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CAROL J. HUCHINGSON

County Administrative Officer

October 2, 2019

Mr. John Benoit, Executive Officer
Lake Local Agency Formation Commission (LAFCo)
P.O. Box 2694
Granite Bay, CA 95746

Dear John Benoit,

Thank you for the opportunity to provide comments on the City of Lakeport's recently submitted annexation application for the South Main Street area. The main body of the response is attached to this document as Exhibit A, and below you will find a brief summary of the comments provided:

- 1) An agreement was entered into by the City and County in 1997 for an annexation area that was completed later that year with the payment schedule already satisfied. Therefore, this agreement is inapplicable to the current annexation. Moreover, changes in law since then would have rendered any surviving portion of the agreement invalid. These matters are thoroughly discussed in the comments submitted by this office and by County Counsel.
- 2) The County has identified several areas of concern with the City's fiscal analysis. Most important, is the apparent geographic confusion over the area being referenced. The revenue neutrality analysis uses the \$60,000 sales tax figure from the prior area as the baseline for the proposed area, currently estimated to be closer to \$490,000. Recently, the City verbally indicated that the existing figure should be used so the County remains hopeful this can be resolved in negotiations.
- 3) The County currently has funds carried forward towards the construction of a water system. To supplement, the County submitted an application to the USDA to secure further funding.
- 4) The City's General Plan highlights the need for infill and reuse opportunities. As indicated in the County's report, there are a substantial number of undeveloped or vacant commercial properties within the existing city limits. With these large properties already available, the City's argument that it needs the South Main Street area is severely undermined.
- 5) There are additional concerns discussed in the comments regarding the annexation, such as the availability of revenue to address road improvements and the already effective sewer services being provided. The main consideration, is that while the 1997 agreement does not apply, negotiations can continue and a tax exchange agreement reached.

Respectfully submitted,

Carol J. Huchingson
County Administrative Officer

Exhibit A



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LAKE COUNTY'S RESPONSE TO LAKEPORT'S LAFCo APPLICATION

Legal Challenges to the 1997 Tax Sharing Agreement

In their LAFCo application, the City indicates a Tax Exchange Agreement is in place regarding the proposed annexation area. That is not the case. The annexation area contemplated by the 1997 Agreement is a different area, one for which annexation has already been completed. Therefore, it is inapplicable to the present application. Relevant legal and factual background is provided in the accompanying 2019 Memorandum by County Counsel, Anita Grant.

These concerns augment those stated in a 2018 County Counsel opinion highlighting many changes in law surrounding taxation that render the 1997 Agreement invalid. The effects of those changes are among the items addressed in discussion of the City's Fiscal Impact analysis

The County strongly disagrees with the City's Fiscal Impacts Analysis of the Proposed South Lakeport Annexation

The County's initial response to the City's Fiscal Impacts Analysis is included in the City's application packet. The City responded to the County's key points in their July 29, 2019, Comment Letter (**Exhibit B**), and their response revealed a need for further clarification of the County's objections. Our additional remarks are attached (**Exhibit C**).

The County's collected responses identify a variety of issues, and the City's Analysis is insufficient for use in directing well informed and equitable decisions regarding public service provision in Lake County and the City of Lakeport. Concerns include:

- 1) Lake County's assertion the 1997 Revenue Sharing Agreement is invalid (addressed separately by County Counsel) has not been addressed by the City;
- 2) Use of inappropriate data as the basis for local growth projections (i.e., the Longitudinal Employment Household Dynamics, or LEHD, dataset published by the U.S. Census Bureau);

The County strongly disagrees with the City's Fiscal Impacts Analysis of the Proposed South Lakeport Annexation (continued)

- 3) Use of a Tax Rate Area (TRA) to model distribution of property tax revenue between the City of Lakeport and Lake County to which the parties have not agreed; and
- 4) The failure to evaluate the likely significant fiscal impacts to Lake County Special Districts.

Inaccuracies in the City's application are not limited to the validity and applicability of the 1997 Agreement. The City's fiscal analysis is predicated upon using the same area that was referenced in the completed 1997 annexation. In ensuing years, the City appeared to be aware of this, acknowledging in 2001, for instance, the sales tax revenue in question for the current annexation area was approximately \$250,000, and that a formula still needed to be further developed. Multiple City Staff Memoranda in the interim period stated an Agreement was not in place for the current annexation area and the 1997 Agreement could serve as a guide.

The City's estimates now drive the sales tax figure for the current area closer to \$490,000, while the 1997 annexation area was set at \$60,000. As a result of this assumption, a \$430,000 annual shortfall would be created that is unacknowledged in the analysis. Fundamental confusion stems from the fact the City's analysis does not distinguish between the 1997 and 2019 areas, making it nearly impossible to follow the sets of numbers provided. Since the City's analyst was apparently unaware payments for the previously annexed area, valued at \$60,000, had been resolved, albeit after lengthy auditing and reconciliation efforts, the fiscal analysis must be revisited.

Looking back to 2002, the City Council and staff understood the distinction between areas after the 1997 annexation was completed. When addressing the City Council regarding the current area, City Manager Randy Johnsen wrote:

"This means that if there is no agreement between City and County, no annexation can go forward. To this staff, this means the Board of Supervisors can stop any annexation in this area by simply not agreeing."¹

Even after the 2002 Agreement was passed by the Council, the City Manager stated the "Lake County Board of Supervisors retains the ability to inhibit annexation of this area without the proposed agreement"², an acknowledgement there was no agreement in place for the current area.

According to an article in the Record-Bee regarding the 2002 Agreement:

¹ Page 2, City of Lakeport Memorandum, City Manager to City Council, January 22, 2002. (Exhibit D)

² Page 2, City of Lakeport Memorandum, City Manager to City Council, February 4, 2002.(Exhibit E)

The County strongly disagrees with the City's Fiscal Impacts Analysis of the Proposed South Lakeport Annexation (continued)

"Johnsen also characterized the agreement, which he said could open up the city to a lawsuit, as being superfluous. This was so, he said, because any annexation would require an agreement between it and the county concerning the exchange of property taxes."³

The City was likewise evidently aware the 1997 annexation area was different in 2011, when City Manager Margaret Silveira wrote, discussing the current annexation area:

"The 2001 agreement, which was modified in 2002, states that for the next annexation phase, the formulas for sales tax sharing will be similar to the formulas used in Phase I."⁴

In the application now before your Commission, City staff and ADE appear unaware the current area is distinct from the one discussed in the 1997 agreement, calling the analysis entirely into question. This distinction is critical to any sales tax analysis, and the City's application entirely fails to acknowledge it.

Furthermore, the City's fiscal analysis does not take into account the large commercial center planned for development by the Big Valley Rancheria. This proposed center, which appears to begin less than a mile down Soda Bay Rd, seeks to develop and attract potential businesses to the same general area. Tribal development can often be a valuable economic driver for a region, yet it seems the City's development strategy does not consider this adjoining activity. There has been no discussion of how this might impact development in the annexation area, and the effect it could have on the predicted revenue generation supporting revenue neutrality, according to the City's fiscal analysis.

Further background can help place these negotiations in context. In 2003, with the passage of SB 566, the process for cities and counties to levy additional local sales taxes was streamlined.

This legislative action also raised the aggregate total that can be allotted to local jurisdictions. The following year (2004), the City of Lakeport passed Measure I a half-cent sales tax for general revenue. In 2016, as revenue streams for local government continued to struggle to keep pace with rising costs, the City of Lakeport proposed Measure Z, a one-cent sales tax.

In its efforts promoting the need for additional sales tax revenue, City of Lakeport staff highlighted how radically times had changed from the era of the tax sharing agreement, especially in light of the recession of 2008. The City Council had directed staff to look into additional sources of revenue to offset rising costs. At the July 19, 2016 meeting, City Manager Margaret Silveira identified increased revenue as necessary to support ongoing public services. Silveira noted, **"We can no longer count on total state funding for our resources, we have to**

³ Page A8, *Record-Bee* – City Council rejects county agreement, February 5, 2002. (Exhibit K)

⁴ Letter from Margaret Silveira to Kelly Cox, August 3, 2011. (Exhibit G)

The County strongly disagrees with the City's Fiscal Impacts Analysis of the Proposed South Lakeport Annexation (continued)

learn to support ourselves." She specifically identified roads as an example of something where current funding was no longer sufficient to support maintenance costs.

Factors identified by the City as detrimental included increased pension costs, losses incurred by the recession, **state takeaways** and **the end of redevelopment**. Silveira stated: "**most notably of course was the loss of redevelopment which is about \$900,000 a year.**" This was one of the largest restructurings of the property tax system in California's history. The changes in law imposed by the 2011 RDA dissolution statutes materially altered statutory formulas for the distribution of property tax revenue. The City of Lakeport acknowledged significant impact on their own budget; the same can be said for the County of Lake. Concerns identified by the City, rising costs and loss of revenue, apply to the County, as well.

City staff has historically voiced understanding the formulas discussed in the 1997 agreement could only serve as a potential model for future annexations, as there was no agreement in place. When discussing the parcels currently under consideration for annexation, they referenced the 1997 model, noting it would require a "sales tax share agreement patterned after that previously entered into between the City and County for prior S. Main Street annexation."⁵

These points regarding changes to tax and revenue distribution highlight how dramatically the fiscal environment has changed since 1997. County Counsel's comments offer further examples of changes that have occurred.

Most importantly, looking forward: these changes highlight the need for a fresh look at how to achieve revenue neutrality and meet the needs of both the City and County.

The County has plans for a water system for the South Main area

In late 2017, the County advised the City of our intention to reinvigorate our own plans to provide water to South Main and keep the area Unincorporated. Our Special Districts Administration since obtained an updated Project Design Review, and submitted an application to USDA seeking grant funding for a water system during the current funding cycle.

Shortly after renewing Tax Sharing Agreement negotiations earlier this year, the County learned that Lakeport's City Manager had notified Congressman Mike Thompson's office she was protesting the County's application to receive USDA funding for a water system for the area. (Exhibit H). Ms. Silveira's email unfortunately included errors and misinformation, and the County obtained a copy of said communication from the City only in response to a formal request under the California Public Records Act.

