

PLANNING COMMISSION AGENDA

CHAIRPERSON:

Chris Gomez



VICE CHAIRPERSON:

Marvin Hansen

COMMISSIONERS: Mary Beatie, Adam Peck, Marvin Hansen, Chris Gomez

MONDAY, JULY 12, 2021

VISALIA CONVENTION CENTER

LOCATED AT 303 E. ACEQUIA AVE. VISALIA, CA

MEETING TIME: 7:00 PM

Citizens may appear at the Planning Commission meeting in person and will be asked to maintain appropriate, physical distancing from others and wear a mask or face shield pursuant to the Governor's Executive Orders and public health guidance during the COVID-19 situation.

1. CALL TO ORDER –
2. THE PLEDGE OF ALLEGIANCE –
3. SWEARING IN OF NEW COMMISSIONERS –
 - Chris Gomez
 - Chris Tavaréz
4. ELECTION OF CHAIR AND VICE-CHAIR –
5. CITIZEN'S COMMENTS – This is the time for citizens to comment on subject matters that are not on the agenda but are within the jurisdiction of the Visalia Planning Commission. You may provide comments to the Planning Commission at this time, but the Planning Commission may only legally discuss those items already on tonight's agenda.

The Commission requests that a five (5) minute time limit be observed for Citizen Comments. You will be notified when your five minutes have expired.
6. CHANGES OR COMMENTS TO THE AGENDA –
7. CONSENT CALENDAR – All items under the consent calendar are to be considered routine and will be enacted by one motion. For any discussion of an item on the consent calendar, it will be removed at the request of the Commission and made a part of the regular agenda.
 - No items on the consent calendar
8. PUBLIC HEARING – Paul Bernal, City Planner
Candelas II Tentative Subdivision Map No. 5579: A request by Lennar Homes of California to subdivide 16.35-acres into a 59-lot single-family residential subdivision with four out lots to be used for landscape and lighting district lots and a 3.95-acre Remainder in the R-1-5 (Single-Family Residential 5,000 square foot minimum site area) zone. The project site is

located on the southwest corner of East Tulare Avenue and South Vista Street (APNs: 101-050-043 and 101-050-044). An Initial Study was prepared for this project, consistent with the California Environmental Quality Act (CEQA), which disclosed that environmental impacts are determined to be not significant and that Negative Declaration No. 2021-15 be adopted.

9. PUBLIC HEARING – Brandon Smith, Principal Planner
General Plan Amendment No. 2021-01: A request by the City of Visalia to amend language to General Plan Land Use Policy LU-P-34, removing a requirement for the establishment of an agricultural mitigation program associated with the conversion of certain farmlands in Growth Tiers II and III. The project applies city wide to properties within the Urban Growth Boundary established by the Visalia 2030 General Plan. An Addendum to the City of Visalia 2030 General Plan Environmental Impact Report (SCH No. 2010041078), in accordance with the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines (CEQA Guidelines; California Code of Regulations, Title 14, Chapter 3, Section 15000, et seq.), has been prepared to address the environmental effects of General Plan Amendment No. 2021-01.

10. CITY PLANNER / PLANNING COMMISSION DISCUSSION –

- a. Next Planning Commission Meeting is Monday, July 26, 2021.

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

For Hearing Impaired – Call (559) 713-4900 (TTY) 48-hours in advance of the scheduled meeting time to request signing services.

Any written materials relating to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the City Office, 315 E. Acequia Ave. Visalia, CA 93291, during normal business hours.

APPEAL PROCEDURE

THE LAST DAY TO FILE AN APPEAL IS THURSDAY, JULY 22, 2021 BEFORE 5 PM

According to the City of Visalia Zoning Ordinance Section 17.02.145 and Subdivision Ordinance Section 16.04.040, an appeal to the City Council may be submitted within ten days following the date of a decision by the Planning Commission. An appeal form with applicable fees shall be filed with the City Clerk at 220 N. Santa Fe, Visalia, CA 93292. The appeal shall specify errors or abuses of discretion by the Planning Commission, or decisions not supported by the evidence in the record. The appeal form can be found on the city's website www.visalia.city or from the City Clerk.

THE NEXT REGULAR MEETING WILL BE HELD ON MONDAY, JULY 26, 2021



REPORT TO CITY OF VISALIA PLANNING COMMISSION

HEARING DATE: July 12, 2021

PROJECT PLANNER: Brandon Smith, Principal Planner
Phone: (559) 713-4636
E-Mail: brandon.smith@visalia.com

SUBJECT: General Plan Amendment No. 2021-01: A request by the City of Visalia to amend language to General Plan Land Use Policy LU-P-34, removing a requirement for the establishment of an agricultural mitigation program associated with the conversion of certain farmlands in Growth Tiers II and III. The project applies city wide, to properties within the Urban Growth Boundaries established by the Visalia 2030 General Plan.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission conduct a public hearing, consider public testimony and, through adoption of Resolution No. 2021-34, recommend that the City Council approve General Plan Amendment (GPA) No. 2021-01. This recommendation is based on previous direction by the Visalia City Council and supported by findings and data contained in documents including the Feasibility Study and the Addendum to the Environmental Impact Report (EIR) prepared for the Visalia 2030 General Plan.

RECOMMENDED MOTION

I move to recommend that the City Council approve General Plan Amendment No. 2021-01 by adoption of Resolution No. 2021-34.

PROJECT DESCRIPTION

Background

General Plan Amendment (GPA) No. 2021-01 was initiated by the City of Visalia in response to direction provided by the Visalia City Council on February 16, 2021, supported by a Feasibility Study that researches the feasibility of an Agricultural Mitigation Program (AMP) within the Visalia planning area prior to the establishment of a City-wide program. Following a work session item held to introduce and receive direction on the Study, the Council provided direction to staff to move forward with Alternative #4 outlined in the Study which is to amend General Plan Land Use Policy LU-P-34, eliminating the requirement of an AMP for development to occur within the Tier II and III Urban Growth Boundaries.

The Visalia 2030 General Plan, adopted in October 2014, included LU-P-34 and other land use policies to address impacts to the loss of agricultural lands caused by urban growth. A comprehensive list of those land use policies is included in the Work Plan attached as Exhibit "A". Land Use Policy LU-P-34 requires the creation and adoption of an AMP to address the conversion of properties containing Prime Farmland and Farmland of Statewide Importance located in Growth Tiers II and III. The conversion of properties containing such lands within Growth Tier I are exempt from the AMP requirement.

The City's three growth tiers (i.e., Tiers I, II, and III) were established under Land Use Policy LU-P-21, to guide urban development under the General Plan. The Plan authorized land development to occur immediately within the Tier I boundary, while land development within Tiers II and III could only occur after certain building permit thresholds were met.

Summary of Changes

The GPA revises Land Use Policy LU-P-34 to remove the requirement for properties converting farmland within Growth Tiers II and III to enter into an AMP. It also removes reference to the County of Tulare 2030 General Plan Update and its contemplation of an Agricultural Conservation Easement Program since it was not ultimately adopted as a regional program.

The current policy language directs the City to “conduct additional investigation of the efficacy of agricultural conservation easements”. This portion of the policy was fulfilled in the investigation that culminated in the preparation of the Feasibility Study, wherein the Study contemplated on the changes in circumstance since the adoption of the General Plan in 2014. As a result, the GPA is also proposing to remove this language.

The full policy revisions are shown below with deletions in strikethrough and additions in underscore.

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 such efforts 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.~~

The final policy language directs the City to work with other entities, particularly the County of Tulare, to prevent urban development of agricultural land outside of its growth boundaries.

The policy, as amended, will read as follows (*deletions in strikethrough removed*):

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, where such efforts will promote orderly development and preservation of farming operations within Tulare County. The City will support regional efforts to prevent urban development of agricultural lands, specifically at the county level.

The City's process for studying and considering adoption of an AMP began in 2020. The study included studying the efficacy of the program, as directed by the City Council on January 16, 2020, based on recent efforts by the State to address groundwater management, recent state law, and the AMP's potential impact on the cost of residential construction. The City has collected public input for the study by circulating and accepting comments on the Feasibility Study and supporting documents as well as holding two Work Sessions before the Planning Commission.

Project Evaluation

The revision to Land Use Policy LU-P-34, which includes removal of the requirement for new urban development to enter into an AMP, can be supported through information compiled in the Feasibility Study (see Exhibit "B") and an Addendum to the City of Visalia 2030 General Plan Environmental Impact Report (EIR) (see Attachment).

The General Plan EIR concluded that impacts related to the loss of farmland, as well as agricultural zoning and Williamson Act contracts, would be significant and unavoidable. The establishment of an AMP was cited as one means of reducing the impact on the conversion of farmland, as discussed under Impacts 3.5-1, 3.5-2, and 3.5-3 of the EIR. (*A list of other mitigating General Plan policies in addition to Policy LU-P-34 is contained in the Work Plan attached as Exhibit "A".*) The Feasibility Study and the Addendum have concluded that the adoption of an AMP is not a feasible method of mitigation under the applicable circumstances for Visalia. Evidence addressing the infeasibility of an AMP for the City of Visalia as a feasible mitigation was contained in the General Plan EIR and in the Statement of Overriding Considerations and Findings of Fact adopted with the EIR in 2014. The General Plan EIR's documentation of reasons that an AMP would be infeasible mitigation included evidence suggesting that a local City-wide AMP may result in a patchwork of disparate easements not contiguous enough to help promote orderly development and preservation of farming operations within Tulare County. Easement locations would be further dictated by the suitability of the land to be placed in the easement, willing participation by a landowner, and adequate water availability. The General Plan was adopted with the requirement for an AMP as cited in Policy LU-P-34, though the Policy as worded recognized the need to study the efficacy of an AMP and called for conducting additional investigation of the efficacy through engagement of agencies and stakeholders.

The Feasibility Study and Addendum documented evidence that the reasons cited in the General Plan EIR that an AMP would be infeasible remain unchanged. In addition the Feasibility Study found additional evidence supporting the same conclusions. Regulations enacted through the Sustainable Groundwater Management Act and associated Groundwater Sustainability Plans may severely limit the number and availability of properties that can reliably meet the criteria for an AMP, particularly if the AMP restricts the scope of eligible properties within a smaller geographic area (e.g., within Tulare County or within specific proximity to Visalia).

The Feasibility Study was directed to research whether implementation of an AMP would place an additional cost burden on homebuyers and jeopardize the affordability of home ownership in Visalia. The Feasibility Study, along with the Farmland Preservation Best Practices & Established Programs Summary document (Appendix E of the Study), expanded upon specific project factors that would quantitate the reflective cost of a conservation easement purchase per

housing unit. The potential impact, using a series of assumptions, provided a range of additional cost between \$350 and \$2,930 per unit depending on density. Public testimony remarked that these numbers may be conservative based on the estimated purchase cost of conservation easements and availability of equivalent quality land for purchase.

The Feasibility Study and Addendum also cites recent case law in 2020 from the 5th District Court of Appeal that agricultural easements do not mitigate, in whole or part, for the loss of agricultural land.

Ultimately, the City of Visalia concluded that the use of an AMP as a mitigation measure could be considered infeasible based on the General Plan EIR's Statement of Overriding Considerations and further supported by the results of the Feasibility Study which were presented to the Visalia City Council in February 2021.

The City Council, on February 16, 2021, directed staff to proceed with the alternative outlined in the Feasibility Study to remove the requirement for an AMP in Policy LU-P-34 (i.e., Alternative No. 4). The Council's direction was based on information in the Feasibility Study as well as written and verbal public testimony that included arguments for and against the establishment of an AMP. A copy of the staff report presented to the City Council is attached as Exhibit "C".

Additional Preservation Mechanisms

The General Plan and the EIR both rely upon multiple programs and policies to help reduce the impacts of the loss of agricultural land incurred by urban development under the 2030 General Plan (a reduction of impact would be accomplished through mechanisms that preserve the operation of agriculture land and slow its conservation rate). However, it should be noted that even with the implementation of these policies, the loss of farmland would continue to be a significant and unavoidable environmental impact associated with additional urban development.

The City's Growth Boundaries, implemented through Policy LU-P-21, is among the most significant tools aimed at slowing the conversion of agriculture land surrounding Visalia and focusing development and city resources towards more individual development and gradual expansion.

All policies that influence the rate of conversion of agricultural land within the City have been compiled into a Work Plan, included as Exhibit "A". The Work Plan provides a summary of policies, current progress, status, and necessary actions to implement the policies. Many of these policies can and are being implemented on an ongoing basis, often in tandem with development proposals, while some have not yet been implemented. Policies that have not yet been implemented, such as the adoption of a Right-To-Farm ordinance or an Urban Agriculture ordinance, may need additional direction from the City Council to allocate staff time and funding toward these efforts.

Environmental Review

An Addendum to the City of Visalia 2030 General Plan Environmental Impact Report (SCH No. 2010041078) has been prepared to address the environmental effects of GPA No. 2021-01, in accordance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines. The City of Visalia is considered the CEQA Lead Agency for this project.

CEQA Guidelines Section 15164 provides that a lead agency shall prepare an addendum to a previously certified EIR if only some changes or additions are necessary but none of the conditions described in Section 15162(a), calling for preparation of a subsequent EIR, have occurred. The Addendum, included as an attachment, provides a full evaluation with a determination that the proposed amendment of Policy LU-P-34 does not result in the occurrence of any of the conditions found in Section 15162(a).

The City voluntarily made the Addendum available for a 10-day public review and comment period from May 19, 2021 to May 28, 2021. Circulation of the Addendum for public review is not a requirement of CEQA; however, the City made the decision to provide an opportunity for review and comment based on stakeholder interest on the issue. The Addendum was posted to the City's website with notifications sent via email to those included on the stakeholder list. There were seven comment letters received in response to the Addendum, all received during the comment period. The comment letters, a response to the comments, and an Appendix containing General Plan policy language as referenced in response to the comments, are included as attachments.

RECOMMENDED FINDINGS

1. That the proposed General Plan Amendment is consistent with the goals, objectives, and policies of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
2. That the proposed General Plan Amendment resulting in the removal of a requirement for a City-wide Agriculture Mitigation Program will not impose any new or additional land uses or development in the City of Visalia that will adversely affect other properties.
3. That the proposed General Plan Amendment is supported by findings and data contained in the City of Visalia Feasibility Study (Provost & Prichard, December 2020) and other supporting documents included in the Study's Appendices.
4. That the proposed General Plan Amendment for the amendment of Land Use Policy LU-P-34 is in conformance with the purposes, intent, and policies of the General Plan of the City of Visalia.
5. That an Addendum to the City of Visalia 2030 General Plan Environmental Impact Report (EIR) (SCH No. 2010041078) has been prepared for this project, consistent with CEQA, on the basis that some changes or additions were necessary to the EIR based on the proposed General Plan Amendment but none of the conditions described in Section 15162(a), calling for preparation of a subsequent EIR, have occurred. The Addendum concludes that no new circumstances or changes have occurred nor has any new information been identified requiring new analysis or verification since the adoption of the EIR and therefore the conclusions of the EIR remain valid. Furthermore, approval of the General Plan Amendment constitutes a minor change to the Visalia 2030 General Plan that would not result in new or substantially more severe significant impacts to agricultural resources, the loss of which were found to be an impact that would be significant and unavoidable under the EIR.

APPEAL INFORMATION

The Planning Commission's recommendation on the General Plan Amendment is advisory only and is automatically referred to the City Council for final action.

Attachments:

- Resolution No. 2021-34
- Exhibit “A” – City of Visalia Agricultural Preservation Objectives & Policies Work Plan, June 22, 2021
- Exhibit “B” – City of Visalia Feasibility Study, Public Review Draft, December 2020
 - Feasibility Study Appendices A through G (accessible through web site link <https://www.visalia.city/civicax/filebank/blobdload.aspx?BlobID=46861>)
- Exhibit “C” – City Council Staff Report dated February 16, 2021 regarding Feasibility Study
- Addendum to the City of Visalia 2030 General Plan Environmental Impact Report (SCH No. 2010041078) for General Plan Amendment No. 2021-01
 - Addendum Appendices A through C (accessible through web site link https://www.visalia.city/depts/community_development/planning/agricultural_mitigation_program.asp)
- City Response to Addendum Comments
 - A. California Department of Conservation
 - B. Sequoia Riverlands Trust
 - C. Central Valley Partnership
 - D. Sierra Club Kern-Kaweah Chapter
 - E. California Farmland Trust
 - F. American Farmland Trust
 - G. Leadership Counsel for Justice & Accountability
 - Appendix 1: General Plan Policy Language

RESOLUTION NO. 2021-34

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA, RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT NO. 2021-01, A REQUEST BY THE CITY OF VISALIA TO AMEND LANGUAGE TO GENERAL PLAN LAND USE POLICY LU-P-34, REMOVING A REQUIREMENT FOR THE ESTABLISHMENT OF AN AGRICULTURAL MITIGATION PROGRAM ASSOCIATED WITH THE CONVERSION OF CERTAIN FARMLANDS IN GROWTH TIERS II AND III. THE PROJECT APPLIES CITY WIDE, TO PROPERTIES WITHIN THE URBAN GROWTH BOUNDARIES ESTABLISHED BY THE VISALIA 2030 GENERAL PLAN.

WHEREAS, General Plan Amendment No. 2021-01 is a request by the City of Visalia to amend language to General Plan Land Use Policy LU-P-34, removing a requirement for the establishment of an agricultural mitigation program associated with the conversion of certain farmlands in Growth Tiers II and III. The project applies city wide, to properties within the Urban Growth Boundaries established by the Visalia 2030 General Plan; and,

WHEREAS, General Plan Amendment No. 2021-01 was initiated in response to direction provided by the City Council on February 16, 2021, specifically to move forward with Alternative #4 outlined in the Feasibility Study presented to the City Council, wherein the Feasibility Study researches the feasibility of an Agricultural Mitigation Program within the Visalia planning area prior to the establishment of a City-wide program; and,

WHEREAS, the Planning Commission of the City of Visalia, after duly published notice, held a public hearing before said Commission on July 12, 2021; and,

WHEREAS, the Planning Commission of the City of Visalia considered the General Plan Amendment in accordance with Section 17.54.060 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff report and testimony presented at the public hearing; and,

WHEREAS, an Addendum to the City of Visalia 2030 General Plan Environmental Impact Report (EIR) (SCH No. 2010041078) has been prepared, consistent with the California Environmental Quality Act (CEQA) and State CEQA Guidelines, which disclosed that the conclusions of the EIR remain valid for the scope of this project.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council concur that that the conclusions of the City of Visalia 2030 General Plan EIR remain valid for the scope of this project, and that the Addendum to the City of Visalia 2030 General Plan EIR was prepared consistent with CEQA, State CEQA Guidelines, and City of Visalia Environmental Guidelines.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Visalia recommends approval to the City Council of General Plan Amendment No. 2021-01, as shown on Attachment "1" of this Resolution, based on the following specific findings and based on the evidence presented:

1. That the proposed General Plan Amendment is consistent with the goals, objectives, and policies of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
2. That the proposed General Plan Amendment resulting in the removal of a requirement for a City-wide Agriculture Mitigation Program will not impose any new or additional land uses or development in the City of Visalia that will adversely affect other properties.
3. That the proposed General Plan Amendment is supported by findings and data contained in the City of Visalia Feasibility Study (Provost & Prichard, December 2020) and other supporting documents included in the Study's Appendices.
4. That the proposed General Plan Amendment for the amendment of Land Use Policy LU-P-34 is in conformance with the purposes, intent, and policies of the General Plan of the City of Visalia.
5. That an Addendum to the City of Visalia 2030 General Plan Environmental Impact Report (EIR) (SCH No. 2010041078) has been prepared for this project, consistent with CEQA, on the basis that some changes or additions were necessary to the EIR based on the proposed General Plan Amendment but none of the conditions described in Section 15162(a), calling for preparation of a subsequent EIR, have occurred. The Addendum concludes that no new circumstances or changes have occurred nor has any new information been identified requiring new analysis or verification since the adoption of the EIR and therefore the conclusions of the EIR remain valid. Furthermore, approval of the General Plan Amendment constitutes a minor change to the Visalia 2030 General Plan that would not result in new or substantially more severe significant impacts to agricultural resources, the loss of which were found to be an impact that would be significant and unavoidable under the EIR.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Visalia recommends approval to the City Council of the General Plan Amendment described herein in Attachment "1", in accordance with the terms of this resolution under the provisions of Section 17.54.070 of the Ordinance Code of the City of Visalia and based on the above findings.

Resolution No. 2021-34

ATTACHMENT “1”

General Plan Amendment No. 2021-01 A request by the City of Visalia to amend language to General Plan Land Use Policy LU-P-34, removing a requirement for the establishment of an agricultural mitigation program associated with the conversion of certain farmlands in Growth Tiers II and III.

Changes to the City of Visalia General Plan, as specified by underline for additions and ~~strikeout~~ for deletions.

Land Use Element Policy 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 such efforts 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.~~

VISALIA 2030 GENERAL PLAN

AGRICULTURAL PRESERVATION

OBJECTIVES & POLICIES

WORK PLAN

JUNE 22, 2021

The City of Visalia General Plan includes several policies that will influence the rate of conversion of agricultural land within the City. These objectives and policies have been reviewed to create the following work plan (see **Table 1. Agricultural Preservation Objectives & Policies Work Plan**), designed to provide a summary of existing policies, current progress and status, and any necessary actions needed in the future.

This work plan includes those General Plan objectives and policies that either:

- direct or support the City's growth management strategy thereby slowing the conversion of farmland to urban uses within its urban development boundaries; or
- demonstrate the City's recognition of and dedication to the important role farmland plays in the identity of the City and surrounding areas.

WORK PLAN COLUMN DESCRIPTIONS

The objective and policy number, as well as full text are included in the work plan. While the General Plan provides additional background text for some objectives and policies, this language is not included in the plan. For each policy, the following categories have been evaluated and are included in the work plan. Note that while objectives are included where applicable in the plan, no specific actions have been identified for the objectives; therefore, the following columns are only populated for the policies.

- The **Progress** column provides a summary of actions taken by the City to date relative to policy implementation.
- The **Status** column uses four specific terms to denote current implementation progress: Not Yet Initiated, In Progress, Complete, and Ongoing, defined as follows:
 - Not Yet Initiated indicates the City has not yet initiated implementation of the policy.
 - In Progress indicates that a discrete end date for program or policy implementation is anticipated and has been initiated by the City but not yet completed.
 - Complete indicates City staff has taken the necessary actions to implement the policy.
 - Ongoing indicates no end date for the implementation of the policy and typically represents ongoing implementation through an established City process.
- The **Actions** column identifies any actions needed to implement the policy.

Exhibit "A"

Table 1. Agricultural Preservation Objectives & Policies Work Plan

#	POLICY TEXT	PROGRESS	STATUS	ACTIONS
2. LAND USE ELEMENT				
2.3 Economic Development				
LU-O-5 LU-P-10	Recruit regional-serving retail, healthcare, technology, warehousing and distribution, and agriculture-related industries. Support community efforts to establish a permanent home for the Visalia Farmers' Market and facilitate the formation of additional temporary farmers' markets.	The City of Visalia has facilitated the continuation of the Visalia Farmers' Market, currently held weekly. The Market has continued its primary Saturday morning market on a largely unused parking lot on privately-owned land (i.e. Sequoia Mall). The City has assisted with additional temporary markets, including seasonal Downtown markets and a mid-week market on the Kaweah Health campus in southwest Visalia.	Ongoing	Conduct outreach with the Farmers Market group about additional opportunities or locations.
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: <ul style="list-style-type: none"> 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. 	Visalia has recognized and supported agricultural businesses through implementing growth boundaries, accommodating agriculture-related industries in industrial districts, facilitating farmers' markets, and helping promote local agricultural goods. The City has invested \$152 million in an upgrade to its WWTP, completed in 2018, to attract more food processing and other large-scale industries in addition to the City's own growth. The WWTP investments benefit food packaging manufacturing, food processing equipment manufacturers and services, and printing which are growth sectors for Visalia. The City has experienced new business in these sectors in the industrial park and will continue to see growth. The City markets its proximity to the most agriculturally productive region in the world all the time, and that is a common theme in food processing/manufacturing recruitment of the economic development partners we have such as	Ongoing	Coordinate agricultural business recruitment efforts with the County. Continue facilitating farmers' markets, as identified in LU-P-10. Continue implementing growth boundaries, as identified in LU-P-21.

