seq., with the project allowed to annex and develop while the City is still limiting development approvals to land within the Tier I or Tier II designation.

*An approved master-planned site then could be annexed before development is permitted in Tier II or Tier III under Policy LU-P-21. The development agreement would spell out details on overall development, density/intensity and phasing, infrastructure needs and financing, and what each party would do. This policy will allow large land owners, with Council approval, to have a longer time frame for development and infrastructure planning, consistent with the vision of the General Plan, and also “nail down” the numbers for their financial partners while still maintaining the City’s interest in having concentric growth through a phasing plan.*

**LU-P-23** Continue to use a land development information system for the City’s Planning

Area to provide information on Visalia’s annual growth and implementation of the General Plan’s goals, objectives, and implementing policies.

**LU-P-24** Periodically adjust, no less frequently than once every five years, the land use and economic demand projections used to determine population estimates, needed land supply and amendments to Urban Development Boundaries.

*This will be done as part of the General Plan Report.*

**LU-P-25** Provide planning and technical support for the relocation of agricultural operations currently located in the City to compatible locations in the Planning Area or the County.

**LU-P-26** Continue to follow the Memorandum of Understanding with Tulare County, and work with the County to strengthen the implementation of the Visalia General Plan.

**LU-P-27** Initiate planning for post-2030 urban land needs in the area north of St. Johns River that is within the City’s Sphere of Influence, and other areas as may be identified by the City Council, when residential development with the Urban Growth Boundary Tier 3 reaches 80 percent of capacity, or earlier, at the initiative of the City Council.



*The St. Johns River functions as a natural edge of development.*



Central Visalia has a compact street grid and narrow roads, typical of older downtowns.

*This long-term Planning Area is outside of the Urban Growth Boundary Tier 3 (UGB) established for this General Plan, and a General Plan amendment adding it to the UGB will require detailed studies of infrastructure needs, financing options for extension public facilities and services, and environmental resources and a determination by the City Council that the City's long term interests are best served by sensitively planned, appropriately timed development north of the St. Johns River, that development will provide a net fiscal benefit to the City, and that infill development opportunities within the City have been fully realized.*

**LU-O-12** Provide for an orderly and efficient transition from rural to urban land uses.

**LU-O-13** Minimize urban sprawl and leap-frog development by encouraging compact, concentric and contiguous growth.

**Policies**

**LU-P-28** Continue to use natural and man-made edges, such as major roadways and waterways within the City's Urban Growth Boundary, as urban development limit and growth phasing lines.

**LU-P-29** Use regional and community parks and open space to enhance gateways to the City and as a buffer between adjacent communities.

**LU-P-30** Maintain greenbelts, or agricultural/open space buffer areas, between Visalia and other communities by implementing growth boundaries and working with Tulare County and land developers to prevent premature urban growth north of the St. Johns River and in other sensitive locations within the timeframe of this General Plan.

*Techniques to be applied selectively at appropriate locations in consultation with landowners with the objective of preserving agricultural lands and open space around the City could include voluntary programs for establishing open space and conservation easements, purchasing development rights,*

**2.6 RURAL BUFFER AND EDGE CONDITIONS**

Maintaining Visalia as a free-standing city, separate from neighboring urbanized areas, is a high priority for the community and a central feature of the Land Use Diagram. The land use plan establishes clear edges to new development. The St. Johns River forms a natural boundary in the northeast, and Highway 99 forms the western boundary (primarily for non-residential land uses). To the north, south, and east, county roads are used to set the limits of urban development during this planning period. In some instances, the Very Low Density Residential designation is used at the edges of neighborhoods to provide a more gentle transition to rural uses.

**Objectives**

**LU-O-11** Maintain Visalia as a separate and distinct community.

C-3

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***Section 2.6 Rural Buffer and  
Edge Conditions***





Central Visalia has a compact street grid and narrow roads, typical of older downtowns.

*This long-term Planning Area is outside of the Urban Growth Boundary Tier 3 (UGB) established for this General Plan, and a General Plan amendment adding it to the UGB will require detailed studies of infrastructure needs, financing options for extension public facilities and services, and environmental resources and a determination by the City Council that the City's long term interests are best served by sensitively planned, appropriately timed development north of the St. Johns River, that development will provide a net fiscal benefit to the City, and that infill development opportunities within the City have been fully realized.*

**LU-O-12** Provide for an orderly and efficient transition from rural to urban land uses.

**LU-O-13** Minimize urban sprawl and leap-frog development by encouraging compact, concentric and contiguous growth.

**Policies**

**LU-P-28** Continue to use natural and man-made edges, such as major roadways and waterways within the City's Urban Growth Boundary, as urban development limit and growth phasing lines.

**LU-P-29** Use regional and community parks and open space to enhance gateways to the City and as a buffer between adjacent communities.

**LU-P-30** Maintain greenbelts, or agricultural/open space buffer areas, between Visalia and other communities by implementing growth boundaries and working with Tulare County and land developers to prevent premature urban growth north of the St. Johns River and in other sensitive locations within the timeframe of this General Plan.

*Techniques to be applied selectively at appropriate locations in consultation with landowners with the objective of preserving agricultural lands and open space around the City could include voluntary programs for establishing open space and conservation easements, purchasing development rights,*

**2.6 RURAL BUFFER AND EDGE CONDITIONS**

Maintaining Visalia as a free-standing city, separate from neighboring urbanized areas, is a high priority for the community and a central feature of the Land Use Diagram. The land use plan establishes clear edges to new development. The St. Johns River forms a natural boundary in the northeast, and Highway 99 forms the western boundary (primarily for non-residential land uses). To the north, south, and east, county roads are used to set the limits of urban development during this planning period. In some instances, the Very Low Density Residential designation is used at the edges of neighborhoods to provide a more gentle transition to rural uses.

**Objectives**

**LU-O-11** Maintain Visalia as a separate and distinct community.

*support for agricultural land trusts and “land banking” and, if feasible, establishing a program for transfer of development rights. This program will need to be coordinated with post-2030 planning to avoid creating the potential for “leapfrog” development. See policy LU-P-27.*

**LU-P-31** Promote the preservation of permanent agricultural open space around the City by protecting viable agricultural operations and land within the City limits in the airport and wastewater treatment plant environs.

*Land around the Airport may be developed with site-appropriate industrial uses during the planning period, providing it conforms to the land use compatibility requirements for the Visalia Municipal Airport environs established by the City.*

**LU-P-32** Continue to maintain a 20-acre minimum for parcel map proposals in areas designated for Agriculture to encourage viable agricultural operations in the Planning Area.

**LU-P-33** Designate land areas for future development to be considered (if at all) under separate criteria from Citywide growth under Policy LU-P-19 (Urban Boundaries). These areas shall be designated for “reserve,” and remain in agricultural zoning until they are designated and pre-zoned for an appropriate urban land use through the City’s General Plan Amendment and Change of

Zone process. These areas may be re-designated and pre-zoned for an appropriate urban use upon the following findings as reviewed by the Planning Commission and decided on by the City Council:

- The proposed uses and intensity of development are consistent with all applicable policies and constraints as contained in the Visalia Airport Master Plan.
- Property is adequately served or will be adequately served by public facilities including streets, sewage, police and fire protection, water supply, and other required facilities to be fully funded by the proposed development(s).
- Properties located within the previous development boundary or under the land use designation being proposed within the area are already being developed, or do not provide the likelihood of being developed in a timeframe appropriate to meet the needs of the community.
- Properties are determined to provide a significant social economic benefit to the community.
- There is a determined to be a Community-level need for the proposed use, including lack of sufficient acreage already designated for the proposed scale and intensity of the proposed use.



*Visalia’s natural waterways help shape its urban form.*

**LU-P-34**

Work with Tulare County and other state and regional agencies, neighboring cities, and private land trust entities to prevent urban development of agricultural land outside of the current growth boundaries and to promote the use of agricultural preserves, where they will promote orderly development and preservation of farming operations within Tulare County. Conduct additional investigation of the efficacy of agricultural conservation easements by engaging local, regional, and state agencies and stakeholders in order to further analyze their ongoing efforts and programs that attempt to mitigate impacts from the conversion of agricultural lands through the use of agricultural conservation easements. Support regional efforts to prevent urban development of agricultural lands, specifically at the county level. Tulare County's General Plan 2030 Update Policy contains two policies (AG-1.6 Conservation Easements and AG-1.18 Farmland Trust and Funding Sources) that discuss establishing and implementing an Agricultural Conservation Easement Program (ACEP). The City supports the implementation of these measures by the County, in which the City may then participate. Such a regional program could include a fee to assist and support agricultural uses, and would be most feasibly and strategically developed on a countywide or other regional basis.

tural lands, the City shall create and adopt a mitigation program to address conversion of Prime Farmland and Farmland of Statewide Importance in Tiers II and III. This mitigation program shall require a 1:1 ratio of agricultural land preserved to agricultural land converted and require agricultural land preserved to be equivalent to agricultural land converted. The mitigation program shall also require that the agricultural land preserved demonstrate adequate water supply and agricultural zoning, and shall be located outside the City UDB, and within the southern San Joaquin Valley. The mitigation program shall, to the extent feasible and practicable, be integrated with the agricultural easement programs adopted by the County and nearby cities. The City's mitigation program shall allow mitigation to be provided by purchase of conservation easement or payment of fee, but shall indicate a preference for purchase of easements. The mitigation program shall require easements to be held by a qualifying entity, such as a local land trust, and require the submission of annual monitoring reports to the City. The mitigation program shall specifically allow exemptions for conversion of agricultural lands in Tier I, or conversion of agricultural lands for agricultural processing uses, agricultural buffers, public facilities, and roadways.

**LU-P-35**

In addition to supporting regional efforts to prevent urban development of agricultural

Adopt the County's Right-to-Farm ordinance to support continued agricultural

operations at appropriate locations within the City limits, with no new provisions.

*This ordinance should not limit urban development contemplated by the General Plan.*

**LU-P-36** Adopt an Urban Agriculture Ordinance, reflecting “best practices,” to support community gardens and other activities.

*This ordinance will be prepared in consultation with the Farm Bureau and other interested organizations and individuals.*

**Highway 198 Scenic Corridor**

**LU-P-37** Adopt specific development standards for scenic entryways (gateways) and roadway corridors into the City, including special setback and landscape standards, open space and park development, and/or land use designations.

*These standards will apply to the west and east entries into Visalia along Highway 198 and to the “gateway boulevards” identified in the Transportation Element: Caldwell and Riggan Avenues; Shirk Road; and Lowers Lane.*

**2.7 COMMUNITY DESIGN**

While Visalia has a population of some 125,000, an overwhelming number of residents identify Visalia as a “small town,” or as a growing city that has maintained its “small town feel.” This shared sentiment is testament to the City’s success in maintaining the

quality attributes of a neighborly, close-knit community even in the face of rapid growth. As Visalia continues to add population over the next 20 years, the extent to which it can continue developing livable, desirable neighborhoods and commercial areas that reflect these values will be critical.

**Evolution of City Form**

Founded in 1852, Visalia drew its livelihood from the gold mines of the Sierra foothills and the fertile Kaweah River Delta. The town of 500 became the Tulare County seat in 1853 but was governed by the Board of Supervisors until its incorporation in 1864. Through expansion in the farming, cattle ranching, transportation, and trade, Visalia’s population continued to grow. By 1900, when Visalia became a main line stop on the Valley Railroad, it was home to over 3,000 residents.

Visalia’s urban form differs from many other Central Valley towns on account of its separation from the main north-south rail line. Visalia was connected by several feeder lines, and therefore its street grid follows the conventional cardinal directions. Many Valley towns aligned their original streets with the diagonal railroad right of way. However, Visalia’s core is still marked by a formal grid shift to a diagonal pattern around Oval Park, just north of downtown.

**Citywide Structure**

*City Structure*

The majority of Visalia is comprised of residential neighborhoods with much of the city’s non-residential development oriented along key travel routes. Highway 198 is the city’s primary east-west route, and



*A new incentive program will facilitate the redevelopment of Visalia’s many vacant infill parcels.*

# APPENDIX D

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## *Regulatory Framework*





# Regulatory Framework

## AGRICULTURAL MITIGATION PROGRAM & FEASIBILITY STUDY

OCTOBER 2020

### PREPARED FOR:

City of Visalia  
707 W. Acequia Ave.  
Visalia, CA 93291

### PREPARED BY:

Provost & Pritchard Consulting Group

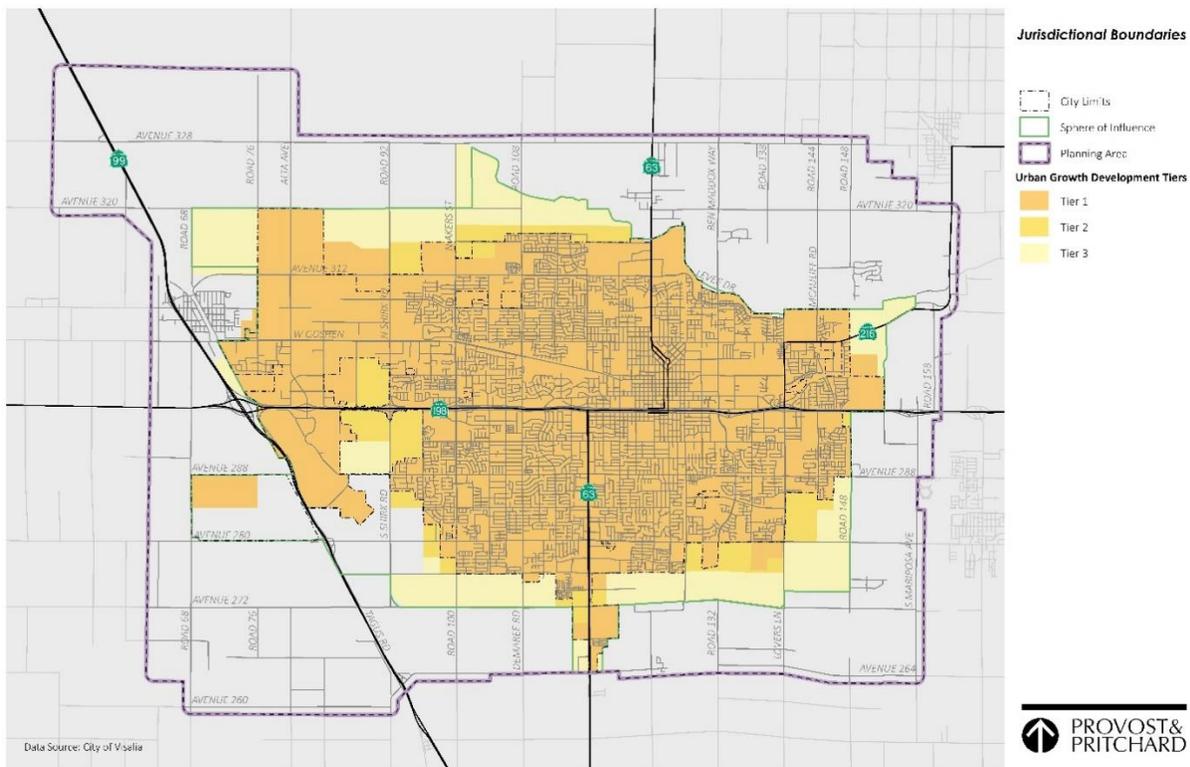


# INTRODUCTION AND PURPOSE

The City of Visalia General Plan was adopted in 2014 and established an urban growth strategy that identified three tiers of growth for the community. The growth strategy was intended to “guide sustainable physical and economic growth, while conserving natural and cultural resources and maintaining community character”. The General Plan established criteria, dependent upon land use type, for when development may advance from the first tier (Tier I) to subsequent tiers (Tiers II and III).

General Plan Policy LU-P-21 establishes the thresholds that would allow growth to occur within the Tier II Growth Boundary. Different thresholds were identified for different types of land uses (residential, commercial, industrial). For residential uses, the threshold is the issuance of permits for 5,850 housing units since April 1, 2010. A second General Plan Policy, LU-P-34, contains a supplemental requirement necessary to allow development within the Tier II and Tier III Growth Boundaries: specifically, establishment of an agricultural mitigation program. The program is intended to prevent urban development of agricultural land and address the conversion of Prime Farmland and Farmland of Statewide Importance by requiring a 1:1 ratio of preserved and converted agricultural land. While the General Plan Policy does not specify the need to preserve like-for-like agricultural land, all land conserved through the program must have adequate water supply and the appropriate agricultural zoning.

Figure 1. Growth Tier Boundaries Map



The City is currently over 80 percent toward meeting the residential permit threshold outlined in GP Policy LU-P-21. As the City approaches the permit threshold that would allow Tier II development, the City Council in early 2020 initiated the process of establishing an agricultural mitigation program to ensure this supplemental requirement for Tier II development is satisfied prior to the residential permit threshold being met.

Recognizing that there have been changes in circumstance since adoption of the General Plan in 2014, the City Council also directed staff to research the potential impact of an agricultural mitigation program on the cost of residential construction and how establishment of conservation easements specific to agricultural use would align with State efforts to address groundwater management. The most relevant changes in circumstance over the last several years include focused efforts to address and respond to the housing crisis, adoption of the Sustainable Groundwater Management Act (SGMA), and recent case law and issuance of opinion.

A Feasibility Study will be prepared as a stand-alone document prior to initiating establishment of an agricultural mitigation program. It will determine the necessity and feasibility of an agricultural mitigation program and identify potential alternatives for City Council consideration. This Regulatory Framework summary provides observations on the changing circumstances surrounding the City of Visalia General Plan and agricultural conservation in California. These observations will inform the analysis and recommendations provided in the Feasibility Study.

## APPROACH AND ORGANIZATION

The Regulatory Framework summary identifies recent housing legislation, groundwater sustainability efforts, and case law that impacts the appropriateness and feasibility of agricultural conservation easements as mitigation. In each of these areas, the background of the most pertinent changes is discussed, followed by the relationship of these changes to agricultural conservation and observations that will inform how the City of Visalia moves forward with implementation of General Plan Policy LU-P-34.

# POLICY AND REGULATORY FRAMEWORK

## HOUSING LEGISLATION

Housing affordability continues to be an issue for many Californians, and the State is vigorously encouraging action by local jurisdictions to facilitate residential development to improve housing affordability and increase the housing stock at all levels. These efforts are most evident in the passage of the 2017 California Housing Package and the Housing Crisis Act of 2019. Each of these legislative packages contained several bills intended to reduce barriers to housing and increase production, including Senate Bill 2 (SB 2), the Building Jobs and Homes Act, which is providing funding for the City of Visalia’s Agricultural Mitigation Program and Feasibility Study.

In total, recent State legislation serves to highlight a new focus on housing production, in particular constructing affordable housing. In addition to the Housing Crisis Act of 2019 and other related bills, which have removed many regulatory barriers to housing construction, State objectives have been clear that housing production is a priority. Multiple funding sources have been created to help assist with housing projects and often require compliance with housing objectives for eligibility. While all this recent legislation is pertinent to the City of Visalia, including SB 2 which is providing funding for this project, Senate Bill 330 (SB 330) has the most potential to impact the establishment of an agricultural mitigation program.

### SB 330

#### Document Background

SB 330, also called the Housing Crisis Act of 2019, aims to ensure the feasibility of certain housing types, particularly very low-, low-, and moderate- income housing.<sup>1</sup> To accomplish this goal, SB 330 implemented five primary actions. Of these, the restrictions on growth management policies is relevant to a potential agricultural mitigation program.

According to SB 330, cities may not downzone property to a less intense residential use, impose a growth moratorium, or cap the number of permits approved within a certain timeline. HCD must approve growth management policies and determine that they protect against health and safety threats before they can be enforced.

#### Key Considerations

SB 330 limits the restrictions cities can put on residential development within their jurisdictions. Effective January 1, 2018, cities may not downzone, that is, reduce the intensity, of residential parcels. There are some exceptions to this, such as a zone switch between parcels that results in no overall loss of residential

### HOUSING AFFORDABILITY

Households that spend more than 30% of their income on housing are considered “cost burdened.” While standard practice has been to include only rent and mortgage payments in this calculation, associated costs, such as transportation, could also be considered in housing affordability.

Visalia’s median household income, according to United States Census data, is \$58,820. Households spending more than \$17,646 annually on housing and related costs in Visalia are considered cost burdened.

Average mortgage costs in Visalia total \$18,132 per year, while average rental costs total \$11,976.

<sup>1</sup> The California Department of Housing and Community Development sets maximum incomes for assisted housing eligibility according to area median income (AMI). Extremely low is set at 0-30% of AMI, very low is set at 30-50% of AMI, low is set at 50-80% of AMI, and moderate is set at 80-120% of AMI.

development potential. Additionally, SB 330 restricts the ability of cities to impose a moratorium or growth restriction on housing developments unless there is a demonstrated threat to health and safety as a result of increased development. Moratoriums and similar policies must be submitted to HCD for approval before they may be enforced. Furthermore, SB 330 requires all design standards established and enforced after January 1, 2020 to be objective and prohibits the City from implementing a provision that limits the number of permit approvals allocated, caps the number of housing units that can be approved, or limits the population of the City.

### **Observations**

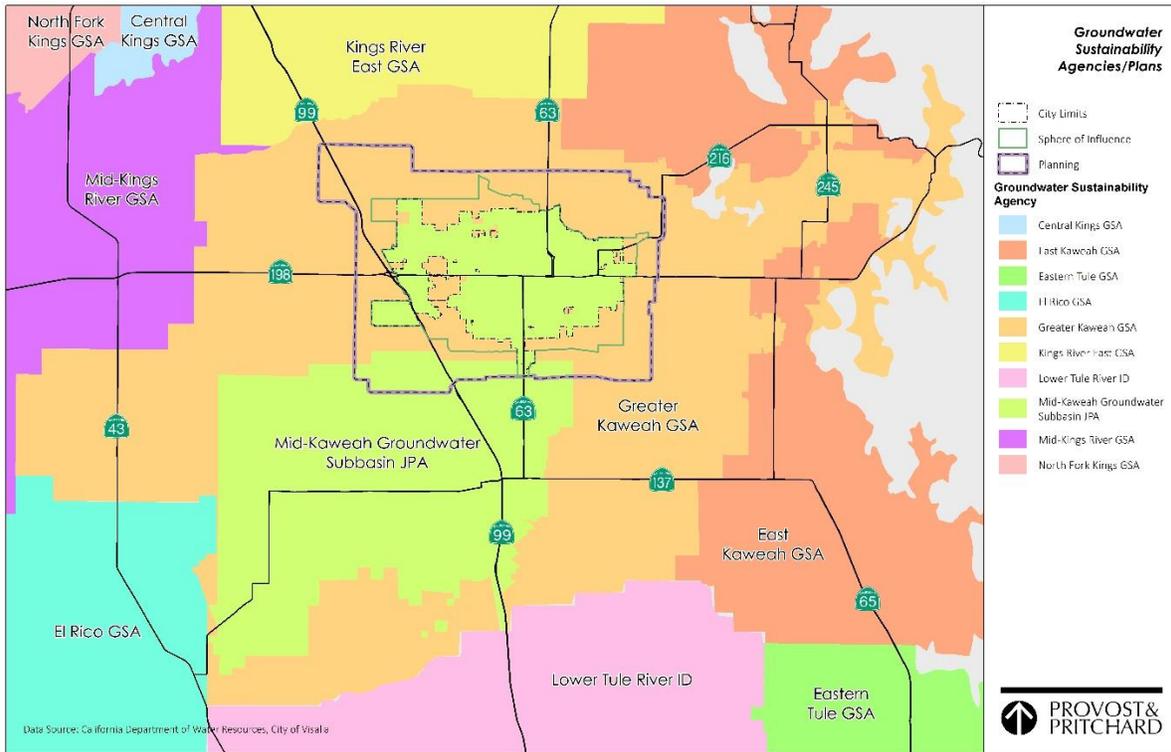
- The City is not allowed to implement or enforce a moratorium or any similar policies that limits the number of permits approved or the population of the City.
- Currently, the City has a tiered development plan where development within Tier I must be completed before development may begin in Tier II and/or Tier III. Requiring that a certain number of permits be issued within one tier prior to proceeding with development in a subsequent tier, as outline in General Plan Policy LU-P-21, is permitted as there is no limit on the number of permits issued.
- General Plan Policy LU-P-34 however does restrict development within the Tier II growth boundary until such time that an agricultural mitigation program is established. If the agricultural mitigation program is not established prior to the City reaching the permits issued thresholds for advancement into the Tier II Growth Boundary, then the City cannot use the absence of an established agricultural mitigation program to prevent residential development from continuing within Tier II. This would be in conflict with the intent of SB 330.

## **GROUNDWATER SUSTAINABILITY PLANS**

The passing of the Sustainable Groundwater Management Act (SGMA) in 2014 requires overdrafted basins of medium and high priority to develop plans that will implement fully sustainable management practices within 20 years of implementation. This is accomplished by Groundwater Sustainability Agencies (GSA), which themselves may consist of Joint Powers Authorities (JPAs), which facilitate the preparation of Groundwater Sustainability Plans (GSP) to ensure the objectives of SGMA are implemented.

The City of Visalia is located within the Kaweah Subbasin, which is considered high priority. The Kaweah Subbasin is situated within the larger San Joaquin Valley Basin and occupies 700 square miles, primarily in Tulare County and a small portion of Kings County. The City and its Planning Area are located within the Mid-Kaweah Groundwater Subbasin JPA, which covers area within city limits, and the Greater Kaweah GSA, which covers the remaining land within the Planning Area, including the areas designated for Tier II and Tier III development. Each entity has prepared its own GSP governing groundwater management practices within their respective territories. See Figure 2 showing Visalia’s jurisdictional boundaries relative to the JPA/GSA boundaries.

Figure 2: GSAs within the Kaweah Subbasin



## Mid-Kaweah GSP

### Document Background

The Mid-Kaweah Groundwater Subbasin JPAs GSP outlines the pathway to water sustainability for the region covered by the GSP. It was prepared by GEI Consultants under the Kaweah Subbasin Coordination Agreement with the Greater Kaweah GSA and East Kaweah GSA and was adopted by the Mid-Kaweah Groundwater Subbasin JPA in 2019. The GSP considers the policies of general plans of the subject areas, including the City of Visalia, City of Tulare, and County of Tulare General Plans as well as urban water management plan policies within the subject area. The Mid-Kaweah GSP covers approximately 163 square miles, or 25 percent of the Kaweah subbasin.

### Key Considerations

The Mid-Kaweah GSP outlines strategies, including projects and programs, aimed at achieving a water balance in the Kaweah Subbasin by 2040. The GSP also outlines a voluntary on-farm recharge program. These types of programs have historically been informally practiced in the San Joaquin Valley with moderate involvement from growers. However, since the passing of SGMA, grower receptivity to these programs has increased. In 2017, 12 growers participated in the pilot program, established and operated by Tulare Irrigation District, which was then expanded and formalized for the winter of 2019. The Mid-Kaweah On-Farm Recharge Program provides targeted incentives to growers and landowners to participate in 4 types of programs:

- **Crop buy-out program.** Planted fields are flooded and growers are compensated for crop damages.

