



FRESNO COUNTY FIRE

PROTECTION DISTRICT

Honor, Integrity, Cooperation & Professionalism

MEMORANDUM

Date: 01/23/2020

To: Board Directors

Attn: Mike Del Puppo
President

From: Fire District Staff

Subject: City of Clovis Property Tax Allocation Agreement

BOARD OF DIRECTOR'S BRIEFING PAPER

ISSUE:

Fresno LAFCo policy requires cities to provide proof of a valid transition agreement with the Fire District in order to annex property.

BACKGROUND:

The District entered into a transition agreement with the City of Clovis in 2013. Fresno LAFCo policy requires the cities to provide proof of a valid transition agreement with the Fire District in order to annex property and detach from the Fire District, in July of 2019, the Fire District noticed several discrepancies in the calculations, made by an outside vendor as required by the agreement. The District was required to pay for this vendor through the agreement.

DISCUSSION:

The District and the City of Clovis have reached agreement on terms for a new transition agreement, that removes the requirement for an outside vendor, and allows the District and City to make the needed calculations. At the request of the City, it also removes included Automatic Aid and Staffing Level language, as these are accounted for in the District and City Automatic Aid Agreement. The attached Property Tax Allocation Agreement meets all requirements of Fresno LAFCo

Transition Agreement policy and protects the other transition agreements; the District currently has in place. This is a ten (10) year agreement, with the possibility of an additional 10-year extension with the approval of the District and City. This agreement will protect the District's tax base for to 10 years of BYA from the effected property, should the City of Clovis annex property and detach from the District.

ALTERNATIVES:

1. None.


IMPACTS *(Consider potential consequences related to each of the following areas of concern for proposed alternatives):*

- Fiscal – The Agreement with protect the District's tax allocation from annexed property for a period of ten (10) years from the date of annexation.
- Operational – No known impact.
- Legal – No known impact.
- Labor – No known impact
- Sociopolitical – No known impact.
- Policy – No known impact.
- Health and safety – No known impact.
- Environmental – No known impact.
- Interagency – No known impact.

RECOMMENDATION:

Staff is recommending that the Board of Directors approve the Property Tax Allocation Agreement with the City of Clovis.

APPROVED:



Mark A. Johnson, Chief

1/23/2020

Date

EXECUTIVE STAFF

**PROPERTY TAX ALLOCATION
AGREEMENT BETWEEN
THE CITY OF CLOVIS
AND
THE FRESNO COUNTY FIRE PROTECTION DISTRICT**

This Property Tax Allocation Agreement (“Agreement”) is entered into and effective March 1, 2020 (“Effective Date”), between the City of Clovis, a California general law city and municipal corporation (“City”) and the Fresno County Fire Protection District (“District”), a local fire protection district organized and existing as a California Special District under provisions of the Fire Protection District Law of 1987 (Health & Safety Code Section 13800 *et seq.*) with respect to the following Recitals, which are incorporated as a substantive part of this Agreement.

RECITALS

WHEREAS, the District is the primary provider of fire suppression, prevention, rescue, emergency medical services and hazardous material emergency response and other services relating to the protection of lives and property (“Fire Protection Services”) within its territorial limits, which includes areas near the incorporated centers of the County of Fresno (“County”), including the City. Current District boundaries are reflected in **Exhibit 1**, attached and incorporated by this reference. The District also provides Fire Protection Services to certain incorporated cities and substantial portions of unincorporated areas within the County; and

WHEREAS, the City is the provider of Fire Protection Services within its corporate limits; and

WHEREAS, the District's primary source of funding comes from general purpose *ad valorem* property tax revenue from all real property within its territory (property taxes). The revenue within involved tax rate areas is based on the combined “parent zone” and applicable “service zone” tax rates to the taxable value of the real property within such territory; and

WHEREAS, from time to time in connection with proposed property development, territory within the District is annexed into the City and detached from the District. Although District no longer services properties that annex into the City and detach from the District, District wide service obligations and regional support are not reduced commensurately. To address the impact of the resulting loss of property tax revenue on District facilities, equipment and personnel and partially mitigate impacts upon the District from annexations and detachments, Fresno County Local Agency Formation Commission (“LAFCo”) policy requires the City and District to reach an agreement governing the transition of Fire Protection Services: and