⁵ Page 2, City of Lakeport Memo – Approval of Pre-Annexation Agreement, February 19, 2002 (Exhibit I)

The County has plans for a water system for the South Main area (continued)

For many years, the County has carried forward a partial funding set aside for completion of a water system for South Main. The District 5 Supervisor has proposed connecting South Main to Kelseyville/Finley's water system, and constituent response has been favorable. Adding South Main to the County water system will require a very small portion of system capacity.

In their Plan for Services attachment, the City additionally fails to adequately address the status of infrastructure needs and deficiencies outlined in their Municipal Service Review.⁶ If these items have not been addressed, additional costs should be anticipated, beyond what is stated in the Plan for Services related to water quality standards and adequate fire flow.

As a complement to water system installation, the County has requested an Opportunity Zone designation from the State of California for South Main. The County will also request an Opportunity Zone designation certification from the Secretary of the United States Treasury when our legislative delegation visits Washington, D.C. in late October, 2019. Combined with the County's planned infrastructure improvements, this designation will provide a tool designed to encourage further economic development and investment in the proposed annexation area.

The City's application is inconsistent with its own General Plan policies

The City's General Plan states:

"Infill and reuse opportunities will become increasingly important as compact development within the existing urban area continues. Compact development maximizes the efficient use of land and infrastructure and avoids the intrusion of urban uses on the natural landscape. Infill and reuse strategies must also be major components of economic development and redevelopment planning. Infill uses, by definition, are additions to the existing community and must respect the pre-existing uses, patterns, and community aesthetics. Wherever possible, infill strategies should create areas which contain mixtures of complementary uses that are within safe, easy and convenient walking distance of each other."

The City has been able to maintain its small town charm and attract visitors, in part, through the vitality of its downtown. The downtown commercial area's proximity to Clear Lake, charming landscaping, history, retail opportunities, pedestrian accessibility, and unique amenities, such as the Courthouse Museum and Soper Reese Theatre, form an economic and cultural core for Lakeport's residents and visitors.

⁶ Lake County LAFCO, Municipal Service Review, July 18, 2012.

The City's application is inconsistent with its own General Plan policies (continued)

At this time, the City has numerous vacant storefronts in its downtown commercial area, ready and available for use. Policies and objectives stated in the City's own General Plan suggest downtown opportunities should be prioritized, not undeveloped areas of South Main:

Objective CD 3: To encourage Infill Development where appropriate.

Policy CD 3.1: Infill Development. The City should work to encourage appropriate infill development throughout the City of Lakeport.

Objective ED 4: To support infill Development of commercial and service commercial properties within the City limits.

Policy ED 4.1: Infill Areas. The City shall promote the development and redevelopment of City infill areas.

Policy ED 4.4: Underutilized Structures. The City shall encourage the creative reuse of underutilized structures in key commercial areas.

Policy UB 2.1: Infill Development. The City should encourage infill development, but recognize that infill development can only provide some of the land needed for residential development in the future.

Objective LU 2: To ensure the adequate provision of commercial land to meet existing and anticipated community needs while respecting the character and small town charm of the City.

Ample undeveloped, underutilized and vacant commercial property, including potential for rezoning for commercial and industrial development, already exists in the City of Lakeport

As documented in the attached 2015 Report on Undeveloped, Underutilized & Vacant Commercial Properties within the City of Lakeport (**Exhibit J**), prepared by Lake County Community Development and Lake County Administration, the City of Lakeport currently has, within its boundaries, substantial undeveloped and vacant commercial property. A 2019 addendum to said report has been added (please refer to the salmon-colored pages).

The City has argued the South Main area is the only potential area in which it can develop a commercial corridor and has indicated it intends to rezone the area to C3 for a broad range of commercial and industrial development. However, there are presently several large, vacant commercial properties within the City limits that can be rezoned by the City to C3 to provide for future commercial and industrial development. More specifically, the 2015 report noted 35 undeveloped commercial properties totaling 64.2 acres. In the years since the report was first generated, only 1.79 acres have been developed.

Ample undeveloped, underutilized and vacant commercial property, including potential for rezoning for commercial and industrial development, already exists within the City of Lakeport (continued)

The addendum acknowledges new occupants of some locations listed in the 2015 report, but this is essentially offset by a substantial list of newly or soon-to-be vacated buildings.

The City's General Plan estimated, by 2010, the population of the City would reach 5,521, necessitating 34 acres of residential, 13 acres of commercial and 10 acres of industrial land. By 2025, the population of the City was expected to grow to 6,859, and require a total of 156 acres of residential, 22 acres of commercial and 45 acres of industrial land. Even these needs could be met using existing vacant infill areas, currently within the City's boundaries.

However, the actual population of the City was 4,753 in 2010, and is currently 5,134. The rate of population growth has been significantly less than was anticipated in the City's General Plan. Therefore, the land needed can be easily found within existing vacant and underutilized infill areas in the current City limits.

The City's claim that it will have sufficient fund balance and HUTA revenue stream necessary to complete the South Main Street and Soda Bay Widening and Bike Lanes Project is severely underestimated

Right of Way acquisition costs for the Road Project may exceed \$1 million dollars. Considering time elapsed since the original grants were obtained for this Project, and significant increases in construction costs over that period, it is highly unlikely sufficient grant funding exists to complete the Project. According to the City of Lakeport's Municipal Service Review⁷, street and road funds are not expected to be sufficient to build all necessary roadway improvements, or significantly improve future traffic congestion issues in Lakeport and the Sphere of Influence. Additional local funds will be required.

In addition, should annexation be approved, any work supported by County Road Department funds within to proposed annexation area will need to be reimbursed by the City. As of this response date, the reimbursable total is \$829,567.

The present agreement for sewer services already maximizes the parties' ability to provide government services

Lake County Special Districts owns the existing collection system and the businesses and residents of South Main are County sewer customers. The County has an agreement with the City to take County flows and process the waste. In addition, when needed, such as during periods of heavy rains, the City can also send the County its flows, and the County processes

⁷ Lake County LAFCO, Municipal Service Review, July 18, 2012.

the waste for the City. By mutual agreement, both parties reimburse each other for such treatment when needed.

Closing Comments

Collaborative efforts toward a Tax Exchange Agreement stopped in late 2017, after the City proposed a model that was inconsistent with LAFCo's "revenue neutrality" policy; in fact, it would have been quite detrimental to the County. In 2019, talks were resumed, with the City again proposing an Agreement that would not be revenue neutral (**Exhibit F**).

Before the City's application to LAFCo can be acted on, the City and County must faithfully negotiate a Tax Exchange Agreement. The County has been besieged with highly destructive wildfires over the last four seasons. With more than 5.5% of our housing stock lost, the County is simply not in a position to consider any arrangement that would exacerbate these losses.

While the County's finances have become extremely challenged, the financial circumstances of the City have considerably improved, with the voters of Lakeport approving additional sales tax, for a total of +1.5%. The City's sales tax rate is higher than nearly 80% of California cities and counties, thus putting the City in a strong position to support development of the many undeveloped, underutilized and vacant commercial properties already within its boundaries.

Through its annexation application, the City must demonstrate its plan will maximize the ability of the parties to provide government services. This objective has not been met. As proposed, annexation would substantially and negatively affect the County's provision of essential services, far broader in scope than City services, to our 64,382 constituents.

The County values building strong relationships with local government partners and, again, appreciates this opportunity to provide comment to LAFCo. We trust LAFCo leadership will recognize the need to reject the City of Lakeport's application, as presently submitted, thereby requiring the parties restart negotiations.

Respectfully submitted,



Carol J. Huchingson

County Administrative Officer

Exhibit B



MEMO

TO: Margaret Silveira, City Manager
Kevin Ingram, Community Development Director
Linda Ruffing, North Coast Planning

FROM: Doug Svensson, AICP

DATE: July 29, 2019

SUBJECT: BAE Peer Review of South Lakeport Annexation Fiscal Analysis

In reviewing the BAE document dated July 17, 2019, many of the comments amount to requests for clarification of our analysis rather than providing evidence that the analysis is flawed. In the few cases where BAE offers an independent analysis, they have made fundamental mistakes that render the comments meaningless. We see no cause from their comments to change the fundamental conclusion of our report that the 1997 agreement produces a fair and equitable distribution of revenues and service cost obligations between the City and the County. Our specific responses to the main BAE points, which begin on page 9 of their report, are provided below.

Page 9. BAE: *ADE analysis shows County will not receive sufficient revenue to offset costs until well after 2050.*

This is incorrect as Table 17 on p. 25 of our report shows that by 2030 the County will receive \$117,193 in annual revenues against \$65,411 in annual cost, for a net surplus of \$51,782. The initial deficit of about \$8,500 per year would be offset for 24 years by the \$210,000 sales tax payments, but we estimate County will be net fiscally positive without those payments within two years of annexation under the moderate growth scenario, and within three years under the slower baseline scenario.

The fact that the City would receive higher revenue surpluses than the County is due to the fact that the City has adopted local sales tax measures which the County voters have failed to do.

Page 10. BAE: *ADE failed to update the base year from 2017, the magnifying the amount of potential future growth.*

At the time we did the analysis, we used the most current data available including the countywide EDD jobs numbers. However, the buildout estimates for the annexation area are based on current land

use information and are not affected by the base year. Furthermore, the procedure suggested by BAE to update the base year is simply an estimating technique no different than the projection methodology and would not add any more certainty to the analysis since 2019 data are not available.

Page 10. *BAE: ADE relied on LEHD rather than ACS to analyze the share of employment in Lakeport compared to the County.*

BAE has made a fundamental mistake here in that the ACS does not measure jobs in place in a jurisdiction but rather the characteristics of the labor force in the jurisdiction. What BAE interprets as industry jobs in Lakeport from ACS is in fact the industry of employment of the workers living in Lakeport. This is not the same as the job base physically located in Lakeport, which is what the LEHD measures. Furthermore, we calibrated the LEHD numbers to the countywide EDD job figures to eliminate any undercounting error that may occur in the LEHD data set.

This error by BAE leads to their assertion that jobs in Lakeport are declining when in fact they have been increasing. We have seen labor force decline in many cities where job opportunities were reduced by the recession. Jobs come back more quickly than labor force, which results in a reduction in unemployment rates until the labor market reaches equilibrium again.

Page 11. *BAE: The study does not document the assumptions used to calculate development capacity in the annexation area.*

These assumptions are described on p. 5 under Buildout Potential, indicating the FARs used for each land use designation. Table 2 shows the calculations. The percentages in the column entitled Maximum Allowed Development indicate the proportion of full buildout potential remaining on each parcel. The level of constraint was determined by City staff using current site information.

