

RESOLUTION NO. 2018-___

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MERCED, CALIFORNIA,
REVERSING THE PLANNING
COMMISSION'S DENIAL OF
COMMERCIAL CANNABIS BUSINESS
PERMIT #18-14R TO ALLOW HARVEST
OF MERCED, LLC. TO OPERATE A
RETAIL DISPENSARY FOR MEDICINAL
AND ADULT USE CANNABIS AND
CANNABIS-RELATED PRODUCTS,
INCLUDING DELIVERY SERVICES, AT
863 W. 15TH STREET**

WHEREAS, the Planning Commission of the City of Merced ("Planning Commission") at its meetings of September 18 and September 19, 2018 held public hearings, and considered Commercial Cannabis Business Permit #18-14R to allow Harvest of Merced, LLC. to operate a retail dispensary for medicinal and adult use cannabis and cannabis-related products, including delivery services, at 863 W. 15th Street (as shown on the map at Exhibit A) also known as Assessor's Parcel Number 031-073-012; and

WHEREAS, after hearing all of the evidence and testimony on September 18, 2018, the Planning Commission re-opened the public hearing on September 19, 2018 at the request of Medallion Wellness and its agents ("Medallion") to hear additional testimony; and

WHEREAS, on September 19, 2018, the Planning Commission, after hearing all evidence and testimony and after exercising its independent judgment, the Planning Commission adopted Resolution #4008 adopting a Categorical Exemption regarding Environmental Review #18-27 (Categorical Exemption) and approving Commercial Cannabis Business Permit #18-14R subject to the findings and conditions attached thereto; and

WHEREAS, Medallion Wellness appealed the Planning Commission decision to approve Commercial Cannabis Business Permit #4008; and

WHEREAS, the City Council held a noticed public hearing on October 25, 2018, at which time all those interested in the matter were provided the opportunity to speak or to provide written or oral testimony regarding the application; and

WHEREAS, at the duly noticed public hearing on October 25, 2018, the City Council reversed the decision of the Planning Commission to approve Commercial Cannabis Business Permit #18-14R and remanded the matter back to the Planning Commission for the Planning Commission to make a finding of fact as to whether the properties located at 732 W. 13th Street and 760 W. 13th Street meet the definition of a “school” per City of Merced Ordinance #2480 and whether the property located at 863 W. 15th Street is within 1,000 feet of a school; and

WHEREAS, the Planning Commission held a noticed public hearing on November 14, 2018, at which time all those interested in the matter were provided the opportunity to speak or to provide written or oral testimony regarding the application; and

WHEREAS, at the duly noticed public hearing on November 14, 2018, the Planning Commission determined that the properties at 732 W. 13th Street and 760 W. 13th Street meet the definition of a “school” per City of Merced Ordinance #2480, and that the property located at 863 W. 15th Street is within 1,000 feet of a school; and

WHEREAS, on November 14, 2018, the Planning Commission, after hearing all evidence and testimony and after exercising its independent judgment, the Planning Commission adopted Resolution #4010 denying Commercial Cannabis Business Permit #18-14R; and

WHEREAS, Harvest of Merced appealed the Planning Commission decision to deny Commercial Cannabis Business Permit #18-14R; and

WHEREAS, the City Council held a noticed public hearing on December 3, 2018, at which time all those interested in the matter were provided the opportunity to speak or provide written or oral testimony regarding the application,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. COMMERCIAL CANNABIS BUSINESS PERMIT.

Based upon the evidence and testimony in the record before the Planning Commission at the public hearing, the City Council finds that there is not substantial evidence to support the Planning Commission's decision, and hereby reverses the decision of the Planning Commission thereby approving Commercial Cannabis Business Permit #18-14R together with the findings and conditions of approval contained in Planning Commission Staff Report #18-30, which are attached hereto as Exhibits "B" and "C."