#	POLICY TEXT	PROGRESS	STATUS	ACTIONS
the Tulare County EDC and the Central California EDC.				
The City has not coordinated agricultural business recruitment efforts directly with the County.				
2.5 Urban Boundaries and Growth Management				
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.			
LU-P-19	Ensure that growth occurs in a compact and concentric fashion by implementing the General Plan's phased growth strategy.	The development and entitlement review process ensures growth occurs in accordance with the General Plan's growth strategy.	Ongoing	Continue to implement the phased growth strategy outlined in LU-P-21 through the development review process.
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.	The annexation and prezone process ensures growth occurs in accordance with the General Plan's growth strategy, including the allowance of annexations within the Tier I Urban Development Boundary.	Ongoing	Continue to process annexation application requests in accordance with LU-P-20.
Staff has seen an increase in development considerations in the County islands located in Tier I (Hwy 198 / Roeben, K Road, Demaree / Riggan, and Hurley/Marcin) as well as other non-island areas within Tier I.				
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: <ul style="list-style-type: none"> "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: 	The annexation and prezone process ensures growth occurs in accordance with the General Plan's growth strategy. The City has recently met the Tier II thresholds for commercial and industrial uses and anticipates meeting the threshold for residential uses before the end of 2021.	Ongoing	Continue to implement the phased growth strategy outlined in LU-P-21 through the annexation application process. The City anticipates taking action to expand to the Tier II Urban Development Boundary (Tier III for Industrial uses) in tandem with meeting the residential threshold by the end of 2021.

#	POLICY TEXT	PROGRESS	ACTIONS
	<u>Residential</u> : after permits for 5,850 housing units have been issued; and		
	<u>Commercial</u> : 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.		
	<u>Regional Retail</u> : 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 922,383sq.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		

#	POLICY TEXT	PROGRESS	STATUS	ACTIONS
	<p>of a neighborhood or convenience level draw only shall not be permitted.</p> <ul style="list-style-type: none"> “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: <u>Residential</u>: after permits for 12,800 housing units have been issued. <u>Commercial</u>: 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 <u>Industrial</u>: after permits for 2,800,000 square feet of commercial space on designated Industrial, Light Industrial, and Business Research Park land have been issued. 			
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.	The City Council evaluated its needed land supply on three occasions between January 2020 and March 2021, 5 years after the General Plan adoption, in anticipation of meeting the Tier I thresholds for Residential, Commercial, and Industrial growth. In March 2021, the City Council provided direction to consider amendments to the Urban Development Boundaries pertaining to residential land supply in the southwest and southeast quadrants of the City along Visalia Parkway. This amendment could potentially transfer two properties from Tier III to Tier II.	Ongoing	Re-evaluate land use and economic demand projections no later than 2026 and at least every five years thereafter.
LU-P-25	Provide planning and technical support for the relocation of agricultural operations currently	The City has taken agricultural relocation into consideration during the development process. No specific relocation programs have been	Ongoing	The City will continue to provide planning and technical support through the Site Plan Review

#	POLICY TEXT	PROGRESS	STATUS	ACTIONS
	located in the City to compatible locations in the Planning Area or the County.	undertaken. The City continues to provide planning and technical support through the Site Plan Review Committee, which considers land use and development proposals on a weekly basis as a free service to the public.		Committee and will be available on an ongoing basis to provide support. Refer agricultural operation relocation assistance requests to Tulare County EDC.
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.	The City has been complying with the requirements of the MOU, including providing comments on projects as referred by Tulare County.	Ongoing	The City shall 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 III reaches 80 percent of capacity, or earlier, at the initiative of the City Council.	No planning has been conducted yet as the City has not met the threshold identified in this policy to initiate planning in this area. Areas within the City's current Urban Development Boundaries are still preferred and prioritized for growth since the area north of St. Johns River will require significant planning and investment in infrastructure expansion.	Not yet initiated	Continue to monitor growth and respond to development reaching the identified capacity threshold or at the direction of the City Council.
2.6 Rural Buffer and Edge Conditions				
LU-O-11	Maintain Visalia as a separate and distinct community.			
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.			
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.	The urban development limits, which utilize natural and man-made edges, were set with the adoption of the General Plan Update in 2014. One exception to this policy has been the City Council's consideration (not yet adopted) in 2021 to adjust the phasing lines to transfer two Tier III properties to Tier II.	Ongoing	Process City Council direction to consider amendments to the Urban Development Boundaries between Tier II and Tier III.
LU-P-29	Use regional and community parks and open space to enhance gateways to the City and as a buffer between adjacent communities.	Locations for regional and community parks and open space were set with the adoption of the General Plan Update in 2014. Agricultural lands, such as the area zoned for agriculture on the western gateway to the City on the northeast corner of Highways 99 and 198, are considered enhanced gateways according to this policy.	Complete	NA

#	POLICY TEXT	PROGRESS	STATUS	ACTIONS
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.	Agricultural buffer areas were set with the adoption of the General Plan Update in 2014. Buffers are also maintained through Spheres of Influences maintained by LAFCO. Work with Tulare County and land developers to prevent premature growth outside of the growth areas has not been initiated by the City of Visalia.	Ongoing	Coordinate with Tulare County and land developers to discourage or prevent urban development outside the growth areas.
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.	The land use designations and growth boundaries in effect around these facilities within the City limits dictate that only uses consistent with the Agriculture zone will be allowed in these areas. Currently, only the north side of the airport and the south & east sides of the wastewater treatment plant are in the City and have Agriculture zoning. Annexation of other areas around these environs are not likely given that they have no advantages for being in the City limits unless such areas are owned by the City of Visalia. However, these lands are pre-zoned for Agriculture through the General Plan land use map.	Complete	NA
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.	The City's Agriculture and Open Space zones currently have a 20-acre minimum site are requirement.	Complete	NA
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:	This is referring to areas currently designated as Reserve located to the south and east of the Airport. This policy and the findings were derived as part of the 2014 General Plan Update to address non-urbanized land between State Route 99 and the Tier III limits. The Reserve designation was, in part, created as a response to the proposed and yet undeveloped Sequoia Crossings project at the southeast corner of State Route 99 and Caldwell.	Complete	NA

#	POLICY TEXT	PROGRESS	STATUS	ACTIONS
	<ul style="list-style-type: none"> 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. 			
LU-P-34 (as proposed under GPA No. 2021-01)	<p>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, where such efforts will promote orderly development and preservation of farming operations within Tulare County. The City will support regional efforts to prevent urban development of agricultural lands, specifically at the county level.</p>	<p>The City receives project referrals from the County and has routinely responded to them, even if there is no comment. They City has not received referrals from any other agencies.</p>	Ongoing	Continue to respond to project referrals from the County pertaining to the development of agricultural land surrounding the City.

#	POLICY TEXT	PROGRESS	STATUS	ACTIONS
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.	The City has not yet adopted the County's Right-To-Farm ordinance.	Not yet initiated	Amend the City's Zoning Ordinance to include a Right-To-Farm Ordinance consistent with Tulare County's Right-To-Farm Ordinance.
LU-P-36	Adopt an Urban Agriculture Ordinance, reflecting "best practices," to support community gardens and other activities.	The City has not yet adopted an Urban Agriculture Ordinance or any zone text amendments to support community gardens. OSC-P-5 also supports community gardens.	Not yet initiated	Amend the City's Zoning Ordinance to include an Urban Agriculture Ordinance. Continue supporting community gardens, as identified in OSC-P-5.
2.7 Community Design				
LU-P-42	Develop scenic corridor and gateway guidelines that will maintain the agricultural character of Visalia at its urban fringe.	No guidelines have been established to date. Guidelines may still be present in the West Visalia Specific Plan, which was adopted by the City in 1988 but is largely out-of-date (Policy LU-P-15 suggests repealing this Specific Plan).	Not yet initiated	Develop and adopt scenic corridor design guidelines.
2.8 Infill Development Incentives				
LU-O-18	Implement and periodically update an infill development incentive program to achieve the objectives of compact development established by this General Plan.	In 2017 the City adopted GPA No. 2017-01, amending the Infill Incentive Program identified in LU-P-45 and 46, further incentivizing the development of infill sites. The amendment identified criteria for residential projects to be eligible for Transportation Impact Fee reductions as well as increased incentives, such as increasing the maximum reduction of fees from 50 percent to 60 percent.	Complete	Continue to monitor and evaluate infill development incentives implemented through the Infill Incentive Program adopted in 2017.
LU-P-45	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.	In 2017 the City adopted GPA No. 2017-01, amending the Infill Incentive Program identified in LU-P-45 and 46, further incentivizing the development of infill sites. The amendment identified criteria for residential projects to be eligible for Transportation Impact Fee reductions as well as increased incentives, such as increasing the maximum reduction of fees from 50 percent to 60 percent.	Complete	Continue to monitor and evaluate infill development incentives implemented through the Infill Incentive Program adopted in 2017.
LU-P-46	Adopt and implement an incentive program for residential infill development of existing vacant lots and underutilized sites within the City limits as a strategy to help to meet the future growth needs of the community.	In 2017 the City adopted GPA No. 2017-01, amending the Infill Incentive Program identified in LU-P-45 and 46, further incentivizing the development of infill sites. The amendment identified criteria for residential projects to be eligible for Transportation Impact Fee reductions as well as increased incentives, such as increasing	Complete	Continue to monitor and evaluate infill development incentives implemented through the Infill Incentive Program adopted in 2017.

#	POLICY TEXT	PROGRESS	STATUS	ACTIONS
2.9 Residential Neighborhoods				
LU-O-19	Ensure adequate land area is available for future housing needs, enabling an average citywide gross density of 5.3 dwelling units per acre of new residential development.	the maximum reduction of Fees from 50 percent to 60 percent.		
LU-P-54	Update the Zoning Ordinance to reflect the Very Low Density Residential designation on the Land Use Diagram and create opportunities for residential dwellings at 0.1 to 2 units per gross acre, providing for single-family detached housing on large lots and a rural residential transition to surrounding agricultural areas.	The City has adopted the R-1-20 zone which facilitates large lot development at a density of 0.1 to 2 dwelling units per acre.	Complete	NA
2.10 Commercial Land Use and Mixed Use Development				
LU-P-71	Update the Zoning Ordinance to facilitate the operation of farmers' markets in commercially designated areas, including the use of City streets and public spaces, and consider providing supports for permanent streetscape or site improvements appropriate for farmers' market operations.	Farmers Markets are "Permitted" in the C-R (Regional Commercial) and D-MU (Downtown Mixed Use) zones.	In Progress	While the City has completed updates to the Zoning Ordinance permitting farmers' markets in two commercial zones, the City should consider adding the use to the C-MU zone to facilitate markets in the east downtown area.
2.11 Downtown and East Downtown				
LU-P-75	Provide incentives for infill development of opportunity sites and adaptive reuse and restoration of existing buildings in Downtown and East Downtown.	In 2017 the City adopted GPA No. 2017-01, amending the Infill Incentive Program identified in LU-P-45 and 46, further incentivizing the development of infill sites. The amendment identified criteria for residential projects to be eligible for Transportation Impact Fee reductions as well as increased incentives, such as increasing the maximum reduction of Fees from 50 percent to 60 percent.	Infill incentives and their status are identified in policies LU-P-45 and LU-P-46. The adaptive reuse ordinance status is not yet initiated.	Amend the Zoning Ordinance to include an adaptive reuse ordinance.
5. PARKS, SCHOOLS, COMMUNITY FACILITIES, AND UTILITIES ELEMENT				
5.3 Public Utilities				
PSCU-P-58	Coordinate urban growth management planning with public and private utilities. Develop and carry out an infrastructure and public services assessment during annexation reviews to	A Plan For Services statement is completed with each annexation submittal made by the City.	Ongoing	Continue to assess public services and infrastructure needs during annexation reviews.

#	POLICY TEXT	PROGRESS	STATUS	ACTIONS
	determine infrastructure needs, feasibility, timing, and financing.			
		6. OPEN SPACE AND CONSERVATION ELEMENT		
		6.1 Open Space Resources		
OSC-O-2	Work with the County and other organizations to protect prime farmland and farmland of Statewide importance outside the City's Urban Development Boundary for agricultural production, and to preserve areas for groundwater recharge.			
OSC-O-5	Create open space to shape Visalia's future urban form, including conservation corridors along the St. Johns River and along Highway 198.			
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.	The City has not completed review of cancelled Williamson Act contracts and development proposals on an annual basis. However, the City has been moving forward on the permitting for 104 acres of regional groundwater recharge basins located on the far east end of the City at Hwy 198 and Avenue 148.	Not Yet Initiated	Review Williamson Act Contract status on properties located within the Planning Area on an annual basis, including evaluating properties that may be desirable or priority for open space and/or groundwater recharge.
		6.3 Land Resources		
OSC-O-9	Protect agricultural land from premature urban development.			
OSC-P-24	To allow efficient cultivation, pest control and harvesting methods, require buffers and transition areas between urban development and adjoining or nearby agricultural land.	This policy has not been applied in practice.	Not yet initiated	Prepare design guidelines, including applicability standards, for new development locating adjacent to adjoining or nearby agricultural land.



CITY OF VISALIA **FEASIBILITY STUDY**

AGRICULTURAL MITIGATION PROGRAM & FEASIBILITY STUDY

***Public Review Draft
December 2020***

Exhibit “B”



Feasibility Study

PUBLIC REVIEW DRAFT

AGRICULTURAL MITIGATION PROGRAM & FEASIBILITY STUDY

DECEMBER 2020

PREPARED FOR:

City of Visalia
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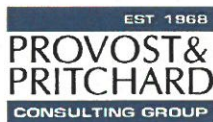


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APPENDIX F: Data Collection & Mapping

APPENDIX G: Tier 1 Residential Capacity Summary

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.

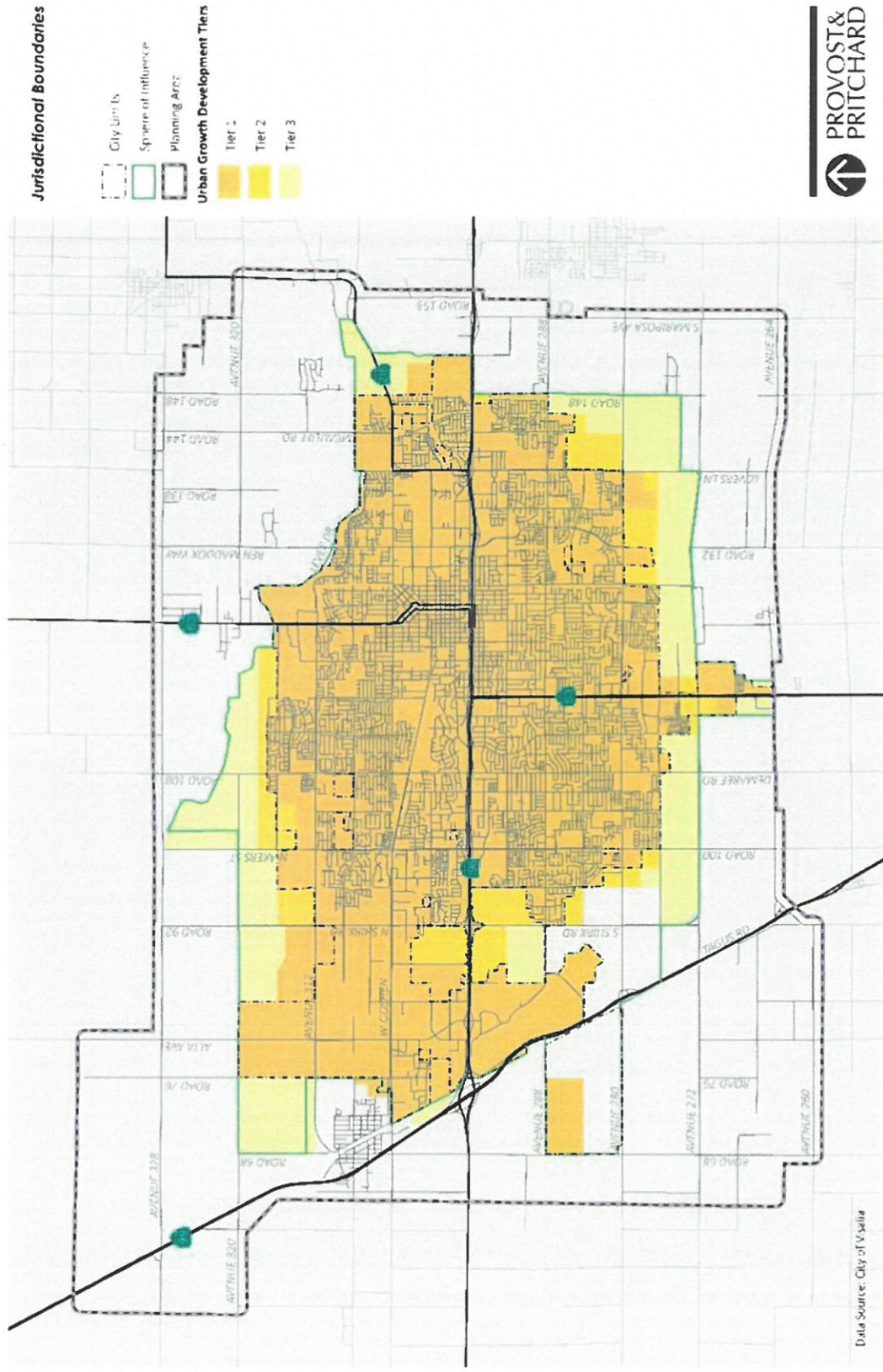
In addition to supporting regional efforts to prevent urban development of agricultural lands, the City shall create and adopt a mitigation program to address conversion of Prime Farmland and Farmland of Statewide Importance in Tiers II and III. This mitigation program shall require a 1:1 ratio of agricultural 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,"¹ 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.

¹ 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 9th, 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."*²

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

PROCURING AN EASEMENT

SUITABLE LAND

- Acceptable location and zoning
- Equivalent agricultural quality
- Water availability

WILLING LANDOWNER

- Willingness to sell a permanent easement on land
- Agreed compensation

REMOVING AN EASEMENT

- Prove land is no longer effective for farming
- Approved for termination in court
- May require replacement mitigation

² 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.³

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.⁴ 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**).

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

⁴ 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 proposals⁵ 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.⁶

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.

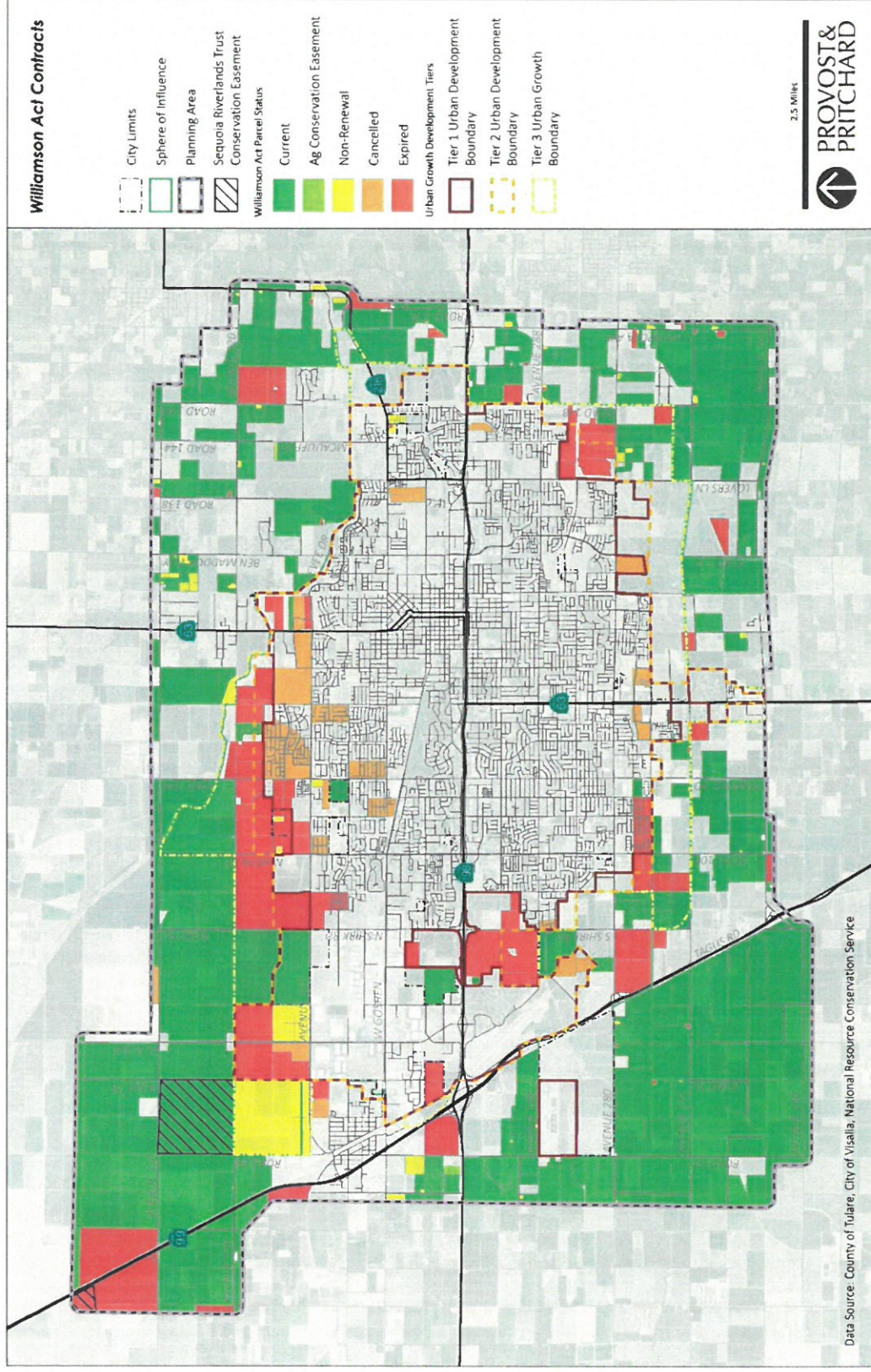
⁵ Tulare County LAFCo. (2002, February 6). Policy C-1, Factors and Standards to be Considered in Review of Proposals.

⁶ 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

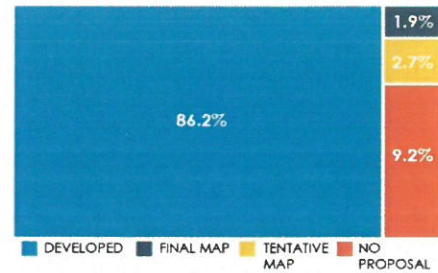
SB 330, also called the Housing Crisis Act of 2019, aims to ensure the feasibility of certain housing types, particularly very low-, low-, and moderate-income housing. One of the primary actions in SB 330 was a restriction on growth management policies. Cities may not downzone property to a less intense 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.⁷ Outside the context of CEQA, jurisdictions can require developers to acquire or obtain conservation easements under an established program.⁸

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 5th 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.

⁷ King & Gardner, LLC v County of Kern (California Fifth District Court of Appeal 2020).

⁸ 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, 2020.⁹

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.*

⁹ 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),¹⁰ 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.

¹⁰ The Mid-Kaweah Groundwater Subbasin JPA functions as the Groundwater Sustainability Agency.

IMPACT ON HOME PRICING

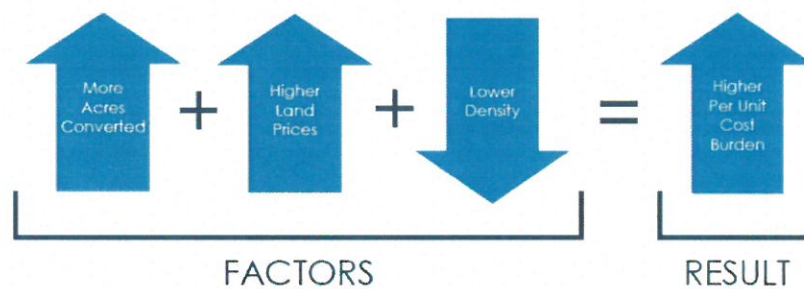
Based on initial research, an observation was made that the cost of purchasing conservation easements would be incurred by developers proposing conversion of farmland with that cost likely being reflected in the home price. However, with limited data for new home pricing available specific to the Visalia 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.