Page 11: *BAE: Estimation of Road Fund revenue is not explained.*

Table 7 on p. 16 indicates the property tax share for the County Road Fund right underneath the County General Fund factor for the two tax rate areas in the annexation area.

Page 12: *BAE: ADE used the wrong development values to project future assessed value of new development.*

The following development values per sq. ft. were used in our analysis, based on ListSource data for existing development in Lake County. All institutional uses are assumed to be taxable.

Retail	\$150
Office	\$150
Light Industrial	\$250
Institutional	\$200

Page 13. *BAE: No justification is given for the use of TRA 001-002 as a model for post annexation property tax distribution.*

This TRA was provided by the County Auditor when it was determined that TRA 001-001 no longer exists. Our analysis does not assume that the annexation area would be annexed into TRA 001-002 but rather that it reflects typical property tax shares for the City and the County given existing service obligations within the City limits.

Page 13. BAE: *The City sales tax payments to the County on page 17 of the report is missing the year 7 payment.*

BAE is correct that the table should show \$7,500 in Year 7 and \$0 in Year 8. However, the text and the analysis reflect the full \$210,000 that would accrue with this correction.

Page 13. BAE: *More detail is needed to evaluate ADE's service cost estimates, particularly the service populations and any revenues netted out of the cost calculations.*

For the City calculations, the City budget is provided on p. 18 of the report, the service population is clearly stated at the top of p. 19, and the service cost adjustments are spelled out in the first full paragraph of page 19.

For the County analysis, the service population is provided in the last paragraph of p. 22 and all the relevant County budget figures are provided in Tables 13-15 plus the Appendix.

The fiscal projections use the moderate growth projection, as stated at the bottom of p. 11.

Page 14. BAE: *ADE should use a case study methodology for estimating County Sheriff impacts.*

The fiscal analysis is focused on changing service responsibilities within the annexation area, not with County services outside the area after annexation. Therefore, it is not clear that a case study approach would change the outcome of the analysis. The County would have many options in making budget decisions to balance costs and revenues in future years and it cannot be assumed that changes in revenue would affect the County Sheriff's Department disproportionately compared to other services the County provides.

Page 15: BAE: *The report is unclear whether the City intends to provide water and sewer service to the annexation area.*

The report states in both the City and County fiscal impact sections that the City does intend to provide water and sewer service (see pp. 19 and 22). The report does not evaluate residual impacts on the Lake County Sanitation District.

Exhibit C

bae urban economics

Memorandum

To: Susan Parker, Assistant Administrative Officer, County of Lake

From: Aaron Nousaine, Vice President

Date: August 19, 2019

Re: Response to ADE Comments on BAE Peer Review of South Lakeport Annexation Fiscal Impacts Analysis

This memorandum is in response to comments provided by Applied Development Economics (ADE) regarding the peer review conducted by BAE Urban Economics of the analysis conducted by ADE for the South Lakeport annexation. The ADE comment letter is dated July 29, 2019, and was provided to BAE by County staff on August 15, 2019.

The key findings of BAE's peer review, dated July 17, 2019, identified a variety of issues and fundamental errors that render the results of the original fiscal impacts analysis prepared by ADE insufficient for use in directing well informed and equitable decisions regarding public service provision in Lake County and the City of Lakeport. Foremost among those are the following: 1) the failure to acknowledge the invalidity and unenforceability of the 1997 revenue sharing agreement as asserted by Lake County; 2) the use of inappropriate data as the basis for developing local growth projections (i.e., the Longitudinal Employment Household Dynamics, or LEHD, dataset published by the U.S. Census Bureau); 3) the inappropriate use of an unrelated Tax Rate Area (TRA) to model the distribution of property tax revenue between the City of Lakeport and Lake County, and; 4) the failure to evaluate the likely significant fiscal impacts to the local County water district. In addition, the peer review identified a number of lesser issues that required greater clarification, such that experts and lay people alike might better understand the assumptions and calculations that underly the ADE analysis and its conclusions.

In response to BAE's peer review, ADE submitted a comment memorandum to the City of Lakeport, which is dated July 29, 2019. The comments provided reflect only a cursory reading of the BAE peer review report, with some of the comments reflecting a fundamental misunderstanding of BAE's key findings. The following is a brief response to ADE's comment memorandum that is aimed at moving the conversation toward a set of mutually agreeable

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baseline facts and assumptions that can be used as the basis renewed negotiations between the City and the County.

Fundamental Issues of Concern

Item 1 – Applicability of the 1997 Tax Sharing Agreement

Neither the ADE fiscal impacts analysis, nor the comment memorandum, address the fundamental assumption of whether the 1997 tax sharing agreement can reasonably form the basis for modeling the fiscal impacts associated with annexation. It is the position of the County of Lake, as documented in the BAE peer review report (page 6, lines 12-19; and Appendix C), that the 1997 tax sharing agreement between the City of Lakeport and Lake County regarding annexation of the South Lakeport area is void and unenforceable. If this opinion is upheld, then the fiscal analysis would need to be revised to reflect a mutually agreed-upon revenue sharing arrangement. While it is likely not within ADE's purview to determine the applicability of the agreement, the analysis should acknowledge that the enforceability of the agreement is contested and that, at best, fiscal impact calculations based on the provisions of the 1997 agreement are merely illustrative of the potential fiscal impacts if the City and County ultimately agreed to similar revenue sharing terms.

Item 2 – Using LEHD as the Basis for Growth Projections

Our peer review report identified a number of issues in the way that ADE prepared the growth projections used for the original fiscal impacts analysis. Foremost among them is the use of LEHD data as the basis for apportioning county-level employment growth by industry. The LEHD dataset is inappropriate for such use, as it is well known for being unreliable, especially when used to describe employment dynamics within small geographic areas, as is the case with the ADE analysis. Also, the most recent available LEHD data is current only through 2015, which means that ADE based their projections on outdated information when newer and more reliable information was available from other sources, such as the EDD.

Although ADE indicates in the comment memorandum (page 2, lines 10-11) that they “calibrated the LEHD numbers to the countywide EDD job figures to eliminate any undercounting error that may occur in the LEHD data set,” it is unclear exactly what calibration was done and how that “calibration” could effectively account for the inherent error in the data. The reason for this is that ADE does not identify any other benchmark for citywide employment that they could have used to ensure that the ratio of citywide to countywide employment by industry reported in the LEHD data was accurate. For this reason, BAE recommended that ADE purchase historical place-level data on jobs by industry for an appropriate reference period from the Quarterly Census of Employment and Wages (QCEW) which is available from the California Employment Development Department (EDD), as BAE does frequently for other projects. This recommendation is discussed in detail on pages 10 (line 32) and 11 (lines 1-4) of BAE's peer review report. Doing so would ensure that the city-level jobs numbers that ADE is using as the basis for their projections are internally consistent

with the county-level data that they are already using. Also, the QCEW data published by the EDD represent official governmental estimates of employment, as published by the State of California, and are therefore considered the industry standard for this type of analysis. BAE requests that ADE obtain the necessary data for an appropriate historical reference period, identify assumptions based on that data that they believe would be an appropriate basis for a revised analysis, then provide the data and desired assumptions to County staff and BAE for review. This request is intended to help identify mutually agreeable growth assumptions that may form the basis for a revised fiscal analysis, if and when such an analysis is appropriate.

Furthermore, BAE strongly objects to ADE's assertion in their comment memorandum (page 2, lines 6-15) that the BAE peer review report recommended the use of data from the American Community Survey (ACS) as the basis for ADE's growth projections. A careful reading of reading of pages 10 and 11 of our peer review report makes it clear that ADE misread the BAE recommendation. Although BAE does cite a number of ACS figures, these are used only for explanatory purposes, to illustrate the significant divergence that exists between the LEHD and other comparable data sources. While ADE asserts that the figures reported by BAE represent employed residents and not jobs, this is also incorrect. The data provided by BAE are from *Table S0804: Means of Transportation to Work by Selected Characteristics for Workplace Geography*. The key distinction is that the figures that BAE reported from the ACS reflect the workplace geography of Census survey respondents, not their place of residence. The U.S. Census Bureau defines "workplace geography" based on the "geographic location at which workers carried out their occupational activities during the reference week."¹ Therefore, the examples provided by BAE represent the U.S. Census Bureau's most recent available estimates of the number of jobs, not employed residents, located within the City of Lakeport. Due to the inherent error present in the ACS data stemming from the fact that ACS is a survey-based dataset, BAE still recommends that ADE purchase appropriate place-level employment data from the EDD.

Item 3 – Use of TRA 001-002 as the Basis for the Analysis

The use of Tax Rate Area (TRA) 001-002 in the ADE fiscal analysis is a critical fault. ADE indicates in their July 29th comment letter (page 3, lines 1-4) that the "analysis does not assume that the annexation area would be annexed into TRA 001-002 but rather that it reflects typical property tax shares for the City and the County given existing service obligations within the City limits." Nonetheless, ADE used the net AB8 increment factors for TRA 001-002 as the basis for estimating the amount of property tax revenue that will accrue to both the City and County post annexation. There is no justifiable basis for doing so, as there do not appear to be any provisions in the 1997 tax sharing agreement or its subsequent amendments that deal with the assignment of a new TRA for the purposes of annexation. For example, while the use of TRA 001-002 does reasonably reflect the tax share of receiving entities other than the

¹ U.S. Census Bureau. (May 8, 2017). *Frequently Asked Questions: 6. What is the difference between residence and workplace geography*. Available at: https://www.census.gov/topics/employment/commuting/about/faq.html#par_textimage_174230772

City and the County, the use of the tax rate allocation factors for the City and the County assumes that the division of revenue between those two entities is fixed, when it remains in question. ADE could therefore just as easily assume that the City received all of the County's current property tax revenue, or none of it, as there currently is no justifiable basis for determining what that split should be. The ADE analysis should clearly acknowledge that the TRA 001-002 tax splits are no more than placeholders that serve to generate a set of fiscal results which can then be used as the basis for discussions between the City and the County about an equitable split to be used for the purposes of the proposed annexation.