WHEREAS, for the past 26 years District and the incorporated cities in the County have operated under transition agreements, the most recent covering the last Six (6) years (the "2013 Transition Agreement"), under which City agreed to pay District a yearly sum of money upon annexation and detachment of property reflecting a percentage of Property Taxes District would have received had the property not been annexed for a period of 10 years; and

WHEREAS, the District and City desire to enter into a new agreement under substantially the same terms, removing obsolete language, and providing for a new 10-year term with an option for the parties to extend the term for an additional 10 years; and

WHEREAS, the intent of this Agreement is to apply to all unincorporated areas that are within the jurisdictional boundaries of the District which may be subject to annexation to the City.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. **Effect of Recitals.** The foregoing Recitals are incorporated in and are a part of this Agreement.
2. **Allocation and Payment of Property Taxes.**

a. Upon the effective date of annexations/reorganizations of property ("Affected Territory") into the City and detachment of the Affected Territory from the District, the real property tax previously imposed on the Affected Territory, and collected and allocated by Fresno County for the benefit of the District ("Base Year Allocation" or "BYA") shall continue to be collected by the County from the City's portion of real property taxes, but paid to the City and the City shall allocate and pay the BYA for the Affected Territory to the District for a period of 10 years from the effective date of the specific reorganization. The BYA shall include any increase up to two percent (2%) per annum imposed by the County in accordance with the constitutional rate. Other than a potential up to 2% annual increase in the BYA, the District will not be eligible to receive any increase in the BYA.

For the purposes of this Agreement, the effective date of reorganizations and the date to be used for when the tax reallocation to District commences, shall be the date upon which the annexation of property is recorded with the County Recorder and California State Board of Equalization consistent with applicable law.

Exhibit 2, attached and incorporated by this reference, sets forth the example of the calculation.

District shall be responsible for creating the tax allocation rate schedule

and providing City the ability for review and agreement prior to District invoicing the City for the BYA.

b. The District shall notice and invoice the City to pay the applicable BYA to the District in July of each year. Such notice shall include the applicable tax allocation rate schedule showing the BYA due the District. City shall send the applicable payment to District within thirty (30) days after the City's receipt of the District's notice, invoice and tax allocation rate schedule. In the event the City does not pay to the District the applicable BYA due the District within said thirty (30) day period, the amount due the District shall be assessed interest at the legal rate commencing on the thirty first (31) day after the City's receipt of the District's notice and tax allocation rate schedule. The City's failure to make the allocated monetary payment amount due the District within the time period set forth in this subparagraph 2b. shall be considered a material breach of this Agreement.

c. The City and District agree that if it is estimated the annual allocation of BYA over the 10-year allocation period, which includes the 2% annual constitutional rate increase, is less than \$10,000. City will pay the entire 10-year allocation in one (1) lump sum at the time the first annual allocation payment is due.

2A. Inapplicability of this agreement to two Substantially Inhabited Areas. The provisions of Section 2 relating to the BYA shall not apply to two substantially inhabited areas of the County if the City is forced to annex those areas, as described herein. Should this occur, the City and District agree to enter into negotiations that will produce an agreement for these two areas in compliance with the provisions of Section 5. The two substantially inhabited areas are:

- Quail Lake Estates, located between Shaw and Ashlan Avenues, east of McCall Avenue. **(Exhibit 3.)**
- Tarpey Village, located in the area generally bounded by Minnewawa, Sunnyside, Gettysburg and Shields Avenues. **(Exhibit 4.)**

This exception, 2A, shall only apply to forced annexations as defined herein. This exception shall not apply to annexations voluntarily initiated by the City. Forced annexations shall mean:

- (a) Annexations mandated by the State of California.
- (b) Annexations requested by the County of Fresno and subsequently approved by LAFCo through negotiations with the City over tax sharing agreements or project specific development agreements.

- (c) Annexations required by LAFCo.
- (d) Annexations initiated by the voters.