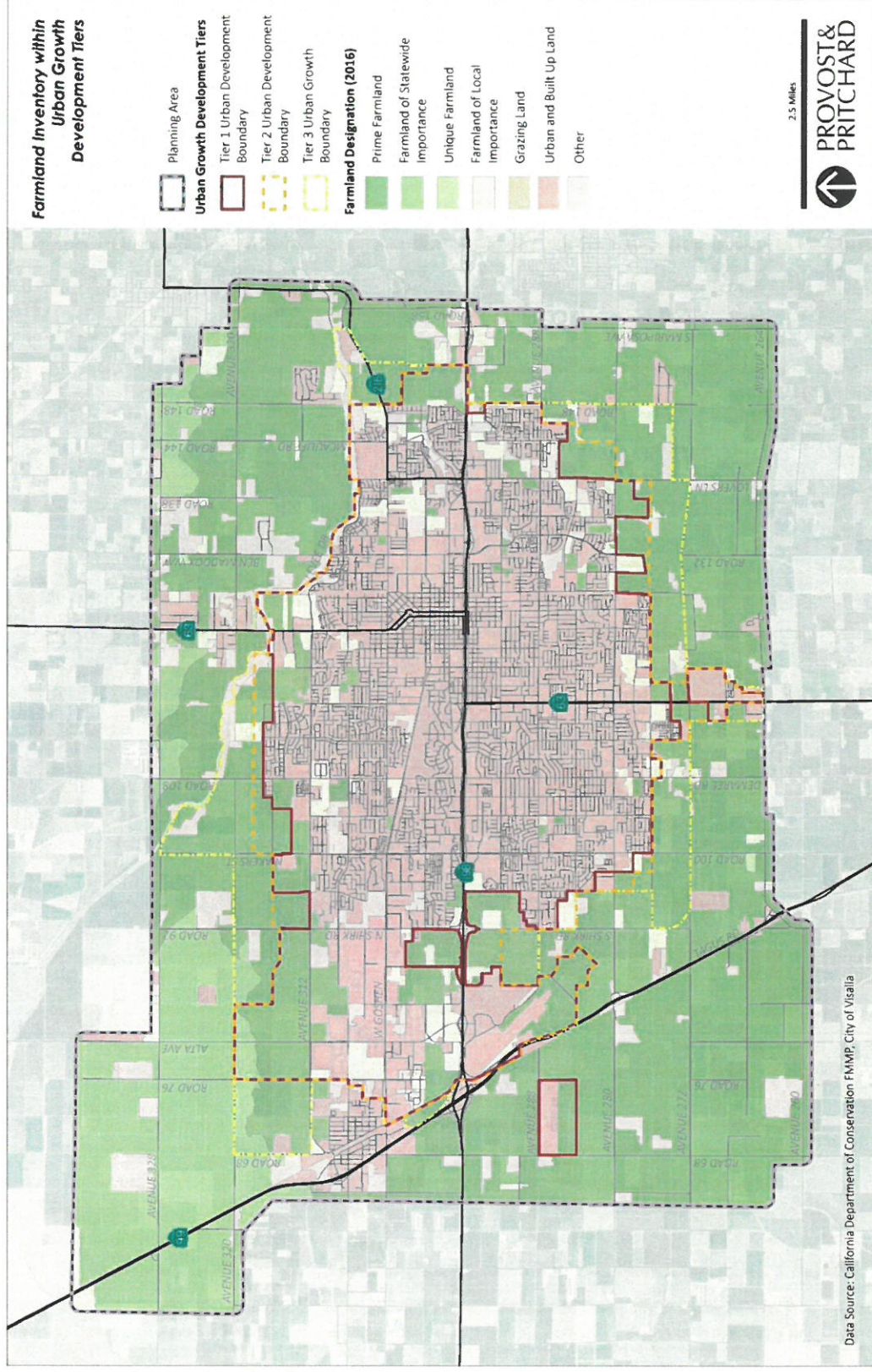


In order to further analyze the potential impact an AMP would have on home pricing it is necessary to establish how much of the land planned for residential uses would be affected by an AMP. Within Tier II and Tier III, there are approximately 7,544 acres of land, with approximately 5,038 acres planned 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.¹¹
- An average easement price equal to 35 percent of the cost of agricultural land per acre.¹²
- A 1:1 conservation to conversion ratio, resulting in an assumed conservation rate of 85 percent.¹³
- 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 ¹	Assumed Development Capacity ²	Total Acres	Average Unit Count	Average Additional Cost per Unit ³
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.

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

¹² Provost & Pritchard. (2020). Farmland Preservation Best Practices & Established Programs Summary.

¹³ 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 Valley¹⁴
- 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.

¹⁴ 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 uses¹⁵ 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

¹⁵ 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 mitigation¹⁶ 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 Policies* 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

¹⁶ 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

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

**City of Visalia
Agenda Item Transmittal**

Meeting Date: 2/16/2021

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

Agenda Item Wording: Consideration of, and direction regarding, a Feasibility Study prepared ahead of a potential Agricultural Mitigation Program (AMP) for the City of Visalia.

Deadline for Action: 2/16/2021

Submitting Department: Community Development

Contact Name and Phone Number:

Brandon Smith, Senior Planner, brandon.smith@visalia.city, 713-4636

Paul Bernal, City Planner, paul.bernal@visalia.city, 713-4025

Curtis Cannon, Community Development Director, curtis.cannon@visalia.city, 713-4449

Department Recommendation:

This work session item is being conducted to introduce and receive direction on a Draft Feasibility Study prepared ahead of a potential Agricultural Mitigation Program (AMP) for the City of Visalia.

Staff requests that the City Council make comments and a recommendation towards one of the four alternatives related to implementing mitigation for impacts to agricultural resources within the City's growth area. The four alternatives are described briefly below and in greater detail in the Feasibility Study document (see attachment).

Summary / Overview:

The Feasibility Study has been prepared by Provost & Pritchard Consulting Group while maintaining a close working relationship with City staff, as authorized by the Council in August 2020, as the first phase in a task to study and consider adoption of an AMP. The initial phase of the scope of work studies the efficacy of the program as it relates to housing affordability and the necessity of the program as it relates to current state law. The second phase of the scope of the work, if directed by Council, would be the creation and adoption of an AMP as required by General Plan Land Use Policy LU-P-34, which requires an AMP as mitigation for the conversion of Prime Farmland and Farmland of Statewide Importance in Tiers II and III (conversion of agricultural lands in Tier I are explicitly exempted). Staff anticipates that the City will reach the threshold for Residential development in Tier I by the end of 2021 and would need to be in compliance with Policy LU-P-34 before expanding to Tier II.

Two public workshops related to the first phase were held before the Planning Commission in the form of work session items. The first workshop was held on November 9, 2020 to introduce the project to the Planning Commission and the public and to begin collecting input for

Exhibit "C"

formulation of the Feasibility Study. The second workshop was held on January 11, 2021, during the public review period for the Draft Feasibility Study, to introduce the completed study and its objectives, obtain verbal public comment, and obtain comments from the Commission. Comments from this meeting are summarized in the Public Comment and Committee / Commission Review and Action sections below.

Direction Needed from City Council:

The Feasibility Study presents four alternatives for approaching an AMP; however, neither the study nor staff favors one alternative over another.

Perhaps among the most important deductions derived from the Feasibility Study and the affiliated research is that recent case law has held that agricultural conservation easements do not adequately mitigate for the loss of agricultural land and therefore should not be relied upon as mitigation under CEQA (ref. page 15 of the Feasibility Study). Furthermore, whereas the passage of the Sustainable Groundwater Management Act (SGMA) in 2014 aims to achieve sustainable water balance, this may conflict with keeping land in productive agricultural use, thereby necessitating continued water supply (ref. page 17 of the Feasibility Study). Both of these issues present challenges, and yet, are still in the early stages of being understood how agricultural conservation easements can be applied in practice in the context of CEQA mitigation.

These issues together with the General Plan adoption in 2014 present a “big picture” question to be considered by the City and the decision-making bodies – ***what is the objective of the City, if not for CEQA compliance, in pursuing establishing an agricultural mitigation program?*** In other words, is the City ready now to commit to undergoing an AMP in compliance with General Plan Land Use Policy LU-P-34, or should the City consider other paths in fulfillment of “mitigating” impacts to the loss of productive farmland?

Alternatives for Consideration:

The Feasibility Study concludes with four alternatives for addressing the current requirement to prepare an AMP prior to allowing conversion of lands in Tier II to urban use. The full text of the four alternatives, their anticipated actions required, and timelines, begin on page 23 of the Feasibility Study. A brief analysis of each alternative is summarized below.

- ***Alternative 1: Implement Policy LU-P-34 as Adopted***

This alternative entails proceeding with establishing an AMP as currently specified in the General Plan, specifically requiring a 1:1 ratio of conserved to converted farmland fulfilled by purchase of a conservation easement or payment of an in-lieu fee.

Follow-Up Action: Preparation of an AMP would begin immediately. The agreement entered into between the City and consultant gives a six-month timeline for adoption of the AMP.

Conclusion: This alternative represents staying the course originally envisioned by Policy LU-P-34. However, it should be noted that the implementation of the Sustainable Groundwater Mitigation Act (SGMA) starting in 2014 is likely to impact willing and meaningful participation by landowners in the long term.

- ***Alternative 2: Implement Policy LU-P-34 with Modifications***

This alternative also entails proceeding with establishing an AMP in order to comply with Policy LU-P-34, but would include modifications that were not previously identified in the policy.

Follow-Up Action: Preparation of an AMP would begin immediately; however additional discussion, time (up to 3 months), and possibly fiscal resources will be necessary to determine what modifications should be integrated into the AMP.

The modifications may further require revisions to adopted documents (i.e. the General Plan and the General Plan Environmental Impact Report) depending on the scope of modifications.

Conclusion: The same Conclusion discussed in Alternative 1 above would apply here.

- ***Alternative 3: Delay Establishment of the AMP to Tier III***

This alternative would change Policy LU-P-34 to exempt lands located within Tier II from being subject to the AMP, similar to the exemption that currently applies within Tier I. An AMP shall be created and adopted to address conversion of important farmland located in Tier III (the full text of Alternative 3 can be found on page 22 of the Study).

The basis for allowing additional time for the AMP to be established is the recent changes in circumstances stemming from the enactment of SGMA and recent case law that will provide opportunity for a better application of the 2020 Appellate Court opinion that agricultural conservation easements do not act as effective mitigation. The Tier II exemption would allow additional time for the City to understand and observe how the implementation of SGMA, Groundwater Sustainability Plans (GSPs) and the 2020 Appellate Court opinion will impact farmland productivity and agricultural easements related to CEQA mitigation.

Follow-Up Action: Wherein additional time is given to better understand the enactment of SGMA and recent case law, this alternative presents a dilemma in that Industrial thresholds have already been met for expanding into Tier III, while Commercial thresholds are anticipated to be met within two to three years for expanding into Tier III, while Residential permit thresholds will not be met for another approximately ten years. The Council must therefore provide further direction on how to address land uses meeting the Tier III threshold. Options include exempting industrial and commercial lands from the AMP altogether or requiring such annexations or development to purchase easements or purchase credits in a mitigation bank (outside of a comprehensive mitigation program)..

Policy LU-P-34 will need to be amended, requiring a General Plan Amendment and a revision to the General Plan Environmental Impact Report, most likely in the form of an addendum. The amendments could feasibly be prepared by the Consultants under the current scope of work and budget and would not have any fiscal impact to the City. The City would have to revisit the mitigation program requirement and budget for its preparation again within ten years when the residential Tier III threshold is met.

Conclusion: Additional discussion will be necessary to determine how to address industrial and commercial lands in Tier III prior to any General Plan Amendment. The removal of Tier

II areas from the AMP requirement would remove a significant amount, but not a majority, of lands to be preserved.

- For residential-designated land, approximately 1,500 acres in Tier II would be exempt from the AMP but approximately 3,200 acres in Tier III would still be subject.
- For commercial-designated land, there are approximately 200 acres in Tier II that would be exempt from the AMP but approximately 60 acres in Tier III would still be subject.
- For industrial-designated land, there are no lands in Tier II but approximately 1,000 acres in Tier III that would be subject.

Notwithstanding, Visalia would still be fulfilling its original obligation to implement an AMP but with a better understanding of SGMA and mitigation implications.

- ***Alternative 4: Remove AMP Requirement in Policy LU-P-34***

This alternative would either strip out the requirement for an AMP in LU-P-34 or remove the policy in its entirety. A greater reliance on other existing General Plan policies related to agricultural resources would be relied upon for General Plan and EIR mitigation compliance.

Follow-Up Action: Policy LU-P-34 will need to be changed, requiring a General Plan Amendment and a revision to the General Plan Environmental Impact Report, most likely in the form of an addendum. The amendments would be prepared by the Consultants under the current scope of work and budget and would not have any fiscal impact to the City.

Conclusion: The Feasibility Study's discussion under recent case law includes the court holding that agricultural conservation easements are not effective mitigation for the loss of farmland under CEQA. Impacts to agricultural resources were already specified in the General Plan EIR's Statement of Overriding Considerations as an unavoidable impact that cannot be completely mitigated. The City still must comply with CEQA by implementation of other mitigation as specified in other General Plan policies, such as the use of growth boundaries, and the adoption of a right to farm ordinance and urban agriculture ordinance.

Three of the four alternatives would ultimately result in an AMP for the City of Visalia (with one of these alternatives deferring consideration of an AMP to a later date), and the fourth alternative would remove the requirement of an AMP altogether.

No recommendation favoring a specific alternative is made by the Feasibility Study or by staff. The decision as to which alternative to pursue in part rests with the big picture issue of whether the City continues to feel fervent towards the concept of preserving other farmlands nearby Visalia (i.e., within the southern San Joaquin Valley). The Feasibility Study is intended to provide relevant information to assist the City in choosing an alternative.

Public Comment:

The Draft Feasibility Study was made available to the public on December 31, 2020, and comments were accepted on the document through January 29, 2021. The document was advertised to the public via the City's website and social media announcements and to a stakeholder list, many of which attended one or both public workshops hosted by the Planning Commission.

There were six emails or letters received during the study's 30-day circulation for public comment. All written correspondence has been compiled and included as a single attachment.

Three letters cite concern with the establishment of an AMP, while three cite concerns with removal of the AMP policy. A single Response To Comments, organized by topic area, has been prepared and is attached herein.

The public workshop hosted by the Planning Commission on January 11, 2021, provided an opportunity for persons to provide verbal comments regarding the Draft Feasibility Study. Three persons spoke during public comment:

- David Crinklaw raised comments on cost impact on commercial properties and the combined fiscal impact that an AMP together with Vehicle Miles Travelled (VMT) mitigation would have on property development.
- Eric Shannon commented in support of property rights and raised concern of an AMP's impacts to affordability of housing and detrimental effects towards businesses.
- Renee Hendrick commented how the current state of agriculture should cause the City to reconsider advancing a self-imposed plan, and suggested the City consider an in-lieu fee and an option to fund activities that can directly aid abutting agricultural uses.

Committee/Commission Review and Action:

On January 11, 2021, the Planning Commission conducted a public workshop and public hearing regarding the Feasibility Study. Verbal comments were made by three members of the public as described above. The Planning Commission (with Commissioner Beatie abstaining) each provided comments regarding the Feasibility Study, with all four of the Commissioners indicating a preference for Alternatives 3 and/or 4.

Commissioner Peck, favoring Alternatives 3 or 4 if legally defensible, had concerns that an AMP would be a cost burden and felt that the Council should be cautious in considering an AMP with an unknown or speculative long-term impact and unknown result, as opposed to established project impact fees with an identifiable outcome (i.e., transportation impact fee). He noted the current uncertainty with SGMA and that the City currently responds to agricultural mitigation primarily through commitment to concentric growth.

Commissioner Peariso, favoring Alternatives 3 or 4, felt that a realistic working copy of a mitigation program with specific goals, cost benefit, and working details needed to be outlined and shared as part of the effort. She felt that having a concrete plan in hand would provide benefit to the Commission or Council before making a final decision.

Commissioner Hansen shared Commissioner's Peck's and Peariso's comments and noted concerns of housing affordability and the conflicting interest of SGMA with the AMP. He indicated his support toward Alternative 4, though wanted assurance that the City would not be in jeopardy if it chose to do nothing (i.e., remove or modify the associated policy).

Commissioner Gomez, favoring Alternative 3, shared Commissioner's Peck's and Peariso's comments regarding uncertainties of an AMP, stating that City needs to know how it is pursuing an AMP and what the outcomes or product will be for the money and effort invested in it.

Fiscal Impact:

Implementation of any of the four alternatives would require additional work that could be performed by the consultant if directed.

The contract awarded by the Council to Provost & Pritchard Consulting Group in August 2020 included \$54,900 to be utilized toward the preparation of an AMP (Alternative 1), if directed by Council.

The implementation of either Alternatives 2 or 3, if directed by Council, could be completed within the budget approved in the original scope of work, though the scope of work will need to be amended by Council to authorize any different tasks to be completed by the consultant.

If the policy to remove the AMP as described in Alternative 4 is directed by Council, then an optional task of a General Plan and EIR Amendment would be pursued costing \$17,350 of the remaining \$54,100 budget.

Prior Council Action:

On August 17, 2020, the City Council authorized the City Manager to award a contract to Provost & Pritchard Consulting Group of Visalia, CA for development of the City's Agriculture Mitigation Program and Feasibility Study in the amount of \$145,000.

Alternatives: None.

Attachments:

- Public Review Draft Feasibility Study
- Feasibility Study Appendices A through G
- Written Comments Received on Feasibility Study
- Response to Comments pertaining to AMP Feasibility Study
- Memorandum from November 9, 2020 Planning Commission Work Session

Recommended Motion (and Alternative Motions if expected):

I move to direct staff and the consultant to pursue Alternative # (1, 2, 3, or 4) as described in the Agricultural Mitigation Program Feasibility Study.

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review: Acceptance of the Feasibility Study and providing direction toward an alternative leading to an action that the City Council has not yet approved or adopted is exempt from CEQA review under Class 6 (California Environmental Quality Act, Section 15306).



Addendum

to the

City of Visalia 2030 General Plan
Environmental Impact Report
(SCH No. 2010041078)

for

General Plan Amendment No. 2021-01

May 2021

Prepared for:

City of Visalia
Community Development Department
707 W. Acequia Ave.
Visalia, CA 93291

Prepared by:

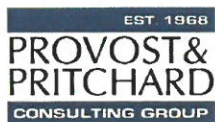


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Appendices

Appendix A	Agricultural Mitigation Program Feasibility Study, 2020
Appendix B	CEQA Findings of Fact in Support of Findings and Statement of Overriding Considerations, 2014
Appendix C	City Council Resolution No. 2014-37

Abbreviations and Acronyms

ACEP	Agricultural Conservation Easement Program
AMP	Agricultural Mitigation Program
CEQA	California Environmental Quality Act
DEIR	Draft Environmental Impact Report
EIR	Environmental Impact Report
FEIR	Final Environmental Impact Report
GPA	General Plan Amendment
GSP	Groundwater Sustainability Plan
PRC	Public Resources Code
SCH	State Clearinghouse
SGMA	Sustainable Groundwater Management Act
UDB	Urban Development Boundary

Chapter 1 Introduction

Provost & Pritchard Consulting Group has prepared this Addendum on behalf of the City of Visalia to address the environmental effects of the proposed General Plan Amendment No. 2021-01 (Project). This document has been prepared in accordance with the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines (CEQA Guidelines; California Code of Regulations, Title 14, Chapter 3, Section 15000, et seq.). The City of Visalia is the CEQA Lead Agency for this Project.

The proposed Project is described in detail in [Chapter 2 Project Description](#).

1.1 Document Format

This Addendum contains five chapters. [Chapter 1 Introduction](#) provides an overview of the project history and previous environmental analysis, confirms the action triggering the Addendum, and outlines the document format. [Chapter 2 Project Description](#) provides a detailed description of the proposed Project. [Chapter 3 CEQA Addendum Applicability and Scope](#) discusses the purpose and need for the Addendum, identifies the public review conducted for the document, and confirms the scope of the evaluation completed under the Addendum. [Chapter 4 Impact Evaluation](#) presents the comparative evaluation checklist for the applicable impact area and includes a brief discussion of the outcomes of the analyses. [Chapter 5 Determination](#) includes the Lead Agency's determination based upon the analyses contained within the Addendum.

1.2 Project History

The City of Visalia adopted the Visalia 2030 General Plan and certified the associated Program Environmental Impact Report (EIR) (SCH No. 2010041078) in October 2014. The General Plan established an urban growth strategy that identified three tiers of 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), which are contained in Policy LU-P-21 of the General Plan. For residential uses, the threshold is the issuance of permits for 5,850 housing units within Tier 1 since April 1, 2010. As of September 2020, the City was over 88 percent toward meeting the residential permit threshold.

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 would be satisfied prior to the permit threshold being met.

The agricultural mitigation program identified in Policy LU-P-34 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.

Recognizing the evolution of regulatory and economic conditions since adoption of the General Plan in 2014 and the intent to “conduct additional investigation of the efficacy of agricultural conservation easements,”¹ 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 included new legislation intended to reduce the State of California housing shortage, case law that changed the appropriateness of conservation easements as mitigation under CEQA, and new water sustainability efforts. The Council also directed staff to explore the potential fiscal impact of an agricultural mitigation program on residential construction. A Feasibility Study was prepared and presented to City Council for consideration in February 2021 (see [Appendix A](#)).

At the conclusion of the Feasibility Study process, City Council directed staff to remove the requirement for an agricultural mitigation program from Policy LU-P-34. Accordingly, the City initiated General Plan Amendment No. 2021-01 to revise General Plan Policy LU-P-34.

1.3 Previous Environmental Analysis

Policy LU-P-34 was established by the City of Visalia 2030 General Plan adopted in October of 2014. To analyze effects from and facilitate implementation of the Visalia 2030 General Plan, the City prepared a Draft Environmental Impact Report (EIR) in March 2014, as well as a Final EIR, which was certified in October 2014 (SCH No. 2010041078). Several environmental topic areas including Transportation; Air Quality; Agriculture; Noise; and Hydrology, Flooding, and Water Quality were found to have impacts that would be significant and unavoidable. For these impacts the required Findings of Fact and a Statement of Overriding Considerations were adopted with the certification of the Final EIR.

1.4 CEQA Addendum Purpose

The City of Visalia is proposing General Plan Amendment No. 2021-01 (GPA), which would amend General Plan Policy LU-P-34 to remove the requirement to establish an agricultural mitigation program for development within the Tier II and Tier III growth boundaries. This proposal is considered a “Project” under CEQA Guidelines Section 15378(a)(1) and is therefore subject to requirements of CEQA and the CEQA Guidelines. The City, as the Project proponent, is the designated Lead Agency under CEQA since it holds the primary authority to approve and carry out the GPA.

For streamlining purposes, the CEQA Guidelines encourage the preparation of later environmental documents to be “tiered” from previously certified EIRs under prescribed circumstances. Section 15164 provides that a lead agency shall prepare an *addendum* to a previously certified EIR if only some changes or additions are necessary but none of the conditions described in Section 15162(a), calling for preparation of a *subsequent EIR*, have occurred. As this Addendum states in additional detail, the proposed amendment of Policy LU-P-34 does not result in the occurrence of any of the conditions found in Section 15162(a).

¹ Per General Plan Policy LU-P-34.

Section 15162(a) states that “when an EIR has been certified...for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant impacts not discussed in the previous EIR or negative declaration;
 - (B) Significant impacts previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant impacts of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant impacts on the environment, but the project proponents decline to adopt the mitigation measure or alternative.”

1.5 Action Triggering the Addendum

This Addendum has been triggered by the GPA process initiated by the City of Visalia to revise General Plan Policy LU-P-34. The GPA proposes to remove the requirement to establish an agricultural mitigation program, while retaining the policy language that would encourage coordination with other agencies to prevent urban development of agricultural land outside of the current growth boundaries. As the Lead Agency under CEQA, the City of Visalia has determined that, in accordance with Section 15164 of the CEQA Guidelines, the proposed changes to Policy LU-P-34, which was cited as a policy that reduces an identified impact, warrants preparation of an Addendum.

See **Chapter 2 Project Description** for specific proposed changes to Policy LU-P-34.