Item 4 – Failure to Evaluate Impacts to the County Sanitation District

ADE indicated on pages 19 and 22 of the fiscal impacts report that the City will assume water and sewer service within the annexation area. However, the analysis assumes that because the service costs associated with water and sewer service provision are covered by user fees that the impacts would be negligible to both agencies. As summarized on page 15 of BAE's peer review report, there is a significant concern at the Lake County Sanitation District (LACOSAN) that "if the City assumes water and sewer service within the annexation area, the service population remaining within the special district would be too small to justify the continuation of service. This would potentially leave existing residents and businesses in the remainder of the district that is not annexed to the City without water and sewer service, or if service is continued, the service charges may have to increase to unsustainable levels due to the need to spread the district's fixed costs over a smaller base of ratepayers." While ADE confirmed in their recent memorandum (page 3, lines 27-28) that the City intends to assume responsibility for water and sewer service, the dismissive and incomplete response provided on by ADE is insufficient to address the concerns raised by LOCSAN. BAE recommends conducting an analysis using case study methods to clearly quantify the impacts to LOCSAN and to confirm whether the transfer of service would have significant and unavoidable negative impacts on existing district residents and businesses outside of the proposed annexation area (i.e., leaving them without service, or subject to disproportionately high service costs).

Other Issues of Concern/Clarification

In addition to the fundamental issues identified above, there are a number of items identified in the ADE comment memorandum that warrant a response.

Item 5 – Failure to Update from Base Year 2017

As part of the peer review findings, BAE recommended that ADE update the projections from base year 2017 to base year 2019. ADE asserts on page 2 (lines 1-3) in their July 29 comment letter that "the procedure suggested by BAE to update the base year is simply an estimating technique no different tha[n] the projection methodology and would not [add] any more certainty to the analysis since 2019 data are not available." It is true that the approach proposed by BAE is a simple estimation method, one which ADE appears familiar with. However, failure to adjust to an appropriate base year likely exaggerates the amount of

employment growth that is projected to occur within the study area and, therefore, results in a slight overestimation of the property tax revenue that is likely to accrue to both the City and County due to new development within the annexation area. Combined with the likely overestimation of local employment growth due to the use of inappropriate data as the basis for allocating the City's share of countywide jobs growth, this assumption is likely to have a significant cumulative effect on the results of the ADE analysis.

Item 6 – Estimation of Road Fund Revenue

The BAE peer review report requested additional clarification regarding how ADE estimated the amount of Road Fund revenue that accrues to Lake County (page 11, lines 33-38; page 12, lines 1-15), which would be transferred to the City in the event that annexation occurred under the terms of the 1997 agreement. In the response memorandum provided by ADE (page 2 lines 22-24), they direct attention to the property tax allocation factors reported in Table 7 on page 16 of the original ADE fiscal analysis. However, the table in question only pertains to the allocation of property tax revenue. There is additional sales tax revenue that accrues to the County Road Fund as a result of sales and use tax collections from within the annexation area. It appears, based on ADE's response in the July 29 memorandum, that the sales tax component of the Road Fund revenue stream was not accounted for. This subsequently means that ADE underestimated the amount of money that would be transferred from the County Road Fund to the City following annexation. Further analysis is necessary to clarify this issue to ensure that the fiscal analysis adequately documents the likely fiscal impacts of the proposed annexation to both the City and the County.

Item 7 – Estimation of New Development Value

BAE requested that ADE clearly document the property valuation assumptions used as part of their analysis, some of which was omitted from the original report. In the response memorandum, ADE fails to address BAE's finding that they used a valuation estimate for commercial services that is too high, at \$250 per square foot rather than \$185 per square foot. In the response memorandum, ADE further breaks out the valuation estimates to include \$150 per square foot for both office and retail, as well as \$250 per square foot for light industrial and \$200 per square foot for institutional uses. This is a departure from what was identified in the original fiscal impact analysis report.

BAE questions the use of a valuation amount of \$250 for light industrial, which is \$100 more than for office and retail. We request that ADE provide justification for this value, as it is very rare for the per square foot value of industrial uses to exceed those of retail and office uses. Unless adequately justified, this assumption likely results in a significant overestimation of the assessed value of future light industrial development within the annexation area.

Also, on page 2 (lines 26-27) of the ADE response memorandum, they indicate that "all institutional uses are assumed to be taxable," they provide no clear justification for this. There are many categories of institutional uses that are tax exempt. If any tax-exempt uses are

anticipated for development within the annexation area, then ADE's assumption likely overestimates the value of new development in the area and subsequently overestimates the resulting property tax revenue that will accrue to both the City and the County. BAE requests that ADE more clearly identify which institutional uses are considered taxable and provide adequate justification for their inclusion in the analysis.

Item 8 – Changes in Service Capacity of the Sherriff's Department

On pages 14 (lines 8-35) and 15 (lines 1-8) of the peer review report, BAE recommended that ADE consider using a case study method to evaluate anticipated impacts to the Lake County Sheriff's Department. In ADE's response memorandum (page 3, lines 18-23), they argue that the fiscal analysis only pertains to service responsibilities within the annexation area, and that significant reductions in the County's ability to provide essential services countywide due to loss of revenue should not be considered. BAE contends that those impacts are indeed pertinent, as any change that might disproportionately reduce the ability of the County to provide essential services can and should be considered a significant impact resulting from the proposed annexation. This is particularly true in a case where the City stands to sustain a significant windfall, while the County would sustain a deficit.

Item 9 – Clear Documentation of Source Data and Assumptions

The BAE peer review report requested that ADE provide additional detail regarding the information used to calculate the net fiscal impact estimates for both the City and the County, as a detailed reading of the ADE report identified gaps in the information provided. ADE provide some limited clarification on page 3 (lines 11-16) of the ADE response memorandum. BAE would like to more specifically request clarification on whether ADE applied the same service population figure for all cost and revenue line items. If so, ADE should revise the analysis to ensure that they are excluding workers from the service population estimates where appropriate for both the City and the County. For example, the industry standard is to assume that the service population is equal to the resident population, plus one-half of the employment base, except in cases where workers are unlikely to generate much in the way of service demand. ADE seems to have already done this for Lake County (i.e., the per capita cost share for businesses is zero for Parks and Recreation, Health Services, and Social Services, as reported in Table 14 on page 23 of the fiscal analysis), but not for the City of Lakeport (i.e., the per capita cost share for parks and building maintenance, as reported on page 19 of the fiscal analysis), meaning that ADE appears to treat the City and County differently from a methodological standpoint. This should either be revised, or ADE should provide further justification for the difference in approach.

Exhibit D

A-8

CITY OF LAKEPORT MEMORANDUM
--

Date: January 22, 2002
To: City Council
From: City Manager
Subject: Annexation Agreement

RECEIVED

JAN 28 2002

ADMIN. OFFICE

Tonight you will be asked to consider and approve an agreement with Lake County by which you are to commit that City will not annex properties south of present City limits on S. Main Street. In exchange for this agreement, Lake County will consider budgeting improvements to S. Main Street that may include street surfacing and undergrounding of overhead utilities. This agreement is actually an amendment of existing agreement between City and County concerning this area.

While this amendment was made known to staff sometime ago in conversations with County representatives, the written agreement was not provided until late Friday evening, well after the normal deadline for submission of items for agenda consideration. I apologize for placing the item on the agenda without first receiving the draft agreement, but I was assured by County representative that the agreement would be available by normal deadline.

Due to the lateness of the submission, a staff analysis and recommendation could not be included in your agenda packet. Please accept the following as our attempt to quickly provide such.

The agreement proposes to improve street to unknown standard and to underground overhead utilities if the City promises not to consider or support annexation for 10 years. Our comments are:

- General Plan includes policy to arrange for annexation of this area when a feasibility report shows that it is possible and beneficial. Execution of an agreement to not annex for a period of time may be inconsistent with General Plan policy.
- Lake County presents that they wish to insure that they do not make improvements then City annex their improvements. Informal conversations with Lake County staff have given staff the impression that street improvements will be a long way from City standards. Thus any annexation proposal would have to include City provision for improving street to City standard and for provision of water service that does not presently exist. Though the feasibility study has not been undertaken, it is assumed that it would not be favorable.

- An agreement to limit the ability of future City Councils to consider and/or support annexation of this area is probably not legally binding, especially since such could be deemed inconsistent with General Plan.
- Staff requested financial information from County representatives which has not been provided and without which a fully informed recommendation cannot be provided.
- If it is assumed that any future annexation of the area will be based on financial arrangement such as negotiated between City and Lake County for area just north, there is no indication that annexation would be a positive financial impact on Lakeport.

A quick summary of the above as it applies to property owners and business operators in this area is that if City annexed, General Plan would require that water main be extended into the area to provide not only potable water for consumption but sufficient water pressure for Fire protection services. The later would require that the main be looped. The General Plan would also require that provision be made to improve street to City standards. Both of the above would likely be done by assessment district. The cost for such would be substantial on property owners. It is difficult to believe that if fully informed of the ramifications of such, they would continue to support annexation by City until their costs would be known. In addition to the above, business operators would be assessed business license fees not presently charged in the County and face much greater code enforcement effort. The major benefit in return would be greater police and fire protection and dependable water. (City sewer already exists in this area)

Staff feels that this area of the County is presently County and should be served by the County to the best ability of the County. Without better information on which to base a prediction of when annexation would be appropriate, it can only be stated at this time that it is not in the best interest of City or the property owners of this area to proceed with annexation to the City. It may be more than 10 years before this situation changes. If City Council agrees, direction should be provided that this position is provided to Lake County prior to their consideration of capital projects to be funded that includes South Main Street.

It is present State law that prior to any annexation a sharing of property tax agreement be provided between City and County. LAFCO cannot process an annexation without such an agreement in place. This means that if there is no agreement between City and County, no annexation can go forward. To this staff person, this means the Board of Supervisors already can stop any annexation in this area by simply not agreeing to split property taxes.

Options available to City Council include the following:

- Thank Supervisor Farrington for his presentation and do nothing.
- Thank Supervisor Farrington for his presentation and advise that due to the late receipt of document further study and consideration must be done before Council feels comfortable acting on the agreement
- Thank Supervisor Farrington for his presentation and decline the offer to enter into the agreement based on probable inconsistency with General Plan and inadequate time to evaluate the financial consequences to the City and affected property owners and businesses.
- Thank Supervisor Farrington for his presentation and authorize the Mayor to execute the agreement with the understanding that it may not be binding on future Councils.