3. Term. The term of this Agreement shall be for a period of 10 years from the Effective Date, through December 31, 2029, and it shall replace in all respects the 2013 Transition Agreement between the parties, except that obligations which by the terms expressed herein are intended to continue beyond the term of this Agreement shall continue until satisfied. This Agreement may also be extended by an additional period of 10 years from the expiration date with the agreement of both District and City.

4. Affect of Annexations. Upon annexation of affected properties to City, those properties shall detach from the District, and all Property Taxes shall be allocated consistent with Agreement section 2 and existing laws, rules, policies and procedures established in the County, subject to any applicable agreement between City and the County.

5. LAFCo Compliance. District and City agree that this Agreement is intended to satisfy the intent and purpose of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

6. Non Opposition to Annexations. District represents and agrees that during the term of this Agreement, it will not oppose further annexation to the City. This District agreement does not extend to modifications to the City Sphere of Influence or required Municipal Service Reviews adopted by the Fresno County LAFCo.

7. Accounting. District and City agree that their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. District and City agree to maintain such records for a possible audit for a minimum of four (4) years from the recording date of an annexation to the City and to allow access to such records for an audit during normal business hours.

8. Termination.

a. Termination Upon Expiration. This Agreement shall terminate upon expiration of its Term, if not extended by agreement.

b. Termination Due to Invalidity. Should any material portion of this Agreement be declared invalid or inoperative by a court of competent jurisdiction, this entire Agreement as well as any ancillary documents entered into by the parties in order to fulfill the intent of this Agreement shall immediately be of no force and effect

and this Agreement shall terminate in its entirety.

c. Termination Due to Material Breach: Right to Cure. This Agreement may be terminated by either party for a material breach and a failure to cure that breach within thirty (30) days after receipt of a notice to cure.

d. Termination Due to Change in Law. It is mutually understood and agreed that this Agreement shall terminate immediately and shall be of no further force and effect should substantial substantive changes occur in such statutory scheme or successor statutory schemes (whether by legislative or judicial action) which negate or frustrate the fundamental reasons or tenets of this Agreement, such termination to be in the entirety. Any party contending this section applies shall give written notice of termination pursuant to this section, which notice shall include an explanation of the reason(s) for such termination.

9. Renewal of Agreement. Within 60 days after the date of commencement of the ninth year of this Agreement, the District and the City agree to meet and negotiate in good faith, in an attempt to agree upon the terms and conditions of an extension of this Agreement consistent with applicable law at the time.

10. Remedies for Breach of Agreement. In addition to termination of this Agreement for a material breach, the parties may exercise any other remedy available to them at law or in equity, including specific performance, injunctive relief, and writ of mandate.

11. Dispute Resolution. If any dispute arises regarding the interpretation or application of this Agreement or any determination or calculation thereunder, the parties agree upon the request of either of them to meet and attempt to resolve the same amicably for a period not to exceed thirty (30) days.

If the dispute is not otherwise resolved, and absent the need for emergency relief or to meet a statute of limitations, the parties agree to enter into mediation before initiating litigation. The parties shall mutually agree upon a mediator and each party shall pay one half (1/2) the cost of the mediator and bear their own costs for the mediation. The mediation shall be completed within sixty (60) days of notice of the intent to undergo mediation. If the mediation is not completed within sixty (60) days of notice, a party may initiate litigation. The parties shall act in good faith and with due diligence to timely complete the mediation.

If litigation is commenced before mediation due to one of the reasons mentioned above, the parties agree to immediately commence and complete mediation within sixty (60) days of the commencement of litigation as evidenced by the filing in court of a formal complaint, petition, or similar document.

12. Modification. This Agreement may be modified or amended only by a writing duly authorized and executed by the City and District.

13. Enforcement. The City and District each acknowledge that this Agreement

cannot bind or limit themselves or each other or their future governing bodies in the exercise of their discretionary legislative power. However, each binds itself that it will insofar as is legally possible, fully carry out the intent and purposes hereof, if necessary, by administrative and ministerial action independent of that legislation power and that this Agreement may be enforced by injunction or mandate or other writ to the full extent allowed by law.