- **Shallow-basin program.** Parcels are deepened for recharge. Growers continue to plant crops and are compensated in the event of flooding.
- **Over-irrigation program.** Growers over-irrigate permanent plantings or open-ground crops on a voluntary basis and receive reduced water costs in return.
- **Mandatory program.** Owners are required to dedicate a percentage of their lands for winter and/or spring recharge in surplus water supply years.

The GSP program currently permits up to 600 acres of farmland from throughout the entire JPA to be enrolled in the voluntary program. The program is expected to be fully developed by 2025, which will include a better understanding of which crops and farmlands provide the best recharge opportunities. Furthermore, total acreage will be adjusted each year. An additional project outlined in the GSP, the Groundwater Recharge Assessment Tool (GRAT), is used to determine high-priority parcels for participation in the On-Farm Recharge Program.

The GRAT is a tool that assesses on-farm recharge, fallowing, and the development of recharge basins to determine the best parcels for use in groundwater recharge activities. It is used to enhance the capabilities of projects and programs. The GRAT is essentially complete, although occasional updates are necessary to maintain the program.

It should also be noted that the GSP includes reservoir, creek, and exchange programs, as well as administrative and reporting activities, that will not impact the feasibility of an agricultural mitigation plan in the City of Visalia.

## Greater Kaweah GSP

### Document Background

The Greater Kaweah Groundwater Sustainability Agency's GSP outlines the pathway to water sustainability for the region generally covered by the GSP including Tiers II and III of Visalia's General Plan Planning Area. It was prepared by GEI Consultants under the Kaweah Subbasin Coordination Agreement with the Mid-Kaweah GSA and East Kaweah GSA and was adopted by the Greater Kaweah GSA in 2020. The Greater Kaweah GSP covers 340 square miles (roughly one-half) of the Kaweah subbasin.

### Key Considerations

The areas identified for Tier II and Tier III development in the City of Visalia Planning Area are located within the Greater Kaweah GSP. As with the Mid-Kaweah GSP, it considers the policies of the general plans and urban water management plans for areas within its purview. The Greater Kaweah GSP outlines strategies, including projects and programs, aimed at achieving a water balance in the Kaweah Subbasin by 2040.

The Greater Kaweah GSP also identifies two agricultural programs run through Kings County Water District (KCWD) and Lakeside Irrigation Water District (LIWD). A fallowing program leases 1,500 acres of agricultural land total, across both districts, in order to reduce the cropped acreage and limit groundwater pumping for irrigation while not permanently changing the land's agricultural land use status. Growers sign up for participation throughout January and February of each year and receive compensation for not planting and

### NITRATE FILTRATION

The GSP intends to prioritize the repeated participation of parcels in order to help flush nitrates from the additional groundwater. When the same land is used repeatedly, no nitrates are added from fertilizers, which can assist in reducing nitrates added to the groundwater supply.

irrigating crops on acres designated as part of the program. At present there are no identified criteria for participation, but land use and proximity to delivery systems will likely be key factors for criteria development.

KCWD and LIWD also run an on-farm recharge program, although this program differs slightly from that identified in the Mid-Kaweah GSP. The KCWD and LIWD program compensates growers for developing small, temporary basin facilities that centralize pumped groundwater for improved irrigation distribution. During periods of high surface water flows, conditions which occur every 4-5 years, up to 500 acres total are used to develop these basin facilities which then operate for 60 days.

### **Observations**

- Because many of the on-farm recharge program options limit agricultural productivity or result in damaged crops, land that is enrolled in these programs may not be well-suited for a permanent agricultural conservation easement.
- Although fallowing programs do not change the designation of agricultural land, it does take agricultural land out of production for a period of time. Depending on the criteria established for productivity of agricultural land under a conservation easement, fallowed land may not be well-suited for a permanent agricultural conservation easement.
- While these programs strive to enroll repeat participants, it will be important to understand the most up-to-date enrollment and plans to maintain participation, should an agricultural mitigation plan be pursued.

## **CASE LAW UPDATES**

The California court system consists of three levels. Most cases begin in the superior courts, which are located within each county. Decisions of the superior court may be appealed to one of six Courts of Appeal, each of which has jurisdiction over the superior courts within a specific geographic area of the state. Decisions of the Courts of Appeal may be further appealed to the California Supreme Court. When considering a judgement from a lower court, the Courts of Appeal and the Supreme Court examine whether the lower court properly applied the law(s) in question. As it relates to land use and similar subjects, the Supreme Court reviews cases only at its discretion.

Decisions of a superior court are binding only on the parties to the case. Decisions of the Courts of Appeal are also binding on the parties to the case; however, if the Court “publishes” its opinion, that opinion becomes binding on all superior courts, even those outside its district. All decisions of the Supreme Court are published and are binding on all lower courts. The Supreme Court also has the authority to publish or de-publish opinions of the Courts of Appeal. Published opinions form the body of law referred to as “common law.”

The two cases summarized below are those considered most relevant to the establishment of an agricultural mitigation program.

## **Building Industry Association of Central California v. County of Stanislaus**

### **Case Background**

In 2007, the County of Stanislaus (County) updated its General Plan to include a Farmland Mitigation Program (FMP) intended to help mitigate the loss of farmland that results from residential development. The County also adopted a set of guidelines for implementation of the FMP. The Building Industry Association of Central California (BIA) subsequently challenged the adoption of the FMP. While the trial court ruled in favor of the BIA, the decision was appealed and considered by the Fifth District Court of Appeal in 2010. The rulings of the case and subsequent appeal could have an impact on the feasibility of establishing an agricultural mitigation program.

### **Key Considerations**

The FMP and related guidelines adopted by the County provided that developers would be required to mitigate the loss of farmland at a 1:1 ratio by obtaining a conservation easement or, for projects smaller than 20 acres and with the County's consent, by payment of an in-lieu fee. The BIA facially challenged the FMP. The trial court ruled in the favor of BIA, finding that the FMP conflicted with State law that prohibits requiring a developer to grant a conservation easement as a condition of a land use approval, that there was no reasonable relationship between the adverse effects of residential development and the requirement for an easement, and that the FMP requirements were not within the County's police power. The County and the California Farm Bureau Federation appealed the trial court decision, which was considered by the Fifth District Court of Appeal in 2010.

### **FACIAL CHALLENGE**

A facial challenge is a challenge to a statute in which the plaintiff alleges that the legislation is always unconstitutional, and therefore void. If a facial challenge is successful, it would have the effect of striking down the legislation in its entirety.

The Court of Appeal held that the FMP was facially valid:

- Although State law prohibits requiring a developer to grant a conservation easement in conjunction with a land use approval, the FMP requires that the developer *acquires* an easement, not that it grants one.
- Since the County's adoption of the FMP was a legislative action, it was not the County's burden at trial to demonstrate that there was a reasonable relationship; rather, it was BIA's burden to demonstrate that there was *not*, and that burden was not met. Further, the Court went on to determine via narrative that there was, in fact, a reasonable relationship.
- Since there existed a reasonable relationship, the County did not exceed its police power in adopting the FMP.

Of note is that, while the Court found the FMP to be facially valid, it expressly did not examine how the provisions of the FMP might be applied to any particular proposal for development. When applying the provisions of a similar program, the agency should closely examine the specific facts surrounding a proposed project to ensure that the program is applied properly.

## **King & Gardiner Farms, LLC v. County of Kern**

### **Case Background**

In 2015, Kern County approved an ordinance to streamline the permitting process for new oil and gas wells and certified an Environmental Impact Report (EIR) in accordance with CEQA. King & Gardiner Farms, LLC sued the County of Kern, alleging that the EIR contained multiple CEQA violations. The superior court originally held that the EIR inadequately analyzed impacts to rangeland and impacts from a road paving mitigation measure. However, upon appeal of the superior court's ruling to the Fifth District Court of Appeal, additional CEQA claims were determined to have merit. The rulings of the case and subsequent appeal could have an impact on the necessity of establishing an agricultural mitigation program and the efficacy of using easements to mitigate for the loss of farmland under CEQA.

### **Key Considerations**

This case primarily has implications for CEQA mitigation measures related to water, agricultural land, and noise. The EIR included four mitigation measures to reduce the effects of farmland conversion to a less than significant level, any of which would be the responsibility of the project proponent to implement:

- Funding or purchasing agricultural conservation easements
- Restoration of agricultural lands through removal of legacy oil and gas production equipment
- Purchasing credits in a mitigation bank or equivalent program
- Participation in any agricultural land mitigation program adopted by the County

In its February 2020 ruling, the Court of Appeal reiterated that agricultural easements do not actually mitigate for the loss of agricultural land; they only prevent the future conversion of land that is already in production. The Court found that restoration of agricultural lands through the removal of mechanical equipment would, as a stand-alone method, sufficiently reduce the significance of agricultural loss and was therefore a suitable mitigation measure. It then noted that there was not sufficient evidence related to the efficacy or even the availability of mitigation banks, and that in any case such banks might operate in the same manner as conservation easements. Similarly, there was nothing in the record to support that participation in a future, undetermined County preservation program would have any mitigating effects on loss of agricultural land.

### **Observations**

- Outside the context of CEQA, requiring developers to acquire or obtain conservation easements can be an acceptable method to slow the further conversion of farmland.
- Under CEQA, the establishment of agricultural conservation easements is not adequate mitigation for the loss of farmland.

# APPENDIX E

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## *Farmland Preservation Best Practices & Established Programs Summary*





# Farmland Preservation Best Practices & Established Programs Summary

## **AGRICULTURAL MITIGATION PROGRAM & FEASIBILITY STUDY**

OCTOBER 2020

### **PREPARED FOR:**

City of Visalia  
707 W. Acequia Ave.  
Visalia, CA 93291

### **PREPARED BY:**

Provost & Pritchard Consulting Group



*In association with:*

VRPA Technologies, Inc.



## INTRODUCTION AND PURPOSE

This report summarizes research on best practices for farmland preservation, discusses the potential for impacts on home prices, and identifies examples of existing programs within the state, with a focus on established programs within the San Joaquin Valley. The information and observations contained in this report will inform the analysis and recommendations provided in the Feasibility Study, including potential key program features for consideration should the City of Visalia elect to move forward with the establishment of an agricultural mitigation program in Phase II: Implementation.

The Feasibility Study will be prepared as a stand-alone document prior to initiating establishment of an Agricultural Mitigation Program. It will determine the feasibility and necessity of an Agricultural Mitigation Plan and identify potential alternatives for City Council consideration.

## APPROACH AND ORGANIZATION

This report first summarizes elements of best practice for farmland preservation programs in California. This section draws on arguments and concepts promoted by the American Farmland Trust and the California Council of Land Trusts. A section specific to the relationship between agricultural conservation easements and their impact on home prices is included and summarizes home pricing and cost burden factors. The discussion then turns to case studies that illustrate certain aspects of actual practice by cities and counties seeking to preserve farmland. The case studies were selected from throughout northern and central California, with an emphasis on relevance to the San Joaquin Valley. The order of presentation is based on geography, i.e., distance from the City of Visalia, with the most proximate cases (the City of Tulare and the County of Tulare) presented last.

## FARMLAND PRESERVATION BEST PRACTICES

*The best practices compiled here represent past practices for establishing agricultural mitigation programs, also referred to as farmland preservation programs. However, recent case law, in particular the King & Gardner Farms, LLC v. County of Kern case from 2020 will influence how agricultural mitigation programs are structured and implemented moving forward. This summary does not attempt to predict how programs will change to reflect this new precedent, but rather reports what previous practice relative to agricultural conservation has been. A more detailed discussion of the impacts of recent case law can be found in the [Regulatory Framework](#).*

Successful farmland preservation programs in California are based on assumptions that:

- Farmland is irreplaceable.
- The loss of farmland to development is irreparable.
- Agriculture is an important component to the local, regional, and statewide economy.

- The loss of agricultural land is consistently a significant impact under the California Environmental Quality Act in development projects.
- Most urban uses adjacent to farmland can affect how an agricultural use can be operated, which can lead to conflict and ultimate conversion of agricultural land to urban uses.
- Every effort should be made to guide development away from agricultural lands and encourage efficient development of existing vacant lands and infill properties within an agency’s boundaries prior to conversion of additional agricultural lands.

Multiple mechanisms are used to protect farmland, in addition to the establishment of farmland preservation programs. Many jurisdictions also employ “Right to Farm Ordinances” that protect agriculture from “nuisance suits” by nearby residents. Robust farmland protection policies for cities, counties, and Local Agency Formation Commissions (LAFCo) that are supported by all agencies also promote farmland preservation. Finally, the California Land Conservation Act of 1965, known as the Williamson Act Program, has helped slow the conversion of farmland in California for more than 50 years<sup>1</sup> by reducing the tax liability of farmland.

A primary distinction between farmland preservation programs and other mechanisms is the establishment of a permanent conservation easement to protect farmland. While policies, ordinances, and tax incentives serve to protect or delay farmland conversion for a period, they are not permanent protections.

## GOALS, OBJECTIVES, AND ELEMENTS OF FARMLAND PRESERVATION PROGRAMS

### Goals

The goals of a farmland preservation program are threefold: to *avoid* impacts of urban development on farmland; to *minimize* urban development impacts; and to *mitigate* the impacts.

- **Avoidance** consists of anticipating and acting to avoid creating adverse impacts to agricultural lands from the outset, such as steering development away from agricultural lands to prevent their conversion to other uses. This most efficiently occurs at the time a city or county is updating its general plan and the issue can be viewed at a regional level, rather than based on an individual proposal.
- **Minimization** consists of measures to reduce the duration, intensity, and significance of the conversion and/or the extent of adverse impacts to agricultural lands (including direct, indirect and cumulative impacts) that cannot be completely avoided.
- **Mitigation** consists of measurable preservation outcomes, resulting from actions applied to geographic areas typically not impacted by the proposed project, that compensate for a project’s impacts to agricultural lands that cannot be avoided and/or minimized. Permanent preservation of farmland of



<sup>1</sup> Williamson Act Program Summary, Department of Conservation website, [https://www.conservation.ca.gov/dlrp/wa/Pages/wa\\_overview.aspx](https://www.conservation.ca.gov/dlrp/wa/Pages/wa_overview.aspx), Accessed October 8, 2020.

equal or greater quality based on one acre preserved for each acre developed is a typical form of mitigation.<sup>2</sup>

### Objectives

- Avoid the premature conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.
- Minimize the potential detrimental effects caused by urban development.
- Provide mechanisms for mitigation of farmland conversion.
- Integrate the farmland preservation program into the development entitlement process.
- Efficiently enforce the farmland preservation program using existing law, regulations, and institutions.

### Elements

When a landowner wishes to develop an agricultural parcel to serve residential or other nonagricultural uses, a farmland preservation program is intended to offset this loss. Typically, these programs have required the loss of farmland to be offset by acquiring the development potential of another agricultural parcel that is equivalent in size, soil quality, and access to water through a conservation easement. These programs, in effect, make the conversion of farmland more expensive than developing vacant urban land or redeveloping occupied parcels. The acquisition of potential development rights from the preserved farmland protects that land from development and compensates the owner for the loss of development rights. There are certain key elements that are present in most farmland preservation programs, including:

- **Equivalency criteria.** Parcel size, soil quality, access to water, and similar features of both the converted and preserved land is considered in determining the amount of land required for preservation and if conserved land is permissible under the program.
- **Use restrictions.** Farmland preservation programs restrict the use of conserved land, usually through the establishment of conservation easements.
- **Mitigation triggers.** Each program determines triggers for mitigation requirements. Triggers may include the requirement of a zone change or discretionary permit, the amount of land being proposed for conversion, the project or land use type proposed on the agricultural land, or other similar project features.
- **Conservation ratio.** Farmland preservation programs establish a ratio for the required amount of land conserved to the amount of land converted. While a 1:1 mitigation ratio is the minimum, some programs require higher ratios depending on project location, the quality of converted land, and the proposed use.
- **Mitigation methods.** While easements are the primary mitigation method of most case study programs, alternative in-lieu fees may also be appropriate for inclusion in a farmland preservation program. Some programs only allow the payment of in-lieu fees for part of a project's mitigation measures or only in certain situations (i.e., when specific circumstances make conservation easements infeasible).

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<sup>2</sup> Conservation easements placed on existing agricultural land have been held to no longer be effective mitigation to reduce impacts on farmland conversion under the California Environmental Quality Act (CEQA). See the **Regulatory Framework** for a more detailed discussion on recent case law influencing the use of agricultural conservation easements as mitigation under CEQA.

- **Program administration and implementation.** An entity that has the legal and technical ability should hold and administer the agricultural conservation easements and in-lieu fees. This is typically a local land trust.

## OBSERVATIONS

- Prioritizing avoidance of farmland conversion and minimizing the effective loss of farmland are best practice strategies to consider, where feasible, prior to mitigating for the loss of agricultural land.
- While other mechanisms are available to protect or delay farmland conversion for a period, they do not offer the same permanency that establishment of an agricultural conservation easement offers.
- Best practices implemented in the past may not be fully applicable moving forward for those programs established with the express purpose of mitigating the loss of farmland under the California Environmental Quality Act (CEQA). *See the [Regulatory Framework for a more detailed discussion on recent case law influencing the use of agricultural conservation easements as mitigation under CEQA](#).*
- The proximity of conserved land to converted land raises the possibility for a farmland preservation program that does more than just preserve an equivalent amount of farmland. If conserved land is required to be in proximity, it would be possible for a city to develop a partial greenbelt (or farm-belt).
- An entity that has the legal and technical ability to acquire and manage conservation easements should be identified prior to establishing a farmland preservation program. Such trusts complete the legal work of creating and recording the easements. They also have knowledge of property owners willing to sell development rights. The city or county may merely act as broker to the landowner wishing to convert farmland.

# FARMLAND PRESERVATION AND HOUSING COSTS

By requiring the acquisition of conservation easements on other agricultural land, additional costs will be incurred by the developers proposing conversion of farmland. It is reasonable to expect that some or all of these costs will be passed on to homebuyers. Understanding these additional costs will provide greater insight into the feasibility of an agricultural mitigation program.

## HOME PRICING FACTORS

With limited data available for locationally specific home price information, it is difficult to evaluate what direct impact, if any, establishment of an agricultural mitigation program has on home prices. As part of our due diligence effort to research available data, Multiple Listing Service (MLS) data on median existing home sales prices were obtained for unincorporated Tulare County for two years prior to the adoption of the County's Agricultural Easement Program (ACEP), i.e., 2014 and 2015. Data were also obtained for the year the ACEP was adopted and the following year, i.e. 2016 and 2017. Results are shown in **Table 1**. While

the MLS does not contain home price information on new home sales, there could be some residual effect on existing home prices.

**Table 1. Median Existing Home Prices Unincorporated Tulare County**

Year	Median Price <sup>3</sup>
2014	\$ 170,000
2015	\$ 165,000
2016	\$ 200,000
2017	\$ 177,500

While it is striking that home prices increased by a substantial 18 percent in 2016, the year the ACEP was adopted, this almost certainly had little to do with the ACEP. 2016 saw more sales of larger, higher-priced houses than in prior years. The median price per square foot increased by only 6 percent, indicating that most of the increase was due to the size of homes sold. The following year's (2017) median price of \$177,500 is just 4.4 percent above the 2014 median price of \$170,000, which suggests that 2016 was an unusual year.

Home prices are influenced by many factors: the overall economy, interest rates, the amount of new and existing housing on the market, etc. Examining home prices at any given point in time does not isolate the effect of an agricultural preservation program on the price of homes. Considering the ACEP program has been used only a few times (two projects have used ACEP to date, with a third project in process), the expected impact on overall home prices is minor.

A better approach would be to calculate the cost per acre of obtaining an agricultural conservation easement and dividing this cost by the units per acre proposed for development, to obtain the net additional cost per housing unit. However, these factors will fluctuate for each project at any given time as the number of acres of farmland being converted is locationally specific, the cost per acre of agricultural land at the time of acquisition is market specific, and the number of units proposed is project specific. The relationship of how the various factors relate to one another and would generally impact the per unit cost burden for a specific project indicates that those project with more farmland converted, the higher the price of agricultural land, and the lower number of dwelling units to spread cost over, the higher the cost burden is anticipated to be on a per unit basis (see figure below).



<sup>3</sup> Data provided by Gene Vang MLS Operations Director - Tulare County MLS, Tulare County Association of Realtors.

## OBSERVATIONS

- The number of factors that influence housing prices, limited use of the established farmland preservation programs, and the limited availability of project specific data relative to home prices don't allow for a detailed understanding of the impact such programs have on housing prices. Anecdotally, establishment of a requirement for agricultural conservation easements, whether through direct purchase or payment of an in-lieu fee, will increase housing costs; however, the specific impact cannot be calculated except on a project-by-project basis.
- Based on the relationship of factors noted above, including number of acres converted, the cost of agricultural land at the time of acquisition, and the number of housing units within a project, it is reasonable to infer that projects located in areas within the Prime and Farmland of Statewide Importance categories and those proposed at lower densities will experience a greater cost burden should a requirement for agricultural easements be established.

## ESTABLISHED FARMLAND PRESERVATION PROGRAMS

This section summarizes six established farmland preservation programs in California (see inset for locations). The summaries of each are organized based on geography, i.e., distance from the City of Visalia, with the most proximate cases (the City of Tulare and the County of Tulare) presented last.

In addition to the individual program summaries, a direct comparison of key program features is shown in **Table 3** at the end of this section. Also included are key observations based on the information collected about the farmland preservation programs.



## CALIFORNIA FARMLAND PRESERVATION PROGRAMS

### Yolo County

#### Key Program Facts

- **Date of program establishment.** 2008; strengthened in 2016.
- **Ratio of acres conserved versus converted.** Generally, 3:1.
- **Program management and administration.** County Department of Building and Planning; Yolo County Land Trust.
- **Area of applicability.** Unincorporated Yolo County.
- **Amount of in-lieu fee established.** \$10,100 per acre protected.

#### Program Summary

Agricultural mitigation in Yolo County is required for land changed from an agricultural use to a predominantly non-agricultural use. There is no minimum parcel size. Mitigation is required concurrent

with approval of a zoning change from agricultural to urban zoning, permit, or other discretionary or ministerial approval by the County. With few exceptions (e.g. affordable housing projects) projects that convert prime farmland must preserve a minimum of three (3) acres of agricultural land for each agricultural acre converted, with locations specified by the County. Thus, the County maintains a 3:1 preservation ratio when prime farmland is being converted. For projects that convert non-prime farmland, a minimum of two (2) acres of agricultural land must be preserved, resulting in a 2:1 ratio. Projects that convert a mix of prime and non-prime lands must mitigate at a blended ratio that reflects the percentage mix of converted prime and non-prime lands within project site boundaries.

There are also provisions for reduced ratios for preservation of land in close proximity to a City Sphere of Influence (SOI) or the Urban Growth Boundary (UGB) of the lone unincorporated community, Esparto. A 2:1 ratio is acceptable when all or part of the preserved land is within tow 2 miles of a SOI/UGB; within 0.25 miles a 1:1 ratio is sufficient.

Projects of under 20 acres may pay in-lieu fees per **Table 2**.

**Table 2: Yolo County In-lieu Fee (2020)**

Cost Component	Per Acre Fee
Easement Acquisition Cost	\$8,400
Transaction Cost	\$420
Monitoring Endowment	\$880
Administrative Costs	\$280
Contingency	\$115
<b>Total (rounded)</b>	<b>\$10,100</b>

*Source: Table 7, Yolo County Agricultural Mitigation Fee Analysis, Economic and Planning Systems, August 7, 2007*

## **City of Davis**

### **Key Program Facts**

- **Date of program establishment.** 1995; strengthened in 2007.
- **Ratio of acres conserved versus converted.** Generally, 2:1.
- **Program management and administration.** Department of Community Development and Sustainability. Yolo County Land Trust.
- **Area of applicability.** Davis Planning Area.
- **Amount of in-lieu fee established.** Case-by-case based on the appraised value of agricultural land near the city limits.

### **Program Summary**

In 1995, the City of Davis in Yolo County approved the Right to Farm and Farmland Preservation Ordinance (Ordinance 1823). The first municipal ordinance of its kind, it has spawned similar farmland protection efforts in California and in other states. The main goals of the ordinance are to:

- Preserve and encourage agricultural land use and operations within the Davis Planning Area.
- Reduce the occurrence of conflicts between agricultural and non-agricultural land uses.

- Reduce the loss of agricultural resources by limiting the circumstances under which agricultural operations may be deemed a nuisance.

The Farmland Preservation Ordinance mitigation program requires applicants to provide agricultural mitigation for any action that results in the conversion of agricultural land to a nonagricultural use. To achieve the ordinance's objectives, the City Council included two key requirements for developers that are proposing to convert land from agricultural uses to non-agricultural uses if their project is adjacent to agricultural land. These requirements, which were updated by the City Council in 2007, are:

- Required Agricultural Buffer. The developer must provide an agricultural buffer (i.e., an agricultural transition area, greenbelt, or habitat area) that is at least 150 feet wide between their project and the adjacent agricultural uses.
- Required Agricultural Mitigation. Developers must also secure (through fee title or easement) at least two acres of agricultural land elsewhere within the Davis Planning Area to “mitigate” for every acre of agricultural land lost due to their project (excluding the required agricultural buffer mentioned above). Mitigation lands are first directed to the newly created agricultural edge of the development project (i.e., the non-urbanized edge) to create a permanent edge of the City. This non-urbanized edge conservation area must be of a size that is economically viable as farmland (a minimum 1/4 mile in width). If additional mitigation acreage is required after the non-urbanized edge is secured, the developer is incentivized to secure lands that have been prioritized by the City for permanent protection. For example, if a project results in the permanent loss of 100 acres of agricultural land and the establishment of the non-urbanized edge requires 75 acres, the developer has the option to locate the remaining mitigation acreage anywhere in the Davis Planning Area, with credit determined by where the remainder acreage is located. If the remainder acreage is located in a priority acquisition area, less acreage is required; if the remainder acreage is located in a non-priority area, more acreage is required.

The developer is not required to mitigate for the agricultural buffer mentioned above. However, the developer cannot count the agricultural buffer toward the acreage the developer is required to mitigate.

- In-lieu fees: Mitigation can be accomplished by granting a conservation easement to the City on the 2:1 basis described above, or by payment of a fee to the City for the purchase of a conservation easement, also on a 2:1 basis. A developer may satisfy up to 50% of the non-adjacent agricultural land mitigation requirement by paying an in-lieu fee based on the appraised value of agricultural land near the city limits. The in-lieu fee has not been used to date because the only two projects since 2007 subject to mitigation used conservation easements to entirely satisfy their mitigation requirements.