Prior to the presentation by Supervisor Farrington, possible conflicts of interest should be addressed. It is known to staff that County employs one Councilperson, and one Councilperson is employed by one of the businesses in the area being discussed. If there is any feeling that a decision adverse to County position could impact employment relationship, or that image of conflict is not felt to be appropriate, please disclose a "possible conflict" and step down from the podium during the presentation and consideration by the City Council. If you have questions about this, please contact City Attorney for further advice.

Recommendation:

Move to thank Supervisor Farrington for his presentation and representation of constituents in District IV, decline to approve the agreement as presented, and direct Mayor and City Manager to prepare written position regarding annexation of S. Main Street area for presentation to Lake County Board of Supervisors and property owners and businesses in this area.

Exhibit E

**CITY COUNCIL AGENDA ITEM
ADMINISTRATIVE COMMUNICATION
CITY MANAGER STAFF REPORT**

Item No: VII.B

Date: February 4, 2002

Subject: Possible Amendment to proposed non-annexation agreement with Lake County concerning S. Main Street corridor

At your previous meeting, Supervisor Farrington asked that City execute a non-annexation agreement for S. Main Street area to allow Lake County to fund maintenance of street and undergrounding of utilities project within that area.

City Council directed staff to prepare a position paper regarding agreement and to propose possible alternative to the draft amendment to agreement that might be acceptable to City and County.

Attached please find draft position paper attempting to explain why it is not believed by staff to be good government to execute the agreement as proposed. In addition to the reasons explained in the position paper, staff presents a more direct point that City and County are always looking for ways to promote economic development. The agreement as proposed has the ability to severely inhibit such. It is very conceivable that an application for a project in the improvement area would be submitted to County during the proposed non-annexation time frame that would create revenues and jobs. The project, however, might require water or other services only available from City. With the agreement in place, City and County would be forced to oppose an economic enhancement, as those services could only be supplied contingent upon annexation.

Also attached is draft of possible amendment to April 17, 2001 agreement that may accomplish what County is requesting, that allows City and County to explore all options without giving up any rights that could be legally challenged.

Recommendation:

Move to direct staff to forward position paper and alternative amendment to April 17, 2001 agreement to Lake County Board of Supervisors for their consideration, and to inform Board of Supervisors that City supports Lake County staff recommended project to improve the S. Main Street corridor.

Position Paper

Request:

Lake County Board of Supervisors has asked City of Lakeport to execute an agreement by which assurance would be provided that City would not annex area in which Lake County proposes to install street and utility undergrounding improvements for ten years. It is presented that failure to execute agreement could cause moneys to be used on projects elsewhere in Lake County.

Discussion:

The proposed project area is wholly within Lake County and has provided substantial tax base for Lake County for many years. It is developing and City of Lakeport General Plan projects that urban level services may be needed, and City should plan to provide such services during the current life of that plan, 1990-2020.

In fact, City of Lakeport General Plan recognizes this area as first priority for annexation. In order to consider annexation of the proposed improvement area, the Planning Commission and City Council would have to first make findings that:

- Fiscal impacts on the City are positive
- Environmental consequences have been adequately mitigated
- There is compliance with General Plan
- No adverse impact on the orderly development of City, no inhibition on development of vacant and underdeveloped land within the existing City limits
- No adverse growth-inducing impacts in City Sphere of Influence
- Financing for community services and utilities required has been identified and exists
- Effects on maintaining the physical and economic integrity of prime agricultural land is positive

There has been no in-depth study to determine if these findings can be made now or in the 10 year no-annexation period requested by Lake County Board of Supervisors. There has been no application for annexation by property owners or any attempt to encourage such on the part of the City of Lakeport that would have generated the need for such study.

In an ideal world, Counties support development to rural standards. When development is proposed or existing development requests urban services, Cities provide them. It was the understanding of those who prepared and approved the Lakeport General Plan that urban level services would be requested and needed in the improvement area prior to 2020. As of this date, those with property interests in the improvement area have not provided such a request.

Lake County staff has proposed the South Main Street project as their priority for maintenance of streets within their street inventory. The project is not proposed to bring this street to urban or City service level standards, or to bring the street to level of development understood to be proposed in S. Main Street corridor study currently being done by Lake County APC.

The project is a maintenance project with the addition of undergrounding of utilities as means of assisting existing property owners to comply with mitigating conditions required by the County as a part of land entitlements. If there are other maintenance projects within Lake County that are viewed as more beneficial, the Board is within its roll to alternatively fund those projects. The City supports this project, but it is not appropriate for the City to evaluate the need for this maintenance project over that of others in Lake County. That is the duty of Lake County staff and the Board of Supervisors.

However, the City is aware that other street projects are proposed to be funded by STIP and other moneys to maintain roads throughout Lake County. The City is not aware of any non-incorporation or non-annexation agreements being required for any of these other projects.

Under provisions of State law, any annexation would require an agreement between Lake County and City of Lakeport on exchange of property taxes. Failing to reach such an agreement, annexation cannot proceed. Lake County can therefore inhibit annexation of the improvement area without proposed agreement with City.

In addition to the above, it is strongly believed that it is inappropriate for this City Council to bargain away the right to annex this area by future City Councils, especially without study and public hearing thereon, and concurrence of LAFCO under recently amended State statutes. It is also felt to be inappropriate to bargain away the right of those property owners in the improvement area to annex their property(s) that may require City services to develop in the next 10 years. Such could be a serious economic disincentive for this area. The ability of the proposed amendment to withstand legal challenge, by future City Council or present or future property owners within the improvement area, is highly questioned.

Conclusions:

- Execution of the agreement as proposed by Lake County has not been, and probably cannot be, considered consistent with existing General Plan.
- It is not believed that Lake County requires non-annexation agreement for any other street maintenance projects it proposes, and the lack of consistency in this regard is noted.
- Lake County Board of Supervisors retains the ability to inhibit annexation of this area without the proposed agreement.
- Execution of the agreement as proposed could lead to legal enforcement problems for City.

**ALTERNATIVE LANGUAGE TO AMEND
APRIL 17, 2001 AGREEMENT**

- B. City represents that current conditions as set forth below make it such that there is no current intent to annex southerly along South Main Street to Soda Bay Road.
- a) The lack of a fiscal analysis supporting the cost/benefits of annexing the area along South Main Street – Soda Bay Road adjacent to its southerly city limits;
 - b) That the pending South Main Street corridor study has not been completed, reviewed or adopted;
 - c) The fact that no parties within the City's Sphere of Influence have requested annexation in the South Main Street area; and
 - d) That current fiscal uncertainty at both State and Federal levels is likely to adversely affect the City's fiscal condition and ability to serve areas outside its existing City limits.

Notwithstanding the above representations, said conditions could change at any time. In the event of changed conditions that warrant consideration of an annexation southerly along South Main Street up to or including extension to Soda Bay Road, City agrees to give County notice that such annexation is being discussed. Should County request a meeting with City to discuss the impact of a contemplated annexation, City agrees to meet and confer in an attempt to develop a mutually acceptable plan to address such impacts.

AMENDMENT TO PRE-ANNEXATION AGREEMENT REGARDING UNDERGROUND
UTILITY AND ROAD IMPROVEMENTS IN THE SOUTH
LAKEPORT AREA OF THE COUNTY OF LAKE

This Amendment to Agreement is made and entered into this _____ day of _____, 2002, by and between the County of Lake (hereinafter referred to as "County") and the City of Lakeport (hereinafter referred to as "City").

RECITALS

WHEREAS, County and City entered into an agreement on April 17, 2001, entitled "Pre-Annexation Agreement Regarding Proposed Underground Utility District And Possible Road Improvements In The South Lakeport Area Of The County of Lake", in which County agreed to form an underground utility district along South Main Street-Soda Bay Road, south of the present city limits of City and City agreed to reimburse County, pursuant to a negotiated agreement, to share the cost of the utility undergrounding and any road improvements in said area pursuant to the terms and provisions set forth in paragraph 1 of said Agreement, and

WHEREAS, County has since formed an underground utility district for South Main Street-Soda Bay Road referenced above; and

WHEREAS, County is currently planning to proceed with construction of road improvements in said area contemporaneous with the underground utilities, and has identified funding for this purpose; and

WHEREAS, it is in the public's interest and therefore in the interest of both County and City to have said road reconstructed and utilities undergrounded and both parties wish to take advantage of a one-time option currently available to County to finance this project with County funding; and

WHEREAS, said area is within the sphere of influence of City and City has previously indicated the possible annexation of all or a portion of said area in the future; and

WHEREAS, if the subject area is annexed by City prior to said road improvements being made, City would not have the financial ability to fund the above-described project in the absence of establishing an assessment district or otherwise increasing tax revenues from the properties in the project area; and

WHEREAS, County, prior to allocating funding for such a project and taking final action to authorize construction of such project desires that City agree to defer annexation of the subject area south of its existing city limits in exchange for the County taking steps to begin construction of said project; and

WHEREAS, the parties desire to amend the April 17, 2001 Agreement by simplifying the parties' obligations thereunder whereby City will agree to defer annexation of the subject area for a minimum of ten (10) years from the date of this Amendment and in return County will agree to forego its rights under said Agreement to reimbursement from City for a reasonable apportionment of the costs of said project; and

WHEREAS, it is fair, reasonable and advantageous to both parties to so agree.

NOW, THEREFORE, based upon the foregoing recitals, the parties hereto agree as follows:

1. Paragraphs 1, 2, 3, and 4 of the April 17, 2001 Agreement shall be deleted and in their place, the parties hereby agree as follows:
 - A. County agrees to proceed with a project for the reconstruction of South Main Street-Soda Bay Road from the southerly boundaries of the existing city limits of City to Soda Bay Road bridge over Manning Creek including undergrounding of utilities, at the earliest possible date.
 - B. City agrees to not file an application for, or otherwise cause to be initiated or support an application for, annexation of any portion of the above-referenced area along South Main Street-Soda Bay Road adjacent to its present southerly city limit boundaries within ten (10) years of the date of this Amendment to Agreement.
2. Paragraphs 5, 6, 7, and 8 of the April 17, 2001 Agreement shall not be amended and shall remain in full force and effect as if set forth herein.