14. Integration. With respect to the subject matter hereof, this Agreement is intended to be an integrated agreement and supersedes any and all previous negotiations proposals, commitments, writings and understandings of any nature whatsoever between the City and the District as to the subject matter of this Agreement.

15. Notice. All notices, requests, determinations or other correspondence required or allowed by law or this Agreement to be provided by the parties shall be in writing and shall be deemed given and received when delivered to the recipient by first-class mail (or an equal or better form of delivery) at the following addresses:

CITY

City Manager
City of Clovis
1033 Fifth Street
Clovis, California 93612

DISTRICT

Fire Chief
Fresno County Fire Protection District
210 South Academy Avenue
Sanger, California 93657

By giving notice, either party may change its address for these purposes.

16. Third Parties. This Agreement shall not be construed as or deemed an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action hereunder for any cause of action whatsoever.

17. Subsequent District Agreements. District agrees that if, during the term of this Agreement, District negotiates a property tax allocation involving an annexation to the municipality and a detachment from the District with any other municipality which contains more favorable terms than this Agreement, District shall notify City within thirty (30) days of such agreement and offer those same terms to City. More favorable terms, means, but is not necessarily limited to, another municipality allocating to District a lower percentage of taxes than City allocates District under Section 2 of this Agreement.

18. Attorney's Fees and Costs. In any action to enforce the provisions of this Agreement or for breach of the Agreement, the prevailing party shall recover from the

other party, in addition to any damages, injunctive or other relief, all costs (whether or not allowable as "cost" items by law) reasonably incurred at, before and after trial or on appeal, including without limitation attorneys' and witness (expert and otherwise) fees, deposition costs, copying charges and other expenses.

19. Approval. The parties represent that this Agreement was approved by their respective governing boards at a properly noticed meeting.

20. Choice of Law and Venue. This Agreement shall be governed by the laws of the State of California. Venue for actions and proceedings between the parties related to this Agreement shall be in the Eastern District of California for any federal action and, unless otherwise agreed by the parties, in Fresno County Superior Court for state actions.

21. Agreement Mutually Drafted. Each party has participated jointly in the drafting of this Agreement, which each Party acknowledges is the result of extensive negotiations between the Parties, and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent. If an ambiguity or question of intent or interpretation arises, then this Agreement will accordingly be construed as drafted jointly by the parties, and no presumption or burden of proof will arise favoring or disfavoring any Party to this Agreement by virtue of the authorship of any of the provisions of this Agreement. The captions, headings and table of contents contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

22. Notification to County Auditor-Controller/Treasurer/Tax-Collector. Immediately after the Effective Date of this Agreement, City and District shall furnish a fully executed copy of this Agreement to the Fresno County Auditor-Controller/Treasurer Tax-Collector ("County Auditor") at the address listed below. Any Agreement amendment, upon its becoming effective, shall also be furnished to the County Auditor by the City and the District.

Fresno County Auditor-Controller/Treasurer Tax-Collector
2281 Tulare Street
Fresno, CA 93721

Signatures on next page

IN WITNESS WHEREOF, the parties have entered into this Agreement in Fresno County, California.

FRESNO COUNTY FIRE PROTECTION DISTRICT CITY OF CLOVIS

By: _____
Mike Del Puppo, Board President

By: _____
Luke Serpa, City Manager

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____
Frank Del Testa, Board Secretary