In a case where in-lieu fees were to be used, the City would implement the mitigation measure at the time of development approval. The Yolo County Land Trust would acquire and hold the easements and the City would act as the mitigation bank for in-lieu fees.

## Stanislaus County

### Key Program Facts

- **Date of program establishment.** 2007.
- **Ratio of acres conserved versus converted.** 1:1.
- **Program management and administration.** Community Development Department; Stanislaus County Land Trust or other Qualified Land Trust.
- **Area of applicability.** Unincorporated Stanislaus County.
- **Amount of in-lieu fee established.** Not established.

### Program Summary

In 2007 Stanislaus County updated its Agricultural Element that had been in place since 1992. The new element included a Farmland Mitigation Program (FMP) requiring developers to mitigate the loss of farmland by acquiring agricultural easements of one acre per every acre converted by the project or by paying fees to enable land trusts to do so. For development proposals converting 20 or fewer acres, the mitigation program allows for either direct acquisition of a conservation easement on comparable lands, or the purchase of banked credits. If a developer of a parcel of fewer than 20 acres can demonstrate that no comparable land was available for conservation easement and no credits were available, a fee in lieu of purchase can be paid. For parcels of greater than 20 acres, purchase of a conservation easement on comparable lands is required. The developer is solely responsible for negotiating and settling the easement purchase.

In 2010, the Building Industry Association (BIA) challenged Stanislaus County's mitigation policy. The trial court sided with the BIA, but the Fifth District Court of Appeal ultimately upheld the policy. The California Farm Bureau Federation and others were interveners in support of the County. [See the Regulatory Framework for a more detailed discussion of this case.](#)

The County's Local Agency Formation Commission (LAFCo) has also incorporated mitigation into a new policy. The LAFCo policy, adopted in 2012, requires cities to prepare a Plan for Agricultural Preservation before they annex more land or expand their spheres of influence. To get LAFCo approval, plans may propose actions such as reducing the size of spheres, farmland mitigation, and urban growth boundaries. Additionally, cities must demonstrate that they have not allocated more farmland to development than is necessary for the amount and type that is likely to occur. Though similar policies have been adopted in Napa, San Luis Obispo, Santa Clara, Ventura, and Yolo, this is first such LAFCo policy in the San Joaquin Valley.

An in-lieu fee has not been established and the program does not appear to have been used to date. The FMP specifies that an in-lieu fee should be no less than 35% of the average per acre price for five (5) comparable land sales in Stanislaus County.

## City of Hughson

### Key Program Facts

- **Date of project establishment.** 2013.
- **Ratio of acres conserved versus converted.** 2:1.

- **Program management and administration.** Community Development Department; Qualified Land Trusts.
- **Area of applicability.** City's Sphere of Influence.
- **Amount of in-lieu fee established.** Not established.

### **Program Summary**

In 2013 the City of Hughson's City Council passed a farmland mitigation program requiring permanent preservation of two acres of farmland for every one acre of land converted for residential use. Conversions of land for commercial or industrial development do not have the same requirement as those for residential use.

The express purpose of the FPP is to slow the loss of farmland resulting from urban development and to require the permanent protection of farmland at a 2:1 ratio of agricultural to residential uses. The FPP is designed to utilize agricultural conservation easements or other means granted in perpetuity as a means of minimizing the loss of farmland.

This program establishes standards for the acquisition and long-term oversight of agricultural conservation easements purchased in accordance with the FPP. The preferred location for agricultural easements is within Stanislaus County, one-half mile outside any Sphere of Influence. It is purposely patterned after the Farmland Mitigation Program adopted by Stanislaus County for ease of future coordination between jurisdictions. As of September 2020, Hughson's FPP has not been used.

An in-lieu fee has not been established since the program does not appear to have been used to date. Like Stanislaus County, the FPP specifies that an in-lieu fee should be no less than 35% of the average per acre price for five (5) comparable land sales in Stanislaus County.

## **City of Tulare**

### **Key Program Facts**

- **Date of program establishment.** 2020.
- **Ratio of acres conserved versus converted.** 1:1 minimum.
- **Program management and administration.** Community Development Department.
- **Area of applicability.** Within the city's urban development boundary (UDB) and outside the city limits.
- **Amount of in-lieu fee established.** Not established.

### **Program Summary**

In February 2020, the City of Tulare adopted a Farmland Mitigation Ordinance (FMO). The stated objectives of this ordinance are to:

- (A) Protect agriculture as a crucial component of Tulare's economy and cultural heritage.
- (B) Protect and preserve agricultural lands from the effects of urban encroachment.
- (C) Balance the need for agricultural land conservation with other public goals in Tulare, including the need for housing, commercial, industrial, and infrastructure development.

- (D) Foster coordination and cooperation by the City of Tulare with the County of Tulare, Local Agency Formation Commission, and neighboring cities, including the City of Visalia, to facilitate an integrated and comprehensive regional approach to agricultural land conservation.<sup>4</sup>

The FMO applies to most development of one acre or greater; however, public parks or public recreational facilities, permanent natural open space, and trails and developed open space that are open to the public are exempt. The mitigation land must be located in the San Joaquin Valley, outside of any city's limits or sphere of influence, with preference given to mitigation land within ten miles of the City of Tulare limits.

#### *In-lieu Fees*

In-lieu fees are allowed only for conversions of under 20 acres, and then only if the applicant has met with all qualified entities and all such entities have certified in writing to the City of Tulare that they are unable or unwilling to assist with the acquisition of an agricultural conservation easement. The in-lieu fee is not set but, per the ordinance, it must cover all reasonable costs of acquiring a conservation easement and monitoring its implementation. More specifically the ordinance states:<sup>5</sup>

Any in-lieu fee shall include each of the following components:

- (1) The purchase price of an agricultural conservation easement in mitigation land that complies with all the requirements in §10.222.070 "Requirements for mitigation land and agricultural conservation easements". This component shall be adjusted for inflation based on estimate of the time required to acquire mitigation land following payment of the fee.
- (2) All transaction costs associated with acquisition of the agricultural conservation easement.
- (3) An amount sufficient to endow the cost of monitoring, administering, and enforcing the agricultural conservation easement in perpetuity.
- (4) The applicant's pro rata share of the qualified entity's administrative costs in implementing the in-lieu fee program.
- (5) A reasonable amount to cover additional contingencies.

#### *Mitigation Land*

The agricultural conservation easement prohibits the landowner from entering into any additional easement, servitude, or other encumbrance that could prevent or impair the potential agricultural use of the mitigation land. It is not clear if a one-year agreement to keep land fallow would represent such an encumbrance.

#### *Projects Using the FMO*

City of Tulare staff report that as of October 2020, two annexation projects subject to the FMO are under way:

Fernjo Estates Project: This project involves the development of 80 single-family residential units on approximately 18-20 acres. Since this was an annexation proposing the conversion of Prime Farmland to

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<sup>4</sup> §10.222.030, Farmland Mitigation Ordinance

<sup>5</sup> §10.222.060, Optional mitigation alternatives.

non-agricultural use, this project was approved with the condition of mitigating the acreage on a 1:1 basis through establishment of an agricultural conservation easement on equivalent land.

The project proponent is a farming family and has chosen to establish an agricultural conservation easement on another property it owns in the area. It has been working with Sequoia Riverlands Trust (SRT), the local land trust, to establish this conservation easement. The SRT acknowledges that when an applicant has other farmland it already owns, it simplifies and reduces the time and cost of processing. One of the family members is a knowledgeable real estate broker and that too is facilitating the conservation easement.

Cartmill Crossings Project: This is a multi-use/mixed-use project made up of commercial development and a mix of residential uses (single-family and multi-family) on approximately 120 acres. Compared to the Fernjo Estates Project, which is much more defined and included a tentative map for a single-family subdivision, this project is less defined and is more of a conceptual long-term development plan.

This project would also be subject to farmland mitigation on a 1:1 ratio for the conversion of farmland. The project proponent has made initial inquiries into SRT.

## **Tulare County**

### **Key Program Facts**

- **Date of program establishment.** 2016.
- **Ratio of acres conserved versus converted.** Generally, 1:1 for similar soil quality.
- **Program management and administration.** Tulare County Resource Management Agency.
- **Area of applicability.** Unincorporated Tulare County, parcels of 5 acres or more of prime or unique farmland, or farmland of statewide importance.
- **Amount of in-lieu fee established.** Not established. In-lieu fees have been discussed in relation to two projects, but no negotiated amounts have determined.

### **Program Summary**

Tulare County established its Agricultural Conservation Easements Program (ACEP) in May 2016 by resolution of the Board of Supervisors. The ACEP was prompted by a lawsuit by the Sierra Club over the 2012 County General Plan. The program requires conservation easements as mitigation for land converted to non-agricultural use. It applied to parcels of five (5) acres or more in the unincorporated areas of the County. Protected land includes Prime Farmland, Unique Farmland, or Farmland of Statewide Importance as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency.

Generally, a 1:1 ratio of conserved land to converted land is used. Adjusted ratios are possible when there are differences in soil quality between the converted and conserved land.

Preferably the easement will be located in Tulare County, but other suitable land may be preserved subject to approval by the Board of Supervisors. The easement may include Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.

The County ACEP has been used three times to date, with one project currently under way. Two other projects have initiated negotiation of in-lieu fees but have not completed the process. The establishing

resolution states that in-lieu fees should be sufficient to purchase a farmland conservation easement, farmland deed restriction, or other farmland conservation mechanism as a condition of approval for conversion of important agricultural land to non-agricultural use

## OBSERVATIONS

- Three of the six case study programs require mitigation ratios of 2:1 or higher.
- Most of the case study programs require mitigation for projects of one acre or more, with Tulare County being the exception and requiring mitigation for projects of five acres or more.
- Some of the programs identify exemptions from mitigation requirements based on project type (e.g., affordable housing) or amount of farmland being converted (i.e., project is converting less than five acres of farmland). Other programs identify reduced mitigation requirements for certain project types (e.g., commercial or industrial).
- Most of the case study jurisdictions either require or prefer mitigation land to be acquired in the same county.
- In-lieu fees are currently in the range of one-third to one-half the value of the land. Yolo County's per acre fee of \$10,100 per acre is the only published in-lieu fee that could be identified.
- All programs make use of a qualified entity, generally a non-profit land trust, to play the lead role in creating agricultural conservation easements. The land trust is also responsible for monitoring and enforcing the easements.
- There are a number of land trusts dedicated to acquiring and holding conservation easements on agricultural land.

Table 3: Comparison of Farmland Preservation Programs

Program Attributes	Yolo County	City of Davis	Stanislaus County	City of Hughson	City of Tulare	Tulare County
1 Date Program Established	2008; 2015	1995; 2007	2007	2013	2020	2016
2 Area of Applicability	Unincorporated County Outside City SOI	Urban/Rural Edge	Stanislaus County	Within City's SOI with Annexation	Within the city's urban development boundary (UDB) and outside the city limits	Unincorporated County
3 Program Management and Administration	Department of Community Services	Department of Community Development and Sustainability	Planning and Community Development Department	Planning Department and Planning Commission	Community Development Department	Resource Management Agency (RMA)
4 Qualifying Entity Holding Easements	Yolo Land Trust	Yolo Land Trust; Solano Farm and Open Space Trust. Others subject to City Council approve	Stanislaus County Land Trust	A qualified Land Trust	An entity qualified and approved to hold agricultural conservation easements	A Qualifying Entity
5 Soil Quality	All Farmland	All Farmland	Prime Farmland, Farmland of Statewide Importance, or Unique Farmland	Equal to or better than the farmland proposed for conversion	Equal to that of the critical farmland proposed for conversion	Prime Farmland, Farmland of Statewide Importance, or Unique Farmland
6 Minimum Parcel Size	No minimum	No minimum	No minimum	One acre or greater converted to residential use	One acre or greater	5 acres
7 Implementation Measures	Department of Community Services administers; Monitoring, enforcing, and reporting by the Yolo Land Trust	Since 2007 Projects converting agricultural land must be approved by Davis voters (ballot measure)	Monitoring, enforcing, and reporting by the Land Trust	Monitoring, enforcing, and reporting by the Land Trust	Monitoring, enforcing, and reporting by the Qualified Entity	Annually the Tulare County Resource Management Agency shall review the reports submitted to it by the Qualifying Entity as well as any other relevant material. The RMA shall prepare an Annual Report that provides an independent assessment of the effectiveness of the ACEP relative to its purpose
8 Farmland Mitigation Ratios: Preserved Land: Converted Land	3:1 prime /2:1 nonprime; preferred locations credited at ratios of 2:1 or 1:1	2:1 generally; depending on location can be from 1:1 to 5:1	1:1	2:1	1:1	1:1
9 Methods of Conservation/Mitigation	Direct Conservation Easement Acquisition (In-Kind Acquisition). Can pay In-Lieu Fees if less than 20 acres	Direct Conservation Easement Acquisition. Projects over 40 acres must do mitigation on adjacent property; in lieu fees can apply to 50% of remainder of mitigation obligation.	Less than 20 acres by direct acquisition of an agricultural conservation easement or purchase of banked mitigation credits. 20 acres or more in size, farmland preservation shall be satisfied by direct acquisition of a farmland conservation easement.	Less than 20 acres by direct acquisition of an agricultural conservation easement or purchase of banked mitigation credits. 20 acres or more in size, farmland preservation shall be satisfied by direct acquisition of a farmland conservation easement.	Direct Conservation Easement Acquisition (In-Kind Acquisition) and In-Lieu Fees if less than 20 acres	The applicant shall pay directly to the Qualifying Entity reasonable administrative fee equal to cover the reasonable real estate transaction costs and costs of administering, monitoring, and enforcing the farmland conservation easement
10 Amount of In-lieu Fee Established / Process for establishing In-lieu Fee	\$10,100 / acre; \$30,300 for triple mitigation	Would be based on ag land at city limit; \$23,000 recent price/acre. Easements valued at \$7,000 to \$10,000 per acre. In-lieu fees not used to date	No less than 35% of the average per acre price for five (5) comparable land sales in Stanislaus County	No less than 35% of the average per acre price for five (5) comparable land sales in Stanislaus County	Shall be sufficient to cover the cost of acquiring, managing, and administering an equivalent easement	The in-lieu fee or other conservation mechanism shall recognize the importance of land value and shall require equivalent mitigation

Program Attributes		Yolo County	City of Davis	Stanislaus County	City of Hughson	City of Tulare	Tulare County
11	<b>Location of Agricultural Preservation Lands</b>	Within two miles of a City SOI/Esparto Urban Growth Boundary	Davis Planning Area	Stanislaus County	Stanislaus County	The mitigation land is located in the San Joaquin Valley, outside of any city's limits or sphere of influence, with preference given to mitigation land within ten miles of the City of Tulare limits	Tulare County is the preferred location of mitigation land; land outside Tulare County may be allowed subject to approval by the Board of Supervisors
12	<b>Legal Instruments for Encumbering Agricultural Preservation Land</b>	Held in trust by the Land Trust in perpetuity	Held in trust by the Land Trust in perpetuity	Held in trust by the Land Trust in perpetuity	Held in trust by the Land Trust in perpetuity	Agricultural conservation easements in mitigation land shall be held in perpetuity by a qualified entity	Agricultural conservation easements in mitigation land shall be held in perpetuity by a qualifying entity
13	<b>Monitoring, Enforcing, and Reporting</b>	The Yolo Land Trust shall monitor all lands and easements acquired. Community Services Department makes an annual report delineating the activities undertaken in previous fiscal year	The Yolo Land Trust shall monitor all lands and easements acquired. City will from time to time report delineating activities undertaken	The Land Trust shall monitor all lands and easements acquired, with an annual report delineating the activities undertaken	The Land Trust shall monitor all lands and easements acquired, with an annual report delineating the activities undertaken	The qualified entity shall monitor the use of all mitigation land subject to agricultural conservation easements held by the entity and enforce compliance with the terms of those agricultural conservation easements	The qualifying entity shall monitor the use of all mitigation land subject to agricultural conservation easements held by the entity. It shall also enforce compliance with the terms of the conservation easements or other agricultural mitigation instruments
14	<b>Stacking of Conservation Easements</b>	Not allowed except for certain habitat easements on no more than 5% of agricultural easement	Not allowed except for certain habitat easements on no more than 5% of agricultural easement	Allowed - Ensure the stacking will not be incompatible with the maintenance and preservation of economically sound and viable agricultural activities and operations	May be allowed if approved by the City Council, provided the habitat needs of the species addressed by the conservation easement shall not restrict the active agricultural use of the land	Stacking of easements not mentioned in Ordinance	Stacking of easements not mentioned in Resolution
15	<b>Properties Eligible for Protection</b>	Within two miles of a City SOI/Esparto Urban Growth Boundary; closer-in credited at 1:2 or 1:1	Davis Planning Area; adjacent to property if 40 acres or more land converted. Land remote from City limit credited at 5:1	Land shall be: (1) located in Stanislaus County; (2) designated agriculture by the land use element of the Stanislaus County general plan; (3) zoned A-2 (general agriculture); and (4) located outside a local agency formation commission (LAFCO) adopted sphere of influence of a city	Land shall be: (1) located in Stanislaus County; (2) designated agriculture by the land use element of the Stanislaus County general plan; (3) zoned A-2 (general agriculture); and (4) located outside a local agency formation commission (LAFCO) adopted sphere of influence of a city	in the San Joaquin Valley, outside of any city's limits or sphere of influence, with preference given to mitigation land within ten miles of the City of Tulare limits	In Tulare County preferred. Board of Supervisors may approve easement on land outside of County

# APPENDIX F

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## *Data Collection & Mapping*





# Data Collection & Mapping

## AGRICULTURAL MITIGATION PROGRAM & FEASIBILITY STUDY

OCTOBER 2020

### PREPARED FOR:

City of Visalia  
707 W. Acequia Ave.  
Visalia, CA 93291

### PREPARED BY:

Provost & Pritchard Consulting Group



# INTRODUCTION AND PURPOSE

The City of Visalia General Plan establishes a tiered growth strategy for the City. Buildout thresholds have been identified for when growth could begin in Tiers II and III, but the City has also required an agricultural mitigation program be established before expansion into Tier II. As the City approaches the buildout thresholds established for Tier II development, the agricultural mitigation program is being re-evaluated for feasibility and effectiveness. This document provides an inventory of local land uses, farmland categories, soil types, public utilities, and other relevant data mapping. Analysis based on these data sets will occur during the preparation of the Feasibility Study. Additional data sets may be used as part of the analysis as well.

## MAPPING

### RELEVANT CITY AND SPECIAL DISTRICT BOUNDARIES

**Figures 1 through 3** display various jurisdictional and special district boundaries that are relevant to the potential agricultural mitigation program. This includes the City of Visalia jurisdictional boundaries, including the tiered growth boundaries and the adopted Sphere of Influence represented in **Figure 1**, the Groundwater Sustainability Agency boundaries represented in **Figure 2**, and the water district boundaries represented in **Figure 3**. There are approximately 66,640 acres (or just over 104 square miles) in the Visalia Planning Area.

### EXISTING AND PLANNED LAND USES

**Figures 4 through 8** represent existing and planned land uses within the City. **Figure 4** shows on-the-ground land uses, including agricultural parcels in crop production. Approximately 33,407 acres (or about 50 percent) of the Visalia Planning Area are in agricultural crop production, growing a variety of crops including citrus, tree nuts, and vineyard plants. **Figure 5** shows the adopted City of Visalia General Plan Land Use Diagram. **Figure 6**, **Figure 7**, and **Figure 8** show existing infrastructure for the City, including major roadways, sewer lines, and storm drainage facilities and basins, respectively. Some planned roadway improvements are also included.

### AGRICULTURAL LANDS

**Figures 9 through 14** show previous and current distribution of agricultural lands and related land contracts in the Visalia Planning Area. Farmland type, according to the Farmland Mapping and Monitoring Program (FMMP), is represented for a series of years in **Figure 9**, **Figure 10**, **Figure 11**, **Figure 12**, and **Figure 13**. Parcels currently under or expired from Williamson Act Contracts are represented in **Figure 14**, which also indicates two existing Sequoia Riverlands Trust conservation easements and one additional agricultural conservation easement identified through the Williamson Act Contract program data.

### **Farmland Mapping and Monitoring Program Categories**

The California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) produces maps and statistical data used for analyzing impacts on California's agricultural resources. As part of this process agricultural land is categorized according to soil quality and irrigation status. These agricultural categories include the following:

**Prime Farmland.** Farmland with the best combination of physical and chemical features able to sustain long term agricultural production. This land has the soil quality, growing season, and moisture supply needed to produce sustained high yields. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.

**Farmland of Statewide Importance.** Farmland similar to Prime Farmland but with minor shortcomings, such as greater slopes or less ability to store soil moisture. Land must have been used for irrigated agricultural production at some time during the four years prior to the mapping date.

**Unique Farmland.** Farmland of lesser quality soils used to produce the state's leading agricultural crops. This land is usually irrigated but may include non-irrigated orchards or vineyards as found in some climatic zones in California. Land must have been cropped at some time during the four years prior to the mapping date.

**Farmland of Local Importance.** Land of importance to the local agricultural economy as determined by each county's board of supervisors and a local advisory committee.

**Urban and Built-Up Land.** Land occupied by structures with a building density of at least 1 unit to 1.5 acres, or approximately 6 structures to a 10-acre parcel. This land is used for residential, industrial, commercial, institutional, public administrative purposes, railroad and other transportation yards, cemeteries, airports, golf courses, sanitary landfills, sewage treatment, water control structures, and other developed purposes.

**Other Land.** Land not included in any other mapping category. Common examples include low density rural developments; brush, timber, wetland, and riparian areas not suitable for livestock grazing; confined livestock, poultry or aquaculture facilities; strip mines, borrow pits; and water bodies smaller than 40 acres. Vacant and nonagricultural land surrounded on all sides by urban development and greater than 40 acres is mapped as Other Land.

**Table 1. Summary of FMMP Acres by Category, 2000 - 2016**

Category	2000	2004	2008	2012	2016
Prime Farmland	39,123	36,745	33,987	31,786	31,405
Farmland of Statewide Importance	7,452	7,365	7,353	7,291	7,212
Unique Farmland	92	129	181	145	115
Farmland of Local Importance	1,713	2,149	1,630	2,224	2,466
Urban and Built-Up Land	15,343	17,300	19,033	20,142	20,734
Other Land	2,918	2,953	4,457	5,052	4,706
Grazing Land	--	--	--	--	1

Each iteration of FMMP maps for the Visalia Planning Area demonstrated a loss of farmland to urban conversion. Between 2000 and 2016, Urban and Built-Up Land and Other Land increased from 18,261 acres to 25,440 acres. During this same period, farmland categories decreased from 48,380 acres to 41,199 acres.

### **Williamson Act Contracts**

The Williamson Act, also known as the California Land Conservation Act of 1965, enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. Private land within locally designated agricultural preserve areas is eligible for enrollment under contract. The minimum term for contracts is ten years and will automatically renew on each anniversary date of the contract.

Landowners enrolled under Williamson Act contract receive considerably reduced property tax assessments in return for their enrollment. Property tax assessments of Williamson Act contracted land are based upon generated income as opposed to potential market value of the property.

Williamson Act contracts may be exited at the option of the landowner or local government by initiating a non-renewal process, which effectively halts the automatic renewal of the contract term. Once a notice of non-renewal is filed, the remaining contract term is allowed to lapse, with the contract null and void at the end of the term. During the non-renewal process, the annual tax assessment continually increases each year until it is equivalent to current tax rates at the end of the non-renewal period. Under a set of specifically defined circumstances, a contract may be cancelled without completing the process of term non-renewal.

## **SOIL AND RECHARGE**

**Figures 15 and 16** show different soil characteristics within the Visalia Planning Area. Soil classifications are represented in **Figure 15**. Relating to soil type, **Figure 16** shows the Soil Agricultural Groundwater Banking Index (SAGBI) ratings for the Visalia Planning Area. The SAGBI is based on five major factors that indicate the effectiveness of the location as a natural groundwater recharge area, including: deep percolation, root zone residence time, topography, chemical limitations, and soil surface condition.