PASSED AND ADOPTED by the City Council of the City of Merced at a special meeting held on the ___ day of 2018 by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

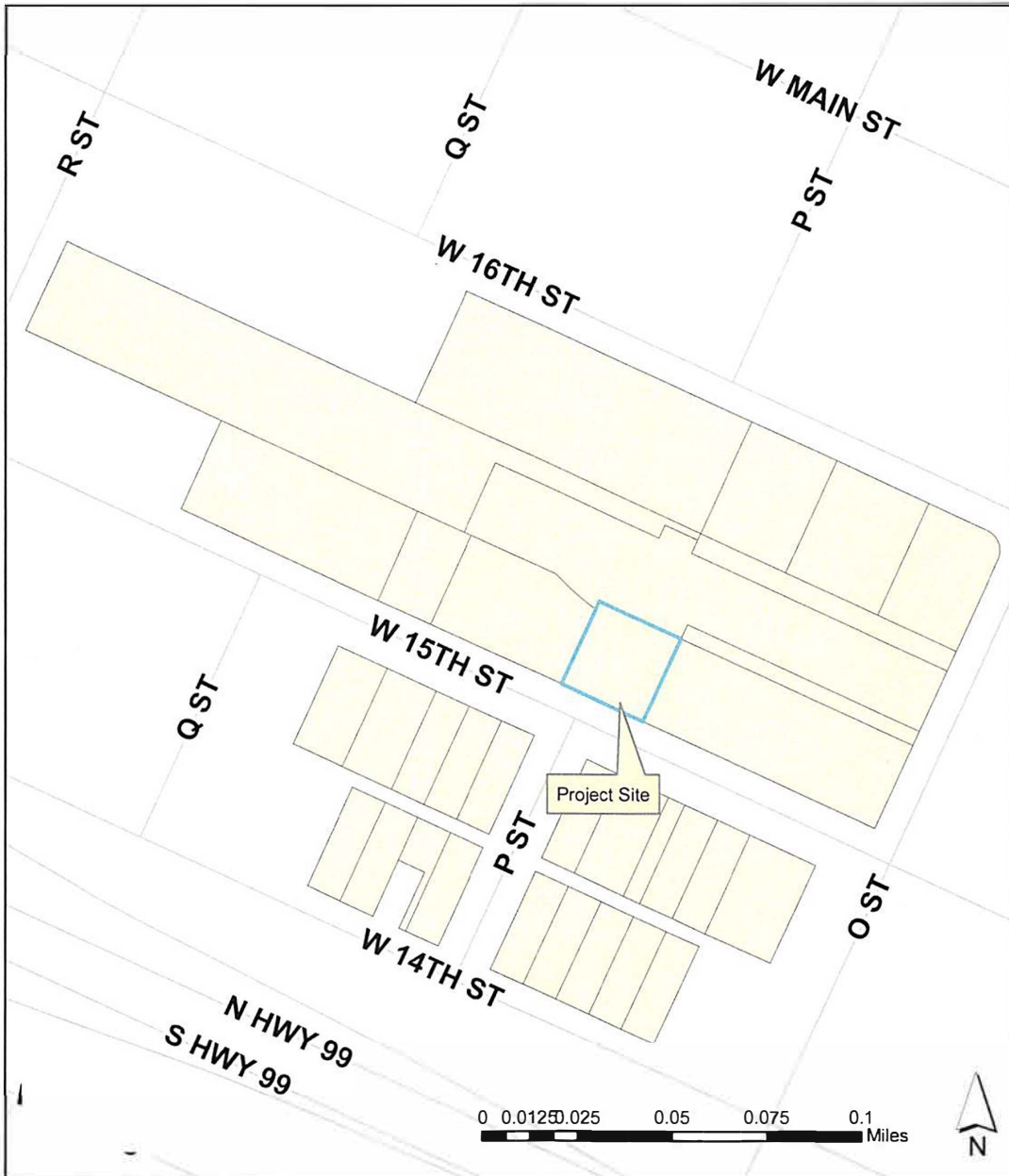
(SEAL)

APPROVED AS TO FORM:

City Attorney Date

EXHIBIT A
LEGAL DESCRIPTION

Parcel 3 as described in Document #2009-022222 of Merced County Records; also known as Assessor's Parcel Number (APN) 031-173-012.



FINDINGS FOR APPROVAL
COMMERCIAL CANNABIS BUSINESS PERMIT #18-14R

Wolfe Educational Center

- A) The properties located at 732 W. 13th Street (APN 031-313-012) and 760 W. 13th Street (APN 031-313-013) are commonly known as the Wolfe Educational Center, which is owned and operated by the Merced County Office of Education (MCOE). The Planning Commission is charged with the task of determining whether either one or both of these properties meet the definition of “school” per City of Merced Ordinance #2480 and whether the property located at 863 W. 15th St. is within 1,000 feet of a school.