By: _____
John Holt, City Clerk

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

William D. Ross, District Counsel

David J. Wolfe, City Attorney

Date: _____

Date: _____

Fresno County Fire Protection District Exhibit 1

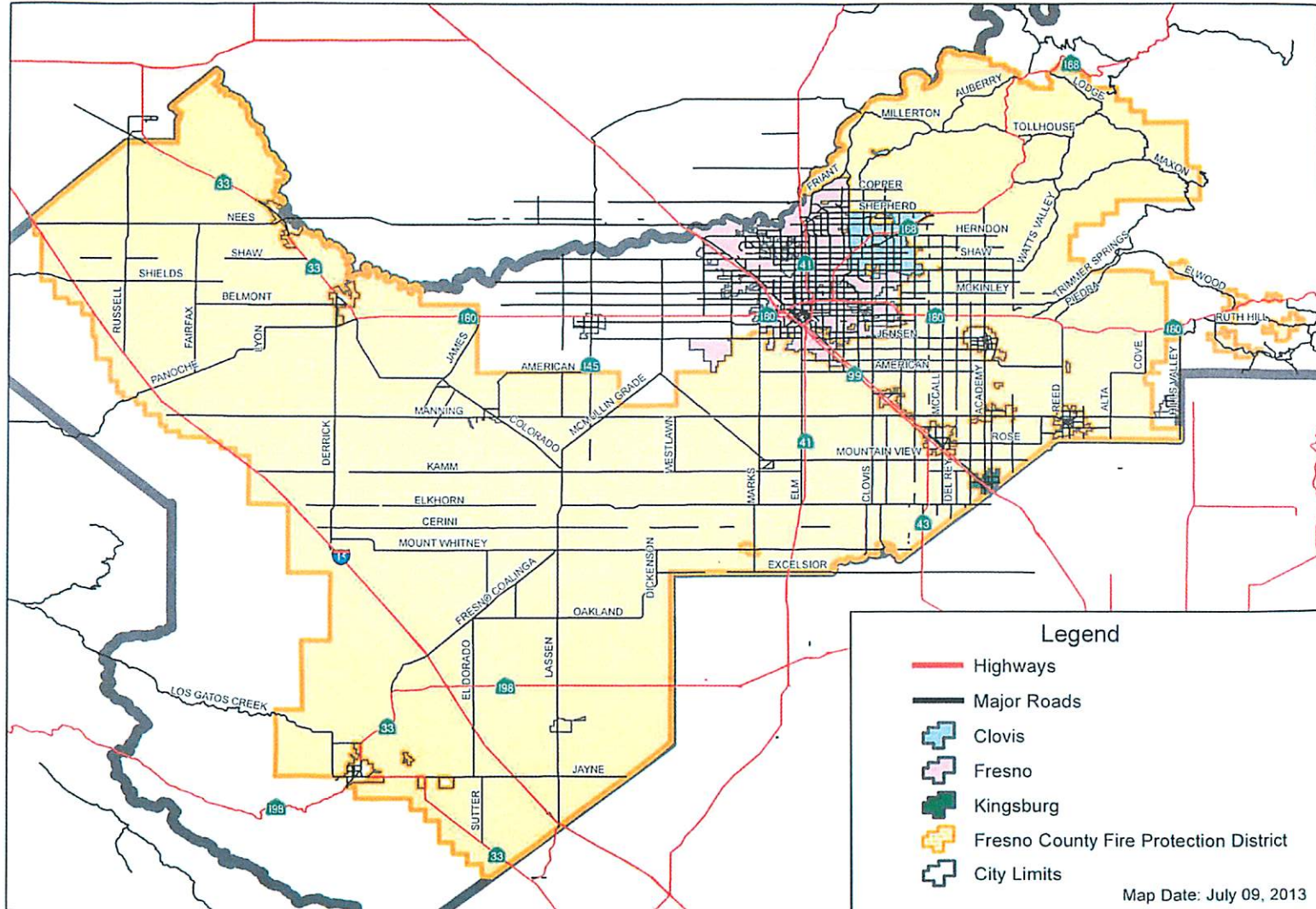
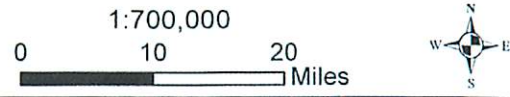


Exhibit 2

City of Clovis/ Fresno County Fire Protection District Transition Agreement

Base Year Allocation of RO-18-2 Ashlan/Highland SW Reorganization

This agreement is intended to execute the Transition Agreement entered into between the City of Clovis and the Fresno County Fire Protection District effective March 1, 2020. The agreement provides for a payment to the District for 100% of the Base Year Allocation (BYA) for a period of (10) years. BYA to include up to a 2% annual constitutional increase determined by the State Board of Equalization. Year 1 payment due District the fiscal year following the year the City receives its allocation of property taxes from this annexation. Payments due the District for each fiscal year (July 1 - June 30) will be made no later than August 30 each year for the prior fiscal year. City and District agree that total payments for annexations over a ten-year period that are less than \$10,000, City will pay the District a one-time payment in total for that annexation.