Chapter 2 Project Description

2.1 Project Location

The GPA proposes to modify Policy LU-P-34 and would apply to the City of Visalia Planning Area as adopted under the Visalia 2030 General Plan. The City of Visalia is located in the southern portion of the San Joaquin Valley, between the cities of Fresno and Bakersfield. Visalia is the largest city in and the county seat of Tulare County, and is located in the northwest portion of the County.

2.2 Project Description

General Plan Policy LU-P-34, as adopted, requires the establishment of an agricultural mitigation program to be applied to all projects that would convert Prime Farmland or Farmland of Statewide Importance within the Tier II and Tier III growth boundaries. The GPA proposes to remove the requirement to establish an agricultural mitigation program, while retaining the policy language that would encourage coordination with other agencies to prevent urban development of agricultural land outside of the current growth boundaries, where such efforts will promote orderly development and preservation of farming operations within Tulare County, and support regional efforts to prevent urban development of agricultural lands, specifically at the county level.

General Plan Policy LU-P-34, as currently adopted, states:

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.

General Plan Policy LU-P-34, as proposed for revision under the GPA, would state:

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, where such efforts will promote orderly development and preservation of farming operations within Tulare County. The City will support regional efforts to prevent urban development of agricultural lands, specifically at the county level.

The proposed revisions to Policy LU-P-34, including the removal of the requirement to establish an agricultural mitigation program, would not change the land uses that have been previously adopted in the Visalia 2030 General Plan, nor would the revisions alter the thresholds that determine when development may proceed from the first growth tier (Tier I) to subsequent growth tiers (Tiers II and III). In addition, the anticipated buildout that was previously estimated under the Final EIR and the adopted urban growth tiers would not be affected.

2.3 Approvals Required

The City of Visalia has jurisdiction over the review and approval of the GPA. The City of Visalia Planning Commission would be requested to make a recommendation and the City Council would be requested to take action on the following:

- Adoption of an Addendum to the Visalia 2030 General Plan EIR, and
- Approval of General Plan Amendment No. 2021-01.

Chapter 3 CEQA Addendum Review and Scope

3.1 Review Period and Action

While circulation of the Addendum for public review is not required, the City made the Addendum available for a 10-day public review and comment period from May 19, 2021 to May 28, 2021. The Addendum was posted to the City's website, with notifications sent via email to those included on the stakeholder list.

The City will consider the Addendum with the previously certified EIR before taking action on the GPA pursuant to CEQA Guidelines Section 15164(d).

3.2 Scope of Evaluation

As summarized in [Chapter 2 Project Description](#), the proposed revisions to Policy LU-P-34 would not change the land uses that have been previously adopted in the Visalia 2030 General Plan, nor would the revisions alter the building permit thresholds that determine when development may proceed from the first growth tier (Tier I) to subsequent growth tiers (Tiers II and III). In addition, the anticipated buildout that was previously estimated under the Final EIR and the adopted urban growth tiers would not be affected. Therefore, the scope of evaluation completed under this Addendum has been limited to comparing the circumstances and potential impacts resulting from the GPA with the circumstances and impacts discussed as part of the Visalia 2030 General Plan EIR only for those sections of Appendix G of the CEQA Guidelines that reference Policy LU-P-34 as a mitigating policy. Policy LU-P-34 is only referenced with regard to Agriculture and Forestry Resources.

Chapter 4 Impact Evaluation

This impact evaluation provides the basis for determining whether the GPA would have any significant environmental impacts that were not previously addressed in the Visalia 2030 General Plan EIR certified by the City of Visalia in 2014 (SCH No. 2010041078). The following comparative evaluation determines: 1) whether there are changed conditions (i.e., circumstances, project changes, or new information of substantial importance) that may result in the conclusion of environmental impact significance different from those found in the Visalia 2030 General Plan EIR; and 2) whether any changes to adopted environmental commitments/mitigation measures or the inclusion of additional mitigation measures are warranted or required.

As detailed in [Section 3.2 Scope of Evaluation](#), this comparative evaluation and impact discussion is limited to Agriculture and Forestry Resources.

4.1 Explanation of Evaluation Categories

The Comparative Impact Evaluation checklist in Section 4.2 includes the full range of questions for Agriculture and Forestry Resources as presented in the current version of Appendix G of the CEQA Guidelines. The columns of the checklist have been modified from Appendix G to help answer required questions pursuant to CEQA Section 21166 and CEQA Guidelines Section 15162. A “no” answer does not necessarily mean that there are no potential impacts relative to the environmental category, but rather that there is no change in the condition or status of the impact as analyzed and addressed in the Visalia 2030 General Plan EIR. For instance, the environmental categories might be answered with a “no” in the checklist because the impacts associated with the project were adequately addressed in the Visalia 2030 General Plan EIR, and the conclusions about environmental impact significance from the previous EIR still apply. The purpose of each column of the checklist is described below.

Where Impact was Analyzed in Previous Analysis

This column provides a cross-reference to the pages of the Visalia 2030 General Plan Draft EIR and Final EIR where information and analysis may be found relative to the environmental issue listed.

Policies that Reduce the Impact Identified in Previous Analysis

This column identifies the General Plan policies that were identified as a mitigating policy in the Visalia 2030 General Plan Draft EIR or Final EIR relative to the environmental issue listed.

New or More Significant Impacts?

Pursuant to Section 15162(a)(2), this column indicates whether there are substantial changes in circumstances under which the Project is undertaken that have occurred subsequent to the previous EIR that would result in the current Project having new significant environmental impacts that were not considered in the prior document or having substantial increases in the severity of previously identified significant impacts.

New Information Requiring Additional Analysis?

Pursuant to Section 15162(a)(3)(A-D) of the CEQA Guidelines, this column indicates whether new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence at the time the previous environmental documents were certified as complete is available, requiring an update to the analysis of the previous environmental documents to

verify that the environmental conclusions and mitigation measures remain valid. If the new information shows that any of the following conditions are met, the question would be answered “yes”, requiring the preparation of a subsequent EIR or supplement to the EIR: (A) the project will have one or more significant effects not discussed in the prior environmental documents; (B) that significant effects previously examined will be substantially more severe than shown in the prior environmental documents; (C) that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or, (D) that mitigation measures or alternatives which are considerably different from those analyzed in the prior environmental documents would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

However, if the additional analyses completed as part of this comparative evaluation indicate that the conclusions of the prior environmental documents remain the same and no new significant impacts are identified, or identified significant environmental impacts are not found to be substantially more severe, the question would be answered “no” and no additional EIR documentation (subsequent EIR or supplement to the EIR) would be required.

Does Previous Mitigation Address/Resolve Impacts?

This column indicates whether the previous EIR and adopted CEQA Findings provide mitigation measures to address effects in the related impact category. A “yes” response will be provided in this instance. If “Not Applicable” is indicated, this evaluation concludes that there was no impact, or the impact was less than significant and, therefore, no mitigation measures are needed.

4.2 Comparative Impact Evaluation Checklist

4.2.1 Agriculture and Forestry Resources

Would the Project:	Where Impact Was Addressed in Previous Analysis	Policies that Reduce the Impact Identified in Previous Analysis	New or More Significant Impact?	New Information Requiring Additional Analysis?	Does Previous Mitigation Address/Resolve Impacts?
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	DEIR: Impact 3.5-1, pgs. 3.5-11 to 3.5-16 FEIR: Revisions to Chapter 3.5, pgs. 4-20 to 4-23	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-33 LU-P-34 LU-P-44 LU-P-45	No	No	Yes, impact remains significant and unavoidable

Would the Project:	Where Impact Was Addressed in Previous Analysis	Policies that Reduce the Impact Identified in Previous Analysis	New or More Significant Impact?	New Information Requiring Additional Analysis?	Does Previous Mitigation Address/ Resolve Impacts?
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	DEIR: Impact 3.5-2, pgs. 3.5-16 to 3.5-17	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-33 LU-P-34 LU-P-44 LU-P-45 OSC-P-1	No	No	Yes, impact remains significant and unavoidable
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? ^a	Not Addressed	Not Addressed	No	No	Not Applicable
d) Result in the loss of forest land or conversion of forest land to non-forest use? ^a	Not Addressed	Not Addressed	No	No	Not Applicable
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	DEIR: Impact 3.5-3, pgs. 3.5-17 to 3.5-18 FEIR: Revisions to Chapter 3.5, pg. 4-23	LU-P-14 LU-P-25 LU-P-30 LU-P-31 LU-P-32 LU-P-33 LU-P-35 LU-P-36 LU-P-45 OSC-P-27 OSC-P-28	No	No	Yes, impact remains significant and unavoidable

^a Subsections c and d were not required environmental topics for evaluation in the CEQA Guidelines at the time of preparation of the Draft EIR.

Impact Assessment

- a) **Would the Project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

Impact 3.5-1 of the Draft EIR evaluated potential effects of the Visalia 2030 General Plan regarding the conversion of farmland and determined the impact to be significant. General Plan policies as listed in the above table were identified in the EIR analysis, including General Plan Policy LU-P-34, that would reduce the impact; however, it was concluded that the impact would be significant and unavoidable.

The GPA would amend General Plan Policy LU-P-34, removing the requirement for an agricultural mitigation program but retaining coordination with Tulare County and other agencies to prevent urban development of agricultural land outside of the current growth boundaries, where such efforts will promote orderly development and preservation of farming operations within Tulare County. As no changes in land use or associated buildout projections, urban growth tiers, or the associated threshold requirements for moving from the Tier I growth boundary to subsequent growth tiers are proposed as part of the GPA, no new significant impacts or substantially more severe impacts would occur from those previously identified. Therefore, the conclusions and findings of the Visalia 2030 General Plan EIR remain valid, and no further analysis is required.

- b) **Would the Project conflict with existing zoning for agricultural use, or a Williamson Act contract?**

Impact 3.5-2 of the Draft EIR evaluated potential conflicts of the Visalia 2030 General Plan with existing zoning for agricultural use or with a Williamson Act contract and determined the impact to be significant. General Plan policies as listed in the above table were identified in the EIR analysis, including General Plan Policy LU-P-34, that would reduce the impact; however, it was concluded that the impact would be significant and unavoidable.

The GPA would amend General Plan Policy LU-P-34, removing the requirement for an agricultural mitigation program but retaining coordination with Tulare County and other agencies to prevent urban development of agricultural land outside of the current growth boundaries, where such efforts will promote orderly development and preservation of farming operations within Tulare County. As no changes in land use or associated buildout projections, urban growth tiers, or the associated threshold requirements for moving from the Tier I growth boundary to subsequent growth tiers are proposed as part of the GPA, no new significant impacts or substantially more severe impacts would occur from those previously identified. Therefore, the conclusions and findings of the Visalia 2030 General Plan EIR remain valid, and no further analysis is required.

- c) **Would the Project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?**

The Draft EIR did not address conflicts with existing zoning for forest land, timberland, or timberland zoned Timberland Protection, as no forestry resources were present within the Planning Area and the issue of forestry resources was not a required environmental topic for evaluation in the CEQA Guidelines at the time of preparation of the Draft EIR.

d) Would the Project result in the loss of forest land or conversion of forest land to non-forest use?

The Draft EIR did not address potential loss or conversion of forest land, as no forestry resources were present within the Planning Area and the issue of forestry resources was not a required environmental topic for evaluation in the CEQA Guidelines at the time of preparation of the Draft EIR.

e) Would the Project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

Impact 3.5-3 of the Draft EIR evaluated the potential for other changes in the existing environment that could result in farmland conversion resulting from the Visalia 2030 General Plan and determined the impact to be significant. General Plan policies as listed in the above table were identified in the EIR analysis as those that would reduce the impact; however, it was concluded that the impact would be significant and unavoidable. Conversion of forest land was not addressed as no forestry resources were present within the Planning Area and the issue of forestry resources was not a required environmental topic for evaluation in the CEQA Guidelines at the time of preparation of the Draft EIR.

As no changes in land use or associated buildout projections, urban growth tiers, or the associated threshold requirements for moving from the Tier I growth boundary to subsequent growth tiers are proposed as part of the GPA, no new significant impacts or substantially more severe impacts would occur from those previously identified. Further, General Plan Policy LU-P-34 was not identified as a policy that would reduce this impact. Therefore, the conclusions and findings of the Visalia 2030 General Plan remain valid, and no further analysis is required.

Mitigation Measures

No mitigation measures were included in the Visalia 2030 General Plan EIR for the environmental issues evaluated under Agricultural Resources. However, several General Plan policies were cited to reduce Impacts 3.5-1, 3.5-2, and 3.5-3, as discussed in the Draft EIR, including General Plan Policy LU-P-34 for Impacts 3.5-1 and 3.5-2.

The establishment of an agricultural mitigation program, as required by General Plan Policy LU-P-34, was identified to reduce the impacts on the conversion of farmland and conflicts with agricultural zoning or with a Williamson Act contract, as discussed under Impacts 3.5-1 and 3.5-2 of the Visalia 2030 General Plan EIR. Amendment of General Plan Policy LU-P-34 to remove the requirement for establishment of an agricultural mitigation program, as proposed under the GPA, would affect the efficacy of the Policy to reduce the identified impacts, as evaluated at the time of the Draft EIR, and public agencies are required to mitigate or avoid significant effects on the environment of projects that it carries out or approves whenever it is feasible² to do so.

However, recent case law out of the 5th District Court of Appeal has since established that agricultural easements, as would be required under the agricultural mitigation program, do not mitigate in whole or in part, for the loss of agricultural land as follows:

² "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors, according to CEQA Guidelines Section 15364.

“Entering into a binding agricultural conservation easement does not create new agricultural land to replace the agricultural land being converted to other uses. Instead, an agricultural conservation easement merely prevents the future conversion of the agricultural land subject to the easement. Because the easement does not offset the loss of agricultural land (in whole or in part), the easement does not reduce a project's impact on agricultural land.”³

Accordingly, the use of agricultural conservation easements to mitigate or offset the loss of farmland, which would be required through the establishment of an agricultural mitigation program, is no longer considered mitigation. Further, the Statement of Overriding Considerations and associated Findings of Fact confirmed that impacts to farmland, agricultural zoning, and Williamson Act contracts would be significant and unavoidable.

While the above cited case law challenges the use of agricultural conservation easements as appropriate mitigation, additional evidence is provided addressing the infeasibility of implementing such a requirement. As cited in the Statement of Overriding Considerations and Findings of Fact adopted with the certification of the Visalia 2030 General Plan EIR in 2014 (see [Appendix B](#)), the City documented the following reasons that an AMP would be infeasible mitigation at that time:

- 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.”

During preparation of the AMP Feasibility Study, additional research was conducted regarding the efficacy and feasibility of agricultural conservation easements, specifically related to recent changes in legislative requirements and the potential fiscal impact of implementing agricultural conservation easements on home pricing. As informed by this most recent research effort conducted as part of the Feasibility Study, implementing an AMP will not likely offset the loss of farmland caused by the City of Visalia’s growth in a successful manner when taking into account the relevant factors. The measure should be considered infeasible based on the adopted Statement of Overriding Considerations and further supported by the results of the Feasibility Study.

³ *King & Gardner, LLC v County of Kern* (2020) 45 Cal.App.5th 875.

An AMP would not adequately ensure that easements be located in a unified geographic area such that continued economic viability of agriculture would be guaranteed.

Should the AMP require a 1:1 ratio of land conserved to land converted within Tier II and Tier III, as currently required per General Plan Policy LU-P-34, 6,257 acres would be required to be placed under agricultural conservation easements. Without specific criteria established as part of the AMP directing the location and/or minimum size of agricultural conservation easements, the establishment of those easements may not occur in a contiguous pattern thus resulting in a patchwork of disparate easements. Comments received noted that land near city boundaries is often purchased for the purpose of future development not long-term agricultural use. Agricultural mitigation programs placing lands near Visalia under long-term restrictions could create patches of agricultural uses surrounded by development as Visalia continues to concentrically grow as called for in the current General Plan. 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 would be largely reliant on the participation of willing landowners, which is beyond the City of Visalia's authority to ensure.

Easement location would be further dictated by the suitability of the land to be placed in the easements. Suitability would be determined based on such criteria as zoning consistency, equivalent land quality to the converted land (e.g., Prime Farmland, Farmland of Statewide Importance), and adequate water availability. Groundwater regulatory changes required under the Sustainable Groundwater Management Act (SGMA) are aimed at achieving a sustainable water balance, likely resulting in constraints on predictable water supply and availability. There is potentially an inherent conflict between the objectives of SGMA, as implemented through the adopted Groundwater Sustainability Plans (GSPs), and the establishment of permanent agricultural easements, which are committing land to permanent, productive agricultural use requiring an adequate, continued water supply. With the added layer of regulations enacted under SGMA and adopted in the applicable GSPs, and uncertainty about how those regulations will impact water availability, the number and availability of properties that would reliably meet the criteria of an AMP would be a limiting factor, particularly if the AMP restricts the scope of eligible properties within a smaller geographic area (e.g., within Tulare County or within specific proximity to Visalia). Scarcity of land with sufficient water rights will be a factor in the costs of easements as well.

Further, with the degree of uncertainty associated with SGMA's impacts to ongoing agricultural operations, lower participation rates from willing landowners interested in encumbering their land is likely to result. Such concerns were raised by the Tulare County Farm Bureau noting that "Farming remains a business with a great degree of risk, uncertainty, and financial speculation that can change from year to year."⁴ 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 adequate water availability to ensure continued, productive agricultural uses.

The cost of purchasing easements would place a higher cost burden on a majority of residential projects, impeding implementation of recent State legislative directives to increase housing accessibility and affordability.

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

⁴ Tulare County Farm Bureau, public comment submittal email to Brandon Smith, City of Visalia Senior Planner, January 27, 2021.

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. In total, recent State legislation serves to highlight a new focus on housing production, in particular constructing accessible, affordable housing.

Approximately 85 percent (4,339 acres) of all land planned for residential use within Tier II and Tier III is designated as Prime Farmland or Farmland of Statewide Importance and would require establishment of an agricultural conservation easement. Pricing considerations for the purchase and management of agricultural conservation easements can vary widely depending on how an AMP is designed and how in-lieu fees are established, and would be influenced by market fluctuations. Research conducted as part of the Feasibility Study focused primarily on the impact of an AMP and the related cost of easement acquisition on home pricing. While the average cost per unit varies based on density, the average per-unit cost could increase by approximately \$350 for high density development to \$2,930 for very low density development. Further, the Feasibility Study was limited in scope to estimating purchase costs of conservation easements and did not include the additional cost of ongoing management for the easements, which would further increase the average per-unit cost burden. Research has shown that a \$1,000 increase in the price of a home excludes an additional 174 to 259 households from qualifying for a home mortgage, depending on home price range.⁵ While the actual cost to conserve land will fluctuate based on project-specific factors, the AMP will add cost to a majority of residential projects proposed within Tier II and Tier III, further limiting accessibility of home ownership in an already impacted market.

Therefore, the proposed revisions to General Plan Policy LU-P-34 removing the requirement for establishment of an agricultural mitigation program would not result in a change in the outcome of the impact and does not represent the removal of a feasible mitigation measure that would minimize significant adverse impacts to the identified resources.

Conclusion

No new circumstances or changes have occurred nor has any new information been identified requiring new analysis or verification. Therefore, the conclusions of the Visalia 2030 General Plan EIR remain valid, and approval of the GPA would not result in new or substantially more severe significant impacts to agricultural resources.

⁵ California Association of REALTORS, *Price Increase Impact on Affordability, Tulare County, 2nd Quarter*. September 1, 2020.

Chapter 5 Determination

As discussed in Chapters 1.0 through 4.0 above, this Addendum to the Visalia 2030 General Plan EIR (SCH No. 2010041078, certified by the City of Visalia in October 2014), supports the conclusion that the proposed revisions to General Plan Policy LU-P-34, as proposed under General Plan Amendment No. 2021-01, constitute only minor changes to the Visalia 2030 General Plan previously evaluated and that no further environmental analysis is required. This determination is appropriate because only minor changes or additions to said EIR are needed to consider the modifications proposed under the GPA, and these changes or additions do not require preparation of a subsequent EIR for the reasons set forth below. The reasons set forth correspond to items 1-3 as enumerated in [Section 1.4 CEQA Addendum Purpose](#) and pursuant to Section 15162(a) of the CEQA Guidelines.

(1) The Project would not change the land uses adopted under the Visalia 2030 General Plan or the manner by which those land uses are implemented. The anticipated buildout previously analyzed under the Final EIR would not be affected by the GPA. Pursuant to Section 15162(a)(1) no substantial changes are proposed that would require major revisions of the previous EIR due to the involvement of new significant environmental impacts or a substantial increase in the severity of previously identified significant impacts.

(2) The circumstances (or baseline conditions) under which the GPA will be undertaken have not substantially changed from those described in the Visalia 2030 General Plan EIR, and therefore major revisions of the previous EIR baseline conditions are not required due to involvement of new significant impacts or a substantial increase in the severity of previously identified significant impacts.

(3) There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete.

(A) The GPA will not result in any new significant impacts beyond those evaluated in the previous EIR.

(B) The GPA will not result in any impacts that would be substantially more severe than those evaluated in the previous EIR.

(C) There were no mitigation measures or alternatives found by the previous EIR to be infeasible that would in fact be feasible that would substantially reduce one or more significant impacts of resulting from the GPA.

(D) There are no mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR that would substantially reduce one or more significant impacts on the environment that the City of Visalia declines to adopt for the GPA.

Based upon the statements above, and in conjunction with the evaluation further described in **Chapter 4 Impact Evaluation**, none of the conditions described in Section 15162(a) calling for the preparation of a subsequent EIR have occurred.

Pursuant to the provisions of CEQA (PRC Section 21000, et seq.) and the State CEQA Guidelines (CEQA Guidelines; California Code of Regulations, Title 14, Chapter 3, Section 15000, et seq.) and specifically Section 15164 regarding preparation of Addendums to an Environmental Impact Report or Negative Declaration, the City of Visalia has determined that General Plan Amendment No. 2021-01 constitutes a minor change to the Visalia 2030 General Plan previously evaluated and that none of the conditions described in Section 15162 of the Guidelines would require the preparation of a subsequent EIR.

ADDENDUM *to the* VISALIA 2030 GENERAL PLAN EIR (SCH No. 2010041078) *for* GENERAL PLAN AMENDMENT NO. 2021-01 **RESPONSE TO COMMENTS**

JUNE 23, 2021

According to the CEQA Guidelines Section 15164(c), the preparation of an Addendum does not require a public comment period. However, the City made the document available for a voluntary 10-day public review and comment period, commencing on May 19, 2021 and ending on May 28, 2021. Additional comments may still be submitted following this period and any written comments received before the hearing will be distributed to the Planning Commission and City Council, although comments submitted after the comment period may not receive a written response.

The City of Visalia received seven comment letters from community members and organizations following the release of the Addendum to the Visalia 2030 General Plan Environmental Impact Report (EIR) for public comment.

Responses to the comments received on the Addendum are provided below and have been organized by order received. Each comment letter received has been included as an attachment (**Attachments A through G**) and have been notated with an alphanumeric identifier. This memo includes a summary of each comment and a response to said comment. The summary of comment and the response to the comment correspond to the alphanumeric identifier, as included on the applicable notated comment letter.

Also included is **Appendix 1**, which contains General Plan policy language as referenced in the response to comments.

LETTER A: CALIFORNIA DEPARTMENT OF CONSERVATION

SUMMARY OF COMMENT A-1

The commenter states their support of City of Visalia General Plan Policy LU-P-34 and urges the City to reconsider its removal. The commenter advises the use of permanent agricultural conservation easements.

RESPONSE A-1

Comment noted.

SUMMARY OF COMMENT A-2

The commenter recognizes that other forms of mitigation may be feasible and should also be considered.

RESPONSE A-2

Several General Plan policies were cited to reduce Impact 3.5-1 (Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), Impact 3.5-2 (Conflict with Agricultural Use or a Williamson Act Contract), and Impact 3.5-3 (Changes in Existing Environment Resulting in Conversion of Farmland), as discussed in the Visalia 2030 General Plan Draft EIR. A list of mitigating General Plan policies in addition to Policy LU-P-34 is contained on pages 8 and 9 of the Addendum and include the following (full text of each policy is included in Appendix 1).

SUMMARY OF COMMENT A-3

The commenter provides sources on land trusts and conservation programs.

RESPONSE A-3

Comment noted.