Ordinance #2480 states that: “ ‘School’ means any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes or as otherwise provided in Health and Safety Code Section 11362.768(h).”

Ordinance #2480 also states that: “No cannabis dispensary may be located within a 1,000-foot radius from a school or within a 600-foot radius from a day care center, youth center, library or public park that is in existence at the time the Commercial Cannabis Business Permit is issued, as required by Section 11362.768 of the Health and Safety Code. No cultivation facility, manufacturing facility, testing facility or any other commercial cannabis business facility may be located within a 600-foot radius from a school, day care center, youth center, library, or public park that is in existence at the time the Commercial Cannabis Business Permit is issued, as required by Section 11362.768 of the Health and Safety Code. For purposes of this subsection only, a public park shall not include any park designated in Merced Municipal Code Section 9.70.030 as a bike path. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the sensitive use noted above to the closest property line of the lot on which the commercial cannabis business shall be located without regard to intervening structures.”

At present, the City’s online mapping tool shows 732 W. 13th St. (hereafter, “the Larger Parcel”) as a school, necessitating a 1,000 foot buffer around it in which cannabis uses are not permitted. City staff reached out to MCOE prior to the receipt of commercial cannabis business permit applications to clarify the activities on MCOE properties. City staff were told in a phone conversation with MCOE staff that the Larger Parcel was where student activity, particularly that of minors, was occurring. MCOE staff was not presented at that time with the formal definition of “school” from Ordinance #2480. Based on the information provided by MCOE, City staff interpreted that the Larger Parcel qualified as a “school”. The Larger Parcel is more than 1,000 feet from 863 W. 15th St. (hereafter, “the Subject Parcel”), both according to the City’s online mapping tool and confirmed by a survey performed by the City Surveyor (Attachment Q).

The City’s online mapping tool does not presently show 760 W. 13th St. (hereafter, “the Smaller Parcel”) as a school. The conversation between MCOE and City staff did not include any information to indicate that school activities were occurring on the Smaller

Parcel. The Smaller Parcel is less than 1,000 feet from the Subject Parcel, both according to the City's online mapping tool and confirmed by a survey performed by the City Surveyor (Attachment Q).

Clarification of Activities from MCOE

After receipt of the Appeal to Commercial Cannabis Business Permit #18-14R, City staff performed further research into the Wolfe Educational Center. After meeting with MCOE staff on the site itself to discuss the activities occurring there, City staff confirmed these activities with an email conversation. The document at Attachment L shows the various activities by room number. Rooms W-12 and W-13 are on the Smaller Parcel and other rooms are on the Larger Parcel.

Listed in the activities at the Wolfe Educational Center are adult training programs, training and employment programs for 18 to 24-year-olds, a computer lab, office uses, specialized trainings for foster youth, and special education services for 18 to 22-year-olds. Instruction in kindergarten through 12th grade does not appear as a use of these rooms, though these programs do serve the K-12 population in some cases.

Physical Features

The Wolfe Educational Center uses buildings on both parcels for its activities. A connecting feature covers the divide between the buildings of the two parcels, and the architectural details of those buildings are similar, though not identical. The sidewalk in front of the buildings allows travel between the two parcels. Photographs of the Wolfe Educational Center are provided at Attachment M.

City Documents

In 1997, MCOE applied for and received a Conditional Use Permit (CUP) for the Larger Parcel to allow a Regional Occupational Program educational campus consisting of five relocatable buildings (Attachment N). The Smaller Parcel was not included in this CUP, as it was not owned by MCOE until 2002. The City has no records of the Smaller Parcel ever being added to the existing CUP, nor any application for a separate CUP for the Smaller Parcel, nor any lot merger between the Smaller Parcel and the Larger Parcel.

The City's General Plan shows the Wolfe Educational Center as High to Medium Density Residential use. It is not shown as School, Future School, or Public/General Use. While the School category does not show private schools, which are included in the definition of "school" per Ordinance #2480, a school operated by MCOE would not likely qualify as a private school.

Additional Research

Visiting the MCOE website (<https://www.mcoe.org/school/Pages/mcoe.aspx>), the list of MCOE schools does not include the Wolfe Educational Center (Attachment O).

Searching the California Department of Education website for all districts and schools finds no mention of the Wolfe Educational Center (<https://www.cde.ca.gov/SchoolDirectory/>) (Attachment P).