Recording Date: 04/16/2018

Tax Roll Used: 2017

Tax Rate Area (TRA) # 071-041

Total Assessed Value \$5,227,137.00

Net Assessed Value (NAV) at Recording= \$5,227,137

Equivalent Tax Rate (ETR) = 0.190989 (See Next Page for Calculation Method)

Base Year Allocation (BYA) = \$9,983.26

	Year	BYA +	Annual Increase	Payment Due
Year 1 Payment	2019	\$9,983.26		\$9,983.26
Year 2 Payment	2020	\$10,182.93	2.00%	\$10,182.93
Year 3 Payment	2021	\$10,386.59	2.00%	\$10,386.59
Year 4 Payment	2022	\$10,594.32	2.00%	\$10,594.32
Year 5 Payment	2023	\$10,806.21	2.00%	\$10,806.21
Year 6 Payment	2024	\$11,022.33	2.00%	\$11,022.33
Year 7 Payment	2025	\$11,242.78	2.00%	\$11,242.78
Year 8 Payment	2026	\$11,467.64	2.00%	\$11,467.64
Year 9 Payment	2027	\$11,696.99	2.00%	\$11,696.99
Year 10 Payment	2028	<u>\$11,930.93</u>	2.00%	\$11,930.93
Total Amount Due		\$109,313.98		

Mark A. Johnson
Chief
Fresno County Fire Protection District

Luke Serpa
City Manager
City of Clovis

Date

Date

The Base Year Allocation (BYA) for an annexation means the sum derived by: Multiplying the Equivalent Tax Rate (ETR) by the Net Assessed Value (NAV) of the annexation. The ETR equals the sum of the Equivalent Tax Rate for the Parent Zone (ETRPZ) plus the Equivalent Tax Rate for any District Service Zone in the Annexation, in this example, Service Zone 10 (ETRZ10). The ETRPZ equals the Net Tax Levy for the Parent Zone (NTLPZ) divided by the Total Assessed Value of the Parent Zone (TAVPZ). The ETRPZ10 equals the Net Tax Levy for Service Zone 10 (NTLZ10) divided by the Total Assessed Value of Service Zone 10 (TAVZ10).

Expressed in equations, the calculations shall be made as follows:

$$\text{BYA} = \text{ETR} \times \text{NAV}$$

$$\text{ETR} = \text{ETRPZ} + \text{ETRPZ10}$$

$$\text{ETRPZ} = \text{NTLPZ} + \text{TAVPZ}$$

$$\text{ETRPZ10} = \text{NTLZ10} + \text{TAVZ10}$$

Where: BYA means "Base Year Allocation"
 ETR means "Equivalent Tax Rate"
 NAV means "Net Assessed Value"
 ETRPZ means "Equivalent Tax Rate for the Parent Zone"
 ETRZ10 means "Equivalent Tax Rate for Service Zone 10"
 NTLPZ means "Net Tax Levy for the Parent Zone**"
 TAVPZ means "Total Assessed Value for the Parent Zone**"
 NTLZ10 means "Net Tax Levy for Service Zone 10**"
 TAVZ10 means "Total Assessed Value for Service Zone 10**"

*The Total Assessed Value for the Parent or Service Zones include both Secured and Unsecured amount totals added together from the Fresno County Schedule of Levy's, from the Tax Roll at the date of recording.

**The Net Tax Levy for the Parent or Service Zones include both Secured and Unsecured amount totals added together from the Fresno County Schedule of Levy's, from the Tax Roll at the date of recording.