COUNTY OF LAKE

CITY OF LAKEPORT

CHAIR, Board of Supervisors

MAYOR

APPROVED AS TO FORM:

APPROVED AS TO FORM;

CAMERON L. REEVES
County Counsel

STEVEN J. BROOKES
City Attorney

ATTEST: KELLY F. COX
Clerk of the Board
of Supervisors

ATTEST: City Clerk, Deputy

By: _____

By: _____

Exhibit F

Carol Huchingson

From: Margaret Silveira <msilveira@cityoflakeport.com>
Sent: Tuesday, July 30, 2019 6:09 PM
To: Carol Huchingson
Subject: Annexation Discussion

(Evid. Code, §§ 1152, 1154)

Carol,

As we have discussed, though the City and County have an existing agreement for property and sales tax sharing City annexations, the City is happy to discuss additional terms for our tax sharing agreement for the proposed South Main annexation that can benefit all parties and the residents our agencies serve given the County's concerns about its budget. Therefore, as you asked, I write to propose additional terms for a such an agreement for your ad-hoc committee of the Board to consider. I could recommend the City's ad-hoc committee agree to the following:

1. The County may keep its current sales tax from the annexation area for two years after annexation (excluding the City's 1.5% transactions and use taxes to be levied after annexation), at which point the City will reimburse the County for sales tax loss under our existing agreement.
2. The City will provide sewer service to the remaining 7 parcels of the South Lakeport Sewer District that are not part of the annexation area for the remaining term of the sewer agreement with the County. At the end of the sewer agreement, those 7 parcels would need to annex into the City to receive ongoing service.

Margaret

Margaret Silveira
City Manager
City of Lakeport
225 Park Street
Lakeport, CA 95453
707-263-5615

Exhibit G

CITY OF LAKEPORT

*Over 100 years of community
pride, progress and service.*



August 3, 2011

Mr. Kelly Cox, CAO
County of Lake
225 Park Street
Lakeport, CA 95453

Dear Kelly:

RE: SOUTH MAIN STREET ANNEXATION

Dear Kelly:

As per our recent conversation, the City of Lakeport has a very long history of the South Main Street annexation proposal. Included in that history are two agreements dated April 17, 2001, and February 26, 2001, signed by the Chairman of the Board of Supervisors, County Counsel, and attested by you, along with signatures of City of Lakeport, Mayor, City Attorney, and City Clerk.

Both agreements refer back to the South Lakeport Reorganization—Phase I (Annexation) dated February 18, 1997, sales tax agreement and formula. The 2001 agreement, which was modified in 2002, states that for the next annexation phase, the formulas for sales tax sharing will be similar to the formulas used in Phase I. Page 4 of the February 18, 1997, agreement, Article III, Sharing of Tax Revenues, section 3.1 describes a declining pass through to the County over a seven-year period, resulting in the City retaining 100 percent of the sales tax on the eighth year.

As per our past conversation the City recognizes the economic down turn and how both the County and City are suffering from lower revenues. The City is willing to extend the pass through for two additional years as follows:

<u>Year</u>	<u>Percentage amount to be paid by City to County (less the Cities ½ cent tax)</u>
2012	80%
2013	70%
2014	60%
2015	50%
2016	40%
2017	30%
2018	20%
2019	10%
2020	10%
2021	-0-

Page 4 of the February 26, 2002, Pre-Annexation Agreement, states that: "in the event that a developer proposes to construct a project within in the subject area where said project is dependent upon the availability of City services which can only be provided if the property on which the project is located is annexed to the City, and in the event said project would promote County and City goals for local economic development, City and County will work together to facilitate a timely annexation of the subject property in a manner which will not result in an unreasonable financial burden to either entity."

There are many business operating in this proposed annexation area with Conditional Use permits who are under scrutiny by the California Public Health Department as to their water conditions and will need to make improvements to their water systems, many of which improvements are very expensive upgrades. The fire department is concerned about those businesses that do not have adequate water suppression for their businesses; these businesses are putting their employees and patrons at risk without an adequate fire suppression system.

I believe the health and well being of the property owners, business owners, patrons, and residents of the proposed South Main Street Annexation deserve the services the City can provide, most importantly the public water system.

Sincerely,



Margaret Silveira
City Manager

Exhibit H

Carol Huchingson

From: Margaret Silveira <msilveira@cityoflakeport.com>
Sent: Wednesday, August 7, 2019 8:50 AM
To: Carol Huchingson
Subject: FW: LC Water Project

Carol,

Here is the only communication with USDA regarding anything about the County. This was written last March right after Supervisor Scott was on the radio with Councilmember Mattina, saying that the County was getting a 50% grant for this water line, and USDA was telling the County that it could be probably be at 75% grant. This was also after we were told at a meeting with the County that the County would be putting in their own water line and didn't believe we needed to continue meeting.

Margaret

Margaret Silveira
City Manager
City of Lakeport
225 Park Street
Lakeport, CA 95453
707-263-5615

From: Margaret Silveira
Sent: Wednesday, April 3, 2019 11:33 AM
To: pete.yribarren@ca.usda.gov
Subject: LC Water Project

Hi Pete,

Here is the email I sent to Brad Onorato from Mike Thompson's office.

Thank you

Margaret

Hi Brad,

>

> As per our conversation, the City of Lakeport (city) is protesting the application of Lake County (county) to receive USDA funding for a water line bring water from Kelseyville through Finely to provide water to the South Main and Soda Bay Road.

>

> We obtained a copy of the USDA application submitted by the county for \$5.5 million for this water line. The county does not have the right to put a water line in without approval from LAFCO, their water district doesn't have jurisdiction in that area. They would also be drawing water from the Big Valley Basin to provide water to the Scotts Valley basin.

>

> The City of Lakeport has had this area in their sphere of influence for the last 30 years, and an agreement signed with the county to annex this area since 2001.

>

- > The city can also provide water to the 56 properties for under \$1 million. Our water line is right at the border. The city provides water service from the Scotts Valley Basin and Clear Lake. We have ample water supply.
- >
- > The city has also provided sewer for this area since the early 90's in the promise of annexation. This service also extends out to the Big Valley tribe housing and casino. Our contract expires in 5 years and the county would have to find another means of sewer service.
- >
- > In 2011 when the city applied for USDA funds for a number of water and sewer projects, which included the loop line to complete our current system that went through South Main Road to connect to the city limits, the county protested with USDA and the Congressman's office, USDA made us cut that project. Today we will be completing the project at a much higher cost and higher interest rates also.
- >
- > I ask the USDA consider the cost to tax payers by approving the county's application and whether the county has a right to the project.
- >
- > Thank you
- >
- > Margaret
- >
- > Sent from my iPad

Margaret Silveira
City Manager
City of Lakeport
225 Park Street
Lakeport, CA 95453
Tel: 707-263-5615 x104

Exhibit I

CITY COUNCIL AGENDA ITEM ADMINISTRATIVE COMMUNICATION CITY MANAGER STAFF REPORT

Item No:

Date: February 19, 2002

Subject: Approval of pre-annexation agreement for South Main Street area

At previous meetings, discussion was held regarding the possibility of Lake County installing road and utility improvements in the South Main Street area just south of existing City limits. Lake County presents that they are willing to do the project if City agrees to delay annexation of the improvement areas, which are considered a priority for annexation in the City's General Plan.

Mayor Lamkin and Mayor Pro Tem Rumfelt presented City position relative to prior draft amendment to existing agreement for this work within the improvement area. The April 2001 agreement primarily states that if Lake County provides road improvements and undergrounding of utilities and City annexes these improvements within six years from the date of that agreement, City and County will meet to discuss reimbursement for the work. The previously proposed amendment to that agreement would require that City not annex the area for ten years. It was felt that there were several problems that could result from an agreement to not do something that the General Plan finds to be a priority goal/objective.

Lake County Board of Supervisors asked Supervisor Farrington and County Administrative Officer to meet with City and develop an alternative agreement that would allow for road reconstruction and undergrounding and not violate goals/objectives of Lakeport General Plan.

An exchange of discussion points has taken place and the following is presented for your consideration. The Board of Supervisors has not approved these points but County Administrative Officer and City Manager have committed to recommending their adoption.

- Not rescind or amend existing April 2001 agreement. If County provides road reconstruction and undergrounding of utilities and City annexes during term of agreement, a negotiation would be required regarding reimbursement for costs of road reconstruction and undergrounding within the area annexed.

- And new agreement or understanding be provided that if City annexes all or a portion of S. Main Street improvement area within 10 years, and if road reconstruction to three lanes and undergrounding have been or is committed to be provided within the area annexed, and if property tax exchange agreement reached to provide City share commensurate with that received in other tax code areas of existing City, then a sales tax share agreement patterned after that previously entered into between City and County for prior S. Main Street annexation, or other method to be agreed upon by both City and County, would be provided.

There is also to be an understanding that County will not object for any reason to annexation of other areas considered a priority for annexation in the City's General Plan and that a "universal" tax exchange agreement will be negotiated based on average percentage of property tax received in other City tax code areas. This should assist City and County in expediting economic development and provision of needed housing in these areas.

City Attorney is preparing language that may be available for Council and Board consideration by the time of your meeting. Staff has not had the opportunity to review the draft as of the writing of this report.

Recommendation:

Move to receive and file report on terms of pre-annexation agreement for South Main Street area and conceptually approve terms as presented above; and

Move to authorize Mayor to execute agreement/understanding upon approval of same by Board of Supervisors, and contingent upon approval as to form of the agreement/understanding and conformity with approved terms by City Attorney.

Exhibit J

**UNDEVELOPED, UNDERUTILIZED & VACANT
COMMERCIAL PROPERTIES
WITHIN CITY OF LAKEPORT**

September 3, 2015



Prepared by:

Lake County Administration Department

Lake County Community Development Department

Executive Summary

Staff from the lake County Community Development Department and the Administration Department conducted field surveys in April and August of 2015 to document the vacant, undeveloped and under-utilized commercial properties within the current city limits of Lakeport. In preparing this report, staff also reviewed the Vacant Commercial lands Inventory prepared by the City of Lakeport in 2011. A total of 107 vacant, under-utilized or undeveloped commercial properties currently exist, as follows:

- 35 undeveloped commercial properties were identified totaling 64.2 acres
- 66 vacant commercial buildings and/or individual lease spaces were identified.
- 6 partially developed commercial parcels were identified that each have significant area available for additional development. Total remaining developable land on these parcels is conservatively estimated at 9 acres.