Submittal from Other Parties

As of the writing of this Report, staff has received additional materials from two parties:

- Harvest of Merced, LLC, the applicant (Attachment S)
- Medallion Wellness, the leader of the opposition (Attachment T)

General Plan/Zoning Compliance

- B) The proposed project complies with the General Plan designation of General Commercial (CG) and the zoning designation of General Commercial (C-G) with approval of a Commercial Cannabis Business Permit.

Land Use Issues

- B) The subject site is required to be more than 1,000 feet from any schools and more than 600 feet from any day care centers, youth centers, libraries, or public parks that are currently in existence, as per required by Section 11362.768 of the Health and Safety Code and Section 20.44.170(E).3.f of City of Merced Ordinance #2480 for retail cannabis businesses (Attachment H). As regards the Wolfe Educational Center, this issue is discussed in more detail in Finding A, above.

Merit-Based Scoring

- C) The City Selection Committee, made up of the City Manager, Chief of Police, and Director of Development Services, ranked this application #4 of all retail sales Dispensary applications, with an average score of 95.000. The full scoring sheet for this application is at Attachment F.

Proposed Operations

- D) The applicants propose the operation of a retail sales dispensary for both medicinal and adult-use cannabis and cannabis-related products, including delivery services. Approximately 444 square feet of the building is proposed as the sales area, with another 192 square feet for the lobby. These areas comprise the total of space that would be accessible by members of the public. The remainder of the building is for “back-of-the-house” purposes such as storage and delivery.

Traffic/Circulation

- E) As the project is proposed in an existing building with existing access to the City’s roadway infrastructure, and due to the conformity with the zoning for the site, no concerns related to traffic or circulation have been raised as a result of this project.

Parking

- F) The site plan proposes 17 parking spaces adjacent to 863 W. 15th Street, with four of those being ADA-compliant spaces. The 1,800-square-foot building, using the general retail requirements for portions accessible to the public and the warehousing requirements for the portions inaccessible to the public, would require three spaces. The City's Zoning Code requires one space per 300 square feet for general retail, using a 15% reduction in usable space for hallways and other "non-public" spaces, and one space per 2,000 square feet for warehousing. Therefore, the proposal meets and exceeds the City's parking requirements.

Neighborhood Impact/Interface

- G) The proposed property is surrounded by industrial and commercial uses to the west, north, and east. To the south of the property, across 15th Street, are single-family residences approximately 81 feet away from property line to property line. The project proposes significant upgrades to the property, including robust security; a building that has been vacant for some time represents a potential risk for illegal activities. The project would also improve the parking lot and improve the appearance of the building.

Staff believes that the project will enhance the neighborhood, particularly as it relates to safety and security. Planning staff circulated a public hearing notice in the Merced County Times and mailed the notice to property owners within 300 feet of the subject site at least ten days prior to this public hearing. As of the date that this report was prepared, staff had not received any comments from the community about this project.

Elevations/Signage

- H) Exterior signage shall be limited to one wall sign not to exceed twenty (20) square feet in area. Interior signage or advertising may not be visible from the exterior. No temporary signs including, but not limited to, banners and A-frames, nor window signs are allowed. The details of final elevations and signage shall be approved by Planning staff prior to issuance of a Certificate of Occupancy (Condition #21). Example renderings of the interior of the facility have been provided at Attachment E; these are illustrative and final details will need to be approved by Building staff.

Safety/Security

- I) The applicants' security plan includes the following provisions:
- State-certified uniformed security officers during the hours of required coverage
 - High visibility foot patrol at the serviced location
 - Experienced field supervisors to oversee the operation of the assigned officers during the hours of required coverage
 - Availability of a security consultant when necessary and/or desired by the client
 - Office support for scheduling personnel and advisory needs
 - Police liaisons for the serviced location(s) resulting from arrests or criminal incidents
 - Carefully maintained incident reports, and other such documents or records as required by the client's individual needs