Figure 2: Groundwater Sustainability Agency Boundaries

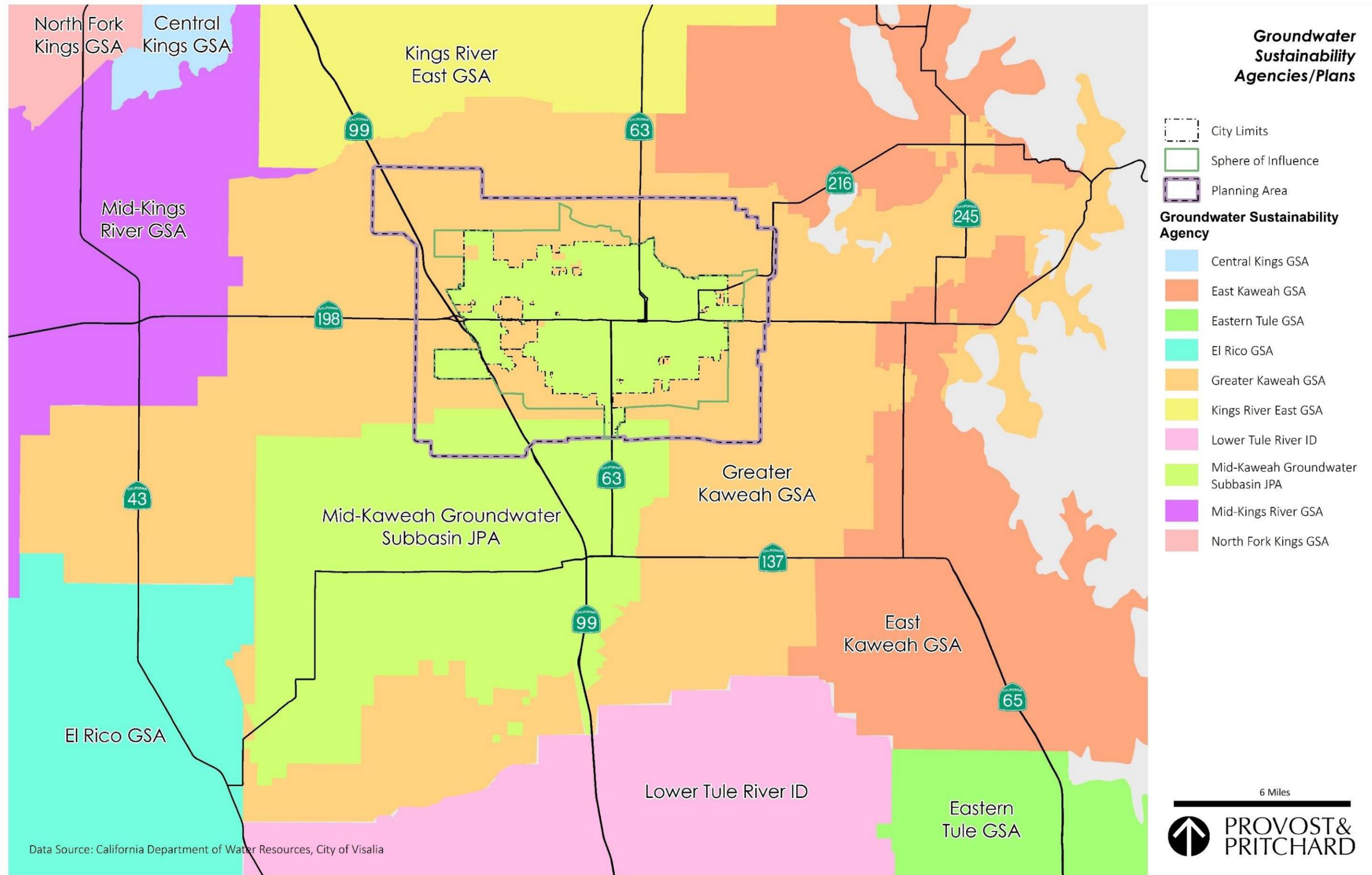


Figure 3: Water District Boundaries

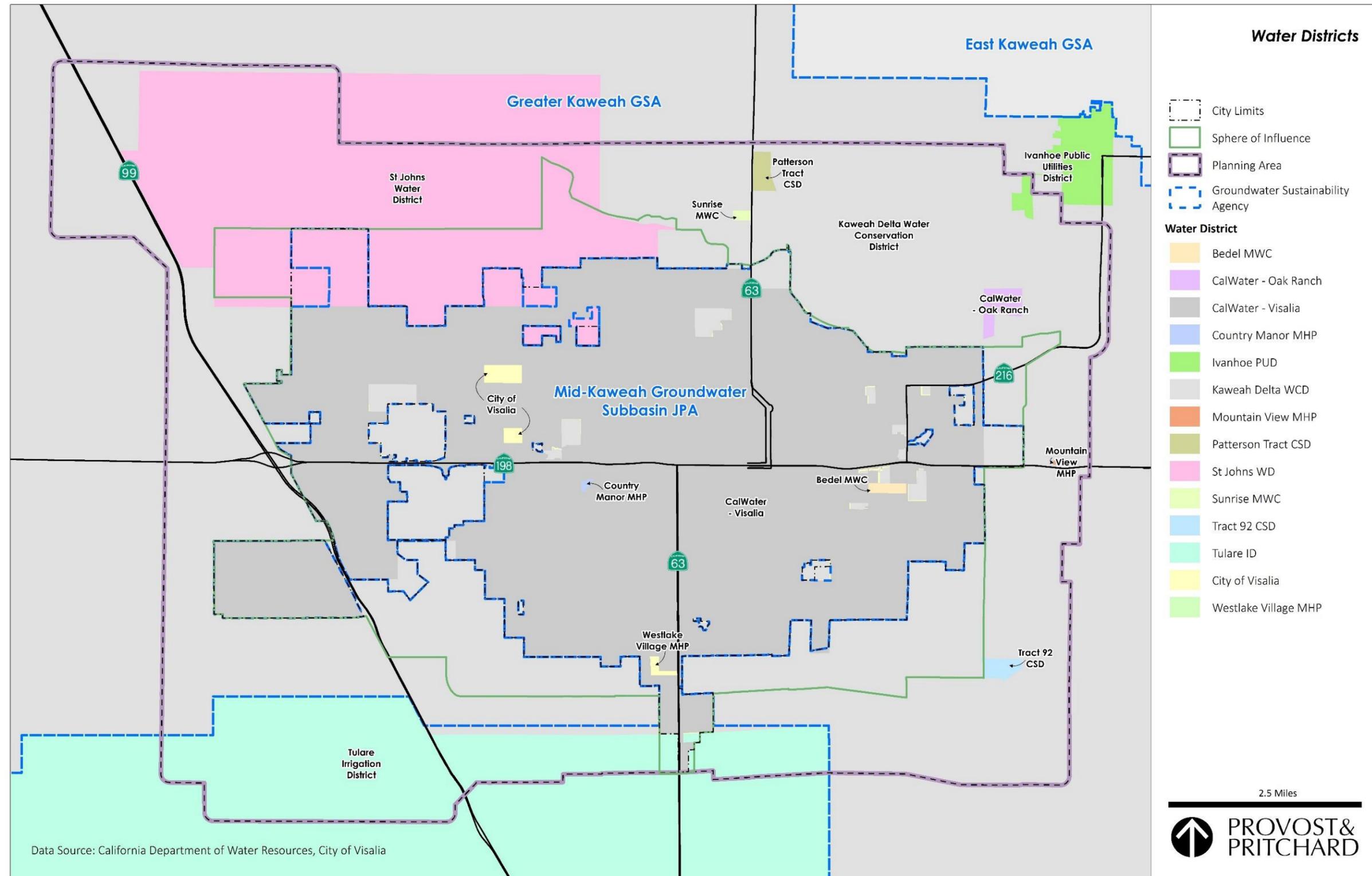


Figure 4: Existing Land Uses

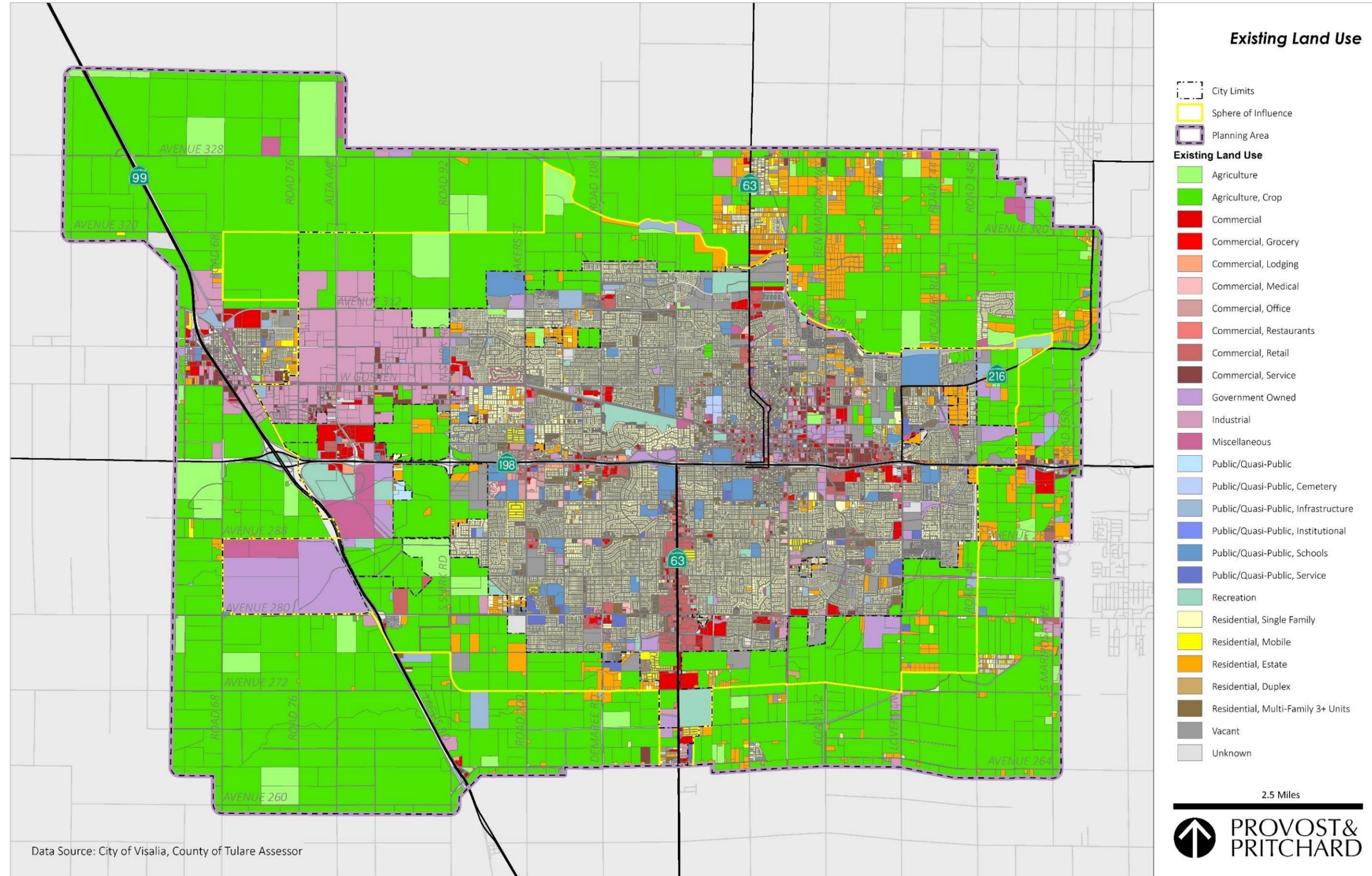


Figure 5: General Plan Land Use Diagram

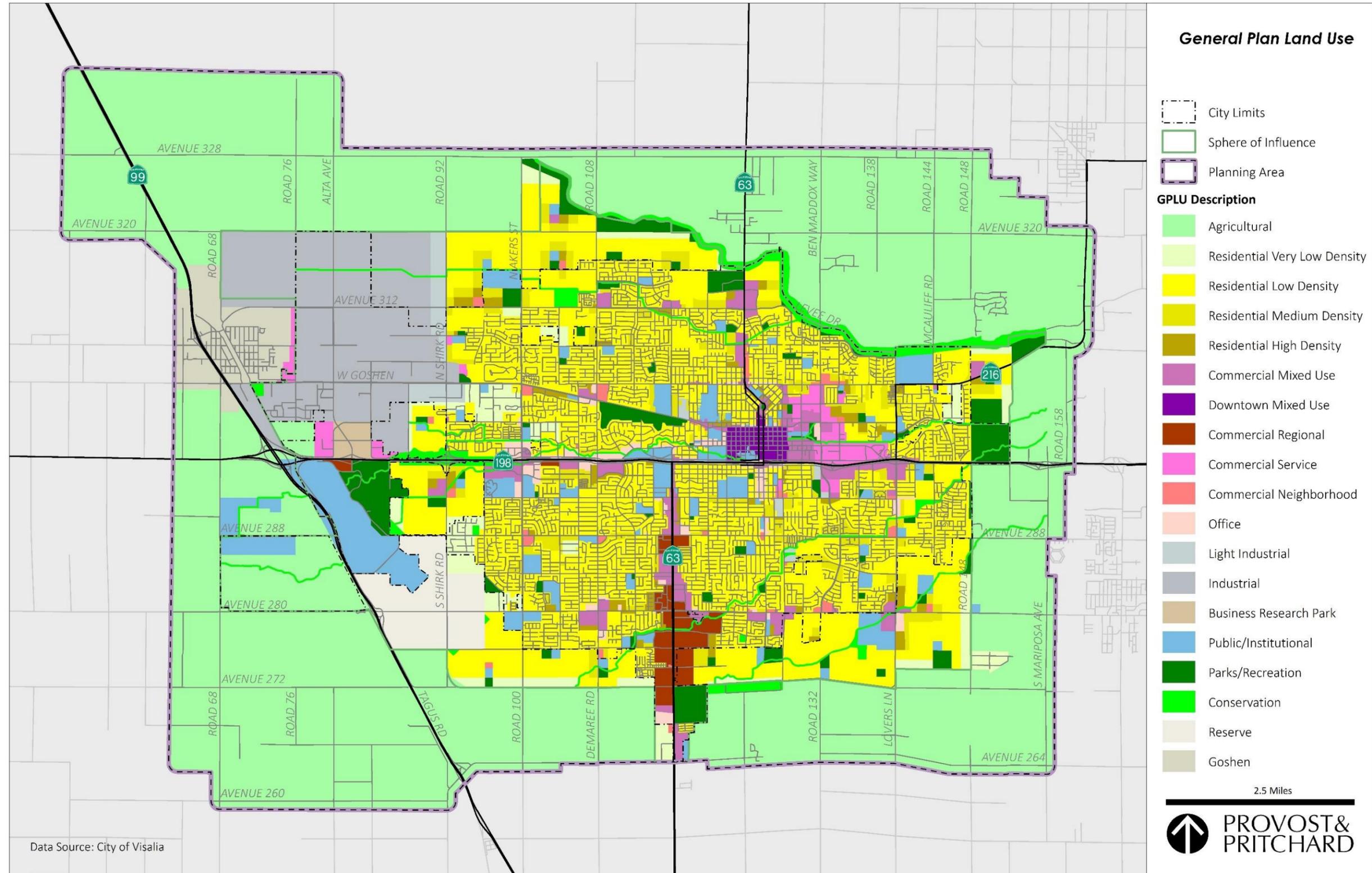


Figure 6: Existing and Planned Roads

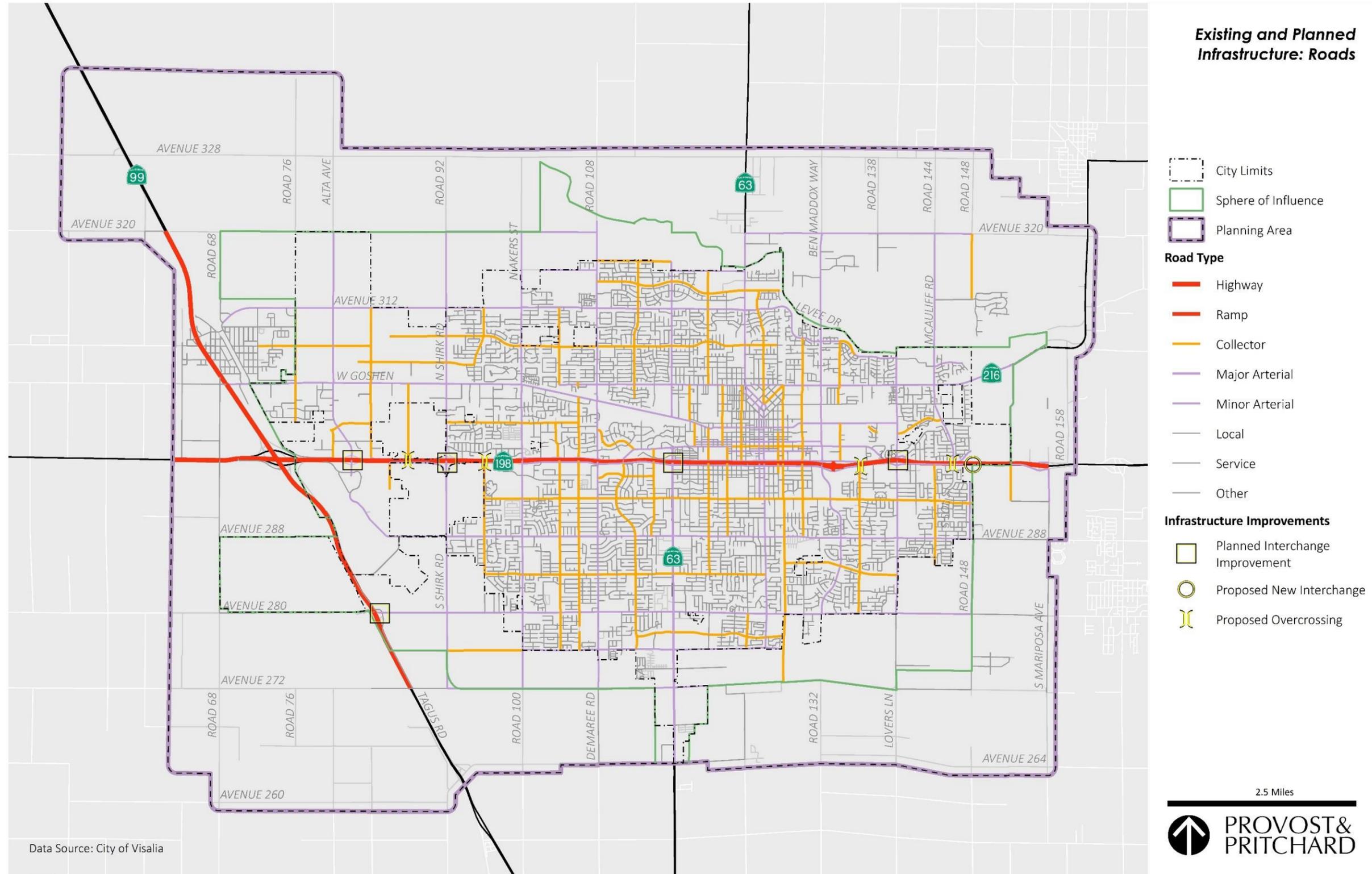


Figure 7: Existing Sewer Infrastructure

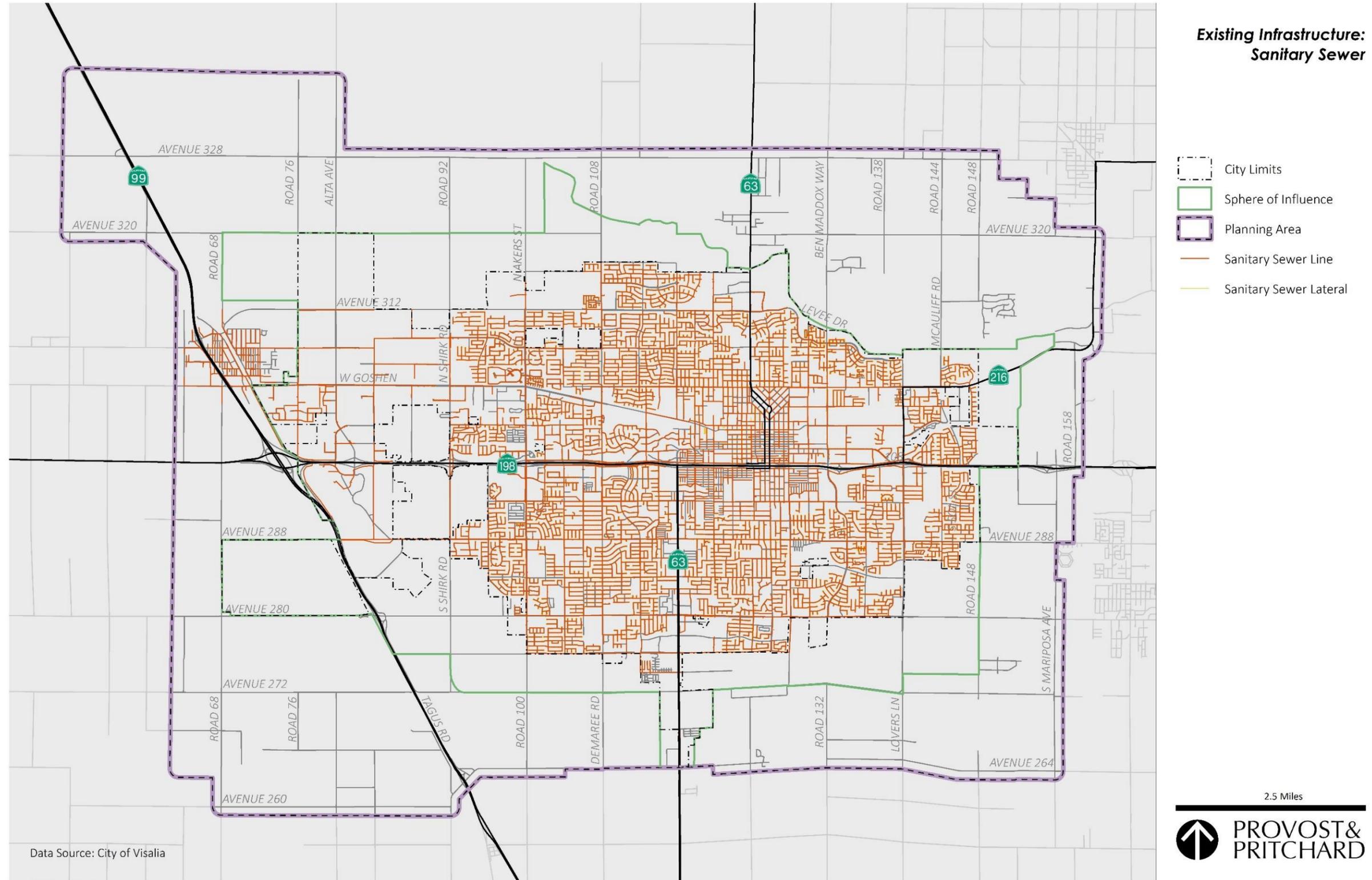




Figure 9: Farmland Mapping and Monitoring Program Categories, 2000

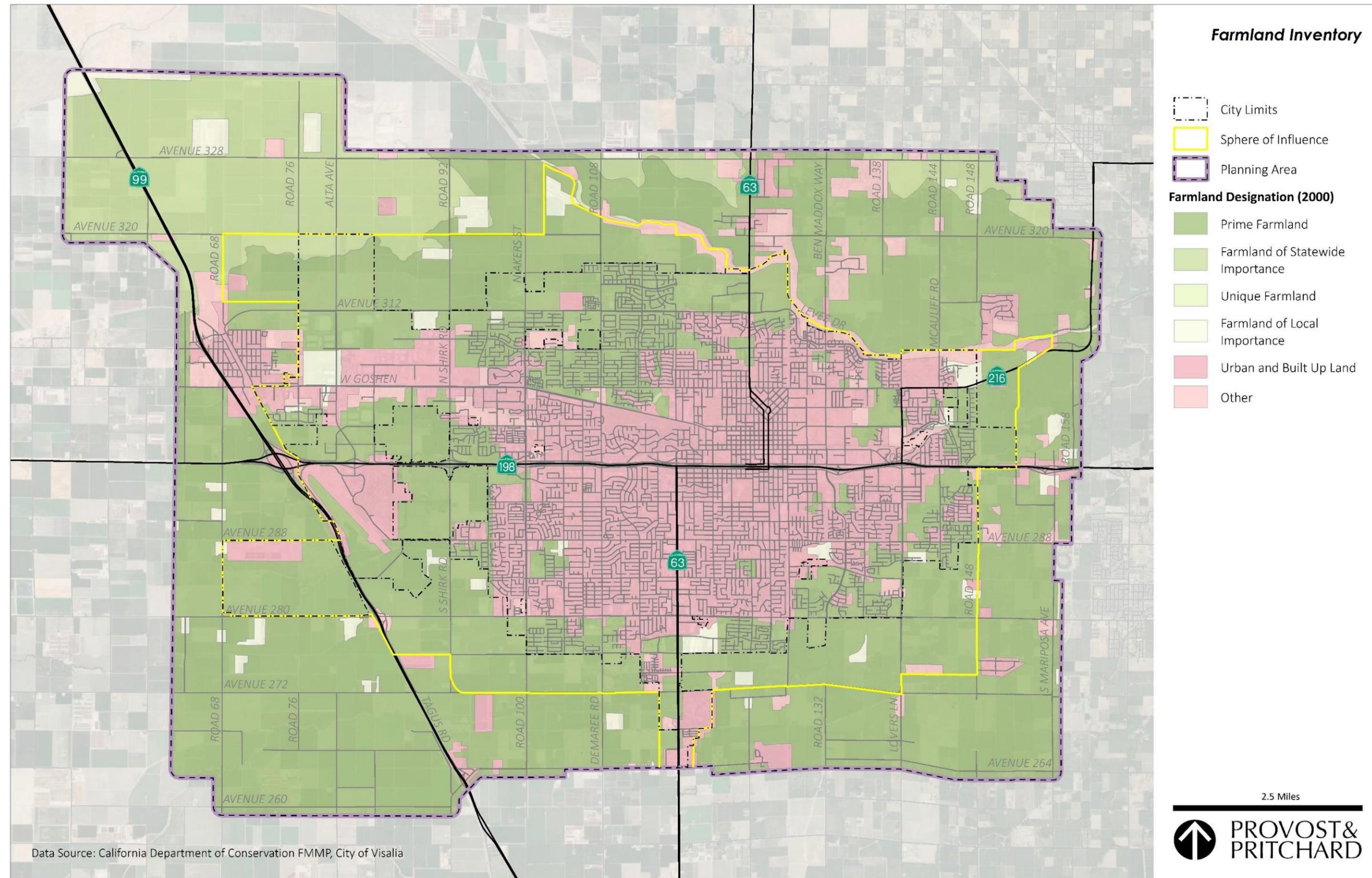


Figure 10: Farmland Mapping and Monitoring Program Categories, 2004

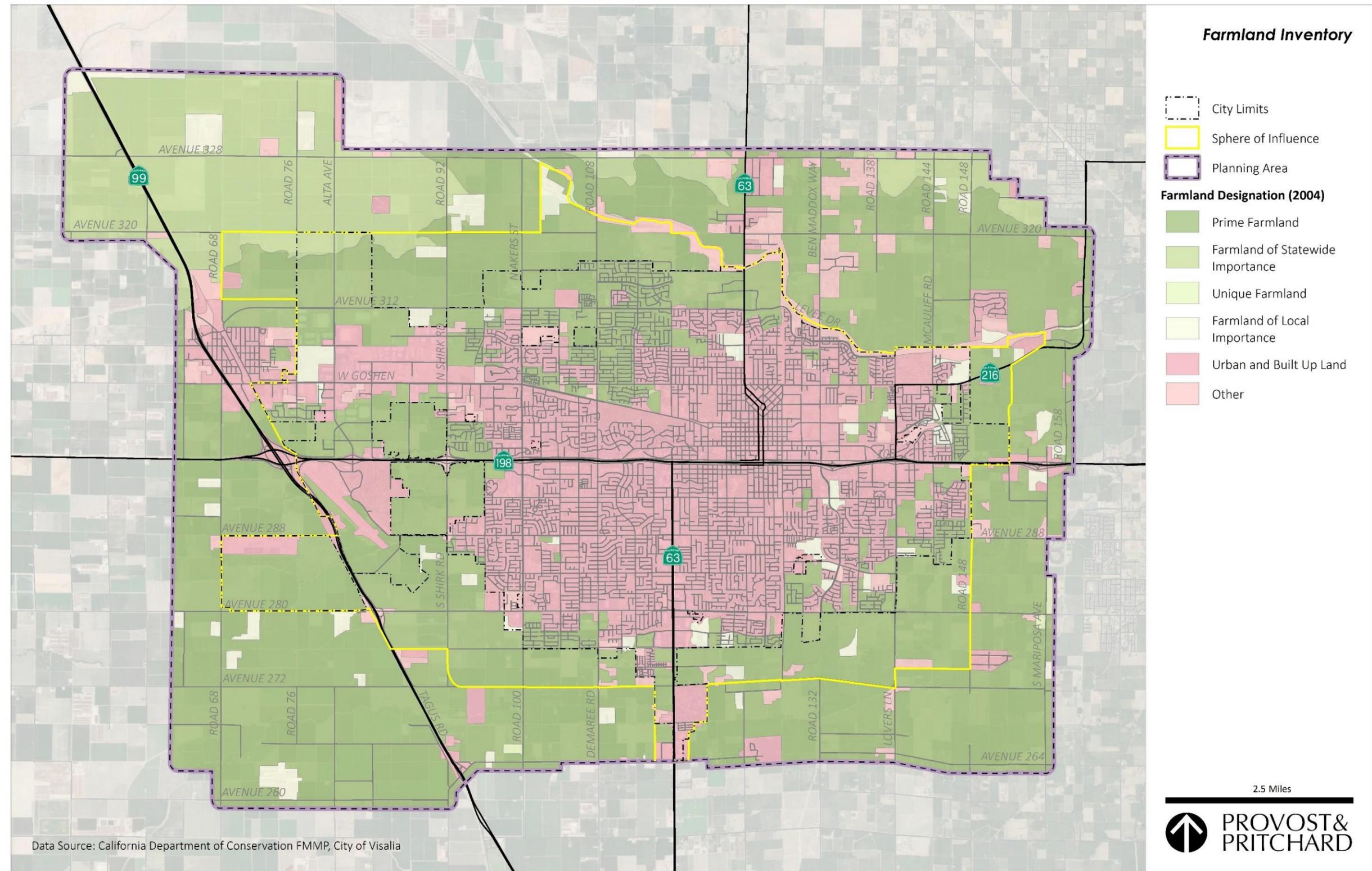


Figure 11: Farmland Mapping and Monitoring Program Categories, 2008

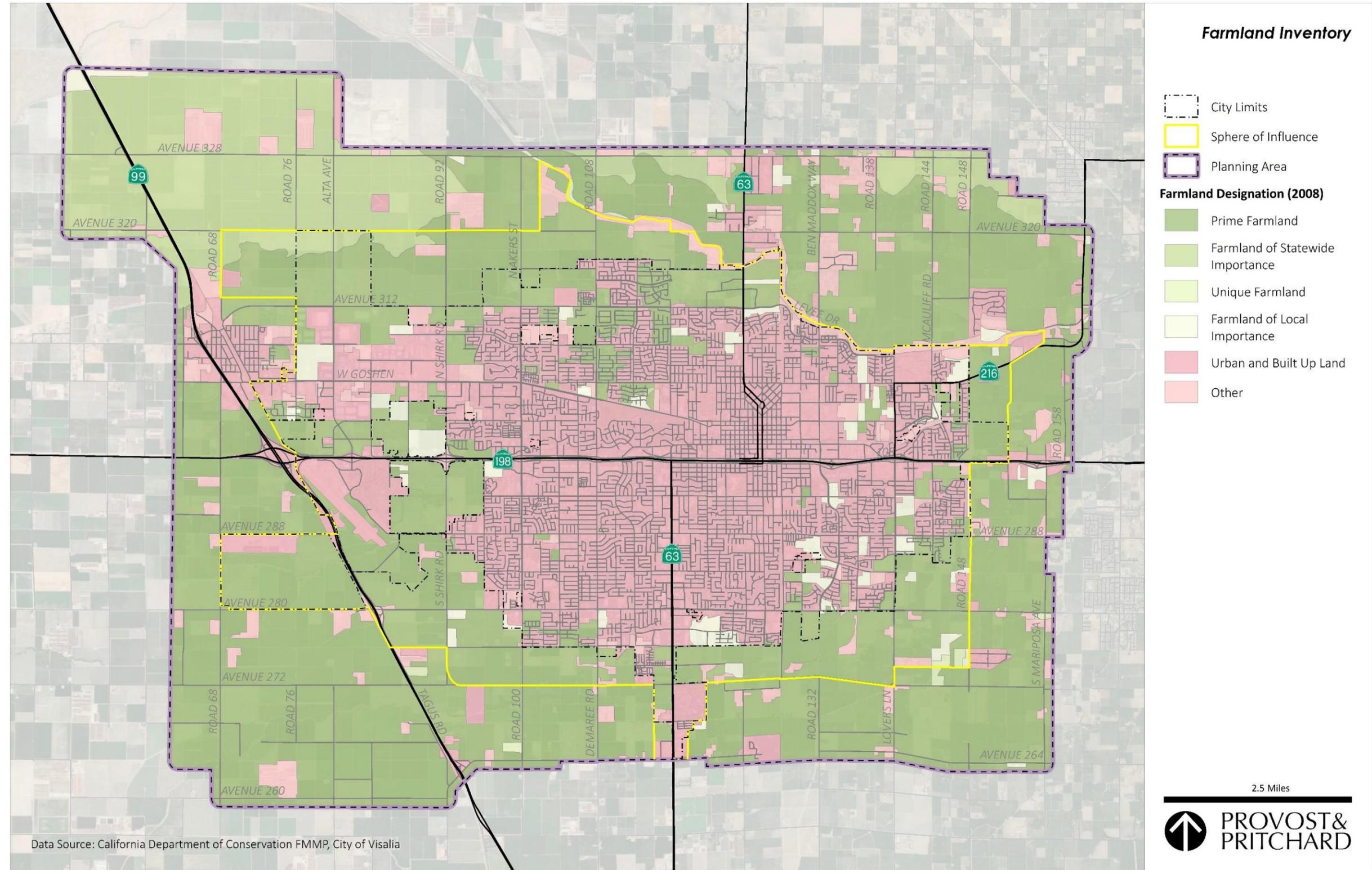


Figure 12: Farmland Mapping and Monitoring Program Categories, 2012

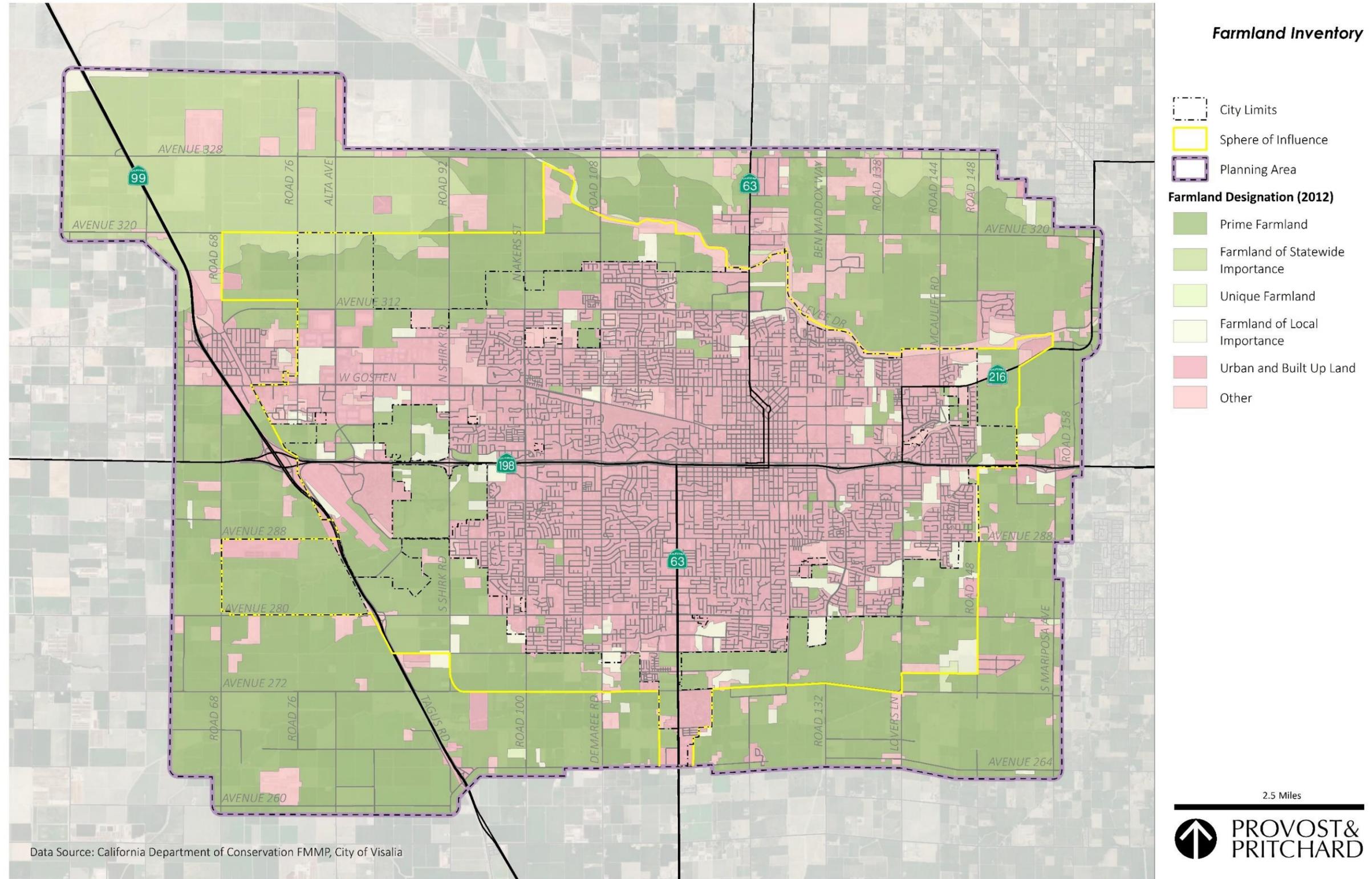


Figure 13: Farmland Mapping and Monitoring Program Categories, 2016

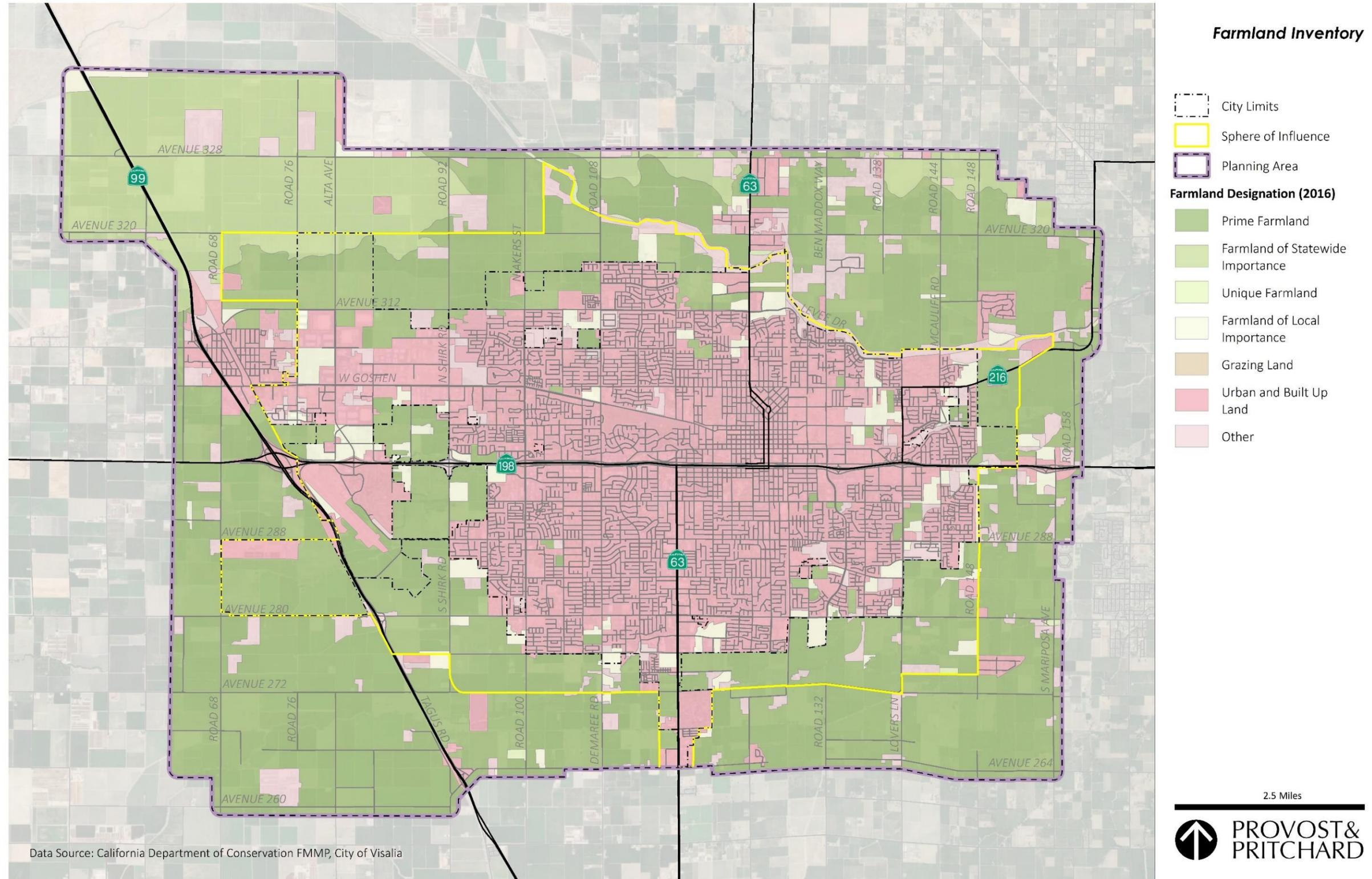


Figure 14: Williamson Act Parcels

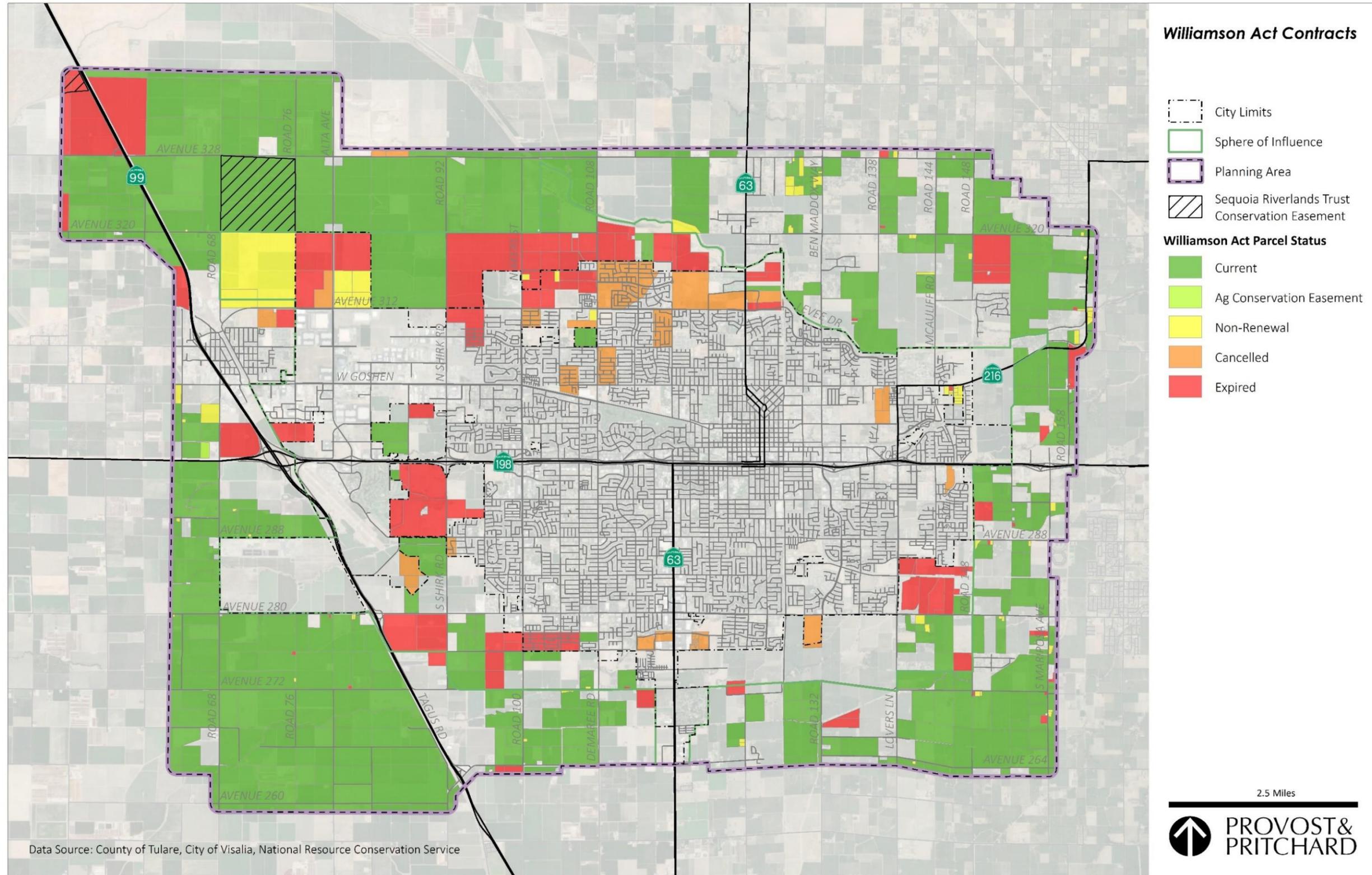


Figure 15: Soil Types

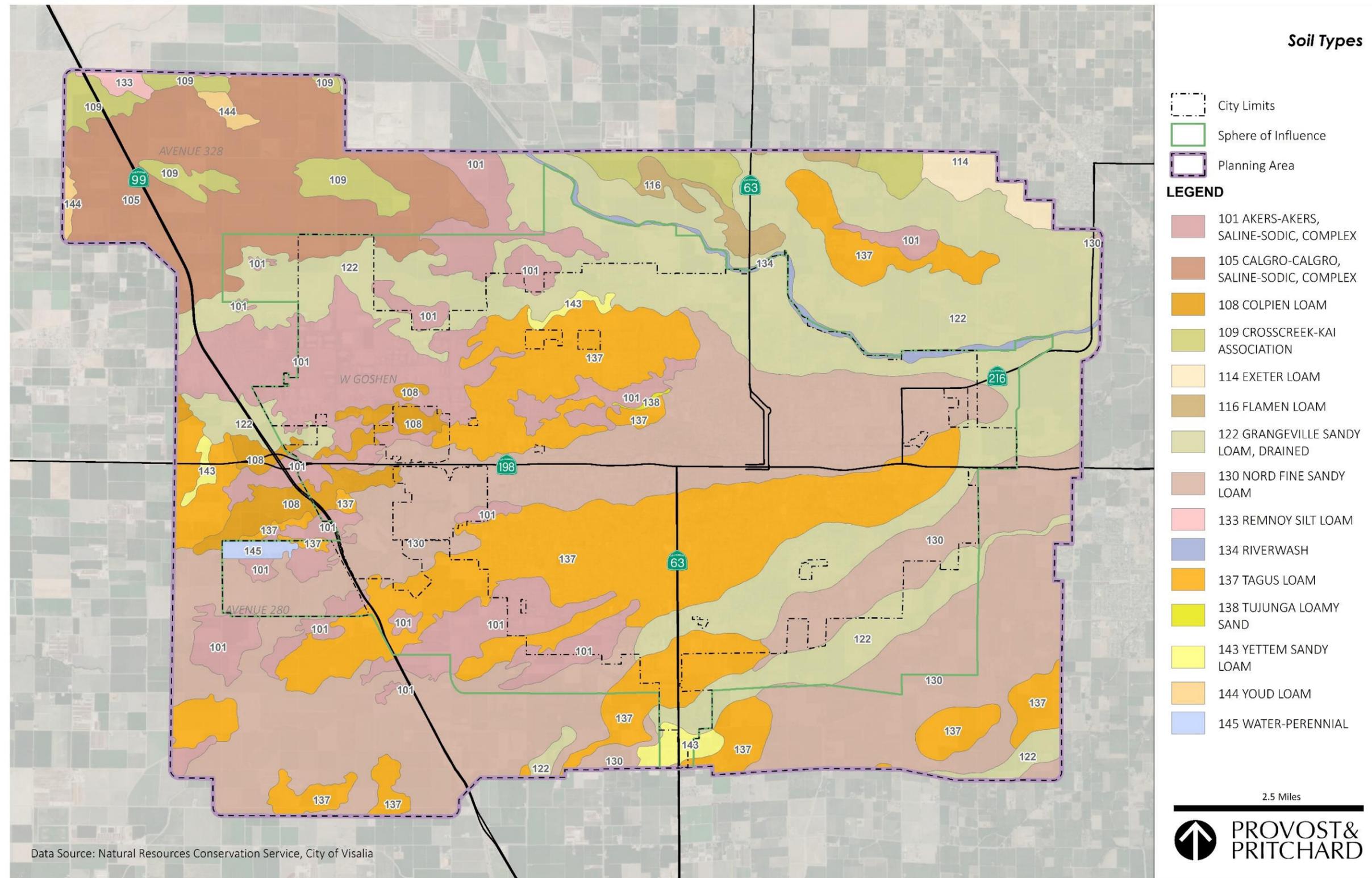
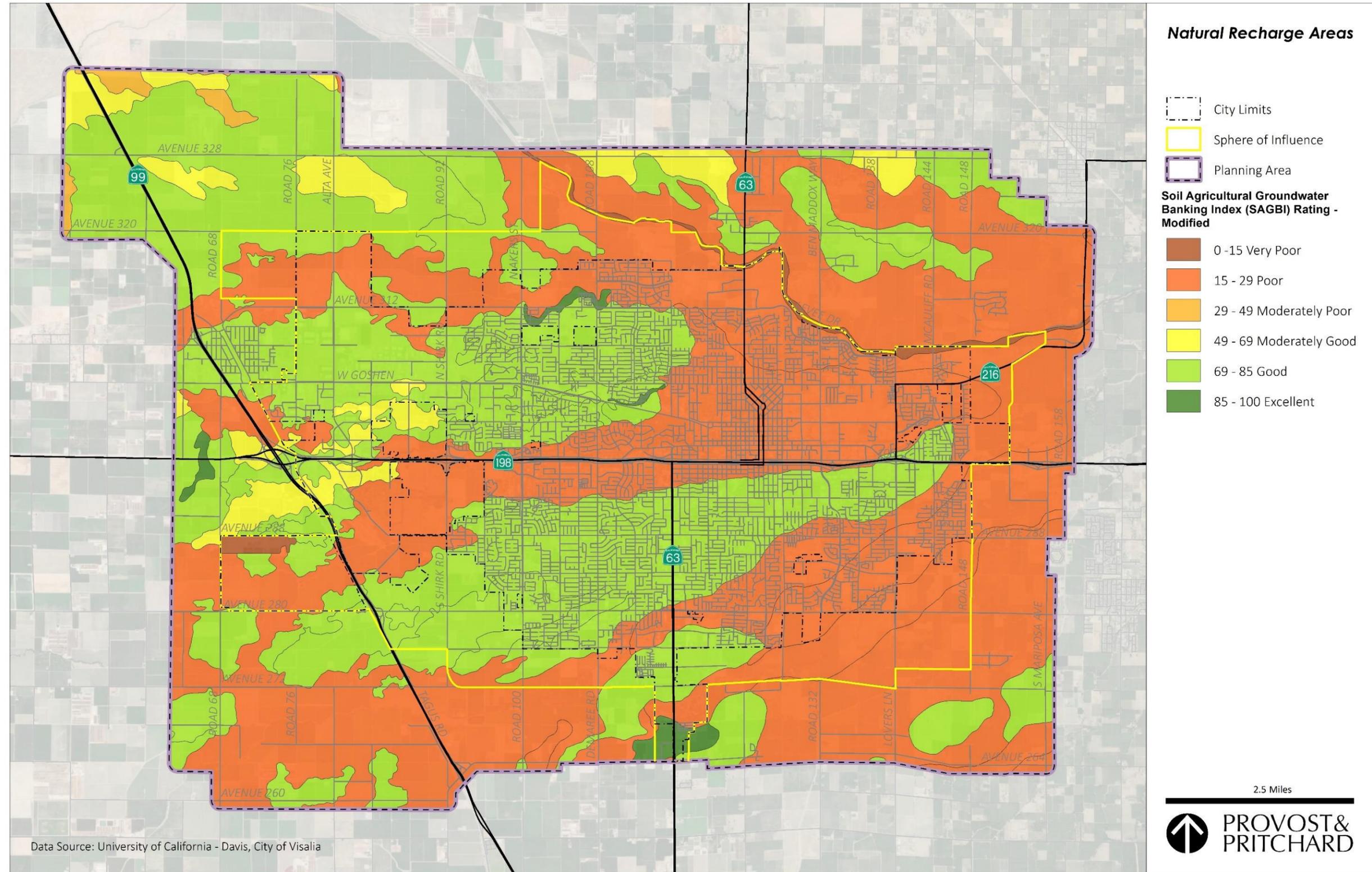


Figure 16: Natural Recharge Areas



# APPENDIX G

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## *Tier I Residential Capacity Summary*



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** 4/6/2020

**Agenda Item Number (Assigned by City Clerk):** 2.

**Agenda Item Wording:** Update to the City Council on Remaining Acreage in the Tier I Growth Boundary for each Land Use.

**Deadline for Action:** None

**Submitting Department:** Community Development

**Contact Name and Phone Number:**

Josh Dan, Associate Planner, -- (559) 713-4003, [josh.dan@visalia.city](mailto:josh.dan@visalia.city)

Paul Bernal, City Planner – (559)713-4025, [paul.bernal@visalia.city](mailto:paul.bernal@visalia.city)