LETTER B: SEQUOIA RIVERLANDS TRUST

SUMMARY OF COMMENT B-1

The commenter notes the proposed amendment removing the 1:1 mitigation requirement from General Plan Policy LU-P-34 and states their concerns with its removal.

RESPONSE B-1

Comment noted.

SUMMARY OF COMMENT B-2

The commenter notes that the Addendum states conservation easements are no longer considered mitigation under CEQA, that an Agricultural Mitigation Program could not ensure the proper location of easements, and that such a program may present a barrier to homeownership.

RESPONSE B-2

Comment noted.

SUMMARY OF COMMENT B-3

The commenter describes research conducted by American Farmland Trust which demonstrates conservation easements maintaining agricultural viability and community growth.

RESPONSE B-3

Comment noted.

SUMMARY OF COMMENT B-4

The commenter quotes from the California Environmental Quality Act and the California Supreme Court regarding the implementation of feasible mitigation measures. The commentator recognizes easements as a feasible mitigation measure.

RESPONSE B-4

As cited on page 12 of the Addendum, the Statement of Overriding Considerations and Findings of Fact adopted with the certification of the Visalia 2030 General Plan EIR in 2014 documented the following reasons that agricultural conservation easements would be infeasible mitigation at that time:

- 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.

The adopted Statement of Overriding Considerations and Findings of Fact, which documented the findings necessary to confirm the infeasibility of agricultural conservation easements, still applies. The Statement of Overriding Conditions was further supported by the Feasibility Study prepared and presented to the City of Visalia Council in February 2021 and as described on pages 13 and 14 of the Addendum.

Further, page 12 of the Addendum cites recent case law out of the 5th District Court of Appeal, which established that agricultural easements do not mitigate in whole or in part, for the loss of agricultural land as follows:

“Entering into a binding agricultural conservation easement does not create new agricultural land to replace the agricultural land being converted to other uses. Instead, an agricultural conservation easement merely prevents the future conversion of the agricultural land subject to the easement. Because the easement does not offset the loss of agricultural land (in whole or in part), the easement does not reduce a project's impact on agricultural land.”¹

The conclusion that “the use of agricultural conservation easements . . . is no longer considered mitigation” is derived directly from the above cited published opinion from the 5th District Court of Appeal.

SUMMARY OF COMMENT B-5

The commenter states the proposed language for Policy LU-P-34 does not include a comparable level of mitigation.

RESPONSE B-5

As noted in the Addendum on page 12 recent case law out of the 5th District Court of Appeal established that agricultural easements do not mitigate in whole or in part, for the loss of agricultural land as follows:

“Entering into a binding agricultural conservation easement does not create new agricultural land to replace the agricultural land being converted to other uses. Instead, an agricultural conservation easement merely prevents the future conversion of the agricultural land subject to the easement. Because the easement does not offset the loss of agricultural land (in whole or in part), the easement does not reduce a project's impact on agricultural land.”²

The conclusion that “the use of agricultural conservation easements . . . is no longer considered mitigation” is derived directly from the above cited published opinion from the 5th District Court of Appeal.

The Addendum also cites several General Plan policies that were identified to reduce Impact 3.5-1 (Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), Impact 3.5-2 (Conflict with Agricultural Use or a Williamson Act Contract), and Impact 3.5-3 (Changes in Existing Environment Resulting in Conversion of Farmland), as discussed in the Draft EIR. A list of mitigating General Plan policies in addition to Policy LU-P-34 is contained on pages 8 and 9 of the Addendum and include the following (full text of each policy is included in Appendix 1).

SUMMARY OF COMMENT B-6

The commenter outlines the purpose and experience of land trusts, such as Sequoia Riverlands Trust, and states its belief that a land trust could procure contiguous easements in an appropriate place for mitigation.

¹ *King & Gardner, LLC v County of Kern* (2020) 45 Cal.App.5th 814, 875.

² *Ibid.*

The commenter notes that in Sequoia Riverlands Trust's experience, farmers find conservation easement programs to provide a significant monetary benefit.

RESPONSE B-6

Comment noted.

SUMMARY OF COMMENT B-7

The commenter agrees with the importance of lowering barriers to homeownership. The commenter breaks down cost increases due to easement programs to a monthly addition over a 30-year mortgage and also recognizes that easement monitoring could increase costs. The commenter states that these costs would be unlikely to create a barrier to homeownership.

RESPONSE B-7

Also noted in the Addendum on page 14 is that an increase of \$1,000 in the price of a home excludes an additional 174 to 259 households from qualifying for such a mortgage and that approximately 85 percent (4,339 acres) of all land planned for residential use within Tier II and Tier III is designated as Prime Farmland or Farmland of Statewide Importance and would require establishment of an agricultural conservation easement.

SUMMARY OF COMMENT B-8

The commenter states that the proposed change warranted additional environmental review and an increased public response time. They believe a Supplemental EIR and full comment period would be an appropriate level of review.

RESPONSE B-8

As enumerated in the Addendum, Section 15162(a) of the CEQA guidelines includes the conditions under which a subsequent EIR would be necessitated. Chapter 5 Determination of the Addendum sets forth the reasons that preparation of a subsequent EIR is not required, in accordance with Section 15162(a) of the CEQA Guidelines.

Further, according to the CEQA Guidelines Section 15164(c), the preparation of an Addendum does not require a public comment period. Additionally, although the City made the document available for a voluntary 10-day public review and comment period, comments may still be submitted following this period. Any written comments received before the hearing will be distributed to the Planning Commission and City Council, although comments submitted after the comment period may not receive a written response.

SUMMARY OF COMMENT B-9

The commenter urges the City to reconsider the proposed General Plan Amendment to Policy LU-P-34. Sequoia Riverlands Trust offers its assistance should the City go the route of developing an agricultural mitigation program.

RESPONSE B-9

Comment noted.

LETTER C: CENTRAL VALLEY PARTNERSHIP

SUMMARY OF COMMENT C-1

The commenter states that the original language for Policy LU-P-34, requiring an agricultural mitigation program with 1:1 conservation easements required for converted farmland, was consistent with neighboring jurisdictions. The commenter requests the City consider and implement a higher ratio than 1:1 farmland conservation.

RESPONSE C-1

Several General Plan policies were cited to reduce Impact 3.5-1 (Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), Impact 3.5-2 (Conflict with Agricultural Use or a Williamson Act Contract), and Impact 3.5-3 (Changes in Existing Environment Resulting in Conversion of Farmland), as discussed in the Visalia 2030 General Plan Draft EIR. A list of mitigating General Plan policies in addition to Policy LU-P-34 is contained on pages 8 and 9 of the Addendum and include the following (full text of each policy is included in Appendix 1).

Policy LU-P-21 specifically establishes thresholds for the City's adopted growth management strategy, which requires a certain number of permits be issued within the current growth boundary prior to allowing growth to proceed into the next growth boundary.

SUMMARY OF COMMENT C-2

The commenter outlines the proposed amendment to Policy LU-P-34 which removes the requirement for an agricultural mitigation program. The commenter notes that the proposed language does not provide any alternative mitigation measures.

RESPONSE C-2

As noted in the Addendum on page 12, recent case law out of the 5th District Court of Appeal established that agricultural easements do not mitigate in whole or in part, for the loss of agricultural land as follows:

*"Entering into a binding agricultural conservation easement does not create new agricultural land to replace the agricultural land being converted to other uses. Instead, an agricultural conservation easement merely prevents the future conversion of the agricultural land subject to the easement. Because the easement does not offset the loss of agricultural land (in whole or in part), the easement does not reduce a project's impact on agricultural land."*³

The conclusion that "the use of agricultural conservation easements ... is no longer considered mitigation" is derived directly from the above cited published opinion from the 5th District Court of Appeal.

The Addendum also cites several General Plan policies that were identified to reduce Impact 3.5-1 (Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), Impact 3.5-2 (Conflict with Agricultural Use or a Williamson Act Contract), and Impact 3.5-3 (Changes in Existing Environment Resulting in Conversion of Farmland), as discussed in the Draft EIR. A list of mitigating General Plan policies in addition to Policy LU-P-34 is contained on pages 8 and 9 of the Addendum and include the following (full text of each policy is included in Appendix 1).

³ King & Gardner, LLC v County of Kern (2020) 45 Cal.App.5th 814, 875.

SUMMARY OF COMMENT C-3

The commenter states that the City's proposed policy change opens a loophole and subjects future projects to intensified CEQA requirements. The commenter claims that new projects will attempt to skirt mitigation requirements.

RESPONSE C-3

The claim that all new projects will attempt to skirt mitigation requirements is unsubstantiated. The Addendum also cites several General Plan policies that were identified to reduce Impact 3.5-1 (Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), Impact 3.5-2 (Conflict with Agricultural Use or a Williamson Act Contract), and Impact 3.5-3 (Changes in Existing Environment Resulting in Conversion of Farmland), as discussed in the Draft EIR. A list of mitigating General Plan policies in addition to Policy LU-P-34 is contained on pages 8 and 9 of the Addendum and include the following (full text of each policy is included in Appendix 1).

Future projects will be subject to compliance with these policies, as applicable.

It should also be noted that a Statement of Overriding Considerations and Findings of Fact adopted with the certification of the Visalia 2030 General Plan EIR in 2014 recognized that impacts to agricultural resources would be significant and unavoidable and documented the following reasons that agricultural conservation easements would be infeasible mitigation at that time:

- 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.

The adopted Statement of Overriding Considerations and Findings of Fact, which documented the findings necessary to confirm the infeasibility of agricultural conservation easements, still applies. The Statement of Overriding Conditions was further supported by the Feasibility Study prepared and presented to the City of Visalia Council in February 2021 and as described on pages 13 and 14 of the Addendum.

SUMMARY OF COMMENT C-4

The commenter argues that the change in the City of Visalia policy threatens the viability of all statewide farmland conservation programs.

RESPONSE C-4

The response of other California jurisdictions to the decisions of the Visalia City Council and any changes to the City's General Plan are outside the necessary scope of review. Removing the agricultural mitigation plan requirement from Policy LU-P-34 does not necessitate the removal of any such policy from any other jurisdiction in California. It is not the responsibility of the City to consider the potential decisions of other jurisdictions.

It should also be noted that the revisions to General Plan Policy LU-P-34, while removing the requirement for an agricultural mitigation program to be implemented by the City of Visalia, does not preclude or prevent the establishment of an agricultural mitigation program or agricultural conservation easements by other jurisdictions or by a third party.

SUMMARY OF COMMENT C-5

The commenter states the CEQA requirement to implement feasible mitigation measures and claims the City has failed to adequately examine the environmental impacts of the proposed change.

RESPONSE C-5

The Addendum analyzes the impact of the revised Policy LU-P-34 language and the relationship of the potential impact to that of the certified Visalia 2030 General Plan EIR. The Visalia 2030 General Plan EIR, certified in 2014, identifies impacts to agricultural resources as significant and unavoidable, as documented in the adopted Statement of Overriding Considerations and Findings of Fact. Revisions to General Plan Policy LU-P-34 would not increase the significance of the adverse impact associated with the conversion of farmlands to nonagricultural use as they have already been identified as significant and unavoidable.

SUMMARY OF COMMENT C-6

The commenter states that the proposed change warranted additional environmental review and an increased public response time. They believe a Subsequent or Supplemental EIR, accompanied by a thorough public process, would be the appropriate level of environmental review. A request for a thorough public process was identified to better understand the proposed policy change.

RESPONSE C-6

As enumerated in the Addendum, Section 15162(a) of the CEQA guidelines includes the conditions under which a subsequent EIR would be necessitated. Chapter 5 Determination of the Addendum sets forth the reasons that preparation of a subsequent EIR is not required, in accordance with Section 15162(a) of the CEQA Guidelines.

Further, the City initiated a public process to “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”, as required by Policy LU-P-34. Multiple opportunities for public participation were provided to participate in the preparation of an Agricultural Mitigation Program Feasibility Study, in addition to the voluntary 10-day public review and comment period provided for the Addendum, including the following workshops and hearing:

- Public Workshop held on November 9, 2020
- Public Workshop held on January 11, 2021
- City Council Hearing held on February 16, 2021

LETTER D: SIERRA CLUB KERN-KAWEAH CHAPTER

SUMMARY OF COMMENT D-1

The commenter claims that the proposed change increases the significance of environmental impacts.

RESPONSE D-1

The Visalia 2030 General Plan EIR, certified in 2014, identifies impacts to agricultural resources as significant and unavoidable, as documented in the adopted Statement of Overriding Considerations and Findings of Fact. Revisions to General Plan Policy LU-P-34 would not increase the significance of the adverse impact associated with the conversion of farmlands to nonagricultural use as they have already been identified as significant and unavoidable. Further, the proposed revisions to Policy LU-P-34, including the removal of the requirement to establish an agricultural mitigation program, would not change the land uses that have been previously adopted in the Visalia 2030 General Plan, nor would the revisions alter the thresholds that determine when development may proceed from the first growth tier (Tier I) to subsequent growth tiers (Tiers II and III). In addition, the anticipated buildout that was previously estimated under the Final EIR and the adopted urban growth tiers would not be affected.

SUMMARY OF COMMENT D-2

The commenter discusses the language used in the original policy and identifies the program proposed to be removed as mandatory.

RESPONSE D-2

As noted in the Addendum on page 12, recent case law out of the 5th District Court of Appeal established that agricultural easements do not mitigate in whole or in part, for the loss of agricultural land as follows:

“Entering into a binding agricultural conservation easement does not create new agricultural land to replace the agricultural land being converted to other uses. Instead, an agricultural conservation easement merely prevents the future conversion of the agricultural land subject to the easement. Because the easement does not offset the loss of agricultural land (in whole or in part), the easement does not reduce a project's impact on agricultural land.”⁴

The conclusion that “the use of agricultural conservation easements ... is no longer considered mitigation” is derived directly from the above cited published opinion from the 5th District Court of Appeal.

Additionally, the Addendum cites several General Plan policies to reduce Impact 3.5-1 (Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), Impact 3.5-2 (Conflict with Agricultural Use or a Williamson Act Contract), and Impact 3.5-3 (Changes in Existing Environment Resulting in Conversion of Farmland), as discussed in the Draft EIR. A list of mitigating General Plan policies in addition to Policy LU-P-34 is contained on pages 8 and 9 of the Addendum and include the following (full text of each policy is included in Appendix 1).

It should also be noted that a Statement of Overriding Considerations and Findings of Fact adopted with the certification of the Visalia 2030 General Plan EIR in 2014 recognized that impacts to agricultural resources would be significant and unavoidable and documented the following reasons that agricultural conservation easements would be infeasible mitigation at that time:

⁴ *King & Gardner, LLC v County of Kern* (2020) 45 Cal.App.5th 814, 875.

- 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.

The adopted Statement of Overriding Considerations and Findings of Fact, which documented the findings necessary to confirm the infeasibility of agricultural conservation easements, still applies. The Statement of Overriding Conditions was further supported by the Feasibility Study prepared and presented to the City of Visalia Council in February 2021 and as described on pages 13 and 14 of the Addendum.

SUMMARY OF COMMENT D-3

The commenter claims the Addendum misrepresents the law as it relates to agricultural conservation easements. The comment includes a quote from King and Gardner Farms, LLC v. County of Kern, as follows:

Although the developed farmland is not replaced, an equivalent area of comparable farmland is permanently protected from a similar fate. To meet the reasonable relationship standard it is not necessary to fully offset the loss. The additional protection of farmland that could otherwise soon be lost to residential development promotes the County's stated objective to conserve agricultural land for agricultural uses. Further, the requirement of rough proportionality between the mitigation measure and the impact of the development project is met. [Citation.] For every acre of farmland permanently lost to residential development another acre of farmland is permanently protected from residential development." (Id. at p. 592, 118 Cal.Rptr.3d 467.)

RESPONSE D-3

The language cited by the Sierra Club on pages 2-3 (indented) is a recitation of the summary contained in *Building Industry Assn. of Central California v. County of Stanislaus* (2010) 190 Cal.App.4th 582 [118 Cal.Rptr.3d 467] (*Building Assn.-Stanislaus*), specifically how that 2010 decision described the operations of agricultural conservation easements and a 1:1 mitigation program. The court in the case of *Building Assn.-Stanislaus* was evaluating whether Stanislaus County could require compliance with a farmland mitigation policy and whether that 1:1 requirement for farmland conservation met the reasonable relationship standard. The *King & Gardner Farms, LLC v County of Kern* (2020) 45 Cal.App.5th 814 (*King & Gardner*) decision specifically considered this prior decision and noted that this is a non-CEQA case; Stanislaus County was updating the requirements of a portion of its General Plan, not considering whether agricultural conservation easements were a feasible mitigation measure under CEQA.

The *King & Gardner* court in their published opinion regarding the use of agricultural conservation easements as mitigation goes on to conclude that:

"Entering into a binding agricultural conservation easement does not create new agricultural land to replace the agricultural land being converted to other uses. Instead, an agricultural conservation easement merely prevents the future conversion of the agricultural land subject to the easement. Because the easement

does not offset the loss of agricultural land (in whole or in part), the easement does not reduce a project's impact on agricultural land.”⁵

Therefore, the statement in the Addendum that “recent case law out of the 5th District Court of Appeal has since established that agricultural easements, as would be required under the agricultural mitigation program, do not mitigate in whole or in part, for the loss of agricultural land” is not misleading and incorrect but is derived directly from the 5th District’s published opinion in *King & Gardner, LLC v Kern County* (2020).

SUMMARY OF COMMENT D-4

The commenter references *Masonite Corp. v. County of Mendocino* (2013) 218 Cal.App.4th 230 (*Masonite-Mendocino*), citing the 1st District Court of Appeal conclusion “that [agricultural conservation easements] may appropriately mitigate the direct loss of farmland when a project converts agricultural land to a nonagricultural use. . .” The commenter also references specific statements from the *Masonite-Mendocino* case, including the following explanation:

As the California Farm Bureau Federation (CFBF) observes in an amicus curiae brief advocating for the conclusion we reach: “The permanent protection of existing resources off-site is effective mitigation for [a project's direct, cumulative, or growth-inducing] impacts because it prevents the consumption of a resource to the point that it no longer exists.... If agricultural land is permanently protected off-site at, for example, a 1:1 replacement ratio, then at least half of the agricultural land in a region would remain after the region has developed its available open space.” By thus preserving substitute resources, ACEs compensate for the loss of farmland within the Guidelines' definition of mitigation. (Guidelines, § 15370, subd. (e) [mitigation includes “[c]ompensating for the impact by replacing or providing substitute resources or environments”].) *Id.*

The commenter goes on to quote footnote 32 from *King & Gardner Farms, LLC v County of Kern* (2020) 45 Cal.App.5th at 875, in part, stating that [King & Gardner’s] conclusion that “significant impact on agricultural land would remain significant after the implementation of the agricultural conservation easement”, was not contradicted by *Masonite-Mendocino*.

RESPONSE D-4

The Court, in its holdings, did not confirm that agricultural conservation easements were feasible mitigation, only that they “were *not legally infeasible* mitigation” (emphasis added).⁶ The Court notes that they were unable to review the feasibility of agricultural conservation easements for the Project as Mendocino County did not address the feasibility of agricultural conservation easements and in-lieu fees as mitigation in the EIR. Therefore, the Court directed the County to “prepare and circulate a supplemental EIR, which . . . addresses the deficiencies we have identified in the EIR concerning: the feasibility of ACEs and in-lieu fees as mitigation for the Project’s conversion of farmland to nonagricultural use.”⁷

The *King & Gardner Farms, LLC v County of Kern* (2020) 45 Cal.App.5th 814 (*King & Gardner*) decision specifically considered this prior decision of *Masonite-Mendocino* in footnote 32, which states in full:

⁵ *King & Gardner, LLC v County of Kern* (2020) 45 Cal.App.5th 814, 875.

⁶ *Masonite Corp. v County of Mendocino* (2013), 218 Cal.App.4th 230, 230.

⁷ *Ibid*, 242.

"The determinations reached in Masonite Corp. v. County of Mendocino (2013) 218 Cal.App.4th 230 [159 Cal.Rptr.3d 860] do not contradict this conclusion.^[8] In Masonite, the court did not consider the net effect of implementing an agricultural conservation easement and whether a significant impact could be reduced to a less than significant level by such an easement. In Masonite, the court concluded "the EIR's determination that [agricultural conservation easements] are legally infeasible cannot be sustained" and remanded for further environmental review. (Id. at p. 241.)"

As reflected in footnote 32 from *King & Gardner*, the conclusion from *Masonite-Mendocino* made no determination as to agricultural conservation easements as feasible mitigation – only that they should be explored as an option to mitigate impacts to agricultural resources.

The City of Visalia did conduct a review of the feasibility of agricultural conservation easements as mitigation for the loss of agricultural impacts resulting from implementation of the Visalia 2030 General Plan. As noted in the Addendum, a Statement of Overriding Considerations and Findings of Fact adopted with the certification of the Visalia 2030 General Plan EIR in 2014 recognized that impacts to agricultural resources would be significant and unavoidable and documented the following reasons that agricultural conservation easements would be infeasible mitigation at that time:

- 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.

The adopted Statement of Overriding Considerations and Findings of Fact, which documented the findings necessary to confirm the infeasibility of agricultural conservation easements, still applies. The Statement of Overriding Conditions was further supported by the Feasibility Study prepared and presented to the City of Visalia Council in February 2021 and as described on pages 13 and 14 of the Addendum.

SUMMARY OF COMMENT D-5

The commenter states the City has not adequately analyzed the potential impacts associated with the proposed changes to Policy LU-P-34. The commenter states only a supplemental or subsequent EIR could properly analyze the potential impacts.

RESPONSE D-5

As enumerated in the Addendum, Section 15162(a) of the CEQA guidelines includes the conditions under which a subsequent EIR would be necessitated. Chapter 5 Determination of the Addendum sets forth the

⁸ The referenced conclusion from *King and Gardener Farms* states: "Entering into a binding agricultural conservation easement does not create new agricultural land to replace the agricultural land being converted to other uses. Instead, an agricultural conservation easement merely prevents the future conversion of the agricultural land subject to the easement. Because the easement does not offset the loss of agricultural land (in whole or in part), the easement does not reduce a project's impact on agricultural land." *King & Gardner, LLC v County of Kern* (2020) 45 Cal.App.5th 875.

reasons that preparation of a subsequent EIR is not required, in accordance with Section 15162(a) of the CEQA Guidelines.

The Visalia 2030 General Plan EIR, certified in 2014, identifies impacts to agricultural resources as significant and unavoidable, as documented in the adopted Statement of Overriding Considerations and Findings of Fact. Revisions to General Plan Policy LU-P-34 would not increase the significance of the adverse impact associated with the conversion of farmlands to nonagricultural use as they have already been identified as significant and unavoidable. Further, the proposed revisions to Policy LU-P-34, including the removal of the requirement to establish an agricultural mitigation program, would not change the land uses that have been previously adopted in the Visalia 2030 General Plan, nor would the revisions alter the thresholds that determine when development may proceed from the first growth tier (Tier I) to subsequent growth tiers (Tiers II and III). In addition, the anticipated buildout that was previously estimated under the Final EIR and the adopted urban growth tiers would not be affected.

Further, a Statement of Overriding Considerations and Findings of Fact adopted with the certification of the Visalia 2030 General Plan EIR in 2014 recognized that impacts to agricultural resources would be significant and unavoidable and documented the following reasons that agricultural conservation easements would be infeasible mitigation at that time:

- 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.

The adopted Statement of Overriding Considerations and Findings of Fact, which documented the findings necessary to confirm the infeasibility of agricultural conservation easements, still applies. The Statement of Overriding Conditions was further supported by the Feasibility Study prepared and presented to the City of Visalia Council in February 2021 and as described on pages 13 and 14 of the Addendum.

SUMMARY OF COMMENT D-6

The commenter states the Addendum does not consider requiring higher density as a feasible mitigation measure.

RESPONSE D-6

The Addendum analyzes the impact of the revised Policy LU-P-34 language and the relationship of the potential impact to that of the certified Visalia 2030 General Plan EIR. The Visalia 2030 General Plan EIR, certified in 2014, identifies impacts to agricultural resources as significant and unavoidable, as documented in the adopted Statement of Overriding Considerations and Findings of Fact. Revisions to General Plan Policy LU-P-34 would not increase the significance of the adverse impact associated with the conversion of farmlands to nonagricultural use as they have already been identified as significant and unavoidable.