Photographs of each site are included in this report, with site addresses and current zoning district listed. There were a few other commercial properties that were not included in this survey because they appeared to be too steep to be practical for development. Also, the soon to be vacated Lakeport Police station located at 916 N. Forbes Street was not included in the totals, nor was their new site located in front of Kmart.

The City of Lakeport currently possesses a substantial amount of undeveloped and vacant commercial property. Its three main shopping centers account for a combined total of 27 of the vacant commercial spaces within the city limits. In addition, there are large undeveloped commercial parcels available to provide for future development needs, including a 15.6 acre parcel fronting Parallel Drive and Todd Road, six (6) parcels along Bevins Court and Bevins Street that total nearly 6.5 acres, a 19.5 acre parcel on Kimberly Lane, and 2 contiguous parcels on Specht Ct. totaling 1.8 acres. There are additional undeveloped, commercially-zoned parcels throughout the city limits that provide for future retail and professional office development opportunities in addition to the 66 currently vacant commercial buildings and lease spaces.

The majority of the undeveloped, vacant and underutilized land currently available within the City of Lakeport is zoned C2, Community Commercial and PO, Professional Office. In fact, there are only a few parcels zoned for heavy commercial use. In reviewing the pre-zoning map prepared by the City, County staff found that if the City annexes the South Main Street/Soda Bay Road commercial corridor, it will rezone most of the "C3", Service Commercial properties to C2, Community Commercial that lie north of the Highway 175 intersection. This is concerning to the County given the City's current limited amount of heavy commercial zoning and abundance of C2 and PO zoning. There are several vacant commercial properties within the City Limits that could be rezoned to C3 to provide for a broader range of future commercial and industrial development.

1842 Todd Road (Undeveloped; 15.62 acres zoned C2)



1319 Todd Road (Undeveloped 1.9 acre parcel zoned C2)



1224 Craig Avenue (Undeveloped .61 acre parcel zoned C3)



934 & 946 Bevis Ct. (Undeveloped, contiguous parcels totaling 1.41 acres, Zoned PO)



947 & 951 Bevin Court & 600 Bevins Street

(3 undeveloped contiguous parcels totaling 2.92 acres, Zoned C3)



902 Bevins Ct. (Undeveloped 2.14 acre parcel zoned PO)



2225 Specht Ct. (Undeveloped .89 acre parcel zoned C3)



2232 Specht Ct. (Undeveloped .93 acre parcel zoned C3 & adjacent to above parcel)



205 Kimberly Lane (Undeveloped 19.5 acre parcel, Zoned C2)



1405 South Main Street (Undeveloped, .54 acre adjoining 100 Kimberly Ln., zoned C2)



575, 605 & 695 South Main Street (3 Undeveloped contiguous parcels; .95 acre, zoned C2)



390 South Main St. (Undeveloped .50 acre lot zoned C2)



2 C Street (Undeveloped 4 acres zoned R5)



201 South Main St., (Undeveloped .14 acre lot Zoned CB)



340 Lakeport Boulevard and 325 & 345 Konocti Avenue
(3 contiguous undeveloped lots totaling .43 acre; zoned C2)



950 Forbes Street (Undeveloped .23 acre; zoned C2)



910 North Main Street (Undeveloped lakefront parcel, 1.0 acre usable; zoned C2 & R5)



670 Eleventh Street (Undeveloped .46 acre, zoned Professional Overlay)



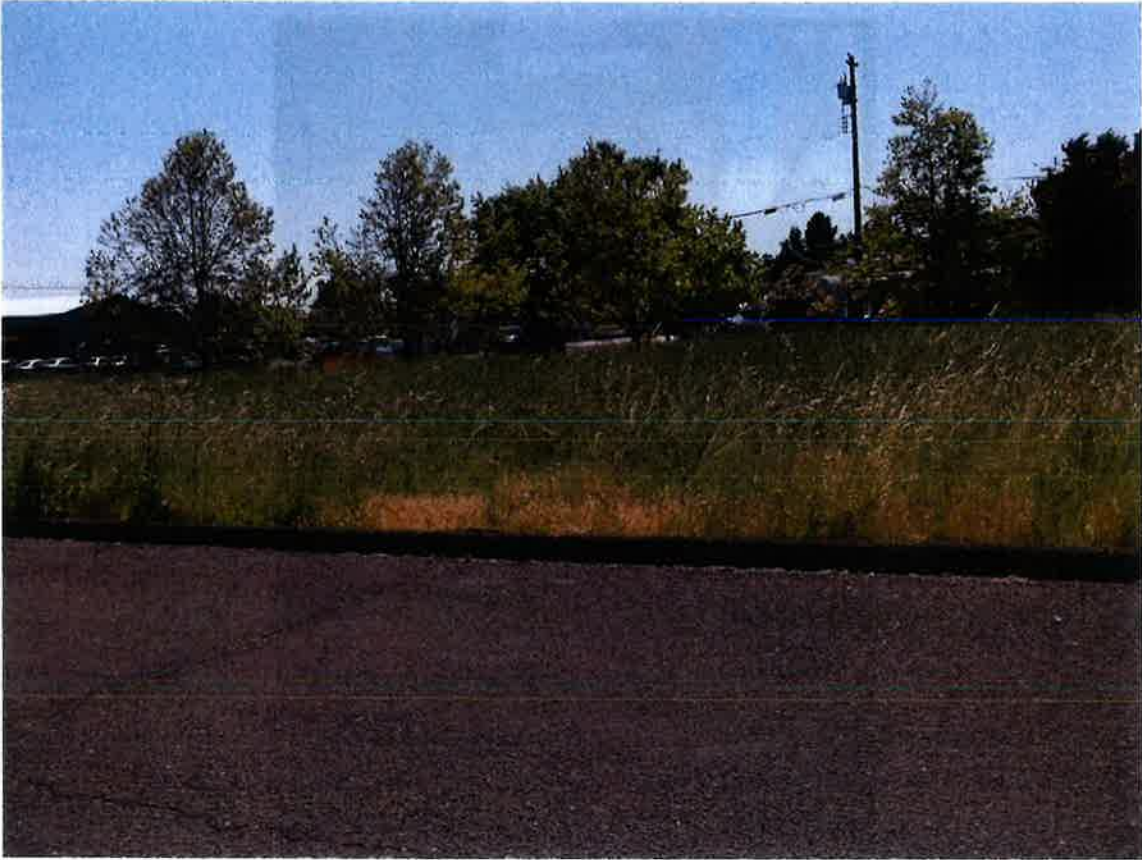
1231 Eleventh St. (Undeveloped .47 acre parcel zoned C1)



1095 North Main St. (Undeveloped .26 acre; zoned C2)



244 Peckham Ct. (Undeveloped .53 acre parcel zoned C2)



2210 South Main Street (Undeveloped 3.44 acre parcel zoned R5)

2230 South Main Street (Undeveloped .67 acre parcel zoned C2)



2033 S. Main Street (Undeveloped .72 acre parcel zoned C2)



1870 South Main Street (Undeveloped .54 acre parcel zoned C2)



2230 South Main Street (Undeveloped .68 acre parcel zoned C2)



1900 & 1930 South Main Street (2 undeveloped parcels, 2.2 acres & .65 acre; zoned C2)



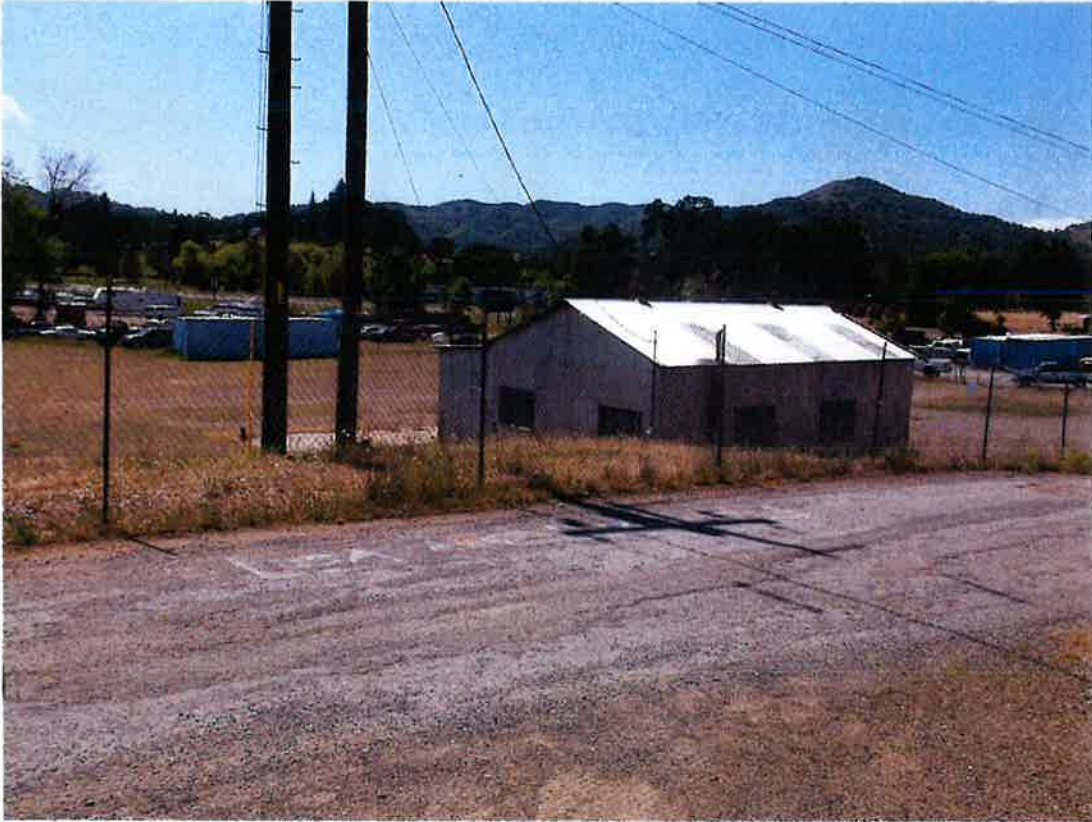
301 Industrial Ave., underutilized large parcel (\pm 4.2 acres undeveloped Zoned I)



301 Industrial Avenue Vacant Building



390, 440 & 465 Campbell Lane, (3 underutilized, Industrial zoned parcels; 3.5 acres)