- Inventory reconciliation: scheduled daily, weekly, semi-annual, and annual reconciliation of inventory with increasing intensity
- An alarm system that will include:
 - Appropriate equipment, including a centrally monitored fire and burglar alarm system, necessary to monitor activity inside and outside the facility, including:
 - All entrances and exits
 - Rooms with exterior walls or walls shared with other building tenants
 - Rooms containing cannabis and cannabis goods
 - Rooms containing the vault
 - The vault
 - The security room
 - Exterior windows
 - A panic alarm, meaning a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress
 - Automatic voice dialer
 - Motion detection devices tied to the surveillance monitoring system
 - Failure notification system that signals the alarm-monitoring provider of any system error within a maximum of five minutes
 - A backup battery system that immediately provides power for at least twenty-four (24) hours in the event of a power outage
 - A back-up alarm system that will detect unauthorized entry when no employees should be present at the Facility
 - The back-up alarm system will be provided by a company supplying commercial grade equipment and not the same company supplying the primary security system.
- Access Control equipment that will, at minimum, include:
 - Biometric fingerprint and/or RFID proximity card access control devices for all access points to the dispensary facility and doors entering or exiting a limited access area
 - Backup battery system that immediately provides power for at least twenty-four (24) hours in the event of a power outage
 - Electric strike locks on all doors in the dispensary facility with the ability to override access control for emergency exit even during a power outage
 - System that allows for programming or uploading individual user permissions and allowed entry times, as well as operations-specific information including employee photos
 - System that monitors and records identification of employees or visitors entering and exiting, the date and time of entry and exit, length of time in specific area and any unauthorized access attempts

- Video surveillance cameras that will:
 - Be immobile and in permanent locations
 - Record a minimum twenty (20) frames per second
 - Provide an image resolution of at least D1
 - Have a minimum resolution of 0.9 megapixels (1280 x 720 pixels)
 - Have infrared capabilities to capture images in low or no lighting conditions
 - Have the ability to identify activity occurring within twenty feet (20') from all points of ingress/egress to the facility, points of ingress/egress to limited access area, and all points of sale
 - Include a digital archiving device and monitors that will each be at least nineteen (19) inches or greater that will be connected to the electronic recording security system at all times

Ownership

- K) Harvest of Merced, LLC. consists of owners who have at least 5% interest in the proposed business. The owners are Steve White (83%), Elizabeth Stavola (5%), Edgar Contreras (5%), and Anna Blazevich (5%), who have each performed a Live Scan check and have successfully passed a background check to the satisfaction of the Chief of Police. The remaining 2% of ownership is held by a Mr. Brian Vicente. This amount of ownership does not classify Mr. Vicente as an “owner” by the standards defined in City of Merced Ordinance #2480 and thus no background check has been performed on him.

According to the application, the owners have the following relevant experience and qualifications:

- Mr. Steve White founded Harvest in 2012. Beginning with a single dispensary in Tempe, Arizona, Harvest presently holds 26 licenses in seven states, with operating facilities in four of those states (Harvest’s first Pennsylvania dispensary and Ohio cultivation facility are currently under construction and will be operational in 2018). In addition to overseeing medical cannabis license acquisition, facility start-up and operations, and providing guidance on organizational direction and strategy, Mr. White has also been instrumental in navigating state and county level regulatory audits, including, to date, 10 county building safety certificate of occupancy inspections, five county health department inspections, 16 state department of health services inspections, four Americans for Safe Access Patient Focused Certifications, and 14 certified financial audits.

Harvest facilities host monthly support group meetings for individuals suffering from epilepsy, chronic pain, cancer, and PTSD. Under Mr. White’s direction, Harvest has also engaged in a number of community activities and events, including the donation of over \$400,000 to local charitable organizations, veterans, seniors, and patients in need. Mr. White also serves on the board of directors for Harvesting Hope, a 501(c)(3) non-profit organization dedicated to improving quality of life for young children

suffering from seizure disorders. To date, Harvesting Hope has raised and distributed nearly \$30,000 and provided services for over one hundred (100) families and their children.

- Ms. Beth Stavola is a female entrepreneur, Chief Operating Officer and Board Member of MPX Bioceutical Corporation, the Founder and CEO of Stavola Medical Marijuana Holdings, Health for Life Inc, GreenMart of Nevada, and CBD For Life. In 2017 Cannabis Business Executive named Ms. Stavola #3 on the “CBE 75 Most Important Women” in cannabis list. She runs a thriving cannabis business, which includes growing, processing, and dispensing operations throughout Arizona, Nevada, Maryland, and Massachusetts.