Calculation Example:

Net Tax Levy of the Parent Zone*	\$13,510,313
Total Assessed Value of the Parent Zone	+ \$17,266,669,708
Equivalent Tax Rate – Parent Zone	= 0.078245
Net Tax Levy of Service Zone 10*	\$4,454,026
Total Assessed Value of Service Zone 10	+ \$3,950,526,660
Equivalent Tax Rate – Service Zone 10	= 0.112744
Equivalent Tax Rate – Parent Zone	0.078245
Equivalent Tax Rate – Service Zone 10	+ 0.112744
Combined Equivalent Tax Rate (ETR)	= 0.190989

Exhibit 3 Quail Lake Estates

1:12,000

0.25

0.5 Miles

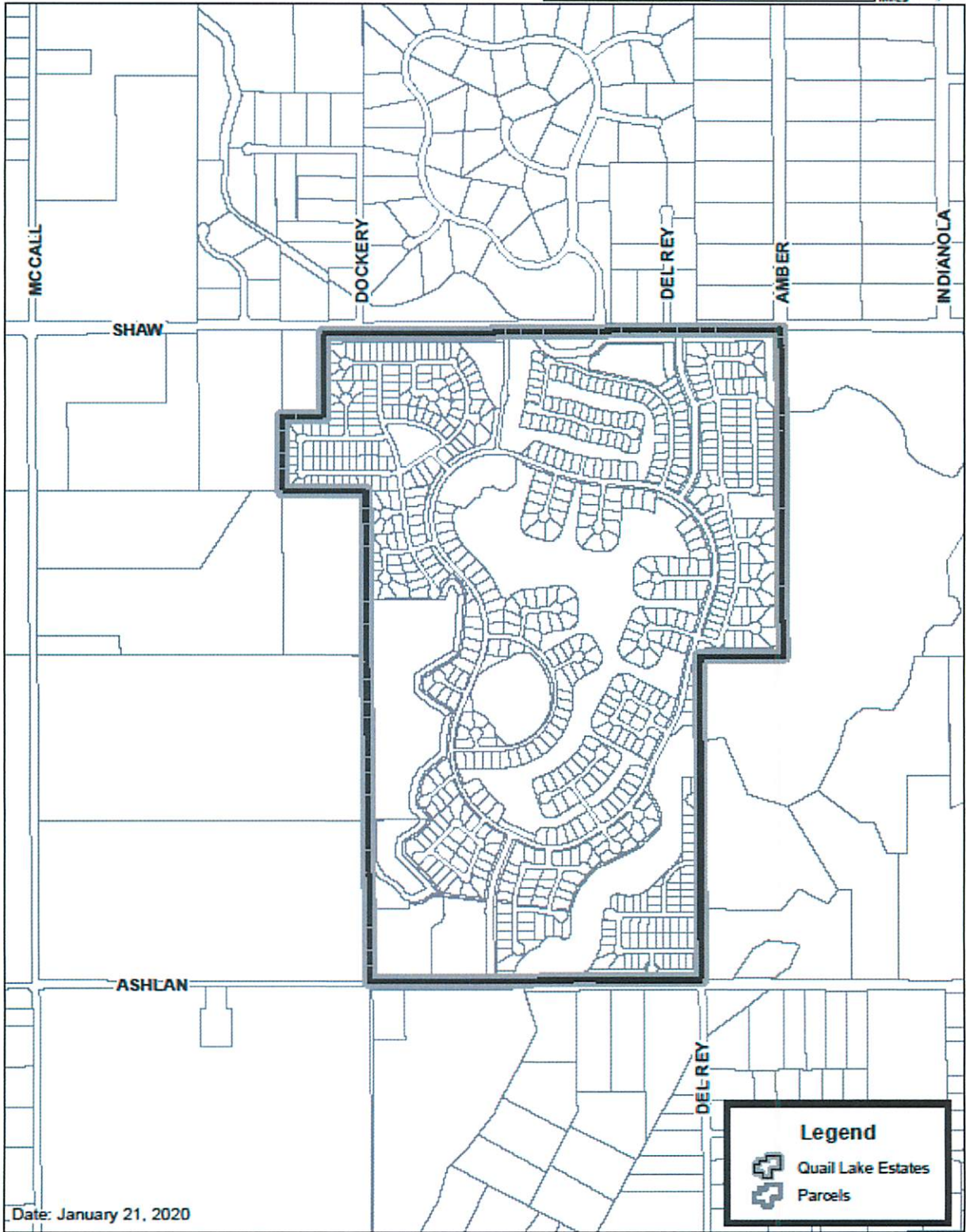
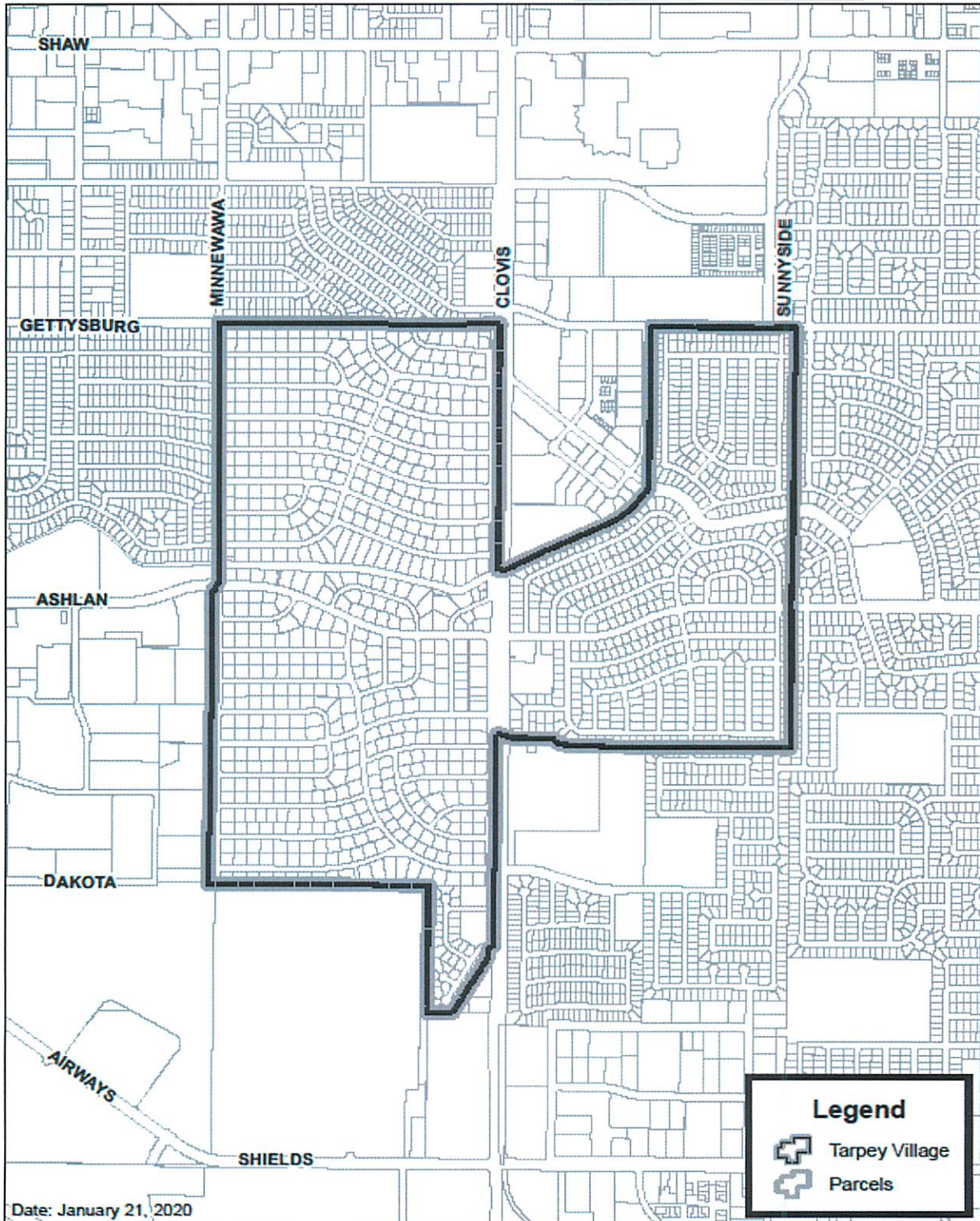
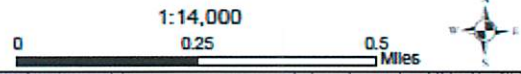


Exhibit 4 Tarpey Village



Date: January 21, 2020

Legend

- Tarpey Village
- Parcels