100 Kimberly Lane (under-utilized parcel with 1.3 acres undeveloped, Zoned C2)



1785 South Main St. (2 vacant, dilapidated buildings, zoned C3)



1605 South Main Street (Vacant Building, zoned C2)



373 & 377 Lakeport Boulevard (2 vacant commercial units, C2)



912 South Main Street vacant unit (zoned C2)



809 South Main St. (2 vacant commercial offices, zoned C2)



750 south Main Street (vacant building, zoned C2)



650 South Main Street (vacant building, zoned C2)



555 South Main Street (vacant building, zoned C2)



370 South Main Street (vacant building, zoned C2)



112 Armstrong Street (vacant 2nd building, zoned CB)



154 & 160 South Main Street (2 vacant units, zoned CB)



150 South Main Street (vacant bank building, zoned CB)



140A, 170, & 180 North Main Street (3 vacant units, zoned CB)



155 Park Street (vacant building, zoned CB)



1 First Street (vacant restaurant zoned R5)



155 Second Street (vacant, zoned CB)



60 Third Street (vacant building, zoned CB)



130 Third Street (vacant retail unit, zoned CB)



50 Fifth Street (vacant, dilapidated structure, zoned CB)



301 N. Forbes Street (vacant, zoned PO)



350 North Forbes Street (vacant, zoned CB)



390 North Forbes Street (vacant, zoned CB)



101 North Main Street (vacant retail, zoned CB)



160 North Main Street (vacant office, zoned CB)



302 North Main Street (vacant, zoned CB)



310 North Main Street (vacant, zoned CB)



610 North Main Street (vacant, zoned CB)



901 North Main Street (vacant, zoned C2)



1176 North Main Street (Vacant, zoned C2)



1843 North High Street (vacant building, zoned C2)



1833 North High Street (20,000 sq. ft. vacant building, zoned C2)



1839 North High street (3 vacant commercial units, zoned C2)



1860 North High Street (vacant, zoned C1)



979 & 1071 Eleventh Street (11 vacant units, zoned C2)





1171 Eleventh Street (2 vacant units, zoned C1)



910 Bevis Street (vacant building on approx. 1.4 acre parcel, Zoned C3)



818 Lakeport Boulevard (10 vacant commercial units and blight conditions, zoned C2)

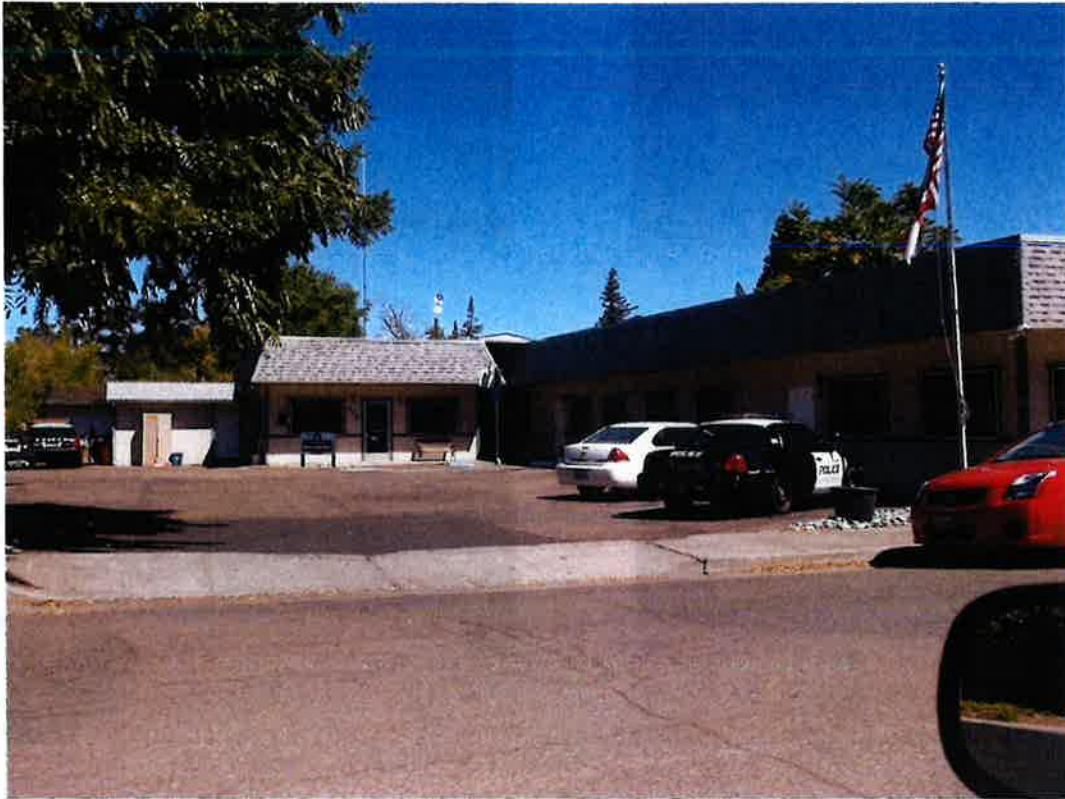






916 North Forbes Street (pending vacancy when Lakeport Police Department relocates)

NOT INCLUDED IN TOTAL



**ADDENDUM TO UNDEVELOPED, UNDERUTILIZED & VACANT
COMMERCIAL PROPERTIES WITHIN CITY OF LAKEPORT**

SEPTEMBER 23, 2019

Newly or Soon to be Vacated Buildings (see attached pictures)

804 Eleventh St.

101 North Main St.

190 North Main St.

510 North Main St.

525 North Main St.

610 & 626 South Main St.

720 South Main St.

901 South Main St.

1205 South Main St.

2019 South Main St.

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804 Eleventh St. (Business has moved to new location)



101 North Main St.



190 North Main St.



510 North Main St.



525 North Main St.



610 & 626 North Main St.



720 South Main St.



901 South Main St.



1205 South Main St.



2019 South Main Street



Previously Undeveloped Land now Developed

1405 South Main St. (.54 acres) – Dollar General

244 Peckham Ct. (.53 acres) – Davita Dialysis Center

2033 South Main St. (.72 acres) – AutoZone Auto Parts

Previously Vacant Buildings now Occupied

1605 South Main St. – Strong Financial Network

377 Lakeport Blvd. – CA Tribal TANF Partnership

809 South Main St. – The Travel Centers

370 South Main St. – Drinx Bar & Grill

112 Armstrong St. – Lakeport Upholstery

150, 154 & 160 South Main St. – Redwood Community Services

140A North Main St. – Timothy Toye & Associates

180 North Main St. – Mother-Wise

155 Park St. – Juicy's Pizza

390 North Forbes St. – Lake Indigent Defense

610 North Main St. – Carve Pilates

901 North Main St. – Strings & Things

910 Bevins St. – M n J's Rentals

916 North Forbes St. – Tailored Living Choices

818 Lakeport Blvd. (10 small commercial units)

802 Lakeport Blvd. – EA Family Services

850 Lakeport Blvd. – North Coast Opportunities

858 Lakeport Blvd. – CA Mentor

864 Lakeport Blvd. – Lakeport Head Start

THEORY OF THE EARTH AND ITS HISTORY

1. The Earth is a sphere of about 8000 miles in diameter.

2. The Earth is composed of a solid crust, a liquid mantle, and a solid core.

3. The crust is composed of a variety of rocks, including igneous, sedimentary, and metamorphic.

THEORY OF THE EARTH AND ITS HISTORY

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Exhibit K

City Council rejects county agreement

Stephan Clark
Record-Bee staff

LAKEPORT — A county-requested agreement requiring the city to refrain from annexing a valuable portion of South Lakeport in return for a \$4 million road improvement project was rejected by the city council Monday night.

Instead of signing the agreement as presented, the council voted 2-1 to sign a watered-down version of the

deal which states that the city has no intention to annex the corridor of South Main Street and Soda Bay Road, though "conditions could change at any time."

Council member Shirleen DeRezendes was in the minority of that vote, fearing the wording of the deal would cause the Board of Supervisors to pull the plug on a proposed \$4 million improvement project for the

See AGREEMENT, Page A8

Agreement From Page A1

corridor of South Main Street and Soda Bay Road.

"Knowing the current make-up and mood of the board," she said, "they may take this (amended agreement) in the wrong way."

Dist. 4 Supervisor Anthony Farrington was in attendance at Monday's meeting to urge the city council to approve the agreement as presented to it by the county. It requires that the city not annex the corridor of South Main Street and Soda Bay Road for 10 years.

By signing the deal, the Board of Supervisors would then likely release the \$4 million to underground utilities along the affected corridor and completely reconstruct the roadway, he said.

"They would like that money to go elsewhere," he said of his fellow board members. "I'm trying my best to unleash and unencumber \$4 million for the council."

By generating approximately 20 percent of the county's sales tax revenue (\$250,000) in an area considered prime for annexation by the City of Lakeport, the corridor of South Main Street

and Soda Bay Road has long been a political hot potato.

County officials fear dumping money into the corridor, only to have the City of Lakeport turn around and annex it.

City officials claim the county has a duty to the corridor's taxpayers, saying they've contributed hundreds of thousands of dollars over the years and been given little more than potholes and patch-jobs in return.

City Manager Randy Johnsen recommended the agreement put forward by the county be rejected. He said the agreement went against the city's general plan by freezing annexation in an area recognized by the plan as the city's first annexation priority.

Johnsen also characterized the agreement, which he said could open up the city to a lawsuit, as being superfluous. This was so, he said, because any annexation attempt by the city would require an agreement between it and the county concerning the exchange of property taxes.

"It seems to me what the county should be doing is

reaching an agreement amongst itself ... to not reach an agreement (with the city concerning the exchange of property taxes)," said council member Bob Rumsfelt, who, along with council member Dick Lamkin, voted against the agreement as presented by the county.

Rumsfelt further criticized the county's proposed agreement, calling it a possible red herring that, once not signed by the council, would allow the board to do what it has wanted all along — find a scapegoat that would allow it to move the \$4 million project to another area of the county.

"They shouldn't try to make us look like bad guys to settle their problems," he said.

The corridor of South Main Street and Soda Bay Road receives approximately 15,000 vehicle trips per day, making it one of the county's busiest stretches of road.

Council member Bill Knoll abstained from the vote due to a conflict of interest. Council member Buzz Bruns is on vacation and did not attend Monday's meeting.