The current overall operation consists of two Dispensary licenses, two Production licenses, and four Cultivation licenses in the state of Arizona operated under the Health for Life brand; as well as three medical marijuana licenses in Las Vegas, Nevada under the GreenMart of Nevada brand. In the last year the company has expanded to Maryland managing three dispensary licenses under the Health For Life brand and one production license under MPX, as well to Massachusetts with a fully integrated grow, production, and dispensary license. Her beauty and wellness brand, CBD For Life, provides customers with the benefits of cannabinoids while avoiding unwanted psychoactive effects and can be sold throughout the country.

Ms. Stavola has successfully established the Health for Life brand from inception to significant sales/cash flow within 5 years time and maintains one of the most stellar compliance records in the state of Arizona, receiving a 100% score on the last several state compliance audits. Given this record, Ms. Stavola was able to establish a banking relationship for the business, which is not an easy feat in this industry. Health for Life is one of the most recognized brands of cannabis dispensary, cultivation, and processors in Arizona. Ms. Stavola is also the owner of Melting Point Extracts (MPX), which has become an extremely well-respected and sought after brand in Arizona.

- Ms. Anna Blazeovich has eleven years of prior experience in operating a verified Mutual Benefit Non-Profit Corporation for cannabis in compliance with California law with proof of payment of taxes. Ms. Blazeovich successfully founded and continues to run Therapeutic Health Collective (DBA Stone Age Farmacy). Therapeutic Health Collective is a verified Mutual Benefit Non-Profit Corporation for cannabis that operates in compliance with California law and has proof of payment of taxes. In 2017 for example, the Collective paid the City of Los Angeles \$52,648 in taxes. Therapeutic Health Collective has created 35 jobs in Gardena, California. While the brand began as a verified Mutual Benefit Non-Profit Corporation, it has blossomed into three stores serving both medical patients and recreation customers in two different states.

As a licensed dispensary owner in California and Oregon, Ms. Blazeovich has a decade of experience in regulatory cannabis compliance. The Collective is vertically integrated, meaning it grows the cannabis products it sells. This capability translates into improved pricing for patients and customers while retaining maximum quality.

Additionally, being vertically integrated allows for more control throughout the supply chain, which further supports a professional product selection and shelf stock for the consumer. This business resiliency and impeccable compliance standards will be transferred to the Harvest dispensary.

- Mr. Edgar Contreras, a native of Merced, California, has extensive managerial experience with local Merced retail businesses, totaling over three years. He will also serve as the dispensary's Neighborhood Liaison. Mr. Contreras graduated from Merced High School in 1995. After graduating, Mr. Contreras began working at Sweet River Saloon as a dishwasher. Through personal drive and ambition, he was promoted to kitchen manager within a year, managing a staff of twenty people for over four years, where he was responsible for a myriad of supervision duties, including staff scheduling, inventory tracking, and quality control. Mr. Contreras subsequently served as manager of a Dollar Tree retail store, where he was responsible for shipping and receiving goods, customer service, staff scheduling, inventory tracking, and product stocking, all while managing eleven staff members for over two years. He successfully streamlined services to make the business more profitable, resilient, and customer focused.

A passionate advocate for the City of Merced, Mr. Contreras remains an active member of the local community. Mr. Contreras volunteers his time as a high school coach for basketball, football, baseball, and soccer at El Capitan High School. He has a special affinity for mentoring students. He regularly encourages young athletes to believe in their potential, give back to the community, and avoid destructive habits like substance abuse. Mr. Contreras will play an integral role in Harvest's drug prevention for youth program.

Community Benefits

- L) The Harvest of Merced, LLC. application indicates the following benefits to the community should their application be approved:
- Commitment to set aside at least three percent of yearly net profits for monetary contributions to local charitable organizations.
 - Merced County Food Bank- At least \$10,000 per year
 - United Way of Merced County- At least \$10,000 per year
 - Boys & Girls Club of Merced County- At least \$2,500 per year
 - Challenged Family Resource Center and Golden Valley Health Center- At least \$2,500 per year
 - Pledged to chaperone the Challenged Family Resource Center's annual formal dance for developmentally disabled children.
 - Customer Volunteer Discount initiative in order to encourage Harvest consumers to give back to their local Merced community. This program will offer a range of discounts on final purchases of cannabis goods to patients and consumers who regularly volunteer at local charitable organizations. Harvest will create a simple

form that customers and patients may pick up from the retail facility that will track their volunteer time and include a place for the charitable organization's supervisor to confirm any completed volunteer hours. For the discount, Harvest consumers are not required to complete all of their volunteer hours at one charitable organization. For every five volunteer hours Harvest customers complete and record, the customer will receive a 10% discount on their next two purchases. If a Harvest customer completes ten or more volunteer hours in a month, the Harvest customer will receive a 20% discount on all purchases made for the rest of the month in which the hours were completed. Harvest will never give away cannabis or cannabis goods for free.