SUMMARY OF COMMENT D-7

The commenter states the Addendum does not adequately examine the ways in which agricultural mitigation programs serve as a financial disincentive for development on farmland.

RESPONSE D-7

The Addendum analyzes the impact of the revised Policy LU-P-34 language and the relationship of the potential impact to that of the certified Visalia 2030 General Plan EIR. The Visalia 2030 General Plan EIR, certified in 2014, identifies impacts to agricultural resources as significant and unavoidable, as documented in the adopted Statement of Overriding Considerations and Findings of Fact. Revisions to General Plan Policy LU-P-34 would not increase the significance of the adverse impact associated with the conversion of farmlands to nonagricultural use as they have already been identified as significant and unavoidable.

Additionally, several General Plan policies were cited to reduce Impact 3.5-1 (Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), Impact 3.5-2 (Conflict with Agricultural Use or a Williamson Act Contract), and Impact 3.5-3 (Changes in Existing Environment Resulting in Conversion of Farmland), as discussed in the Visalia 2030 General Plan Draft EIR. A list of mitigating General Plan policies in addition to Policy LU-P-34 is contained on pages 8 and 9 of the Addendum and include the following (full text of each policy is included in Appendix 1).

These policies support continued agricultural uses and slow the conversion of farmland through growth management strategies. Policy LU-P-21 specifically establishes thresholds for the City's adopted growth management strategy, which requires a certain number of permits be issued within the current growth boundary prior to allowing growth to proceed into the next growth boundary.

SUMMARY OF COMMENT D-8

The commenter states the Addendum does not adequately analyze the impact of financial disincentives to development on buildout assumptions and that the removal of the agricultural mitigation requirement would increase the amount of anticipated buildout, thus increasing the significance of the environmental impacts.

RESPONSE D-8

The Addendum analyzes the impact of the revised policy language and the relationship of the potential impact to that of the certified Visalia 2030 General Plan EIR. The Visalia 2030 General Plan EIR, certified in 2014, identifies impacts to agricultural resources as significant and unavoidable, as documented in the adopted Statement of Overriding Considerations and Findings of Fact. Revisions to General Plan Policy LU-P-34 would not increase the significance of the adverse impact associated with the conversion of farmlands to nonagricultural use as they have already been identified as significant and unavoidable.

Furthermore, the Addendum notes that the proposed revisions to Policy LU-P-34, including the removal of the requirement to establish an agricultural mitigation program, would not change the land uses that have been previously adopted in the Visalia 2030 General Plan, nor would the revisions alter the thresholds that determine when development may proceed from the first growth tier (Tier I) to subsequent growth tiers (Tiers II and III). In addition, the anticipated buildout that was previously estimated under the Final EIR and the adopted urban growth tiers would not be affected.

SUMMARY OF COMMENT D-9

The commenter enquires about the status and effectiveness of Policy LU-P-36 and Policy LU-P-45.

It should be noted that the comment letter refers to both Policy LU-P-38 and Policy LU-P-36 as the policy outlining the Urban Agriculture Ordinance. It is Policy LU-P-36 that includes the Urban Agriculture Ordinance and that is used in the response to the comment. The comment letter also quotes a policy related to infill development and lists it as LU-P-44. However, the quoted policy is actually Policy LU-P-45 which is the policy that is used in the response.

RESPONSE D-9

An Urban Agriculture Ordinance has not yet been adopted, as required by Policy LU-P-36. However, the City is reviewing the status of actions related to agricultural policies identified in the General Plan in order to facilitate the implementation of the policies, including Policy LU-P-36.

In 2017, the City adopted General Plan Amendment No. 2017-01, amending the Infill Incentive Program identified in Policy LU-P-45 and Policy LU-P-46, further incentivizing the development of infill sites. The amendment identified criteria for residential projects to be eligible for Transportation Impact Fee Reductions as well as increased incentives, such as increasing the maximum reduction of fees from 50 percent to 60 percent. The fee reduction is applied during the fee assessment process.

SUMMARY OF COMMENT D-10

The commenter also suggests that an amendment to Policy LU-P-45 is necessary to incentivize infill development to offset the revisions to Policy LU-P-34.

The comment letter quotes a policy related to infill development and lists it as LU-P-44. However, the quoted policy is actually Policy LU-P-45 which is the policy that is used in the response.

RESPONSE D-10

As noted in Response D-11, in 2017, the City adopted General Plan Amendment No. 2017-01, amending the Infill Incentive Program identified in Policy LU-P-45 and Policy LU-P-46, further incentivizing the development of infill sites. The amendment identified criteria for residential projects to be eligible for Transportation Impact Fee Reductions as well as increased incentives, such as increasing the maximum reduction of fees from 50 percent to 60 percent. The fee reduction is applied during the fee assessment process.

SUMMARY OF COMMENT D-11

The commenter states the Addendum is not the appropriate level of environmental review. The commenter believes a subsequent or supplemental EIR would be the appropriate level of environmental review.

RESPONSE D-11

As enumerated in the Addendum, Section 15162(a) of the CEQA guidelines includes the conditions under which a subsequent EIR would be necessitated. Chapter 5 Determination of the Addendum sets forth the reasons that preparation of a subsequent EIR is not required, in accordance with Section 15162(a) of the CEQA Guidelines.

Further, the Visalia 2030 General Plan EIR, certified in 2014, identifies impacts to agricultural resources as significant and unavoidable, as documented in the adopted Statement of Overriding Considerations and

Findings of Fact. Revisions to General Plan Policy LU-P-34 would not increase the significance of the adverse impact associated with the conversion of farmlands to nonagricultural use.

LETTER E: CALIFORNIA FARMLAND TRUST

SUMMARY OF COMMENT E-1

The commenter outlines facts about the California Farmland Trust, agriculture in California, and the City of Visalia.

RESPONSE E-1

Comment noted.

SUMMARY OF COMMENT E-2

The commenter states that conservation easements do provide a cumulative effect in protecting farmland from conversion. The commenter encourages the City to retain the requirement in General Plan Policy LU-P-34.

RESPONSE E-2

Several General Plan policies were cited to reduce Impact 3.5-1 (Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), Impact 3.5-2 (Conflict with Agricultural Use or a Williamson Act Contract), and Impact 3.5-3 (Changes in Existing Environment Resulting in Conversion of Farmland), as discussed in the Visalia 2030 General Plan Draft EIR. A list of mitigating General Plan policies in addition to Policy LU-P-34 is contained on pages 8 and 9 of the Addendum and include the following (full text of each policy is included in Appendix 1).

These policies support continued agricultural uses and slow the conversion of farmland through growth management strategies. Policy LU-P-21 specifically establishes thresholds for the City's adopted growth management strategy, which requires a certain number of permits be issued within the current growth boundary prior to allowing growth to proceed into the next growth boundary.

SUMMARY OF COMMENT E-3

The commenter outlines how they disagree with the City's conclusion that the agricultural mitigation program from General Plan Policy LU-P-34 would be infeasible.

RESPONSE E-3

As cited on page 12 of the Addendum, the Statement of Overriding Considerations and Findings of Fact adopted with the certification of the Visalia 2030 General Plan EIR in 2014 documented the following reasons that agricultural conservation easements would be infeasible mitigation at that time:

- 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.

The adopted Statement of Overriding Considerations and Findings of Fact, which documented the findings necessary to confirm the infeasibility of agricultural conservation easements, still applies. The Statement of Overriding Conditions was further supported by the Feasibility Study prepared and presented to the City of Visalia Council in February 2021 and as described on pages 13 and 14 of the Addendum.

Further, the revisions to General Plan Policy LU-P-34, while removing the requirement for an agricultural mitigation program to be implemented by the City of Visalia, does not preclude or prevent the establishment of an agricultural mitigation program or agricultural conservation easements by other jurisdictions or by a third party.

SUMMARY OF COMMENT E-4

The commenter encourages the City to apply for the Sustainable Agricultural Conservation Planning Grant.

RESPONSE E-4

Comment noted.

SUMMARY OF COMMENT E-5

The commenter encourages the City to maintain General Plan Policy LU-P-34.

RESPONSE E-5

Comment noted.

LETTER F: AMERICAN FARMLAND TRUST

SUMMARY OF COMMENT F-1

The commenter states the history and purpose of American Farmland Trust and generally outlines the comments included in the rest of the letter.

RESPONSE F-1

Comment noted.

SUMMARY OF COMMENT F-2

The commenter notes that they requested and did not receive an extension on the public comment period. American Farmland Trust believes a longer public comment period would have been appropriate.

RESPONSE F-2

According to the CEQA Guidelines Section 15164(c), the preparation of an Addendum does not require a public comment period. The City made the document available for a voluntary 10-day public review and comment period, and comments may still be submitted following this period. Any written comments received before the hearing will be distributed to the Planning Commission and City Council, although comments submitted after the comment period may not receive a written response.

SUMMARY OF COMMENT F-3

The commenter provides facts relating to San Joaquin Valley regional trends and stressors, including the Sustainable Groundwater Management Act, drought, High-Speed Rail, housing affordability, solar energy, and development threats.

RESPONSE F-3

Comment noted.

SUMMARY OF COMMENT F-4

The commenter recognizes the legal requirement for mitigation measures to offset the negative impacts of the conversion of farmland to non-agricultural uses. The commenter states this mitigation is usually done through conservation easements.

RESPONSE F-4

Several General Plan policies were cited to reduce Impact 3.5-1 (Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), Impact 3.5-2 (Conflict with Agricultural Use or a Williamson Act Contract), and Impact 3.5-3 (Changes in Existing Environment Resulting in Conversion of Farmland), as discussed in the Draft EIR. A list of mitigating General Plan policies in addition to Policy LU-P-34 is contained on pages 8 and 9 of the Addendum and include the following (full text of each policy is included in Appendix 1).

It should also be noted that a Statement of Overriding Considerations and Findings of Fact adopted with the certification of the Visalia 2030 General Plan EIR in 2014 recognized that impacts to agricultural resources would be significant and unavoidable and documented the following reasons that agricultural conservation easements would be infeasible mitigation at that time:

- 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.

The adopted Statement of Overriding Considerations and Findings of Fact, which documented the findings necessary to confirm the infeasibility of agricultural conservation easements, still applies. The Statement of Overriding Conditions was further supported by the Feasibility Study prepared and presented to the City of Visalia Council in February 2021 and as described on pages 13 and 14 of the Addendum.

Further, page 12 of the Addendum cites recent case law out of the 5th District Court of Appeal, which established that agricultural easements do not mitigate in whole or in part, for the loss of agricultural land as follows:

“Entering into a binding agricultural conservation easement does not create new agricultural land to replace the agricultural land being converted to other uses. Instead, an agricultural conservation easement merely prevents the future conversion of the agricultural land subject to the easement. Because the easement does not offset the loss of agricultural land (in whole or in part), the easement does not reduce a project's impact on agricultural land.”⁹

The conclusion that “the use of agricultural conservation easements ... is no longer considered mitigation” is derived directly from the above cited published opinion from the 5th District Court of Appeal.

Additionally, the revisions to General Plan Policy LU-P-34, while removing the requirement for an agricultural mitigation program to be implemented by the City of Visalia, does not preclude or prevent the establishment of an agricultural mitigation program or agricultural conservation easements by other jurisdictions or by a third party.

SUMMARY OF COMMENT F-5

The commenter provides facts about agriculture and its conversion pressures in California, as well as the benefits of agricultural land outside of urban areas.

RESPONSE F-5

Comment noted.

SUMMARY OF COMMENT F-6

The commenter encourages the City to keep the agricultural mitigation program required by the current General Plan Policy LU-P-34.

⁹ King & Gardner, LLC v County of Kern (2020) 45 Cal.App.5th 814, 875.

RESPONSE F-6

Comment noted.

SUMMARY OF COMMENT F-7

The commenter provides a number of resources and studies that relate to farmland conversion and mitigation.

RESPONSE F-7

Comment noted.

LETTER G: LEADERSHIP COUNSEL FOR JUSTICE & ACCOUNTABILITY

SUMMARY OF COMMENT G-1

The commenter states the Addendum fails to provide alternative mitigation to minimize environmental impacts from farmland conversion.

RESPONSE G-1

Several General Plan policies were cited to reduce Impact 3.5-1 (Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), Impact 3.5-2 (Conflict with Agricultural Use or a Williamson Act Contract), and Impact 3.5-3 (Changes in Existing Environment Resulting in Conversion of Farmland), as discussed in the Draft EIR. A list of mitigating General Plan policies in addition to Policy LU-P-34 is contained on pages 8 and 9 of the Addendum and include the following (full text of each policy is included in Appendix 1).

It should also be noted that a Statement of Overriding Considerations and Findings of Fact adopted with the certification of the Visalia 2030 General Plan EIR in 2014 recognized that impacts to agricultural resources would be significant and unavoidable and documented the following reasons that agricultural conservation easements would be infeasible mitigation at that time:

- 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.

The adopted Statement of Overriding Considerations and Findings of Fact, which documented the findings necessary to confirm the infeasibility of agricultural conservation easements, still applies. The Statement of Overriding Conditions was further supported by the Feasibility Study prepared and presented to the City of Visalia Council in February 2021 and as described on pages 13 and 14 of the Addendum.

Further, page 12 of the Addendum cites recent case law out of the 5th District Court of Appeal, which established that agricultural easements do not mitigate in whole or in part, for the loss of agricultural land as follows:

*"Entering into a binding agricultural conservation easement does not create new agricultural land to replace the agricultural land being converted to other uses. Instead, an agricultural conservation easement merely prevents the future conversion of the agricultural land subject to the easement. Because the easement does not offset the loss of agricultural land (in whole or in part), the easement does not reduce a project's impact on agricultural land."*¹⁰

¹⁰ King & Gardner, LLC v County of Kern (2020) 45 Cal.App.5th 814, 875.

The conclusion that “the use of agricultural conservation easements ... is no longer considered mitigation” is derived directly from the above cited published opinion from the 5th District Court of Appeal.

SUMMARY OF COMMENT G-2

The commenter states the Addendum’s 10-day public comment period was insufficient to adequately inform the public.

RESPONSE G-2

According to the CEQA Guidelines Section 15164(c), the preparation of an Addendum does not require a public comment period. Additionally, although the City made the document available for a voluntary 10-day public review and comment period, comments may still be submitted following this period. Any written comments received before the hearing will be distributed to the Planning Commission and City Council, although comments submitted after the comment period may not receive a written response.

SUMMARY OF COMMENT G-3

The commenter states their concern with the removal of the agricultural mitigation program and believes the removal of the program will incentivize sprawl.

RESPONSE G-3

Several General Plan policies were cited to reduce Impact 3.5-1 (Conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance), Impact 3.5-2 (Conflict with Agricultural Use or a Williamson Act Contract), and Impact 3.5-3 (Changes in Existing Environment Resulting in Conversion of Farmland), as discussed in the Visalia 2030 General Plan Draft EIR. A list of mitigating General Plan policies in addition to Policy LU-P-34 is contained on pages 8 and 9 of the Addendum and include the following (full text of each policy is included in Appendix 1).

These policies support continued agricultural uses and slow the conversion of farmland through growth management strategies. Policy LU-P-21 specifically establishes thresholds for the City’s adopted growth management strategy, which requires a certain number of permits be issued within the current growth boundary prior to allowing growth to proceed into the next growth boundary. Furthermore, the General Plan Amendment retains policy language that would encourage coordination with other agencies to prevent urban development of agricultural land outside of the current growth boundaries, where such efforts will promote orderly development and preservation of farming operations within Tulare County, and support regional efforts to prevent urban development of agricultural lands, specifically at the county level.

SUMMARY OF COMMENT G-4

The commenter urges the City to work with stakeholders to ensure environmental impacts are sufficiently addressed, in order to comply with CEQA.

RESPONSE G-4

Comment noted.



COMMENT LETTER A

MAY 24, 2021

VIA EMAIL: BRANDON.SMITH@VISALIA.CITY

Brandon Smith, Senior Planner
City of Visalia
Community Development Department
707 West Acequia Avenue
Visalia, CA 93291

Dear Mr. Smith:

ADDENDUM TO THE CITY OF VISALIA 2030 GENERAL PLAN ENVIRONMENTAL IMPACT
REPORT FOR GENERAL PLAN AMENDMENT NO. 2021-01, SCH# 2010041078

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Addendum to the City of Visalia 2030 General Plan Environmental Impact Report for the General Plan Amendment No. 2021-01 (Project). The Division monitors farmland conversion on a statewide basis, provides technical assistance regarding the Williamson Act, and administers various agricultural land conservation programs. We offer the following comments and recommendations with respect to the project's potential impacts on agricultural land and resources.

Project Description

The City of Visalia is proposing General Plan Amendment No. 2021-01 (GPA), which would amend General Plan Policy LU-P-34 to remove the requirement to establish an agricultural mitigation program for development within the Tier II and Tier III growth boundaries.

Department Comments

The Department supports the City's General Plan Policy LU-P-34, and believes that implementation of this, and other agricultural policies outlined in the City's General Plan, would successfully mitigate the impacts from projects impacting California's important farmland; and therefore, the Department urges the City to reconsider removing the requirement to establish an agricultural mitigation program.

The conversion of agricultural land represents a permanent reduction in the State's agricultural land resources. As such, the Department advises the use of permanent agricultural conservation easements on land of at least equal quality and size as compensation for the loss of agricultural land.

A-1

As stated in CEQA guidelines, mitigation may include, "Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements."¹ Of course, the use of conservation easements is only one form of mitigation that should be considered. Any other feasible mitigation measures should also be considered.

A-2

A source that has proven helpful for regional and statewide agricultural mitigation banks is the California Council of Land Trusts. They provide helpful insight into farmland mitigation policies and implementation strategies, including a guidebook with model policies and a model local ordinance. The guidebook can be found at:

A-3

<http://www.calandtrusts.org/resources/conserving-californias-harvest/>

Another source is the Division's California Farmland Conservancy Program, which has participated in bringing about conservation easements throughout the State of California involving many California land trusts.

Conclusion

Thank you for giving us the opportunity to comment on the Addendum to the City of Visalia 2030 General Plan Environmental Impact Report for the General Plan Amendment No. 2021-01. Please provide this Department with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions regarding our comments, please contact Farl Grundy, Associate Environmental Planner via email at Farl.Grundy@conservation.ca.gov.

Sincerely,

Monique Wilber

Monique Wilber

Conservation Program Support Supervisor

¹ California Code of Regulations, Title 14, Division 6, Chapter 3, Article 20, Section 15370(e), [https://govt.westlaw.com/calregs/Document/I07DD0C819A19416D9A128AAC4B52ADD9?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I07DD0C819A19416D9A128AAC4B52ADD9?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

COMMENT LETTER B



May 26, 2021

Brandon Smith
Senior Planner
City of Visalia Community Development Department
315 East Acequia Avenue
Visalia, CA 93291

Re: Addendum to Environmental Impact Report for 2014 General Plan Update

Dear Mr. Smith,

I am writing on behalf of Sequoia Riverlands Trust (SRT) to comment on the Addendum to the Environmental Impact Report for the 2014 General Plan Update (hereinafter, "Addendum"). SRT is a regional, Land Trust Alliance-accredited nonprofit that holds fee title, conservation easements or deed restrictions on over 40,000 acres of habitat and farmland in the Southern Sierra, Southern San Joaquin Valley and Carrizo Plain. Formed from a merger of three local land trusts in Tulare County, and deeply rooted in the Visalia community, SRT has extensive experience helping local jurisdictions implement agricultural mitigation programs.

As noted in our January 28, 2021 letter regarding the Agricultural Mitigation Program and Feasibility Study (incorporated by reference and included as Attachment A), we have serious concerns about the proposed amendment to General Plan Policy LU-P-34. The amendment would eliminate the 1:1 mitigation requirement for projects that convert prime farmland or farmland of statewide importance in Tiers II and III,¹ replacing it with a general aspiration to

[w]ork 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, where such efforts will promote orderly development and preservation of farming operations within Tulare County . . . [and] support regional

B-1

¹ City of Visalia. 2014. General Plan Update (Land Use Element, Policy LU-P-34). Retrieved from <https://www.visalia.city/civicax/filebank/blobdload.aspx?BlobID=30474>.

efforts to prevent urban development of agricultural lands, specifically at the county level.²

The Addendum notes that conservation easements do not fully mitigate the impacts of development because they do not put new agricultural land into production, but incorrectly concludes that “the use of agricultural conservation easements . . . is no longer considered mitigation.”³ It also claims that an agricultural mitigation program could not ensure that easements would be appropriately located, and that their cost would create an obstacle to homeownership.

B-2

I. Conservation Easements Make a Meaningful Cumulative Contribution to Protecting Agricultural Resources.

B-3

Easements do not put new land into production, but they do contribute to the cumulative protection of agricultural resources. As described in Attachment A, easements slow the overall rate of farmland conversion by disincentivizing unnecessary consumption of farmland, and by providing resources for farmland conservation. Research conducted by American Farmland Trust, including case studies of San Joaquin Valley jurisdictions like Stanislaus County, shows how conservation easements can help maintain the viability of agriculture, while still allowing communities to grow.⁴

The California Environmental Quality Act (CEQA) provides that “[e]ach public agency shall mitigate . . . significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.”⁵ And the California Supreme Court has held that “[e]ven when a project’s benefits outweigh its unmitigated effects, *agencies are still required to implement all mitigation measures unless those measures are truly infeasible.*”⁶ Even if easements do not fully mitigate impacts to agricultural land, they are demonstrably feasible measures that provide at least partial mitigation. The proposed replacement for Policy LU-P-34 does not provide a comparable level of mitigation, or any accountability measures to determine whether mitigation has occurred at all. As noted in Attachment A, it may actually impede homebuilding in Tiers II and III by creating the need for project-level CEQA review and mitigation measures.

B-4

B-5

² Addendum § 2.2. Retrieved from <https://www.visalia.city/civicax/filebank/blobdload.aspx?BlobID=48054>.

³ Addendum § 4.2, citing *King and Gardiner Farms, LLC v. County of Kern et al.* (2020), 45 Cal.App.5th 814, 875.

⁴ See American Farmland Trust. 2013. Farmland Conservation: Reality or Wishful Thinking? Retrieved from https://s30428.pcdn.co/wp-content/uploads/sites/2/2019/09/AFT_CA_Case-Studies-ALL-FINAL-PDF-7-29-13b.pdf.

⁵ Cal. Pub. Res. Code § 21002.1(b).

⁶ *Sierra Club v. County of Fresno* (2018), 6 Cal.5th 502, 524-25, citing *City of San Diego v. Board of Trustees of California State University* (2015), 61 Cal.4th 945, 967 (emphasis added).

II. The Need for Appropriately-Located Conservation Easements Is Not a Barrier to Implementing Policy LU-P-34.

The Addendum also claims that it may be difficult to acquire easements in a geographically contiguous pattern that ensures the economic viability of agriculture. As described in Attachment A, the City of Visalia has already identified areas where growth should be avoided, and land trusts like SRT have extensive experience using conservation planning tools to determine where easements can have the greatest impact. Applying these criteria to farmland in and around the City of Visalia, with an emphasis on the City's stated intention to maintain greenbelts in specific places,⁷ we are confident that SRT or a comparable land trust could identify the highest-impact areas for investments in farmland mitigation. A land trust's ability to obtain multiple contiguous easements in any given area will depend on the particular landowners involved, but in SRT's experience, many farmers find the infusion of capital from selling a conservation easement to be a significant benefit. In some cases, it provides the funding they need to stay in business. And for farmers near the urban edge, like those in Tiers II and III, easements may provide an economically viable alternative to selling their land to developers.

III. Conservation Easements Would Not Create a Barrier to Homeownership.

SRT agrees with the City on the importance of lowering barriers to homeownership, but we do not believe that eliminating 1:1 farmland mitigation will contribute to this goal. As noted in the Addendum, the City's Feasibility Study estimated that conservation easements would add as little as \$355.40 to the cost of a home in a high density development, and less than \$3,000 to the cost of a home in a very low density development. Amortized over a 30-year mortgage with a 3.5% interest rate, this amounts to \$1.60 a month for the high density home, and \$13.16 per month for the very low density home.⁸ The need for long-term easement monitoring may slightly increase these costs, but when compared with home prices in the hundreds of thousands of dollars and monthly mortgage payments in the thousands, it is unlikely that these amounts will create a barrier for buyers who are otherwise able to afford a home in Visalia.