Curtis Cannon, Com. Dev. Director – (559) 713-4449, [curtis.cannon@visalia.city](mailto:curtis.cannon@visalia.city)

**Department Recommendation:**

That the City Council receive the staff report and presentation, and affirm staff's initial recommendation to proceed with the following option as directed at the January 16, 2020 Joint Meeting subject to the following revision:

Revised Option No. 2:

Expand Residential and Commercial land uses into the Tier II Growth Boundary since all these land uses are within parameters and/or have met their thresholds per Land Use Policy LU-P-21.

- Do not expand Industrial land into Tier III at this time due to the remaining vacant acreage in the Tier I boundary and the lack of planned infrastructure to serve industrial land in the Tier III Growth Boundary north of Riggins Avenue.
- Do not expand Regional Commercial land use into Tier II. Regional Commercial land is tied to a threshold based on building square footage. The threshold to move into the Tier II boundary is 922,383 sq. ft. issued. Since 2010, only 111,344 sq. ft. has been issued for Regional Commercial lands. This accounts for only 12% of the threshold for Regional Commercial.

Council's original direction at the January 16, 2020 meeting was:

For staff to return with available land inventory data detailing current undeveloped lands within the Tier I Growth Boundary, and consider the feasibility of opening all land uses, based on thresholds, to their next appropriate Tier Boundary.

**Summary:**

At the January 16, 2020 Joint Meeting between the City Council and Planning Commission, staff provided an overview of Visalia's Growth Boundaries upon reaching the five-year milestone since the adoption of the General Plan Update in 2014. The overview provided a snapshot of development in the Tier I boundary and included a recommendation to direct staff to begin the process of moving into the Tier II boundary.