- Harvest plans to host free bicycle and wheelchair repair clinics in the spring, summer, and fall months. Harvest will set up temporary wheelchair and bike stands where Harvest employees can perform free tune-ups and replace simple bicycle parts such as tires, tubes, chains, and brake cables. Harvest will operate these services by receiving donations and purchasing parts at-cost from participating local suppliers. Harvest will also have a volunteer sign up document for employees and consumers to commit to help at the clinics. Harvest consumers may volunteer their time making repairs at our temporary wheel and bike stands, which will count toward Harvest's Consumer Volunteer Discount initiative.
- Harvest will offer a 20% discount on final purchases to any customers with a veteran designation as part of our Merced facility's initiative to Heal Our Heroes. As part of this program, Harvest will help customers understand the potential benefits and effects of using cannabis to treat wounds of war like Post Traumatic Stress Disorder (PTSD) and Chronic Traumatic Encephalopathy (CTE). To promote Healing Our Heroes and support California veterans, Harvest will advertise this initiative with local chapters of the American Legion, Veterans of Foreign Wars (VFW), Disabled American Veterans Charity, California National Guard Association, and other active veteran service organizations.
- Harvest's Merced facility will implement the Merced Cares initiative, offering a 20% discount on final purchases to medical patients who are low income. To qualify for the Merced Cares program, patients will be asked to show proof of eligibility in either CalFresh, Medi-Cal, or other comparable qualified assistance program. The State of California recognizes that medical cannabis can provide relief that is, unfortunately, not covered by health insurance as medical cannabis falls outside the traditional healthcare system. This leaves many low-income families scrambling to pay for medicine and pain relief that can alleviate their or a loved one's suffering. Harvest believes no patient or family should be denied access to medicine simply because they cannot afford it.
- Harvest wants the citizens of Merced to know that the unlawful use of cannabis has severe consequences. Although recreational cannabis is legal in the State of California, there are still current penalties for recreational use under the age of twenty-one and medical use without a prescription. To bring awareness of the penalties for unlawful use of cannabis, Harvest would like to partner with the City of Merced Police Department and the Merced County Sheriff's Department to hold

community discussions. Harvest would also like to invite local elected officials to participate and let the local police departments set the agenda.

- During these community discussions, Harvest will solicit feedback from the community. Community feedback is essential to understanding the best way to reach our neighbors. There is a lot of misinformation about the use of cannabis and the consequences of unlawful use. Harvest will promote these community discussions through traditional media and social media. In order to drive attendance to these important events, Harvest will encourage the City of Merced Police Department, the Merced County Sheriff's Department, and local elected officials to promote the community discussions.
- Harvest hopes to hold these community discussions at a school, so that the youth can have access to this important information. Harvest is prepared and working to facilitate and sponsor that event. These events would be incredibly productive because social media makes students especially vulnerable to misinformation about cannabis and drug use.

Modification to Operations

- M) The City of Merced recognizes that the details of operating a business, particularly one in a developing sector such as cannabis and cannabis-based products, requires continual updating of business practices, methodologies, and tools, the modification of which may require alterations to the configuration of the equipment, setup, or layout of the facility. In order to allow for these changes while maintaining the safety of all parties involved, modifications to the permit in the course of retail sales of cannabis and cannabis-related products may be requested by the applicants and approved with the consent of the City's Chief Building Official, Fire Chief, Police Chief and Director of Development Services (Condition #22).

Environmental Clearance

- N) Environmental Review #18-27 (see Attachment J) was performed in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (no further environmental review is required) was approved as a result of the September 19, 2018, meeting of the Planning Commission, which was not appealed at the October 25, 2018, meeting of the City Council.