IV. A Change of This Magnitude Should Receive More Thorough Environmental Review.

The proposed General Plan Amendment is unlikely to affect whether individual homebuyers are priced out of the market, but it could have a significant impact on where and how homes are built, the viability of agriculture in and around the City of Visalia, and the quality of life for future residents. A change of this magnitude should be undertaken only with thorough environmental review and an adequate amount of time for stakeholders to respond. At a minimum, we believe that this would entail a Supplemental EIR with a full comment period.

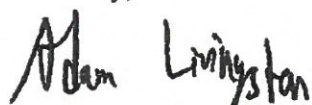
⁷ City of Visalia, 2014 (Land Use Element, 2-32).

⁸ Mortgagecalculator.org, 2021.

Rather than going this route, however, we would urge the City to reconsider its effort to amend the General Plan. The mitigation program envisioned in Policy LU-P-34 might not put new land into production, but it can protect a portion of the farmland that remains, provide at least partial mitigation for the impacts of development in Tiers II and III, and contribute to the quality of life that makes Visalia one of the San Joaquin Valley's most desirable places to live. Should the City wish to develop such a program, SRT remains ready to offer input, and to work with City staff, project proponents and willing landowners on implementation.

We appreciate your consideration, and would welcome the opportunity to discuss these issues further.

Sincerely,

A handwritten signature in black ink that reads "Adam Livingston". The signature is written in a cursive, slightly slanted style.

Adam J. Livingston
Director of Planning and Policy
Sequoia Riverlands Trust

COMMENT LETTER C



May 27, 2021

Visalia Planning Department
Attn: Brandon Smith, Senior Planner
City of Visalia Community Development Department
315 East Acequia Avenue
Visalia, CA 93291

Re: Addendum to Environmental Impact Report for Visalia's 2014 General Plan Update

Dear Mr. Smith,

The Central Valley Partnership (CVP) is a regional network of labor unions, environmental organizations and community leaders spanning Tulare County and the southern San Joaquin Valley. Our mission is to achieve social, racial, environmental and economic justice across the region.

The CVP deeply understands and associates land use policy as central to achieving equity and justice in the region. We are particularly concerned with saving prime farmland and other natural resources, infill and transit oriented development, and the revitalization of existing neighborhoods and downtown centers. The growth of cities, like Visalia, is fundamental to stabilizing the future growth of the region as a whole. Smart growth policies promise to secure our agricultural industry and conserve our vital resources long into the future while intensifying capital investment and economic development in the city's already existing neighborhoods, main streets and historic downtowns.

In 2014, the City of Visalia passed a general plan that included a specific and implementable farmland mitigation policy. Perhaps most significant is its requirement of 1:1 mitigation for projects that convert prime farmland or farmland of statewide importance in Tiers II and III of the city's growth model. This modest policy, under General Plan Policy LU-P-34, is aligned with many other cities and counties in the San Joaquin Valley and across California, including the neighboring City of Tulare (1:1), City of Stockton (1:1), City of Elk Grove (1:1), City of Vacaville (1:1), City of Livermore (1:1), County of Stanislaus (1:1), and County of San Joaquin (1:1). This has been a foundational standard for farmland conservation. Some jurisdictions, moreover, have significantly raised the base ratio in an effort to more forcefully protect local agricultural production and promote urban revitalization, most notably the City of Davis (2:1) and County of Yolo (3:1). If Visalia were truly to present itself as the most significant city in the country's most productive food-producing county, then it would consider and implement a much higher ratio than 1:1 of farmland conservation to acres lost to sprawl development..

C-1

Rather than reaching for a higher standard, grounded in actual practice, the City of Visalia proposes replacing a well-defined and implementable policy with an amorphous, convoluted and aspirational one that proposes to

C-2

Work with Tulare County and other state and regional agencies, neighboring cities, and private land trusts entities to prevent urban development of agricultural land outside of the current growth boundaries, where such efforts will promote orderly development and preservation of farming operations within Tulare County . . . [and] support regional

efforts to prevent urban development of agricultural lands, specifically at the county level.

This language is basically meaningless, especially when the addendum proposes to "remove the requirement for establishment of an agricultural mitigation program." Indeed, the proposed addendum to replace Policy LU-P-34 does not provide any specified or adequate alternative mitigation measures, or any accountability measures to determine whether mitigation has actually occurred.

By diluting and weakening this farmland conservation policy in its general plan, the city unnecessarily exposes all future projects to further intensified CEQA requirements and scrutiny on a project-by-project basis. Without a base framework, each new project will attempt to skirt its mitigation requirements and therefore will require increased attention and potential advocacy to achieve any meaningful farmland conservation objectives. The city's change in policy opens this blatant loophole.

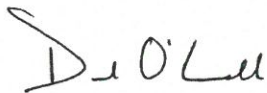
Furthermore, it could be argued that this proposed change of policy at the City of Visalia endangers the viability of all regional and statewide farmland conservation and urban revitalization efforts. By threatening to set a precedent for the weakening conservation and mitigation policies to the lowest denominator, this change undermines the more explicit, defined and comprehensively practiced methods used by other municipalities and in other jurisdictions to comply with California law.

Given the local, regional and statewide significance of the City of Visalia's proposed general plan change, the current addendum is woefully inadequate in its assessment and identification of specific mitigation measures needed to conserve farmland that will be lost to planned future sprawl development. The California Environmental Quality Act provides that each public agency shall mitigate for the "significant effects on the environment that it carries out or approves whenever it is feasible to do so." In the case of Visalia's attempt to revise Policy LU-P-34, the city has failed to adequately examine and has underestimated the detrimental environmental outcomes of the proposed change to its general plan.

With such a major change in its land use policies for such a major urban center in the midst of the world's most important agricultural region, and especially as the city's addendum targets the viability of a central mitigation policy, **it is incumbent upon the City of Visalia to prepare a subsequent or supplemental Environmental Impact Report.** By removing the agricultural mitigation program and not replacing it with new measures to offset this loss of partial mitigation, the city is proposing a major revision of its previous policy. Therefore, the city must undergo a thorough public process to better understand the ramifications of its proposed policy change.

The Central Valley Partnership will remain engaged on this issue. Please continue to notify us of further public meetings and share pertinent policy documents with our organization as the process moves forward.

Sincerely,



Daniel O'Connell, PhD
Executive Director
Central Valley Partnership

COMMENT LETTER D

SIERRA CLUB



KERN-KAWEAH CHAPTER

P.O. Box 3357
Bakersfield, CA 93385
May 27, 2021

VIA ELECTRONIC MAIL

Visalia Planning Department
Attn: Brandon Smith, Lead Planner
315 E. Acequia Ave
Visalia, CA 93291

Re: Addendum to the City of Visalia 2030 General Plan EIR

Dear Planners:

The local Sierra Club Chapter, with hundreds of members in Tulare County, has long supported the use of agricultural conservation easements to help protect and preserve valuable southern San Joaquin Valley farmland and to lessen the effects of conversion of farmland to urban use. We have read Visalia's EIR Addendum, and we have the following comments.

Elimination of mandatory mitigation of the loss of Prime Farmlands and Farmlands of Statewide Importance is a major change that increases the significance of the adverse impact associated with the conversion of farmlands to nonagricultural use.

As explained in the Agricultural Mitigation Policy (AMP) Feasibility Study, the County adopted the AMP after much deliberation in order to mitigate the significant impact caused by the wide-spread anticipated conversion of important farmlands to non-agricultural use:

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

D-1

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. (page 6.)

Using mandatory "shall" language, LU-P-34 required the City to address the loss of Prime Farmland or Farmlands of Statewide Importance by requiring "1:1 ratio of agricultural land preserved to agricultural land converted and require agricultural land preserved to be equivalent to agricultural land converted." The use of "shall" indicates that the General Plan specifically required the City to impose the 1:1 mitigation; this is not a mitigation that required the City to "encourage" or "promote" a policy. The concrete and well-defined nature of the mitigation was intended to ensure the adverse impact caused by the loss of Prime Farmland or Farmland of Statewide Importance would be mitigated to the extent feasible.

D-2

The mandatory language the City used in describing the mandatory 1:1 mitigation requirement is in contrast with the more permissive language it used in adopting other policies intended to reduce the significance of the impact associated with the loss of farmland. LU-P-14, for example, directs the City to "support" the continuation and development of agriculture and agriculture-related enterprises."

Based on the foregoing, the City concluded that the impact of development on farmland loss would be substantially mitigated by the agricultural mitigation program from LU-P-34, as reflected in the 2014 General Plan EIR.

The Addendum misrepresents the law of agricultural conservation easements

D-3

The Addendum's claim that "recent case law out of the 5th District Court of Appeal has since established that agricultural easements, as would be required under the agricultural mitigation program, do not mitigate in whole or in part, for the loss of agricultural land" is misleading and incorrect. (See page 11.) In reviewing the evolution of farmland mitigation jurisprudence, the King and Gardner court noted that the California Courts have recognized that

Although the developed farmland is not replaced, an equivalent area of comparable farmland is permanently protected from a similar fate. To meet the reasonable relationship standard *it is not necessary to fully offset the loss. The additional protection of farmland that could otherwise soon be lost to residential development promotes the County's stated objective to conserve agricultural land for agricultural uses.* Further, the requirement of rough proportionality between the mitigation measure and the impact of the development project is met. [Citation.] For every acre of farmland permanently lost to residential development another acre of

farmland is permanently protected from residential development.” (*Id.* at p. 592, 118 Cal.Rptr.3d 467.)

King & Gardiner Farms, LLC v. County of Kern (2020) 45 Cal.App.5th 814, 875.

D-4

Masonite Corp. v. County of Mendocino (2013) 218 Cal.App.4th 230 is also on point. In Masonite, the EIR for a sand and gravel quarry on a site where vineyards were cultivated rejected the use of agricultural conservation easements as a possible mitigation measure because the EIR concluded that agricultural easements only mitigates “ ‘the indirect and cumulative effects of farmland conversion,’ ” such as “ ‘pressure created to encourage additional conversions.’ ” *Id.*, at 238. The Court of Appeal disagreed, holding: “We conclude that [agricultural conservation easements] may appropriately mitigate the direct loss of farmland when a project converts agricultural land to a nonagricultural use.... Our conclusion is reinforced by the CEQA Guidelines, case law on offsite mitigation for loss of biological resources, case law on ACEs, prevailing practice, and the public policy of this state. “ *Id.*

Masonite further explained that

As the California Farm Bureau Federation (CFBF) observes in an amicus curiae brief advocating for the conclusion we reach: “The permanent protection of existing resources off-site is effective mitigation for [a project's direct, cumulative, or growth-inducing] impacts because it prevents the consumption of a resource to the point that it no longer exists.... If agricultural land is permanently protected off-site at, for example, a 1:1 replacement ratio, then at least half of the agricultural land in a region would remain after the region has developed its available open space.” By thus preserving substitute resources, ACEs compensate for the loss of farmland within the Guidelines' definition of mitigation. (Guidelines, § 15370, subd. (e) [mitigation includes “[c]ompensating for the impact by replacing or providing substitute resources or environments”].) *Id.*

Masonite is still good law, even after King and Gardner, which concluded that its conclusion that “significant impact on agricultural land would remain significant after the implementation of the agricultural conservation easement,” was not contradicted by Masonite which “did not consider the net effect of implementing an agricultural conservation easement and whether a significant impact could be reduced to a less than significant level by such an easement. King & Gardiner Farms, supra, 45 Cal.App.5th at 875, footnote 32. Accordingly, the Addendum's contention that agricultural easements are completely ineffective in reducing the significance of the loss of important farmlands is incorrect.

The Addendum, and the Feasibility Study on which it is partially based, are woefully inadequate because they do not include a comprehensive and adequate analysis of California law on the subject of agricultural conservation easements.

D-5

The Addendum does not adequately analyze the impacts associated with the proposed changes to Policy LU-P-34

The Addendum admits that the proposed revisions to Policy LU-P-34 to “remove the requirement for establishment of an agricultural mitigation program, as proposed under the GPA, would affect the efficacy of the Policy to reduce the identified impacts, as evaluated at the time of the Draft EIR.” By removing the agricultural mitigation program and by not replacing it with new mitigation measures or strategies to offset this loss of partial mitigation, the impact on farmland loss of the GPA will be substantially more severe than shown in the 2014 General Plan EIR. The Addendum makes no effort to analyze the magnitude of the resulting impacts, which as set forth below, could only be adequately analyzed through the preparation of a supplemental or subsequent EIR.

The Addendum fails entirely to adequately analyze the change in the severity of the impact on farmlands. In this regard, the Addendum claims “As no changes in land use or associated buildout projections, urban growth tiers, or the associated threshold requirements for moving from the Tier I growth boundary to subsequent growth tiers are proposed as part of the GPA, no new significant impacts or substantially more severe impacts would occur from those previously identified.” Addendum at p. 10. This analysis is entirely inadequate and unconvincing as it makes no effort to gauge the local or regional impact on farmlands associated with the elimination of the mandatory mitigation requirement. The fact that the City is not proposing any other land uses changes is inapposite, and does not support a conclusion that the elimination of the mitigation requirement would not result in more widespread and rapid loss of Prime Farmland and Farmlands of Statewide Importance.

D-6

The Addendum does not consider ameliorating the impact of the elimination of the mandatory mitigation by increasing density of any development that would require the conversion of Prime Farmlands. One of the stated reasons for eliminating the AMP is the cost that would be added to housing built on farmland. Table 2 of the Feasibility Study (Cost Burden per Unit) supports the conclusion that to substantially reduce the impact on housing cost, the focus of farmland development should be on developing higher density residential development. Not only would higher density development cut down on the per unit cost and make housing more affordable, but, by concentrating development on fewer acres, higher density development would help to preserve farmland. For example, building 100 units at 10 units per acre would convert 10 acres of farmland while building 100 units at 2 units per acre would convert 50 acres of farmland. The lower density project would incorporate 40 additional valuable farmland acres, a much greater impact.

Requiring higher density on Important Agricultural Land is a feasible mitigation measure to reduce the impact on conversion of farmlands, and the Addendum is defective in not having thoroughly analyzed the potential for this requirement as a partial alternative to the policy of adopting an AMP.

The Addendum also fails to analyze the extent to which agricultural conservation easements described in the current LU-P-34 serve as a financial disincentive for farmland development, since purchase of conservation easements is an additional cost to the developer. The marginal added cost of farmland mitigation ensures that a prospective developer would seek non-productive farmland for development, and/or maximize the potential density. Without the mitigation requirement, there is no incentive for a developer not to build on prime farmlands or farmlands of state-wide importance. By eliminating any additional cost associated with conversion of prime farmlands, the proposed GPA revision would essentially create a perverse incentive not to develop non-prime farmlands. Without analyzing the effect of removing this disincentive, the Addendum anticipates no changes in associated buildout projections resulting from this GPA. **The Addendum is defective in not having thoroughly analyzed buildout projections** through the 2030 timeframe of the General Plan **under both scenarios**, with and without the financial disincentive.

The General Plan contains several policies with farmland implications, including LU-P-38 and LU-P-44:

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

Has an Urban Agriculture Ordinance been adopted? If so, how has it been used? Has it been effective?

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

Has a bonus/incentive program to promote and facilitate infill development been adopted? If so, how has it been used? Has it been effective?

LU-P-44 intends to reduce the impact to agriculture by “promoting” infill development. The Addendum fails to consider a revision of this policy to require as a condition of approval of a project that converts prime or other important farmland a finding that vacant, underdeveloped or other suitable non-farmland land within the City limits are unavailable. Such a requirement would clearly reduce the conversion of farmlands by ensuring infill development on non-prime farmland occurs before prime farmland is converted.

The City must prepare a subsequent or supplemental EIR.

According to CEQA Guideline §15162(a)(1), the agency must prepare a subsequent EIR if “Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental impacts or a **substantial increase in the severity of previously identified significant impacts.**” As explained above, the elimination of the requirement for 1:1 mitigation of loss of prime farmland by acquisition of agricultural easements will require major revisions of the 2030 General Plan EIR because the proposed change would result in a substantial increase in the severity of the impact on loss of farmland within the City limits. The Addendum does not cite any substantial evidence and does not provide any persuasive argument to prove otherwise.

We incorporate by reference our January 29, 2021 letter on the AMP Feasibility Study, and we include it as an email attachment.

Please place the Sierra Club on the distribution list for the Agricultural Mitigation Program and General Plan Amendment to receive any noticing of meetings, hearings, availability of documents, and to receive the environmental documents. We prefer email communications and electronic formatting of documents. Thank you for your consideration and for the opportunity to comment.

Sincerely,



Gordon L. Nipp, Ph.D.

Vice-Chair

gnipp@bak.rr.com

661-872-2432

COMMENT LETTER E



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May 28, 2021

Sent via email to: brandon.smith@visalia.city

Brandon Smith
Senior Planner
City of Visalia Community Development Department
315 East Acequia Avenue
Visalia, CA 93291

RE: Addendum to the City of Visalia 2030 General Plan Environmental Impact Report

Dear Mr. Smith,

On behalf of the California Farmland Trust (CFT), I am writing to provide comments to the City of Visalia's (City) Addendum to the 2030 General Plan Environmental Impact Report (Addendum). Founded in 2004, CFT is a non-profit 501 (c) (3) corporation with a mission to help farmers protect the best farmland in the world by conserving a unique natural resource that will enable future generations to thrive. CFT has successfully leveraged private donations and public funds to protect over 16,700 acres throughout the Central Valley and several more thousands in the process of protection and of interested landowners wishing to protect.

Agriculture is an essential sector of California's economy, representing \$54 billion dollars and generates more than \$100 billion in related economic activity. California is the largest producer and exporter of dairy products, fruits, and nuts. Over a third of the country's vegetables and two-thirds of the country's fruits and nuts are grown in the Golden State. California is also the most populous. Many cities and counties struggle with the balance of protecting the working landscape and providing for urban needs. As a result, local jurisdictions have made extensive efforts to acknowledge this delicate balance and plan for a resilient and prosperous future, recognizing a coordinated approach to protecting farmland and providing urban infrastructure through various planning tools.

The City of Visalia reports on its website that the City enjoys an increasingly diversified economy with agriculture and related food processing and distribution as the heart of their industry. The website goes on to reference Tulare County as leading the nation in dairy production, and the County's agricultural strength is because of the diversity of crops produced, the variety of jobs the industry provides, and the value-added



E-1



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agricultural products it contributes to support the economic engine of the area. Agriculture across the State, not just in the City, contributes to biodiversity and climate mitigation. These working landscapes are critical for wildlife habitat, carbon sequestration, food security and provides climate solutions to benefit everyone. To that end, it needs to be every jurisdiction's responsibility to participate in the global effort of farmland protection to ensure an adequate regional food system, healthy local economy, and stewardship of its natural resources. To eliminate one of the critical farmland protection planning tools, General Plan Policy LU-P-34 would be a major flaw in the City's General Plan.

We offer the following recommendations to assist the City in developing a more robust agricultural protection policy, rather than diminish them for those reasons stated above.

Farmland protection using conservation easements

Much like the protection of threatened species through easements that protect habitat, farmland protection through agricultural easements is an equally important component of a package of land use planning tools. We encourage the City not to eliminate General Plan Policy LU-P-34 that would replace its obligation to mitigate farmland loss. While we appreciate the City's effort to coordinate its work with other agencies, cities, and the County to promote orderly development, the term orderly will be left to be defined by the body of elected officials at the time and will not be meaningful, implemental, or well-defined. Requiring farmland mitigation, even though it does not put new land into production, does provide a cumulative effect for the protection of agricultural resources and is an important tool that has proven much success.

E-2

Example of effective use of agricultural conservation easements

We disagree with the City's assumption that conservation easements and an agricultural mitigation program would be infeasible and lack interested landowners. CFT, through willing sellers, has created meaningful conserved areas in Merced County that have protected over 11,000 acres of farmland around the growing cities in the County. Recognizing the need for cities to grow, we complement regional land use plans that document urban growth and farmland protected areas. This effort contributes to thoughtful land use planning by recognizing areas planned for development, giving farmers confidence to remain in production without the threat of non-ag uses, and protecting lands important for groundwater recharge, assisting the groundwater sustainability agencies (GSAs) in balancing the needs of the

E-3



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basin. This example can be duplicated around many other areas in the Central Valley, not only from our organization but with other land trusts doing this work.

Land trusts, specifically the Sequoia Riverlands Trust, which is accredited and rooted in Tulare County and the Visalia community, have the expertise and should be sought as a partner to assist the City in its agricultural mitigation efforts. Land trusts work with willing sellers of conservation easements and use conservation planning tools to determine if an agricultural easement is appropriate for the land, landowner, and surrounding area. As a result, easements are placed to ensure the economic viability can be sustained to properly steward the easement in perpetuity.

In short, agricultural conservation easements are effective and will continue to be so when handled by experienced and competent land trusts.

We encourage the City to apply for the Sustainable Agricultural Conservation Planning Grant administered by the California Department of Conservation to provide funds to develop a plan for the protection of agricultural land at risk of conversion to non-agricultural uses. These plans support agricultural land conservation by maintaining and developing regional food systems. A grant would provide the City the capacity and resources to create a robust farmland protection strategy and smart growth priorities to benefit the City's residents and economy.

E-4

In closing, we encourage the City to maintain its General Plan Policy LU-P-34, requiring 1:1 mitigation for farmland impacts. In doing so, the City will benefit from orderly urban build out, quality of life for its residents, robust economy, and help achieve climate resiliency.

E-5

Respectfully,

Charlotte Mitchell
Executive Director

COMMENT LETTER F



May 28, 2021

Brandon Smith
Senior Planner
City of Visalia Community Development Department
315 East Acequia Avenue
Visalia, CA 93291

Sent via email to: Brandon.Smith@visalia.city

RE: Comments on "Preparation of Addendum to Environmental Impact Report for Visalia Agriculture Mitigation"

Dear Mr. Smith:

American Farmland Trust (AFT) is the only national conservation organization dedicated to protecting farmland, promoting sound farming practices, and keeping farmers on the land. AFT is deeply committed to maximizing the co-benefits of agriculture, including agriculture's ability to help fight climate change by reducing greenhouse gas emissions and removing carbon from the atmosphere. As we celebrate our 40-year history as an organization, we want to pause and reflect on our history, one that is deeply connected to the Visalia community which housed AFT's first ever national field office, due to the highly productive value of agricultural lands in the area and the extreme threat to them being lost forever. With this in mind, we want to acknowledge that the San Joaquin Valley remains a critically important agricultural region to the state, the nation and to the global economy. We appreciate the opportunity to provide insights to farmland protection, in a region that is so heavily dependent on the well-being of its agricultural economy.

In this spirit, we respectfully submit our recommendations to the City of Visalia's "Preparation of Addendum to Environmental Impact Report for Visalia Agriculture Mitigation."

“

We are deeply concerned with the proposed action, that if chosen, would render the City's Agricultural Mitigation strategy in its general plan superficial at best, and would threaten to undermine decades of farmland protection and advancements in this region. Communities rely on these agricultural resources for jobs, and to enhance the quality of life that so many have come to love in your city.

455 CAPITOL MALL, SUITE 410, SACRAMENTO, CA 95814

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Our comments will focus on:

- Extension Request on Comment Period
- San Joaquin Valley Regional Trends
- San Joaquin Valley Stressors
- The Important Role of Farmland Mitigation
- Value of Agricultural Easements
- Resources and Studies

Extension Request on Comment Period

F-2

While AFT would have liked the opportunity to provide more thoughtful comments, we wish to highlight our organization did make a request for an extension to this 10-day comment period. We understand why this request was not granted, as it is not a requirement of the CA Environmental Quality Act and per your staff, but as a matter of good public policy, during a pandemic that has been challenging for communities and organizations alike to participate, an extension would have been an appropriate measure.

San Joaquin Valley Regional Trends

F-3

The San Joaquin Valley is the nation's agricultural powerhouse with more than 300 crops and livestock products. Water scarcity, changing climate conditions, new regulations, slashed income due to pandemics, and growing populations are just some of the challenges farmers and ranchers face here. The region is among the state's fastest growing, with development happening on the highest quality agricultural land.

Consider these facts.

According to AFT's Research:

- Only four in 10 acres of the Valley's agricultural land is determined to be of the highest quality.
- Only 9% of the Valley's irrigated farmland is high quality and experiencing low-water stress.
- As many as 323,000 acres are projected to be converted into low-density urban and rural residential uses by 2050 in the San Joaquin Valley, according to spatial analysis research conducted 2015 to 2018 with AFT and Conservation Biology Institute.
- An estimated 55% of the Valley's high-quality farmland has a high risk of development.