During the discussion at the January 16<sup>th</sup> Joint Meeting, Councilmembers raised questions related to inventory of available vacant acreage remaining in the Tier I Growth Boundary for Residential, Commercial, Industrial, and Regional Commercial land uses as described in the General Plan.

Staff has prepared this report to address this question related to available vacant acreage and sites that may appear to be vacant but have either an active subdivision map or are in the process of being entitled in the Tier I Growth Boundary.

**LAND INVENTORY:**

Staff has assessed the most current data regarding undeveloped lands within the Tier I Growth Boundary. The collected information for each land use designation is described in greater detail below and separated by land use. Methodology of data collection consisted of utilizing GIS data, as well as aerial review of regionally grouped land uses, parcel data with regard to tentative and final maps, and parcels that have been submitted through the Site Plan Review process that have pending project submittals on those sites. The collection of data in this manner assisted staff in quantifying undeveloped lands in relation to lands currently having entitlement applications submitted with the City for proposed development.

**Residential**

Land uses in this category, as stated in the General Plan, represent both single and multi-family land use designations. The attached map titled Exhibit "A" identifies vacant lands in relation to their stage of development (i.e.: No Project / Vacant, Final Map, or Tentative Map) in relation to the Tier Boundary. Staff also distinctly referenced whether a parcel was in process for entitlement to ensure that although visually it may appear there is an undeveloped parcel it has in fact been slated to be developed and should not be counted toward undeveloped lands.

As presented in Table 1 below, there are a total of 1,443.78 acres of residential lands within the Tier I Growth Boundary without development occurring on them currently. Of those 1,443.78 acres, 202.94 acres have recorded final maps, and 283.40 acres are accounted for by means of a tentative map. This leaves 957.44 acres of vacant residential lands within the Tier I boundary to be considered undeveloped. However, the table below does not account for projects currently submitted with the department and not yet deemed complete. Projects currently submitted with staff and under review are represented on the Exhibit "A" Residential Map as green parcels with pink hashing on them where as vacant parcels with no projects are represented in green and noted on the legend as "NO PROJECT/VACANT, TIER 1".

**Table 1: Residential Land Uses**

<b>Residential Land Uses (acres)</b>	Final	Tentative	No Project	<b>TIER 1 TOTALS</b>	Tier 2	<b>TIER 1 &amp; 2 TOTALS</b>
Residential Very Low Density	4.49	4.96	15.12	<b>24.57</b>	100.64	<b>125.21</b>
Residential Low Density	192.82	208.57	531.39	<b>932.78</b>	1,115.51	<b>2,048.29</b>
Residential Medium Density	5.07	64.18	263.06	<b>332.31</b>	193.54	<b>525.85</b>
Residential High Density	0.56	5.69	147.87	<b>154.12</b>	92.22	<b>246.34</b>
<b>TOTAL</b>	202.94	283.40	957.44	<b>1,443.78</b>	1,501.91	<b>2,945.69</b>

Parcels approved with a tentative map are shown in Exhibit “A” with yellow/orange color and have a number labeled in each parcel shape itemizing the number of lots approved for the respective tentative map. Whereas, final maps, consisting of recorded parcels, are shown on the map as pink groupings of smaller parcels. Both final and tentative map lot counts and totals are shown in Table 1-2 below. There are 1,235 lots associated with recorded final maps and 1,431 lots associated with approved tentative maps. Together they total 2,666 lots, (i.e., 2,666 residential units) accounted for development but are unbuilt units citywide.

**Table 1-2: Approved Residential Units**

<b>Approved Residential Units</b>	Final	Tentative	<b>TOTAL</b>
# of Approved Unbuilt Units	1,235	1,431	<b>2,666</b>

Unlike the final and tentative map labeled parcels, the green portions of the Exhibit “A” map are lands considered vacant / undeveloped and not having any project submitted with the City. These parcels total 957 acres which equates to 0.09 percent of the total residential designated land area of 10,460 acres in the Tier I boundary.

As presented to the City Council and Planning Commission in January, the residential land use benchmark, as described in the General Plan, was established using residential building permits issued. The residential land use is steadily nearing its bench of 5,580 permits issued within the Tier I Growth Boundary. As of the fourth quarter of the 2019 calendar year, the City has issued 4,763 permits. The 4,763 permits issued does not account for the 2,666 lots/units that can be readily developed based on those properties being entitled for residential development.

Building permit tracking numbers have indicated steady growth for the residential land use since 2010 and when factoring the addition of 2,666 lots/units already entitled, residential land use is on track to meet and exceed the established threshold of 5,580 permits issued within the next two years.

Commercial

Land uses in this category, as stated in the General Plan, consist of Downtown and Commercial Mixed Use, Neighborhood Commercial, Service Commercial, and Office. The Exhibit “B” map

depicts vacant commercial properties scattered throughout the Tier I boundary. These lands are found throughout the City and are widely varying in size and use. Expanding this land use category is subject to building permit square footage for permits issued in the commercial land use designations, excluding Regional Commercial lands. However, the threshold to move into the Tier II boundary for Commercial designated lands has already been met. The threshold prescribed by Land Use Policy LU-P-21 is 480,000 sq. ft. for Commercial land uses to move from Tier I to Tier II. This threshold was actually met in November 2014, one month after adoption of the General Plan Update.

Table 2 below provides the acreage totals of vacant commercial zoned lands remaining within the Tier I Growth Boundary. There are 419 acres of “commercial” designated property that are deemed vacant.

**Table 2: Acreage of Commercial Land Uses**

<b>Commercial Land Uses (all #s in acres)</b>	<b>Vacant</b>
<b><u>Tier I</u></b>	
Commercial Mixed Use	237
Downtown Mixed Use	3
Service Commercial	97
Office	42
Neighborhood Commercial	40
<b>Total Tier 1</b>	<b>419</b>

Per Council’s direction, staff will proceed with the process to expand into the Tier II Growth Boundary for commercial land uses. As shown in Table 2-2 below, this will result in an additional 35 acres of commercial mixed use and 38 acres of neighborhood commercial totaling 73 acres of commercial land uses in Tier II. Unlike Regional Commercial, the commercial land uses traditionally follow residential development and are often developed after a majority of the surrounding residential area is developed.

**Table 2-2: Acreage of Commercial Land Uses in Tier II**

<b><u>Tier II</u></b>	
Commercial Mixed Use	35
Neighborhood Commercial	38
<b>Total Tier 2</b>	<b>73</b>
<b>TOTALS (Tiers I &amp; II)</b>	<b>492</b>

## Industrial

Land uses in this category, as stated in the General Plan, consist of both Light Industrial and Industrial land uses. Moving industrial land uses into the next growth tier is tied to a threshold based on building square footage issued. The threshold for triggering movement to the Tier III boundary is set at the issuance of 2,800,000 sq. ft. of industrial building area. Please note there are no industrial zoned lands in the Tier II Growth Boundary. Due to the nature of industrial development, which can consist of warehouse developments ranging between 100,000 and 1,000,000 sq. ft., the square footage threshold to move into the Tier III boundary is fast approaching the 2,800,000 sq. ft. benchmark.

However, staff is recommending to the City Council that expansion of Industrial lands into Tier III not occur at this time due to the amount of vacant land available in the Tier I growth boundary and the lack of planned infrastructure north of Riffin Avenue.

Per Exhibit "C" and the Table 3 below, the amount of acreage in both the developed and vacant / undeveloped areas are nearly equal.

**Table 3: Acreage of Industrial Land Uses**

<b>Industrial Land Uses (all #s in acres)</b>	<b>Developed</b>	<b>Vacant</b>	<b>TOTAL</b>
<b><u>Tier 1</u></b>			
Industrial	1,305	1,370	2,675
Light Industrial	200	88	288
Business Research Park	36	87	123
<b>Total</b>	<b>1,541</b>	<b>1,545</b>	<b>3,086</b>
<b><u>Tier 3</u></b>			
Industrial	0	942	942
Light Industrial	0	74	74
<b>TOTAL</b>	<b>1,541</b>	<b>2,561</b>	<b>4,102</b>

The green parcels as depicted per Exhibit "C" identify several large single parcels that are vacant. Although some of these large parcels are currently in the County, all of these parcels are available to be developed in the current Tier I boundary, subject to annexation. Please note, the parcels shown in green with a pink hash marking are currently vacant but building plans have been submitted and are being processed for permit issuance. Development upon those two parcels will total 1,700,000 sq. ft. of industrial usage in addition to the 2,647,470 sq. ft. issued to date.

### Regional Commercial

The Regional Commercial Land Use inventory is represented on the map labeled Exhibit “D” and in Table 4 below. Regional Commercial land is also tied to a threshold based on building square footage. The threshold to move into the Tier II boundary is 922,383 sq. ft. issued. To date, only 111,344 sq. ft. has been issued for Regional Commercial lands. This accounts for only 12% of meeting the threshold for Regional Commercial. Based on current development trends for regional commercial developments and permits issued, it is anticipated to take 38.24 years to meet the square footage threshold to move into the Tier II boundary for Regional Commercial.

Figures in the table below indicate there are 114 acres of regional commercial vacant land within the Tier I Growth Boundary. This does not include sites that are developed with vacant buildings. Table 4 also provides the inventory acreage of regional commercial zoned lands within Tier II boundary. It should be noted that the eight acres of developed lands are located within the Tier II Growth Boundary but were developed under the County’s jurisdiction.

**Table 4: Acreage of Regional Commercial Land Uses**

<b>Regional Commercial Land Use (all #s in acres)</b>	<b>Developed</b>	<b>Vacant</b>	<b>TOTAL</b>
<b><u>Tier 1</u></b>			
Regional Commercial, North of Caldwell	117	4	121
Regional Commercial, South of Caldwell	138	110	248
<b>Total</b>	<b>255</b>	<b>114</b>	<b>369</b>
<b><u>Tier 2</u></b>			
Regional Commercial	8	105	113
<b>TOTAL</b>	<b>263</b>	<b>219</b>	<b>482</b>

Based on the building permit data that has been collected since 2010, the land absorption rate for regional commercial lands has been much slower than other land uses and is not expected to reach established trigger point anytime soon.

As recommended by staff, expansion into the Tier II boundary should not occur at this time as there is adequate vacant land available to be developed in the Tier II boundary.

### **Correspondence Received:**

The City has received one written correspondence on the Growth Boundaries from Michael Job (see Exhibit “E”) who represents two parcels totaling 45 acres and located on the south side of Visalia Parkway between Vintage and West Streets. The property has a land use designation of Residential Low Density and is currently outside City limits, though it is bordered by the City limits along Visalia Parkway. Mr. Job is requesting that his property be reclassified from Tier III to Tier II based on a number of considerations. The General Plan currently identifies all properties south of Visalia Parkway in Tier III with two exceptions: 1) land along the Mooney Boulevard corridor that is located up to one-half mile west or east of Mooney Blvd.; and 2)

property located on the southeast corner of Demaree Street and Visalia Parkway. The City Council, if desired, may consider acting upon Mr. Job's request as part of their direction to staff.

In addition, staff has conversed with Wayne Millies who represents one parcel totaling 16 acres that is currently within Tier III, located on the east side of Demaree Street and 660 feet south of Visalia Parkway. No written correspondence has been received regarding this property.

**Fiscal Impact:** None at this time.

**Prior Council Action:**

N/A

**Other:** N/A

**Committee/Commission Review and Action:**

January 16, 2020 City Council and Planning Commission Joint Meeting:

Council directed staff to return with available land inventory data, detailing current undeveloped lands within the Tier I Growth Boundary; and, consider the feasibility of opening all land uses, based on thresholds, to their next appropriate Tier Boundary.

**Alternatives:**

1. Receive the staff report and take no further action at this time.
2. Receive the staff report and direct staff to expand **all** land uses into the next Tier Growth Boundary.

**Attachments:**

1. Exhibit "A" – Residential Land Use Map
2. Exhibit "B" – Commercial Land Use Map
3. Exhibit "C" – Industrial Land Use Map
4. Exhibit "D" – Regional Commercial Land Use Map
5. Exhibit "E" – Correspondence
6. Exhibit "F" – Correspondence Wayne Millies w/ 2 flyer attachments
7. Exhibit "G" – Land Inventory Presentation

**Recommended Motion (and Alternative Motions if expected):**

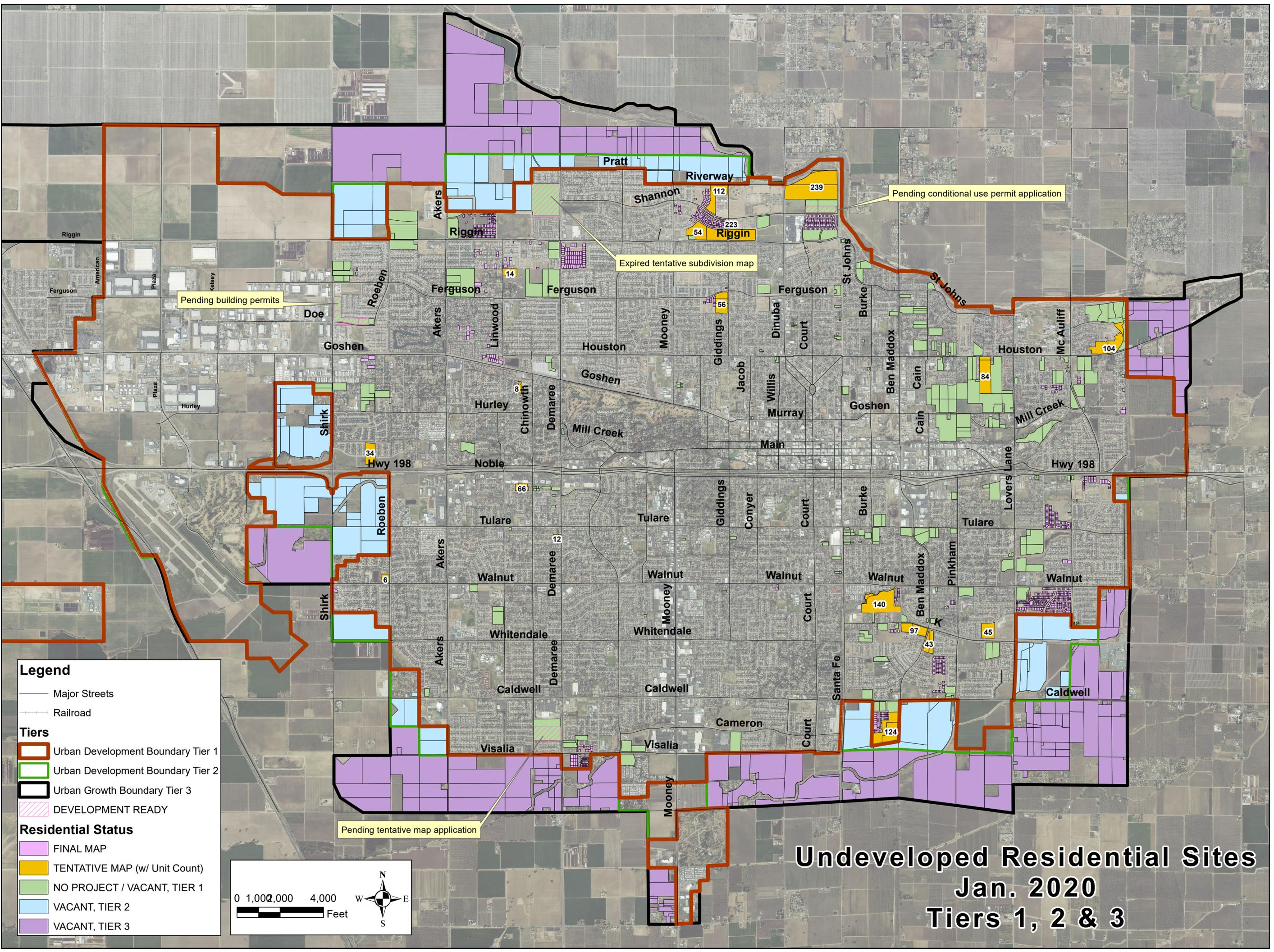
I move to direct staff to proceed with the revisions as provided in the staff report.

**Alternative Motion:**

I move to direct staff to proceed with expanding all land uses into the next Tier Growth Boundary.

**Environmental Assessment Status**

**CEQA Review:** N/A



**Legend**

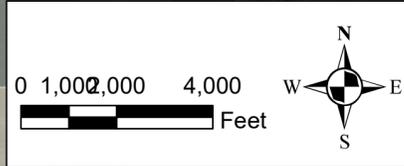
- Major Streets
- Railroad

**Tiers**

- Urban Development Boundary Tier 1
- Urban Development Boundary Tier 2
- Urban Growth Boundary Tier 3
- DEVELOPMENT READY

**Residential Status**

- FINAL MAP
- TENTATIVE MAP (w/ Unit Count)
- NO PROJECT / VACANT, TIER 1
- VACANT, TIER 2
- VACANT, TIER 3



# Undeveloped Residential Sites

## Jan. 2020

### Tiers 1, 2 & 3

Pending building permits

Expired tentative subdivision map

Pending conditional use permit application

Pending tentative map application

Riggin

Ferguson

American

Plaza

Kelsey

Plaza

Hurley

Doe

Goshen

Roeben

Akers

Ferguson

Akers

Linwood

Ferguson

Hurley

Chinowth

Noble

Hwy 198

Shirk

Roeben

Akers

Shirk

Akers

Walnut

Whitendale

Akers

Caldwell

Demaree

Demaree

Caldwell

Demaree

Whitendale

Whitendale

Caldwell

Visalia

Visalia

Mooney

Mooney

Visalia

Visalia

Mooney

Mooney

Pratt

Riverway

Shannon

112

54

Riggin

223

239

St Johns

Burke

Ferguson

St Johns

Ben Maddox

Cain

Goshen

Houston

Mc Auliff

104

St Johns

Ben Maddox

Cain

Goshen

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## **APPENDIX B:**

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CEQA Findings of Fact in Support of  
Findings and Statement of Overriding  
Considerations, 2014

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# **CEQA Findings and Facts in Support of Findings and Statement of Overriding Considerations**

CEQA requires the Visalia City Council (the Council) to balance the benefits of the City of Visalia General Plan Update (General Plan Update, or Project) against its significant and unavoidable environmental effects in determining whether to approve the Project. Since the EIR identifies significant impacts of the General Plan Update that cannot feasibly be mitigated to below a level of significance, the City must state in writing its specific reasons for approving the Project in a “statement of overriding considerations” pursuant to Sections 15043 and 15093 of the CEQA Guidelines. This Statement of Overriding Considerations sets forth the specific reasons supporting the City’s action in approving the General Plan Update, based on the Final Environmental Impact Report (Final EIR, which incorporates the Draft EIR by reference) and other information in the administrative record.

In making the statement of overriding considerations, “CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’” (CEQA Guidelines, Section 15093, subd. (a).)

The following sections provide findings and statements of facts supporting the findings, describe the general Project benefits considered by decision makers in determining to adopt the proposed General Plan Update despite its potentially significant adverse environmental effects, and then provide conclusions.

## **Findings and Facts in Support of Findings**

The following findings are hereby adopted by the Council pursuant to the requirements of CEQA California Public Resources Code Section 21000 et seq. and the Guidelines for California Environmental Quality Act, Title 14, California Code of Regulations Section 15000 et seq. (CEQA Guidelines).

These Findings and Facts in Support of Findings relate to the approval of the proposed General Plan. The Findings state the Council’s conclusions regarding the significance of the potential environmental impacts of the proposed Project after all feasible mitigation measures have been adopted. These findings have been prepared to comply with the requirements of CEQA and the CEQA Guidelines and are based on information in the Final EIR and on all other relevant information contained in the administrative record for the proposed General Plan Update.

CEQA requires agencies to identify mitigation measures that would avoid or substantially lessen a project’s significant impacts or potential significant impacts if such measures are feasible. The mitigating policies identified in the Final EIR mitigate the potential significant impacts of the proposed General Plan Update, to the extent feasible, as described in the

Final EIR. All mitigating policies identified in the Final EIR (as listed in Table ES-3 of the Draft EIR) that are within the Council's authority to impose are hereby adopted by the Council. Future projects must comply with CEQA, including implementation of project-specific mitigation measures where applicable and feasible. Subsequent environmental review for specific projects identified in the Plan may tier off the programmatic analysis or incorporate information from this analysis by reference (CEQA Guidelines, Sections 15150, 15152, and 15168).

Public Resources Code Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would *substantially lessen* the significant environmental effects of such projects[.]" (Emphasis added.) The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will *avoid or substantially lessen* such significant effects." (Emphasis added.) Section 21002 goes on to state that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof." (Pub. Resources Code, Section 21002.)

The mandate and principles set forth in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. (See Pub. Resources Code, Section 21081, subd. (a); CEQA Guidelines, Section 15091, subd. (a).)

The Final EIR examined the environmental impacts of the General Plan Update in the areas of Land Use; Transportation; Air Quality; Greenhouse Gases and Climate Change; Agricultural Resources; Hydrology, Flooding, and Water Quality; Geology and Seismicity; Biological Resources; Public Services, Facilities, and Utilities; Noise; Hazards and Hazardous Materials; Cultural Resources; Visual Resources; Significant Irreversible Environmental Changes; Growth-Inducing Impacts; and Cumulative Impacts.

Despite identifying mitigation for each potentially significant impact, significant and unavoidable impacts were identified in the issue areas of Transportation, Air Quality, Agriculture, Noise, and Hydrology, Flooding and Water Quality. In determining the significance of the environmental effects, it is important to emphasize that in issue areas when uncertainty surrounds impacts at a program level, the EIR analysis uses a conservative approach to both assessment and conclusions. For instance, in noise analyses, traffic noises were modeled without taking into account roadway curvature, railroad grade, shielding from local topography or structures, or elevated roadways, all of which may affect actual sound propagation. The distances reported to the 60 dB, 65 dB, and 70 dB Ldn contours are considered to be conservative estimates of noise exposure along roadways in the city. Due to the programmatic level of analysis in the EIR and lack of project-specific plans, it is not possible to define the exact extent of potential impacts, so it is not possible to ascertain with certainty whether the identified mitigating policies for these impacts will reduce impacts to levels considered "less than significant." Future development may be subject to site-specific, project-level environmental analysis.

The following subsections list each significant or potentially significant environmental impact by issue area in the order it appears in the Draft EIR, the mitigation measures

identified for each impact in the EIR, the CEQA Finding or Findings applied by the Council as described above, and the Facts in Support of each Finding. This discussion does not attempt to describe the full analysis of each environmental impact contained in the EIR. A full documentation of the environmental analysis and conclusions is in the EIR and the record of proceedings for this project (described herein), which are incorporated by reference.

### **Transportation**

#### **Impact 3.2-2 Implementation of the proposed Visalia General Plan could conflict with the applicable Route Concept Reports for State Highways, including but not limited to level of service standards.**

Implementation of the proposed General Plan would allow State Route (SR) 198 to operate at an unacceptable level of service (LOS) along State Route 198 along three segments: (1) State Route 99 to Akers Street (LOS E), (2) Akers Street to Mooney Boulevard (LOS F), and (3) Mooney Boulevard to Lovers Lane (LOS F), due to the ultimate SR 198 design condition being implemented by Caltrans beyond 2035, after General Plan buildout in 2030.

### **Mitigation Measures**

Caltrans' 2012 Transportation Concept Report for SR 198 identifies a four-lane freeway to meet the year 2035 LOS "D" within the Planning Area, with an ultimate design (beyond 2035) being a six-lane freeway. As a six-lane freeway, SR 198 would provide acceptable LOS on these roadway segments. However, per the current Transportation Concept Report, the ultimate design condition for SR 198 would be implemented beyond 2035, after General Plan buildout in 2030. The widening is feasible—the right of way will accommodate an additional travel lane in each direction—but the timing of the improvement may need to be reconsidered as Visalia grows under the proposed General Plan. Implementation of the improvements to SR 198 (a Caltrans facility) is the primary responsibility of Caltrans. The City will work with Caltrans to modify the SR 198 Transportation Concept Report to schedule needed improvements prior to General Plan buildout (Policy T-P-27), assuming that the forecasted growth and development in the Planning Area occurs and necessitates the widening within the planning period. However, because Caltrans has exclusive control over state route improvements, the City cannot guarantee that these improvements will be completed prior to General Plan buildout. No feasible mitigation measures have been identified that would reduce this impact.

### **General Plan Policies that Reduce the Impact**

T-P-27            Work with Caltrans to modify the State Route 198 Route Concept Report to ensure that the facility is designated as a six-lane freeway from Downtown Visalia east to Lovers Lane

### **Findings**

Based upon the EIR and the entire record before the Council, the Council finds that there are no feasible mitigation measures that would reduce the LOS impacts along SR 198. Although there are policies in the General Plan to work with Caltrans to modify the State Route 198 Route Concept Report, the Council finds the impact significant and unavoidable.

## **Air Quality**

### **Impact 3.3-2 Implementation of the proposed Visalia General Plan could violate any air quality standard or contribute substantially to an existing or projected air quality violation.**

Implementation of the proposed General Plan Update would cause increased ROG and NO<sub>x</sub> emissions due to construction, and increased PM<sub>2.5</sub> and PM<sub>10</sub> emissions associated with General Plan buildout, in excess of SJVAPCD thresholds.

### **Mitigation Measures**

The City will implement a variety of policies designed to address air quality issues, described below. Future compliance with SJVAPCD Rules and Regulations as part of environmental review for new master plan or specific plan areas, or for proposed development that is not consistent with earlier EIRs covering specific plan areas will also help to reduce air quality emissions associated with individual projects. However, total emissions associated with development of the proposed General Plan would still exceed SJVAPCD thresholds during construction from ROG and NO<sub>x</sub> emissions, and PM<sub>10</sub> and PM<sub>2.5</sub> emissions associated with buildout. No additional feasible mitigation measures are currently available to reduce this impact to a less-than-significant level. Consequently, the impact remains significant and unavoidable.

### **General Plan Policies that Reduce the Impact**

The following policies from the *Air Resources Element* will help directly reduce area and mobile sources in the Planning Area.

- AQ-P-2            Require use of Best Management Practices (BMPs) to reduce particulate emission as a condition of approval for all subdivisions, development plans and grading permits, in conformance with the San Joaquin Valley Air Pollution Control District Fugitive Dust Rule.
  
- AQ-P-3            Support implementation of the San Joaquin Valley Air Pollution Control District's regulations on the use of wood-burning fireplaces, as well as their regulations for the installation of EPA-certified wood heaters or approved wood-burning appliances in new residential development and a "No Burn" policy on days when the air quality is poor.
  
- AQ-P-4            Support the San Joaquin Valley Air Pollution Control District's "change-out" program, which provides incentives to help homeowners replace old wood-burning fireplaces with EPA-certified non wood-burning appliances.
  