Conditions of Approval
Planning Commission Resolution #4008
Commercial Cannabis Business Permit #18-14R

- *1) The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan), Attachment C, and Exhibit 2 (floor plan), Attachment D, except as modified by the conditions.
- *2) All conditions and requirements contained in Merced Municipal Code (MMC) Section 20.44.170/Ordinance #2480 (Attachment H) shall apply. Particular attention shall be paid to MMC 20.44.170(F) “Additional Regulations for Dispensary and Retail Sales of Cannabis” and MMC 20.44.170(G) “Additional Regulations for Commercial Cannabis Delivery Services.”
- *3) The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
- *4) All other applicable codes, ordinances, policies, etc. adopted by the City of Merced shall apply.
- *5) The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
- *6) The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control. State Law shall prevail in regards to cannabis activities as permitted by State Law.

CONDITIONS OF APPROVAL

CCBP #18-14R

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- *7) The proposed project shall comply with all applicable regulations of the State of California including, but not limited to, those found in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
- *8) The applicants shall meet the standards of the City of Merced's "Commercial Building Permit Application Submittal Requirements" (Attachment I) at the time of submittal for building permits for tenant improvement.
- *9) The details of the property's fencing (if any), security, and screening are to meet the approval of the Director of Development Services and Chief of Police prior to the issuance of a Certificate of Occupancy.
- *10) The applicants shall keep on the premises of the proposed project site a physical copy of the approved plans, to be annotated and updated accordingly with any notes, changes, or requirements determined to be necessary by representatives of the City of Merced or any contractors that the City of Merced may employ for the purpose of site inspections. These plans shall be made available to the City's representatives, employees, agents, inspectors, or contractors upon request.
- *11) Fire sprinklers shall be modified or installed to accommodate the building configuration and process configuration prior to occupancy if required by the Chief Building Official.
- *12) Regulatory Fees, as per Resolution #2017-67, are to be paid prior to the issuance of a Certificate of Occupancy and annually thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs. The amount of the fees shall be adjusted annually (starting on January 1, 2019) to account for inflation by using the Consumer Price Index (CPI). In no event, shall the fees in any year be less than the preceding year.
- *13) A Commercial Cannabis Business Permit is valid for one year or until December 31 of each year, unless sooner revoked. Applications for the renewal of a permit shall be filed with the Director of Development Services, in accordance with 20.44.170(L).4, "Commercial Cannabis Business Permit Renewal (All Types)", at least sixty (60) calendar days before the expiration of the current permit. If the permittee allows their permit to lapse, they shall be required to submit a new application, pay corresponding fees and be subject to all aspects of the selection process. Because of the lateness in the year of the Public Hearing for this permit, the permit shall be valid until December 31, 2019.
- *14) As per Ordinance #2480, the use of vending machines to dispense cannabis is strictly prohibited. Any vending machines on the property must not contain cannabis or cannabis-based products.
- *15) The applicants shall provide or cause to be provided a trash enclosure on the property such that all waste is securely stored until it is removed from the premises. Access to this enclosure shall be provided to the City's Department of Public Works.
- *16) Key access and/or a Knox Box to the perimeter fence shall be provided to the City of Merced Fire Department, Department of Public Works, and Police Department.

CONDITIONS OF APPROVAL

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- *17) As required by Merced Municipal Code Section 17.04.050 and 17.04.060, full public improvements shall be installed/repared if the permit value of the project exceeds \$100,000. Public improvements may include, but not be limited to, repairing/replacing the sidewalk, curb, gutter, and street corner ramp(s), so that they comply with ADA standards and other relevant City of Merced/State standards and regulations.
- *18) The parking lot shall be repaved and restriped in compliance with the City of Merced's City Standard Designs.
- *19) If the applicants are unable to provide a FEMA flood elevation certificate showing that the top of the bottom floor and all equipment are at the required height as to not mandate mitigation measures if applicable, flood mitigation measures shall be required to meet the approval of the City flood plain manager and City Engineer.
- 20) There shall be no shared access to the building sharing a common wall with 863 W. 15th Street. Any existing shared access point must be sealed prior to the issuance of a Certificate of Occupancy.
- 21) The details of the final design of the exterior elevations and any signage shall be approved by Planning staff prior to issuance of a Certificate of Occupancy.
- 22) Future modifications to the scale, scope, activities, implementation, processes, materials, design, layout, or other factors pertaining to the operation of the project that are consistent with permits to perform activities related to operation of a retail dispensary of cannabis and cannabis-based products may be authorized with the approval of the City's Chief Building Official, Fire Chief, and Director of Development Services.

(*) Denotes non-discretionary conditions.