California Department of Conservation:

According to the 2014-2016 California Farmland Conversion Report¹, urban development, which totaled 44,942 acres, was virtually the same as the 2012-14 update. The highest amount, 47 percent, occurred in the San Joaquin Valley region. **This is the first time the San Joaquin Valley has taken the top spot in the State for new Urban and Built-up Land since the Farmland Mapping and Monitoring Program began compiling regional conversion statistics in 1990.**

- **Between 1998-2018, Tulare County has lost 60,927 acres of prime farmland and farmland of statewide importance.** The net loss is reduced to 17,167 acres due to the impact of mapping Farmland of Local Importance in the western part of the county. It is important to understand farmland of local importance is not Prime Farmland or Farmland of Statewide Importance.
- DOC defines these lands as:

"Farmland of Local Importance is land of importance to the local economy, as defined by each county's local advisory committee and adopted by its Board of Supervisors. Farmland of Local Importance is either currently producing or has the capability of production; but does not meet the criteria of Prime, Statewide or Unique Farmland. Authority to adopt or to recommend changes to the category of Farmland of Local Importance rests with the Board of Supervisors in each county.

Tulare County defines Farmland of Local Importance as:

Lands that produce dryland grains (barley and wheat); lands that have physical characteristics that would qualify for "Prime" or "Statewide Important" farmlands except for the lack of irrigation water; and lands that currently support confined livestock, poultry, and/or aquaculture operations.²"

While these lands are available, they are not comparable to the farmland surrounding many cities in the San Joaquin Valley and like the City of Visalia, due to the lack of access to reliable water. Access to water will continue to be an issue as the state and local stakeholders prepare to implement the Sustainable Groundwater Management Act (2014).

¹2014-2016 California Farmland Conversion Report.

https://www.conservation.ca.gov/dlrp/fmmp/Pages/2014-2016_Farmland_Conversion_Report.aspx

² 2014-2016 California Farmland Conversion Report, Appendix E.

https://www.conservation.ca.gov/dlrp/fmmp/Pages/2014-2016_Farmland_Conversion_Report.aspx

National Agricultural Statistics Service³:

- The average farm size in Tulare County is 299 acres (2017).
- The number of farms in Tulare County is 4,187, with 34% of farms ranging between 10-49 acres in size.
- There are 7,163 farmers in total in Tulare County. Of those farmers, approximately **8%** are farmers under 35, while farmers between the ages 35-64 comprise of **57%**. A staggering **35%** of farmers are 65 and over. AFT has researched this impending land transfer nationwide, and we expect a massive land transition to occur over the next two decades.

Tulare County Agriculture Commissioner's Report (2019)⁴

- Tulare County's gross farm gate value was \$7.5 Billion, with milk, oranges, grapes, cattle and calves, and tangerines comprising the top 5 commodities.
- In California, Tulare County is ranked third, behind Fresno (1) and Kern (2) Counties respectively.⁵
- Tulare County exported to 96 individual countries during this year.

California Agricultural Land Trends⁶

- The average value of California farm real estate increased in 2019 to \$10,000 per acre, up 7.0 percent from 2018. During the year, the value of irrigated cropland increased 5.6 percent to \$15,100 per acre and non-irrigated cropland increased 6.1 percent to \$5,400 per acre. The value of all cropland increased 5.4 percent, compared to the previous year, to \$12,830 in 2019.

San Joaquin Valley Stressors

In this region, there are specific threats that are known and some that remain unknown but will be revealed in the near future as a result of the pandemic.

Sustainable Groundwater Management Act (SGMA)

³ 2017 National Agricultural Statistics Service Survey.

https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_Profiles/California/cp06107.pdf

⁴ Tulare County, 2019 Crop Report. <https://agcomm.co.tulare.ca.us/ag/index.cfm/standards-and-quarantine/crop-reports1/crop-reports-2011-2020/2019-crop-report/>

⁵ California Department of Food and Agriculture, Agricultural Stats, 2020.

https://www.cdfa.ca.gov/Statistics/PDFs/2020_Ag_Stats_Review.pdf

⁶ California Department of Food and Agriculture, Agricultural Stats, 2020.

https://www.cdfa.ca.gov/Statistics/PDFs/2020_Ag_Stats_Review.pdf

The San Joaquin Valley (SJV), along with a handful of critically over-drafted basins outside of the SJV, will be facing an incredibly challenging land transition over the next two decades while stakeholders work to create and implement meaningful plans to bring groundwater basins to sustainable levels. According to the Public Policy Institute of California, it is projected that "Ending overdraft could require taking at least 500,000 acres of irrigated cropland out of production⁷". Others project upwards of 1.2 million acres in the SJV will need to be transitioned. Regardless, strategic and regional solutions will be necessary for all communities to ensure an orderly strategy that does no harm to community health and resiliency and minimizes economic impacts to the farming economy.

Drought

California is facing yet another significant drought that will have impacts felt by every Californian. Several farming operations lack sufficient access to water to farm their crops, and many cities are implementing drought plans created during the last event. Water is a scarce resource, and it is clear that farmland and natural lands can serve as a beneficial resource to recharge groundwater aquifers, and to address flood occurrences as climate events become more frequent.

High-Speed Rail (HSR)

The State of California continues to invest in the HSR system in the Valley, with substantial budget investments proposed by Governor Newsome in his 2021-2022 budget. The continuation of this project brings the San Joaquin Valley closer to being a hub for regions once thought out of reach for commuters. This is anticipated to create new pressures on development around communities, and in the absence of strong planning and strong agricultural protection policies, will have devastating effects on agricultural lands.

California Housing Affordability

The state is in the throes of a housing affordability crisis. Why does this matter for farmland protection? Farmland and development pressures are inextricably linked. Governor Newsom set his sights on an ambitious housing goal of 3.5 million new homes by 2025.⁸ Coupled with the ongoing pandemic crisis, more Californians sought refuge from mega regions with soaring rents and land values for more affordable regions, while continuing to telework. While it is still early to know the full impact of this, anecdotally, in several valley

⁷ Hanak, et al., Public Policy Institute of California. Water and the Future of the San Joaquin Valley, February 2019. <https://www.ppic.org/publication/water-and-the-future-of-the-san-joaquin-valley/>

⁸ Newsom, Gavin, "The California Dream Starts at Home." October, 2017. <https://medium.com/@GavinNewsom/the-california-dream-starts-at-home-9dbb38c51cae>

communities, it has been difficult to access the white-hot housing market due to cash buyers, making it all the more important that communities are prepared with strong policies that push smart growth and higher densities, keeping affordability key, rather than rushing into greenfield development and sacrificing vital and irreplaceable farmland.

Solar Developments

Another stressor will be solar. With the State of California seeking carbon neutrality and with the increase of electric vehicle utilization in the state, demand and grid stabilization will become a cornerstone to the development of clean energy. AFT recognizes there may be opportunities to couple solar siting on less desirable lands as a result of SGMA land transitions. It will remain critical that communities do not develop the best farmland in pursuit of these solar projects that are rarely designed to support commercially viable agriculture. Least conflict solar siting for the SJV⁹ was also included in [AFT's Project Prioritization Tool](#) (PPT) to allow communities to be better informed and to plan around these renewable needs. The PPT is a decision-making tool that allows users to plan for agricultural land protection, water infiltration, and other relevant planning scenarios to make initial evaluations and explore local planning priorities further. The PPT is explained in more detail on page 10 (Resources) of this letter.

Development Threats

Using [AFT's Project Prioritization Tool](#), we've mapped the City of Visalia's development threat, alongside several adjacent cities (**Appendix A**). It is clear, the staggering threat that the City of Visalia will have towards maintaining productive, versatile, and resilient farmlands in the region. If the pattern of development continues, these resources will be lost forever. AFT would point out, in the absence of a strong city boundary, cities like Farmersville and Tulare will continue to grow towards each other threatening to form a mega region and losing individual community characteristics in a similar fashion to Los Angeles, San Jose or the Greater Bay Area, and closer to home – Fresno and Clovis – which have already converged upon each other.

The Important Role of Farmland Mitigation

Mitigation is a well-accepted strategy for offsetting the negative impact of development on natural resources. It typically entails setting aside and protecting an equal amount of comparable land by purchase of fee title or a conservation easement. It has been widely used in California to offset the loss of wildlife habitat and similar resources. Indeed,

⁹ Conservation Biology Institute, Berkeley Law's Center for Law, Energy and the Environment. A Path Forward, Identifying Least-Conflict Solar PV Development in California's San Joaquin Valley. May 2016. <https://sjvp.databasesin.org/pages/least-conflict/>

mitigation is generally acknowledged to be a legal requirement when habitat is destroyed by development.

Agricultural land – the land on which we depend for our food supply and many other public benefits such as open space, wildlife habitat, aquifer recharge, watershed and floodplain functions, merits the same evaluation when considering mitigation. Farmland mitigation has been sanctioned by the California courts¹⁰, and there are several examples of local jurisdictions¹¹ that require mitigation when farmland is developed and state agencies have started to follow suit, most recently through the cooperation of the High-Speed Rail Authority and Department of Conservation¹².

The development of farmland is very inefficient in the sense that, statewide, less than 10 new residents are being accommodated for each acre lost. In the state's most important agricultural region, the San Joaquin Valley, development is consuming an acre of farmland for every six residents¹³. With over 50,000 acres of farmland lost each year in California, this mentality is devastating the future of farming throughout our state. If this trend continues, California can expect to lose another 1.4 million acres of agricultural land to development by 2050. Three quarters of that, more than a million acres, is likely to be irrigated cropland which is responsible for most of the state's total agricultural production and roughly half of the nation's fruits, nuts and vegetables.

F-5

To put that in perspective, the state now has less than nine million acres of irrigated land. And beyond the loss of this land to development, additional land will be taken out of production as unsustainable groundwater pumping is curtailed and, as predicted, climate change further reduces the overall water supply. It is, thus, not inconceivable that California's irrigated cropland base could in the foreseeable future be reduced by 25 percent.

Protecting agriculture, and especially the most fertile and productive lands that are typically located at the urban edge, is a statewide issue that must be taken seriously at the local level for California to remain a top producing agricultural state. Every acre of fertile, productive land in every jurisdiction counts. Planners, policy makers, and their constituents should not assume, as is often done, that the next county over is a better place for the production of our food. As planners and decision makers, we need to take a hard look at how much farmland we are willing to sacrifice to urban development. AFT

¹⁰ See, *Building Industry Association of Central California v. County of Stanislaus, et al.*, 190 Cal.App.4th 582 (2010); *Masonite Corporation v. County of Mendocino*, 218 Cal.App.4th 230 (2013)

¹¹ American Farmland Trust, *Farmland Conservation, Reality or wishful Thinking?* (2013) <https://farmlandinfo.org/publications/farmland-conservation-reality-or-wishful-thinking/>

¹² Examples of local mitigation programs are Yolo and Stanislaus Counties, the Cities of Davis, Stockton and Brentwood and the LAFCOs in Monterey, Solano and Santa Clara Counties. And see, Department of Conservation mitigation program at http://www.conservation.ca.gov/dlrp/cfcp/mitigation/Pages/AgLandMitigation_HSRA.aspx.

¹³ American Farmland Trust, *Paving Paradise: A New Perspective on California Farmland Conversion* (2007), <https://farmlandinfo.org/publications/paving-paradise-a-new-perspective-on-california-farmland-conversion/>

supports city growth that emphasizes efficiency (infill and density) and sustainability; this is the only way that we can preserve our irreplaceable farmland resources.

The benefits of agriculture at the urban edge cannot be overstated since this is where our best, most fertile land is typically located. Protecting farmland also has a significant climate change benefit: according to U.C Davis, farmland emits at least 70 times less greenhouse gases per acre than urban land uses¹⁴. It also provides an opportunity to reduce sprawl and its associated excessive public service costs, because privately owned and managed agricultural land requires fewer services than new development. Not least, farmland is a prudent investment in the world food supply and our state's and nation's economic future.

F-6

Value of Agriculture Agricultural Easements

Why easements?

In California, the California Rangeland Trust, in conjunction with the University of California Berkeley, conducted research on working landscapes conserved by the California Rangeland Trust. This study found that on 300,000 studied, "these lands provide roughly \$1 billion in environmental benefits annually, including habitat, climate regulation, food and watersheds. The study also found that the conservation easements returned \$3.47 for every dollar invested."¹⁵

In Colorado, conservation easements are the primary land preservation tool, accounting for more than two-thirds of all conserved land in the state. The Colorado Cattlemen's Agricultural Land Trust (CCALT) partnered with The Trust for Public Land (TPL) and other conservation organizations to determine the economic value of Colorado's conservation easements. Researchers found that \$595 million investment in conservation easements returned \$3.51 billion in public benefits. A return of \$6 for every \$1 invested.¹⁶

As a land trust, AFT continues to hold easements and work with landowners in California and across the nation. In addition to permanently protection agricultural resources, easements can provide an influx of capital to an operation that allows farmers the flexibility to reinvest into the operation and secure the land permanently for future generations as a land transition strategy. By purchasing the development rights through

¹⁴ Jackson, et al., University of California, Davis, Adaptation Strategies for Agricultural Sustainability in Yolo County, California: A White Paper from the California Energy Commission's Climate Change Center, July 2012 (CEC-500-2012-032).

¹⁵ California Rangeland Trust et al., *Evaluating Ecosystem Services*. (2020) <https://rangelandtrust.org/ecosystem-service-study/>

¹⁶ Sargent-Michaud, Jessica, *Conservation Easements, The Return on Investment, The Economic Value of Colorado's Conservation Easements*. (2009). <https://farmlandinfo.org/publications/the-return-on-investment-the-economic-value-of-colorados-conservation-easements/>

mitigation and easements, the land becomes more affordable and more accessible to a new generation of farmers, should the landowner wish to sell, and maintains agricultural resources that provide vital co-benefits for adjacent communities.

The City of Visalia's General Plan, adopted in 2014, created a strong structure for the city to create a viable agricultural mitigation program. We highly encourage the City to stay the course and to lean on land trusts and conservation allies to provide guidance to craft a program that will be beneficial to the City's goals, as well as the preservation of agricultural resources. To facilitate this, we encourage the City to investigate submitting a proposal for the Sustainable Agricultural Lands Conservation Program planning grants, administered by the Department of Conservation, to create capacity to fulfill the City's promise to create an agricultural mitigation strategy to allow smart growth and agricultural lands to thrive.

Resources and Studies

F-7

For much of its history, AFT has provided a broad array of support to the growing agricultural land protection community—whether through regional events and national conferences, cutting-edge research and communications insights, or technical expertise and policy innovation on farmland protection, stewardship, and land access issues.

Resources

Farmland Information Center (FIC)

AFT, in partnership with the United States Department of Agriculture Natural Resources Conservation Service, has dedicated resources to develop the [Farmland Information Center](#). This center houses critical research and innovative case studies from across the nation on farmland protection and stewardship. This is a valuable resource for land use professionals and policy makers alike.

National Agricultural Land Network (NALN)

In 2020, AFT launched the NALN to further strengthen the collective capacity of public agencies, planning entities, and land trusts working to protect agricultural land. The NALN is [free to join](#) and is designed to grow the capacity and momentum needed for professionals to elevate the cause of agricultural land protection across America.

Sustainable Agricultural Lands Conservation Program (SALC)

The California Strategic Growth Council's (SGC) SALC Program is a component of SGC's [Affordable Housing and Sustainable Communities Program](#) (AHSC). The [Sustainable Agricultural Lands Conservation](#) program compliments investments made in urban areas with the purchase of agricultural conservation easements, development of

agricultural land strategy plans, and other mechanisms that result in GHG reductions and a more resilient agricultural sector. The program invests in agricultural land conservation with revenue from the California Climate Investments (CCI) Fund, made available for projects that reduce greenhouse gas emissions while providing additional benefits to California communities. **In particular, we believe the planning grants are an essential tool for local communities to form partnerships to develop collective strategies to effectively protect agricultural resources.**

AFT's Project Prioritization Tool (PPT)

As a cornerstone of [AFT's San Joaquin Land and Water Strategy](#), the decision-making [Project Prioritization Tool \(PPT\)](#) was developed by AFT and Conservation Biology Institute to increase the adoption of water infiltration practices, improve groundwater recharge, and protect agricultural land in the San Joaquin Valley (SJV).

SJV stakeholders can use the PPT to select and support projects that have the greatest potential to effectively infiltrate and conserve water. It allows SJV stakeholders to identify and prepare priority agricultural land acquisition and technical assistance projects, while supporting land use planning decision making. The PPT consolidates relevant and public information to identify and protect the most productive, resilient, and versatile farmland in California. The interactive and modular mapping platform provides users with a default "start-up map" that has layers dedicated to farmland quality, development threat level, crops, and water resources among other data.

The tool can be used at a high level to evaluate regional trends or can be zoomed in to see characteristics of an individual parcel of land. The PPT is well suited for a first level of review for farmland protection and stewardship practices, as well as other valuable functions.

Studies

[Saving Farmland, Growing Cities](#)

"Saving Farmland, Growing Cities" was published in 2013 as part of a series of AFT updates on what is happening to Valley farmland as its cities grow. It outlines a new framework for land use policy choices that affect farmland and agriculture. The following six key challenges were identified that must be addressed to conserve farmland and for each proposes specific, measurable outcomes by which to evaluate success.

- 1. Avoid Development of the Best Farmland** It's essential to understand where high-quality agricultural land is located in relation to city limits, spheres of influence, and other areas, and direct growth away from this land. Development is best guided toward less productive land or land not suited for agriculture.
- 2. Minimize Farmland Loss with More Efficient Urban Development** Focus new development toward vacant or repurposed land within existing cities and, if more

agricultural land must be sacrificed, ensure development uses it as efficiently as possible.

3. **Ensure Stability at the Urban Edge** Areas around cities designated for future development should not expand more than necessary; boundaries that are too large discourage cities from growing efficiently. LAFCOs should review the size of spheres of influence in comparison to the development needs of cities during the period covered by current general plans. Relatedly, LAFCOs should consider the efficiency of future development when reviewing proposals for annexation and expansion of spheres.
4. **Avoid Rural Residential Development** Rural residences on large lots are the least efficient type of non-farmland use. This development should be kept to a minimum to avoid conflicts and encroachment on agricultural land. Counties can inventory existing parcels where non-farm rural residential development could occur and adopt policies that make such development more difficult on high quality agricultural land.
5. **Mitigate the Loss of Farmland Loss with Conservation Easements** Local governments can adopt farmland mitigation programs aimed at preserving farmland and ranchland while giving landowners the opportunity to recover equity in their property without developing it. LAFCOs can assist by adopting their own policy of requiring cities to mitigate farmland loss as a condition of annexation.
6. **Encourage a Favorable Agricultural Business Climate** Consider all land use, housing, water, and on-farm activities in the context of their impact on the costs, productivity, and profitability of agriculture.

These performance measures provide a meaningful way to compare policy alternatives and to choose those that can minimize – if not entirely avoid – farmland loss while promoting sustainable community growth.

[Farmland Conservation, Reality or Wishful Thinking?:](#)

These case studies showcase some of the most successful and promising local farmland conservation programs in California. They demonstrate not only that effective conservation of farmland is possible, but also that there are a variety of ways to accomplish it, if localities summon the political will to do so. The purpose for publishing these is to provide both information and inspiration to other local communities that have not made as much progress at conserving the farmland on which California and people all over the world depend.

Other notable resources include:

[Greener Fields](#)

[Farms Under Threat, State of the States](#)

[Farms under Threat, CA Policy Scorecard](#)

[CALAFCO White Paper: State of the Art Agriculture Preservation](#)

[AFT California Region's 2021 Policy Priorities](#)

Conclusion

AFT has a proven track record of working with conservation partners, policymakers, and farmers and ranchers to advance a wide range of environmental goals—from improving air and water quality, to reducing soil erosion, building soil health, sequestering carbon, combating sprawl and keeping working lands working. We look forward to working with you as a constructive partner and resource in maintaining the City of Visalia's pristine status as "The Gateway to the Sequoias", and "community that takes great pride in the small town feel and high quality of life that accompanies big city amenities."¹⁷

If you have any questions, please contact me at kpatterson@farmland.org or (916) 282-3995.

Sincerely,



Katie Patterson
California Policy Manager

Cc:

City Council Members
City Clerk
Tulare County Board of Supervisors
Tulare County Clerk of the Board

¹⁷ City of Visalia website. May 25, 2021. <https://www.visalia.city/visitors/default.asp>.

COMMENT LETTER G



May 28, 2021

Brandon Smith
City of Visalia Community Development Department
315 East Acequia Avenue
Visalia, CA 93291

Re: Addendum to 2030 General Plan Environmental Impact Report

Dear Brandon Smith:

We write to provide comments on the City of Visalia's Addendum to the 2030 General Plan Environmental Impact Report ("Addendum"). Leadership Counsel for Justice and Accountability ("LCJA") is a 501-c-3 non-profit organization based in the San Joaquin and East Coachella Valleys. LCJA works alongside low-income communities of color throughout these regions to address environmental quality and health, housing, transportation, and municipal infrastructure and service needs.

The Addendum is in Violation of CEQA

Based on our understanding of the Addendum, the agricultural mitigation program in General Plan Policy LU-P-34 would be removed without adequate mitigation measures or alternatives. The Addendum fails to provide alternatives or adequate mitigations that will avoid or minimize potential environmental impacts from the removal of the mitigation requirements. Furthermore, the Addendum fails to adequately inform the public of any environmental impact due to its limited 10 day public comment period. Therefore, this Addendum and failure to provide additional mitigations in replacement of the mitigation program would be inconsistent with CEQA.¹

G-1

G-2

The Addendum Fails to Mitigate for Fair Housing Impacts

We are concerned that the removal of the agricultural mitigation program will incentivize sprawl and disinvestment in existing communities in the City of Visalia. Sprawling housing developments that increase VMTs and remove critical farmland and environmental habitat in lieu of investing in existing housing improvements and infill developments will create environmental and air quality impacts.² Furthermore, allowing for sprawl development and market-rate housing impedes the City of Visalia from conforming with its duty to affirmatively further fair housing.

G-3

¹ Pub. Res. Code § 21002.1 (a)(b)

² *Sierra Club v. County of Fresno, et al.* (Friant Ranch) (2018) 6 Cal.5th 502



We urge the City of Visalia to work collaboratively with agricultural, environmental, and housing stakeholders to ensure that all significant environmental impacts are sufficiently analyzed and addressed. Failure to do so will be inconsistent with CEQA and create environmental, air quality and housing impacts on existing communities in proximity to and in the City of Visalia.

Sincerely,
Blanca Escobedo
Policy Advocate

APPENDIX 1: GENERAL PLAN POLICY LANGUAGE

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, 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 922,383sq.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 neighbor - hood, 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 sub - sequent direction from the City Council. Annexations are subject to review against regulations and policies in the Cortese-KnoxHertzberg 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.

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 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-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 plan 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, sewerage, 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.

LU-P-34 (AS PROPOSED UNDER GPA NO. 2021-01)

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, where such efforts will promote orderly development and preservation of farming operations within Tulare County. The City will support regional efforts to prevent urban development of agricultural lands, specifically at the county level.

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.

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.

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

LU-P-45

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.

LU-P-46

Adopt and implement an incentive program for residential infill development of existing vacant lots and underutilized sites within the City limits as a strategy to help to meet the future growth needs of the community.

Infill will be supported by increasing allowable density or decreasing minimum lot size under zoning to the maximum limits set by the General Plan, by reducing off-street parking requirements, by creating an Infill Incentive Zone where reduced fees and other incentives may apply because infrastructure is in place, and by providing incentives that respond to different challenges (for example in Downtown or in historically underutilized areas). Infill development also is supported by growth management policies; see Policy LU-P-21 for details.

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.

OSC-P-24

The 2014 Statement of Overriding Considerations and Findings of Fact lists the following policy text as OSC-P-27; however, the cited policy is actually Policy OSC-P-24 in the final adopted General Plan, which is reflected in the numbering above.

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-25

The 2014 Statement of Overriding Considerations and Findings of Fact lists the following policy text as OSC-P-28; however, the cited policy is actually Policy OSC-P-25 in the final adopted General Plan, which is reflected in the numbering above.

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