- AQ-P-7            Be an active partner with the Air District in its "Spare the Air" program. Encourage businesses and residents to avoid pollution-producing activities such as the use of fireplaces and wood stoves, charcoal lighter fluid, pesticides, aerosol products, oil-based paints, and automobiles and other gasoline engines on days when high ozone levels are expected, and promote low-emission vehicles and alternatives to driving.

- AQ-P-8 Update the Zoning Ordinance to strictly limit the development of drive-through facilities, only allowing them in auto-oriented areas and prohibiting them in Downtown and East Downtown.
- AQ-P-9 Continue to mitigate short-term construction impacts and long-term stationary source impacts on air quality on a case-by-case basis and continue to assess air quality impacts through environmental review. Require developers to implement Best Management Practices (BMPs) to reduce air pollutant emissions associated with the construction and operation of development projects.
- AQ-P-11 Continue to work in conjunction with the San Joaquin Valley Air Pollution Control District and others to put in place additional Transportation Control Measures that will reduce vehicle travel and improve air quality and to implement Air Quality Plans.
- AQ-P-12 Where feasible, replace City vehicles with those that employ low-emission technology.
- AQ-P-13 Promote and expand the trip-reduction program for City employees to reduce air pollution and emissions of greenhouse gas.

The following policies from the *Land Use Element* and *Parks, Schools, Community Facilities, and Utilities Element* support energy conservation, which will help reduce building energy consumption and associated area source emissions: LU-P-38 and PSCU-P-14.

The policies described under Impact 3.3-1 in the Draft EIR from the *Land Use Element, Parks, Schools, Community Facilities, and Utilities Element, and Circulation Element* would reduce VMT and associated mobile source emissions.

## **Findings**

The City finds that total emissions associated with development of the proposed General Plan would still exceed SJVAPCD thresholds for ROG, NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>. The SJVAPCD has developed and the State and EPA have reviewed and adopted a series of air quality plans for ozone and particulate matter. The plans feature strict rules for stationary sources, and rely on State and federal actions to reduce emissions from mobile sources. The proposed General Plan Update would not conflict with the policies in these plans or the ability of relevant agencies to carry them out. However, new development under the General Plan Update is projected to result in emissions that exceed significance thresholds for certain criteria pollutants.

The proposed General Plan Update would result in an increase in criteria pollutant emissions primarily due to local and regional vehicle emissions and vehicle travel generated by future population growth associated with buildout of the proposed Plan. The proposed General Plan is being offered despite these significant impacts because the City is in need of an updated land use plan that can thoughtfully and creatively accommodate projected population growth, as well as provide for jobs and economic development through General Plan buildout. Full buildout of the proposed General Plan would result in a significant, unavoidable, and cumulatively considerable increase of criteria pollutants, which

significantly impact air quality. The City finds no additional feasible mitigation measures are currently available to reduce this impact to a less-than-significant level.

**Impact 3.3-3 Implementation of the proposed Visalia General Plan could result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors).**

Implementation of the proposed General Plan Update would cause increased ROG and NO<sub>x</sub> emissions due to construction, and increased PM<sub>2.5</sub> and PM<sub>10</sub> emissions associated with General Plan buildout, in excess of SJVAPCD thresholds.

**Mitigation Measures**

The City will implement a variety of policies designed to address air quality issues, described below. Future compliance with SJVAPCD Rules and Regulations as part of environmental review for new master plan or specific plan areas, or for proposed development that is not consistent with earlier EIRs covering specific plan areas will also help to reduce air quality emissions associated with individual projects. However, total emissions associated with development of the proposed General Plan would still exceed SJVAPCD thresholds during construction from ROG and NO<sub>x</sub> emissions, and PM<sub>10</sub> and PM<sub>2.5</sub> emissions associated with buildout. No additional feasible mitigation measures are currently available to reduce this impact to a less-than-significant level. Consequently, the impact remains significant and unavoidable.

**General Plan Policies that Reduce the Impact**

The following policies from the *Air Resources Element* will help directly reduce area and mobile sources in the Planning Area.

- AQ-P-2            Require use of Best Management Practices (BMPs) to reduce particulate emission as a condition of approval for all subdivisions, development plans and grading permits, in conformance with the San Joaquin Valley Air Pollution Control District Fugitive Dust Rule.
  
- AQ-P-3            Support implementation of the San Joaquin Valley Air Pollution Control District’s regulations on the use of wood-burning fireplaces, as well as their regulations for the installation of EPA-certified wood heaters or approved wood-burning appliances in new residential development and a “No Burn” policy on days when the air quality is poor.
  
- AQ-P-4            Support the San Joaquin Valley Air Pollution Control District’s “change-out” program, which provides incentives to help homeowners replace old wood-burning fireplaces with EPA-certified non wood-burning appliances.
  
- AQ-P-7            Be an active partner with the Air District in its “Spare the Air” program. Encourage businesses and residents to avoid pollution-producing activities such as the use of fireplaces and wood stoves, charcoal lighter fluid, pesticides, aerosol products, oil-based paints, and automobiles and other

gasoline engines on days when high ozone levels are expected, and promote low-emission vehicles and alternatives to driving.

- AQ-P-8 Update the Zoning Ordinance to strictly limit the development of drive-through facilities, only allowing them in auto-oriented areas and prohibiting them in Downtown and East Downtown.
- AQ-P-9 Continue to mitigate short-term construction impacts and long-term stationary source impacts on air quality on a case-by-case basis and continue to assess air quality impacts through environmental review. Require developers to implement Best Management Practices (BMPs) to reduce air pollutant emissions associated with the construction and operation of development projects.
- AQ-P-11 Continue to work in conjunction with the San Joaquin Valley Air Pollution Control District and others to put in place additional Transportation Control Measures that will reduce vehicle travel and improve air quality and to implement Air Quality Plans.
- AQ-P-12 Where feasible, replace City vehicles with those that employ low-emission technology.
- AQ-P-13 Promote and expand the trip-reduction program for City employees to reduce air pollution and emissions of greenhouse gas.

The policies described above under Impact 3.3-2 from the *Land Use Element, Parks, Schools, Community Facilities, and Utilities Element*, and *Circulation Element* would help reduce cumulative construction and operational emissions associated with the buildout of the proposed General Plan.

### **Findings**

The City finds that total emissions associated with development of the proposed General Plan would still exceed SJVAPCD thresholds for ROG, NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>. The SJVAPCD has developed and the State and EPA have reviewed and adopted a series of air quality plans for ozone and particulate matter. The plans feature strict rules for stationary sources, and rely on State and federal actions to reduce emissions from mobile sources. The proposed General Plan Update would not conflict with the policies in these plans or the ability of relevant agencies to carry them out. However, new development under the General Plan Update is projected to result in emissions that exceed significance thresholds for certain criteria pollutants.

The proposed General Plan Update would result in an increase in criteria pollutant emissions primarily due to local and regional vehicle emissions and vehicle travel generated by future population growth associated with buildout of the proposed Plan. The proposed General Plan is being offered despite these significant impacts because the City is in need of an updated land use plan that can thoughtfully and creatively accommodate projected population growth, as well as provide for jobs and economic development through General Plan buildout. Full buildout of the proposed General Plan would result in a significant, unavoidable, and cumulatively considerable increase of criteria pollutants, which

significantly impact air quality. The City finds no additional feasible mitigation measures are currently available to reduce this impact to a less-than-significant level.

### **Agriculture**

**Impact 3.5-1 Buildout of the proposed General Plan would convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.**

Buildout of the proposed General Plan Update would result in conversion of farmland, including Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.

### **Mitigation Measures**

No feasible mitigation measures have been identified that would reduce the impacts on agricultural land conversion. The Visalia General Plan reflects a policy determination to allow a certain amount of growth to occur in the Planning Area, which necessitates conversion of farmland to urban uses. Development of the Visalia General Plan will result in the loss of 14,265 acres (or 33 percent) of the existing Important Farmland within the Planning Area to urban uses. Multiple policies are identified in the proposed General Plan to prevent excessive agricultural land conversion, including prioritizing infill development within the existing city limits, clear phasing of growth, compact development in new growth areas, and the continuation of most agricultural activities in the Planning Area.

### **General Plan Policies that Reduce the Impact**

#### *Land Use Element Policies*

LU-P-14 Recognize the importance of agriculture-related business to the City and region, and support the continuation and development of agriculture and agriculture-related enterprises in and around Visalia by:

- Implementing growth boundaries and cooperating with the County on agricultural preservation efforts;
- Accommodating agriculture-related industries in industrial districts;
- Facilitating successful farmers' markets;
- Helping to promote locally-grown and produced agricultural goods, and the image of Visalia and Tulare County as an agricultural region.

LU-P-19 Ensure that growth occurs in a compact and concentric fashion by implementing the General Plan's phased growth strategy.

*The General Plan Land Use Diagram establishes three growth rings to accommodate estimated City population for the years 2020 and 2030. The Urban Development Boundary I (UDB I) shares its boundaries with the 2012 city limits. The Urban Development Boundary II (UDB II) defines the urbanizable area within which a full range of urban services will need to be extended in the first phase of anticipated growth with a target buildout*

*population of 178,000. The Urban Growth Boundary (UGB) defines full buildout of the General Plan with a target buildout population of 210,000. Each growth ring enables the City to expand in all four quadrants, reinforcing a concentric growth pattern...*

LU-P-21 Allow annexation and development of residential, commercial, and industrial land to occur within the Tier II UDB and the Tier III Urban Growth Boundary consistent with the City's Land Use Diagram, according to the following phasing thresholds:

- “Tier II”: Tier II supports a target buildout population of approximately 178,000. The expansion criteria for land in Tier II is that land would only become available for development when building permits have been issued in Tier I at the following levels, starting from April 1, 2010:

Residential: after permits for 5,850 housing units have been issued; and

Commercial: after permits for 480,000 square feet of commercial space have been issued

Tier III: Tier III comprises full buildout of the General Plan. The expansion criteria for land in Tier III is that land would only become available for development when building permits have been issued in Tier I and Tier II at the following levels, starting from April 1, 2010:

- Residential: after permits for 12,800 housing units have been issued;
- Commercial: after permits for 960,000 square feet of commercial space have been issued; and
- Industrial: after permits for 2,800,000 square feet of industrial space have been issued

*To complement residential neighborhood development, the City also may allow small annexations for sites less than 30 acres in size that are contiguous to the City limits to allow for efficient development of a neighborhood, commercial area or employment center, provided no General Plan amendment is required and infrastructure is available or can be extended at no cost to the City.*

LU-P-24 Periodically adjust, no less frequently than once every five years, the land use and economic demand projections used to determine population estimates, needed land supply and amendments to Urban Development Boundaries.

*This will be done as part of the General Plan Report.*

LU-P-25 Provide planning and technical support for the relocation of agricultural operations currently located in the City to compatible locations in the Planning Area or the County.

LU-P-26 Continue to follow the Memorandum of Understanding with Tulare County, and work with the County to strengthen the implementation of the Visalia General Plan.

LU-P-27 Initiate planning for post-2030 urban land needs in the area north of St. Johns River that is within the City's Sphere of Influence, and other areas as may be identified by the City Council, when residential development with the Urban Growth Boundary Tier 3 reaches 80 percent of capacity, or earlier, at the initiative of the City Council.

This long-term Planning Area is outside of the Urban Growth Boundary established for this General Plan, and a General Plan amendment adding it to the UGB will require detailed studies of infrastructure needs, financing options for extension public facilities and services, and environmental resources and a determination by the City Council that the City's long term interests are best served by sensitively planned, appropriately timed development north of the St. Johns River, that development will provide a net fiscal benefit to the City, and that infill development opportunities within the City have been fully realized.

LU-P-30 Maintain greenbelts, or agricultural/open space buffer areas, between Visalia and other communities by implementing growth boundaries and working with Tulare County and land developers to prevent premature urban growth north of the St. Johns River and in other sensitive locations within the timeframe of this General Plan.

*Techniques to be applied selectively at appropriate locations in consultation with landowners with the objective of preserving agricultural lands and open space around the City could include voluntary programs for establishing open space and conservation easements, purchasing development rights, support for agricultural land trusts and "land banking" and, if feasible, establishing a program for transfer of development rights. This program will need to be coordinated with post-2030 planning to avoid creating the potential for "leapfrog" development. See policy LU-P-27.*

LU-P-31 Promote the preservation of permanent agricultural open space around the City by protecting viable agricultural operations and land within the City limits in the airport and wastewater treatment plant environs.

*Land around the Airport may be developed with site-appropriate industrial uses during the planning period, providing it conforms to the land use compatibility requirements for the Visalia Municipal Airport environs established by the City.*

LU-P-32 Continue to maintain a 20-acre minimum for parcel map proposals in areas designated for Agriculture to encourage viable agricultural operations in the Planning Area.

LU-P-34 - Work with Tulare County and other state and regional agencies, neighboring cities, and private land trust entities to prevent urban development of agricultural land outside of the current growth boundaries and to promote the use of agricultural preserves, where they will promote orderly development and preservation of farming operations within Tulare County. Conduct additional investigation of the efficacy of agricultural conservation easements by engaging local, regional, and state agencies and stakeholders in order to further analyze their ongoing efforts and programs that attempt

to mitigate impacts from the conversion of agricultural lands through the use of agricultural conservation easements. The City will support regional efforts to prevent urban development of agricultural lands, specifically at the county level. Tulare County's General Plan 2030 Update Policy contains two policies (AG-1.6 Conservation Easements and AG-1.18 Farmland Trust and Funding Sources) that discuss establishing and implementing an Agricultural Conservation Easement Program (ACEP). The City supports the implementation of these measures by the County, in which the City may then participate. Such a regional program could include a fee to assist and support agricultural uses, and would be most feasibly and strategically developed on a countywide or other regional basis.

LU-P-44 Promote development of vacant, underdeveloped, and/or redevelopable land within the City limits where urban services are available and adopt a bonus/incentive program to promote and facilitate infill development in order to reduce the need for annexation and conversion of prime agricultural land and achieve the objectives of compact development established in this General Plan.

*Techniques to be used include designation of infill opportunity zones as part of the implementation process and provision of incentives, such as reduced parking and streamlined review, and residential density bonuses, and floor area bonuses for mixed use and/or higher-density development, subject to design criteria and findings of community benefit.*

## **Findings**

Based upon the EIR and the entire record before the Council, the Council finds that there are no feasible mitigation measures that have been identified that would reduce the impacts on Important Farmland. The City finds a certain amount of growth to occur in the Planning Area necessitates conversion of farmland to urban uses. The proposed General Plan Update and Draft EIR take steps in addressing farmland conservation by:

- (1) Avoiding development of high quality farmland;
- (2) Minimizing farmland loss with more efficient development;
- (3) Ensuring stability of the urban edge;
- (4) Minimizing rural residential development;
- (5) Encouraging a favorable agricultural business climate.

The first objective of avoiding development of high quality farmland is addressed by a number of proposed General Plan Policies. The proposed General Plan provides multiple policies to avoid development of high quality farmland, including prioritizing infill development within existing city limits, clear phasing of growth through the establishment of three growth rings, compact development in new growth areas, and the continuation of most agricultural activities in the Planning Area. The City recognizes the importance of promoting compact development through sound land use planning, including planning for the preservation of agricultural lands. Proposed General Plan Policies LU-P-14, LU-P-19, LU-P-21, LU-P-24, LU-P-25, LU-P-26, LU-P-27, LU-P-30, LU-P-31, LU-P-32, LU-P-34, and LU-P-44 demonstrate policies to ensure phased growth.

The second objective of minimizing farmland loss with more efficient development is realized through the land use policies stated above and the concentric growth pattern established under the proposed General Plan Update.

The third objective of stabilizing of the urban edge is exemplified by Policies LU-P-19 and LU-P-21, which describe the sequencing of development through a phased growth strategy. The “Saving Farmland, Growing Cities” report suggests that “areas around cities designated for future development should not expand more than necessary to accommodate reasonable future growth.” The tiered growth system under Policies LU-P-19 and LU-P-21 allow land to become available for annexation and development only when specific criteria are met.

The fourth objective of minimizing rural residential development is covered by the policies described in the third objective, designed to prevent “leapfrogging” development.

The fifth objective of encouraging a favorable agricultural business climate is addressed directly by Policy LU-P-14, to recognize the importance of agriculture-related business to the City and region, and cooperate with the County on agricultural preservation efforts.

In addition to the above policies promoting farmland conservation, it is important to note that the ultimate buildout under the proposed General Plan has a reduced urban footprint relative to the current (existing) General Plan.

A number of comments during the Draft EIR and Final EIR suggested adoption of a farmland mitigation “in-lieu” fee program. This approach is problematic for a number of reasons:

- “In Lieu” farmland mitigation programs may result in the creation of a patchwork of easements;

- Payments may not cover the costs of land purchase at the price required to make the easement a meaningful mitigation measure;

- Conservation easements or in-lieu fees can be economically prohibitive for development; and;

- Conservation easements may also result in the purchase of agricultural lands not subject to development pressures in the first place.

Each of these four limitations is described in more detail below.

The EIR explains that a program consisting of the required purchase of agricultural easements on other land is inherently dependent upon voluntary agreements by farm owners to sell easements over their property at an agreed price. If agricultural land is subject to development pressures, landowners likely would oppose efforts to “target” their area for the purchase of easements, or will only sell them at a very high cost. The most likely result will be a patchwork of easements, which may or may not constitute enough contiguous farmland to be economically viable and which produce a speculative mitigation benefit.

Payments into agricultural mitigation “in-lieu” funds are generally based on rough estimates of the cost of farmland conservation easements, without specific information about actual

costs. As with other real estate transactions, the cost of farmland conservation easements are highly variable. Mitigation fees on a per-acre basis may not be sufficient to cover actual costs of purchasing a set amount for off-site mitigation, raising questions regarding the effectiveness of such a program.

Fees charged under mitigation programs may be economically prohibitive for development in the planning area. Conservation easements can be approximately between 40 and 60 percent of the property's value. The expense of conservation easements can render future development economically infeasible.

Development pressure on agricultural lands within the Planning Area would result in the vast majority of property owners selling conservation easements at higher rates. The areas that would be most financially feasible for the purchase of conservation easements would likely be substantially disconnected from the Planning Area and under very little pressure to develop. These properties would likely remain in agricultural use for the duration of the General Plan timeframe, and purchasing conservation easements will not make the conservation any less likely. As such, the mitigation benefit of purchasing conservation easements on these properties would be remote and speculative. While conservation easements may be appropriate and provide tangible benefits in other settings, the likelihood that agricultural easements purchased on areas not subject to development pressures would not produce mitigation that meets CEQA criteria because the mitigation effect would be speculative, remote, and uncertain.

A conservation easement that successfully addresses these constraints is better implemented at a countywide or other regional scale; thus the City, supports the development of a regional conservation program, such as the one proposed in the Tulare County General Plan. Creating a locally based agricultural conservation easement program can have the unintended effect of encouraging conversion of agricultural lands immediately outside of jurisdictional boundaries. The City is supportive of regional efforts to prevent urban development of agricultural lands, specifically at the county level. Tulare County's General Plan 2030 Update Policy contains two policies and an implementation measure relating to agricultural lands, which are reproduced below:

*AG-1.6 Conservation Easements.*

*The County may develop an Agricultural Conservation Easement Program (ACEP) to help protect and preserve agricultural lands (including "Important Farmlands"), as defined in this Element. This program may require payment of an in-lieu fee sufficient to purchase a farmland conservation easement, farmland deed restriction, or other farmland conservation mechanism as a condition of approval for conversion of important agricultural land to nonagricultural use. If available, the ACEP shall be used for replacement lands determined to be of statewide significance (Prime or other Important Farmlands), or sensitive and necessary for the preservation of agricultural land, including land that may be part of a community separator as part of a comprehensive program to establish community separators. The in-lieu fee or other conservation mechanism shall recognize the importance of land value and shall require equivalent mitigation.*

*AG-1.18 Farmland Trust and Funding Sources.*

*The in-lieu fees collected by the County may be transferred to the Central Valley Farmland Trust or other qualifying entity, which will arrange the purchase of conservation easements. The County shall encourage the Trust or other qualifying entity to pursue a variety of funding sources (grants, donations, taxes, or other funds) to fund implementation of the ACEP.*

*Agricultural Element Implementation Measure #15.*

*The County shall consider the implementation of an Agricultural Conservation Easement Program (ACEP) to help protect and preserve agricultural lands (including "Important Farmlands"), as defined in Policy AG-1.6*

The City supports the implementation of these measures by the County, in which the City may then participate. Such a regional program could include a fee to assist and support agricultural uses, and would be most feasibly and strategically developed on a countywide or other regional basis.

Therefore, the Council finds there are no feasible mitigation measures to agricultural land conversion that would also fulfill the objectives of and implement the General Plan as proposed. Although there are policies in the proposed General Plan to reduce this impact, the City finds the potential conversion of agricultural land—which will affect some agricultural activities and prime agricultural soils—is significant and unavoidable.

**Impact 3.5-2 Buildout of the proposed General Plan would conflict with existing zoning for agricultural use, or a Williamson Act contract.**

Under the proposed General Plan's policies, 511 acres of land currently under active Williamson Act contracts would be converted to non-agricultural use, which represents 2.3 percent of the total acreage under Williamson Act contract within the Planning Area. The new growth areas in the proposed General Plan aim to minimize impacts on Williamson Act contracts, and 57 percent of Williamson Act lands to be converted are already in non-renewal, so this project has no impact on these lands relative to agricultural use over the long term.

**Mitigation Measures**

This General Plan reflects a policy determination to allow a certain amount of growth to occur in the Planning Area, which necessitates conversion of farmland to urban uses. To the greatest extent feasible, future urban growth has been allocated to areas either without Williamson Act contracts, or to areas with contracts in non-renewal. Avoidance of Williamson Act parcels altogether would create a non-contiguous, "patchwork" development pattern that does not meet the Plan's objectives of concentric, compact, and logical growth. In addition, the City has no authority to force termination of Williamson Act contracts on a given property. Proposed General Plan policies provide a framework for limiting conversion of farmland to the minimum extent needed to accommodate long-term growth, and phasing development in such a way that prevents "leap-frogging" or otherwise reducing the viability of remaining farmland. No further mitigation, besides preventing development, would reduce the impact to active Williamson Act parcels.

### **General Plan Policies that Reduce the Impact**

In addition to the policies listed under Impact 3.5-1, the following policy helps reduce the impact.

- OSC-P-1            Conduct an annual review of cancelled Williamson Act contracts and development proposals on agricultural land within the Planning Area Boundary to foresee opportunities for acquisition, dedication, easements or other techniques to preserve agricultural open space or for groundwater recharge.

### **Findings**

Based upon the EIR and the entire record before the Council, the Council finds that there are no feasible mitigation measures that have been identified that would reduce the impacts on Williamson Act parcels. The City finds a certain amount of growth to occur in the Planning Area necessitates conversion of farmland to urban uses. Please see Findings under Impact 3.5-1.

### **Impact 3.5-3    Buildout of the proposed General Plan would result in changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use.**

Urban development has the potential to result in conflicts with adjacent agricultural practices, and lead to restrictions on the use of agricultural chemicals, complaints regarding noise, dust and odors, trespassing, and vandalism. These conflicts may increase costs of agricultural operations, and together with other factors encourage the conversion of additional farmland to urban uses.

### **Mitigation Measures**

No feasible mitigation measures have been identified that would reduce the impacts on agricultural land conversion. The Visalia General Plan reflects a policy determination to allow a certain amount of growth to occur in the Planning Area, which necessitates conversion of farmland to urban uses. Multiple policies are identified in the proposed General Plan to prevent excessive agricultural land conversion, including prioritizing infill development within the existing city limits, clear phasing of growth, compact development in new growth areas, and the continuation of most agricultural activities in the Planning Area.

### **General Plan Policies that Reduce the Impact**

In addition to Policies LU-P-14, LU-P-25, LU-P-30, LU-P-31, LU-P-32, LU-P-34, and LU-P-44 listed under Impact 3.1-1, the following policies will help to reduce this impact to a less than significant level.

#### *Land Use Element Policies*

- LU-P-35            \*Adopt the County's Right-to-Farm ordinance to support continued agricultural operations at appropriate locations within the City limits, with no new provisions.

*This ordinance should not limit urban development contemplated by the General Plan.*

- LU-P-36 \*Adopt an Urban Agriculture Ordinance, reflecting “best practices,” to support community gardens and other activities.

*This ordinance will be prepared in consultation with the Farm Bureau and other interested organizations and individuals.*

#### *Open Space and Conservation Element Policies*

- OSC-P-27 To allow efficient cultivation, pest control and harvesting methods, require buffer and transition areas between urban development and adjoining or nearby agricultural land.

- OSC-P-28 Require new development to implement measures, as appropriate, to minimize soil erosion related to grading, site preparation, landscaping, and construction.

#### **Findings**

Based upon the FEIR and the entire record before the Council, the Council finds that there are no feasible mitigation measures that have been identified that would reduce the impacts on changes to the existing environment that could result in conversion of Farmland to non-agricultural use. The City finds a certain amount of growth to occur in the Planning Area necessitates conversion of farmland to urban uses. Please see Findings under Impact 3.5-1.

#### **Hydrology, Flooding, and Water Quality**

- Impact 3.6-4 Implementation of the proposed Visalia General Plan could expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam, sea level rise, or inundation by seiche, tsunami, or mudflow.**

Implementation of the proposed Visalia General Plan could result in the exposure of people or structures to a significant risk of loss, injury or death involving flooding as the result of a failure of Terminus Dam.

#### **Mitigation Measures**

No feasible mitigation measures have been identified that would reduce the impacts from the potential failure of Terminus Dam. The Terminus Dam is owned and operated by the U.S. Army Corps of Engineers. It is therefore not feasible for the proposed General Plan Update to completely address improvements to the Terminus Dam to the extent necessary to eliminate risk from dam failure.

#### **General Plan Policies that Reduce the Impact**

The following policies will help to reduce this impact, but not to a less than significant level. In addition to these Visalia General Plan policies, the County of Tulare maintains the Tulare County Hazard Mitigation Plan and a Mass Evacuation Plan for the entire county that also serve to reduce this impact.

- S-O-6 Provide comprehensive emergency response and evacuation routes for Visalia area residents.

S-P-40 Continue to rely on the Tulare County Office of Emergency Services to maintain inventories of available resources to be used during disasters.

S-P-41 Continue to upgrade preparedness strategies and techniques in all departments so as to be prepared when disaster, either natural or man-made, occurs.

### **Findings**

Based upon the EIR and the entire record before the Council, the Council finds that there are no feasible mitigation measures have been identified that would reduce the impacts of flooding from a potential failure of the Terminus Dam.

### **Noise**

#### **Impact 3.10-3 Exposure of existing noise sensitive land uses to an increase in noise that results in noise in excess of standards found in the existing Visalia General Plan Noise Element.**

Exposure of existing noise sensitive land uses to an increase in noise that results in noise in excess of standards found in the existing Visalia General Plan Noise Element. There are 11 roadway segments where existing traffic noise levels are less than 65 Ldn and implementation of the proposed plan will increase traffic noise to be in excess of 65 Ldn. Residences or other noise-sensitive uses along these roadways would be exposed to significant noise impacts because traffic noise would increase to a level that is in excess of the City's 65 Ldn land use compatibility standard.

### **Mitigation Measures**

Although implementation of Policy N-P-2 (below) would reduce this impact by reducing or preventing significant increases in ambient noises for sensitive land uses, it would not be feasible in all situations to reduce this impact to a less-than-significant level. For example, noise attenuation measures such as sound walls and berms would be infeasible or inappropriate in locations where sensitive land uses already exist. Factors that would render these and other noise attenuation measures infeasible include but are not limited to property access, cost, aesthetic considerations, and negative impacts to pedestrian and bicycle connectivity, and impacts to driver visibility. This impact, therefore, is significant and unavoidable.

### **General Plan Policy that Reduces the Impact**

N-P-2 Promote the use of noise attenuation measures to improve the acoustic environment inside residences where existing residential development is located in a noise-impacted environment such as along an arterial street or adjacent to a noise-producing use.

### **Findings**

The City finds that noise resulting from vehicles and stationary operations is expected to increase as a result of the proposed General Plan. Increases are expected to occur both along existing roadways in developed areas and along new roadways in future growth areas, and in the vicinity of new stationary operations, particularly industrial uses. The City finds that additional vehicles traveling along local roadways outweighs potential impacts on

existing and future land use resulting from noise. The actual level of impact will depend on the presence and location of existing or proposed land uses or barriers in relation to the noise source. The City will continue to implement its Noise Ordinance. In addition, the City will ensure that noise analysis and mitigation be conducted for individual projects (with project-specific data) that will, if possible, mitigate potential noise impacts to a less-than-significant level. However, given the uncertainty as to whether future noise impacts could be adequately mitigated for all individual projects, the City finds that potential impacts related to substantial permanent increases in ambient noise related to traffic and stationary sources are considered significant and unavoidable.

The following sections describe the Council's reasoning for approving the proposed General Plan Update, despite these potentially significant unavoidable impacts.

### **Proposed General Plan Update Benefits**

CEQA does not require lead agencies to analyze "beneficial impacts" in an EIR. Rather, EIRs focus on potential "significant effects on the environment" defined to be "adverse" (Public Resources Code Section 21068). Nevertheless, decision makers may be aided by information about project benefits. These benefits can be cited, if necessary, in a statement of overriding considerations (CEQA Guidelines Section 15093). The Council's decision to adopt the proposed General Plan Update rather than any of the alternatives is based on considering the balance of these benefits of the proposed Project against its identified unavoidable environmental impacts.

Each benefit of the proposed Project, as stated below, is determined to be a basis for overriding all unavoidable adverse environmental impact identified above. The Council has independently verified the key initiatives reflected in the proposed General Plan Update, stated below to justify the Statement of Overriding Consideration.

- Implementation of the proposed General Plan Update will ensure orderly and balanced growth, by emphasizing concentric development and infill opportunities to strengthen Downtown, revitalize existing commercial centers and corridors, and fill in gaps in the city fabric, balanced by moderate outward expansion and protection of agricultural lands.
- Implementation of the proposed General Plan Update will support and enhance a high quality of life by building on Visalia's small-town feel and ensuring that each neighborhood is a complete, walkable area with a full range of housing types, a discernable center, and a unique sense of place. At a citywide scale, this unique sense of place is preserved by keeping Downtown vital and accentuating the city's natural creek system.
- Implementation of the proposed General Plan Update will create and enhance mobility and connectivity, by improving connectivity at the neighborhood, city, and regional scales; by improving key corridors; completing missing links in the roadway network; and ensuring that new neighborhoods accommodate and connect to the City's existing street grid. Consistent with new State requirements, the proposed General Plan will create "complete streets" amenable to walking, biking, and transit use, anticipating robust transit service within the City and beyond.
- Implementation of the proposed General Plan Update will provide broad economic opportunities and a diverse economic base by supporting Visalia's economic vitality,

including higher-intensity development Downtown, the creation of a new urban district in East Downtown, the revitalization of the Mooney Boulevard corridor, the facilitation of expanded medical and educational facilities, and attractive locations for new and expanding businesses.

- Implementation of the proposed General Plan Update will support a forward-looking retail strategy, by providing for new neighborhood commercial uses throughout the City and regional retail development along South Mooney Boulevard to be staged over time in order to support the City's existing regional base.
- Implementation of the proposed General Plan Update will maintain and strengthen Visalia's identity as a free-standing City, by working with the County and the community to maintain a physical separation between Visalia and neighboring communities and limiting the timing and amount of conversion of farmland to urban uses through a tiered growth management system.
- Implementation of the proposed General Plan update will continue to place Visalia as a leader in land conservation, green building, recycling, and stewardship, by promoting waste collection, recycling, development patterns that foster non-automobile travel, clean air and water, as well as reuse of older buildings.

These key goals and initiatives were developed through an extensive public outreach process that accompanied the General Plan Update, which engaged stakeholders, decision-makers, the General Plan Update Review Committee, and members of the general public in discussion and debate over priorities for Visalia's future. Members of the public as well as elected officials were consulted and engaged at each key decision point in the update process, ensuring that the proposed General Plan reflects the community's priorities to the greatest extent possible. During this public process, the Council examined alternatives to the proposed General Plan Update, none of which meet the stated project objectives to the same extent as the proposed Project.

### **Overriding Considerations Conclusions**

The Council finds that the proposed General Plan Update has been carefully reviewed and that mitigating policies have been included in the Final EIR to be certified by the Council. Nonetheless, the proposed General Plan Update may have certain environmental effects that cannot be avoided or substantially lessened. As to these significant environmental effects that are not avoided or substantially lessened to a point less than significant, the Council finds that specific fiscal, economic, social, technological, or other considerations make additional mitigation of those impacts infeasible, in that all feasible mitigation measures have been incorporated into the proposed General Plan.

The Council has carefully considered all of the environmental impacts that have not been mitigated to a less than significant level, as listed above. The Council has also carefully considered the fiscal, economic, social, and environmental benefits of the proposed General Plan Update, as listed above, and compared these with the benefits and impacts of the alternatives, which were evaluated in the Final EIR. The Council has balanced the fiscal, economic, social, and environmental benefits of the proposed Plan against its unavoidable and unmitigated adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the proposed General Plan Update outweigh, and therefore override, the remaining adverse environmental effects. Such benefits provide the substantive and legal basis for this Statement of Overriding Considerations.

In approving the proposed General Plan Update, the Council makes the following Statement of Overriding Considerations pursuant to Public Resources Code Section 21081 and State CEQA Guidelines Section 15093 in support of its findings on the Final EIR:

The Council has considered the information contained in the Final EIR and has fully reviewed and considered all of the public testimony, documentation, exhibits, reports, and presentations included in the record of these proceedings. The Council specifically finds and determines that this Statement of Overriding Considerations is based upon and supported by substantial evidence in the record.

The Council has carefully weighed the benefits of the proposed General Plan Update against any adverse impacts identified in the Final EIR that could not be feasibly mitigated to a level of insignificance, which are enumerated below. While the Council has required all feasible mitigation measures, such impacts remain significant for purposes of adopting this Statement of Overriding Considerations:

- Impact 3.2-2 (Implementation of the proposed Visalia General Plan could conflict with the applicable Route Concept reports for State highways, including but not limited to level of service standards.)

Finding: Such changes or alterations are within the responsibility and jurisdiction of another public agency (Caltrans) and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency. This finding is made pursuant to CEQA Guidelines section 15091(a)(2).

- Impact 3.3-2 (Implementation of the proposed Visalia General Plan could violate any air quality standard or contribute substantially to an existing or projected air quality violation.)
- Impact 3.3-3 (Implementation of the proposed Visalia General Plan could result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors.)
- Impact 3.5-1 (Buildout of the proposed General Plan would convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agriculture use.)
- Impact 3.5-2 (Buildout of the proposed General Plan would conflict with existing zoning for agriculture use, or a Williamson Act contract.)
- Impact 3.5-3 (Buildout of the proposed General Plan would result in changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use.)
- Impact 3.6-4 (Implementation of the proposed Visalia General Plan could expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam, sea level rise, or inundation by seiche, tsunami, or mudflow.)

- Impact 3.10-3 (Exposure of existing noise sensitive land uses to an increase in noise that results in noise in excess of standards found in the existing Visalia General Plan Noise Element.)

Findings: Pursuant to CEQA Guidelines section 15091(a)(3), specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR. These specific considerations have been analyzed in the context of the proposed Visalia General Plan and the project alternatives. Based on the evidence in the record, the Planning Commission finds as follows:

- The proposed Visalia General Plan is critical in achieving the City's economic development and job creation goals by fostering a positive and predictable climate for public and private investment, providing a supply of land that is appropriately located and designated for urban uses that are essential for a sustainable quality of life for the City's current population and that of its future buildout population.
- The proposed Visalia General Plan promotes social equity by ensuring adequate housing for all income, age, and lifestyle preferences; providing open government that values public participation; promoting local goods, services, and diverse cultures; promoting community health through a safe, multi-modal transportation system, along with accessible parks and open space areas, and public services arrayed throughout the Planning Area accessible to all members of the community.
- Implementation of the proposed Visalia General Plan will serve as the foundation in making land use decisions based on goals and policies related to land use, transportation routes and modes, population growth and distribution, development, open space, resource preservation and utilization, air and water quality, noise impacts, safety, provision of public services and infrastructure, economic development, and other associated physical and social factors in a holistic and integral manner as to be mutually supportive and internally consistent.
- Implementation of the proposed Visalia General Plan will comply with State requirements and, more importantly, will provide the City, its residents, land owners and businesses, staff and policy makers and all stakeholders with a comprehensive, long-range policy reference for future development.
- The City finds that this level of comprehensive planning is desirable and that it provides a more environmentally sustainable vision and development plan than the previously adopted General Plan Elements for which this proposed Visalia General Plan would supersede, and that it is more capable of achieving the City's community goals and sustainable population buildout expectations.

This Statement of Overriding Considerations applies specifically to those impacts found to be significant and unavoidable as set forth in the Final EIR and the record of these proceedings. In addition, this Statement of Overriding Considerations applies to those impacts that have been substantially lessened but not necessarily lessened to a level of insignificance.

Based upon the goals and objectives identified in the proposed General Plan Update and the Final EIR, following extensive public participation and testimony, and notwithstanding the impacts that are identified in the Final EIR as being significant and potentially significant and which arguably may not be avoided, lessened, or mitigated to a level of insignificance, the Council, acting pursuant to Public Resources Code Section 21081 and Section 15093 of the State CEQA Guidelines, hereby determines that specific economic, legal, social, environmental, technological, and other benefits and overriding considerations of the proposed General Plan Update sufficiently outweigh any remaining unavoidable, adverse environmental impacts of the proposed General Plan Update and that the proposed General Plan Update should be approved.

Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines Section 15093, the Council further determines that the unavoidable adverse environmental effects of the proposed General Plan Update are acceptable, and that there are overriding considerations that support the Council's approval of the proposed General Plan Update, as stated in the above sections.

The Council believes that it is prudent to select the proposed General Plan Update over the alternatives because it provides dramatic improvements over the continuation of the existing General Plan, and most closely embodies the project objectives. In making this determination, the Council incorporates by reference all of the supporting evidence cited within the Draft and Final EIR, and in the administrative record.

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## **APPENDIX C:**

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City Council Resolution No. 2014-37

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## RESOLUTION NO. 2014-37

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA TO  
CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH # 2010041078)  
AND ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE  
VISALIA COMPREHENSIVE GENERAL PLAN UPDATE**

**WHEREAS**, the City Council of the City of Visalia has reviewed and considered the Final Program Environmental Impact Report (FEIR) prepared for the Comprehensive General Plan Update (GPU or Project). The GPU serves as a plan to assist the community in achieving a vision for the horizon year of 2030 and realizing values related to land use, growth, open space, recreation and transportation; and

**WHEREAS**, in April 2013, the Visalia City Council, after receiving substantial public input, accepted the Draft General Plan Update and directed the preparation of an Environmental Impact Report to analyze the impacts to the environment that may occur through the adoption of the GPU; and

**WHEREAS**, the FEIR also assesses the environmental impacts associated with the Visalia Climate Action Plan (CAP), created to develop and enhance actions designed to reduce Visalia's Greenhouse Gas emissions; and

**WHEREAS**, the Draft Environmental Impact Report (Draft EIR) was released on March 31, 2014, for 45-day review and comment period; and

**WHEREAS**, Written comments were received on the Draft EIR during the 45-day review period; and

**WHEREAS**, the Planning Commission of the City of Visalia, after ten (10) days published notice, did hold a public hearing for consideration of the FEIR on July 10, 2014, and continued said hearing to a specific date, of July 28, 2014, time 7:00pm, and location of City Council chambers at 707 W. Acequia, Visalia, California; and

**WHEREAS**, the Planning Commission of the City of Visalia concluded said public hearing on July 28, 2014, and recommended that the City Council certify the FEIR pursuant to Planning Commission Resolution No. 2014-34; and

**WHEREAS**, the City Council of the City of Visalia, after ten (10) days published notice, did hold a public hearing for consideration of the FEIR on September 8, 2014, and continued said hearing to a specific date, of October 6, 2014, and location of City Council chambers at 707 W. Acequia, Visalia, California; and,

**WHEREAS**, the City Council of the City of Visalia, after ten (10) days published notice, did hold and close a public hearing for adoption of the FEIR on

October 6, 2014 and considered incorporating changes attached as Exhibit "B" of this Resolution, and continued the consideration and final action of the item to an unspecified date; and

**WHEREAS**, the City Council of the City of Visalia, after providing required notice for a special meeting, did hold a special meeting which included the consideration and adoption of the FEIR on October 14, 2014; and

**WHEREAS**, the FEIR was released on June 30, 2014, and consists of the Draft EIR and the revisions of, and additions to the Draft EIR, the written comments and recommendations received on the Draft EIR, the written responses of the City of Visalia to public comments on the Draft EIR; errata to the foregoing; and other information added by the City of Visalia as specified in the record; and

**WHEREAS**, the California Environmental Quality Act (CEQA) requires that, in connection with the approval of a project for which an EIR has been prepared that identified one or more significant effects, the decision making body makes certain findings regarding those effects.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Visalia finds that the Project FEIR, SCH# 2010041078, was prepared consistent with the CEQA and City of Visalia Environmental Guidelines.

**BE IT FURTHER RESOLVED**, that the City Council of the City of Visalia hereby certifies the FEIR, SCH# 2010041078, for the Project, including the changes attached as Exhibit "B", based on the following specific findings and based on the evidence presented:

1. That a full, fair and duly noticed public hearing has been held on the FEIR, and the City Council, having considered the FEIR, including but not limited to all Draft EIR comments and written responses, has concluded that said FEIR, is adequate and complete, and is incorporated herein by this reference.
2. That the City Council hereby determines that the FEIR, SCH# 2010041078, for the Project has been prepared in compliance with CEQA and the state and local environmental guidelines and regulations; that the FEIR, including but not limited to all Draft EIR comments and written responses has been presented to the City Council, and the City Council has independently reviewed and analyzed the information contained therein, including the written comments received during the Draft EIR review period and the oral comments received at the public hearing; and that the FEIR represents the independent judgment of the City Council of the City of Visalia, as Lead Agency for the Project.
3. That the City Council does hereby find and recognize that the FEIR, SCH# 2010041078, contains additions, clarifications, modifications and other

information in its responses to comments on the Draft EIR, and also incorporates text changes to the EIR based on information obtained by the City since the Draft EIR was issued. The City Council does hereby find and determine that such changes and additional information are not significant new information as that term is defined under the provisions of CEQA because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the Project and they do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the Draft EIR have been proposed that would lessen significant environmental impacts of the Project; and no feasible alternatives considerably different from those analyzed in the Draft EIR have been proposed that would lessen the significant environmental impacts of the Project.

4. That the City Council does hereby make findings with respect to the significant and unavoidable impacts and other environmental effects resulting from the Project, as identified in the FEIR, SCH# 2010041978, including that changes or alterations were made to the Project to avoid or substantially lessen the significant environmental effects as identified in the FEIR; and, that specific economic, legal, social, technological, or other considerations including provision of employment opportunities for highly trained workers, make infeasible the further mitigation or selection of the Project alternatives identified in the FEIR.

#### **5. MITIGATION MONITORING AND REPORTING PROGRAM:**

The Mitigation and Monitoring and Reporting Program for the Project, which is incorporated and adopted as part of this Resolution. The program identifies impacts of the Project and corresponding mitigation, which are identified as General Plan policies to be enacted by implementation of the Comprehensive General Plan Update (GPU). In all cases, the City of Visalia is the designated responsible party for implementation and monitoring of the mitigation measures to ensure they are carried out as intended, and a compliance review will be presented to the City Council periodically as the GPU is implemented.

**BE IT FURTHER RESOLVED** that the City Council adopts the Statement of Overriding Considerations (SoOC) for the Project contained in Exhibit "A" of this Resolution, and incorporated herein by this reference. In adopting the SoOC, the City Council hereby finds that the Project has not eliminated or substantially lessened the significant impacts resulting from Air Quality (Mobile source emissions exceeding the significance threshold of PM 10 and PM 2.5); Transportation (Roads that may operate at LOS D or worse but for which the City lacks jurisdiction; Agriculture (Loss of agricultural land as a result of urban growth); Noise (resulting from mobile sources such as trucks, and stationary sources such as manufacturing processes are likely to

increase, particularly along major roadways); Hydrology and Flooding (Inundation in the event of the failure of the Terminus Dam at Lake Kaweah).

Significant unavoidable impacts resulting from the Project are acceptable in light of the environmental, economic, social and other considerations set forth in the FEIR, and in the administrative record as a whole, because the benefits of the Project outweigh the significant and unavoidable impacts identified in the FEIR, SCH# 2010041078 as discussed in Exhibit "A" of this Resolution.

The City Council has weighed the benefits of the proposed Project discussed in Exhibit "A" of this Resolution against its unavoidable impacts, and other environmental effects identified in the FEIR, and hereby determines that those benefits outweigh the risks and adverse environmental effects and further determines that those risks and environmental effects are acceptable.

**BE IT FURTHER RESOLVED** that the City Council hereby determines that the FEIR prepared for the Project is adequate and complete pursuant to the requirements of the CEQA.

**BE IT FURTHER RESOLVED**, that the City Planner is the custodian of the record of proceedings for the Draft EIR and FEIR, and the documents and other materials which constitute the record of proceedings for City actions related to the Draft EIR and FEIR are on file at the office of the City of Visalia Community Development Department, Planning Division, located at 315 E. Acequia Avenue, Visalia, California. Copies of these documents are available for public review during normal business hours upon request at the office of the City of Visalia Community Development Department, Planning Division.

**EXHIBIT "B" – REVISIONS TO THE ENVIRONMENTAL IMPACT REPORT  
STAFF RECOMMENDED & ACCEPTED BY THE VISALIA CITY COUNCIL**

**Executive Summary, Page ES-11 and ES-32 (Table ES-3)  
And Chapter 3.1: Land Use, Page 3.1-15  
And Chapter 3.5: Agriculture and Soils, Page 3.5-13**

- Revise Policy LU-P-21 to read the following (additions noted in *italics*):

**LU-P-21** Allow annexation and development of residential, commercial, *Regional Retail*, and industrial land to occur within the Urban Development Boundary (Tier II) and the Urban Growth Boundary (Tier III) consistent with the City's Land Use Diagram, according to the following phasing thresholds:

- "Tier II": Tier II supports a target buildout population of approximately 178,000. The expansion criteria for land in Tier II is that land would only become available for development when building permits have been issued in Tier I at the following levels, starting from April 1, 2010:

Residential: after permits for 5,850 housing units have been issued; and

Commercial: after permits for 480,000 square feet of commercial space have been issued

Regional Retail: *New Regional Retail areas in the Tier II Growth Boundary shall be eligible for urban development upon satisfactory demonstration that the following criteria have been met:*

1. *Existing Regional Retail Commercial zoned land south of Mooney Blvd. that was undeveloped as of the date of adoption of the General Plan has received at least 922,383sq.ft. of commercial building permits [formula: 121 acres @43,560sq.ft. per gross acre = 5,270,760sq.ft. x .25 (assumed FAR for Regional Retail development) x .7 (recommended flex factor)]*
2. *The uses and tenants proposed for the area will substantially further the community's goal of providing high-level regional retail goods and services.*
3. *That there is sufficient roadway capacity and adequate public facilities and infrastructure to accommodate the proposed development.*

*The regional retail zone classification shall provide for permitted and conditional uses which are of a regional draw only. Uses which are not exclusively of a regional draw may be allowed where a finding is made that such uses are ancillary or associated with the regional uses. Uses of a neighborhood- or convenience-level draw only shall not be permitted.*

- "Tier III": Tier III comprises full buildout of the General Plan. The expansion criteria for land in Tier III is that land would only become available for development when building permits have been issued in Tier I and Tier II at the following levels, starting from April 1, 2010:

Residential: after permits for 12,800 housing units have been issued.

Commercial: after permits for 960,000 square feet of commercial space have been issued; and

Industrial: after permits for 2,800,000 square feet of industrial space have been issued

*To complement residential neighborhood development, the City also may allow small annexations for sites less than 30 acres in size that are contiguous to the City limits to allow for efficient development of a neighborhood, commercial area or employment center, provided no General Plan amendment is required and infrastructure is available or can be extended at no cost to the City.*

*Triggers for proceeding from Tier I and Tier II to Tier III may be modified based on subsequent direction from the City Council.*

*Annexations are subject to review against regulations and policies in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and the Tulare County Local Agency Formation Commission Policy and Procedure Manual regarding development and inventory of existing vacant land designated for urban uses in the city limits.*

**Executive Summary, Page ES-12 and ES-33 (Table ES-3)**

**And Chapter 3.1: Land Use, Page 3.1-16**

**And Chapter 3.5: Agriculture and Soils, Page 3.5-14**

- Revise Policy LU-P-26 to read as follows (additions noted in underline, deletions noted in ~~strikeout~~):

**LU-P-26** Continue to follow the Referral Agreement Memorandum of Understanding with Tulare County, and work with the County to strengthen the implementation of the Visalia General Plan ~~within the Visalia Urban Area Boundary~~.

**Executive Summary, Page ES-33 (Table ES-3)**

**And Chapter 3.5: Agriculture and Soils, Page 3.5-14**

- Revise Policy LU-P-27 to read as follows (additions noted in underline, deletions noted in ~~strikeout~~):

**LU-P-27** Initiate planning for post-2030 urban land needs in the area north of St. Johns River that is within the City's Sphere of Influence, and other areas as may be identified by the City Council, when residential development with the ~~Urban Development Boundary~~ Urban Growth Boundary Tier 3 reaches 80 percent of capacity, or earlier, at the initiative of the City Council.

*This long-term Planning Area is outside of the Urban Growth Boundary Tier 3 (UGB) established for this General Plan, and a General Plan amendment adding it to the UGB will require detailed studies of infrastructure needs, financing options for extension public facilities and services, and environmental resources and a determination by the City Council that the City's long term interests are best served by sensitively planned, appropriately timed development north of the St. Johns River, that development will provide a net fiscal benefit to the City, and that infill development opportunities within the City have been fully realized.*

**Executive Summary, Page ES-12 and ES-74 (Table ES-3)**

**And Chapter 3.1: Land Use, Page 3.1-16**

**And Chapter 3.13: Visual Resources, Page 3.13-9**

- Revise Policy LU-P-28 to read as follows (additions noted in underline, deletions noted in ~~strikeout~~):

**LU-P-28** Continue to use natural and man-made edges, such as major roadways and waterways within the City's Urban Area ~~Growth~~ Boundary, as urban development limit and growth phasing lines.

**Executive Summary, Pages ES-12, ES-34, and ES-75 (Table ES-3)**

**And Chapter 3.1: Land Use, Page 3.1-17**

**And Chapter 3.5: Agriculture and Soils, Page 3.5-15**

**And Chapter 3.13: Visual Resources, Page 3.13-10**

- Revise Policy LU-P-34 to read as follows:

**LU-P-34** Work with Tulare County and other state and regional agencies, neighboring cities, and private land trust entities to prevent urban development of agricultural land outside of the current growth boundaries and to promote the use of agricultural preserves, where they will promote orderly development and preservation of farming operations within Tulare County. *Conduct additional investigation of the efficacy of agricultural conservation easements by engaging local, regional, and state agencies and stakeholders in order to further analyze their ongoing efforts and programs that attempt to mitigate impacts from the conversion of agricultural lands through the use of agricultural conservation easements.* The City will support regional efforts to prevent urban development of agricultural lands, specifically at the county level. Tulare County's General Plan 2030 Update Policy contains two policies (AG-1.6 Conservation Easements and AG-1.18 Farmland Trust and Funding Sources) that discuss establishing

and implementing an Agricultural Conservation Easement Program (ACEP). The City supports the implementation of these measures by the County, in which the City may then participate. Such a regional program could include a fee to assist and support agricultural uses, and would be most feasibly and strategically developed on a countywide or other regional basis.

*In addition to supporting regional efforts to prevent urban development of agricultural lands, the City shall create and adopt a mitigation program to address conversion of Prime Farmland and Farmland of Statewide Importance in Tiers II and III. This mitigation program shall require a 1:1 ratio of agricultural land preserved to agricultural land converted and require ag land preserved to be equivalent to ag land converted. The mitigation program shall also require that the agricultural land preserved demonstrate adequate water supply and agricultural zoning, and shall be located outside the City UDB, and within the southern San Joaquin Valley. The mitigation program shall, to the extent feasible and practicable, be integrated with the agricultural easement programs adopted by the County and nearby cities. The City's mitigation program shall allow mitigation to be provided by purchase of conservation easement or payment of fee, but shall indicate a preference for purchase of easements. The mitigation program shall require easements to be held by a qualifying entity, such as a local land trust, and require the submission of annual monitoring reports to the City. The mitigation program shall specifically allow exemptions for conversion of agricultural lands in Tier I, or conversion of agricultural lands for agricultural processing uses, agricultural buffers, public facilities, and roadways.*

PASSED AND ADOPTED: October 14, 2014      MICHAEL OLMOS, CITY CLERK

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

I, Michael Olmos, City Clerk of the City of Visalia, certify the foregoing is the full and true Resolution 2014-37 passed and adopted by the Council of the City of Visalia at a special meeting held on October 14, 2014.

Dated: November 7, 2014

MICHAEL OLMOS, CITY CLERK



By Michelle Nicholson, Chief Deputy City Clerk